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# **Libya, a Political Framework for a Crisis Approach**

Version of 1 October

## **0. Executive Summary**

**The EEAS was tasked to prepare a Political Framework for a Crisis Approach (PFCA) by the Political and Security Committee of 8 September** as this would provide a basis for a shared conflict assessment for Libya, and guide, in conjunction with July's Action paper, the discussion on the overall direction for EU engagement in the Libyan crisis.

The paper first **seeks to provide an understanding of the situation in Libya**, by analysing the underlying conflict that led to the current crisis; the structural dysfunctions of Libya's political transition; and recent developments that triggered the resumption of hostilities in July 2014. It identifies the key stakeholders (within Libya, and regional actors) and their objectives, explaining that the essence of the conflict is over state control (political, economic and military), in addition to ideological differences regarding the future of Libya.

Given the uncertainty regarding the duration and outcome of the conflict, which complicates EU ability for strategic planning/programming, the PFCA describes **three possible scenarios for the near future**; a stalemate, with no clear winner; an escalation of violence, in which one side might overcome the other following a full-scale civil war; or a cessation of hostilities and the resumption of the political process. **What these scenarios demonstrate is that the possibility for the EU to define its strategy and programme its activities depends highly on the outcome.** The first 2 scenarios are clearly not conducive to any major EU footprint and/or support programme. **Only a ceasefire agreement could eventually allow for a resumption of EU support.**

The paper provides a **critical overview of the EU's strategy in Libya** since the fall of the Ghaddafi regime, aimed at promoting a "deep and sustainable democracy" based on an inclusive constitution, as well as fostering the emergence of strong, transparent and accountable institutions, an active civil society and a vibrant private sector. **This strategy has comprised 4 axes: diplomacy, cooperation, security, and exploratory talks for a Framework Agreement.**

The paper acknowledges that **international efforts have not been able to prevent Libya from slipping into a crisis**, partly due to the inability to address Libya's fundamental problems: disarmament and reconciliation. Scrupulous respect for principles of ownership led the IC to support approaches and strategies that had little potential to succeed (e.g. reintegration first, then disarmament). Lack of assertiveness of the IC contributed to a feeling of impunity among spoilers, which has however now changed with the adoption of UNSCR 2174, strengthening the sanctions regime and tightening the arms embargo.

**EU interests and values are directly threatened by the current crisis in Libya:** irregular migration is expected to increase due to lack of border control; foreign fighters on their way to Syria and Iraq are being trained in Libya; uncontrolled weapon proliferation and terrorist groups operating in Libya are destabilizing the country and the region, and pose a major threat to the EU; and economic interests (oil and gas sector) are also at stake.

In this context, the PFCA describes the **strategic objectives** for dealing with the current crisis. It identifies a number of **key immediate priorities** that, once achieved, should enable the EU to focus on **shorter to medium term objectives**, and then resume a longer-term strategy for Libya.

The most immediate priority **is to assist the UN in its mediation efforts** aimed at preventing the cementing of parallel executive and legislative authorities, through an agreement on urgent issues: cessation of hostilities, the House of Representatives, and a government of national unity. This agreement would pave the way a much-needed national dialogue, that would deal with political power-sharing, security issues (control of strategic infrastructure, DDR), reconciliation and transitional justice.

**Recommendations from the PFCA** include:

- EU should **use leverage provided by UNSCR 2174** in order to influence behaviour and decisions of Libyan parties. This should include (the threat of) sanctions, for now without immediate listing of individuals.
- EU must assess how to best **contribute to UNSMIL mediation efforts**, through political and practical support.
- EU should explore possibility of expressing its readiness, in principle, to contribute, upon Libyan or UN request, to any agreed **Confidence Building Measures (such as securing strategic infrastructure) or international verification mechanism** agreed to by the parties. The paper notes however that lack of clarity regarding UN plans and how the situation on the ground will evolve makes decision-making in this regard extremely difficult. Joint EU – UN planning of ceasefire arrangements may contribute to early EU decision-making.
- The International Community must have a **clear position** in support of the legitimate institutions and democratic procedures, while reiterating the need for inclusivity on and towards all sides and engaging with the whole spectrum of actors, with a "carrot and stick" approach. It should be clear that those who are undermining the democratic process and political transition will face consequences on trade, political and diplomatic relations with the EU. The EU should clarify its position vis-a-vis Ansar Al Sharia and other extremist and terrorist elements in Libya, and underline the parties' obligations to protect civilians and respect international law.
- Clarity and coherence in **EU messaging towards regional actors** about the seriousness of the situation, including for the long-term security of all, and the need for them to act responsibly and allow a space for mediation efforts to take hold.
- A **medium-term strategy** cannot be provided at the moment as the conclusion of a ceasefire does not in itself create the conditions for a resumption of activities. Political and security conditions need to be assessed and interventions crafted to best adapt to the new situation and respond effectively to most pressing needs.
- The report suggests that **development activities** would, in the first instance focus on the protection and relief of the Libyan people and of migrants. Once conditions allow, EU intervention could be geared towards the stabilisation of the country by building of democratic, effective and accountable institutions. Support to the demobilisation, disarmament and rehabilitation of fighters will be a key priority. More than in the past, counter-terrorism assistance will be important.
- In order to mitigate the terrorist threat from Libya to the neighbouring countries and to address the threat from foreign fighters, **counter-terrorism capacity building projects** should be started in the neighbouring countries as a priority.

## **I. Background<sup>1</sup>**

The EU's long-term objective in Libya remains to assist Libya in its efforts to establish a democratic, stable and prosperous State. This has comprised promoting a "deep and sustainable democracy", based on an inclusive constitution as well as fostering the emergence of strong, transparent and accountable institutions, an active civil society and a vibrant private sector.

The country is currently experiencing a serious crisis that has a negative impact on the civilian population and represents a threat to regional security, to the European Union and to the realisation of the EU's long-term objectives.

While the time horizon for this analysis is one year, the objectives of the crisis approach look at both the short and medium-term, taking into account that a positive evolution of the political and security context and the achievement of certain pre-conditions at political/diplomatic level, could allow for more substantial EU engagement.

At this moment, there are substantial uncertainties, both as to the duration of the conflict and the result of the conflict, complicating an assessment of the needs, institutional and absorption capacity and prioritisation. Other key international actors struggle with similar limitations; the UN will present an options paper on the role and mandate of UNSMIL in October; and the US is also in a process of formulating its strategy to address the Libya crisis. This paper and its timeframe are therefore to be reviewed and adjusted as the crisis evolves.

## **II. Analysis and evaluation of the situation**

### **a) Which conflicts determine the current crisis?**

The current Libya crisis is to a large extent the culmination of the underlying struggle over power (political, military, institutional, and economic) and competing visions of the future of post-revolution Libya. This struggle had paralyzed the General National Congress (GNC) and government, and steadily intensified following the adoption of the Political Isolation Law in May 2013, which basically denied everyone who worked under the Gaddafi regime at a senior level further public and political engagement.

The two opposing camps, generally, referred to as the "Islamist" camp and the "Nationalist" (or "Traditionalist") camp<sup>2</sup>, broadly correspond to "Libya Dawn"<sup>3</sup> and "Libya Dignity"<sup>4</sup>,

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<sup>1</sup> This paper benefitted from a crisis assessment workshop organised on 26 August by the GEO desks, in cooperation with colleagues from the Conflict Prevention Peace Building Mediation Instrument Division, bringing together experts from concerned EEAS, Commission and CTC services.

<sup>2</sup> The reality is far more complex than suggested by this simple label to describe them. The group is certainly comprised in large parts of Misratan brigades but by no means wholly. Although there are Islamist elements, they fight alongside Misratan forces that in the main could not be described as Islamist, and some quite far from it. The term revolutionaries is also not accurate, for example the elements from Khoms and Zawiyah cannot easily be described as revolutionaries. Whilst this could easily be seen as a semantic argument it is symptomatic of the highly complex tribal, regional, and ideological relationships in Libya and highlights that we should remain careful of over-simplification.

<sup>3</sup> Misrata and allied coastal cities, Islamist militias in Tripoli, Justice and Construction Party and other Islamist leaning political parties, Libya Shield brigades and some brigades in Benghazi, GNC.

respectively. Libya Dawn argue that they are protecting the revolution from a pro-Qaddafi loyalists' counter-revolution and are firmly against foreign intervention<sup>5</sup>. Libya Dignity states that they are the safeguard of a secular, modern democratic State against an extremist Islamist take-over, thus arguing that Europe and the International Community should be supporting them and thus they favour some form of foreign intervention.

Nonetheless, the situation in Libya is *multi-dimensional and multi-layered* with a large number of players involved in *continuously changing alliances*. In addition to the more ideological bipolar conflict, there are also multi-polar power elements, some with clear objectives and interests of a more static and predictable nature (Ansar Al Sharia, Federalists) and others of a more opportunistic and transactional type (tribes, cities, minority components, militias).

The lack of supremacy of one party over the others and the related lack of consolidation of parties into strong alliances were for a long time considered to have prevented the outbreak of an open violent conflict. This has changed due to a number of developments, including:

- Decreasing support for the so-called “Islamist” camp in successive elections, prompting an attempt by this camp to disrupt the democratic process that was considered undermining their agenda and political, economic and social power and control.
- The Sisi Government's crackdown on the Muslim Brotherhood in Egypt and the Gulf monarchies alliance against the MB across the region, fuelling increased external / regional support for each camp.
- Past episodes of the use of violence, which have fuelled the conviction among several stakeholders that there is more to gain from force than from political processes.
- Hafter's Libya Dignity operation in Benghazi and his anti-Islamist rhetoric without distinguishing between terrorists, extremists and moderate Islamists, thus leading them to close ranks and unite.

## **b) Context of conflict and structural factors**

*Lack of state institutions and political authority.* The almost non-existent civil administration prevented consistent policy-making and implementation in almost all sectors, and severely limited the absorption of foreign support. Strong resistance to foreign assistance prevented early provision of much needed support. In combination with no effective empowered government, or national authority or security institutions, this created an environment in which interest groups feel they can operate without sanction.

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Ansar Al Sharia does not belong to the Libya Dawn camp, although they should be expected to support them if they were forced to choose sides.

<sup>4</sup> Zintan, General Hafter and his National Army, tribes in the East and the South<sup>4</sup>, Warshafana, Qaqaa and Sawaeq Brigades in Tripoli, National Forces Alliance of Jibril, Interim Government of Al Thinni, and most members of the new House of Representatives.

<sup>5</sup> They are against foreign military intervention but welcome international support (capacity building, etc.) and long for foreign recognition.

*Problem of political and legal legitimacy.* The political legitimacy each side attributes to the political institutions and authorities varies according to their perception on whether their interests are served, regardless of the democratic legitimacy or legal status of the institution or authority in case.

*Lack of democratic culture and practices* due to 42 years of dictatorship, coupled with the erosion of traditional conflict prevention and resolution mechanisms (tribal leaders and elders) and dramatic changes in the social fabric, as well as little acceptance/recognition of any authority with which there is no direction connection or identification.

*Failure to deal with the past (no reconciliation process) and lack of a national vision for Libya.* Increasingly, an important part of the population fears there is no space for them in the new Libya.

*Strong regional dimension (see role of regional actors below).*

*Lack of effective international determination to dissuade spoilers from undermining the transitional process.* Robust international engagement in Libya came to an end with the termination of the NATO campaign. On the demand of the Libyan transitional authorities sound principles like "no boots on the ground", and "national ownership" guided the IC's role and attitude in Libya. The lack of an assertive international reaction to the gradual deterioration throughout the last two years has contributed to a feeling of impunity amongst spoilers. The adoption of UNSCR 2174 strengthening the sanctions regime and the arms embargo represents a significant step change.

### **c) Description of the conflict.**

*The essence of the conflict is control over power (political, institutional, economical as well as military supremacy) with ideological differences regarding the future development of the Libyan state. Both sides have a zero sum gain vision and a tendency for exclusionist positions and policies.* Willingness to compromise on each side varies in time, depending on whether they are in a stronger or weaker position.

#### **Key stakeholders... and their objectives**

##### ***"Misrata" vs "Zintan"(or Libya Dawn vs Libya Dignity):***

Since the Gharghour massacre of November 2013, the Misratans (and the MB) have been on the retreat. Misrata, a key economic and military power base, saw the opportunity to also gain political control over the capital, and weaken Zintan by depriving them of key assets in Tripoli.

The Misrata-Islamists-Muslim Brotherhood alliance is based on common interest and personal connections (e.g. many Misratans have family members in Benghazi). Misrata is more conservative and Islamist (although not extremist), but, moreover, they share a common interest in weakening a common foe: Misratan main political, military and economic competitors are also the ideological enemies of the Islamists, and perceived by both as being close to elements of the former regime. Misratans may break away from the extremists if the economic and political

price of this alliance becomes too costly or jeopardises their interests (such as international recognition).

There is no overriding ideological tie between many of the elements under the "Islamists" or "Misrata" label, and thus it may struggle to remain cohesive (specially the Libya Dawn camp). How this will translate into political ambitions is unclear: whereas the moderates attach great importance to international recognition and may therefore be willing to compromise, it is not clear if the more extreme elements will want to give in so easily. It will be difficult for all Misratan negotiators to accept the outcome of the elections, and therefore the HoR, as Misrata is strongly underrepresented.

The Zintani position is based around political survival, protecting their power bases and assets, as well as their vision of the revolution and the future of Libyan society. This includes recognition of the legitimacy of the HoR, withdrawal of militias from Tripoli, the position of those affected by the Isolation Law, and investigation and prosecution of human rights violations in Tripoli. Zintan would perhaps be more open to negotiations, foreign mediation and international presence or monitoring mechanism.

Both Libya Dawn and Libya Dignity defend their commitment to democratic principles and the political process. After having taken control over Tripoli, Libya Dawn resurrected the old GNC with the justification that the lack of hand-over to the HoR and the decision to be located in Tobruk was not constitutional. The new – GNC backed – Government in Tripoli has allegedly taken control over ministries and state institutions, in an attempt to translate a military victory into political superiority and control over state assets (possibly including Central Bank and National Oil Corporation). Both sides are eager to gain (international) democratic recognition.

Regarding alignments by minority components, in September there were reports about Tebu troops from Kufra fighting alongside General Haftar. The official position of the Tebu is that they remain neutral and that Tebu fighters in Benghazi are from the official military, not from the tribal militia. The Twaregh are divided and also trying to remain neutral, despite recent and unsuccessful efforts of Libya Dawn to gain their support to expel Zintanis from oil installations in the South. The polarisation in Libya is pushing tribes and ethnic minorities to choose sides, raising the possibility of a widespread conflict.

### ***Regional actors:***

The regional struggle for influence in Libya has raged since the 2011 uprising, during which Qatar backed several Islamist factions and the UAE supported more tribal-oriented and regional militias, particularly those from Zintan. The competition took on greater momentum after last's year overthrow of Egyptian President Morsi and the fierce crackdown on the Muslim Brotherhood that followed, which emboldened Libya's anti-Islamist militia leaders, politicians, and activists, who have made no secret of their wish to see a similar scenario unfold at home.

In August, Egypt and the UAE allegedly conducted limited airstrikes in Tripoli against Islamist-allied militias. This may not have been the first time military force has been applied: The *New York Times* also quoted U.S. officials saying a Special Forces unit operating out of Egypt, but likely primarily comprised of Emiratis, had recently destroyed a militant camp in eastern Libya.

In September a cargo plane allegedly carrying weapon supplies for Libya Dawn was intercepted en route from Sudan in Southern Libya, Later two military planes, allegedly from Qatar, landed at Metiga airport with weapons for Libya Dawn.

With the Islamic State crisis in Syria and Iraq and the creation of the coalition of the willing, the interrelations between key players will only become more complex. Egypt would have insisted with the US that international coordination on terrorism should be a comprehensive approach, not linked to a certain organisation, but including all terrorist hotbeds across the Middle East and Africa (clearly referring to the Muslim Brotherhood).

In the Madrid Conference and UNGA meetings Algeria took a constructive role, emphasising the need for an inclusive dialogue, including with Libya Dawn supporters. This in sharp contrast with Egypt and UAE, which categorically refer to the Misrata Camp as *terrorists*.

**d) How could the situation develop in the near future: Scenarios**

**Scenario 1: Current situation continues; resulting in an effective stalemate, with no clear winner.**

The political and institutional stalemate with 2 Parliaments, 2 Governments/PMs, 2 Chiefs of Staff continues. Libya Dawn's control would remain limited to the 200 km coastline from Misrata to Tripoli; the GNC and Al Hassi's government are not recognised internationally and are not able to exercise control over the Central Bank or the National Oil Corporation. The HoR and Al Thinni's new government has no power to implement any of its decisions. Regional supporters refrain from decisive interference to either camp.

Under this scenario the polarisation process would most likely continue, possibly further drawing in the South (so far relatively unaffected by the crisis).

This is most likely not a sustainable situation, as it would not serve the interest of either one of the parties: "Misrata" will be under constant threat of attack as their claim on Tripoli will be disputed; "Zintan" will seek retribution for the crimes committed against their people and, they will want a parliament reflecting the June elections. While this scenario could last for a year, it will likely develop along the lines of the second or the third scenario.

**Scenario 2: Escalation of violence**

Within this scenario many different outcomes can be imagined. Three outcomes are described *for illustration*.

**Libya Dawn success**

In this possible outcome, Misratans gain the upper hand, due to success of Libya Dawn campaign and/or failure of government in Tobruk.

Libya Dawn campaign succeeds thanks to its greater numbers, cohesion, resources, and ability to ally with smaller tribes. The HoR appointed government is weak and fails to regain control of state administrative function. The government also fails to consolidate its control of the Central Bank and the National Oil Corporation, which come under the control of Libya Dawn. This will

allow Libya Dawn to establish a more effective parallel government and extend its territorial control.

This outcome could lead to popular resistance, since the MB does not have strong public support. More tribes and cities would mobilise themselves out of fear for repression (along lines of Political Isolation Law). It would also increase the probability of regional intervention, and/or the support for government forces from the UN Security Council (through funding, training and sanctions). This outcome will result in continued but intermittent fighting.

***HoR consolidates its position.***

The government in Tobruk consolidates its position, thanks to major external support and the control of State revenues. Misratans in Tripoli are effectively deprived of oil revenues. Hafter's forces, with foreign support (arms and ammunition, and strategic and operational guidance) contain Ansar Al Sharia and allied forces in Benghazi and Derna, The government uses revenues to build its support base among the Amazigh, Gaddafi, Tebu, Zuwayia, and other Arab tribes between Ajdabiya, Jalu, Kufra, and Sirte.

This outcome would also not lead to a sustainable situation. Buying support has been the strategy over the last three years, but as this does not address the root causes of the crisis, it will likely result in yet more demands for financial reward in return for cooperation. Moreover, Libya Dawn's control over Tripoli will remain a source of (armed) conflict.

***Civil war***

In the most extreme case of escalated violence either the Libya Dawn camp decides to eliminate its adversaries (also as a means to keep their coalition together), or the Libya Dignity camp, with support from regional actors, retaliates in an attempt to reclaim Tripoli.

As the country is already so polarised, it is likely that such a confrontation would draw in many other factions and tribes. The involvement of countries in the region could contribute to further escalation, as they might be unwilling to tolerate the defeat of their protégés.

**Scenario 3: A ceasefire agreement, leading to a political dialogue**

UN-led mediation results in a (series of) ceasefire agreement(s), ultimately creating space for a political dialogue resulting in a comprehensive peace agreement. The (threat of) UN sanctions, political pressure from world leaders and popular demonstrations in favour of a peaceful solution will ultimately convince both camps to accept an agreement.

A ceasefire agreement will not be easy to negotiate and to maintain. Increasingly the rhetoric has become more polarising – the labelling of all Libya Dawn militias as terrorists by the HoR is a clear demonstration. PM Al Thinni's refusal to negotiate with these *terrorists* is a serious impediment to any mediation process.

With these hardened positions in a winner-takes-all environment, a sustained de-escalation of the conflict looks unlikely. Even if a ceasefire is signed, there are no state-controlled forces powerful enough to enforce it. The gathering of allies by both sides also increases the risk of fighting spreading beyond Tripoli to other areas where opposing forces are present.

Islamists cannot count on broad popular support and are unlikely to win elections (in a transparent way) and therefore have an incentive to achieve their aims by force. Tendencies towards majoritarian politics and poor understanding of pluralistic practices curb prospects for settlement.

Any ceasefire agreement will therefore require strong international support, including monitoring arrangements and clear arrangements on the control of strategic infrastructure.

Under scenario 1 there may, for a while, be a semblance of some government control as both sides have armed forces. Tripoli may appear peaceful and social life will return. Under scenario 2 controls will disappear, radicalisation will increase, the humanitarian situation risks deteriorating significantly, and Libya may turn into a safe haven for jihadists and international terrorists. In both scenarios migration to Europe will go unhindered and dialogue with Libyan authorities will be impossible. Libyan weapons will continue to find their way to the wider region as there is no army, police or border guard to stop this.

What these scenarios demonstrate is that the possibility for the EU to define its strategy and programme its activities depends highly on the outcome. The first 2 scenarios are clearly not conducive to any major EU footprint and/or support programme. Only a ceasefire agreement could eventually allow for a resumption of EU support.

### **III. Security situation**

The security situation in Libya has deteriorated significantly since the launching of Operation Dignity and Operation Dawn (See **Annex C** for detailed description).

This has obviously had an impact on EU presence and programmes in the country:

In July 2014, almost all international organisations, including the EU, moved their international staff out of Libya. Only Italy, Malta and Hungary have retained a small presence in Tripoli. Cooperation programmes are still being implemented though at a very low level, in most cases only through local implementing partners.

At the time of writing, only Mitiga International and Misrata airports are open and operational, but the use of these facilities is not recommended because of unreliable security and scheduling. Kidnapping attempts of foreign personnel for ransom by criminal organisations or by radical elements for political reasons are also likely to occur and EU representatives are among the likely targets.

### **IV. Humanitarian and Human Rights Situation**

Humanitarian and Human Rights concerns with regard to Libya are detailed in **Annex D**.

### **V. Economic situation**

The economic situation, with special reference to the oil sector, is described in Annex E.

## VI. Current EU strategy

### •Diplomacy

The EU's strategy since the fall of the Gaddafi regime - and until the recent resumption of hostilities - has been geared towards assisting Libya in its efforts to establish a democratic, stable and prosperous State. This involved promoting a "deep and sustainable democracy", based on an inclusive constitution as well as fostering the emergence of strong, transparent and accountable institutions, an active civil society and a vibrant private sector.

The EU issues numerous statements, consistently calling for a peaceful solution, condemning the use of violence and foreign intervention.

The experience with the new Libyan authorities demonstrated a lack of absorption capacity, including for political messaging, and a difficulty in finding interlocutors. The EU spearheaded coordination with the MS, initially through regular head quarter meetings to ensure a coordinated approach. MS Heads of Missions regularly formulated joint messages, ensuring that the EU would speak with one voice.

The ambassadors of the countries that offered training of General Purpose Forces to PM Zeidan in 2012 met regularly, initially to coordinate their efforts, later to discuss the overall political and security situation. As "P3 + 4" group (US, UK, FR + IT, DE, EU, UN) they took a leading role within the international community, with bi-monthly video conferences at HQ level.

International (ministerial) meetings were organised (Paris, London, Rome) with the Libyan authorities to discuss government policy and international support to the security sector. The Rome meeting of 2013 was a huge display of international support to Libya, with 20 full ministers, including Kerry and Lavrov.

When UN mediation efforts stalled, concerns about Libya's political and security situation increased. Several countries and institutions (including the EU, LAS and AU) appointed special envoys to assist UN's mediation efforts.

The above diplomatic efforts have not been able to avoid Libya slipping into crisis. While external pressure is seldom able to correct such strong endogenous forces, the efforts particularly failed in addressing Libya's real problems: disarmament and reconciliation. Out of respect for the new Libyan leaders and in line with the principles of ownership, the international community accepted to support approaches and strategies that had little potential to succeed (e.g. reintegration first, then disarmament). Strong commercial interests may have contributed to a less joined-up position and a jockeying for position in the first 2 years after the revolution. The IC also preferred to respect the role of the government as its only interlocutor - despite its weakness - to not weaken it even further by engaging with local authorities and their militias (Misrata, Zintan). The case of Seif al Islam being a good illustration – IC kept addressing Tripoli while the government was powerless to influence the decision from Zintan (still to date).

Following the temporary relocation of staff from Tripoli, diplomatic engagement intensified in terms of supporting UN's mediation efforts. The envoys contributing to the mediation process provide each other with frequent updates and P3+4 coordination still takes place. Regular engagements with government authorities were however strongly reduced. There is still active coordination with those partners who relocated to Tunis as well as with Libyans based in Tunis.

Recent meetings in Madrid and in the margins of UNGA have allowed regional stakeholders to meet at the highest level and discuss their suggestions for a way forward.

#### •**Framework Agreement**

An important element in EU's strategy was to re-launch negotiations for a comprehensive bilateral Association Agreement. The objective was to seek an agreement with Libya (drawing on the Association Agreements concluded with neighbouring countries) in order to formalise and normalise our relations in a mutually beneficial legal framework. Such a FA would cover all aspects of cooperation with Libya to become the main tool of support to the political, economic and social reform process in the country. Several missions took place to explain objective, experience in other countries and the approach. The last initiative was an exchange visit to Brussels of Libyan focal points covering all potential cooperation areas.

#### •**Security**

The lack of regional border security and attendant risks from illegal migration, arms, drugs, health and other forms of illicit smuggling and human trafficking in Libya are all serious threats to the internal security of EU countries and could become a source of destabilisation in the southern neighbourhood, in particular the Sahel/Maghreb region.

The European Union Integrated Border Management Assistance Mission in Libya (EUBAM Libya) was established to provide a border security capacity to the Libyan authorities through the delivery of expertise, training and advice. The civilian CSDP Mission was established on 22 May 2013 with a two-year non-executive mandate.

The Mission's objectives are to support the Libyan authorities to develop capacity for enhancing the security of Libya's land, sea and air borders in the short term and to develop a broader IBM strategy in the longer term. Subsequent to the Strategic Review conducted in spring 2014, the Member States had recommended that the Mission focuses on the operational level which is most likely to produce tangible results, e.g. capacity delivery at a land border crossing point, civilian port or airport. The tempo of EUBAM Libya's operations has effectively been put on hold since the events of July 2014 following the mission's emergency relocation to Tunisia. At the time of writing, Member States have already indicated their intent to reduce the size of the Mission from October 2014 to that of an essential core team, based in Tunis, and which will have very limited operational capacity.

EUBAM's current mandate expires on 22 May 2015 and a final decision on the mission's future, including a mandate extension or other options is intended to be taken based on the findings of a subsequent interim strategic review, being commissioned in response to the deteriorating situation in Libya, and which will report before the end of 2014.

- **Cooperation**

With a view to support Libya's democratic transition process, the EU made available a variety of instruments. Over time the programme developed as follows:

In February 2011 the first response was provided via ECHO through delivery of humanitarian assistance and undertaking emergency demining and protection activities. Also in 2011 initial support to civil society actions was provided using IfS and ENPI. A €10 million allocation funded under the ENPI was committed to address the most urgent needs caused by the armed conflict: Education, including to children affected by the conflict and those internally displaced; Public Administration; to support Libyan institutions (GNC, government institutions); and Civil society through setting-up 4 resource centres (Benghazi, Tripoli, Misrata and Sabha) and capacity building and small grants to Libyan NGO's. Furthermore, support to Libyan civil society especially in the field of Human Rights and migration was provided.

Security became a key pillar of EU engagement. EU support included strategic advice as well as more operational assistance. In support of CMPD planning for a future CSDP mission, IfS facilitated the Integrated Border Management needs assessment mission in March 2012 while also funding a substantial EUR 13.4 million stability package in August 2012, building inter alia the capacity of the Ministry of Interior on crime investigation and threat assessment and the capacity of state and non-state actors for clearance of mines and UXOs. Risk education on Small Arms and Light Weapons to vulnerable groups contributed to reduction of armed violence while capacity building and delivery of equipment for border management contributed to establishing more secure borders in close coordination with EUBAM. Assistance to resolution of local, regional and national conflicts was provided through targeted support to mediation initiatives.

This package also aimed to complement a planned CFSP project (start in January 2013) addressing illicit proliferation of conventional weapons and ammunition via stockpile management (PSSM).

Also in 2012, € 25 million of ENPI funds were allocated for Technical Vocational Education and Training (€6.5 million); "Libya Health Systems Strengthening" (€8.5 million), and "Security and Justice support programme" (€10 million).

ENPI funding furthermore included reintegration training into the police forces as well as the development of the concept of a National Security Strategy.

EU assisted Libya in its efforts to manage migration flows across the country. Between 2011 and 2014 EUR 42.7 million has been committed for activities covering assistance to people in need of international protection/stranded migrants, countering illegal/irregular migration and Human Rights based Migration management.

***Status of cooperation activities following the resumption of hostilities:***

Against the background of the resumption of hostilities in Libya, DEVCO and FPI undertook a review of the EU cooperation portfolio in order to assess the consequences of the ongoing conflict on the implementation of projects and programmes' activities and to identify those that could most efficiently contribute to the Libyan people's relief. The assessment showed that

almost all international project experts had left the country and while local staff is often still in place in most cases neither the security conditions nor the political context are conducive to project implementation.

Projects with government bodies as institutional partners (such as Ministries of Planning, Health, Interior and Justice, the TVET Board and Ministry of Labour) are paralysed. Not only because of the closure of projects' offices, but because government itself as a policy and coordination structure has virtually disappeared. An additional complicating factor is the difficulty of knowing if civil servants are working with the legitimate government or with the self-established government in Tripoli. Hence, a very cautious approach is needed. For some projects, staff of Libyan nationality (still residing in the country) is facing considerable difficulties carrying out their activities due to fuel shortages, security risks, etc.

In consideration of the circumstances a number of projects - whose objectives are no longer relevant and/or the implementation of their activities in a context of hostilities is not possible – will be suspended.

For the EU to respond as effectively as possible to the most pressing needs of the Libyan people, some of the implementing partners have been asked to submit a revised project implementation plan which would indicate what activities can still realistically be undertaken. The revision of project implementation plans appears particularly important for those projects focusing on assistance to migrants and vulnerable people. EU support will be refocused to provide emergency care and support for migrants, refugees, asylum seekers and displaced people not only in Libya but also in neighbouring countries.

A decision is yet to be made regarding programmes working mainly with Government counterparts. Considering that the situation may still evolve in the coming period, the opportunity cost of suspending these projects would need to be carefully considered.

In light of the difficult security context and the lack of clear prospects, the EU is planning to pursue with a partial adoption of the ENI Annual Action Programme 2014 for Libya (Governance program) and to postpone some activities to the ENI Annual Action Programme 2015 (Health program).

### ***Impact of EU and international support to Libya***

The mandate of UNSMIL includes the responsibility of overall co-ordination of the international assistance to Libya. However, rather moderate progress was made due to the limited capacity of UNSMIL, as well as the lack of interest and experience of Libyan authorities.

The overall impact of international support to Libya has been limited; partly due to ineffective coordination leading to overlap or even contradicting support, but also due to extremely low absorption capacity as a result of the lack of state institutions and a fundamental disagreement on underlying political principles (e.g. whether or not to build a new police force on the basis of the existing force).

EU's cooperation experience with Libya suggests that programmes in areas sensitive to political conflict are more difficult to implement. This is for example the case for programmes focusing

on security, migration, protection of vulnerable groups and to some extent public administration capacity building. Programmes related to economic recovery, health and civil society proved less prone to political manipulations but also suffered from often changing Libyan authorities' interlocutors and poor administrative capacity.

EU's intentions to build a strong and vibrant civil society were starting to bear fruits but were derailed by the political developments.

## **VII. Impact of the crisis on EU current interests, values and objectives in the region.**

**Migration.** By the end of August 2014, more than 100.000 migrants crossed the Mediterranean. According to IOM 2.900 of them perished in often totally unsuitable boats, in the hands of human traffickers.

While the Libyan authorities had decided in April 2014 to establish a migration committee which could serve as the interlocutor for policy dialogue with the international community, all possibilities for a dialogue disappeared with the outbreak of the violence in June. As there is no control over Libya's borders) nor a functioning police force, it should be assumed that migration flows will only increase.

**Foreign fighters.** There are indications that foreign fighters before going to Syria/Iraq receive training in Libya. Libyans also travel to Syria/Iraq to fight. A possible pushback against ISIS in Syria and Iraq by the allied forces could result in a flow of these fighters to Libya.

**Terrorism.** Terrorist groups operating in Libya are a major threat to Libya, to the region and the EU. In the South, Libya serves as an area to which terrorist groups from the Sahel such as AQMI and Al Mourabitoun retreat. In the North East, Ansar Al Sharia terrorist groups are controlling territory and run terrorist training camps. Terrorist groups have carried out numerous attacks in Libya against local and international targets and contribute to instability in the country and the region (e.g. In Amenei, Algeria). Lack of government control contributes to the risk of the creation of terrorist sanctuaries and spill-over effects to neighbouring countries. This could have knock-on effects on the French operations in Mali and Niger.

**Weapons proliferation.** Since 2011, Libya is challenged by a massive volume of stockpiles of conventional weapons and ammunition, including large numbers of unserviceable and hazardous items. The uncontrolled spread of small arms and light weapons (SALW) and ammunition is continuing to fuel insecurity in Libya, in neighbouring countries and in the broader region, exacerbating conflict and posing a serious threat to peace and security. Weapons from Libya have been found in countries such as Chad, Egypt, Gaza, Mali, Niger, and Tunisia.

UNSC Resolution 2417 tightens the arms embargo on Libya and calls for vigilance in inspecting any shipment to Libya that may contain weapons. Libya's porous borders and lack of state authority make it however very difficult to fully enforce this resolution.

**Economic interests.** EU MS are the most important foreign investors in Libya's oil and gas sector. Countries most affected are Spain, Italy, Germany, Austria and UK. (Refer to Annex E).

## VIII. Objectives of the crisis approach.

The crisis approach identifies a number of key immediate priorities that, once achieved, should enable the EU to focus on shorter to medium term objectives, and then resume a longer-term strategy for Libya.

Key *immediate priorities* for the EU are:

- Primarily, to support the UN in its efforts to achieve a **Cessation of Hostilities agreement**. This agreement will likely only occur if it also includes political aspects, and should focus, in addition to cessation of hostilities, on humanitarian access, political institutions and authorities, and control over strategic infrastructure, facilities and assets (airports, key buildings, barracks and strategic assets and control points). It would also need to determine a monitoring mechanism.

The agreement should enable a subsequent national dialogue process to reach a **comprehensive political settlement**. The settlement should address a number of key issues related to security and the future of the country and its institutions, allowing for longer-term political processes. It therefore needs to also address the situation in Benghazi and the grievances (political, economic and social) in the South, as well as those of the minority components (including the Amazigh and the Tawergas). To be sustainable, it needs to include clear timelines, conditions and monitoring mechanisms.

- The provision of **humanitarian access**.
- **To reach out to neighbours and regional players** to ensure their constructive contribution to the political process, mainly by refraining from exacerbating divisions.

### **Subsequent *short to medium term objectives*:**

Achieving a political settlement would probably not mean that all groups would commit to it (e.g. radical actors driven by ideological agendas such as Ansar al Sharia will likely continue to fight). Therefore it will be a priority **to manage the risk of renewed escalation of violence and help to implement a peace agreement**, allowing for a number of longer term processes to start.

More specifically, these short to medium term objectives for the EU and / or international partners could include:

- Support to UNSMIL with the actual mediation process, as e.g. already provided by the Head of Delegation by joining and supporting UN and other envoy missions. Further mediation experts could be provided on demand (funded by EU instruments)
- Reach out to neighbours and regional players.

- Support to UNSMIL in planning and coordination efforts on a possible CoH<sup>6</sup>. In addition to planning support from EEAS experts (possibly embedded in UNSMIL), this could draw upon the knowledge and networking already gained from EU Delegation Tripoli security experts and relevant EUBAM Libya staff who have visited key infrastructure in Libya.
- Liaise closely with UN on the new UNSMIL.
- The monitoring of a Cessation of Hostilities agreement and subsequently the support to the implementation of the peace agreement.
- The start of a process for reconciliation and transitional justice.
- Institution- building for peace, including:
  - At central and local government level, to provide basic services to the people (in order to build trust and support for the peace process and a functioning state).
  - To democratic institutions (like HoR), to allow for resumption of political process while ensuring that such support does not jeopardise mediation efforts.
  - DDR (and SSR) processes, based on a peace agreement.
  - Border management agencies, to address issues such as illegal migration, drugs, weapons and human trafficking, smuggling, spread of terrorism and organised crime, all of which weaken the state and internal stability.

## IX. Risks.

The EU short-term objectives indicated above assume UNSMIL will remain in the lead and will formulate a strategy on how to proceed. While there are no indications of the contrary now, there is a risk that UNSMIL's mandate will be significantly reduced, which would limit its ability to continue its mediation efforts.

EU staff has temporarily been relocated to Tunis. It will therefore remain very difficult to obtain reliable information and develop relations with key actors, which may have implications for EU's ability to implement short-term measures.

In addition to this, there is a risk that the EU will not be able to mobilise itself in time if and when a possible peace agreement requires speedy re-engagement. The decision not to suspend projects and to continue EUBAM, albeit at much reduced capacity, aims at mitigating this risk to some extent. However, support to planning for, and any subsequent conduct, of a cease fire/peace agreement verification mandate could likely place significant demands on human resources and could possibly involve mobilising staff from existing CSDP missions.

A cessation of hostilities agreement carries the risk of unintended consequences, such as providing space for groups to rearm and reengage in fighting. In case of a breakdown of such an agreement, the IC may be seen as having sided with one or more parties. It will therefore be

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<sup>6</sup> UNSMIL has no concrete and specific plans at present (end September) on a CoH; the UNSMIL options paper, to be presented in October, is therefore of great interest.

important to ensure the best possible understanding of underlying dynamics / alliances and motives of stakeholders involved in the process, as well as the best possible monitoring of and support to a possible agreement. Furthermore, the EU must continue to seek compliance of the parties with obligations under international law, whether there is a ceasefire agreement or not.

Risk that one (e. g. Egypt) or several of Libya's neighbours decide to step-up their involvement in Libya, undermining any progress. There is also the risk that broader tensions amongst regional players (Qatar/Turkey vs UAE/Egypt) will evolve, leading to their decision to make their confrontation in Libya more assertive. There is also the risk of proliferation of mediation initiatives (Algeria has already announced a meeting for October) that could add to the confusion and undermine the leading role of UNSMIL.

The EU strategy has focused on building and supporting official institutions, some of which have now become part of conflict dynamics, such as the controversy over the role, legitimacy, location and decisions adopted by the HoR. When supporting actors, the EU must be aware that it could inadvertently be contributing to the conflict through unwittingly taking sides. This must be assessed with the need to put in place functioning institutions required to take decisions and provide a way forward. An active and timely communication policy is needed to explain the choices made and to mitigate such risks to the extent possible.

The current situation means there is a risk of continued and increased migration flows to the EU, which cannot be addressed with the Libyan authorities before the immediate crisis has been resolved.

There are also risks related to sanctions, which need to be taken into account (see below).

## **X. The Way Forward.**

### **Key immediate priorities**

#### ***Strategic use of leverage provided by UNSCR 2174<sup>7</sup> to influence behaviour and decisions.***

EU must decide how to use sanctions, or the threat of sanctions, against those undermining the political process. As Europe is, for many Libyans, the key point of reference, this may have a significant impact.

Caution is required for listing of individuals, as this could significantly reduce the ability for constructive engagement. Experience shows that sanctions are most effective before their actual application; however, it may be necessary to demonstrate that the threat of sanctions is real. At which stage would the EU decide to list individuals, for which offences, who first?

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<sup>7</sup> UNSC Resolution 2417, adopted on 27 August, expands the sanctions regime, by including individuals and entities that threaten the peace, stability or security of Libya, or obstruct or undermine the successful completion of its political transition. It also reinforces the arms embargo.

***Contribute to UNSMIL mediation efforts and to the design of their new mission.*** EU and some MS are already actively supporting the mediation efforts, either by participating in mediation missions or by providing practical support (e.g. logistical support provided by IT and MT). A joint EU – UNSMIL planning effort may contribute to early consideration of joint action.

***Readiness to contribute, upon Libyan or UN request, to any agreed confidence building measure or international verification mechanism*** charged with overseeing the implementation of a ceasefire/political agreement/control of key state assets and infrastructure. Such an offer may help compensate for the lack of trust between the parties, thus making them more willing to engage in dialogue.

*The Arab League has already offered its assistance, but this will not be well received by some parties in Libya.* The EU is a more acceptable proposition. This means that the EU should discuss, as soon as possible, the possibility of issuing a declaration of willingness to assist with any UN-led initiative. Taking this decision now is not easy, as it is not known whether the UN is prepared to lead on such a mission, what form a ceasefire would take, whether the mission would take place in a permissive or hostile environment, what the contributions of others would be, etc. Furthermore, the very lack of clarity over who would oversee a possible agreement could negatively influence the willingness of parties to come to an agreement at all. There is therefore a pressing need to ascertain the planning timescale envisaged by UNSMIL, and to coordinate efforts in this regard.

***Clarity and coherence in EU messaging towards regional actors about the seriousness of the situation, including for the long-term security of all, and the need for them to act responsibly and allow a space for mediation efforts to take hold.*** Libya may indeed be at risk of becoming the stage of a regional proxy war. Joint/common US – EU messaging to regional actors are being considered to pass the message that only a political compromise will lead to a sustainable solution, and that outside interference will exacerbate current divisions and undermine Libya's democratic transition.

Libya's neighbours are most concerned and demand to play a role in the negotiation process. While these neighbours could play a useful role, it is clear that they have conflictive agendas, and some are not in line with EU principles. EU should further *develop in-depth dialogue with regional actors* (including Algeria, Tunisia, Egypt, Sudan, KSA, UAE and Turkey) regarding current developments in Libya and EU policies, through regular interactions with Missions in Brussels, EU DELs / MS embassies locally, and in high-level bilateral and international meetings.

The EU and MS should reflect on which steps to consider in case regional actors persist in providing (political and) military support to either one of the two camps.

***Political messaging:*** Common messaging is essential to maximise impact. The EU should continue to stress the primacy of a political settlement and continue to deny any political legitimacy to bodies which do not represent the will of the people as expressed in the last general elections.. As this will be seen as taking sides by the supporters of Libya Dawn, the EU should explain this position whenever possible and keep the dialogue open to all parties. The following messages could be considered:

- The EU must take a strong, principled position in support of legitimate institutions and democratic procedures, while reiterating the need for inclusivity on and towards all sides and engaging with the whole spectrum of actors.
- It should be clear that those who are undermining the democratic process and political transition will face consequences on trade, political and diplomatic relations with the EU
- The Tobruk authorities should avoid unhelpful and divisive measures and tactics, and consider the relocation of the HoR to a seat that is acceptable to all parties. Until an inclusive Parliament materialises, international assistance to the HoR should be used from both a "carrot and stick" approach. In our support to the Tobruk authorities, we should avoid any actions or attitudes that may be perceived as endorsing a permanent transfer of the central authorities to Tobruk or that could eventually entail the risk of splitting the country and undermining its territorial integrity.
- The Tobruk/Zintan camp, including the National Army, should be urged to undertake effective outreach and inclusive gestures towards those on the other side who are willing to compromise. One important confidence building measure could be for the Tobruk authorities to remove or transfer Hafter, bring Operation Dignity under the formal control of the government, or reconsider some of its most controversial decisions (call for international interference, branding of Misratan fighters as "terrorists").
- Support the Constitutional Drafting Assembly and condemn efforts to undermine the independence of the constitutional process<sup>8</sup>, all the more so when Libya Dawn is now also engaged in a smear campaign against the CDA, accusing it of breaching the provisions of the Constitutional Declaration by not completing the drafting of the Constitution within 4 months.
- The EU should clarify its position vis-a-vis Ansar Al Sharia and other extremist and terrorist elements in Libya, including in the framework of its policy towards the Islamic State.
- Underline the parties' obligations to protect civilians and respect international law, reminding all armed groups that they must comply with the principles of distinction, proportionality and precautions in attack, release or hand over to the justice system individuals who are detained, and deliver to the justice system those suspected of having

**Humanitarian aid.** Support to vulnerable people, including migrants, refugees, IDPs, minority groups (e.g. Tawergas) and victims of torture should be provided where possible. Also humanitarian demining and removal of UXOs should be considered.

**Counter-terrorism.** Given the limited possibilities to work with Libya directly, containment action in support of neighbouring countries is important. EU should share its experience with Schengen flanking measures which compensate for the absence of border control at internal borders. Border security support to countries neighbouring Libya should be stepped up to avoid

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<sup>8</sup> Security developments in the country notwithstanding, the constitutional process has continued to move forward. Following elections in February, 55 out of 60 seats were filled in the Constitution Drafting Assembly (CDA); the Amazigh community boycotted the process and security threats prevented polling in Derna. The Tebu and Tuareg communities, on the other hand, are both represented on the Assembly. The CDA envisages presenting a draft constitution in December. A positive reception of such a constitution may contribute to bringing parties on both sides of the divide together.

spill-over. The Unite de Fusion and de Liason (UFL), based in Algiers, of which Libya is a member and which is tasked with information exchange, should be supported.

### **Short to medium term objectives**

In the event of the conclusion of a peace agreement, the EU, together with other international actors, will reassess the situation, the state of Libyan institutions and their absorption capacities, and determine- in close coordination with the Libyan authorities- the new priorities. With its implementing partners, the EU will then review the portfolio of activities and identify those actions that would best respond to a post-conflict reality. The EU will benefit from a lessons learned exercise that it will carry out.

The following may serve as an indication of which areas the EU may address:

Development activities, in close coordination with humanitarian aid, would in the first instance need to focus on the protection and relief of the Libyan people and of migrants (a number of ongoing projects in the field of migration and health would allow to cater for the most urgent needs in this respect).

Once the political conditions allow, the EU intervention would then need to be geared towards the stabilisation of the country through the mobilisation of our cooperation instruments in support to the building of democratic, effective and accountable institutions. Support to the demobilisation, disarmament and rehabilitation of fighters will be a key priority; learning from past experiences, clear Division of Labour will be essential to prevent overlap and competition.

More than in the past, counter-terrorism assistance will be important. A CT expert could be attached to the EU delegation in Libya to get an in-depth understanding of how the Libyan authorities intend to tackle CT, what the challenges and needs are and to provide advice and mentoring to Libyan authorities.

Counter-terrorism is a relevant aspect of border security, in particular in Libya with regard to the transit of foreign fighters and of terrorist groups to and from the Sahel. In case EUBAM can continue with the implementation of its mandate, it may allow an increased focus on broader regional issues such as training capacity on border security aspects of counter-terrorism and SALW. The inclusion of a CT expert as part of EUBAM Libya could be considered in the longer term, which would allow mainstreaming of CT considerations. Close cooperation with third countries will be sought to develop a coherent approach to the foreign fighters phenomenon, which would help to avoid de-stabilization of the region from Libya.

As soon the key security concerns are addressed, EU support should be provided to economic diversification and job creation as well as to support to civil society organisations.

In this context, the Multi-Annual Indicative Programme 2014 – 2015 (MIP) for Libya – designed before hostilities resumed - appears to still provide an appropriate framework for an intervention in a post-conflict situation. The MIP identifies the following sectors of intervention: 1) Democratic Governance, 2) support to young people's active citizenship and economic integration and, finally, 3) support to the health sector. These three sectors would allow carrying out public institution-building activities, while addressing the need for political and economic

recognition of the Libyan youth, prevention of radicalization, as well as ensuring the population's access to basic social services such as health (support to other social services could be envisaged but would require the consultation of other donors for an optimal division of labour).

Once the situation on the ground is stabilised, the EU should assess the possibility to resume – and, if needed, reorient – its support to the Libyan authorities in charge of ensuring sound physical security and stockpile management of the Libyan arms and ammunition arsenals, in the context of the CFSP budget-funded Council Decision 2013/320/CFSP (implemented by GIZ). This assessment should be conducted in close coordination with the UN and other actors engaged in arms and ammunition management assistance.

One of the lessons learned is that synergies among instruments can be enhanced at operational level. If for example it were possible in the longer term for EUBAM to continue with a number of pilot projects in identified geographical areas, then cooperation programmes could be geared to these areas as well. This would allow for a strengthening of border management, while providing technical skills and training to youth, possibly together with SME development programmes and strengthening of local governance structures.

## **XI. Resource Implications (To be worked out)**

### **Annexes**

#### **Annex A: Security Situation**

##### **Situation in the West**

For the western Zintan Brigade and its tribal allies (in the south and east), the 13 July and 24 August attacks on among others Tripoli International Airport (TIP) by Misratan-backed militias confirmed their fears about an Islamist military and political takeover of the country.

Misratan and Zintani forces are powerful militias with comparable military capabilities, making a decisive knock-out blow against either side unlikely. Nevertheless, the Tripoli airport takeover changes the current balance of power on the ground in favour of Misrata, especially as they already controlled Metiga airport; the only alternative to TIP.

Any move to recapture Tripoli would depend on a collection of western militias including tribal units from Washafani and Warfala and possibly ethnic Tebu in south west Libya, along with Zintan militias, led by the Sawaaq and Qaqaa brigades, trained and equipped as a regular armoured infantry unit.

The wild card in the military equation are two infantry brigades, based in south-east Tripoli, which came briefly onto the streets in November after Misratan militias killed civilian protestors in the district of Ghargour, only to retreat to bases where they remain. So far neither they, nor Tripoli's thousands of newly-trained police, have shown appetite to assert themselves against

Libya Dawn. Any escalation of fighting is likely to generate severe risks of collateral damage to infrastructure and property, and severe death and injury risks to the general population.

With the fighting in the West of Tripoli (with the Warshefana), the road to Tunisia is no longer safe. Tripoli international airport is severely damaged and possibly not useable for the coming years.

### **Situation in the East**

In mid-May, General Haftar called on elements of the Libyan armed forces to mobilize against the extremist group Ansar al-Sharia and brigades allied with it. Since fighting began, violence gradually escalated, spreading in some cases to heavily populated residential areas. Indiscriminate shelling has reportedly resulted in deaths and injuries to civilians, including children. The use of the air force by General Haftar, particularly in built-up areas, has fuelled concerns regarding the risk to civilian lives. The involvement of elements of the Libyan armed forces further illustrated the difficulties relating to limited centralized command and control within the institution.

Should Ansar al-Sharia succeed in securing Benghazi, there would be a high risk of Islamist forces launching attacks on Haftar's forces at his headquarters in Al-Murj, and on Benina International Airport, Labraq International Airport, and Gamal Abdul El Nasser Air Base in Tobruk, in an attempt to destroy Libya Dignity's airpower.

In Tobruk, seat of the House of Representatives, checkpoints have been established in order to secure the interim parliament. Being 150km from the Egyptian border, an attack on Tobruk by Islamists may trigger an Egyptian response.

### **Situation in the South**

The south has since the end of the revolution seen tribal and ethnic tensions, often triggered by disputes over constituency boundaries and control over smuggling routes. Coastal militias were deployed to secure ceasefire agreements. In Kufra, in the south-east, a ceasefire agreement signed on 1 March between Tebu and Arab Zwaya leaders provided for the deployment of Benghazi-based brigades to secure Kufra, the Sarir oil field and the major road leading from the coast. In Sabha, forces from Misrata acted as a buffer and provided a measure of stability.

In most cases the agreed truces remains fragile, given the continued absence of an overall comprehensive agreement to address underlying grievances. Incidents of abductions and killings targeting members of each community continue to recur.

### **Migration and organized crime**

As a result of a total lack of state control, general disorder has increased and transportation of irregular migrants by sea to Europe is taking place in broad daylight. Since January until the end of August over 110.000 migrants had crossed the Mediterranean from Libya. In comparison: this was 25.000 in 2013.

Criminality and organized crime is commonplace, particularly human trafficking, drugs, alcohol and arms smuggling. Robberies, carjacking and abductions are prevalent with militia groups

often involved in these activities.

Following the battle over Tripoli end August, Misrata brigades were able to restore order in Tripoli which lead to a reduction in ordinary crime.

### **Annex B: Humanitarian and Human Rights Situation**

Concern over human rights violations in Libya has heightened since July, when Misratan militias launched Operation Dawn campaign over Tripoli. Fighting between militias has impacted civilians (shortages of medical supplies, destruction of homes and infrastructure, disruption of basic services and communications), who have been subject to attacks that, according to Human Rights Watch, could amount to war crimes. There are reports that militias have seized people and looted, burned, and otherwise destroyed property.

In addition to this, HR issues in Libya concern:

- Detention centers: Thousands of detainees held since to the 2011 revolution are still in government and militia-controlled detention facilities without due process, being denied basic rights and subject to ill-treatment and abuses.
- Migrants, particularly those of Sub Saharan origin, continue to suffer arbitrary arrest, indefinite detention, beatings (in some cases amounting to torture), and exploitation at the hands of armed militias. Unofficial estimates indicate the presence of one million migrants in Libya. Libya is not party to the 1951 Convention relating to the Status of refugees and does not have a national asylum system. UNHCR's unofficial status in Libya and the pending signature of a long awaited MoU continues to limit the agency's ability to work.
- Internally displaced people: In Jan 2014 there were approximately 53,000 internally displaced people throughout the country (UNCHR). Forced displacement of tawerghas in 2011 by anti-Gaddafi militias has yet to be resolved. Since July 2014 Operation Dawn campaign in Tripoli, the ICRC and UN estimate that over 150.000 people have been displaced from their homes.
- Politically motivated assassinations, notably in the East.
- Restrictions freedom of assembly (violence against demonstrators) and of expression (threats and attacks on journalists).
- HR organisations have raised concerns over the impartiality and independence of the *judiciary*. Urgent need to promote reconciliation and transitional justice.
- Despite an increase of women political participation in Libya since 2012, discrimination and violence against women remains a challenge. Deeply rooted patriarchal values and traditional practices persist, especially in rural areas. Discriminatory provisions against women (and children from “mixed” Libyan-foreign marriages) are included in Libyan marriage, divorce and inheritance law. Violence against women, especially domestic

violence is a common problem that is hidden by Libyan social, religious and cultural customs. Rape as a weapon of war was used during the fighting in 2011. The social stigma which rape implies in Libya's society motivates that – still to date – many of the victims (women and men) continue to suffer their trauma in silence without seeking professional support.

- Attacks, violence and harassment directed against minority religious communities traditionally established in Libya, such as Coptic Christians, Catholics and Sufis. These attacks come from unknown groups, suspected to be related with Jihadist and Salafist movements.
- Social and economic rights: Health and education services were slowly recovering after the Revolution, though escalation of violence since July 2014 has much worsened the situation. The Ministry of Health has warned on possible collapse of health system: nearly 80% of foreign medical staff has left the country, leaving health facilities with little capacity to cope with regular activities and influx of wounded. In those urban areas affected by the fighting schools and universities have been closed regularly.
- Capital punishment is still formally in force in the State of Libya although it has not been applied since the collapse of the former regime. Numerous illegal executions by militia have however been reported.
- Cooperation of the Libyan authorities with the International Criminal Court (ICC) regarding the cases of Saif al-Islam and Abdullah al-Senussi, both subject to an arrest warrant issued by the ICC following the adoption of UNSCR 1970, still constitutes an issue.

### **Annex C: Economic Dimension**

Libya's economy is dependent on its capacity to produce and export hydrocarbons, mostly oil, as well as its access to accumulated oil wealth, which now lies in the reserves of its Central Bank, as well as its sovereign funds, such as the Libyan Investment Authority (LIA). Due to runaway spending, mostly on salaries and subsidies, its budget deficit is expected to reach 30 percent of GDP this year, which can be covered by reserves, amounting to some 180 percent of GDP. The IMF expects the economy to contract 7.8 percent of GDP this year.

The most important oil fields are located in Cyrenaica, and most exports pass through oil ports in the East: Es Sider, Ras Lanuf, Brega, Zuetina and Hariga. Cyrenaican federalists led by Ibrahim Jathran occupied Eastern oil ports on August 2013, demanding a greater share of oil revenues, a probe of corruption, and a committee to oversee oil exports. An agreement was finally reached between the federalists and the Libyan government on April 2014 to end the 8-month blockade, and oil ports were handed over to the government of PM Thinni in July-August. In the West, most of the production takes place on the El Sharara field deep in the desert; however, the pipeline to the export facilities of Zawiya and Mellitah was cut several times by Zintani militias in 2013.

Libyan oil production and exports have increased significantly in recent months despite the political chaos and occasional shutdowns: output has risen to of 900,000 barrels a day.

Yet the power struggle for control over the oil sector and revenues, essential for any government in Libya, has already begun. With the duplication of State institutions, there is mounting confusion over who controls the oil industry: the Oil Minister in the Tripoli government, Mashallah al-Zawie, claims to be legitimate holder of the position, while in the cabinet of PM Thinni, the Oil Ministry has been reincorporated into the NOC (as it was for the majority of Qadhafi's rule), thus leaving the head of the NOC- Mostafa Sanalla- in charge of the oil industry. The controversial dismissal by the HoR of the GNC-leaning Governor of the Central Bank of Libya (CBL) could have been a precautionary measure to prevent the CBL<sup>9</sup> from transferring funds to the GNC.

There is also the risk that the Misratan-led Alliance might seek control of oil infrastructure. Although the risk of illegal oil sales was significantly reduced with the adoption of UNSCR 2146 (2014) regarding illicit oil exports from Libya and the Morning Glory incident, there are reports that Libya Dawn forces are seeking support of tribes in the South to expel Zintan militias from El Sharara field.

MS investments most affected are Spain, Italy, Germany, Austria and UK.

#### **Annex D: Project portfolio**

##### **FPI: Currently on-going, suspended or just concluded Libya projects funded under the Instrument contributing to Stability and Peace:**

**1) Battle area clearance, EOD disposal and risk education (€1.2 million, adopted on 31/08/2012 - ongoing)** – An additional IcSP measure, implemented by the Mines Advisory Group (MAG) since January 2014, contributes to post-conflict recovery and stability in Libya through support for achieving a reduction in the humanitarian threat posed by explosive remnants of war (ERW). More specifically, it focuses on (i) risk education linked to increasing safe practices and behaviour of local communities affected by the presence of ERW and small arms and light weapons and (ii) improving national capacities to address the threats posed by Abandoned Ordnance (AO) and Unexploded Ordnance (UXO). Activities focused originally on the areas of Zintan and Hun/Waddan, but the project is now in the process of re-orienting its activities in view of the priorities and operating conditions of the current political and security situation in Libya.

**2) Support to conflict mediation in Libya (€1.7 million, approved on 01/06/2012 - ongoing)** – implemented by the Humanitarian Dialogue Centre (HD Centre), this IcSP measure aims to contribute to in-country and regional stabilisation by reinforcing the capacity of national state

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<sup>9</sup> Payments for oil exports are directly made into the CBL

and non-state actors to manage sustainable peace processes and mediate conflicts at the institutional level and at the conflict-specific level. The project scope includes inter alia a focus on linkages with regional conflicts in the Sahel. Recent project activities include support to the National Dialogue process (in close cooperation with UNSMIL and EU DEL); facilitation of an all-party dialogue meeting on the Political Isolation law; and support (including capacity building) to traditional wise men (hukama) and their currently ongoing mediation efforts. This project currently continues operations, in close coordination with EU DEL and UNSMIL.

**3) Crisis response capacity-building (€2.4 million, adopted on 31/08/2012, currently suspended)** – this activity, implemented by the Geneva based "Small Arms Survey" project of the Graduate Institute Geneva started activities in March 2014 and will run for 18 months. It aims to contribute to developing the Libyan authorities' capacities to provide internal security and public safety. The specific objectives are to (i) build national capacities to map, assess and analyse interventions by government authorities in the security sector, and (ii) provide support to develop strategies and operational plans to address community safety. Implementation will focus on two pilot areas to be determined in cooperation with the Libyan authorities. One of these pilot regions could potentially be in a border region, subject to decision of Libyan authorities. Close cooperation with EUBAM has commenced. Cooperation with the Libyan Ministry of Interior had started but the project is currently suspended, given the recent deteriorating political and security situation.

**4) RELINC – criminal investigation and threat assessment capacities (€2.2 million, adopted on 31/08/2012- activities ended on 31/08/2014)** – this IcSP measure focused on reinforcing Libyan criminal investigation and threat assessment capacities and was implemented by INTERPOL. Activities that have been implemented include: (i) a pilot system for document verification and access to INTERPOL databases at Tripoli airport (currently de-installed and stored in a safe location); (ii) Training on the use of INTERPOL's databases and MIND system; (iii) a Crime Analysis Unit has been created, training and monitoring has been delivered and a threat assessment was commissioned and presented to Libyan stakeholders; (iv) Access to INTERPOL data and specialised police resources for several Ministry of Interior Directorates (and Customs) was put in place. This includes training on INTERPOL's I-24/7 system; and finally v) a criminal database was put in place at the Central Criminal Investigation Department and training on the proper use of it, including data protection, was delivered. The project cooperated closely with EUBAM Libya to ensure all possible synergies.

**5) Security, Protection and Stabilisation Programme in Libya – Clearance of mines and UXOs, prevention and reduction of armed violence, protection of vulnerable groups (€5 million, adopted on 31/08/2012, activities ended on 31/08/2014)** – this IcSP measure provided support for clearance of mines and unexploded ordnances, capacity-building of national authorities in mine clearance, the protection of vulnerable groups, and the prevention and reduction of armed violence. It was implemented by Danish Church Aid in conjunction with the Danish Refugee Council. Activities included psycho-social support activities in 28 schools in the Misrata area, mine clearance of 96,800 m<sup>2</sup> in the Tripoli area, and the organisation of 11 training courses for the Ministries of Interior and Defence. In the southern Sabha area, an agreement was

signed to train explosive ordnance disposal searchers and mine risk education was delivered to 2,452 people from migrant communities, fire services and schools. To support the clearance activities of the Mines Advisory Group, an armoured excavator for explosive ordnance disposal was procured as part of this package. An experienced operator was recruited and national staff members were trained to operate this machine. Mines Advisory Group contributed to the removal of 27x 250kg bombs and 12x 500kg bombs, 57 missiles and more than 2000 projectiles and mortars in the Zintan area.

## **EUBAM Libya**

The Mission's overall objective is to support the Libyan authorities to develop capacity for enhancing the security of their borders in the short term and assist in developing an Integrated Border Management (IBM) strategy in the long term. It does this by supporting Libyan authorities in strengthening the border services in accordance with international standards and best practices through training and mentoring; advising the Libyan authorities on the development of a Libyan national IBM strategy; and supporting the Libyan authorities in strengthening their institutional operational capabilities.

The Mission has supported Libya's engagement with international organisations, such as Frontex and WCO, as well as with the countries in the region. The Mission is responsible for the coordination of international support in the area of border management. It has coordinated its activities closely with EU projects such as RELINC, SAHARA-MED and Seahorse.

## **Annex E Future CSDP Considerations**

There is currently a clear absence of any political request from either the legitimate Libyan authorities, or from UNSMIL (or other appropriate organisation such as the LAS or AU), for additional CSDP support other than from the continuation of the existing EUBAM Libya mission. Moreover, the emergence of 2 effective parliaments in Libya brings into question the legitimacy of Libyan ownership of EUBAM Libya which will need to be addressed locally through discussions led by the EU Delegation and analysed further in the forthcoming ISR.

Contingency planning on additional CSDP support at this stage could usefully continue to concentrate on information-gathering to assess how best CSDP could be utilised in the future and add value as part of a comprehensive package of support. A planning emphasis on support to a cessation of hostilities would however appear to be an area where CSDP activities could support EU objectives in its crisis approach to Libya. As an immediate first step, activity will continue to focus on engagement with UN DPA and UNSMIL planners in order to improve mutual awareness and coordination. This engagement has already commenced and a CMPD-led fact-find team will visit the region in mid October 2014. Engagement could develop further through embedding EEAS planners with UNSMIL to take CoH planning forward, drawing upon the expertise of EUBAM Libya and EU Del Tripoli security experts, as appropriate, to provide continuity, in the planning stages.

In addition to the need to balance information-gathering with a current lack of direct tasking, planning for future options will need to consider a number of challenging factors including:

- Level of ambition and feasibility of mission success given political and security situation;
- Financial constraints on the CFSP budget;
- Logistic footprint and provision of force protection in Libya;
- Willingness of Libyan authorities for an executive mission and/or military support;
- Libyan ownership and mission visibility (SOMA/SOFA issues).

Consequently, CSDP options could evolve in a 2-phased approach concentrating initially on preparing the ground in the remainder of 2014 through continued planning, evolving possibly into a subsequent mission establishment in 2015.

In the initial phase, key activities could include embedding CSDP planners both with UNSMIL and potentially with other key interlocutors (e.g. AU and USAFRICOM, ) to provide a liaison and information gathering function, further EU credibility and support planning options in Brussels.

Dependent on the outcome of events in the initial phase, CSDP planning could subsequently evolve in a second phase in 2015 should conditions permit.

In the event that MS decide to close or suspend EUBAM Libya in response to the political and security situation being incompatible with further operations, consideration could also be given to commence planning on a CSDP response that addresses the Libyan border security problem from an alternative perspective. This approach, which will be considered in the EUBAM Libya ISR, could, perhaps, concentrate on a specific component of IBM which is of pressing concern to EU interests (e.g. migration) and possibly be conducted with an executive mandate not necessarily dependent on host nation support.