

Concept Note
Libya
Country Strategy Paper and National Indicative Programme
2011-2013

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I – Introduction

Currently, relations between the European Community and Libya are taking place outside a bilateral legal framework governing bilateral relations. In addition, Libya does not intend to become part of the Union for the Mediterranean or of the European Neighbourhood Policy.

In October 2004, the European Council identified two priority areas for engagement with Libya, both of which constituted domestic political crises in Libya with implications for the EU: the “Benghazi AIDS crisis” and illegal immigration. Since then, the EU and Libya have started a number of cooperation activities in these two areas.

However, given the new political context between the parties and their strong common interests, negotiations on a Framework Agreement between the European Community and its Member States, on the one hand, and Libya, on the other hand, have started in November 2008.

In support of the implementation of the Framework Agreement and of the strengthening of bilateral relations between the European Community and Libya, the European Commission intends to provide more substantial financial assistance to Libya as of 2011, using the normal procedures that it uses with all other beneficiaries of its external assistance. Support to Libya will be provided mainly through the European Neighbourhood and Partnership Instrument (ENPI), which is a policy-driven instrument. Therefore, as required by the regulation establishing the ENPI, the European Commission will prepare the first ever Country Strategy Paper for Libya, including the National Indicative Programme, covering the period from 2011 to 2013.

II – Relations with the EU

The *Memorandum of Understanding* jointly signed by Commissioner Ferrero-Waldner and European Affairs Secretary El Obeidi on the 23rd of July 2007 provided for the possibility of a new framework agreement between the two parties.

On 15 October 2007, the External Relations Council of the EU affirmed the need for a framework agreement with Libya and asked the European Commission to prepare draft negotiations directives. These directives were approved in July 2008 and negotiations on

the EU-Libya framework agreement were officially launched on 12-13 November 2008. The second session took place in February 2009 and it is envisaged that negotiations sessions will take place approximately every two months. The Parties to the future agreement have expressed their willingness to conclude negotiations as soon as possible.

The main political objective of the framework agreement is to strengthen relations and cooperation between the European Community and its Member States, on the one hand, and Libya on the other hand, on the basis of the new political context, in particular the full reintegration of Libya in bilateral and multilateral international relations and Libya's willingness to strengthen its relations with the European Union, and of strong common interests. It is necessary to set the relations with Libya into a clear and comprehensive legal framework.

It is envisaged that this agreement will establish mechanisms for political dialogue and cooperation in the field of foreign and security policy, as well as for dialogue and cooperation on economic issues. It will contain provisions for a free trade area (FTA). The agreement is expected also to foresee close cooperation on Justice, Freedom and Security issues as well as on many sectoral issues, in particular energy, transport, environment, industrial and enterprise policy, consumer protection, tourism and cultural heritage, agriculture and rural development, fisheries and maritime governance, social issues, science and technology, education and training, etc..

It is foreseen that the agreement will establish a detailed dispute settlement mechanism, in particular for trade matters, as well as a complete institutional structure involving meetings at ministerial and high official levels. The agreement is expected to establish a number of working groups and bodies in charge of discussing all issues pertaining to the implementation of the agreement and monitoring cooperation among the parties.

Until 2004, Libya did not benefit from any EU financial assistance. Following the conclusions of the European Council in 2004, financial assistance has been provided in the health and migration sectors. In order to support the implementation of the future framework agreement, the EU has decided to provide financial assistance through the European Neighbourhood and Partnership Instrument (ENPI).

III – Financial cooperation

1. Lessons learnt

The EC financial cooperation with Libya started with the launch, in November 2004, of the "EU HIV Action Plan for Benghazi" (BAP), endorsed by the Council, several EU Member States, and the Libyan authorities. As of today, the EU's support to the Benghazi Action Plan amounts to 8.5 million euro. Since 2007 the funding of the BAP has been taken over by the European Neighbourhood and Partnership Instrument, through two "Special Measure" decisions taken in 2007 (2 million euro) and 2008 (4 million euro). A last decision on the commitment of 2 million euro remains to be taken in 2010 for the period 2007-2010.

In addition to supporting the BAP, the Commission decided in 2008 to provide 1 million euro through another financial instrument (the EU Instrument for Stability) in support of the development of a 2009-2013 National HIV Strategy.

In the area of migration, the EC has financed a) cooperation activities between Libya and Niger on border control and prevention of illegal immigration, b) activities of the International Organization of Migration related to the voluntary returns of sub-Saharan illegal migrants, and c) various activities of the United Nations High Commissioner for Refugees in relation to Libya and neighbouring countries. These projects have been financed by the thematic instruments (AENEAS and 'Asylum and Migration', the latter financed by the Development Cooperation financial Instrument). All projects have been implemented satisfactorily and have reached their objectives to the satisfaction of Libyan beneficiaries. Lately, the Commission announced the intention to make an additional allocation of 20 million euro in order to provide assistance in the migration domain.

This absence of experience poses a challenge for the implementation of future EC financial assistance, as it is expected that Libyan institutions will be entrusted with the responsibility of managing EC funds. This will notably require them to procure the services, equipment and works needed to achieve the results jointly defined in the financing agreement of individual projects. These managing institutions will of course have to respect EC procedures, in particular those related to financial management, audit, control, evaluation and procurement.

Experience of other countries in the region shows that the satisfactory management of EC financial assistance requires a well developed administrative capacity and a group of trained administrators able to understand and implement EC financial procedures. Successful projects must fit closely with the partner countries' priorities and must be fully supported by its public administration, which must commit human resources so as to ensure their satisfactory implementation.

In all countries of the region, the EC has financed programmes in support of the implementation of the Association agreement signed by our partner countries. These types of programmes exist in Algeria, Egypt, Jordan, Morocco and Tunisia. They have proved effective in providing technical assistance, both from the private and public sectors, in support to the implementation of the agreement. One of their main advantages is their flexibility, in the sense that new beneficiaries can be selected on an annual basis. Also, they can provide assistance to a large number of governmental and administrative bodies. Finally, they have been used to finance institutional twinning between the public administration of the partner country and that of a Member State, which has been key in the preparation and implementation of legislation directly modelled on that of the EU. However, twinning requires a relatively strong administrative capacity and a solid base of legislation. These programmes have also been complemented by short term technical assistance provided by the TAIEX and SIGMA instruments.

IV – Possible priorities/key issues to be addressed

On the basis of the requirements of the successful implementation of the framework agreement, the following possible priorities for the EC cooperation in the 2011-2013 period have been tentatively identified and are proposed to the Libyan authorities.

1. Developing human capital;
2. Increasing the sustainability of economic and social development;
3. Strengthening the administrative capacity for the management of the economy;
4. Addressing jointly the challenge of illegal migration transiting through Libya;
5. Developing cultural heritage.

These priorities would translate into the following projects to be launched under the 2011-2013 National Indicative Programme.

1. Health programme.
2. Programme for integration in World Trade and SME development
3. Programme in support of the implementation of the Framework Agreement
4. Support to border control and the fight against illegal immigration.
5. Cultural heritage development.

Health programme

The objective of this programme would be to provide technical assistance to central-level official organizations involved in the health sector. In particular, the project could focus on the following aspects: a) development of capacities for strategic and financial planning, policy and budget preparation, financial management and implementation of services; b) development of training programmes (trainers and curricula upgrading); c) preparing and building capacities for developing quality assurances mechanisms and financial control, d) funding of studies for developing comprehensive, system-wide improved management information systems.

Programme for integration in World Trade and SME development

The objective of this programme would be to provide technical assistance and training to the central organisations involved in defining and implementing trade and enterprise policies. This would allow Libya to maximise the trade potential offered both by the free trade agreement with the EU, to participate more effectively in the multilateral and regional trading system and to benefit from trade with WTO members. Also, the programme could provide support to enterprises, particularly small and medium sized enterprises, in order to develop their export potential in a few selected sectors (processed agricultural products, Mediterranean products, fish products, etc.), which will contribute to the diversification of the Libyan economy. The project could also provide support to professional organizations. Finally, it could provide support for public- and private-sector organizations involved in private sector development and export promotion.

Programme in support of the implementation of the Framework Agreement

Based on the experience of similar programmes financed by the EC in neighbouring countries, this programme would provide technical assistance to various administrative bodies in charge of the implementation of the Framework Agreement. The main objective is to ensure the correct and timely implementation of the obligations taken by Libya in the Framework Agreement.

This programme would mostly finance private and public technical assistance in Libya (including in particular sharing of technical expertise between public bodies of EU Member States and that of Libya), studies, training sessions, workshops, etc...

While it would not be possible to define in advance the list of all sectors in which the programme could be active, the Commission considers that priority sectors are justice, foreign trade, industry, energy, fisheries and maritime policy, public finance management and environment.

Support to border control and the fight against illegal immigration

This programme would be complementary to the existing programmes in this sector and to the EC financial assistance announced in 2009 to support the strengthening of Libya's control over its southern borders. This would ensure that illicit traffics are tackled more effectively. The programme would be principally aimed at supporting the capacity of Libyan authorities to prevent irregular migration flows from entering and exiting the territory of Libya, to deal with regular and irregular migrants in a more efficient manner and accordance with international standards, to prosecute the organisation of smugglers and traffickers of human beings, and to cooperate with origin and destination countries in the prevention of irregular migration and in the return and readmission of irregular migrants.

Also, the objectives would be to develop information campaigns in Libya and neighbouring countries on the dangers of illegal migration and improve the rights and treatment of illegal migrants in Libya, including as regards the rights of refugees and asylum seekers. This programme would be in complement of actions and programmes to be implemented by Libya with EU member States on the securing of its Northern border, in particular the joint patrols recently decided with Italy.

Cultural heritage development

Libya's is home to major sites of historical value, in particular from the Greek and Roman times. Libya and the Commission have agreed, in the Memorandum of Understanding agreed on 23 July 2007, to develop their cooperation in this domain.

In this context, the objective of the programme to be financed by the EC would be the preservation and restoration of one or two major sites of cultural heritage, as well as to establish the basis for a professional and sustainable management of the site(s) and to

develop a sustainable cultural tourism respecting the Libyan people's traditions and culture. The project would finance feasibility studies, renovation works and training.

The final choice of projects will have to be agreed with the Libyan authorities. In making this choice, the Commission will ensure that the projects to be financed by the EC budget are complementary to those of the EU Member States, in accordance with the European Consensus on Development¹ and with the EU Code of conduct on Division of Labour. In addition, the Commission will take into account as much as possible the principles contained in the Paris declaration on Aid effectiveness (2 March 2005)² and in the Accra Agenda for Action (4 September 2008), notably local ownership and alignment with local policies and programmes, donor coordination, harmonisation among donors, managing for development results and mutual accountability. In particular, it aims to limit the sectors of intervention.

V – Next steps

1. Consultations with EU Member States and stakeholders (Civil Society Organisations, other donors, international organisations, etc...)

The Commission attaches particular importance to consult widely stakeholders in the preparation of the Country Strategy Paper and the National Indicative Programme. Among these stakeholders, the Commission will consult the EU Member States and the other international donors. Also, the Commission intends to explore the possibility of joint programming with EU Member States.

In addition, the Commission considers that the consultation of stakeholders in the partner country (civil society organisations, international organizations, other donors, etc...) is crucial to ensure that all the main challenges facing Libya are adequately reflected in the Country Strategy Paper. While the Commission can not guarantee that all priorities of various stakeholders will be reflected in the priorities to be agreed in the National Indicative Programme, it attaches great importance to the possibility of an open discussion.

2. Elaboration of the NIP.

The National Indicative Programme contains the list of priority areas for co-operation as well as indications of results to be achieved by the programmes. The National Indicative Programme should indicate the share of overall funding which will be allocated to each of the priorities. The precise amount to be allocated to the National Indicative Programme will be known in June 2009.

The NIP should provide an insight of the measures and actions to be taken in the pursuit of the declared objectives and of the expected outputs of these measures and the

¹ See http://ec.europa.eu/development/icenter/repository/eu_consensus_en.pdf

² See <http://www.oecd.org/dataoecd/11/41/34428351.pdf>

indicators by which their achievement may be assessed. The objectives, output and indicators should be jointly agreed with the Libyan authorities.

3. Calendar

The final drafts of the CSP and of the NIP are to be ready by 30 June.