Libya Turns the Page

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Principal Findings

What's new? After years in which parallel rival governments fought an intermittent war, Libya has a new consolidated executive. On 10 March, parliament endorsed a national unity government headed by Prime Minister Abdulhamid Dabaiba, which took office in Tripoli. The two pre-existing governments handed over power peacefully.

Why does it matter? The establishment of a unified government, which enjoys the backing of Libya's competing political groupings, their affiliated military coalitions and their foreign backers, is a historic achievement. It sets the stage for reunification of political and military institutions that have been divided and recurrently battling since 2014.

What should be done? To move the political transition forward and avoid procedural tangles, Libyan factions should agree on the legal framework for a vote in late 2021 and parliament should explicitly recognise the new Presidency Council as supreme commander of the armed forces, as the UN-backed roadmap established in November 2020.

Executive Summary

After more than six years of political feuds, intermittent conflict and a foreign-backed assault on the capital, Libyans appear to have turned a page by forming a unified interim government. On 15 March, parliament approved a "national unity government", headed by Prime Minister Abdulhamid Dabaiba. It was a historic achievement, as was the two parallel governments' acquiescence in an orderly transfer of power. Likewise, the respective military coalitions signalled that they would work with the new executive, and the two sides' foreign backers declared their support for the new government. An early relapse into war therefore appears unlikely. Yet huge challenges remain in knitting the country back together and preparing for elections later in 2021. Two stand out: lack of a legal framework and plan for the vote, and lack of clarity about overall command of the armed forces. Addressing these two problems should be a priority for the prime minister, the Presidency Council and parliament. The UN should keep assisting these efforts.

The developments that led to the new government's appointment are nothing short of astounding. The warring parties signed a ceasefire agreement in October 2020, but subsequent UN-mediated political talks remained deadlocked. A breakthrough came in early February, when the UN-backed Libyan Political Dialogue Forum, comprising representatives of the country's multiple constituencies, nominated Dabaiba as prime minister and Mohamed Mnefi to head a three-person Presidency Council. Within weeks, the new prime minister presented a cabinet, and on 10 March he won the divided parliament's vote of confidence. Five days later, his cabinet took the oath of office, after which the two rival governments handed over power.

Despite this progress, Dabaiba and the Presidency Council face the herculean task of reunifying a country that remains split politically and geographically. Most Libyans are hoping that the new government will improve living conditions, deliver basic services, reboot the economy and foster reconciliation after years of chaos and conflict. In addition, they expect it to carry out the UN-backed roadmap to which the Libyan sides agreed: to organise elections and reunify divided institutions, including the military and central bank. No task will be quick or painless; all will require time and concerted effort.

Two obstacles could endanger the transition. The first revolves around a framework for the elections. Libya's rival factions have agreed to vote on 24 December 2021 but have yet to decide what the objective should be: to approve the draft constitution that an elected committee completed in 2017 but which has yet to be put to a popular vote; to elect a new parliament; or to choose both a parliament and a president. This polarising debate has no right or wrong answer. Holding a referendum on the draft constitution first could help resolve multi-year disputes over an institutional framework for governance; if approved, it would provide a mandate for elections to follow, including a direct presidential election. But it would delay those elections and the formation of a government with a popular mandate. Choosing to go straight to the ballot box would save time, but Libyans remain divided over whether they prefer a parliamentary or a presidential system of government – notwithstanding that the

draft constitution envisages the latter. Both systems would have advantages and disadvantages.

The Dabaiba government and Presidency Council should call on rival political factions to agree on which vote to hold first and on parliament to approve the legal framework necessary for Libya's electoral commission to organise that vote. Public support for the notion of having elections is widespread, but Dabaiba has equivocated, paying lip service to them in public, while in private expressing the desire to stay in power for at least two years. At the same time, he has avoided weighing in on the fierce debate over which vote should be held. Most parliamentarians also express support for elections but in private signal their eagerness to see a postponement, not least because that would allow them to hold onto their positions. Such ambivalence risks stoking public resentment and setting off a new political crisis.

To ward off that eventuality, the Libyan Political Dialogue Forum should step in to break the deadlock. A consensus arrangement is unlikely given how divisive the constitutional and electoral sequencing debate remains to date. Yet, unlike other existing institutions, which have little incentive to change the status quo, Forum members have a better chance to move the political process forward, as they already did in February by selecting a new executive. Delegates should vote internally on the electoral roadmap proposal that members of the Forum's legal committee have submitted (which lacks consensus on a number of points) and agree to support whichever last iteration obtains a majority.

The second hurdle concerns legal ambiguity surrounding the position of armed forces supreme commander. Past disagreement over who held this position contributed to the emergence of two rival military coalitions, each with its own command and control structure. According to the UN-backed roadmap, which the parties approved in November 2020, the three-person Presidency Council now holds the title. Yet parliament has not ratified the roadmap, alleging that such approval is not required to validate the text, an interpretation some politicians support but others do not. While parliament and Haftar-led forces appear to have acknowledged the Council as the top military authority, they have done so in word without making it official in deed. Parliament, working in concert with the Dabaiba government and Presidency Council, and supported by the UN and foreign stakeholders, should endorse either the UN-backed roadmap or an equivalent document that explicitly recognises the Presidency Council as the armed forces' supreme commander and clarifies the government's and Council's respective competencies.

Whether today's calm will hold and the reunification of Libya succeed depends on many interlocking issues, including sustaining the international convergence behind a political path forward. But resolving these two pending matters will help ease what could prove to be a tortuous new stage in Libya's troubled post-2011 transition.

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I. Introduction

International efforts to broker a Libyan national unity government started in 2014, when contested parliamentary elections divided the country into two power centres, one in Tripoli, the other in the east, each with its own executive and legislature.[1] UN-backed negotiations in 2015 sought to establish the so-called Government of National Accord headed by Faiez Serraj, but it failed to secure parliament's approval despite winning international recognition.[2] The government in eastern Libya, headed by Abdullah al-Thinni and backed by forces led by Field Marshal Khalifa Haftar, thus continued to operate in parallel. The UN tried to forge a new consensus on a unity government in late 2017, and again in early 2019, but both initiatives failed.[3]

[1] In June 2014, Libyans elected a House of Representatives to replace the General National Congress (elected in 2012). The vote took place without substantial disturbance and the results were not contested. Problems started in August 2014, when the majority of the newly elected lawmakers chose to locate the parliament in Tobruk in eastern Libya, instead of Benghazi where the assembly was originally supposed to be based, claiming that deteriorating security conditions prohibited them from working there. A few dozen Islamist-leaning and other parliamentarians based in western Libya and opposed to Haftar's growing military influence in the east objected to Tobruk and began to boycott the new parliament's sessions. Simultaneously, in Tripoli, where clashes had erupted between pro- and anti-Haftar forces, former General National Congress members claimed that there had been no proper handover ceremony between the two parliaments and that the old legislature should therefore continue to operate – which it did, creating two parallel parliaments. In November 2015, the Supreme Court in Tripoli invalidated a constitutional amendment that had paved the way for the House of Representatives elections, giving further ammunition to General National Congress members, who rejected it. Neither the Tobruk-based legislature nor the international community accepted the ruling, so the Tobruk-based House remained the internationally recognised parliament, while the internationally recognised government stayed in Tripoli. As a result, Libya has had two rival assemblies as well as governments. On Libya's political crisis, see Crisis Group Middle East and North Africa Report N°170, *The Libyan Political Agreement: Time for a Reset*, 4 November 2016.

[2] UN-backed Libyan negotiators selected Serraj as president of the Government of National Accord's Presidency Council in December 2015, following a year of UN-backed negotiations that produced a governing document, the Libyan Political Agreement. UN Security Council Resolution 2259 (23 December 2015) endorsed the agreement and recognised Serraj's Presidency Council as the Libyan state's legitimate representative. Serraj, who in his capacity as president of the Presidency Council was also the de facto prime minister, submitted a proposed cabinet for approval to the House of Representatives, as the Libyan Political Agreement required, but the House never approved it. Nevertheless, the UN and member states recognised him as Libya's prime minister and president, and they considered his government legitimate. Pro-Haftar constituencies contended that the lack of parliamentary support rendered the Serraj government illegitimate under Libyan law and threw their support behind a rival government in the east, which failed, however, to attain international recognition.

[3] In 2017, the UN Secretary-General's special representative to Libya, Ghassan Salamé, convened the two sides' political representatives in Tunis to negotiate a new unity government. The House of Representatives sent one delegation and the High State Council another; the latter was an advisory assembly that the 2015 Libyan Political Agreement had endorsed, composed mainly of former General National Congress parliamentarians. But the talks collapsed after two weeks. In February 2019,

Over time, the rift widened, fuelling bouts of war encouraged by rival foreign powers, which, at loggerheads over geopolitical ambitions and end goals for Libya, backed opposite factions. Egypt, the United Arab Emirates (UAE), Saudi Arabia, France and Russia all covertly supported Haftar-led forces, which Jordan also helped train, while Qatar and Turkey backed Tripoli-based militias and the military coalition allied with the Government of National Accord, some of whose units European countries, including France, also helped instruct and equip.[4]

In April 2019, Haftar's coalition launched an offensive on Tripoli in an attempt to seize power from the Tripoli-based government and unify Libya under his leadership.[5] But after months of airstrikes and almost 3,000 deaths, the offensive collapsed, thanks to an overt Turkish military intervention that began in January 2020.[6] Pro-Tripoli forces backed by Turkey drove Haftar's men from areas surrounding the capital, and in June Haftar's forces retreated to central Libya, where the front lines cemented.[7] As the prospect of Haftar prevailing militarily faded, the door opened to a return to UN-brokered political negotiations. The result was, first, an October 2020 ceasefire agreed between the two sides' military commanders, who formed a joint commission known as the 5+5 committee composed of five representatives from each side tasked with follow-up military arrangements, and then a new round of UN-led political talks in November, which built on foreign powers' commitment that they would respect the outcome.[8]

Over the next three months, 74 representatives of Libya's factions, including from the two rival assemblies, as well as UN-handpicked delegates (including supporters of the deposed Qadhafi regime), met both in person and virtually in the Libyan Political Dialogue Forum to negotiate a roadmap for reunifying the country. They agreed broadly on parliamentary and presidential elections to be held at the end of 2021 and to entrust an interim prime minister and a new three-person Presidency Council with managing the country's affairs until then. Despite disagreements over the voting mechanism and following a fast-paced, live-broadcast vote on four competing tickets, winners emerged in early February 2021. With 39 votes of 74, delegates chose a businessman from Misrata in western Libya, Abdulhamid Dabaiba, as prime minister-designate, and eastern Libya's Mohamed Mnefi to head a new Presidency Council.[9]

Salamé facilitated a meeting between Serraj and Haftar in Abu Dhabi to foster an agreement on a new government, but this attempt also failed. At the same time, the UN made preparations to organise a Libyan National Conference with some 200 representatives tasked to discuss a new government, among other matters. The event was supposed to take place in April 2019 but was cancelled after Haftar's offensive on Tripoli began early that month.

[4] On the evolution of foreign military involvement in Libya, see Frederic Wehrey, "'This War is out of Our Hands': The Internationalization of Libya's Post-2011 Conflicts From Proxies to Boots on the Ground", New America, 14 September 2020.

[5] See Crisis Group Alert, "Avoiding a Full-Blown War in Libya", 10 April 2019; and Crisis Group Middle East and North Africa Briefing N°69, *Stopping the War for Tripoli*, 23 May 2019.

[6] Crisis Group Europe Report N°257, *Turkey Wades into Libya's Troubled Waters*, 30 April 2020.

[7] Crisis Group Statement, "Averting an Egyptian Military Intervention in Libya", 27 July 2020.

[8] Crisis Group Middle East and North Africa Briefing N°80, *Fleshing Out the Libya Ceasefire Agreement*, 4 November 2020.

[9] The other two Presidency Council members are Musa Koni from southern Libya and Abdullah al-Lafi from the west. For details of the UN-backed selection process, see Crisis Group Libya Briefing Note #3, "Against All Odds, Libya's Peace Progress Makes Substantial Progress", 15 February 2021.

For these nominations to take effect, the UN roadmap said the House of Representatives in Tobruk would have to first endorse the new executive. It did so within days, setting the stage for elections at year's end.

This report lays out the domestic and international factors that contributed to forging a consensus on a national unity government in Libya. It argues that in spite of rapid progress made in unifying the country under a new executive authority, the transition remains fragile. It highlights two factors that risk undermining the UN-backed roadmap: lack of consensus on the constitutional framework for elections, nominally scheduled to take place at the end of 2021; and ambiguity over the powers of the newly appointed Presidency Council, which the UN-backed roadmap, but not yet parliament, has recognised as the top civilian authority entrusted with overseeing military reunification. The report is based on over a hundred telephone interviews with Libyan politicians, members of the UN-backed dialogue, members of the new interim executive, UN officials and foreign diplomats in March-April 2021. It also relies on years of Crisis Group reporting on the conflict in Libya and UN mediation efforts there.

II. The National Unity Government: Getting to Yes

A. *Clearing the Hurdles*

Dabaiba's chances of forming a government and securing a vote of confidence appeared slim at first. Soon after the UN-backed forum nominated him as prime minister in February, he had to fend off vote-buying allegations. News surfaced that a UN Panel of Experts, a body mandated by the Security Council to investigate Libya sanctions violations, had gathered evidence regarding bribes that he or his acquaintances allegedly had offered to some of the 74 Libyan delegates in exchange for their votes.[10] But Dabaiba, who flatly denied the accusations, managed to brush them off. The majority of Libyan political stakeholders either disbelieved the allegations or dismissed them as business as usual in Libya, where payoffs and kickbacks are the norm. Subsequently published on 16 March, the Panel of Experts' report did not explicitly say Dabaiba or his entourage had offered money in exchange for votes (though an unpublished annex reportedly did), and the vote-buying controversy died down.[11]

His second hurdle was to obtain the support of Libya's parliament, the House of Representatives, whose members over the years had split into two groups, one based in Tobruk and the other in Tripoli. Following two weeks of consultations in late February and early March, the legislature's rival factions agreed to meet in war-torn Sirte on 8 March to vote on Dabaiba's proposed government. There were many reasons to host the meeting in Sirte. The city is halfway between Tripoli and Tobruk. A pro-Qadhafi stronghold, it briefly became an Islamic State (ISIS) outpost in 2016. It also sits on the frozen front lines of the conflict between the pro-Tripoli forces and Haftar's. These factors added symbolism to the event.

But there were practical obstacles. Sirte is under control of Haftar's forces, and Russia's pro-Haftar Wagner private military contractors were stationed at the city's airport. Tripoli-based parliamentarians opposed to the field marshal thus wondered if they could safely travel to Sirte. Adding to the problem was the fact that pro-Tripoli military factions deployed west of Sirte refused to open the coastal road leading to the city. At first, the country's joint military commission advised against a meeting in Sirte because of the presence of "foreigners" – ie, the Russian contractors.[12] But they greenlighted the gathering at the last minute, after it emerged that the contractors had temporarily relocated out of Sirte, making way for the flights carrying the par-

[10] In late February 2021, reports suggested that the UN Panel of Experts had found that, during the Libyan Political Dialogue Forum talks held in November 2020, two participants "offered bribes of between $150,000 to $200,000 to at least three participants if they committed to vote for Dbeibah as PM". See "Bribes for votes at UN-led Libya talks: Expert panel", AFP, 28 February 2021.

[11] See "Letter dated 8 March 2021 from the Panel of Experts on Libya established pursuant to resolution 1973 (2011) addressed to the President of the Security Council", S20121/229, 16 March 2021. The unpublished annex to this report bears the number 13.

[12] The joint military commission's head wrote to House of Representatives members: "We inform you that the foreigners are still present and we do not have the legal mandate to carry out such actions, and no security force on the ground in Sirte follows us. It is up to you to choose the appropriate place to meet in coordination with the competent security authorities". General Ahmed Bu Shahma, Letter addressed to members of the House of Representatives, 23 February 2021 (Arabic).

liament members.[13] As for Haftar's forces, it is unclear what guarantees, if any, Tripoli-based parliamentarians secured prior to travelling to Sirte, but they ultimately overcame their hesitancy.

By 8 March, 132 of the approximately 180 parliamentarians had flown into the city, giving the House of Representatives the legal quorum to hold a confidence vote. Over the following three days, the parliamentary sessions were livestreamed, allowing Libyans across the country to follow the proceedings. On the first day, representatives argued over Dabaiba's proposed 30-plus-member cabinet.[14] While some expressed support, others saw it as bloated or accused it of lacking sufficient representation of certain tribes and towns. Other lawmakers expressed frustration that Dabaiba did not opt for a smaller, technocratic government, something U.S. Ambassador to Libya Richard Norland and former Acting UN Special Representative to Libya Stephanie Williams had also pressed for.[15] After the first session, the odds that Dabaiba would obtain parliament's support appeared low.

On the second day, Dabaiba was given the stage to respond. He presented a cabinet of 26 ministers, six ministers of state and two deputy prime ministers, one each for eastern and southern Libya.[16] He argued that a large government would be most representative. "I would have preferred to form a mini-government", he said, "but I took into account the [country's] political and geographic balance", so as to include all Libya's regions.[17] He explained that he had chosen no one from the previous rival governments, so as to turn the page on the past. He said he picked ministers with nothing to fear across the country, marking a departure from the Serraj-led government, whose members never travelled to eastern Libya, and the al-Thinni-led government, whose members went to central and southern Libya, where Haftar-led forces were stationed, but never to the west. He also talked about boosting the economy, which struck a chord with the public. Finally, he urged deputies to vote for his government as soon as possible, rather than waiting the full 21 days accorded by the UN roadmap, and vowed to adjust the cabinet line-up if need be.

Later that day, he did just that. After closed-door consultations with several parliamentarians, he replaced ten of the proposed cabinet members, including the deputy prime minister representing eastern Libya and the ministers of foreign affairs, finance, economy and planning. Legislators from the eastern bloc, and in particular parliament President Aghela Saleh, pressed hard for these changes.[18] The people they

[13] Joint Military Commission 5+5, Letter addressed to members of the House of Representatives, 28 February 2021.

[14] Live broadcast of the House of Representatives session in Sirte, 8 March 2021, available through Libya's al-Ahrar television.

[15] Stephanie Williams and Jeffrey Feltman, "Can a Political Breakthrough Mend a Broken Libya?", Order From Chaos (blog), Brookings Institution, 17 February 2021; and "Congratulations for Prime Minister-elect Dabaiba", press statement, U.S. Embassy to Libya, 17 February 2021.

[16] See tweet by 'Ayn Libya, @EanLibya, 4:08pm, 5 March 2021, for the full list of cabinet members submitted by Prime Minister Dabaiba to the House of Representatives for approval. State ministers work out of the prime minister's office and, unlike regular ministers, do not have their own budgets or employees.

[17] Speech of Prime Minister-designate Abdulhamid Dabaiba to the House of Representatives in Sirte, live broadcast through al-Marsad Facebook page, 9 March 2021.

[18] Crisis Group telephone interviews, Libyan politicians and activists, 10-13 March 2021.

sought to remove were both pro-Haftar politicians and others perceived to be close to Islamists. Those who replaced them are believed to be closer to Saleh or other parliamentarians.

This reshuffle was enough to secure a swift confidence vote, which took place on 10 March. All 132 representatives said *thiqa* ("confidence") out loud, formally approving the national unity government.[19] The defence minister's position remained vacant, with Dabaiba temporarily assuming the portfolio, claiming that he could not find a candidate acceptable to both rival military coalitions.[20]

The government does not have a distinct political orientation. It includes former Qadhafi-era personalities (such as Economy Minister Mohamed al-Huweij of Warshaffana), academics (Planning Minister Fakhr Bufarna and Foreign Minister Najla Mangoush, both from Benghazi) and a number of lesser-known individuals from across the country, including from non-Arab ethnic minorities.[21] The main novelties (at least for post-Qadhafi governments) were the appointment of an oil and gas minister and the appointment of women as ministers of foreign affairs and justice. Many ministers are inexperienced, leading several Libyans to predict that the government will be centralised under Dabaiba and his close relatives, including his father-in-law and uncle Ali Dabaiba, a former Qadhafi-era official and billionaire known to have played a role in his nephew's rise to power.[22]

B. *Riding on the Momentum*

Parliament's approval of the new cabinet was a momentous achievement by itself, but within days more important steps followed. The first was the government's swearing-in ceremony at the legislature's headquarters in Tobruk on 15 March, with Dabaiba and the other cabinet members taking the oath of office one after the other. The last time a Libyan government was sworn in before an elected assembly was in 2012. But what added a further layer of surprise was that Tripoli-based parliamentarians, who amount to roughly half the total members, agreed to travel to Tobruk, which they had not done during the time the city had been under Haftar's military control.

Participants described the atmosphere as "festive" and "celebratory".[23] House of Representatives President Saleh called on Libyans "to shake hands and seek forgiveness over our differences", and repeatedly called for leaving "the mistakes of the past" behind.[24] He added: "The file of the past should be wrapped up and left in a prison cell to be forgotten and never see the light of day".[25]

[19] Confidence vote in the House of Representatives in Sirte, Libya al-Ahrar television broadcast, 10 May 2021.
[20] Speech of Prime Minister-designate Abdulhamid Dabaiba to the House of Representatives in Sirte, op. cit.
[21] The full list of the approved cabinet was posted on its media office's Facebook page on 12 March 2021.
[22] Crisis Group telephone interviews, Libyan politicians and activists, March 2021.
[23] Crisis Group telephone interview, foreign diplomat in attendance, 18 March 2021.
[24] Speech of House of Representatives President Aghela Saleh following the swearing-in ceremony in Tobruk, video, YouTube, 15 March 2021.
[25] Ibid.

Although parliament organised the swearing-in ceremony at the last minute, a handful of Libyan personalities and foreign diplomats, including from the UN, the U.S., the European Union (EU), Italy, France and the UK, attended. The participation of two people in particular stood out: Turkish Ambassador Kenan Yılmaz and Khaled Mishri, a high-profile Muslim Brotherhood member and head of the High State Council, the Tripoli-based rival assembly. Their attendance in Tobruk, which was a bastion of the anti-Turkey and anti-Muslim Brotherhood camp less than a year ago, is a testament to the rapid shifts in political alliances that are playing out in Libya and beyond. Diplomats from Egypt, the UAE and Russia – Haftar's main backers – did not attend, reportedly due to logistical difficulties related to the short notice.[26]

The second surprising development was the smooth power transfer that followed. Libya's rival governments had always refused to recognise each other. On 16 March, a ceremony took place at Serraj's office in Tripoli in the presence of Dabaiba and the new president of the Presidency Council, Mohamed Mnefi. At the end of a solemn and somewhat apologetic speech that touched upon his difficulties over the previous two years of war, Serraj said he was handing over to Dabaiba his political and military responsibilities "in order to consolidate the principle of the peaceful transfer of power".[27] After handshakes, Dabaiba and his staff took office in Tripoli. Likewise, on 23 March, al-Thinni's (unrecognised) east-based government held its own transfer ceremony in Benghazi.[28] Al-Thinni welcomed in person the new government's Deputy Prime Minister Hussein al-Qatrani (from eastern Libya) and ten other ministers, and symbolically handed power (and the offices the east-based government had used) to them. Dabaiba, who visited eastern Libya before the vote of confidence, did not go to Benghazi for this event.

These fast-paced political developments are astounding. Libya's institutional rifts persisted for over six years, and rival military coalitions were fighting deadly battles on the outskirts of Tripoli only a year ago. The seamless power transfer – with no armed group mobilising to prevent it and no foreign power trying to obstruct it – is historic for a country awash with militias and where foreign meddling has become the norm.

C. *Contributing Factors*

Several interlocking developments contributed to this outcome. The first is Turkey's military intervention, the end of the Tripoli fighting in June and the new balance of power that followed. The repulsion of Haftar's forces from Tripoli and their withdrawal to central Libya put a nail in the coffin of his foreign backers' hopes in military victory and chipped away at their trust in his forces' capabilities. For a brief moment, it looked as if the conflict would move into eastern Libya, as Turkish-backed forces allied to the Tripoli government, riding the wave of their successes, drew up plans to pursue the Haftar-led forces to Benghazi and beyond. But the fighting did not spread,

[26] Crisis Group interviews, House of Representatives members and foreign diplomats attending the ceremony, 18 March 2021.
[27] Live television broadcast of handover ceremony in the prime minister's office, 16 March 2021, available through 218NEWS, a Libyan television channel.
[28] Press release, National Unity Government of Libya, Facebook, 23 March 2021.

due mainly to U.S. diplomats' cautions against it to all parties, including Egypt which had threatened to intervene if Turkish-backed forces entered eastern Libya. A military stalemate ensued, with no active conflict.[29]

In subsequent months, the UAE began withdrawing its military equipment from Libya, a process completed by late 2020.[30] Russian-backed Wagner forces and their equipment, including Russian fighter jets, remained. They became Haftar's main foreign military backing (reportedly funded by the UAE) in areas under his control, which included eastern, central and parts of southern Libya.[31] In the west, Turkey became the major military protagonist within a few months, providing air defences to Tripoli-based forces during the war and continuing to airlift materiel to western Libya even after hostilities had ended. This state of affairs froze the conflict, but divided Libya into two main regions, with Russia and Turkey each carving out spheres of influence.[32]

In principle, a frozen conflict in a divided Libya could have perdured, but other dynamics put into motion at the end of 2020 helped move along the peace process. Many Libyans have become weary of external interference in their affairs, particularly the presence of foreign forces on Libyan territory, whether Turkish officers and their Syrian proxies supporting Tripoli or Russian private security contractors on Haftar's side. A sense of urgency about cutting ties with foreign sponsors became palpable during the UN-backed negotiations between representatives of Libya's two military coalitions that had been taking place since October. All these interests converged within the political class to push forward an agreement over a unified interim government, which the Libyans believed would be the starting point for ridding the country of foreign troops and influence.[33]

Another important element that made an agreement on a unity government more palatable, at least in the eyes of pro-Haftar constituencies, was progress in addressing financial disputes that have tarnished relations between Tripoli and its eastern rivals for years. In early February, the Tripoli government agreed to shoulder all the expenditures of the parallel authorities in the east, including the Haftar-led forces' salaries and operating costs, and to incorporate these outlays into the 2021 national budget. In exchange, the east-based government committed to stopping its use of parallel revenue sources, such as treasury bills, on which they had relied since 2015. Moreover, also in early February, the Central Bank of Libya agreed to offer a zero-interest credit line to a group of banks, for the most part based in eastern Libya.

Financial considerations also factored into pro-Tripoli constituencies' acceptance of the new executive. The region has been badly affected by a financial crisis triggered

[29] Crisis Group Statement, "Averting an Egyptian Military Intervention in Libya", op. cit.
[30] Crisis Group telephone interview, former UN official citing Turkish military intelligence, January 2020.
[31] According to a November 2020 report of the U.S. Defense Department inspector-general, the UAE funds Wagner's operatives in Libya. See Amy Mackinnon and Jack Detsch, "Pentagon says UAE possibly funding Russia's shadowy mercenaries in Libya", *Foreign Policy*, 30 November 2020.
[32] On the weapons provided by Russia and Turkey to Libya's rival factions throughout 2020, see the detailed lists and analysis provided in, "Letter dated 8 March 2021 from the Panel of Experts on Libya established pursuant to resolution 1973 (2011) addressed to the President of the Security Council", op. cit.
[33] Crisis Group interview, UN official, Rome, January 2021.

when the central bank, along with the country's other institutions, split in two in 2014.[34] Authorities in western Libya knew that only a unified government would enable oil revenues to revert to the state; these revenues are the country's main source of income but have been sequestered in an account managed by the National Oil Corporation following a U.S.- and UN-backed deal in September 2020, openly conceived with the objective of persuading Libya's rival factions to reach a political agreement.

UN Special Representative Ghassan Salamé and Acting Special Representative Stephanie Williams also played an important role in fostering this convergence. First, they initiated a dialogue with Libyan actors' foreign sponsors, known as the Berlin consultation process, which brought to the table the principal foreign actors involved in the Libya conflict throughout 2020, keeping them abreast of and on board with UN mediation efforts. Securing their buy-in prevented them from torpedoing local political mediation efforts. Secondly, they helped convey, in their outreach to rival Libyan political and military leaders, the notion that agreeing on a unified interim government was the necessary first step toward regaining control over their country's destiny, rather than allowing foreign capitals to carry out their own plans for Libya – at Libyans' expense. Thirdly, they supported and sometimes hosted the economic track negotiations that helped pave the way for some of the above-mentioned financial agreements.[35]

De-escalation between the war's main foreign protagonists – Turkey and Qatar, on one side, and Egypt, the UAE and Saudi Arabia, on the other – also set the stage for a constructive approach to a peaceful settlement. In January 2021, the four states that had severed ties with Qatar in 2017, including Saudi Arabia, the UAE, Egypt and Bahrain, agreed to formally end their four-year dispute with the country and lift their economic blockade; they had accused Qatar of supporting opposition movements on their soil, funding the Muslim Brotherhood region-wide and promoting Islamist militancy, including in Libya.[36] The nominal end of this intra-Gulf Cooperation Council squabble led to restoration of diplomatic relations and increased bilateral economic cooperation.[37]

At the same time, back-channel communications resumed between Egypt and Turkey, paving the way for what may be a tentative rapprochement – even if big disagreements remain. The two countries' relations badly soured after the 2013 military coup against the elected government of President Mohamed Morsi, a senior Muslim Brotherhood figure, and deteriorated further when they took opposite sides in the Libya war.[38] In early 2021, Turkish officials began to soften their rhetoric toward Egypt, though Cairo has yet to reciprocate, its officials insisting that, despite the resumption of informal contacts, Egypt's relations with Ankara have not moved "one

[34] See Crisis Group Middle East and North Africa Report N°201, *Of Tanks and Banks: Stopping a Dangerous Escalation in Libya*, 20 May 2019.

[35] Ghassan Salamé reflected on these and other points in a lengthy television interview with Libya's 218NEWS television channel, broadcast on 9 April 2021.

[36] For background on the intra-Gulf agreement signed in January 2021, see Elham Fakhro, "Resolving the Gulf Crisis Outside the Gulf", Crisis Group Commentary, 26 January 2021.

[37] That said, the rivalry between Qatar and the UAE, in particular, persists, particularly in their foreign policy, including in conflicts outside the Gulf region.

[38] See H.A. Hellyer and Ziya Meral, "Will the Page Turn on Egypt-Turkey Relations?", Carnegie Endowment for Peace, 19 March 2021.

inch".[39] That said, the two countries seem now aligned in their Libya policy. They both support the national unity government and the roadmap toward elections. But the presence of Turkish forces and Ankara-recruited Syrian contract fighters in Libya remains a sticking point.

In Libya itself, war fatigue has long been widespread, along with an aspiration to see a functional government in place after years of disarray. What changed is Libyan leaders' calculations about the prospects of gaining the upper hand in their long struggle. When they took stock of the new military realities, the changing regional environment, the eroding economy and the deteriorating security landscape of divided Libya, they realised that they had more to gain from a political process than an indefinite military confrontation. The logical next step was to cooperate in, rather than obstruct, choosing a new prime minister.[40]

Haftar and his entourage, in particular, came to understand that, with their defeat in Tripoli and a UAE recalibration of its foreign policy priorities, the Emirati military and financial support on which they had depended might be coming to an end. They also anticipated that, unlike former U.S. President Donald Trump, President Joe Biden would be less likely to tolerate Haftar's adventurism or that of his Gulf backers. Some Libyan stakeholders close to Haftar were also under the impression that the Biden administration would not overlook the multiple human rights abuses and killings that Haftar affiliates allegedly perpetrated in eastern Libya and during the Tripoli war.[41] For this reason, they advised him to be cooperative with the new authorities.[42]

Widening rifts among the Haftar-led Libyan Arab Armed Forces further weakened the field marshal's grip. Additionally, pro-Haftar politicians had to fend off growing public discontent over the declining security and economic situation in areas under his control. As a result, the pro-Haftar camp lacked sufficient leverage to repeat the past strategy of obstructing UN-backed Libyan leaders and instead chose to work with them, though neither the new prime minister nor the Presidency Council members are their allies.[43]

The head of the Tobruk-based assembly, Aghela Saleh, also collaborated with the new authorities, to the surprise of many Libyans who believed he would obstruct the parliamentary approval process, as he had with the Government of National Accord in 2016. This time, the reverse occurred. He facilitated the House of Representatives' meetings in Sirte and Tobruk, and weighed in heavily on Dabaiba's choice of ministers, which turned him into the new government's kingmaker. His new attitude reflects

[39] Crisis Group telephone interview, Egyptian diplomat, Cairo, April 2021.

[40] Crisis Group telephone interviews, Libyan politicians and analysts, foreign diplomats, February and March 2021.

[41] The Tarhuna case stands out among the atrocities Haftar-backed forces are accused of perpetrating during the Tripoli war. Following the withdrawal of these forces from this western Libyan town, people uncovered over 100 corpses, including of women and children, buried in mass graves in an area that had been these forces' operational headquarters between July 2019 and May 2020, when they were laying siege to Tripoli. See Sara Creta, "A Libyan town reckons with its past horrors and uncertain future", *The New Humanitarian*, 17 February 2021.

[42] Crisis Group telephone interviews, Benghazi residents in contact with the Libyan National Army, March 2021.

[43] Crisis Group telephone interviews, Libyan politicians and analysts, February and March 2021.

both the shifting regional consensus and his personal choice to emerge as the leading pro-reconciliation champion in eastern Libya.[44]

In western Libya, where support for Faiez Serraj had long eroded, it was no surprise that most politicians and military leaders supported the political process. Broadly speaking, and to different degrees, the new authorities are aligned with the Tripoli-based camp and thus met most western Libyan political and military heavyweights' expectations for the new executive. Additionally, Dabaiba comes from a millionaire family in Misrata that, after severing ties with the Qadhafi regime, helped finance rebel groups and still enjoys the support of some of these militias. Libyan big business also backed him, hoping that a business-savvy and pragmatic leader will relaunch a failing economy and unlock public-sector investments.[45]

That said, some politicians and activists in western Libya have expressed unease in private about Dabaiba's rise to power. They believe the vote-buying allegations and cringe at the notion that someone whose record they think is stained can help author a new chapter in Libya's history.[46] But they lacked leverage to change the course of events, especially in view of widespread popular and foreign support for the interim government.

[44] Crisis Group telephone interviews, Western diplomats and Libyan analysts, Tripoli and Tunis, March 2021.
[45] Crisis Group telephone interviews, Libyan politicians and analysts, February and March 2021.
[46] Crisis Group telephone interviews, Libyan activists and politicians, February and March 2021.

III. Immediate Challenges

Despite the momentous progress, the new authorities face numerous challenges as they try to knit a war-torn country back together and prepare the ground for elections in late 2021. They need to foster reconciliation between rival factions, seek redress for the crimes committed during years of war and improve living conditions for ordinary Libyans. For these things to happen, the government will need parliament to pass the 2021 budget, which it has failed to do to date. The new leadership also has to complete the arduous task of uniting still divided military and financial institutions. These things aside, two immediate challenges loom that, if not resolved, could jeopardise any transition toward a more stable future. One is the absence of an agreement between Libya's multiple factions on which vote should be held and in what sequence. The other is parliament's failure to officially recognise the Presidency Council as the armed forces' supreme commander.

A. *Reaching a Consensus on Elections*

Libyan factions have yet to settle a number of interlocking problems with the electoral roadmap. In November 2020, Libyan representatives agreed to hold elections at the end of 2021, as enshrined in the UN-backed roadmap, which states in generic terms that parliamentary and presidential elections will take place at the end of the year.[47] But the roadmap does not specify whether these should take place after the approval of a draft constitution (completed in 2017 but never put to a vote) or regardless of it.[48] Delegates who took part in the UN-backed talks say they did not discuss the roadmap's electoral provisions at any length. They cite an implicit understanding that details, including whether presidential elections would be "direct" (with the president elected by voters) or "indirect" (with parliament choosing he chief executive), would be finalised later.[49] As a result, although a date for elections was set, there is still no consensus on whether to hold a referendum on the draft constitution first or whether to move ahead with elections, and, if so, whether a presidential election should accompany the parliamentary vote.

Adding a layer of complexity are key questions behind these unresolved issues. One is what law should govern a referendum if that vote comes first. The disagree-

[47] The Libyan Political Dialogue Forum produced a consensus document entitled "Roadmap for 'The Preparatory Phase for a Comprehensive Solution'", published on 16 November 2020, in which delegates agreed in general terms to a new interim executive and to hold parliamentary and presidential elections. They set the election date for 24 December 2021.

[48] A 60-person Constitution Drafting Assembly, elected in 2014, completed the draft constitution in July 2017 and approved it by a two-thirds majority vote. The Assembly passed it to the House of Representatives, which was supposed to submit it to a referendum. But the referendum has yet to take place, leaving the draft constitution in limbo. The governance structure envisaged in the draft constitution consists of a bicameral legislative system (with a parliament and a senate), but where most executive powers (including appointing a prime minister and declaring a state of emergency) rest in the hands of a popularly elected president, who is also the armed forces' supreme commander. On Libya's draft constitution, see Zaid al-Ali, "Libya's Final Draft Constitution: A Contextual Analysis", International Institute for Democracy and Electoral Assistance, December 2020.

[49] Crisis Group telephone interviews, Libyan Political Dialogue Forum participants, March 2021.

ment boils down to whether legislators should uphold or modify an October 2018 law passed by the Tobruk-based House of Representatives.[50] Previous legislation required two thirds of the national electorate to approve the proposed constitution for it to come into force. The 2018 law adds another requirement: that a majority of voters in each of Libya's three historical provinces (Tripolitania, Cyrenaica and Fezzan, which correspond to western, eastern and southern Libya, respectively) vote for the draft charter. Pro-Haftar parliamentary factions introduced the additional stage of region-based approval with the unstated aim of sabotaging the new constitution. Anti-Haftar factions in the west, including some parliamentarians who had boycotted the Tobruk-based house at the time, criticised the reform. Still, it remains legally valid.[51]

Opponents of the 2018 law argue that it cannot work because Libya has thirteen electoral districts, whose boundaries do not correspond to those of its three historical provinces (indeed, those provinces' borders are not recognised). They see drawing new electoral lines between the three provinces as the first step toward partitioning the country.[52] There is a practical consideration as well. According to the head of Libya's High National Electoral Commission, drawing new electoral boundaries would take many months, and even if the referendum passes – which is far from guaranteed – almost another year would be needed before parliamentary and presidential elections could be held, and more if voters were to reject the draft constitution in the referendum.[53]

The debate over whether elections should be solely for a new parliament or also for the head of state is even more polarising. Political factions generally agree on the former but are divided on the latter. The constitution drafting assembly, elected in 2014, reached agreement to enshrine a presidential vote through universal suffrage in the draft constitution and thus empower a directly elected president. But there is no broader consensus on the matter among Libyan political factions today.[54]

[50] On 26 November 2018, the House of Representatives passed a constitutional amendment that validated an October 2018 referendum law that divided Libya into three voting districts: Tripolitania, Cyrenaica and Fezzan. Before the amendment, Libya was considered a single voting district solely for the purposes of a referendum, in the sense that two thirds of the voters in the country would need to vote in favour of the draft constitution for it to pass. For other elections, such as parliamentary ones, however, Libya is divided into thirteen electoral districts, meaning that voters in an electoral district can vote only for candidates running in that area. "Libyan parliament adopts amendment that divides the country into three constituencies", *Middle East Monitor*, 27 November 2018. To revoke the 2018 law, legislators would need to pass another constitutional amendment.

[51] Crisis Group interviews, legal experts, Benghazi, 2018-2019.

[52] Crisis Group telephone interviews, Libyan politicians, March 2021.

[53] "Libyan elections committee: Constitutional referendum can delay elections to the end of 2022", *Libya Review*, 28 February 2021.

[54] As Zaid al-Ali explains: "The CDA's [Constitution Drafting Assembly] membership did not include any formal representatives of the country's many political forces. The CDA's members interacted with political and social groups throughout the negotiation process in formal and informal settings, and also based their work on their own understanding of the country's needs and challenges. But many political groups and other major forces refused to participate altogether and increasing levels of violence throughout the CDA's life eventually made it close to impossible for it to hold regular sessions at all. As a result, the 2017 draft does not necessarily enjoy the country's main political groups' support, some of which are likely to resist its implementation if it were ever to come into force". Al-Ali, "Libya's Final Draft Constitution", op. cit.

Many Libyans, in particular those with ties to the Qadhafi regime and those aligned with the Haftar camp, favour a direct presidential election, contending that people have a legitimate aspiration to choose the head of state.[55] Yet they generally dislike the draft constitution as a whole, even if they like that provision.[56] Anti-Qadhafi Libyans, including Islamists, oppose direct presidential elections, claiming that a presidential system with popular backing is more likely to lead to abuse of power and a return to authoritarian rule. Their fear is grounded in recognition that, if given the right to vote for president, most Libyans might vote for a well-known figure tied to the old regime. They propose that an elected parliament choose the next president, even though this procedure would theoretically make it easier for a candidate to buy the way to power.[57] Some in this camp nonetheless support holding a referendum on the draft constitution, whether for tactical reasons (in order to postpone elections as much as possible) or because they think the Libyan people should weigh in on the direct presidential elections question.

These and other related issues were supposed to have been resolved by now. In November 2020, the UN-backed Libyan Political Dialogue Forum charged a joint committee composed of members of Libya's rival assemblies – the House of Representatives and the High State Council – with charting a consensus proposal on elections' purpose and a set of draft rules. This group, which started working in late December, failed to come up with a concrete plan by the late February deadline. It did propose that a constitutional referendum should be held first. But it left the door open to other options because the proposal conveniently added that if the referendum proved impossible to carry out for practical reasons – by which they appear to have partly had in mind the potential delays in the electoral roadmap that holding a referendum would entail – then parliamentary and presidential elections should come first.[58] In short, this committee kicked the can down the road on taking a final

[55] Crisis Group telephone interviews, Libyan political activists and analysts, Tunis, Tripoli, Benghazi and Washington, April 2021.

[56] Soon after the draft constitution was finalised in 2017, pro-Haftar activists and politicians in Benghazi began campaigning against the text, alleging that the system of governance proposed was too highly centralised (as compared to the decentralised or federal system they favoured). Another issue of contention, not explicitly mentioned but believed to have driven the anti-constitution campaign from the outset, was that military officers were barred from presidential office, which would have made it impossible for Haftar to run. Crisis Group interviews, legal scholars, Benghazi, Tunis, 2017-2018.

[57] Crisis Group telephone interviews, Libyan politicians and activists, March-April 2021.

[58] This agreement highlights a preference for holding a referendum on the draft constitution, but also states, in the words of the UN special envoy, that if a referendum "is not possible based on a decision of the High National Elections Commission and endorsed by the House of Representatives and the High Council of State, presidential and legislative elections would take place on the basis of an amendment to the Constitutional Declaration, emanating from the so called February Committee report of 2014". Ján Kubiš, "Briefing to the UN Security Council", 24 March 2021. In his remarks to the UN Security Council, the special envoy clarified that the February committee platform "envisions the election of a House of Representatives by general, free, secret and direct suffrage according to an electoral law promulgated by the House of Representatives in agreement with the High Council of State; and of Head of State elected by universal, free and direct suffrage and by absolute majority of the votes casted [sic] on the same election date of the House of Representatives in accordance with a law promulgated by the House of Representatives in agreement with the High Council of State".

decision. The High State Council approved this proposal, but the House of Representatives has yet to discuss it – for no clearly stated reason.[59]

The UN-backed roadmap set out a back-up procedure for resolving the dispute if this first group of House of Representatives and High State Council negotiators failed to produce consensus by the February deadline. A legal committee, which includes members of the rival assemblies and other representatives of Libya's political and regional constituencies (all selected this time from among the Libyan Political Dialogue Forum's members) would meet to agree on an electoral roadmap – whether a referendum on the draft constitution comes first, and if so under what rules, or whether elections come first, and if so whether for both parliament and president or just the former. They would then draft a bill for parliament to consider.

Yet this second group's work has proceeded slowly. For weeks after the February deadline, it did not meet. Some of its members complained that the new UN special envoy, Ján Kubiš, who assumed his duties in February, did not call a meeting of the legal committee to start its work on the electoral roadmap.[60] According to his staff, the delay was due to the envoy's focus on the new government's parliamentary endorsement and the transfer of power by the previous government, both of which took place in March, and on giving the opportunity to the new executive and the recently unified parliament to get to work.[61]

The UN eventually convened the legal committee on 7 April, and it started consultations to reach a consensus and draft legislation. They drafted a proposal but failed to reach agreement on whether the election of the president should be direct or indirect and also disagreed on the eligibility criteria for the president and lawmakers. The legal committee's proposal appears to suggest that delegates agreed to hold parliamentary elections first and postpone the referendum until after the new parliament is elected, but a member of the dialogue forum said the matter is far from settled.[62] To overcome these obstacles, the legal committee asked that all 74 members of the Libyan Political Dialogue Forum convene to weigh in. They are scheduled to meet virtually on 26 May.[63]

These delays rub against the UN roadmap's milestones but may chime with Dabaiba's apparent eagerness to remain premier well beyond the nine months envisaged by the document. Dabaiba has publicly committed to the roadmap. Several Western diplomats and some of his Libyan acquaintances suggest, however, that he indicated in private soon after his election that he envisages staying in power for at least two years, arguing that nine months are insufficient to guarantee the country's solid reunification, relaunch the economy and improve living conditions.[64] He reportedly also argues that holding elections as early as the end of 2021 would imperil the country's

[59] Kubiš, "Briefing to the UN Security Council", op. cit.
[60] Crisis Group telephone interviews, Libyan Political Dialogue Forum's legal committee members, March-April 2021.
[61] Crisis Group telephone interview, UN Libya mission official, May 2021.
[62] Crisis Group telephone interview, Libyan Political Dialogue member, Tripoli, May 2021.
[63] Crisis Group telephone interviews, Libyan Political Dialogue Forum's legal committee members, dialogue forum member and UN Libya mission official, Tripoli, April-May 2021.
[64] Crisis Group telephone interviews, foreign diplomats and Libyans close to the prime minister, March 2021.

stability when it has just emerged from war. For now, international pressure, including from the U.S., has kept him in check; U.S. officials insist that the prime minister's mandate is to deliver elections, not to engage in state-building.[65]

The prime minister is not alone in wanting to extend the transition. A Tripoli-based politician confided that a local armed group close to the new government has begun to put pressure on individuals such as himself to stop calling for elections.[66] Behind closed doors, even most House of Representatives members state that it would be better to delay the elections. It is unclear whether this sentiment comes from their general anxiety that the poll will deepen divisions or their personal fear of losing their well-remunerated positions. Several well-informed Libyans with ties to parliamentarians believe the latter.[67] As a politician put it aptly: "Asking House of Representatives members to approve an electoral law is like asking them to commit political suicide".[68]

While the risk of elections stoking division, especially if parties disagree on the vote's parameters, is real, continued delays are equally perilous. Significant constituencies, including political stakeholders without a role in government, demand elections and threaten to mobilise their supporters and allied military factions if the vote is delayed.[69] The constitutional and electoral questions at stake understandably provoke fierce debate, given their implications for the future Libyan state. Still, reaching as much consensus as possible and as fast as possible on a path forward is essential.

B. *Ratifying the UN-backed Roadmap*

The second challenge facing Dabaiba is the legal grey zone surrounding the function of the armed forces' supreme commander in the UN-backed roadmap "for the Preparatory Phase of a Comprehensive Solution", which the dialogue forum approved in November 2020 but the House of Representatives has yet to ratify.[70] An annex to the roadmap document spells out the respective prerogatives of the prime minister and Presidency Council. The prime minister is responsible for all the government's work, and that of its ministries, as well as preparing the budget and drafting laws to be submitted to the parliament for approval. For its part, the Presidency Council, among other things, exercises supreme command and control over the armed forces and can make senior military appointments, always acting by consensus.[71]

[65] Crisis Group telephone interview, U.S. official, late March 2021. U.S. Secretary of State Antony Blinken spoke with Dabaiba by telephone on 23 March.

[66] Crisis Group telephone interview, Tripoli-based politician and activist, April 2021. He said a member of a well-known armed group called him, threatening him and his family if he did not stop campaigning for elections.

[67] A Libyan political activist who attended the swearing-in ceremony at the House of Representatives said most parliamentarians he met on that occasion brushed off the possibility of having elections by the end of 2021 and manifested their eagerness to stay in power longer. Crisis Group telephone interview, Libyan political activist, 25 March 2021.

[68] Crisis Group telephone interview, Libyan politician, late March 2021.

[69] Crisis Group telephone interviews, Libyan politicians, Tripoli and Benghazi, May 2021.

[70] For the text of the UN-backed roadmap, see footnote 47.

[71] Chapter on Unified Executive Authority, Libyan Political Dialogue Forum, 16 November 2020. The Presidency Council's other prerogatives are: to declare a state of emergency and take decisions of war and peace; to accredit foreign ambassadors in Libya; to accredit Libyan representatives abroad

The lack of formal approval of the roadmap, or an alternate document acknowledging that the Presidency Council is invested with the title of supreme commander (*al-qa'id al-ala*, equivalent to commander-in-chief in some Western countries) presents risks. Parliament Speaker Saleh might seek to retain this title, which he adopted in 2014 on the basis of a law that conferred such authority on the head of parliament. In this capacity, he appointed Haftar as armed forces general commander (*al-qa'id al-'amm*, the highest-ranking military officer) in 2015. Saleh retained the designation in subsequent years, even after the 2015 UN-backed Libyan Political Agreement transferred these powers to Serraj's Presidency Council. Conversely, since 2015, the Tripoli-based government and military groups have recognised the Presidency Council as supreme commander.[72] The contradictory legal basis thus gave rise to two parallel military coalitions and chains of command after the political split. These exist to this day.

The House of Representatives has given its vote of confidence only to the new executive, without formally approving the roadmap. Saleh has not commented on what role the Presidency Council should play in managing state affairs. Despite this uncertainty, the Council members held their own separate swearing-in ceremony before the head of Libya's Supreme Court in Tripoli on 15 March, the same day cabinet members took their oath in Tobruk.[73] The Council members and Supreme Court president then attended the government's ceremony in Tobruk, where Mohamed Mnefi, head of the Presidency Council, gave a speech.

Some Libyan jurists and politicians argue that the legislature does not need to approve the UN-backed roadmap, presenting two arguments. First, they say, the roadmap and its appended documents do not explicitly state that the House of Representatives must ratify the document. They argue that, based on two articles in the chapter on executive authority annexed to the document, parliament's vote of confidence in the government entails its approval of the roadmap.[74] Secondly, they say,

based on the prime minister's proposals; to lead the national reconciliation process; and to appoint the general intelligence service heads (unless the House of Representatives objects to the appointment) and other agency leaders that come under the Council's authority. These decisions have to be taken by unanimous vote. The head of the Presidency Council represents the Libyan state in a protocol capacity abroad.

[72] In November 2018, the House of Representatives passed a law recognising a three-person Presidency Council (even though no such council existed, because the one in Tripoli was officially a nine-member Presidency Council), but it never gave this body the function of supreme commander of the Libyan armed forces.

[73] Television broadcast of Presidency Council members taking their oaths in front of Supreme Court president, 15 March 2021.

[74] Crisis Group telephone interviews, Libyan politicians, Tripoli, March 2021. Article 4.1 of the chapter on the executive authority states: "The Prime Minister shall present the cabinet of the Government of National Unity and its work program along with all the outcomes of the [Libyan Political Dialogue Forum] to the House of Representatives for full endorsement as one package and to grant confidence within a period not exceeding twenty-one (21) days from the date of submission to the House of Representatives". Article 4.4 of the same document states: "Immediately from the date of granting confidence to the government and without further actions, the full powers of the executive authority shall be transferred to the new Presidency Council and Government of National Unity, as per the prerogatives defined by the [Forum]". Chapter on Unified Executive Authority, op. cit. See also footnote 72.

the Presidency Council members' oath in front of the Supreme Court president, followed by their presence at the swearing-in ceremony in Tobruk, "means that everyone is satisfied and agrees with this new authority and its agreed tasks".[75] Some members of parliament and its legal committee share this view.[76]

But the matter is far from settled. Other jurists argue that, notwithstanding the oath, the assembly still needs to ratify the document or its content in the form of an amendment to the 2011 constitutional declaration, the post-Qadhafi charter that establishes the country's governance structure in lieu of a constitution.[77] Likewise, several dialogue forum members argue that the House of Representatives also has to endorse the roadmap.[78]

Despite the legal ambiguity that overshadows the issue, the House of Representatives issued a short statement in mid-April (in relation to the outbreak of hostilities in neighbouring Chad) in which it refers to the Presidency Council "in its capacity as supreme commander", the first and so far only acknowledgement of that institution having this authority.[79] From its side, the Presidency Council has issued a few statements in this capacity, mainly on mundane matters such as admonishing military officers not to give press interviews.[80] None of these triggered a negative response from parliament, whose members have yet to openly challenge any Council decision. So far, the Council has made no high-level military appointments and issued no decrees that parliamentarians would find controversial.

Foreign countries' representatives are well aware of, but for now largely ignoring, the supreme commander problem. European diplomats appear to be turning a blind eye to it.[81] Neighbouring Egypt, which trained Haftar-led forces and hosted negotiations aimed at reunifying the Libyan military in 2017-2019, also appears keen to bury the issue.[82] U.S. officials seem to have aligned themselves with this group. They insist that the military's reunification and reorganisation, which would be the supreme commander's prerogative, should wait until after the elections, and that there is therefore no urgency to resolving this legal ambiguity now.[83] It appears that these countries have intentionally pressed the pause button on the armed forces' reunification because

[75] "Al-Ra'ed: Including the political agreement with the constitutional declaration is not important and the legitimacy of the government cannot be challenged", *Al-Marsad*, 18 March 2021.
[76] Crisis Group written exchange, House of Representatives legal adviser, March 2021.
[77] Crisis Group telephone interviews, Libyan legal experts, March 2021. The Constitutional Declaration is a ten-page charter that Libya's transitional leaders adopted in August 2011, when the war to topple the Qadhafi regime was still under way. It establishes the country's post-Qadhafi governance structures, pending approval of a permanent constitution. Any change in the form of government or any new election requires amending this document by a two-thirds majority vote in parliament. It has been amended multiple times and remains valid.
[78] Crisis Group telephone interviews, forum members, March 2021. Former Acting Special UN Envoy Stephanie Williams voiced her support for this position after her departure. Crisis Group telephone interview, March 2021.
[79] "Regarding Current Events in Chad", statement 1/2021, House of Representatives, 20 April 2021.
[80] Letter to all the units of the Libyan army, 55/2021, Presidency Council, Office of the Supreme Commander, 8 April 2021.
[81] Crisis Group telephone interview, European senior diplomat, March 2021.
[82] Crisis Group telephone interview, Egyptian diplomat, April 2021.
[83] Crisis Group telephone interview, U.S. official, April 2021.

they do not want to rock the boat. Only a popularly elected government would be able to make the necessary hard decisions to reunify and reform the military, they argue.[84]

Dabaiba and the Presidency Council appear to be following the same line of thought. They, too, seem to want to kick the can down the road on most military-related decisions, especially whom to appoint as general armed forces commander, a position held by Haftar but deemed vacant by both the incoming Dabaiba and outgoing Tripoli-based governments.[85] They are also delaying a firm (and potentially controversial) decision on the departure of foreign military forces and private military contractors.[86] Resolving these issues will require further consensus building and a good degree of high-level international support.

The tendency to procrastinate is understandable, given the sensitivity of the question of whom should be appointed general armed forces commander. Some of Haftar's foreign backers might be keen to keep him at the helm of the east-based military coalition until a suitable alternative candidate emerges. But Dabaiba's and foreign powers' hesitation to tackle the reorganisation question could come to seem short-sighted should elections be delayed or tensions between foreign powers resume, prompting them to revert to fuelling a proxy war in Libya, or violence break out in a neighbouring country, potentially requiring the deployment of Libyan military forces along the border.

[84] Crisis Group telephone interviews, foreign diplomats and UN official, March-April 2021.
[85] Crisis Group telephone interview, Presidency Council member, Tripoli, mid-April 2021. He acknowledged that he did not expect the Council to make top military appointments in the coming months, nor to have to declare war, both Council prerogatives according to the UN-backed roadmap, and that the time was not right to push for an overhaul of the military.
[86] Crisis Group telephone interview, Presidency Council member, Tripoli, mid-April 2021.

IV. Overcoming the Obstacles

Despite Libya's turn away from conflict and launch of a political process with real potential to bring a measure of stability, big challenges loom. Overcoming problems related to the election roadmap and the supreme armed forces commander position – intrinsically political issues despite their more formalistic legal appearance – are critical to reunifying a country that remains deeply divided politically, militarily and geographically. Dabaiba and lawmakers should, with UN support, prioritise removing these stumbling blocks, which could impede progress toward elections in late 2021 and military reunification down the line, and thus cut short the transition.

The prime minister's first step should be to call on politicians, especially members of parliament, the High State Council and the Libyan Political Dialogue Forum, to reach consensus on the electoral roadmap and speed up approval of a legal framework for elections. The election question is understandably contentious, with implications for Libya's state structure and division of power. Disputes over constitutional rules and election sequencing have long overshadowed the country's politics and transition. Given strongly held and diverse views, it is unlikely that a final decision will make everyone happy. Still, the Forum enjoys a degree of political and popular support and is representative to a degree unprecedented for some years among Libyan institutions; it is unlikely that another body will be better positioned any time soon to resolve the issue in a way that enjoys more support. Political groups, foreign stakeholders and the UN special envoy should signal that they support the Forum, in particular its legal committee, in its effort to draft a detailed proposal on the election framework.

Should the legal committee continue to fail to reach consensus, one way out of the deadlock would be to request the different factions within the committee (divided over whether they support the referendum on the draft constitution first, or parliamentary elections, or both parliamentary and presidential elections) to lay out proposals reflecting their preferences and then allow the Forum's 74 members to vote. They could vote in more than one round if necessary (should there be more than one proposal, for example) in order to achieve a majority for one option. If and when that milestone is achieved, the House of Representatives should ratify the agreed electoral roadmap and pass the necessary electoral legislation.

This process would, in essence, replicate what the Forum's advisory committee did in January. Then, it resolved arguably equally contentious questions about selecting new leaders by proposing a complex but successful voting procedure that led to a winner on the basis of a 50 per cent plus one vote in favour by Forum members.[87] In the present circumstances, only this bold procedure stands a chance of pushing things forward, but it would require the full buy-in of politicians, the government, the UN and foreign stakeholders. The UN envoy himself should help mediate in order to nudge delegates toward an agreement rather than just facilitating a meeting.

A second priority should be for parliament to ratify the UN-backed roadmap approved by the Forum. The government and Presidency Council should help by

[87] Crisis Group telephone interviews, members of the UN-backed legal committee, Libyan politicians, UN officials, April 2021.

liaising with parliamentarians, supported by the UN and foreign stakeholders. To avoid legal controversies that could undermine the objective of reunifying Libya's divided military, parliament should make explicit what is now only implicit by endorsing a document that confers the title of supreme commander of the Libyan armed forces on the Presidency Council. If it fails to do so, one group or another may cite the two contradictory legal frameworks to resist or undermine military reunification once the present political honeymoon ends.

Some Tripoli-based politicians oppose the roadmap's formal ratification, claiming that forcing parliament to formally recognise the Presidency Council as the supreme commander could trigger unnecessary controversy and even fighting between rival coalitions, which they assume Haftar-led forces would trigger; for this reason, they prefer to maintain a state of convenient ambiguity.[88] But such views seem unnecessarily alarmist, as the Haftar camp, weakened by its defeat in Tripoli, is unlikely to mobilise against ratification of an agreement that it appears to have already tacitly accepted.

Addressing the ambiguity thus makes sense. A Presidency Council member said in mid-April that he remained unclear as to whether the head of parliament recognised the Council as supreme commander, cautioning against forcing parliament to proceed with ratification. At the same time, he acknowledged that the lack of clarity could backfire and therefore urged ratification of a document that would unequivocally outline the government's and Presidency Council's respective competencies.[89] Resolving the legal problem of this designation would be a first step toward addressing the many other practical challenges that are preventing an effective reunification.

[88] Crisis Group telephone interview, Libyan politician, Tripoli, April 2021.
[89] Crisis Group telephone interview, Presidency Council member, Tripoli, mid-April 2021.

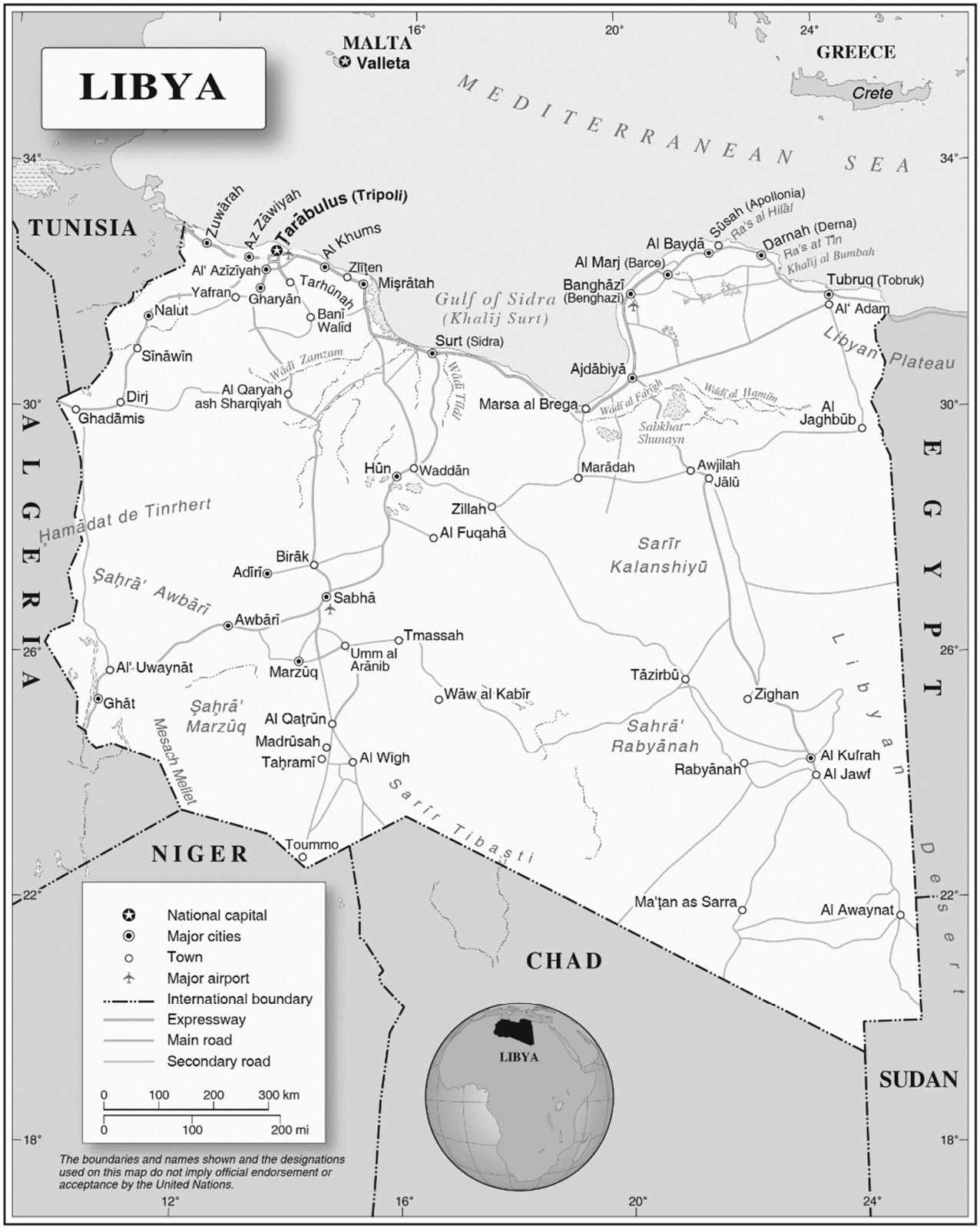
V. Conclusion

The appointment of an interim unity government in Libya and its endorsement by the House of Representatives are historic achievements for a country that was embroiled in a deadly war between rival governments and military coalitions, each with foreign backers, less than a year ago. For now, a return to active conflict in Libya appears unlikely, but whether calm will prevail depends in large part on whether the new interim government is able to follow the transition roadmap and whether external actors continue to support it in doing so.

Much could go wrong. A first step toward moving the process forward and avoiding the pitfalls that have beleaguered Libya in the past would be to set the transition roadmap on solid and unambiguous legal grounds. Libyans deserve this measure of certainty and their politicians should deliver it.

Brussels, 21 May 2021

Appendix A: Map of Libya



Appendix B: About the International Crisis Group

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 120 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries or regions at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international, regional and national decision-takers. Crisis Group also publishes *CrisisWatch*, a monthly early-warning bulletin, providing a succinct regular update on the state of play in up to 80 situations of conflict or potential conflict around the world.

Crisis Group's reports are distributed widely by email and made available simultaneously on its website, www.crisisgroup.org. Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board of Trustees – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policymakers around the world. Crisis Group is co-chaired by President & CEO of the Fiore Group and Founder of the Radcliffe Foundation, Frank Giustra, as well as by former Foreign Minister of Argentina and Chef de Cabinet to the United Nations Secretary-General, Susana Malcorra.

After President & CEO Robert Malley stood down in January 2021 to become the U.S. Iran envoy, two long-serving Crisis Group staff members assumed interim leadership until the recruitment of his replacement. Richard Atwood, Crisis Group's Chief of Policy, is serving as interim President and Comfort Ero, Africa Program Director, as interim Vice President.

Crisis Group's international headquarters is in Brussels, and the organisation has offices in seven other locations: Bogotá, Dakar, Istanbul, Nairobi, London, New York, and Washington, DC. It has presences in the following locations: Abuja, Addis Ababa, Bahrain, Baku, Bangkok, Beirut, Caracas, Gaza City, Guatemala City, Jerusalem, Johannesburg, Juba, Kabul, Kiev, Manila, Mexico City, Moscow, Seoul, Tbilisi, Toronto, Tripoli, Tunis, and Yangon.

Crisis Group receives financial support from a wide range of governments, foundations, and private sources. Currently Crisis Group holds relationships with the following governmental departments and agencies: Australian Department of Foreign Affairs and Trade, Austrian Development Agency, Canadian Department of National Defence, Danish Ministry of Foreign Affairs, Dutch Ministry of Foreign Affairs, European Union Emergency Trust Fund for Africa, European Union Instrument contributing to Stability and Peace, Finnish Ministry of Foreign Affairs, French Development Agency, French Ministry of Europe and Foreign Affairs, Global Affairs Canada,, Irish Department of Foreign Affairs, Japan International Cooperation Agency, Ministry of Foreign Affairs of the Principality of Liechtenstein, Luxembourg Ministry of Foreign and European Affairs, Norwegian Ministry of Foreign Affairs, Qatar Ministry of Foreign Affairs, Swedish Ministry of Foreign Affairs, Swiss Federal Department of Foreign Affairs, United Arab Emirates (Ministry of Foreign Affairs and International Cooperation and Anwar Gargash Diplomatic Academy), United Nations Development Programme, United Nations World Food Programme, UK Foreign, Commonwealth and Development Office, and the World Bank.

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May 2021

Appendix C: Reports and Briefings on the Middle East and North Africa since 2018

Special Reports and Briefings

Council of Despair? The Fragmentation of UN Diplomacy, Special Briefing N°1, 30 April 2019.

Seven Opportunities for the UN in 2019-2020, Special Briefing N°2, 12 September 2019.

Seven Priorities for the New EU High Representative, Special Briefing N°3, 12 December 2019.

COVID-19 and Conflict: Seven Trends to Watch, Special Briefing N°4, 24 March 2020 (also available in French and Spanish).

A Course Correction for the Women, Peace and Security Agenda, Special Briefing N°5, 9 December 2020.

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Israel, Hizbollah and Iran: Preventing Another War in Syria, Middle East Report N°182, 8 February 2018 (also available in Arabic).

Averting War in Gaza, Middle East Briefing N°60, 20 July 2018 (also available in Arabic).

Rebuilding the Gaza Ceasefire, Middle East Report N°191, 16 November 2018 (also available in Arabic).

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Averting Disaster in Syria's Idlib Province, Middle East Briefing N°56, 9 February 2018 (also available in Arabic).

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Easing Syrian Refugees' Plight in Lebanon, Middle East Report N°211, 13 February 2020 (also available in Arabic).

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Decentralisation in Tunisia: Consolidating Democracy without Weakening the State, Middle East and North Africa Report N°198, 26 March 2019 (only available in French).

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Nineteen Conflict Prevention Tips for the Biden Administration, United States Briefing N°2, 28 January 2021 (also available in Arabic).

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