

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

UNITED STATES OF AMERICA

v.

**ABU AGILA MOHAMMAD
MAS'UD KHEIR AL-MARIMI,**

Defendant.

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Case No. 22-cr-392 (DLF)

**GOVERNMENT'S RESPONSE TO DEFENDANT'S MOTIONS *IN LIMINE*
REGARDING GOVERNMENT'S TRIAL EXHIBITS**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits this response to the defendant's motion *in limine* regarding the government's proposed exhibits. The government requests the Court overrule the defendant's objections.

FACTS

As the Court is aware, this case arises out of the bombing of Pan Am Flight 103 on December 21, 1988, which exploded over Lockerbie, Scotland, while *en route* from London's Heathrow Airport to John F. Kennedy International Airport in New York City. The explosion resulted in the deaths of 270 people, 259 of whom were aboard the flight, and another 11 residents of Lockerbie. The details of the crash, as well as the extensive investigation that followed, are outlined in ECF 26 and the transcript from the Motion to Suppress Hearing. As a result of the investigation that has spanned 38 years, the defendant is charged with destruction of an aircraft

resulting in death, in violation of 18 U.S.C. §§ 32(a)(2), 34, and 2; and destruction of an aircraft resulting in death, in violation of 18 U.S.C. §§ 32(a)(1), 34, and 2.¹

In preparation for the trial, the government shared a preliminary exhibit list with the defense, indicating what exhibits it might introduce at trial. See Attachment A. In an effort to assist the defense, the government italicized certain exhibits to indicate those that we intended to have available rather than offer affirmatively. For the italicized items, the government does not intend to introduce those items unless the defense asks questions on cross-examination or puts forth a witness that makes the items relevant.

ARGUMENT

I. The identified exhibits are admissible under 401 and 403

As the defense agrees, evidence is relevant if it “has any tendency to make a fact more or less probable than it would be without the evidence” and the fact is material, i.e., “of consequence in determining the action.” Fed. R. Evid. 401. Relevant evidence generally is admissible. Fed. R. Evid. 402. As the government outlines below, the proposed exhibits are clearly relevant.

The next step that the Court must consider is the Rule 403 balancing test. As the D.C. Circuit has repeatedly emphasized, “Rule 403 does not bar powerful, or even prejudicial evidence. Instead, the Rule focuses on the danger of unfair prejudice, and gives the court discretion to exclude evidence only if that danger substantially outweigh[s] the evidence's probative value.” *United States v. Pettiford*, 517 F.3d 584, 590 (D.C. Cir. 2008). *See also United States v. Manner*, 887 F.2d 317, 322 (D.C. Cir. 1989) (quoting *United States v. Moore*, 732 F.2d 983, 989 (D.C. Cir. 1984) and *United States v. Day*, 591 F.2d 861, 878 (D.C. Cir. 1978) (each

¹ The defendant was also charged with destruction of a vehicle used in foreign commerce by means of an explosive, resulting in death, in violation of 18 U.S.C. § 844(i), but that charge was dismissed by the Court.

quoting and adding emphasis to Fed. R. Evid. 403). With the scales so calibrated, the law of this circuit is to “lean toward admitting evidence in close cases.” *Manner*, 887 F.2d at 322 (citing *United States v. Payne*, 805 F.2d 1062, 1066 (D.C. Cir. 1986) and *Moore*, 732 F.2d at 989). That approach is consistent both with “the ‘thrust of the Federal Rules,’ which favors ‘admissibility,’” and with the Supreme Court’s teaching about the “fundamental and comprehensive” need to “develop all relevant facts in the adversary system,” which is required both for the “ends of criminal justice” and the “very integrity of the judicial system and public confidence in [it].” *Day*, 591 F.2d at 879 (quoting J. Weinstein & M. Berger, *Evidence P* 403(03) at 403-18 (1977) and *United States v. Nixon*, 418 U.S. 683, 709 (1974)).

The defense makes generalized objections for each exhibit, merely citing that the exhibit “may risk” the jury confusing the issues. That is not the legal standard. Rule 403 focuses not on “prejudice” but “on the ‘danger of unfair prejudice,’ and gives the court discretion to exclude evidence only if that danger ‘substantially outweighs’ the evidence’s probative value.” *United States v. Gartmon*, 146 F.3d 1015, 1021 (D.C. Cir. 1998) (quoting Fed. R. Evid. 403). As illustrated below, the exhibits are highly probative, and their value is not substantially outweighed by a danger of unfair prejudice, confusion of the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.

A. 100 Series: Pan Am Commercials

The government’s theory of the case is that the bombing of Pan Am Flight 103 was motivated by the Libyan government’s desire to inflict revenge on the people of the United States. The status of Pan American World Airways as a — indeed **the** — major U.S.-based passenger airline makes this revenge motive more likely because it explains the co-conspirators’ choice of target. Pan Am’s marketing of itself as the premier U.S. airline is

relevant to the public's (including the co-conspirators') perception of it as such. Additionally, Pan Am's marketing as an airline that prided itself on on-time departures also explains the co-conspirator's choice of target, since it makes it more likely their plan would succeed if security took a backseat to punctuality. Evidence on this point is especially appropriate because many jurors will not be familiar with Pan Am, which ceased to exist as a major airline decades ago. As the Supreme Court has explained, making a case with "tangible things...tells a story with descriptive richness" and the "persuasive power of the concrete and particular is often essential to the capacity of jurors to satisfy the obligations that the law places on them." See *Old Chief v. United States*, 519 U.S. 172, 187 (1997). Making Pam Am's corporate identity tangible to the jury is critical to the government's ability to present a coherent and compelling narrative at trial.

B. 200 Series: Crime Scene Photos

The government expects the defense to challenge the chain of custody of the crime scene evidence that was collected in this case, as well as the integrity and sufficiency of the investigation. These photos are evidence of the methodical searches that were conducted, and they capture and depict the details of how the evidence was collected and maintained. These are also photos of the crime scene itself, which is relevant to show that a crime occurred, which is something the government must prove.

C. 800 Series: Maltese Travel Records

These exhibits are Immigration Records Office (IRO) cards. These cards were filled out by all passengers entering and exiting Malta through Luqa Airport in 1988. The identified government's exhibits, documenting the travel of the defendant and his co-conspirators, are relevant to prove the conspiracy. While this case does not involve conspiracy as a charged offense,

it still a “conspiracy case” in that the defendant is alleged to have committed the offense in concert with others in pursuit of a shared objective. *See* ECF 7 at ¶ 10 (Indictment, alleging that defendant conspired with other ESO associates to commit terrorist acts against the United States). The government expects to request that the jury be instructed on the theory of co-conspirator liability at trial. Courts have found that when determining whether the evidence supports a finding of a conspiracy, “we look at whether the defendants ‘shared a common goal,’ any ‘interdependence between the alleged participants,’ and ‘any overlap among alleged participants,’ such as the presence of core participants linked to all the defendants.” *U.S. v. Gatling*, 96 F.3d 1511, 1520 (D.C. Cir. 1996) (*quoting U.S. v. Graham*, 83 F.3d 1466, 1471 (D.C. Cir. 1996)). The government’s travel record exhibits show the coordination and participation of members of the conspiracy. Further, the timing of the documented events is evidence of the preplanning and organization that went into the conspiracy.

The defense objects to exhibits related to “Maltese Travel”² because “[t]hat others traveled to Malta in 1988 does not have tendency to make a fact in issue more likely and may risk confusing the issues or misleading the jury.” These exhibits are related to the travel of named co-conspirators that occurred generally around the same time or in tandem with the defendant’s travel. For example, Exhibits 826 & 827 are IRO cards in Abdelbaset Ali Al-Megrahi’s name, documenting his travel from Tripoli to Malta on October 8, 1988, and his return flight departing Malta on October 10, 1988. Exhibits 824 & 825 are IRO cards in the defendant’s name, documenting his flights from Tripoli to Malta and Malta to Tripoli on the same dates that Megrahi travelled. The evidence shows that the defendant and Megrahi, a named co-conspirator, flew in and out of Malta

² The defense grouped the material by subject and noted the specific exhibit numbers that are relevant to their objections. The government has addressed identified the specific exhibits that will be affirmatively offered in the government’s case-in-chief in the charts that follow.

on the same day on more than one occasion, make it more likely that the defendants were working together, in furtherance of the conspiracy.

Another example of coordinated travel of the co-conspirators occurred in December 1988. Exhibit 845, an IRO card in Fhimah's name, documents Fhimah's travel from Tripoli to Malta on December 4, 1988. Exhibit 830, an IRO card in the defendant's name, documents the defendant's travel from Libya to Malta on December 7, 1988. Exhibit 832, IRO card in the Megrahi's name documents Megrahi's travel to Malta on December 7, 1988. The fact that all three co-conspirators arrived on the island within days of each other is evidence of preparation in furtherance of the conspiracy.

The defense objects to "documents related to Megrahi Travel to Switzerland" because Megrahi's travel "does not involve Mr. Al-Marimi and runs the risk of confusing the issues or misleading the jury." Megrahi's travel to Switzerland is relevant to the contour of the conspiracy. Exhibits 1564 and 1565 are registration cards from the Zurich Continental Hotel in the name of Abdelbaset Mohamed Megrahi dated October 18, 1988, and December 16, 1988, respectively. On those two occasions, Megrahi travelled to Switzerland within days of traveling with the defendant. Moreover, Megrahi and Badri Hasan, another ESO member and co-conspirator, had rented office space in a building that was owned by and down the hall from MEBO, the company that produced the timer that was used to detonate the bomb on Pan Am Flight 103. Further, in order to facilitate his trips to Switzerland, Megrahi filled out a Swiss visa application, Exhibit 1550, presenting himself as a Flight Dispatcher for LAA in Tripoli. The fact that Megrahi stayed in Switzerland, in the city where the MST-13 timer was made, on several occasions immediately before or after traveling with the defendant makes it more likely that these travels were in furtherance of the conspiracy.

The defense objects to the “Czech Republic Documents” because “[e]vidence of Mr. Megrahi’s travel to Prague, which does not involve Mr. Al-Marimi, runs the risk of prejudicing Mr. Al-Marimi by confusing the issues or misleading the jury.” Government’s Exhibits 900-911, materials gathered in the Czech Republic, are evidence of the conspiracy. Specifically, Megrahi’s travel to Prague, where the explosive Semtex is manufactured, just after traveling with the defendant in October and just before and after meeting and traveling with the defendant in December, is evidence of actions taken in furtherance of the conspiracy. This is evidenced by Exhibits 901 and 902, two Czech visa applications that were stamped on October 10, 1988, and October 18, 1988, and on December 8, 1988, and December 16, 1988, respectively. Exhibit 905, a letter from the Libyan Military Procurement office requesting accommodations for Megrahi on October 10, 1988, and requesting that the bill be sent to the Libyan Purchasing office, is evidence that Megrahi travelled to Prague to do work for the Libyan government. Government’s Exhibit 904, a bill from the Hotel InterContinental Prague, notes that “Lib. Arabska Jamahiria Military Office” in Prague was billed for Megrahi’s hotel stay. Exhibit 908, a letter from the People’s Bureau of the Socialist people’s Libyan Arab Jamahiriya to the Hotel Intercontinental in Prague, confirms that all costs connected with Megrahi’s accommodations in December 1988 would be paid for by the Bureau. In short, the Czech travel documents are relevant to show that the Libyan government was actively supporting travel of Megrahi in furtherance of the conspiracy.

Exhibit Number or Series	Description	Defense Objection	Government Response
100 Series	Pan Am videos	The promotional videos do not make a material fact at issue more or less likely.	See Section I.A. above.

201	Photographs of searches	Photographs of search and those participating are not relevant.	See I.B. above.
216	Map of Sector G	Extraneous handwriting on document.	The government has no objection to redacting the handwriting at the top of the map.
505	Photograph identified by law enforcement officer.	Photograph depicts Mr. Al-Marimi behind a bar and in a jail jumpsuit for another criminal case.	The government is unlikely to use this photograph in its case-in-chief; however, it has been identified as an item that could become relevant during trial. Should this item become relevant during trial, the government would provide a basis for admission prior to its introduction.
708	Maltese Clothing Receipt	This document has little to no probative value because portions are so faint as to be illegible.	The government is unlikely to use this photograph in its case-in-chief; however, it has been identified as an item that could become relevant during trial. Should this item become relevant during trial, the government would provide a basis for admission prior to its introduction.
821, 826-827, 833-863	Maltese Travel	That others traveled to Malta in 1986 and 1988 does not have a tendency to make a fact in issue more likely and may risk confusing the issues or misleading the jury.	See I.C. above.
900 Series	Czech Republic Documents	Evidence of Mr. Megrahi's travel to Prague, which does not involve Mr. Al-Marimi,	See I.C. above.

		runs the risk of prejudicing Mr. Al-Marimi by confusing the issues or misleading the jury.	
1400 Series	Senegalese Documents	The Senegalese police documents are of limited relevance to the charges against Mr. Al-Marimi, and whatever marginal relevance they may have is substantially outweighed by the danger of unfair prejudice and confusion of the issues — jurors are likely to improperly conflate the conduct of the Libyans arrested in Senegal with the culpability of Mr. Al-Marimi, and the government has not established a sufficient nexus between those events and the charged offenses.	As it stands, the government is unlikely to use evidence regarding Senegal in its case-in-chief. ³
1535 1536 1540	Documents related to Scottish Witness	These documents are of limited, if any relevance to the charges against Mr. Al-Marimi under FRE 401, as none of them mention or identify him. Whatever marginal relevance the Government may claim is substantially outweighed under FRE 403 by the danger that the jury will treat Mr.	The government is unlikely to offer these exhibits in its case-in-chief.

³ The Court's rulings on the issues briefed in ECF 398-1 (sealed motion regarding a Rule 15 deposition) will have a strong bearing on whether the government elects to present evidence regarding Senegal.

		Al-Marimi's alleged association with those identified in the documents as substantive evidence of guilt — effectively convicting him on the basis of his alleged associations rather than his own proven conduct.	
1554-1556 1558 1561-1565 1567-1577	Documents related to Megrahi travel to Switzerland	Evidence of Mr. Megrahi's travel to Switzerland, which does not involve Mr. Al-Marimi, runs the risk of confusing the issues or misleading the jury.	With the exception of Exhibits 1564 and 1565, the government is unlikely to offer these exhibits in its case-in-chief. 1564 and 1565 relate to co-conspirator Megrahi's travels during October and December 1988. See I. C. above.
1578	Libyan Witness Swiss visa application	Evidence of Libyan Witness' Swiss travel in 1986, which does not involve Mr. Al-Marimi, runs the risk of confusing the issues or misleading the jury.	The government is unlikely to offer these exhibits in its case-in-chief.
1901	Image of Qaddafi dressed in the garb of the Amazonian Guards (aka the "Revolutionary Nuns" of Libya)	The Amazonian Guard reportedly surrounded Qaddafi for protection from shooters; thus, the undue prejudice of this particular photo outweighs any probative value given that many other photos of Qaddafi exist that can be used for identification.	The government does not intend to introduce anything about the meaning of Qaddafi's clothing in this image. The defense can voir dire jurors about their knowledge of it if they are so inclined.

II. The exhibits are not “needlessly cumulative”

The government bears the burden of proof, and accordingly, must be “accorded substantial leeway to submit evidence of its choosing to prove its case.” *Old Chief*, 519 U.S. at 200. Probative evidence is often helpful to the government and harmful to the defense, but that is not the measure of “unfair prejudice” under Rule 403. *Henderson v. George Wash. Univ.*, 449 F.2d 127, 134 (D.C. Cir. 2006). In a case with such a large crime scene, a large number of victims, and a lengthy investigation, there is bound to be a lot of evidence, whether it be photographs, physical evidence, documentary evidence or witness testimony. But the mere fact that there is a lot of evidence does not, on its own, mean that it is cumulative. *See United States v. Long*, 328 F.3d 655 (D.C. Cir. 2003) (discussing a 403 inquiry involving 404(b) evidence, and stating “it is difficult, if not impossible, to draw a line at which such evidence, by virtue of its sheer volume, necessarily becomes unfairly prejudicial”); *see also United States v. Brown*, 597 F.3d 399, 406 (D.C. Cir. 2010) (*citing to* 22 Charles Alan Wright & Arthur R. Miller, *Federal Practice & Procedure* § 5220, 306 (1st ed. 1978) (stating that evidence should not be excluded simply because it is repetitive, but because the “evidence on one side is so full that no jury that rejected it would be likely to change its mind because of the introduction of the proffered evidence”). As indicated below, the items are not needlessly cumulative, and in fact, are tailored to present a comprehensive overview of the crime scene in an efficient and concise manner.

Exhibit Number or Series	Description	Defense Objection	Government Response
200-209	Photos of crash site, divided by sector.	Repeated images of crash debris and victims risk distracting and confusing the jury.	These are various photos of the crime scene in Scotland. The crime scene covered over 845 square miles, with

			thousands of pieces of evidence recovered. The crime scene was divided into sectors. Each sector was assigned a Detective Inspector to organize and oversee the search and collection of evidence. Exhibits 201-209 and 228 are collections of photographs that show different views and perspectives of each sector. There are approximately 30 photos from nine main sectors. While the government does not intend to introduce all of the photos, it is hardly cumulative to show photos from different locations and from different perspectives.
212/213/214 (and 302.002)	Photographs of Reconstruction at Longtown	Repeated images of crash debris risk distracting and confusing the jury.	The defense has challenged some of Mr. Feraday's opinions in this case. Parts of his opinion were based on the evidence collected and the reconstruction of the plane. The government has a right to show how the evidence was recovered, examined, preserved and analyzed in this case.
601	Photos of La Belle Discotheque scene.	Repeated images of explosively damaged building and debris risk distracting and confusing the jury.	The defendant describes the explosion that took place at the La Belle nightclub as well as the extent of the damage. The government intends to nominate a select

			number of photos to present to the jury.
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III. The relevance of the exhibits is not substantially outweighed by the danger of unfair prejudice

As argued above, the standard for relevant evidence is not merely that a piece of evidence “poses a significant risk of unfair prejudice” as the defense argues. In this case, the crime is one of death and destruction on a massive scale. The evidence of this crime may be upsetting or disturbing or even “jarring,” but that does not make it inadmissible. *See United States v. Khataallah*, 313 F.Supp.3d 176, 195 (D.D.C. 2018) (admitting autopsy photos and physical injuries where government is entitled to present a compelling case with evidence of its choosing). The D.C. Court of Appeals has explained:

Rule 403 does not provide a shield for defendants who engage in outrageous acts, permitting only the crimes of Caspar Milquetoasts to be described fully to a jury. It does not generally require the government to sanitize its case, to deflate its witnesses' testimony, or to tell its story in a monotone.

Gartmon, 146 F.3d at 1021. The bombing of Pan Am Flight 103 was a horrific crime, one that occurred over 35 years ago, and the government has the right to fully explain to jury the crime that was committed.

As indicated below, the government does intend to limit the evidence it presents to prevent any substantial danger of unfair prejudice.

Exhibit Number or Series	Description	Defense Objection	Government Response
200-209	Photos of crash site, divided by sector.	Each series contains graphic photos and poses significant risk of unfair prejudice.	The government does not intend to offer: 202.026 202.027

			202.028 203.013 203.014 204.013 205.020 205.023 206.010 The remaining photos do not create a substantial risk of unfair prejudice. The defendant is charged with causing death, and that is one of the elements the government must prove. In this case, there were 270 people killed and while the government does intend to show photos of the victims, the photos are from a distance, with unidentified injuries. Moreover, the government intends to show a limited number of the victims, because the government has a right to show the extent of the crime scene and the destruction caused.
309.001 309.003-005 309.007 309.011-014 309.035 309.039 309.040 309.048	Explosives testing.	The image depicts explosion, with mannequins resembling people, in an attempt to recreate the conditions of the explosion, and poses a risk of unfair prejudice.	The government is willing to make appropriate redactions as to mannequins if needed.
508	Video depicting Mr. Al-Marimi in custody and	The video depicts Mr. Al-Marimi in custody and wearing a jail jumpsuit	The defendant identifies himself in this video. The government will have the

	wearing a jail jumpsuit during prosecution for an unrelated criminal case.	during prosecution for an unrelated criminal case; the government has other, less prejudicial means of identification.	in-court identification of Jamal, which the defense is expected to challenge. There is no other identification more probative than the identification of the defendant.
601	Photos of scene at La Belle Discotheque	The proposed exhibit contains graphic photos and poses significant risk of unfair prejudice.	The government does not intend to introduce every photo. The government will nominate photos it will seek to introduce in accord with the Court's ruling admitting evidence of the La Belle bombing.

IV. The government will lay the appropriate foundation for all exhibits

The government agrees that a proper foundation must be laid for each exhibit. As indicated below, all exhibits will be introduced with witnesses who can testify to the foundations. As to the defendant's arguments regarding witnesses who can testify to the collection of specific items of the evidence, the government intends to present the law enforcement officer who oversaw the entire crime scene operation, then-Detective Chief Inspector Gordon Ferrie. He will speak to the collection of evidence throughout all of the Scottish sectors. DCI Ferrie will testify to the location of the sectors, how searches were conducted, how evidence was tagged, labelled and transported and what documentation was used. He will explain where the evidence was held and how it was logged and maintained. His testimony will lay the foundation for the crime scene items that the government intends to admit at trial. While he was not present for the collection of each and every item, his testimony will demonstrate that the "possibilities of misidentification and adulteration have been eliminated." *United States v. Mejia*, 597 F.3d 1329, 1336 (D.C. Cir. 2010). The D.C. Circuit has recognized that in order for evidence to be admissible, "a complete chain of

custody need not always be proved.” *United States v. Mitchell*, 816 F.3d 865, 871 (D.C. Cir. 2016) (citing *United States v. Garcia*, 757 F.3d 315, 319 (D.C. Cir. 2014)). Further, the government expects to present testimony outlining the way the evidence has been maintained from 1988 to the present. See Attachment B (the “Scottish Declaration”). Here, the testimony will establish that the evidence the government intends to present is sufficiently tied to the crime in this case.

Exhibit Number or Series	Description	Defense Objection	Government Response
200-209	Photos of crash site, divided by sector.	Government must present witness testimony that the photographs fairly and accurately depict what they observed at the scene, time and place of the image.	The government intends to present testimony from law enforcement officers who were present at the scenes where the evidence was collected.
217	Map of sectors.	Government must present witnesses to lay foundation for recovery of evidence as indicated on map.	The government intends to present testimony from law enforcement officers who were present at the scenes where the evidence was collected. Further, the government intends to present the law enforcement officer who oversaw the entire crime scene operation, DCI Gordon Ferrie.
302.001-302.396	Photographs from RARDE report.	Government must present sufficient witness testimony to lay foundation for how and where the depicted items were recovered.	Many of these exhibits were admitted through Mr. Feraday. There will be evidence from DCI Ferrie and others that discusses how evidence was collected generally and how it was maintained and preserved.

303	AAIB Report	Government must present sufficient witness testimony to lay foundation for report.	The government is unlikely to introduce this exhibit in its case-in-chief.
304.002	Two-dimensional layout of plane	Government must present witness testimony that the photographs fairly and accurately depict what they observed at the scene, time and place of the image.	The government will present testimony of witnesses who observed the layout.
304.003	Forward cargo hold diagram	Government must present sufficient witness testimony to lay foundation for diagram.	The government will present testimony of witnesses who were familiar with the layout of the plane.
305	Feraday RARDE Examination Notes	Government must present sufficient witness testimony to lay foundation for document.	The government is unlikely to introduce this exhibit in its case-in-chief.
306	Interim FAI Report	Government must present sufficient witness testimony to lay foundation for document.	The government is unlikely to introduce this exhibit in its case-in-chief.
307	Feraday Folder Notes	Government must present sufficient witness testimony to lay foundation for document.	The government is unlikely to introduce this exhibit in its case-in-chief.
308	Spectra Printouts	Government must present sufficient witness testimony to lay foundation for document.	The government is unlikely to introduce this exhibit in its case-in-chief.
309.001-309.058	FAA test photographs	Government must present sufficient witness testimony to lay foundation for how and where the depicted items were recovered.	The government will present testimony of witnesses who were present during the trials
310	Report on Test Explosions	Government must present sufficient witness testimony to lay	The government is unlikely to introduce this exhibit in its case-in-chief.

		foundation for document.	
507	Photo purporting to be Mr. Al-Marimi with Abdelbaset Al-Megrahi.	The government has not indicated that it plans to call any witness with personal knowledge that Mr. Al-Marimi is in the car. Without such evidence, this photo is irrelevant under Rules 401/402.	The government will present witness testimony identifying Mr. Megrahi. The jury will have a sufficient basis to conclude that the defendant is in the exhibit by comparing it to Exhibit 508, where the defendant self-identifies.
803	Air Malta weekly flight schedule.	This document has not been provisionally admitted. The government's witness must lay sufficient foundation before it can be admitted as a business record.	This document is still pending a ruling from the Court. <i>See</i> ECF 326 at 3-4.
824-863; 870	IRO cards	These documents have not been provisionally admitted so the government must present sufficient witness testimony to lay foundation that the documents are what they purport to be.	The government intends to present testimony from a Maltese Airport Officer who worked in immigration control at Luqa Airport in 1988 who can identify the cards.
868, 869	Luqa airport photos	Government must present witness testimony that the photographs fairly and accurately depict what they observed at the scene, time and place of the image.	The government will present a witness with knowledge.
901, 902, 909	Megrahi Czech visa	Absent Court accepting certifications, the government must present sufficient witness testimony to lay foundation that the	The government has moved for admission of these documents in ECF 490.

		documents are what they purport to be.	
1002 1021 1023 1025 1027 1029 1030	Frankfurt airport photos	Government must present witness testimony that the photographs fairly and accurately depict what they observed at the scene, time and place of the image.	The government will present a witness with knowledge or other foundational testimony (but most of these exhibits are not photos).
1303 1306-1309	Documents from Toshiba	These documents have not been provisionally admitted so the government must present sufficient witness testimony to lay foundation that the documents are what they purport to be.	The government will present a witness with knowledge or other foundational testimony if it moves for admission of these documents.
1400 Series	Senegalese Documents	These records have not been provisionally admitted, and the government must present sufficient witness testimony that the proffered witness has personal knowledge of, or is otherwise qualified to authenticate, records created by a foreign law enforcement agency under foreign procedures.	The government will present a witness with knowledge or other foundational testimony if it moves for admission of these documents.
1503, 1505, 1507-1512, 1516-1518, 1521, 1523-4; 1526-9; 1532-3, 1535-6; 1540- 1545; 1547- 1578	Swiss Documents	These documents have not been provisionally admitted so the government must present sufficient witness testimony to lay foundation as to how these documents were recovered and	Exhibit 1529 was identified and moved into evidence as part of a Rule 15 deposition. <i>See</i> February 24, 2026, Depo. Tr. at 97. Exhibits 1549, 1550, and 1559 are currently

		maintained. For the government must present witness testimony that the photographs fairly and accurately depict the item(s) pictured.	pending rulings from this Court. <i>See</i> ECF 450 at 2. The government will introduce testimony at trial regarding how the Scottish police received Exhibits 1564 and 1565 and anticipates seeking their admission under Fed. R. Evid. 803(16). For all other exhibits listed in this box, the government is unlikely to seek their admission in its case-in-chief.
1627	Unboxed MEBO Timer	Government must present sufficient witness testimony to lay foundation as to how this piece of evidence was recovered, transferred, and maintained.	The government will present such testimony if we seek to introduce this exhibit.
1921-1926	Passports	The government must present sufficient witness testimony to lay a proper foundation under Rules 602/901.	The government plans to lay the foundation to authenticate these documents under Rule 901(8), as they are more than 20 years old and were found in possession of the Scottish government as outlined in the Scottish Declaration. Additionally, the government plans to present testimony from the Swiss visa officer who issued the visa on the left side of page 18 of Exhibit 1925, who will confirm that he personally issued that visa, which will add

			support to the government's contention that the document is an authentic Libyan passport. The other passports will be authenticated pursuant to Rule 901(b)(8), but if the Court is not satisfied by that alone, they can be authenticated through their distinctive characteristics and through comparison to Exhibit 1925. <i>See</i> Fed. R. Evid. 901(b)(3) & (4),
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V. Rules 1002 and 1003 do not preclude the admissibility of Exhibits 500 and 502

The defense asserts, with regard to the defendant's statement taken in Libya and without any elaboration, that "there has been a genuine question raised about the original's authenticity and circumstances exist that make it unfair to admit the duplicate." ECF 483 at 19 (table). The preceding quote represents the sum total of all arguments the defense makes regarding why a copy of the record of interviews conducted in Libya, which were authenticated by sworn testimony subject to cross-examination, the substance of which has never been challenged, and which the Court admitted over an authentication challenge during that testimony, are inadmissible under Fed. Rs. Evid. 1002, 1003, and 1004.⁴ As a result, the government and Court are left to ponder what

⁴ The defense has not moved the Court to reconsider its ruling admitting Exhibit 500 as a copy over defense objection. *See* Jamal Depo. Vol. II at 26. The defense motion should be denied for that reason alone, but for the reasons stated herein, a motion to reconsider would be denied on the merits regardless.

precisely the defense means when it says it has raised a genuine issue about the original's authenticity and that the circumstances make it unfair to admit, and whether that unnamed genuine issue and those unnamed circumstances meet the standards to preclude the duplicate version offered by the government in Exhibit 500.⁵ Without specifying what he believes the "genuine issue" and "unfair circumstances" to be, the defendant cannot meet his burden of excluding the copy under Rules 1002 and 1003, and the Court should deny the defendant's motion for insufficient pleading. Regardless, neither a genuine issue about the original nor unfair circumstances are present here.

A. Legal Principles

There are at least two exceptions relevant here to the general proposition, as stated in Fed. R. Evid. 1002, that an original is required to prove the contents of a writing. First, "[a] duplicate is admissible to the same extent as the original unless a genuine question is raised about the original's authenticity or the circumstances make it unfair to admit the duplicate." Fed. R. Evid. 1003. A duplicate, in turn, is defined as "a counterpart produced by a mechanical, photographic, chemical, electronic, or other equivalent process or technique that accurately reproduces the original." Fed. R. Evid. 1001(e). The defense has not contended that Exhibit 500 is anything but a duplicate of the original. Second, an original is not required if, among other things, an original

⁵ The defense has also challenged Exhibit 502. Exhibit 502 is the entirety of materials received from Libya, including not only the statements taken by Jamal, but also a cover letter from the Libyan Attorney General's Office and a statement taken of an ESO operative (not the defendant) by someone other than Jamal. The government does not anticipate admitting Exhibit 502 in its entirety at trial, but should the government seek admission (for instance, if the defense opens the door to admission), that admission would not be barred by Rules 1002, 1003, or 1004.

Separately, as the Court knows, the government is attempting to obtain the original and/or original carbon copy of the statements taken by Jamal. If it succeeds in doing so, this issue will be moot. Accordingly, the government assumes *arguendo* for purposes of this response that the original and/or original carbon copy are unavailable.

cannot be obtained by any available judicial process. Multiple Circuit Courts of Appeals have held that the opponent of the introduction of a duplicate or secondary evidence about a writing bears the burden to show that there is a genuine issue as to the original or that admitting the duplicate would be unfair.⁶ See *Tyson v. Jones & Laughlin Steel Corp.*, 958 F.2d 756, 761 (7th Cir. 1992); *United States v. DiMatteo*, 716 F.2d 1361, 1368 (11th Cir. 1983), *overruled on other grounds by United States v. DiMatteo*, 469 U.S. 1101 (1985); *United States v. Chang An-Lo*, 851 F.2d 547, 557 (2d Cir. 1988); *United States v. Georgalis*, 631 F.2d 1199, 1205 (5th Cir. 1980).

There is scant case law analyzing Rule 1003's "genuine issue" standard. Those cases that do exist, however, demonstrate that the opponent's showing must be significant to rise to the "genuine issue" standard. Indeed, one of the treatises on which the defense relies, ECF 483 at 17, has concluded that, to preclude admission of a duplicate under Rule 1003, "the opponent must show that no reasonable jury could conclude the original is authentic." Wright & Miller, *Fed. Prac. & Proc.* § 8004 (2d ed.). The defense's burden is not satisfied by speculation, *Jones & Laughlin*, 958 F.2d at 761, or bald assertions. See *United States v. Habteyes*, 356 F. Supp. 3d 573, 548 n.4 (E.D. Va. 2018).

B. Analysis

1. Rule 1003

Although it offers no analysis in its current motion, the defense has previously offered three reasons why it believes it has established that a genuine issue exists with the original report of the statements at issue such that a copy thereof should not be admitted under Rule 1003: (1) unexplained alterations to the original, (2) failure to establish a chain of custody on the original,

⁶ The government agrees with the defense that the D.C. Circuit has not explored these issues in depth.

and (3) Jamal’s alleged lack of credibility. *See* ECF 392 at 3 n.3. None of those three reasons, alone or in combination, are sufficient to carry the defendant’s burden.

For the reasons previously stated, Jamal testified credibly. But even if this Court were to disagree, that would not be a reason to exclude the statement that Jamal authenticated. That is because when deciding whether evidence is admissible under Fed. R. Evid. 104(b), the Court does not weigh credibility of witnesses. Its role is instead to determine whether a jury could reasonably find the conditional fact – here that Exhibit 500 is an accurate copy of the statements taken by Jamal – by a preponderance of the evidence. *See, e.g., Huddleston v. United States*, 485 U.S. 681, 690 (1988) (“In determining whether the Government has introduced sufficient evidence to meet Rule 104(b), the trial court neither weighs credibility nor makes a finding that the Government has proved the conditional fact by a preponderance of the evidence. The court simply examines all the evidence in the case and decides whether the jury could reasonably find the conditional fact [] by a preponderance of the evidence”). The Court does not itself make the preponderance finding. *Id.* Here, a reasonable juror could conclude, based on Jamal’s testimony, that Exhibit 500 accurately reflects the statements he took in the fall of 2012.

Nor does the alleged lack of chain of custody regarding the original raise a genuine question about it.⁷ Jamal created the original. He testified that Exhibit 500 faithfully reproduces that original, and that it bears a red stamp that signifies that its text is an exact copy of the original. *See, e.g., Jamal Depo. Tr. Vol. II at 22-25.* Jamal has since produced a second copy of the statements he took that is substantively identical to Exhibit 500. *See Exhibit G to ECF 426.* There

⁷ As the defendant does not state what the “genuine issue” created by alleged problems with the either the chain of custody for the original is – or the “unexplained alterations” – the government will not speculate as to what the defendant means. The government reserves the right to respond if and when the defense puts forth a theory of that that genuine issue or unfairness may be.

has been no contrary evidence presented, or even proffered, by the defense, and Jamal's testimony is more than adequate for a reasonable juror to conclude that it faithfully represents the contents of the original.

The defendant's contention that "unexplained alterations" create a genuine issue about the original fares no better. It is uncontested that the underlines present in Exhibit 500 and Exhibit G do not alter the text of the statements taken by Jamal or otherwise affect the substance of the document.⁸ Moreover, according to Jamal's declaration, the underlines that are present in Exhibit 500 were likely made prior to him having provided the original to the Libyan Official. *See* Jamal Decl. at 3. The presence of the red stamp in Exhibit 500 indicates that it is a true copy of the original. The defense has proffered no evidence, or even theory, as to whether, or in what respects, the copy in Exhibit 500 differs from the original. This is insufficient to support a finding of any "genuine issue" about the original or any unfairness in admitting a copy.

As noted *infra*, because the defense has offered nothing beyond speculation and bald assertions in support of its claim that it has raised a genuine issue or some unfairness as to the admission of Exhibit 500, the defense has not met its burden to prevent the admission of Exhibit 500, which is a duplicate of the original, under Rule 1003. A brief examination of cases where courts have held that a genuine issue was raised with respect to the original further demonstrates how the defendant has failed to carry his burden in this case. For example, in *Elliott v. Cartagena*, 84 F. 4th 481, 488-89 (2d Cir. 2023), the proponent of the evidence had *admitted* that the purported duplicate at issue was not in fact a duplicate of the original. In *Opals on Ice Lingerie v. Bodylines Inc.*, 320 F.3d 362, 371 (2d Cir. 2003), each party presented competing and different documents

⁸ For purposes of this pleading, the government uses "underlines" to refer only to those underlines that do not have corresponding "correction" symbols.

that they both claimed were copies of the original, and neither party was able to produce the original. In *Carroll v. LeBoeuf, Lamb, Greene & MacRae, L.L.P.*, 614 F. Supp. 2d 481, 483-85 (S.D.N.Y. 2009), the author of letters at issue testified that he did not draft the letters attributed to him; he recognized neither their contents and stated that the signatures on them were not in fact his signatures. The defense motion, even if the Court construes that motion as incorporating the defense's previous arguments on this topic, does not approach the level of specificity needed to sustain its burden to show that Exhibit 500 should not be admitted under Rule 1003.

2. Rule 1004

The defense offers even less analysis under Rule 1004 than it does under Rule 1003. Rule 1004 establishes that an original is not required if, among other reasons, the original cannot be obtained by any available judicial process, or if all of the originals are lost or destroyed, and not by the proponent acting in bad faith. The defendant has made no attempt to show that the original is in fact obtainable by available judicial process. The government believes the document to be currently possessed by a non-U.S. citizen located in Libya, and thus outside of the reach of the Court's subpoena. The United States does not have a mutual legal assistance treaty with Libya. If the government is unsuccessful in its ongoing attempts to obtain the original or original carbon copy, the Court will have adequate grounds to conclude that the original is not obtainable by judicial process. Accordingly, even if the Court finds Exhibit 500 to be inadmissible under Rule 1003, it is admissible under Rule 1004.

Although normally, the Court would determine whether the evidence meets the requirements of Rule 1004, under certain circumstances the Rules of Evidence specifically place the burden with the jury for resolving disputed issues related to the content of a writing. Thus, to the extent that the defendant is claiming either that the original never existed or that Exhibit 500 does not accurately reflect the content of the original, the Rules of Evidence compel the Court to

admit Exhibit 500 and let the jury decide the issue. *See* Fed. R. Evid. 1008(a) (in a jury trial, the jury determines any issue about whether an asserted writing ever existed) & (c) (in a jury trial, the jury determines any issue about whether other evidence of the content of a writing accurately reflects the content); *see also United States v. Wilde*, 674 Fed. Appx. 671, 673 (9th Cir. 2017) (unpub.) (citing Rule 1008 in permitting an agent to testify as to the contents of an email that could not be located); *United States v. Grayson*, 2025 WL 2366262 at *4 (6th Cir. 2025) (unpub.) (citing Rules 1004 and 1008 in admitting disputed copies where original was considered destroyed, and noting that it was up to the jury to decide if a disputed copy accurately reflected the content of the call at issue).

VI. Exhibit 505 is not precluded under FRE 404(b) or 403

Exhibit 505 is a close-up photo of the defendant that was used in an identification procedure with Jamal. The relevance of Exhibit 505 if the government offers it is obvious, as the government is required to prove the identification of the defendant. As noted above, the government expects the defense to challenge the in-court identification of the defendant by Jamal, making any other identification procedures relevant. The defense invokes Rule 404(b) but fails to argue why it is applicable here. The government does not agree that the photo itself is evidence of any other act, such that this falls under 404(b). The government expects that Jamal will testify to the fact that defendant was detained when the statement of the defendant was taken in 2012. The jury will not be told that this photo was part of an unrelated prosecution (unless defense opens the door). So his photo in prison garb with bars will not be any more prejudicial than Jamal's testimony and is relevant to proving the accuracy of Jamal's expected in-court ID.

However, insomuch that a juror could infer this photo as evidence of other crimes, wrongdoing or acts, the defense correctly points out that evidence of other crimes, wrongs or acts

are admissible for purposes such proving identity. *See* ECF 483 at 19. This photograph is evidence of identity which is expressly contemplated by the Rule. Other-acts evidence is admissible “so long as the evidence is offered for any other relevant purpose,” including “proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident,” Fed. R. Evid. 404(b)(2). *United States v. Moore*, 75 F. Supp 3d 444, 451 (D.D.C 2014) (*citing United States v. Lawson*, 410 F.3d 735, 741, 3 (D.C. Cir. 2005)).

The defense then moves to preclude, citing Rule 403, stating that the availability of other evidence is a factor in considering the probative value of the evidence. The government does not disagree that can be a factor, but that is not dispositive. *Old Chief*, 519 U.S. at 179. Regardless, the defense makes no mention of any other evidence the government has in establishing identity and in fact, Jamal is the only person who can identify the defendant as the person he interviewed in 2012 who gave a statement about his involvement in the bombing of Pan Am Flight 103. The defendant’s own reasoning supports the admission of Exhibit 505.

VII. Hearsay Responses

Exhibit Number or Series	Description	Defense Objection	Government Response
202-210	Photos of crash site, divided by sector.	Written summaries of photos, included in each exhibit, are hearsay.	The government does not intend to offer the written summaries, which were provided to the defense for convenience.
211	Photographs of pieces of luggage container.	Tags included in the photographs include statements about what the item purportedly is and where it was recovered.	The tags are not offered for the truth of the matters asserted thereon. They are offered to show the accuracy and thoroughness of the recordkeeping and investigation. Even if a tag were inaccurate, the government would

			introduce that tag. Second, the government expects to lay the foundation that the majority of the tags were filled out at the time of recovery, while the recovering officers were observing the item, thus making them admissible under the present-sense impression exception. <i>See</i> Fed. R. Evid. 803(1). Finally, these tags were all created prior to 1998, and their authenticity will be established by persons familiar with the crime scene process and procedures in this case, thus making them admissible under the ancient documents exception. <i>See</i> Fed. R. Evid. 803(16).
213	Pieces of recovered metal and debris.	Tags included in final photograph include statements about what the item purportedly is and where it was recovered	The tags are not offered for the truth of the matters asserted thereon. They are offered to show the accuracy and thoroughness of the recordkeeping and investigation. Even if a tag were inaccurate, the government would introduce that tag. Second, the government expects to lay the foundation that the majority of the tags were filled out at the time of recovery, while they were

			observing the item, thus making them admissible under the present-sense impression exception. <i>See</i> Fed. R. Evid. 803(1). Finally, these tags were all created prior to 1998, and their authenticity will be established by persons familiar with the crime scene process and procedures in this case, thus making them admissible under the ancient documents exception. <i>See</i> Fed. R. Evid. 803(16).
217 218	Map of Sectors	Map purports to show recovery of evidence at particular locations.	There is no statement identified by the defense. The government intends to present the testimony of a witness with knowledge or other foundational testimony to authenticate the maps.
303	AAIB report	Without a sufficient witness or foundation, the documents constitute inadmissible hearsay.	The government does not intend to introduce this exhibit in its case-in-chief, but is marked for refreshing recollection or impeachment. Should this item become relevant during trial, the government would provide a basis for admission prior to its introduction.
304.001-003	Diagrams of plane	Without a sufficient witness or foundation, the documents constitute inadmissible hearsay.	The government intends to present a witness with knowledge or other foundational testimony.

305	Feraday RARDE Examination Notes	Without a sufficient witness or foundation, the documents constitute inadmissible hearsay.	The government does not intend to introduce this exhibit in its case-in-chief.
306	Interim FAI Report	Without a sufficient witness or foundation, the documents constitute inadmissible hearsay.	The government does not intend to introduce this exhibit in its case-in-chief, but is marked for refreshing recollection or impeachment. Should this item become relevant during trial, the government would provide a basis for admission prior to its introduction.
307	Feraday Folder Notes	Without a sufficient witness or foundation, the documents constitute inadmissible hearsay.	The government does not intend to introduce this exhibit in its case-in-chief.
308	Spectra Printouts	Without a sufficient witness or foundation, the documents constitute inadmissible hearsay.	The government does not intend to introduce this exhibit in its case-in-chief.
310	Report on Test Explosions	Without a sufficient witness or foundation, the documents constitute inadmissible hearsay.	The government does not intend to introduce this exhibit in its case-in-chief, but is marked for refreshing recollection or impeachment. Should this item become relevant during trial, the government would provide a basis for admission prior to its introduction.
302.348	Photograph of "MEBO" circuit board diagram	Handwritten notes indicate "MEBO," which is an out of court statement, about the origins of the timer.	An objection to this document is currently pending before the Court. <i>See</i> ECF 398-1 at 3 n.2.
313.000	Handwriting report	The report constitutes hearsay because these are the expert's out of court	The government does not intend to introduce the report in evidence, but it

		statements offered for the truth of the matter asserted. The expert can testify about his conclusions and the bases for his conclusions, and use his report to refresh his recollection if needed.	may use some of the charts and illustrations as demonstrative exhibits with the witness.
506 506-t	Law enforcement officer statement to Scottish law enforcement.	These statements constitute hearsay because they are out of court statements offered for the truth of the matter asserted. To the extent that the government seeks to introduce particular statements as prior consistent statements, the government can seek to elicit individual statements on redirect after Jamal's credibility is attacked on cross-examination.	The government does not intend to introduce these exhibits in its case-in-chief.
602	OPK/Box – full file	Without a sufficient witness or foundation, the documents constitute inadmissible hearsay.	The government specifically noted that these exhibits were for identification only. It does not intend to introduce them in its case-in-chief.
605	OPK/Rinde – full file	Without a sufficient witness or foundation, the documents constitute inadmissible hearsay.	The government specifically noted that these exhibits were for identification only. It does not intend to introduce them in its case-in-chief.
606	Typed report from Rinde file	Without a sufficient witness or foundation, the documents constitute inadmissible hearsay.	The government specifically noted that these exhibits were for identification only. It does not intend to introduce them in its case-in-chief.

607	Handwritten report from Rinde file	Without a sufficient witness or foundation, the documents constitute inadmissible hearsay.	The government specifically noted that these exhibits were for identification only. It does not intend to introduce them in its case-in-chief.
610	Masud & Shadi MfS cards	Without a sufficient witness or foundation, the documents constitute inadmissible hearsay.	The government specifically noted that these exhibits were for identification only. It does not intend to introduce them in its case-in-chief.
803	Air Malta weekly flight schedule	The document contains out of court statements, and the government has not yet shown it meets the requirements of the business records exception	This exhibit is pending before the Court. <i>See</i> ECF 326 at 2-4. If the Court does not provisionally admit it, the government will present a witness with knowledge or other foundational testimony if it seeks admission.
824-863, 870	Maltese Embarkation and Disembarkation Records	These immigration records are out-of-court statements offered to prove the truth of the matter asserted — namely, the identity, nationality, and travel history of the declarant — so, the Government must establish that they qualify under a recognized exception, including whether they constitute business records under FRE 803(6) or public records under FRE 803(8) prior to admission.	The government intends to present testimony that will establish the applicability of 18 U.S.C. § 3505, Fed. R. Evid. 803(6) and/or 803(8).
867	Fhimah Diary	The writing contained in the exhibit constitutes hearsay because they are out of court statements offered for the truth of the	Fhimah is a co-conspirator and the portions of his diary that the government seeks to introduce were made

		matter asserted.	during and in furtherance of the conspiracy. They are thus admissible under Fed. R. Evid. 801(d)(2)(E).
901 902 909	Megrahi's Czech visa	The contents of visas and visa applications are hearsay as they contain out of court statements offered for the truth of the matter asserted, namely, that the bearer was authorized to travel to and enter a particular country during a particular period	The government has moved for admission of Exhibits 901 and 902. <i>See</i> ECF 490 at 4-6. The government does not anticipate moving to admit Exhibit 909 in its case-in-chief, but it notes that Exhibit 909 is a blank visa application exemplar. It thus contains no assertions and is not hearsay.
1002 1021 1023 1025 1027 1029 1030	Frankfurt airport and airline documents	Without a sufficient witness or foundation, the documents constitute inadmissible hearsay.	Exhibit 1002 are photographs, which are not statements. For the other exhibits, the government will present the appropriate foundational testimony if it seeks their admission.
1108-1120	Heathrow airport and airline documents	Without a sufficient witness or foundation, the documents constitute inadmissible hearsay.	The government will present either appropriate witness testimony or certifications to establish hearsay exceptions.
1303 1306 1307 1308 1309	Japanese (Toshiba) documents	The owner's manual, sales summary, address list, and handwritten notations contained within or appended to these documents are out-of-court statements. The printed business documents may qualify as business records with the proper foundational testimony, but the handwritten notations	The government will present appropriate witness testimony if it seeks admission of these exhibits.

		constitute a separate layer of hearsay requiring their own independent exception, as the author, timing, and circumstances of those notations have not been established.	
1400 Series	Senegalese documents	These foreign law enforcement records are out-of-court statements offered to prove the truth of the matter asserted — namely, that items were seized, that certain persons were arrested, fingerprinted, interrogated, transferred and released, and that seized items were destroyed. They do not qualify as public records under FRE 803(8) because that exception expressly excludes records prepared by law enforcement personnel in criminal investigations.	As noted previously, the government is unlikely to admit these items in its case-in-chief. If it does, it will present appropriate testimony to authenticate the documents and establish the applicability of any hearsay exceptions.
1503 1505 1507-1512 1518 1521-4 1526-7 1532-3 1535-6 1540-1545 1547-1549 1557	Swiss documents (MEBO)	These assorted business documents are out-of-court statements offered to prove the truth of the matter asserted, and the government has not identified an applicable hearsay exception for each document or category of document. The government seeks to introduce these documents through a law enforcement witness, and Mr. Al-Marimi maintains that such witness cannot serve as a custodian or	The government is unlikely to admit these items in its case-in-chief. If it does, it will present appropriate testimony to authenticate the documents and establish the applicability of any hearsay exceptions.

		qualified witness required to lay business records foundation. Similarly, the law enforcement reports are expressly excluded from the public records hearsay exception.	
1549-1556; 1558-1578	Swiss Documents (Travel)	Visa applications and hotel registrations are out-of-court statements offered to prove the truth of the matter asserted — namely, the identity, travel intentions, and lodging history of the declarant.	Exhibits 1549, 1550, and 1559 are currently pending before the Court. <i>See</i> ECF 450 at 2. As described above, the government expects to move for the admission of Exhibit 1564 and 1565 under Fed. R. Evid. 803(16) at trial. The government does not intend to introduce the remaining exhibits in its case-in-chief.
1921-1926	Passports	The contents of these passports are hearsay because they are out-of-court statements offered for the truth of the matter asserted.	Passports <i>qua</i> passports are more properly characterized as public records than business records, <i>U.S. v. Pluta</i> , 176 F.3d 43, 49 (2 nd Cir. 1999) <i>citing to</i> 31 M. Graham, <i>Federal Practice and Procedure</i> § 6759, at 404 n.2 (interim ed. 1997) ("public records and reports of foreign governments," including "passport records," are within scope of Rule 803(8)). As such, the passports are admissible as public records.

VIII. Accuracy

The government and the defense are working on the translations of the identified exhibits, which will be addressed on or before June 22, 2026.

CONCLUSION

For the above reasons, the Court should overrule the defense objections to the government's proposed exhibits.

Respectfully submitted,

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Attachment A
Government's Preliminary Exhibit List

Exhibit no.	Description	Status	LURN	CP	Police Ref
100 series	Pan Am corporate images / videos				
201	LURN 8840- Photos of searches- Bellingham.				
202	LURN 8853- A Sector Photos				
203	LURN 8854- B Sector Photos				
204	LURN 8857- C Sector Photos				
205	LURN 8858- D Sector Photos				
206	LURN 8859- E Sector Photos				
207	LURN 8860 - F Sector Photos				
208	LURN 8861- G Sector Photos				
209	LURN 8862- H Sector Photos				
210	LURN 8863 - I Sector Photos				
211	LURN 9092- AVE4041 pieces photos				
212	LURN 9102- Longtown Evidence Storage Photos				
213	LURN 9103- Longtown Fuselage Storage Photos				
214	LURN 9104- Reconstruction Photos				
215	Sector A, B, C map LURN 8563				
216	Sector G Map LURN 8573				
217	Sector H Map LURN 8581				
218	Sector I Map LURN 8808				
219	Sector K LURN 8842				
220	Lockerbie Street Map LURN 9114				
221	Air Traffic Control Audio - PZ542 MAXELL AUDIO TAPE				

Attachment A
Government's Preliminary Exhibit List

Exhibit no.	Description	Status	LURN	CP	Police Ref
222	Air Traffic Control Audio - PZ541 MAXELL AUDIO TAPE				
223	Air Traffic Control Audio - DM171 BASF AUDIO TAPE				
224	Air Traffic Control - PZ550 DIGITAL WORKING COPY				
225	Air Traffic Control - PZ551 DIGITAL WORKING COPY				
226	Air Traffic Control DM170 BASF AUDIO TAPE				
227	Air Traffic Control DM72 BASF AUDIO TAPE				
301	<i>RARDE report</i>	<i>ID'ed but not offered at</i>			
302.001-		<i>Feraday depo</i>			
302.396	<i>Master Set of RARDE photos</i>				
302.003	Photograph from RARDE report	Admitted at Feraday depo			
302.012	Photograph from RARDE report	Admitted at Feraday depo			
302.013	Photograph from RARDE report	Admitted at Feraday depo			
302.014	Photograph from RARDE report	Admitted at Feraday depo			
302.015	Photograph from RARDE report	Admitted at Feraday depo			
302.023	Photograph from RARDE report	Admitted at Feraday depo			
302.024	Photograph from RARDE report	Admitted at Feraday depo			
302.030	Photograph from RARDE report	Admitted at Feraday depo			
302.039	Photograph from RARDE report	Admitted at Feraday depo			
302.040	Photograph from RARDE report	Admitted at Feraday depo			
302.041	Photograph from RARDE report	Admitted at Feraday depo			
302.044	Photograph from RARDE report	Admitted at Feraday depo			
302.045	Photograph from RARDE report	Admitted at Feraday depo			

Attachment A
Government's Preliminary Exhibit List

Exhibit no.	Description	Status	LURN	CP	Police Ref
302.049	Photograph from RARDE report	Admitted at Feraday depo			
302.057	Photograph from RARDE report	Admitted at Feraday depo			
302.058	Photograph from RARDE report	Admitted at Feraday depo			
302.099	Photograph from RARDE report	Admitted at Feraday depo			
302.100	Photograph from RARDE report	Admitted at Feraday depo			
302.101	Photograph from RARDE report	Admitted at Feraday depo			
302.102	Photograph from RARDE report	Admitted at Feraday depo			
302.103	Photograph from RARDE report	Admitted at Feraday depo			
302.105	Photograph from RARDE report	Admitted at Feraday depo			
302.107	Photograph from RARDE report	Admitted at Feraday depo			
302.110	Photograph from RARDE report	Admitted at Feraday depo			
302.111	Photograph from RARDE report	Admitted at Feraday depo			
302.112	Photograph from RARDE report	Admitted at Feraday depo			
302.113	Photograph from RARDE report	Admitted at Feraday depo			
302.114	Photograph from RARDE report	Admitted at Feraday depo			
302.116	Photograph from RARDE report	Admitted at Feraday depo			
302.118	Photograph from RARDE report	Admitted at Feraday depo			
302.119	Photograph from RARDE report	Admitted at Feraday depo			
302.120	Photograph from RARDE report	Admitted at Feraday depo			
302.123	Photograph from RARDE report	Admitted at Feraday depo			
302.129	Photograph from RARDE report	Admitted at Feraday depo			
302.132	Photograph from RARDE report	Admitted at Feraday depo			
302.134	Photograph from RARDE report	Admitted at Feraday depo			

Attachment A
Government's Preliminary Exhibit List

Exhibit no.	Description	Status	LURN	CP	Police Ref
302.136	Photograph from RARDE report	Admitted at Feraday depo			
302.138	Photograph from RARDE report	Admitted at Feraday depo			
302.139	Photograph from RARDE report	Admitted at Feraday depo			
302.140	Photograph from RARDE report	Admitted at Feraday depo			
302.141	Photograph from RARDE report	Admitted at Feraday depo			
302.145	Photograph from RARDE report	Admitted at Feraday depo			
302.151	Photograph from RARDE report	Admitted at Feraday depo			
302.153	Photograph from RARDE report	Admitted at Feraday depo			
302.156	Photograph from RARDE report	Admitted at Feraday depo			
302.158	Photograph from RARDE report	Admitted at Feraday depo			
302.232	Photograph from RARDE report	Admitted at Feraday depo			
302.233	Photograph from RARDE report	Admitted at Feraday depo			
302.245	Photograph from RARDE report	Admitted at Feraday depo			
302.246	Photograph from RARDE report	Admitted at Feraday depo			
302.266	Photograph from RARDE report	Admitted at Feraday depo			
302.267	Photograph from RARDE report	Admitted at Feraday depo			
302.269	Photograph from RARDE report	Admitted at Feraday depo			
302.270	Photograph from RARDE report	Admitted at Feraday depo			
302.283	Photograph from RARDE report	Admitted at Feraday depo			
302.284	Photograph from RARDE report	Admitted at Feraday depo			
302.285	Photograph from RARDE report	Admitted at Feraday depo			
302.309	Photograph from RARDE report (timer related)	Admitted at Feraday depo			
302.310	Photograph from RARDE report (timer related)	Admitted at Feraday depo			

Attachment A
Government's Preliminary Exhibit List

Exhibit no.	Description	Status	LURN	CP	Police Ref
302.311	Photograph from RARDE report (timer related)	Admitted at Feraday depo			
302.313	Photograph from RARDE report (timer related)	Admitted at Feraday depo			
302.318	Photograph from RARDE report (timer related)	Admitted at Feraday depo			
302.325	Photograph from RARDE report (timer related)	Admitted at Feraday depo			
302.326	Photograph from RARDE report (timer related)	Admitted at Feraday depo			
302.329	Photograph from RARDE report (timer related)	Admitted at Feraday depo			
302.330	Photograph from RARDE report (timer related)	Admitted at Feraday depo			
302.332	Photograph from RARDE report (timer related)	Admitted at Feraday depo			
302.333	Photograph from RARDE report (timer related)	Admitted at Feraday depo			
302.334	Photograph from RARDE report (timer related)	Admitted at Feraday depo			
302.335	Photograph from RARDE report (timer related)	Admitted at Feraday depo			
302.339	Photograph from RARDE report (timer related)	Admitted at Feraday depo			
302.348	Photograph from RARDE report (timer related)	Reserved at Feraday depo			
302.391	Photograph from RARDE report	Admitted at Feraday depo			
302.392	Photograph from RARDE report	Admitted at Feraday depo			
302.393	Photograph from RARDE report	Admitted at Feraday depo			
302.394	Photograph from RARDE report	Admitted at Feraday depo			
302.395	Photograph from RARDE report	Admitted at Feraday depo			
303.000	<i>AAIB report</i>				
304.001	Model showing fracture lines				
304.002	Two -dimensional layout of plane				
304.003	Forward cargo hold diagram				
305.000	<i>Feraday RARDE Examination Notes</i>				

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Government's Preliminary Exhibit List

Exhibit no.	Description	Status	LURN	CP	Police Ref
306.000	<i>Interim FAI Report</i>				
307.000	<i>Feraday Folder Notes</i>				
308.000	<i>Spectra Printouts</i>				
309.001-					
309.058	<i>FAA photos Test 7</i>				
309.011	FAA photos Test 7	Admitted at Feraday depo			
309.054	FAA photos Test 7	Admitted at Feraday depo			
310.000	<i>DC616 - Report on Test Explosions April 1989</i>				
311.000	Test 5 video	Admitted at Feraday depo			
312.000	Photo of Explosive test	Admitted at Feraday depo			
313.000	2021 Handwriting Report				
400 series	Map of Libya, Photograph(s) of Qaddafi, recorded speeches (subject to Court's Rule 403 ruling)				
500	Arabic-Language Statements	Admitted at Jamal Depo, subject to ongoing motions			
500-j	Arabic-Language Statements as highlighted during depo	Admitted at Jamal Depo, subject to ongoing motions			
500-t	All Libyan Interviews (English translation)				
501	Def. Statement - Holes Version redacted				
502	Full packet of materials from Libya				
502-t	Full packet of materials from Libya (translated)				

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Exhibit no.	Description	Status	LURN	CP	Police Ref
502-tr	Full packet of materials from Libya (translated)-redacted				
503	Screenshot of Prison Location	Admitted at Jamal Depo, subject to ongoing motions			
503-J	Screenshot of Prison Location (Jamal highlights)	Admitted at Jamal Depo, subject to ongoing motions			
504	Screenshot of Prison Location (zoomed out)	Admitted at Jamal Depo, subject to ongoing motions			
504-j	Screenshot of Prison Location (zoomed out) (Jamal highlights)	Admitted at Jamal Depo, subject to ongoing motions			
505	<i>Photo ID'd by Jamal</i>				
506-t	<i>Jamal Statement to Scots 2020-Redacted</i>				
507	Photo of Al-Marimi and Megrahi				
508	Defendant ID Video from My Brother's Bomber				
509	<i>Reimbursements to Jamal</i>				
510	<i>Jamal Redacted Arabic CV as produced 2025-07-17</i>				
601	Photos of scene		n/a	n/a	n/a
602	<i>OPK Box - Full file (for identification only)</i>		n/a	n/a	n/a
603	Stasi "Visitors List" (from Box file)	Subject to pending ECF 147	n/a	n/a	n/a

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Exhibit no.	Description	Status	LURN	CP	Police Ref
604	Abulgasem visa request	Subject to pending ECF 147	n/a	n/a	n/a
605	<i>OPK Rinde - Full file (for identification only)</i>		n/a	n/a	n/a
606	<i>4/10/86 typed report from Rinde file</i>		n/a	n/a	n/a
607	<i>4/10/86 handwritten report from Rinde file</i>		n/a	n/a	n/a
608	4/15/86 typed report from Rinde file	Subject to pending ECF 147	n/a	n/a	n/a
609	Hotel Metropol cards from Rinde file	Subject to pending ECF 147	n/a	n/a	n/a
610	<i>Masud and Shadi MfS cards</i>		n/a	n/a	n/a
611	Interflug manifest ("Flight Record")	Subject to pending ECF 147	n/a	n/a	n/a
701	Eagle Knitware delivery notes for invoice 119/88 dated Nov. 10, 1988 for Mary's House order and Gauci's order 0156 dated Nov. 9, 1988 (M2-28)	1/12/26 tr. 38 - Provisionally admissible as business record		8761 421	DC93
702	<i>Eagle Knitwear Delivery note to Mary's House for invoice no. 148/87 (M2-24)</i>	1/12/26 tr. 38 - Provisionally admissible as business record		10470 472	CS 192
703	Eagle Knitwear receipt November 7, 1988 (M2-25)	1/12/26 tr. 38 - Provisionally admissible as business record		10471 473	CS193
704	Eagle Knitwear Delivery note to Mary's House November 10, 1988 (M2-26)	1/12/26 tr. 38 - Provisionally admissible as business record		10472 474	CS194

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Government's Preliminary Exhibit List

Exhibit no.	Description	Status	LURN	CP	Police Ref
705	<i>Eagle Knitwear Delivery note to Mary's House February 19, 1985 (M2-27)</i>	1/12/26 tr. 38 - Provisionally admissible as business record	10473	M2-27	CS195
706	Order form for Woven SLALOM labels via Universal Import and Export LTD. (M2-22)	1/12/26 tr. 38 - Provisionally admissible as business record	8941		
707	Slalom logo (M2-23)	1/12/26 tr. 38 - Provisionally admissible as business record			
708	JOHNSONS CLOTHING DOCUMENTS RELATING TO MANUFACTURE AND PRODUCTION OF BLUE / WHITE PINSTRIPE SLALOM SHIRT	1/12/26 tr. 38 - Provisionally admissible as business record	8945	512	DC394
709	CORRESPONDENCE BETWEEN MIZZI AND JOHNSONS [QUANTITY OF CORRESPONDENCE, ORDER FORMS, GOODS RECEIVED NOTES, WORKERS LISTS ETC BETWEEN ALF MIZZI AND SONS, JCI SALES LTD AND JOHNSONS CLOTHING LTD	1/12/26 tr. 38 - Provisionally admissible as business record	8933	510	DC373
710	JOHNSONS CLOTHING DELIVERY NOTE NO 2265 PERTAINING TO BLUE / WHITE PINSTRIPE SLALOM SHIRTS	1/12/26 tr. 38 - Provisionally admissible as business record	8944	513	DC391
711	JOHNSONS CLOTHING DELIVERY NOTE NO 2444 PERTAINING TO GREY SLALOM SHIRT	1/12/26 tr. 38 - Provisionally admissible as business record	8943	511	DC390

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Exhibit no.	Description	Status	LURN	CP	Police Ref
712	Yorkie Delivery Note to Messrs Gauci, Ref No. 18345 November 11, 1988	1/12/26 tr. 38 - Provisionally admissible as business record	8649 424		DC55
713	Page of Yorkie sales book shows Gauchi registration number 1705	1/12/26 tr. 38 - Provisionally admissible as business record	8650 492		DC56
714	Gauci 1705 page with fabric samples stapled.	1/12/26 tr. 38 - Provisionally admissible as business record	8651 491		DC57
715	Underwear ltd invoice for T shirts for delivery to Big Ben Shops dated 01/26/88	1/12/26 tr. 38 - Provisionally admissible as business record	9015 1782		DC447
716	Invoice for 16 men's Pyjamas sold to Mary's House dated 10/31/88 (Also napkins, bathmats and towels)	1/12/26 tr. 38 - Provisionally admissible as business record	9889 501		DC1632
717	Invoice for 8 men's Pyjamas sold to Mary's House dated 11/25/88	1/12/26 tr. 38 - Provisionally admissible as business record	9888 500		DC1361
718	Invoice for 21 mens Pyjamas sold to Mary's Hosue dated 12/20/88	1/12/26 tr. 38 - Provisionally admissible as business record	10474 476		CS196
801	Air Malta KM231 December 14,1988 Passenger list (M2-14)	1/12/26 tr. 38 - Provisionally admissible as business record	8306 1040		DC 958

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Exhibit no.	Description	Status	LURN	CP	Police Ref
802	Air Malta weelky Mayfly schedule December 14, 1988 for the week of 12/28/88	1/12/26 tr. 38 - Provisionally admissible as business record	8912 917		DC343
803	Air Malta weekly flight schedule for all airlines.	1/12/26 tr. 38 - Needs more explanation before finding that it is a business record	9136 920		DC598
804	KM230 10/10/88 accepted paax	1/12/26 tr. 38 - Provisionally admissible as business record	9338 1018		DC 1112
805	LN 142 Manifest, 12.4.88	1/12/26 tr. 38 - Provisionally admissible as business record	9393 1033		DC 1231
806	Air Malta Passenger Manifest KM230 Oct 10, 1988 (M2-10)	1/12/26 tr. 38 - Provisionally admissible as business record	9907 1019		DC1647
807	Air Malta KM230 Dec 17, 1988,edited and accepted passenger list	1/12/26 tr. 38 - Provisionally admissible as business record	9914 1041		DC1654
808	Air Malta KM140 10/10/88	1/12/26 tr. 38 - Provisionally admissible as business record	9918 1021		DC1658
809	<i>Air Malta KM180 12/21/88 Ramp/aircraft progress report departure slip</i>	<i>1/12/26 tr. 38 - Provisionally admissible as business record</i>	<i>10119 930</i>		<i>DC1716</i>

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Exhibit no.	Description	Status	LURN	CP	Police Ref
810	Air Malta Passenger Manifest KM231 12/20/88	1/12/26 tr. 38 - Provisionally admissible as business record	10123	1043	DC1721
811	KM180 Pax list Dec 21, 1988	1/12/26 tr. 38 - Provisionally admissible as business record		M2-17	
812	Holiday Inn arrival sheet for December 7, 1988 Abdlbaset Room 423	1/12/26 tr. 38 - Provisionally admissible as business record	8277	755	DC889
813	Holiday Inn Registration card October 18-20	1/12/26 tr. 38 - Provisionally admissible as business record	9731	739	DC1557
814	Photocopy of airside pass issued to LAA staff in 1989 (M2-1)	1/12/26 tr. 38 - Provisionally admissible as business record	8302	894	DC934
815	LN147 December 7, 1988 Passenger manifest (M2-8)	1/12/26 tr. 38 - Provisionally admissible as business record	8304	1034	DC945
816	LAA LN143 December 18, 1988 passenger list (M2-5)	1/12/26 tr. 38 - Provisionally admissible as business record	9393	1033	DC1231
817	LN533 December 29, 1988 (M2-7)	1/12/26 tr. 38 - Provisionally admissible as business record	9393	1033	DC1231

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Exhibit no.	Description	Status	LURN	CP	Police Ref
818	Winter Time Tables for LAA flights (M2-2)	1/12/26 tr. 38 - Provisionally admissible as business record	9451 557		DC1338
819	LN145 flight manifest 12/9/88 (M2-6)	1/12/26 tr. 38 - Provisionally admissible as business record	9913 1038		DC1653
820	LAA LN147 12/21/88 passenger list (M2-4)	1/12/26 tr. 38 - Provisionally admissible as business record	9915 947		DC1655
821	Hilton Hotel card, Elwarshfani 1.10.86	1/12/26 tr. 38 - Provisionally admissible as business record			
822	Holiday Inn registration card for Abdelbaset Mohmed, October 9-10, and blank card.	1/12/26 tr. 38 - Provisionally admissible as business record	8256 743		DC819
823	Holiday Inn checkout for December 9, 1988, Abdelbaset room 255	1/12/26 tr. 38 - Provisionally admissible as business record	8276 758		DC887
824	Air Malta Disembarkation card stamped 8 Oct 1988 Abouagela Mohamed Masud arrived from Tripoli		8259 605		DC835
825	Malta Embarkation card for Departure stamped 10 Oct 1988 Abouagela M Masud		8260 608		DC836
826	AirMalta disembarkation card in the name of Abdelbaset Ali Mohmed arrival stamp 8 Oct. 1988 from Tripoli		8254 604		DC800

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Exhibit no.	Description	Status	LURN	CP	Police Ref
827	LAA embarkation card in the name of Abdelbaset A. Mohmend departure stamp 10 Oct 1988, flight LN 140		8253 610		DC799
828	Air Malta disembarkation card Abouagila Masoud, flight 231, arrival stamp 12/14/88		9155 639		DC654
829	Malta embarkation card for Abouagila Masoud Departure Dec 21, 1988 Flight no. 147		9156 646		DC655
830	Air Malta disembarkation card Aboagila Masoud, flight 231 Stamped 12/7/88		9153 630		DC652
831	Malta embarkation card Abouagila Masoud departure stamp 12/9/88 Flight LN 145 to Tripoli		9154 631		DC653
832	LAA disembarkation card Abdelbaset Ali Mohamed arrival stamp 12/7/88 staying at Jerma hotel.		9157 629		DC670
833	Malta embarkation card departure stamp 12/9/88 Flight 649 Abdelbaset Ali Mohamed		9152 633		DC643
834	SwissAir disembarkation card for Malta, Abdelbaset Ali Mohamed arrival stamp Dec 17, 1988		9158 640		DC671
835	Malta embarkation card Abdelbaset Ali Mohamed departure stamp 12/17/88 flight KM230		9159 641		DC674
836	Air Malta disembarkation card from Flight KM231 from Tripoli 12/20/88 Ahmed Khalifa Abdusamad		8269 643		DC845
837	Lufthansa embarkation card on 21 Dec 1988 for Ahmed Khalifa Abdusamad flight 147		8270 645		DC846
838	IRO card - Fhimah 10.5.88, Departure		8299 602		DC928

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Exhibit no.	Description	Status	LURN	CP	Police Ref
	DC1090 DISEMBARKATION CARD FHIMAH KHALIFA				
839	06/10/1988		9334 603		DC1090
840	EMB CARD RE LAMEN KHALIFA FHIMAH 28/10/1988		8298 613		DC927
841	EMB CARD RE LAMEN KHALIFA FHIMAH 03/11/1988		8293 615		DC922
	IRO card - Fhimah Nov 4 1988 (and possibly "A.				
842	Mohamed" card)		8296 616		DC925
843	EMB CARD RE LAMEN KHALIFA FHIMAH 12/11/1988		8292 619		DC921
844	EMB CARD RE LAMEN KHALIFA FHIMAH 30/11/1988		8297 626		DC926
	Malta disembarkation card Lamén Khalifa Fhimah				
	arrival stamp Dec. 4, 1988 on Flight LN142 from Tripoli				
845	to Malta.		8294 627		DC923
	Malta disembarkation card Lamén Khalifa Fhimah, flight				
846	LN143 from Tripoli, on December 18, 2988		8300 642		DC929
	Air Malta disembarkation card from Flight KM231 from				
847	Tripoli 12/20/88 Lamén Khalifa Fhimah		8295 644		DC924
	Malta embarkation card Lamén Khalifa Fhimah				
848	departure stamp December 29, 1988		8301 647		DC930
849	<i>EMB CARD 11/10/1988 RE NASSR AHMED SALEM</i>		<i>9449 611</i>		<i>DC1306</i>
	<i>MALTA EMB CARD ABDUSSALAM MAGHRABI</i>				
850	<i>10/10/1988</i>		<i>8252 609</i>		<i>DC797</i>
	<i>DC1295 EMB CARD 09/10/1988 RE NASSR AHMED</i>				
851	<i>SALEM DUP OF 796</i>		<i>9348 606</i>		<i>DC1295</i>
	<i>MALTA EMB CARD ABDUSSALAM MAGHRABI</i>				
852	<i>09/10/1988</i>		<i>8251 607</i>		<i>DC796</i>
853	<i>EMB CARD 10/11/1988 RE NASSR AHMED SALEM</i>		<i>9433 617</i>		<i>DC1233</i>

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Exhibit no.	Description	Status	LURN	CP	Police Ref
854	EMB CARD 11/11/1988 RE NASSR AHMED SALEM		9434	618	DC1283
855	EMB CARD 16/11/1988 RE NASSR AHMED SALEM		9435	620	DC1284
856	EMB CARD 16/11/1988 RE NASSER SALEM		9436	621	DC1285
857	EMB CARD 06/12/1988 MOHAMED SADIQ A ADDALA		9455	628	DC1345
858	EMB CARD 09/12/1988 MOHAMED SADIQ A ADDALA		9454	632	DC1344
859	DISEMB CARD 12/12/88 ABDUSALAM ABDUSALAM		9427	634	DC1276
860	EMB CARD 13/12/88 ABDUSALAM M ABDUSALAM		9424	637	DC1273
861	DISEMB CARD 12/12/1988 TAYEB AHMED AHMED		9426	635	DC1275
862	EMB CARD 13/12/1988 TAYEB M M AHMED TAYEB		9423	638	DC1272
863	DISEMB CARD 12/12/1988 ABDALLA F FADLALLAH		9425	636	DC1274
864	Fhimah Airside Pass				
865	Fhimah Diary 12.15.88				
865-t	Fhimah Diary 12.15.88 - translated				
866	Check-in Sheet				
867	Fhimah Diary Arabic				
867 - t	Fhimah Diary Arabic- translated				
868	Luqa Airport Photos LURN 8173				
869	Photos of Malta and Luqa Airport LURN 10033				
870	LN 147 21 Dec pax list by sequence.		8268	987	DC844
901	Megrahi Czech visa 10.18.88	Submitted for 3505 ruling on 5/15/26	9506	776	DZ2
902	Megrahi Czech visa 12.16.88	Submitted for 3505 ruling on 5/15/26	9507	777	DZ3

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Exhibit no.	Description	Status	LURN	CP	Police Ref
903	Account reminder form to Libya	1/12/26 tr. 40 - Provisionally admissible as business record		779	DZ5
904	Intercontinental Hotel Bill 10.1988	1/12/26 tr. 40 - Provisionally admissible as business record		780	DZ6
905	Letter from Libyan Military Procurement Office	1/12/26 tr. 40 - Provisionally admissible as business record		781	DZ7
906	Account reminder form to Libya	1/12/26 tr. 40 - Provisionally admissible as business record		784	DZ10
907	Intercontinental Hotel invoice 12.1988	1/12/26 tr. 40 - Provisionally admissible as business record		785	DZ11
908	Letter to intercontinental hotel from LPB	1/12/26 - Needs evidence that hotel routinely retained letters		786	DZ12
909	<i>Megrahi Czech visa 6.20.85</i>			9505 CP775	DZ1
910	<i>Blank Czech visa application</i>			9508 CP778	DZ4
911	Travel Summary Exhibit				
1001	Frankfurt demonstrative/summary		n/a	n/a	n/a
1002	Frankfurt airport photos			8927 1053	DW8
1003	Frankfurt airport video(s)				

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Exhibit no.	Description	Status	LURN	CP	Police Ref
1004	Interline writers' sheet	1/12/26 tr. 41 - Provisionally admissible as business record	10056	1092	DW128
1005	Baggage coders' worksheet	1/12/26 tr. 41 - Provisionally admissible as business record	10114	1061	DW136
1006	Printout from "KIK" baggage computer system	1/12/26 tr. 41 - Provisionally admissible as business record	10034	1060	DW135
1007	List of interline stations	1/12/26 tr. 41 - Provisionally admissible as business record	9030	1790, p4	DW7
1008	Passenger manifest for FRA-LHR leg of PA103	1/12/26 tr. 42 - Provisionally admissible as business record	8744	199	PZ251
1009	Baggage dispatch log sheet (Kasteleiner's Worksheet)	1/12/26 tr. 41 - Provisionally admissible as business record	9031	1062	DW7B
1010	X-Ray Report		9061	1076	DW26
1011	Flight coupons for FRA-LHR leg of PA103	1/12/26 tr. 42 - Provisionally admissible as business record	8769	1151	PZ321
1012	Telex to Daniel Soneson 3/10/88	1/12/26 tr. 41 - Provisionally admissible as business record	9032	1170	PZ521

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Exhibit no.	Description	Status	LURN	CP	Police Ref
1013	Telex from Daniel Soneson 3/28/88	1/12/26 tr. 42 - Provisionally excluded for double hearsay; tr. 52 - reserved ruling on ancient docs pending add'l briefing	9033	1171	PZ522
1014	Pan Am operations bulletin	1/12/26 tr. 42 - Provisionally admissible as business record	9430	1058	DG25
1015	Pan Am operations bulletin 2	1/12/26 tr. 42 - Provisionally admissible as business record	9431	1057	DG26
1016	List of Pan Am loading crews 12/21/1988	1/12/26 tr. 42 - Provisionally admissible as business record	9093	1055	DW51
1017	Daily report for Frankfurt Airport computer system	1/12/26 tr. 41 - Provisionally admissible as business record	9057	1063	DW19
1018	FA32 Duty Log	1/12/26 tr. 41 - Provisionally admissible as business record	9148	1064	DW72
1019	KIK computer system daily reports for 12/21-22/1988	1/12/26 tr. 41 - Provisionally admissible as business record	9058	1065	DW20

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Exhibit no.	Description	Status	LURN	CP	Police Ref
1020	KIK computer system daily eval for 12/21/1988	1/12/26 tr. 41 - Provisionally admissible as business record	9059	1066	DW21
1021	Duty Team Roster		9145	1067	DW68
1022	Load Plan for FRA-LHR leg of PA103	1/12/26 tr. 42 - Provisionally admissible as business record	9064	1070	DW41
1023	Email re Helsinki Warning		10045	1081	DW117
1024	Pan Am Telexes re Helsinki Warning	1/12/26 tr. 42 - Provisionally excluded for double hearsay; tr. 52 - reserved ruling on ancient docs pending add'l briefing	10046	1082	DW118
1025	Text of Helsinki Warning		10048	1084	DW120
1026	Pan Am Procedures re Helsinki Warning	1/12/26 tr. 42 - Provisionally admissible as business record	10051	1087	DW123
1027	Passenger Transfer Messages		10053	1089	DW125
1028	Schematic of Frankfurt luggage system	1/12/26 tr. 41 - Provisionally admissible as business record	10142	1099	DW139
1029	KIK computer system daily "MINUS ZIA" printout		10141	1629	DW138
1030	KM-180 on blocks report		9146	1068	DW69
1032	Photos of Frankfurt Airport				

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Exhibit no.	Description	Status	LURN	CP	Police Ref
1031	Alert security aircraft activity report	1/12/26 tr. 41 - Provisionally admissible as business record	9060	1056	DW23
1101	PA103 closeout sheet	1/12/26 tr. 43 - Provisionally admissible as business record			
1102	PA103 Cargo load sheet	1/12/26 tr. 43 - Provisionally admissible as business record			
1103	PA103 Final weight and balance sheet	1/12/26 tr. 43 - Provisionally admissible as business record			
1104	PA103 Final load distribution document	1/12/26 tr. 43 - Provisionally admissible as business record			
1105	PA103 Load plan	1/12/26 tr. 43 - Provisionally admissible as business record			
1106	PA103 Actual load plan	1/12/26 tr. 43 - Provisionally admissible as business record			
1107	PA103 Prelim load info	1/12/26 tr. 43 - Provisionally admissible as business record			
1108	Disembarkees from PA103 at LHR				

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Exhibit no.	Description	Status	LURN	CP	Police Ref
1109	No Show Passengers Frankfurt to London				
1110	No Show Passengers LHR to JKF				
1111	Daily Interline Sheet 12.21.88 - LURN 18326				
1112	Aircraft Movement Sheet				
1113	Site Plan LHR - LURN 8697				
1114	Full Passenger List PA103 - LURN 8732				
1115	Sketch Plan Baggage Flows Interline Terminals LHR - LURN 8749				
1116	PA103 Flight Coupons.				
1117	Gate Plan K14 and k16 - LURN 8773				
1118	ATC Movement Log Departures LHR 12.21 - LURN 8779				
1119	Heathrow Airport Plan - LURN 8998				
1120	Heathrow Photos				
1201	Report titled "Voyage de Reconnaissance	Subject of ECF 341-2; Court anticipates hearing outside jury's presence			
1201-t	Prof. Holes Translations of Shegwara Docs - combined	Subject of ECF 341-2; Court anticipates hearing outside jury's presence			
1202	Report dated 24 July 1989 Sent to CISS Senussi	Subject of ECF 341-2; Court anticipates hearing outside jury's presence			

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Exhibit no.	Description	Status	LURN	CP	Police Ref
1203	Action Plan dated 22 September 1988	Subject of ECF 341-2; Court anticipates hearing outside jury's presence			
1204	Report on CISS Headed Paper Dated 4 October 1988	Subject of ECF 341-2; Court anticipates hearing outside jury's presence			
1205	Top Secret Report on Shipment of Explosives Dated 1 January 1987	Subject of ECF 341-2; Court anticipates hearing outside jury's presence			
1206	Report on desert tests on explosives in July 1988	Subject of ECF 341-2; Court anticipates hearing outside jury's presence			
1207	Several Documents from Sept, Oct, and Nov 1988	Subject of ECF 341-2; Court anticipates hearing outside jury's presence			
1208	Top Secret Note by CISS Dated 10 October 1988	Subject of ECF 341-2; Court anticipates hearing outside jury's presence			
1209	Report dated 19 October	Subject of ECF 341-2; Court anticipates hearing outside jury's presence			
1210	Stubs of Airline Tickets and Hotel Bookings	Subject of ECF 341-2; Court anticipates hearing outside jury's presence			

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Exhibit no.	Description	Status	LURN	CP	Police Ref
1211	Note from Libya Secret Service for Payment of \$10,000 to Fhimah	Subject of ECF 341-2; Court anticipates hearing outside jury's presence			
1212	Note from Secret Service for Payment of \$5,000 to Abu Agila Kheir	Subject of ECF 341-2; Court anticipates hearing outside jury's presence			
1213	Notes from Libyan Secret Service for Payment to Various Individuals	Subject of ECF 341-2; Court anticipates hearing outside jury's presence			
1214	Telegrams Sent to Embassy	Subject of ECF 341-2; Court anticipates hearing outside jury's presence			
1301	Toshiba printed circuit board use list	1/12/26 tr. 47 - Provisionally admissible as business record	8916	CP148	DC353
1302	Toshiba country code list	1/12/26 tr. 47 - Provisionally admissible as business record	9992	CP155	DE37
1303	Toshiba sales reports	1/12/26 tr. 47 - Provisionally admissible as business record	9993	CP156	DP38
1304	Toshiba summary exhibit				
1305	LURN10458 CP158 DC1770 - Selected Portions of Microfiche Sales Reports		10458	CP158	DC1770

Attachment A
Government's Preliminary Exhibit List

Exhibit no.	Description	Status	LURN	CP	Police Ref
1306	LURN 8597 CP145 PT1 - Owner's Manual - Toshiba RT-SF16		8597	CP145	PT1
1307	LURN 34673 DC30 - Toshiba Client Address List		34673	n/a	DC30
1308	LURN 32819 DC351 Toshiba Handwritten Sales Summary		32819	n/a	DC351
1309	LURN 33422 DC 572 Exemplar of Packaging for RT-SF16 (1)		33422	n/a	DC572
1400	<i>Inventory of search (Senegal)</i>				
1401	<i>Arrest report (Senegal)</i>				
1402	<i>Police red folder with notes (Senegal)</i>				
1403	<i>Record of prisoner transfer (Senegal)</i>				
1404	<i>DE50 Record of release</i>				
1405	<i>Magistrate's file</i>				
1406	<i>Marzouk's fingerprints</i>				
1407	<i>El Saber's fingerprints</i>				
1408	<i>Destruction of munitions report</i>				
1409	<i>Approval of request to destroy munitions</i>				
1413	<i>Death Certificate of Jean Baptiste Collin</i>				
1501-2	Receipt - Badri and MEBO - Radio stuff in Jan 1989 and Sept 1987	Offered in Meister depo (Tr.39)		CS3431	
1502	Fax from MEBO to Ezzadin May 23 1989 offering armored vehicles, signed by Meister	Offered in Meister depo (Tr.35)		CS344	
1503	<i>Hotel Metropol pass to Bollier Oct 1985</i>			CS345	
1505	<i>Letter from Bollier Oct 1990 re: sale of timers</i>			DP101	

Attachment A
Government's Preliminary Exhibit List

Exhibit no.	Description	Status	LURN	CP	Police Ref
1506	Invoice from Compona for 15 crystals	Offered in Meister depo (Tr.77)	9170	CP295	DP104
1507	Invoice from Compona for 20 crystals				DP105
1508	Philips invoice				DP107
1509	Philips invoice for 60 chips				DP108
1510	Philips invoice for 100 chips				DP109
1511	Siemens Invoice Dated 8 August 1985 (50 diodes)				DP110
1512	Siemens Invoice dated 8.8.2025 (150 diodes)	Offered in Meister depo (Tr.84) 1/12/26 tr. 44 - Provisionally admissible as business record 1/12/26 tr. 44 - Provisionally admissible as business record			DP112
1513	Circuit Drawing for MST-13 timer		9179	CP309	DP113
1514	Circuit board and plan for MEBO timer		9180	CP366	DP114
1515	Invoice for 12 housings				DP123
1516	Album of Photos of MST-13 timers				
1517	photo of circuit board from Togo Timer				
1518	Bollier Hotel Receipt 11.12.1985	Offered in Meister depo (Tr.114) 1/12/26 tr. 44 - Provisionally admissible as business record			
1519	Ticket, hotel, expense report Bollier trip 12.1988.		9236	CP317	DP155
1520	Circuit board accents and invoice dated 13 Aug 1985				

Attachment A
Government's Preliminary Exhibit List

Exhibit no.	Description	Status	LURN	CP	Police Ref
1521	<i>Account for 16 Olympus Timers</i>				
1522	<i>Letter Delivered to US EMB Vienna (Aga Agu)</i>				
1523	<i>Bollier passport issued 10.7.1976</i>				
1524	<i>Photocopy of Bollier passport issued 2.4.1980</i>				
1525	Check from Badri to MEBO	Offered in Meister depo (Tr.44)	9245	CP327	DP168
1526	<i>Contract between MEBO and ABH</i>		9246	CP328	DP171
1527	<i>Zurich Cantonal Report on Movements</i>				
1528	<i>Inventory Search of MEBO</i>				
1529	Master Photographic Negatives MST-13s	Offered in Meister depo (Tr.93)	9529	CP399	DP373
1530	Delivery note from Thuring dated 5 Nov 1985	1/12/26 tr. 44 - Provisionally admissible as business record			
1531	Invoice dated 12 Nov 1985	1/12/26 tr. 44 - Provisionally admissible as business record	9640	404	DP408
1532	<i>sketch of offices in Tripoli by Bollier</i>				
1533	<i>Receipt for CHF 10,000 - Meister to Badri</i>		8596	CP379	DP435
1534	Receipt for CHF 10,000 - Meister to Badri	Offered in Meister depo (Tr.42)	9673	CP378	DP436
1535	<i>import contract - SPLAJ armed forces</i>				
1536	<i>list of names from Bollier notebook</i>				

Attachment A
Government's Preliminary Exhibit List

Exhibit no.	Description	Status	LURN	CP	Police Ref
1537	Invoice from MEBO to Ezzadin dated 11.26.1987	Offered in Meister depo (Tr.31)	9676	CP416	DP443
1538	letter Bollier to Ezzadin dated 2.6.1991	Offered in Meister depo (Tr.125)			
1539	MEBO Export Declaration dated 2.10.1985	Offered in Meister depo (Tr.29)	8313	CP384	DP209
1540	<i>Various documents re Libya rec'd from Bollier</i>				
1541	<i>MEBO Export Declaration Dated 7.17.1984</i>		3415	CP387	DP212
1542	<i>Handwritten letter on MEBO Letterhead re FELA AG</i>				
1543	<i>Telex from FELA AG to Azzabi re meeting</i>				
1544	<i>Photo of Megrahi signed by Bollier</i>				
1545	<i>Artists sketch of Megrahi signed by Bollier</i>				
1546	Letter of invite from Meister to FELA AG	Offered in Meister depo (Tr.45)	9257	CP329	DP251
1546-t	Letter of invite from Meister to FELA AG translated			CP1599	CS98
1547	<i>piece of paper with names and numbers provided by Bollier</i>				
1548	<i>Order forms for MST-13 circuit boards dated 8.13.1985</i>				

Attachment A
Government's Preliminary Exhibit List

Exhibit no.	Description	Status	LURN	CP	Police Ref
1549	Megrahi Swiss visa application 6.21.1988	1/12/26 tr. 50 - public records certs deficient and likely not an actual public record; tr. 53 - ancient docs ruling reserved pending additional facts from gov		CP699	
1550	Megrahi Swiss Visa Application 11.16.88	1/12/26 tr. 50 - public records certs deficient and likely not an actual public record; tr. 53 - ancient docs ruling reserved pending additional facts from gov <i>1/12/26 tr. 50 - public records certs deficient and likely not an actual public record; tr. 53 - ancient docs ruling reserved pending additional facts from gov</i>		CP701	
1551	<i>Megrahi Swiss Visa Application 6.23.87</i>			CP693	
1552	<i>Fhimah Swiss Visa Application 12.9.90</i>			CP712	
1553	<i>Fhimah Swiss Visa Application 3.24.91</i>				
1554	<i>Megrahi Hotel Registration 4.4.1987</i>				
1555	<i>Megrahi Hotel Registration 4.6.87</i>				

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Government's Preliminary Exhibit List

Exhibit no.	Description	Status	LURN	CP	Police Ref
1556	<i>Megrahi Hotel Registration 10.7.87</i>				
1557	<i>Invoice dated 9.18.85 - MEBO to ITU</i>				
		<i>1/12/26 tr. 50 - public records certs deficient and likely not an actual public record; tr. 53 - ancient docs ruling reserved pending additional facts from gov</i>			
1558	<i>Megrahi Swiss Visa Application 10.4.87</i>			CP694	
		<i>1/12/26 tr. 50 - public records certs deficient and likely not an actual public record; tr. 53 - ancient docs ruling reserved pending additional facts from gov</i>			
1559	<i>Megrahi Swiss Visa Application 2.18.88</i>			CP696	
1560	<i>Badri Hasan visa application dated 6.18.1991</i>			CP719	DP453
1561	<i>Megrahi Hotel Registration Card Dated 3.2.1988</i>				
1562	<i>Megrahi Hotel Registration Card Dated 3.9.1988</i>				
1563	<i>Megrahi Hotel Registration Card Dated 7.11.1988</i>				
1564	<i>Megrahi Hotel Registration Card Dated 10.18.1988</i>				
1565	<i>Megrahi Hotel Registration Card Dated 12.16.1988</i>				
1566	<i>Swiss Police Report re Megrahi entries and exits</i>				
1567	<i>Megrahi hotel registration Dated 7.12.1987</i>				

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Government's Preliminary Exhibit List

Exhibit no.	Description	Status	LURN	CP	Police Ref
1568	Megrahi hotel registration Dated 10.7.1987				
1569	Megrahi hotel registration Dated 7.14.1987				
1570	Megrahi hotel registration Dated 7.27.1987				
1571	Megrahi hotel registration Dated 9.7.1989				
1572	Megrahi hotel registration Dated 7.13.1987				
1573	Letter requesting visas for Megrahi and others dated 5.21.87	1/12/26 tr. 50 - public records certs deficient and likely not an actual public record; tr. 53 - ancient docs ruling reserved pending additional facts from gov			
1574	Letter requesting visa for Megrahi	1/12/26 tr. 50 - public records certs deficient and likely not an actual public record; tr. 53 - ancient docs ruling reserved pending additional facts from gov			

Attachment A
Government's Preliminary Exhibit List

Exhibit no.	Description	Status	LURN	CP	Police Ref
1575	Letter requesting visa for Megrahi	1/12/26 tr. 50 - public records certs deficient and likely not an actual public record; tr. 53 - ancient docs ruling reserved pending additional facts from gov			
1576	Letter requesting visa for Megrahi	1/12/26 tr. 50 - public records certs deficient and likely not an actual public record; tr. 53 - ancient docs ruling reserved pending additional facts from gov			
1577	Letter requesting visa for Megrahi	1/12/26 tr. 50 - public records certs deficient and likely not an actual public record; tr. 53 - ancient docs ruling reserved pending additional facts from gov			
1578	Swiss visa application - Marzouk 2.2.88				
1579	Phoenix Machinetechnic Records	1/12/26 tr. 44 - Provisionally admissible as business record			

Attachment A
Government's Preliminary Exhibit List

Exhibit no.	Description	Status	LURN	CP	Police Ref
1580	Contract signed by Meister	Offered in Meister depo (Tr.25)			
1581	Photo of Meister and Bollier	Offered in Meister depo (Tr.14)	n/a	n/a	n/a
1582	Photo of Meister with products	Offered in Meister depo (Tr.18)	n/a	n/a	n/a
1583	Photo of Meister with products	Offered in Meister depo (Tr.19)	n/a	n/a	n/a
1584	Photo of MEBO II ship	Offered in Meister depo (Tr.22)	n/a	n/a	n/a
1601	Control Sample Suitcase	Admitted at Feraday depo			DC90
1602	Yorkie Fragments	Admitted at Feraday depo			PT28
1603	Contol	Admitted at Feraday depo			DC42
1604	Slalom Fragment Control	Admitted at Feraday depo			DC398
1605	Slalom Fragment	Admitted at Feraday depo			PK1978
1606	Slalom Shirt	Admitted at Feraday depo			DC400
1607	Slalom Shirt	Admitted at Feraday depo			PH999
1608	Pajamas - control	Admitted at Feraday depo			DC46
1609	pajamas fragment	Admitted at Feraday depo			PK2218
1610	Babygro control	Admitted at Feraday depo			DC34
1611	Babygro fragment	Admitted at Feraday depo			PK669
1612	Babygro fragment				PK2209
1613	Babygro fragment				PT73
1614	Babygro fragment				PI1421

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Government's Preliminary Exhibit List

Exhibit no.	Description	Status	LURN	CP	Police Ref
1615	Puccini control	Admitted at Feraday depo			DC95
1616	Toshiba Control	Admitted at Feraday depo			PR105
1617	Manual fragment- front page	Admitted at Feraday depo			PK689
1618	Manual Control	Admitted at Feraday depo			PR111
1619	Slalom with PT35(b)	Admitted at Feraday depo			PI995
1620	circuit board fragment	Admitted at Feraday depo			PT35(b)
1620(b)	part of circuit board fragment	Admitted at Feraday depo			
1621	fragment of Samsonite suitcase				PI911
1622	fragment of Samsonite suitcase				PI1353
1623	Radio mesh fragment				PT33a
1624	Radio mesh fragment				PT40a
1625	fragment of toshiba circuit board				AG145
1626	MEBO timer-boxed in gray	Admitted at Meister depo			DP111
1627	MEBO timer-unboxed				DP84
1628	four MEBO sample circuit boards	Admitted at Feraday depo			DP347
1629	fragment of Puccini cardigan	Admitted at Feraday depo			PI594
1630	fragment of timer circuit board				PT35(b)
1631	Diagram for MEBO circuit board	Admitted at Meister depo			DP114
1632	MEBO negatives for MST-13 circuit board	Admitted at Meister depo			DP373
1801	FAA registration		n/a	n/a	n/a
1901	Photograph of Qaddafi				
1902	Photograph of Senussi				

Attachment A
Government's Preliminary Exhibit List

Exhibit no.	Description	Status	LURN	CP	Police Ref
1903-1	Photograph of Said Rashid	Admitted at Meister depo (Tr.39)			
1904-1	Photograph of Megrahi	Admitted at Meister depo (Tr.41)			
1904-2	Photograph of Megrahi	Admitted at Meister depo (Tr.41)			
1905	Photograph of Fhimah				
1906-1	Photograph of Hinshiri	Admitted at Meister depo (Tr.34)			
1907-1	Photograph of Badri Hassan	Admitted at Meister depo (Tr.40)			
1907-2	Photograph of Badri Hassan	Admitted at Meister depo (Tr.41)			
1908	Photograph of Nassr Ashur				
1921	Abdelbaset A Mohmed Passport LURN 10112				
1922	Ahmed K Abdusamad Passport LURN 10389				
1923	Lamen Fhimah Passport LURN 10383				
1924	Lamen Fhimah Passport 547271 LURN 10384				
1925	Abdel Baset Passports LURN 10390				
1926	Fhimah Passport G232294 LURN 9417				
1927	Video of Megrahi and Mas'ud on Tarmac				

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

UNITED STATES OF AMERICA

v.

**ABU AGILA MOHAMMAD
MAS'UD KHEIR AL-MARIMI,**

Defendant.

:
:
:
:
:
:
:
:

Case No. 22-cr-392 (DLF)

DECLARATION OF PAUL GRAINGER

PAUL GRAINGER hereby states the following:

I am a Detective Superintendent with the Police Service of Scotland (commonly known as Police Scotland) and have completed 27 years' police service. I have undertaken various senior investigative roles within Police Scotland in areas such as Counter Terrorism, Serious and Organised Crime, serious crimes of violence and other complex investigations.

In the exercise of these duties I have become highly familiar with the procedures of Police Scotland, including generally applicable procedures for obtaining and maintaining custody of evidence.

Since 2018 I have fulfilled the role of Senior Investigating Officer for the investigation of the bombing of Pan American Airways ("Pan Am") 103 over Lockerbie, Scotland in 1988. This has remained a live criminal investigation in Scotland since the attack took place, over 36 years ago. Among other things, I have knowledge of the history of the case and of the specific procedures

used for the collection of evidence, including documentary evidence obtained from businesses and government entities.¹ Those procedures have ensured that all potentially relevant evidence was collected, documented, and securely maintained for possible use in a future criminal prosecution. This document provides a brief overview of those procedures.

During the criminal investigation into the bombing, whenever a piece of evidence was obtained, or “seized,”² by Scottish police officers, the evidence was immediately given an “Evidence Label.” For example, the following label was attached to a document obtained from Air Malta in 1991:

Form 25b

PRODUCTION LABEL NO. **DC 1112**

Dumfries & Galloway Constabulary

CASE AGAINST
(Block Capitals)

DESCRIPTION OF ARTICLE *PASSENGER LIST FOR FLIGHT KM 230*
10-10-88

FOUND *AIR MALTA, LUSA AIRPORT, MALTA*

ON *21st MARCH* 19 *91*

SIGNATURE(S) OF PERSON(S) IDENTIFYING ARTICLE

Detect Henderson de | *John C. Bevington*

¹ The investigation also involved special procedures applying to the collection and processing of physical evidence and debris from the crime scene in Scotland and England. Given that this declaration is being submitted in connection with the U.S. government’s motion related to documentary productions or exhibits, I have focused on the collection of documentary items and have not included a detailed explanation of the crime-scene processing procedures which were on an unprecedented scale given the geographical spread of debris as a result of the bombing. However, Police Scotland can provide detailed information about those procedures during the trial or for any preliminary proceeding at which such information would be relevant.

² “Seize” is the official term used to describe the Scottish police’s obtaining custody of a piece of evidence; however, this does not necessarily mean that the item was taken by force or compulsion. Items that are provided voluntarily, and items that are found without any owner, are still considered to have been “seized.”

The label contains several pieces of information. On the top, the name “Dumfries and Galloway Constabulary” identifies the geographical police constabulary conducting the investigation.³ In the upper-right corner, a “label number” is assigned – in this case, no. DC1112 – that acts as a unique identifier for the piece of evidence. In the middle, handwritten notes provide a description of the article (“Passenger list for flight KM 230 10.10.88”), a description of where it was found (“Air Malta, Luqa Airport, Malta”), and the date of its collection (“21st March 1991”). Finally, at the bottom, the label bears signatures from persons who are capable of identifying the item. These would typically include the signatures of the seizing officer(s) as well as any other persons who identify, examine, or handle the item. The signatures create an auditable record of the item’s chain of custody.

Every piece of evidence collected by the Scottish police forces during the investigation received a label, and each label was allocated a unique label number.

Apart from the labels, the police would also generate and retain further records relating to seized evidence. These include Production Books where all evidence seized is recorded and ledgers to record evidence movement.

All evidence is also logged in HOLMES (an acronym for Home Office Large Major Enquiry System), an information technology system predominantly used by UK police forces for the investigation and management of major incidents. The system is designed to manage serious and

³ Dumfries and Galloway was one of the eight legacy regional forces in Scotland from 1975 to 2013, when they were merged into a single national force, the Police Service of Scotland.

complex crimes by collating and analysing vast amounts of information quickly and effectively. HOLMES provides modules for managing statements, documents, physical evidence, actions,⁴ and disclosure,⁵ ensuring a consistent and methodical approach to investigations. This system was used from the beginning of the enquiry into the destruction of Pan Am Flight 103. All evidence seized is recorded and cross referenced on the HOLMES system to provide strong assurance around evidential integrity.

Another important category of police documentation is “Witness Statements,” which reflect verbatim statements provided by persons with knowledge about relevant facts and evidence. The process of generating witness statements involved Scottish police officers interviewing the witness and then recording verbatim the witness’s responses to record them in a handwritten document (written from the witness’s first-person perspective), which the witness would then read and, after making any necessary amendments, sign and adopt as his or her formal statement.

When a person giving a statement referred to a piece of evidence, the Witness Statement would identify it by the description of article recorded on its label. When the statements are recorded in the HOLMES computer system, the label numbers are added. Accordingly, one can conveniently associate any piece of evidence with the corresponding Witness Statement(s) that describe the circumstances of the item’s original seizure and other relevant events. Staying with the same

⁴ An “action” is a written instruction to carry out a task in connection with a particular line of enquiry.

⁵ Disclosure is the process through which the police are obliged to reveal to Scottish prosecutors all information that may be relevant to the issue of whether the accused is innocent or guilty.

example as above, a Witness Statement from Air Malta's Ground Manager, General Operations at Luqa Airport, dated April 3, 1991, states in part (highlighting added):

On Thursday 21st March, 1991 by prior arrangement I was interviewed at my office by a Scottish Police Officer (witness Detective Constable Derek Henderson S452BC) and an American (witness Special Agent John Bevington S5502B).

In response to a previous request I gave these officers the following documents,

Passenger list for Flight LN147 - 051088 (not a production)

Prod No. Copy Air Malta Flight Coupons for KM231 - 081088
(Label No. DC1114)

I had been asked to supply all passenger manifests and flight coupons for flights from Tripoli to Malta on 081088. The Air Malta coupons are the only ones I am able to supply. I also handed over the

Prod No. Passenger List for Flight KM230 - 101088 (Label No. DC1112)

Scottish police officers would generally lodge their own Witness Statements documenting the collection of evidence. For example, a statement of April 3, 1991, by Detective Constable Derek Henderson (who is mentioned in the Witness Statement above and whose signature appears on the Evidence Label) reads in part as follows (highlighting and redaction added):

On Thursday 21st March, 1991 I interviewed the witness [REDACTED] (S5045G), General Manager, Ground Operations, Air Malta within his office at Luqa Airport, Malta. At this time I was accompanied by the witness John Bevington (S5502B), Special Agent, Federal Bureau of Investigation.

[REDACTED] handed over the

Prod No. Passenger List for Flight KM230 - 101088
(Label No. DC1112)

In short, the Witness Statements, which discuss items of evidence by reference to their description and Label Numbers, provide substantial information about the provenance and authenticity of the evidence that has entered Scottish police custody.

As soon as a piece of evidence was seized, it entered the custody of the police and was thereafter continuously kept in secure conditions and protected from tampering. In particular, with regard to documents obtained from businesses and government entities, the documents themselves and any associated Statements would be provided to the HOLMES Team, which would make the appropriate entries into HOLMES, including creating cross-references that associate each document with the persons who provided and seized it. The documents would then be lodged in the production store.

The production store, then and now, was a secure area with restricted access, and only authorised personnel were permitted entry. The store has always been protected by an alarm system. The productions and documents are stored in a manner which allowed easy reference, and it was normal procedure to have the location of the item recorded on HOLMES, again for ease in locating any specific item. Documents and Statements are stored in boxes in numerical order and a check on HOLMES would identify which number was associated to which document/statement, etc.

In 2000-2001, two suspects were tried by a Scottish criminal court for their alleged participation in the bombing of Pan Am Flight 103. During the preparation of evidence in the case for court, many of the documents had Certificates of Authentication appended to them. Scottish legislation provides a procedure by which, by the addition of a docquet, a copy document may be treated as the equivalent of the original; a statement in a business document shall be admissible as evidence of any fact or opinion stated in it; and a business document may be taken to have its certified provenance. Consideration of documentary productions and certificates should be undertaken at the earliest possible stage but can also be carried out at any point prior to trial. This will have the effect that the written record can be accepted in place of adequate oral testimony. The purpose of these certifications was to facilitate the use of the corresponding business records in the Scottish trial, given the specific requirements of Scottish law that apply in that context. An example appears above. From the perspective of Police Scotland, the absence of a Certificate of Authentication is not a reason to doubt the provenance or authenticity of any document, provided that the document's evidence label and any associated documentation establish that the document came from the business in question.

Form 26.1-A.11
Certified copy
document
- by authorised
representative
of possessor
of original

CERTIFICATE OF AUTHENTICATION

I, ¹ Wilfred J Borg, Air Malta PLC, Head Office, Luqa, LQA05, Malta.
Division Co-ordinator
being the authorised representative of ² Air Malta PLC, Head Office, Luqa, LQA05, Malta
which is in possession and control of the original of the copy document described below
to which this certificate is attached hereby certify that it is a true copy of the original
which in the possession and control of ³ Air Malta PLC, Head Office, Luqa, LQA05 Malta
of which I am the authorised representative.

Date: ¹⁸ 18/5/99 (Signed) ¹⁸ [Signature]
⁴ Division Co-ordinator

[describe document:]
Accepted Passenger list KM230 10 OCT 88

¹ Insert name, address and title of office held.
² Insert name and address of person or body in possession and control of document.
³ Insert name of person or body as at note 2 above.
⁴ Insert authorised capacity in which certificate signed.

5

It is also worth noting that Schedule 8 Certificates of Authentication were introduced under new legislation contained within the Criminal Procedure (Scotland) Act 1995, which is why documents relating to a business prior to 1995 did not have them as standard. During pre-trial preparation,

under a process referred to as precognition, it was often the case that a supplementary statement would be obtained and where a document had previously been “seized” then a new Schedule 8 Certificate of Authentication and often a business docquet (that is, certification) would be attached to the production and the witness would sign this accordingly. It would also be referred to in the witness statement of both the officer conducting the interview and the witness.

Also as part of the preparations for trial, the various pieces of documentary evidence that were to be relied upon were electronically scanned so that they could be used in digital form in court. During the trial, 1,867 documentary productions or exhibits were entered into evidence by the Crown Office and Procurator Fiscal Service (“Crown Office,” the Scottish prosecuting authority). Throughout the proceedings, the court never expressed any doubt as to whether the documentary exhibits being offered by the Crown Office were what they purported to be, that is, the authentic records of the person or entity from which they originated. The trial resulted in a guilty verdict against one of the defendants, which result has been affirmed by a higher Scottish court despite multiple appeals.

The scanned copies of the documentary productions or exhibits that were used in the Scottish trial are the same versions that the Scottish authorities provided to the U.S. Department of Justice, pursuant to a Mutual Legal Assistance request, for use in the prosecution of Mr. Al-Marimi. The items were scanned by the Crown Office for the Scottish trial so that digital copies could be used during the trial and viewed by the presiding panel of Judges on their computers. In advance of the scanned copies being transferred to the US Department of Justice, the Crown Office conducted a comprehensive review to ensure that the scanned copies remained identical to the original physical

version. As a result of this comprehensive review, it is assured that the digital versions of the documents in the possession of the U.S. prosecution team are faithful copies of the original documents seized by Police Scotland.

At the original trial, the Scottish High Court of Justiciary ultimately concluded that Megrahi did not act alone. The Lord Advocate in Scotland has remained committed to pursuing all those that were involved in the bombing in the pursuit of justice for all 270 people that lost their lives. To that end, the criminal investigation has remained open in Scotland since the bombing in 1988. On this basis, the evidence that was seized has continued to be stored as criminal productions or exhibits by the Scottish police in line with strict procedures, practices and security measures. Since Police Scotland continues to investigate the case actively, the documents and other evidence have never been disposed of or archived; instead, they have remained in the direct physical custody of the police, stored in a secure manner that prevents access by anyone except authorised personnel. All movements of productions are recorded on HOLMES.

From a judicial perspective, as noted above, there have been multiple appeals, which has necessitated keeping the evidence in such a condition that its integrity cannot be called into question.

Recently, select items of physical and documentary evidence were temporarily transferred to the custody of the Federal Bureau of Investigation (FBI) for use in the U.S. trial of Mr. Al-Marimi. This transfer of custody was conducted under the auspice of an agreed Production Movement Strategy formulated to be consistent with the protocols of Police Scotland and of the FBI. The

items transferred included various paper documents (digital versions of which were already separately provided, as noted above), as well as evidence recovered from the crime scene and other tangible objects.

In sum, Police Scotland's handling of the evidence in this case, including its provision of evidence in digital and physical form to the U.S. authorities, has conformed to the highest standards of reliability. The chain of evidence relating to each of these items is accurate and properly recorded, and the integrity of the item can be confirmed by records, labels and witnesses. Accordingly, notwithstanding the passage of time, the Court can be assured that the various documentary records now in the possession of the U.S. authorities are the same items, or scanned versions of the same, that were obtained from the businesses and other entities by the Scottish police during the original investigation

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on December 10, 2025.



PAUL GRAINGER
Detective Superintendent, Police Service of Scotland