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Middle East and North Africa Programme: Libya Working Group Meeting Summary

Libya: Turning the Page

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INTRODUCTION

This document summarizes discussions at a Libya Working Group meeting in September 2012. The meeting allowed participants to take stock of the significant changes and challenges that Libya has faced since the fall of Muammar Gaddafi, with a particular focus on the political process, the economy and security.

Key points that emerged were:

- The challenges for the new government are immense but the group was optimistic that progress, albeit uneven, in security, political economic and constitutional matters was more likely than a scenario of failure, decline and disorder.
- The new prime minister needs to manage a delicate balancing act when forming the cabinet to ensure that it is perceived as representative and legitimate, thereby giving it credibility to take tough decisions.
- The new constitution should include a set of standards and aspirations against which future governance and legislation can be measured. It was emphasized that the final document should be presented for the approval of the Libyan people as a whole, and not just its drafters, and that there should be a period of public awareness-raising and debate about the content prior to any referendum.
- The pros and cons of support for decentralization versus support for a fully-fledged federal system will be the subject of much debate in the coming months. However, there needs to be a discussion at the societal level and public engagement on this issue. There was a sense that the constitution is unlikely to set out provisions for a federal system, as there is more political support for decentralization.
- Issues of energy and resource provision and regulation were raised. One of the biggest problems remains regular access to electricity, leading to frequent power cuts. Many families and businesses currently access their electricity or water directly from the source, rather than through the relevant authority, with implications for the amount available to others and to revenue loss.

- Foreign investment in Libya is picking up slowly and a number of high-profile international businesses have recently re-entered the Libyan market. Others have expressed an interest in doing the same, but view greater political stability as a prerequisite for doing business in the country. Establishing the legal framework for their operations will be vital. Foreign companies are also looking for some form of assurance from the Libyan government that they will be able to operate competitively. The previous Libyan government is perceived to have had a weak record on encouraging entrepreneurship. This is an area in which growth can and should be encouraged.
- Centralizing control over militia groups remains a key priority. Fear of what may happen to militia members if the state re-asserts control acts as a disincentive to facilitating their own disarmament. In addition, the groups have little confidence in the government to which they would subordinate themselves. Many consider themselves defenders of the state rather than elements who are acting against it. It should also be noted that some of this violence has historical roots that pre-date the revolution. This is a situation which needs to be better understood.
- Although Libya is rich in resources, its economy remains sensitive to the fluctuation of oil prices. Public expenditure policy was said to be linked to these fluctuations, as more or less money is available to the government. This was described as a risky strategy. Developing ways to encourage long-term stability in the oil sector will be crucial to future economic development. Linked to this, there is a need to increase and improve the efficiency of government expenditure.

The meeting was held under the Chatham House Rule and the views expressed are those of the participants. The following summary is intended to serve as an aide-mémoire for those who took part and to provide a general summary of discussions for those who did not.

The Chatham House Rule

‘When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.’

LIBYA'S POLITICAL OUTLOOK

In the opening session, three hypothetical scenarios were presented for Libya's short-term political development. These were:

1. The 'Nothing succeeds like success' scenario' – 30% likelihood

- There is progress in oil and gas production
- Security is maintained with a few exceptions
- Human rights abuses are contained and reduced
- The new government exudes confidence and competence
- The constitution-drafting process is a success
- Fair elections take place
- Discontents of a structural kind are limited
- Investment, foreign and domestic, in the economy and the private sector develops

2. The 'Getting by' scenario – 50% likelihood

- Security remains at the current level, with periodic clashes and only slow progress in demobilization and militia disarmament
- Local disagreements continue
- Expectations are partly met, partly disappointed
- Politics is conducted in a manner that is broadly democratic
- The constitution-drafting process is a success
- GDP or government financial transfers are enough to hold the new system together

3. The 'Downward spiral' scenario – 20% likelihood

- The security picture is poor, with a likelihood of deterioration
- There is little or no investment
- Progressive disillusion sets in
- In sum, the achievements of revolution are put at risk

The group cautiously predicted that the two more optimistic scenarios were most likely, although it was emphasized that the government will face serious challenges in the coming months.

Forming a new government

The process of forming a new government opened in early September with presentations from prospective prime ministerial candidates to the newly elected General National Congress (GNC). To win election, candidates must win 100 + 1 votes, so elections are likely to include a second or third round before a single victor emerges. (Mustafa Abu Shugour won on the second ballot on the 12 September.) Government formation should be completed by early October and the new government is expected to be in office for a period of 18 months.

The new prime minister will need to manage a delicate balancing act when forming the cabinet. There are widespread demands for it to be representative of Libyan society and of Libya's emerging political scene as a whole, including the new parties, women and representation from eastern Libya. The new cabinet will face tough decisions on all fronts, so it is important that the Libyan people trust its composition and, by extension, the fairness of its decision-making process.

Legislation passed by the National Transitional Council (NTC) may be reviewed by the new cabinet and by the GNC. Some of these laws were regarded as having been pushed through without sufficient care or attention to their contents.

Role of religion and other sources of legislation in the constitution

Discussions regarding the role and content of a new Libyan constitution touched upon four key areas: its purpose, the timeframe in which it would be drafted, the possibility of external advice and the role of religion within the document.

The new constitution should include a set of standards and aspirations against which future governance and legislation can be measured. For the sake of future clarity, particular attention must be paid to making sure that these are not contradictory. It should also provide a framework within which disagreements can be resolved peacefully. It should also clearly establish the

rights of individuals – including those of women – and the relationship between ruler and the ruled. It was emphasized that the final document should be presented for the approval of the Libyan people as a whole, and not just its drafters. The content of the new constitution should be well publicized within the media in order to maximize the number of people who are aware of its existence and provisions.

No timeline has yet been set for the drafting process. It was suggested that six months would be a reasonable period within which to complete the document. A number of participants emphasized that the constitution from the period of the monarchy should be consulted and reflected upon before moving forward since it contains a number of provisions and clauses that can be re-used or adapted.

There is an appetite for external advice prior to the drafting process. Egypt and Tunisia were cited as being of particular interest in this respect, since they have undertaken a similar endeavour and have benefited from the advice of a number of constitutional experts and international organizations such as the United Nations.

There were differing viewpoints on the role of religion within the new constitution. While some argued that it is not the role of the constitution to determine the nation's religious identity, others emphasized that Libya's existing legal provisions are often based on Islamic law, but that there are other sources of legislation too. Libyan political representatives told the group that there will be no insistence on a clause identifying Sharia law as the basis of all legislation, although they emphasized that the constitution would 'respect Islam'.

Given the ideologically diverse composition of the GNC, this is likely to be a point of contention within the drafting process. This was reflected within the group, as others argued that religion should play a more prominent role within the document, since religious law provides the highest framework governing the actions and decisions of Libyans on a daily basis. Questions were also raised over the position of Libya's Grand Mufti in relation to the state and the constitution. This is an issue that will need to be clarified in order to avoid conflict between competing sources of authority.

It was also argued that while they reflect on the constitutional place of religion the constitution's drafters must be mindful of the need to proceed with care for the sake of reassuring Libya's international partners as to the moderation of the new government.

Decentralization and federalism

Decentralization is a key issue that the new constitution will need to address. It was suggested that the recently approved local administration law¹ can provide a blueprint for constitutional provisions on this issue, but reservations were also expressed over whether this would be sufficient.

There is a broad spectrum of views on the future structure of power within Libyan society, but the fundamental division lies between support for decentralization versus support for a fully-fledged federal system. A national debate about the pros and cons of each is much needed. The issue is now firmly on the agenda of Tripoli's politicians and will be the subject of much debate in the coming months. According to a number of participants, the majority of politicians appear to favour decentralization over federalism, suggesting that the constitution is unlikely to set out provisions for a federal system.

The potential for political deadlock within a decentralized power structure was emphasized as a key concern by opponents. It was suggested that a national referendum is necessary to canvas opinion on the matter, a process that would illuminate the scope of opinion in Eastern and Southern Libya. Another concern was the ability of decentralized governments to regulate militias within their given territories. Bringing these groups under control is as an urgent priority.

A representative of a Libyan NGO spoke in favour of establishing regional funds, responsibility for which would lie with local councils. These could be used for urban reconstruction. It was suggested that the central government's budget should not contribute more than 20 per cent to these funds.

Delivery of public services at local level is an important issue to be addressed. Although many currently express dissatisfaction at the lack of services being provided by local councils, it is said that this is the level at which service provision can most effectively be conducted, as long as there are adequate mechanisms in place to do so. The process of handing fiscal power to local authorities would have to be conducted with care, although some believe this could be an effective solution. The admissibility of using oil revenues at local level – and the question of whether they belong to the region or the state as a whole (as hitherto) – will be addressed, perhaps in the new constitution.

¹ The local administration law was improved by the NTC in July. In August, it was announced that the legislation was being reviewed by the NTC's legal department before being published.

Capacity of the new government: what has the prime minister inherited?

High-level discussions regarding the structure of the new government and its departments are believed to be in their early stages with many key issues yet to be addressed. Some suggested that a more streamlined approach is necessary with just seven or eight ministries operating at the heart of government.

Those in charge are regarded as being pragmatic and unlikely to take rash decisions over the country's security and political future. However, the process of rebuilding the state will take time, and it was emphasized that politicians should be afforded the benefit of the doubt as they work through the problems stemming from the revolution and decades of Gaddafi rule. One individual stressed that there is little to build on and that the new government must therefore start the process of state-building from scratch. The provision of basic services and facilities was seen as a high priority, and one that would take precedence over addressing the concerns of individual regions and tribes.

Infrastructure

Although the desert installations of Libya's Great Man-Made River² were damaged during the conflict, its core infrastructure was not; the network continues to provide water and work is currently taking place to bring it back to full capacity. The process has been speeded up by the unexpectedly high level of tenders received for repairing the damages.

One of the biggest problems remains inability to provide areas with electricity, leading to many power cuts. Issues of energy and resource-monitoring were raised. Many families and businesses currently access their electricity or water directly from the source, rather than through the relevant authority, with implications for the amount available to others and to revenue loss. There were calls from the group for greater regulation and enforcement.

Business and oil

Foreign investment in Libya is picking up slowly as trade delegations and businesses return to the country. A number of high-profile international

² The Great Man-Made River is a network of pipes that provides irrigation to the Sahara Desert from the Nubian Sandstone Aquifer System fossil aquifer.

businesses have recently re-entered the Libyan market. These include Monsoon, Next and Cinnabon. Others have expressed an interest in doing the same, but view greater political stability as a prerequisite for doing business in the country. Establishing the legal framework for their operations will be vital. Foreign companies are also looking for some form of assurance from the government that they will be able to operate competitively. There is currently a law stating that foreign investors should not hold more than 49 per cent of an enterprise.

The previous Libyan government is perceived to have had a weak record on encouraging entrepreneurship. This is an area in which growth can and should be encouraged.

The future of Libya's oil ministry was also debated, with opinion divided over the capabilities of its current management. Eliminating corruption and managing production in a more efficient way in the country's 'most important sector' is a key priority.

Security

Across Libya, low-level crime is experienced infrequently; an achievement on the part of the authorities that a British military representative saw as cause for celebration. However, there remain huge security challenges. The Ministry of Defence is still in a temporary building and the country appears some time away from being in a position to establish defence and security contracts. There are aspirations to move towards establishing more 'technological' type of security services, however.

In the absence of an effective army and police force, the NTC sought to co-opt numerous revolutionary 'brigades' that had been active since the uprising, deputizing them into provisional security forces that include Supreme Security Committees (SSC). The government is not yet believed to hold effective control over these groups, however.

The destruction of a number of Sufi shrines was regarded as an alarming development. Uncertainty persists over the identities of those responsible, although Salafists are suspected. It was also suggested that the perpetrators may be the recipients of funding emanating from the Gulf states. Questions remain over the security services' handling of these incidents. Although the attacks appear to have taken the government by surprise, its failure to deploy adequate security over the 48 hours that it took to destroy the mosque in Tripoli is viewed by some as complicity in what happened. It was also

suggested that elements within the SSC could even have approved the destruction. Several speakers referred to the justification for inaction given by the Ministry of the Interior, namely the need as they saw it to avoid fatal clashes and, with that, to prevent feuds arising leading to fighting on a wider scale.

The example of Ghadames, an oasis town in North western Libya, was used to shed light on post-revolutionary community tensions in Libya. A visit to the town in April made it clear that tourists had stopped visiting altogether and this situation improved little in the months that followed. This has serious implications for the prosperity of the residents, exacerbating pre-existing tensions between the Tuareg 'people of the desert' and other communities. Both sides now claim that the other has 'blood on its hands' following the revolution and neither is willing to surrender. The security situation in Ghadames is therefore fragile.

Militia groups

The militia groups – with up to 250,000 members on the government payroll and with weapons – still operate outside of state control. Bringing them under it will be a key challenge for the government. They are engaged in a number of struggles, asserting ownership over land, economic interests, and in some cases, fighting with other tribal and ethnic groups. Many of the feuds are politically charged and some have religious undertones. Some of this violence has historical roots that pre-date the revolution. This is a situation that needs to be better understood.

Fear of what may happen to militia members if the state re-asserts control acts as a disincentive to facilitating their own disarmament. In addition, the groups have little confidence in the government to which they would have to subordinate themselves. Many consider themselves as defenders of the state rather than as acting against it. It was suggested that the international community could play a role in the disarmament of militia.

The extent to which the government is willing to take on the militias was debated. A number of participants suggested that the government lacks the will to engage in a potentially 'losing battle', and does not perceive itself to have the resources at its disposal to reassert control.

Concerns also exist over the existence of Al Qaeda-affiliated elements in some cases, believed to signal a move away from local grievances towards

more ideologically inspired action. One participant said that jihadists are increasingly able to act with impunity within an atmosphere of lawlessness.

Perspectives from the international community

Despite the international community's initial pessimism, Libya has confounded expectations and completed a successful set of elections. This provides optimism for the future. The international community has found Libya challenging to deal with since it is a wealthy country that does not require traditional forms of development aid. This has taken time to adjust to. The state-building process is seen as being Libyan-led, but the international community remain in the background to support, and at times encourage, the process in the right direction. British officials view the constitution drafting process as one way in which help can be offered, but if this is not wanted when the time comes then the United Kingdom will have to look to other areas in which it can provide coordinated assistance. It was emphasized that it remains deeply committed to the transition process and will not leave Libya to go it alone. With this in mind it is working with key bilateral partners, financial institutions and international organizations such as the UN.

British assistance efforts are structured around six priorities, although these may change if Libya's needs shift in the near future.

1. Assisting the transition: maintaining political momentum and meeting public expectations, and helping the GNC with technical procedures
2. Security: agreeing on a security framework, working with the Ministry of Defence and the Ministry of Interior; deciding what size police force is needed, and building a necessary framework to integrate militias into the system
3. Economy: addressing the Libyan government's lack of capacity and mechanisms to spend effectively. There are also concerns about corruption, leading to a desire for greater transparency in economic dealings.
4. Human rights: the Foreign Office is working to integrate human rights principles within all six priorities. It is also working on prison reforms.
5. Maintaining and developing bilateral relations
6. Business: establishing Libyan counterparts and promoting business interests

Libya's economy

A representative of a Libyan think tank presented an analysis of the country's macroeconomic outlook and key macroeconomic pressures. Although Libya is rich in resources, its economy remains sensitive to the fluctuation of oil prices. Public expenditure policy was said to be linked to these fluctuations, as more or less money is available to the government. This was described as a risky strategy. Developing ways to encourage long-term stability in the oil sector will be crucial to future economic development.

Government expenditure: There is a need to increase and improve the efficiency of government expenditure. At present, there are high-levels of non-investment spending that will not yield medium or long-term economic benefits. No less than 64 per cent of expenditure is currently going towards salaries, subsidies and other similar programmes. It is difficult to see a short-term remedy for this problem. The incoming government will have to deal with public pressure to raise salaries and the new prime minister, like the other candidates, promised public sector wage increases in his campaign for the job.

Competitiveness: The World Economic Forum's 2012-2013 Global Economic Index has ranked Libya 113th out of 144 countries. Improvements must be made in labour market efficiency, and strengthening and reforming the country's financial system.

Human capital: it was suggested that government could establish and regulate a trust fund for education. This would involve co-operation with an international organization such as UNESCO that could support and advise on the project.

Funding infrastructure: By leveraging its sovereign wealth fund, the government would have the capacity to create a fund for critical infrastructure. The money could be spent on developing new airports, ports et cetera. Although Tripoli remains in need of development, many other cities currently lack key infrastructure.

ABOUT THE LIBYA WORKING GROUP

The Chatham House Libya Working Group aims to identify, analyze and discuss scenarios for political transition, state-building and economic reconstruction in Libya. The group enables timely discussion and analysis that is responsive to the dynamic situation, providing a forum for the sharing of expertise and the debate of new ideas.

Meetings take the form of multi-disciplinary roundtable discussions, held under the Chatham House Rule, bringing together experts from a wide range of backgrounds and sectors for a free and frank exchange of ideas. This project seeks to widen the framework of political debate on Libya, leading to innovative policy recommendations that influence critical policy decisions.

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