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Supporting stabilization in Libya: the challenges of finalizing and implementing the Skhirat agreement

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Supporting Stabilization in Libya

The Challenges of Finalizing and Implementing the Skhirat Agreement

Wolfram Lacher

Representatives of Libya's warring parties are close to reaching a UN-mediated power-sharing agreement that would establish a Government of National Accord (GNA). Assuming it is finalized, the deal will be fragile. Its implementation will be fraught with tensions and can collapse at any moment under pressure from spoilers. Reaching a final agreement and implementing it will require yet stronger political and diplomatic efforts from external actors. This includes intensive engagement with the parties to the agreement and those who oppose the deal or have been left out of it; carefully wielding the instrument of targeted sanctions; and containing regional rivalries that have fueled Libya's conflicts. International support for implementation should take into account not only the formal demands of a unity government but also wider Libyan sensitivities over external interference. A foreign military presence would undermine the agreement.

The UN-mediated agreement, negotiated in Skhirat (Morocco), seeks to end a yearlong civil war that caused state institutions to split into two. The government of Abdallah al-Thinni – in the eastern city of Bayda and recognized internationally – had been formed by the Tobruk-based House of Representatives (HoR) elected in June 2014. In August 2014 the HoR's adversaries had resurrected the HoR's predecessor, the General National Congress (GNC), elected in July 2012, and installed a rival government in Tripoli. Neither government has exercised control over the military forces in the loose alliances each of them has represented.

Nor has either side been able to gain the upper hand militarily or politically. During the conflict, Libyan territory fragmented into a patchwork of local zones of influence, with neither side being able to cement its hold over entire regions. The attempts of both governments to seize control of the Central Bank, the National Oil Corporation (NOC) and state-owned investment vehicles have been in vain, due to Western insistence on a negotiated solution and a refusal to recognize newly appointed officials or bank accounts. As a result, support for the war has faded. Since spring 2015, some of the conflicting parties have come under pressure from war-weary communities, and escalation has given way to the negotiation of local ceasefire agreements and tentative reconciliation initia-

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tives in western and southern Libya. This dynamic has been crucial for the progress of the UN-mediated negotiations.

The agreement, initialed on July 11 by all parties except the GNC, reestablishes a single government headed by a Presidency Council including a prime minister and two deputies, who take their decisions in unanimity. The HoR remains the main legislative body but should facilitate the return of the forty-odd parliamentarians who have been boycotting sessions in Tobruk, including by considering moving its location and reexamining decisions taken in Tobruk. Major decisions in the HoR require a majority of 150 out of 192 members, making it impossible for the current majority in the HoR to control the body. In addition, the parties to the agreement are to select 90 GNC members and 30 independent figures to form a State Council. Through joint committees with the HoR, the State Council can weigh in on key appointments – such as the Central Bank Governor – and help draft the laws for a referendum on the draft constitution, as well as for new elections. With these elections, which are to take place within a year of the agreement's adoption – or a maximum of two years, if the draft constitution has not been adopted within the first year – the return to constitutional government would be complete.

Finalizing the deal will require bringing the GNC back on board and negotiating crucial annexes to the agreement, including on the composition of the Presidency Council and the government, as well as the mode of selecting the members of the State Council. For the GNA to take office in Tripoli, ceasefire and security arrangements also still need to be negotiated and will be overseen by the Presidency Council. Finally, the agreement defers many contentious issues, including disputes over top positions in the administration, to be resolved by the power-sharing institutions at a later stage.

A fragile deal

The complexity of Libya's conflicts is such that few observers expected the UN mediation efforts to succeed. Even in its current stage, the agreement therefore represents a major achievement. Nevertheless, its foundation is fragile: some of its core stakeholders have a narrow support base, while many parties to the conflict are only loosely associated with the deal, or are opposed to it.

How to ensure effective representation of the conflicting parties was a question that had dogged UN mediators from the beginning. Neither of the two legislatures vying for legitimacy – the GNC and HoR – had broad public support. The GNC was widely seen as being responsible for the political deadlock that had led to the crisis, and during the war it was reduced to just over half of its 200 members. The HoR had been elected by a mere fifth of Libya's electorate, then alienated large constituencies with provocative decisions and was boycotted by around 40 to 50 of its 192 members. The two governments, deprived of access to budgets and contested within their own political camps, had even less support. Moreover, both legislatures and governments lacked direct control over the military alliances with which they were associated. On the one hand, Operation Dignity – launched by General Khalifa Haftar in May 2014 as a campaign against Islamist militias in Benghazi – started out in explicit rebellion to the army leadership. Following the June 2014 elections, the HoR backed Operation Dignity and its leaders, though chains of military command have remained disjointed and outside the control of the HoR or its government. On the other hand, Libya Dawn was a coalition of militias from mostly western Libyan cities, including some Islamist-leaning forces, which took control of Tripoli in mid-2014, claiming to be defending the 2011 revolution against the return of former regime elements. Dawn lacked a clearly identifiable leadership and was only nominally loyal to the GNC and its government.

Compounding these difficulties, alliances on both sides have turned out to be fractious and fluid. As the conflict has worn on, both camps have witnessed increasing internal tensions and differentiation – to the extent that now the struggle is not between two camps but between dozens of rival political interests. The UN-led process has contributed to the splintering of alliances by forcing political actors to position themselves toward the negotiations and encouraging representatives of local councils and armed groups to speak for themselves, rather than have the two legislatures represent them.

Libya Dawn no longer exists. Many of its local constituencies have opted to support the negotiations and have sought to negotiate ceasefires with forces from other cities. Misrata's leading political representatives and armed groups – previously the heavyweights within the Dawn alliance – have distanced themselves from the Islamist militia leaders and revolutionary hardliners at the core of Libya Dawn. When Misratan forces began confronting the Islamic State (IS) in Sirte in February 2015, they diverged with Dawn strategists over military priorities and began negotiating ceasefires with their adversaries in Warshafana and Zintan. Other cities previously backing Dawn, such as Gharyan, have entered into similar agreements. The Amazigh towns in the Nafusa mountains had initially contributed to Dawn firepower, but starting in early 2015 they became increasingly disengaged from the conflict and positioned themselves as neutral. There now remains the core group of former Dawn ringleaders who are holding out in Tripoli: Islamist politicians associated with the Mufti and the former Libyan Islamic Fighting Group, as well as a handful of militia leaders from Misrata, Zawiya and Tripoli, who have formed the so-called Steadfastness Front. This core group also exercises disproportionate influence in the GNC and was decisive in dissuading the GNC from initialing the agreement. During the negotiations, divisions appeared not only in the GNC; HoR boycotters – though broadly in the same camp as the GNC delegation – have pursued their own interests and have not acted as one group either.

Dawn's adversaries have also been increasingly divided. Despite becoming top military commander in March 2015, Haftar never succeeded in bringing the military forces in the HoR camp under his control. His self-styled "Libyan National Army" (LNA) derives its clout from its air force, as well as Haftar's access to backing from regional states, particularly Egypt. However, key army units in Benghazi and eastern Libya have escaped Haftar's sway, and their leaders have fiercely and openly opposed Haftar. In Tripolitania, only some factions within the alliance fighting against Dawn have adhered to the LNA; most forces in Zintan and Warshafana – and particularly those that have negotiated ceasefires with their adversaries – submit to local decision-making structures. The same goes for armed groups of the Tubu ethnic minority, the principal HoR-aligned constituency in southern Libya. Leading political figures in the HoR camp have engaged in serious rivalries, even leading to an attack on Prime Minister al-Thinni in Tobruk, in May 2015.

The UN-led mediation has responded to the fragmentation of Libya's political scene by convening multiple "tracks" of dialogue. The agreement is the outcome of negotiations in the political track that included representatives of the HoR, the GNC and parliamentarians boycotting either body, as well as several independent figures. In parallel, another track has brought together representatives of municipal councils, and yet another forum convened representatives of political parties and civil society, chiefly to gain their support for the process without according them formal influence on the outcome of negotiations. Attempts to organize meetings of tribal leaders were unsuccessful. The crucial track assembling representatives of armed groups for talks on security arrangements has yet to gather momentum. According to the agreement, this track is to serve as the forum for nego-

tiating security arrangements until the GNA takes office.

Yet, despite the mediators' attempts to assemble a broad array of stakeholders, support for the agreement rests on a narrow foundation. Several of the parliamentarians most strongly espousing the agreement have alienated their bases, as they appeared to pursue above all their personal ambitions in negotiating the government lineup. The independent figures backing the deal were picked arbitrarily by the mediators, and in many cases they lack a political power base. Representatives of political parties and municipalities have lent their weight to the process, even signing the agreement as witnesses to compensate for the GNC's absence, but have gained few tangible benefits from the deal. A range of military leaders have engaged in the track on security arrangements, but they have often done so separately and in rivalry – rather than coordination – with their constituencies' political representatives. Given the multitude of competing interest groups and the absence of organized political forces, a power-sharing agreement that is centered on the distribution of government portfolios will produce much discontent.

Potential spoilers and the risk of backlash

Although Libya's silent majority undoubtedly welcomes the agreement, there is a long list of political actors who have a clear interest in its collapse, or at least have felt insufficiently included in the negotiations.

As the two alliances have disintegrated, the emergence of a centrist coalition in support of the deal has isolated hardliners on both sides, who are now potential spoilers. In the HoR camp, this applies most prominently to Haftar and the forces directly associated with him. With his controversial track record and barely veiled ambitions to rule the country, Haftar is unacceptable to the former Dawn supporters. The Presidency Council is set to enter into conflict with Haftar as it exercises its capacity as commander-in-chief and is likely to dismiss him. With almost half of active HoR members having opposed Haftar's appointment as top army commander, the majority in a reunited HoR would back his removal.

In opposing the agreement, Haftar could align himself with two other disgruntled groups. First, senior figures in the former regime and its security apparatus had worked in tandem with Haftar, hoping for a comeback if Dawn were defeated. The agreement will now close the political scene again to former core regime elements, who could try to provoke the collapse of ceasefires in Tripolitania by activating local factions in Haftar's LNA. Second, proponents of eastern Libyan autonomy had subdued their activism while the HoR was based in Tobruk and its government resided in Bayda, as eastern politicians exerted disproportionate influence in both bodies. In a unity government in Tripoli, their sway will be greatly diminished. Eastern parliamentarians had generally adopted a hard line toward the negotiations. Taken together, this raises the risk of tenacious opposition to the GNA from eastern Libya. A group of eastern HoR members may even reject the deal and throw in their lot with the autonomy movement and Haftar to establish a parallel administration in the east.

Hardliners on the other side of the divide will also pose an obstacle. This includes politicians and militia leaders who had been prominent in Libya Dawn's operations and who have consistently rejected all compromise. Even if a majority in the GNC ends up signing the agreement, such hardliners are likely to remain adamant. They have to fear not only political marginalization but also possible prosecution if a unity government cements its authority. Their nuisance potential is greatest in and around Tripoli, where they could pose a direct threat to the security arrangements required for the unity government to operate. Meanwhile, the conflict in Benghazi is set to continue despite the deal. Compared to western Libya, the lines of conflict in Benghazi are much more clearly delineated by ideology,

and the prospects for a negotiated solution are slim. The local warring factions include Islamist and jihadi groups that had been loosely allied with Dawn but are not party to the agreement.

In addition to forces with a direct interest in the agreement's collapse, there are important groups with insufficient stakes in the deal. The Amazigh and Tubu minorities, both of which can field substantial military forces, have repeatedly complained about inadequate representation at the negotiations, and support for the agreement is weak among both groups. Communities that are militarily weak and had sought to keep out of the conflicts of the past year, most notably Bani Walid, are frustrated over what they see as a deal rewarding the warlords. These groups would be unlikely to protect the agreement if spoilers were to try and force its failure.

Finally, the group most clearly opposed to this or any other agreement between Libya's political forces – and firmly situated outside all political camps – is the Islamic State. IS affiliates in Darna, Benghazi and Sirte have rapidly expanded over the past year of civil war. In Sirte, IS has been able to mobilize in a city where a sense of humiliation and defeat has been widespread since the 2011 revolution. IS will likely seek to replicate this model in similar communities across Libya – such as Bani Walid – that have not been stakeholders in the UN-led negotiations and may perceive the agreement as excluding them yet again from the political scene. A continued expansion of IS would severely undermine the credibility of the unity government, which many Libyans will measure first and foremost by its progress in dealing with security challenges.

Implementing the agreement

If the agreement is finalized, the power struggles that gave rise to the war will play out within the new power-sharing institutions. This means that implementation will be difficult and volatile. Given the range of potential spoilers, a relapse into open conflict will remain a serious risk.

The most immediate challenge for implementation will be the negotiation and establishment of security arrangements – first in the capital, and then for vital infrastructure across Libyan territory. A major shortcoming of the agreement is that it has left the terms of the ceasefire and security arrangements almost completely open. As the negotiations over security arrangements are set to take place within the framework of the track bringing together representatives of armed groups, the parties to the security arrangements will not have formal influence over the outcome of the political track. This raises the difficulty of how to ensure their commitment to the political agreement.

The security arrangements need to fit two seemingly contradictory constraints. On the one hand, they require a deal between key military players in and around the capital that will almost certainly include carving up Tripoli into spheres of influence by previously warring parties. This would notably entail the return of Zintani forces to southern Tripoli – after having been driven out by Libya Dawn in mid-2014 – but possibly also a confrontation with Tripoli-based forces that reject such an arrangement. On the other hand, the GNA and other state institutions in Tripoli would urgently require protection from loyal forces to prevent a recurrence of the constant extortion by armed factions that haunted transitional governments in the 2012–2014 period. Therefore, security arrangements need to provide for a rapid move away from a militia oligopoly toward the establishment of an integrated and neutral force, into which parts of these militias would be dissolved. A neutral force in the capital could then become the nucleus of a regular army whose reach would expand gradually as local factions agree to disband and join. In the process, another difficulty will be preventing the reestablishment of competing chains of command, as in 2013/14, when senior figures in the govern-

ment and the GNC used their prerogatives to sponsor rival units that eventually became warring parties. Even in the best case, however, armed groups representing particular political interests are so entrenched that they are certain to pose a challenge to state authority, even after the GNA hands over to an elected government.

An instant obstacle to implementation will be resistance from actors who fear prosecution for crimes committed during the 2014/15 civil war. The thorny issue of whether and when such figures should be held accountable for their actions will be high on the political agenda. In the medium term, the prosecution of war crimes will be crucial to permit reconciliation. In the short term, it is not realistic – Libya's judicial system has collapsed – nor would it facilitate the implementation of the agreement. Indeed, negotiating safe conduct and offering suspects a way out, such as through postings to embassies abroad, may be unavoidable in order to defuse their nuisance potential.

A litmus test is whether the HoR will reconsider its location and the decisions it passed while meeting in Tobruk, thereby allowing HoR boycotters to join. A reunification would produce a parliament with a more centrist majority, reducing the risk that the HoR will provoke confrontations, or refuse to cooperate, with the Presidency Council or the State Council. Ultimately, such cooperation will be essential to permit the constitutional referendum and new elections to proceed.

If the GNA surmounts the obstacles posed by armed groups and power struggles, the economy could turn out to be a stumbling block. In 2014 alone, Libya burned through a quarter of its foreign exchange reserves, which by January 2015 stood at $76 billion. With oil production remaining low due to insecurity and conflict, and with international oil prices plummeting, the GNA could face state bankruptcy by mid-2016. These unprecedented fiscal constraints come at a time of heightened demands on government spending due to the plunge of the Libyan dinar, as well as the need to accommodate political and military factions with government budgets and salaries to cement the agreement. The GNA would urgently need oil production to recover, which further increases the leverage of armed groups that are able to shut down oilfields or export terminals to promote their demands. Therefore, the GNA would not only risk emulating past governments in their failure to revive public investment, but it could also face a fatal socioeconomic and political crisis if it is forced to make cuts in salary or subsidy budgets.

What role for international support?

To recapitulate: a unity government, if formed under a final agreement, will rely on a fragile agreement and a narrow support base. It will be besieged by potential spoilers and face tight limits to its authority. Can international support salvage it?

Among Western governments, the EU and the UN, there is an understandable tendency to plan for a substantial international role in Libya to support the agreement's implementation. Many now consider the discreet approach adopted after the 2011 war to have been a mistake. However, Libya's transition did not fail because of the lack of Western support. Such support was offered but proved ineffective because of the power struggles paralyzing the transitional government. The Libyan authorities at the time rejected any talk of a foreign peacekeeping presence. Foreign policy-makers recognized that a prominent external role would be perceived in Libya as intrusive and end up undermining the transition process.

Much the same is true today. Although there is a clear need for an external role in guaranteeing the agreement and arbitrating between its parties, external actors should be acutely alert to the risk that their well-meant support could become a liability. Though any international assistance

would respond to a formal request by the GNA, it could nevertheless backfire.

In the domain of security, two main types of foreign support are conceivable. First, there is a clear need for a neutral – and therefore external – party to help monitor the implementation of ceasefire and security arrangements. Second, Western governments and the UN could push for an international force to guarantee security arrangements in Tripoli, intervene in the event of a ceasefire breakdown and protect diplomatic missions. This second option would be risky and counterproductive under most circumstances.

Suspicion of foreign conspiracies runs high in Libya and can easily be harnessed by opponents of the agreement. Any presence of foreign troops, even if based outside Libyan territory as a rapid intervention force, would open the door to allegations that the agreement is the first step toward Libya's occupation by foreign powers and allow spoilers to deride the government as a Western puppet. A foreign military presence would therefore quickly become the subject of political controversy, damaging both the GNA's standing and the implementation of the agreement as a whole. It would also become a target for extremist groups and rogue militias, meaning that an international presence could not be a mere peacekeeping force but would have to be equipped to engage in heavy fighting, which, in turn, could trigger unintended consequences. An additional challenge would be identifying suitable troop-contributing countries for such an operation. Troops from European states with interests in Libya would be perceived as evidence of a neocolonial project. Within the region, Morocco is the only supplier of international peacekeepers that is not perceived to be meddling in Libya's conflicts. Among the large contributors to UN peacekeeping contingents, Bangladeshis and Pakistanis are known to Libyans as migrant laborers and unlikely to be greeted with respect. The same goes for sub-Saharan African soldiers.

Consequently, neither a full-blown peacekeeping operation nor an international force to protect the diplomatic presence are advisable – even if the GNA agreed to the deployment of such a force, which is unlikely. The absence of such a force will restrain external actors in their ability to provide support to the GNA, due to security concerns. It will also complicate the task of international monitoring. The GNA could request external support in monitoring ceasefire and security arrangements but will be reluctant to agree to any kind of an international protection force. Without external protection, however, it would be difficult for unarmed military observers to carry out their mission. In any case, such a force should be kept at an absolute minimum and would not remove international observers' reliance on Libyan structures.

Since external actors will have limited ability to back up security arrangements under these circumstances, such arrangements need to be based on a balance of power between the Libyan parties. This entails creating structures led by military figures who are respected by all sides, in which formerly warring forces are closely integrated. This can only work if neutral units act as guarantors. External actors' interlocutors for security arrangements have to date been largely confined to the former conflicting parties. Much stronger engagement is needed with neutral forces – units that were not involved in the war, including certain units from Tripoli or from Amazigh towns.

Western governments will be particularly eager to provide support in the areas of counter-terrorism and the control of irregular migrant flows. After all, much of the diplomatic momentum in support of the negotiations developed as European policymakers were desperately looking for approaches and Libyan partners in both domains. However, external actors should tread particularly cautiously in pursuing these interests. Establishing centralized command structures and overcoming fac-

tionalism in the security sector will take time, but they are crucial prerequisites for supporting operations against extremist groups. External actors need to be certain that the units conducting such operations are not partisan and will not become entangled in local conflicts. Contrary to fighting the Islamic State and other jihadi groups, control of migratory flows will not be a GNA priority. Should Europeans push the GNA to move against migrant smugglers – or even act on Libyan territory themselves – this risks undermining the GNA and the agreement on which it is based.

In sum, though external assistance in the domain of security is sorely needed, it faces tight constraints if it is to avoid damaging the fragile deal. It is even more important for European governments and the EU to maintain their political commitment to reach a final agreement and support its implementation, in close coordination with the UN. This includes constant and intensive engagement with the parties to the agreement, as well as potential spoilers, particularly communities that have to date been insufficiently taken into account by the mediators. Targeted sanctions – travel bans and asset freezes – are among the few instruments available to foreign policy-makers to exert direct influence. In order to remain effective, the threat needs to be realized at some point, possibly at the EU and US level if consensus at the UN Security Council is lacking. Nevertheless, there can be no illusions over the limited (and possibly counterproductive) impact that targeted sanctions would have on many players in the conflict.

Persistent diplomatic efforts are also needed to prevent regional rivalries from spoiling the deal. Any evidence that regional governments are continuing to support spoilers in Libya should trigger high-level diplomatic activity and, if need be, open naming and shaming of violators of the UN arms embargo on Libya.

Finally, external actors could have a role to play in building trust between political interests by attenuating rivalries over the ultimate object of the past year's conflicts, namely state finances and assets. Embezzlement of state funds by political actors became systemic even before the most recent war, when it acquired yet greater importance to fund the war effort. Supporting the Central Bank with an independent monitoring mechanism could help reunify and reestablish trust in the institution, provided the GNA requests such a mechanism.

In case of failure

Should the agreement collapse and Libya slide back into chaos or another war, there is no Plan B. An international military operation to prop up the GNA or separate the warring parties would be certain to fail, given the multitude of armed factions and the negative reaction that foreign forces would trigger. The international focus should then shift to a containment strategy, including increased efforts to enforce the arms embargo and dissuade regional powers from fueling the conflict. Even so, pressure on Western and regional governments to act on perceived threats from Libya, such as the jihadist presence, would increase in such a scenario, making targeted or temporary military operations likely. The prospects for reestablishing a political basis for conflict resolution would then be even slimmer, as neither the GNC nor the HoR could credibly act as negotiating parties in the event of another breakdown. This grim outlook only underlines the imperative of finding the best possible approaches to support the implementation of the Skhirat agreement.

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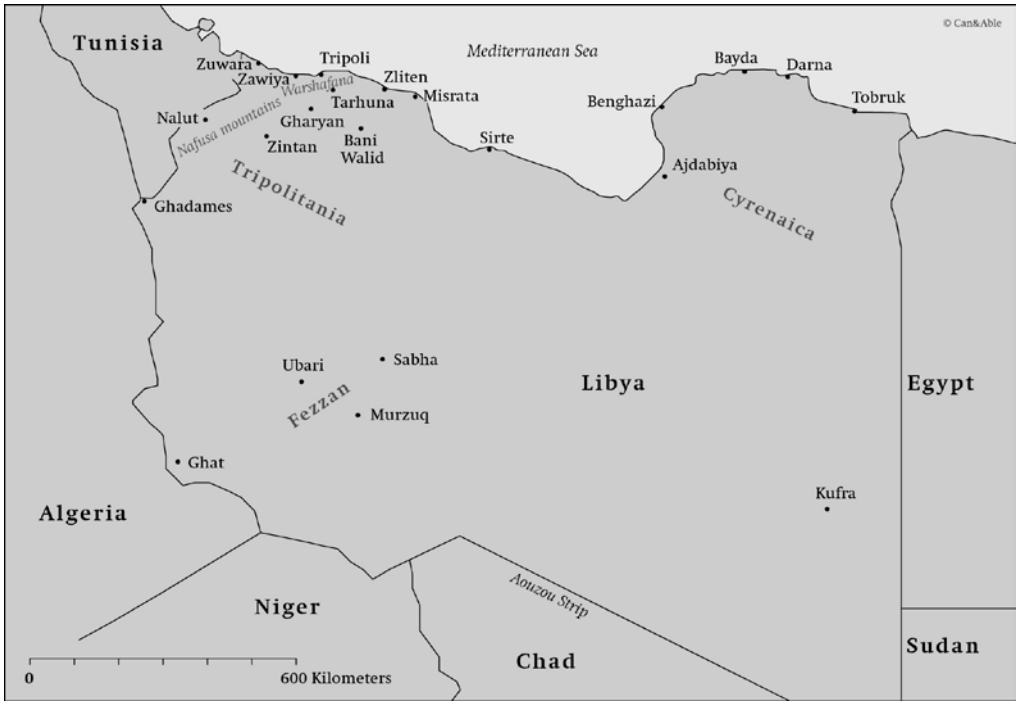
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