

UNSMIL Operationalization of Berlin Process

Introduction

In preparation for the Berlin Summit, UNSMIL, consonant with its UNSC mandate and with the full authority of the UN Secretary General, has operationalized each of the six thematic baskets and conducted a comprehensive planning exercise that lays out an action plan to be implemented before, during, and after the Summit, working on the basis that each of the baskets shall advance simultaneously. This process also offers options for where Member States can provide support for and engage alongside the United Nations.

We will take the work on these baskets forward within the follow-up and implementation mechanism agreed in the Berlin Summit Communiqué.

Overview of baskets

- **Political**

Libyans above all want the unification of the country's executive, sovereign, economic, financial, security, and military institutions. UNSMIL is engaged in intensive consultations with the Libyan parties, members of the HoR and HSC, as well as other key constituencies to explore options for re-establishing a functioning executive branch. Women and youth must be sufficiently represented in all consultations.

Based on Article 64 of the Libyan Political Agreement, UNSMIL launched the process to establish a Political Dialogue Forum to be convened outside of Libya by the end of January comprised of 40 representative Libyans who shall be selected following consultations with major constituencies. The Forum shall convene in order to discuss the possibility of reforming the Presidency Council (1+2) and designating a new Prime Minister and two Deputy Prime Ministers who shall be charged with forming a government per the understandings reached in November 2017 in Tunis on the competencies of both the Presidency Council and the government.

The government will be presented to the HoR for a vote of confidence. Formation of a new government will naturally require all parties to agree to the dissolution of current executive authorities. This must take place simultaneously with the unification of currently divided national institutions.

A primary objective of the HoR will be the conclusion of the electoral legislation necessary to end the transitional period. To support this goal, the High National Electoral Commission (HNEC) must be fully funded and staffed. The Political Dialogue Forum shall lay out a roadmap for empowering and ensuring funding for the HNEC.

Those individuals and entities who threaten Libya's stability and obstruct or undermine the political process can be subject to sanctions as per relevant UNSC resolutions.

- **Economic and Financial**

The economic component underlines the importance of setting in motion complementary processes to unify and enhance the integrity of Libyan financial and economic institutions, enabling them to become more transparent and capable of implementing needed reforms. Specific measures include supporting the ongoing processes to unify the CBL, in particular the

international audit of the two banks, track two negotiations between officials of the two banks and strict implementation of the banking law, including full re-empowerment of the board of directors.

The international financial institutions and member states should assist and provide guidance to the LIA as it conducts a much-needed audit. The NOC should be encouraged to improve transparency and provided with the necessary resources to modernize the oil sector.

Two new economic initiatives are proposed in the Berlin communique: the creation of a Libyan Experts Economic Commission and a Libyan Reconstruction and Development Fund. The Commission would be composed of Libyan officials and experts reflecting the country's institutional and geographic diversity; the Commission shall include a separate Secretariat. The Commission shall provide a forum for inclusive dialogue and would allow existing institutions to progressively work to harmonize economic and financial policy while building the trust necessary for unification. Prior to the Berlin Conference, on 6 January 2020, UNSMIL convened 19 Libyan technical experts to launch the process of defining the Terms of Reference for the Commission. The Reconstruction and Development Fund would be based on a common planning document to supplement and streamline development spending on critical infrastructure.

Immediate steps should be taken to enhance local governance by: 1) pursuing the municipal electoral process so that the remaining municipal elections take place prior to mid-2020; 2) immediate activation of Law 59, in particular the establishment of the Supreme Council for Local Governance; 3) a substantial increase in the 2020 budget of financial support to the municipalities.

To support the success of the political/economic-financial baskets, states party to the Berlin process and regional organisations should hold meetings with their primary Libyan contacts to support the process and its outcomes, including the convening of the Economic Dialogue.

- **Security**

The security basket comprises a series of steps to consolidate the acceptance by the Libyan parties of calls for a truce, leading to a comprehensive and sustainable cessation of hostilities in Libya, stabilization of the security situation throughout the country, the demobilization of armed formations, and the reunification and rebuilding of security institutions establishing the monopoly of the state on the legitimate use of force. The security road map will be closely aligned with the political line of effort and its progress will be contingent upon political milestones throughout the process.

Step 1 comprises the establishment of a 5+5 joint military commission (JMC) of regular military and/or police officers under UN auspices drawing upon the Cairo talks and documents produced therein. The JMC constitutes the umbrella under which separate working groups shall be established with the following focus: a) truce/ceasefire; b) DDR; c) counter-terrorism; d) security arrangements/border control.

Step 2 comprises the consolidation of the truce with the immediate demobilization of non-Libyan fighters in the theatre of war.

Step 3 comprises the commencement of negotiations under the umbrella of the 5+5 JMC for a permanent ceasefire, with all that such talks would entail, including: the terms of reference for

a ceasefire monitoring and verification mechanism (joint UN-Libyan); the separation of forces; confidence-building measures; and, the establishment of associated working groups comprised of representatives of both parties and supported by the UN. The JMC shall be responsible for defining the timeframe for the negotiations and the implementation of the agreement within a reasonable period.

The technical working group/task force for demobilization, disarmament and, where appropriate, reintegration of armed groups will conduct a census of armed formations ('support forces') in cooperation with the Ministry of Interior, Ministry of Defence/Military Zones and General-Command of the new unity government. The task force will identify groups and individuals that could be rehabilitated, those who require reform and, finally, those who should be dismantled and disarmed. Terrorist and criminal elements shall be brought to justice.

The task force shall conduct a mapping of heavy weaponry (including newly imported weaponry), develop a set of guarantees and incentives for commanders of controversial armed formations and implement programmes for the medical treatment of combatants and the priority demobilization of young fighters. The task force will also develop a strategy for integration and re-integration of members of armed formations (including vetting).

Step 4 comprises the implementation of interim security arrangements starting with Tripoli by the ministries of interior and defence of the new unity government. The task force will identify needs for international assistance and coordinate its delivery, supported by UNSMIL.

- **Arms Embargo:**

Responsibility for compliance with existing United Nations resolutions relevant to the Sanctions regime and arms embargo primarily fall under the responsibility of Member States.

Enhanced and timely compliance with existing Security Council resolutions will lead to a reduction of the number of violations of the arms embargo, and act as a confidence-building measure in support of the ceasefire as well as DDR efforts.

Berlin participants are expected to commit to comply with the UN arms embargo as well as enhance relevant national legislations. They are called upon as per relevant UN Security Council resolutions to support the panel of experts in the execution of its mandate by sharing relevant information. Keeping in mind the renewal of the Panel of Experts' mandate in February 2020, Berlin participants are in favour of more frequent experts' reporting to the Sanctions Committee.

The Berlin group would coordinate technical assistance as well as urge Libyan counterparts to encourage sanctions implementation.

The Berlin format would also be used to coordinate technical assistance / resources enabling strengthening of border monitoring capabilities – either through pre-existing national (Libyan / neighboring states) or regional entities (EUBAM, G5+) or through establishing a stand-alone Inspection and Verification Mission under UNSC supervision. With regard to enhanced monitoring, it is essential that sea, land, and air monitoring be implemented simultaneously.

- **IHL / IHRL**

Promoting respect for international human rights, humanitarian law and the creation of an environment conducive for humanitarian actors and medical personnel to reach people in need is critical.

Arbitrary and unlawful detention is a key concern in Libya. The Berlin Group is asked to take concrete steps, including supporting judicial institutions and judicial police to review and screen inmates in prisons and promote due process, support the implementation of the decrees of the Libyan authorities to screen inmates in prisons nominally under the control of the Ministry of Justice/Judicial Police to expedite and document the process to release arbitrarily or unlawfully detained inmates, support the unity and integrity of judicial institutions and to guarantee access to justice, and develop a prison road map in line with international standards. The Berlin Group is also asked to take concrete steps, including supporting the authorities to end arbitrary detention of migrants and refugees and to progressively close Detention Centres, with the establishment of human rights compliant alternatives to detention.

The documentation of human rights and IHL violations is an essential element and inextricably linked to strengthened accountability. Member states can play an important role in providing technical assistance and capacity building for the National Council for Civil Liberties (NCCHR) and related civil society actors to document and report on violations of IHL and IHRL. To hold perpetrators of the violations to account, the Berlin Group should support criminal justice reform with the aim of ensuring that Libya's national criminal justice system complies with international fair trial standards

Transitional justice mechanisms compliant with international standards can play an important role in securing sustainable peace, justice and reconciliation. The Berlin Group should support the establishment of a Fact-Finding and Reconciliation Commission; the establishment of a Commission for Missing Persons, including for tracing and identifying missing persons; the establishment of a comprehensive vetting programme; strengthen the capacity of national institutions to carry out community-wide transitional justice processes for Libyans, including bottom up reconciliation processes, and provide assistance for innovative truth-seeking and dialogue opportunities for Libyans.

The media often plays a negative role in the Libyan conflict, particularly in furthering inflaming the situation and in dividing communities. UNSMIL's existing mechanism to monitor hate speech shall be enhanced. Member States should contribute to this endeavor.