



SECURITY COUNCIL REPORT UPDATE REPORT



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LIBYA

Expected Council Action

Security Council members seem likely to intensify the discussions on Libya this week.

At press time, Security Council members were meeting in informal consultations at Lebanon's request to discuss Saturday's Arab League statement calling on the Security Council to impose a no-fly zone. Under-Secretary-General B. Lynn Pascoe was expected to brief on the situation in Libya.

However, it was unclear whether any action would emerge.

Key Recent Developments

On 12 March the Arab League met at ministerial-level in Cairo on the situation in Libya (it had previously suspended Libya's participation on 22 February until the violence stopped). It issued a statement which noted Libyan authorities' use of military aircraft, mortars and heavy weaponry against civilians and called on the Security Council to impose a no-fly zone. The statement rejected foreign intervention and indicated that failure to take appropriate action now to end the crisis would lead to such intervention in internal Libyan affairs. In addition the statement called for communication and cooperation with the Benghazi-led Interim Council, said the Qaddafi-regime had lost its legitimacy, urged humanitarian assistance and that the Arab League would continue coordination with the UN, the AU, the Organisation of the Islamic Conference (OIC), and the EU.

On 11 March UN Special Envoy Abdul Ilah Khatib was set to leave New York immediately for Tripoli to assess the situation on the ground accompanied by UN humanitarian officials and staff from the Department of Political Affairs and the Office of the High Commissioner for Human Rights. (Khatib, a former foreign minister of Jordan, was appointed by the Secretary-General on 6 March.)

On 11 March the EU met at the heads of state level on Libya and issued a declaration calling the use of force against civilians unacceptable and that member states would explore all necessary options to protect civilians. The summit declaration called on Qaddafi to relinquish power immediately and recognised the Benghazi Interim Council as a political interlocutor. The EU also called for a summit between itself, the AU and the Arab League. (On 10 March the EU had strengthened sanctions that it had previously imposed on Libya on 28 February and 2 March.)

On 10 March NATO agreed to move additional ships to the Mediterranean to support humanitarian assistance efforts and its own surveillance and monitoring capability. Head of NATO Anders Fogh Rasmussen said, provided a further UN Security Council resolution, NATO would also be able to undertake measures to enforce the arms embargo. He also said planning for a no-fly zone would continue in case NATO was to receive a clear Security Council mandate.

Both the NATO and the EU statements underscored that actions regarding Libya would require demonstrable need, a clear legal mandate and solid regional support. Press reports indicated that US Secretary of State Hillary Clinton will present plans to NATO on Tuesday for a no-fly zone.

1

On 10 March the AU Peace and Security Council (PSC) met at the heads of state level on Libya and issued a communiqué which condemned the indiscriminate use of force by Libya but rejected foreign military intervention. The AU decided to establish a high-level committee to facilitate dialogue among Libyan parties and engage with the Arab League, OIC, EU and UN. (Libya is a member of the AU PSC and was represented by the Qaddafi-regime's foreign minister, Moussa Koussa.)

On 10 March the foreign ministers of the Gulf Cooperation Council (GCC) said the Qaddafi regime had lost its legitimacy. The GCC also encouraged the Arab League to initiate contact with the Interim Council in Benghazi and call on the UN Security Council to establish a no-fly zone to protect civilians. This followed a 7 March GCC statement supporting a no-fly zone and calling for accountability.

On 8 March the Organisation of the Islamic Conference released a statement supporting a no-fly zone over Libya but excluded foreign military operations on the ground.

On 8 March Security Council members discussed possible further measures against Libya, including the option of a no-fly zone, in informal consultations following a briefing on the situation in Libya by the Department of Political Affairs head, B. Lynn Pascoe. But no action was taken.

On 7 March the Libyan mission to the UN in New York (delegates of which broke from the Qaddafi regime in February) wrote to member states urging their capitals to recognise the Interim Council. On 10 March France said it would offer recognition. Other EU members (some of whom operate on a policy that recognition should be inferred from their actions rather than by official statements) began opening dialogue with Benghazi. (In addition to France, Italy and EU foreign affairs head Catherine Ashton seem to have done so already. At press time, it was expected that US Secretary of State Clinton would meet with Interim Council officials in Paris on Monday, 14 March.)

On 5 March the Interim Transitional National Council in Benghazi (the recently organised political leadership of the anti-Qaddafi movement formed on 27 February) issued a statement declaring itself Libya's sole representative. The letter called for the international community to fulfil its obligation to protect the Libyan people "without any direct military intervention on Libyan soil." The letter affirmed that diplomats who had supported the revolution were the legitimate representatives of the Interim Council.

On 3 March, International Criminal Court (ICC) Prosecutor Luis Moreno-Ocampo said that he was investigating alleged crimes against humanity committed by Libya, including by Colonel Muammar Qaddafi and his inner circle. He said the probe will look into several incidents which occurred in various towns and cities across Libya.

In a 2 March letter to the Security Council, Libya responded to resolution 1970 and called the Council's condemnation of Libya premature. The letter requested that the resolution be suspended until the truth of the allegations against Libya could be confirmed. Concerning the ICC referral, Libya recalled that it was not a party to the Rome Statute but affirmed its preparedness to respond to the resolution on the basis of the principle of the primacy of national courts, stating it has formed an independent judicial committee to investigate allegations.

On 1 March the UN General Assembly suspended Libya from the Human Rights Council with a unanimous vote. Libya's suspension followed the 25 February adoption of a Human Rights Council resolution on Libya which had made that recommendation.

On 26 February the Council unanimously adopted resolution 1970 demanding an immediate end to the violence in Libya and calling for steps to fulfil the legitimate demands of the people in Libya. It referred the situation in Libya since 15 February to the ICC. The resolution also implemented an arms embargo, a travel ban on members of the regime and Qaddafi family members and an asset freeze on members of the Qaddafi family. A sanctions committee (which will be chaired by Portugal) was established to monitor the implementation of these measures and is expected to brief the Council on its initial activities later this month.

Human Rights-Related Developments

On 25 February the Human Rights Council passed a resolution on Libya which condemned the recent systematic human rights violations including indiscriminate attacks on civilians, extrajudicial killings, arbitrary arrests, detention and torture of unarmed protesters, some of which may amount to crimes against humanity. The resolution called for a commission of inquiry to investigate with a view to ensuring perpetrators are held accountable. The commission's members were appointed on 11 March and include: Cherif Bassiouni (Egypt); Asma Khader (Jordanian/Palestinian); and Philippe Kirsch (Canada). It is expected to report back to the Human Rights Council in June.

Key Issues

The key issue for the Council will be whether to take further measures to reinforce its demands in resolution 1970.

A related issue is the gap which is emerging between the Arab countries, which seem to be arguing for stronger action against the Tripoli regime and the African countries, which seem divided and seem to be arguing for more time for pursuing non-military options.

A final and crucial issue is timing given how quickly the crisis is escalating.

Options

One option for the Council is to adopt a resolution authorising a no-fly zone over Libya or parts of Libya where the Tripoli regime is not in control.

A related option is to allow aircraft patrolling the no-fly zone to use force in defense of designated protected areas so as to prevent Qaddafi using force.

Another option is to strengthen the sanctions regime by including more entities and individuals on the list closely linked to the functioning of the Qaddafi regime, a more comprehensive travel ban, stopping financial flows to Libya, and possibly including a ban on oil exports from Qaddafi-held areas while violence continues.

Another option is to refine the arms embargo so that it is targeted exclusively against the Tripoli regime.

Another option could be demanding a ceasefire and cessation of armed activity in positions as of 14 March and use air strikes against parties who violate it.

Another option is signaling strong support for making the role of the Secretary-General's Special Envoy to Libya more robust in both its humanitarian and political thrusts.

Another option is to wait and see, running the risk of the Council being seen as standing idly by while the situation devolves into a situation reminiscent of Bosnia in 1993-95.

Council and Wider Dynamics

Amid wide debate on the possibility of the Security Council imposing a no-fly zone over Libya, some Council members have voiced their support for such a tactic. The UK and France have made the most concrete calls in support of a no-fly zone, but insist that there must be a clear legal basis for the action and strong regional support.

The US maintains it is studying the possibility but stresses that any military action must be an international effort. The US has also warned that imposing a no-fly zone carries the risk of an escalated military operation.

Other European members are more cautious in terms of a no-fly zone but haven't discounted it as a possibility. However, they also calculate that strengthened economic sanctions and better enforcement of the arms embargo may also be effective in isolating the Qaddafi regime and bringing about an end to the violence.

Arab countries have encouraged the Council to closely follow the lead of the region in regards to Libya. The Arab League, OIC and GCC have all endorsed a no-fly zone. The Interim Council in Benghazi has asked for a no-fly zone but has indicated ground operations would not be welcomed. The Arab League statement seemed to strike the same balance between endorsement of a no-fly zone but hesitancy toward any intervention on the ground.

Most members of the Council see regional political leadership as vital but among those with the capacity to enforce further measures there is a strong sense that regional cooperation will need to be operationally substantive as well. A strong unified international effort in both political and enforcement aspects will be crucial given the mixed messages from the region ranging from no military intervention to intervention up to a point—in the air and at sea, but not on the ground.

While China and Russia were sympathetic to African and Arab support for the sanctions imposed in resolution 1970, they seem more resistant towards any military option without any clear evidence of a trigger event such as mass atrocities—especially in light of the current and more equivocal AU position.

Other members, such as India and Brazil, seem open minded but nevertheless have serious reservations about military action and seem to feel the Security Council should focus its energy on strong implementation of resolution 1970 and more proactive use of the Council's conflict prevention tool-box which could include calling for a ceasefire to give space for a political solution.

However, most Council members anticipate that when the US makes a clear policy formulation the issue of imposing further measures on Libya will come to a head in the Council.

UN Documents

Security Council Resolution
<ul style="list-style-type: none"> S/RES/1970 (26 February 2011) referred the situation in Libya to the ICC, imposed an arms embargo and targeted sanctions (assets freeze and travel ban).
Security Council Press Statement
<ul style="list-style-type: none"> SC/10180 (22 February 2011) condemned the use of force against civilians, called on Libya to meet its responsibility to protect civilians and stressed accountability.
Security Council Meeting Records
<ul style="list-style-type: none"> S/PV.6491 (26 February 2011) was on the adoption of resolution 1970. S/PV.6490 (25 February 2011) was the Secretary-General's briefing on Libya. S/PV.6486 (22 February 2011) was an official communiqué listing the 75 member states who participated in the closed meeting on Libya.
General Assembly
<ul style="list-style-type: none"> A/RES/65/265 (1 March 2011) was a resolution suspending Libya from the Human Rights Council as requested by the Geneva-based body on 25 February—the first time a sitting member was removed. GA/11050 (1 March 2011) was a press release on the suspension of Libya from the Human Rights Council.
Human Rights Council
<ul style="list-style-type: none"> A/HRC/S-15/2 (25 February 2011) condemned the systematic human rights violations in Libya, decided to dispatch a commission of inquiry and asked the General Assembly to suspend Libya from the Human Rights Council.

Useful Additional Resources

- Arab League Statement on Libya, No. 7360, 12 March 2011
- EU Declaration on Libya, EUCO 7/11, 11 March 2011
- AU Peace and Security Council Communiqué on Libya, PSC/PR/COMM.2 (CCLXV), 10 March 2011
- AU Peace and Security Council Communiqué on Libya, PSC/PR/COMM (CCLXI), 23 February 2011

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