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Sent: 01 October 2021 11:54
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Cc: PONTIROLI Andrea (EEAS-NEW YORK); TOLSTOI Natalie (EEAS-NEW YORK); SKOOG Olof (EEAS-NEW YORK); GONZATO Silvio (EEAS-NEW YORK)

Subject: Update II - EUNY 336 (2021) – UN Security Council / Libya – Regular bi-monthly meeting: a strong call to hold elections, 10 September 2021

Attachments: 210930 UNSMIL technical rollover draft res. blue - (E).docx

Signed By: delegation-new-york-reports@eeas.europa.eu

UPDATE II – Security Council adopts technical roll-over of UNSMIL mandate until end of January 2021

Dear colleagues,

On 30 September 2021, the UN Security Council unanimously adopted UNSCR 2599 (2021), which renews the current UNSMIL mandate without any change (“technical rollover”) until 31 January 2021. The resolution is attached.

The technical rollover follows several failed attempts on the part of the UK (penholder) to include the recommendations of Independent Review of UNSMIL, which were also endorsed by the SG, notably the return to its previous management structure, with a SRSB based in Tripoli. The UK had made an initial proposal, which included the

recommendations of the Independent Review, on 14 September, but was forced to withdraw it following a Russian threat to veto any resolution which would include a change in UNSMIL structure, and to present instead a short technical rollover until the end of September to allow for negotiations to continue.

During the following weeks, intense negotiations between the UK (supported by likeminded) and Russia did not succeed in unblocking the situation, with Russia adamant in its opposition to any change in the structure (*“at least until after December elections”*), its willingness to keep SE Kubis at the helm of UNSMIL, and in watering down references to the withdrawal of foreign forces - in spite of several compromise proposals put forward by the UK.

On 29 September, after the UK presented its latest compromise, and put it for a vote for the following day (on 30 September the mandate of UNSMIL ended), Russia presented a counter-resolution and put it for a vote, too, signalling its intention to veto the UK text. On 30 September, a few hours before the end of UNSMIL mandate, a last minute deal amongst P5 avoided a double vote on two competing resolutions (one from the UK penholder, and a counter-resolution by Russia), which would have resulted in a double veto, and UNSCR 2599 (2021) was unanimously adopted, thus ensuring the continuity of the mission, but failing to reflect the recommendation to change its management structure. The short 4 months renewal, while keeping SE Kubis at the helm of UNSMIL, further weakens his ability to steer the political process.

Following the adoption of the resolution, the P3 took the floor and regretted that negotiations failed to secure consensus on the several compromise texts put forward by the UK, resulting in a technical rollover, and reiterated the need to keep supporting Libya towards the holding of elections and the full implementation of the ceasefire agreement, including the withdrawal of all foreign forces. The US stressed that the Council failed to implement the SG recommendations present in the independent strategic review of UNSMIL - including the relocation of the Head of Mission to Tripoli in order to strengthen its engagement with the parties - and stated that the failure to restructure UNSMIL undermines the collective efforts towards stabilization. France reaffirmed the importance of restructuring UNSMIL at the next mandate renewal in line with the SG recommendations, further recalling the Conference on Libya that will be held in Paris in partnership with Italy and Germany. The UK stated that it will continue to engage Council members towards the next mandate renewal.

China and Russia expressed support for the renewal of UNSMIL, adding that discussions on restructuring its leadership should take place after the December elections. China also stated that the withdrawal of foreign forces should be balanced and orderly to avoid the destabilization of the region.

Tunisia reaffirmed its commitment to support UNSMIL and stated that there is a basis for consensus on Libya and that the Council should build on it. Kenya stressed that the technical rollover is a failure of the Council and represents a ‘missed opportunity’, regretting that the voices of African partners were not listen to during discussions on the renewal.

It now remains to be seen whether, in January, Russia will finally accept the change in UNSMIL management structure, and what concessions will extract in exchange.

Best regards,
Andrea

From: DELEGATION NEW YORK REPORTS <delegation-new-york-reports@eeas.europa.eu>

Sent: 29 September 2021 11:43

Subject: Update - EUNY 336 (2021) – UN Security Council / Libya – Regular bi-monthly meeting: a strong call to hold elections, 10 September 2021

UPDATE - Security Council renews resolution on migrant smuggling and human trafficking off the coast of Libya

Dear colleagues,

This morning, the UN Security Council unanimously adopted UNSCR 2598 (2021), which is a technical renewal of UNSC Resolution 2546 (2020) on the smuggling of migrants and trafficking in persons in the Mediterranean Sea off the coast of Libya, which also includes the authorisation to inspect on the high sea off the coast of Libya vessels suspected of migrant smuggling and human trafficking, firstly established by UNSCR 2240 in 2015 (an authorisation which was used by Operation Sophia, but is not used by Operation Iridi).

The resolution was drafted by co-penholders Estonia and France, and co-sponsored, as in previous years, by all EUMS, as well as by Albania, Botswana, Japan, Montenegro, Norway and Moldova.

As in previous years, EUDEL NY provided a technical briefing to the 15 Security Council Members at expert level, on Operation Iridi & EU actions to counter smuggling of migrants and trafficking of human beings.

The resolution is attached.

Best regards,
Andrea

From: DELEGATION NEW YORK REPORTS <delegation-new-york-reports@eeas.europa.eu>

Sent: 13 September 2021 15:42

Subject: EUNY 336 (2021) – UN Security Council / Libya – Regular bi-monthly meeting: a strong call to hold elections, 10 September 2021

**DELEGATION OF THE EUROPEAN UNION TO
THE UNITED NATIONS IN NEW YORK**

Authors: *Andrea PONTIROLI, Rémi BAUCHER* **Date:** 12.09.2021

X To be shared with MS without assessment
X To be shared with EP without assessment

Classification: UNCLASSIFIED

To: MD Belen MARTINEZ
CARBONELL, MD Fernando GENTILINI

Subject: EUNY 336 (2021) – UN Security Council / Libya – Regular bi-monthly meeting: a strong call to hold elections, 10 September 2021

Summary:

SE Kubiš recalled the utmost importance of holding the elections as planned on 24 December and urged member states and regional organisations to send observation teams. He further reiterated his concern about the presence of foreign forces in the country, calling for their orderly and coordinated withdrawal to avoid further destabilization of neighbouring countries. He reiterated his warning that Libya is not a safe disembarkation port for migrants and refugees, and his request to (destination) countries to reconsider their migration policies.

Libyan activist Asma Khalifa recommended the creation of an independent organ designed to guarantee transparency over the democratic process and called upon the Council to ensure the protection of human rights defenders and civil society organisations.

All Council members underscored the importance of holding elections as planned, reaffirmed their call for the orderly withdrawal of foreign forces, with Russia underlining the necessity to take into account the balance of power on the ground (and calling for more effective inspections off the coast of Libya to enforce the arms embargo). They further welcomed the continued respect of the ceasefire agreement, while expressing concern at the recent spike of violence in Tripoli. EU3 and likeminded expressed support for the recommendations of the independent review of UNSMIL, including the return to its previous management structure – which will be reflected in the resolution renewing the mandate of UNSMIL, scheduled for adoption on 14 September (a separate report on this will follow).

The Libyan PR reiterated his government's determination to hold elections in December and recalled the establishment of a ministerial committee aimed at assisting the HNEC, also recalling the work of the authorities to track human rights violations and to investigate war crimes accusations.

Assessment:

With the political and security process under threat on the ground, the Security Council was able

to display a relatively united front in urging Libyan actors to hold elections as planned, with the usual Russian caveats about the need for an “inclusive” process.

In the meantime, only 9 months since the appointment of Jan Kubis as Special Envoy based in Geneva (because of a strong request by the previous US Administration), UNSMIL and the UN-led process risk facing again a void of leadership, as the UNSC resolution renewing UNSMIL mandate, following the advice of the independent strategic review of the mission, envisages a return to the previous structure with a SRSG based in Tripoli. This SRSG will not be Jan Kubis, who has made it very clear that he has no intention of moving there from his current posting in Geneva. While the latest draft of the UNSC resolution renewing UNSMIL mandate should ensure that Special Envoy Jan Kubis will remain at the helm of UNSMIL (from Geneva) until a SRSG (to be based in Tripoli) is identified, the question remains of what leadership, if any, he will be truly able to exert, and how long it will take to identify his successor – remembering how long it took to designate him.

Another resolution which will be renewed by the Council later in the month is [UNSC Resolution 2546 \(2020\)](#) on smuggling of migrants and trafficking in persons in the Mediterranean Sea off the coast of Libya, which also includes the authorisation to inspect on the high sea off the coast of Libya vessels suspected of migrant smuggling and human trafficking, firstly established by UNSCR 2240 in 2015 (an authorisation which was used by Operation Sophia, but is not used by Operation Irini). Co-penholders Estonia and France intend to present a technical roll-over, and while the resolution is not as strategically important for Irini as it was for Sophia, the upcoming negotiations will certainly be used by Russia and others as an occasion to attack Operation Irini and EU migration policies. EUDEL is providing support to the co-penholders, with LTT and defensives provided by HQ on the EU and Operation Irini actions to counter the smuggling of migrants and trafficking in persons, including by possibly providing a briefing to the 15 Council Members at experts level.

Details:

1. On 10 September, the Security Council was briefed by **SESG Ján Kubiš**, the **Indian PR**, in his capacity of chair of the 1988 sanctions committee, and a CSO representative, **Asma Khalifa**. Libya was also invited to participate in the meeting.

2. **SESG Kubiš** started his briefing by stressing the importance of holding the elections on 24 December, recalling that holding them in an imperfect environment is better than not having or postponing them. In this respect, he reiterated the need for the establishment of a clear electoral calendar by the HNEC and urged member states and regional organisations to send observation teams on the ground. He further recalled the necessity for the HoR to approve a unified national budget and informed the Council that the Presidential electoral law was adopted and that the HoR was in the process of finalising the parliamentary electoral law.

SESG Kubiš reiterated his concern at the continuing presence of mercenaries and foreign fighters, calling for an orderly withdrawal of such forces in order to avoid the destabilisation of neighbouring countries. He recalled that a ministerial meeting promoting synergies between regional organisations was held in Algeria in late August. Lastly, the SE stressed that Libya is not a safe disembarkation port for migrants and urged member states to revisit their policies in this regard.

3. The **Indian PR**, as Chair of the 1988 Sanctions Committee, delivered his report on the activities of the Committee conducted between 10 May and 10 September 2021 (report is attached)

4. **Asma Khalifa**, a Libyan activist, expressed concern at the possibility of not holding the 24 December elections. She stressed the need for the establishment of a depoliticized reconciliation process in Libya, in cooperation with UNSMIL. She lamented the sidelining of Libyan women and called on Council members to ensure the proper integration of a gender sensitive approach in their deliberations. Lastly, she recommended the Council to (i) create an independent organ designed to guarantee transparency over democratic processes and (ii) to ensure the protection of human rights and CSO activists.

5. **All Council members** reiterated their support for the political process and for holding the elections as scheduled; welcomed the continued respect of the ceasefire agreement; and called for the withdrawal of foreign forces – echoing the SG’s request for it to be orderly.

6. **The US** expressed concern about the peak of violence in Tripoli. IT welcomed recent progress and urged all parties to agree on a legal and constitutional framework for the elections. IT further recalled that those who violate the sanctions regime could face sanctions and called on all parties to respect human rights. Finally, IT expressed support for the conclusions of the independent review of the UNSMIL, including the return to a previous hierarchy with an SRSG based in Tripoli – a spectacular U-turn from the position of the previous US administration, which is the one which had requested, and obtained, to split UNSMIL hierarchy with a Special Envoy based in Geneva and a UNSMIL Coordinator based in Tripoli.

7. **EU3 + likeminded** reaffirmed the importance of respecting the electoral calendar and supported the recommendations outlined in the independent review of UNSMIL. **France** stressed the need to establish a monitoring mechanism and reiterated its call for a planned and controlled withdrawal of mercenaries and foreign fighters to prevent further destabilisation in the region. **The UK** commended the work of the 5+5 JMC and echoed calls for a withdrawal of all foreign forces from the Libyan soil. **Ireland** welcomed the opening of the Coastal Road, but expressed concern about the difficulties encountered by humanitarian workers to obtain their visas. **Estonia** reiterated the importance of including women and youth in the upcoming elections.

8. **Russia** welcomed the improvement of the situation since the ceasefire agreement of October 2020, whilst expressing concern at the faltering implementation of the roadmap leading towards elections, and expressing regret that some voices call for a postponement or a split of the elections. It insisted on the necessity of inclusiveness for the process to succeed and stressed that the military process — although the cessation of hostilities is an achievement — requires continued efforts. It further outlined that a withdrawal of foreign forces must be undertaken in accordance with the balance of power on the ground and must take into account the concerns of Libya’s neighbouring countries. Lastly, it called for more effective inspections off the coast of Libya, and stated that it will ‘carefully’ review the question of UNSMIL’s mandate renewal.

9. **China** echoed calls to ensure the holding of the elections as planned and welcomed the recent convening by Algeria of a ministerial-level meeting among neighbouring countries. It further urged UNSMIL to deploy its ceasefire monitoring team and reiterated its call for an incremental and synchronized withdrawal of foreign forces, reaffirming the necessity to respect Libya’s sovereignty. Lastly, it reiterated its call for the unfreezing of Libyan frozen assets to foster reconstruction.

10. **Niger** welcomed the recommendations of UNSMIL's independent review; reiterated the need for free, credible and transparent elections; and recalled that the disembarkation of migrants and refugees in Libya is a violation of international humanitarian law. **Mexico** underlined the dramatic situation of migrants and refugees and called upon the countries of origin and destination to coordinate with Libyan authorities on this issue. It further echoed concerns about reports of impeded access for humanitarian workers. **India** raised concern about the security situation and the presence of terrorist groups in Libya. It further suggested that a DDR plan is established for armed groups.

12. **The Libyan PR** emphasized the support of Libyan authorities for the elections and insisted on the necessity to respect the country's sovereignty, rejecting further external interference in domestic Libyan affairs. He recalled that Libyan authorities have started investigations on alleged war crimes and stressed the need to activate justice mechanisms.

Attachments:

- Statement by SE Kubis
- Statement by Ms. Asma Khalifa
- Note by the Chair of 1970 sanctions committee

Sign-off: Ambassador Silvio Gonzato, for the Head of Delegation

Copy to: Libya List