

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Certain Underwriters at Lloyds,)
London, *et al.*,)
Plaintiffs,)

v.)

Civil Action No. 06-cv-731 (GK) (JMF)

Great Socialist People's Libyan)
Arab Jamahiriya, *et al.*,)
Defendants.)

Certain Underwriters at Lloyds)
London, *et al.*,)
Plaintiffs,)

v.)

Civil Action No. 08-cv-504 (GK) (JMF)

Socialist People's Libyan Arab)
Jamahiriya, *et al.*)
Defendants.)

**PLAINTIFFS' PROPOSED FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

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I. INTRODUCTION

These matters are before the Court and were the subject of an Evidentiary Hearing held before Hon. John M. Facciola, United States Magistrate Judge for the United States District Court for the District of Columbia. Certain Underwriters at Lloyds of London v. Great Socialist People's Libyan Arab Jamahiriya, Civil Action No. 06-cv-731 (GK) (JMF) was filed on the 4th day of April 2006 (hereinafter "Certain Underwriters I") and Certain Underwriters at Lloyds of London v. Great Socialist People's Libyan Arab Jamahiriya, being Civil Action No. 08-cv-504 (GK) (JMF) was filed on the 24th day of March 2008 (hereinafter "Certain Underwriters II"). As to each of the actions set forth hereinabove, the named Libyan Defendants were dismissed pursuant to the enactment of the Libya Claims Resolution Act but the Plaintiffs claims remained pending against the Syrian Arab Republic; the Syrian Air Force Intelligence agency— Idarat al-Mukhabarat al-Jawiyya; and Syria's Director of Military Intelligence, General Muhammad al-Khuli (hereinafter collectively the "Syrian Defendants" or "Syria"). Subsequently, each of these matters was referred for further proceedings to Magistrate Judge Facciola. An Evidentiary Hearing was held before Judge Facciola, commencing on the 3rd day of May 2010. At the conclusion of the introduction of all evidence, counsel was directed by the Court to tender to the Court proposed findings of fact and conclusions of law for consideration by the Court.

Accordingly, the Plaintiffs propose to the Court that it enter the following Findings of Fact and Conclusions of Law; and that it enter Judgment against the Syrian Defendants, jointly and severally, for their egregious and unforgiving conduct in providing material support for the acts of international terrorism committed against each

of the Plaintiffs, awarding damages in such sums as permitted by law and as are calculated to provide a measure of just compensation to each of the Plaintiffs, as set forth below for the Court's consideration:

II. SUMMARY OF FINDINGS:

These actions seek Judgment and an award of damages for acts of state-sponsored terrorism that resulted from the unconscionable and intentional hijacking of EgyptAir Flight 648 on November 23, 1985 while the aircraft was mid-air bound for Cairo, Egypt, having departed from the Athens, Greece airport and the property damage arising from said hijacking resulting in the complete destruction of the EgyptAir Flight 648 aircraft insured by the Plaintiffs in the Certain Underwriters actions.

The Court, having heard and reviewed the evidence, does hereby determine (i) that the hijacking of EgyptAir Flight 648 on November 23, 1985 was an act of international terrorism, (ii) that the terrorist shootings of the American victims of the hijacking of EgyptAir Flight 648, *to wit*, Patrick Baker, Jackie Pflug and Scarlett Rogenkamp, were acts of international terrorism that occurred during and as a result of the November 23, 1985 terrorist hijacking, (iii) that said hijacking was committed by the Abu Nidal Organization ("ANO"), which has been designated by the US Department of State as a Foreign Terrorist Organization, and whose terrorist operatives hijacked EgyptAir Flight 648 ("EgyptAir Hijacking") on November 23, 1985 and (iv) that the Abu Nidal Organization, at the time of and prior to the EgyptAir Hijacking was sponsored, supported, aided and abetted by Syria, which has been and remains designated by the US Department of State as a State Sponsor of Terrorism, and (v) that Defendants Syrian Arab Republic ; the Syrian Air Force Intelligence agency, Idarat al-Mukhabarat al-Jawiyya,

and Syria's Director of Military Intelligence, General Muhammad al-Khuli, provided substantial and material support to the ANO terrorist organization and aided, abetted, conspired with, enabled said ANO terrorist organization, and caused and is liable for the heinous acts of international terrorism against the Plaintiffs, and each of them, for which the Court will award damages as set forth below.

The Court further finds that the Syrian Defendants provided material support and resources, and aided, abetted and conspired with the ANO in the planning, training and support for and commission of the EgyptAir Flight 648 terrorist hijacking; and that the lead ANO terrorist operative, Omar Ali Rezaq (hereinafter "Rezaq") was trained and supported by the Syrian Defendants. The Court further finds that Syria intended that its support of the ANO would promote and cause torture and extrajudicial killings of American citizens as well as necessarily result in the property destruction of the EgyptAir airplane incidental to the goals and objectives of the Syrian Defendants and the ANO terrorists. The Court further finds that Syria's actions and goal in supporting acts of senseless but sensational terrorism included cruel, inhumane and violent attacks upon innocent victims and that the property damage at issue in this was a reasonably foreseeable outcome of this Syrian agenda and conspiracy. The Court also finds that Syria's goal was to advance their own geopolitical interests in the Middle East region and in an attempt and design to stop the Middle East peace process dead in its tracks; and that as a totalitarian state and brutal dictatorship, Syria's actions could not have occurred without the explicit authorization by then Syrian President Hafiz al-Asad. Accordingly, the Court will enter Judgment and grant an award of damages on behalf of each of the

Plaintiffs against the Syrian Defendants, and each of them, jointly and as set forth hereinafter below.

III. STATEMENT OF THE CASE

Plaintiffs brought this action pursuant to the provisions of the Foreign Sovereign Immunities Act, ("FSIA"), codified at 28 U.S.C. § 1602, *et seq.* The Syrian Defendants were served with process on July 30, 2006.¹ The Syrian Defendants have not answered.

The Court proceeded to enter default as provided by 28 U.S.C. § 1608(e):

A court shall not enter a default judgment against a foreign state "unless the claimant establishes his claim or right to relief by evidence satisfactory to the court." 28 U.S.C. § 1608(e); *Roeder v. Islamic Republic of Iran*, 333 F.3d 228, 232, 2003 WL 21495185 (D.C. Cir. 2003). This "satisfactory to the court" standard is identical to the standard for entry of default judgments against the United States in Federal Rule of Civil Procedure 55(e). *Hill v. Republic of Iraq*, 328 F.3d 680, 684 (D.C. Cir. 2003). In evaluating the plaintiffs' proof, the court may "accept as true the plaintiffs' uncontroverted evidence." *Elahi v. Islamic Republic of Iran*, 124 F. Supp. 2d 97, 100 (D.D.C. 2000). In FSIA default judgment proceedings, the plaintiffs may establish proof by affidavit. *Weinstein v. Islamic Republic of Iran*, 184 F. Supp. 2d 13, 19 (D.D.C. 2002).

¹ Service upon each of the Syrian Defendants in Certain Underwriters I was perfected under 28 U.S.C. § 1608(a)(3) through delivery of the required documents (accompanied by Arabic translations) to the Head of the Ministry of Foreign Affairs via international courier service, evidenced by a letter from the international courier service indicating that the shipment containing two copies of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, was signed for by "Esam" at the Syrian Ministry of Foreign Affairs for the Defendants on July 30, 2006. Certain Underwriters v. Great Socialist People's Libyan Arab Jamahiriya, CA 06-cv-731, docket #17 (GK) (JMF) (D.D.C. filed April 21, 2006). Judge Kessler ordered on the 28th day of March 2008 Certain Underwriters I could be amended to so that Plaintiffs' case for subject matter jurisdiction would be asserted under 28 U.S.C. § 1605A and that in accordance with the enactment of 28 USC § 1605A, no separate service of the Amended Complaint was necessary. Fed. R. Civ. P. 5(a)(2); see also In re Islamic Republic of Iran Terrorism Litig., 659 F. Supp. 2d 31, 106-07 (D.D.C. 2009) ("Thus, by its plain terms, § 1083 indicates that no further action--under Rule 5 or otherwise--should be required of plaintiffs before their case may move forward under § 1605. More fundamentally, however, as emphasized above, this Court does not find that a change in the rule of decision applicable to personal injury or wrongful death claims under the FSIA terrorism exception results in new claims of relief for purposes of the pleading requirements in these cases.").

Campuzano v. Islamic Republic of Iran, 281 F. Supp. 2d 258, 268 (D.D.C. 2003). In a default proceeding, therefore, the Plaintiffs' burden of proof is "evidence satisfactory to the court." Id. All uncontroverted evidence is accepted as true. Id.

A five-day hearing on liability and damages was held commencing May 3, 2010. During the hearing, this Court accepted evidence in the form of, *inter alia*, live testimony, live video-link testimony, affidavit, *de bene esse* deposition and original documentary evidence. The Court also accepted credible expert testimony from exceptionally well qualified experts on various subjects related to the issues pending before the Court in this matter.² The Court finds that Plaintiffs have established their claim to relief, as to each

² Marius Deeb, Ph. D.- Professor Deeb was accepted as an expert witness by this Court concerning the following topics: the Syrian government, Syrian government structure, Syrian government's foreign policy, the Syrian government past and continuing ongoing active support for terrorism, including but not limited to the Syrian government's designation as a State Sponsor of Terror and the Syrian government's support of the Abu Nidal terrorist organization which committed (a) the EgyptAir Flight 648 hijacking, and separately (b) the Rome and Vienna airport attacks of one month later. (Deeb, T-2-196-197).

Patrick Lang- Col. Lang (retired) was accepted as an expert witness by this Court in the field of terrorism, counterterrorism, Middle Eastern affairs, politics and to render opinions on the various matters in which he has expertise, including but not limited to the sponsorship by Syria of terrorism, Syria as a designated State Sponsor of Terrorism, Syria's sponsorship of the Abu Nidal Organization, a Foreign Terrorist Organization, and the terrorist hijacking of Egypt Air Flight 648, committed on November 23, 1985 by the Abu Nidal Organization with Syrian sponsorship and separately the Rome and Vienna airport attacks of December 27, 1985 committed by the Abu Nidal Organization with Syrian sponsorship. (Lang, T-2-122).

David Long, Ph.D.- David Long was accepted as an expert witness by this Court. (Long, T-3-199). David Long's expert testimony concerned, *inter alia*, terrorism, counterterrorism, Middle Eastern affairs, politics and gave opinions on the various matters in which he has expertise, including but not limited to the sponsorship by Syria of terrorism, its sponsorship of ANO, the Abu Nidal Organization, and the commitment by the Abu Nidal Organization with Syrian sponsorship of the hijacking of EgyptAir Flight 648, and separately the Rome and Vienna airport attacks.

James Markham, Ph. D.- Dr. James Markham was accepted as an expert witness by this Court in the field of forensic economics, and otherwise qualified to testify on the issues that are before the Court as they relate to calculations involving damages of the Certain Underwriters plaintiffs that involves the commercial aviation insurance issues. (Markham, T-4- 105).

Ambassador Robert Oakley- Ambassador Oakley was accepted as an expert witness by this Court in the field of terrorism, counterterrorism, Middle Eastern affairs, politics, and the issues concerning Syria's sponsorship of the Abu Nidal Organization prior to, during, and following the EgyptAir Flight 648 hijacking, and Rome and Vienna airport attacks. (Oakley, T-4-10).

of the causes of action pled by the Plaintiffs in the various actions by “evidence that is satisfactory to the Court” as required by 28 U.S.C. § 1608(e). Accordingly, this Court finds the following facts were established by Plaintiffs.

IV. FINDINGS OF FACT

The Court hereby finds that the government of Syria has a long history of providing material aid and support for terrorism; that Syria was designated by the government of the United States of America in 1979 on its first published list of State Sponsors of Terror; that Syria invited the Abu Nidal Organization to relocate its headquarters to Syria in 1981-1983; that the Abu Nidal Organization completed the relocation of its headquarters from Iraq to Syria in 1983; that Syria intentionally selected the notoriously violent Abu Nidal Organization, a foreign terrorist organization, to commit acts of terrorism with the aid, support, sponsorship and involvement of the Syrian Defendants, intending that the ANO terrorist organization would carry out its terrorist operations with lethal brutal force designed to attract the attention of the world in support of Syria’s governmental aims, goals, means, methods and geopolitical objectives; that the Abu Nidal Organization carried out the November 23, 1985 hijacking of EgyptAir flight 648 on November 23, 1985 and also the Rome and Vienna Airport Attacks of December 27, 1985 with the aid, support, sponsorship and involvement of the Syrian Defendants. Further, the Court finds that throughout the early to mid 1980s including all of 1985, Syria regarded the ANO terrorist network as an indispensable party in furtherance of

Yoram Schweitzer, Ph.D.- Dr. Yoram Schweitzer was accepted as an expert witness by this Court and testified/gave expert opinions concerning various fields/issues including: the field of terrorism, counterterrorism, Middle Eastern affairs, politics, and the issues concerning Syria’s sponsorship of the Abu Nidal Organization prior to, during, and following the EgyptAir Flight 648 hijacking, and Rome and Vienna airport attacks. (Schweitzer, T-4-30).

Syrian foreign policy goals and interests in the Middle East and beyond. These foreign policy goals included the undermining of the peace process between the Arabs and Israelis, through the committing of spectacular brutal and heinous terrorist attacks against the United States, Israel, Egypt and those Arab governments that were supportive of the Arab-Israeli peace process, which was opposed by the Syrian Defendants. Further, that the Syrian Defendants accordingly conspired with the ANO and its infamous leader, Sabri al-Banna, to cause the terrorist hijacking of EgyptAir Flight 648 on November 23, 1985 and the separate Rome Airport Attack and coordinated Vienna Airport Attack of December 27, 1985, each of which were terrorist attacks planned, designed and conducted by the ANO and the Syrian Defendants with the intent and result of killing and injuring U.S. citizens and others through acts of international terrorism, and that the Syrian Defendants, in support of their terrorist activities did, in fact, aid and abet the terrorist attacks of the Abu Nidal Organization in committing said acts of international terrorism pursuant to the plan and design of the Syrian Defendants to use such acts of terrorism to undermine the peace process between moderate Arab states, such as Egypt, the Palestine Liberation Organization, Israel and the United States of America.

The Court finally finds that the property damage at issue was a reasonably foreseeable result of Syria's intentional support for an organization such as the ANO and Syria's conspiracy to damage the Middle East peace process through spectacular acts of international terrorism that necessarily would involve the destruction of property such as a hijacked aircraft.

A. SYRIA IS A STATE SPONSOR OF TERRORISM

1. The Court finds that the Plaintiffs have established that Syria has a long history of providing material support to terrorist groups, including the ANO. Prior to and during the relevant period surrounding the November 23, 1985 hijacking of EgyptAir Flight 648 and also the December 27, 1985 attacks against civilians standing at or near the TWA and El Al ticket counters at both the Leonardo da Vinci Airport at Rome, Italy and the Schwechat Airport at Vienna, Austria (“Rome and Vienna Airport Attacks”) through the present, terrorism was and remains an integral tool for the Syrian regime. (Deeb, T-2-197, Lang, T-2-128); and the Court further finds:

2. Syria became actively and directly involved in sponsoring terrorist activities beginning in the mid-1970s. (Deeb, T-2-197);

3. Historically, Syria has provided material support to terrorist groups primarily in order to achieve Syrian foreign policy goals, such as undermining the Middle East peace process and pushing the United States and its allies out of the region. (Deeb, T-2-198);

4. Syria opposed the Middle East peace process between Israel and Egypt. (Schweitzer, Ex. 54). As such, Syrian sponsored terrorist activities were, and continue to be, primarily directed against any entity supportive of that process: including moderate Arab states such as Egypt, pro-Yasser Arafat Palestinian groups, and U.S. and Israeli targets. (Deeb, T-2-198, Ex. 54 at pg. 31-32). Syria supported the ANO’s operations against Arab countries that supported the Israel-Egypt peace treaty. (Schweitzer, Ex. 54);

5. In this regard, Syria has utilized, and continues to utilize, terrorist groups as a means of achieving foreign policy goals without resorting to conventional methods

of warfare, which it cannot afford to wage against either Israel or the United States. (Deeb, Ex. 50 at pg. 2 ¶7);

6. As a result of its past support of terrorism, Syria was among the first countries designated in 1979 by the United States Department of State as a State Sponsor of Terrorism. (Oakley, T-4-11);

7. Syria was in fact designated as a State Sponsor of Terrorism on December 29, 1979. (Ex. 41);

8. Syria, as a result of its ongoing, current and continuous sponsorship of terrorism, remains designated by the State Department as a State Sponsor of Terrorism up to the present day. (Ex. 41);

9. During the period encompassing the EgyptAir Hijacking of November, 1985 and the Rome and Vienna Airport Attacks of December, 1985, Syria remained one of the primary state sponsors of terrorism. (Oakley, T-4-9). Moreover, during the same time period, the United States considered Syria as one of the worst sponsors of terrorism in the world. (Oakley, T-4-22);

10. During the relevant time period during which the EgyptAir Hijacking and Rome and Vienna Airport Attacks occurred, Syria began to increasingly rely on terrorist groups comprised of non-Syrians in order to deflect detection of Syria's support and liability for the actions of its terrorist surrogates. (Deeb, T-2-201);

11. During the relevant period of the EgyptAir Hijacking and Rome and Vienna Airport Attacks, President Hafiz al-Asad ruled Syria under an authoritarian government whereby all organs of the state were directly under al-Asad's direct control. (Deeb, T-2-214, 216);

12. One of the primary organs al-Asad utilized to sponsor terrorist organizations, such as the ANO, was the Syrian Air Force Intelligence agency— Idarat al-Mukhabarat al-Jawiyya. (Oakley, T-4-13);

13. The Syrian Air Force Intelligence was more of a presidential intelligence service than an instrumentality of the Air Force, and was of paramount importance because it functioned as the highest intelligence organization in Syria. (Deeb, T-2-206, 226);

14. The head of the Air Force Intelligence, General Muhammad al-Khuli, was the most powerful intelligence chief within Syria. (Deeb, T-2-206-208);

15. Syria remains a major sponsor of terrorism today. (Deeb, T-2-197); At present, according to the testimony received by the Court from Dr. Marius Deeb, Syria as a state sponsor of terrorism spends between five hundred million United States Dollars (\$500,000,000) and seven hundred million United States Dollars (\$700,000,000) annually on terrorism related expenditures. (Deeb, T-2-235). The \$500,000,000 figure is the minimum estimate of Syria's current and ongoing terrorism related expenditures. (Deeb, T-2-235);

16. Syria's current and ongoing support of international terrorism includes but is not limited to its providing of material support to HAMAS and Hezbollah, each of which have been designated by the US Department of State as Foreign Terrorist Organizations. (Deeb, T-2-160-161)

B. THE ABU NIDAL ORGANIZATION IS A FOREIGN TERRORIST ORGANIZATION

17. The Abu Nidal Organization was established and led by Sabri al-Banna a/k/a Abu Nidal. (Lang, T-2-141). Abu Nidal was originally a member and operative of Yasser Arafat's Fatah organization and a part of the Palestine Liberation Organization ("PLO"). (Deeb, T-2-203-204);

18. In October 1974, when Abu Nidal was serving as Arafat's Fatah organization representative in Baghdad, Iraq, he decided to break away from Arafat's Fatah movement and form his own more radical organization which he called the Fatah-Revolutionary Council, a.k.a. the Abu Nidal Organization. (Deeb, T-2-203);

19. Abu Nidal broke away from Arafat in opposition to Arafat's consideration to support the Middle East peace process. (Deeb, T-2-208-209);

20. Abu Nidal was a thoroughly violent individual and the Abu Nidal Organization was brutal and their documented methodology for the commission of terrorist attacks required bloodshed as an end unto itself. (Long, Ex. 52 at 2);

21. During the relevant time period of the EgyptAir Hijacking and the Rome and Vienna Airport Attacks, the ANO became one of the most sophisticated terrorist groups of its day, with a global network of operations. (Long, Ex. 52 at 2);

22. One of the primary reasons that the ANO was so effective was the high level of internal security Abu Nidal achieved within his organization. (Long, Ex. 52 at 2);

23. Compartmentalization within the ANO was rigid, both horizontally and vertically: personnel were organized into small cell groups with minimal interaction among other members. (Ex. 52 at 2);

24. The ANO was run like a commercial enterprise, with different departments, including secret service, military, archives, foreign relations and others. (Badra, Ex. 34 at ¶10);

25. ANO terrorists used assumed names, matching forged identification and travel documents, which were changed constantly so that no one could be sure of the real names of other members. (Ex. 52 at 2);

26. The ANO required the support of governments to conduct its operations. Syria provided the ability for ANO to train and house and dispatch its operatives, who were also given passage to return to Syria or the Syrian controlled Baaka Valley in Lebanon for further terrorist training and operations. (Lang, T-2-144, Rezaq, Ex. 34, 2756, 2763-2764, 2769, Ibrahim, Ex. 36);

27. The ANO was known by the United States government in 1985 and 1986 to be a brutal, violent and dangerous terrorist organization and ANO was subsequently designated as a Foreign Terrorist Organization (“FTO”). According to the most recent FTO list which was released on January 19, 2010, ANO remains designated as a FTO. (Ex.43);

28. The ANO, in at least the fall of 1985 trained its terrorist squads in the Syrian controlled Baaka Valley in Lebanon, maintained safe houses and headquarters in Damascus, Syria, operated under the watchful eye and with the permission of the Syrian government and the Syrian Defendants, dispatched its terrorist operatives from its training camps, (Lang, T-2-143-144), and did, in November 1985 commit the EgyptAir Hijacking and in December 1985 the nearly simultaneous and coordinated Rome and

Vienna Airport Attacks. The ANO was one of the most violent terrorist organizations in the world which specifically aimed its terrorist attacks at United States targets.

C. **SYRIAN SPONSORED AND SUPPORTED THE ABU NIDAL ORGANIZATION**

29. The head of the Syrian Air Force Intelligence, General Muhammad al-Khuli, in his official capacity invited Abu Nidal and his organization to move to Syria in January, 1981. (Deeb, T-2-206-208).

30. When al-Khuli officially invited the ANO to be based in Syria, he was following the orders of Syrian President Hafiz al-Asad. (Deeb, T-2-206-208).

31. Prior to, during the relevant period of the EgyptAir Hijacking and Rome and Vienna Airport Attacks, and up to the present, Syria was a police state under the al-Asad family, and remains so to this day. (Deeb, T-2-191). Accordingly, while the ANO was based in Syria, its actions and terrorist operations would not have been possible without the full knowledge and support of the Syrian regime. (Deeb, T-2-207).

32. In the beginning of 1983, when the ANO more concretely established itself in Syria—with a headquarters, physical bases for training and other purposes—marked the exponential growth of ANO attacks around the world as ANO attacks increased in number and geographic scope. (Deeb, T-2-228).

33. ANO operations expanded to include attacks in the greater Middle East, Turkey, Pakistan and Western Europe. (Deeb, T-2-228).

34. The ANO's establishment of a base of operations in Syria in 1983 also marked a dramatic increase in the number of ANO terrorist attacks; more than a dozen ANO attacks occurred in 1984 and twice that number occurred in 1985. (Ex. 47).

35. The extensive support and infrastructure provided by the Syrian Defendants enabled the ANO to expand its scope of operations, resulting in more terrorist attacks. (Ex. 52 at 4).

36. Both before and after the November-December 1985 time period during which the EgyptAir Hijacking and the Rome and Vienna Airport Attacks occurred, Syria provided logistical support to the ANO including, but not limited to, permitting the ANO to maintain offices and safe houses in Syria, maintaining training camps in Syrian controlled territory including the Baaka Valley in Lebanon, and the providing of identification and travel documents to ANO operatives. (Lang, T-2-143-145, Oakley, T-4-25, Rezaq, Ex. 34, 2756, 2763-2764, 2769, Ibrahim, Ex. 36).

37. Syria also allowed the ANO to move about freely in Syria and in Syrian-controlled Lebanon and in this regard permitted ANO operatives to transit to and through the Damascus international airport. (Deeb, T-2-218). Also, to and through the Beirut, Lebanon airport (Lang, T-2-155).

38. Moreover, Syria also permitted ANO agents the freedom to travel on military highways between training camps in Syrian controlled Lebanon and Damascus without passport control. (Lang, T-2-144).

39. Surviving ANO terrorists from the EgyptAir Hijacking and the Rome and Vienna Airport Attacks have corroborated, by sworn depositions and/or affidavits filed, each of which have been admitted into evidence by the Court, Syria's specific logistical support and sponsorship of the ANO during the time period of November-December, 1985 that those attacks occurred. (Ex. 35, Ex. 36, Ex. 37, Ex. 38).

40. Syria participated in the selection of the timing and the methodologies, as well the operations themselves, which were involved in both the EgyptAir Hijacking and the Rome and Vienna Airport Attacks. (Deeb, T-2-216-217).

41. The Syrian government, both directly and acting through Syrian Air Force Intelligence, provided support to the ANO organization and specifically sponsored the ANO EgyptAir Hijacking and Rome and Vienna Airport Attacks. (Lang, T-2-145). The EgyptAir Hijacking and Rome and Vienna Airport Attacks could not have taken place without Syria's direct support for the ANO. (Lang, T-2-145, Deeb, T-2-229, Long, Ex. 52 at 4, Schweitzer, Ex. 53 at 35, Schweitzer, Ex. 54 at 35).

42. The ANO was materially and substantially supported in its terrorist activities by the Syrian Defendants beginning in 1981-1983 and continuing through and including the November 1985 EgyptAir Hijacking and December 1985 Rome and Vienna Airport Attacks,³ and even through today, which demonstrates the intentionality and purposefulness of Syria's support for groups such as the ANO.

D. THE SYRIAN SPONSORED ANO PERPETRATED THE HIJACKING OF THE EGYPTAIR FLIGHT 648

43. On November 23, 1985, Plaintiffs Patrick Scott Baker, Jackie Nink Pflug and Scarlett Marie Rogenkamp, each of whom was an American national, boarded EgyptAir Flight 648 which departed Athens at 9:05 pm Athens time. (Baker, T-2-47, Pflug, T-1-33, Rezaq, Ex. 34 at 2741, Ex. 35).

³ The EgyptAir Hijacking and Rome and Vienna Airport Attacks occurred less than a month apart and benefited from the same support and material aid provided by the Syrian Defendants. Both sets of attacks were part of the Syrian-ANO plan, design and conspiracy to destabilize the Middle East peace process and Syria's support, aiding and abetting of ANO for each attack occurred in furtherance of such conspiracy as acts of international terrorism.

44. EgyptAir Flight 648 flight was scheduled to fly directly to Cairo from Athens. (Baker, T-2-47, Ex. 3).

45. Approximately 10 minutes after leveling off, the hijacking ensued. One of the hijackers began to taunt passengers on board by attempting to pull a pin out of a hand grenade while simultaneously brandishing a firearm. (Baker, T-2-47-51).

46. Three ANO hijackers, including Omar Mohammed Ali Rezaq, took control of the EgyptAir airliner at 8:28 pm Malta time, (Baker, T-2-84, Pflug, T-1-35, Ex. 3).

47. The ANO hijackers had an EgyptAir flight attendant go onto the aircraft intercom and say, “[w]e’re being hijacked by the Egypt Revolution, and if you do what you are told, you will not get hurt.” (Pflug, T-1-36).

48. Approximately 30 minutes after taking control of EgyptAir Flight 648, at approximately 9:00pm Malta time, there was a shootout between an EgyptAir sky marshal on board the aircraft and the hijackers. (Baker, T-2-52, 84, Pflug T-1-39, Ex.3). The aircraft’s fuselage was punctured by bullets and the plane rapidly descended. (Baker, T-2-52-53, Pflug, T-1-41).

49. Because of the need for fuel, EgyptAir Flight 648 landed at Malta’s Luqa Airport at 10:16pm. (Baker, T-2-84, Ex. 3, Pflug, T-1-50). (Baker, T-2-55)

50. The hijackers demanded fuel and were prepared to execute passengers in order to ensure their demands were met. (Lang, T-2-157).

51. As the hijackers, who had collected all the passports of the passengers, were awaiting fuel to arrive, they called forward and released some of the passengers based on their nationality from the aircraft. (Baker, T-2-57).

52. The hijackers threatened to shoot a passenger every fifteen minutes for fuel. (Ex. 34 at 2783). Shortly after releasing some of the passengers, Omar Rezaq called forward the first Israeli passenger, Tamar Artzi, and shot her in the head, throwing her body off the aircraft onto the tarmac at midnight Malta time on November 24, 1985. (Baker, T-2-84, Pflug, T-1-Ex. 3).

53. Jackie Pflug was seated next to an Australian man who told Ms. Pflug that one of the Israeli women, after she had been shot was moving on the tarmac. Jackie thought to herself "don't move"; and then the hijackers, having discovered that the Israeli woman was still alive, shot her on the tarmac. (Pflug, T-1-51).

54. Approximately 15 minutes after Artzi was shot, at 12:15am, a second Israeli passenger on Flight 648, Nitzan Mendelson, was dragged to the front of the aircraft and shot in the head by Omar Rezaq. (Baker, T-2-85, Ex. 3). Her body was also thrown from the aircraft onto the tarmac. (Baker, T-2-58).

55. All this time, Patrick Baker, Jackie Pflug and Scarlett Rogenkamp watched and waited as the two Israeli women were shot in the head, knowing they would be next. (Pflug, T-1-55), (Baker, T-2-58).

56. Approximately 15 minutes after shooting the two Israeli passengers, the hijackers called forth the three American passengers-- Patrick Scott Baker, Jackie Nink Pflug and Scarlett Marie Rogenkamp. (Baker, T-2-59, Pflug, T-1-52). The three American passengers' hands were tied behind their backs with neckties and the three Americans were seated in the first row on the starboard side of the plane. (Baker, T-2-59, Pflug, T-1-52).

57. Four and a half hours after the EgyptAir Flight 648 aircraft had departed Athens, and four hours into the hijacking, Patrick Baker, was shot point blank in the head by Rezaq. (Baker, T-2-60-61, 85, Pflug, T-1-53, Ex. 3). His body was dumped onto the tarmac.

58. Eight and a half hours after the EgyptAir flight 648 aircraft had departed Athens, a second American passenger, Scarlett Rogenkamp, was brought to the front of the aircraft and was shot in the head by Rezaq, which subsequently resulted in her death. (Pflug, T-1-54, 56-57, Ex. 3). Her body was dumped onto the tarmac.

59. Fourteen hours after the EgyptAir flight 648 aircraft had departed Athens, Jackie Pflug, the third American passenger onboard, was called forward and shot in the head by Rezaq. (Pflug, T-1-57-60, Ex. 3). Her body was dumped onto the tarmac.

60. On the second day of the hijacking, at 8:15pm Malta time, Egyptian commandos stormed the hijacked airplane in an attempt to rescue the remaining passengers and bring about the end of the hijacking. As a result of this rescue attempt, the aircraft was completely destroyed, except for some salvage, and approximately 60 passengers were killed. (Ex. 3, Lang, T-2-170-172, Baker, T-2-86).

61. Omar Ali Rezaq, the sole surviving hijacker, was injured in the rescue attempt by Egyptian commandos and was subsequently treated at a Maltese hospital (Ex. 34 at 2567-2571). Rezaq was tried and convicted in Malta and served time in prison. (Ex. 34 at 2792-2793). Subsequent to his release from the Malta prison, Rezaq was tried in Washington, DC before Judge Royce C. Lamberth in the US District Court for the District of Columbia. (Ex. 34). Rezaq's criminal trial was styled United States of America v. Omar Mohammed Ali Rezaq CR-93-284. (Ex. 34). During his criminal trial

Rezaq did not deny the fact that he got on EgyptAir Flight 648, that he went into the cockpit, that he intentionally forced the plane to divert Malta and that he shot EgyptAir Flight 648 passengers on the ground in Malta. (Ex. 34 at 2781). During his criminal trial, when asked if Rezaq remembers shooting people on EgyptAir Flight 648, Rezaq testified, “[its] [s]omething I cannot forget.” (Ex. 34 at 2782). Subsequently in a signed Affidavit, Omar Rezaq admitted that he was convicted of air piracy as the terrorist who hijacked EgyptAir Flight 648 (Ex. 35).

62. Rezaq admitted that the operation had been carried out by the Abu Nidal Organization, of which he was a member. (Ex. 34, Ex. 35). Rezaq also admitted that he was trained in an ANO training camp in the Syrian-controlled Baaka Valley. (Ex. 35, Ex. 34). Rezaq also admitted that this terrorist hijacking took place at the instigation of and with the support of the governments of Syria and Libya. (Ex. 35, Ex. 34).

63. Colonel Patrick Lang, the Defense Intelligence Officer for the Middle East, South Asia and Counter-terrorism at the time of the hijacking testified that he was called to the office of the Chairman of the Joint Chiefs of Staff on the day of the hijacking. (Lang, T-2-169). Col. Lang testified that it was his responsibility to review all information and intelligence of the United States regarding the EgyptAir Flight 648 hijacking. (Lang, T-2-134) Moreover, it was abundantly clear to individuals who served in key counterterrorism positions within the United States government during the relevant period that the Syrian government had provided material support to the ANO in the conduct of the EgyptAir Hijacking and the Rome and Vienna Airport Attacks. (Lang, T-2-155, Long, Ex. 52, Oakley, T-4-24-25).

64. Syrian support for the ANO in its conduct of the EgyptAir Flight 648 hijacking and the Rome and Vienna Airport Attacks took various forms, specifically including, but not limited to: allowing the ANO to maintain offices in Damascus, the maintaining and operation of training camps in Syrian controlled territory (being the Baaka Valley in Lebanon), the providing of operational guidance and clearance for travel into and out of Syrian borders and the transporting of ANO operatives and personnel on Syrian military highways. (Oakley, T-4-25, Lang, T-2-145, Rezaq Ex. 34, 2756, 2763-2764, 2769).

65. Omar Rezaq is currently serving a life sentence at the Federal Maximum Security Prison, ADX, Federal Bureau of Prisons, in Florence Colorado having been convicted of air piracy, as a result of his involvement as an ANO terrorist in the EgyptAir Flight 648 hijacking that took place on November 23, 1985. (Ex. 35).

66. There is no doubt that Syria materially and substantially supported, aided, abetted and sponsored the ANO in its preparation for and the conduct of the EgyptAir Flight 648 Hijacking in November 1985, as well as the ANO terrorist attacks on the Rome and Vienna airports in December 1985, and that this hijacking and the Rome and Vienna Airport Attacks could not have occurred without Syria's support and sponsorship of the ANO terrorist organization.

E. LOSSES SUSTAINED CONCERNING THE CERTAIN UNDERWRITERS

The Plaintiffs in these cases, captioned as Certain Underwriters of Lloyds of London v. Great Socialist People's Libyan Arab Jamahiriya, CA 06-cv-731 (GK) (JMF) and Certain Underwriters of Lloyds of London v. Great Socialist People's Libyan Arab Jamahiriya, CA 08-cv-504 (GK) (JMF), presented evidence through the submission of

sworn affidavits by several eyewitnesses and experts in the aviation insurance market, as well as documentary evidence regarding the process by which the aircraft was insured against loss by act of terrorism and the damage surveying process subsequent to the hijacking. Plaintiffs' witnesses established the follow facts:

66. Ian Durrant offered his testimony by sworn affidavit. He has accumulated 32 years of insurance claims experience working for insurance companies, and managing agents for syndicates in Lloyd's of London and has therefore acquired expertise as a loss leader in the aviation insurance business. His area of concentration is products and liability work on catastrophic losses, which involves evaluating, settling and or recovering fair and covered claims through negotiation, mediation or litigation. This work necessarily involves the review and understanding of the universe of basic documents such as insurance policies, broker policy slips, settlement memoranda and the usual correspondence between the players in such settings, such as the original insurer, their broker, the reinsurers, the claims surveyor, adjustors and lawyers – all of whom played a role in this damage claims process subsequent to the aircraft's destruction. (Ex. 84 at p. 1-2). Ian Durrant, whose qualifications were introduced into evidence, along with two affidavits relevant to the losses suffered by the Certain Underwriters Plaintiffs is competent to discuss the Lloyd's of London insurance company markets' complex, unusual daily workings and matters directly relating and relevant to the losses suffered by the Certain Underwriters Plaintiffs.

67. Neil McGilchrist offered his testimony by sworn affidavit. He has practiced law, including aviation insurance law, for 41 years. The Chambers UK, which is the equivalent of a bar association with oversight of UK based law firms located in

“Chambers” offices throughout the United Kingdom, named him as a “Senior Statesman” in 2009, and described him as “a seasoned authority on the entire gamut of aviation insurance matters.” The Chambers UK further described him as “being particularly well-known for his experience in advising on major international air accidents.” Furthermore, Mr. McGilchrist was an eyewitness to the claims surveying process subsequent to the hijacking as the member of the firm assigned to negotiate an agreement between the government of Malta and the reinsurers. Following the destruction of the EgyptAir aircraft, he was tasked with representing MISR Insurance Company (“MISR”), the owner of the aircraft, throughout the ensuing claims process, which was a process whereby MISR sought to recover the sums due under the relevant aviation policy. During the course of his work on this case in 1985-1987, in fact acting on behalf of the reinsurers of the EgyptAir aircraft, he communicated and negotiated with: the London aviation insurance broker Leslie & Godwin that facilitated the reinsurance of the policy, the salvage entity which eventually purchased the remains of the totally destroyed aircraft, the government of Malta, the MISR, the original insurer of the aircraft, and with all the underwriters, including the Certain Underwriters who are Plaintiffs in this action, to cover their sustained loss. (Ex. 86 at p. 2). His qualifications, which were introduced into evidence, make him competent to testify based both upon his skills, expertise and his personal knowledge.

68. Robert Burge offered his testimony by sworn affidavit. He has worked in the London aviation insurance market since 1969 as an Insurance Adjuster, and later served in more senior roles. He worked with Lloyds of London for approximately 10 years initially as a surveyor, subsequently promoted to Senior Surveyor working around the

world on aircraft losses reporting back to the London Market, and negotiating claims and investigating causes on their behalf. After rejoining Lloyd's Aviation Department as Senior Surveyor in 1981, he was eventually promoted to Deputy Principal Surveyor and then in 1985 was promoted to the position of Principal Surveyor responsible for the department, reporting to the market and being part of the Senior Management of the Corporation of Lloyds. In this role, he was an eyewitness to the underwriting events that transpired prior to the hijacking and the claims surveying process that transpired subsequent to the hijacking. (Ex. 88 at p. 1). His qualifications, which were introduced into evidence, make him competent to testify based both upon his skills, expertise and his personal knowledge.

69. In accordance with the sworn testimony of the aforementioned knowledgeable insurance industry experts, who also were involved at the time of the EgyptAir aircraft hijacking in 1985, there was, as there is now, a very large insurance market that insures aircraft and all aspects of aviation insurance for that particular class of business. Located in the City of London this insurance market is made up of many insurance companies that surround Lloyd's of London. This is a central trading place for insurance brokers who place risks for their clients, who are the policyholders. Within Lloyd's there are syndicates that are owned by Managing Agents. The syndicates employ Underwriters who underwrite risks for the syndicate in this aviation business. (Ex. 84 at p. 2).

70. Owners of aircrafts firstly insured their airplanes against loss and damage by contracting directly with Lloyd's syndicates via a broker or as in this EgyptAir hull war risk, a re-insurance of the initial local insurance company the MISR. This company then re-insured its risk by contacting an insurance broker, most likely in London, who would

place the risk as a reinsurance of the “ceding” insurance company, the MISR, with various Lloyd’s syndicates and surrounding insurance companies. This was done against a quote of premium for underwriting the risk. Each syndicate or company would contract through the policy of insurance or reinsurance as in this case and underwrite a certain percentage of the overall risk. The original insurer’s risk can be ceded (re-insured) 100% worldwide through insurance and reinsurance markets to various Lloyd’s syndicates and London insurance companies. London insurers and reinsurers may be ceded 100% of the risk or a percentage thereof. The rest is ceded to other so called “foreign” insurance markets. In 1985, London insurers quite often underwrote the greater percentage of the risk for aircraft around the world. (Ex. 84 at p. 2).

71. Mr. Durrant testified that he reviewed Leslie & Godwin’s original file on the reinsurance of EgyptAir’s Boeing 737-200 ADV passenger airplane with registration number SU-AYH and serial number 211191 and its subsequent hijacking on November 23, 1985, by Abu Nidal Organization terrorists and later destruction. He confirmed the following: in this case, EgyptAir the owner of the airplane with registration number SU-AYH and serial number 211191, contracted with an Egyptian insurance company, MISR Insurance Company, located in Cairo, Egypt, which then sought to re-insure its risk by contracting with several insurance underwriters through the London broker Leslie & Godwin. (Ex. 84 at p. 2, Ex. 86 at p. 2, Ex. 88 at p. 2). Leslie & Godwin facilitated this complex transaction by communicating and contracting the reinsurance of MISR with many syndicate underwriters at Lloyd’s and surrounding insurance companies. Most of these underwriters, who contracted to reinsure the MISR policy, are the Plaintiffs in this litigation. The risk insured by the reinsurers was for damage faced by MISR should the

airplane be destroyed or damaged within the terms of the aviation hull war policy. Leslie & Godwin, the aviation insurance broker, created a “Slip Policy Reinsurance” that delineates which reinsurer covered what percentage of the risk. (Ex. 84 at p. 2-3, Ex. 84A).

72. The Plaintiffs reinsurers, who each took shares in the policy that covered the aircraft hull at issue in this case are: Certain Underwriters at Lloyds London each severally subscribed to insurance policies each for its own part and not one for the other, numbered AE2141B and VS5057L; Allianz Cornhill Insurance, PLC, f/k/a Cornhill Insurance, PLC, c/o Pro Insurance Solutions, Ltd.; Aviation and General Insurance Company, Ltd., c/o Ruxley Ventures Ltd.; English & American Insurance Company, Ltd., c/o Pro Insurance Solutions, Ltd.; Markel Insurance Company, Ltd., f/k/a Terra Nova Insurance Company, Ltd.; Minster Insurance Company Ltd.; MMO/New York Marine and General; Nippon Insurance Company of Europe Ltd., c/o Pro Insurance Solutions, Ltd.; Riverstone Insurance (UK) Ltd., as successor in interest to Sphere Drake Insurance Ltd.; Sovereign Marine & General Insurance Company Ltd., c/o Pro Insurance Solutions, Ltd.; SR International Business Insurance Company Ltd., f/k/a Switzerland Insurance Company (UK) Ltd., c/o Pro Insurance Solutions, Ltd.; Tower Insurance Ltd., c/o Pro Insurance Solutions, Ltd. and La Réunion Aérienne.⁴ (Ex. 84 at p. 3, 5-6, Ex. 84A).

⁴ Some of the Plaintiff insurance companies are listed in the complaint as “f/k/a” meaning “formally known as” because the companies changed their names when taken over by another company. Several of the companies are identified with the following adjoined acronym: “c/o”. This means in “care of” and describes the relationship between the insurance company and a company called Pro Insurance Solutions Ltd., formerly known as Portfolio Run Off Limited (“PROL”). PROL has changed its name to Pro Insurance Solutions Ltd., which basically purchases companies that are either in difficulties or have ceased trading, but are solvent and want another company to run off their book of business. Pro Insurance Solutions Ltd. also deals with companies who have entered into a solvent scheme of arrangement. Thus, a few of the Plaintiff insurance companies, whose old corporate identities may be found on the “Slip Policy

73. They each and individually subscribed to a hull war risk policy, a type of insurance policy, that covered the aircraft owned by EgyptAir for “[a]ny act of one or more persons, whether or not agents of a sovereign power, for political or terrorist purposes and whether the loss or damage resulting therefrom is accidental or intentional.” (Ex. 84 at p. 4, Ex. 84B, Ex. 86F).

74. The value of the aircraft under the insurance policy was \$14,000,000. (Ex. 84 at p. 5, Ex. 84C, Ex. 84F, Ex. 86 at p.2, Ex. 88 at p.2).

75. The aircraft was declared a “constructive total loss” as a result of the damage sustained during the hijacking. (Ex. 84 at p. 7, Ex. 84F, Ex. 86 at p. 2, Ex. 86A, Ex. 88 at p. 2-3, Ex. 88A).

76. The percentage share of the insurance policy that covered the aircraft, assumed by each individual Plaintiff- underwriter, determined both their responsibility to compensate EgyptAir under the terms of the policy for the damage to the aircraft and for incidental consequential costs such as the cost of the underwriter and solicitor engagements during the claims surveying process. (Ex. 84 at p. 7). This percentage also determined the share of each Plaintiff-underwriter to any dollars retrieved as a result of any salvage sale from the aircraft remains.

77. The Plaintiff underwriters in the litigation, with the exception of La Réunion Aérienne, combined to reinsure almost the entire 75.55% portion of the risk reinsured

Reinsurance” (Ex. 84A), are now no longer autonomous insurance companies, but now operate under the care of Pro Insurance Solutions Ltd., such as Nippon Insurance Company of Europe Ltd. and Sovereign Marine & General Insurance Company Ltd. The original corporate name of each Plaintiff is found upon the “Slip Policy Reinsurance” (Ex. 84A). The only entity named as a Plaintiff whose name in the Amended Complaint does not divulge the Plaintiff’s corporate name at the time of the incident, as found on Ex. 84A, is MMO/New York Marine and General, whose name at the time of the incident was Mutual Marine New York.

through Leslie & Godwin.⁵ The following chart identifies the percentage of the 75.55% portion of the risk held by each underwriter, as identified by the underwriters' stamps on Ex. 84A:

<u>Underwriter Insurance Company</u>	<u>Reinsurance Policy Reference #</u>	<u>Share of 75.55% of London Order</u>
Various Lloyds Syndicates	AE 2141	70.919%
Sedgwick Aviation – Various Lloyds syndicates	VS5057	9.088%
Aviation & General	W8501890	2.272%
English & American	850017WAL15	3.635% ⁶
Minster	AV850325	1.363%
Sphere Drake	SWAEG00056Z	1.363%
Cornhill	277331	0.547%
Sovereign Marine & General	277331	0.725%
Terra Nova	85MA82399HA	1.727%
Mutual Marine New York		3.181%
Dominion *		0.682%
AEGON *		0.227%
Ins. Corp Of Ireland *		1.136%
Dutch Pool *		1.136%
Tokyo Marine *		0.454%
Frankona Munich *		0.682%
Tunis RE *		0.454%
EL Banco *		0.136%
Abeille Paris *		0.091%
AA Mutual Johannesburg *		0.182%

* - not a Plaintiff in this case

(Ex. 84 at p. 5-6, 84A).

⁵ La Réunion Aérienne reinsured a further 8.5% of the risk outside of the 75.55%. (Ex. 87 at p.1, 87A). Thus the identity of 84% of the reinsurers has been established: 75.5% covered by Certain Underwriters at Lloyds London each severally subscribed to insurance policies each for its own part and not one for the other, numbered AE2141B and VS5057L and the other named insurance companies, with the exception of La Réunion Aérienne, which covered another 8.5 % outside of that 75.5%.

⁶ The “Slip Policy Reinsurance” that delineates which reinsurer covered what percentage of the risk, (Ex. 84A), shows that Plaintiff Nippon Insurance Company held a 20% share of the risk held by English & American, which totals 0.727% of the 75.5%. It also reveals that Switzerland Insurance Company held a 10% share of the risk held by English & American, which totals 0.0635% of the 75.5%.