

## Never attribute to malice what can be adequately explained by stupidity

### *Heathrow baggage transfers and the Bedford suitcase*

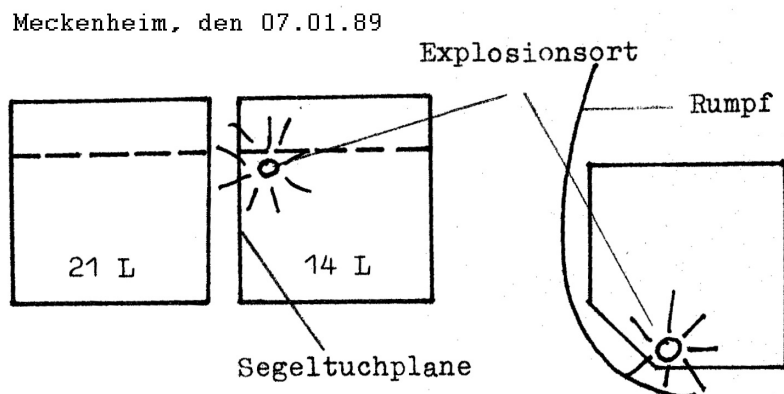
*Maid of the Seas* carried eight containers of passenger luggage. Seven of these were filled with suitcases checked in at Heathrow, and sorted into the containers in the large and busy baggage build-up shed at the airport. The eighth was a container that had been filled outside on the tarmac, taking luggage directly from the Pan Am feeder flight which had arrived late from Frankfurt with only 20 minutes to spare. That container was sent straight to the adjacent stand where the transatlantic flight was preparing to depart, without entering the terminal buildings.

On Christmas Eve 1988, three days after the disaster, the first piece of blast-damaged container framework was brought in from the fields to the east of Lockerbie. This was the first positive indication that the crash had indeed been caused by an explosion, as many had suspected from the outset, and it also indicated that the explosion was associated with passenger hold luggage rather than cabin baggage or cargo. Within a few days, as further pieces were recovered, it was confirmed that the container involved was AVE4041, the one containing the Frankfurt luggage.

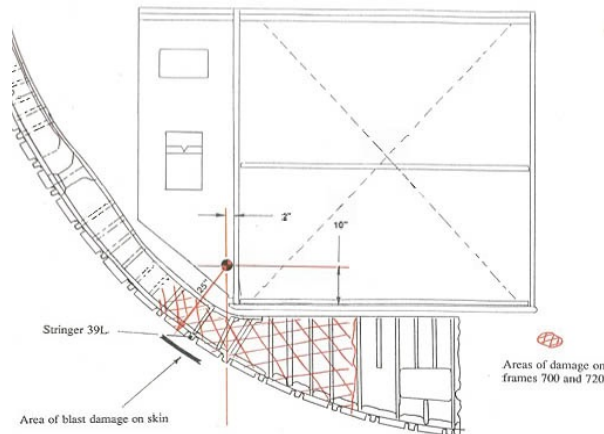
This established at a very early stage that the Heathrow check-in system had not been responsible for allowing the bomb on board the plane. You can almost hear the sigh of relief. On 30<sup>th</sup> December 1988 Detective Chief Superintendent John Orr, head of the newly-established Lockerbie investigation, [issued a press statement](#) announcing that the bomb had almost certainly not originated at Heathrow. It's not clear whether he or anyone realised at that point that in addition to the Frankfurt luggage, the container had also held a small number of suitcases which had been loaded within the terminal, before it was wheeled out on to the tarmac to be used for the direct transfer baggage.

The container in fact originated from the interline shed at Heathrow airport, where luggage being transferred directly from incoming to outgoing flights was collected and sorted. The employee in charge of Pan Am operations in that shed, John Bedford, described in his police statements how just after 2 pm he picked that container at random from several that were parked waiting, and labelled it up for flight 103. Between then and 4.15, when he went off for a tea break, he placed a number of cases in it as they arrived from various incoming flights. These cases were still there when the container was later taken out to the tarmac to receive the luggage from the feeder flight.

By piecing together the recovered fragments of the container, it was possible to see approximately whereabouts within it the explosion had occurred. A German memo dated 7<sup>th</sup> January 1989 shows an early estimate.



This sketch places the explosion in the front of the container (from the point of view of the loader), to the extreme left but not quite within the overhang section designed to fit the container to the curve of the plane's hull, and apparently almost on the floor. Somewhat contradicting this, a memo dated 19<sup>th</sup> January from Dr. Thomas Hayes, the RARDE scientist in charge of the recovered debris, placed the height of the explosion at 18 inches above the floor of the container. The eventual position determined by the [Air Accident Investigation Branch](#) was ten inches from the floor, and just within the overhang section.



AAIB diagram showing the estimated position of the explosion and the corresponding damage to the hull of the aircraft.

Clearly, the Heathrow transfer luggage had to be investigated as well as the luggage from the feeder flight, and the evidence of the Heathrow baggage handlers was crucial.

Luggage arrived in the interline shed on a carousel, much as in a baggage reclaim hall, and it was the responsibility of staff from each airline to identify items intended for their particular flights and retrieve them for processing. The Pan Am procedure was for one of the x-ray operators to fetch the suitcases from the carousel and screen them through the x-ray machine. If all was in order, a security sticker was attached to the case and it was left beside the machine for the baggage handler to load into the correct container for the outgoing flight. Although the staff had been busy during the morning with multiple departing flights, by early afternoon only three Pan Am employees remained on duty: Sulkash Kamboj and Harjot Parmar who operated the x-ray machine, and John Bedford the loader-driver.

The electrifying account given by Bedford of exactly what he saw in the interline shed that afternoon has been well known since the trial at Camp Zeist in 2000. His evidence was crucial to the defence summing-up and featured prominently in the late Paul Foot's seminal booklet on the trial, [Lockerbie: the flight from justice](#). What is very strange, though, is that until 2000 and Camp Zeist, almost nobody interested in the Lockerbie affair had even heard of John Bedford.

Bedford first gave evidence at the [Fatal Accident Inquiry](#) in October 1990, and described then exactly what he had seen. It appears that nobody in Dumfries at that time noticed its significance - except possibly Crown counsel, who was quite keen to persuade him that he'd seen something different. His evidence was also recounted briefly in David Leppard's 1991 book about the police investigation, *On the Trail of Terror*. Only one outsider appears to have picked up on Leppard's account: Barry Walker, author of the blog *The Masonic Verses*. [Mr. Walker recounts](#) how he wrote to Prime Minister John Major in 1996 pointing out that Bedford's evidence suggested that he had seen the bomb suitcase at Heathrow before the feeder flight landed, only to receive a dismissive reply from the Department of Transport stating that the FAI had determined the bomb suitcase had travelled on the flight from Frankfurt.

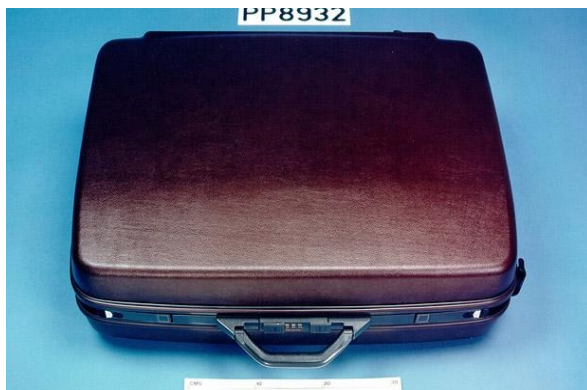
Bedford's police statements reveal that when he set up the container to receive luggage for PA103, there were already one or two suitcases sitting beside the x-ray machine. He duly placed the case or cases in the container, upright with the handle(s) up, at the back, to the

extreme left of the flat part of the floor. During the afternoon another four or five cases arrived, which he added to the line he had begun, working from left to right. At about quarter past four, as all was quiet, he went off for a tea break with his supervisor Peter Walker.

He was absent for about half an hour, and when he returned, he said, Kamboj told him that another two cases had arrived for the flight, which he had placed in the container himself after x-raying them. Bedford looked into the container and saw two suitcases lying flat on the front part of the container, handles facing away from him. Together with the row across the back, which he thought was undisturbed, they covered the entire floor area of the container. The only problem with this was that when he was asked about it, Kamboj denied all memory of the conversation, and denied having put any suitcases into the container.

By this time the late running of the feeder flight was already known, and Walker indicated to Bedford that he might as well go home rather than wait around for it to arrive to take the container out on to the tarmac. Accordingly Bedford towed the container as it was across to Walker's office and left it parked there, before clocking out.

Bedford gave his first statement to the police on 3<sup>rd</sup> January, although it wasn't until his second statement dated 9<sup>th</sup> January that he described the cases he had seen at the front of the container. The left-hand one was "a brown hardshell, the kind Samsonite make". The other was "if not the same, then similar". The first description of the suitcase believed to have contained the bomb appears in a forensics memo dated 15<sup>th</sup> February, again from Dr. Hayes. The description reads "a simulated brown leather rigid plastics suitcase". In due course the "primary suitcase" was identified as a Samsonite "Silhouette 4000" hardshell in "antique copper" finish.



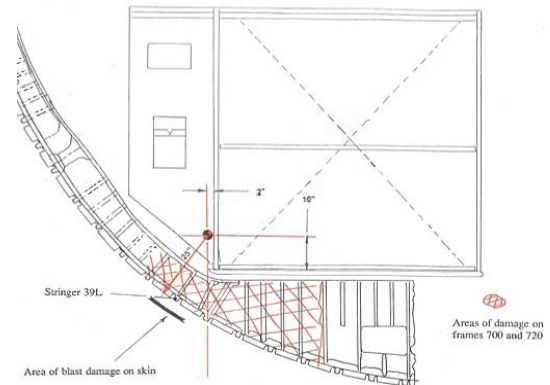
The bomb suitcase was variously described by the investigators as bronze, brown, maroon and even burgundy.

Curiously (and there is no evidence Bedford was aware of the nature of the bomb suitcase) in a statement dated 13<sup>th</sup> February 1990 he amended his description slightly. "I looked in and remember that one of the cases lying flat on the base was a Samsonite make suitcase. I said it was a hard sided case because I remember the light shining or reflecting off it. I also said in my original statement it was brown. On reflection I am now convinced it was maroon in colour."

So, by mid February 1989, less than two months after the disaster, the police knew that the explosion had happened low down in the front left corner of baggage container AVE4041 in a brown hardshell suitcase (confirmed not long afterwards to be a Samsonite). They also knew that a suitcase described as a brown Samsonite hardshell had appeared low down in the front left corner of baggage container AVE4041, in mysterious circumstances while the container was unattended.

You might think this would cause great excitement. The investigators were under huge political pressure to get a result, and this looks like anyone's ticket to fame, promotion, the honours list, or even just getting home to the family at night. However, there's no evidence of anyone in the inquiry looking at it in that way. John Orr's December 1988 assumption that the bomb had not been introduced at Heathrow continued to dominate the thinking of the investigators. Much

depended of course on the height of the explosion, or whether the bomb suitcase could be shown not to have been on the floor of the container. The forensics officers set about answering that question in various ways, and oddly enough one gets the strong impression that the desired answer was the one that would *not* incriminate the bottom case in the stack, the one loaded at Heathrow. The forensics team duly obliged, although this could never be a complete certainty given the low position of the explosion, the inevitable margin of error in the AAIB estimates, and the possibility that the bomb suitcase had been loaded partly within the overhang area of the container (thus elevating the left-hand side), or had shifted there during the flight. This point is demonstrated by comparing the AAIB diagram with a mock-up container shown on BBC television, which happens to have been loaded in that way.



Nevertheless, this reasoning was sufficient to satisfy the investigation that the bomb had not been among the Heathrow-origin luggage, but had flown in on the feeder flight. There was no suitcase on the second layer before the feeder flight arrived, the bomb suitcase was on the second layer, therefore (as David Leppard put it in 1991) “.... the mysterious brown Samsonite reported by the Heathrow baggage handler as being loaded on to the bottom layer could be ruled out: it was not the bomb bag. Kamboj was in the clear.”

This reasoning was also sufficient for the FAI, which reported in February 1991. Bomb suitcase on second layer, no Heathrow luggage on second layer, therefore bomb suitcase carried on feeder flight. This was just as well, as from early 1989 the investigation had embraced this reasoning wholeheartedly and concentrated almost exclusively on the Frankfurt connection, despite an almost total lack of relevant baggage records from that airport for the first eight months of the inquiry. In August 1989, when the German police finally got round to handing over the records they had been examining since January, the Scottish police became convinced the bomb had in fact flown in to Frankfurt on an Air Malta flight. After a long and fruitless inquiry on the Mediterranean island, during which none of the original Palestinian suspects could be shown to have been anywhere near the place, the police switched (again in February 1991) to investigating one Abdelbaset al-Megrahi, who could.

Heathrow wasn't completely ignored, but it appears the remainder of the exercise to rule out that airport consisted of matching up the legitimate luggage which might have passed through the interline shed there with the items found on the ground, and ruling each one out from being the bomb suitcase. The possibility of a rogue suitcase having been introduced directly into the interline shed seems never to have been seriously considered, despite Bedford's rather striking evidence. Another suggestive piece of evidence, a report from a security guard of a break-in into that very area of Heathrow airside about midnight the previous night, disappeared into the morass of paperwork in February 1989 and didn't reappear until the security guard himself contacted Megrahi's defence team following his conviction in January 2001.

Nevertheless Leppard's description of Bedford's brown Samsonite as “mysterious” was spot on, and it was never revised. It was never linked to any of small number of legitimate suitcases identified as having been placed in the container in the interline shed, none of which was a

brown hardshell. If the bomb was on the second layer, the identity of the suitcase which was directly underneath it was never established. It seems this simply wasn't regarded as important, because it was in the wrong place to have been the bomb. By about two inches.

Bearing this chain of reasoning in mind, it's worth quoting the relevant paragraph of [the Camp Zeist judgement](#) in full.

It was argued on behalf of the accused that the suitcase described by Mr Bedford could well have been the primary suitcase, particularly as the evidence did not disclose that any fragments of a hard-shell Samsonite-type suitcase had been recovered, apart from those of the primary suitcase itself. It was accepted, for the purposes of this argument, that the effect of forensic evidence was that the suitcase could not have been directly in contact with the floor of the container. It was submitted that there was evidence that an American Tourister suitcase, which had travelled from Frankfurt, fragments of which had been recovered, had been very intimately involved in the explosion and could have been placed under the suitcase spoken to by Mr Bedford. That would have required rearrangement of the items in the container, but such rearrangement could easily have occurred when the baggage from Frankfurt was being put into the container on the tarmac at Heathrow. It is true that such a rearrangement could have occurred, but if there was such a rearrangement, the suitcase described by Mr Bedford might have been placed at some more remote corner of the container, and while the forensic evidence dealt with all the items recovered which showed direct explosive damage, twenty-five in total, there were many other items of baggage found which were not dealt with in detail in the evidence in the case.

That's right. Suddenly, the previously immutable assumption that the original arrangement of the Heathrow-origin luggage was preserved beneath the Frankfurt luggage (which was simply added on top), has vanished. The investigators didn't find any blast-damaged fragments of brown Samsonite apart from the bomb suitcase itself. Which rather proved that there had not been a second brown Samsonite underneath it. While there were indeed a few suitcases that were never recovered, these appeared to have been items situated some distance from the explosion, which may have fallen intact into an inaccessible location. When the explosion ripped apart the bomb suitcase and the luggage in its immediate vicinity, it created a well-stirred mix of fragments scattered across the countryside. The searchers combed the fields for these fragments, and the forensics team singled them out for special attention. Numerous pieces of even the most severely damaged items were recovered in this way, and everything in that category (apart from the bomb suitcase itself) was known, legitimate Heathrow and Frankfurt passenger luggage. The proposition that another suitcase in the middle of the explosion had managed to contribute absolutely nothing to the resulting mix of debris is untenable.

It was made clear at Camp Zeist that only one suitcase was recovered in a condition consistent with its having been "in intimate contact with" the bomb suitcase - that is, placed flat against it.



Navy-blue canvas American Tourister suitcase belonging to Miss Patricia Coyle, a student teacher from Maryland who had arrived at Frankfurt on a Lufthansa flight from Vienna. This case was just as severely damaged as the bomb suitcase itself.

An aggregation of evidence which was entirely consistent with this suitcase having been placed on top of the bomb suitcase, and which had never been interpreted by the original investigation as having implied anything different, was presented in court as indicating the reverse positioning, with Miss Coyle's case thus implied to have been on the floor of the container. As this position had originally been occupied by the Bedford suitcase, a radical rearrangement of the Heathrow-origin luggage during the loading of the Frankfurt items was thus postulated. The suitcase which would have been on top of the bomb suitcase in this new arrangement was never identified, and in fact it was agreed that none of the other items recovered showed a pattern of damage consistent with its having been placed flat against the bomb suitcase.

Let's get this straight. The only reason ever advanced to rule out the Bedford suitcase as being the bomb was that it had been on the floor of the container, and the bomb suitcase had not. This reasoning held up all through the main period of the investigation, and through the Fatal Accident Inquiry. The FAI could not possibly have come to the conclusion it did actually come to, if there had been the slightest suggestion the Bedford suitcase had been moved from its original position. Nevertheless, at Camp Zeist it was argued that the suitcase *must* have been moved, and a suitcase from the feeder flight put in its place. The suitcase Bedford saw remained unidentified however. It was never linked to any of the Heathrow transfer passengers, nor to any innocent item recovered on the ground at Lockerbie.

Why wasn't it the bomb, this time? How do we rule out the (apparently very likely) scenario where the baggage handler who decided to lift it out to make way for Miss Coyle's suitcase simply replaced it right back on top? That's right, we don't. We simply observe that since it evidently *had* been moved, it *could* have been moved anywhere, and could have been one of the items that was never recovered, for whatever reason. If the words "burden of proof", or "innocent until proven guilty" are popping into your head at this point, it seems they didn't trouble the thoughts of the judges. It appears the concept that the Lockerbie investigation had gone spectacularly off the rails in the first couple of months, ruled out the only brown Samsonite hardshell suitcase seen by any witness for no particularly obvious reason, and hared off to Malta on a red herring hunt, was simply too much for the bench to contemplate. Eight years of punitive UN sanctions against Libya probably weren't conducive to clear thinking either.

Closer examination of the judgement reveals further oddities. There's quite a bit of speculation about what the loader who transferred the Frankfurt luggage *might* have done with the original Heathrow-origin suitcases. There is no suggestion that anyone actually *asked* him. No attempt is made to reconcile the mystery suitcase with any legitimate passenger luggage known to have been loaded into the container, but almost no detail regarding these passengers or their luggage is provided to allow this point to be further examined. The court doesn't even appear to know how many suitcases should have been loaded into the container in the interline shed.

This is quite bizarre. In other areas, the Zeist evidence was comprehensive bordering on obsessive. The last flight of the doomed airliner was traced in minute detail, although there was no suggestion the defence was disputing any of the circumstances of the actual crash. Almost every passenger on KM180, the flight from Malta to Frankfurt alleged to have carried the bomb, was called to the stand to explain their journey that day. It's hard to know what this achieved for the prosecution, who called them, as it only served to demonstrate that none of them had checked in the bomb suitcase and none of their legitimate luggage had gone astray. However, the entire passenger list got its 15 minutes of fame. In contrast, when it came to the Heathrow luggage, silence, despite the fact that the identity of a suitcase seen among that luggage was crucial to the inquiry. Similarly, if the tarmac loader had even been interviewed, the court wasn't told about it.

Perusal of the full transcripts of the trial doesn't help much. Some blast-damaged luggage was described, but often the ownership was not stated, or even whether the owner was a Frankfurt or Heathrow boarder. It is impossible to discover from the evidence presented whose luggage

Bedford should have handled, how many items there were, what they looked like, or what pattern of blast damage they sustained. It beggars belief that the inquiry didn't have this information, but it wasn't presented in court. The same applies to the tarmac luggage transfer. The witness called to testify to this aspect was one Darshan Sandhu, but he was the team supervisor, who had gone to help the actual loader (whom he named as "I. Sidhu") with the rush-job transfer after Sidhu alone had loaded the first crucial items by himself. It is clear from Sandhu's evidence that he would not have been able to say if the Heathrow items had been moved even if he had been asked - which he wasn't. Again, it beggars belief that Sidhu was never asked what he did at that point, but the court was not made aware of his answer.

In fact this evidence was readily available, and had indeed been presented to the Fatal Accident Inquiry in 1990. The tarmac loader was Amarjit Sidhu, and he gave eight separate statements to the police between 1988 and 1990, before appearing in person at the FAI on 29<sup>th</sup> October 1990. Three of the statements described what he did with the Heathrow-origin luggage, and he was also questioned about it in the witness box under oath.

**Police statement, 10<sup>th</sup> January 1989**

I recall that the JFK baggage had to be unloaded very quickly as we only had about 15 minutes to get this baggage transferred to the 747. Sandy and I filled up the container on top of the baggage which was already there.

**Police statement, 7<sup>th</sup> August 1989**

Further to my previous statements. When I took the AVE from the baggage build up to the 727 I did not reposition any of the interline bags in that container. I did not see anyone else reposition the interline bags prior to the Frankfurt bags being loaded into the container.

**Police statement, 13<sup>th</sup> February 1990**

I took the container out to the 727 and positioned it at the bottom of the rocket so that bags could be put straight in. I undid the curtain and saw the same bags inside in the same position because they didn't have room to move about. I did not reposition any of these bags and didn't need to because of the position they were in already. Dave Sandhu didn't touch the bags either. Dave Sandhu and I loaded the bags from the rocket into the container and on top of the 5 or 6 or 7 bags already there.

**Fatal Accident Inquiry, 29<sup>th</sup> October 1990**

Q Did you rearrange the cases which had originally been in the container?

A No I did not.

Q Did you take any of them out and put them on a different level or anything like that?

A No, I didn't because I was quite satisfied they were loaded.

Q You were satisfied about the way they were loaded?

A Yes.

At no time did Sidhu waver from the position that he hadn't moved the Heathrow-origin suitcases. Indeed, it is difficult to see why he would have taken the trouble to move anything at that stage. The Heathrow items were already loaded in the usual manner (Bedford also testified to that). The feeder flight was late, leaving him only 15 minutes to do a job he would normally have had half an hour to complete. It was dark, it was cold, it was raining and it was blowing a howling gale. And the Frankfurt luggage was coming at him on an automated conveyor. It wasn't the time to get picky about exactly which suitcase went where.

The Heathrow interline passengers and their luggage were the subject of detailed investigation, which was compiled into a neat report by DC Derek Henderson. DC Henderson's evidence was crucial at both the FAI and the civil action against Pan Am in 1992, but like Sidhu, he wasn't called at Camp Zeist.

Henderson's report on the Heathrow interline passengers was as follows. Seventeen passengers joined Pan Am 103 at Heathrow from other incoming flights.

Passenger	Flight	From	Arrived	Checked-in luggage
Nicola Hall	SA234	Johannesburg	06.46	1 *
Bernt Carlsson	BA391	Brussels	11.06	1
Charles McKee	CY504	Larnaca	14.34	2
Matthew Gannon	CY504	Larnaca	14.34	1
Ronald LaRiviere	CY504	Larnaca	14.34	0
James Fuller	LH1628	Hannover	14.51	0
Louis Marengo	LH1628	Hannover	14.51	0
Gregory Kosmowski	BD777	Birmingham	15.07	0
Robert Fortune	BD108	Amsterdam	15.18	0
Elia Stratis	BD108	Amsterdam	15.18	0
Michael Bernstein	BA701	Vienna	15.35	2
Arnaud Rubin	BA395	Brussels	16.15	1
Joseph Curry	BA603	Pisa	16.21	2
Peter Peirce	BA603	Pisa	16.21	3 *
James Stow	BA729	Geneva	16.34	0
Daniel O'Connor	CY1364	Larnaca	16.43	1 *
Richard Cawley	BA941	Dusseldorf	16.57	0

Eight passengers did not check in any hold luggage, and the remaining nine checked in a total of 14 items. However, three of these items (asterisked) were not loaded on to PA103. Although Miss Hall was booked on PA103, her suitcase was sent to New York on PA101 which left at mid-day. Mr. O'Connor's suitcase and one of Mr. Peirce's items were both accidentally left behind at Heathrow and discovered still in the interline shed the following morning.

Of the eleven remaining items, five (below the line) arrived too late to be added to the container before Bedford took it out of the shed just before five o'clock. Those items belonged to Messrs. Rubin, Curry and Peirce. Baggage handlers testified to these being loaded loose into the rear part of the aircraft, and they were recovered on the ground with no explosives contamination, in the area where debris from the rear of the aircraft landed. The six items above the line, which arrived early enough to have been taken to the interline shed before Bedford went on his break, were all recovered in the area where the debris from AVE4041 fell, and all had confirmed explosives damage or at least contamination. Thus these six items can be shown to comprise the luggage that Bedford should have loaded into the container in the interline shed.

	Flight	From	Arrived	Passenger	Luggage
1	BA391	Brussels	11.06	Bernt Carlsson	Grey Presikhaaf hardshell
2	CY504	Larnaca	14.34	Charles McKee	Grey Samsonite hardshell
3	CY504	Larnaca	14.34	Charles McKee	Grey American Tourister hardshell
4	CY504	Larnaca	14.34	Matthew Gannon	Navy Blue soft-sided Samsonite
5	BA701	Vienna	15.35	Michael Bernstein	Maroon soft-sided Samsonite
6	BA701	Vienna	15.35	Michael Bernstein	Tan/brown check case/holdall



The only luggage which could possibly have arrived in the shed before Bedford set up the container just after two o'clock was Mr. Carlsson's single suitcase. Therefore, although Bedford thought at one point there might have been two cases present at that time, it is clear there was in fact only one, Mr. Carlsson's grey hardshell. Bedford described placing this suitcase upright, handle up, in the back part of the container, to the extreme left of the flat part of the floor.

Bedford then described "four or five" items arriving subsequently to this, and adding them to the row begun by Mr Carlsson's case, working from left to right. The container was 62 inches wide, and so could have taken a row of six suitcases like this fairly comfortably. Kamboj and Parmar, who collected the luggage from the carousel, also confirmed various aspects of this luggage, including some recall of which incoming airlines were involved, and some descriptions of the luggage. Although they were unclear about the exact number of items they dealt with, their recollection of detail was otherwise surprisingly good.

If the two later-arriving cases had been two of the above list, then Bedford would in fact only have loaded four items before going on his break. This is inconsistent with his memory of having loaded between five and seven cases, nevertheless it might have happened. In that event, the best candidates for these two cases are of course Mr. Bernstein's luggage, which arrived late enough that it might well not have reached the interline shed before 4.15. This does not however tally with the rest of the evidence.

- Kamboj remembered lifting a large maroon suitcase from the carousel, which is likely to have been Mr. Bernstein's larger case. It seems unlikely he would not then have remembered putting it in the container after x-raying it, if he had indeed done that.
- Mr. Bernstein's larger case was certainly maroon (and a Samsonite, though soft-sided), however his other one was small enough to be described as a holdall in some documents, and was tan, apparently a check pattern. Both Bedford and Sidhu described the two front cases as being very similar in appearance - Sidhu described them as "large, dark" suitcases. Mr Bernstein's smaller case was nothing like the description given by either man.
- The lock of the bomb suitcase was recovered blasted into one of Mr. Bernstein's cases. Given the geometry of the container and the way the suitcases were loaded, this inevitably places this item in the row at the back of the container. (It also demonstrates that the bomb suitcase was loaded with its handle towards the rear of the container, just as Bedford described the mystery case being placed.)

Given that Mr. Carlsson's case is known to have been the first one placed in the row at the back, the other possibility is that two of the Larnaca suitcases were delayed in getting to the interline shed, and actually arrived after Mr. Bernstein's luggage. Mr. McKee's two cases were dark grey hardshells, and so might have comprised the two front items if Bedford had been mistaken about the colour of the left-hand one. The reason this was not the case is the reasoning that rules all the legitimate Heathrow items out from being the front left-hand suitcase.

If we accept Sidhu's repeated and credible statements that he did not move the Heathrow-origin luggage, then the left-hand front suitcase that Bedford described, if it was not itself the bomb suitcase, was immediately underneath it. Any suitcase in this position would have been essentially pulverised, in much the same way as Miss Coyle's suitcase illustrated above. Items 2 to 6 in the above table were recovered, and were not damaged in that way. Mr. McKee's American Tourister was in fact not blast-damaged at all, merely noted as exhibiting explosives "contamination". His Samsonite was damaged, and might even have been the right-hand of the two front cases, but it was certainly not underneath the bomb suitcase. Mr. Carlsson's case was the most severely damaged of the group, but even that was not presented in court as having sustained damage consistent with its having been underneath the bomb, and since it

is known to have been placed immediately behind the bomb suitcase within a foot or so of the IED, it would have been expected to be severely damaged in any event.

Passenger and luggage records relating to PA103 on 21<sup>st</sup> December 1988 were gone over with a fine-tooth comb by the investigators. The unaccompanied items that were carried in AVE4041 (all of which came in on the feeder flight) were soon identified from baggage records and lost luggage claims submitted by their owners. No other legitimate passenger luggage, accompanied or unaccompanied, was identified as potentially having been routed towards the interline shed at Heathrow. Not only that, as noted above, there was no evidence of another innocent, even if unidentified, suitcase contributing fragments to the mix of debris from the vicinity of the explosion. Only known Heathrow-origin items (those tabulated above) and known, identified Frankfurt-origin luggage contributed fragments to the mix. The only unidentified item present in that corner of the container was the bomb suitcase itself.

The inference from this evidence is absolutely clear. Unless Sidhu was grossly mistaken in all his statements to the police, and in the witness box in Dumfries, the left-hand one of the two suitcases placed flat in the front of the container before the feeder flight landed must have been the bomb. The fact that it appeared mysteriously when the container was unattended, and that it was described as a brown or maroon Samsonite hardshell, and that its appearance was in the context of abysmally lax security at Heathrow airport including a known security breach only hours before, only serves to reinforce the conclusion.

An additional point in favour of the same conclusion lies in the results of an exercise carried out with the Heathrow baggage handlers in January 1989. Three men saw the container, with the luggage, before the Frankfurt items were added - Bedford, Sidhu, and a loader named Tarlochan Sahota, who had looked into it while it was parked by Walker's office to check there was enough space remaining for the luggage arriving from Frankfurt. They were each asked to load a similar container to resemble as closely as possible the appearance of AVE4041 at that time. All three placed seven items in the container, not six. In fact, all three agreed that the floor of the container was covered by the Heathrow-origin luggage, and the photographs confirm that if only four items are placed in the row at the back, the floor cannot be completely covered. All the evidence points to there having been a seventh, rogue suitcase in that container at Heathrow.

It is not clear why the investigators failed to work this out in 1989-90. During that period it was an article of faith that the Heathrow-origin luggage had *not* been moved, and indeed that assumption was essential to the reasoning presented to the FAI to rule these items out from potentially including the bomb. Bomb suitcase on second layer, no Heathrow luggage on second layer, therefore bomb suitcase carried on feeder flight. It's impossible. The bomb suitcase *cannot* have been on the second layer if the Heathrow-origin luggage was not moved. These two things are mutually exclusive. Something has to give.

Everything hinges on whether the evidence relied on to exclude the possibility of the bomb suitcase having been on the floor of the container is incontrovertible, incontrovertible enough to justify in effect calling Sidhu a liar. Obviously, it wasn't. A number of witnesses pontificated on the matter, including RARDE and AAIB personnel, and the thrust was certainly to the effect that all preferred a second-level explosion for whatever reason, and believed that was the most probable position for the bomb. Nevertheless, this opinion was formed by examining bits of metal blown apart in a violent explosion, then falling 31,000 feet through a storm on to goodness knows what, to lie in the open for several days and nights before being trucked back to the investigators' warehouse. Accuracy to within a foot or perhaps even six inches either way is obviously possible. Accuracy to the last inch, or reliably inferring the presence of another suitcase by reading the pattern of bumps on the fragments of an already well-used sheet of aluminium like a gypsy reading a palm, is implausible. In addition, it appears the investigators had never considered the possibility that the Bedford suitcase might have been loaded partly

within the overhang section of the container, thus elevating the left-hand side of the case (where the IED was packed), or might have shifted a couple of inches into that position due to in-flight turbulence or even banking of the aircraft. The bomb suitcase was a shiny hardshell with rounded edges and slightly convex profile, which would slide easily on a metal floor.

The judges themselves confirm the lack of certainty on this point. “*It was accepted, for the purposes of this argument, that the effect of forensic evidence was that the suitcase could not have been directly in contact with the floor of the container.*” This is hardly a ringing endorsement. The procession of forensic and engineering witnesses all saying much the same thing was certainly persuasive, but the judges were never in a position to understand the real nature of the dilemma, because they were never made aware of Sidhu’s statements. The fact is that the only reason why the Heathrow-origin luggage “must” have been moved, is because the prosecution case falls apart at the seams if it wasn’t.

The devious nature of the Crown strategy thus becomes clear. At the FAI the failure of the investigators to identify which suitcase had actually been underneath their proposed second-level explosion went unnoticed, because at that time it was in nobody’s interests to turn the blame on to Heathrow airport. Pan Am, who were the *de facto* defendants, were equally if not more culpable if the bomb had been boldly placed in an unattended baggage container which was under the supervision of their staff, than if their Frankfurt x-ray operator had failed to raise the alarm when he saw a radio-cassette recorder during a routine examination of an otherwise unremarkable suitcase.

Matters were different in 1999, when the evidence was passed to the Crown prosecution team to assemble their case against Megrahi and Fhimah, by then in custody at Camp Zeist. Preliminary notifications to the defence team indicate that the strategy as regards container AVE4041 was originally going to be to reproduce the arguments heard by the FAI. Some time later, however, the strategy changed, and in particular Henderson’s baggage reconciliation reports were no longer to be a part of the case.

One can infer that the Crown worked it out. What was that case that was under the bomb suitcase? It doesn’t exist. The only brown or maroon Samsonite hardshell seen by any witness, said to have appeared in mysterious circumstances in almost exactly the position of the explosion, had been eliminated from the inquiry on the basis of an *absolute logical impossibility*. According to the evidence that had been relied on since 1989, the evidence used to indict Megrahi and Fhimah and justify eight years of punitive international sanctions against the entire population of Libya, the only possible reconciliation for that item is the bomb suitcase itself.

The Crown could have presented this evidence straightforwardly, and invited the Bench to infer that Sidhu must have been mistaken despite his unwavering and credible statements, because the forensic evidence demonstrated beyond all possibility of doubt that the bomb suitcase could not possibly have been on the bottom layer of the stacked luggage. They would have failed. The forensic evidence, as already noted, was never capable of bearing that weight of certainty, and the absence of any positive evidence of the bomb suitcase anywhere else in the baggage system compounded the problem. If the Bench had been presented with the complete set of evidence, acquittals were inevitable.

Hence the alternative strategy. The number, ownership, description and condition on recovery of the six Heathrow-origin items were not led in evidence. Sidhu was not called to testify to what he did or didn’t do with these suitcases, his absence being incompletely masked by calling Sandhu instead (although by that time he had retired and moved to India). Lacking this information, the prosecution was able to play down the weight of evidence indicating that the Bedford suitcase was an unaccompanied “rogue bag”, and invite the court to infer that the Heathrow-origin luggage had in effect been shuffled randomly into the Frankfurt transfer baggage, thus moving the embarrassing suitcase well away from the location of the explosion.

The same argument of course also allowed the inference that, if Sidhu had indeed decided for some reason that the Coyle suitcase really had to go on the floor of the container, he followed that up by simply putting the Bedford suitcase back on top of it. If indeed Sidhu had felt the need of a bit of extra luggage-heaving that wet and windy night, that is surely the most probable sequence of events, rather than postulating another, entirely hypothetical brown Samsonite being placed in that position, coincidentally said to have come down the rocket from the feeder flight at exactly that moment. The Bedford suitcase remains unidentified, unmatched to any legitimate luggage, and is the only brown Samsonite positively attested to by any witness in the case. The possibility that it might have been moved into exactly the position preferred by the investigators for the bomb suitcase should have been an absolute gift to the defence. It was however a necessary gift. By employing this stratagem the Crown was able to clamber out of the fire at least back into the frying pan, and continue to assert that the tenuous and inferential case it had assembled against the accused should be preferred to the by now rather confused and unclear suggestion of a Heathrow loading.

The defence gratefully accepted the gift, unexamined and unconsidered, and declined to call Amarjit Sidhu to the witness box.

*Timeo Danaos et dona ferentes.*

## **Appendix: clarification of specific points**

### **1. Did Kamboj x-ray and load the two extra cases?**

Bedford stated that on his return from his break, Kamboj volunteered the information that he had x-rayed two additional items for PA103 and loaded them in the container. Kamboj repeatedly denied all memory of that conversation in his police interviews, although in the witness box (twelve years later) he seemed to accept that it might have happened. Both he and Parmar indicated that although they might lend a hand in occasional busy circumstances, their usual practice was to leave newly-screened items by the x-ray machine for Bedford to load.

One might speculate that the conversation did not in fact happen. It is possible that Bedford saw the two additional items, inwardly wondered where they had come from, but then assumed Kamboj must have loaded them, and said nothing about it. The news of the fall of Pan Am 103 broke only a few hours later. If Bedford then remembered the mystery cases, he might have decided to do his duty to the investigation by describing exactly what he had seen, but embellished a fictitious conversation with Kamboj to deflect the expected criticism for not having queried the suitcases at the time.

### **2. Legitimate unaccompanied luggage**

As well as luggage accompanying passengers on the flight, AVE4041 contained four items of legitimate unaccompanied luggage. Three of these definitely flew in on the feeder flight. The fourth, which was a brown Samsonite hardshell, was the property of Pan Am pilot John Hubbard, who had sent two matching suitcases full of personal belongings from Berlin to Seattle ahead of his own return to the USA a couple of days later. These suitcases were intended to fly from Berlin to Heathrow on 21<sup>st</sup> December, to remain in Heathrow overnight, and then to fly from Heathrow to Seattle on a Pan Am flight on 22<sup>nd</sup> December. One suitcase did exactly that, but the other one ended up on the grass at Lockerbie. The route they took from Berlin to Heathrow was however never definitely established. The aggregate of the evidence indicates that they also flew via Frankfurt, and that one was accidentally sent to Sidhu for PA103 during the rushed unloading of the feeder flight, instead of to the terminal building. This explanation, or one rather like it, was accepted by the Lockerbie inquiry.

Nevertheless there was a small possibility that these cases were sent to Heathrow by a different route, probably via Hamburg, and thus arrived in the interline shed while Bedford was loading the container there. One of the pair might conceivably then have been sent to PA103 by someone who simply saw the US destination and knew that PA103 was the last flight of the day to the USA. There is considerable evidence to suggest that didn't happen, and the Frankfurt routing was the actual one, however even if that case was loaded into the container in the interline shed, it is also excluded from having been under the bomb as it was found with no explosives contamination whatsoever.

While it is theoretically possible that another misdirected or forwarded item might have been directed into AVE4041 in this way, the known unaccompanied items were easily identified from baggage records and/or their owners submitting lost luggage reports. There is no record of any item apart from Mr. Hubbard's lost suitcase that might possibly be in that category.

### **3. Packing and positioning**

The IED was almost perfectly positioned in the container to do maximum damage to the aircraft, not only in respect of the location of the suitcase, but its orientation. For the explosion to have occurred so close to the skin of the plane, it wasn't just necessary for the suitcase to be placed on the outboard side of the container, but for it to be positioned with the side containing the bomb as close as possible to its side wall. For this to be possible, the radio-cassette IED must have been packed, not across the suitcase as would be the intuitive way to pack a case, but asymmetrically along one side. This detail strongly suggests the case was packed by a terrorist who expected to be able to place it in the container not just in the right place but also *the right way round*, rather than waving it off to be loaded at random by a baggage handler.

### **4. What was the second additional suitcase?**

Given that there seem to have been seven cases in the container at Heathrow, and not eight, one possible explanation for the second flat suitcase is that a terrorist infiltrating the interline shed, with an IED packed asymmetrically along one side of a suitcase and aiming to position it as far to the outboard side of the container as possible, removed one of the original cases from the back and placed it alongside the bomb suitcase to minimise the chance of the bomb suitcase being subsequently pushed to the right, and then rearranged the original items to avoid leaving an obvious gap. Any of the suitcases of the Larnaca party might easily have served this purpose, and been seen as "similar" to the maroon hardshell, particularly Mr. McKee's dark grey Samsonite hardshell.

### **5. Fragment PI/911**

This was one of the largest fragments of the bomb suitcase, from either the lid or the base. When initially examined the material was noted as being compacted, as if by being blasted against a rigid surface. This was originally thought to suggest it had been blasted against the floor of the baggage container, which would of course have placed the bomb suitcase on the bottom layer. However, flecks of blue foamy plastic were also noted on its surface, consistent with the material of the Coyle suitcase. This feature was used at the trial to imply that the fragment had been blasted downwards on to the Coyle suitcase below.

Both interpretations are clearly misguided. The floor of the container was a single sheet of aluminium. Above the bomb suitcase was at least 100 kg of stacked luggage. Gravity is an insignificant factor in an explosion of this nature. The compaction of the material and the blue flecks are entirely consistent with the fragment having been blasted against the most resistant surface with which it was in contact - the bottom of lowest case in the stack of luggage on top of it, the Coyle suitcase.

## 6. The Fatal Accident Inquiry

The [Fatal Accident Inquiry](#) held in Dumfries from October 1990 to February 1991 heard all the evidence necessary to figure out that the suitcase Bedford had seen, an hour before the feeder flight landed, was at the very least extremely likely to have been the bomb. Sidhu testified that he had not moved the Heathrow-origin luggage, and Henderson's baggage reconciliation report made it clear that the mysterious left-hand suitcase had not been matched with any legitimate passenger luggage. Nevertheless Sheriff John Mowatt delivered a report concluding not only that the bomb had arrived on the feeder flight, but that it had been transferred to the feeder flight at Frankfurt as transfer luggage from another airline.

The explanation for this is not that Sheriff Mowatt was convinced by the greater strength of the evidence from Frankfurt, but rather the opposite: none of the Frankfurt evidence was led at the FAI. Although it was public knowledge that the Scottish police had been pursuing their investigation on Malta for over a year - Granada Television had even broadcast a documentary entitled *Why Malta?* - the word "Malta" was not even mentioned during the proceedings. The entire rationale for concluding an interline transfer at Frankfurt was the assertion that as most of the damaged Frankfurt-origin luggage had been interline transfer items, this luggage had been loaded as a batch in Germany and then transferred as a batch to container AVE4041. Internal memos demonstrate this to be a tenuous assumption dreamed up for the purpose of this exercise and supported by the German police mainly because it also suited their interests, that is it allowed the blame to be shunted away from Frankfurt towards a third airport outwith their jurisdiction.

That this tenuous, indeed specious reasoning prevailed over Bedford's clear description of a mysteriously-appearing brown or bronze Samsonite hardshell within an inch of the established position of the explosion may seem inexplicable. The answer, it seems, lies in the deference accorded by the Sheriff to the ongoing criminal investigation and the Crown submissions. He notes that he understood that not all the evidence could be presented to him for fear of jeopardising the ongoing criminal investigation, and that he had "no hesitation" in accepting this constraint. Crown counsel submitted that the bomb "was among the bags from Flight 103A which arrived at Heathrow from Frankfurt and which were loaded into container 4041 and transferred to Flight 103" and "would not 'seek to discourage'" a finding that it had come into Frankfurt as an interline bag.

While of course it is not stated in so many words, the inference that Sheriff Mowatt had been assured that the investigators had incontrovertible evidence that the bomb had flown in to Frankfurt on the Malta flight, which could not be revealed in open court, is irresistible. This would have introduced an impossible dilemma for the FAI. No matter how suspicious the Heathrow evidence might seem, clearly the investigators had discounted it, and apparently they had far stronger evidence they could not reveal of a different *modus operandi*. It is perhaps scarcely surprising that the sheriff stuck to the script and found in accordance with the Crown's preferred scenario, even though he was not permitted to examine the evidence on which this was based. Unfortunately this finding then became a precedent, and from then on the arrival of the bomb on the feeder flight was in effect set in stone.

Dr. M. G. Kerr, September 2012.