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How Libya's multibillion-dollar trade finance scheme risks defrauding the country via London banks

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Cover photo: The Libyan flag flutters outside an oil refinery in Zawiya on September 23, 2011. *LEON NEAL/AFP via Getty Images*

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EXECUTIVE SUMMARY

In August 2018, the Kaniyat militia launched a surprise attack against southern Tripoli from its stronghold in nearby Tarhuna. The armed group's public statements railed against the criminality of its rivals in the Libyan capital; the more likely reality was that they saw the opportunities for wealth and influence and wanted their share. Seven years from the fall of dictator Muammar Gaddafi, Tripoli was again in violent chaos.

This was the latest episode in a conflict that since 2014 has evolved into a brutal war between Khalifa Haftar's Libyan Arab Armed Forces alliance and a complicated mosaic of Western Libyan armed groups, both fuelled by brazen foreign interference in breach of UN arms embargos. Underlying much of the fighting has been a competition for resources, particularly control of state revenue and influence over the public authorities which disbursed it within Libya and overseas.

A tentative truce was reached in August 2020, but by then conflict and institutional dysfunction had hollowed out basic services, making everyday life a struggle for families and small businesses across the country. Within days of the announcement of a ceasefire, citizens on both sides of the front line took to the streets to protest shortages of power and water, poor living conditions and, above all, corruption across the country's political leadership. The demonstrations were violently repressed by the very armed groups who had fought the war and were accused of profiteering from the turmoil.

This report examines one unlikely theme running through these stories: Libya's Letters of Credit ("LC") system, through which the country distributes around $9 billion worth of foreign currency to businesses and public authorities every year. LCs are essentially a means of exporting cash, turning Libyan dinars into dollars, euros, pounds and other currencies which can be spent overseas. While indispensable to meeting Libya's import needs, the LC system has long been plagued by fraud and predation by armed groups.

In this investigation, Global Witness set out to examine the LC money trail, which stretches from the Central Bank of Libya ("CBL") to Libyan-owned banks in the heart of London. Drawing on interviews with confidential sources, open-source financial information and our newly created database of nearly $2.5bn worth of LC transactions from April to July 2020, we interrogate how Libya spends its LC money, how this system has impacted the balance of power between Libyan institutions and whether the anti-money laundering and counter-terrorism due diligence in the UK correspondent banking industry is robust enough to separate genuine LCs from the proceeds of crime.

In the months approaching publication of this report, Libya's security and governance situation continued to rapidly evolve. LC issuance was suspended in September 2020 and two months later, long-running institutional tensions had given way to a bitter battle between the Tripoli Government, the National Oil Company and the Central Bank of Libya to control the foreign currency accounts that were key to Libya's fragile peace.

The subsequent devaluation of the dinar under a single, unified exchange rate may curb certain opportunities for abuse, but broader questions remain unanswered around how to integrate public revenue and debt across eastern, western and southern Libya in a way that retains the confidence of citizens across the country, how to balance the competing demands of Central Bank autonomy and oversight and how to govern the sprawling network of overseas commercial banks owned by the CBL. Many of these questions have a wider relevance beyond Libya, both for policy makers adjusting to the rapid expansion of Central Bank balance sheets and remits in the wake of the 2008 global financial crisis and the COVID-19 pandemic, and for regulators charged with ensuring the global correspondent banking industry is not facilitating financial crime.

LETTERS OF CREDIT

In part 1 of the report, we examine the evidence of ongoing fraud in private sector LCs. Abuse of the LC system from 2015 to 2018 - including by armed groups - has been well documented by the UN Panel of Experts, the Libyan Audit Bureau and other commentators. Data newly disclosed by the CBL shines a light on whether these abuses may be continuing. Using open-source investigative techniques, we have created a searchable database of nearly $2.5bn worth of private sector LCs approved between April and July 2020. Comparing this to trade data from previous years we see Libyan public money is flowing out faster than the relevant goods have historically come in. The most plausible explanation is ongoing abuse of the system, on a large scale and at significant cost to Libyan public funds.

Until November 2020 importers were required to use the LC system, and the inclusion of a company or entity in the database is in no way an accusation of any sort of actual or suspected wrongdoing or illicit behaviour. Yet the database allows types of analysis which were not previously possible for the public and – taken as a whole – show unlikely concentrations of LCs around certain locations and goods. We are publishing the database as a tool for analysing the movement of money through LCs, in the hope it will help Libyan civil society groups, journalists and citizens to track where the money is going, and to show the huge potential of transparency, should Libya build on the CBL's disclosures by making LC data fully public in accordance with open data principles.

PUBLIC MONEY, PRIVATE HANDS

In part 2, we examine public sector LCs and how control of the LC system has historically placed the CBL at the heart of Libyan public procurement. Documents seen by Global Witness show how a $110m LC for electricity turbines was diverted to a recently incorporated UAE company with a near identical name to the original US-South African contractor. The case illustrates not only the vulnerability of the LC system, but also how control of Libya's foreign currency has effectively given the CBL huge influence over how public authorities spend public cash. The LC in question appears to have made it all the way to Bank ABC, a CBL-owned commercial bank in London, which had begun to pay out before the LC was blocked by the CBL. As well as raising questions about the due diligence processes followed in Libya and London, the case powerfully demonstrates the need for transparency around public sector LCs.

This dynamic has relevance well beyond Libya, highlighting a tension between central bank independence and oversight, which globally is a growing cause for concern.

In the increasing number of countries employing capital and exchange controls, central banks frequently oversee the disbursement of foreign currency. Over 10-15 years, they have also emerged as key conduits for financial sector bailout funds and schemes to support national economies, with this trend accelerating during the COVID-19 pandemic. Worldwide, central banks are putting ever greater amounts of public money into private hands. There is a need for robust transparency and accountability standards commensurate with this role.

Central banks are putting public money into private hands. Citizens are entitled to transparency whenever this is the case.

FROM MILITIAS TO MOORGATE?

In part 3 of the report, we examine how LC money enters the international financial system via London. Highly unusually, the Central Bank of Libya owns a network of commercial "correspondent banks" stretching across five continents. The key intermediary for LCs appears to be Bank ABC, which is indirectly majority owned by the CBL and based in London, and whose chairman is none other than CBL Governor Saddek Elkaber himself.

Global Witness regards this dual role as a striking conflict of interests, on the basis that it is a paid directorship in a business which is profiting from its dealings with the CBL. The arrangement also raises questions around the independence of Bank ABC's due diligence when processing Libyan LCs. Bank ABC rejects our concerns, insisting it *"takes its anti-financial crime obligations very seriously and takes care to comply with applicable regulatory requirements and international best practice".* We make no suggestion Bank ABC has broken any laws or regulations in relation to these matters and we have reprinted Bank ABC's statement in full in part 3 of this report.

Certainly, Bank ABC provides a crucial service for Libya: without the access to the international financial system provided by it and other "correspondent banks", crucial food and medicine imports would grind to a halt. Yet, even assuming Bank ABC's anti-money laundering and counter-terrorist finance due diligence processes are as rigorous as those of its London peers, we have major concerns that the prevailing UK standards for correspondent banks would not reliably separate legitimate LCs from those that are fraudulent or connected to armed groups. Rather, we believe loopholes in the UK's anti-money laundering and counter-terrorist financing rules – particularly around bank ownership – leave London wide open to the proceeds of crime.

TRANSPARENCY MATTERS

In November 2020, political tensions exploded into an extraordinary power struggle between the Libyan Presidency Council, the National Oil Company and the CBL for control of Libya's foreign exchange disbursement systems, including LCs. A single week would see the National Oil Company withhold its oil earnings from the CBL; the Presidency Council use a Gaddafi-era law to replace the leadership of the Libyan Foreign Bank (LFB), a CBL subsidiary; and the Presidency Council suspend the strict capital controls which forced Libyan businesses and public authorities to go through the LC system.

The political situation evolved rapidly in the months that followed. In December 2020, the CBL held its first full board meetings since 2014, during which it decided to devalue the dinar from around 1.4 to 4.48 dinars to the dollar. In January 2021, the Libyan Government suspended the foreign exchange fee that had been in place for businesses since 2018. These measures created a single, unified exchange rate for the private and public sectors which at time of writing appeared to have narrowed the gap with the unofficial parallel market rates, curbing certain opportunities for profiteering. It remains to be seen whether the CBL’s monopoly on LCs and other FX distributions will be re-instituted, what transparency and anti-corruption safeguards will be embedded in any post-conflict institutional reforms and how the devaluation will impact the precarious finances of families across Libya already suffering from pandemic and war.

Our first recommendations focus on enhanced transparency measures within Libya to deter fraud and hold public authorities to account. Revenue sharing is fundamental to the peace accords and whoever controls access to Libya’s foreign exchange will be a key power broker in that process. Whoever emerges in charge of Libya’s foreign exchange distribution should commit to full transparency, in order to build trust in institutions on all sides. We have made recommendations on what this could mean for LCs at the end of this report. The database provides a glimpse of the empowering potential of publishing LC data. If disclosures could be expanded to include seller-side information and public sector LCs, as well as structured according to open data principles, we believe it could be transformative as a means of deterring fraud and allowing Libyan civil society groups, journalists and citizens to hold public authorities to account for their stewardship of Libyan public funds.

Secondly, we see a need to rethink the role of central banks and the accountability and oversight attached to their stewardship of public funds. This principle applies not only within Libya, but to central banks worldwide, for whom the resurgence of capital and exchange controls, financial sector bailouts and COVID-19 spending have meant a significant expansion of their balance sheets and remits. Wherever public authorities hand over large amounts of public money, citizens should be in no doubt as to where it goes and on what terms. If financial interventionism is the new normal for central banks, then this must be anchored in transparency and accountability to the citizens whose currency and resources they steward.

Thirdly, the report highlights the need for stronger anti-money laundering and counter-terrorist finance due diligence standards around correspondent banking, particularly around who owns the correspondent banks and their owners’ relationships to entities sending and receiving money. This duty falls on the UK, the EU and other gateways to the international financial system. From the “Russian laundromat” scandal to the FinCEN files, correspondent banking has emerged as a major money laundering vulnerability for the global financial system. These systemic weaknesses need to be addressed if the UK is serious about closing its financial borders to the proceeds of organised crime.

Vehicles of the Tripoli Revolutionaries Brigade parade through Martyrs' Square in Tripoli, 10 July 2020. *MAHMUD TURKIA/AFP via Getty Images*

GLOSSARY

GNA	Government of National Accord, the internationally recognised interim government of Libya based in Tripoli, presided over by the Presidency Council
Presidency Council	An executive body led by the Libyan Prime Minister which presides over the GNA
House of Representatives	The Libyan Parliament, based in Tobruk in eastern Libya, which endorsed a rival interim government in Eastern Libya
Tripoli Protection Force	An alliance of Tripoli-based militias including the Tripoli Revolutionaries Brigade, the Nawasi militia and the Special Deterrence Force, aligned with the GNA
LAAF	Libyan Arab Armed Forces, an armed group under the command of Khalifa Haftar, originally affiliated to the House of Representatives in Eastern Libya (Haftar's forces are also commonly referred to as the Libyan National Army, the LNA)
CBL	The Central Bank of Libya, currently split between the Tripoli headquarters, governed by Saddek Elkaber, and an Eastern branch based in Bayda, governed by Ali Mohamed Al-Hibri
LFB	The Libyan Foreign Bank, a CBL subsidiary which holds controlling interests in an extensive network of correspondent banks outside Libya
LAB	Libyan Audit Bureau, a Libyan financial regulatory authority based in Tripoli
GAEREL	The General Authority for Electricity and Renewable Energies of Libya, a state-owned utilities company
Bank ABC	ABC International Bank Plc, a commercial bank based in London majority-owned (indirectly) by the CBL[1]
Arab Banking Corporation	Bank ABC's parent bank, majority-owned by the CBL and based in Bahrain
UN Panel	UN Panel of Experts on Libya, which provides annual reports on political and security challenges in Libya to the UN Security Council
UNSMIL	United Nations Support Mission in Libya, the UN political mission to Libya created after the 2011 civil war
USP&E	A company based in USA and South Africa which specialises in installing power generators
USPE-LY	A company set up in Ras Al Khaimah by former USP&E representatives, which is not part of USP&E group

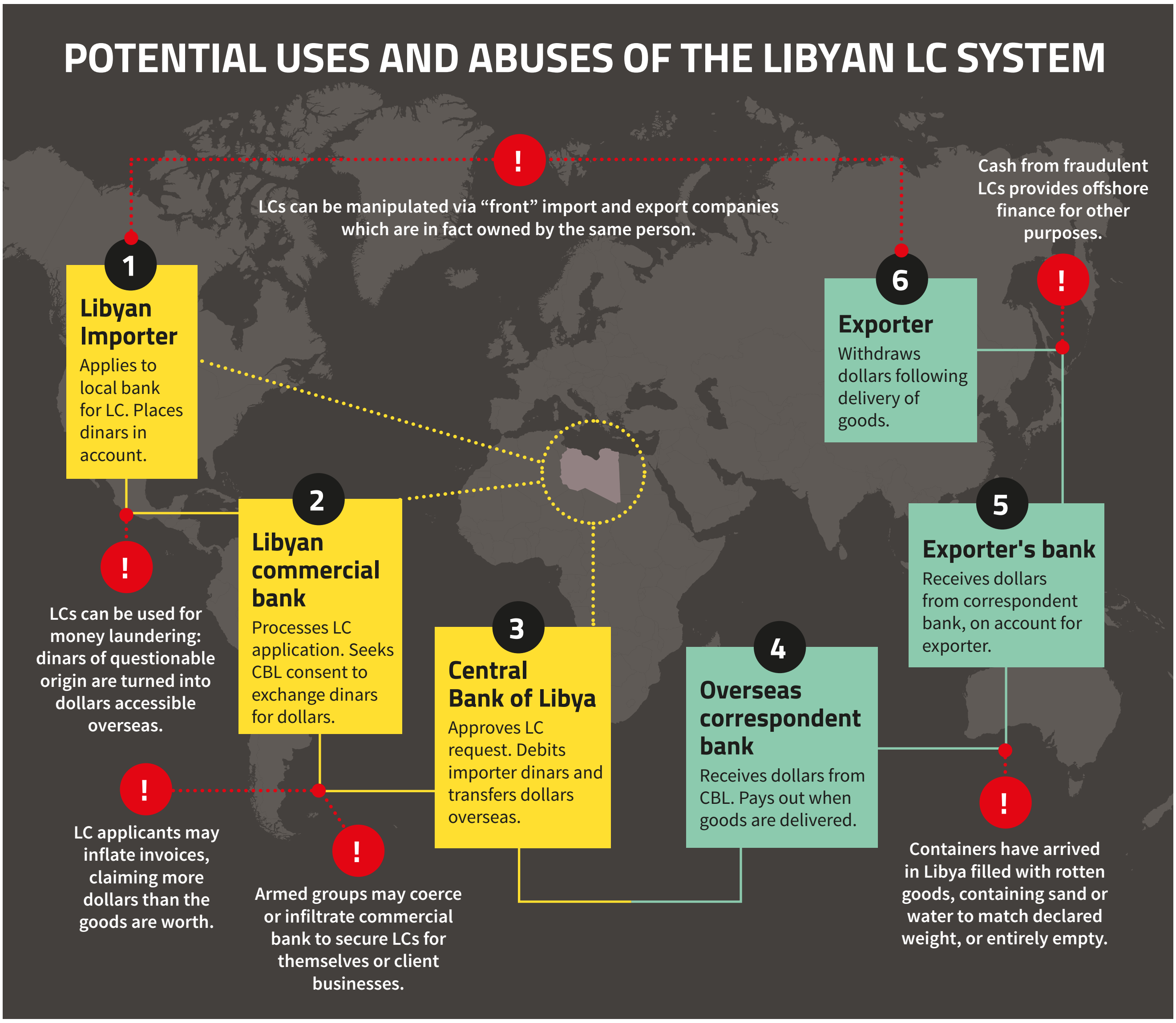
PART 1: TAKING THE CREDIT: IS LIBYA'S LC SYSTEM STILL BEING ABUSED?

For Libyan companies and public authorities, LCs are a crucial pipeline for accessing hard cash. Until November 2020, Libya's strict foreign exchange controls made it illegal to buy and sell dollars except through the CBL's approved mechanisms.[2] Libya spent at least $8.77bn on LCs in 2019, just over a quarter of its annual budget:[3] Without them, legitimate imports to Libya grind to a halt.

WHAT ARE LIBYA'S LETTERS OF CREDIT?

Letters of Credit are trade deals through an intermediary bank. The bank guarantees to pay the seller's invoice if the buyer can't pay themselves. Common in international shipping, they allow companies to trade across borders with confidence of being paid.[4]

Libya's LCs are a variation on this theme. A function of Libya's FX controls, the CBL funds imports of approved goods using dollars from Libya's oil earnings. A Libyan importer asks their bank to issue an LC. If approved by the CBL, the bank exchanges the importer's dinars (at the official rate) for dollars, euros, pounds or other currencies to fund the deal. The CBL transfers the money to a correspondent bank overseas, which will release the funds to the seller once the goods have arrived.[5]



Yet the LC system has reportedly been defrauded of billions of dollars in the years since the Gaddafi regime.[6] Reports emerged in 2015 of empty shipping containers arriving in Libya's ports: 118 in Tripoli, another 51 in Al-Khoms, 139 further east in Misrata.[7] Foreign currency was flowing out through LCs, but vital imports of food and medicine were seemingly not flowing in. The incentive was the diverging exchange rates: with official rates at 1.4 dinars to the dollar and the "parallel market" rate reaching 10 dinars, LC recipients could quadruple their money importing nothing but fresh air.[8]

There were many ways to game the system. A buyer and seller acting in concert – or even two shell companies controlled by the same person – could falsify invoices or shipping documentation to claim more money than the goods were worth. A leaked UN Panel of Experts report documents one multi-million dollar LC worth more than ten times the goods actually delivered, another €6.2m LC for a phantom cargo of sugar and a third LC worth $10m for imported rice that was rotten.[9] In a review of LCs over 10 months in 2016, the Libyan Audit Bureau reported *"infractions, deviations and corruption"* worth over $570m.[10]

Underpinning this was a lack of transparency: The CBL did not typically publish who received LCs, in what value or for which goods. This left a sense that those with power – either political, financial or military – could divert funds towards their businesses and cronies, but families and small businesses, for whom prices were rising sharply, were forced to rely on the parallel market for access to cash.[11] The abuse had a strongly international element, with the LAB accusing 21 companies in UAE, Malta, Turkey and elsewhere of receiving money "smuggled" through LC deals.[12]

Ominously, LC abuse was also a significant source of revenue for Libya's armed groups. With little in the way of cohesive national security institutions in post-revolutionary Libya, armed groups competed for territory.[13] By 2016, four principal armed groups - the Tripoli Revolutionaries Brigade, the Nawasi Brigade, the Special Deterrence Force and the Abu Slim Central Security Unit – had come to control Tripoli. They combined state-salaried security roles with income from racketeering and kidnapping, as well as predation on public procurement spending, having successfully infiltrated state institutions.[14] In Eastern Libya, Khalifa Haftar's LAAF has evolved from illicit seizures of bank funds to securing laws passed by eastern-based authorities which allowed it to generate funding directly from the Eastern Libyan public sector, via commercial banks and the Central Bank of Libya operating in al-Bayda.[15]

As a significant source of access to finance, LCs have been manipulated by all sides. In 2016, the UN Panel of Experts described receiving *"multiple reports of mafia-style extortion rackets run by armed groups in Tripoli against small and large businesses"*, citing examples implicating the Tripoli Revolutionaries Brigade and Special Deterrence Force.[16] These activities were carried out with apparent impunity, the UN Panel documenting how militias continued to provide security for state institutions or commercial banks they were accused of extorting.[17] In relation to Eastern Libya, the UN Panel's

Small businesses and families who lack the political connections to access CBL dollars must rely on the parallel market, a vast network of currency traders who will exchange Libyan dinars for convertible currency in Libya or overseas. To describe this as a "black market" does not do this justice: it is an essential pipeline of hard cash for Libyan small businesses and families. *MAHMUD TURKIA/AFP via Getty Images*

described how *"Several bank managers indicated that LNA commanders had put them under serious pressure to grant them access to cash and letters of credit. Some had decided to move abroad for security reasons."*[18]

These dynamics were key to the evolution of the conflict over power and control of state resources, and eventually motivated further violence. On 27 August 2018, the Tarhuna-based Kaniyat militia launched a surprise attack on its Tripoli rivals, dubbed the "letter of credit war" by some commentators.[19] The Kaniyat's public statements highlighted LCs as a key grievance. The fighting lasted well into September 2018 and prompted a series of reforms to liberalize the LC regime, including a new 183% fee on FX sales to narrow the gap between the official and parallel market exchange rates.[20]

Access to hard currency may also have factored in Khalifa Haftar's assault from Eastern Libya, which was heading for a financial crisis.[21] Since 2014, the CBL had been split between its Tripoli headquarters and its eastern operations, with the GNA Government and the Bayda-based House of Representatives recognising different Governors.[22] Crucially, the Tripoli CBL controlled the FX reserve accounts, LC approvals and the SWIFT codes needed to export currency from Libya. With their Eastern CBL reserves no longer recognised, Eastern Libyan banks could not fund local businesses, public authorities and other interests, threatening the economy of Eastern Libya.

The Kaniyat would eventually join Haftar's forces, and the loss of Tarhuna in June 2020 effectively ended the LAAF's prospects of a military victory against Tripoli.[24] A formal ceasefire in August evolved into a peace process, which at time of writing was aiming for national elections in December 2021.[25] The discovery of mass graves in Tarhuna prompted US authorities to impose sanctions against Kaniyat fighters under the Global Magnitsky Act.[26] The victims reportedly included civilians detained by the militia, including women, children and elderly. The Global Magnitsky Act provides for sanctions against those engaging in serious human rights abuses or corruption, and will prevent Kaniyat leader Mohamed Al-Kani or the Kaniyat militia from any dealings involving US citizens, property, services or even dollar transactions, all of which ultimately transit through the United States.

The issue of foreign exchange management has since come to the fore.[27] In the days following the ceasefire, citizens across Libya took to the streets of Tripoli, Misrata, Benghazi, Sebha and elsewhere to protest against lack of health care, power outages and, above all, corruption across the country's political class.[28] The protests were violently repressed by the LAAF in Eastern Libya and by the Nawasi Brigade and Special Deterrence force in Tripoli, some of the very armed groups accused of profiteering from LC fraud. By November, long running tensions between the GNA government and the CBL over monetary policy and spending had become an open power struggle for control of oil revenues, LCs and the CBL's overseas network of banks (which is described in more detail in chapter 2).

Libyan experts exhuming human remains from mass graves in Tarhuna, 28 October 2020. *MAHMUD TURKIA/ AFP via Getty Images*

2020: NEW DATA, NEW DAWN?

Access to foreign currency – including LCs – has thus played a significant role in the evolution of Libya's security, political and economic spheres, and looks set to do so in the peace process. As of late 2019, reforms including the FX fee seemed to have curbed opportunities for exchange rate arbitrage, yet rumours persisted of LCs facilitating public procurement fraud, money laundering and even funding of the armed groups fighting the war. Without LC data, however, and with the LC system shut from January to March 2020, it was difficult to reliably test these fears.

This changed unexpectedly in April 2020. Facing an audit by the UN and negotiations to hold a long-awaited board meeting, the CBL reopened the LC system for 51 key goods and LCs up to $3m.[29] It also began publishing details of private sector LCs. Every Thursday, a list of successful applications from the previous week appeared on the CBL's Facebook page, along with the applicant company and its representative, the LC value, the commodity for which it was claimed and the bank branch through which the application was made.[30]

The new data gives a golden opportunity to interrogate whether the 2018 reforms closed the door on LC abuse. Using open-source investigation and data scraping techniques, Global Witness has created a consolidated database of LCs issued in 13 non-consecutive weeks between 9 April 2020 and 30 July 2020, in Arabic and English.[31] The database allows us to track LCs by company, bank and location.

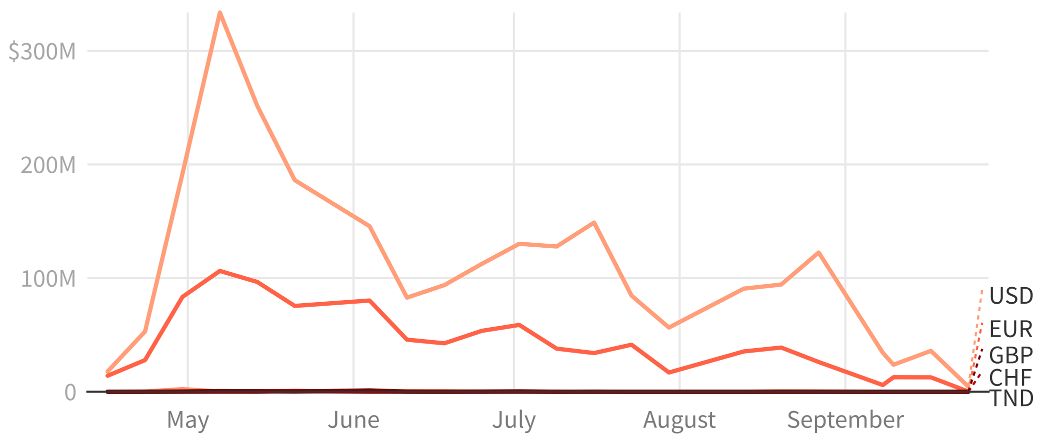
We have compared LC issuance during this time to historical trade data for the goods for which the money is claimed. We found that, for several goods, the data shows far more money is going out than can realistically be explained by the imports for which it is claimed. The most likely explanation is ongoing fraud, on a large scale. The data did not allow us to definitively show connections to armed groups, but it did reveal LC hotspots: specific areas or bank branches which appear to be receiving outsized volumes of LCs, one explanation for which could be armed group predation.

The CBL rejects our conclusions and we have included its statement in full below. There is much to commend in the CBL's decision to publish this data in a timely and accessible fashion, but it could be far more powerful if not for some avoidable limitations. There is no information on who is receiving the LC money overseas; no unique identifiers or ownership information for the applicant companies, and no data on LCs issued to public authorities. Published as photos on Facebook, the data is easy to access but difficult to use. If disclosed in a machine-readable format according to open data principles, this would be a far more useful tool for detecting possible fraud or armed group connections in the LCs.

We are publishing the database in the hope that citizens, journalists, civil society and law enforcement from Libya can pick up where we have left off, identifying more of the recipients and networks that this data may contain. It contains the names of hundreds of companies and representatives, many of whom are receiving millions of dollars in LC money despite having limited apparent presence online or within Libyan business circles. Inclusion in the database does not in itself indicate wrongdoing by any company or individual. Yet the data is ripe for follow up from those seeking accountability for Libya's wealth.

PEAK DEMAND

A single week in May 2020 saw Letter of Credit approvals worth $440m, shortly after the LC system reopened in April and in the run-up to the festival of Eid al-Fitr.



Data published on Thursdays, excluding 28 May and 6 August - values for those dates are imputed.

Source: Central Bank of Libya

VALUE FOR MONEY?

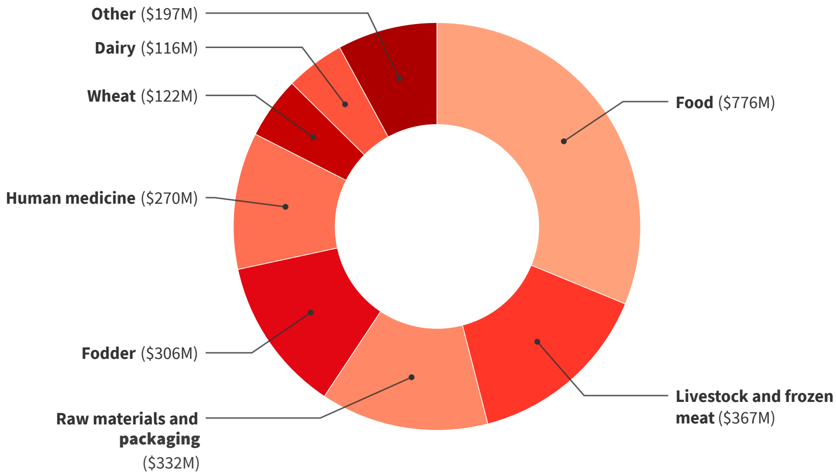
The CBL approved LCs worth $2.49bn in the 13 weeks covered by our database.[32] By far the biggest category of LCs were those for food imports ($776m), followed by livestock and frozen meat ($367m), and human medicine ($270m). The rate of issuance was very uneven, peaking at nearly half a billion dollars' worth of LCs in a single week of May 2020, before falling to between $100m and $200m for most of June and July (this pattern continued into August, before dropping to less than $50m in mid-September and apparently coming to a standstill at the end of that month).[33]

TRADE SECRETS

Letters of Credit were available for 51 key goods. Food imports made up the biggest category by value - among the popular items were tuna, cooking oil and processed tomato.

Covers all published data between 16 April and 30 July 2020, excluding illegible releases on 25 June and 2 July. Values have been converted to US dollars using the most recent official exchange rates for the day of publication.

Source: Central Bank of Libya



We analysed a sample of LCs in detail, comparing the LC spend to exports of those goods to Libya in past years, as recorded by the UN's Comtrade database (our full methodology is set out in Annex 2).[34] A clear pattern emerged, in which money was going out faster than goods had historically come in.

LC spend in 2020 compared to exports to Libya 2016-2018

Commodity	Value of LCs for 13 weeks between April and July 2020	Average per week	Value of imports for all of 2018	Average per week 2016-2018	Average value of annual imports 2016-2018	Average per week 2016-2018
Tuna	$121m	$9.3m	$143m	$2.8m	$154m	$3.0m
Cooking oil	$98m	$7.5m	$181m	$3.5m	$226m	$4.3m
Fresh and frozen meat	$196m	$15m	$184m	$3.5m	$136m	$2.6m
Barley	$68m	$5.2m	$148m	$2.8m	$163m	$3.1m
Sugar	$82m	$6.3m	$155m	$3.0m	$124m	$2.4m
Wheat	$122m	$9.4m	$294m	$5.6m	$254m	$4.9m
Corn	$70m	$5.4m	$125m	$2.4m	$105m	$2.0m
Processed tomato	$61m	$4.7m	$123m	$2.4m	$200m	$3.9m
Rice	$65m	$5m	$57m	$1.1m	$79m	$1.5m
Tea	$42m	$3.2m	$33m	$0.6m	$61m	$1.2m

For meat, rice and tea, the value of LC approvals for April to July 2020 ***exceeded*** the value of recorded imports for the whole of 2018, a startling finding.[35] For every one of these commodities, the average weekly value of LC approvals outstripped the average weekly value of recorded exports to Libya from previous years, sometimes by a factor of three or four.

We have considered a range of factors that might explain this divergence. The shutting down of LC approvals from January to March 2020 could have created a bubble of pent-up demand, and it is difficult to account for the impact of the Covid-19 pandemic and a blockade of oil exports during the war. The period also coincides with the festivals of Eid al-Fitr and Eid al-Adha, traditionally a period of peak demand in Libya. (That said, wheat, corn and tea showed a relatively consistent level of LC applications pre-and post-Eid al-Fitr, and LCs for tuna actually increased dramatically from 4 June onwards, meaning that any uptick was not uniform.)[36]

Set against this, however, are factors which we would expect to reduce demand significantly compared to 2016-2018. First, the CBL restricted LCs to only 51 key types of food, drink, agricultural supplies and medicine during this period.[37] Second, the escalation of the civil war since 2019 has caused enormous hardship and internal displacement of people within Libya, which would logically impact household budgets and demand. While the liberalisation reforms of late 2018 may mean more foreign exchange is available in 2020 compared to previous years, we are sceptical this would automatically translate to higher imports. This would imply Libyans are consuming ***more*** food and other goods now than in 2018, which is hard to believe given the impact of the war.

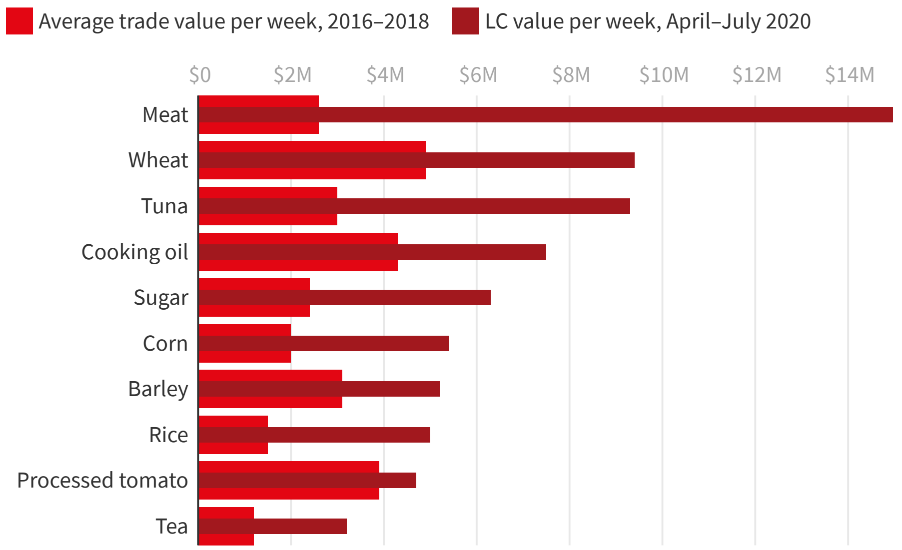
Our analysis is consistent with information from other sources. The US Department of Agriculture estimates that Libya imports food and agricultural products worth around $3bn per year, equivalent to $250m per month.[38] The US figures included food, meat, dairy, fish and bulk commodities such as wheat, corn and rice, covering every commodity in our sample and several others. The LC bill for an equivalent selection of imports over our 13 week reference period comes to $1.69bn, or over $500m per month, more than double the US estimate.[39]

GOLDEN TICKETS

The amount of money issued through Letters of Credit for common food items in recent months far exceeds rates of import in previous years. Such large discrepancies cannot be explained by the festivals of Eid al-Fitr and Eid al-Adha alone.

Covers all published data between 16 April and 30 July 2020, excluding illegible releases on 25 June and 2 July. Values have been converted to US dollars using the most recent official exchange rates for the day of publication.

Source: Central Bank of Libya



Ultimately, the import levels suggested by LC outflows for certain goods from April to July 2020 are simply not realistic, given recorded trade flows from previous years. Dollars, euros and other currencies were exiting Libya faster than the stated goods were likely to be coming in. Put another way, it is highly improbable that all of this money is being spent on the goods for which it was claimed.

One relatively benign explanation is that importers are stretching the definitions of permissible goods. For example, tuna LCs might be used to import other types of fish; sugar LCs used to import confectionary, and so on. Annex 2 explores some of these possibilities, comparing LC spend to wider sets of imports from previous years (indeed, the database actually contains LCs for several goods such as fruit, juice and flour, which do ***not*** appear on the CBL's list of approved items from April 2020).

The more sinister explanation, however, is ongoing financial crime, on a large scale and at the expense of Libyan state funds. Several well-placed Global Witness sources believed LC fraud remained rampant in Libya.[40] One source, a prospective trader, described being offered a deal to source sugar from Brazil at $250 per ton for import to Misrata at $400 per ton. However, this tidy profit came with a catch. The LC paperwork needed to show $800 per ton (on a revolving LC worth $2m per month for 12 months). This would have been a 100% kickback for the architects of the deal, paid for by the Libyan state. Our source declined the deal, but believed that such arrangements were common across sugar, flour, pasta, soya and other food imports, a *"big rotating cash cow"* for powerful interests in Libya.

Another source, a former employee of the CBL, described how meat and livestock imports were routinely manipulated. Importers would either falsify customs declarations by documenting more meat than was actually shipped, or import animals weighing less than the legal minimum. The original exporter invoices could be altered by inserting a shell company middleman in the deal. Either way the Libyan public foots the bill, handing out more foreign currency than the imported meat is worth.[41]

Several Global Witness sources believed these arrangements facilitated accumulation of funds overseas to provide financing for other purposes, such as import of goods not currently covered by the LC regime, reinvestment in Libya's parallel FX markets, or even procurement of weapons or other logistical support for the combatants fighting the civil war. Another possibility suggested to us was money laundering, in that LCs provided a means of converting dinars of questionable origin into foreign currency placed in international banks. Either way, this is cash from Libyan public reserves which could otherwise be going to infrastructure, health care and other services citizens so desperately need.

While the database does not definitively prove the LC system is being defrauded, we believe this is the most likely explanation for the significant discrepancies in relation to import levels from previous years. In response to Global Witness, the CBL strongly rejected this conclusion (we have included its statement in full below).

The scope for differing interpretations only highlights the need for full transparency around LC approvals in Libya. The database provides a strong baseline of evidence for further investigation into companies, bank branches and individuals receiving this money. Libyans should be in no doubt as to where their public money is going. To achieve that, full access to data is key.

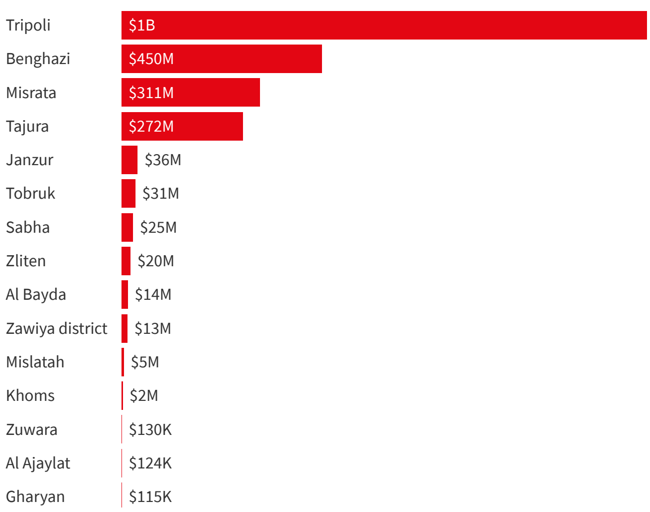
FURTHER CONCLUSIONS

GEOGRAPHY

We attempted to map the bank branches named in the database, successfully locating the destination of around 90% of the LCs. Predictably, bank branches in Tripoli received by far the most LCs, with $1.18bn. Next up was Benghazi ($450m) and Misrata ($311m), both major cities. The surprise fourth place was Tajura, a town on the eastern edge of Tripoli, whose banks received a whopping $272m, closing in on Libya's principal cities and well above no.5 on the list, Janzur, at $36m. This rate of LCs appears higher than expected given Tajura's population and economic importance within Libya. The only town in southern Libya to receive LCs was Sabha, at $25m.

CAPITAL GAINS

Bank branches based in Libya's capital, Tripoli, facilitated more than $1 billion in Letter of Credit applications between April and July 2020.



We could not confidently locate the branches in respect of LCs worth $123 million. Covers all published data between 16 April and 30 July 2020, excluding illegible releases on 25 June and 2 July. Values have been converted to US dollars using the most recent official exchange rates for the day of publication. Source: Central Bank of Libya

RECIPIENTS

Over the 13 weeks, more than 3000 LCs were approved to hundreds of different companies, including around 40 representatives whose companies received $10m or more. Predictably, the list included some prominent Libyan conglomerates that are major importers into Libya. More concerning were the sheer number of recipients we could ***not*** trace and who were not familiar to our sources, some of whom received millions in LCs. This is surprising: the strict capital requirements set by the CBL mean you needed substantial funds in your bank account to apply for an LC in the first place.[42] When significant funds are flowing to companies or people with little apparent presence in business circles, it raises questions as to whether some may be fronts for other powerful political, commercial or criminal interests, or financing LC applications with bank credit, which is supposedly against the rules.

BANKS

While 18 different Libyan banks received LCs, specific bank branches heavily dominated the trade. Nine branches accounted for over $1.5bn, more than half of the LCs in our database, with Tripoli and Benghazi branches sharing the top five spots. One well-placed source alleged that capital adequacy constraints were forcing eastern Libyan banks to ask their western counterparts to make LC applications on their behalf, a trend which could be inflating certain branches' totals. However, our information also suggests that at least 3 of the top 9 branches by LC receipt are in buildings or areas controlled by specific militia groups, which could indicate ongoing armed group predation on LCs.[43]

GOVERNMENT

The CBL's disclosures only cover private sector LCs, but the General Electricity Company of Libya nevertheless appeared in the database with LCs worth approximately $10m. As discussed further in part 2, we argue the CBL should make parallel disclosures of LCs to public authorities. CBL statements of income and expenditure record public sector LCs worth at least $185m between April and July, a substantial amount of cash.[44] Global Witness heard multiple unconfirmed stories of LCs being treated as public expenditure and exempted from the (then applicable) FX fees, only for the goods to be sold on the private market.[45] Libya's National Anti-Corruption Committee is currently investigating 3000 cases of state employees applying for LCs in favour of companies where they hold executive positions, according to Libya Herald reporting.[46]

THE CASE FOR OPEN DATA

In responses to Global Witness' queries the CBL rejected our findings, denying that any mismatches between LC values and historical imports would support allegations of fraud:

"For the avoidance of doubt, the Central Bank of Libya rejects the allegations made in their entirety and disputes that Global Witness has sufficient evidence to make those allegations, and has sought to provide as much information as it properly can to correct inaccuracies and support its position. The Central Bank of Libya is at the forefront of efforts to combat fraud, deprive terrorists of funding, and support the people of Libya in rebuilding their country." [47]

LC volumes declined significantly over August and September, dropping to around $135m per week in August and less than $50m per week in September. Only by 2021-2022 will we have full LC and trade data for 2020, and be able to see definitively how Libya's LC spend matched up to reported imports of goods.

Yet these fluctuations only underscore the need for full disclosure of LC data. The CBL's publications are a commendable starting point in that they are timely, public and free to access. Significantly, the CBL has also made consent to publication a condition of all LC applications, deftly cutting through all the flawed commercial confidentiality arguments Global Witness has spent two decades fighting against in other transparency campaigns.[48]

At the same time, the disclosures could be so much more than the lists of names and numbers on Facebook they currently are. The disclosures do not indicate which overseas companies receive the cash, which is crucial for tracking suspicious financial flows, and they are silent on public sector LCs. Inclusion of other company identifiers, such as business or client key registration numbers, beneficial ownership information and physical addresses would help separate legitimate businesses from shell companies "fronting" for other interests. In terms of format, by releasing structured, machine readable data in line with open data principles, the CBL could make the disclosures a far more powerful tool to allow Libyan citizens to see how their money is being spent. We set out full recommendations in Annex 1.

PART 2: FROM DOLLARS TO DINARS: THE MOST POWERFUL MEN IN LIBYA

Part 1 of this report examined Libya's recent private sector LCs from April to July 2020, and why we believe far more public cash has exited Libya than can realistically be explained by the imports for which it was claimed. Part 2 examines the situation for Libyan public authorities who use the LC system to pay for infrastructure, services and medical supplies from abroad, but whose LCs are not currently disclosed. These dynamics have shaped the balance of institutional power in Libya, leading to the current struggle between the GNA Government, National Oil Company and Central Bank over who controls the FX distribution system.

POWER STRUGGLE

Power shortages are emblematic of the shortcomings of Libya's infrastructural development. Outages can last days at a time and inflict chronic disruption on Libyan businesses and families across the country.[49] A key complaint in the protests that rocked Libya in August 2020, they pile hardship onto daily lives already wracked by pandemic and war.

In December 2015, Eastern Libyan power authority GAEREL finalised contract no.3 of 2015. For almost $490m, US-South African contractor USP&E would deliver, install and provide training on 15 emergency 25MW gas turbines.[50] Although the contracting process was criticised by the Libyan Audit Bureau, a contract was signed on 27 December 2015 in Bayda.[51]

By the time an LC was issued in November 2018, however, this was a vastly different deal.[52] Following a January 2017 amendment, USP&E would now deliver three Siemens SGT800 turbines for just over 166m Libyan Dinars (approximately $118m).[53] In 2018, the LC went to a company called "USPE-LY" based in Ras El Khaimah.[54] Despite its near identical name, USPE-LY was and is not part of the USP&E corporate group. It was actually owned by Jan Herre and Omar Allam, two former representatives of USP&E who helped negotiate the 2015 deal, but with whom USP&E cut ties in May 2016 over a separate matter.[55]

When Herre and Allam's relationship with USP&E broke down, in other words, they apparently sought to take the contract with them through their own company. Global Witness spoke with executives of both companies. USP&E executives allege the contract was fraudulently "hijacked", maintaining that USP&E is the correct contractor and that the 2017 amendment was agreed without their knowledge or their approval. Herre and Allam claim the deal was restructured through USPE-LY to comply with Libyan tax laws and with approval from Libyan authorities. They also claim USP&E was no longer able to implement the project, which is strongly denied by USP&E.

Women protest against corruption and poor living conditions in Martyr's Square, Tripoli, on 25 August 2020. Constant power shortages were a key grievance of the demonstrators. The placard includes a call to release youth leaders who were arrested during the protests. *NADA HARIB/Getty images.*

Excerpts of generator contract and SWIFT notification for LC, showing different companies as beneficiaries (highlighted in yellow).

State of Libya
Interim Government of Libya
Public Authority for Electricity and renewable energies

Contract No. (03) for the year 2015 on the supply and installation of15 units of Trailed Emergency Gas

On Sunday the 27th of December 2015, at the city of Baidaa
This contract has been concluded under the laws and legislation for development projects and accounts and under the terms of administrative contracts. The contract is considered within the development projects between:

1- Public Authority for Electricity and renewable energies
Herein after referred to as the First Party
Represented by the Engineer Abbas Mohamed Ali Abbas, CEO of the Public Authority for Electricity and renewable energies.

2- USP & E Company
Herein after referred to as the Second Party
Represented by the Engineer Omar El-Alam, holder of [redacted] Passport [redacted] in his capacity of Ceo of the mentioned company according to a legal authorization issued on November 10th, 2015.

WHEREAS the first party desires to implement the supply and installation of 15 units of Trailed Emergency Gas with a capacity of 25 megawatts per unit including full accessories,

The offer presented by the second party has been accepted according to Council of Ministers Resolution no. (534) for the year 2015 by adopting an accepted minutes dated November 21st, 2015 with the recommendation of the tenders committee of Public Authority for Electricity and renewable energies to accept the offer on November 9th, 2015.

Article (1)
Object of the contract

The second party is committed to the completion of work on the supply of 15 of Trailed Emergency Gas, with a capacity of 25 megawatts per unit including full accessories ,as stated by the company's offer, as well as to do training for national

```
-------------------------- Message Text --------------------------
 27: Sequence of Total
     1/1
40A: Form of Documentary Credit
     IRREVOCABLE
 20: Documentary Credit Number
     101LINF183250001
31C: Date of Issue
     181128
40E: Applicable Rules
     UCP LATEST VERSION
31D: Date and Place of Expiry
     191231LONDON
51A: Applicant Bank - FI BIC
     CBLJLYLX004
     CENTRAL BANK OF LIBYA
     (OPERATION DEPARTMENT)
     TRIPOLI  LY
 50: Applicant
     GENERAL AUTHORITY FOR ELECTRICITY
     AND RENEWABLE ENERGIES OF LIBYA
     AL ARUBA STREET BAIDA , LIBYA
     TEL:00218 69 463 84 27
 59: Beneficiary - Name & Address
     USPE-LY LLC, PO BOX 56184 BUILDING
     3, FLOOR 3 OFFICE 30/A ALMAMOURAH
     STREET ALNAKHEEL RAS AL KHAIMAH
     UAE,  TEL:+971 7 705 75 12
32B: Currency Code, Amount
     Currency        : USD (US DOLLAR)
     Amount          :          #110,002,103.20#
41A: Available With...By... - FI BIC
     ABCEGB2LXXX
     ABC INTERNATIONAL BANK PLC
     LONDON  GB
     BY MIXED PYMT
42P: Negotiation/Deferred Payment Details
     SEE FIELD 47A
43P: Partial Shipments
     ALLOWED
43T: Transhipment
     ALLOWED
44E: Port of Loading/Airport of Dep.
     ANY EUROPEAN , MIDDLE EAST AND/OR ASIAN SEAPORT AND/OR AIRPORT
44F: Port of Discharge/Airport of Dest
     ANY LIBYAN SEAPORT AND/OR  LIBYAN INTERNATIONAL AIRPORT

     SIGNATORIES WHOSE NAMES AND SPECIMEN SIGNATURES WILL BE SENT
     TO YOU BY FAX AND/OR ISSUED BY INSPECTION COMPANY IT'S
     NAME AND ADDRESS WILL BE SENT TO YOU BY SWIFT MSG.
47A: Additional Conditions
     ++ THIS L/C WILL BY INCREASED BY APPLICANT AND GENERAL ELECTRIC
     COMPANY TRIPOLI, LIBYA INSTRUCTION BUT NOT EXCEEDING CONTRACT
28/11/18-14:17:33         IBPDFcopies-3668-000001            3
     VALUE WHICH IS USD 116,228,679.25
     .
     TERMS OF PAYMENT AS FOLLOWS:-
     .
     + USD 103,086,496.79 COVERING SUPPLY OF GOODS PAYABLE AS
     FOLLOWS:-
     .
     + 15 PCT AS AN ADVANCE PAYMENT PAYABLE AGAINST SIGNED
     BENEFICIARY INVOICE AND LETTER OF GUARANTEE FOR THE SAME AMOUNT
     ADVISED THROUGH ANY LIBYAN COMMERCIAL BANK ACCEPTABLE BY
```

Changes to contract terms would typically be a red flag in public procurement deals, yet the change in company name does not appear to have been identified until 2019, by which time money had begun to be paid out under the LC. Global Witness has seen a range of documents related to the deal. While the documents show that various Libyan authorities approved the change to Siemens turbines, they indicate no recognition that "USP&E" and "USPE-LY" are different companies owned by different people. Rather, the company names are used interchangeably in communications between USPE-LY and by public authorities. Crucially, Allam's name appears on documents on behalf of both companies before and after cutting ties with USP&E in May 2016, giving an impression of continuity when in fact the contracted company was being changed.[56]

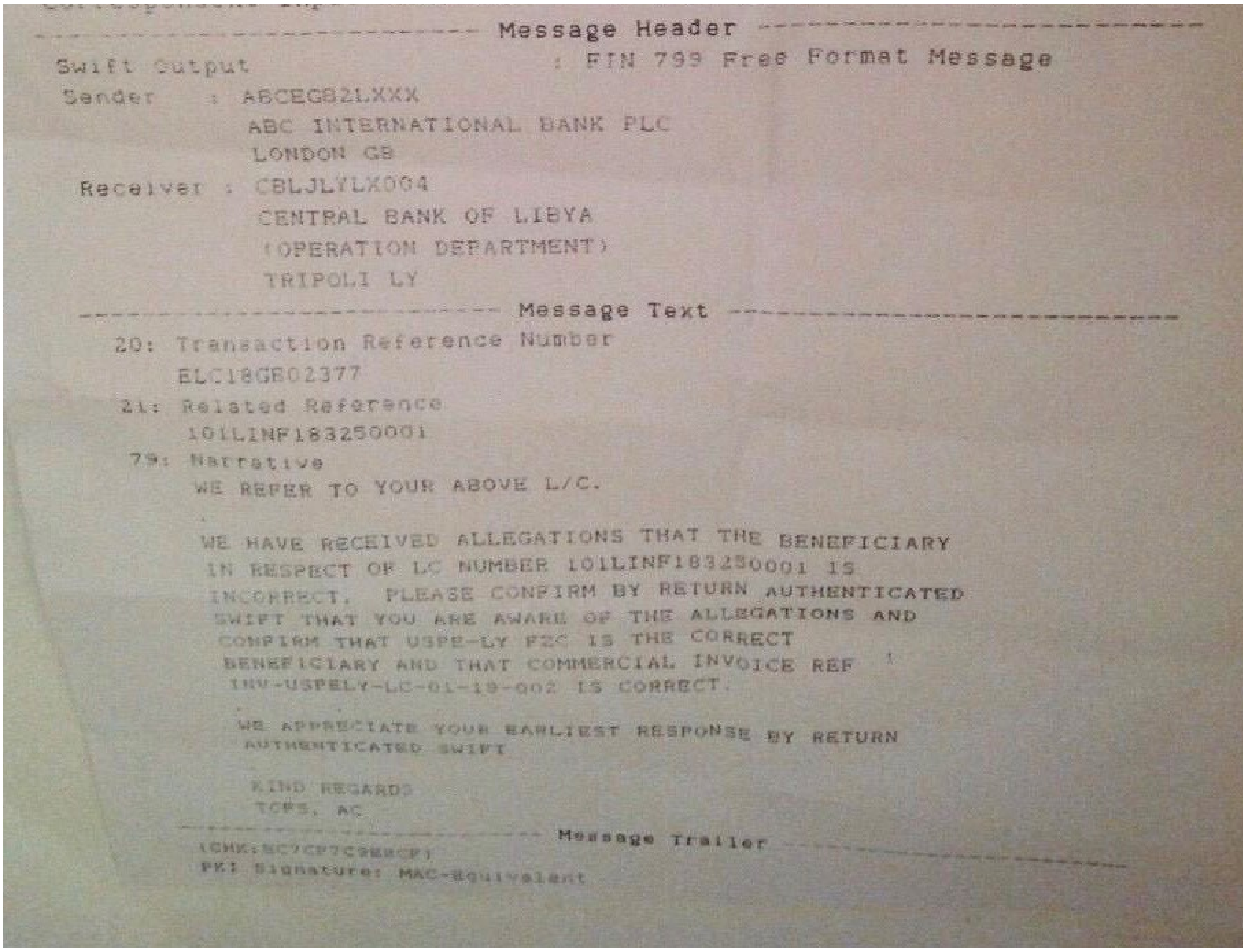
On 6 February 2019, London-based correspondent Bank ABC agreed to "confirm" the LC to the tune of just over $93.5m.[57] The LC beneficiary name was changed yet again, this time from "USPE-LY LLC" to "USPE-LY FZC". On 28 February, Bank ABC certified that all terms and conditions had been met in relation to just over $1m worth of credit.[58] USPE-LY appear to have drawn down these funds, informing Global Witness they were in respect of services USPE-LY had provided by that point.[59]

Libyan LCs must go through a "correspondent bank" for two reasons: First, Libyan commercial banks are unlikely to pass the compliance checks of European and US banks, making an intermediary necessary. Secondly, since 2016, the CBL has required commercial banks to prioritise correspondent banks within the CBL's own corporate network.[60] The correspondent bank acts as a go-between for the importer and exporters' banks for a fee; if "confirming" the LC, it commits to honour the transfer of funds even should the importer's bank fail to do so.[61]

Questions remain about the role of the CBL and Bank ABC in facilitating the deal and which company they believed they were dealing with. As described below, deal documentation (seen by Global Witness) indicates the CBL played an active role in the 2017 renegotiation. Two separate sources with direct knowledge of the deal informed us that a representative of Bank ABC met with USPE-LY to seek to get the deal over the line. The CBL declined to comment in detail about the USPE-LY deal, noting this would be inappropriate while an investigation was ongoing. Likewise, ABC noted client confidentiality prevented it from commenting in detail. It nevertheless stated that all transactions are approved by the relevant credit committees and that the Board (including its Chairman) is not involved in the identification and approval of individual transactions.

Bank ABC was originally notified of the USPE-LY LC by SWIFT message on 28 November 2018. It is unclear whether Bank ABC independently verified the beneficial owners of USPE-LY or identified the discrepancy to the original named contractor. Significantly, Bank ABC is far from independent from the Central Bank of Libya: as explored in Part 3, it is indirectly majority-owned by the CBL and its Chairman is the CBL Governor, Saddek Elkaber himself.[62] Based on the documents seen by Global Witness, Bank ABC first queried the beneficiary on 26 February 2019, after confirming 80% of the full LC value and after USP&E had written to them alleging fraud. Their reaction appears to have been to write to the CBL for clarification:[63]

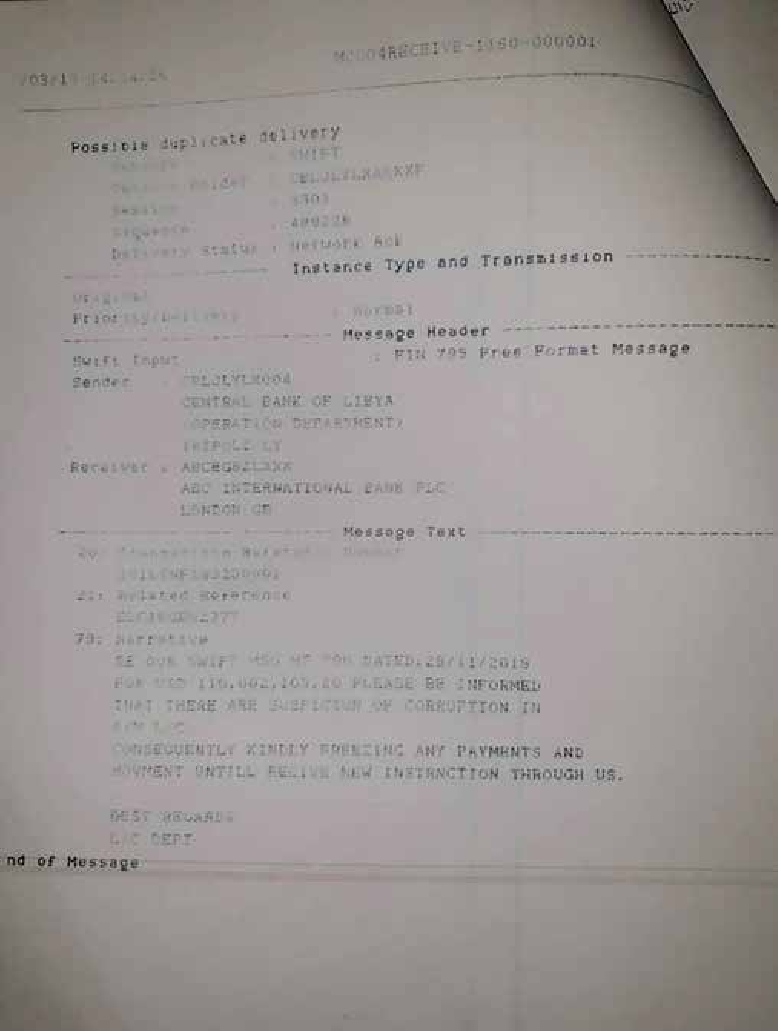
SWIFT message from Bank ABC to CBL to confirm whether the LC beneficiary is correct


--------------------------- Message Header ---------------------------
Swift Output : FIN 799 Free Format Message
Sender : ABCEGB2LXXX
ABC INTERNATIONAL BANK PLC
LONDON GB
Receiver : CBLJLYLX004
CENTRAL BANK OF LIBYA
(OPERATION DEPARTMENT)
TRIPOLI LY
--------------------------- Message Text ---------------------------
20: Transaction Reference Number
ELC18GB02377
21: Related Reference
101LINF183250001
79: Narrative
WE REFER TO YOUR ABOVE L/C.

WE HAVE RECEIVED ALLEGATIONS THAT THE BENEFICIARY IN RESPECT OF LC NUMBER 101LINF183250001 IS INCORRECT. PLEASE CONFIRM BY RETURN AUTHENTICATED SWIFT THAT YOU ARE AWARE OF THE ALLEGATIONS AND CONFIRM THAT USPE-LY FZC IS THE CORRECT BENEFICIARY AND THAT COMMERCIAL INVOICE REF INV-USPELY-LC-01-19-002 IS CORRECT.

WE APPRECIATE YOUR EARLIEST RESPONSE BY RETURN AUTHENTICATED SWIFT

KIND REGARDS
TOPS, AC
--------------------------- Message Trailer ---------------------------
(CHK:[illegible])
PKI Signature: MAC-Equivalent



Possible duplicate delivery

SWIFT

Delivery Status : Network Ack

Instance Type and Transmission

Message Header

: FIN 795 Free Format Message

Swift Input

Sender

CENTRAL BANK OF LIBYA

(OPERATION DEPARTMENT)

TRIPOLI LY

Receiver

ABC INTERNATIONAL BANK PLC

LONDON GB

Message Text

21: Related Reference

79: Narrative

RE OUR SWIFT MSG MT 700 DATED:28/11/2018

FOR USD 110,002,105.20 PLEASE BE INFORMED

THAT THERE ARE SUSPICION OF CORRUPTION IN

CONSEQUENTLY KINDLY FREEZING ANY PAYMENTS AND

MOVMENT UNTILL RECIVE NEW INSTRNCTION THROUGH US.

BEST REGARDS

L/C DEPT

nd of Message

SWIFT message from CBL to Bank ABC, freezing payments under the LC

Shortly after in March 2019, the CBL messaged Bank ABC instructing them to cease further payments on the LC *"on suspicion of corruption".*[64] The CBL claims to have identified issues with the LC, which it reported to its Financial Intelligence Unit for investigation. Sources close to the matter, however, suggested the CBL leadership was initially slow to act and it was the Financial Intelligence Unit that prompted action.

We understand the case has been investigated by Libyan authorities and, at time of writing, negotiations were ongoing to resurrect a version of the deal.[65] The correspondence shows Siemens actively pursuing the deal with USPE-LY as of early 2019, although they have informed Global Witness that they have since stopped their involvement and were unaware of any investigation. Herre and Allam responded in detail to our queries and strongly deny any allegation of wrongdoing. We made multiple unsuccessful attempts to reach GAEREL and the Libyan Attorney General.

Five years on from signing, Eastern Libya appears no closer to having the turbines and the electricity crisis is worse than ever, inspiring protests across Libya. This deal exposes both the vulnerability of the LC system and how stewardship of FX controls has historically placed the CBL between public authorities and public money, as well as raising questions about the due diligence expected from the CBL's correspondent banks. These are all strong reasons for the CBL to publish public sector LCs.

THE MOST POWERFUL MAN IN LIBYA?

LCs are ultimately a means of exporting money from Libya, an engine for turning dinars into dollars for which the CBL holds the keys. It has presided over a shifting mosaic of formalities, regulations and enforcement strategies.[66] During the period covered by our database, LCs were approved by a committee established by the CBL and the Ministry of Economy.[67] LC applicants were pre-vetted by various institutions and had to hold a "Client Key" before applying for any LCs. Anti-money laundering and counter-terrorist finance checks on specific LCs were the responsibility of the importer's commercial bank, with the CBL overseeing anti-money laundering ("AML") and counter-terrorist financing ("CTF") regulation in the banking sector as a whole.[68]

The CBL claims to execute payment orders received by the Ministry of Finance *"without exceptions"*, neutrally processing LC requests, referring suspicious activity to the CBL's Financial Intelligence Unit.[69] Yet, Global Witness sources described a different reality in practice, in which CBL leaders exercise significant informal power to decide who obtains LCs. One prominent Libyan businessman described Governor Elkaber as *"the most powerful man in the country"* as he controlled the foreign exchange deposits and *"could allocate letters of credit at will".*[70] Other sources with experience working for or advising Libyan public authorities gave similar accounts, with one experienced Libyan financial services industry professional telling us Elkaber had *"lots of influence on who gets letters of credit and who doesn't."*[71] The CBL denies this saying Governor Elkaber does not (and is not required to) review each LC application or issuance or make a decision in relation to the issue of an individual LC.

This question is fundamental to institutional power in Libya. While government ministers decide how their department spends its budget, the CBL has historically decided what projects are funded and when, placing its leaders firmly in the public procurement process. This dynamic is evident in the USPE-LY deal. Having signed the turbine contract in 2015, GAEREL then had to apply to the CBL for an LC.[72] The revised contract cites FX "liquidity" to justify the change of turbines and refers to a "*memorandum of understanding signed by the two parties and the Central Bank of Libya on the amendment of subject of the contract of the delivery and installation of 3 SGT800 stationary gas turbines",* agreed following a meeting between the contractors and the CBL.[73]

This is consistent with other information received by Global Witness. A former government minister recounted to us how a payment authorisation for professional support from abroad was stopped by the CBL without notifying their ministry. The first they had heard was when approached by foreign media about a missed payment. It was, in their words, *"very embarrassing as minister to be last to know and incapable of making that decision and being trusted abroad".*[74]

The CBL has also repeatedly clashed with the LAB around LCs, freezing them out of the LC database following criticism in the LAB's annual report for 2016.[75] The CBL later questioned the LAB's authority regarding LC issuance:

> *"…the [LAB] transgressed the Central Bank as well as the Public Prosecutor's competencies by interfering in Letters of Credit procedures and much more about which the Central Bank warned on more than one occasion […] the [LAB] has no power to freeze non-public bank accounts according to any law, whether its own law, the banking law nor the money-laundering law."* [76]

In November 2020, long-running tensions between Libyan institutions burst into an open power struggle for control of Libya's foreign exchange. Rejecting the CBL's allegations of revenue mismanagement, on 23 November the National Oil Company took the extraordinary step of cutting the CBL off from Libya's oil revenue, holding the petrodollars instead in the Libyan Foreign Bank (LFB), a CBL subsidiary. (A day later, a militia reportedly attempted to take control of the NOC headquarters in Tripoli, only to be headed off by a rival armed group.)[77] The Presidency Council meanwhile invoked a Gaddafi-era law to convene an assembly to appoint a new LFB board, a move branded illegal by the CBL.[78]

On 24 November, accusing the CBL of having failed to reactivate LC and other payment mechanisms, the Presidency Council authorised the import of goods without using CBL systems. In effect, this suspended Libya's capital and exchange controls, allowing companies to import goods using cash raised abroad. Facing an audit sponsored by the UN, in December 2020 the CBL convened its first full board meetings since the split of 2014, including officials representing both Eastern and Western Libyan authorities.[83] The board agreed to devalue the dinar to 4.48 dinars to the dollar, and in January 2021 the Libyan Government suspended the foreign exchange fee.[84] The move was welcomed by observers including UNSMIL as a way of stabilising the economy and curbing some of the abuses of the system. How this will impact the finances of families and small businesses across Libya remains be seen.[85]

CENTRAL BANKS AND FX CONTROLS

Central banks are public authorities who regulate money supply, commercial banking and credit in a country or group of countries.[79] In countries employing capital and exchange controls, however, they also regulate the export of cash from a country. While identifying priorities for scarce foreign currency remains the job of the Government, it often falls to central banks to oversee how the dollars and euros are handed out.[80]

Enthusiasm for FX controls has swung with the economics of the day. Post-war economists recognised how destabilising capital flows could undermine government policy and sought to embed capital controls in the IMF's founding articles.[81] With the rise of neoliberalism, free movement of capital – ie dismantling FX restrictions – became a condition of loans to indebted countries. Following the Global Financial Crisis of 2008-2010, the IMF was forced to acknowledge the success of FX controls in Malaysia, Brazil and elsewhere as a breakwater against turbulent financial flows, and now endorses them in certain circumstances.[82]

At time of writing, it also remained unclear whether the CBL would regain its monopoly on LCs and other FX distributions and what transparency and anti-corruption safeguards would be attached to that role. The stakes are high, with implications for the peace process and the commitments to revenue sharing which underpin it. Whoever controls foreign currency distribution is in a hugely powerful position in Libya, in both the commercial sector and within Government, potentially overseeing a near-monopoly over hard cash. As explored in part 3, CBL has historically controlled not only LC issuance, but also ownership of the correspondent banks overseas processing Libya's LCs. This is an extraordinary concentration of power.

The economic merits of FX controls are beyond the scope of this report which focuses on corruption risks. These measures create a funnel for public money and any authority handing this out should be transparent about where it goes.[86] Central Bank independence cannot mean immunity from oversight for direct distributions of cash. In Libya's case, accountability should certainly extend to management of the overseas commercial banks which form Libya's interface with the international financial system.

In July 2020, the IMF approved a new transparency code for central banks, which created a five pillar framework on transparency around central bank governance, policies, operations, outcome and official relations.[87] While the IMF correctly identified foreign exchange management and other cash handouts as a key area of concern, the recommendations focused on transparency around policy and eligibility criteria, stopping well short of disclosing who actually received central bank funds. The recommendations were also heavily caveated with commercial confidentiality concerns.

As set out at the end of this report, we recommend transparency around LCs and other mechanisms for accessing cash as a vital step to building trust in Libyan institutions and to create an expectation of disclosure, which may help deter future fraud. This should include public sector LCs and ideally be linked to disclosure of the beneficial owners of companies such as USP&E and USPE-LY who obtain public procurement contracts, in accordance with open contracting principles. This would leave no doubt as to who was receiving money and with what justification, as the company names would be obvious for all to see.

A man waits for customers at a livestock market in Tripoli during the festival of Eid al-Adha, 26 July 2020. The war, the pandemic and rising prices inflicted financial hardship on families across Libya in what is normally a time of peak demand. *NADA HARIB/Getty Images.*

PART 3: GATEWAY TO EUROPE

Part 1 of this report examined Libya's recent private sector LCs from April to July 2020, and why we believe far more public cash exited Libya than can realistically be explained by the imports for which it was claimed. Part 2 examined the situation for Libyan public authorities, who also must use the LC system to pay for infrastructure, services and medical supplies from abroad but whose LCs are not currently disclosed.

Part 3 explores the CBL's networks of correspondent banks overseas, which form Libya's interface with the international financial system. The vast majority of Libya's LCs flow through Bank ABC, a commercial bank indirectly majority owned by the CBL, which is based in London and whose Chairman is Governor Elkaber himself.

Central banks do not typically own commercial banks and we regard Governor Elkaber's chairmanships in Bank ABC as a serious conflict of interest with his duties at the CBL. Bank ABC insists that it operates independently of the CBL and has robust anti-money laundering and counter-terrorist controls, reflecting the additional risks in jurisdictions like Libya in which it specialises.

We make no suggestion that Bank ABC has broken any laws or regulations in its processing of Libyan LCs. Our concern is that prevailing standards of correspondent bank due diligence would not reliably identify fraud or armed group connections in LCs should they occur. Indeed, we believe loopholes in the UK's anti-money laundering and counter-terrorist financing rules – particularly around bank ownership – leave London wide open to the proceeds of crime.

"Correspondent Banking Relationships, if poorly controlled, can allow other financial services firms with inadequate AML/CTF [counter terrorist finance] systems and controls, and customers of those firms, direct access to international banking systems."

JMLSG Guidance, 2020[88]

The Central Bank of Libya, photo taken November 2015. *MAHMUD TURKIA/AFP via Getty Images*

THE CENTRAL BANK OF LIBYA'S INTERNATIONAL NETWORK

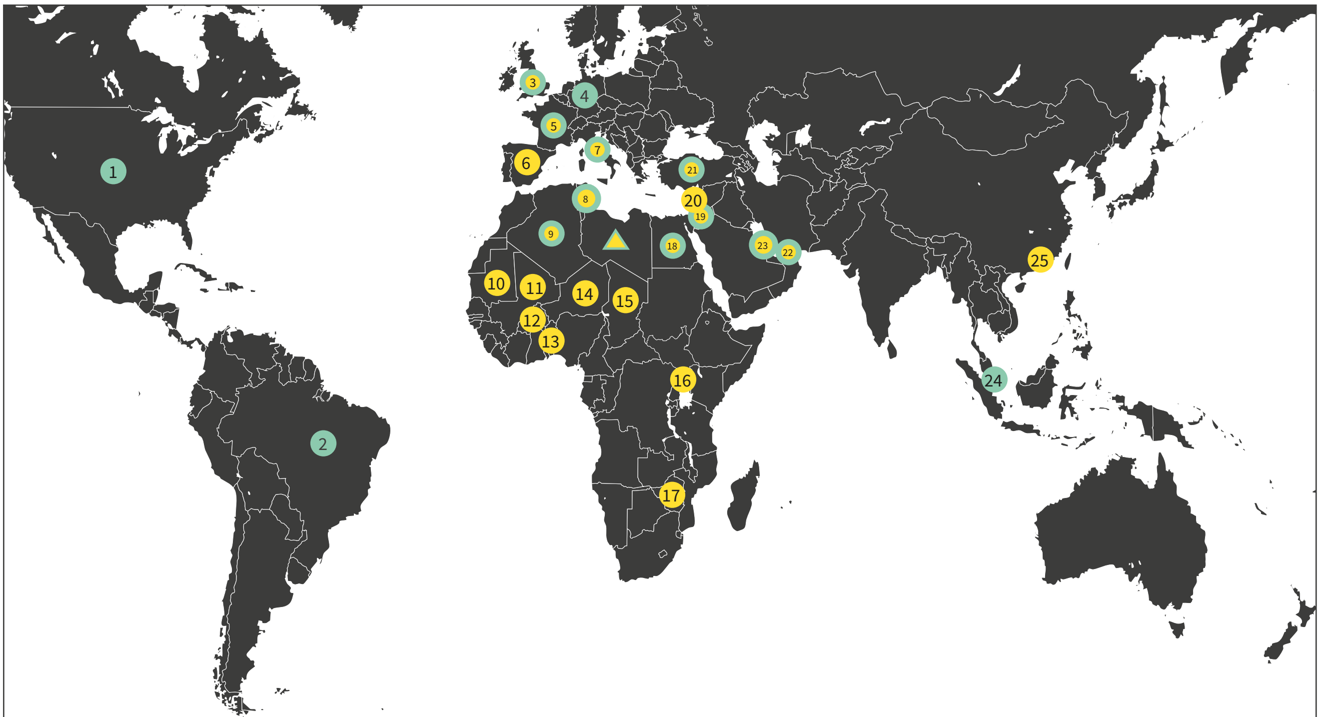
The CBL holds stakes in commercial banks across five continents. Each dot represents at least one direct or indirect interest, typically of 50% or more.[89]

LIBYAN FOREIGN BANK

100% owned by the CBL, the LFB holds interests in banks in at least 21 countries worldwide. Many offer correspondent banking services for the CBL group.[90]

BANK ABC

59.37% owned by the CBL, Arab Banking Corporation is based in Bahrain. Its trade finance hub is based in London.



Number	Bank
1	USA
2	Brazil
3	UK
	UK
4	Germany
5	France
	France
6	Spain
7	Italy
	Italy
8	Tunisia
	Tunisia

9	Algeria
	Algeria
10	Mauritania
11	Mali
12	Burkina Faso
13	Togo
14	Niger
15	Chad
16	Uganda
17	Zimbabwe
18	Egypt
	Egypt

19	Jordan
	Jordan
20	Lebanon
21	Turkey
	Turkey
22	United Arab Emirates
	United Arab Emirates
23	Bahrain
	Bahrain
24	Singapore
25	Hong Kong

THE ARAB BANKING CORPORATION

The Arab Banking Corporation was created in Bahrain in 1980, a Gaddafi-era bridge to the international financial system.[91] The CBL now owns 59.37%, having built its stake through share purchases from 2008 to 2010.[92] The group's European headquarters was traditionally London ("Bank ABC"), overseeing operations in Istanbul, Milan, Frankfurt and Paris, although in October 2020 the latter three moved to a new French subsidiary.[93] Bank ABC benefits from generous funding from the CBL, which provided Bank ABC with deposits worth £1.2bn in 2019, half of the total deposits for that year,[94] and a £50m loan in 2015.[95]

WHAT IS CORRESPONDENT BANKING?

Correspondent banking is one bank providing services for another. For a fee, the "correspondent" bank helps the "respondent" bank to provide its customers with cross-border services it cannot provide itself, often due to lack of an international network.[96] In LC deals, the correspondent bank may "confirm" the LC, agreeing to pay the seller on delivery whether or not the importer's bank honours the deal.[97]

Highly unusually for a Central Bank, the CBL owns networks of banks providing correspondent services, which shuttle group money across continents. ABC Group is one. The other is the Libyan Foreign Bank, which holds interests in banks in at least 21 countries worldwide. While the LFB's banks appear to shuttle significant amounts of cash across borders for each other and their clients, the Libyan LC trade is dominated by Bank ABC.]

According to multiple sources, ABC Group banks act as correspondent bank on the vast majority of CBL LCs. One Libyan banker described ABC Group as handling *"the lion's share"* of the Libyan LC work, while a Libyan businessman and government adviser believed the bank received "nearly 100%" of Libyan LCs.[98] Overall, trade finance made up 66% of Bank ABC's 2019 revenues.[99] Much of this appears to originate with the CBL, although Bank ABC informed us that Libyan LCs account for less than half of client revenue.[100]

This arrangement is highly unusual for a number of reasons. First, central banks do not typically own commercial subsidiaries, less still ones they are trading with. Second, Governor Elkaber's dual roles appears to be a clear conflict of interest. As Governor of the CBL, he oversees the LC approvals process, while as Chairman of Arab Banking Corporation in Bahrain and Chairman of Bank ABC in London, he holds paid directorships in a commercial bank profiting from those LCs. Multiple sources referred to Governor Elkaber receiving substantial bonuses from one or more of his chairmanships, although we could not confirm the amount.[101] The CBL has previously acknowledged Governor Elkaber receiving *"benefits and bonuses"* for his positions on *"ABC and ABC London"* in line with those banks' remuneration policies.[102]

This matters because the interests of ABC Group and the Libyan state will not always align. The most obvious example is around ABC Group's fees for its services, which one Global Witness source suggested were higher than standard European banking fees. Whatever the cost, it will be priced into quotes for goods and services to Libya, raising the import bill for Libyan businesses and public authorities.[103]

The CBL has previously defended its relationship with Bank ABC on the basis it is a subsidiary of the CBL and its success is in the Libyan public interest:

"If we assumed that favouritism occurred, it is worth mentioning that there are old instructions that prioritise banks with Libyan contributions [...] the success of the Arab Banking Corporation in which Libya is the largest shareholder, is not considered a personal success of the Governor, since he is the Chairman, but it is direct profit for the Libyan banks. Therefore if any preferential treatment exists, it is justified to serve national interests." [104]

Arguably, there is a logic to a state seeking to control its own interface with the global financial system. The question is the extent to which ABC operates independently as a commercial bank, or is accountable to elected Libyan authority for its stewardship of the generous funding it receives from the CBL. Currently, the CBL claims to manage its overseas banks with near complete autonomy. In the CBL's words, *"there is no basis that would oblige the Governor or any other member of the Central Bank's board to seek authorisation from the Legislative Authority that appointed them, to represent the Central Bank i.e. in management of ABC Group]".*[105]

THE MANY SPONSORS OF ABC

Global Witness has encountered Arab Banking Corporation before. In 2011, we reported how it held over $1bn for the Libyan Investment Authority, a sprawling repository of state investments widely regarded as having been a slush fund for the Gaddafi family:[106]

"We are calling on others with additional information to go public on Libya's other assets too or to tell us where to find them. It's the money of the Libyan people and they deserve to know where it is." Global Witness founder Charmian Gooch, 2011.[107]

Yet the CBL was not the only central bank funding ABC.[108] The same year, Senator Bernie Sanders exposed how ABC Group had received at least 46 loans from the US Federal Reserve from 2007 to 2010, worth more than $26bn and sometimes at less than 1% interest, all before Gaddafi had been forced from power.[109] During the Arab Spring Revolution, the bank was exempted from international sanctions by authorities in both UK and USA.[110]

"It is incomprehensible to me that while creditworthy small businesses in Vermont and throughout the country could not receive affordable loans, the Federal Reserve was providing tens of billions of dollars in credit to a bank that is substantially owned by the Central Bank of Libya" Senator Bernie Sanders, 31 March 2011.

DUE DILIGENCE?

Bank ABC processes, therefore, hundreds of millions of Libyan LC money every year. The obvious question is whether its Anti-Money Laundering (AML) and Counter-Terrorist Finance (CTF) due diligence is sufficiently independent and robust to separate legitimate LCs from those that are compromised by fraud or armed group predation – i.e. the proceeds of crime.

Under UK and European law, financial institutions accepting money must do a range of compliance on any funds they accept: this includes "know your customer" checks on the customers, anti-money laundering checks – a risk-based analysis to identify proceeds of crime disguised as legitimate income – and counter-terrorist and sanctions checks to ensure the institutions are not dealing with proscribed entities.[111] Responding to Global Witness' queries, Bank ABC highlighted the fact it is regulated by UK's Financial Conduct Authority and Prudential Regulation Authority and that its controls reflect the "higher risk elements" associated with trade finance and the jurisdictions in which it transacts:

"Bank ABC is among several financial institutions participating in any transaction involving letters of credit. Each institution has an important and independent role, and its own legal and regulatory obligations. Bank ABC takes its anti-financial crime obligations very seriously and takes care to comply with applicable regulatory requirements and international best practice, including Guidance issued by the Joint Money Laundering Steering Group and the Wolfsberg Group, ICC and BAFT Finance Principles. Its system and controls are routinely reviewed and regular training is provided to all staff to reinforce Bank ABC's commitment to mitigating the risks of financial fraud."[112]

The CBL's LC disclosures do not specify the correspondent bank so we do not know how many of the database LCs involved Bank ABC. We have limited evidence as to whether Bank ABC's current due diligence processes are stronger or weaker than other UK banks of its size. Rather, our question is whether UK due diligence standards would reliably catch the LC abuse seen in Libya. Based on a detailed analysis of AML regulations and guidance, we have three grounds for concern.[113]

Our first concern is that, under UK law, correspondent banks' AML and CTF checks focus on the partner bank, not the companies paying and receiving the money.[114] Having conducted "customer due diligence" on each new banking partner,[115] correspondent banks can rely on the partner bank's due diligence on its customers.[116] This means UK correspondent banks confirming an LC may not have investigated the companies involved in the deal, beyond screening for sanctions or adverse media.

"There is no expectation, intention or requirement for the correspondent institution to conduct customer due diligence on its respondent institution' customers." FATF Guidance on Correspondent Bank Services, 2016, para. 3.

Bank ABC acknowledged that its "customer due diligence" would focus on the partner bank, but emphasised it also conducts "transactional due diligence" on the deal itself and the applicant and beneficiaries of LCs.[117] This included checking company registration, checks online of business, unit price, shipping routes, bills of lading and sanctions checks. (Bank ABC also noted that the majority of its LC beneficiaries were based in the EU, implying some reliance on customer due diligence processes by banks in Malta, Spain or other EU jurisdictions we understand to be popular among the Libyan diaspora.)[118]

While this additional due diligence is positive, we believe identifying fraudulent LCs by these methods would be challenging, to say the least. The LC database records more than 3000 LCs to hundreds of separate companies over 13 weeks, all for a maximum of $3m and for the same 51 goods. As noted in the Wolfsberg principles, *"For Documentary Trade transactions, it should be recognised that it is difficult, if not impossible to introduce any standard patterning techniques in relation to transaction monitoring processes or systems,"* largely due to the reliance on paper documents in global trade.[119] Identifying connections to armed groups would be more challenging still, requiring mapping the ownership of the overseas partners on LCs and patterns of trade.

Logo and building of Bank ABC. *John Keeble/Getty Images*

This leads to our second concern, that UK's AML regulation effectively asks Bank ABC to assess its own parent bank. "Customer due diligence" in correspondent banking involves assessing AML and CTF regulation in the partner bank's home country. For Bank ABC's Libyan partners, that regulator is Bank ABC's ultimate parent, the CBL.[120]

That the CBL spearheads AML regulation in Libya is no secret: indeed, the CBL's response to Global Witness emphasised its achievements in this area. It cited the CBL's efforts in ensuring Libya's adherence to FATF guidelines, crafting Libya's 2017 AML/CTF law, engaging with industry and participating in FATF's North Africa and Middle East operation.[121] The chair of Libya's National Anti-Money Laundering and Counter-Terrorist Financing Commission is Governor Elkaber himself.[122]

This means any criticism of AML/CTF supervision in Libya would be a criticism of the CBL and its leadership. For many LCs, moreover, Bank ABC's partner bank may literally be the CBL. It holds controlling interests in Jumhouriya bank and other Libyan banks issuing LCs in our database.[123] For public authorities, the CBL issues LCs directly to the correspondent banks.[124] The USPE-LY LC is an example.

This could mean that Bank ABC is doing due diligence on its own parent. As Bank ABC is chaired by the CBL Governor and relies on the CBL for a substantial part of its LC business and funding, it is hard to see how this could be a completely objective determination. In its replies, Bank ABC pointed out that its board (including its Chairman) are not involved in the identification and approval of individual transactions. We found nothing in the UK regulations dealing with this eventuality and the Financial Conduct Authority did not respond to our queries.

"As the Correspondent often has no direct relationship with the underlying parties to a transaction, it is reliant, among other things, on the AML controls of the Respondent to prevent the underlying parties from gaining access to the UK financial system for the purposes of money laundering or terrorist financing." FCA decision regarding Standard Chartered Bank, 2019, para 4.18, p.8.

Our third concern is that the EU and the Financial Action Task Force do not currently designate Libya as "high risk" for money laundering purposes.[125] An updated list including Libya was proposed by the European Commission in February 2019, but rejected by the Council.[126] Ironically, Bank ABC does treat Libya as a high-risk jurisdiction, meaning the CBL's own network attaches greater money laundering risk to the Libyan banking system than the UK does.[127]

Libya's absence from lists that include Botswana, Ghana and Jamaica is difficult to square with the findings of the UN and others. As described previously, there are well documented cases of Libyan armed groups threatening commercial bank managers and businessmen to extort LCs and other services, and of extensive LC fraud.

This matters for the UK because these payments are flowing through London banks. Correspondent banks are an essential connection to international finance for Libya, without which vital imports of food, medicine and services would grind to a halt. Yet, there are huge question marks around both the supervision of Libyan LCs and whether the UK's prevailing AML and CTF due diligence standards would reliably identify LCs compromised by fraud or armed group predation.

Financial sector due diligence is London's principal defence against illicit money entering the UK's financial system. Yet correspondent banking has been at the heart of some of the biggest banking scandals of the last decade, from Deutsche bank's involvement in the "Russian laundromat", which saw $20.8bn of Russian money laundered into the EU via Moldova,[128] to HSBC's $1.9bn fine for failing to prevent Mexican cartels from moving money through their systems.[129]

"Your only relationship is with the bank and the bank itself has the responsibility to check its own client to monitor the transaction and to do all these kinds of checks." Deutsche bank, as reported by Bloomberg News, 6 December 2018.[130]

As shown by this report and other recent Global Witness investigations on Congo and Syria,[131] we believe a reassessment of money laundering and conflict finance risk in "correspondent bank" relationships is urgently needed, taking account of banks' ownership and funding, if the UK is serious about closing its financial borders to the proceeds of organised crime.

Buildings near the harbour of Libya's eastern city of Benghazi, November 2020. *ABDULLAH DOMA/AFP via Getty Images*

CONCLUSION AND RECOMMENDATIONS

FULL TRANSPARENCY AROUND LIBYA'S LCS

The Central Bank of Libya should build on its disclosures of LCs to date, continuing to make LC data available in a timely and free-to-access fashion, but extended and improved as follows:

- Publish data in a machine-readable format and using unique identifiers, in line with the technical recommendations in Annex 1 of this report
- Disclose the overseas companies selling goods bought using LCs, as a means of identifying suspicious patterns of behaviour and deals which are potentially fraudulent or indicative of money laundering
- Disclose LCs to public authorities
- Disclose which correspondent banks are confirming LC deals
- Link LC disclosures to publicly accessible registries of the beneficial ownership for all companies involving LCs or public procurement contracts, making compliance with the beneficial ownership disclosure regime a condition of receiving an LC

FOREIGN EXCHANGE GOVERNANCE

At time of writing, relations between Libyan public authorities were evolving and it was unclear how institutional responsibility for foreign exchange management, governance of Libya's overseas assets and other elements of financial management would be apportioned. We argue that transparency around public finances should be embedded as a key principle within peace negotiations, applicable to whichever public authorities emerge with these responsibilities, in order to build trust in Libyan institutions and to create an expectation of disclosure which will help deter future abuse.

- Embed a commitment to transparency and public access to information in any peace settlement
- Require detailed disclosures of public spending and investment of public funds, including public breakdowns of ministry expenditure and full details of overseas investments held by Libyan public authorities
- Use the LC database as a tool to investigate possible fraud or abuse of the LC system

CBL OVERSEAS SUBSIDIARIES

The Libyan Government should reform management of the Central Bank of Libya's overseas network of subsidiaries:

- End the practice of senior CBL officials holding directorships in commercial banks overseas, separating responsibility for management of CBL-owned overseas banks from the economic and regulatory supervision functions of the CBL
- Establish robust accountability mechanisms for management of the CBL's investments in overseas commercial banks, including robust conflict of interest provisions for Libyan state representatives on the banks' boards, publication of objectives for those nominees and a transparent mechanism for their appointment and removal
- Enforce existing restrictions against public officials holding posts in profit-making commercial enterprises
- Ensure full CBL compliance with the UN-sponsored audit, which should include the CBL's entire portfolio of investments overseas

CORRESPONDENT BANKING

The UK Financial Conduct Authority and Prudential Regulation Authority should develop robust regulation of correspondent bank activity in the UK, including as it relates to parent or controlling entities:

- Regulate to ensure UK-based correspondent banks are not permitted to rely solely on customer due diligence conducted by their parent banks or controlling entities (on the basis that an assessment of such a respondent entity's procedures is unlikely to be an objective or independent determination)
- As a minimum, regulate to ensure that any transactions between a UK correspondent bank and other group bank should be treated as "High Risk" for money laundering and counter-terrorist finance due diligence purposes (reflecting possible internal pressure to approve correspondent bank business between intra-group entities)
- Develop safeguards to ensure the independence of UK correspondent bank's due diligence when dealing with a parent or controlling entity
- Overhaul the UK's Suspicious Activity Report regime

to ensure SARs by UK correspondent banks are fully investigated and collectively analysed to identify suspicious patterns of behaviour or concentrations of risk

- Introduce a concept of "conflict finance" due diligence in correspondent banking, requiring correspondent banks to identify transactions involving entities or individuals connected to combatants in armed conflicts (whether or not currently under sanction) and assess the risk that transferred funds may be fuelling conflicts overseas.

- Require all banks operating in the UK to publish their full ultimate beneficial ownership

CENTRAL BANKING

There is a clear need for greater transparency and oversight around public funds handed out by central banks to businesses, public authorities and individuals in their countries. This principle should apply whether the handouts take the form of foreign reserve disbursements, bank bailouts, liquidity injections or bond purchase schemes, with particular emphasis where a Central Bank injects money into the economy via private, profit-making entities.

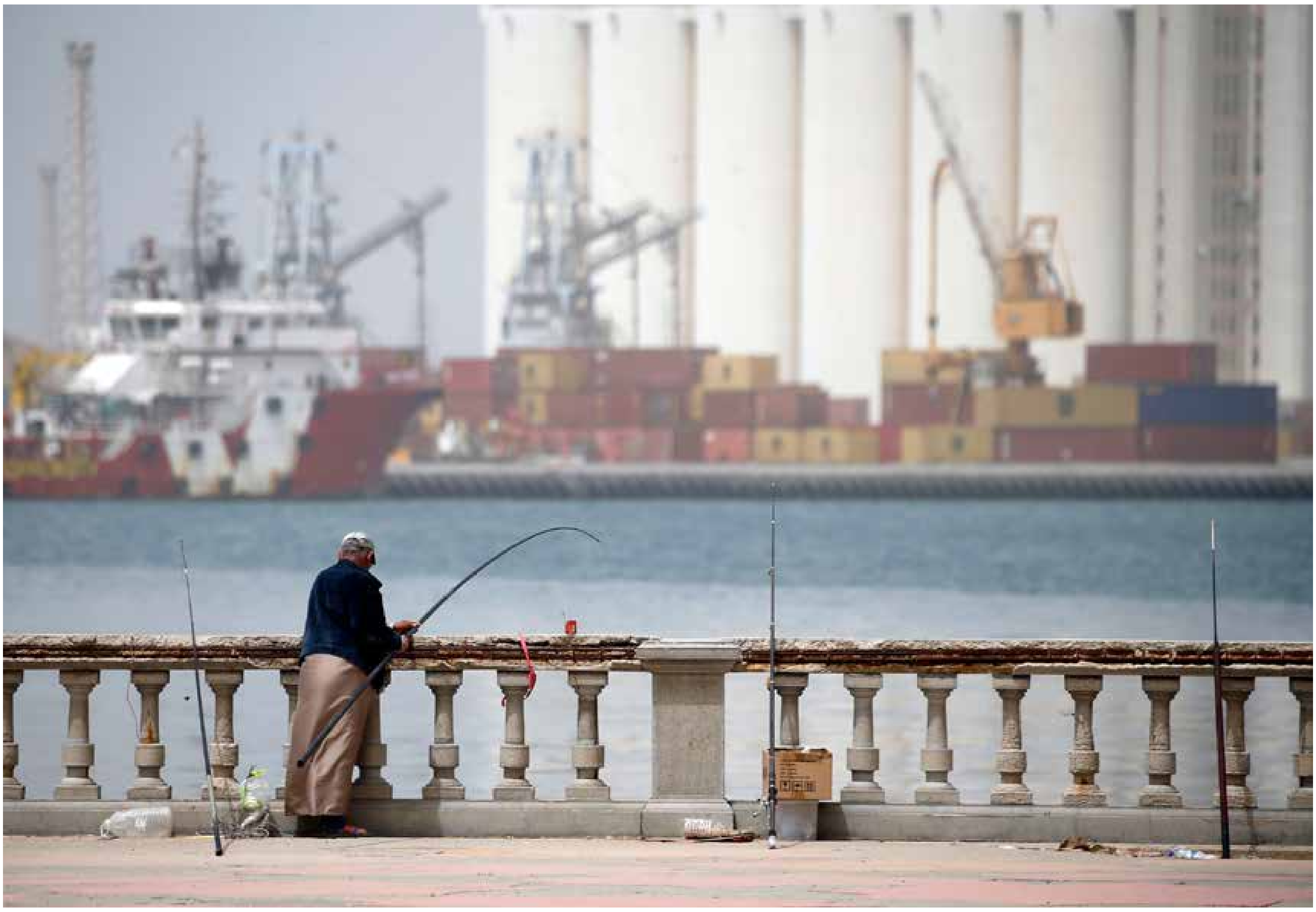
- Central banks should make detailed disclosures of all funds distributed to private and public sector entities, including the terms on which the funds were disbursed (applying open contracting principles). Private sector recipients should disclose beneficial ownership, including details of politically exposed persons) as a condition of receiving funds, and these disclosures should be published.

- International regulators such as the Bank for International Settlements, the IMF and World Bank should develop a robust transparency protocol to ensure public visibility over funds distributed by central banks worldwide. This should go beyond publishing decision-making and eligibility criteria, to allow citizens to track who is receiving any funds disbursed.

SANCTIONS

UK and EU authorities should enact sanctions against any Libyan individuals or armed groups found to have been complicit in human rights abuses or corruption, under existing sanctions authorities and other available means.

A Libyan man fishes on the seaside promenade opposite Tripoli's main port on 22 April 2019. *MAHMUD TURKIA/AFP via Getty Images*



ANNEX 1 – HOW WE DID IT…

The CBL deserves some credit for publishing LC data. It is free to access, timely, and doesn't come with any restrictive terms and conditions. Still, the format and content of the data create unnecessary hurdles for individuals and organisations seeking to analyse it. This fits a pattern familiar from government data around the world, which is often obscure and difficult to use. The authorities claim transparency while the data gathers dust on a digital shelf.

Without a well-resourced data investigations team and skilled translators and researchers to hand, Global Witness would not have been able to extract the insights we have. This post sets out what's wrong with the data from Global Witness's perspective, how we overcame the challenges it presents, and what the CBL and other authorities should do if they want to provide real transparency in future.

Problems with the data

Published on Facebook…

Each weekly release of LC data is posted on the CBL's Facebook page. Facebook is more widely used in some countries than the web in general, and is perhaps more likely to remain accessible than a website hosted independently by the Libyan government. Even so, publishing official CBL data on a page owned and ultimately controlled by Facebook leaves information belonging to the Libyan people at the mercy of a Californian technology company, and restricts access to the data to those familiar with and willing to navigate a social media platform.

...as pictures of spreadsheets…

The data is provided as images of spreadsheet tables. Users aren't able to search, organise and analyse the data as they would with a real spreadsheet. This is particularly egregious as the data is clearly held by the CBL internally in a structured database. Adding to the problems, the images released by the CBL vary in quality, with the Arabic text in at least two of the weekly releases covered by this report being too blurry to read accurately, even by a skilled translator.

...without precise dates…

Each data release covers an entire week, making it difficult to standardise amounts of money given in LCs precisely. Due to fluctuating exchange rates, an LC for one million Tunisian dinars issued on a Monday may be worth a different amount in US dollars from one issued the following Sunday.

...or unique identifiers!

Company representatives are each assigned a uniquely identifying number by the CBL internally. Despite this, they are listed in the disclosures by name only. Given the tendency of Arabic names to be written in a number of varying forms with changing middle names, this frustrates analysis, making it difficult to, for example, determine the total amount of money secured by a given representative. The same issue applies, to a lesser extent, to the names of bank branches and companies given in the data.

How Global Witness overcame them

In order to analyse the CBL's LC data, the data investigations team at Global Witness followed a six-step process:

1. Download the images from Facebook and archive them, making sure they remain available for analysis even if later deleted by the CBL or taken down by Facebook itself.

2. Extract the data from the images. This was done using a piece of software called ABBYY FineReader, which specialises in optical character recognition (OCR). Given a set of documents as images or PDFs, along with an indication of the source language (Arabic in this case), FineReader will attempt to extract text and tables from them, saving the results in a variety of formats: Microsoft Word documents, spreadsheets, etc. A good free alternative to FineReader for extracting tables from documents is Tabula.

3. Work closely with a professional Arabic-to-English translator to clean up transcription errors in the output from FineReader and translate the results into English. To make the results more reliable, and to save on costs, the spreadsheets were broken down into a list of unique values for each cell (e.g. a list of all individual banks mentioned), with each one given to the translator only once, ensuring that further inconsistencies wouldn't be introduced in the translation process.

4. Automatically convert all the amounts given for LCs to US dollars using the relevant exchange rates published by the CBL.

5. Manually group inconsistent elements of the data – e.g. differing representative names or food items – into broader categories, to facilitate analysis.

6. Produce a series of summary tables, charts and maps to drill down into the data and to provide a basis for further research.

Recommendations for future publications

Truly open data allows citizens, journalists, non-governmental organisations (NGOs) and other stakeholders to properly scrutinise governments, creating a check on their behaviour through a strong civil society. A good example is the Open Contracting Data Standard (OCDS), which provides a format for publishing contracting data that has been adopted by countries on every continent, and has led to major news stories in the UK.

Today, we're publishing the outcome of our work as an easy-to-use spreadsheet, but to make this data a truly powerful tool for tracking Libya's LC money, the CBL and other authorities should:

- Publish data on an independent, authoritative website accessible from the public internet, rather than a walled-garden social media platform like Facebook.

- Use an open and machine-readable format. A good example is a CSV file, which can be used as a spreadsheet or easily fed into more sophisticated tools for statistical or other analysis.

- Include exact dates and unique identifiers where they are applicable and available. This allows those analysing the data to be precise in their conclusions, and – when the identifiers are widely used elsewhere – to combine the data with information from other sources.

- If applicable, structure the data according to an open standard like OCDS, so that it can be matched up with data from other countries to create international comparisons.

- Mostly importantly, follow a consistent format in publication, so that data published one month will remain comparable with data published the next.

To make the content of its published LC data even more useful, the CBL should consider including the following specific elements:

- Details on the overseas companies selling the goods which are bought using LCs. At present, the data only includes details of the importing company.

- Further details on the importing company, for example an address and a company registration number and beneficial ownership information.

- The unique identification number given to each company representative internally by the CBL, allowing LC applicants to be distinguished easily.

- The SWIFT code for each bank branch listed, allowing automatic matches to location data and other information.

- Details of which correspondent bank has confirmed the LC.

- Extend disclosures to include LCs issued to public authorities.

ANNEX 2 - METHODOLOGY

Global Witness' Libya Letters of Credit database is derived from weekly lists of successful private sector LC applications published by the Central Bank of Libya on Facebook between 16 April and 30 July 2020. Global Witness has not verified the information and therefore cannot guarantee its accuracy.

The Arabic data has been electronically transcribed from the CBL's original publications and manually corrected to reflect the original disclosures. The English translation separates the bank, branch and currency columns for comparison purposes, with the categorisation of goods and locations of bank branches reflecting Global Witness' original research. The dollarized LC values are based on the CBL's official exchange rates for the day on which the LC was disclosed.

We do not intend to suggest or imply that any persons, companies or other entities included in the Libya Letters of Credit database have broken the law or otherwise acted improperly. This work is published under the Creative Commons ShareAlike 4.0 International License.

FURTHER DETAIL

Language: The Arabic language database reflects the original disclosures as closely as possible. The English language database reflects Global Witness' own translation of the Arabic original. We have not corrected inconsistencies in the original disclosures, for example, certain recipients appearing under multiple variations on their names.

Missing weeks: LCs worth an additional $344m were approved during the missing weeks in June, bringing the total to $2.83bn, giving an average of approximately $189m per week. We were able to extract the values of the LCs, but not the accompanying recipient, bank or branch data. Rather than introduce blank fields in the database, we decided to exclude those weeks entirely.

Locations: The analysis of LC distribution by city reflects Global Witness' open-source research to identify the city in which each bank branch was located. Where we were not confident of the location of a particular branch, this was excluded from the city totals.

LC categories: For the purposes of comparison, we separated the different imports into broad categories of import type, replicating as closely as possible the CBL's own categories as published in its LC regulations.

Historical imports: To determine the historical rates of imports into Libya of the relevant goods, we used the UN-compiled trade data from Comtrade, supplemented with the Observatory of Economic Complexity. As Libya does not currently report to the Comtrade system, only export and re-export data to Libya was available. At time of writing, only partial data was available for 2019.

Additional information on meat: The database includes LCs worth $22m whose descriptions covered both frozen meat and livestock. We have included these LCs in the totals for meat. Even if we were to split this value evenly between meat and livestock, we note that the value of meat LCs would still exceed the Comtrade totals for 2018 and the 2016-2018 yearly average.

Additional information on sugar: It is not clear how wide a category of goods the CBL permits to be imported under the heading "sugar". We have cited the UN's figures for raw sugar imports only. Were we to include UN imports of confectionary, the 2018 total would be $347m and the 3 year average would be $271m, which is closer to the levels of LC spend.

Additional information on tomatoes: We believe the Comtrade figure should be treated with caution, as it includes $333m worth of processed tomato exports in 2016: a clear outlier, at more than double the value of imports for any other year from 2014 to 2018. The average for 2014, 2015, 2017 and 2018 was $135m, an average of $2.6m per week which is comparable to the 2018 figures.

Further notes on sample commodities

Commodity	LC database notes	Import code
Tuna	Including "tuna", "canned tuna" and "tuna in sunflower oil"	HS160414, HS30231, HS30235, HS30239, HS30341, HS30342, HS30349, HS30487
Cooking oil		HS1507-HS1510, HS1512-HS1515
Fresh and frozen meat	Including every category of fresh and frozen meat import in the database, but excluding livestock, fish and animal products such as dairy	HS02, HS1601, HS1602, HS1603
Barley		HS1003
Sugar		HS1701, HS1702, HS1703, HS121293
Wheat	Including "soft wheat", "hard wheat" and "wheat"	HS1001, HS1103, HS1109, HS230230
Corn		HS1005, HS110313, HS110423, HS110812, HS230210
Processed tomato	Including "tomato puree" and "concentrated tomato"	HS2002
Rice		HS1006
Tea		HS0902, HS2101

ENDNOTES

1 Confusingly, company websites refer to "Bank ABC" to describe both the Bahrain-based parent bank (Arab Banking Corporation B.S.C) and its London subsidiary (ABC International Plc), which has historically been the group's principal hub for trade finance operations. The chairman of both banks is CBL Governor Saddek Elkaber. The corporate relationship is described in detail in part 3 of this report. We use "Bank ABC" to describe the London operation, unless otherwise stated.

2 As well as LCs, approved mechanisms include documentary collection, a system for financing imports overland which has been suspended and reactivated at various points over recent years; personal transfers, fast transfers and pre-loaded visa cards, which allow individuals to withdraw or make payments using dollars overseas, and the family allowance to each Libyan family. Confidential analysis shared by international diplomatic source, copy on file with Global Witness; also Chatham House, 2018, *"Libya's War Economy: Predation, Profiteering and State Weakness"* and *CBL Economic Bulletin Q4. 2019*, table 30., 2018

3 This is a conservative assessment. The $8.77bn figure includes $7.91bn in "trade finance" for private sector importers and $857m for government bodies, but excludes spending on overseas health treatment and spending by the national oil company, some of which may have been through the LC system. Central Bank of Libya, *Statement concerning revenues and expenditures for 2019* and *Economic Bulletin for Q.4 2019*, Table 30. For details of Libya's 2019 budget, see Reuters, *"Libya agrees 34 billion budget for 2019 after months of disputes"*, 18 March 2019

4 For a full definition, see the Joint Money Laundering Steering Group, *Part 2 Guidance*, Annex 15-1, p.166. For an accessible description, see, *Investopedia*. Certain sources refer to LCs as "documentary credits", a category of trade finance which we have seen include documentary collection.

5 Interview with Libyan banker with 30 years' experience, early 2020

6 According to Chatham House, around $58bn was paid in LCs from 2012 to 2017, with fraudulent LCs estimated to have exceeded $5bn from 2012 to 2018. Chatham House, March 2019, *"The development of Libyan armed groups since 2014"*, p.19

7 Libyan Audit Bureau, 2015 report, p.191 to 192, on file with Global Witness.

8 Our report details events from roughly 2014-2020, during which time the official exchange rate has fluctuated between 1.34 and 1.44. For simplicity, we have used 1.4 dinars to the dollar throughout. As of 3 January 2021, the official dollar rate was devalued to 4.48 Libyan dinars to the dollar and at time of writing the parallel market rate was reportedly 5.45 Libyan dinars to the dollar. Both rates are reported in newspapers, for example Libyan observer: *https://www.libyaobserver.ly/exchange-rates*. Chatham House, *"Conflict Economies in the Middle East and North Africa"*, p.31 and CBL statement of 16 December 2020, on file with Global Witness.

9 UN Panel of Experts interim report for 2017, on file with Global Witness. The interim report was publicly leaked before the final report was published. The first LC was for 688,920 units of tomato paste, yet the customs certificate indicated only 57,410 units actually arrived. We note that this information was removed from the Panel's final 2017 report.

10 Libyan Audit Bureau report 2016, on file with Global Witness. The LAB's figures included documentary collection alongside LCs.

11 Confidential analysis shared by international diplomatic source, copy on file with Global Witness. This cited World Bank evidence of sharp increases in the price of food from 2014, and noted only large businesses which could typically secure currency transfers from Libya's commercial banks.

12 Libyan Audit Bureau report, 2016, on file with Global Witness

13 Chatham House, March 2019, *"The development of Libyan armed groups since 2014"*, p.2

14 Wolfram Lacher, *"Tripoli's Militia Cartel"*, 20 April 2018, p.2.

15 For descriptions of the revenue generation activities of the LAAF, see Global Initiative Against Transnational Organised Crime, *"Predatory Economies in Eastern Libya: The role of the Libyan National Army"*, June 2019, p.1 and International Crisis Group, *"Of Tanks and Banks: Stopping a Dangerous Escalation in Libya"*, 20 May 2019, p.1. See also UN Panel of Experts report for 2018, p.11 and Chatham House, *"The development of Libyan armed groups since 2014"*, p.28. The UN Panel of Experts reports on Libya are available on the *UN Security Council website*.

16 UN Panel of Experts report 2016, p.47, which also states *"Several senior employees in the public and private financial sectors stated that they had received personal threats from armed groups in 2015. In one case, Central Bank employees were threatened by Haytham al-Tajuri and his associates in order to obtain letters of credit and accelerate procedures. Documentation shows that the extortionists were granted letters of credit for more than $20m."* The UN Panel's reports provide further specific examples, such as a letter sent from the Special Deterrence Force, demanding release of LC funds to a company.

17 UN Panel of Experts report for 2017, p.127-128, which describes how forces loyal to Haytham al-Tajuri were mandated to provide security for Tripoli port and its commercial bank in spite of his involvement in fake importations and attacks against employees to obtain LC authorisations.

18 UN Panel of Experts report for 2018, p.11. The report also noted that several cases are being investigated by the panel.

19 Jalel Harchouai, *"Tarhuna, Mass Graves and Libya's Internationalized Civil War"* July 2020. See also Libya Observer, *"Here is what we know about the southern Tripoli Clashes"*, 31 August 2018 and Wolfram Lacher, *"Tripoli's Militia Cartel"*, 20 April 2018, p.2. The Kaniyat is also known as the Tarhuna "7th Brigade" and became the "9th Brigade" after joining Khalifa Haftar's forces.

20 Reuters, 19 September 2018, *"Libya imposes fee on hard currency transactions to bridge black market gap"*

21 Jalel Harchaoui, *"Libya's looming contest for the Central Bank"*, 1 April 2019. The Kaniyat (also known as the Tarhuna 7th Brigade) would also align with Khalifa Haftar's LAAF, joining these narratives. For the wider context on militia affiliations during the war, see Wolfram Lacher, *"Who is Fighting whom in Tripoli"?* August 2019, p.13; also Emadeddin Badi, *"Mergers and assassinations as Tripoli remains under militia control"*, 4 January 2019 and Al Jazeera, 5 June 2020, *"Libya: the Battle for Tripoli explained in 600 words"*

22 International Crisis Group, *"Of Tanks and Banks: Stopping a Dangerous Escalation in Libya"*, 20 May 2019, p.5-6. In 2014 the House of Representatives replaced CBL Governor Elkaber with his deputy, Ali al-Hibri, but in reality al-Hibri ran the CBL's Eastern operation only while Elkaber remained in office in Tripoli. The Tripoli CBL did not recognise the bonds and treasury bills of the East, creating a liquidity crisis among eastern Libyan banks which was worsened by the FX fee introduced 2018 and CBL restrictions on several Eastern banks.

23 Jalel Harchaoui, "Libya's looming contest for the Central Bank", 1 April 2019

24 Al Jazeera, 5 June 2020, *"Libyan Government forces seize Haftar stronghold Tarhuna"*

25 Financial Times, 21 August 2020, *"Rival sides in Libya's civil war call 'immediate ceasefire'"* and UN, 14 November 2020, *"Libyan elections to take place in December 2021: Senior UN official"*. In August, the GNA announced the ceasefire, which was concurrently called for by the rival House of Representatives, and warmly welcomed by the UN.

26 US Department of State press statement, 25 November 2020, *"Treasury sanctions militia and its leader in connection with serious human rights abuse in Libya"*,

27 Financial Times, 21 August 2020, *"Rival sides in Libya's civil war call 'immediate ceasefire'"*. The GNA announced the ceasefire, which was concurrently called for by the rival House of Representatives, and warmly welcomed by the UN.

28 Human Rights Watch, 10 September 2020, *"Armed groups violently quell protests"*; also Reuters, 13 September 2020, *"Protesters set government building on fire in Eastern Libya"* and UNSMIL statement, 13 September 2020, *"UNSMIL statement on the protests in Al-Marj city on 12 September 2020"*

29 Central Bank of Libya circular no. 2 of 2020, 8 April 2020, on file with Global Witness

30 In written responses to Global Witness, the CBL confirmed that the disclosures did not include unsuccessful applications or LCs issued to public sector bodies. We are therefore treating these as lists of approved LCs to private sector importers only.

31 The database excludes the week of 28 May when no data was published, most likely due to the public holiday over the festival of Eid al-Fitr. It also excludes the weeks of 25 June and 2 July, where certain pages were illegible. For further detail see Annex 2.

32 LCs were issued in various currencies, mainly dollars and euros. The database "dollarizes" the values of all LCs for comparison purposes. For more detail on our methodology, see Annex 2.

33 This is consistent with later statements by the GNA government, which noted that the CBL suspended documentary credits in September 2020. Announcement of the Presidential Council of the Government of National Accord, 24 November 2020, on file with Global Witness.

34 Libya does not currently report to the *UN Comtrade database*, meaning our data reflects recorded exports and re-exports to Libya, as reported to the UN by Libya's trading partners.

35 According to *UN data*, moreover, while retail prices may have risen within Libya, global food prices were slightly lower in April to July 2020 than they were for the same period in 2018. See *http://www.fao.org/worldfoodsituation/foodpricesindex/en/*; see also Al Jazeera, *"Not like other years: Coronavirus dampen Eid al-Adha in Libya"*, 30 July 2020,

36 Even extrapolating the data for the post-Eid period, LCs were still being issued for food and drink at a rate of over $340m per month, over a third more than pre-conflict and pre-pandemic levels of importation. The database shows LCs for food and drink from June to July 2020 totalling $558m over a total of 7 non-consecutive weeks. This equates to $11.4m per day or $342m over a theoretical 30 day period, which is still well above demand estimates we received from sources. Moreover, news reports suggested that high food prices, the conflict and the Covid-19 pandemic were likely to make Eid al-Adha a smaller celebration for many Libyan families in 2020 than in previous years. Al Jazeera, *"Not like other years: Coronavirus dampen Eid al-Adha in Libya"*, 30 July 2020.

37 Central Bank of Libya circular no. 2 of 2020, 8 April 2020, which provides the complete list of commodities.

38 US Department of Agriculture, Foreign Agricultural Service, 6 March 2020 *"Voluntary Report on Libya"*. The commentary to the US estimates notes the figures includes agricultural products such as feed and fodder. Confidential analysis prepared for an intergovernmental body, shared with Global Witness, cited a similar figure for Libya's food imports, although it was not clear how wide a category of goods this related to.

39 This calculation is based on total LCs for food, dairy, fodder, livestock and frozen meat and wheat in the LC database, all of which are included in the US Department for Agriculture's figures. The total LC value is approximately $1,687m. Averaged out over the 13 week reference period and multiplied by 4 provides a total of $519m over a theoretical 28 day month.

40 In the course of our investigation, we interviewed a range of Libyan businessmen, former public officials and banking professionals as well as non-Libyan academics and commentators who believed the LC system was still being defrauded, many suggesting this fraud could be funding armed groups.

41 Interview with former employee of the Central Bank of Libya, January 2021.

42 According to Libyan businessman Husni Bey, companies had recently been required to renew and re-register their CBL keys to access the LC system. Other sources pointed out that accessing LCs is cash-intensive: in theory you needed 100% of the LC value plus the 163% FX fee sitting in a Libyan bank account in order to apply for an LC. Funding LCs using credit was explicitly prohibited in the CBL rules which applied at that time. This raisies questions as to whether some banks may in fact be financing their clients' LC requests. Confidential analysis prepared for international diplomatic officers, seen by Global Witness, and Central Bank of Libya circular 2 of 2020, paragraph 5, 8 April 2020.

43 A foreign expert on Libya's armed groups identified one branch as being located in a building which was under the protection of the Nawasi brigade, and two branches in areas which were controlled by the Al Bugra militia (or its allies) and by allies of the TRB. A further branch receiving significant volumes of LCs was located opposed the headquarters of Saeqa, a militia comprised of former Libyan special forces, although the expert believed the dominant armed group in the area would be the LAAF.

44 Central Bank of Libya statements concerning Revenue and Expenditures of 12 April 2020 and 13 August 2020. The statement for January to July 2020 records disbursement of $430m to cover "letters of credit for other public entities"; deducting the $245m which relates to January to March leaves $185m for the period covered by the database. It is not clear whether other disbursements recorded for National Oil Corporation or other government ministries included LCs, meaning total public sector LCs could be higher still.

45 While the FX fee has been suspended as of January 2021, while it was in force it effectively created a third exchange rate, although access to each depends on the applicant's political connections and status. For the period under review, importers could now obtain (i) The official rate (approx. 1.4 dinars to the dollar); (ii) The official rate + 163% FX fee (effectively 3.68 dinars to the dollar) or (iii) The parallel market rate (currently around 6.4 dinars to the dollar). Goods can therefore be sold privately for much higher profit margins, if somehow imported under the guise of a public sector LC. Prevailing parallel market rates are reported in a range of Libyan newspapers, social media and smartphone apps. For suspension of the FX fee, Libya Observor, 3 January 2021, *"Libya's Central Bank starts working with new exchange rate"* https://www.libyaobserver.ly/inbrief/libyas-central-bank-starts-working-new-exchange-rate

46 NACC, 16 August 2020 and CBL monthly statements, on file with Global Witness. Global Witness heard multiple consistent accounts of importers receiving unwarranted exemptions from the FX fee or of public authorities being used as a front to circumvent the fee in respect of goods which would ultimately be sold for private profit. We were not able to verify these.

47 Central Bank of Libya letters to Global Witness, September and October 2020.

48 Central Bank of Libya circular of 8 April 2020, para 16, which states *"Letters of credit applicants must offer their approval for the Central Bank to publish details of the required letter of credit as well as their commercial register. The approval must be submitted through the Central Bank system with other documents when applying for cover."* For detail on the IMF position, see Part 2.

49 Investopedia, 15 October 2015, , updated 2020 and Reuters, *"Rolling summer blackouts weigh on Libya's struggling traders"*, 17 August 2018

50 Contract 03 of 2015; also correspondence related to the deal from March 2019, seen by Global Witness

51 Contract 03 of 2015, between Public Authority for Electricity and Renewable Energies and USP&E company of 27 December 2015, seen by Global Witness; Libya News 24, 5 July 2017, reporting on Cabinet Resolution No.184 for 2017 and Letter from the Libyan Audit Bureau to the President of the Ministers' Council dated 24 June 2015, seen by Global Witness.

52 The SWIFT message for the LC provided for credit of up to $110,228,679.25 to ABC Europe, in respect of LC umber 101LINF183250001 and on behalf of the General Authority for Electricity and Renewable Energies of Libya. The full name of ABC Group's London subsidiary is ABC International Bank Plc, which we refer to as Bank ABC. SWIFT message from Central Bank of Libya to Bank ABC dated 28 November 2018, seen by Global Witness.

53 Appendix to contract 03 of 2015 dated 15 January 2017, seen by Global Witness

54 SWIFT message from Central Bank of Libya to Bank ABC dated 28 November 2018, seen by Global Witness.

55 Confirmed by Jan Herre and Omar Allam in response to queries by Global Witness. Both noted they were prevented by confidentiality agreements from discussing the matter in detail, but confirmed the relationship came to an end in May 2016.

56 Allam's name appears on an official translation of contract 03 of 2015, dated 27 December 2015, and the amendment of 15 January 2017, both on behalf of "USP&E company". His name also appears on an invoice dated 1 August 2017 sent by "USPE-LY United States Power & Energy LLC". At least one document uses the USP&E stamp but refers to USPE-LY. On the public authorities' side, correspondence related to the deal also shows this ambiguity. One letter from General Electricity Company to the CBL dated 9 May 2018 mentions "USP&E" but refers to the Siemens generators, another dated 16 April 2018 describes "American company for energy and environment USPE-LY FZCO" but refers to the amended deal terms, while a third, prepared by the LAB, approves the import of Siemens turbines but refers to USP&E.

57 ABC International PLC swift message to the CBL, dated 6 February 2019, seen by Global Witness.

58 ABC International PLC swift message to the CBL, dated 6 February 2019 and letter to CBL dated 28 February 2019, seen by Global Witness.

59 There is some uncertainty about the exact amount withdrawn, USP&E claimed that $8m had been drawn down, while USPE-LY acknowledged receiving funds but claimed it was a much smaller amount and in respect of legitimate services they had provided.

60 Interview with Libyan banker with 30 years' experience, who stated *"money laundering rules are very strict now.* [Financial institutions] *won't accept any money from Libya."*

61 Correspondent banking is a general definition for a range of activities in which banks process payments for other banks. In a trade finance context, one such correspondent banking role is "confirming bank". For a general explanation is available on Bank ABC's website. A typical fee would be from 0.75% to 1.5% or more of the value of the LC, according to the UN Security Council's description of the LC process, s.181(c).

62 See Part 3: ABC Europe is 100% owned by Arab Banking Corporation B.S.C. of Bahrain, which is majority-owned by the Central Bank of Libya.

63 Swift message from ABC International Bank PLC to the CBL, 26 February 2019 and letter from USP&E to ABC Europe, date unclear but document titled "11 February v.2", seen by Global Witness.

64 CBL swift message to ABC International Bank PLC, exact date uncertain but identifiably March 2019, seen by Global Witness.

65 Global Witness received conflicting information on the status of an investigation. USP&E believed the matter had been referred to the Attorney General and the Central Bank of Libya referred to an ongoing investigation into the affair. USPE-LY informed us that the Attorney General had closed its investigation without any finding of wrongdoing. We made multiple unsuccessful attempts to contact Libyan authorities for comment.

66 Confidential analysis shared by international diplomatic source. Reforms have often followed criticism of the CBL's management of the system. New requirements were introduced in 2015 following reports of empty containers arriving in Tripoli; the FX fee was introduced in 2018 following the militia conflict of the summer of that year, and the rules were changed again in 2020, among other things requiring that applicants for LCs consented to disclosure of their application by the CBL.

67 Libyan British Business Council, FAQs section of website (accessed June 2020),

68 Central Bank of Libya statement concerning its commitment to transparency and disclosure, paragraphs 1, 3, 13 and 17, 7 July 2020, on file with Global Witness; also responses to Global Witness queries October and November 2020. New LC rules published on 31 December 2020 also require banks to check the veracity of documents and the suitability of the applicant company. CBL publication no.9 of 2020, on file with Global Witness.

69 Central Bank of Libya statement concerning its commitment to transparency and disclosure, paragraphs 3 and 4, 7 July 2020

70 Interview with Husni Bey, February 2020

71 Interview with Libyan Banker with 30 years' experience, early 2020

72 Letter from GAEREL to CBL dated 14 April 2018, letter from Wahda Bank to CBL dated May 2018 and note from GECOL to CBL dated 5 November 2018, seen by Global Witness.

73 The recitals refer to *"…the fact that the Central Bank of Libya does not hold the necessary liquidity to cover the contract in national or international currency as per the terms of the contract hitherto cited…"*

74 Interview with former minister in Libyan government, 2019

75 In its 2017 response to the LAB's accusations, the CBL justified its decision on the basis the LAB had violated the confidentiality of the data. Central Bank of Libya, Response to the Libyan Audit Bureau report of 2017, on file with Global Witness

76 Central Bank of Libya, Response to the Libyan Audit Bureau report of 2017, on file with Global Witness

77 Libya Herald, 23 November 2020, *"Armed militias fail to storm NOC Tripoli headquarters"*

78 Libya Herald, 25 November 2020, *"New Libya Foreign Bank General Assembly meets to choose new board of directors – against CBL wishes"*

79 In the UK, this role is played by the Bank of England; in the Eurozone it is the European Central Bank and in the USA, the Federal Reserve.

80 Interviews with experts on macro-prudential economic supervision, 2019; also see IMF, *"Annual report on Exchange Arrangements and Exchange Restrictions" 2018* p.13-14

81 IMF Working Paper 16/25, *"What's in a name? That which we call capital controls"*, 2016

82 The IMF amended its "institutional view" to recognise that *"temporary, targeted and transparent inflow and outflow controls"* in conditions of turbulence and identifying *"capital flow management techniques"* as a macroprudential policy instrument. Interviews with macro-prudential economics experts 2019, also IMF, *"The IMF's Institutional View on Capital Controls in Practice"*, p.4-6, 2012 (current at time of witing).

83 Libya Herald, 10 December 2020, *"CBL Tripoli calls for official reunified board meeting – the first since Libya's political split in 2014"*

84 Central Bank of Libya statement of 16 December 2020 on file at Global Witness; also Libya Herald, 4 January 2021, *"Tripoli Government temporarily suspends foreign exchange sales surcharge"*

85 UNSMIL, 16 December 2020, *"Peace dividend for the Libyan economy" https://news.un.org/en/story/2020/12/1080272*

86 See for example IMF, *"Annual Report on Exchange Arrangements and Exchange Restrictions"* 2018.

87 IMF policy paper, *"IMF Central Bank Transparency Code"*, July 2020. Associated IMF materials noted the importance of transparency and accountability in light of non-conventional interventions in response to the 2008 financial crisis and the COVID-19 pandemic. See for example IMF Blog, *"Transparency makes central banks more effective and trusted"*, 30 July 2020

88 Joint Money Laundering Steering Group guidance, p.182

89 In November 2020, the Libyan Presidential Council asserted direct control of the LFB, using a Gadaffi-era law to put in place a new board of directors. Based on information published on the websites of Bank ABC and the LFB. For Bank ABC, we identified 15 banking operations across 14 countries, with the CBL holding an (indirect) controlling stake in all but ABC Brasil. For the LFB, we identified 29 banking operations across 20 countries, with the LFB holding 50% or more of the shares in at least 17 of these. This list ***excludes*** (i) the CBL's and LFB's multiple interests in commercial banks within Libya; (ii) shareholdings in banks held by the Libyan Investment Authority, and (iii) certain LFB interests in financial services operations in Sudan, Belgium, Lebanon and UAE which do not appear to be banks.

90 The CBL's response to the Libyan Audit Bureau's 2017 report named several LFB subsidiaries as providers of correspondent banking services to CBL.

91 Bank ABC website, accessed 13 June 2020,

92 Bank ABC website, accessed 23 October 2020. This investment was via two rights issues of $1bn each in April 2008 and January 2010. Arab Banking Corporation annual accounts for 2008, p.85, and financial statements for 2010, p.25.

93 This reorganisation was to part of Bank ABC's Brexit preparations. Bank ABC announcement, October 2020,

94 According to financial statements, ABC received deposits worth £2.12bn in 2019, of which the $1.22bn received from the CBL accounted for just over half. Including all bank and customer deposits from "related parties", the figure rises to $1.68bn, almost 80%. Bank ABC annual report for 2019, pp.81, 103 & 104. Annual reports are available on the group websites, both for Bank ABC in London and for the wider ABC Group.

95 Bank ABC Annual Report for 2019 p.52, 83; ABC Group 2017 prospectus p.77 and Arab Banking Corporation 2020 AGM booklet, p.68, both on file with Global Witness. Bank ABC's Bahrain parent, Arab Banking Corporation, owes the CBL further $1.33bn, due to mature in 2022.

96 Joint Money Laundering Steering Group guidance 16.2 & 16.3. For an accessible description, see, investopedia

97 JMLSG guidance 15.7. Also see Trade Finance Global, *"Guide to trade finance"*,

98 Interview with Libyan Banker with 30 years' experience, late 2019 and interview with Libyan financial services professional, early 2020.

99 Bank ABC annual report for 2019, p.7 & 8.

100 Correspondence with Global Witness, September and October 2020. According to Bank ABC annual report for 2019 (pp.46, 65, 103 & 104), fees and commission earnings with related parties were £25.7m of a total of £48.6m, over half the total. "Related parties" includes the Central Bank of Libya, Arab Banking Corporation and other companies "jointly or significantly influenced" by others under the CBL's control. Bank ABC Pillar 3 disclosures 2018 also contains a structure chart (p.7) showing a separate line manager for Libya-related work, indicating Libya Bank ABC runs a separate trade desk dedicated to Libyan business.

101 Interview with Libyan financial services professional, early 2020; confirmed by additional source with direct knowledge of the CBL.

102 CBL response to LAB 2017 report (observation 50)

103 Interview with Husni Bey, early 2020: *"In Libya, [the commercial banks] are under pressure to promote ABC and other Libyan Foreign Bank subsidiaries. These Libyan owned and controlled banks charge higher rates for notification and confirmation, as high as 2.5-3%."* Bank ABC did not disclose its fees, save to note that they take into consideration the costs of having a robust financial crime framework for LC transactions. In relation to additional cost, for example the USP&E contract specifies that the cost of LCs is included in the total payment to USP&E. It is reasonable to assume that contractors providing goods and services will factor trade finance costs into their tender offers for public procurement contracts. So inflated LC cost will flow through to the cost of public procurement.

104 CBL response to LAB 2017 report (observation 50), on file with Global Witness. The CBL points out it has published a list of approved correspondent banks, the majority of which are CBL subsidiaries.

105 CBL response to LAB 2017 report (observation 50), on file with Global Witness

106 Leaked Libyan Investment Authority Management Information Report, September 2010 p.5.

107 Global Witness, 26 May 2011, *"HSBC and Goldman Sachs held $335m of Libyan state oil money"*

108 Rolling Stone, 1 April 2011, *"Why is the Fed Bailing out Qaddafi?"*,

109 Senator Bernie Sanders, US Senator for Vermont, *"Release: Why did the Fed bail out the bank of Libya?"*, 31 March 2011. The revelations emerged following Senator Sanders' amendment of the Dodd-Frank bill, which forced disclosure of the Federal Reserve's bail out loans.

110 UK Treasury's General License 1 and OFAC General License 1A of 2011, on file with Global Witness; see also US White House Executive Order 13566, 25 February 2011, section 2.; see also Bank ABC press release of 6 March 2011. These exemptions covered all Libyan-owned banks in foreign countries, as long as they did not transfer funds for people or entities under sanction.

111 Money laundering is about placing the proceeds of crime into the international financial system, layering to conceal the origins of the money, creating an ostensible origin for the proceeds and then investing the proceeds in legitimate assets. The Financial Action Task Force guidance clarifies that *"the FATF recommendations do not require correspondent financial institutions to conduct customer due diligence on each individual customer of their respondent institutions' customers,"* again putting the emphasis on checks on the respondent institution's risk profile and the quality of regulation in its country. Financial Action Task Force, *"Guidance on Correspondent Banking Services"*, October 2016, and p.4 and final page. Guidance published by the UK regulator the Financial Conduct Authority notes that enhanced due diligence might be appropriate depending on the risk profile of the relationship (i.e. with the bank), and references JMLSG and FATF as to how this applies. FCA Financial Crime Guide, Release 54, 3.2.3 and 3.4.2, September 2020, on file with Global Witness

112 Correspondence via ABC's UK legal counsel, September and October 2020

113 In assessing this prevailing standard, Global Witness reviewed the following FCA handbook, FCTR 12.1; Financial Action Task Force Recommendation 13 (Correspondent Banking) and "Guidance on Correspondent Banking Services" October 2016; Joint Money Laundering Steering Group ("JMLSG") guidance on *"Prevention of Money Laundering/ Terrorist Financing"*, 2020 revised version, chapter 15 (Trade Finance) and chapter 16 (Correspondent Relationships) and the Wolfsburg Group, ICC and BAFT Trade finance principles, 2019 amendment. We refer to these below as the "FATF guidance", the JMSLG guidance" and the "Wolfsburg Principles" respectively. We note the JMSLG guidance is specifically approved by the FCA and HM Treasury under the Money Laundering Regulations (FCA Financial Crime Guide 1.10). These sources were also highlighted by legal counsel for Bank ABC in their reply to our queries.

114 JMLSG guidance, 15.43, and FATF guidance, p.5. In Export letters of credit, the *"instructing party"* for the confirming bank is the bank issuing the LC. As described by FATF, *"when establishing correspondent relationships, correspondent institutions are required to perform customer due diligence (CDD) on the respondent institution, and gather sufficient information about the respondent institution to understand its business, reputation and the quality of its supervision, including whether it has been subject to a ML/TF investigation or regulatory action, and to assess the respondent institution's AML/CFT controls."* FATF guidance 2016 para.4 p.5.

115 JMLSG guidance 15.43 and 16.11. This means regular reviews of the respondent bank's business, reputation and the quality of its supervision of the bank with whom it has a relationship, assessing its AML controls and performance and taking action to mitigate risk when necessary.

116 JMLSG guidance 15.43, 15.48, 16.4 & 16.5. In relation to general correspondent banking, the guidance notes that *"the Correspondent often has no direct relationship with the underlying parties to a transaction and is therefore not in a position to verify identities"*, and any transaction involving an unknown party should be regarded as potentially high risk. In a confirming bank role, the correspondent is likely to have access to more documentation, but the assessment of whether or not the seller has met the LC terms and is therefore entitled to payment is a separate assessment to the AML/CTF due diligence described here. At 15.43, the JMLSG guidance then *"Although there is no requirement to carry out customer due diligence on the LC beneficiary, firms may decide to carry out some checks,"* such as checking the company's existence on a corporate registry or seeking its financial statements. The Wolfsburg principles note that *"It will not normally be practical for [the correspondent bank] to undertake due diligence on [the LC applicant/buyer] aside from reviewing [the LC applicant/buyer]'s name against sanctions or terrorist lists."* Wolfsburg principles, para.6.1

117 Correspondence via ABC's UK legal counsel, September and October 2020

118 Based on conversations with Global Witness sources.

119 The Wolfsburg principles Appendix 1, p.34

120 JMLSG guidance, 16.22 & 16.28. This states that *"a Correspondent should establish whether the Respondent is itself regulated for money laundering/ terrorist financing prevention"* and whether it is held to standards equivalent to the EU 4th Money Laundering Directive. It states that *"enhanced due diligence"* is required in respect of any banking relationship in a non-European Economic Area jurisdiction such as Libya. Among other things, this involves assessing whether the country has an effective AML/CTF regime and whether the bank is subject to adequate supervision.

121 Correspondence via CBL's UK legal counsel, September and October 2020. The 2017 AML/CTF law was adopted via Executive Order No. 1013 of 2017 along with implementing regulations of the same year.

122 See for example Libya Herald, 11 August 2020, Libya's National Anti-Money Laundering Commission signs agreement with Interior Ministry to combat corruption. https://www.libyaherald.com/2020/08/11/libyas-national-anti-money-laundering-commission-signs-agreement-with-interior-ministry-to-combat-corruption/

123 Jumhouria bank evolved from banks which were nationalized in 1969. See the bank website/

124 As described by Husni Bey *"The CBL holds all Libyan ministries' accounts and so it deals with only government generated LCs. For example, a ministry or a sovereign body whenever importing or contracting for goods and services, may open an LC issued by CBL. The CBL debits directly the concerned ministry account, being held by the CBL."* Interview with Husni Bey, February 2020. This is consistent with the SWIFT transfer dated 28 November 2018, which names the operation department of the CBL as "applicant bank" in relation to the purchase of generators by GAEREL, a public authority.

125 The EU maintains a list of countries deemed as having "strategic deficiencies in their AML/CFT regimes", available online. The European Commission proposed including Libya in an expanded list of high risk countries in February 2019, but this list was rejected by the Council. For UK financial institutions, the enhanced due diligence this would entail is set out in Money Laundering, Terrorist Financing an Transfer of Funds (Information on the Payer) Regulations 2017, Regulation 34. For example, 34(1)(f) requires correspondent banks to satisfy themselves that the respondent (the partner bank) has verified the identity of its customers. See also JMLSG guidance 16.28. The Financial Action Task Force maintains a list of "jurisdictions under increased monitoring", which was last updated in June 2020. hl

126 Correspondence with office of Sven Giegold MEP, May 2020

127 Correspondence via ABC's UK legal counsel, October 2020

128 See the Organised Crime and Corruption Reporting Project, which originally exposed the system,

129 See for example US Treasury, "National Money Laundering Risk Assessment 2015" p.44-45, and Reuters, 11 December 2012, *"HSBC to pay $1.9bn U.S. fine in money laundering case"*

130 Bloomberg, 6 December 2018, *"Deutsche Bank handled further $35B Danske funds, FT says"*

131 Global Witness and PPLAAF, *"Undermining Sanctions"*, 2 July 2020 and Global Witness, *"Assad Henchman's Russian Refuge"*, 11 November 2019

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