



## Security Council

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### Note by the President of the Security Council

In paragraph 24 (d) of resolution 1973 (2011), the Security Council requested the Panel of Experts established pursuant to that resolution to provide a final report to the Council with its findings and recommendations.

Accordingly, the President hereby circulates the report dated 17 February 2012 received from the Panel of Experts (see annex).



**Annex**

**Letter dated 17 February 2012 from the Panel of Experts on Libya established pursuant to resolution 1973 (2011) addressed to the President of the Security Council**

On behalf of the members of the Panel of Experts established pursuant to Security Council resolution 1973 (2011), I have the honour to transmit herewith the report of the Panel prepared in accordance with paragraph 24 (d) of that resolution.

*(Signed)* Salim **Raad**

Coordinator

Panel of Experts on Libya established pursuant to  
resolution 1973 (2011)

*(Signed)* Yousef **Alserhan**

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*(Signed)* Ahmed **Zerhouni**

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## Final report of the Panel of Experts established pursuant to Security Council resolution 1973 (2011) concerning Libya

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## *Summary*

The final report of the Panel of Experts established pursuant to Security Council resolution 1973 (2011) presents a detailed analysis of the implementation of the measures imposed by resolution 1970 (2011) including the arms embargo and asset freeze and the modifications contained in subsequent resolutions — 1973 (2011), 2009 (2011) and 2016 (2011), respectively. The report also outlines the Panel's findings and presents concrete recommendations to the Security Council, the Committee established pursuant to resolution 1970 (2011) concerning Libya and Member States to improve the implementation of the relevant measures. The Panel of Experts also seeks to highlight incidences of non-compliance based on substantiated data/information obtained.

The Panel's assessment is based on the information received from Member States, relevant United Nations bodies, regional organizations and other interested parties during the period from June 2011 to February 2012. The Panel also conducted several assessment trips to Libya and the subregion during the period, where it met with key stakeholders including the United Nations Support Mission in Libya. To date, the Panel has visited a total of 17 countries: Belgium, Egypt, France, Italy, Jordan, Libya, Mali, Malta, Mauritania, Niger, Qatar, Sudan, Tunisia, Uganda, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland and United States of America.

The consultations held with respective regional organizations and relevant United Nations bodies, coupled with the information received from various Member States, afforded the Panel of Experts the opportunity to obtain a more comprehensive overview of the situation, including the evolution of the political and security context in Libya and its impact on the subregion. The Panel also appreciates the assistance received from the sanctions Committee during the reporting period, which assisted in the execution of its tasks.

Since the Panel commenced work in June 2011, it has produced two reports, and a working document on the implementation of resolution 1973 (2011). The final report therefore serves as the culmination of the work produced by the Panel over a period of eight months.

### **Arms embargo**

The conflict in Libya witnessed the loss of national control over military materiel and a complete redistribution of weapons ownership in the country. The distribution of weapons to civilians, the appropriation of the contents of depots by individuals and brigades, coupled with additional military materiel that entered Libya from elsewhere, resulted in the uncontrolled circulation of very large quantities of arms and ammunition during the conflict. Four months later, civilians and brigades are in control of most of the weapons and the absence of a unified command and a regular operational security system remain the primary challenges to securing military materiel and preventing its proliferation.

#### *Monitoring and enforcement of the arms embargo*

With the conclusion of NATO operations, including the enforcement of the no-fly zone and the monitoring of shipping maritime activities around Libya, the

Libyan authorities and other Member States, particularly neighbouring countries, face additional challenges in implementing the arms embargo. Porous borders, vast peripheral areas to control with limited capacities, the existence of illegal trafficking networks and the lack of cooperation on cross-border issues are just some of the obstacles to the enforcement of the arms embargo.

#### *Transfers of military materiel to Libya since the imposition of the embargo*

The Panel has received different types of information regarding the transfers of military materiel to Libya since the imposition of the arms embargo. The Panel has identified potential attempts by the Qadhafi Government to secure arms deals and use mercenaries from neighbouring countries; however, further research is required to determine whether or not a violation has occurred.

Regarding the provision of military materiel to the anti-Qadhafi forces, the Panel has identified three types of transfers: (1) notified transfers that were made in accordance with paragraph 4 of resolution 1973 (2011); (2) inadequate notifications of transfers of military materiel and personnel; and (3) non-notified transfers which constitute a violation of the arms embargo.

#### *Transfers of military materiel outside of Libya*

Transfers of small arms and light weapons and associated ammunition as well as explosives out of Libya have been going on since early in the conflict. While the Panel is still investigating a number of cases and is unable to disclose all the information made available to it, the Panel believes that the cases presented in this report offer an overview of the profiles of those actors involved in violations of the arms embargo, including former Qadhafi government officials fleeing abroad, criminal arms traffickers and foreign soldiers returning to their countries of origin. These cases also provide a picture of the different objectives, modus operandi and materiel that is currently of interest and/or available for proliferation.

#### *Impact of proliferation of arms originating from Libya in the region*

The proliferation of weapons and the influx of former fighters from Libya are fuelling pre-existing sources of insecurity in the region, particularly in neighbouring countries that concentrate different types of armed criminality. While it is difficult to assess the precise impact of the Libyan crisis on these areas, the fact-finding missions conducted by the Panel in the region indicate that armed insecurity in neighbouring countries such as northern Mali and northern Niger has risen recently, with increased levels of weapons trafficking, armed robberies, terrorist activity and the resumption of insurgent movements. The Panel believes that the proliferation of weapons originating from Libya is exacerbating the already precarious security situation in certain parts of the region and that careful monitoring and enforcement of the arms embargo are therefore critical.

#### *Travel ban/ban on flights/no-fly zone*

*Travel ban.* In resolutions 1970 (2011) and 1973 (2011) the Security Council stipulated that all Member States shall take the necessary measures to prevent the entry into or transit through their territories of individuals subjected to the travel ban. Two cases of non-compliance have been registered, respectively in Algeria in August 2011 and the Niger in September 2011.

*Ban on flights.* By paragraph 17 of resolution 1973 (2011) the Council imposed a ban on flights of Libyan aircraft, and required Member States to implement the ban unless notified and pre-approved by the sanctions Committee, with an exemption for emergency landing. When in Benghazi and in Tunis airports, the Panel witnessed flights operated by Libyan-registered aircraft, and has been informed of a series of flights conducted between 20 July and 16 September 2011 which were not notified to the sanctions Committee.

*No-fly zone.* By paragraph 6 of resolution 1973 (2011) the Council established a no-fly zone over the Libyan territory. This was implemented by NATO from 19 March to 31 October 2011. By resolution 2016 (2011) the Council terminated the no-fly zone as from 31 October.

*Asset freeze.* The asset freeze involved a number of factors and the Panel took a step-by-step approach. First, by examining the implications of the asset freeze measures, and by studying the existing structure of the Libyan financial system, in particular its dominance and control by Muammar Qadhafi, his family and other listed individuals; and also the intricacies of the connections between them and designated entities such as the Central Bank of Libya. In part, this was achieved by interviewing concerned non-governmental organizations; credible expatriate Libyan citizens and organizations, and confidential sources, and in part by visiting relevant Member States and international organizations, as well as the Central Bank of Libya and the Libyan Foreign Bank, the latter two both before and after the regime change. Member States were questioned about their implementation of the asset freeze, the amounts of funds involved, and any potential violations that they had discovered.

The Panel further responded to enquiries from both Member States and the sanctions Committee about problems with implementation in general and with particular cases, and provided technical advice on how to proceed. Instances of potential or alleged violation of, or non-compliance with, the asset freeze measure were investigated and are described in this report. In addition, the Panel communicated with members of the sanctions Committee regarding issues affecting the asset freeze, including de-listing of entities, and the interpretation of the status of subsidiaries of listed entities following the adoption of resolution 2009 (2011), and communicated that to Member States. Efforts have also been made to identify the existence and location of Libyan sovereign assets hidden by designated individuals overseas. Progress has been made in this endeavour, but enquiries are not yet complete as relevant information is only now emerging.

In this regard, the Panel made six recommendations regarding the imposition, implementation and monitoring of the asset freeze provisions in resolution 2009 (2011) and any future resolutions.

## **I. Introduction**

1. By resolution 1970 (2011) the Security Council expressed grave concern over the situation in Libya including the violence and use of force against civilians and the gross and systematic violation of human rights. Within this context, the Council imposed specific measures on Libya including the arms embargo, which relates to arms and related materials of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, in addition to the provision of armed mercenary personnel. The Council also imposed an asset freeze which relates to all funds, financial assets and economic resources which are owned, or controlled directly or indirectly, by the designated individuals or entities listed in the resolution. Further, the Council decided that the asset freeze and travel ban should apply to the individuals and entities designated by the Committee involved in or complicit in ordering, controlling or otherwise directing the commission of serious human rights abuses against persons in Libya.

2. By resolution 1973 (2011) the Council strengthened the enforcement of the arms embargo and expanded the scope of the asset freeze to include the exercise of vigilance when doing business with Libyan entities, if States had information that provided reasonable grounds to believe that such business could contribute to violence and use of force against civilians. Additional individuals subject to the asset freeze and the travel ban were listed in the resolution. Resolution 1973 (2011) also included the authorization to protect civilians and civilian populated areas under threat of attack in Libya. It also included a no-fly zone in the airspace of Libya and a ban on flights of Libyan aircraft.

3. Resolution 2009 (2011) introduced additional exceptions to the arms embargo and removed two listed entities subject to the asset freeze, while allowing the four remaining listed entities to be subjected to a partial asset freeze.

4. By resolution 2016 (2011) the Council terminated the authorization related to the protection of civilians and the no-fly zone.

5. During the reporting period, the Committee established pursuant to resolution 1970 (2011) removed the names of two listed entities subject to the asset freeze. The entities are the Central Bank of Libya and the Libyan Foreign Bank.

## **II. Mandate**

6. In accordance with resolution 1973 (2011), the Panel of Experts was mandated to assist the Committee in carrying out its mandate as specified in resolution 1970 (2011) and subsequent resolutions; gather, examine and analyse information from States, relevant United Nations bodies, regional organizations and other interested parties regarding the implementation of the measures decided in resolutions 1970 (2011) and 1973 (2011), in particular incidents of non-compliance; make recommendations on actions to the Council, or the Committee or State; provide to the Council an interim report on its work no later than 90 days after the Panel's appointment, and a final report to the Council no later than 30 days prior to the termination of its mandate, with its findings and recommendations.

7. In addition, in resolution 2017 (2011) the Panel of Experts was tasked with assisting the Committee which would, in cooperation with the Counter-Terrorism Executive Directorate, and working with other relevant United Nations bodies including the International Civil Aviation Organization (ICAO), and in consultation with international and regional organizations and entities, assess the threats and challenges, in particular related to terrorism, posed by the proliferation of all arms and related materiel of all types, in particular man-portable surface-to-air missiles, from Libya, in the region, and submit a working document to the Council on proposals to counter this threat, and to prevent the proliferation of arms and related materiel, including measures to secure those arms and related materiel, to ensure that stockpiles are managed safely and securely, to strengthen border control and to enhance transport security.

8. The Panel has also been requested by the Committee to assist in drafting an implementation assistance notice to Member States outlining that the asset freeze measures will no longer apply to subsidiary companies of listed entities.

### **III. Methodology**

9. Since its appointment and during the past eight months, the Panel of Experts has agreed on a methodology through which it will arrive at its conclusion, as follows:

(a) The Panel is determined to maintain the utmost fidelity in its assertions, and to ensure compliance with the standards recommended by the Informal Working Group of the Security Council on General Issues of Sanctions in its report (S/2006/997), which is to rely on verified, genuine documents and concrete evidence and on-site observations by the experts, including taking photographs, wherever possible. If a visit on site is not possible, the Panel will attempt to corroborate information using multiple, independent sources to appropriately meet the highest achievable standard, placing a higher value on statements by principal actors and first-hand witnesses to events. While the Panel wishes to be as transparent as possible, in situations where identifying sources would expose them or others to unacceptable safety risks, the Panel will withhold identifying information and place the relevant evidence in United Nations secure archives.

(b) The Panel is committed to impartiality in investigating incidents of non-compliance by any party within Libya or any Member State. The Panel is ready to communicate and travel to seek information from all areas within Libya and elsewhere and have dialogue with all concerned parties.

(c) The Panel is equally committed to the highest degree of fairness, and will endeavour to make available to parties, where appropriate and possible, any information available in the report for which those parties may be cited, for their review, comment and response within a specified deadline. To further uphold the right of reply and in the interest of accuracy, the Panel will consider annexing to its reports any rebuttals, with a summary and assessment of their credibility. The Panel will travel to any location to obtain evidence relevant to its mandate, and is actively trying to identify the most appropriate locations for this purpose.

(d) The Panel agreed to safeguard the independence of its work against any efforts to undermine its impartiality and any attempts to create a perception of bias. The Panel further agreed on the importance of ensuring confidentiality in its work

while, at the same time, observing the principles of transparency and accountability. The Panel agreed to comply with requests for anonymity by its interlocutors during the information-gathering process. At the same time, the Panel endeavoured to verify the credibility of the source and the validity of the information provided.

(e) The political context within which resolutions 1970 (2011), 1973 (2011), 2009 (2011) and 2016 (2011) are situated is evolving and fluid. While the Panel takes note of this, its mandate in monitoring the sanctions is purely technical. Thus, questions of Member States' interpretation of the resolutions are beyond the Panel's remit.

(f) The Panel intended to meet with a maximum number of stakeholders involved in the Libyan crisis to collect the most realistic picture and facts in order to be objective in reflecting the realities in its reports. During its mandate the Panel has made contacts as much as possible with stakeholders in Libya including authorities. Since the establishment of the United Nations Support Mission in Libya (UNSMIL) by the Security Council in its resolution 2009 (2011), the Panel has worked closely with the Mission and coordinated the Panel's missions in Libya with UNSMIL, which also provided logistical support.

#### **IV. Cooperation with stakeholders and organizations**

10. The Panel of Experts has travelled extensively during the eight months of its work period to 17 countries, including Libya and its neighbouring African states, Europe and the Gulf. The Panel has sent more than 130 communications to Member States and organizations to request information or seek clarifications relevant to the fulfilment of its mandate (see annex VII).

11. The Panel's first set of meetings were conducted in New York with representatives of various permanent missions. The Panel travelled to Europe and met with the North Atlantic Treaty Organization (NATO), the European Union and representatives of different Governments in Brussels, Paris, London and Rome (see annex I). The Panel also travelled to Malta. A meeting was held in Jordan with the Special Envoy of the Secretary-General, Abdel-Elah al-Khatib, and the Chargé d'affaires for the Government of Libya representing the Qadhafi regime in Amman. While in New York and travelling in Europe, the Panel also met with international organizations, non-governmental organizations, and United Nations organizations.

12. The Panel travelled to Cairo where it met with the League of Arab States, the United Nations Resident Representative and representatives of United Nations agencies in Cairo dealing with Libya.

13. The Panel travelled five times to Libya. The first visit was to Benghazi in July 2011 when Libya was divided into two camps during the conflict and the Panel met with representatives of the National Transitional Council (Foreign Affairs, Defence and Finance ministers). The Panel also travelled to Tripoli during the conflict and met with the Qadhafi Government. The Panel travelled three times to Libya after the fall of the Qadhafi regime and visited Tripoli, Misratah and Zintan. During those visits the Panel met with the Libyan authorities, military councils and brigades, UNSMIL and United Nations and non-United Nations organizations. The Panel also visited several weapons and ammunition storage facilities to verify the condition of these items.

14. The Panel has travelled to Egypt, Mali, Mauritania, the Niger, Qatar, the Sudan, Tunisia, Uganda and the United Arab Emirates. During these visits the Panel met with the relevant government authorities and other organizations operating in these countries.

15. The Panel requested other visits in order to obtain information from government authorities, but no response was forthcoming from either Algeria or Chad. It is however important to note that, late in January 2012, Algeria accepted the Panel's request to visit and meet with respective authorities. The Panel could not accept the invitation, however, as it was at that time undertaking other scheduled trips to Libya and the subregion and was also in the process of preparing its final report and a working document on the implementation of paragraph 5 of resolution 2017 (2011).

16. The Panel appreciates the assistance of all Member States and United Nations agencies and organizations that facilitated meetings and visits in a timely manner.

## **V. Political and security context**

17. The Security Council adopted four resolutions during the Panel's mandate reflecting the rapidly evolving situation in Libya. From August to December 2011, by resolutions 2009 (2011), 2016 (2011), 2017 (2011), and 2022 (2011), the Council inter alia established the United Nations Support Mission in Libya, amended the sanctions provisions and terminated the no-fly zone, and called for assessment and recommendations to the Security Council on the regional threat posed by weapons proliferation from Libya. NATO declared the official end of Operation Unified Protector on 31 October 2011.

18. The International Criminal Court issued arrest warrants on 27 June 2011 for Muammar Qadhafi, his son Saif al-Islam, and Abdullah Sanussi, for two counts of crimes against humanity linked to the Libyan security forces' response to protests in eastern Libya and Tripoli beginning on 15 February 2011. The case against Muammar Qadhafi was terminated on 22 November 2011, following his death. The National Transitional Council has indicated that it will try Saif al-Islam in Libya. The Libyan Minister of Justice, Ali Humaida Ashour, has petitioned the International Criminal Court to accept this request; at the time of writing this remained under consideration.

### **Developments within Libya**

19. Following months of military stalemate, the National Transitional Council-aligned forces made major gains, culminating in the defeat of Government forces and the capture, flight or death of Qadhafi and his inner circle. Tripoli fell to National Transitional Council-aligned forces at the end of August 2011, Colonel Qadhafi was killed on 20 October 2011, and National Transitional Council forces captured Saif al-Islam on 19 November 2011. By the end of October 2011, the National Transitional Council had routed all significant Qadhafi-aligned forces. On 16 September 2011 the National Transitional Council was granted its seat in the United Nations General Assembly. Acting according to its road map, the National Transitional Council on 22 November 2011 formed a transitional government under a new Prime Minister, Abdurrahim el-Keib, to lead the country until general elections scheduled for June 2012.

20. Popular discontent with the performance of the National Transitional Council began to escalate throughout the latter part of 2011. Facing the considerable challenge of reconstituting the Libyan state, the Council also grappled with the limitations of transitional government. Balancing a weak interim governing mandate against a myriad of immediate demands, the National Transitional Council was alternatively criticized for overstepping or insufficient action. The inclusion of former government officials drew criticism, as did the Council's appearance of insufficient transparency.

21. An event relating to the National Elections Law expressed the level of rising discontent. Protesters disputing elements of the law and also motivated by other grievances violently confronted the Vice-Chairman of the National Transitional Council, Abdel Hafiz Ghoga, in Benghazi, as a result of which he offered his resignation on 22 January 2012.

### **Other Libyan actors**

22. The National Transitional Council's control has remained conditional, a product of continual negotiation with autonomous militia and local councils. Jockeying between rival militias has led to a number of violent incidents, while the lack of centralized control limits the Council's ability to enforce international standards of human rights and due process.

23. Although efforts are being exerted by the National Transitional Council, a combination of inadequate holding facilities, a non-functioning judicial system, and the autonomy of local actors has hampered efforts to establish the rule of law. The treatment of prisoners by autonomous militias outside the Council's purview has resulted in widespread human rights violations. In January 2012, Amnesty International issued reports of torture in detention occurring in the Tripoli environs, Misratah and Gharyan. The targets were individuals associated with the former government and foreign nationals of sub-Saharan African origin. Human Rights Watch documented the torture and death of the former Libyan Ambassador to France, Omar Brebesh, who was detained on 19 January 2012. The targeting of the inhabitants of the formerly pro-Qadhafi city of Tawergha stands out as a particularly egregious case of the widespread occurrence of reprisal acts. Driven en masse from their homes in August 2011 by Misratah-aligned forces, the city remains empty and Tawerghans are regularly tortured in custody.

24. While a national army exists, the majority of military power rests with various militias, mostly associated with local councils. Chief among these are the Zintan and Misratah brigades. In recognition of their influence, key government appointees hail from these two regions: the Defence Minister, Usama al-Juwali (Zintan); the Chief of Staff, Yussef al-Manqoush (Misratah) appointed on 2 January 2012; and the Interior Minister, Fawzi Abdul Aal (Misratah). By February 2012, powers outside the National Transitional Council had begun to coalesce into two major coalition blocs: the Barqa Front in the east and a new militia federation in western Libya.

25. Rivalries between various militias and, in some cases, tensions with remaining Qadhafi loyalists have increasingly erupted into armed conflicts since November 2011. On 3 January 2012, conflict erupted in Tripoli between the Misratah and Tripoli brigades. On 14 January 2012, two fighters were killed and 36 injured after clashes between militias from the neighbouring towns of Gharyan and Asbi'a. Most recently, fighting occurred in Bani Walid on 24 January 2012. Indicating the gravity

of the threat, the Chairman of the National Transitional Council, Mustafa Abdul Jalil, warned twice in January 2012 that the recent incidents posed a risk of civil war.

26. Chief among the challenges facing the National Transitional Council is creating a political compact that is sufficiently comprehensive and includes the increasingly powerful and autonomous militias. It is hoped that elections in June 2012 will resolve these issues, but Libyan and international actors have emphasized the need for more immediate forms of reconciliation also. Efforts at stemming weapons proliferation depend also on the achievement of political consensus. The Panel's conclusions echo those of other international actors working in counter-proliferation in finding a decreased level of cooperation among autonomous militias on this issue in recent months.

### **Regional issues**

27. Libya's role as regional power created a complex web of interdependent relations with its neighbours, characterized, *inter alia*, by foreign investments, hosting of migrant workers, and sponsorship of some armed opposition groups. The relevance of these factors to different neighbouring States, combined with the addition of large-scale outflows of military materiel, has shaped responses to the fall of Qadhafi. Views of neighbouring States towards the net impact on regional stability expressed to the Panel varied.

28. The Sudan, for example, acknowledged an immediate increase in arms available to some Darfur armed opposition groups, and a concern for general small arms proliferation along its border with Libya, but expressed relief that a long-term sponsor of instability in its country was removed and predicted that peacemaking efforts in Darfur would improve as a result. The Sudan did not suffer from large-scale migrant returns, and arms proliferation, while worrying, was offset by the removal of Libya as a long-term future sponsor of armed opposition in the Sudan. Nor was the Government of the Sudan previously benefiting from patronage of the Qadhafi Government.

29. The impact on some Sahel countries such as Mali, the Niger, and to a lesser extent Chad and Mauritania, and has been more severe. The fragile infrastructure of these states has been severely challenged in the peripheries by the mixture of large numbers of returnees, loss of remittances, weapons influxes, and the withdrawal of international aid, itself a result of increased insecurity. As a result, pre-existing conflicts have resurged, new armed opposition groups have emerged, and greater space for terrorist organizations and international criminal networks has opened.

## **VI. Implementation of the arms embargo**

30. Resolution 1970 (2011) imposed an arms embargo on Libya including prohibition of the supply, sale or transfer of arms and related materiel of all types to and from Libya, as well as prohibition of the provision of training and of armed mercenary personnel. By resolution 1973 (2011) the Security Council called upon Member States to inspect suspicious cargos, and authorized them to take all necessary measures — notwithstanding paragraph 9 of resolution 1970 (2011) relating to the arms embargo — to protect civilians; and requested Member States concerned to inform the Secretary-General immediately of the measures taken.

Resolution 2009 (2011) introduced additional exemptions to the arms embargo, allowing the transfer of arms and related materiel, including training and other support, for security or disarmament assistance to the Libyan authorities and notified to the Committee in advance.

## **A. Military materiel and weapons management in Libya**

31. The conflict in Libya and the evolution of control of the territory by the opposition has gradually revealed the very large weapons stocks in Libya, not only in terms of their vast numbers but also the wide variety of systems and models, including small arms, light weapons, heavy weapons and related ammunition, as well as mines and explosives.

32. While a number of countries supplied Libya prior to the imposition of the first embargo in 1992 (resolution 748 (1992)), a large part of the Libyan arsenal was procured in the 1970s and the 1980s from the USSR. Arms transfers to the country did not completely cease during the embargo period, but the United Nations sanctions appear to have contributed to the degradation of Libya's military capabilities, particularly owing to the lack of spare parts and subsequent poor maintenance of equipment.<sup>1</sup> With the lifting of the United Nations sanctions in 2003 (resolution 1506 (2003)) and those of the European Union in 2004, the country engaged in a significant arms build-up programme and concluded large deals, including with Western European countries and ex-Soviet States.<sup>2</sup>

### **Weapons proliferation during the conflict**

33. The distribution of arms to civilians and the appropriation of the content of weapons and ammunition storage sites by individuals and brigades resulted in the uncontrolled circulation of very large quantities of military materiel during the war. Additional military materiel was also delivered during the conflict from abroad and there were apparently no accountability measures to follow the distribution of this materiel on the ground.

34. Four months after the end of the conflict, a significant percentage of the civilian population is armed and the brigades control very large quantities of weapons and ammunition stocks. The lack of a unified command over the *katibas*<sup>3</sup> and the absence of a national force to oversee the arms stocks represent considerable challenges in terms of post-conflict weapons management and control.

35. Both during and after the conflict, control of the arms depots and their contents occasionally created tension between brigades. The military capacities of brigades, including the size of their weapons stockpiles, add to their political leverage and they are unlikely to be willing to cede control of their arsenals for the moment given the level of uncertainty about what is likely to happen in the country.

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<sup>1</sup> Procurement, Libya. Jane's Sentinel Security Assessment, 6 June 2011.

<sup>2</sup> Jane's 2011; and *Annual Reports According to Operative Provision 8 of the European Union Code of Conduct on Arms Export* (2006, 2007, 2008, 2009, 2010).

<sup>3</sup> *Katiba* is the Arabic term which is used in Libya to define the fighting units that opposed Qadhafi's forces. These units were generally created on a local basis during the war and do not have standard numbers of fighters or arms. Sizes of *katibas* vary greatly.

36. While this might actually be considered a mitigating factor against the proliferation of weapons in and outside Libya, it should be noted that not all weapons are under the control of brigade authorities. According to representatives of katibas in Zintan and Misratah, while many brigades have securely stored some of the light and most of the heavy weaponry, fighters are still personally responsible for their small arms. The deficiencies in weapons control and management measures present an additional risk in terms of proliferation.

37. Finally, it is clear that a number of people seized the opportunity to make a profit by removing weapons from stores opened up during the conflict and selling them. Since the end of the conflict, the Panel has been made aware of information which indicates that individuals in Libya have made contact with foreign brokers in an attempt to sell military materiel. Investigations to establish the veracity of this reporting are ongoing.

#### **Deficiencies in weapons management**

38. Whether in new storage sites used by katibas or in old depots and armouries that were already in use by the Qadhafi forces, weapons management and security measures are deficient, and this results in potential risks of diversion and accidents like the explosion in an ammunition depot which killed several people in central Libya on 6 December 2011.

39. While national authorities supported by international technicians are currently working on mapping and securing pre-war weapons storage, having access to katibas' facilities is more challenging since late in 2011.

40. Current institutional weaknesses and the valuable stocks of Libyan weapons represent an attractive market for illegal brokers and traders.

## **B. Monitoring and enforcement of the arms embargo**

41. Fifty-five Member States have submitted reports on the implementation of resolution 1970 (2011) including the measures they were taking regarding the arms embargo. All Member States already visited by the Panel stated that they are taking action to implement the arms embargo in accordance with paragraphs 9 and 10 of resolution 1970 (2011). The Panel was informed that some Member States have conducted inspections in compliance with both resolutions 1970 (2011) and 1973 (2011). Member States are required to submit promptly an initial written report to the Committee when they undertake inspections (resolution 1973 (2011), para. 15).

### **1. NATO enforcement of the arms embargo**

42. NATO took control of all military operations for Libya under resolutions 1970 (2011) and 1973 (2011) on 31 March 2011. The operations ended on 31 October 2011 at 23.59 local Libyan time. The NATO Operation Unified Protector supported the implementation of the arms embargo through the enforcement of the no-fly zone and the verification of activities of shipping in the vicinity and outside of Libyan territorial waters.

43. All the ships destined for Libyan ports were subjected to inspection in order to monitor vessels and interdict those which transported arms or related materiel. Inspections and diversions of vessels were decided by NATO military commanders

in the field and on a case-by-case basis. NATO relied on its risk assessment for profiling ships to be inspected, thereby deciding the nature of goods allowed to be transported to Libya.

44. NATO provided reports of inspection activities to the sanctions Committee on a regular basis. As at 31 October 2011, NATO had hailed 3,100 ships, boarded 300 and denied 11 vessels access to Libyan ports; no breach of the arms embargo was reported by NATO, however.

45. The NATO operation covered the northern part of Libya only, and the southern borders of the country — where illicit trafficking has always been a challenge — were not monitored, resulting in armed fighters and armed traffickers coming in and out of Libya undetected.

46. With the lifting of the no-fly zone and the termination of the monitoring of the arms embargo by NATO, the transportation of goods is returning to normal. For this reason, the threat of proliferation of military materiel across Libya's borders has increased and the Libyan authorities need to reinforce the control of goods being transported by land, sea and air.

## **2. Current challenges to enforcement and monitoring of the arms embargo by Libya and neighbouring countries**

47. The approximately 4,000 km of land borders, shared with six countries, and the 1,700 km of coastline represent a real challenge for Libyan authorities and for the implementation and monitoring of the arms embargo. The uprising in Libya has led to the collapse of many Libyan institutions, including the security sector and mechanisms such as border control. Some border control activities are currently conducted by local brigades and representatives of brigades from Zintan and Sabha have explained to the Panel that patrolling is resource-intensive, and that they lack logistical support, mainly in terms of communication.

48. Supported by international partners, including UNSMIL, the Libyan Ministry of Defence has established an agency in charge of border security issues. The Ministry of the Interior is complementing these efforts by managing the civilian aspects of the border regime along with the Ministry of Finance and the Customs Service. Finally, a national border control assessment is to be conducted in the coming months, including ports and airports.

49. The border areas shared by Libya and its neighbours have always been a challenge to control: most, particularly to the south between Libya, the Niger and Chad, span enormous distances in remote and often desert areas. Most regional State border control capacities are limited; the few official entry points are incapable of regulating the traffic and are therefore easily bypassed by illicit traffickers. In addition, cross-border security cooperation between these States remains very limited; as a result, arms traffickers and other cross-border armed actors take advantage of the absence of State control in these peripheral zones to export military materiel illegally from Libya to neighbouring countries (see section VI.D).

50. The States visited in the region by the Panel, including Egypt, Mali, Mauritania, the Niger and Tunisia, are taking action to prevent the proliferation of arms from Libya by reinforcing their security measures along the borders; this is often insufficient, however, and some of them are seeking financial and logistical support to help address these challenges.

## **C. Transfers of military materiel to Libya since the imposition of the arms embargo**

51. The Panel endeavoured to balance its investigation by looking at the actions of all relevant actors. At the conclusion of the current mandate, the Panel had secured only limited information on sanctions violations committed by the Qadhafi Government and those assisting it during the war against the anti-Qadhafi aligned forces. The following section reflects the information available to the Panel and does not indicate a judgement by the Panel that any actors require greater attention than others.

### **1. Potential transfers of military materiel and mercenaries to the Qadhafi Government**

52. Information in this section is not indicative of a violation or necessarily of suspicion thereof. Rather it denotes that the Panel has received some form of information which requires further research on the part of the Panel before reaching a determination whether a violation has occurred.

#### **Attempts of the Qadhafi Government to purchase military materiel**

53. Information available to the Panel indicates that, during the conflict, Qadhafi security officials may have tried several times to secure arms deals from brokers and producers with which the Government had previous business. Investigations to establish the veracity of this information are still ongoing.

54. On 2 September 2011, a memo stating it was from the Department of Technical Affairs of the Armed Forces, Directorate of Artillery and Rockets, regarding a visit of Qadhafi officials in July 2011 to China and their meetings with different arms and ammunition manufacturers to broker arms deals, was published by the *Globe and Mail*.<sup>4</sup> The memo indicated that in the past the regime had already imported different types of arms and ammunition from China and that the officials met with three companies: China North Industries Corporation, China Precision Machinery Import-Export Corporation and China Xinxing Import and Export Corporation. The memo quotes prices and quantities of military materiel including items of heavy artillery, light weapons and small arms.

55. Three days later, on 5 September 2011, the spokesperson for the Chinese Ministry of Foreign Affairs acknowledged the fact that officials from the regime had engaged in contact with certain Chinese companies but said the latter had not signed any military trade contract with the Libyan side, let alone exported any military materiel to it.

56. The Panel asked the Permanent Mission of China to confirm this information and to provide details regarding the materiel that the Qadhafi Government was seeking to purchase. On 6 February 2012, the Permanent Mission sent a letter to the Panel to confirm the information given by the spokesperson of the Ministry of Foreign Affairs on 5 September 2011 but did not disclose any further information.

<sup>4</sup> [www.theglobeandmail.com/news/world/africa-mideast/read-the-memos-from-inside-colonel-gadhafis-crumbling-regime/article2152692/?from=2152875](http://www.theglobeandmail.com/news/world/africa-mideast/read-the-memos-from-inside-colonel-gadhafis-crumbling-regime/article2152692/?from=2152875).

**Shipment of military related materiel held by Maltese authorities**

57. During its visit to Malta in July 2011, the Panel received information about containers being withheld by the Maltese authorities on the suspicion that the intended final user was the Qadhafi Government Defence Forces. The shipment contained uniforms and tents as follows: 1,500 single-fly, single-fold tents and 12,000 “French jackets colour navy”. The tents had been shipped by a textile company domiciled in Karachi (Pakistan), and the receiver is a Libyan company domiciled in Tripoli. The jackets were loaded in the port of Shanghai (China) and the shipper is a Sarajevo-based agent of a Chinese company. The Panel has already submitted this information to the Committee in its interim report (see annex IV).

**Mercenaries**

58. According to article 1 of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries adopted by the General Assembly in 1989 (resolution 44/34), the definition of a mercenary includes the following criteria:

- Is specially recruited locally or abroad in order to fight in an armed conflict
- Is motivated by private gain and promised, by or on behalf of a party to the conflict, material compensation in excess of that promised or paid to combatants in the armed forces
- Is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict
- Is not a member of the armed forces of a party to the conflict
- Has not been sent on official duty by a State which is not a party to the conflict.

59. The definition therefore does not apply to foreign security personnel who were incorporated into the Qadhafi regime forces prior to the hostilities, nor to foreigners who were already residing in the country and may have joined the pro-Qadhafi forces at the beginning of the uprising, or combatants potentially sent by a foreign State.

60. The Panel received information from many different sources indicating the use of mercenaries from the immediate neighbouring sub-Saharan countries, by Muammar Qadhafi, during the war fought against the National Transitional Council. It must be noted that clearly identifying individual combatants from sub-Saharan Africa as non-Libyan nationals is complicated in the Libyan context by the lack of citizenship documentation, granting of new Libyan citizenship, and the existence of Libyans who resemble sub-Saharan Africans to some degree.

**Mali and Niger**

61. During the Panel’s trips to the Niger and Mali in September 2011 and January 2012 respectively, the security authorities and intelligence services confirmed that nationals of the Niger and Mali had fought alongside Qadhafi’s forces during the conflict. They informed the Panel that some of those individuals had been in Libya for many years, including some who had been integrated into the regular Libyan armed forces after they had left Mali and the Niger following the rebellions of the

1990s and 2000s. According to the Malian authorities, some of the fighters who had arrived since the fall of the regime even had Libyan nationality and were actively seeking to be allowed back into Libya to live. Some of this information has been corroborated by the authorities of the Niger (see section VI.D).

62. While the Panel is currently investigating potential cases of the provision of armed mercenaries since the imposition of the arms embargo, no conclusive evidence has yet been found and the Panel would therefore need to continue its investigation further. The Panel would also like to highlight the difficulty of travelling to the northern part of Mali and the Niger at the moment, which is an obstacle to finding and documenting evidence of any recruitment processes.

### **Chad**

63. Following the designation in Security Council resolution 1973 (2011) of the ex-Libyan Ambassador in Chad, the release of information in the media, coupled with the results of interviews with United Nations and other security sources in Libya and the subregion which indicate that Chadian fighters may have been entering Libya to support Qadhafi's forces, the Panel requested a meeting with Chadian authorities to discuss these issues. However, the Chadian authorities have not responded to that request. In January 2012, the Panel sent another letter to the Permanent Mission of Chad requesting confirmation and further details about information regarding Chadian fighters supporting Qadhafi forces. The Panel also asked about potential seizures of weapons coming out of Libya. A response is still pending.

### **Sudan**

64. Khalil Ibrahim, the Chairman of the Justice and Equality Movement (JEM), a Darfuri armed opposition movement, and an unknown sized contingent of his cadres have been based in Tripoli since his expulsion from Chad in May 2010. JEM maintains that Khalil Ibrahim was confined to Tripoli against his wishes. JEM has written to various international actors (the United Nations Secretary-General, NATO, the United States Government) requesting assistance in extricating Khalil Ibrahim from Tripoli and claims that those requests have gone unanswered. Some international actors informed the Panel that action was taken to assist Khalil Ibrahim but that, when broached with the option to leave Libya, JEM set out a variety of reasons why it could not.

65. Securing definitive evidence of military support of Darfur groups to Qadhafi forces is difficult because of the impossibility of accessing the areas where those groups are said to be militarily active (mostly southern and south-eastern Libya) and the lack of clarity around the groups' command and control, as well as the difficulty in identifying whether individual fighters are aligned with a particular armed opposition group, and if so what group.

66. According to numerous reports from other Darfur armed opposition groups, international actors and the Government of the Sudan, JEM and other Zaghawa ethnic elements of the Darfur armed opposition provided military assistance to Muammar Qadhafi during the conflict with the National Transitional Council. The accumulative strength of intelligence gives substantial credibility to these findings, but the Panel was not able to definitively corroborate this.

67. In one incident reported to the Panel, JEM is said to have participated in an attack on Kufrah occurring on 28 April 2011 and to have been repulsed by 5 May 2011. The force was a mixture of JEM, Tuareg and Libyan forces under the command of Belqasem Al-abaaj, the head of security for Kufrah. Belqasem is said to be the coordinator for material support to the Darfur and Chadian movements.

**Private security companies and individuals who helped listed individuals to flee Libya**

68. Allegations have been brought to the Panel's attention, from both news reports and other reliable sources, of the involvement of South African security firms, and South African nationals as mercenaries, in the attempts to extricate listed individuals, including Muammar Qadhafi and members of his family, from Libya to other countries. In order to confirm this information, the Panel wrote to the South African authorities in January 2012 and asked for details of any investigations carried out by South Africa into the apparent involvement of its nationals in these enterprises. To date, no answer has been provided to the Panel.

69. As a result of various media reports concerning the escape from Libya of Saadi Qadhafi, son of Muammar Qadhafi and a listed person under both the travel ban and the asset freeze sections of the resolutions, it became apparent that an Australian national based in Canada, Gary Peters, had assisted that enterprise. Enquiries were made by the Panel, and contact instigated with Mr. Peters, who confirmed that he had helped Saadi Qadhafi to escape but would not reveal any details without the authority of "the boss", clearly referring to Saadi Qadhafi, in particular concerning any assets that the latter may have at his disposal.

70. He was asked to seek that authority for an interview, but since then no reply has been received. He has apparently been undertaking such activities for his employer for some time.

**2. Transfers of military related materiel and provision of military personnel to the anti-Qadhafi forces**

71. During the Panel's visits to Benghazi in July 2011, Libyan opposition military sources, as well as international observers, explained to the Panel the difficulties that revolutionary forces had been facing in terms of military combat: the lack of weapons and ammunition, the lack of organization and the difficulty of communicating across a single and between the different fronts of the conflict, as well as the lack of experience of the majority of civilians who took up arms against the Qadhafi forces. While the opposition gained more experience and organized itself better with time, and seized increasing numbers of weapons from Qadhafi's bunkers and forces, Libyan sources also explained that foreign military support, including deliveries of military materiel, had been crucial.

72. By paragraph 4 of resolution 1973 (2011), the Security Council authorized Member States that had notified the Secretary-General, acting nationally or through regional organizations or arrangements, and acting in cooperation with the Secretary-General, to take all necessary measures, notwithstanding paragraph 9 of resolution 1970 (2011) concerning the arms embargo, to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya, including Benghazi, while excluding a foreign occupation force of any form on any part of Libyan territory, and requested the Member States concerned to inform the

Secretary-General immediately of the measures they took pursuant to the authorization conferred by that resolution which would be immediately reported to the Security Council.

73. Information in the following sections is divided between notified transfers of military materiel; potential inadequate notification of transfers of military materiel; inadequate notification of transfers of military materiel; and non-notified transfers of military materiel in violation of the arms embargo. Information under the “potential” heading denotes that the Panel has received some form of information which requires further research on the part of the Panel.

#### **Notified transfers of military materiel and personnel**

74. The present section presents a factual report of the notifications that were made in accordance with paragraph 4 of resolution 1973 (2011) in relation to the supply of military related materiel and personnel. Given the notifications, no judgement is being made as to whether such supplies constitute potential or actual violations of the arms embargo.

75. While 14 countries have notified the Secretary-General that they were taking military measures in accordance with paragraph 4 and/or paragraph 8 of resolution 1973 (2011), only four Member States — France, Italy, the United Kingdom and the United States — immediately notified the Committee of the intention to deliver or the actual supply of military related materiel or personnel to Libya in accordance with paragraph 4 of resolution 1973 (2011).

#### *France*

76. On 18 March 2011, the Permanent Mission of France notified the Secretary-General about the French Government’s decision to take measures authorized by paragraphs 4 and 8 of resolution 1973 (2011) (S/2011/150).

77. On 26 April 2011, the Permanent Mission informed the Secretary-General that a small team of French military advisers had been dispatched in Libya to provide the National Transitional Council with support and advice on ways to organize its internal structure, manage its resources and improve its communications (S/2011/274).

78. In a letter dated 30 June 2011 (S/2011/402), the Permanent Mission informed the Secretary-General that France had airdropped self-defence weapons for the civilian populations that had been victims of attacks by Libyan armed forces, in the absence of any other operational means of protecting these populations under threat. On 20 July 2011, the Panel wrote to the Permanent Mission of France to request detailed information about these deliveries including documentation about the exact types and quantities of weapons, serial/lot numbers, marking details of the different items and the dates and location(s) of the deliveries. The Permanent Mission replied on 4 August 2011, and provided information regarding the period of delivery, the area in which delivery was made and a list of humanitarian and military materiel that was delivered, including the general types and number of items. France had requested the Panel to keep the information confidential. On 20 August 2011, the Panel sent a follow-up letter to the Permanent Mission asking for additional details regarding the exact models, country of production, year and serial numbers of items. To date, the Panel has not received any reply to this letter.

*Italy*

79. On 19 March 2011, the Permanent Mission of Italy notified the Secretary-General that, in accordance with paragraphs 4 and 8 of resolution 1973 (2011), Italy would take measures under the authorizations conferred in those paragraphs (S/2011/158).

80. On 26 April 2011, the Permanent Mission notified the Secretary-General of the supply of personal protective equipment to the National Transitional Council as well as the provision of a small team of military advisers to mentor and advise the National Transitional Council headquarters on how it might organize its internal structures, prioritize its resources and improve communications (S/2011/270).

81. The Panel sent a letter to the Permanent Mission requesting more detailed information regarding the materiel delivered and the military personnel sent to Libya. In a communication dated 14 February 2012, Italy informed the Panel that 10,000 uniforms, 5,400 helmets and 2,800 leather boots had been delivered and that 10 military trainers had been sent to Libya.

*United Kingdom of Great Britain and Northern Ireland*

82. On 18 March 2011, the Permanent Mission of the United Kingdom notified the Secretary-General that, in accordance with paragraphs 4 and 8 of resolution 1973 (2011), the United Kingdom would take measures under the authorizations conferred in those paragraphs (S/2011/149).

83. In a letter dated 26 April 2011 (S/2011/269), the United Kingdom notified the Secretary-General of the United Kingdom's intention to supply personal protective equipment to the National Transitional Council as well as the provision of a small team of military advisers to mentor and advise the National Transitional Council headquarters on how it might organize its internal structures, prioritize its resources and improve communications. On 25 October 2011, the United Kingdom notified the Committee in accordance with paragraph 13 of Security Council resolution 2009 (2011) of the United Kingdom's intention to provide a military assistance team to the Libyan authorities for the purposes of providing operational assistance, training and mentoring on security issues, including reform of the armed services, counter-terrorism and counter-insurgency.

84. The Panel sent a letter to the Permanent Mission of the United Kingdom requesting more detailed information regarding the materiel delivered and the military personnel sent to Libya. In a communication dated 9 February 2012, the United Kingdom informed the Panel that 6,000 sets of body armour had been delivered and that the team of military advisers and Military Assistance Team comprised no more than 20 military personnel.

*United States of America*

85. In a letter dated 16 June 2011 (S/2011/372), the United States Mission informed the Secretary-General of the provision of non-lethal supplies and equipment to Libyan groups such as the National Transitional Council. The Panel sent a letter to the United States Mission requesting more detailed information about the non-lethal supplies and equipment. On 6 February 2012, the United States provided the Panel with a list of types and quantities of the non-lethal items delivered, including 8,000 uniforms, 8,000 boots, 5,825 load-bearing vests, 2,850

bullet-proof vests, 1,975 military helmets and items for defensive positions (sandbags, Hescos ...).

**Potential inadequate notification of transfers of military materiel to Libya involving the United Arab Emirates**

86. According to information available to the Panel, the United Arab Emirates may have transferred military materiel to Libya since the imposition of the embargo; the Panel cannot, however, disclose the information at this stage as investigations are still ongoing.

87. On 21 March 2011, the Permanent Mission of the United Arab Emirates notified the Secretary-General that the United Arab Emirates would take measures in accordance with paragraphs 4 and 8 of resolution 1973 (2011) and informed him that it was providing humanitarian aid to Libya including medical, logistical and food items (S/2011/169). On 25 March 2011, the United Arab Emirates notified the Secretary-General that it would participate, within the framework of the international coalition, by providing military aircraft. No notification was given regarding transfers of weapons or ammunition or provision of military personnel.

88. The Panel visited the United Arab Emirates in January 2012 and asked the authorities to provide information about weapons, ammunition and other military materiel delivered to Libya as well as the number and specific roles of military personnel that had been sent to the country, if any. The representatives of the United Arab Emirates explained that the support provided by their country was done in accordance with the provisions of resolution 1973 (2011) to protect civilians and was conducted under the umbrella of the NATO operation. They did not provide more precise information and said that NATO would be in a better position to answer those questions: the representatives of the United Arab Emirates explained that NATO was at the time responsible for the enforcement of the no-fly zone and the maritime embargo and was in possession of lists of the materiel that was delivered. The representatives added that NATO had requested that such queries be directed to it.

89. Following the visit to the United Arab Emirates, the Panel sent a letter to the Permanent Mission of the United Arab Emirates asking to be provided with precise information regarding the deliveries of arms and ammunition and the military personnel sent to Libya from 26 February 2011 onwards, if any. While the United Arab Emirates was asked to reply by 6 February 2011, the Panel has not yet received a response.

90. Finally, on the basis of the information given by the authorities of Qatar (see para. 101) and the United Arab Emirates, the Panel sent a letter to NATO asking it to provide a detailed list of military materiel, including weapons and ammunition, sent by Qatar and the United Arab Emirates or any other country that participated in the NATO operation, and information regarding the number and roles of military personnel sent by those countries to Libya since the imposition of the embargo. While NATO acknowledged the receipt of the Panel's request for information on 25 January 2012, no answer has been provided to date.

**Inadequate notification of transfers of military materiel and personnel to Libya from Qatar**

91. On 19 March 2011, Qatar notified the Secretary-General that it would take measures under the authorizations conferred in paragraphs 4 and 8 of resolution 1973 (2011) (S/2011/163).

92. By a letter dated 25 March 2011 (S/2011/195), the Permanent Mission of Qatar, in reference to resolution 1973 (2011), transmitted the notification of the measures taken by the State of Qatar in accordance with the above-mentioned resolution. In the annex to the letter, the Government of Qatar informed the Secretary-General that the State of Qatar was contributing to military operations with a number of military aircraft, military transport aircraft and helicopters.

93. By a letter dated 6 May 2011 (S/2011/321), the Permanent Mission of Qatar, in reference to resolution 1973 (2011), attached the third notification on the measures taken by the State of Qatar in accordance with the resolution. In the annex to the letter, the Government of Qatar informed the Secretary-General of the provision of medical supplies and other humanitarian aid as well as the facilitation of humanitarian flights transporting wounded people.

94. On 22 July 2011, the State of Qatar notified the Secretary-General that it had taken “the following measures”. The communication provides a detailed list of measures regarding the supply of humanitarian aid — food, logistics, health and nutrition support (displaced), camps management and non-food items, psychological support and capacity-building (Red Crescent). No notification was given regarding transfers of weapons or ammunition or provision of military personnel.

95. During interviews with the Minister of Defence and a representative of the armament section of the Ministry of Defence conducted by the Panel in July 2011 in Benghazi, the Panel was clearly informed that several countries, including Qatar, were supporting the opposition through deliveries of arms and ammunition. According to the same sources, between the beginning of the uprising and the day of the interview, approximately 20 flights had delivered military materiel from Qatar to the revolutionaries in Libya, including French anti-tank weapon launchers (MILANs).

96. A number of media reports indicate that Qatar supported the armed opposition to Qadhafi from early in the conflict by participating in the NATO air operation, as well as through the direct provision of a range of military materiel and military personnel. Based on these media reports and on information gathered in Libya, the Panel sent a letter to Qatar on 10 August 2011 asking about the deliveries of arms and ammunition made across the Tunisian border, an aircraft that had allegedly landed in Misratah on 6 March 2011 transporting weapons and ammunition, and about the reported presence of Qatari military personnel on the ground. While Qatar was requested to reply to the Panel by 29 August 2011, no reply has been provided to date.

97. In July 2011, a news report broadcast by the Swiss Channel SF1 showed that Swiss ammunition, Ball M80, 7.62 x 51 mm, made by the Swiss producer RUAG Ammotec was used by the revolutionaries.<sup>5</sup> The box of ammunition clearly stated

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<sup>5</sup> [www.tagesschau.sf.tv/Nachrichten/Archiv/2011/07/21/Schweiz/Schweizer-Munition-in-Libyen-Linke-Politiker-wollen-Exportstopp](http://www.tagesschau.sf.tv/Nachrichten/Archiv/2011/07/21/Schweiz/Schweizer-Munition-in-Libyen-Linke-Politiker-wollen-Exportstopp).

that the ammunition had been exported to the Qatar armed forces in 2009 by a Swiss company, FGS Frex.

98. The Panel sent a letter to the Permanent Mission of Switzerland in October 2011 asking for details regarding the ammunition found in Libya. In a communication dated 5 December 2011, the Permanent Mission of Switzerland informed the Panel that the aforementioned ammunition had been exported to the Qatar armed forces on condition that it would not forward the ammunition to a third party without the prior consent of the Swiss authorities (non-re-exportation declaration). In the same letter, Switzerland also informed the Panel that representatives of the State Secretariat for Economic Affairs, which handles export applications in Switzerland, and the Swiss Ministry of Foreign Affairs, met the Ambassador of Qatar accredited to Switzerland to discuss the incident on 25 November 2011. On this occasion, the Ambassador of Qatar explained to the Swiss representatives that “the transfer of the aforementioned ammunition to the Libyan opposition was a misadventure in the course of his country’s support of the NATO engagement in Libya”. He reassured the State Secretariat for Economic Affairs that “Qatar took appropriate measures to prevent similar errors in the future”.

99. In a second communication dated 1 February 2012, the Permanent Mission of Switzerland provided the Panel with additional information regarding the non-re-exportation declaration that the headquarters of the Qatar armed forces issued on 8 April 2008 regarding different types of ammunition, including 1 million rounds of 7.62 x 51 mm NATO Ball. By this declaration the Qatar armed forces certified that they would not sell, lease, lend or donate these goods without the prior written consent of the Swiss authorities.

100. In January 2012, the Panel visited Qatar and asked the authorities to provide information about weapons, ammunition and other military materiel delivered to Libya as well as the number and specific roles of military personnel that had been sent to the country. The representatives of Qatar explained that the support provided by Qatar was done in accordance with the provisions of resolution 1973 (2011) to protect civilians and was conducted under the umbrella of the NATO operation and did not provide more precise information. Following the visit to Qatar, the Panel sent a second letter asking the Qatari authorities to provide the Panel with precise information regarding the deliveries of arms and ammunition and the military personnel sent to Libya from 26 February 2011 onwards.

101. On 11 February 2012, prior to the submission of the present report, the Panel provided Qatar with the aforementioned results of its investigations. In a letter dated 12 February, Qatar informed the Panel that the State of Qatar had sent a limited number of military personnel to provide military consultations to the revolutionaries, defend Libyan civilians and protect aid convoys and that it had supplied those Qatari military personnel with limited arms and ammunition for the purpose of self-defence. In the letter, the State of Qatar categorically denies the information reported by some media that it supplied the revolutionaries with arms and ammunition (see annex V).

102. The Panel notes that, while the State of Qatar notified the Secretary-General that it would take measures in accordance with paragraph 4 of resolution 1973 (2011), it did not give immediate notification of the military materiel and personnel that it was sending to Libya, unlike the States mentioned above.

**Non-notified transfers of military materiel**

103. Several transfers of military materiel were not notified to the Secretary-General and therefore constitute violations of the arms embargo. At this stage, the Panel is still working on several cases and is therefore not in a position to disclose all the information related to the investigations that are still ongoing.

*Albania*

104. According to information available to the Panel, several flights operating between Tirana and Benghazi on 10, 11 and 12 September 2011 transported military materiel. The Panel is still investigating the case and is therefore unable to release additional information at the moment.

*Sudan*

105. The Panel was informed during its interviews with the Ministry of Defence in Benghazi in July 2011 that the Sudan was providing military materiel to the Libyan opposition including small arms and light weapons such as rocket-propelled grenades. While the Panel was not able to obtain any more precise information about the types or quantities of materiel delivered by the Sudanese authorities, it was explained to the Panel members that two Ilyushin-76 aircraft had been delivering materiel directly to Benghazi or Kufrah, from where some of it was transported by road to Benghazi.

106. According to media reports,<sup>6</sup> on 26 October, the President of the Sudan, Omar Al-Bashir, gave a speech in Kassala in which he acknowledged weapons deliveries from the Sudan to Libya and that the weapons had reached revolutionaries in Misratah, Al-Jabal al-Gharbi and Zawiya. On 21 November 2011, the Panel conveyed a letter to the Permanent Mission of the Sudan, requesting confirmation of the deliveries of weapons to Libya and details about the deliveries. To date, the Sudan has not replied to the Panel's request.

**D. Transfers of military materiel out of Libya in violation of the arms embargo**

107. According to information available to the Panel, arms, ammunition and explosives have been going out of Libya since early in the conflict in violation of the arms embargo. Several investigations are still ongoing and therefore the Panel is unable to disclose all the information available at this stage.

108. The cases developed in this section are largely based on information provided by Member States that have faced the challenge of increased levels of arms-trafficking within their territory since the beginning of the Libyan crisis and the resulting impact on security (see section VI.E). While these cases do not give an altogether clear indication of the scope and scale of the proliferation of weapons originating from Libya, they do provide a good overview of the types of actors involved in violations of the arms embargo, their different objectives, modus operandi and the type of materiel that is currently of interest and/or accessible to traffickers.

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<sup>6</sup> "Bashir says Sudan armed Libyan rebels", *Sudan Tribune*, 26 October 2011. Available from [www.sudantribune.com/Bashir-says-Sudan-armed-Libyan,40547](http://www.sudantribune.com/Bashir-says-Sudan-armed-Libyan,40547).

109. As noted earlier in this report, the immensity of the desert areas in the peripheral zones of Libya and its neighbouring countries, as well as the current limited capacity of the security forces, suggest that many more convoys are likely to have been transferring weapons illegally from Libya to other countries undetected.

## **1. Regime officials flee abroad with weapons and ammunition**

110. From 4 to 11 September 2011, several convoys of Libyan nationals including officials of the Qadhafi regime crossed the border into the Niger. That country's authorities have disarmed the convoys and are hosting them for humanitarian reasons. During its visit to the Niger in September 2011, the Panel was not able to inspect any of the materiel being stored in the north of the country and therefore had to rely on the detailed lists of materiel provided by the authorities of the Niger. No pictures of the materiel were available.

111. On 4 September 2011, a convoy of 10 Libyan nationals, including Abdallah Mansour, Director of the High Authority for Information which was responsible for regrouping all media entities in Libya, entered the Niger. They were accompanied by four citizens of the Niger including Aghali Alambo, a pre-eminent figure of the former Tuareg rebellion in the Niger. The authorities of the Niger seized a rocket-propelled grenade (RPG), a machine gun, five AK type assault rifles and five pistols. The authorities also seized three rockets for RPG, 198 rounds of 7.62x54 mm R ammunition, 899 rounds of 7.62x39 mm ammunition and 20 rounds of 7.62x51 mm and 64 rounds of 9 mm ammunition, as well as 32 magazines for AK type assault rifles, 5 magazines for pistols and 1 magazine for a light automatic rifle (FN FAL).

112. On 8 September 2011, a convoy of 10 Libyan nationals, including the Chief of Staff of the Libyan Arab Jamahiriya Air Force, General Ali Sharif al-Rifi, and two other generals including the one in charge of the military zone of Oubari, arrived in the Niger. One national of the Niger was leading them: Ibrahim Alambo, the brother of Aghali Alambo mentioned above. The Niger military seized three AK type assault rifles, 147 rounds of 7.62x39 mm ammunition and six magazines for AK type assault rifles.

113. On 11 September 2011, a convoy of nine Libyan nationals including the son of Muammar Qadhafi, Saadi Qadhafi, crossed the border into the Niger. The military materiel seized by the authorities included the following: 2 RPGs, 4 machine guns, 1 Dragunov, 1 G36, 1 FN FAL, 1 AK type assault rifle and 1 pistol grenade launcher. Ammunition seized included 6 RPG rockets, 2,780 rounds of 7.62x54 mm R ammunition, 2,270 rounds of 7.62x51 mm ammunition and 846 rounds of 5.56 mm ammunition. The convoy also had 5 magazines for AK type assault rifles, 2 magazines for G36, 2 magazines for FN FAL, 4 magazines for Dragunov as well as 1 infrared sight.

## **2. Arms trafficking**

114. The availability of large and valuable stocks of weapons in Libya, the uncontrolled circulation of arms during the conflict, porous borders and the current institutional weaknesses that the authorities are facing in terms of border control and weapons management are all factors that make Libya an attractive market for illegal traffickers.

115. While the Panel received information about military materiel being exported from Libya or attempts to do so from early in the conflict, several investigations are still ongoing and therefore the Panel is unable to disclose all the information it has gathered at this stage.

#### **Ant trade to neighbouring countries**

116. Neighbouring countries like Egypt and Tunisia informed the Panel during its visits about the dynamics of the new “ant trade” coming out of Libya since the eruption of the conflict. While this type of trafficking is on a small scale, it could represent very significant quantities in the long run and pose challenges.

117. Following its visit to Egypt, the Panel sent a letter to the Egyptian authorities to request precise information about the weapons and related materiel that had been seized since the imposition of the embargo on Libya. On 25 January 2012, the Permanent Mission of Egypt informed the Panel that the Egyptian authorities have successfully managed to thwart efforts to smuggle 567 pieces of weapons and 1,132,411 bullets through its border with Libya. The letter does not provide information regarding the exact period over which the materiel was seized or the types of weapons and ammunition involved.

118. During its visit to Tunisia in October 2011, representatives of the Ministry of Defence told the Panel that seizures of arms and related materiel had been occurring since the Libyan crisis and stated that approximately 50 small arms and 14 kg of Semtex explosives originating from Libya had been seized by the authorities since the beginning of the crisis in Libya. The representatives also explained that investigations were ongoing and that the Government of Tunisia would share more comprehensive information with the Panel once the investigations were concluded.

119. In January 2012, the Panel sent a letter to the Permanent Mission of Tunisia and asked to be provided with detailed information regarding seizures of arms originating from Libya since the imposition of the arms embargo, including the types, quantities, places of seizure and context. To date the Panel has not received an answer.

#### **Case of explosives trafficking stopped in the Niger**

120. On 12 June 2011, the armed forces of the Niger engaged in fighting with an armed convoy at approximately 80 km north-east of Arlit. The operation resulted in several killings and the seizure of a vehicle which contained 40 boxes of Semtex explosive, each containing 16 kg of Semtex, 640 kg in total (see figure I), as well as 335 detonators and US\$ 90,000. Two cars, allegedly transporting more materiel, escaped the arrest.

121. The convoy was coming from Libya and was reportedly on its way to Mali. According to the investigation report by the authorities of the Niger, the insurance of the car that was seized had been contracted in Benghazi in 2010.

Figure I



*Source:* Authorities of the Niger; June 2011, provided to the Panel in September 2011.

122. On 15 June, Abta Hamedi handed himself in to the authorities of the Niger in Agadez, where he lives, with one of the two vehicles that had escaped the arrest. Abta Hamedi has been apparently suspected by those authorities of previous illegal trafficking activities, including cars and drugs. He is a native of the Niger but had lived in Libya in the past and he is also believed to be close to Aghali Alambo (see para. 111). According to the authorities of the Niger, when the convoy was stopped in that country it was en route for Malian territory where cells of Al-Qaida in the Islamic Maghreb are based. In his statement to the authorities, Abta Hamedi said that the explosives were destined for Al-Qaida in the Islamic Maghreb, but the Panel was unable to confirm this information. Abta Hamedi is currently in jail.

123. During its visit in September 2011, the Panel had access to some of the materiel that had been seized from the aforementioned arrest, including explosives, fuses, detonators and two small arms: two old Russian AK-47 with the initials of Abta Hamedi carved on each stock — it seems that the assault rifles were in his possession for some time and may not be from Libya.

124. The boxes of Semtex clearly indicate that they were produced by the Czechoslovak state company VCHZ Synthesia. There were two different types of box: figure II shows the label on boxes that were delivered under a contract signed in 1977, while figure III shows the label on boxes delivered under a contract signed in 1980.

Figure II



*Source:* Authorities of the Niger; taken in June 2011, provided to the Panel in September 2011.

Figure III



Source: Panel of Experts, Niamey, September 2011.

125. During one of its visits to Libya, the Panel was briefed by the Mine Action Service of the Department of Peacekeeping Operations about its activities and received information about a stock of Semtex boxes that was discovered piled up in the open air in a site in the desert outside the town of Gharyan. The Mine Action Service kindly provided the Panel with some pictures (figure IV).

Figure IV



Source: United Nations, Mine Action Service, Libya, September 2011.

126. The stock found outside Gharyan included exactly the same type of Semtex boxes as those seized by the authorities of the Niger in June 2011 (see figure V), identifying a potential source of the illicit trafficking. The Mine Action Service confirmed to the Panel that the Semtex along with other military materiel has since been transferred to safe storage in Gharyan where it is now well secured. Some of these explosives were also provided to the Mine Action Service for the disposal of explosive remnants of war.

Figure V



Source: United Nations, Mine Action Service, Libya, September 2011.

### 3. Foreign soldiers return to their countries of origin with weapons and ammunition

127. During the Panel's visits to the region, the authorities of the Niger, Mali and the Sudan shared their concerns about the return of armed fighters who had previously been in Libya, often incorporated into Qadhafi's security forces, who returned to their countries of origin once it became apparent that the regime would fall.

#### Niger

128. In September 2011, the authorities of the Niger informed the Panel that some fighters of Niger origin had gone back to the northern part of the country since the outbreak of the Libyan crisis; they were however unaware of the precise number of people that had returned or the quantity of weapons that they had brought. At the time of the Panel's visit, the arrival of those fighters was not seen as a primary concern for the authorities as they did not seem to pose any immediate security threat and were apparently being absorbed by their communities of origin.

#### Mali

129. The estimate of the number of fighters that came back to Mali varies from several hundred to four thousand according to the different interviews conducted by the Panel in January 2012 with the Malian security forces, intelligence sources, Tuareg and other civilian representatives, as well as a Malian military source who had met directly with some of these fighters. That source explained that the fighters were camping in the desert and had significant quantities of weapons, light weapons in particular, including those mounted on vehicles such as heavy machine guns. The case below, based on information provided by the authorities of the Niger, illustrates and explains some of the dynamics related to this exodus of fighters and is certainly representative of the weapons that were brought to Mali.

130. On 6 November, about 150 km north of Arlit, a Niger security patrol engaged in fighting with an armed convoy of approximately 10 vehicles which was on its way from Libya to Mali. Six vehicles were stopped, several people were killed and 13 people were arrested. Four vehicles escaped with more people and reportedly more arms and ammunition.

131. According to the official statements recorded by the authorities of the Niger to which the Panel had access, the 13 people were a group of Malian Tuareg origin. Most of them were born in northern Mali and had lived in Libya and others were born in Libya of Malian immigrant parents. The convoy had been formed in Ubari and had left Libya a few days before it was arrested.

132. While some of the passengers declared that they were civilians who had joined the convoy to go back to Mali, four individuals acknowledged that they had fought along with Qadhafi's forces and that following his death at the end of October 2011, and owing to the resulting insecure situation for them, they had decided to go to Mali. They explained that they were returning with the weapons and ammunition they had fought with during the conflict in the hope that they would be integrated into the Malian national army. One statement mentions another similar convoy of fighters who had fought on Qadhafi's side and who had recently arrived in Mali with weapons and ammunition.

133. The authorities of the Niger seized the military materiel listed below. The Panel has not physically seen the materiel and has had to rely on a list of items provided by the Niger authorities and photographs of limited quality (see figure VI) which has made it difficult to identify some of the materiel precisely.

*Small arms*

Assault rifles: 28 AK type assault rifles and 9 FN FAL

5 light machine guns

*Light weapons*

4 12.7-mm heavy machine guns

2 14.5-mm heavy machine guns

*Ammunition*

2,067 rounds of 7.62x39 mm

5,910 rounds of 7.62x51 mm

1,961 rounds of 7.62x54 mm R

547 rounds of 12.7 mm

260 rounds of 14.5 mm

3 RPG rockets

Figure VI



Source: Authorities of the Niger, November 2011.

134. Among the 28 AK type assault rifles was one AK 103-2. This weapon is a relatively recent Russian-designed assault rifle and is found in large quantities in Libya. According to information available to the Panel, these assault rifles came under the same single contract but were delivered to Libya in different batches in 2005, 2007 and 2008. From the information that the Panel has been able to gather at this stage, this type of weapon does not appear in the arsenals of many countries or of non-State armed groups in the region and the potential appearance of this weapon in neighbouring countries could therefore help the Panel and national authorities to identify breaches of the arms embargo and better understand the dynamics of the arms outflow from Libya.

135. On 9 January 2012, the Panel sent a letter to the Russian Federation providing the details and serial number of the AK 103-2 which was seized by the authorities of the Niger asking for confirmation that it had been produced by a Russian manufacturer and to what country the Government of the Russian Federation had exported this item. To date the Panel has not received an answer to its request.

### Sudan

136. Although it was not able to definitively verify them, the Panel received numerous credible reports that, following the attack on Kufrah (see para. 67), JEM and other Zaghawa elements were reported by the Government of the Sudan and Libyan sources resident in the Kufrah area to have returned to Darfur with Libyan military materiel and money. JEM returned to Darfur from Libya from 15 to 25 September 2011 in an operation it dubbed “Mission Sahara Leap”.

137. Securing definitive evidence of these weapons transfers is difficult because of the impossibility of accessing the areas where JEM was said to be militarily active (mostly southern and south-eastern Libya) or of gaining access to the weapons stores of Darfur armed opposition groups and the lack of clear delineation among the different armed actors active in the region. The Panel has been in contact with the Panel of Experts on the Sudan and is keen to continue collaborating on these issues.

## E. Impact of proliferation of arms in the region

138. The influx of arms and combatants in different areas has the potential to fuel pre-existing sources of insecurity. The Panel has provided input on these issues and has coordinated efforts aimed at producing the working document on the threat of

the proliferation of weapons from Libya to the region, particularly man-portable air defence systems, related to terrorism, according to paragraph 5 of resolution 2017 (2011).

139. The Sahel region concentrates different types of armed criminal activities that are often intertwined. During its visits to the region, the Panel was informed by the authorities as well as United Nations agencies and non-governmental actors that the proliferation of weapons from Libya was having a detrimental impact on an already precarious and currently deteriorating security situation. Some of the findings of the Panel on these issues are summarized below.

140. *Trafficking and cross-border criminality.* The Sahel region hosts important trade routes. The porosity of borders and the absence of State security control in peripheral areas are both factors that encourage cross-border illicit trafficking of people and goods including drugs and arms. Authorities in Libya's neighbouring countries have noticed an increase in weapons trafficking since the outbreak of the Libyan crisis (see section VI.D).

141. *Armed robberies.* Authorities and humanitarian agencies have told the Panel that cases of armed robbery have recently dramatically increased, particularly in northern Niger and northern Mali. Criminality is apparently rising in parallel with the influx of weapons and the increase of economic hardship due, among other things, to rising food insecurity, the return of immigrants from Libya into already destitute communities and the withdrawal of humanitarian agencies because of insecurity.

142. *Insurgency.* Several areas have faced insurgencies in the past and were recently facing political and insecurity unrest. For instance, while it is difficult to assess the influence of the Libyan crisis on the current events in northern Mali, the influx of new weapons, particularly light weapons, and the number of fighters may have instilled a new sense of capacity to challenge the State forces.

143. *Terrorism.* Terrorist activities have been on the rise in recent months, especially those related to Al-Qaida in the Islamic Maghreb and Boko Haram. For instance, the number of abductions by Al-Qaida in the Islamic Maghreb has increased, their territory of activity has expanded southwards, recruitment efforts have been significant and some new cells have appeared, but it is unclear whether these groups are new distinct groups or cells splintering off from existing ones.

144. Weapons available in Libya are of interest to terrorist groups and a leader of Al-Qaida in the Islamic Maghreb, Mokhtar Belmokhtar, claimed that they had indeed acquired weapons from Libya.<sup>7</sup> While this information has been corroborated by additional credible sources, there is no indisputable evidence to prove this at present. Regional and international security agencies are particularly strongly concerned about the potential acquisition of man-portable air defence systems, explosives and other weapons by terrorist entities in the region which could be used in terrorist attacks and enhance the military capacities of cells to fight against national forces.

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<sup>7</sup> Aboul Maaly, "Entretien exclusif avec Khaled Abou Al-Abass, alias 'Belaouar'", *Nouackchott Info*, 10 November 2011.

## **VII. Implementation of the travel ban, the ban on flights and the no-fly zone**

### **A. Travel ban**

145. By paragraph 15 of resolution 1970 (2011), the Security Council imposed a travel ban on individuals listed in annex II, with exceptions pursuant to paragraph 16. A number of Qadhafi family members and inner circle allies are subject to the travel ban. The updated list published by the sanctions Committee on 13 February 2012 designates 20 individuals (5 subject solely to the travel ban, 15 to the travel ban plus the asset freeze).

146. Several Member States have submitted to the sanctions Committee their reports on the implementation of the relevant measures, and the Member States visited by the Panel indicated that they had initiated procedures preventing listed persons from travelling to or through their territories.

147. On 29 August 2011, the Permanent Mission of Algeria to the United Nations informed the President of the Security Council of the arrival in Algeria that day, at 8.45 a.m. local time, of Safia Qadhafi, accompanied by Aisha, Hannibal and Mohammed Qadhafi, all of whom are subject to the travel ban.

148. While the Panel was visiting the Niger, the Government authorities attested to the presence of Saadi Qadhafi in Niamey since 11 September 2011.

149. The travel outside of Libya of all of the above-named family members constitutes violations of the travel ban. While resolution 1970 (2011) contains a humanitarian exemption to this provision, to enact this, permission must be sought from the sanctions Committee in advance of entry. Although Algeria and the Niger posited humanitarian grounds for the entry into their countries of these individuals, they failed to secure the approval prior to entry.

### **B. Ban on flights**

150. By paragraphs 17 and 18 of resolution 1973 (2011) a ban was imposed on any Libyan-registered or owned aircraft taking off, landing and/or overflying the territory of Member States, unless the particular flight had been approved in advance by the Committee, and Member States must apply similar prohibitions to any aircraft if they have information that it may contain prohibited cargo or armed mercenaries, with the exception of emergency landing.

151. To the knowledge of the Panel of Experts, there has been no interception of any aircraft to date. The interim Benghazi Civil Aviation Authority under the National Transitional Council stated on 20 July 2011 that a series of flights would be operated from Benghazi to Tunis for humanitarian purposes. The next day the Panel witnessed the first of a series of flights from Benghazi airport operated by Air Libya with B-727 aircraft.<sup>8</sup> To the knowledge of the Panel, no notification or request from Tunisia was recorded, or permission granted by the sanctions Committee.

<sup>8</sup> Also BAe 146 Air Libya flight from Benghazi to Ruhaybat strip (50 km south-west of Tripoli) on 31 July 2011; see [www.youtube.com/watch?v=-0CDT-WRL6k&feature=player\\_embedded](http://www.youtube.com/watch?v=-0CDT-WRL6k&feature=player_embedded).

152. From information available to the Panel it has become apparent that a number of humanitarian and VIP flights were regularly operated by Air Libya, Afriqiyah and Libyan Air cargo, without advance sanctions Committee approval, from 20 July 2011 until the lifting of the flight ban by resolution 2009 (2011) (para. 21) on 16 September 2011. These flights constitute violations of the ban on flights, according to paragraph 17 of resolution 1973 (2011).

153. It should be noted that the Afriqiyah fleet was previously subject to the asset freeze as one of the subsidiary companies of the Libyan Arab Foreign Investment Company, which is listed in resolution 1973 (2011). Early in January 2012, the CEO of Afriqiyah informed the Panel that the company belonged to a new State-owned holding company, the Libyan African Aviation Holding Company, but no official notice has yet been released to the knowledge of the Panel.

### **C. No-fly zone**

154. The no-fly zone over Libya was established pursuant to resolution 1973 (2011), paragraph 6, with a set of exceptions listed in paragraph 7. The preamble to resolution 1973 (2011) acknowledged the decision of the League of Arab States of 12 March 2011 to call for the imposition of a no-fly zone on Libyan military aviation.

155. The implementation of the no-fly zone began immediately after the adoption of the resolution on 19 March 2011; enforcement of the ban on flights and the no-fly zone was initially undertaken by the coalition from 19 to 31 March 2011, then by NATO forces setting up Operation Unified Protector on 31 March 2011, for three months; it was extended on 8 June until 31 October 2011.

156. Military operations prevented any aircraft from overflying Libyan territory and the contiguous high seas. EUROCONTROL and the civilian air traffic centres, mainly the Malta air traffic control and the NATO military operation centres, arranged the civil-military coordination which was urgently needed to permit smooth and orderly de-confliction procedures. As time went on, the process improved as the management of the airspace became more efficient. This allowed the safe coexistence of military and civil operations, with civil activity increasing from 200 flights a day to more than 400 at the end of the no-fly zone period.

157. The high sea portion of the Tripoli flight information region was included within the operational competencies of NATO, but the Tripoli air traffic management authorities were not involved, because of lack of communications with the Qadhafi Government.

158. Under such exceptional circumstances a new contingency routing network towards Africa, joining Crete (Greece) to Djerba-Tozeur (Tunisia), was established in order to avoid the theatre of operations.

159. Although the no-fly zone addressed the entire Libyan territory, the active part covered by NATO was from the northern boundary of the Libyan flight information region to the 25th parallel; according to NATO, south of this line, the Libyan air space contiguous to Egypt, the Sudan, Chad, the Niger and Algeria was not surveyed.

160. The Panel is not aware of any surveillance activities by the States mentioned above. The no-fly zone applied to all parties involved, but it was difficult to prevent short helicopter flights, which were witnessed from time to time. NATO has reported that there have been sporadic rotary and fixed-wing flights in violation of the no-fly zone within the areas controlled by the National Transitional Council, but they appeared to have ceased after NATO addressed the matter with the Council.

161. The Panel was informed in July that the civil traffic flow situation was rapidly evolving, and that a summer traffic peak of around 6,000 civil flights was expected, which meant that the summer contingency procedures might need to be revised; but the no-fly zone went well until it was lifted on 27 October 2011 by resolution 2016 (2011), paragraph 6.

#### **The period after the no-fly zone**

162. Since early November 2011, a step-by-step approach has been followed for a safe transition of airspace, owing to the coordination between ICAO, EUROCONTROL, and the respective civil aviation authorities concerned (Malta, Tunisia, Egypt and Libya) and air traffic services over the central Mediterranean high seas and Libyan territory, as follows:

- Phase 1. The current situation, following the end of the no-fly zone in November, allowed the reopening of the main airports of Tripoli International, Tripoli Mitiga, Sabha, Benghazi and Misratah to civilian traffic.
- Phase 2. On 1 February 2012, two contingency north/south overflight routes were opened, allowing gradually increasing traffic as deemed necessary. The remaining routes will be released by the Libyan Civil Aviation Authority as soon as the operational conditions are fulfilled.
- Phase 3. From 1 April to 3 May 2012, aviation authorities will add more routes to the overflight system, and will reopen new airports on a regular basis with their associated contingency routes. This last phase will put an end to the contingency operations (see annex VI).

## **VIII. Implementation of the asset freeze**

### **A. Overview: structure of the economy**

163. Since the hydrocarbons sector represents 72 per cent of gross domestic product (GDP), the Libyan economy is dominated by it. Moreover, until the revolution, this sector also represented 93 per cent of government revenues and 95 per cent of export earnings. As a result, Libya appears to be one of the less diversified oil-producing economies in the world. In the early 1980s two crises caused a decline in economic activity: falling oil prices and the sanctions on Libya. The decline led to a slow rehabilitation of the private sector. However, three quarters of employment is still in the public sector and private investment remains dormant, at around 2 per cent of GDP.<sup>9</sup>

<sup>9</sup> World Bank, "Socialist People's Libyan Arab Jamahiriya — Country Economic Report". Report No. 30295-LY, July 2006.

164. One of the poorest countries in the world in the 1950s, Libya ranks ahead of several other oil-producing countries in terms of per capita GDP, measured in purchasing power parity. According to the World Bank in 2006, "... the real GDP growth was modest and volatile during the 1990s, reflecting the inefficiencies of the state-driven economy, stagnant oil production and revenues, and the impact of economic sanctions. Since 2000, real GDP growth has been boosted by high oil revenues, reaching 4.6% in 2004 and an estimated 3.5% in 2005."<sup>9</sup>

165. Libya is a food-deficit country heavily reliant on imports and at least 85 to 90 per cent of the country's requirements are imported.<sup>10</sup> The National Supply Corporation was responsible for the public food distribution system in Libya for many years, and provided Libya with at least some products called "first necessity products" given their perceived strategic nature. It controlled imports of the commodities, some of which were subsidized by the State at up to 93 per cent of their value. As Libya entered the open market economy in recent years, the system was dramatically downsized.

166. In 2008, the National Supply Corporation evolved into the Price Stabilization Fund, a government price-control mechanism. Overall funding for the Fund, the types of commodities provided, and the number of outlets for the subsidized staple commodities were reduced. The Government subsidized the difference between market price and the lower rate set by the Fund.

167. Over the past three years, the Price Stabilization Fund has compensated public or private milling companies through the subsidization of finished products. In eastern Libya, there are some 13 milling companies that also distribute finished products.

## **B. Monitoring of the asset freeze**

### **1. The asset freeze regime**

#### **Listed individuals and entities**

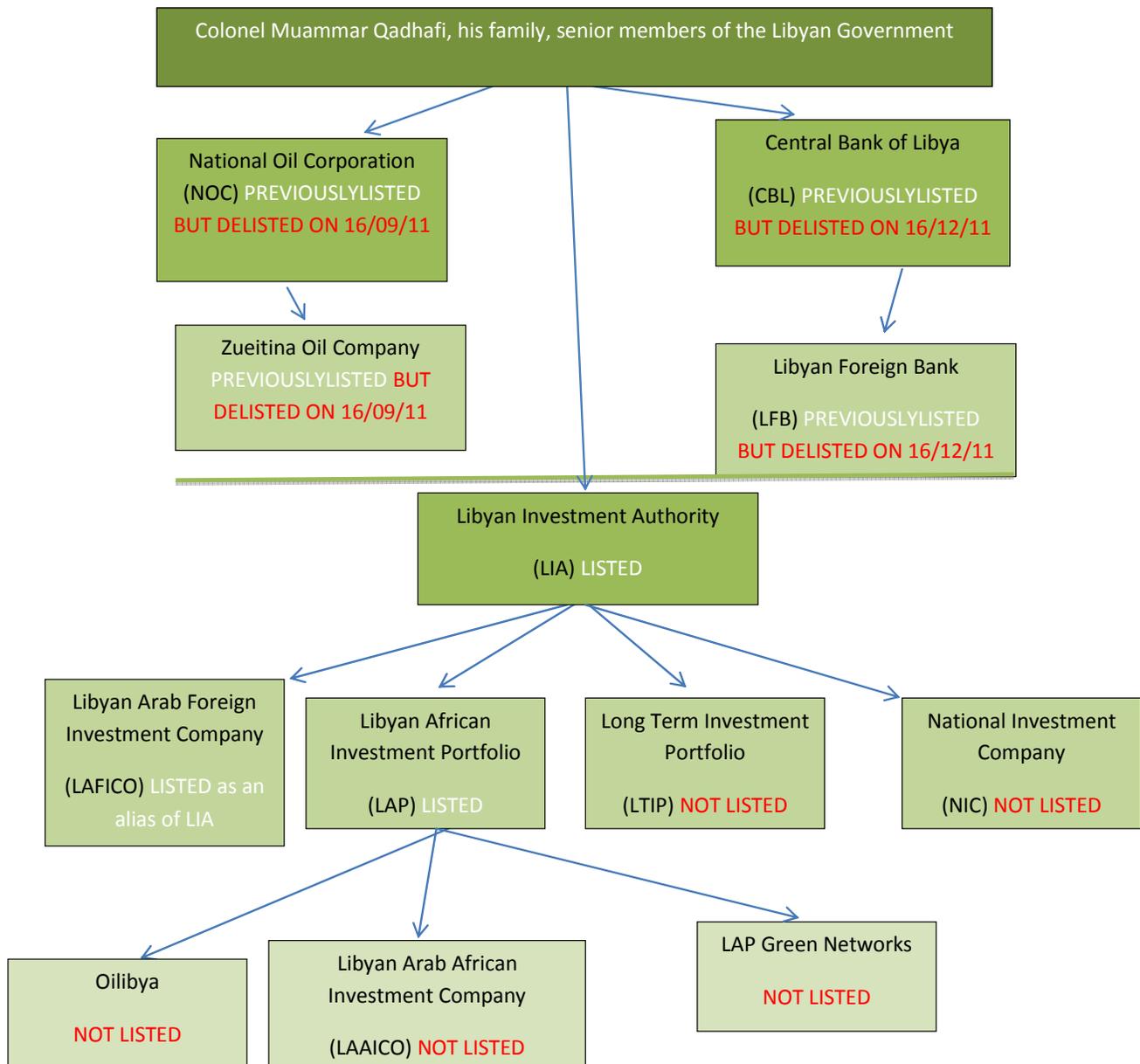
168. Resolutions 1970 (2011) and 1973 (2011) both imposed aspects of a freeze of the assets of certain designated individuals and entities, to prevent the use of money and other economic property to further repress the Libyan people. Both resolutions outlined the mechanism by which Member States could apply to the sanctions Committee in the event that they wished to take advantage of any of the exemptions included therein. These included situations where contracts had been agreed prior to the imposition of the sanctions, and situations which fell into one of the categories exempted from the sanctions, such as for humanitarian purposes, the payment of Libyan Embassy staff wages, and other Embassy expenses, to satisfy liens or judgements and the like. All of these included a caveat against allowing any of the designated individuals or entities to benefit from the transaction in question. In accordance with relevant resolutions, various procedures must be followed by Member States before authorizing the use of frozen funds under these circumstances.<sup>11</sup>

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<sup>10</sup> World Food Programme, May 2011.

<sup>11</sup> Resolutions 1970 (2011), paras. 19-21, and 1973 (2011), para. 16.

169. The list of designated individuals and entities was subject to change, and several amendments were made over the period of the sanctions regime. The list of individuals, together with their current believed locations/status, can be found at annex II. As well as the listing of individuals controlling or associated with the ruling regime, various financial and economic organizations were included in the list of designated entities by resolution 1973 (2011), and their identity and interrelationship are illustrated below for clarity:



170. These entities were ultimately controlled by Muammar Qadhafi and/or his family. The entities' purposes were and are as follows:

- Central Bank of Libya. Performs Central Bank functions, controls money supply. Conduit for transactions into and out of the country (see below).
- Libyan Foreign Bank. The only bank licensed for international operations. It supported and controlled overseas financial assets. It was the only source of foreign exchange in Libya, the Libyan dinar not being convertible to other currencies.
- Libyan Investment Authority. A holding company that managed investment funds emanating from the oil and gas sectors in various areas of the international investment market, primarily through its subsidiaries.
- Libyan Arab Foreign Investment Company. A wholly owned subsidiary of LIA, it was in charge of Libyan foreign investments prior to the establishment of LIA in 2006. It now handles international equities and fixed incomes. It is shown in the annex to resolution 1973 (2011) as being an alter ego of LIA, and therefore a listed entity. However, it is a separate entity with a changed function, therefore the designations should be varied to include it as a separate listed entity (see recommendations, para. 223 (d)).
- Libyan African Investment Portfolio. Provides direct general investments in various sectors mainly within Africa. Despite being a LIA subsidiary, it is specifically listed in the annex to resolution 1973 (2001).
- Long Term Investment Portfolio. Used mainly for banking and real-estate investments.
- National Investment Company. Used mainly for investment acquisitions in Europe.
- Oilibya. Previously Tamoil Africa. Managed Libya's oil-related investments in Africa.
- National Oil Corporation. Controls Libya's oil production.
- Zueitina Oil Company. Subsidiary of National Oil Corporation, identified and listed on 24 June 2011.
- Libyan Arab African Investment Company. Government organization managing various investment sectors, and supporting Africa's development potential.
- Libyan African Investment Portfolio Green. Concerned with development of telecommunication industry in nine African countries. Was looking to expand into Europe.

### **Investments**

171. The asset freeze included any other entities owned or controlled by any of the listed entities, which meant that a very large amount of real estate and business property was included worldwide. It is also believed that a substantial amount of cash and property was moved abroad by the regime and its advisers for their own personal use, presenting a formidable challenge to the Panel in identifying those assets and any violations of the sanctions pertaining to them by Member States.

### **Visits to Member States**

172. In accordance with paragraphs 24 and 25 of resolution 1973 (2011), the Panel visited a number of Member States, United Nations agencies and international organizations (see annex I), which explained what they had done to comply with the asset freeze measure.

173. With regard to the European Union, the European Council issued several provisions which dealt with the current situation in Libya and the United Nations sanctions regime. European Union Regulations are directly applicable so that there was no need for domestic implementation, as the measures are self-executive. However, pending European Union decisions, some States can directly apply United Nations sanctions measures, to avoid the time lapse between the two provisions and apply without delay the necessary measures to fully address United Nations requirements. For instance, there was a gap of several days between the adoption of resolution 1970 (2011) and the effective commencement of the European Union legislation. During that short period, it would have been possible for funds to be moved from the jurisdiction of a European Union Member State without penalty. In one European Member State, domestic legislation exists cementing United Nations resolutions into law as soon as they are adopted, which is then superseded by the European Union law when it becomes effective. In another, temporary legislation was enacted by decree within four hours of the adoption of the resolution.

174. Further, the Government of the United States applied stricter sanctions measures to Libya through the Executive Order signed by its President. This blocked the property, and interests in property, of the Government of Libya, its agencies, instrumentalities, controlled entities, and the Central Bank of Libya, as well as individuals listed in its annex. These were blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in, pursuant to the Executive Order.

### **Difficulties arising**

175. An unforeseen consequence of the asset freeze arose from the listing of the Central Bank of Libya. It was brought to the Panel's attention at an early stage that there appeared to be an anomaly. The Libyan dinar was not convertible to other currencies, and it was illegal to hold accounts in foreign currencies. The only Libyan bank which held reserves of foreign currency was the Libyan Foreign Bank, which was used by the regime solely to trade internationally, and which was one of the listed entities.

176. Furthermore, any funds entering or leaving the country had, by law, to pass through the Central Bank. This was of course banned by the sanctions, as any funds coming into the country would have been, albeit temporarily, in the control of the designated entity. Likewise any monies passing from a Libyan company to a foreign client would go through the Central Bank, which would benefit from the fees generated. In either event the sanctions would have been breached. The Panel visited Tripoli on 20 August 2011 and spoke to a Central Bank manager, as well as Hadi Coobar, assistant general manager of the Libyan Foreign Bank, and the Finance Minister, Abdulhafid Zlitni. They confirmed that this was the case, but the promised documentary support for this was never received because the regime fell the following day. In January 2012, the new Governor of the Central Bank of Libya, Saddek Omar Elkaber, confirmed to the Panel that the law still remains the same,

but in any event, both entities were de-listed by the sanctions Committee on 16 December 2011, and the difficulty ceased.

177. During the period of listing, however, this situation created considerable confusion among Member States, and a large amount of the Panel's time has been taken up by resolving such issues, mainly in the form of explaining to the Member States into what category their desired transaction fell, and whether it was allowed under the exemptions to the sanctions.<sup>12</sup>

178. There was anecdotal evidence, in part obtained from concerned parties contacting the Panel directly, of Member States appearing to use this confusion as a reason for holding on to funds that should have been released, on the pretext that they had been frozen. In particular, this applied to some intermediary banks in certain countries that were holding funds paid by Libyan companies to foreign suppliers with contracts exempted because they were made prior to the imposition of sanctions. In all such cases that were brought to the attention of the Panel formally, the advice provided was that the Member States in which the bank was situated should give formal notification of the intention of the Member States to complete the transaction and, in the event of no objection from the sanctions Committee within the specified period, to do so. Similar advice was given when queries arose in respect of any of the other exemption circumstances.

179. During its latest visit to Libya in January 2012, the Panel was informed by the Governor of the Central Bank that the payment of salaries to employees of the public administration was a big challenge, as they had traditionally been paid their salaries in cash. In order to maintain transparency and governance, the new management of the Central Bank of Libya has required employees to open bank accounts in order to trace the financial transfers. This new procedure has not been well received and it caused some delay in disbursement of the salaries. According to the Central Bank, the problem now appears to be solved and December's salaries were all paid.

### **Letters of credit**

180. At the beginning of the Panel's mandate several letters were submitted to the sanctions Committee seeking clarification on the subject of letters of credit, and there was considerable confusion owing to the fact that the functions of letters of credit and the role of the involved banks were not well understood.

181. As requested, the Panel provided its input on those cases as follows:

(a) A letter of credit is literally a "letter" pertaining to a sales transaction between a buyer and seller. The letter of credit transaction usually involves two banks: the buyer's bank issuing the letter of credit and a bank in the seller's country, which advised the beneficiary of reception of the letter of credit. The advising bank may also assume the role of confirming bank. Whether advising and/or confirming, the seller's bank assumes certain responsibilities; one of the primary peculiarities of the letter of credit is that the payment obligation is abstract and independent from the underlying contract of sale or any other contract in the transaction. Thus the bank's obligation is defined by the terms of the credit alone, and the sale contract is

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<sup>12</sup> For example, several enquiries from Tunisia concerning, inter alia, a contract for the supply of buses.

irrelevant: that is, it is payable even if the terms of the contract are not fully complied with.

(b) Letters of credit are often used for international transactions to ensure that payment will be received. They have become an important aspect of international trade, due to differing laws in each country and the difficulty of knowing each party personally. The bank also acts on behalf of the buyer, or holder of the letter of credit, by ensuring that the supplier will not be paid until the bank receives confirmation that the goods have been shipped.

(c) In order for the buyer to open a letter of credit with its bank, the buyer must have an appropriate credit facility with the issuing bank. Although the cost of opening a letter of credit varies from country to country, as a rule of thumb, the exporter can estimate that, in most developed countries, the percentage cost for opening and paying a letter of credit will be 0.75 per cent for letters of credit in excess of \$100,000 (minimums will vary from bank to bank); in developing countries, the issuing and negotiation cost can be upwards of 1.5 per cent.

182. Owing specifically to the latter point, after a request from the sanctions Committee, the Panel suggested that the Committee should not authorize the issue of letters of credit by listed entities, as this generates considerable earnings for those entities that Member States are not able to freeze, especially as the listed entities are based in Libya, and the sanctions measures do not apply to Libyan territory.

183. With regard to frozen shares and management of frozen companies, Member States have submitted to the Committee several requests, as there was initially some uncertainty on the part of Member States concerning the action to be taken by them where companies were revealed to have listed persons or entities as shareholders. Some Member States have adopted the option, allowed by the resolutions, of identifying the relevant shareholding, and ensuring that any dividend is paid into a frozen account, pending resolution of the situation in Libya.

184. In order to determine that a listed entity does not exercise or is not able to exercise control, directly or indirectly, over an entity in question, some Member States have also removed from the Management Board any directors representing or otherwise under the control of listed persons or entities. Furthermore, some Member States have provided the Committee with detailed information about the measures taken, for instance, to maintain a strict control over the entity concerned. Thus, while no sanctions can be breached, their imposition does not impair the lawful running of the company.

### **Temporary Financing Mechanism**

185. On 13 April 2011 members of the Contact Group<sup>13</sup> endorsed the proposal for a Temporary Financing Mechanism to meet the immediate, short-term needs of the National Transitional Council for access to foreign currency. This need arose since the Council had been forced to assume significant fiscal responsibilities because of the disruption caused by the conflict, and needed to incur essential expenditure

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<sup>13</sup> The Contact Group was set up following the London Conference on Libya in March 2011. Attendees included foreign ministers and leaders from the United Nations, the League of Arab States, the Organization of Islamic Cooperation, the European Union and NATO. The Contact Group held its sixth and final meeting on 1 September in Paris. At the meeting, the Contact Group was dissolved and replaced with a new international group called the Friends of Libya.

including salaries, public welfare needs and subsidies on food. Foreign exchange funds were needed to secure the import of food. The Mechanism did not duplicate existing international humanitarian funding or aid mechanisms. The Temporary Financing Mechanism closed on 31 December 2011 and the remaining funds were transferred to the Central Bank of Libya.

### **Governance**

186. The Advisory Committee of the Temporary Financing Mechanism, composed of Libyan representatives nominated by the National Transitional Council, was to identify the immediate and short-term financial needs of the Council and to present recommendations and proposals to the Steering Board of the Mechanism on the use of financial resources available to the Mechanism. The Steering Board was made up of five members (three Libyan, one Qatari and one French).

187. A team of 10 individuals was established in Tripoli (a director, a deputy, a communications adviser, two programme managers, three accounting and audit staff, an office administrator, and a liaison officer/driver). The Temporary Financing Mechanism also had a branch in Tunis which administered the Tunisian hospital payments programme. Qatar Central Bank served as trustee to supervise the Mechanism's account in the International Bank of Qatar (IBQ). An IBQ account was opened for contributions and disbursements.

### **Operation of the Temporary Financing Mechanism: disbursement of funds and other resources**

188. The Temporary Financing Mechanism received financial inputs from several States in the form of:

- Direct contributions of funds.
- Credit arrangements acceptable to the National Transitional Council.
- Other financial resources that contributors wished to make available and which the Steering Board determined it could accept.

189. The Temporary Financing Mechanism team developed project proposals which were reviewed by the Financial Management Agent appointed by the Steering Board. On the basis of the Agent's recommendations, the Steering Board approved programme implementation. An external auditor appointed by the Steering Board, Price Waterhouse Coopers, audited the activities and expenditure of the Temporary Financing Mechanism.

190. According to information provided to the Panel by the Government of Qatar, as at 21 December 2011, the summary of balances was as set out below:

<i>Contributor</i>	<i>Amount (United States dollars)</i>
Qatar	100 000 000.00
Kuwait	50 000 000.00
Bahrain	5 000 000.00
United States of America	393 688 938.70 (unfrozen Libyan funds)
Canada	1 010 851 379.05 (unfrozen Libyan funds)
<b>Total</b>	<b>1 559 540 317.75</b>
<b>Funds expended by the Temporary Financing Mechanism</b>	<b>1 254 472 469.47</b>

191. A German bank (KfW) provided €75,000,000. This was repaid by the Temporary Financing Mechanism in December 2011 on instructions from the Government of Libya. The Mechanism's income from investments amounts to US\$ 7,076,473.18, and funds expended amount to \$1,254,472,469.47.

192. *Payment of other outstanding commitments.* Other commitments paid were the external auditors' fee of approximately \$143,000; and a payment to the Financial Management Agent of approximately \$342,000.

193. *Outstanding liabilities.* An amount of approximately €4,000,000 to Almeda (health administrator agent) under the Global Health Programme was approved by the Steering Board before the termination date.

194. The remaining sum of \$393,688,938.70 was made available by the United States after receiving assurances from the Government of Libya that funds released from the Temporary Financing Mechanism will be spent in accordance with relevant Security Council resolutions.

#### **De-freezing: Exemption procedures**

195. The Panel observed that, even after the adoption of resolution 2009 (2011) and the introduction of additional exceptions to facilitate the resumption of the economy, some countries continued to request clarification concerning the asset freeze. Further, while visiting States and meeting relevant authorities in charge of implementing the asset freeze, the Panel sometimes noticed a lack of capacity rather than intentional breaches of the sanctions regime. In this regard, in some cases, the Panel, while writing officially to Governments, drew their attention to the guiding principles provided by the Security Council Committee on Libya to Member States that had previously submitted queries on the scope and application of the asset freeze measure.

196. In this regard, it is worth mentioning that the exemption procedures established by resolutions 1970 (2011) and 1973 (2011) are also still in place and can be used by Member States where appropriate. To date, pursuant to the relevant resolutions the sanctions Committee has authorized the release of approximately \$19 billion.

**Requests for compensation**

197. The Panel was asked by the sanctions Committee to provide advice on requests for compensation from some countries for the financial losses they incurred owing to the interruption of contracts previously agreed with the Qadhafi Government. In this regard, by paragraph 27 of resolution 1973 (2011) the Security Council established that:

... all States, including the Libyan Arab Jamahiriya, shall take the necessary measures to ensure that no claim shall lie at the instance of the Libyan authorities, or of any person or body in the Libyan Arab Jamahiriya, or of any person claiming through or for the benefit of any such person or body, in connection with any contract or other transaction where its performance was affected by reason of the measures taken by the Council in resolution 1970 (2011), the present resolution and related resolutions.

Therefore, there is no mechanism for countries to claim for compensation, through the sanctions Committee or otherwise, for losses incurred owing to the sanctions regime.

**2. Effectiveness of measures established by resolution 1970 (2011)**

198. In accordance with paragraph 25 of resolution 1970 (2011), Member States have to report to the sanctions Committee the steps that they have taken to effectively implement paragraphs 9, 10, 15 and 17. Therefore, it is essential that sanctions measures regarding the asset freeze are effectively implemented. This means that it is necessary not only to put measures in place but also to ensure that they are effective and achieve what was intended. An effective system requires an adequate legal and institutional framework able to identify, trace and freeze assets belonging to listed individuals and/or entities. Countries should also take appropriate measures to monitor effectively the compliance with relevant legislation, rules or regulations governing the obligations under relevant resolutions. Further, laws and other measures should provide protection for the rights of bona fide third parties.

199. Moreover, it is worth mentioning that freezing should be imposed without delay and without prior notice to the designated persons and/or entities involved. For the purpose of resolutions concerning Libya, without delay should mean, ideally, within a matter of hours of a designation by the sanctions Committee. The phrase “without delay” should be interpreted in the context of the need to prevent the flight or dissipation of funds or other assets, and the need for global, concerted action to interdict their flow quickly.

**Implementation**

200. As stated above, Member States were required by the resolutions to provide details of their plans to implement the asset freeze, and to identify violations thereof by their citizens. During the visits made to Member States, particular attention was given to establishing the procedures put into place to prevent the violation of the asset freeze, and to discover the extent of the assets frozen in each Member State. However, many States did not provide the Panel with the amount of assets frozen owing to the confidential nature of such information. Equally, some States had identified, through the Suspicious Activity Reporting system, activity which may

potentially breach financial sanctions, but did not provide the Panel with specific details owing to the confidentiality of such information. States reported that all such activity is being investigated by law-enforcement agencies, and will be notified to the Committee if substantiated. No such notifications have been received to the knowledge of the Panel.

201. According to the annual report of the sanctions Committee (S/2012/32), 54 Member States complied with the requirement to provide information on the implementation of the sanctions, and sent reports explaining their actions. Since that report, an implementation report has been received from one more Member State, making the total 55. No reports have been received from the remaining majority of Member States.

202. During meetings with the Panel clarification was requested by some States concerning the asset freeze, in particular on the appropriate procedures to:

- (a) Receive payments or transfer funds from listed banks to non-listed companies or individuals;
- (b) Receive payments or transfer funds between non-listed companies or individuals using a listed bank (such as the Central Bank of Libya).

203. One of the Panel's aims was to seek to establish the extent and location of these assets, for the purpose of ensuring that they have been dealt with in accordance with the relevant resolutions. Intelligence was received from several sources indicating the extent and location of assets believed to belong to listed entities. Accordingly, the Panel sent letters to several Member States (Benin, Central African Republic, Egypt, Eritrea, Gabon, Guinea, Guinea-Bissau, Kenya, Liberia, Mali, Mauritania, Niger, Senegal, Togo, Tunisia, Uganda, United Republic of Tanzania and Venezuela (Bolivarian Republic of)) as well as the Banque centrale de l'Afrique de l'Ouest and the Banque centrale de l'Afrique centrale asking for details of any of such assets that may exist in their territories and of measures that have been taken by the Government to ensure that these assets are not made available to or for the benefit of United Nations-listed persons or entities. The Panel reiterated the request to Member States that did not reply within the deadline provided. A limited number responded, namely, Benin, Egypt, Eritrea, Mauritania, Togo and Tunisia.

### **3. Findings**

#### **General National Maritime Transport Company**

204. The General National Maritime Transport Company is the Libyan company in possession of the country's merchant fleet of 24 ships. It is a matter of record that, prior to the revolution, the Company was controlled by Hannibal Qadhafi, a person listed under the asset freeze imposed by resolution 1970 (2011). Therefore any contracts with companies or countries outside Libya would contravene the asset freeze provisions, as being, directly or indirectly, to the potential benefit of a listed person.

205. After the change of regime, the Panel visited the General Manager of the Company in Tripoli, who produced documents proving that it is now wholly owned and controlled by the Government of Libya, and furthermore that Hannibal Qadhafi

is now explicitly not in any way connected with the company (annex III). There is no further bar to any State engaging in trade with the company.

#### **Identification of Libyan assets**

206. A Member State reported in October 2011, in response to a letter of enquiry from the Panel, that no Libyan investments or subsidiaries were located within its borders. This conflicted with intelligence and evidence obtained by the Panel. Further enquiry was made with the Member State, which then acknowledged that nine Libyan companies that are subsidiaries of listed entities were operating in that country, but that no measures in accordance with the asset freeze had been taken. Steps were then taken by the Member State to comply with the asset freeze, although, by the time this was completed, the sanctions Committee had interpreted resolution 2009 (2011) as freeing subsidiary companies from the asset freeze, and this decision was soon after communicated to the Member State in question. In summary, the Member State failed to comply with resolutions 1970 (2011) and 1973 (2011) in that it should have frozen the assets of those companies following the adoption of the resolutions but, as that sanction no longer applies, the necessity has ceased.

#### **4. Challenges/issues**

##### **Maintenance of ownership**

207. Some Member States sought to seize some of the Libyan assets frozen by the sanctions to use for humanitarian assistance or to benefit the Libyan population. During the conflict, that argument might have seemed to have some merit; however, while it is relatively common to freeze assets, it is unusual for frozen assets to be seized or confiscated and then reallocated without reference to the legal owner. It is worth mentioning that when assets are frozen their ownership does not change. Such assets should be held in the name of the original owner and frozen cash should be held in an interest-bearing account. The sanctioned party continues to own the assets, even though it is forbidden to use them. The same rule applies to economic resources and subsidiaries.

208. For this reason, during its visits, the Panel underlined the fact that countries which have frozen assets should ensure the normal level of stewardship in administering such funds, assets or economic resources. This is especially so as paragraph 18 of resolution 1970 (2011) makes it clear that frozen assets should at a later stage be made available to, and for the benefit of, the people of Libya.

209. Further, the Panel noted that some countries failed to recognize the legal status of the decision made by the sanctions Committee to de-list the Central Bank of Libya and the Libyan Foreign Bank on the grounds that they were not included in any resolution. Some countries asked for an official communication that clarified the situation. However the authority for the sanctions Committee to de-list individuals and entities is clearly provided by resolution 2009 (2011), paragraph 19.

210. During its latest visit to Libya late in January 2012, the Panel met with representatives from the Central Bank of Libya and the Libyan Foreign Bank, who stated that they are still facing difficulties in recovering some frozen assets, despite both banks being de-listed on 16 December 2011. They also complained that some

countries are trying to confiscate their assets or sell them, without reference to the legal Libyan owner, as mentioned above.

#### **Embezzlement of funds by the Qadhafi family**

211. It has long been apparent that the Qadhafi family viewed the funds in Libya's sovereign vehicles as their own, and apparently did not feel the need to transfer these funds into personal accounts. As a result, the most problematic issue remains the locating and repatriating of any proceeds of embezzlement and corruption that Qadhafi, other Libyan politicians, and their families transferred to personal accounts or companies out of the country. Such assets are more difficult to identify, trace, freeze, confiscate and eventually repatriate.

212. The United Nations Convention against Corruption, the first legally binding global anti-corruption agreement, which came into force on 14 December 2005, currently has 159 parties and 140 signatories.<sup>14</sup> In addition to other requirements aimed at attacking corruption, the instrument requires the cooperation of its members in efforts to freeze, confiscate and return stolen assets. In another key development, the World Bank and the United Nations Office on Drugs and Crime initiated the Stolen Assets Recovery (StAR) Initiative in 2007 to recover and return assets stolen by corrupt leaders, officials and their close associates. It is to be hoped that these initiatives will assist in the repatriation of embezzled funds.

#### **5. Resolution 2009 (2011)**

213. Resolution 2009 (2011), adopted on 16 September 2011, made a fundamental difference to the asset freeze measures. Previously, the listing of the entities mentioned in the annexes to the resolutions not only included the entities themselves but had the same effect upon any subsidiaries wholly or partly owned by those entities.

214. Paragraph 14 de-listed the Libyan National Oil Corporation and the Zueitina Oil Company, which are therefore no longer subject to the asset freeze.

215. Paragraphs 15 and 16 modified the obligations of Member States with regard to the asset freeze. Paragraph 15 requires assets of the entities named in paragraph 15 (Central Bank of Libya, Libyan Foreign Bank, Libyan Investment Authority, Libyan African Investment Portfolio) already frozen by virtue of the previous resolutions, to remain frozen unless one of the extant exemptions applies, but also now allows new dealings and transactions to proceed unhindered, as if the entity had not been frozen.

216. Paragraph 16 decides that any assets of the named listed entities may be unfrozen provided that certain conditions mentioned in subparagraphs (a) to (d) apply, and that no negative response has been received from the sanctions Committee. The Committee has also interpreted the provisions of this resolution to mean that no subsidiaries of any listed entity are now covered by the asset freeze, as confirmed by the Chair of the sanctions Committee in his fourth report, on 22 December 2011.<sup>15</sup>

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<sup>14</sup> Available from [www.unodc.org/unodc/en/treaties/CAC/](http://www.unodc.org/unodc/en/treaties/CAC/).

<sup>15</sup> See S/PV.6698.

## **6. De-listing of designated entities**

217. On 16 December 2011, following an application from the Government of Libya, the sanctions Committee removed both the Central Bank of Libya and the Libyan Foreign Bank from the list of designated entities subject to the asset freeze, thereby allowing both to resume full operations.

## **7. Outstanding matters**

### **Incomplete enquiries**

218. The very nature of the investigations being undertaken means that enquiries are continuous and ongoing. A number of leads are in the process of being followed, both with Member States and with confidential sources, with a view to identifying embezzled funds, property in “front” names, etc. Furthermore, the contact details of a number of Libyan nationals who may have important information regarding the disposition of hidden assets have recently come into the possession of the Panel.

### **Libyan Investment Authority and Libyan African Investment Portfolio**

219. Both the Libyan Investment Authority and the Libyan African Investment Portfolio are still subject to the asset freeze, and there are likely to be further queries from Member States concerning the management of assets in their countries, and there is an ongoing possibility of violations. This is emphasized by comments of bank officials in Libya who have stated that they have no true picture of the extent of the listed entities’ assets overseas.

### **Designated individuals**

220. As noted previously, one of the principal outstanding features of the asset freeze is the considerable wealth that is known to have been under the control of those persons designated in the resolutions. In the course of the mandate several luxury cars and real estate property have been identified by the Panel as belonging to designated individuals, and the Member States where they are located are taking or have taken steps to secure them by legal process. A suspected front company for a designated individual has been identified by a confidential source, and enquiries are continuing with the relevant Member States. Any potential future investigations should prioritize the identification of such assets that have not been frozen, and, indeed, enquiries are currently in hand to try to achieve this.

## **IX. Recommendations**

### **A. To Member States**

#### **Arms embargo**

221. The Panel of Experts addresses the following recommendations to Member States:

- (a) Enhance cooperation in countering weapons proliferation at the operational/technical level among national security sectors in Member States neighbouring Libya and in the subregion.

(b) Strengthen support of the existing control systems in the Sahel countries through providing training, increasing information-sharing, and supply of equipment.

(c) Member States have initiated security support programmes to Libyan security forces including expertise transfer, training, and supply of military materiel to Libya. The Panel recommends that such activities should be carried out in compliance with the arms embargo.

(d) The post-conflict period has seen the redeployment of foreign companies to Libya, including a significant number of private security firms. The Panel would like to draw the attention of Member States that have private security companies registered in their territories, which are currently deployed in Libya or will be deployed there in the future, to the need to ensure compliance with the arms embargo.

#### **Asset freeze**

(e) Member States should make every possible effort to incorporate the necessary regulations into domestic legislation governing their financial systems, to ensure that there are measures in place to properly apply sanctions in a timely manner, and to fully meet the requirements.

## **B. To Libya**

#### **Arms embargo**

222. The Panel of Experts addresses the following recommendations to Libya:

(a) The Panel's research indicates that weapons control is inextricably linked to the overall political situation in Libya. The Panel recommends that the Libyan authorities develop an integrated approach that combines technical and political aspects.

(b) While the Government has de jure responsibility for national weapons control, at present significant weapons stores are de facto controlled by autonomous actors. Until the de facto control shifts to the Government, these actors should be held accountable for the proper safeguarding of stocks under their control.

(c) The Government of Libya is encouraged to accelerate the process of implementing border control mechanisms.

(d) Libyan authorities are encouraged to accelerate demining, the destruction of mine stockpiles and programmes in respect of explosive remnants of war, including education awareness, in order to protect the civilian population.

(e) Libyan authorities are encouraged to use the existing international and United Nations tools to locate, monitor and register weapons and ammunition in order to better control the stockpiles.

## **C. To the Security Council**

### **Arms embargo**

223. The Panel of Experts recommends the following actions to the Security Council:

(a) Urge Member States to maintain high levels of vigilance with the aim of interdicting prohibited transfers of arms and related materiel, and to apply procedures including exceptions (where appropriate) mentioned in resolutions 1970 (2011), 1973 (2011) and 2009 (2011).

(b) Urge Member States, particularly from the subregion, to continue sharing information with the Panel regarding the illicit transfers of weapons originating from Libya into their territory.

(c) Encourage the Government of Libya to continue supporting the work of the Panel on the ground, including granting the Panel access to weapons storage facilities.

### **Asset freeze**

(d) The Libyan Arab Foreign Investment Company is currently named in the list of designated entities subject to the asset freeze, because it has incorrectly been described as another name for the Libyan Investment Authority. This is not the case; it is a separate body with slightly different functions. If it is thought to be worthy of designation, it is recommended that it should be designated in its own right.

(e) In any future resolutions, Member States should be required to inform the sanctions Committee about the actual amount of assets frozen for the information of the Committee.

## **D. To the Committee**

### **Arms embargo**

224. The Panel of Experts addresses the following recommendations to the Committee:

(a) The Committee should continue to request national implementation reports from all countries that have not yet provided such reports and to remind them regularly to submit these.

### **Asset freeze**

(b) The Committee should urge Member States to provide information about the amount of funds actually frozen pursuant to the asset freeze as a matter of course.

(c) The Committee should publish guidelines for the information of Member States with regard to definitions of “funds”, “economic resources” and “other financial assets”.

(d) These guidelines should also explain how to deal with subsidiaries in respect of the provisions of resolution 2009 (2011); furthermore, all Member States should be made aware of them as soon as practicable.

**Travel ban**

(e) The Panel of Experts recommends that the Committee use United Nations-INTERPOL special notices in order to better enforce the travel ban and prevent listed individuals from travelling.

## **Annex I**

### **List of institutions and individuals consulted**

This list excludes certain individuals, organizations or entities with whom the Panel of Experts met, in order to maintain the confidentiality of the source(s) and not to impede the ongoing investigations of the Panel.

#### **Belgium**

*Government:*

Ministry of Foreign Affairs, Ministry of Finance

*Multilateral organizations:*

European Union, North Atlantic Treaty Organization

*Civil society organizations:*

Groupe de recherche et d'information sur la paix et la sécurité

#### **Egypt**

*Government:*

Ministry of Foreign Affairs, Ministry of Defence, Central Bank, Customs

*Multilateral organizations:*

International Civil Aviation Organization, League of Arab States, United Nations agencies

#### **France**

*Government:*

Ministry of Defence, Ministry of Finance, Ministry of Foreign Affairs

*Multilateral organization:*

International Civil Aviation Organization

#### **Italy**

*Government:*

Bank of Italy, CONSOB, Customs Agency, Italian Civil Aviation, Italian Coast Guard Headquarters, Ministry of Defence, Ministry of Economic Development, Ministry of Economy and Finance, Ministry of Foreign Affairs, Ministry of the Interior, Presidency of the Council of Ministers

#### **Jordan**

Special Envoy to the Secretary-General

Libyan Embassy to Jordan

**Libya***Government:*

Ministry of Defence, Ministry of Finance, Ministry of Foreign Affairs, Ministry of Stabilization/Reconstruction, Warriors Commission

*Other:*

Military councils and brigades

*International non-governmental organizations:*

Handicap International, Mine Advisory Group, Swiss Foundation for Mine Action

*Multilateral organizations:*

UNSMIL, United Nations agencies and organizations, European Union representative, non-governmental organizations, ICRC

*Diplomatic missions:*

France, Italy, United Kingdom, United States

**Mali***Government:*

Etat major des armées, Direction générale de la sécurité extérieure, Direction générale de la police nationale, Direction générale des Douanes, Commission nationale de lutte contre la prolifération des armes légères

*Diplomatic missions:*

France and United States

*Multilateral organizations:*

UNDP, Department of Safety and Security of the Secretariat

Private sector

Laico El Farouk Hotel

**Malta***Government:*

Attorney General's Office, Central Bank, Justice Department, Malta Air Traffic Services, Malta Financial Authority, Ministry of Finance, Ministry of Foreign Affairs, Ministry of the Interior, Ministry of Transport and Communication, Office of the Prime Minister

**Mauritania***Government:*

Ministère des Affaires étrangères, Ministère de la Défense

*Multilateral organizations:*

Department of Safety and Security of the Secretariat

*Diplomatic missions:*

France and United States

**Niger**

*Government:*

Ministère des Affaires étrangères, Etat major des Armées, Direction générale de la sécurité extérieure, Haut Commandement de la Gendarmerie nationale, Direction de la Sureté nationale, Direction générale des Douanes, Commission nationale chargée de la collecte des armes illicites, Cellule nationale de traitement des informations financières (CENTIF), Direction de l'Aviation civile, Direction de la monnaie, crédit et epargne, Service central de lutte contre le terrorisme

*Multilateral organizations:*

UNDSS, International Organization for Migration

*Private sector:*

Association des professionnels de banque

**Qatar**

*Government:*

Ministry of Foreign Affairs, Central Bank, Ministry of Defence, Director of Legal Department, Ministry of Finance

**Sudan**

Representatives of the Government

**Tunisia**

*Government:*

Direction de l'énergie (Ministère de l'énergie), Direction générale des Douanes, Ministère des Transports, Ministère de la Défense, Ministère de l'Intérieur, Banque centrale de Tunisie

**Uganda**

*Government:*

Ministry of Foreign Affairs

*Private sector:*

Uganda Telecommunication Limited (UTL), Tropical Bank, Lake Victoria/Libya Hotel

**United Arab Emirates***Government:*

Ministry of Foreign Affairs, Central Bank, Ministry of Defence, Customs Department, Ministry of Finance

**United Kingdom of Great Britain and Northern Ireland***Government:*

Department for International Development, Department of Business Innovation and Science, Financial Intelligence Unit, Foreign and Commonwealth Office, Her Majesty's Revenue and Customs, Her Majesty's Treasury, Ministry of Defence

*Civil society:*

Amnesty International, Global Witness, Jane's

*Multilateral organization:*

International Maritime Organization

**United States of America***Government:*

National Security Council, Office of Foreign Assets Control, State Department, Treasury

*Civil society:*

Human Rights Watch, International Crisis Group

*Multilateral organizations:*

African Union, International Criminal Court, International Criminal Police Organization, League of Arab States, North Atlantic Treaty Organization

*Diplomatic missions:*

Algeria, Egypt, France, Italy, Lebanon, Malta, Portugal, Qatar, Tunisia, Turkey, Uganda, United Kingdom, representative of the National Transitional Council

## Annex II

### List of individuals and entities subject to the measures imposed by resolutions 1970 (2011) and 1973 (2011)\*

On 26 February 2011, the Security Council adopted resolution 1970 (2011), paragraph 15 of which reads as follows:

#### *Travel ban*

15. *Decides* that all Member States shall take the measures necessary to prevent the entry into or transit through their territories of individuals listed in annex I to the present resolution or designated by the Committee established pursuant to paragraph 24 below, provided that nothing in the present paragraph shall oblige a State to refuse its own nationals entry into its territory;

Exemptions to the travel ban are set out in paragraph 16 of the same resolution.

Paragraph 17 of resolution 1970 (2011) reads as follows:

#### *Asset freeze*

17. *Decides further* that all Member States shall freeze without delay all funds, other financial assets and economic resources which are on their territories, which are owned or controlled, directly or indirectly, by the individuals or entities listed in annex II to the present resolution or designated by the Committee established pursuant to paragraph 24 below, or by individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them, and decides further that all Member States shall ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any individuals or entities within their territories, to or for the benefit of the individuals or entities listed in annex II to the present resolution or individuals designated by the Committee;

Exemptions to the assets freeze are set out in paragraphs 19, 20 and 21 of the same resolution.

On 17 March 2011, the Security Council adopted resolution 1973 (2011), paragraph 19 of which reads as follows:

#### *Asset freeze*

19. *Decides further* that the asset freeze imposed by paragraphs 17, 19, 20, and 21 of resolution 1970 (2011) shall apply to all funds, other financial assets and economic resources which are on their territories, which are owned or controlled, directly or indirectly, by the Libyan authorities, as designated by the Committee, or by individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them, as designated by the Committee, and decides further that all States shall ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any individuals or entities within their

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\* A note showing the Panel's understanding of the status/location of each listed individual or entity has been added at the end of each entry.

territories to or for the benefit of the Libyan authorities, as designated by the Committee, or individuals or entities acting on their behalf or at their direction, or entities owned or controlled by them, as designated by the Committee, and directs the Committee to designate such Libyan authorities, individuals or entities within 30 days of the date of the adoption to the present resolution and as appropriate thereafter;

**The following individuals are listed as subject to the travel ban:**

1. Al-Baghdadi, Dr. Abdulqader Mohammed

(Listed on 26 February 2011 pursuant to paragraph 15 of resolution 1970 (2011))

Head of the Liaison Office of the Revolutionary Committees. Involved in violence against demonstrators.

Passport number: B010574

Date of birth: 1 July 1950

Believed status/location: Jail in Tunisia

2. Dibri, Abdulqader Yusef

(Listed on 26 February 2011 pursuant to paragraph 15 of resolution 1970 (2011))

Head of Muammar Qadhafi's personal security. Responsibility for regime security. History of directing violence against dissidents.

Date of birth: 1946. Place of birth: Houn, Libya

Believed status/location: Unknown

3. Qadhaf Al-dam, Sayyid Mohammed

(Listed on 26 February 2011 pursuant to paragraph 15 of resolution 1970 (2011))

Cousin of Muammar Qadhafi. In the 1980s, Sayyid was involved in the dissident assassination campaign and allegedly responsible for several deaths in Europe. He is also thought to have been involved in arms procurement.

Date of birth: 1948. Place of birth: Sirte, Libya

Believed status/location: Unknown

4. Quren Salih Quren Al Qadhafi

(Listed on 26 February 2011 pursuant to paragraph 15 of resolution 1970 (2011))

Libyan Ambassador to Chad. Has left Chad for Sabha. Involved directly in recruiting and coordinating mercenaries for the regime.

Updated: 24 June 2011

Believed status/location: Unknown

5. Colonel Amid Husain Al Kuni

(Listed on 26 February 2011 pursuant to paragraph 15 of resolution 1970 (2011))

Governor of Ghat (southern Libya). Directly involved in recruiting mercenaries.

Believed status/location: In southern Libya

**The following individuals are listed as subject to both the travel ban and the assets freeze:**

1. Dorda, Abu Zayd Umar

(Listed on 26 February 2011 pursuant to paragraph 15 of resolution 1970 (2011); on 17 March 2011 pursuant to paragraph 17 of the resolution)

Position: Director, External Security Organization. Regime loyalist. Head of external intelligence agency.

Believed status/location: Unknown

2. Jabir, Major General Abu Bakr Yunis

(Listed on 26 February 2011 pursuant to paragraph 15 of resolution 1970 (2011); on 17 March 2011 pursuant to paragraph 17 of the resolution)

Position: Defence Minister. Overall responsibility for actions of armed forces.

Title: Major General

Date of birth: 1952. Place of birth: Jalo, Libya

Believed status/location: Deceased

3. Matuq, Matuq Mohammed

(Listed on 26 February 2011 pursuant to paragraph 15 of resolution 1970 (2011); on 17 March 2011 pursuant to paragraph 17 of the resolution)

Position: Secretary for Utilities. Senior member of regime. Involvement with Revolutionary Committees. Past history of involvement in suppression of dissent and violence.

Date of birth: 1956. Place of birth: Khoms, Libya

Believed status/location: Unknown, believed captured

4. Qadhafi, Aisha Muammar

(Listed on 26 February 2011 pursuant to paragraph 15 of resolution 1970 (2011); on 17 March 2011 pursuant to paragraph 17 of the resolution)

Daughter of Muammar Qadhafi. Closeness of association with regime.

Date of birth: 1978. Place of birth: Tripoli, Libya

Believed status/location: In Algeria

5. Qadhafi, Hannibal Muammar

(Listed on 26 February 2011 pursuant to paragraph 15 of resolution 1970 (2011); on 17 March 2011 pursuant to paragraph 17 of the resolution)

Son of Muammar Qadhafi. Closeness of association with regime.

Passport number: B/002210

Date of birth: 20 September 1975. Place of birth: Tripoli, Libya

Believed status/location: In Algeria

6. Qadhafi, Khamis Muammar

(Listed on 26 February 2011 pursuant to paragraph 15 of resolution 1970 (2011); on 17 March 2011 pursuant to paragraph 17 of the resolution)

Son of Muammar Qadhafi. Closeness of association with regime. Command of military units involved in repression of demonstrations.

Date of birth: 1978. Place of birth: Tripoli, Libya

Believed status/location: Deceased

7. Qadhafi, Mohammed Muammar

(Listed on 26 February 2011 pursuant to paragraph 15 of resolution 1970 (2011); on 17 March 2011 pursuant to paragraph 17 of the resolution)

Son of Muammar Qadhafi. Closeness of association with regime.

Date of birth: 1970. Place of birth: Tripoli, Libya

Believed status/location: In Algeria

8. Qadhafi, Muammar Mohammed Abu Minyar

(Listed on 26 February 2011 pursuant to paragraph 15 of resolution 1970 (2011); on 17 March 2011 pursuant to paragraph 17 of the resolution)

Leader of the Revolution, Supreme Commander of Armed Forces. Responsibility for ordering repression of demonstrations, human rights abuses.

Date of birth: 1942. Place of birth: Sirte, Libya

Believed status/location: Deceased

9. Qadhafi, Mutassim

(Listed on 26 February 2011 pursuant to paragraph 15 of resolution 1970 (2011); on 17 March 2011 pursuant to paragraph 17 of the resolution)

National Security Adviser. Son of Muammar Qadhafi. Closeness of association with regime.

Date of birth: 1976. Place of birth: Tripoli, Libya

Believed status/location: Deceased

10. Qadhafi, Saadi

(Listed on 26 February 2011 pursuant to paragraph 15 of resolution 1970 (2011); on 17 March 2011 pursuant to paragraph 17 of the resolution)

Commander Special Forces. Son of Muammar Qadhafi. Closeness of association with regime. Command of military units involved in repression of demonstrations.

Passport number: 014797

Date of birth: 27 May 1973. Place of birth: Tripoli, Libya

Believed status/location: In Niger

11. Qadhafi, Saif al-Arab

(Listed on 26 February 2011 pursuant to paragraph 15 of resolution 1970 (2011); on 17 March 2011 pursuant to paragraph 17 of the resolution)

Son of Muammar Qadhafi. Closeness of association with regime

Date of birth: 1982. Place of birth: Tripoli, Libya

Believed status/location: Deceased

12. Qadhafi, Saif al-Islam

(Listed on 26 February 2011 pursuant to paragraph 15 of resolution 1970 (2011); on 17 March 2011 pursuant to paragraph 17 of the resolution)

Director, Qadhafi Foundation. Son of Muammar Qadhafi. Closeness of association with regime. Inflammatory public statements encouraging violence against demonstrators.

Passport number: B014995

Date of birth: 25 June 1972. Place of birth: Tripoli, Libya

Believed status/location: In custody, Libya

13. Al-Senussi, Colonel Abdullah

(Listed on 26 February 2011 pursuant to paragraph 15 of resolution 1970 (2011); on 17 March 2011 pursuant to paragraph 17 of the resolution)

Position: Director Military Intelligence. Military Intelligence involvement in suppression of demonstrations. Past history includes suspicion of involvement in Abu Selim prison massacre. Convicted in absentia for bombing of UTA flight. Brother-in-law of Muammar Qadhafi.

Title: Colonel

Date of birth: 1949. Place of birth: Sudan

Believed status/location: Unknown

14. Al-Barassi, Safia Farkash

(Listed on 24 June 2011 pursuant to paragraph 15 of resolution 1970 (2011) and paragraph 19 of resolution 1973 (2011))

Married to Muammar Qadhafi since 1970. Significant personal wealth, which could be used for regime purposes. Her sister Fatima Farkash is married to Abdallah Sanussi, head of Libyan military intelligence.

Date of birth: 1952. Place of birth: Al Bayda, Libya

Believed status/location: In Algeria

15. Zlitni, Abdulhafid

(Listed on 24 June 2011 pursuant to paragraph 15 of resolution 1970 (2011) and paragraph 19 of resolution 1973 (2011))

Minister for Planning and Finance in Colonel Qadhafi's Government; involved in violence against demonstrators. Secretary of the General People's Committee for

Finance and Planning. Zlitni was acting as temporary head of the Central Bank of Libya. He was previously National Oil Corporation Chairman.

Date of birth: 1935

Believed status/location: Unknown

**The following entities are currently listed as subject to the asset freeze:**

1. Libyan Investment Authority

(Listed on 17 March 2011 pursuant to paragraph 17 of resolution 1973 (2011))

Under control of Muammar Qadhafi and his family, and potential source of funding for his regime.

a.k.a.: Libyan Arab Foreign Investment Company (LAFICO)

Address: 1 Fateh Tower Office, No. 99 22nd Floor, Borgaida Street, Tripoli, Libya, 1103

2. Libyan Africa Investment Portfolio

(Listed on 17 March 2011 pursuant to paragraph 17 of resolution 1973 (2011))

Under control of Muammar Qadhafi and his family, and potential source of funding for his regime.

Address: Jamahiriya Street,  
LAP Building, PO Box 91330,  
Tripoli, Libya

## Annex III

### General National Maritime Transportation Company, ownership documents



Date: \_\_\_\_\_ : التاريخ

### Statement

GNMTC, (General National Maritime Transportation Company), would like to confirm to all, whom it may concern, that the employee known as Hannibal GADDAFI, is no longer employed by this company in any capacity, and that any and all links with him and this company have been severed.

The confirmation of this statement has been issued by

  
Captain Ali Mofteh Belhag,  
Chairman of GNMTC.



The above statement has been found to be true in all aspects and is fully endorsed by

  
Dr Anwar Elfetter,  
Minister of Transportation and Communication,  
Executive Office – National Transitional Council of Libya.



طرابلس - حي الوحدة العربية طريق قرقاش - ابواس  
هاتف: 021 484 3330 صندوق بريد: 80173  
الموقع الإلكتروني: www.gnmte.com





National Transitional Council  
Libya  
Executive Office  
Transportation and Communication Affairs

DATE.12 Sep .2011

**Statement**

This is to confirm that the General National Maritime Transport Company (GNMTC) is under full control of the Ministry of Transportation and Communication of Executive office - Libyan National Transitional Council and Mr. Ali Muftah Belhag Is appointed as its chairman.

This statement has been issued as per GNMTC request.

A handwritten signature in blue ink, appearing to read 'Anwar Elfeitori'.

Dr. Anwar Elfeitori

Minister of Transportation and Communication  
Executive office - National Transitional Council of Libya



Annex IV

Shipping documents and pictures related to materiel held in Malta

12-05-2011 PFF077B\_CMA v5.25 CARGO MANIFEST

CMA/COM - THE FRENCH LINE VOYAGE: M6734W / VESSEL: CMA CGM TITUS FLAG: UNITED KINGDOM DATE OF ARRIVAL: 18-MAY-11

SERVICE CODE: MEX MASTER: CMA

CMA-CGM Place of Acceptance: SHANGHAI Actual Port of Discharge: MALTA (FREEPORT)

Actual Port of Loading: SHANGHAI Final Port of Discharge: TRIPOLI

Place of Delivery: TRIPOLI

B/L NO: CARGO - DETAILS DESCRIPTION

ADDRESSES MARKS & NOS.

SJCL006868 Shipped on Board: 16-APR-11 Movement: FCL/FCL Quote Ref/US Svc: QSJW005931

SH: SHIJIAZHUANG DAMEI CO.LTD  
 AS AGENT OF PONTEC LTD  
 AS REPRESENTATIVE OF ADORJA  
 SARAJEVO/BOGNIA HERZEGOVINA

SPLIT: 1 PACK: 600 CT WT: 9.000000 TNE  
 IN-PACK: CTN: CLHUB772596 SEAL1: A1643036 VOL: 54.850 MTQ

SHIP TYPE: P F STAT: SEAL2:  
 TARE: 3.690 TNE STP: 40HC SEAL3:  
 SEAL4:

3156.03-2011-1A00100 1CONTAINER  
 BOXES QUANTITY:800CTNS  
 QUANTITY:800PCS  
 FRENCHJACKET COL,NAVY  
 ART.NO:166-2008  
 OSCLOVERSEAS SHIPPING CO  
 THAAT-EL-EMAD TOWERS  
 TOWER 5,1ST FLOOR TRIPOLI  
 TELEPHONE:+218 21 3380870  
 FAX:00218213350322  
 EMAIL:TRIGEN@BOX@CMA-CGM.COM  
 FREIGHT PREPAID

CN: GENERAL COMPANY FOR SECURITY WARES  
 MR.HAFED AL GILLOSHI  
 TRIPOLIS LIBYA  
 TEL. 00218-91-3142848  
 OR TEL+FAX 00218-21-3337567

N: MR.HAFED AL GILLOSHI  
 TRIPOLIS LIBYA  
 TEL. 00218-91-3142848  
 OR TEL+FAX 00218-21-3337567

B/L TOTAL  
 ITEMS: 1 PACK: 600 WT: 9.000000 TNE  
 SPLITS: 1 IN-PACK: 0 VOL: 54.850 MTQ

HDSL		Freight Manifest Carrier: HDSL									
Name of Vessel:	SILVER CRAFT	Voyage No:	FMC007W	Nationality of Ship:	Correction: 6						
<b>Shipment Spec.</b>											
BL Number	FMC007W/OXP1914	Booking Reference	KHUTIP/FMC007W/2022	FP Number	EMC60XP0104C						
PreCarriage by		On Carriage by		Shipment Type	FCL-FCL						
Place Of Receipt	Karachi	Place Of Delivery	Tripoli	Shipment Term	CY-CY						
Port of Load	Karachi	Port of Discharge	Marsaxlokk (Malta)	BL Issuance Date	2011/01/30						
Export Reference		Forwarding Agent Reference		Agent Issuing BL							
FreightPrepaidName	PAKISTAN										
CustomerType	Notify Party	CustomerDescription	Description Of Goods								
		ALEMARA HOLDING CO., OMAR ALMOKHTAR ST, FORMER KUWAITI AIRLINE BUILDING, 1ST FLOOR, APARTMENT NO.2 TRIPOLI / LIBYA	2 X 40' HC CONTAINERS 1500 BUNDLES SINGLE FLY, SINGLE FOLD TENT "FREIGHT PREPAID"								
	Consignee	MADE OUT TO THE ORDER OF ALEMARA HOLDING CO., OMAR ALMOKHTAR ST, FORMER KUWAITI AIRLINE BUILDING, 1ST FLOOR, APARTMENT NO.2 TRIPOLI / LIBYA	FORM E # ACBL-0403522 DTD: 19/01/2011 FORM E # ACBL-0403523 DTD: 24/01/2011								
	Shipper	PAK TENTAGE AND TEXTILE INDUSTRIES B-75 BLOCK 5, K A E C H S KARACHI PAKISTAN TEL: +92 21 3452 8929	SHIPPING MARKS ***** SINGLE FLY, SINGLE FOLD TENT BUNDLE NO. 001 - 1500								
	Notify Party	ALEMARA HOLDING CO., OMAR ALMOKHTAR ST, FORMER KUWAITI AIRLINE BUILDING, 1ST FLOOR, APARTMENT NO.2 TRIPOLI / LIBYA									
	Consignee	MADE OUT TO THE ORDER OF ALEMARA HOLDING CO., OMAR ALMOKHTAR ST, FORMER KUWAITI AIRLINE BUILDING, 1ST FLOOR, APARTMENT NO.2 TRIPOLI / LIBYA									
	Shipper	PAK TENTAGE AND TEXTILE INDUSTRIES B-75 BLOCK 5, K A E C H S KARACHI PAKISTAN TEL: +92 21 3452 8929									
	TypeAndSize	ContainerNumber	SealNumber	Status	COC/SOC	Package Type	Marks	No Package	G.W.C	T.W.C	C.B.M
	1	40HC	IRSU5137868	008733	Laden	COC	Bundle(s)	750	21,000.00	24,700.00	0.00
	2	40HC	TGHU7205144	008730	Laden	COC	Bundle(s)	750	21,000.00	24,700.00	0.00
								1500.00	42000.00	49400.00	0.00

## Photographs of shipment withheld by Maltese authorities

Picture 1. French jackets



Source: Panel of Experts, Malta, 12 July 2011.

Picture 2. French jackets



Source: Panel of Experts, Malta, 12 July 2011.

**Picture 3. Tents**



*Source:* Panel of Experts, Malta, 12 July 2011.

**Picture 4. Tents**



*Source:* Panel of Experts, Malta, 12 July 2011.

## Annex V

## Rebuttal from the State of Qatar



**URGENT**

Permanent Mission of the  
 State of Qatar to the United Nations  
 New York

الوفد الدائم لدولة قطر  
 لدى الأمم المتحدة  
 نيويورك

QUN/12-123  
 12 February 2012

Dear Mr. Raad,

I have the honour to refer to your letter dated 23 January 2012 (ref. S/AC.52/2012/PE/OC.18), and the forthcoming final report of the Panel of Experts requested by Security Council resolution 1973 (2011).

In that regard, and upon instructions from my Government, I have the honour to provide below a reply to the inquiry in the above-referenced letter.

1. The State of Qatar has been and continue to be keen to implement its international commitments with full transparency and good intentions in the service of international peace and security.
2. The State of Qatar took action to protect Libyan civilians according to Security Council resolution 1973 (2011), specifically paragraphs 4 and 8 thereof.
3. The actions taken by the State of Qatar were in full coordination with the North Atlantic Treaty Organisation (NATO) and under its umbrella.
4. The State of Qatar has notified the United Nations Secretary-General of its above-mentioned actions in conformity with the relevant provisions of resolution 1973.
5. The State of Qatar has sent a limited number of military personnel to Libya to perform the following tasks of civilian nature and purposes:
  - Provide military consultation to the revolutionaries.
  - Defend Libyan civilians.
  - Protection of aid convoys to the civilian population whether coming through the sea, air or land.

---

809 U. N. Plaza • 4<sup>th</sup> Floor • New York, NY 10017 • U.S.A. • Tel: (212) 486-9335 • Fax: (212) 758-4952

Permanent Mission of the  
State of Qatar to the United Nations  
New York



الوفد الدائم لدولة قطر  
لدى الأمم المتحدة  
نيويورك

The State of Qatar notes in this regard that it supplied those Qatari military personnel with limited arms and ammunition for the purpose of self-defence and to enable them to carry out the above-mentioned tasks, especially since they were directly targeted by Qadhafi's troops.

6. The State of Qatar categorically denies the information reported by some media that the State of Qatar supplied the revolutionaries with arms and ammunition. It confirms that it did not supply them with any arms or military materiel. If some of the afore-mentioned ammunition found its way to some Libyan revolutionaries, the Qatari Government has no explanation other than the conditions of fierce fighting taking place in most of the Libyan territory, which could have led to exceptional consequences that are difficult to assess.

Please accept the assurances of my highest consideration.

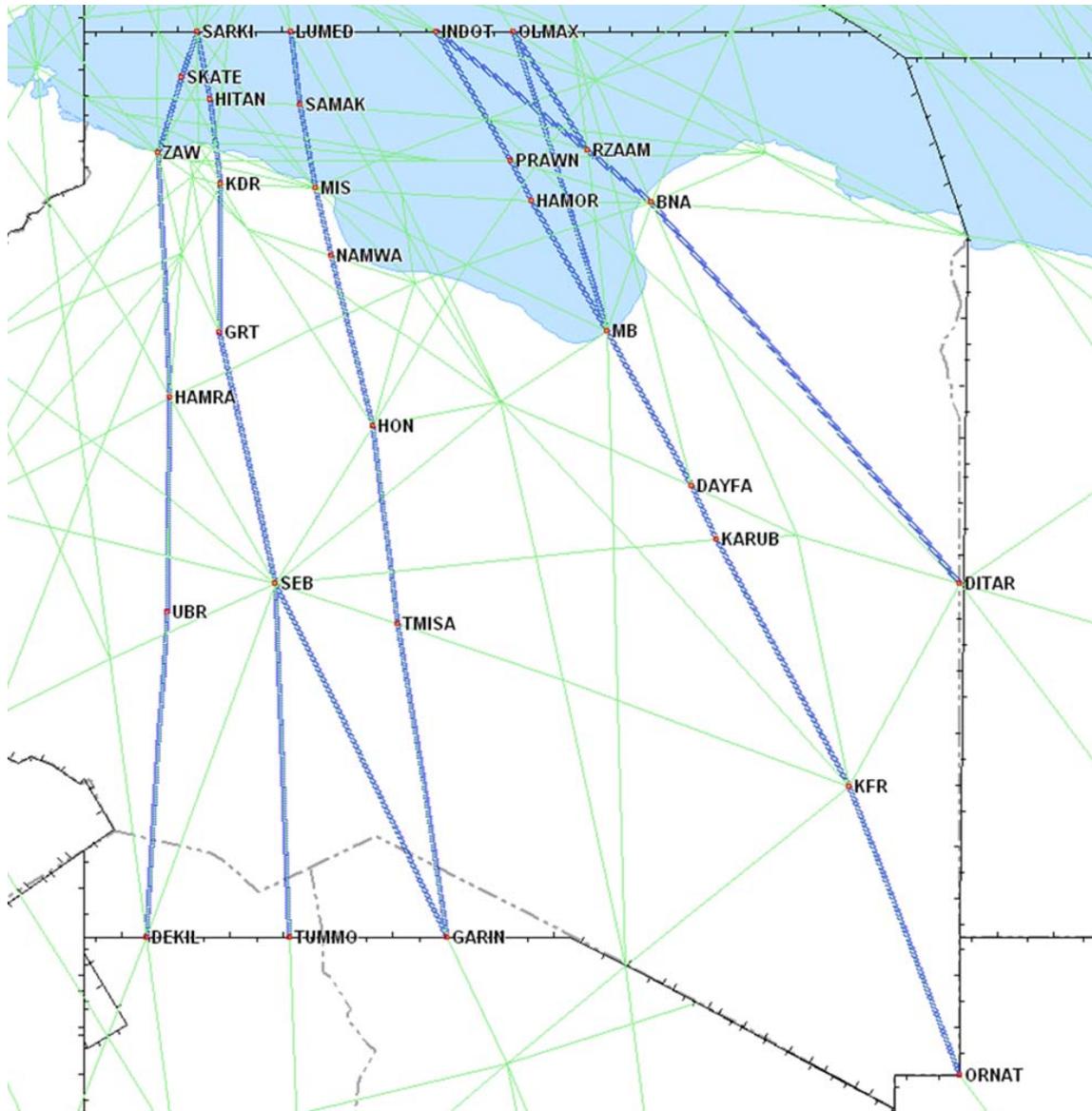
A handwritten signature in blue ink, appearing to read 'Abdulrahman Y. Al-Hamadi'.

Abdulrahman Y. Al-Hamadi  
Chargé d'Affaires, a.i.

Mr. Salim Raad  
Coordinator  
Panel of Experts on Libya established pursuant to resolution 1973 (2011)  
c/o [REDACTED]  
Secretary  
Security Council Committee established pursuant to resolution 1970 (2011)  
730 Third Avenue, Fl 8, Room [REDACTED]  
New York, NY 10017  
Fax [REDACTED]  
Email: [REDACTED], raads@un.org

# Annex VI

## Overflight map



**Annex VII****Log of outgoing communications of the Panel of Experts****2011**

<i>No.</i>	<i>Country</i>	<i>About</i>	<i>Sent by</i>
1	Belgium	Request for visit/meeting	9 June 2011
2	France	Request for visit/meeting	9 June 2011
3	European Union	Request for visit/meeting	9 June 2011
4	NATO	Request for visit/meeting	9 June 2011
5	United Kingdom	Request for visit/meeting	15 June 2011
6	Italy	Request for visit/meeting	15 June 2011
7	Malta	Request for visit/meeting	15 June 2011
8	IMO	Request for visit/meeting	15 June 2011
9	Arab League	Request for visit/meeting	29 June 2011
10	African Union	Request for visit/meeting	29 June 2011
11	Egypt	Request for visit/meeting	30 June 2011
12	African Union	Postpone visit/meeting	6 July 2011
13	France	Information on arms	20 July 2011
14	Tunisia	Request for visit/meeting	1 August 2011
15	Tunisia	Information on flights	1 August 2011
16	Algeria	Request for visit/meeting	2 August 2011
17	Libya	Request for visit/meeting	4 August 2011
18	Tunisia	Request for visit/meeting	8 August 2011
19	Chair of Committee	Report on Malta	8 August 2011
20	Chair of Committee	Report visit to Malta	9 August 2011
21	Qatar	Information on arms	10 August 2011
22	France	Information on arms	12 August 2011
23	Egypt	Request for visit/meeting	12 August 2011
24	Libya	Request for visit/meeting	16 August 2011
25	Tunisia	Request for visit/meeting	17 August 2011

<i>No.</i>	<i>Country</i>	<i>About</i>	<i>Sent by</i>
26	Egypt	Request for visit/meeting	30 August 2011
27	Venezuela (Bolivarian Republic of)	Information on asset freeze	9 September 2011
28	Egypt	Information on asset freeze	9 September 2011
29	Eritrea	Information on asset freeze	9 September 2011
30	Kenya	Information on asset freeze	9 September 2011
31	Liberia	Information on asset freeze	9 September 2011
32	United Republic of Tanzania	Information on asset freeze	9 September 2011
33	Uganda	Information on asset freeze	9 September 2011
34	Benin	Information on asset freeze	9 September 2011
35	Central African Republic	Information on asset freeze	9 September 2011
36	Gabon	Information on asset freeze	9 September 2011
37	Guinea-Bissau	Information on asset freeze	9 September 2011
38	Guinea	Information on asset freeze	9 September 2011
39	Mali	Information on asset freeze	9 September 2011
40	Mauritania	Information on asset freeze	9 September 2011
41	Niger	Information on asset freeze	9 September 2011
42	Senegal	Information on asset freeze	9 September 2011
43	Togo	Information on asset freeze	9 September 2011
44	Tunisia	Information on asset freeze	9 September 2011
45	Egypt	Request for visit/meeting	15 September 2011
46	Algeria	Request for visit/meeting	15 September 2011
47	Niger	Request for visit/meeting	20 September 2011
48	Chad	Request for visit/meeting	20 September 2011
49	South Africa	Information on asset freeze	21 September 2011
50	Jordan	Information on asset freeze	21 September 2011
51	Tunisia	Request for visit/meeting	21 September 2011
52	Albania	Information on flights	30 August 2011

<i>No.</i>	<i>Country</i>	<i>About</i>	<i>Sent by</i>
53	Under-Secretary-General for Safety and Security	Request for visit/meeting	3 October 2011
54	Tunisia	Request for visit/meeting	3 October 2011
55	Benin	Information on asset freeze	4 October 2011
56	Egypt	Request for visit/meeting	6 October 2011
57	Egypt	Request for visit/meeting	7 October 2011
58	Tunisia	Request for visit/meeting	7 October 2011
59	Russian Federation	Information on arms	20 October 2011
59	Albania	Information on flights	25 October 2011
60	Mauritania	Request for visit/meeting	19 October 2011
61	Mali	Request for visit/meeting	19 October 2011
62	Egypt	Information on asset freeze	27 October 2011
63	Tunisia	Information on asset freeze	27 October 2011
64	Algeria	Request for visit/meeting	26 October 2011
65	Qatar	Request for visit/meeting	1 November 2011
66	France	Information on arms	1 November 2011
67	Tunisia	Information on asset freeze	1 November 2011
68	Venezuela (Bolivarian Republic of)	Information on asset freeze	4 November 2011
69	Eritrea	Information on asset freeze	4 November 2011
70	Kenya	Information on asset freeze	4 November 2011
71	Liberia	Information on asset freeze	4 November 2011
72	United Republic of Tanzania	Information on asset freeze	4 November 2011
73	Uganda	Information on asset freeze	4 November 2011
74	Central African Republic	Information on asset freeze	4 November 2011
75	Gabon	Information on asset freeze	4 November 2011
76	Guinea-Bissau	Information on asset freeze	4 November 2011
77	Guinea	Information on asset freeze	4 November 2011

<i>No.</i>	<i>Country</i>	<i>About</i>	<i>Sent by</i>
78	Mali	Information on asset freeze	4 November 2011
79	Niger	Information on asset freeze	4 November 2011
80	Senegal	Information on asset freeze	4 November 2011
81	Togo	Information on asset freeze	4 November 2011
82	Mauritania	Information on asset freeze	8 November 2011
83	Switzerland	Information on asset freeze	4 November 2011
84	Bulgaria	Information on arms	9 November 2011
85	Benin	Information on asset freeze	18 November 2011
86	Benin	Information on asset freeze	18 November 2011
87	Albania	Information on flights	23 November 2011
88	Togo	Information on asset freeze	23 November 2011
89	Mauritania	Request for visit/meeting	23 November 2011
90	Algeria	Request for visit/meeting	23 November 2011
91	Nigeria	Request for visit/meeting	28 November 2011
92	Benin	Information on asset freeze	28 November 2011
93	Special Representative of the Secretary-General		2 December 2011
94	Romania	Information on arms	2 December 2011
95	Libya	Request for visit/meeting	5 December 2011
96	Libya	Request for visit/meeting	5 December 2011
97	Mali	Request for visit/meeting	8 December 2011
98	Qatar	Request for visit/meeting	9 December 2011
99	United Arab Emirates	Request for visit/meeting	9 December 2011
100	Serbia	Information on arms	12 December 2011
101	Central Bank of West African States	Information on asset freeze	14 December 2011
102	Central Bank of West African States	Information on asset freeze	14 December 2011
103	Russian Federation	Information on arms	19 December 2011
104	Egypt	Information on arms	19 December 2011

<i>No.</i>	<i>Country</i>	<i>About</i>	<i>Sent by</i>
105	Uganda	Request for visit/meeting	22 December 2011
105	Tunisia (duplicated number)	Information on asset freeze	19 December 2011
106	Egypt (duplicated number)	Information on asset freeze	19 December 2011
107	Canada	Information on asset freeze	22 December 2011

## 2012

<i>No.</i>	<i>Country</i>	<i>About</i>	<i>Sent by</i>
1	Russian Federation	Information on arms	9 January 2012
2	Tunisia	Information on arms	9 January 2012
3	Switzerland	Information on arms	11 January 2012
4	Albania	Information on flights	11 January 2012
5	Egypt	Arabic names of 9 companies	11 January 2012
6	Israel	Information on arms	12 January 2012
7	United States of America	Information on arms	20 January 2012
8	United Kingdom	Information on arms	20 January 2012
9	Italy	Information on arms	20 January 2012
10	France	Information on arms	20 January 2012
11	China	Request for visit/meeting	6 January 2012
12	Chad	Information on arms	23 January 2012
13	Algeria	Information on arms	20 January 2012
14	Egypt	Information on asset freeze	23 January 2012
15	Rwanda	Information on asset freeze	23 January 2012
16	Tunisia	Information on asset freeze	23 January 2012
17	United Arab Emirates	Information on arms	23 January 2012
18	Qatar	Information on arms	23 January 2012
19	NATO	Information on arms	23 January 2012

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<i>No.</i>	<i>Country</i>	<i>About</i>	<i>Sent by</i>
20	United States of America	Information on arms	23 January 2012
21	France	Information on arms	23 January 2012
22	South Africa	Information on arms	24 January 2012
23	Algeria	Request for visit/meeting	30 January 2012
24	Chairman	Response from Rwanda	13 February 2012

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## Annex VIII

### Letter dated 16 March 2012 from the Coordinator of the Panel of Experts addressed to the President of the Security Council

REFERENCE: S/AC.52/2012/PE/OC.28

16 March 2012

Excellency,

On behalf of the Panel of Experts established by Security Council resolution 1973 (2011), I have the honour to refer to my letter dated 17 February 2012, addressed to the President of the Security Council, by which I transmitted the report of the Panel prepared in accordance with paragraph 24(d) of the same resolution.

In that connection, the Panel would like to submit the following additional clarifying information.

#### 1) Shipment held by Maltese authorities (paragraph 57 of the report):

##### Background:

During its visit to Malta from 11 to 12 July 2011, which was undertaken in fulfillment of the Panel's mandate to gather information as per paragraph 24 of resolution 1973 (2011), the Panel was made aware by the Maltese customs authorities of a shipment bound for Libya that was held at Malta Freeport. The Maltese authorities showed to the Panel of Experts the following contents:

2x40' Containers containing 1,500 Bundles of Single Fly Single Fold Tents  
Port of Loading: Karachi  
Port of Delivery: Tripoli  
Shipper: Pak Tentage and Textile Industries B-75 Block 5, Kaechs Karachi Pakistan  
Consignee: Made to the Order of Alemara Holding Co, Omar AlmokhtarSr, 1<sup>st</sup> Floor Apartment No.2 Tripoli, Libya  
B/L date: 31 January 2011

##### Clarification:

The Panel would like to clarify that the tents mentioned above, and in paragraph 57 of its report, were shipped on 31 January 2011. This was before the adoption of the arms embargo set out in resolutions 1970 (2011) and 1973 (2011) and therefore did not constitute a violation of the arms embargo. The matter was included in the Panel's report purely as part of the record of actions taken by Member States in response to the relevant Security Council resolutions.

2) The Qadhafi Government's attempts to purchase military materiel (paragraph 56 of the report):

The Panel would also like to clarify that in the letter they conveyed to the Panel on 6 February 2012, the Chinese authorities specified that the Qadhafi regime sent personnel to China in July 2011 to make contact with some individuals of relevant Chinese companies without the knowledge of the Chinese Government.

I should be grateful if this letter could be appended as an annex to the Panel's report.

Please accept, Excellency, the assurances of my highest consideration.

A handwritten signature in blue ink, appearing to read "Salim Raad". The signature is fluid and cursive, with a long horizontal stroke at the end.

Salim Raad  
Coordinator  
Panel of Experts on Libya established  
pursuant to resolution 1973 (2011)

---