

Consideration of the Situation in Libya

Automatic Heading TextDate | 3 November, 2020

Tomorrow (3 November) the African Union (AU) Peace and Security Council (PSC) is scheduled to consider the situation in Libya. The session is expected to take place through VTC.

AU Commissioner for Peace and Security Smail Chergui and the Special Representative of the AU Commission Chairperson for Libya expected to brief the PSC. The Representative of Libya is also anticipated to make a statement. The United Nations Office to the African Union (UNOAU) and the European Union (EU) are also expected to address the Council.

This is the first time that the PSC considers the situation in Libya since its February session on the situation in Libya held at a level of Heads of State and Government. Tomorrow's session has come after the warring parties in Libya, the internationally recognized Government of National Accord (GNA) and the self-styled Libya National Army headed by the renegade General Khalifa Haftar, signed a permanent ceasefire on 23 October after talks in Geneva under the facilitation of the UN Support Mission to Libya (UNSMIL).

It is to be recalled that in an attempt to avert further escalation of military confrontation among the rival external backers of the LNA and the GNA, Germany hosted an international conference aimed at establishing the conditions that enable the UNSMIL facilitate peace talks between Libya's warring parties. The Berlin Conference that concluded with the adoption of a communique which outlined a peace plan organized around the six baskets: ceasefire, arms embargo, political process, security, economic and financial, international humanitarian law and human rights law matters.

Despite the official support expressed to the outcome of the Berlin Conference and the commencement of indirect talks for ceasefire in early February, the fighting continued unabated. The LNA imposed a blockade on the export of oil in Libya, seeking to deprive the GNA of its major source of revenue and further expanding the economic woes of the country. In the ensuing months, fighting continued unabated with the direct participation of the foreign backers of the two warring parties (UAE and Russia on the side of LNA and Turkey on the side of GNA).

It was only after the LNA lost the campaign to seize Tripoli in May and a stalemate emerged in June with the frontline of the fighting shifting to the strategic city of Sirte and major backers of Haftar, notably Russia and to a lesser extent UAE, accepting Haftar's loss, that a terrain more favourable to the peace process has emerged. In the following months, diplomatic efforts have gained new momentum with the US playing a more active role taking advantage of the stalemate and the Speaker of the Tobruk based LNA aligned House of Representative (HoR), Aguila Saleh, assuming increasingly prominent diplomatic role. Signalling a path for signing of a ceasefire, in August Prime Minister Serraj and Speaker of the HoR Saleh issued separate statements calling for a ceasefire, the lifting of the oil blockade and a return to the political process.

In the fourth round of talks in Geneva in October, the 5+5 Joint Military Commission met face to face for the first time. This round culminated in the signing of a permanent ceasefire. According to the terms of the agreement, the ceasefire includes the departure of foreign fighters and mercenaries from all sovereign Libyan spaces (land, sea and air) within three months starting the same day. Calling for immediate suspension of foreign military training, including the departure of respective training personnel and disarmament, demobilisation and reintegration of armed elements, the agreement also expresses the intention to set up a monitoring

mechanism for the implementation of the agreement.

For tomorrow's session, one of the major issues of interest for the PSC is the chances of success of the ceasefire agreement. There are positive signs. One of the major positive outcomes of the ceasefire agreement is the lifting of the blockade of oil export. Control over the oil fields and its revenues have been at the center of the struggle between adversaries racing for influence. The lifting of the oil blockade plays a key role in reviving the national economy, which will trickle down to the livelihoods of the ordinary citizens. The resumption of commercial flight from Libya to Benghazi after a hiatus of more than a year is also widely seen as a positive gesture.

While these are positive signs, they do not guarantee success. Indeed, in the face of the entrenched polarization of the parties and opposed interests of the external actors involved in the conflict, it is no exaggeration to say that the agreement stands on shaky grounds. It is difficult to see how some of the elements of the agreement notably that which calls for the expulsion of all foreign fighters from Libya in three months can be realistically implemented. Not surprisingly given its decisive role in ending Haftar's military campaign for controlling Tripoli, Turkey expressed doubt on whether the parties will successfully heed the terms of the agreement. UAE, whose supply of weaponry and deployment of air power in support of the LNA was a major factor in escalating the conflict and precipitating the direct involvement of rival powers in the Libya conflict, is also a major factor.

In the context of the stalemate, one of the concerns for Libya is the risk of its de facto division, threatening the territorial integrity of the country.

A further complicating factor is the real risk of internal fragmentation on both sides to the conflict. Although Sarraj's announcement of his plan to resign by end of October has since

been retracted pending agreement on a negotiated new government, it has unleashed internal rivalries among those vying for succeeding him. In the Eastern front, Haftar's diminishing clout due to blows from the Tripoli offensive is met by the rise of Aguila Saleh, the president of the opposition parliament based in the East. The recent move by the EU to delist him from the sanction blacklist has further reinforced Saleh's power position in the Eastern bloc.

In the context of the implementation of the ceasefire agreement, one development that is of particular interest for the PSC is the fifth-round meeting of the JMC that is expected to take place on 2-4 November in Libya for the first time.

Another development that would be of interest for tomorrow's session include the first in-person meeting of the Libyan Political Dialogue Forum (LPDF), which is scheduled to take place on 9 November in Tunisia. This political track of the Berlin Conference outcome seeks to 'generate consensus on a unified governance framework, and arrangements that will lead to the holding of national elections in the shortest possible timeframe in order to restore Libya's sovereignty and the democratic legitimacy of Libyan institutions.' A virtual meeting has been already kicked off in October.

Although its influence remains to be limited, the AU has continued its engagement on the situation in Libya both on its own and as one of the participants in the UNSMIL led peace process. It is to be recalled that the decision of the February 2020 AU Summit, Assembly/AU/Dec.792(XXXIII), provided for the establishment of a Contact Group, chaired by the Republic of Congo, deriving from the Members of the AU High Level Committee on Libya, and any other country the Chair of the Contact Group may wish to add, to provide political leadership, as well promote coordination of international efforts in the search for a solution to the Libyan crisis. Since then, the Contact Group met twice. The first meeting, held on 11-12 March in Oyo, the Republic of Congo with the

participation of South Africa, Algeria, Chad and Egypt, decided to convene the Inter- Libyan National Reconciliation Conference, in July 2020, at the AU Headquarters, in Addis Ababa, Ethiopia, in conformity with the decision of the AU Assembly adopted in 2018, although this did not materialize due, among others, the COVID19 pandemic. Most notably, it reiterated condemnation of foreign interference, the violation of the arms embargo, the presence, deployment and utilisation of foreign fighters on Libyan soil, saying that 'such continued interference' was 'motivated by national interests and looting of Libyan natural resources.'

The second meeting of the Contact Group took place on 19 May. The Group 'condemned the numerous violations of the International Humanitarian Law that could constitute war crimes, such as the attacks on hospitals and vital facilities, the persistent indiscriminate bombing of civilian areas and the impediments to humanitarian access. It called upon all the parties to the conflict to comply with the obligations imposed by the International Humanitarian Law and to take the necessary measures to prevent and immediately put an end all those acts.'

The PSC at its 929th session expressed particular concern over the continued fighting in Libya, which, it said, 'has undermined efforts against the COVID-19 pandemic and is also aggravating an already precarious socio-economic situation in the country, as well as worsening the plight of migrants and asylum-seekers'.

In a statement on 8 June, AU Commission Chairperson, Moussa Faki Mahamat, called upon the 'warring parties to ensure strict compliance with international humanitarian law' and called 'upon the Security Council to apply sanctions as provided for in various resolutions on the arms embargo'. In a statement issued on 23 October welcoming the signing of a permanent ceasefire, Mahamat expressed AU's 'readiness to assist in the implementation of the ceasefire and to

contribute to create the necessary conditions for the resumption of dialogue between all Libyan stakeholders for a durable solution.'

A major issue of interest for PSC members in tomorrow's session would be how the AU could 'assist in the implementation of the ceasefire' that Mahamat indicated. This is linked to one of the outcomes of the February 2020 summit decision on Libya which called for the dispatching of a military reconnaissance mission to Libya jointly with the UN and the announcement, by Chergui when declaring the establishment of an Inter-Departmental Taskforce on Libya on 17 February, as a follow up to this decision that the Peace Support Operations Division (PSOD) was charged to begin preparations for the deployment of a multidimensional mission once a ceasefire agreement is reached between the Libyan parties.

The other issue that may be of interest for PSC members is the follow up to the AU Assembly decision 792 for the to upgrade to the level of mission the current AU Liaison Office in Libya, and to equip it with the necessary political, diplomatic and military capacity, with a view to ensuring greater contribution and participation of the AU in the efforts. In this respect one notable development has been the offer of the UN Secretary General, within the framework of the AU-UN Framework Partnership for Peace and Security, to host the African Union Mission within UNSMIL, which the AU Contact Group on Libya welcomed.

In the course of the fighting, various violations of international human rights and humanitarian law have been perpetrated.

The expected outcome of the session is a communiqué. The PSC is expected to welcome the signing of the ceasefire between GNA and LNA under the framework of 5+5 Joint Military Commission and call upon the parties to honour the terms of

the agreement. The PSC may also commend the positive steps taken by the parties in terms of the resumption of oil production and commercial flights between Tripoli and Benghazi and encourage their continued constructive engagements. The PSC may express its strong support for the successful convening of the upcoming in-person meeting of the Libyan Political Dialogue Forum in Tunis, on November 9. The PSC may further reiterate its strong desire to assume a central role in resolving the Libyan crisis and encourage the AU to enhance active participation in the various tracks of the Libya peace process. It may also welcome the launching of the AU Contact Group on Libya and the two meetings that the Group held. In terms of the concrete role that the AU may play, the PSC may request the AU Commission to submit to the PSC proposals on how the AU can directly support implementation of the ceasefire agreement including as a follow up to the Assembly decision 792 and the assignment given to PSOD upon the establishment of the Inter-Departmental Taskforce on Libya to make preparation for deployment of a multidimensional mission for supporting implementation of ceasefire. The PSC may also reiterate its call on external actors involved in the conflict in Libya to desist from their destructive role and respect the independence and territorial integrity of Libya. In the light of the dire humanitarian condition and perpetration of numerous violations which may amount to war crimes, the PSC may also consider to establish a mechanism for monitoring and reporting on compliance with international human rights and humanitarian law standards for the protection of civilians in Libya.