

Briefing to the Security Council
Special Representative of the Secretary-General
and Head of UNSMIL, Tarek Mitri

18 June 2013

Mr. President,

1. On 8 June, Benghazi witnessed a tragic event, with a considerable loss of life, the greatest in east Libya since the Revolution. What started as a peaceful demonstration outside the barracks of an armed brigade in Benghazi deteriorated into an exchange of fire leaving many dead and wounded, mostly from the demonstrators. Protestors were calling for the Libya shield brigades, which comprise mainly revolutionary formations under the operational control of the Chief of General Staff of the Libyan Army, to be dismantled, and the army and police to be entrusted the role of exclusive security forces.
2. The Libyan authorities have taken swift action in the wake of the incident, transferring control of several brigade barracks in Benghazi to the Libyan Army. The General National Congress issued Decision 53 tasking the government to deal with armed groups that remain outside the control of the state, and to present immediately a proposal for the integration of armed brigades. The government responded promptly with a decision to proceed with the creation of a National Guard into which armed brigades would be integrated, but differences on the status of revolutionary brigades and their relationship with the state remain unresolved. The security situation in Benghazi deteriorated again on June 15. In what appears to be retaliation for

the events of June 8, gunmen attacked an army base and the National Security Directorate. A number of Special Forces troops were killed. UNSMIL firmly condemned these attacks, as well as the previous ones, and called on all Libyans to rally around their legitimate institutions.

Mr. President,

3. I would like to briefly touch on the unilateral Declaration by the Transitional Council of Barqa on 1 June of a federal region in eastern Libya. The leadership of the Transitional Council of Barqa have justified this move by what they perceive as the central government's failure to address security and governance issues in their region. While it is difficult to gauge popular support for federalism in the eastern and southern regions of Libya, the calls for genuine decentralization and better distribution of national resources can not be ignored. It may not be coincidental, therefore, that the Prime Minister announced on June 5 the decision to relocate the headquarters of four major state-owned companies from Tripoli to Benghazi.

Mr. President,

4. When I last briefed the Council in March, I noted a growing polarisation on the Libyan political scene manifested, most particularly, in the disagreement over a proposed law on political isolation and the related attempts to undermine the authority of the democratically elected bodies and legitimate state institutions.

5. It is undeniable that the law on political isolation garnered significant political support over the past months. It demanded the exclusion of figures associated with the former regime and others who had committed human rights violations, from public office. But deliberations over the law were divisive. There was disagreement on the scope of exclusionary measures and their criteria.

6. Commencing on 28 April, a number of revolutionary groups laid siege to several government ministries in an attempt to force through the adoption of the law. These actions had been preceded in March with the storming of the General National Congress and the assaults on some General National Congress members, including a shooting incident which targeted then President el-Magariaf. This escalation in exerting pressure set a dangerous precedent in its resort to the use of military force in order to extract political concessions.

7. The political isolation law was adopted on 5 May. However, the siege of ministries continued for a few more days and more political demands were voiced. A growing popular discontent, and a commitment of Prime Minister Zeidan to address some of the numerous demands, helped put an end to a show of force that threatened the stability of the country. Mr. Zeidan announced his intention to reshuffle his cabinet. Two ministers have resigned and have been replaced, so far.

8. The adoption of the Political Isolation Law will have far-reaching repercussions on the political process and the public administration. The Law lists a wide range of political, administrative and other posts, and

defines types of affiliation and conduct, as a basis for the exclusion of individuals from public life for ten years. Proposals that the Law include provisions for exempting persons on the basis of their support to the Revolution were rejected.

9. Despite his distinguished record in active opposition to the Qadhafi regime over three decades, Mohammad El-Magariaf would have been excluded from office, in application of the law. He chose to resign as President of the General National Congress on 28 May. I would like to take this opportunity to pay tribute to Mr. El-Magariaf's leadership of the Congress since its inauguration, and express appreciation and gratitude for his support to the UN's role in Libya and his confidence in UNSMIL and in me since I took up my duties as Special Representative of the Secretary-General. We also owe him a word of praise and respect for his dignified statesmanship as he distanced himself from the Libyan political scene.

10. Written advice was provided to the General National Congress on international standards, best practices and potential risks of exclusionary measures. The current law falls short of these standards in a number of areas. We believe many of the criteria for exclusion are arbitrary, far-reaching, at times vague, and are likely to violate the civil and political rights of large numbers of individuals.

11. In the context of Libya's transition and the legacy of weak state institutions, the implementation of the law risks further weakening of those institutions. On 5 June, the day the law came into force, many prosecutors

and judges went on strike in protest at some of the provisions of the law which they believe would affect them.

12. These developments demonstrate the urgency of adopting a transitional justice law anchored in truth-seeking, accountability and reparations. A draft law is currently being considered by the General National Congress. UNSMIL continues to advise on its scope and implementation.

13. In addition, UNSMIL stands ready to assist Libyan authorities in the technical aspects in conducting investigations and trials as part of the transitional justice process. This is particularly significant in the context of the recent decision by the International Criminal Court pre-trial chamber regarding Saif al-Islam Qadhafi which is the subject of a Libyan appeal. We shall continue also to affirm the importance of cooperation of the Libyan authorities with the International Criminal Court.

Mr. President,

14. Throughout the political crisis, my team and I increased engagement with all parties concerned, underlining the need for dialogue as a means of defusing tensions and ensuring respect for the democratic process. Following an initial encouragement from the Government, and requests from revolutionaries of diverse persuasions, UNSMIL initiated a series of discussions to facilitate direct talks between the two sides. We stand ready to continue providing our good offices.

15. The political and security challenges that now face the country may well be the legacy of decades of authoritarian rule, dysfunctional state institutions and confusion around political norms. This reality invites a national political dialogue that seeks consensus on the priorities for the transitional period. This is a message that I have repeatedly conveyed to Libyan authorities at the highest levels, political leaders and revolutionary figures. UNSMIL has already provided the Government and the leadership of the General National Congress with advice on issues and modalities of a national dialogue. We stand ready to facilitate this process, if so requested by the Libyan authorities.

16. In our conversations with various actors we also touched on the perceived, as well as the desired, role of the United Nations in Libya. This was all the more necessary in view of an unanticipated controversy around this role following the adoption of Security Council Resolution 2095 (2013). The said controversy surfaced in concomitance with the national political crisis. There were voices that casted doubts on the intentions of the international community and attributed to the United Nations an interventionist design. The fact that resolution 2095 was adopted under Chapter VII of the UN Charter raised increased misunderstanding, suspicion and disquiet. On the other extreme of the political spectrum, there were voices calling for a more robust UN presence and reminding Libyans, or warning them, that Chapter VII indicated the gravity of international concern. In such a context, we needed to concentrate efforts on dispelling misperceptions and false expectations fuelled by a formidable flow of disinformation.

Mr. President,

17. In preparation for the election of the Constitutional Drafting Assembly, the United Nations, in close cooperation with the re-established High National Election Commission, facilitated discussions between a wide range of Libyan decision and opinion makers on issues such as electoral systems, voter registration and the participation of women. Through these discussions, Libyans of various political hues recognized the importance of designing a fair, inclusive and credible process. Offering technical advice and drawing on best practises, including the July 2012 national elections in Libya. UNSMIL also highlighted the significance of adopting special measures meant to enhance women's participation in the Constitution Drafting Assembly.

Mr. President,

18. In the forthcoming period, leading to the elections of the 60 member Assembly, civic education and facilitation of debates on constitutional issues will have to be a priority. In this respect, UNSMIL, has a meaningful role to play. It is welcome by our Libyan partners and preparatory work is well underway.

19. Conflict-related detentions remain mostly unchanged since my last briefing to the Council. An estimated seven to eight thousand detainees still await to be charged or released. The process of transferring detainees to the authority of the state moves slowly. In Bani Walid, the scene of armed conflict last October, unanswered questions continue to surround the cases

of bodies handed over by Misrata in April. In a number of detention centres, we have observed cases of torture. There is also evidence of deaths in custody due to torture.

20. UNSMIL has persistently emphasized that practices of extra-judicial killing and torture should not be tolerated in Libya, more particularly by those who were victims of injustice and repression under the previous regime. The national consensus on the centrality of promoting human rights shall not allow any justification of these violations.

21. UNSMIL continues to work closely with the Ministry of Justice, various prison authorities and local civil society to improve the situation of prisons. There have been variable degrees of success, particularly in providing medical care to inmates.

22. Legislative initiatives undertaken in April, are worthy of appreciation. The General National Congress passed a law criminalizing torture, enforced disappearances and discrimination as well as a law clarifying the jurisdiction of the civilian and military justice systems and abolishing the jurisdiction of military courts over civilians. We also welcome the tabling of a new law intended to provide assistance to women victims of sexual violence.

Mr. President,

23. UNSMIL remains concerned about the situation of migrants in Libya. The conditions inside these centres remain deplorable. UNSMIL and UN agencies will continue to offer their humanitarian support to those

vulnerable groups and urge the government and local authorities to address problems effectively and in full respect of the dignity and rights of immigrants.

24. The plight of internally displaced persons, some 35,000 Tawerghans as well thousands of Mashashiyans and others, continues to be a major concern. The unilateral announcement by Tawerghan community leaders of their intention to return to their hometown on 25 June is a move fraught with risks. While UNSMIL continues to support in principle the Tawerghans' right of return to their homes in safety and dignity, it is essential that all parties concerned create acceptable conditions for the exercise of their right. To this effect, we have intensified our efforts, emphasizing the need to establish a fact-finding mechanism integral to transitional justice.

Mr. President,

25. Border security remains a clear priority for Libya, and for its neighbours, and the wider international community. Recent developments in the Sahel region underscore the importance of effective border security and management. Despite official pronouncements by the Libyan authorities, severe capacity limitations result in little practical progress to date.

26. Government efforts to address border security necessitate the development of a comprehensive national strategy, addressing issues of integration of revolutionaries, improving inter-agency coordination, training, operational effectiveness, and infrastructure in the southern border region.

Libya will also need to engage further in dialogue with its neighbours and its international partners.

27. Parallel to this effort, more is expected from the Government to accelerate the implementation of development projects in the south, a region whose communities have suffered from marginalisation far too long. Prime Minister Zeidan recently visited the south and made promises to move forward in reconstruction and development.

Mr. President,

28. The continuing weak state of security sector institutions, coupled with the lack of effective national security coordination, comes at a time when security incidents throughout the country, have grown in number and scale. Progress on Libya's plans agreed at the International Ministerial Conference in Paris in February this year has stalled, in part because of the political crisis that ensued since. Inter-ministerial coordination on national security architecture struggled to show meaningful dividends.

29. In April, UNSMIL presented 'Towards a Defence White Paper' to the Minister of Defence and the Chief of the General Staff for their consideration. This joint effort by the Ministry of Defence, the Libyan Armed Forces and UNSMIL, includes 52 recommendations for a future Libyan defence strategy, and 18 immediate priorities.

Mr. President,

30. The Libyan state's ability to fully assert its authority over the south, continues to be limited. We believe the Libyan authorities still have the opportunity to step up their efforts to effectively counter threats emanating from the south. Crucial to this effort, will be the support and assistance of Libya's international partners, and the cooperation of its regional neighbours.

31. More broadly, we have learned from our experience in Libya over the past 21 months, that a piecemeal approach to state-building falls short of achieving good results, particularly in the security sector where the needs are huge and immediate.

Mr. President,

32. The United Nations Support Mission in Libya, along with the rest of the UN country team, will continue to support Libya's democratic transition in accordance with our mandate, assisting in the constitution-making process and providing the technical assistance needed for a national election thereafter. But we must also recognise that Libya's democratic transition does not stop with the attainment of these objectives. In fact, it goes well beyond the confines of our mandate.

33. The risks in Libya should not be underestimated, and by the same token, the opportunities should not be overlooked. Judging by the speed with which last year's elections to the General National Congress took place so soon after the cessation of hostilities, we would be forgiven if we thought that the road to democracy was as simple as it appeared. As important as

these elections may have been in ushering in the beginnings of a new political process and the building of legitimate state institutions, the Libyan people will continue to endure for the foreseeable future the heavy legacy bequeathed to them over decades of brutal rule. Managing the transition is bound therefore to be difficult.

Mr. President,

34. The mood in Libya today may have changed since I last briefed the Council in March. Despite the gravity of some of the security and political developments that have taken place over the course of the last three months, Libyans have not lost confidence. Many of them remain unwavering in asserting the principles that underpinned their Revolution, and their desire to build a modern and democratic state, based on the separation of powers, respect for human rights and the rule of law.

Thank you.