



NEW YORK UNIVERSITY

**CENTER ON INTERNATIONAL COOPERATION**



**The International Role in Libya's Transition |  
August 2011 - March 2012**

**Emily O'Brien with Richard Gowan**

**July 2012**

NEW YORK UNIVERSITY

## **CENTER ON INTERNATIONAL COOPERATION**

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*All views expressed in this report are those of the authors only, and do not necessarily represent the views of CIC.*

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## The International Role in Libya's Transition | August 2011- March 2012

### Foreword

Following the death of Muammar Gaddafi in October 2011, the situation in Libya fell largely out of the headlines, with the majority of reports focused on the fragile security environment there. Meanwhile, international attention has been fixed on the crisis in Syria.

One reason that Libya receded from international attention was that the UN did not put a large-scale post-conflict presence in place there, as it has done in situations like those in Kosovo, Haiti and Afghanistan. The UN Support Mission in Libya (UNSMIL), mandated by Security Council Resolution 2009 on 16 September 2011, has a broad mandate but a light footprint. Although the UN has taken the lead in post-conflict peacebuilding support, Libya has not proved to be a classic case for blue helmets. This approach has reinforced the false impression that the international community is not deeply engaged in rebuilding Libya.

CIC's last report *The Libyan War: A Diplomatic History* presented a record of the international community's diplomatic engagement over Libya, from the first international responses to the uprising there in February 2011 to the eve of the rebel assault on Tripoli in August 2011. This report picks up where the last left off, and tracks international efforts to stabilize the country and begin the process of reintegrating it into the international community, ending with the Security Council's decision to renew UNSMIL's mandate for a year in March 2012. Although there have been important developments in Libya since March, the goal of this report is to highlight that international assistance to the country after Gaddafi's fall was wide-ranging and important — even if it received relatively little publicity. In a period in which the future of large-scale international interventions is in doubt, the Libyan case may offer precedents for future post-conflict situations.

Some commentators initially debated how to get peacekeeping troops on the ground in Libya rapidly, and which organizations had the capabilities to stabilize the situa-

tion. While the new Libyan authorities were opposed to any international military presence, regional politics also worked against the deployment of peacekeeping troops from a Western organization like NATO, and there was no appetite for any such mission in the budget-strained alliance. The Arab League and African Union did not have the operational capacity to mount an effective assistance mission. The UN was the most viable actor to lead international assistance efforts, but deploying a heavy UN peacekeeping operation did not gain traction as an acceptable model.

Instead, the UN took its cue from the Libyan transitional government. UNSMIL's operations have been tailored to the type of assistance the National Transitional Council (NTC) has requested. From the outset Ian Martin, UNSMIL's head and the Secretary-General's special representative for Libya, made clear that the UN would be responsive to the priorities that Libya's NTC set out for the transition. Martin described UNSMIL's initial mission as "an opportunity not only to provide immediate assistance and advice to the NTC... but then through that engagement to make sure that the longer-term mission that we recommend to the Security Council genuinely reflects Libyan ownership and Libyan wishes."<sup>1</sup> The ongoing process of assisting the political transition and beginning peacebuilding work has not been built around peacekeeping or a very large-scale political mission.

Its light footprint aside, UNSMIL has played a central role in post-conflict work in Libya and in coordinating other international actors. The complexity of these multilateral engagements on Libya stands out. This report highlights the range of international actors involved in Libya's transition, and their work in responding to a series of challenges:

- **Addressing human rights concerns.** Reports of rampant abuses by Gaddafi troops in the last days of his regime were followed by accounts of torture and abuse by militia forces. A UN inter-agency humanitarian assessment team was dispatched to Tripoli in September; the UN Office of the High

1. "New UN political mission in Libya begins operations and deployment of staff", *UN News Centre*, 22 September 2011.

Commissioner for Human Rights (OHCHR) put a team of senior officials in the field and the high commissioner, Navi Pillay, was vocal about the situation; and the Independent Commission of Inquiry in Libya (ICIL), set up by the UN Human Rights Council, urged the NTC to investigate allegations of abuse. The Commission released a widely-read report on 2 March summarizing its findings.

- **Taking up transitional justice issues.** The International Criminal Court (ICC) has been at odds with Libyan authorities over Saif Al-Islam Gaddafi's future, as well as that of Muammar Gaddafi's former intelligence chief Abdullah Senussi. Following the capture of the two men within days of each other, the transitional government resisted turning them over to the Court, where they face charges of crimes against humanity. At the time of this writing, the Court had not issued a final legal determination on whether Libya could try the two men, per the Libyan interim government's petition. Complicating the situation, reports suggest that the men remain in the custody of two different militias, and not under the interim government's direct control.
- **Creating conditions for economic recovery.** International assistance for Libya's economic recovery has proceeded along multiple tracks. The UN Security Council led the process of ending sanctions against Libya, freeing up needed assets for the NTC. Libya also looked to strengthen bilateral ties with neighbors, and Gulf countries like Qatar and the UAE that played a role in NATO's military operations during the war. The NTC, European Union, United Nations, World Bank, International Monetary Fund (IMF) and other international partners jointly agreed on a framework for a post-conflict needs assessment in September 2011, creating a basis for important political-financial linkages for post-conflict assistance.
- **Managing regional spillover.** Concerns about the destabilization of the Sahel led to coordinated action to address the effects of the Libyan crisis on the region, particularly the distribution of military

hardware previously in the Gaddafi regime's possession. The UN sent an inter-agency assessment mission there in December; UN political offices in West Africa and Central Africa met to address regional security concerns; the Organization for the Prohibition of Chemical Weapons (OPCW) undertook an assessment of the security of Libya's weapon stockpiles and provided assistance to the NTC; and the UNSC passed Resolution 2017, calling on states in the region to prevent the proliferation of arms with international assistance.

- **Building an inclusive political framework.** The interim government is committed to an ambitious timeline of political reform, including national elections that took place in early July. The NTC declared Libya to be liberated three days after Gaddafi's death, and in October 2011 named a prime minister, Abdurrahim El-Keib, who formed a cabinet to run the interim government until the national elections. But political bargaining between interested parties has been slow in coming, as groups continue to operate as separate power brokers outside of government purview. The continued activity of Libya's militias has raised concerns about the interim government's ability to centralize authority, much less to bring a diverse coalition of political actors under its umbrella.
- **Establishing security.** Concerns about the security environment in Libya have threatened to overshadow all other stabilization work. Describing fighting between armed brigades in January, Ian Martin noted that "Although authorities have successfully contained these and other more minor incidents that continue to take place across the country on a regular basis, there is the ever-present possibility that similar outbreaks of violence could escalate."<sup>2</sup> Despite intensive international efforts in other areas of stabilization work, the international community has limited tools to impact security sector reform.

2. "Libya facing challenging transition, but authorities striving to succeed – UN", *UN News Centre*, 25 January 2012.

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The sharp disagreements between international actors that characterized the Libyan war have been largely absent in the post-conflict period. Mechanisms like the “Friends of Libya” forum have proved to be effective umbrella organizations to coordinate multilateral assistance. The UN Security Council unanimously passed Resolution 2009, which modified Resolutions 1970 and 1973, ending the mandate for international intervention in Libya and establishing UNSMIL. The Council unanimously adopted Resolution 2040 on 12 March, extending UNSMIL’s mandate for an additional year, and setting a schedule for the mandate to be reviewed in six months’ time. In Libya, the interim government rescheduled national elections for early July for a National Assembly that will govern while undertaking the task of writing a new constitution.

The months leading up to the July elections — and the elections themselves — require further analysis. There have been both disturbing and positive moments, and Libya’s future remains uncertain. In going back to the first six months after the fall of Gaddafi, however, this paper aims to offer an objective assessment of international engagement in the immediate post-conflict phase — a phase in which many important decisions about Libya’s future were made, and the UN and its partners aimed to define a role in the country’s complex politics that differed markedly from “standard” post-war interventions.

We published our last report *The Libyan War: A Diplomatic History* in August 2011 while debate raged about the nature of the international intervention in Libya. A narrative of events based on public sources, it was a “first draft of history” intended to inform the debate and clarify persistent misconceptions. This report serves a different purpose. At a critical moment in Libya’s transition, it traces international efforts to assist the peacebuilding process. Insufficient consideration has been given to this process in Libya, and this report draws attention to the deep level of international engagement there.

**July 2012**

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## The International Role in Libya's Transition | August 2011- March 2012

### August 2011

The Libyan opposition forces' entry into Tripoli on 22 August appeared to indicate that the war between opposition and regime forces was entering its final stages. This caused the international community to focus on intensive post-Gaddafi transition planning. UN Secretary-General Ban Ki-moon met on 22 August with the P5 members and the president of the Security Council to consider potential post-conflict roles for the United Nations (UN).<sup>3</sup> In his 23 August brief to Council members, under-secretary-general for political affairs B. Lynn Pascoe described the UN's response to the turn of events in Tripoli. UN special envoy to Libya, Abdel-Elah Al-Khatib, and the Secretary-General's special adviser for post-conflict planning, Ian Martin, met in Doha on 23 August with the National Transitional Council (NTC) to discuss a UN role in post-conflict Libya.<sup>4</sup>

In his 23 August remarks to Council members, Pascoe relayed a message from Mustafa Abdul Jalil, the NTC's chairman, emphasizing that the UN would be called upon to play an important role in post-conflict Libya. Jalil also stressed that when the new government replaced Gaddafi's regime, the international community needed to unfreeze Libyan assets. At this point in time, Security Council members seemed inclined to back the NTC – though South Africa notably remained in the dissent – but no consensus had yet developed on a potential role for the UN in post-Gaddafi Libya.<sup>5</sup>

Fighting in the capital and elsewhere in Libya was ongoing, and Gaddafi remained at large. What at first appeared to be a clear opposition victory gradually took on a different character. Gaddafi's forces continued to put up fierce resistance, though they retreated rapidly to regime strongholds Sirte and Bani Walid. In Tripoli, there were concerns about a security vacuum, as the NTC

sought to gain control over the city. New questions were raised daily about the politics of the rebel militias and the NTC, whether they could operate as a unified group and the implications of the discord for a political transition in Libya.

The imminent post-conflict transition raised economic concerns. On 22 August, the European Union (EU) issued a statement that it would "keep supporting the country in its democratic transition and economic reconstruction, based on social justice, inclusiveness and territorial integrity."<sup>6</sup> The EU provided \$215 million of humanitarian aid during the Libyan war.<sup>7</sup> Italian foreign minister Franco Frattini said on 22 August that the Italian multinational oil and gas company Eni would have a prominent role in the future of Libya, highlighting concerns about securing access to Libya's oil resources. In addition to Italy, Britain's BP and France's Total, and other European companies, were major producers in Libya. The status of those companies' contracts remained uncertain, as the NTC had not yet decided whether to respect contracts agreed with the Gaddafi regime. Though the NTC leadership promised to restore full oil production in the upcoming months, serious questions were raised about the feasibility of that goal.<sup>8</sup>

The United Nations began the process of wrapping up the mandates to sanction the Gaddafi regime and use force to protect civilians and enforce a no-fly zone in Resolutions 1970 and 1973. It was reported that the 24 August meeting of the Security Council was requested by the United States to consider the issue of a partial end on the freeze of Libyan assets mandated by Resolution 1970, so that they could be used for humanitarian purposes. The U.S. put forward a similar plan in the Libya Sanctions Committee meeting in early August, though the topic was not discussed at the time in the Security Council.<sup>9</sup> The U.S. presented a draft resolution, which was later put in blue, signaling that negotiations over the draft were entering their final stages. The draft resolution sanctioned the

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3. "Libya: UN chief urges smooth and peaceful transition of power", *UN News Centre*, 22 August 2011.

4. "Libya: UN chief stressed unity and national reconciliation during transition", *UN News Centre*, 23 August 2011.

5. "Council Consultations on Libya Sanctions", *What's in Blue: Insights on the work of the UN Security Council*, 24 August 2011.

6. "Joint statement by European Commission President José Manuel Barroso and European Council President Herman Van Rompuy on Libya", MEMO/11/563, 22 August 2011.

7. Steven Erlanger, "Rebels' Sudden Success Sends European Backers Scrambling", *The New York Times*, 22 August 2011.

8. Clifford Krauss, "The Scramble for Access to Libya's Oil Wealth Begins", *The New York Times*, 22 August 2011.

9. "Council Consultations on Libya Sanctions", *What's in Blue: Insights on the work of the UN Security Council*, 24 August 2011.

unfreezing of US\$1.5 billion for humanitarian purposes. It appeared that the U.S. had taken the issue to the Council after failing to sway the Libya Sanctions Committee. The Libya Sanctions Committee requires consensus, and South Africa took the position that releasing funds was tantamount to recognizing one side of the conflict.<sup>10</sup>

Simultaneously, less formal mechanisms established as part of the international response to the Libya conflict also convened. At the request of the NTC, some members of the Contact Group on Libya met in Doha on 24 August. The NTC asked for the unfreezing of funds to support its nascent interim government and increased humanitarian assistance.<sup>11</sup> On 25 August, the Contact Group held a meeting in Istanbul, in a grouping that included representatives from 28 countries as well as the UN, the EU, NATO, the League of Arab States (LAS), the Organization of the Islamic Conference (OIC), the Gulf Cooperation Council (GCC) and the African Union (AU). The Contact Group stressed that while the UN should take the lead position in post-conflict peacebuilding, the process should be dictated by the Libyan people.<sup>12</sup> Ian Martin, special adviser to the Secretary-General on post-conflict planning for Libya, said in a press conference following the gathering that the UN was considering an “integrated advance mission” to be deployed to Libya.<sup>13</sup>

Martin discussed coordinating international assistance to Libya with the Contact Group, noting that “The international community will do hard-pressed transitional authorities no favor if it presents itself in Tripoli as multiple interlocutors or assessment missions demanding their scarce time, or seeks their participation in multiple forums outside Libya, when their own country demands their leadership.” He also highlighted agreement reached by the UN, the World Bank and the EU for tripartite post-conflict assessment, and explained that he would discuss with the NTC how that mechanism would be best applied in Libya.<sup>14</sup>

The Contact Group also encouraged the Security Council to unfreeze funds for humanitarian needs. “We have decided to start a process to unfreeze the frozen Libyan assets in an expedited manner,” the Contact Group on Libya announced in their communiqué at the conference’s end. “In that regard, participants urged the UN Security Council to pass the resolution currently under discussion.” The communiqué went on to say that “While expressing satisfaction for the ever-widening international recognition of the NTC, they underlined the need to empower the NTC with the legal, political and financial means necessary to form an interim government of Libya.”<sup>15</sup>

On 25 August, the UN Security Council’s Libya Sanctions Committee reached agreement to unfreeze US\$1.5 billion for humanitarian purposes. The United States had planned to bring the measure to a vote in the Security Council, forcing South Africa’s hand and altering its position on the matter in the Libya Sanctions Committee.<sup>16</sup> While the decision came on the heels of the Contact Group’s pledge to aid the NTC, the unfrozen funds were reserved for humanitarian needs. South Africa agreed to go along with the measure in the sanctions committee after it was specified that the funds would be distributed to the “relevant authorities” rather than the NTC specifically.<sup>17</sup>

UN Secretary-General Ban Ki-moon spoke by videoconference on 26 August with AU, EU, OIC and LAS representatives to encourage them to aid the NTC in Libya’s political transition. “At this moment of great transition, we must come together with an effective, well-coordinated program of international action,” he said. Ban also said that the Security Council had indicated support for a rapidly deploying UN mission in Libya.<sup>18</sup> The Peace and Security Council of the AU announced that it would only offer recognition to an “all-inclusive transitional government” rather than to the NTC in a 26 August meeting.<sup>19</sup> The NTC took part in its first Arab League meeting on 27 August, highlighting the different positions of the two regional or-

10. Ibid.

11. Dan Murphy, “Planning for Libya’s transition shifts into high gear”, *The Christian Science Monitor*, 24 August 2011.

12. “Conclusions of the Libya Contact Group Meeting, Istanbul”, *Republic of Turkey Ministry of Foreign Affairs*, Press Release, 25 August 2011.

13. “Monthly Libya Briefing and Consultations”, *What’s in Blue: Insights on the work of the UN Security Council*, 29 August 2011.

14. “UN and diplomatic partners urge Security Council to unfreeze Libyan assets”, *UN News Centre*, 25 August 2011.

15. Ibid.

16. Edith M. Lederer, “U.S. asks UN Council to unfreeze Libyan assets”, AP, 24 August 2011; “Ban seeks urgent deployment of UN mission to help Libya rebuild”, *UN News Centre*, 26 August 2011.

17. Dan Bilefsky, “Security Council Frees Libyan Assets for Rebels”, *The New York Times*, 25 August 2011.

18. “Ban seeks urgent deployment of UN mission to help Libya rebuild”, *UN News Centre*, 26 August 2011.

19. “Libya: Full Communiqué of the 291st Meeting of the Peace and Security Council”, 27 August 2011.

ganizations – ongoing since the Libyan war's start.<sup>20</sup> At the Arab League meeting, Arab foreign ministers appealed to the UN to unfreeze Libya's assets and allow the NTC to take over Libya's seat at the UN.<sup>21</sup>

In Libya, fighting between regime and rebel forces continued, though opposition forces had taken Tripoli and most of the country under their control. Despite ongoing clashes, the NTC continued to make preparations for a post-conflict political transition. On 27 August, the NTC put out a list of its leadership, promising to broaden its representation. Through a spokesperson, Gaddafi rejected an ultimatum from the NTC to surrender by 3 September. Failing an agreement, the NTC promised to launch an attack on Sirte, a stronghold of the regime forces.<sup>22</sup>

On 30 August, UN Secretary-General Ban Ki-moon offered an overview to the Security Council during the Council's regular monthly meeting on Libya of the UN's possible involvement in post-conflict Libya, as it had been discussed with the NTC. "My aim is to get UN personnel on the ground absolutely as quickly as possible, under a robust Security Council mandate," Ban said. Special adviser to the Secretary-General on post-conflict planning for Libya Ian Martin also briefed the Council.<sup>23</sup> Although the UN had previously considered deploying military observers if it had been asked to monitor a ceasefire, Martin said following his briefing that the NTC did not envision a UN peacekeeping force in Libya. "It's very clear that the Libyans want to avoid any kind of military deployment of the UN or others," he said.<sup>24</sup>

## September 2011

Representatives from states and organizations gathered for a 1 September meeting in Paris, the International Conference in Support of the New Libya.<sup>25</sup> The timing of the meeting reflected the rapid changes on the ground in Libya; the "Friends of Libya" group had not been scheduled to meet until the General Assembly convened later in

the month. French president Nicolas Sarkozy co-hosted the conference with UK prime minister David Cameron. The conference had been announced on 24 August by Sarkozy, following a meeting between him and the NTC's executive committee chairman Mahmoud Jibril in Paris. Jibril outlined the NTC's plans for a democratic transition in Libya. An assembly of Libyans from across the country would elect a body to draw up a new constitution and select a transitional government. That draft constitution would go to a vote before all Libyans, and a round of elections observed by the UN would take place within four months for a parliament and new government to replace the transitional one. The timeline proposed for the process was 18 months.<sup>26</sup>

Divisions over Libya and questions about the use of force persisted at the meeting. Of note was South Africa's absence; it did not send a representative as it had to past meetings. China sent a representative, and its foreign ministry spokesperson released a statement noting that "China supports the efforts by relevant parties in restoring stability and promoting the smooth transition of power in Libya, and is willing to join the international community and play an active role in rebuilding Libya in the future."<sup>27</sup>

In an effort to bring diverse militia groups into concert, Libya's interim government formed a Supreme Security Committee in Tripoli on 4 September comprised of all the military commanders in the capital and headed by deputy chairman of the NTC's executive committee Ali Tarhouni.<sup>28</sup> This did not take the place of the Tripoli Military Council, chaired by Abdel Hakim Belhaj. But Belhaj was named a member of the security committee, and promised to disband the military council when the security situation in Libya stabilized.<sup>29</sup> The creation of the Supreme Security Committee was reported to be an effort to marginalize Belhaj and his supporters, and to assert civilian control over Libya's diverse militias.<sup>30</sup>

20. "Libya regains Arab League seat", *Al Jazeera*, 27 August 2011.

21. "Arabs ask U.N. and world states to unfreeze Libyan assets", *Reuters*, 27 August 2011.

22. Rod Nordland, "Libya's Interim Leadership Releases Its Members' Names", *The New York Times*, 27 August 2011.

23. S/PV.6606, 30 August 2011.

24. "Libya's interim leaders reject UN military personnel", *BBC News Africa*, 31 August 2011.

25. "At Paris conference, Ban pledges UN support for democratic and stable Libya", *UN News Centre*, 1 September 2011.

26. Steven Erlanger, "Libya's Supporters Gather in Paris to Help Ease New Government's Transition", *The New York Times*, 1 September 2011.

27. Scott McDonald, "China says it will attend Libya meeting in Paris", *The Guardian*, 1 September 2011.

28. Simon Denyer, "Security panel to govern Libyan rebel forces", *The Washington Post*, 4 September 2011.

29. Rod Nordland, "Libya's Interim Leaders Aim to Harness Rebel Fighters", *The New York Times*, 3 September 2011.

30. Simon Denyer, "Security panel to govern Libyan rebel forces", *The Washington Post*, 4 September 2011.

Unconfirmed reports in early September suggested that Gaddafi regime documents discovered after the rebels took Tripoli showed that Chinese state companies endeavored to sell weapons to the regime in its last weeks. The potential arms deal would have been in direct violation of United Nations sanctions. This news followed other in-depth reports that countries such as France and Qatar had supplied weapons to the revolutionaries.<sup>31</sup> In response, a Chinese foreign ministry spokesperson said on 6 September that the government would “further strengthen management over military exports.”<sup>32</sup> The U.S. expressed its concern over the issue on 7 September when U.S. ambassador to the UN Susan Rice indicated that the Obama administration “would look to China to continue to explain and clarify its understanding of what did and didn’t transpire.”<sup>33</sup>

Coordinated efforts to lay the groundwork for a UN mission to Libya continued apace. An inter-agency humanitarian team established a UN presence in Tripoli on 1 September. Ian Martin, special adviser to the Secretary-General on post-conflict planning for Libya, arrived in Tripoli on 3 September for discussions with interim government officials on the nature of assistance the fledgling government would require. Martin’s trip was part of the process of establishing a foundation for a UN mission there.<sup>34</sup> On 5 September, Martin met with Libyan officials from the Interior Ministry, as part of his five-day visit, to talk about cooperation between the Libyan government and the UN in the areas of justice and human rights. “We’ve already been given some very clear priorities by the leaders of the National Transitional Council,” Martin said in 6 September remarks to reporters in Tripoli.<sup>35</sup> The UN Secretary-General called for the formation of an integrated support mission for a three-month period at the outset in a 7 September letter to the Security Council.<sup>36</sup> Following a five-day trip to Libya to convene with NTC representatives including NTC chairman Mustafa Abdul Jalil, Ian Martin

briefed the Security Council on 9 September on the NTC’s immediate and longer-term needs. Council members were eager to hear the specifics of the type and level of support that the NTC wanted from the UN before delving into the specifics of a mandate for a UN mission there.<sup>37</sup>

Reports on 7 September flagged concerns about military hardware in Libya gone missing. Western governments and various NGOs encouraged the NTC to increase its efforts to secure arms previously in the hands of the Gaddafi regime. On 7 September, the director general of the Organization for the Prohibition of Chemical Weapons (OPCW) indicated that Libya’s stockpiles of chemical weapons appeared to be secure.<sup>38</sup>

Libya’s transition moved forward along different tracks in early September. On 8 September NTC executive committee chairman Mahmoud Jibril visited Tripoli, in his first public appearance in Libya’s capital.<sup>39</sup> Many nations – with the notable exception of Turkey – proved reluctant to re-open embassies in Tripoli until the NTC firmly established itself there.<sup>40</sup> ICC prosecutor Luis Moreno-Ocampo appealed to Interpol on the same day to issue a red notice for Gaddafi’s arrest, as well as his son Saif Al-Islam Gaddafi and the head of Libya’s intelligence services. The red notice committed any of Interpol’s 188 member states to arrest the men and hand them over to the ICC.<sup>41</sup> On 9 September, Libyan rebels began assaults on Bani Walid and Sirte, two remaining enclaves sympathetic to Gaddafi, but reportedly faced significant resistance. This appeared to be in contradiction to the 10 September deadline set by the interim government for the peaceful surrender of Gaddafi regime forces.<sup>42</sup>

The Security Council began discussions on Secretary-General Ban Ki-moon’s proposal to establish a UN mission in Libya on 9 September. Special adviser to the Secretary-General on post-conflict planning for Libya, Ian Martin, said that he hoped the proposal would be adopted

31. Michael Birnbaum, “France sent arms to Libyan rebels,” *The Washington Post*, 29 June 2011. Ian Black, “Libyan rebels receiving anti-tank weapons from Qatar,” *The Guardian*, 14 April 2011.

32. “China says to tighten control over weapons dealers,” *Associated Press*, 6 September 2011.

33. “U.S. not satisfied with China statement on Libya,” *Associated Press*, 7 September 2011.

34. “Libya: UN adviser on post-conflict planning begins talks with interim authority,” *UN News Centre*, 3 September 2011.

35. “New authorities outline priorities for UN support to post-conflict Libya,” *UN News Centre*, 6 September 2011.

36. S/2011/542, 7 September 2011, Letter dated 7 September 2011 from the Secretary-General addressed to the President of the Security Council (Libya – Integrated United Nations Support Mission in Libya (UNSMIL)).

37. “Security Council mulls resolution on potential UN mission for Libya,” *UN News Centre*, 9 September 2011.

38. “UN watchdog says Libyan chemical weapons secure,” *Associated Press*, 7 September 2011.

39. “Libyan PM says ‘battle not over’, urges unity,” *Reuters*, 8 September 2011.

40. “Turkey says reopening embassy in Libya,” *Reuters*, 2 September 2011.

41. “ICC prosecutor seeks Interpol red notice warrant for Gaddafi,” *Reuters*, 8 September 2011.

42. Rod Nordland, “Facing Resistance, Rebel Assault on Key Qaddafi Loyalists’ Stronghold Slows,” *The New York Times*, 10 September 2011.

“as soon as possible.” Martin described the outline of the proposed support mission. “The proposals of the Secretary-General are for a support mission that would be initially mandated for a three-month period that would give us the opportunity both to bring in personnel, to provide some initial advice and assistance in the areas that the Libyans have identified, but at the same time, continue a discussion with them to plan longer-term UN support,” he said.<sup>43</sup>

Other formal and informal institutions took steps to aid Libya’s transition processes. The G8 pledged on 10 September to support the Arab Spring and the Middle East’s transition to democracy in the form of a US\$38 billion aid package. The aid pledge came in the context of criticism that the US\$20 billion in aid promised in May 2011 had been slow in coming. The meetings included representatives from Kuwait, Qatar, Saudi Arabia, Turkey, UAE and for the first time, Libya. The IMF also recognized the NTC as the government of Libya.<sup>44</sup> “Libya is now formally represented at the IMF,” the IMF’s managing director Christine Lagarde said. “The fund will be able to help Libya with technical assistance, contribute to its macroeconomic framework or give loans and support as needed.”<sup>45</sup> On 13 September, the World Bank recognized the NTC as Libya’s legitimate government, and offered to provide assistance with reconstruction efforts.<sup>46</sup>

NATO was reported to be eager to end military operations in Libya. NATO secretary general Anders Fogh Rasmussen said in remarks on 12 September that NATO would continue military operations there given the ongoing threat to civilians, but that the alliance was not planning to take on a major role in post-conflict reconstruction.<sup>47</sup> Off the record, a senior military official, referencing NATO’s ongoing presence in Afghanistan and Kosovo, preferred to “end this Libyan business quickly... We cannot afford this proliferation of missions which just drag on and on.

One needs to finally end.”<sup>48</sup> This was consistent with other previous remarks made by NATO officials. In an article in *The Guardian*, a NATO official was quoted as saying that a UN stabilization force would be appropriate for Libya, not a NATO force. “It is a classic case for blue helmets,” the official said.<sup>49</sup>

On 11 September the NTC publicized new steps to revive Libya’s economy and address ongoing security concerns. Mahmoud Jibril, the NTC’s executive committee chairman, announced that oil production had restarted, salaries for state workers would be paid in short order, and that the NTC was working to bring disparate rebel militias under the NTC umbrella.<sup>50</sup> The same day, Gaddafi’s son Saadi crossed the Libyan border into Niger. Mustafa Abdul Jalil, NTC chairman, urged Libyans to embark on a process of national reconciliation in a speech in Martyrs’ Square in Tripoli. Looking forward to the political transition in Libya, Abdul Jalil promised that “We will not accept any extremist ideology, on the right or the left... We are a Muslim people, for a moderate Islam, and will stay on this road.”<sup>51</sup>

In another step toward establishing a UN support mission in Libya, the NTC made a formal request for UN assistance in a 14 September letter to the Council. The letter also outlined the NTC’s preferences and perspective on international assistance “in implementing its plans for stabilizing and rebuilding the country.” This included assistance protecting Libyan civilians, restoring economic activity, preventing further human rights abuses, outlining an inclusive political process and preventing the proliferation of weapons. The NTC also asked that regular commercial flights be permitted, while the no-fly zone remained in place to monitor military aircraft and protect civilians.<sup>52</sup>

The Security Council met at the expert level on 14 September to consider a draft resolution on Libya that the UK circulated the day before. The draft resolution mandated the establishment of a UN support mission in

43. “Security Council mulls resolution on potential UN mission for Libya”, *UN News Centre*, 9 September 2011.

44. “IMF Recognizes Libya’s National Transitional Council, Says Ready to Support its Efforts to Revive the Country’s Economy”, *International Monetary Fund*, Press Release No. 11/329, 10 September 2011.

45. Liz Alderman, “G-8 Nations Pledge New Aid to Arab Spring Economies”, *The New York Times*, 10 September 2011.

46. “World Bank says to help with Libya rebuilding”, *Reuters*, 13 September 2011.

47. “NATO’s head says to keep up Libyan operations”, *Reuters*, 12 September 2011.

48. “NATO balks at Libya nation-building, policing”, *Associated Press*, 14 September 2011.

49. Richard Norton-Taylor, “NATO will not put troops on ground in Libya”, *The Guardian*, 24 August 2011.

50. “Oil production restarts in Libya”, *Reuters*, 11 September 2011.

51. Haroon Siddique, “Libya’s new leader calls for unity and moderation”, *The Guardian*, 13 September 2011.

52. S/2011/578, 15 September 2011, Letter dated 15 September 2011 from the Secretary-General addressed to the President of the Security Council.

Libya for a three-month period; lifted the arms embargo in certain circumstances, including the protection of international personnel and for security needs for the Libyan authorities; and addressed the issue of the no-fly zone. The P5 had conferred on an initial text earlier in the week, and the UK draft appeared to have the support of those critical members. The no-fly zone was an area of contention, with the Russians lobbying for it to be lifted. A compromise was reached: commercial aircraft would be allowed, but otherwise the no-fly zone would remain in place.<sup>53</sup>

U.S. diplomat Jeffrey Feltman visited Tripoli on 14 September, the first visit of a U.S. high-level official since Gaddafi's grip on Tripoli was loosened in August. He stressed that "We aren't concerned that one group is going to dominate the aftermath of what has been a common struggle by the Libyan people to open the door to a better future." Feltman sought to allay concerns in some circles about what was perceived to be growing Islamist influence in Libya.<sup>54</sup> UK prime minister David Cameron and French president Nicolas Sarkozy traveled to Libya on 15 September, becoming the first foreign leaders to visit since rebel forces took over Tripoli. They visited Tripoli and Benghazi, taking meetings with NTC leaders. The two leaders pledged ongoing support to Libya. "Gaddafi is still at large. We must keep on with the NATO mission until civilians are all protected and this work is finished," said Cameron.<sup>55</sup> Turkish prime minister Recep Tayyip Erdogan visited Tripoli on 16 September.<sup>56</sup> In comments made in New York, South African president Jacob Zuma sought to reframe the conversation about international assistance to Libya. He argued in 20 September remarks that while the UN had a role to play in Libya's political transition, "We do not want... the Libyan process to proceed without the AU participating. This is an AU member state."<sup>57</sup>

The Security Council unanimously adopted Resolution 2009 on 16 September. The resolution mandated the UN Support Mission in Libya (UNSMIL) for an initial three-

month period. It also modified the implementation of UNSC Resolutions 1970 and 1973 by outlining specific exemptions to the UN arms embargo; unfreezing Libyan assets in certain sectors; and altering the terms of the no-fly zone to permit commercial aircraft.<sup>58</sup> On 16 September, the UN General Assembly approved the credentials of the NTC's delegation.<sup>59</sup> By this point, the NTC had been formally recognized as the legitimate government of Libya by more than 80 countries.<sup>60</sup>

Around the yearly UN General Assembly meeting, a high-level conference on Libya was convened in New York. The situation in Libya, however, took a back seat during the yearly meeting to the international community's current preoccupation, the contentious issue of Palestinian membership in the UN. Nonetheless, the General Assembly meeting marked an important occasion for post-Gaddafi Libya's entry on the world stage. The representatives of member states, international and regional organizations present reiterated that the UN should take on the lead role in supporting Libya's governance transition.<sup>61</sup> Participants also agreed that following the success of the first "Friends of Libya" meeting on 1 September in Paris, future meetings consisting of the states and organizations involved in stabilization and reconstruction efforts in Libya should be co-chaired by the interim government of Libya and either UN Secretary-General Ban Ki-moon or Ian Martin, special adviser to the Secretary-General on post-conflict planning for Libya, and take place in Tripoli. A meeting of the Friends of Libya group would occur within the next year, at the ministerial level.<sup>62</sup> U.S. president Barack Obama met with Mustafa Abdul Jalil, NTC chairman, at the United Nations on 20 September, and also announced that the U.S. would re-open its embassy in Tripoli. The U.S. reopened its embassy there on 22 September.<sup>63</sup>

Gaddafi broke almost two weeks of silence to condemn Libya's transitional government in a television message, though his isolation was made clear by the international

53. "Libya Resolution", *What's in Blue: Insights on the work of the UN Security Council*, 14 September 2011.

54. Rod Nordland, "Senior American Diplomat in Tripoli Says Islamists Are Not a Threat", *The New York Times*, 14 September 2011.

55. "Libya conflict: Cameron and Sarkozy visit Tripoli", *BBC News*, 15 September 2011.

56. "Turkey PM hails 'sacrifice' of Libyan people", *Al Jazeera*, 16 September 2011.

57. "Remember, Libya is an AU matter, Zuma tells UN", *Mail & Guardian*, 20 September 2011.

58. S/RES/2009 (2011).

59. Tim Wtcher, "UN eases Libya sanctions, gives seat to anti-Kadhafi leaders", *AFP*, 16 September 2011.

60. "UN approves Libya seat for NTC", *Al Jazeera*, 17 September 2011.

61. "World's countries pledge support for Libyan transition at UN summit", *UN News Centre*, 20 September 2011.

62. "Chairman's Statement", *High Level Meeting on Libya*, 20 September 2011.

63. "U.S. Reopens Its Embassy in Libya", *The New York Times*, 22 September 2011.

community's support and aid for the NTC. The African Union, shifting its stance after a period of intransigence, extended recognition to the NTC as Libya's legitimate governing authority on 20 September.<sup>64</sup> UN Secretary-General Ban Ki-moon met with NATO secretary general Anders Fogh Rasmussen to discuss NATO's role in Libya on 21 September, as NATO's mandate was extended for a three-month period, less than a week before its current campaign was scheduled to end.<sup>65</sup> On 19 September, OPEC officially recognized the NTC, and the transitional government became Libya's representative in OPEC.<sup>66</sup> Abdullah al-Badri, OPEC's secretary general, announced on 21 September that the Gulf members of OPEC would reduce their oil output once Libya's production recovered, having raised output over the summer. The conflict in Libya, coupled with the international sanctions against the Gaddafi regime, halted exports of Libyan crude.<sup>67</sup>

In accordance with Resolution 2009, the U.S. ended some sanctions on Libya on 19 September, including unfreezing the Libyan National Oil Corporation's assets, although other funds remained blocked.<sup>68</sup> The European Union announced on 22 September that it was unfreezing funds linked to the Libyan Central Bank, the Libyan Investment Authority, the Libyan Foreign Bank and the Libya Africa Investment Portfolio. It took these steps "for humanitarian and civilian needs, to support renewed activity in the Libyan oil and banking sectors and to assist with building a civilian government."<sup>69</sup>

UN Secretary-General Ban Ki-moon announced on 19 September that Ian Martin would take on the role of head of the UN Support Mission in Libya (UNSMIL).<sup>70</sup> On 22 September, Martin outlined that nature of the support UNSMIL was already furnishing the NTC for elections and transitional justice issues. He also noted that the three-month mandate gave the mission "an opportunity not only to provide immediate assistance and advice to the NTC and to engage with them and with Libyan civil

society, but then through that engagement to make sure that the longer-term mission that we recommend to the Security Council genuinely reflects Libyan ownership and Libyan wishes."<sup>71</sup>

The UN Security Council met on 22 September to discuss conflict prevention and the Secretary-General's new report on preventive diplomacy. The meeting proved to be an occasion to revisit the debate about the use of force in Libya and the situation in Syria. Whereas UK foreign secretary William Hague asserted that NATO's swift intervention in Libya staved off a humanitarian catastrophe and provided Libyans the space to decide their future, South African president Jacob Zuma insisted that the African Union's (AU) efforts to mediate a negotiated end to the conflict were undermined.<sup>72</sup> The debate also had implications for future Security Council behavior. India's minister of external affairs S.M. Krishna argued that coercive measures often prolong conflict, resulting in a cure "that turned out to be worse than the disease."<sup>73</sup> French foreign minister Alain Juppé offered a different perspective: intervention in conflicts may be necessary to forestall the outbreak of widespread violence.<sup>74</sup>

Militia fighters renewed their attack on Gaddafi's stronghold of Sirte on 24 September, while the Libyan authorities sought to negotiate the political transition. On 25 September, the NTC met to try to form a cabinet, over two months since they promised to do so following the assassination of a top rebel military commander. Although they renewed their pledge to do so after Tripoli fell, the rebel leadership deadlocked over power-sharing among groups from different regions. Mahmoud Jibril, the chairman of the NTC's executive committee, came in for particular criticism by other Libyan leadership factions, especially rebels from Misrata.<sup>75</sup>

Jibril gave an address to the General Assembly on 24 September in which he acknowledged that Libya would need assistance in political, technical and economic sectors to facilitate the transition out of 40-plus years

64. "Libya war: African Union recognises NTC as leaders", *BBC News*, 20 September 2011.

65. "NATO Secretary General at the UN General Assembly", *NATO*, 21 September 2011.

66. "OPEC recognises NTC as Libya representative", *Al Jazeera*, 19 September 2011.

67. Sara Hamdan, "OPEC Says Producers Will Cut Back Once Libya Output Recovers", *The New York Times*, 21 September 2011.

68. Joe Palazzolo, "U.S. Loosens Sanctions on Libya", *The Wall Street Journal*, 19 September 2011.

69. Samuel Rubinfeld, "EU Lifts More Libya Sanctions", *The Wall Street Journal*, 22 September 2011.

70. "Secretary-General unveils leaders of new UN support mission to Libya", *UN News Centre*, 19 September 2011.

71. "New UN political mission in Libya begins operations and deployment of staff", *UN News Centre*, 22 September 2011.

72. "Security Council Pledges Strengthened UN Effectiveness in Preventing Conflict, Including Through Use of Early Warning, Preventive Deployment, Mediation", *SC/10392*, 22 September 2011.

73. "Security Council Pledges Strengthened UN Effectiveness in Preventing Conflict".

74. *Ibid.*

75. "Libya's NTC may delay forming government again - source", *Reuters*, 25 September 2011.

of Gaddafi's rule. And in remarks to the Security Council on 26 September, he requested that NATO continue its role in the protection of civilians, as the fighting in Libya was ongoing. As he had in his comments to the General Assembly, he also requested that Libyan assets be unfrozen for the interim government's use.<sup>76</sup>

Under-secretary-general for political affairs B. Lynn Pascoe updated the Council on 26 September on the situation in Libya. He flagged political reconciliation, the control of arms, transitional justice issues and humanitarian assistance to migrants as four areas of concern. He also informed the Council that all senior staff were on the ground in Libya, and described the status of an inter-agency UN humanitarian team working together with the Libyan transitional authorities.<sup>77</sup> The team had been in-country since 1 September. The same day, ambassador José Filipe Moraes Cabral, the head of the 1970 Libya Sanctions Committee, briefed the Council on the implementation of the sanctions regime under the rules outlined in Resolution 2009.

Humanitarian concerns increased over the danger to civilians in Sirte and Bani Walid as fighting continued. The International Committee of the Red Cross expressed particular concern about the status of civilians in both cities.<sup>78</sup> On 29 September, the UN Human Rights Council recommended ending Libya's suspension from the body.<sup>79</sup>

The political transition process in Libya continued to raise concerns both in country and among members of the international community. On 27 September, rebel fighters announced that they had captured Sirte's port, though regime loyalists remained in control of much of Sirte and another Gaddafi stronghold Bani Walid. Well over a month since Tripoli fell to rebel forces, the NTC had not expanded its leadership, raising concerns in Libya and abroad. In a 27 September piece in the London's *The Guardian* Abdel Hakim Belhaj, the controversial head of the Tripoli Military Council, asserted that secular politicians were resisting

inclusive practices. "We must resist attempts by some Libyan politicians to exclude some of the participants in the revolution," he said.<sup>80</sup>

NATO continued its military operations, but because of the nature of the urban fighting in Sirte, it was reported to be more difficult for the alliance to maximize its air power without risking unnecessary casualties.<sup>81</sup> While the Libyan rebels requested more air support from NATO, the campaign's military spokesperson colonel Roland Lavoie said that the alliance "has not reduced its activity in Libya." He added that "The number of strikes depends on the danger against the civilian population, in conformity with our mandate."<sup>82</sup>

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The chairman of the NTC's executive committee, Mahmoud Jibril, announced on 3 October that the committee would resign as the country's provisional leaders once Sirte was pacified, signaling that the provisional leadership would take that event as marking the Libyan war's end. NTC chairman Abdul Jalil announced that within a month of defeating Gaddafi loyalists in Sirte, an interim government would be named. Previously, the NTC said it would declare the conflict to be finished when the entire country was under the control of the transitional government, and Gaddafi and close associates were killed, captured or confirmed to have fled the country. Criticism had grown as a result of what was seen as the slow pace of political change, and the interim government was understood to be responding to those pressures.<sup>83</sup>

UN Secretary-General Ban Ki-moon's special representative for Libya and head of UNSMIL, Ian Martin, visited Misrata on 3 October. Misrata saw some of the heaviest fighting during the war. Martin described his visit as an opportunity for him "to hear the expectations of the people of Misrata for the support of the UN, as we now help Libya build a democratic state based on respect for human rights and rule of law."<sup>84</sup>

76. S/PV.6622, 26 September 2011.

77. Ibid.

78. "Gaddafi loyalists 'ask for truce' in besieged city", *Reuters*, 27 September 2011.

79. "UN Human Rights Council recommends reinstating Libya's membership", *UN News Centre*, 29 September 2011.

80. Ian Black, "Libyan Islamists must have share in power, warns leader", *The Guardian*, 27 September 2011.

81. Alastair Leithead, "Gaddafi loyalists in Sirte thwart Libya NTC advance", BBC, 28 September.

82. "Rebels urge more NATO strikes after heavy losses in Qaddafi's hometown", *Al Arabiya*, 29 September 2011.

83. "Kareem Fahim and Rick Gladstone, "Libyan Rebels Clarify Steps to New Rule", *The New York Times*, 3 October 2011.

84. "Visiting war-ravaged Misrata, UN envoy in Libya salutes courage of residents", *UN News Centre*, 3 October 2011.

Fighting between regime and rebel forces appeared to be nearing an end, raising questions about NATO's role in Libya. The NATO alliance, along with non-NATO states participating in Libya operations, met over 5-6 October in Brussels to discuss the future of NATO's campaign in Libya. On 5 October, NATO secretary general Anders Fogh Rasmussen said that Gaddafi's fate would not determine the end of NATO's military operations. "The key will be the protection of the civilian population, so when no threat exists against the civilian population then the time will have come to terminate our operation," he said.<sup>85</sup> Following two days of meetings in Brussels, U.S. defense secretary Leon Panetta said on 6 October that even though the war in Libya was approaching its close, NATO was not yet ready to end military operations there. However, Rasmussen expressed optimism that NATO was nearing the end of its mission in Libya. He also said that NATO would be willing to assist the new Libyan government if requested.<sup>86</sup>

During his first European speech as U.S. defense secretary on 5 October, Leon Panetta encouraged the alliance to find common cause on defense spending so as "not to hollow out this alliance." Panetta's speech stood in contrast to former defense secretary Robert Gates's speech in Brussels on 10 June, where he warned in much starker language that NATO was in danger of sliding into irrelevance because of a failure to invest in defense spending. Panetta highlighted NATO's mission in Libya as an example of NATO's relevance, and also as a model moving forward.<sup>87</sup>

On 7 October, the Secretary-General's special representative in Libya and head of UNSMIL, Ian Martin, encouraged all parties in Libya to concentrate their attention on the process of national reconciliation, and to respect human rights. Anyone detained in connection with the Gaddafi regime should be brought to justice according to the due process of law, he asserted. Georg Charpentier, deputy special representative and resident coordinator in Libya, reiterated the sentiment, and expressed concern for civilians in Sirte. Charpentier had recently returned from heading up a joint humanitarian assessment team in Misrata

and Sirte, which included representatives from UNICEF, the WHO, UNHCR, WFP, OCHA and IOM.<sup>88</sup>

A meeting of members of the diplomatic community and Libyan interim authorities in Tripoli occurred on 9 October, and was co-chaired by the NTC finance minister and Ian Martin. The conversation covered developments in Sirte, plans for the formation of the transitional government and the NTC's work with the UN on assessing Libya's needs in the areas of post-conflict stabilization and peacebuilding. On 10 October, under-secretary-general for humanitarian affairs and UN emergency relief coordinator Valerie Amos voiced concern about the status of civilians in Sirte as fighting continued there. Upon return from a visit to Libya to gauge human rights issues, a team of senior officials from the Office of the High Commissioner for Human Rights (OHCHR) discussed their conclusions on 18 October in Geneva. The team expressed concern about the large number of detainees – thought to be around 7,000 individuals – held in Libya. Particularly in the absence of an effective police force and functioning justice system, the status of detainees presented "a recipe for abuse."<sup>89</sup>

Western governments watched the situation in Libya with an eye toward the post-Gaddafi political transition there. On 13 October, UK foreign secretary William Hague told MPs that the NTC had "confirmed their clear understanding of the need for quick formation of a new, inclusive government." The British government also pressed the NTC to look into evidence of abuse by rebel fighters.<sup>90</sup> In mid-October, State department officials described U.S. plans to send American contractors to Libya to aid the interim government's efforts to locate and dispose of anti-aircraft missiles that had gone missing from government stockpiles. By 14 October, the U.S. State department had sent over a dozen civilian contractors to join teams organized by the NTC, with two to three dozen more scheduled to arrive in the following weeks.<sup>91</sup> UK foreign minister William Hague visited Tripoli on 17 October and U.S. secretary of state Hillary Clinton visited a day later. Clinton offered the NTC \$11 million in additional assistance, bringing Wash-

85. Julian Borger, "Nato defence ministers meet to debate ending Libyan air war", *The Guardian*, 5 October 2011.

86. Howard LaFranchi, "NATO in Libya: why the alliance is staying", *The Christian Science Monitor*, 6 October 2011.

87. David Brunnstrom, "U.S. warns NATO over spending cuts, security", *Reuters*, 5 October 2011.

88. "In Libya, UN calls on all sides to respect human rights as battle for Sirte nears end", *UN News Centre*, 7 October 2011.

89. "Rebuilding Libya", Office of the High Commissioner for Human Rights, 18 October 2011.

90. Ian Black, "UK tells Libya to form interim government after taking over Sirte", *The Guardian*, 13 October 2011.

91. Eric Schmitt and Kareem Fahim, "U.S. Sending More Contractors to Secure Libya's Weapons Stockpile", *The New York Times*, 14 October 2011.

ington's aid to the rebels to around \$135 million since February.<sup>92</sup> The IMF and the World Bank announced plans on 20 October to visit Libya in "coming weeks" to evaluate its economic and financial prospects, following a visit by representatives from the two institutions from 6-13 October on a fact-finding mission.<sup>93</sup>

## Gaddafi's death

Gaddafi was captured and killed by militia forces on 20 October. The same day, NTC executive committee chairman Mahmoud Jibril asserted that he was killed in the cross-fire of a skirmish by a bullet to the head.<sup>94</sup> UN Secretary-General Ban Ki-moon encouraged all parties to put down their arms, adding that "This day marks a historic transition for Libya" and that "this is the time for healing and rebuilding...not for revenge."<sup>95</sup> In his remarks, the Secretary-General's special representative in Libya and head of UNSMIL, Ian Martin, argued that after Tripoli's fall, Gaddafi's unknown whereabouts had contributed to a feeling of insecurity in Libya. That insecurity persisted despite his death, he said, and much needed to be done to address the security situation in Libya.<sup>96</sup>

The circumstances of Gaddafi's death were initially murky, although it gradually became clear that Gaddafi was likely killed while in militia custody. Ian Martin told reporters in Tripoli on 20 October that the UN mission there would not investigate Gaddafi's death, focusing instead on Libya's challenging political transition. The "investigative responsibilities," he said, would fall to the ICC or a Human Right Council's commission of inquiry.<sup>97</sup> Navi Pillay, the UN high commissioner for human rights, asked for an investigation into Gaddafi's death on 21 October, and NGOs like Amnesty International and Human Rights Watch also requested that Libyan officials launch an investigation into the circumstances surrounding his death.<sup>98</sup> Libya's interim government promised to launch an investigation into the matter, after initially asserting that Gaddafi

had died as a result of injuries sustained in battle. The Libyan authorities had been pressured to launch similar investigations previously, and quietly halted an inquiry into the most divisive, the assassination of a top military official in July.<sup>99</sup>

In an effort to clarify its role in Gaddafi's demise, NATO issued a statement on 20 October that the vehicles struck by NATO jets in Gaddafi's convoy near Sirte were "conducting military operations and presented a clear threat to civilians." NATO also reiterated that it was not its "policy to target specific individuals."<sup>100</sup> NATO's secretary general also released a statement on 20 October marking the end of Gaddafi's long rule and promising to end its mission "in coordination with the United Nations and the National Transitional Council."<sup>101</sup> The North Atlantic Council said on 21 October that the alliance provisionally planned to end operations on 31 October, though it would continue to assess the situation. It also reiterated that NATO would work closely with the UN and the NTC.<sup>102</sup>

Russian foreign minister Sergei Lavrov voiced his concerns over the manner of Gaddafi's death on 21 October, also questioning whether NATO had overstepped the UN's mandate to protect civilians with its attack on Gaddafi's convoy. In his wide-ranging comments, Lavrov also expressed disappointment that Western countries had not pursued further mediation, rather than intervene militarily.<sup>103</sup> Also responding to Gaddafi's death, the AU Peace and Security Council (PSC) issued a 20 October communiqué permitting the NTC to function as Libya's representative in the AU, and set up an AU office in Tripoli. The AU communiqué also called on the Security Council to end the no-fly zone.<sup>104</sup> On 30 October, Raila Odinga, the Kenyan prime minister, sharply criticized the AU for the manner in which it dealt with the Libyan conflict. He argued that AU inaction resulted in an international intervention there, and that the AU should stop using the West as a scapegoat for its failure to act.<sup>105</sup>

92. "Hillary Clinton details new aid package to Libya", *Associated Press*, 18 October 2011.

93. "IMF, World Bank to visit Libya again – IMF spokesman", *Reuters*, 20 October 2011.

94. "Gaddafi killed by crossfire, says Libya's interim prime minister", *Reuters*, 20 October 2011.

95. "Libyans must come together and reconcile after Qadhafi's death", *UN News Centre*, 20 October 2011.

96. "Monthly Forecast on Libya", *Security Council Report*, November 2011.

97. "Press Conference by Special Representative of Secretary-General for Libya", *UN Department of Public Information*, 20 October 2011.

98. Stephanie Nebehay, "U.N. rights office urges inquiry into Gaddafi death", *Reuters*, 21 October 2011.

99. Kareem Fahim and Rick Gladstone, "U.S. and U.N. Demand Details From Libyan Leaders on How Qaddafi Died", *The New York Times*, 21 October 2011.

100. Brian Knowlton, "In Libyan Conflict, European Power Was Felt", *The New York Times*, 20 October 2011.

101. "Statement by the NATO Secretary General on Libya", *NATO Press Release*, 20 October 2011.

102. "North Atlantic Council Statement on Libya", *NATO Press Release*, 21 October 2011.

103. "Libya after Gaddafi – 21 October", *The Guardian*, 21 October 2011.

104. "Communique of the 297th Meeting of the Peace and Security Council", *Peace and Security Council of the African Union*, 20 October 2011.

105. "Prime Minister Flays AU Over How it Handles Libya Crisis", *Nairobi Star*, 31 October 2011.

On 24 October, the interim government removed Gaddafi's body from public display, as debate continued over the implications of Gaddafi's death while in the custody of rebel forces. Gaddafi's body, along with that of one of his sons and his former defense minister, was buried in an undisclosed location. Mustafa Abdul Jalil, NTC chairman, also announced that the interim government would investigate Gaddafi's death, setting up a committee to address questions over his death and that of his son in Sirte.<sup>106</sup> The head of the Independent Commission of Inquiry in Libya (ICIL), set up in February by the UN Human Rights Council, said that the NTC should respect the human rights of all detainees in their custody on 25 October. He also urged the NTC to look into allegations of abuse.<sup>107</sup>

The interim government put out a statement on 25 October about Gaddafi's death, which failed to quell the controversy surrounding the incident. The statement outlined the abuses perpetrated by the Gaddafi regime, but went on to say that the interim government "did not want to end this tyrant's life before he was brought to court, and before he answered questions that have deprived Libyans from sleep and tormented them for years." Meanwhile, press reports raised questions about the NTC's failure to address reports of atrocities committed by rebel fighters. Human rights organizations released reports to the same effect, including a 24 October brief by Human Right Watch outlining atrocities committed by militia forces against Gaddafi loyalists in Sirte.<sup>108</sup>

### The end of the NATO mission

News reports speculated on 18 October that the North Atlantic Council might take the decision to end NATO's campaign in Libya on 19 October. "We are very close to the end, but there are still threats to the civilian population," said NATO's spokesperson.<sup>109</sup>

Russia circulated a draft resolution in the Council on 21 October that included language ending the mandate for

the protection of civilians and the no-fly zone in Libya outlined in Resolution 1973. Following closed Security Council consultations, Russian ambassador to the UN Vitaly Churkin told press that "Since it was the decision of the Security Council of the United Nations to impose the no-fly zone, it should be the decision of the Security Council of the United Nations to lift it." Some Council members were reported to have expressed concern that the NTC had not yet requested the Council end the mandate for the protection of civilians in Libya. UK ambassador Lyall Grant said that consultations between the UK and the NTC "made clear that they didn't want a premature ending of the military authorization. So we want to proceed in a more measured way." There were also questions about coordinating the end of the Council's mandate with NATO's final end-date for its military operations.<sup>110</sup>

The NTC declared Libya to be liberated on 23 October in Benghazi. Its chairman Mustafa Abdul Jalil advised Libyans to embrace reconciliation. The ceremony was intended to mark a break between the Libyan conflict and the beginning of a rapid political transition.<sup>111</sup> UN Secretary-General Ban Ki-moon issued a statement reiterating the UN's commitment to aid Libya's transition, and noting that "The end of the war is only the beginning of what Libyan fighters, youth and women have struggled for: their determination now is to build a truly new Libya."<sup>112</sup> In remarks translated by media outlets that stirred debate among some in the international community, Abdul Jalil described Libya as "an Islamic country... We take the Islamic religion as the core of our new government. The constitution will be based on our Islamic religion."<sup>113</sup>

The Security Council received two letters from the NTC on 25 and 26 October, which seemed to contain contradictory requests. The first requested that the Council terminate Resolution 1973's mandate. The second indicated that the NTC would prefer the mandate continue to be implemented.<sup>114</sup> On 26 October, NTC chairman Mustafa Abdul Jalil said in an interview with *Al Jazeera* that the

106. "Libyan authorities announce Gaddafi death investigation", *BBC News*, 24 October 2011.

107. "UN panel urges Libya to probe detainee violations, commit to human rights", *UN News Centre*, 25 October 2011.

108. Kareem Fahim and Rick Gladstone, "Qaddafi, Son and Former Defense Aide Buried in Secret Place", *The New York Times*, 25 October 2011.

109. Slobodan Lekic, "NATO nearing decision to end Libya operation", *Associated Press*, 18 October 2011.

110. Anita Snow, "UN starts talks to lift Libya no-fly zone", *Associated Press*, 22 October 2011.

111. "Libya's news rulers declare country liberated", *BBC News*, 23 October 2011.

112. "UN renews commitment to support Libya as new leaders declare liberation", *UN News Centre*, 23 October 2011.

113. Adam Nossiter and Kareem Fahi, "Revolution Won, Top Libyan Officials Vows a New and More Pious State", *The New York Times*, 23 October 2011.

114. "Libya Resolution Adoption", *What's In Blue: Insights on the work of the UN Security Council*, 27 October 2011.

government had “asked NATO to stay until the end of the year, and it certainly has the international legitimacy to remain in Libya to protect the civilians from Gaddafi loyalists.” He also expressed a need for technical support for Libyan troops, communications equipment and intelligence assistance.<sup>115</sup> On 25 October, U.S. defense secretary Leon Panetta refused to outline America’s potential relationship with Libya, preferring to “leave the decision as to a future security involvement in the hands of NATO.” He also described how some of the NTC’s leaders preferred that NATO maintain a role in Libya “during this interim as they try to establish some new governance.”<sup>116</sup> In New York on 26 October, Libya’s deputy ambassador to the UN, Ibrahim Dabbashi, requested that the Security Council delay mandating an end to the no-fly zone in Libya and the UN’s authorization to protect civilians there.<sup>117</sup>

Ian Martin, the Secretary-General’s special representative in Libya and head of UNSMIL, discussed Libya’s future with the Security Council on 26 October. Noting that the NTC had declared Libya liberated on 23 October, he argued that the Council had to move rapidly to fulfill its pledges. He spoke in support of the NTC’s plan to move rapidly to the next phase of political transition in the timetable they had set out, by setting up an interim government within 30 days; establishing an electoral body in 90 days; and setting a timeline to hold national congress elections in 240 days. He also highlighted continued areas of concern in the transition process including preparing for elections, addressing public security concerns and ensuring the non-proliferation of weapons. Martin also expressed concern in the meeting about the manner in which Gaddafi was killed.<sup>118</sup>

On 26 October, NATO refrained from taking a definitive position to end military operations in Libya, as consultations continued with the UN and the NTC. The North Atlantic Council had been expected to take a decision on that day.<sup>119</sup> While hosting a conference on post-Gaddafi

Libya on that day, attended by the NTC’s leadership, Qatar outlined more fully its involvement in the Libya conflict, specifying that it had dispatched hundreds of troops to the country to support the rebels. Previously, it had only acknowledged the role that its air force played in NATO operations.<sup>120</sup>

The Security Council unanimously approved UNSC Resolution 2016 on 27 October, which terminated the mandate for international intervention in Libya. The resolution superseded the clauses of Resolution 1973 that mandated the use of force to protect civilians and the no-fly zone in Libya. The resolution dictated the UN authorization of NATO’s military operations in Libya would end on 31 October. It did not lift entirely the arms embargo or sanctions.<sup>121</sup> Security Council members, including Russia and China, were eager to end the mandate set out in Resolution 1973. They also preferred that Security Council authorization conclude prior to NATO’s 31 October deadline.<sup>122</sup>

Ending the protection mandate outlined in Resolution 1973, the Security Council turned its attention to other security concerns in Libya. At the end of October, Security Council members discussed the terms of a draft text on preventing the proliferation of arms in Libya and throughout the region. Russia shared a draft text with P5 members, and then following P5 negotiations, the draft was circulated in the Security Council on 27 October. Council members appeared to agree on the seriousness of the threat posed by proliferation of weapons in Libya and the region, particularly man portable surface-to-air missiles.<sup>123</sup>

On 28 October, NATO ministers meeting in Brussels “confirmed the decision taken by the North Atlantic Council a week ago” that the alliance’s mission in Libya would end on 31 October.<sup>124</sup> On 27 October, NATO secretary general Anders Fogh Rasmussen reiterated the potential for a

115. David Kirkpatrick and Rick Gladstone, “Libya’s Interim Leader Asks NATO to Stay Through the End of 2011”, *The New York Times*, 26 October 2011.

116. Slobodan Lekic, “NATO delays formal decision to end Libya mission”, *Associated Press*, 26 October 2011.

117. Margaret Besheer, “Libya Seeks Delay in Ending UN No-Fly Zone”, *VOA News*, 26 October 2011.

118. S/PV.6639, 26 October 2011.

119. Slobodan Lekic, “NATO delays formal decision to end Libya mission”, *Associated Press*, 26 October 2011.

120. Ian Black, “Qatar admits sending hundreds of troops to support Libya rebels”, *The Guardian*, 26 October 2011.

121. S/RES/2016 (2011).

122. Ariel Zirulnick, “UN votes to end NATO mission in Libya”, *The Christian Science Monitor*, 27 October 2011.

123. “Resolution on Prevention of Proliferation of Arms in Libya and the Region”, *What’s in Blue: Insights on the work of the UN Security Council*, 28 October 2011.

124. “NATO Secretary General statement on end of Libya mission”, *NATO*, Press Release (2011), 28 October 2011.

future role for NATO in Libya. “If requested, we can assist the new Libyan government in the transformation to democracy, for instance with defense and security sector reform,” he said. NATO ended military operations in Libya on 31 October. “Together, we succeeded. Libya is finally free,” said NATO head Anders Fogh Rasmussen in a joint news conference in Tripoli with NTC chairman Mustafa Abdul Jalil. On 31 October, *The Guardian* released the most comprehensive picture of NATO allies’ involvement in military operations in Libya to date, with breakdowns of number of sorties flown, military personnel in theater and targets destroyed.<sup>125</sup>

Transitional justice and rule of law issues remained pressing topics under discussion in Libya. A week after Gaddafi’s death, the NTC backed away from its position that Gaddafi died from injuries sustained during combat, vowing to prosecute any persons found responsible in the strongman’s death following his capture by rebel forces.<sup>126</sup> Unconfirmed reports continued to swirl on 27 October that Saif Al-Islam Gaddafi, was seeking to turn himself over to the custody of the International Criminal Court.<sup>127</sup> On 29 October the military spokesperson for the NTC stated that if Saif Gaddafi was apprehended or turned himself over to authorities, he should be tried in Libya, not by the ICC.<sup>128</sup>

ICC prosecutor Luis Moreno-Ocampo said on 28 October that he had been in indirect contact with Saif Al-Islam el-Gaddafi, but did not know his exact whereabouts.<sup>129</sup> The Security Council was briefed for a second time by Moreno-Ocampo on 2 November, following his last 4 May briefing. He discussed the developments in Libya following Gaddafi’s death, and informed the Council about the ICC’s contact through intermediaries with Gaddafi’s son Saif – an arrest warrant for Gaddafi’s son was issued on 27 June.<sup>130</sup>

On 31 October Libya’s provisional leaders announced that Abdurrahim El-Keib, an engineer and businessman from Tripoli, had been voted the interim government’s prime minister. The announcement marked the first step toward

assembling a new transitional government following the NTC-recognized end to the uprising. Keib was expected to put together a cabinet that would serve as a caretaker government until national assembly elections in approximately eight months.<sup>131</sup> The same day, NATO secretary general Anders Fogh Rasmussen visited Tripoli, marking the end of the NATO mission there.<sup>132</sup>

On 31 October, the UN Security Council unanimously adopted Resolution 2017, introduced by Russia, calling on the Libyan authorities to keep weapons from falling into terrorist hands, and to destroy stockpiles of chemical weapons with help from international authorities.<sup>133</sup> Reports raised questions about whether a particular provision of the resolution might make it more difficult for the UN to present full, transparent information about the potential proliferation of weapons. Russia and China pushed for language in the resolution that instructed a UN Security Council sanctions committee, along with a UN Panel of Experts, to examine the risks related to the spread of weapons and report the findings of the investigation to the Security Council. The UN sanctions committee, made up of members from the Council’s 15 governments, will be positioned to decide what information is reported from the investigation, circumscribing the independence usually afforded to Panels of Experts. Peter Wittig, Germany’s ambassador to the UN, voiced particular concern about that provision noting that “as a matter of principle, independent Panels of Experts should report directly to the council.”<sup>134</sup>

## November 2011

Investigations into allegations of human rights abuses during and after the Libyan civil war involved a wide range of actors. ICC prosecutor Luis Moreno Ocampo said on 2 November that the ICC would “impartially and independently” investigate allegations of crimes committed during the war in Libya by both regime troops and NATO and opposition forces. He discussed the ICC’s role in Libya during a 2

125. “Nato operations in Libya: data journalism breaks down which country does what”, *The Guardian*, 31 October 2011.

126. Martin Chulov, “Gaddafi killer faces prosecution, says Libyan interim government”, *The Guardian*, 27 October 2011.

127. “Gaddafi son seeks aircraft to surrender – NTC source”, *Reuters*, 27 October 2011.

128. Martin Chulov, “Libya insists Saif al-Islam Gaddafi should be tried at home”, *The Guardian*, 29 October 2011.

129. “ICC Prosecutor in contact with Qadhafi’s son on possible surrender”, *UN News Centre*, 28 October 2011.

130. S/PV.6647, 2 November 2011.

131. Oliver Holmes, “Abdul Raheem al-Keib elected Libya’s interim PM”, *Reuters*, 31 October 2011.

132. Oliver Holmes, “In Tripoli, NATO chief hails ‘free Libya’”, *Reuters*, 31 October 2011.

133. S/RES/2017 (2011)

134. Colum Lynch, “UNSC Libya independent expert panel on weapons proliferation under threat”, *Foreign Policy*, 8 November 2011.

November Security Council briefing.<sup>135</sup> A 1 November UN panel report documented an “alarming resurgence” in the use of mercenaries, particularly in Libya and Côte d’Ivoire, and expressed concern over human rights abuses committed by irregular forces.<sup>136</sup> Reports indicated that NATO officials were concerned that the organization would be investigated in response to allegations that its operations caused civilian casualties. Reports also suggested that the alliance was likely to begin an internal assessment of all NATO military operations that may have resulted in civilian casualties.<sup>137</sup> But on 11 November, NATO spokesperson Oana Lungescu said that “NATO has no intention of conducting a legal review of its air operations.”<sup>138</sup>

In remarks during a meeting of the Human Rights Council on 9 November, UN high commissioner for human rights, Navi Pillay, explained that the International Commission of Inquiry on Libya would continue with its ongoing work investigating human rights violations there until it released its final report in March. While an advance team had been in Libya since October, the Commission was not scheduled to arrive in Libya until early December.<sup>139</sup> On 18 November, the UN General Assembly voted overwhelmingly to restore Libya’s membership on the Human Rights Council. Before the vote, Libya’s deputy ambassador to the UN Ibrahim Dabbashi said that the NTC and the entire Libyan government would “respect and adhere to all the obligations of Libya in the field of human rights and... pay great attention to establish rule of law.” Libya had been suspended from the Human Rights Council since 1 March.<sup>140</sup>

At the invitation of the NTC, the Organization for the Prohibition of Chemical Weapons (OPCW) sent an inspection team to Libya to assess whether stockpiles of chemicals used in the making of chemical weapons were intact. The IAEA also sent a team, and UNSMIL facilitated both teams’ work. When Libya became party to the chemical weapons convention in 2004, it agreed to

destroy all its stocks, but the regime had not completed the process when the uprising began. The NTC continued the process of destroying remaining weapons stocks. UN Secretary-General Ban Ki-moon made an unannounced visit to Tripoli on 2 November, along with UN General Assembly president Nassir Abdulaziz Al-Nasser. He briefed the General Assembly on his visit on 10 November, and the Security Council on 11 November.<sup>141</sup> NATO secretary general Anders Fogh Rasmussen noted in 3 November remarks that “the arms embargo... is still in place, so it’s the responsibility of all members of the UN to enforce the arms embargo.”<sup>142</sup> In comments made on 6 November, Ian Martin, the Secretary-General’s special representative in Libya and head of UNSMIL, expressed concern about the status of weapons depots in Libya. “It’s clear that much has already gone missing from unsecured locations and that there are still locations which have not been properly secured,” Martin said. While securing weapons needed to be “a priority,” he also described the difficulties involved in preventing weapons smuggling across Libya’s borders.<sup>143</sup>

The spillover effects of the Libyan civil war strained regional politics. On 8 November, an appeals court in Tunisia found that former Libyan prime minister Al-Baghdadi al-Mahmoudi should be extradited to Libya. Al-Mahmoudi had crossed into Tunisia in September. Tunisia’s government was to issue a final verdict as to whether the former Libyan prime minister should be extradited, and Tunisia’s president would have to sign a decree ordering the extradition.<sup>144</sup> Human Rights Watch argued that Tunisia should put its plans to extradite him on hold, because the transitional government would not be able to ensure his safety in Libya.<sup>145</sup> Niger’s army clashed with an armed convoy that had crossed from Libya, and reports indicated that it had taken a cache of weapons into its possession following the incident, though Niger denied taking surface-to-air missiles.<sup>146</sup> On 11 November, Niger’s government confirmed that it had given Gaddafi’s son Saadi asylum on humanitarian grounds.<sup>147</sup> And on 14

135. S/PV.6647, 2 November 2011.

136. Patrick Worsnip, “U.N. panel sees ‘alarming resurgence’ of mercenaries”, *Reuters*, 1 November 2011.

137. Slobodan Lekic and Mike Corder, “AP Exclusive: NATO worried by possible ICC probe”, *Associated Press*, 11 November 2011.

138. “NATO ambassadors informally weigh review of civilian casualties”, *Associated Press*, 11 November 2011.

139. “Monthly Forecast on Libya”, *Security Council Report*, December 2011.

140. Edith Lederer, “UN reinstates Libya to Human Rights Council”, *Associated Press*, 18 November 2011.

141. “Monthly Forecast on Libya”, *Security Council Report*, December 2011.

142. Karin Laub and Rami Al-Shaheibi, “Two months after fall of Tripoli, Libya still struggling to secure weapons, halt smuggling”, *Associated Press*, 3 November 2011.

143. Karin Laub, “AP Interview: UN envoy warns of missing Libya arms”, *Associated Press*, 6 November 2011.

144. “Libya ex-PM al-Baghdadi al-Mahmoudi to be extradited”, *BBC News*, 8 November 2011.

145. “Libya ex-PM ‘faces torture threat’ if he leaves Tunisia”, *BBC News*, 9 November 2011.

146. “Niger military clashes with a group from Libya, headed to Mali; Weapons, prisoners taken”, *Associated Press*, 9 November.

147. David Smith, “Niger grants asylum to Saadi Gaddafi”, *The Guardian*, 11 November 2011.

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November, the Niger government expressed concern that events in Libya would trigger a growth in arms trafficking in the region.<sup>148</sup>

New estimates of Libya's future oil production were released by the International Energy Agency (IEA) on 10 November. The IEA findings showed that output increased more rapidly than expected, but the agency did not think a return to pre-conflict level outputs was likely until mid-2013. While the NTC had issued statements that it hoped oil production would be at full capacity by mid-2012, the IEA offered projections that Libya would produce 1.17 million barrels a day in output by the end of 2012.<sup>149</sup> On 24 November, Ali Tarhouni, who had just stepped down as Libya's oil and finance minister, said that he expected oil production to reach 1.2 to 1.3 million barrels per day by the following June, when elections would be held. Before the war, Libya produced around 1.6 million barrels per day, and in November, its production levels were around 700,000 barrels per day.<sup>150</sup>

Questions about the future of Libya's militias took on a new urgency in news media reports. In a 4 November interview, however, Libya's interim prime minister, Abdurrahim El-Keib, said that it could take months for Libyan militias to disarm and the interim government would not take their weapons by force.<sup>151</sup> On 17 November, the newly-formed national army put on a parade in Tripoli, and the army's highest-ranking official Abdel Hakim Belhaj appeared with the interim justice minister Mohammed al-Allagi. Belhaj told the assembled crowds that "As we agreed with prime minister Keib, we will have some rebel leaders at the head of ministries. We certainly hope he keeps his promise."<sup>152</sup>

Belhaj's comments reflected the political maneuvering going on behind the scenes as interim government prime minister Abdurrahim El-Keib worked to put together a cabinet that balanced the demands of competing groups and factions in Libya. Belhaj sought to be appointed as the formal head of the new armed forces, but faced

competition for the position. Though Belhaj had already been approved as the official military commander in Tripoli by Libya's government council, it remained uncertain whether he could bring Libya's diverse militias under the government's control. For his part, the commander of the Tripoli Revolutionary Council, Abdullah Naker, would not accept Belhaj as the leader of Libya's armed forces.<sup>153</sup> Reflecting on these political divides, former NTC executive committee chairman Mahmoud Jibril voiced concerns about a power vacuum in Libya in remarks on 16 November. He argued that rather the constitution-drafting process, slated to be complete by the middle of 2013, should be moved up.<sup>154</sup>

Visits by international actors to Libya continued apace in November. On 13 November the secretary general of the Arab League Nabil Al-Arabi traveled to Tripoli to meet with NTC chairman Mustafa Abdul Jalil and discuss how the Arab League could best provide assistance to Libya.<sup>155</sup> U.S. ambassador to the UN Susan Rice traveled to Tripoli, taking meetings with Jalil, Keib and Martin on 21 November. Speaking to an audience in Rwanda on 23 November, Rice reiterated that the U.S. feared that without international intervention, a massacre on a terrible scale could have occurred in Libya.<sup>156</sup> And later in December, Leon Panetta became the first U.S. defense secretary to visit Libya.

Gaddafi's last fugitive son Saif Al-Islam Gaddafi was captured by Libyan militia fighters based in Zintan on 19 November. The leaders of the transitional government based in Tripoli announced that Gaddafi's son would be guarded closely and then turned over to the ICC to be tried on charges of war crimes, but the militia leaders in Zintan insisted that Gaddafi would not be handed over until the interim national government was officially announced, a process that was underway, but not complete. After Muammar Gaddafi was killed shortly after his capture in October, Saif's fate was viewed as representing a test of the Libyan government's dedication to the rule of law. The jockeying over Saif following his capture also highlighted concerns that struggles between Libya's various factions

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148. "Burkina Faso, Niger 'worried' about weapons from Libya", *Agence France Presse*, 14 November 2011.

149. "War damage to slow return of Libyan oil - IEA", *Reuters*, 10 November 2011.

150. "Libyan official says oil output increasing fast", *Associated Press*, 24 November 2011.

151. Karin Laub, "Libyan PM: Disarming ex-rebels could take months", *Associated Press*, 4 November 2011.

152. Clifford Krauss, "Militias and Army Jostle for Influence in Libya", *The New York Times*, 18 November 2011.

153. *Ibid.*

154. "Fearing Libya vacuum, ex-PM urges rapid vote", *Reuters*, 16 November 2011.

155. "AL chief visits Libya, says premature to recognize Syrian opposition", *Xinhua*, 13 November 2011.

156. Jason Straziuso, "U.S. feared Libyan killing spree, Rice tells Rwanda", *Associated Press*, 23 November 2011.

would impede its political transition. Interim government prime minister Abdurrahim El-Keib traveled to Zintan to celebrate Saif's capture, and stressed that the government in Tripoli understood Zintan's inclination to hold onto him. "They will keep him in peace, and take care of him, unlike how he treated our people," he said.<sup>157</sup> On 19 November, ICC prosecutor Luis Moreno-Ocampo said that he would travel to Libya to work out the details of Gaddafi's trial. Libya's interim prime minister insisted that Saif would be put on trial in Libya, though the Libyan government would cooperate with the ICC. In contrast to the preferences expressed by the interim government, NGOs like Human Rights Watch encouraged the NTC to hand Saif over to the ICC with all due haste.<sup>158</sup>

Gaddafi's intelligence chief Abdullah Senussi was captured on 20 November, though questions persisted about when Zintan would hand over Saif to the interim Libyan government. The leaders of Zintan had initially promised to release Saif into the central government's custody once the new interim government was announced, but altered course on 20 November and said that they demanded guarantees that the government had established a working court system. Senussi was held in an undisclosed location in Sabha, adding to questions about the central government's control over Libya.<sup>159</sup> The transitional government attributed the secrecy around his location to the multiple threats to his life in remarks on 21 November.<sup>160</sup>

On 22 November, ICC prosecutor Luis Moreno-Ocampo indicated that Gaddafi's son and his former intelligence chief could be put on trial in Libya, as long as the ICC was involved and Libya met international standards for the trials. What the ICC's involvement was expected to entail, be it an oversight role, or the participation of international judges, was unclear. "The issue of where the trials will be held has to be resolved through consultations with [the ICC]," he said. "In the end, the ICC judges will decide, there are legal standards which will have to be adhered

to."<sup>161</sup> Moreno-Ocampo's 2 November formal report to the Security Council offered more clarity, making it apparent that the ICC could not exercise oversight, participate in, or assist with national trials.<sup>162</sup> Moreno-Ocampo's statement followed meetings in Tripoli with government officials, including justice minister Mohammed al-Allagi. The justice minister, for his part, articulated the Libyan government's position as "In a nutshell, we are not going to hand him over."<sup>163</sup> The ICC released a 23 November statement reiterating that the Court, and not the ICC prosecutor, had the authority to decide by who and where Saif was tried.<sup>164</sup>

The Libyan government continued to move forward with the political transition. Libya's interim government prime minister, Abdurrahim El-Keib, was scheduled to submit a list of officials for a new interim cabinet on 20 November, for the NTC to approve by 22 November. He announced a new cabinet on 22 November, following weeks of bargaining. Keib appointed Osama al-Juwali, the commander of the militia holding Gaddafi's son Saif, to take the post of defense minister, passing over Abdel Hakim Belhaj. In keeping with the NTC's roadmap, the cabinet was mandated to govern until national assembly elections due to take place in the middle of 2012. Of his selections for cabinet, El-Keib said that they were intended to "achieve national reconciliation," and additionally aid "freedom, democracy, development, justice and a state of law and institutions."<sup>165</sup>

A 22 November Secretary-General's report outlining the political and security developments in Libya and UNSMIL's work there noted that "a major challenge continuing to face the National Transitional Council is the consolidation of security."<sup>166</sup> When he briefed the Security Council on 28 November the Secretary-General's special representative and head of UNSMIL, Ian Martin, reiterated that "the first and foremost of immediate challenges is in the area of

157. Clifford Krauss and David Kirkpatrick, "Libyan Fighters Catch Qaddafi's Last Fugitive Son", *The New York Times*, 19 November 2011.

158. "Libya: Surrender Saif al-Islam Gaddafi to ICC", *Human Rights Watch*, 19 November 2011.

159. Clifford Krauss, "Libyan Fighters Seize Qaddafi's Intelligence Chief", *The New York Times*, 20 November 2011.

160. Rami Al-Shaheibi and Hadeel Al-Shalchi, "Gadhafi intelligence chief held in secret location", *Associated Press*, 21 November 2011.

161. Matt Steinglass, "War crimes prosecutor arrives in Libya", *The Financial Times*, 22 November 2011.

162. The Office of the Prosecutor, "Second Report of the Prosecutor of the International Criminal Court to the UN Security Council Pursuant to UNSCR 1970 (2011)", *International Criminal Court*, 2 November 2011. Available at: <http://www.iccnw.org/documents/UNSCreportLibyaNov2011ENG1.pdf>.

163. Marlise Simons, "Hague Prosecutor Opens Doors to Libya Trial of Qaddafi Son and Aide", *The New York Times*, 22 November 2011.

164. "Course of action before the ICC following the arrest of the suspect Saif Al Islam Gaddafi in Libya", *International Criminal Court*, Press Release, 23 November 2011.

165. Rami Al-Shaheibi, "Libya's New Leaders Announce Transitional Cabinet", *Associated Press*, 22 November 2011.

166. S/2011/727, 22 November 2011.

security.”<sup>167</sup> This included addressing the status of the armed revolutionary militias, and also the risk of the proliferation of conventional and non-conventional weapons. He added that improvements in the security situation were dependent on the influx of funds. “The stabilization of the country, the success of the Government and the perception of the international community are all at stake,” he noted.<sup>168</sup>

Martin also outlined UNSMIL’s work supporting the Libyan government in election preparations, national reconciliation efforts, rule of law concerns and human rights issues. He described how the NTC set up an eight-member committee to look into the election requirements in Libya.<sup>169</sup> News reports about the Secretary-General’s report and Martin’s brief stressed in particular the evidence presented that some 7,000 detainees were being held by the government under inhumane conditions. In response to the UN report, the Libyan government acknowledged that there were problems with the detainees, and that there had been instances of abuse.<sup>170</sup>

The Secretary-General’s report recommended a three-month extension of UNSMIL’s mandate, to allow the Secretary-General “to revert to the Security Council with proposals for adjustments reflecting the wishes of the interim Government concerning future United Nations support.”<sup>171</sup> The Security Council was expected to approve a technical rollover of UNSMIL’s mandate, which was due to expire on 15 December. Extending the mandate would enable Martin to continue to discuss a longer-term UN presence in Libya with the recently appointed Libyan interim government.<sup>172</sup>

## December 2011

The Security Council extended UNSMIL’s mandate for three months on 2 December, unanimously adopting resolution 2022.<sup>173</sup> This extended the mission’s mandate until

16 March 2012. Although the mandate was not scheduled to come to an end until 15 December, members were eager to proceed with the renewal before the General Assembly began budget discussions on the mandates on UN missions the following week.<sup>174</sup> The Council expanded UNSMIL’s purview, mandating the mission to assist Libyan authorities in their efforts to address weapons proliferation concerns, particularly man-portable air-defense systems.<sup>175</sup>

On 10 December, members of one of the militia groups in Tripoli clashed with Libyan soldiers, highlighting the struggle for control over Libya’s security environment. The skirmish began when a military convoy carrying the Libyan National Army’s highest-ranking officer, general Khalifa Hiftar, attempted to speed through a checkpoint set up by a Zintan militia that controlled Tripoli’s airport.<sup>176</sup> A spokesperson for the Libyan armed forces accused the militia of attempting to assassinate Hiftar.<sup>177</sup> The militias had become increasingly important political players in Libya, and a number of influential cabinet positions, including Defense minister and Interior minister, were held by representatives of militias from cities such as Misrata and Zintan.

In a court document made public on 6 December, International Criminal Court justices requested information from Libya’s government about where Saif Gaddafi was being held, and whether officials from the court could visit with him.<sup>178</sup> In remarks on 15 December, ICC prosecutor Luis Moreno Ocampo stated that “the way in which Mr. Gaddafi was killed creates suspicions” that a war crime was committed.<sup>179</sup> On 20 December, International Criminal Court prosecutors said that they would evaluate the Libyan interim government’s investigation into Gaddafi’s death. Their review was slated to be presented to the UN Security Council the following May.<sup>180</sup>

167. “Most pressing task for Libya is consolidation of security, UN envoy reports”, *UN News Centre*, 28 November 2011.

168. *Ibid.*

169. “Monthly Forecast on Libya”, *Security Council Report*, December 2011.

170. Vanessa Gera, “Libya leaders acknowledge abuse of prisoners”, *Associated Press*, 29 November 2011.

171. S/2011/727, 22 November 2011.

172. “Briefing and Consultations on Libya”, *What’s in Blue: Insights on the work of the UN Security Council*, 28 November 2011.

173. S/PV.6673, “The Situation in Libya”, 2 December 2011.

174. “Adoption of Libya UN Mission Extension Resolution”, *What’s in Blue: Insights on the work of the UN Security Council*, 2 December 2011.

175. S/RES/2022, 2 December 2011.

176. Rami Al-Shahebi, “Libyan militia, army clash near Tripoli’s airport”, *Associated Press*, 11 December 2011.

177. *Ibid.*

178. Mike Corder, “ICC seeks information from Libya on Seif al-Islam”, *Associated Press*, 6 December 2011.

179. “Libya: Qaddafi Death a Potential Crime”, *Reuters*, 15 December 2011.

180. Mike Corder, “ICC to review Libya’s Gadhafi investigation”, *Associated Press*, 20 December 2011.

Returning to an unresolved issue that had plagued relations for years, the UK Foreign Office announced on 8 December that the interim government had expressed a willingness to invite British investigators into Libya to make inquiries about the Lockerbie bombing. While both the U.S. and Britain had pushed the interim government to cooperate with their efforts to find the perpetrators of the attack, the Libyan government had not taken a definitive position on the matter.<sup>181</sup>

Wading into a debate that continued to generate heat, in remarks on 14 December, UN Secretary-General Ban Ki-moon said that NATO's military operation was in keeping with the mandate outlined in resolution 1973. "Security Council resolution 1973, I believe, was strictly enforced within the limit, within the mandate...and there should be no misunderstanding on that," he said.<sup>182</sup>

On 16 December the Security Council's sanctions committee unfroze the assets of the Central Bank of Libya and its subsidiary, the Libyan Foreign Bank, at the request of the transitional government, releasing more than US\$100 billion. This request came after the NTC had sent a letter to the UN Security Council sanctions committee asking the Council to unfreeze the banks' assets.<sup>183</sup> Shortly afterward, the U.S. made it known that it had terminated sanctions against Libya's banks, unfreezing around US\$30 billion.<sup>184</sup>

B. Lynn Pascoe, under-secretary-general for political affairs, described in a meeting with the Security Council on 16 December the UN inter-agency assessment mission to look at the spillover effects of the Libya crisis on Mali, Niger, Chad and Mauritania that had arrived in the region in early December. Destabilization risks, particularly the dissemination of weapons, had been flagged in resolution 2017, as well as the Secretary-General's 20 June report on the UN Office for West Africa.<sup>185</sup> The United Nations refugee agency issued remarks on 6 December describing an increase in migrant and refugee efforts to use Libya

as a transit point on their journey to Europe.<sup>186</sup> The UN political offices in West Africa and Central Africa met on 21 December to discuss regional security issues, including the after-effects of the Libyan conflict.<sup>187</sup>

Human Rights Watch researcher Fred Abrahams was granted access to Gaddafi's son Saif on 18 December, who had been held by a militia in Zintan since his 19 November capture. The International Committee of the Red Cross (ICRC) was the first to visit him. While transitional government officials had visited Saif, including interim government prime minister Abdurrahim El-Keib, he remained under the power of the militia in Zintan. According to Abrahams, "It is not accurate to say he is being held by a militia outside of government control, although it is not true that he is in a prison directly controlled by the government, either."<sup>188</sup> According to Libyan government officials, two separate investigations of Saif were planned. One investigation into corruption prior to the Libyan revolution had already begun, but it had not been decided when the second investigation into Saif's actions during the revolution would begin.<sup>189</sup>

The Commission of Inquiry on Libya, which was established by the UN Human Rights Council in February 2011, commented on 20 December on the Libyan government's efforts to address the human rights abuses that occurred during the conflict. Following a 30 November to 16 December visit to Tripoli, the panel reacted positively to the Libyan government's actions. "We were pleased to receive assurances of the Government's continued commitment to human rights, and we are encouraged by the initial steps the Government is taking to address the human rights violations that occurred during the recent conflict," the panel's chairperson noted.<sup>190</sup>

In remarks to the Security Council on 22 December, Ian Martin, the Secretary-General's special representative and head of UNSMIL, described how "The public mood in Libya

181. "Scots detectives may visit Libya in Lockerbie inquiry", *BBC News*, 8 December 2012.

182. Louis Charbonneau, "UN chief defends NATO from critics of Libya war", *Reuters*, 15 December 2011.

183. Edith Lederer, "Libya seeks to unfreeze 2 banks' assets", *Associated Press*, 14 December 2011.

184. "U.N. Order Libyan Assets Unfrozen", *Associated Press*, 16 December 2011.

185. "Monthly Forecast on Libya", *Security Council Report*, January 2012.

186. "UN reports scores of migrants rescued at sea between North Africa and Europe", *UN News Centre*, 6 December 2011.

187. "UN's regional African offices meet to discuss common security issues", *UN News Centre*, 21 December 2011.

188. Liam Stack, "Qaddafi Son Being Held by Rebels, Rights Group Says", *The New York Times*, 21 December 2011.

189. *Ibid.*

190. "Libya: UN panel encouraged by commitment to tackle rights abuses", *UN News Centre*, 20 December 2011.

is changing gradually as it becomes increasingly focused on issues that were central to the demands of the revolution. Those include improved institutional performance that meets popular expectations, and accountability and transparency in public affairs.<sup>191</sup> Additionally, the security environment remained fragile, and the related issues of demobilizing militias and building up professional armed forces and a police force to uphold the rule of law were pressing concerns. In his previous briefing to the Council, Martin had stressed the urgent Libyan government need for funds, an issue that was addressed with the unfreezing of the Central Bank of Libya and the Libyan Foreign Bank funds, among other decisions taken by the UN sanctions committee. Martin hoped “that the liquidity crisis will soon be at an end.” All this formed the backdrop for the implementation of the NTC’s ambitious political transition timetable, and Martin described how UNSMIL had been working closely with the NTC’s elections committee.<sup>192</sup>

Injecting international political debates into post-conflict Libya reconstruction efforts, at the 22 December Security Council meeting, the Russian ambassador, Vitaly Churkin, pushed for the Security Council to mandate an investigation into civilian deaths from NATO operations in Libya, “given the fact that initially we were led to believe by NATO leaders there are zero civilian casualties of their bombing campaign.” This followed on from comments he had made previously, in which he pushed the Security Council to compile a “definitive report” on the matter.<sup>193</sup> The U.S. ambassador, Susan Rice, pushed back strongly against Churkin’s proposal, arguing that “it’s not an exaggeration to say that this is something of a cheap stunt to divert attention from other issues and to obscure the success of NATO and its partners and indeed the Security Council in protecting the people of Libya.”<sup>194</sup>

A broad range of political and security challenges persisted at the year’s end. In remarks on 28 December during a series of visits to cities across Libya, Ian Martin reiterated the importance of Libya’s civil society during the country’s challenging transition to elected government. The UN

continued to encourage the NTC to make the preparatory arrangements necessary for the elections for Libya’s National Congress to be held by June 2012, according to the NTC’s timetable.<sup>195</sup> By the end of December, the U.S. and the Libyan interim government were in talks about setting up a program to buy antiaircraft weapons that militias collected over the course of the war. This was the most recent multinational endeavor concerned with containing the risk created by loose antiaircraft weaponry. The broad outlines of the plan between the two governments involved the U.S. giving the interim government money and technical support, and the Libyan government buying up the missiles, either destroying them or adding to government weaponry holdings.<sup>196</sup>

## January 2012

The Libyan transitional government looked to strengthen bilateral ties at the year’s outset. Tunisia’s president, Moncef Marzouki, visited Libya during the first week of January, highlighting the strengthened relations between the two states. Analysts suggested that this growing relationship between the two new, post-uprising governments could alter the balance of power in North Africa, marginalizing the region’s heavyweight Algeria.<sup>197</sup> Tunisia’s president set conditions for handing over ex-Libyan prime minister Baghdadi al-Mahmudi, specifically after Libya established “a democratic state and civil institutions.”<sup>198</sup>

On 17 January, Anwar Gargash, the UAE minister of state for foreign affairs, led what was reported to be the largest business delegation to visit Tripoli since the conflict began in February. Qatar, which played a major role as a financier for the Libyan opposition during the war, was also expected to pursue favorable investment opportunities in Libya.<sup>199</sup> The head of Egypt’s Supreme Council of the Armed Forces, Mohammad-Hussein Tantawi, visited Tripoli on 16 January, and deepening economic ties was reported to be the two countries’ main goal for the visit.<sup>200</sup>

195. “In Libya, UN calls for greater role of civil society in political transition”, *UN News Centre*, 28 December 2011.

196. C.J. Chivers, “How to Control Libya Missiles? Buy Them Up”, *The New York Times*, 22 December 2011.

197. Borzou Daragahi, “Libya and Tunisia strengthen ties”, *The Financial Times*, 4 January 2012.

198. “Tunisia considering handing over ex-Libya premier”, *Associated Press*, 2 January 2012.

199. Simeon Kerr, “Gulf allies move to reap spoils of Libya war”, *The Financial Times*, 18 January 2012.

200. Borzou Daragahi, “Egypt’s military ruler in high-profile Libya visit”, *The Financial Times*, 16 January 2012.

191. S/PV.6698

192. S/PV.6698, 22 December 2011.

193. Edith M. Lederer, “Russia urges NATO to probe Libyan deaths”, *Associated Press*, 20 December 2011.

194. Edith M. Lederer, “Russia and U.S. clash over NATO bombing probe”, *Associated Press*, 23 December 2012.

Sudan's president, Omar al-Bashir, visited Libya on 7 January, and proposed that Sudan could assist the interim government in its efforts to disarm rebel groups and integrate rebel fighters into the Libyan national forces. The proposal, along with the possibility of closer ties between Libya and Sudan, raised concerns among human rights groups and Western countries in particular. As Amnesty International's Africa director pointed out, "Sudan is the last country that has any credibility" on the issue of disarming militias.<sup>201</sup>

Libya's government sought to move forward with the political transition timetable, though concerns about the security environment and the government's authority deepened in January. Libya's transitional government released a draft law on 2 January that outlined steps for electing a constitutional assembly, the first stage of electing a new government.<sup>202</sup> The draft law did not address the most contentious issues, including defining districts or picking an electoral system. The assembly was scheduled to be elected in June 2012.<sup>203</sup> Deadly skirmishes continued between militia groups in Tripoli in early January. NTC chairman Mustafa Abdul Jalil said on 4 January that the government had only "bitter options" as it sought to contain the militias.

Libya was a topic of interest during Security Council meetings on the UN's relations with regional organizations. The president of the Security Council, South Africa's ambassador to the United Nations, Baso Sangqu, appealed on 4 January for an investigation into human rights violations committed in Libya, including by NATO during its air campaign.<sup>204</sup> Russia also pushed for an investigation into NATO's air campaign.<sup>205</sup> Ahead of an open Security Council meeting on strengthening cooperation between regional organizations and the UN, Sangqu discussed the role of regional organizations in maintaining peace and security, noting that neighboring states "are closer to the ground, they are more affected by the conflicts from their

sisterly neighboring countries, they have got a lot to lose if these conflicts continue to range."<sup>206</sup>

South African president Jacob Zuma chaired a 12 January meeting on the UN-AU partnership in peace and security, during which he once again criticized NATO's intervention in Libya, arguing that it overstepped the mandate of resolution 1973. "It is the view of the AU that resolution 1973 (2011) was largely abused in some specific respects," he said.<sup>207</sup> Rather than pursue a mediated solution, the military intervention resulted in consequences that spread into other countries. "The lessons we should draw from the Libyan experience is that greater political coherence and a common vision between the African Union and the United Nations are critical in the resolution of African conflicts," he said.<sup>208</sup>

Later in the month, the AU's chairperson Jean Ping again defended the organization's position on Libya, arguing that because the Libyan revolution did not begin with non-violent demonstrations "like elsewhere," it was a more difficult case. He had previously released an open letter on 16 November, which reviewed the AU's efforts to solve the Libyan conflict.<sup>209</sup> Ping also visited Tripoli on 16 January.<sup>210</sup> His statements on 26 January were made at an AU summit where he sought to fight off a strong challenge by South Africa to his re-election as chairperson.<sup>211</sup>

The UN's attention in January remained focused on the political and security dimensions of the Libyan post-conflict transition, as well as the legacy of the international intervention there. After visiting a series of Libyan cities, Bani Walid, Sirte and Misrata, that experienced much of the most intensive fighting during the conflict, the UNSMIL deputy SRSR and UN resident and humanitarian coordinator for Libya, Georg Charpentier, noted on 5 January that many displaced residents had been able to return to their home cities.<sup>212</sup> The Libyan interim government signed an

201. Rami Al-Shahebi and Ben Hubbard, "Sudan leader offers help disarming Libyan militias," *Associated Press*, 7 January 2012.

202. David Kirkpatrick, "Libya Begins Plan to Elect Assembly," *The New York Times*, 2 January 2012.

203. Rami Al-Shahebi and Maggie Michael, "Libya plans vote on assembly to draft constitution," *Associated Press*, 3 January 2012.

204. Michael Astor, "UN diplomat wants Libya NATO investigation," *Associated Press*, 4 January 2012.

205. Emma Farge, "Russia criticizes UN over NATO role in Libya," *Reuters*, 9 March 2012.

206. "Security Council to discuss closer ties between UN and regional blocs this month," *UN News Centre*, 4 January 2012.

207. S/PV.6702, 12 January 2012.

208. SC/10519, "Security Council Commits to 'Effective Steps' to Enhance Relationship with African Union in Conflict Prevention, Resolution, with Unanimous Adoption of 2033 (2012)," 12 January 2012; S/PV.6702, 12 January 2012.

209. "Monthly Forecast on Libya," *Security Council Report*, December 2011.

210. "African Union chairman Jean Ping seeks to turn the page with new Libya," *AFP*, 17 January 2012.

211. Laura Angela Bagnetto, "Ping defends African Union mediation in Libya uprising," *RFI*, 26 January 2012.

212. "Libya: UN official impressed by pace of returns to cities emerging from conflict," *UN News Centre*, 5 January 2012.

agreement with the UN on 10 January that set out a legal framework under which the UN mission in Libya would carry out its mandate.<sup>213</sup> UN Secretary-General Ban Ki-moon offered a strong endorsement of the 'Responsibility to Protect' principle in remarks on 18 January. "In Libya, Côte d'Ivoire, South Sudan, Yemen and Syria, by our words and actions, we demonstrated that human protection is a defining purpose of the United Nations in the twenty-first century," he said.<sup>214</sup>

International actors continued to push the Libyan government on justice and security issues. On 10 January, the International Criminal Court announced that it had granted the Libyan government additional time to respond to the Court's inquires about Saif Gaddafi. On 9 January, the Libyan government had asked for three more weeks to prepare its replies "due to the security situation" in Libya. The ICC gave the interim government until 23 January, arguing that three weeks "would cause an undue delay."<sup>215</sup> The Organization for the Prohibition of Chemical Weapons (OPCW) confirmed on 20 January that Libyan authorities located undeclared chemicals weapons stockpiles from Gaddafi's rule, informed OPCW, and OPCW visited to confirm the weapons and advise Libyan authorities how to proceed with a formal declaration. Gaddafi had disclosed other stockpiles, and the regime had been in the process of destroying them until the uprising began in February 2011.<sup>216</sup>

Concerns about the unraveling security environment in Libya intensified with reports of fighting in Bani Walid in late January. NTC chairman Mustafa Abdul Jalil, said that rival militias who had toppled Gaddafi had clashed.<sup>217</sup> An outbreak of anti-government protests in Benghazi on 21 January also raised security concerns.<sup>218</sup> Protestors stormed the transitional government's headquarters there, while Jalil was in the building.<sup>219</sup> The following day,

the transitional government suspended a number of representatives from Benghazi, and Abdel Hafiz Ghoga, the vice-chair of the NTC, resigned.<sup>220</sup> In a statement released on 24 January, Libya's interim government prime minister Abdurrahim El-Keib sought to calm Libya. "The government calls on all citizens in all corners of our beloved Libya to exercise caution and cooperate with state institutions in all forms in order to maintain the country's unity, security and stability," he said in a statement.<sup>221</sup>

In remarks to the Security Council on 25 January, Ian Martin described the challenging security environment in Libya, and expressed concern about the armed "brigades" that operated outside of government command.<sup>222</sup> Describing the recent fighting between armed brigades, Martin noted that "Although authorities have successfully contained these and other more minor incidents that continue to take place across the country on a regular basis, there is the ever-present possibility that similar outbreaks of violence could escalate and widen in scope."<sup>223</sup> Martin also flagged concerns about the political process, particularly the tight timeline associated with National Congress elections. "The NTC and most stakeholders have remained determined that the commitment in the Constitutional Declaration to elect a National Congress by late June must be respected. This has left little time for consultations on the legislative framework, which must embody some difficult and inevitably controversial political choices," he said.<sup>224</sup> He also noted public criticism of the NTC's lack of transparency.<sup>225</sup>

The UN high commissioner for human rights, Navi Pillay, also addressed the Council on 25 January, expressing concern about the troubling reports of detainee abuse by various armed brigades. "The lack of oversight by the central authorities creates an environment conducive to torture and ill-treatment," she said.<sup>226</sup> UN officials stated that more than 8,000 Gaddafi loyalists were being held

213. "Libya: UN and Government sign status of mission agreement", *UN News Centre*, 10 January 2012.

214. "Responsibility to Protect: Ban urges action to make UN-backed tool 'a living reality'", *UN News Centre*, 18 January 2012.

215. Mike Corder, "Court gives Libya more time for Seif questions", *Associated Press*, 10 January 2012.

216. Mike Corder, "Libya had undeclared chemical weapon stockpile", *Associated Press*, 20 January 2012.

217. "Libya: Competing claims over Bani Walid fighting", *BBC News*, 24 January 2012.

218. Borzou Daragahi, "Violence raises Libya stability concerns", *The Financial Times*, 24 January 2012.

219. Rami Al-Shaheibi, "Libyans storm transitional government headquarters", *Associated Press*, 21 January 2012.

220. Rami Al-Shaheibi, "Libya suspends transitional government members", *Associated Press*, 22 January 2012. "Deputy head of Libya's NTC resigns after protests", *Reuters*, 22 January 2012.

221. Liam Stack, "Pro-Government Libyan Militia Routed From a Qaddafi Bastion", *The New York Times*, 24 January 2012.

222. "UN Worries Over Libya Militias", *Radio Free Europe*, 26 January 2012.

223. "Libya facing challenging transition, but authorities striving to succeed - UN", *UN News Centre*, 25 January 2012.

224. "Libya facing challenging transition, but authorities striving to succeed - UN", *UN News Centre*, 25 January 2012.

225. Chris Stephen, "Libya militias prepare to retake Bani Walid from Gaddafi loyalists", 26 January 2012.

226. *Ibid.*

by brigades.<sup>227</sup> "Something has to be done immediately to assist the authorities for the state to take control of these detention centers," Pillay said in remarks on 27 January.<sup>228</sup> Medecins Sans Frontieres stopped its work in detention centers in Misrata the day before, because of evidence that prisoners were being subjected to torture and being denied urgent medical care.<sup>229</sup> In her remarks to the Security Council on 25 January, Pillay also touched on ongoing questions about civilian deaths that may have resulted from NATO operations, and in a measured way, encouraged NATO's commission of inquiry to continue to look into the matter.<sup>230</sup>

B. Lynn Pascoe, the under-secretary-general for political affairs, briefed the Security Council on the regional spillover effect of the Libya crisis on 26 January, an increasingly pressing regional and international concern. UN Secretary-General Ban Ki-moon dispatched a UN inter-agency assessment team to the Sahel in December to assess the regional impact of the Libyan crisis, as well as the ability of national, regional and international actors to respond. Council members received a report on the team's findings on 17 January. The report addressed concerns about population flows in the region, which continued to exacerbate economic and scarcity pressures there. It also addressed concerns about the troubling proliferation of weapons previously in the Gaddafi regime's hands throughout the region, including possibly to terrorist groups.<sup>231</sup> Reports indicated that some Council members wanted to release a press statement that NATO's intervention in Libya had contributed to the worsening of regional challenges, and that the AU had done an effective job of raising awareness in the Council about the problems.<sup>232</sup>

Reports about detainee abuse in Libya continued to draw international attention. Amnesty International released a statement on 26 January describing accounts that

detainees in Libyan prisons had been tortured.<sup>233</sup> Later, on 3 February, Human Rights Watch announced that Dr. Omar Brebesh, a former Libyan ambassador to France who was detained in January, had died while in the custody of a militia in Zintan, apparently from torture.<sup>234</sup>

EU high representative Catherine Ashton put out a statement on 31 January that reiterated the EU's concern about the detention conditions in Libya, and urged the government to ensure that all of the prisons were under its management. The same day, deputy prime minister Mustafa Abu Shagour said in an EU-UN workshop in Tripoli that allegations of human rights abuses in Libya would trigger investigations by the authorities.<sup>235</sup>

By the end of the month, the deteriorating security situation in Libya threatened to overshadow the post-conflict statebuilding work underway there. Libya's national guard massed outside of Bani Walid on 26 January. Militias in the town had clashed with government forces, and the Libyan guard was prepared to move into the city unless local leaders welcomed them back, and handed over suspected Gaddafi loyalists.<sup>236</sup> The conflict was emblematic of the security challenges in Libya: a weak transitional government, its legitimacy increasingly under siege, struggling to address the challenges posed by powerful regional groups with their own agendas and political aims.

## February 2012

The security situation in Libya at February's start remained fragile. Reports indicated that militias from Misrata and Zintan skirmished in Tripoli on 1 February. The interim government continued to struggle with the task of bringing revolutionary militias under control, and bringing about compliance with orders that the militias give up their weapons and disband.<sup>237</sup> Attacks on internally displaced persons (IDPs) that resulted in 7 deaths near

227. "UN concerns over Libya militias and secret detention", *BBC News*, 26 January 2012.

228. Frank Jordans, "UN rights chief: Libyan government must control prisons", *Associated Press*, 27 January 2012.

229. "MSF quits prisons in Libya city over 'torture'", *Reuters*, 26 January 2012.

230. "Libya facing challenging transition, but authorities striving to succeed – UN", *UN News Centre*, 25 January 2012.

231. "Briefing on the Impact of the Libya Crisis on the Sahel Region", *What's in Blue: Insights on the work of the UN Security Council*, 26 January 2012.

232. *Ibid.*

233. <http://www.amnesty.org/en/for-media/press-releases/libya-deaths-detainees-amid-widespread-torture-2012-01-26>.

234. "Libya: Diplomat Dies in Militia Custody", *Human Rights Watch*, 3 February 2012.

235. "Monthly Forecast: Libya", *Security Council Report*, March 2012.

236. Chris Stephen, "Libya militias prepare to retake Bani Walid from Gaddafi loyalists", *The Guardian*, 26 January 2012.

237. Rami Al-Shaheibi, "Rival militias battle in Libyan capital", *Associated Press*, 1 February 2012.

Tripoli provoked widespread condemnation, including by UNSMIL on 10 February.<sup>238</sup>

AU chairperson Jean Ping appointed Mondher Rezgui as special representative and head of the AU Liaison Office in Libya on 1 February. The AU Peace and Security Council (PSC) had previously authorized the opening of a liaison office in a meeting on 20 October 2011.<sup>239</sup>

On 13 February, a coalition of more than 100 militias from western Libya announced their alliance, suggesting that it would enable them to pressure Libya's interim government to speed up the pace of political reforms.<sup>240</sup> The same day, fighting broke out in southeast Libya, in the town of Al-Kufra, and the clashes intensified on 21 February. UNSMIL reported on 27 February that the situation there remained unstable. More than 100 people had been killed in clashes, and half the population had left to escape the fighting.<sup>241</sup>

In spite of the uncertain security environment, Libyan interim authorities continued to lay the foundations for planned elections. The NTC finalized the adoption of new electoral framework laws on 7 February (initially adopted on 28 January), outlining rules for selecting a 200-person national assembly in elections scheduled for mid-2012. The framework had been initially passed on 28 January.<sup>242</sup> Having provided technical assistance throughout the process, UNSMIL released a statement that it "remains committed, as mandated by the UN Security Council, to assist and support Libyan national efforts to undertake political dialogue, promote national reconciliation and embark upon the electoral process."<sup>243</sup>

The electoral framework laws also created the Higher National Electoral Commission, whose members – fifteen in total – were officially sworn in on 12 February. UNSMIL issued a statement of support for the Commission, and noted that it could begin its elections preparation work –

with elections scheduled for June "implementation of the framework will require swift and immediate preparation."<sup>244</sup>

The Libyan interim authorities continued to grapple with transitional justice issues. On 14 February, a transitional justice law setting up a fact-finding and reconciliation commission to look into crimes committed since Gaddafi took power was announced.<sup>245</sup> In remarks to the Security Council later that month, Ian Martin, the Secretary-General's special representative in Libya and head of UNSMIL, noted that "While the law does not necessarily reflect best practices elsewhere, it provides an important opportunity to start a comprehensive truth-seeking process in Libya."<sup>246</sup> One of the first trials for Libyans accused of links to Gaddafi's regime began on 15 February, and news reports suggested that Libya's institutions were insufficiently equipped for the task. At a hearing in Benghazi, the judge was unable to hear evidence against the defendants because the militia that held them rejected instructions to bring them to court.<sup>247</sup>

With the one-year anniversary of the beginning of the uprising to overthrow Gaddafi approaching, the fate of a number of Gaddafi loyalists remained up in the air. After Saadi Gaddafi gave an interview from Niger where he warned that there would soon be a "new popular uprising" in Libya, the Libyan interim government reiterated its demand on 11 February that Gaddafi be handed over to Libyan authorities for trial.

17 February marked the one-year anniversary of the beginning of the Libyan uprising.<sup>248</sup> After pushing their city council to resign, the people of Misrata held Libya's first inclusive, democratic election to fill the 28 vacated council seats on 20 February. Benghazi citizens have called for similar elections there to be held in March.<sup>249</sup>

The Libyan government continued its efforts to improve the country's fragile security environment. At the request

238. "Libya: UN calls for justice after killings of displaced persons", *UN News Centre*, 10 February 2012.

239. "The Chairperson of the Commission of the African Union appoint a Special Representative for Libya", African Union press release, 1 February 2012.

240. "Libya: Western Militias Unite, Posing Challenge to Transitional Government", *The Associated Press*, 13 February 2012.

241. "Tense conditions prevail in Libyan town after deadly ethnic clashes", *UN News Centre*, 27 February 2012.

242. "Libya's NTC adopts election law, drops women quota", *AFP*, 28 January 2012.

243. "Libya: UN welcomes adoption of electoral laws", *UN News Centre*, 9 February 2012.

244. "UNSMIL Welcomes the Official Start of the Electoral Commission", UNSMIL Public Information and Communication Sections (PICS), 13 February 2012.

245. Neil MacFarquhar, "U.N. Faults NATO and Libyan Authorities in Report", *New York Times*, 2 March 2012.

246. "UN envoy confident Libya can overcome challenges and pursue democracy", *UN News Centre*, 29 February 2012.

247. Rami Al-Shaheibi and Maggie Michael, "Libyan trial shows judicial chaos", *Associated Press*, 15 February 2012.

248. "Democratic future for Libya is within reach, Ban says on anniversary of revolution", *UN News Centre*, 17 February 2012.

249. Maggie Michael, "Misrata holds first Libyan elections post-Gadhafi", *Associated Press*, 20 February 2012.

of the Libyan interim government prime minister, Abdurrahim El-Keib, UNSMIL held a retreat on the challenges to the security environment in Libya to improve inter-ministerial coordination and cooperation.<sup>250</sup> In an in-depth interview conducted with the *Associated Press* on 21 February, NTC chairman Mustafa Abdul Jalil addressed concerns about security, offering up critiques of both the interim government and the powerful militias that hold sway over much of the country. “Both are to blame,” he said. “The governmental program to integrate the militias is slow and the revolutionaries don’t trust it.”<sup>251</sup>

The Security Council held a meeting on the effect of transnational organized crime on peace and security in West Africa and the broader Sahel region on 21 February. Reports indicated that while some states drew a direct link in negotiations between regional instability and the increase in weapons from Libya, other Council members, particularly those that took part in NATO’s operations, were more inclined to see those regional dynamics as predating the crisis.<sup>252</sup> Reaching consensus on the issue, the presidential statement issued following the debate made specific reference to Resolution 2017, which highlighted the importance of checking the proliferation of weapons from Libya in the region.

Events on the ground bore out the Security Council’s concerns. Rebels in northern Mali were emboldened by the supply of weapons once belonging to the Gaddafi regime that had flowed steadily out on Libya and into the hands of groups across the Sahel. The rebel offensive destabilized northern Mali and put pressure on Mali’s government (which contributed to the elected government’s overthrow in March).

Ian Martin, the Secretary-General’s special representative in Libya and head of UNSMIL, briefed the Security Council by videoconference from Tripoli on 29 February, providing information about the implementation of the new electoral framework. His assessment of the framework

was positive, and he explained that, “Like all electoral frameworks, this parallel system is a compromise among competing views and interests, but our judgment is that the law provides a reasonable foundation for the election of the national congress, although some gaps and shortcomings remain.”<sup>253</sup> Martin stressed that successful elections were dependent on the “positive evolution” of the security situation there. “The Libyan authorities well recognize that their foremost challenge is to address the future of the revolutionary fighters and the wide circulation of weapons, and to develop professional state security institutions under civilian control,” he said.<sup>254</sup>

### March 2012

Reflecting ongoing concerns about the proliferation of weapons, UN Secretary-General Ban Ki-moon met with the director-general of the Organization for the Prohibition of Chemical Weapons (OPCW), Ahmet Üzümcü, on 1 March. Üzümcü reviewed OPCW’s work to verify the destruction of chemical weapons stockpiles in Libya, as the Security Council instructed the organization to do in cooperation with Libyan authorities last year.<sup>255</sup>

In a report put out on 2 March, the Human Rights Council’s Commission of Inquiry on Libya concluded that war crimes had been committed by Gaddafi’s troops and the rebels that sought to depose him.<sup>256</sup> The Commission suggested that NATO’s investigation into alleged civilian casualties from the alliance’s air raids had not been sufficient. The report also asserted that Libya’s government had been ineffective in reining in the country’s disparate militias. NATO released a report on 5 March asserting that all its operations carried out in Libya had been against military targets. NATO secretary general Anders Fogh Rasmussen reiterated that “no target was approved or attacked if we had any evidence or reason to believe that civilians were at risk.”<sup>257</sup>

250. S/PV.6728 (2012).

251. Maggie Michael, “AP Interview: Libyan Leader acknowledges mistakes”, *Associated Press*, 21 February 2012.

252. “Debate on Transnational Organized Crime (West Africa and the Sahel)”, *What’s in Blue: Insights on the work of the UN Security Council*, 20 February 2012.

253. S/PV.6728 (2012).

254. “UN envoy confident Libya can overcome challenges and pursue democracy”, *UN News Centre*, 29 February 2012.

255. “Libya and Syria top talks on chemical weapons between Ban and key official”, *UN News Centre*, 1 March 2012.

256. “Both pro- and anti-Qadhafi forces committed war crimes in Libya – UN panel”, *UN News Centre*, 2 March 2012.

257. Slobodan Lekic, “NATO: All targets struck in Libya were military”, *Associated Press*, 5 March 2012.

Following up on its March report, the International Commission of Inquiry on Libya presented its report to Human Rights Council in Geneva on 9 March, and reports indicated that the Commission gave diplomats a confidential list of names of alleged perpetrators of war crimes.<sup>258</sup> While the Commission had recommended further inquiry into NATO's air operations, its chairman reiterated that "We are quite sure that NATO did not deliberately attack any civilians."<sup>259</sup> Speaking on 13 March, a UN spokesperson said that "the Secretary-General believes the report and recommendations... provide a strong basis for the Libyan authorities to address human rights issues in Libya."<sup>260</sup>

The Security Council began reviewing UNSMIL's mandate in March. On 2 March, the UK circulated a draft resolution in the Security Council on the extension of UNSMIL's mission past its 16 March expiration.<sup>261</sup> This was followed by Council consultations at the expert level on 6 and 8 March to confer about the draft resolution. One prominent topic of discussion during negotiations was reported to be the proposed length of UNSMIL's renewed mandate. Some members preferred a shorter mandate, particularly in the context of the Constituent Assembly elections scheduled in Libya for June (and later rescheduled for July). Other member states pushed for a longer mandate period.<sup>262</sup>

Political and security developments continued apace in Libya, with attention focused on the scheduled June elections. On 3 March, Libya's Muslim Brotherhood announced that it had set up a new political party with other Islamist groups.<sup>263</sup> A militia from Zintan that had controlled access to Tripoli's airport announced on 8 March that it planned to relinquish that responsibility to the interim government.<sup>264</sup>

A gathering of militia and tribal chiefs in Benghazi declared on 6 March that they planned to set up a semi-

autonomous government, the Interim Council of Barqa, asserting independence from the interim government.<sup>265</sup> The following day NTC chairman Mustafa Abdul Jalil, commented on the developments in an interview, arguing that the government's options for responding to the self-rule advocates were severely constrained.<sup>266</sup> The NTC also condemned the announcement. Egypt, Tunisia and the Organization of the Islamic Conference (OIC) put out statements of support for the interim government, and rejected any trend toward federalism there. In Libya, the major cities in the eastern part of the country, including the governing councils of Benghazi, Derna and Tobruk all put out statements condemning the Interim Council of Barqa and reiterating that the NTC was Libya's only legitimate government.<sup>267</sup>

Ian Martin briefed the Security Council on the situation in Libya on 7 March, and discussed the Secretary-General's report on UNSMIL, which Council members had received on 1 March.<sup>268</sup> Libya's interim government prime minister, Abdurrahim El-Keib, was present at the meeting. Martin discussed the five areas of work the Secretary-General's report proposed the extended UNSMIL mission focus on in the coming year: elections and Libya's governance transition; the security environment; the proliferation of weapons in Libya and in the region; human rights and rule of law work; and the coordination of international assistance work in Libya.<sup>269</sup> He told the Council that the support mission planned to keep a "phased approach" to the mission as they had from the outset, based on plans for the mission's extension outlined in the report.<sup>270</sup> The United Nations must support Libyan efforts "in a flexible manner that does not impose a heavy international presence," he said.<sup>271</sup> The report fulfilled the requirement outlined in Resolution 2022 for recommendations on UNSMIL's future support role in Libya.

258. John Heilprin, "UN panel urges nations to help stop Libyan abuses", *Associated Press*, 9 March 2012.

259. Edith Lederer, "UN chief urges Libya to probe rights abuses", *Associated Press*, 13 March 2012.

260. Ibid.

261. "Libya Briefing and UN Mission Resolution", *What's in Blue: Insights on the work of the UN Security Council*, 6 March 2012.

262. "Adoption of a New Mandate for the UN Mission in Libya", *What's in Blue: Insights on the work of the UN Security Council*, 9 March 2012.

263. "Libya: Islamists Form Political Party", *Reuters*, 3 March 2012.

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The Security Council voted to extend the UNSMIL mandate to support post-conflict peacebuilding in Libya for an additional year on 12 March, unanimously passing Resolution 2040.<sup>272</sup> The resolution set a schedule for the mandate to be reviewed in six months' time, modified the sanctions regime in place against Libya and extended the mandate of the Panel of Experts.<sup>273</sup> Drawing on the recommendations set out in the recent Secretary-General's report on UNSMIL, the resolution outlined UNSMIL's work in aiding Libyan efforts to uphold the rule of law, protect human rights and prevent abuses, strengthen the security situation and prevent proliferation of weapons, manage the democratic transition and conduct open elections, and coordinate international assistance.<sup>274</sup>

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