

## Cooperation in the Libya WMD Disarmament Case

*William Tobey*

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*We don't want the smoking gun to be a mushroom cloud.<sup>1</sup>*

***“[I]ntelligence was the key that opened the door to Libya’s clandestine programs,” argued George Tenet in February 2004, and he was right.***

### ***Introduction<sup>a</sup>***

Muammar al-Qadhafi’s induced renunciation of Libya’s nuclear, chemical, and longer-range ballistic weapons programs was a signal accomplishment for US and British nonproliferation policy. Thus, the case holds particular interest for those studying how the intelligence and policy communities work together to prevent nuclear proliferation. Yet, Libya’s decision evolved fitfully and during a dark period for efforts to curb the spread of atomic weapons. In early 2003, Washington was still traumatized by the September 11th terrorist attacks, and anguished that al Qaeda was plotting even more gruesome assaults. The Iraq War was unleashed, in part, out of dread that nuclear weapons could be fused with terrorism. As then National Security Advisor Condoleezza Rice explained, “given what we have experienced on September 11, I don’t think anyone wants to wait for the 100-percent

surety that he has a weapon of mass destruction that can reach the United States, because the only time we may be 100-percent sure is when something lands on our territory. We can’t afford to wait.”<sup>2</sup> Worse still, from the US perspective, a nuclear proliferation tsunami appeared to be cresting, not only from Iraq, but also in Iran, North Korea, Libya, and elsewhere. These broad perceptions and fears by nonproliferation policymakers and intelligence officers informed their approach to the Libya case.

“[I]ntelligence was the key that opened the door to Libya’s clandestine programs,” argued George Tenet in February 2004, and he was right.<sup>3</sup> Without detailed, timely, and accurate intelligence, the effort to investigate and follow up with the diplomacy to end Libya’s illicit weapons programs would have been far more fraught. Intelligence information supported actions and arguments that ultimately persuaded the Libyans that they were unlikely to succeed against seemingly omniscient and omnipresent adversaries.

Moreover, intelligence officers conducted the first phase of the operation, an investigation into whether or not Libya was sincere in its expressed desire to clear the air on weapons of mass destruction. Meanwhile, the policy community created an

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a. This analysis was completed at the suggestion of and with the support of Henry Sokolski and the Nonproliferation Education Center, for which the author is grateful. It draws on interviews with nine former senior US, British, and International Atomic Energy Agency officials with direct experience of the matter, five of whom had extended negotiations with the Libyans. Unfortunately, some asked to remain unnamed. I am grateful for their assistance as well.

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environment for intelligence officers to succeed through: clear and brief instructions; short lines of communication; patience and persistence; and international support based on treaties, norms, and cooperative arrangements. After a positive response from Qadhafi was announced, the intelligence and policy communities worked together to effect and verify the elimination of his illicit weapons programs.



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***The Case***

*“Cleaning the File”*<sup>4</sup>

As the Iraq War began on 20 March 2003, a senior British intelligence official flew to Dulles International Airport outside of Washington, DC, and the next day met with Director of Central Intelligence George Tenet.<sup>5</sup> The MI6 officer brought a message from Tripoli. Using a channel established between intelligence agencies to address Lockerbie bombing issues, Saif al-Islam (Sword of Islam) Qadhafi, the “brother leader’s” second son, and Musa Kusa, Libya’s head of external intelligence, approached the British, expressing a desire to “clear the air” regarding US and British concerns about Tripoli’s unconventional weapons programs. The Libyans asked the British to involve the Americans.<sup>6</sup>

Five days later, President George W. Bush and Prime Minister Tony Blair huddled at Camp David to discuss Iraq’s future.<sup>7</sup> During the

meeting, Blair pulled Bush aside, together with their intelligence chiefs Sir Richard Dearlove and Tenet,<sup>8</sup> and their national security advisors, Sir David Manning and Condoleezza Rice. They agreed to test Libya’s seriousness and to do so through intelligence channels. Both Bush and Blair were already frustrated by the outcome in Iraq, in which seemingly endless cat and mouse games between Saddam Hussein and United Nations inspectors had led to a second US war with Iraq.<sup>9</sup> Perhaps an opening to Libya could offer a different path.

Tenet recounted, “I returned from Camp David and called into my office Jim Pavitt and Steve Kappes, the top two officers in our clandestine service.”<sup>10</sup> With Tenet and Pavitt preoccupied by the war in Iraq, Kappes was given the lead. He was clear on the initial mission—an investigation of whether or not Libya was serious about giving up its illicit weapons programs,<sup>11</sup> to be “handled at a high level, with utmost discretion.”<sup>12</sup>

Both the CIA and its British counterpart, MI6, had met secretly with Libyan officials in Europe for years, primarily to discuss counterterrorism issues.<sup>13</sup> The Americans and the British set a meeting for mid-April with Musa Kusa and a Libyan diplomat. In a session that lasted more than two hours, Kusa started coy and demanding, but eventually made clear that Libya, “had violated just about every international arms control treaty that it had ever signed.”<sup>14</sup> Kusa suggested that Libya would eliminate its clandestine programs but wanted a “sign

of good faith” from the United States and Britain, saying nothing about verification. In response, Kappes explained President Ronald Reagan’s “trust but verify” concept, saying the United States would offer nothing until that condition was satisfied. The discussion concluded without a meeting of the minds.<sup>15</sup>

After Kappes returned, Tenet asked him to attend the president’s daily intelligence briefing in the Oval Office.<sup>16</sup> Despite the lack of real progress, Bush instructed Kappes to stay engaged and to keep trying, saying that Libya could “return to the family of nations” only with a complete and verifiable disarmament commitment.<sup>17</sup>

Tenet and Dearlove met in London in mid-May and agreed to try to push ahead. Kappes and his British colleague arranged another meeting in Europe for late-May, this time with Musa Kusa and Saif Qadhafi.<sup>18</sup> Again, the Libyans were demanding, with Saif taking the lead. Again, Kappes held firm, insisting that Libya would not be “welcomed back into the family of nations” (Bush’s formulation) until there was a verifiable elimination of Libya’s illicit programs.<sup>19</sup> The United States would insist on seeing for itself. After he was briefed on the disappointing meeting, Bush again opted for persistence.<sup>20</sup>

In August, the same parties met again in Europe. Although there was no progress on verification, Musa Kusa extended an invitation to meet the elder Qadhafi in Libya in early September, where presumably Kappes and his counterpart could press their case for verification directly with the leader.<sup>21</sup> Bush instructed them to say the United States would

make no concessions until an irreversible elimination of Libya's clandestine programs could be verified.<sup>22</sup>

Qadhafi began with a tirade against the United States and Britain—underscored by his choice of location for the meeting, an office where a US F-111 had dropped four 2,000 lb. bombs on his doorstep in 1986 as part of a larger raid in retaliation for a Libyan terrorist attack in West Berlin that had killed three people and wounded 239 others, mostly American servicemen.<sup>23, 24</sup> Kappes had been warned during the drive to the meeting that the first 15 minutes would be rough. Eventually, at the fourteen and a half minute mark, Qadhafi calmed, saying he wanted to “clean the file.” Kappes understood that he had witnessed a premeditated performance.<sup>25</sup> Qadhafi became agitated again, however, at the suggestion of inspections to verify the elimination of illicit weapons programs, although he allowed that “visits” by technical experts might be acceptable. Qadhafi told Kappes to “Work things out with Musa Kusa,” but there was still no specific agreement on how to proceed.<sup>26</sup>

Kappes and Tenet briefed Bush, with the former offering reasons why he thought the Libyans were seeking to end their isolation—a common enemy in Islamic extremism, a desire for educational opportunities in the West (which both Saif and Musa Kusa had benefited from), and the need for investment in Libya's decrepit oil production facilities.<sup>27</sup> Kappes also later recalled being shown a modern clinic sitting idle because Libya did not have sufficient trained personnel to staff it.<sup>28</sup> Further, he believed that the Libyans were deeply impressed by early US action

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in Afghanistan, rapidly unseating the Taliban with only a small force, despite logistical challenges posed by terrain and distance. Nonetheless, Qadhafi's middle name might as well have been Mercurial, and it was hard to say what he might do. Bush, Tenet, and Kappes had a nibble on their line, but they were far from landing a big fish.

*Enter a Merchant of Death*

During all seven years of Tenet's tenure at the CIA, he and his colleagues had watched and worked to defeat a proliferation network symbolized by a flamboyant figure in Pakistan's nuclear weapons establishment, Dr. Abdul Qadeer Khan, most often referred to as A. Q. Khan. As Tenet recalled, “Our efforts against this organization were among the closest-held secrets within the Agency.<sup>a</sup> Often I would brief only the president on the progress we were making.”<sup>29</sup> So both the information on Khan and nascent opening to Libya were restricted to just a few in-

dividuals within the US government. Khan was implicated in efforts to sell nuclear weapons-related technology to Iran, North Korea, Libya, and perhaps others.<sup>30</sup> In the beginning, however, the information on Khan was fragmentary—intriguing hints or circumstantial evidence—but not enough to act upon without learning more.

Mindful of criticism that the CIA waited too long to stop Khan, Tenet's memoir described the dilemma the agency faced between shutting down the network (but losing access to information), and gaining additional insight (even at the risk of proliferation):

*Although CIA struggled to penetrate proliferation operations and learn about the depth of their dealings, there is a tension when investigating these kinds of networks. The natural instinct when you find some shred of intelligence about nuclear proliferation is to act immediately. But you must control that urge and be patient, to follow the links where they take you, so that when action is launched, you can hope to remove the network both root and branch, and not just pull off the top, allowing it to regenerate and grow again.<sup>31</sup>*

The CIA attempted to resolve the dilemma by tightening the noose on Khan, watching him so closely that he could pose little danger. In a 2004 Georgetown University speech, Tenet described the surveillance:

*Working with our British colleagues we pieced together the*

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a. It was only in September 2003 that Tenet informed Secretary of State Colin Powell and his subordinates Richard Armitage and William Burns of the possible opening with Libya. At the National Security Council, only Condoleezza Rice, her deputy Stephen Hadley, and the head of counterproliferation Robert Joseph, knew of the efforts. At CIA, besides Tenet, Pavitt, and Kappes, they had begun to assemble teams of WMD experts who might go to Libya after Kappes' first trip, but they were kept very small; only in the autumn were they expanded to include CIA regional experts. (Tenet, *At the Center of the Storm*, 293 and 290, and Kappes interview.) No one outside of the White House and the CIA knew of Joseph's and Kappes' December 2003 trip to London for what proved to be the final face-to-face negotiations.

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*picture [emphases in the original] of the network, revealing its subsidiaries, scientists, front companies, agents, finances, and manufacturing plants on three continents. Our spies penetrated the network through a series of daring operations over several years.*<sup>32</sup>

In the autumn of 2003, these operations revealed that Khan had sent a shipment of uranium enrichment centrifuge parts aboard a German-flagged merchant ship named the *BBC China* steaming toward Libya. The two strands of secret intelligence activity were twisting together, and it was time to act.

Interdicting the *BBC China* would surely tip off Khan that his activities were compromised. So Bush and Tenet acted together, attempting to sow the seeds for Khan’s professional demise before he could flee. Attacking Khan was tricky because, in Pakistan, he was seen as something of a cross between Robert Oppenheimer and Bill Gates, styling himself as the father of Pakistan’s nuclear bomb and a major philanthropist (even if the monies were ill-gotten). Thus, to Pakistanis, Khan was a “demigod ... with a public reputation second only to that of the nation’s founder, Mohammed Ali Jinnah.”<sup>33</sup> Even Pakistan’s President Pervez Musharraf was chary of crossing such a man, although he claimed to have had suspicions dating at least to 2001.<sup>34</sup>

In Pakistan, the most compelling case against Khan would be treason, not proliferation—that he had sold

his country’s most precious national security secrets for personal gain. To set the stage, on 24 September 2003, Bush met with Musharraf in the Waldorf Astoria Hotel in New York, where they both attended the opening of the United Nations General Assembly. At the close of the meeting, Bush asked Musharraf to meet with Tenet the next morning, saying of the topic, “It is extremely serious and very important from your point of view.” Musharraf agreed.<sup>35</sup>

The next morning in Musharraf’s hotel suite, Tenet was blunt, telling him, “A. Q. Khan is betraying your country. He has stolen some of your nation’s most sensitive secrets and sold them to the highest bidders. We know this because we stole them from him.” To prove his point, Tenet produced blueprints, diagrams, and drawings that should have been “in a vault in Islamabad, not in a hotel room in New York.” Tenet also detailed the countries they had been sold to.<sup>36</sup> Musharraf’s memoir describes it as one of his most embarrassing moments as president.<sup>37</sup> Tenet proposed actions that the United States and Pakistan could take to investigate and root out Khan’s illicit activity, but Musharraf replied tersely, “Thank you George, I will take care of this.”<sup>38</sup>

Eight days later, 3 October 2003, with the consent of Germany, where the ship’s owners resided, and of Italy, where its cargo was inspected, the *BBC China* was brought to Taranto, a port on the heel of the Italian boot.<sup>39</sup> There, authorities discovered and removed five 40-foot shipping

containers with thousands of uranium enrichment centrifuge parts that were manifested merely as “used machine parts.”<sup>40</sup> According to Kappes, Bush’s Proliferation Security Initiative, which mustered a coalition willing to interdict illicit trade, was “the reason they were able to put that ship into harbor.”<sup>41</sup> Qadhafi’s effort to “clean the file” without full disclosure was floundering.

Following the interdiction, US Deputy Secretary of State Richard Armitage traveled to Islamabad armed with even stronger evidence, and met with Musharraf on 6 October 2003. He urged Musharraf to take action against Khan using “mind boggling” evidence of proliferation misdeeds.<sup>42</sup>

*Pressing the Advantage: Contact and Momentum*

In Tripoli, four days later, on 7 October 2003, a British intelligence officer informed the Libyans of the *BBC China* interdiction and presented them with irrefutable evidence of what appeared to be an ongoing clandestine centrifuge enrichment program. The Libyan explanation was that people who knew nothing of the ongoing discussions with the United States and Britain had arranged the shipment before the talks had started. Finally, though, Tripoli agreed to a US-UK technical team visit during 19–29 October 2003—a major breakthrough.<sup>43, 44</sup>

The team’s progress in Libya was fitful. In the initial meetings, the Libyans were tight-lipped. They clearly had not been briefed on the broader plan; they did not know who the Americans and British were, and appeared not to know on whose authority the outsiders were there.

Some Libyans seemed suspicious that the interaction was a cruel test of loyalty by Qadhafi.<sup>45</sup> Two days later, Qadhafi asked Kappes to see him, questioning whether or not he could trust Bush. Assured that he could, if he disarmed, Qadhafi ended by again saying, “Clean the file.”<sup>46</sup>

It remained clear to the Anglo-American experts, however, that the Libyans were still not making the complete and accurate disclosures that would be necessary to confirm a *strategic decision* to renounce weapons of mass destruction. The US-UK team tried several stratagems to elicit more information. They threatened to leave, using packed bags to gain grudging concessions. When shown one version of SCUD missiles they said, “Fine, now where are your SCUD Cs?”<sup>47</sup> They ended their mission, however, knowing that the Libyans were not providing complete and correct information, particularly in the nuclear realm.<sup>48</sup> That, naturally, led to doubt as to whether or not Qadhafi had made a strategic decision to renounce his illicit weapons programs.

In response, in late November 2003, Kappes and his British counterpart again confronted the Libyans with yet more evidence of the clandestine nuclear effort.<sup>49</sup> According to Tenet, “About this time, the Libyans realized that there was no turning back. Having started to tell us about their programs, they had to complete the effort, given what we already knew.”<sup>50</sup>

That set the stage for a second Anglo-American technical team visit during 1–12 December 2003.<sup>51</sup> This time, the results were substantial. The Libyans acknowledged: a

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nuclear weapons program, including purchase of uranium hexafluoride for enrichment; 25 tons of mustard agent, smaller amounts of nerve agent, and weapons to deliver them; and, most disturbing, “nuclear weapons design materials acquired from A. Q. Khan.”<sup>52</sup> The US and British experts had cracked Libya’s dam of denial.

*Enter the Policymakers*

Four days after the weapons experts left Libya, on 16 December 2003, Ambassador Robert Joseph and Sir William Ehrman from the US National Security Council Staff and the British Foreign Office respectively, joined by Kappes and his British counterpart, and David Landsman, also of the Foreign Office, met in London with Musa Kusa, Abdul al-Obeidi, Libya’s ambassador to Rome, Mohammed Azwai, Libya’s ambassador to London, and three other Libyans.<sup>53, 54</sup> Now the talks were political, not technical. The Americans and the British sought a clear public statement by Qadhafi that Libya possessed weapons of mass destruction programs and that they would be verifiably dismantled. Washington believed such a statement would signify a strategic decision by the Libyan leader to forgo such weapons and would stand in stark contrast to the evasions of Saddam Hussein, who three days earlier had been pulled from a spider hole near Tikrit in Iraq. Joseph sensed that Saddam’s ignominious capture weighed heavily on the Libyans.<sup>55</sup>

In talks that dragged on for much of the day, the Libyans tried to start

the discussion with lifting sanctions, rather than direct acknowledgment of their programs. The three paragraph Libyan draft statement “failed even to mention the existence of banned weapons or programs in Libya, nor did it say that Qadhafi was prepared to abandon them.”<sup>56</sup> Joseph shut them down, saying, “That’s not what we’re here to talk about.”<sup>57</sup> Eventually, at Joseph’s and Ehrman’s insistence, after six hours, the Libyans agreed to specific statements about each weapons category, and that all WMD-related materials would be removed.<sup>58</sup>

The Americans and Libyans flew to their capitals on 17 December 2007, and Washington and London awaited word from Tripoli. Could Obeidi and Kusa deliver a statement from Qadhafi? It was a big “ask” of an authoritarian, egotistical, and mercurial leader. Around noon on 18 December 2003, Blair called Qadhafi. They spoke for about half an hour, with Blair telling Qadhafi that a clear statement on possession and elimination was necessary, but also promising that the White House and Downing Street would answer positively.<sup>59</sup> Blair then called Bush to report on his conversation, and they agreed to continue with the approach Blair had taken.<sup>61</sup> Later that day, the Libyans provided two alternative draft statements, saying that if either were acceptable, the announcement would be made the next day, 19 December 2003. Neither, however, met the standards Blair and Bush had set.<sup>62</sup>

Using the UK embassy in Tripoli to respond on December 19, 2003, London and Washington suggested edits that would fix the problems. A

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Libyan response received mid-afternoon in Washington, came close, and an acceptable text was quickly agreed to after a brief further exchange. Libya's foreign minister made the statement, with a written endorsement by Qadhafi issued shortly thereafter.<sup>63</sup>

The announcement, however, did not end the story. A joint US-UK team of experts worked diligently through January 2004 to catalogue and verify the Libyan illicit weapons programs, and to remove the most crucial materials and equipment with a US Air Force C-17 aircraft, including: 2 tons of uranium hexafluoride; SCUD C missile guidance sets; and crucial elements of enrichment centrifuges. The joint team returned in March 2004, after the Haj, to remove the remaining, and bulkier weapons, materials, and equipment by ship, including: flow forming machines and 38 tons of maraging steel; a modular uranium conversion facility; the remaining components for thousands of centrifuges; and, SCUD C missiles and their transporter/erector/launchers. They also supervised the destruction of more than 3,000 unfilled chemical munitions, and consolidated to a remote and relatively secure location more than 25 tons of bulk chemical agents.<sup>64</sup>

While there were occasional bumps in the road, and significant logistical challenges, the intelligence and political work leading to the agreement, first limiting Tripoli's options, and then insisting on a clear statement regarding possession and dismantlement, made success pos-

sible. Ambassador Donald Mahley, who headed the verification and removal operations in Libya, contrasted his experience with that of United Nations inspectors in Iraq:

*Much has been written about the need for the United Nations Special Commission (UN-SCOM) personnel to be good interrogators with bulldog tenacity to extract from an unwilling Iraqi host the information and even the access sought. But the Libyan decision had been communicated downward through the Libyan government. When we asked to go to a location, we were taken there. When we asked to see equipment, or inside buildings, or a site where we thought there might be some activity that had not been declared, we got what we asked for, in the overwhelming majority of cases quickly and with outstanding effort on the part of our Libyan hosts.<sup>65</sup>*

Thus, in 2004, Bush and Blair's hope for a different model for WMD disarmament seemed possible.



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***How the Intelligence and Policy Communities Worked Together***

*Why the Intelligence Community?*

The first question provoked by a study of how the intelligence and policy communities worked together

on the Libya WMD case is: why was the CIA's role so large? From March to December 2003, the CIA conducted the negotiations with the Libyans, with only broad guidance issued by the president. Moreover, policy makers and diplomats were excluded from the discussions, and, except for a very few individuals, denied even knowledge of the talks' existence. The reasons are five fold.

First, the issue was initially framed as an investigation into whether or not Libya was genuine in its stated desire to "clean the file" on its illicit weapons programs. While Kappes clearly saw an investigation as his mission,<sup>66</sup> Rice did too. She recalled that, "At first we didn't put much faith in the overture but we ultimately decided to send a joint CIA/MI5 [sic] team to assess the situation."<sup>67</sup> While the investigation inevitably led to negotiations, its outcome was not clear until after the December 2003 visit by experts, and investigations of this nature are conducted by intelligence—not foreign service—officers.

Second, utmost secrecy was vital to both sides. Leaks would very likely embarrass Qadhafi, and embarrassment can be fatal to despots as it undermines their appearance of omnipotence. At the very least, disclosures would likely have caused him to withdraw from the discussions. On the US side, revelations regarding negotiations with Qadhafi would have made them politically impossible to sustain. Joseph believes the negotiations succeeded because the State and Defense Departments were unaware of his mission to London.<sup>68</sup>

Third, if the negotiations went badly or were somehow discovered,

the intelligence channel offered deniability. Clandestine service officers are not required to account publicly for their actions and whereabouts. Foreign Service officers often must do so.

Fourth, the intelligence channel was already established, and known to both sides. It had worked in secrecy for years as a conduit for authoritative communication. Importantly, it filled a gap caused by the lack of US-Libyan diplomatic relations.

Fifth, and perhaps most important, the intelligence channel permitted a different kind of dialogue than would have been possible between diplomats representing adversarial nations. Intelligence officers are paid to listen, most especially to adversaries. Diplomats, without demeaning their empathic skills, are paid to advance US policies, and might have felt required to answer the arguments Kappes faced. Surely American diplomats often sit patiently through hostile statements, but they also usually respond. Intelligence operatives neither make nor defend policy. They listen.<sup>69</sup>

#### *The Rules of the Road*

The Libya disarmament case was remarkable in that there were never any formal, detailed orders issued to any of the participants—no national security decision directive, no Presidential Finding, no State Department cable with negotiating instructions. Yet, conduct of the negotiations was implicitly framed by three principles set by the president.

First, Bush outlined brief, firm, and clear negotiating objectives. From the outset, any deal would require that Libya completely and

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correctly declare the extent of its illicit weapons programs and allow for their irreversible dismantlement. If Qadhafi did so, Libya would be able to rejoin “the community of nations.” No further concessions would be promised. These principles held through all of Kappes’ meetings, at the London negotiations led by Joseph and Ehrman, in Blair’s phone call with Qadhafi, and in the subsequent resolution of the Libyan statement. Bush issued his instructions in terms of a strategic outcome, not tactical methods for getting there.

Second, there was high-level engagement, but not micromanagement. Kappes and Joseph had access to the president—and importantly therefore could speak authoritatively with the Libyans as to his requirements—but they were also accorded wide discretion on how to conduct the negotiations. Indeed, given the difficulties posed by a lack of secure communications and time differences, Kappes could not have consulted in a timely or detailed fashion with Washington during his trips to Libya. Joseph’s instructions prior to the London meeting merely amounted to, “Don’t screw it up.”<sup>70</sup>

Third, Bush opted for persistent and patient engagement. He repeatedly told Kappes to keep at it, even when the results were frustrating. Very likely, this was due to the fact that he was pursuing an objective even more important than eliminating Libya’s clandestine weapons programs—a new model for disarmament based on a clear strategic

decision, not cat-and-mouse-games with inspectors, and one that would avoid war.

Moreover, Blair joined Bush as an equal partner who also held to the same principles and objectives, making possible seamless cooperation between the US and UK officials executing the strategy. Furthermore, both the US and UK governments brought different intelligence and diplomatic strengths to the project, compensating the other’s weaknesses in a true partnership.

#### *The Legal, Normative, and Institutional Environment*

John F. Kennedy observed that victory has a hundred fathers.<sup>71</sup> After the success in Tripoli, metaphorical paternity suits flew. On 1 July 2005, the Arms Control Association challenged the putative lineage leading from a Bush Administration policy innovation, the Proliferation Security Initiative (PSI). “Key US Interdiction Claim Misrepresented” accused its headline.<sup>72</sup> The story charges several State Department officials with making misleading arguments that PSI was responsible for the interdiction of the *BBC China*. For example, then-Secretary of State Condoleezza Rice said in 2004, “PSI has already proven its worth by stopping a shipment of centrifuge parts bound for Libya last fall.”<sup>73</sup>

George Tenet saw it differently, recalling that after the *BBC China* was interdicted, “We learned that then-undersecretary of state for arms control, John Bolton, planned to hold

a press conference to cite the incident as a great success for the president's 'Proliferation Security Initiative,' a two year-old program to foster international cooperation on limiting international arms shipments. In truth, catching the *BBC China* had almost nothing to do with that program."<sup>74</sup>

Was the Libya case simply a matter of great intelligence combined with overwhelming power? Or did legal, normative, and institutional factors also have a role to play—albeit a supporting one? Several factors point toward the second answer.

First, the Libyans themselves referred to international agreements and norms against the possession of nuclear, chemical, and biological weapons—the Nonproliferation Treaty and the Chemical and Biological Weapons Conventions. The initial Libyan desire to “clear the air” in March 2003 or Qadhafi’s insistence on “cleaning the file” both implied a legal brief was relevant (which is not to say the Qadhafi felt compelled to abide by international law; as he clearly did not). Libyan Prime Minister Shokri Ghanem also referred to international law in explaining Tripoli’s policy, “I think they should trust us, because they know that we are genuine. We know they have to trust us because we voluntarily came and said, ‘Now we want to abide by the regulations.’”<sup>75</sup> (Ghanem’s inadvertent irony is substantial.)

Moreover, the two versions of statements that the United States and the United Kingdom rejected on 18 December 2003, both framed Libya’s decision as compliance with the nonproliferation treaties, rather than dismantlement of specific weapons programs. Again, this is not an

argument that Libya felt compelled to abide by its treaty obligations; it did not. Rather, there was an understanding in Tripoli that the international norms and treaties could be used as a weapon to justify punishments such as withholding things Libya needed or desired—western education, foreign direct investment, and access to technology, etc.

Second, the spat over PSI’s role is beside the point. PSI was always framed as voluntary cooperation using existing capabilities (e.g. intelligence) and “national legal authorities and relevant international law and frameworks, including the UN Security Council.”<sup>76</sup> PSI afforded the opportunity for nations to commit to use their authorities and resources to interdict proliferation activity and to establish the cooperative links that would make timely and effective action more likely. Prior to PSI, US intelligence and policy officials had too often tracked illicit shipments, but had been unable to stop them, as the goods moved faster than the diplomacy. Under PSI, timely, accurate, and specific intelligence would still be indispensable for successful interdictions, but it would be given a greater chance to succeed. Authorities to interdict would be pre-delegated; correct points of contact for passing information would be established; interdiction skills would be exercised. PSI made intelligence more actionable. Would the *BBC China* have been interdicted without PSI? Almost certainly. Was it easier to do so, because both Germany and Italy were original PSI participants, and thereby committed to the statement of principles? Almost certainly. Were the Libyans watching as PSI participants worked in concert to improve international capabilities to interdict

illicit shipments, and did that affect Libyan judgments about how their future procurement opportunities would be circumscribed? Almost certainly. Thus, the intelligence and policy communities made each other more effective.

Moreover, the nonproliferation treaties and arrangements, and the norms that they fostered, were one of two conditions indispensable for the creation of PSI. The first was Bush’s determination to pursue proactive measures, as spelled out in his “National Strategy to Combat Weapons of Mass Destruction.”<sup>77</sup> The second was a willingness by partner countries to take action consistent with longstanding nonproliferation commitments. According to the Statement of Interdiction Principles, “The PSI builds on efforts by the international community to prevent proliferation of such items, including existing treaties and regimes.”<sup>78</sup>

These were later reinforced by United Nations Security Council Resolution (UNSCR) 1540—which requires states to secure WMD—related materials within their borders, criminalize WMD proliferation by non-state actors, and enact and enforce effective export controls. The Global Initiative to Combat Nuclear Terrorism provides practical means to implement the legal requirements of UNSCR 1540, through capacity-building cooperative action. Without these international treaties and arrangements, there would be neither the authority nor the responsibility to act against proliferation. The Bush Administration policy innovation was to induce a motivation to act.

Moreover, the nonproliferation regime—including export controls—



although imperfect, raised costs and risks for Libya, forced it to rely on suboptimal suppliers, and outright denied it access to critical technologies. Kappes himself, who deployed intelligence so skillfully against the Libyans, enthusiastically points to the importance of the legal, normative, and institutional environment as aiding his efforts to convince the Libyans that they must renounce their weapons of mass destruction.<sup>79</sup>



### ***What Went Right and What Went Wrong***

#### *What Went Right?*

To succeed in an undertaking as complex and as sensitive as the voluntary and verified dismantlement of Libya's WMD programs, much had to go right. Procedurally, the successes included:

- short lines of communication and access to the very top of all three governments involved;
- clear, brief, and outcome-oriented instructions in the United States and Britain;
- strict secrecy, restricting those who knew about the undertaking to a very small group of people, giving time and space for the negotiations to play out; and well-defined lanes of operation between the policy and intelligence communities, without gaps or duplication.

The substantive keys to success included:

- a decision at the outset to demand an unambiguous strategic decision

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by Libya to renounce its WMD programs, which paid dividends on multiple subsequent occasions;

- devastatingly accurate, timely, and specific intelligence, which likely convinced Tripoli that it could not have reached its objective even if it had tried;
- the willingness to use intelligence to interdict the *BBC China* and to prove to the Libyans that their programs were exposed;
- multiple instances of individuals exercising good judgment when given wide and independent authorities, in particular Kappes' interactions with Qadhafi, Joseph's negotiations in London, Blair's call to Qadhafi, and Mahler's dismantlement and removal decisions; and
- Persistence by Bush and Blair, even in the face of disappointing or ambiguous results.

#### *What Went Wrong?*

Relative to the broad and important successes, the failures and deficiencies involved in the Libya case were minor. It is, however, worth examining them as the basis for improvement in future similar cases.

The first issue is the one Tenet alluded to: when to wait, watch, and learn—risking proliferation—and when to act—risking that sources of information will dry up and that although branches are lopped off, viable roots will remain. Tenet acknowledged that, “We confirmed that Khan was delivering to his customers

such things as illicit uranium centrifuges.”<sup>80</sup> Thus, Iran clearly benefited from trade with the Khan network. Although it might be argued that other cases involving Khan should have been handled differently, in the Libya case, intelligence was repeatedly deployed in a timely fashion with devastating effect. Moreover, the coordination between Bush the policymaker and Tenet the intelligence officer made an effective approach to Musharraf possible. Because so few Americans knew of the Libya and Khan secrets, the president and director of central intelligence had to perform as action officers, which they did effectively—eventually resulting in multiple arrests on three continents.

Another point at issue is the quality of intelligence prior to Libya's disclosures. Prior to December 2003, no detailed unclassified official US assessments of the Libyan WMD threat were publicly available. Rather there were broad statements of concern. For example, in 2003 Bolton noted in testimony before a House Committee that, “We have long been concerned about Libya's longstanding efforts to pursue nuclear, chemical and biological weapons, and ballistic missiles.”<sup>81</sup> The ballistic missile and chemical weapons assessments appear to have been correct, and the nuclear appraisal, driven by knowledge gained in operations against the Khan network, was likely spot on, but no biological weapons program was uncovered in Libya.

There were also two problems related to chemical weapons disman-

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tlement work. First, after Qadhafi was overthrown in 2011, the interim Libyan government discovered and announced a clandestine stockpile of several hundred munitions filled with mustard agent. These weapons had gone undiscovered by the US and UK teams and presumably unnoticed by the Intelligence Community.<sup>82</sup> Second, and perhaps worse, was the pace of destruction of declared stocks of chemical agents. While unfilled munitions are easily destroyed under a bulldozer tread, chemical agents are costly and difficult to dispose of in a safe and environmentally conscientious manner. Distracted by other, more urgent crises, US and international attention wavered, which was dangerous, given the violence that has beset Libya. (Although the chemical agents would not have been militarily useful without the munitions to deliver them on the battlefield, in the hands of skilled terrorists, they could have inflicted grave damage.) Thus, almost a decade after Libya's declaration, only about half the stocks of agents and precursors had been destroyed.<sup>83</sup> While not related to the nuclear issue, these problems reflect on the overall disarmament effort.

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***Final Observations and Conclusions***

First, the value of a strategic decision to forego WMD, as opposed to a tactical or transactional agreement to circumscribe capabilities, cannot be overstated. While such an agreement may be very difficult or perhaps even impossible to achieve, it is invaluable to secure. Again and again, the US and UK insistence on this principle was later used as leverage for a better outcome (notwithstanding the fact that Qadhafi cheated by retaining undeclared chemical munitions). The strategic decision in the nuclear realm removed the temptation to regenerate lost capabilities and rendered any cheating discovered an unambiguous violation of the agreement. It also made clear to all levels of the Libyan establishment the need to comply with the commitments.

Second, the Libyan decision was incremental. Tripoli's first hope was to be able to avoid declaration and verification. Only repeated and persistent interactions, a key interdiction, skillful use of intelligence, and even some level of nascent trust between adversaries (Saif later disclosed that the discreet handling of

the *BBC China* interdiction convinced the elder Qadhafi that the US intent in the negotiations was not to humiliate him<sup>84</sup>) allowed the decision to proceed. Even after the December expert team visit, in which the Libyan programs were almost completely disclosed, the Libyans bargained hard in London not to make a complete and public declaration, and it took a call from Blair to Qadhafi to push the deal along, to be finalized even later.

Third, given the first two conditions, is the importance of what Kappes calls contact and momentum. Kappes' idea of contact is not the genteel banter of a diplomatic cocktail party. It is more akin to the posse that pursued Butch Cassidy and the Sundance Kid, inspiring them to wonder, "Who are those guys?" Kappes recalls that, "We just kept showing up like we knew what we were doing, exerting steady pressure."<sup>85</sup> The Libyans tried to use their own version of this concept by starting meetings with lists of demands or diatribes against the West. They were bested by use of intelligence and persistence. Kappes started slowly—as he was unfamiliar with Musa Kusa and Saif and Muammar Qadhafi—but increased the frequency and intensity of the interactions as the investigation progressed—contact and momentum.



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## Endnotes

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