



## Monthly Forecast

AFRICA

### Libya

#### Expected Council Action

In May, the Council will receive the semi-annual briefing by ICC Prosecutor Fatou Bensouda on recent developments concerning cases in Libya.

The mandates of the UN Support Mission in Libya (UNSMIL) and the Panel of Experts (PoE) assisting the 1970 Libya Sanctions Committee expire on 13 March and 13 April 2015, respectively.

#### Key Recent Developments

Relations between Libya and the ICC have been tense following the decision by the ICC to try Saif Al-Islam Qaddafi, son of deposed leader Col. Muammar Qaddafi, and former intelligence chief Abdullah Al-Senussi in The Hague, as per the ICC referral in resolution 1970. On 31 May 2013, ICC Pre-Trial Chamber I rejected Libya's challenge to the admissibility of the case against Qaddafi, citing lack of sufficient evidence to demonstrate that Libya was investigating the same case as that before the Court, and reminded Libya of its obligation to surrender him. The ICC Appeals Chamber came to the same conclusion in July 2013, following Libya's request that his surrender be suspended. A decision from the Pre-Trial Chamber on a request for a "finding of non-compliance" for the non-surrender of Qaddafi is now expected. Such a finding might result in the referral of the case back to the Security Council to ensure compliance by Libya. In an 11 October 2013 decision, Pre-Trial Chamber I concluded that the case against Al-Senussi was being investigated by Libya, thus making it inadmissible before the ICC.

A trial of 37 Qaddafi-era officials accused of serious crimes during the 2011 revolution resumed on 14 April but was adjourned until 27 April. Al-Senussi appeared in front of the court and Qaddafi, who is being held by a militia in Zintan, testified via video-link. (The UN Working Group on Arbitrary Detention characterised the latter detention as arbitrary.)

Libya has continued to experience an increase in violence since the Council last discussed it on 10 March. In April explosions occurred at military sites in Benghazi and Tripoli, as well as the capital's airport. Two Tunisian diplomats and the Jordanian ambassador to Libya were abducted in three separate incidents and at press time their whereabouts remained unknown. Clashes between the government and militias seeking autonomy for the east persisted over the control of oil export terminals. A deal was reached in early April to re-open blockaded ports. (On 19 March the Council [imposed](#) measures on vessels designated by the 1970 Committee to be transporting crude oil illicitly exported from Libya after an incident involving a North Korean-flagged vessel.)

Serious challenges have continued on the political front. After several unsuccessful attempts, on 11 March the General National Congress (GNC) passed a vote of non-confidence, ousting Prime Minister Ali Zeidan. On 13 April the new Prime Minister, Abdallah al-Thinni, resigned following an attack against his family.

On 30 March the GNC approved a law for the election of a new interim Parliament, but the date has yet to be set. The Constitutional Drafting Assembly met for the first time on 21 April but was missing 12 of its 60 members who could not be elected due to the boycott of the elections by minority groups.

## Human Rights-Related Developments

On 26 March, Flavia Pansieri, the Deputy High Commissioner for Human Rights, presented the High Commissioner's report on Libya to the Human Rights Council (HRC) ([A/HRC/25/42](#)). She noted that 17 February marked the third anniversary of the revolution that ended an era of large-scale human rights violations under the former regime. However, she said, thousands of persons had been deprived of their liberty since the 2011 conflict, without access to due process and amidst reports of torture and ill-treatment. Pansieri urged Libya, as it enters a constitutional drafting process, to formally enshrine human rights principles in the legal system and to ensure the rights of all segments of the society, including women and minorities.

On 28 March, the HRC adopted a resolution welcoming Libya's efforts to protect human rights, especially through the adoption of several new laws, and urging the government to intensify efforts to prevent acts of torture, to investigate all allegations of torture and other ill treatment in detention facilities and to take further steps to protect freedom of expression and association by reviewing Penal Code articles. It also called on Libya to expedite the voluntary return in safety and dignity of all displaced persons. The resolution condemned the assassination of government officials and civil society leaders and urged the government to bring the perpetrators of these crimes to justice. In addition, it requested that the Office of the High Commissioner provide further technical assistance to support the government in building and strengthening national structures ([A/HRC/25/L.35](#)).

## Key Issues

A key issue for the Council is the conflicting views of Libya and the ICC regarding the Qaddafi trial. (According to Article 87 of the Rome Statute, if a state fails to cooperate and prevents the ICC from exercising its functions and powers, the Court may refer the matter to the Council.)

An ongoing overarching issue is the fragile security and political situation. A pressing issue is ensuring respect for the rule of law and reforming the legal institutions to generate trust in the political and legal system.

## Options

With respect to the ICC, although receiving a briefing and taking no action seems the most likely option, the Council could issue a statement:

- encouraging the Libya to implement the provisions of the December 2013 law of transitional justice and the mandate of the fact-finding and reconciliation commission;
- reaffirming its call for armed militias to disarm and accept the authority of the state, including transferring Qaddafi to the custody of the state; and
- reiterating its support for the ongoing ICC investigations into serious crimes committed by other former regime officials and by rebel forces during the revolution.

On the overall situation, the Council could threaten measures against armed militias and other spoilers that significantly undermine state authority and its monopoly on the legitimate use of force.

## Council Dynamics

The overall deterioration of the security situation and the fragility of the political situation are sources of concern for Council members.

Regarding the tension between Libya and the ICC over the trial of Qaddafi, it seems unlikely that the Council will take a strong stance on this unless the ICC issues a finding of non-compliance. Even then, some Council members may not be keen to support the ICC. Bensouda expressed concern in the past about the alleged crimes committed by rebel forces during the revolution—including the expulsion of residents and destruction of Tawergha and the ongoing alleged persecution of ethnic groups perceived to have been affiliated with Qaddafi—but in her last report, the Prosecutor noted the steps towards setting up national mechanisms to address these allegations.

The UK is the penholder on Libya.

## UN DOCUMENTS ON LIBYA

### Security Council Resolutions

19 MARCH 2014  
[S/RES/2146](#)

This resolution imposed measures on vessels designated by the 1970 Libya Sanctions Committee to be transporting crude oil illicitly exported from Libya.

14 MARCH 2014  
[S/RES/2144](#)

This resolution extended the mandate of UNSMIL until 13 March 2015 and the mandate of the Panel assisting the 1970 Libya Sanctions Committee until 13 April 2015.

26 FEBRUARY 2011  
[S/RES/1970](#)

This resolution referred the situation in Libya to the ICC, imposed an arms embargo and targeted sanctions (assets freeze and travel ban), and established a sanctions committee.

### Secretary-General's Report

26 FEBRUARY 2014  
[S/2014/131](#)

This was the report of the Secretary-General on Libya.

### Security Council Meeting Records

10 MARCH 2014  
[S/PV.7130](#)

The Council was briefed by Special Representative Tarek Mitri on the latest report of the Secretary-General on Libya.

14 NOVEMBER 2013  
[S/PV.7059](#)

This was the sixth briefing by the ICC Prosecutor on Libya

### Security Council Press Statement

15 APRIL 2014  
[SC/11354](#)

This statement condemned the abduction of the Jordanian ambassador to Libya.

### Security Council Letter

15 FEBRUARY 2014  
[S/2014/106](#)

This was the final report of the Panel of Experts assisting the 1970 Libya Sanctions Committee.

## **OTHER RELEVANT FACTS**

### **Special Representative of the Secretary-General and Head of UNSMIL**

Tarek Mitri (Lebanon)

### **UNSMIL Size and Composition**

Strength as of 31 January 2014: 151 international civilians, 81 local civilians, 11 police officers and three UN volunteers.

### **UNSMIL Duration**

16 September 2011 to present