



Briefing on the U.S-Libya Comprehensive Claims Settlement Agreement

C. David Welch, Assistant Secretary for Near Eastern Affairs

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MR. WOOD: Good afternoon, everyone. Thanks for coming on such short notice. We have Assistant Secretary David Welch from the Near Eastern Affairs Bureau. He's going to talk to you about implementation of the Libya Claims Settlement Agreement. So without further ado, Assistant Secretary Welch.

ASSISTANT SECRETARY WELCH: Hi, folks. Happy Halloween. I assume you've seen the statement we've issued. This is an important, significant moment. We've received, pursuant to the August 14 agreement that we signed with the Libyans, \$1.5 billion from the international humanitarian fund into a U.S.-controlled account which will go to compensate American claimants who have terrorism-related claims against Libya.

I'd like to talk a little bit about these arrangements here in a moment, but first let me step back and say something about the importance of this step. Some time ago, Libya renounced terrorism and took steps to begin to remove itself from the implications that its relationship with past acts of terrorism had. Also, they decided, around the same period of time, to get out of the WMD business, forswearing weapons of mass destruction. These were important decisions by the Libyan leadership and they led Libya back into a path of better relations with the United States, better relations with the international community.

Progressively, some American sanctions were lifted on Libya as a result. However, this relationship has been bedeviled by claims on both sides arising from these past incidents, and it's been problematic to fix those. So earlier this year, we undertook what was a novel and complex arrangement to try and address this across the board. I said at the time to you and to Congress that this would be a difficult enterprise and we were not assured of success; but, as compared to pursuing these claims through litigation, which can be time-consuming, expensive and difficult to the victims involved, we thought that this offered a more promising route; that is, to use diplomacy to try and meet the expectations on all sides about how this might be done.

The arrangement that we arrived at and that's embodied in the August agreement is a complex one. It required support from Congress, of course, the organized effort of the Administration, and support from Libya and its leadership.

Today, I stand before you because, happily, it has worked. This removes the last obstacle to a normal relationship between the United States and Libya. We will work on that now going forward. There are a lot of people involved in this arrangement on both sides, the American side and Libyan side, and I want to commend the persistence, intelligence, and courage that people have shown in trying to address this very tough issue. And that goes right to the top.

In my case, the President and Secretary of State directed that we should take a look at this opportunity, realizing that it would be a difficult one, because they were convinced that there was a possibility here that, as I said, using diplomacy we could more expeditiously and fairly settle these matters.

On the Libyan side, leader Qadhafi took the same sort of decision and instructed his people to try and arrive at an arrangement that would work for Libya.

Under this settlement agreement, both parties are now obligated to implement its provisions, and we have begun to do that. That means to dismiss the cases that are before our courts and to restore the immunities of Libya before U.S. courts. We've begun that process. As you see from the statement we issued today, we've taken a number of actions immediately, now that we've confirmed receipt in a Federal Reserve account of this \$1.5 billion. The Secretary of State has signed a certification to Congress pursuant to the law that was passed earlier in the summer. The President has also signed an executive order to settle all the terrorism-related claims against Libya.

The next step in the process is for us now to look at the procedures for actually making the distributions of the amounts, which is a matter that's in exclusively U.S. hands. We hope to do that for some of these cases very, very quickly because in the two most prominent cases, Pan Am 103 and LaBelle Disco, it's possible, I think, relatively early to discern who the appropriate recipients are and move swiftly to do it. We will also arrange for the distribution of the other -- the remaining funds in other pending cases.

We want to put -- our goal here to make this -- the burden of -- for claimants as easy as possible. We will work with other parts of the U.S. Government to do that for the other cases.

Finally, I'd just -- there were a lot of people involved on our side in this, and I'd like to thank some of those from my staff in the NEA Bureau who worked on this for some time. And I'd particularly like to thank my colleagues in the Legal Advisor's Office for their support. Jonathan Schwartz has been with this issue even longer than I have, and he and his team did a very good job.

I'll take your questions now. Thank you.

QUESTION: David, what about the 300 million for the Libyan victims?

ASSISTANT SECRETARY WELCH: Well, what we can see here as part of the arrangements is what comes to us. The Libyans, under the terms of the agreement, get 300 million deposited in a separate account for them. And that, I assume, is working its way forward, but our piece of the arrangement is --

QUESTION: That 300 million isn't supposed to go into the same fund from which this 1.5 billion was --

ASSISTANT SECRETARY WELCH: It goes into the same global fund, and then it's parceled out.

QUESTION: And do you know if that money has gotten there?

ASSISTANT SECRETARY WELCH: I don't, because that's a Libyan responsibility, not an American one.

QUESTION: Okay. And then on this Libyan money, do you know where it came from?

ASSISTANT SECRETARY WELCH: I am only responsible for making sure it's aggregated and then distributed.

QUESTION: Are you – was there something in place to ensure that this –

ASSISTANT SECRETARY WELCH: How many questions do you have, Matt?

QUESTION: -- was this money not from, you know, ill-gotten gains? I mean, how do you know that this isn't, like Banco Delta Asia money or something like that?

ASSISTANT SECRETARY WELCH: You mean like lottery money or something?

QUESTION: No, like – I don't know, something, you know –

ASSISTANT SECRETARY WELCH: It's real money. It's in the Federal Reserve at a time when it's good to have deposits in the Federal Reserve.

QUESTION: But are you sure of its (inaudible)?

QUESTION: The 300 million that's going – coming from the United States for Libyan victims, where does that –

ASSISTANT SECRETARY WELCH: No, there is no money coming from the United States for either American or Libyan victims.

QUESTION: Okay. Where exactly – where does the 300 million – I understand it's not from the government. My question was: Where does it actually come from?

ASSISTANT SECRETARY WELCH: The international humanitarian settlement fund was a vehicle to aggregate contributions, and those could come from anyplace. I've said before to you all that if you wish, you can make a contribution. Given the scale of the requirements of this arrangement, I don't think that individual contributions are likely sources. What matters here is the arrangement itself, not the providence of the funding. From the point of view of the United States Government, we had some concerns which were very simple. No U.S. taxpayer dollars would be used for this arrangement, and we would not countenance pressure, either from us or from others, upon any U.S. institutions or firms to make contributions.

QUESTION: Where are you expecting it to come from?

ASSISTANT SECRETARY WELCH: I don't really care. The money is there. We now have it.

QUESTION: I mean --

ASSISTANT SECRETARY WELCH: We can take care of these obligations pursuant to the agreement and that's the bottom line.

QUESTION: You said 300 million there as well.

ASSISTANT SECRETARY WELCH: That is up to the Libyan side to – to follow that. I'm responsible for our side.

QUESTION: David, you have twice avoided the direct question of where the money comes from.

ASSISTANT SECRETARY WELCH: Mm-hmm.

QUESTION: Can – do you know where the money comes from?

ASSISTANT SECRETARY WELCH: I – I have --

QUESTION: Or you don't care where it comes from? Do you know?

ASSISTANT SECRETARY WELCH: I have an idea because of the scale of these numbers. And that said, it's – I am not responsible for discerning that. I am comfortable that these arrangements have been arrived at securely for American claimants, and that's the important thing.

QUESTION: Could it possibly be U.S. companies that are doing business in Libya?

ASSISTANT SECRETARY WELCH: I – there's no bar legally to their participation in this global fund. But I honestly don't know whether they've done so or not. Some American companies have consulted with us throughout this process to see what – to have our assessment of the agreement and its implications, and I've shared with them exactly the same points I made to you earlier. Whether they went to the Justice Department to check if there were any other additional legal concerns or not, I'm not sure. But we did make our resources, our counsel available to them if they wanted to take advantage of it. I don't believe they did.

QUESTION: You said --

QUESTION: David?

QUESTION: Sorry.

ASSISTANT SECRETARY WELCH: Go ahead.

QUESTION: You said that this (inaudible) towards the normalization of diplomatic relations. In that case, what are the next practical steps for having this?

ASSISTANT SECRETARY WELCH: Well, I mean, this is a very significant change. We do have diplomatic relations with Libya. Those were restored some time ago; not at the level yet we would like. We would like to put an ambassador in our Embassy in Libya. The congressional calendar is rather more complicated right now, but if there's an opportunity for the Senate to do so, we would hope that they would vote on the nomination that we would put forward of Gene Cretz to be our ambassador in Libya.

I think the fact that we've been able to address the claims now – as I said, remove the most significant obstacle – but that's a Senate decision. It's their prerogative. We will engage with them to – so that we can move forward. There are also a number of other pieces of law that inhibit us right now from doing things like if we wanted to build a new embassy, purchasing property, that sort of thing. Those – happily, now, we can move beyond that and look at, really, a normal relationship across the board.

Now typically, when you have a history of difficult relations, it takes some time to clean these matters up. But I expect in the coming months, we will be able to do that.

This is really an important and, I think, historic transformation. I mean, you know, when Secretary Rice went to North Africa at the beginning of September, we didn't have this complete. But she did it in order to press the case so that we could move forward. That would leave us with a stable relationship with every country in the western part of the Arab world, what they call the Maghreb.

It has allowed us to transform this picture by diplomatic means alone; not a small feat given the difficult history here. So we're quite proud of this arrangement and I think it – we're able to hand it off to a new administration, whoever they are, in really good working order. In the coming couple of months, we have some ideas in mind about how – further things we might do even before January 20.

QUESTION: Can I follow up?

ASSISTANT SECRETARY WELCH: Yeah, I'll come back to you.

QUESTION: Sorry --

QUESTION: Go ahead.

QUESTION: Just – how soon will families start receiving the money? And what – they'll have a bank account number and then you start transferring it?

ASSISTANT SECRETARY WELCH: You know, the --

QUESTION: Are the arguments upon them?

ASSISTANT SECRETARY WELCH: The body of these cases is complex. It's – I think the easiest one to visualize are the Pan Am 103 families, for which there's a residual amount on the settlement that will be paid out under this arrangement. And the procedure, as I understand it, in my – John can correct me if I go wrong here – is as releases are obtained from the claims, then the amounts would be paid. And I think we can do that briskly in the Pan Am case.

In the La Belle case, we want – we, the State Department, want to pursue just as fast – there may be one or two internal questions among the lawyers on that side. But the key point here is that Libya's done its part. The Administration's done its part. Congress has done its part. So we would hope that the legal community representing these families would do their part and get their act together and – so that these people can get paid.

QUESTION: But are you sure that all 1.5 billion is – covers all the claims?

ASSISTANT SECRETARY WELCH: We're confident it'll be able to address all the major claims in a very fair manner; indeed, in some cases, in an unprecedented manner. And most importantly, for the death and physical injury cases, those folks will be compensated, you know, much more rapidly than the alternative: to go to the courts or pursue out-of-court settlement, and in – as I said, in an unprecedented, generous manner.

QUESTION: So it could be cleared up within months for the Pan Am and La Belle disco?

ASSISTANT SECRETARY WELCH: Oh, no, no, no. My hope, correct me if I'm wrong, is we're talking about days.

QUESTION: Days.

ASSISTANT SECRETARY WELCH: I would be disappointed if, for reasons not under our control, it took any longer than that.

QUESTION: Okay.

QUESTION: In the last several months, the son of Muammar Qadhafi, Saif al-Islam al-Qadhafi, had said that the families of the – the Pan Am families were acting in a greedy manner and that the Libyan Government just kind of said whatever it needed to say and did whatever it needed to do to end this chapter in U.S.-Libyan relations. Do you care about that? I mean, does that – do those kind of comments give you pause in terms of the relationship? Or are you just glad they gave them money and you're ready to move on?

ASSISTANT SECRETARY WELCH: Well, I always pay attention to what people say and try to be measured in my own remarks. These are emotional subjects on both sides, and I've had a lot of interactions with Mr. Saif al-Islam al-Qadhafi, and I know that on their side this is an emotional issue as well.

That said, I believe he made an important contribution to trying to move this issue forward and has been doing so for some time. The Qadhafi Development Foundation is the partner to our own representation for how the international claims agreement goes, and they've been very helpful in this negotiation, as he has been personally.

Elise, it takes leadership on both sides to address a problem as complex as this, and it's also taken time. And I can – I know that sometimes there have been irritations and those have been frayed here and there. The important thing is to try and get it concluded, and we've managed to do that.

QUESTION: David, do the lawyers from the plaintiffs get compensated under this as well from the general fund? Is the –

ASSISTANT SECRETARY WELCH: I'm not privy to the arrangement the lawyers have with their clients. You know, you'd have to ask them, Charlie. From the U.S. side of this account, you know, when you administer something like this, of course, there are going to be fees. These are insignificant. I mean, for you and me, or at least for me, these would be significant amounts of money. But with that in proportion, the administrative fees to the State Department for managing this account are going to be trivial. I can't speak to the other fees.

QUESTION: Can you say what the administrative – a ballpark of what the administrative fees are?

ASSISTANT SECRETARY WELCH: What do we charge on these things? Do you know, John?

MR. SCHWARTZ: It varies by the amount of the particular claim, but it's down at the 1 percent (inaudible).

ASSISTANT SECRETARY WELCH: It's a very small amount, of which no – not one cent goes to any of our lawyers or to American diplomats like myself.

QUESTION: Can I ask one – I'm not quite sure why – what the secrecy is about, you know, the source of the money and why you are being willfully (inaudible) with regard to –

ASSISTANT SECRETARY WELCH: Well, you know, Matt, you could call it secrecy. You might also call it ignorance. And so rather than speculate --

QUESTION: Well, then, if you don't know where the money came from, how do you know it's clean? I mean, does that matter? Do you mind if people are getting paid off with money that might have been laundered for –

ASSISTANT SECRETARY WELCH: I don't know what you mean by laundered money. You know, this – we're not dealing with a drug-related operation here.

QUESTION: How do you know?

ASSISTANT SECRETARY WELCH: This is a – well, you know, I guess, at the end of the day, I don't. A dollar comes in and it is paid out. And this is a government-to-government arrangement which administers a humanitarian fund into two accounts, and we now control our part of the account, and that is the agreement we agreed to.

QUESTION: But so it doesn't – so, in other words, from the Libyan side, it does not matter to – there isn't – the 300 million doesn't need to be in there for them to do anything?

ASSISTANT SECRETARY WELCH: The agreement --

QUESTION: Would they have fulfilled their payment if they hadn't gotten the 300 million –

ASSISTANT SECRETARY WELCH: You know --

QUESTION: -- for their side? Is that part of the deal?

ASSISTANT SECRETARY WELCH: The deal is that both sides have to perform their obligations once they receive the sums.

QUESTION: So can you say that the United States has fulfilled its obligations?

ASSISTANT SECRETARY WELCH: Not yet, because we just did the certification and the executive order.

QUESTION: But in terms of the money?

ASSISTANT SECRETARY WELCH: We don't – we didn't incur any obligations --

QUESTION: This is – I know, I understand –

ASSISTANT SECRETARY WELCH: We did not incur – I've said it I don't know how many times, Matt. There is no obligation to the U.S. taxpayer, none.

QUESTION: You're saying – but you're saying --

QUESTION: But as a facilitator, surely you want to make sure that they get their due?

ASSISTANT SECRETARY WELCH: I expect they will get their due.

QUESTION: How much is in the fund?

QUESTION: 1.5

QUESTION: But – no, but is the full –

ASSISTANT SECRETARY WELCH: We received 1.5, which was the --

QUESTION: Okay. How much is in it now? 1.8?

ASSISTANT SECRETARY WELCH: Should be, but I don't know.

QUESTION: So you don't know – you're saying you don't know if the 300 million – of the – that is going to the Libyans is in the fund?

ASSISTANT SECRETARY WELCH: I expect it will be there, but I can't say because that transaction is visible to them, but not to me.

QUESTION: Is there a way – is this – where is this fund located?

ASSISTANT SECRETARY WELCH: We now own it. It's in the Federal Reserve in the United States.

QUESTION: No, no, no. I'm talking about the fund that was jointly administered by the two –

ASSISTANT SECRETARY WELCH: That's in a bank account in Libya.

QUESTION: In a Libyan bank account?

ASSISTANT SECRETARY WELCH: Right.

QUESTION: Okay. And the Libyan – you're pretty sure that the Libyan banking laws are transparent enough for someone to be able to find out whether that \$300 million was paid or not?

ASSISTANT SECRETARY WELCH: I represent the interests of the Americans in this, and it was sufficiently transparent for me to discern and then to confirm that we have \$1.5 billion.

MR. WOOD: Any other questions? Last –

ASSISTANT SECRETARY WELCH: We've got a few more here.

QUESTION: Has Colonel Qadhafi requested any kind of visit to the U.S. similar to the one that he did in France?

ASSISTANT SECRETARY WELCH: No.

QUESTION: When was that 1.5 million in the fund?

ASSISTANT SECRETARY WELCH: We received \$300 million of it about two and a half weeks ago, something like that. We received another 600 million yesterday, and the third (inaudible) of 600 million this morning.

QUESTION: On the – there was one other point. I think the families on the ground in Lockerbie, Scotland will also get this money, so there's – they will get it at the same time as everybody else?

ASSISTANT SECRETARY WELCH: Well, this is a complex question, actually, because the Pan Am – Pan Am had a settlement. There was a disagreement about a final part of that, 2 million per claimant. So that settlement amount was intact, and it included foreigners; that is, people on the ground in Scotland, other people on the aircraft. So what this agreement accomplishes is the payment of the final amount to all of those embraced by that settlement. In the other cases, we are only dealing with American nationals. Under U.S. law, those are the only ones we can address in a claims settlement procedure. So foreign nationals would have to go to their own governments and find the David Welch in their government and the Jonathan Schwartz, who will go out and negotiate a similar arrangement, or use their own courts. And I think under the circumstance, that's entirely appropriate.

QUESTION: So just to sum it up finally, this means for the Pan Am 103 – for the American claimants in Pan Am 103, what does today's announcement mean?

ASSISTANT SECRETARY WELCH: Well, you'd have to, again, ask them. They are, I think, perfectly willing to speak out on these issues. I would hope they see this as providing a measure of justice, and it does fulfill the last part of the arrangements that they had concluded of their own volition with Libya.

MR. WOOD: Okay, thank you all very much.

ASSISTANT SECRETARY WELCH: Thank you, guys.

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