Program on International Security

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ISSUE BRIEF

THE ATLANTIC COUNCIL OF THE UNITED STATES

Libya and the United States: The Next Steps

By Ronald Bruce St John

Over the past several years, the Atlantic Council's International Security Program has taken a position that, in due course, the United States' adversarial relationships with countries, such as Libya, Iran, Syria, Cuba, and North Korea will eventually be restructured both in recognition of changes in the nature or policies of these difficult regimes, and in anticipation of a more cooperative dynamic with regard to shared problems. In the case of Libya, there has been a great deal of progress since 2004, but some issues and problems remain.

Bruce St John's paper examines the current state of U.S.-Libyan relations giving due credit to the vast improvement that has occurred while also noting remaining obstacles. To overcome these, he offers a set of suggestions on how the normalization process may be completed to mutual benefit.

The views expressed in this Issue Brief do not neccessarily reflect those of the Atlantic Council, which takes no institutional position on the topics and recommendations addressed.

On the evening of December 19, 2003, the Libyan Foreign Ministry issued a statement, the product of nine months of tough negotiations with the United Kingdom and United States, renouncing weapons of mass destruction and related missile delivery systems. The statement said Libya had "decided, with its own free will, to get rid of these substances, equipment and programmes and to be free from all internationally banned weapons." It added Libya intended to comply with the Missile Technology Control Regime, the nuclear Nonproliferation Treaty, the International Atomic Energy Agency (IAEA) Safeguards Agreement and Additional Protocol, and international biological and chemical weapons agreements and treaties. It pledged to "take these measures in a transparent way that could be proved, including accepting immediate international inspection." Soon after the issuance of this statement, Libyan leader Muammar al-Qaddafi publicly endorsed the move, terming it a "wise decision and a courageous step."

The following day, Saif al-Islam al-Qaddafi, the Libyan leader's eldest son by his second wife and a frequent informal spokesperson for explaining government policies, emphasized that his country expected its decision would "pave the way for the normalization of political relations with the [United] States and also with the West in general." He added it also "opened the prospect of an end to U.S. sanctions and the possible return of its oil companies," including "access to the know-how and technology in sectors which were banned…and which Libyans were prohibited to study." Dr. Shokri Ghanem, the American-educated prime minister of Libya at the time, also stressed the anticipated economic benefits of Libya's policy reversal. In a BBC interview on December 21, 2003, he said "we are turning our swords into ploughshares and this step should be appreciated and followed by all other countries" because "economic progress is more important than arms."

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– conducting educational and exchange programs for successor generations of U.S. leaders so that they will come to value U.S. international engagement and have the knowledge and understanding necessary to develop effective policies.

Program on International Security

A rapidly evolving and uncertain world – in which new challenges and threats can develop either suddenly or over time – demands a reevaluation of traditional security relationships and strategies. The Council's Program on International Security examines U.S. relationships with allies and adversaries in an effort to build consensus around policies that contribute to a more stable, secure and well-governed world.

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Anglo-American Response

In coordinated press conferences on the day Libya announced its renunciation of weapons of mass destruction and associated delivery systems, President George W. Bush and Prime Minister Tony Blair welcomed the decision. President Bush said in part:

> "Leaders who abandon the pursuit of chemical, biological and nuclear weapons, and the means to deliver them, will find an open path to better relations with the United States and other free nations. With today's announcement by its leader, Libya has begun the process of rejoining the community of nations. And Colonel Ghadafi knows the way forward. Libya should carry out the commitments announced today. Libya should also fully engage in the war against terror.
>
> As the Libyan government takes these essential steps and demonstrates its seriousness, its good faith will be returned. Libya can regain a secure and respected place among the nations, and over time, achieve far better relations with the United States."

Toward the end of his remarks, President Bush commented on the opportunity to promote democracy in Libya. "Should Libya pursue internal reform, America will be ready to help its people to build a more free and prosperous country." However, he did not suggest this issue was a part of the negotiations leading to Libya's renunciation of weapons of mass destruction or that progress in the area of internal reforms was a prerequisite for improved relations with the United States.

Prime Minister Blair's remarks, which depicted the Libyan decision as the product of quiet, traditional arms control diplomacy, included a more explicit promise of a return to the international community:

> "This courageous decision by Colonel Qaddafi is an historic one. I applaud it. It will make the region and the world more secure. It shows that problems of proliferation can, with good will, be tackled through discussion and engagement, to be followed up by the responsible international agencies. It demonstrates that countries can abandon programs voluntarily and peacefully. The Libyan government has stated that weapons of mass destruction are not the answer for Libya's defence. No more are they the answers for the region. Libya's actions entitle it to rejoin the international community."

President George W. Bush looks over equipment obtained from Libya's former nuclear weapons program at the Oak Ridge National Laboratory in Oak Ridge, Tenn., Monday, July 12, 2004. *Image as published on the White House website.*

Early Progress

Libya moved quickly to honor its new commitments. On January 6, 2004, it joined the Chemical Weapons Convention and ratified the Comprehensive Nuclear Test Ban Treaty. On March 10, 2004, it signed the Additional Protocol to the IAEA Safeguards Agreement. In the meantime, experts from the United Kingdom, United States, and relevant international organizations worked to dismantle Libya's weapons of mass destruction programs, together with the missile systems necessary to deliver them.

On February 26, 2004, "in recognition of Libya's concrete steps to repudiate weapons of mass destruction and to build the foundation for Libya's economic growth and reintegration with the international community," President Bush lifted the travel ban on Libya, authorized American companies with pre-sanctions holdings in Libya to negotiate the terms of their re-entry, and invited Libya to establish an Interests Section in Washington, D.C. Five months later, the U.S. Department of State on June 28, 2004, announced it would open a U.S. Liaison Office in Tripoli, resuming direct diplomatic ties cut 24 years earlier when the U.S. embassy was shuttered in 1980.

Signing ceremony of the Additional Protocol
On behalf of Libya: Matooq Mohamed Matooq; for the IAEA Mohamed ElBaradei. *Image courtesy of the IAEA.*

In the interim, the White House announced on April 23, 2004, that Libya had "set a standard that we hope other nations will emulate in rejecting weapons of mass destruction and in working constructively with international organizations to halt the proliferation of the world's most dangerous systems." Determining Libya had met the terms of United Nations Security Council resolutions passed in the wake of the 1988 bombing of Pan Am Flight 103, President Bush removed the restrictions on Libya under the 1996 Iran and Libya Sanctions Act (ILSA) as well as additional restrictions on commercial activities and financial transactions. He also announced the United States would lift its objections to Libyan accession to the World Trade Organization, work toward a resumption of full diplomatic ties, and pursue bilateral educational exchanges. Responding to the latter initiative, senior Libyan educators in late June 2004 traveled to the United States to begin the process of re-establishing educational ties.

On September 10, 2004, President Bush officially determined Libya had violated the terms of the Arms Export Control Act (prior to its December 19, 2003 renunciation of weapons of mass destruction) by receiving nuclear enrichment equipment, material, and technology from the Khan Laboratories in Pakistan. However, he also certified the implementation of the sanctions required under the Arms Export Control Act would have a serious adverse effect on vital American interests. Therefore, he waived the sanctions. He also determined that the imposition of new restrictions on Export-Import Bank support to American exporters pursuing business in Libya was not in the national interest of the United States.

On September 20, 2004, President Bush, citing the actions of Libya to eliminate its weapons of mass destruction programs and related missile delivery systems, declared an end to the national emergency with Libya imposed in 1986, revoking

four Executive Orders that had progressively restricted American trade with Libya after 1985. Two days after his announcement, Paula A. DeSutter, Assistant Secretary for Verification and Compliance for international arms control, told members of the House Subcommittee on International Terrorism, Nonproliferation and Human Rights that she was pleased to announce "on behalf of the Administration that our verification work in Libya is essentially complete." That said, she added, the United States would "continue its dialogue with Libya on human rights, as well as economic and political modernization."

The principal outstanding issue is the retention of Libya on the State Department's list of state sponsors of terrorism, a position it has occupied since the inception of the list in 1979.

Throughout this period, it should be noted, Libya was beginning to benefit from the progressive lifting of economic sanctions. Foreign direct investment (FDI) in Libya totaled some $4 billion in 2004, up six-fold from the previous year; and with the successful award of two rounds of energy exploration and production licensing agreements in 2005, together with several bilateral agreements with major international oil companies, it was expected to grow at least as fast in the future.

Outstanding Issues

Returning to the official statements made by the Libyan government, President Bush, and Prime Minister Blair on December 19, 2003, the objectives articulated that evening involved three related actions. First, Libya pledged to rid itself of weapons of mass destruction and associated delivery systems and to do so in a transparent manner under the observation of international inspectors. In return, the United Kingdom and United States promised improved bilateral and multilateral relations as Libya moved to rejoin the international community. Finally, the United States asked Libya to engage fully in the war against terror. Over the last two years, much has been done to achieve these objectives; however, much more remains to be done.

The principal outstanding issue is the retention of Libya on the State Department's list of state sponsors of terrorism, a position it has occupied since the inception of the list in 1979. When President Bush ended the national emergency between Libya and the United States, effective September 21, 2004, most of the sanctions previously impeding travel and trade were lifted. The remaining restrictions largely relate to U.S. determination, under the terms of the Export Administration Act of 1979, that Libya is a state sponsor of international terrorism or is not cooperating fully with U.S. antiterrorism efforts.

While Libya has renounced terrorism and cooperated with the United States in the war on terror, a personal feud between Libyan leader Qaddafi and Saudi King Abdullah, including a reported Libyan plot in 2003 to assassinate then Crown Prince Abdullah, blemished the Libyan counter-terrorism record, resulting in Libya being retained on the state sponsors of terrorism list. In August 2005, King Abdullah pardoned the Libyans charged in the alleged plot, expressing the hope this action would "be a step towards uniting the Arab nation." Libya responded in September 2005, indicating it was restoring diplomatic relations with Saudi Arabia. Despite the reconciliation between the two states directly involved in the dispute, the United States maintained its position that Libya had yet to satisfy

fully American concerns relative to the purported assassination attempt, and Libya remained on the State Department's terrorism list.

According to a September 22, 2004, Congressional Research Report, other restrictions on Libya still in place include the following: 1) the U.S. requires a validated license to export certain goods or technology to Libya; 2) the United States generally prohibits the export of defense articles and services to Libya; 3) the United States generally denies Libya non-humanitarian foreign assistance, non-emergency agricultural aid, Peace Corps programs, or Export-Import Bank support; and 4) the U.S. Executive Director in each international financial institution is instructed to oppose loans or other funding to Libya. Most of these sanctions could be lifted if Libya were to be removed from the list of state sponsors of terrorism or if the President found it in the national interest to waive a particular restriction. For example, on February 28, 2006, President Bush waived the prohibition on Export-Import Bank programs for, or in Libya.

What is at Stake?

The fundamental policy redirection that Libya has pursued since 2003 is unique in that it was achieved without regime change. On the contrary, the United States made it clear, for much of the last decade, that it desired policy change in Libya, not regime change. A related lesson to be taken from the Libyan model is the power of engagement as opposed to containment. Success came only after the United States engaged Libya in a step-by-step process of quiet diplomacy in which both parties were clear as to what was expected of them. To make recent accomplishments in the U.S.-Libyan relationship irreversible, they must now be expanded, reinforced, and consolidated. If this is not done, and done soon, the United States runs the risk of losing momentum, encountering potential setbacks and possible reversals in Libyan policies at a time when it should be encouraging and strengthening relationships in the region and seeking credibility in fulfilling its promises.

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While the United States has a wide range of interests at stake in its relationship with Libya, the two most important are stopping the proliferation of weapons of mass destruction and supporting the war on terror. Appropriately, these two goals were center-stage in the prolonged negotiations leading to the December 19, 2003, Libyan announcement. In contrast, the normalization of commercial and diplomatic relations, while never a primary objective of the United States, albeit one of the U.S. business community, has been the central Libyan objective since the early 1990s. Unfortunately, the complex set of U.S. laws, policies, and regulations governing ties with Libya has too often delayed or blocked progress in improving bilateral relations. They continue to do so today.

Until such time as Libya is removed from the list of state sponsors of terrorism (and removal should remain the final goal), the United States should consider alternative means to nurture its bilateral relationship in a systematic, mutually beneficial way. To consolidate the hard-won gains of 2003, the United States should advance its commercial and diplomatic relationship with Libya as far and

as fast as possible, not allowing a lack of success in areas of lesser importance to block progress in advancing the broader objective. Even if Libya were to remain on the terrorism list, for example, most of the remaining restrictions on Libya could be waived by the president if he determined it was in the national interest. Therefore, the White House should consider carefully, with a sense of urgency, the cost-benefit of waiving each remaining restriction and, having determined a specific waiver to be in the interests of the United States, initiate Congressional notification as it did in February 2006 in the case of Export-Import Bank programs for, or in Libya.

In addition to weapons of mass destruction and the war on terror, other American policy interests in Libya include increased energy security through diversity of supply, the promotion of human rights together with related economic and political reforms, and encouraging Libya to play a constructive role in Africa. The United States should recognize these interests as important but secondary, compared with weapons of mass destruction and the war on terror, and address them in a forthright manner albeit one that does not compromise progress on the primary objectives.

Satellite image of Libya's Rabta facility. The installation is believed to have been one of the sites for Libya's efforts to develop and produce chemical weapons.

Image courtesy of globalsecurity.org and GeoEye.

To achieve this result, one promising path would be a parallel track of negotiations in which Libya and the United States adopt a form of road map that rewards Libya for taking specific policy actions advocated by the United States. For example, the United States has long urged Libya to free five Bulgarian nurses sentenced to death on charges of intentionally spreading HIV/AIDS in a Benghazi children's hospital. No opportunity to encourage and support socioeconomic and political change in Libya, such as the early March 2006 Libyan decisions to free 132 political prisoners and establish a human rights office within the General People's Committee, should be missed. However, support for this second tier of objectives should build on the diplomatic process in place, not undermine it.

In addition to bilateral initiatives, insufficient U.S. incentives in response to positive developments in Libya threaten regional U.S. initiatives as well, undercutting American credibility outside Libya and undermining the broader appeal of the Libyan model. Iran, North Korea, and Syria, as well as other states inside and outside the Arab world, are watching the evolution of U.S.-Libyan relations with great interest. Mounting disillusionment in Libya with the U.S. response to its fundamental policy redirection is dampening any enthusiasm in other recalcitrant states, looking to Libya's example, to adopt related policy reforms, most especially non-proliferation and the renunciation of weapons of mass destruction.

Next Steps

First and foremost, Libya should be removed from the list of state sponsors of terrorism and the substantial sanctions that remain due to Libya's retention on the list should be lifted. One unexpected and unintended consequence of Libya's retention on the terrorism list is that the United States cannot

export the technology required by Libya to destroy its substantial inventory of chemical weapons, a primary U.S. objective. Moreover, as long as Libya remains on the list, the United States is required to vote against International Monetary Fund (IMF) and World Bank loans to Libya – even loans in support of initiatives to reform and open the Libyan economy, such as the National Economic Strategy now in its second phase under the leadership of international competitiveness expert Dr. Michael Porter. Many of these self-imposed, counter-productive limitations to improved relations with Libya could be immediately overcome through presidential waivers; the exceptions are IMF/World Bank loans where the applicable legislation does not include presidential waiver authority. In these areas, new policies and legislation are required to support fresh U.S. initiatives designed to further American interests and to ensure that Libyan efforts to rejoin the international community as a full and equal partner are irreversible.

Libya should be removed from the list of state sponsors of terrorism and the substantial sanctions that remain should be lifted.

Second, the United States should establish full diplomatic relations with Libya, including a U.S. ambassador resident in Tripoli. Despite a flurry of pronouncements in August 2005, including a statement by Saif al-Islam al-Qaddafi that the United States would be opening an embassy in Tripoli within days, months have passed with no action. Though progress is being made toward this objective, it should be accelerated to the maximum extent possible. It has become increasingly difficult for American citizens to obtain visas for travel to Libya, and the anticipated (and desired) surge in Libyan students coming to the United States remains a trickle. While a new generation of Libyans is anxious to attend schools in the United States, they continue to face major obstacles in the form of U.S. regulations requiring potential students to go abroad merely to make visa applications.

Secondary American policy interests related to Libya include energy security, human rights, and its role in Africa. Additional economic issues are also at stake as Libya remains a significant market for U.S. products ranging from consumer goods to transportation and construction equipment sales to a wide variety of services. While U.S. concern for Libyan policy in these secondary areas is long-standing, it is important to remember that change in these policy areas was not an integral part of the nine months of negotiations thar led to the December 19, 2003 announcement. The addition of new issues and objectives to the hard-won agreements on weapons of mass destruction and the war on terror, in effect, moves the goal posts, damaging the credibility of the United States and putting the entire negotiating process at risk. Instead, in these secondary policy areas, the United States should engage Libya in parallel negotiations that do not jeopardize U.S. efforts to see that Libya fulfills all its obligations regarding weapons of mass destruction and the war on terror. In a word, as the United States works to ensure Libya fulfills its obligations, the United States must remain scrupulous in fulfilling its own.

Finally, the United States needs to add emphasis and focus to its current Libyan relationship. The related issues of sequence and implementation of "next steps" are increasingly exacerbated by what the Libyans perceive to be a lack of urgency and promised follow-through on the part of the United States in dealing with their problems. From the Libyan perspective, the Qaddafi regime has been surfacing initiatives since 1992 aimed at the normalization of commercial and diplomatic relations with the United States; and Libyan

expectations increased greatly after April 1999 when the Libyan government remanded the two Libyan suspects in the bombing of Pan Am Flight 103. In contrast, demonstrable progress in U.S.-Libyan relations, from the American perspective, begins no earlier than August 2003 when Libya accepted responsibility for the actions of its officials in the Lockerbie bombing and agreed to pay $2.7 billion in compensation to the families of the victims. For some Americans, the clock only really started ticking with the December 19, 2003, decision to renounce weapons of mass destruction.

Given these varying perspectives, it is understandable that the U.S. perception that remarkable progress has been made since 2003 is not shared by the Libyan side which argues progress since 1992 has been painfully slow. The current, stalled relationship, if allowed to continue, also plays into the hands of the "old guard" in Libya, hardliners who benefit from the current system and thus are opposed to change, most especially domestic political change. The residual strength of conservative forces in Libya was demonstrated on March 5, 2006, when the General People's Congress demoted the reform-minded Prime Minister, Dr. Shokri Ghanem, and realigned the cabinet out of fear that the broad program of socio-economic reforms Ghanem and others had been advocating would undermine political stability. Moving the goal posts by adding new or expanded policy requirements, not a part of the 2003 negotiations, has the same effect of encouraging hardliners opposed to change. Responding to the December 2003 Libyan announcement, President Bush promised "good faith" and "improved relations," and it is now time to deliver on these promises. The extent to which Libya continues to pursue significant, desired policy and behavior change will depend in large part on how it perceives the United States to be delivering on its promises.

About the Author

Ronald Bruce St John is a widely recognized expert on U.S.-Libyan relations and has been published in a number of journals on foreign policy and the Middle East. He was previously a member of an Atlantic Council Working Group on U.S.-Libyan relations, and has served as a consultant for a variety of Fortune 500 companies and the US government. He holds a Ph.D. in International Relations from the University of Denver and is the author of Libya and the United States: Two Centuries of Strife. Dr St John is currently writing a modern history of Libya and a biography of Muammar al-Qaddafi.

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