

**Briefing by Mr Ian Martin
Special Representative of the Secretary-General for Libya**

**Meeting of the Security Council
29 February 2012**

Mr President,

On 17 February, the people of Libya marked the first anniversary of the beginning of their revolution. People took to the streets of Tripoli, Benghazi and other cities and towns in celebration. Many of the celebrations were spontaneously organized in neighbourhoods, and Libyans remarked on the contrast with the state-organized demonstrations which characterized the previous regime. While remembering those who died in the struggle for freedom, they signaled hope and determination for the future. Despite concerns that there might be attempted attacks or disruptions by elements of the former regime, the anniversary passed peacefully, with effective security operations coordinated among state security forces, local civilian authorities and “brigades” of former revolutionary fighters.

While it is one year since the uprising began, the new Libya has still only had a government for three months. Next week you will hear from Prime Minister Abdurrahim El-Keib his account of its challenges and its efforts, and what it is planning to accomplish in the short period before National Congress elections provide the basis for a new government and the drafting of the constitution.

It is clear that the Libyan people are eager to move forward with the transition to democracy, and their most central expectation of the United Nations is that we will support them in doing so. When I last briefed the Council on 25 January, the National Transitional Council (NTC) had adopted the electoral administration law and appointed the High National Electoral Commission, and was continuing consultations on the main electoral law. This was adopted on 28 January and the final amendments approved on 7 February. The law provides for a mixed parallel electoral system, with 120 seats to be

elected by majoritarian races reserved for individual candidates, and 80 seats to be elected by proportional races reserved for lists to be submitted by political or other groups. Like all electoral frameworks, this parallel system is a compromise among competing views and interests, but our judgment is that the law provides a reasonable foundation for the election of the National Congress, although some gaps and shortcomings remain. While UNSMIL had encouraged the NTC electoral committee to ensure that the right to vote should be as inclusive as possible, the law excludes members of the armed forces from voting. There is also a need for measures to ensure the participation of internally displaced people in the electoral process.

It is particularly welcome that the law includes a formula, albeit a modest one, to ensure participation of women in the National Congress, as UNSMIL had urged. The special measure requires that the candidates on the lists for proportional races be listed alternately by gender; thus for multi-seat constituencies where there will be party lists, every other candidate on the lists must be a woman.

The proposed division of the country into constituencies and allocation of seats is being finalized and has not yet been published. The distribution among the regions, cities and towns may well be controversial, but it is important that this issue be resolved without further delay to allow election preparations to proceed.

It is understandable that the process for developing an electoral law took longer than envisaged, in view of the political complexities involved in deciding the basic electoral foundation for any country and the fact that this will be the first election in Libya for over 40 years. Despite the delays, the NTC has publicly confirmed its intention to hold the elections according to the timeline envisaged in the Constitutional Declaration, although the official call for the elections has yet to be made.

To achieve this timetable, activities to implement the legal framework must begin immediately and progress swiftly. I commend the fifteen Commissioners of the High National Electoral Commission, who were sworn in on 12 February, for immediately

commencing work on establishing sub-committees to address the core issues as well as a functional administration. I met with them myself this morning, and confirmed that they have high expectations that UNSMIL's assistance, which has been well appreciated by the electoral authorities during the legislative period, will now be carried forward in the operational phase. In response, the United Nations is expanding its support to the Electoral Commission by strengthening its advisory role within the Commission, launching support to voter education and coordinating the assistance of other international actors.

Meanwhile, the determination of communities to establish the legitimacy of local representation has been displayed in the election of a new local council in Misrata on 20 February. An eight-member local elections committee, appointed by the local council in early January, organized the election, including the administrative division of the city, allocation of seats, and registration of voters. Approximately 65% of the eligible population registered and 57% of registered voters cast their votes for 28 seats. The candidates elected were announced following a two-day counting period in a peaceful and amicable environment. The police and brigades provided comprehensive security within the city and outside of the 78 polling stations.

In other cities I have visited during this period, local councils viewed the Misrata elections positively, and expressed their desire to hold their own elections. Of particular significance, given recent controversy there, is the appointment by the Benghazi local council of a well-respected judge to oversee the formation of a committee charged with preparing for local elections in Libya's second largest city, where the uprising for democratic transformation began.

Mr President,

Of utmost importance to the successful conduct of elections nationwide is of course a positive evolution of the security situation. The Libyan authorities well recognize that their foremost challenge is to address the future of the revolutionary fighters and the wide

circulation of weapons, and to develop professional state security institutions under civilian control. However, while the diverse armed brigades continue to lack clear lines of command and coordination, there is some appreciable progress in the development of state authority over brigades in the provision of security, including through the establishment of local security committees under the direction of the Ministry of Interior to coordinate security operations among participating brigades. The coordinated deployments during the 17 February anniversary celebrations were a significant illustration of this. The brigades continue to perform important security functions, as they have for long periods often without payment. Contrary to the impression given by some media reports, although they seek guarantees that the transformation for which they have fought is securely on track, there is little indication that they wish to perpetuate an existence outside state authority. The Government issued a decision last week regarding the transfer of control of land, air and sea port infrastructure from the brigades to the Ministry of Interior, which when implemented will be a significant step forward in exerting state control.

At the same time, government plans for the registration and integration or demobilization of former fighters are proceeding. The registration process for ex-combatants that started in January is nearing completion. The Warriors Affairs Commission for Rehabilitation and Development reports that approximately 148,000 having registered to date, and will be referring those preferring to join the Police to the Ministry of Interior, and those who choose the Army to the Ministry of Defence. Approximately 15 per cent appear to be opting for each of these, so the majority of ex-combatants are seeking, and must be afforded, educational or vocational training, and employment or self-employment opportunities. The Ministries of Interior, Defence and Labour are developing their plans for integration and reintegration, including an initial recruitment of 10,000 former fighters under the Ministry of Interior and 5,000 under the Ministry of Defence.

On 20-21 February, UNSMIL upon the request of the Prime Minister facilitated an inter-ministerial retreat to review the most critical security challenges confronting Libya and to decide upon immediate steps to address them in a coordinated manner. In opening the

retreat, the Prime Minister highlighted border security, security in Libyan cities, weapons proliferation and human rights violations as the major security pre-occupations, and emphasized the need to strengthen Libya's security and defence forces swiftly within the remaining four months of his Government's tenure, urging the relevant ministries to pool their efforts and coordinate closely. The retreat developed a priority action plan, with key recommendations including strengthening police deployment and security coordination among all relevant actors in the lead up to elections, and securing the southern border in an integrated action plan against human trafficking, arms smuggling and other illegal activities. All participants welcomed the commitment to strengthened inter-ministerial coordination and cooperation, a marked difference from the practice of the previous regime. They recognized the need for an overarching national security framework and strategy, including a national security coordinating committee under the Prime Minister. The Deputy Prime Minister briefed international partners on the outcomes of this workshop to further enhance coordinated assistance in these areas.

In addition to this support to inter-ministerial coordination and communications, UNSMIL continued to support the efforts of the Government in coordinating with bilateral and multilateral partners in the areas of arms proliferation, border security, and the rehabilitation of the police. There are now three UNSMIL advisors embedded in the Ministry of Interior, supporting the Ministry in the areas of police training, logistics and communication and media relations.

UNSMIL is also assisting the Government in preparations for the high-level regional conference on border security which Prime Minister El-Keib announced Libya's intention to convene when he addressed the African Union Summit in Addis Ababa on 29 January.

The new government faces tremendous challenges and a heavy legacy from the former regime as it tries to tackle illegal migration and smuggling, effective border control, proliferation of weapons, and the need to reverse policies of long-standing discrimination against minority communities and foster national reconciliation among tribes. This has been tragically highlighted in recent days by deadly clashes which erupted between the

Tabou and the Zwaya tribal brigades in the southern city of Kufra over a two-week period, with approximately 100 reported to have died and many seriously injured. While these clashes appear to have been triggered by the initial killing of a Zwaya man and the subsequent death of a Tabou youth, this is the latest incident in a long history of conflict of simmering tribal tensions fuelled by policies of the former regime, including state sponsored discrimination against the Tabou, and by local disputes over control over smuggling including illegal migration. Religious leaders and tribal chiefs among others negotiated a cease-fire to restore calm. The Government dispatched units of the national army to the area, although there were criticisms of too slow a response by the authorities. A joint mission of UN Agencies and UNSMIL visited Kufra from 23-26 February to assess the most urgent priorities, including support to third country nationals and vulnerable communities whose services were interrupted by the fighting. UN Agencies have delivered humanitarian assistance through the Libyan Red Crescent and Ministry of Health, but difficulties have yet to be overcome to ensure that the Tabou areas, isolated by the fighting, receive sufficient humanitarian support.

Mr President,

Since the High Commissioner for Human Rights and I briefed the Council on 25 January, further information regarding torture and ill-treatment of detainees, including deaths in custody, has come to light through non-governmental organizations and UNSMIL's own visits to places of detention. I and my colleagues have discussed immediate measures to prevent further incidents of torture and mistreatment in several meetings with the Prime Minister, the Minister of Justice and other Ministers and senior officials. On 31 January, Deputy Prime Minister Mustafa Abushagur announced that the Government had issued a circular to clarify the rights of detainees, including a directive that torture and mistreatment of detainees was forbidden and allegations would be investigated. Addressing the Human Rights Council in Geneva yesterday, Prime Minister El-Keib reiterated the Government's human rights commitment and cooperation with the United Nations and others in this domain. Strong and urgent measures are essential to give effect to these intentions.

I have particularly stressed the need for a task force bringing together the Ministries of Justice, Defence and Interior to regularly inspect facilities still under the control of various brigades; to identify all detention locations; and to implement an overall strategy on conflict-related detentions. The Ministry of Justice has indicated that such inspections have commenced, and the Prime Minister has given assurances of the formation of a committee to investigate allegations of torture and stated yesterday that such investigations are now under way. UNSMIL has visited or re-visited detention facilities in Misrata, Zawiya, and Tripoli to identify those which should be scrutinized as priority, and has made an initial submission to the Office of the Prime Minister and the Ministry of Justice. We will continue to work closely with the authorities and to encourage them to ensure that inspections of known facilities are undertaken, that secret locations are identified and brought under government control, and that abuses are investigated.

UNSMIL has also strongly urged the investigation of an attack on 6 February on the Tawergha IDP camp at the Janzur Marine Academy in Tripoli, when a brigade entered the camp in heavy force and attempted arrests. When camp detainees took to the streets to protest, they were also fired upon. The combined attacks resulted in the deaths of seven people, including three children and two women. The United Nations has pressed for better security not only at this camp, but also at locations of displaced Tawergha in other parts of the country. This latest incident underscores the urgent need for the responsibility for arrests and detention to be exercised by the Ministry of Justice alone. As a contribution towards reconciliation, Tawergha tribal leaders issued an apology on 23 February to all citizens of Misrata for crimes committed by members of their community and called upon on all those who committed such crimes to surrender themselves to the justice system. My Deputy continues to work with the Libyan authorities to address the short and longer-term needs of the Tawergha community.

UNSMIL continues to urge the Ministry of Justice to accelerate the process of asserting control over the facilities currently run by the brigades, where we estimate that approximately 5000 to 6000 detainees remain. Since my last briefing, two additional

detention centres have been placed under Government control, bringing the total to eight, with a total of 2382 detainees. Progress continues to be complicated by insufficient numbers of judicial police. Several partners have expressed willingness to assist the training of judicial police, and the Ministry of Justice has also requested assistance in the training of prosecutors.

Libya's court system is slowly coming back into operation, with several courts in Tripoli and Benghazi resuming operations, despite some concerns about security of judges and lawyers. On 5 February, the first criminal proceedings of over forty persons accused of committing crimes in support of the Qaddafi regime during the conflict opened before a military court in Benghazi. On 22 February, the military court ruled that the trial should move to a civilian court, which is to be welcomed. As further trials commence, it will be crucial that the accused are granted adequate legal representation, full due processes and assurances that any confessions that may have been taken under torture are not admitted into evidence.

The transitional justice law, entitled "Establishing the Foundation of National Reconciliation and Transitional Justice," was made public on 14 February. The law establishes a Fact-Finding and Reconciliation Commission mandated to investigate crimes and human rights violations since 1969. It will comprise 11 members to be appointed by the NTC. The law also establishes a Victims Compensation Fund but does not prevent victims' rights to justice through the courts. While the law does not necessarily reflect best practices elsewhere, it provides an important opportunity to start a comprehensive truth-seeking process in Libya.

A vital part of the transitional justice process is the search for and identification of missing persons. The Ministry for Assistance to the Families of the Martyrs and Missing Persons has already commenced the collection of DNA samples from families as well as work on exhumation of mass graves. UNSMIL is encouraging the Ministry to invite an international expert assessment, which will help to define a clear strategy according to international standards, so that quick measures do not harm prospects of future

identifications of remains. UNSMIL has also proposed the drafting of a new legal framework to better safeguard the rights of families of the missing in Libya.

Mr. President,

In all of my meetings, at both the national and local levels, officials are increasingly highlighting their inability to cope with the increasing numbers of migrants and refugees, and are seeking sustained assistance to address these challenges humanely. In the absence of a clear legal or administrative framework on migration, irregular migrants and some potential asylum-seekers, including elderly persons, women and children, continue to be detained in facilities operated by different authorities or brigades, often in poor conditions with access to limited humanitarian assistance. Of the 18 Ministry of Interior migrant detention facilities in operation prior to the crisis, only two are under full Ministry control. The International Organization for Migration (IOM) continues to assist migrants in distress through facilitation of citizenship verification, issuance of travel documents and voluntary repatriation operations; however, access to migrants and the absence of secure transit facilities in the west and south of the country remain the greatest challenges to direct assistance. In response to the poor conditions at the Qanfouda detention facility in Benghazi, where numbers have now swollen as a result of transfers from Kufra, LibAid and other humanitarian actors have undertaken refurbishments and provided non-food items as well as improved the provision of health services in attempts to address the growing needs.

The deteriorating security situation in Syria has led to an influx of refugees entering Libya via the Egyptian border. At the Salloum border crossing, UNHCR has provided stranded Syrians with more than 4,000 meals, while IOM has been supporting with medical treatment and some non-food items. Within Libya, UNHCR is assisting local support organizations in their efforts to cope with new arrivals through technical assistance in registration, providing non-food items and support for vulnerable individuals.

Mr. President,

As anticipated in my last briefing, Deputy Prime Minister Dr. Mustafa Abu Shagur convened a workshop on 30-31 January to discuss the coordination of international assistance, bringing together Libyan ministries, institutions and civil society organizations with international partners. The workshop was an effort to synchronize coordinated offers of external support with the Government's urgent priority planning. It served to identify needs and opportunities for support in the five areas of social services delivery, public administration, transitional justice, civil society and media, and Government strategic communications. The Government is close to presenting its National Plan to the international community, and to putting in place coordination arrangements to follow up on international offers of support, involving the Prime Minister's Office and the Ministry of Planning, supported by UNSMIL, the European Union and the World Bank.

Mr President,

When I have the opportunity to address you again next week, I will of course update you on significant developments in any of these areas, although I will mainly be presenting the Secretary-General's proposals for the role of UNSMIL for the period ahead. Alongside our major engagements during this period with the Government in Tripoli and our work in integrated mission planning, I have since my last briefing visited three more of the cities most affected during the fighting, Sirte, Brega and Ajdabiya, as well as holding discussions with the local council and civil society representatives – many of them youth and women - in Benghazi. Such visits make clear the extent of the needs for reconstruction, service delivery and clearance of mines and remnants of war. But an equally strong impression is the extraordinary civic responsibility and initiative, which has led local people to set to work immediately – without waiting for assistance from central government or international actors – to resume as much of the elements of normal life as possible. Along with this sense of responsibility of local leaders goes the determination of civil society to play its own role and to hold any future leadership to

account. Such attributes inspire not just hope but confidence that Libya will overcome its legacy and current difficulties, and will pursue the path towards the goals to which it recommitted itself on 17 February.