Reforms Guide to Improving the Business Environment in Libya

January 2023

PART ONE

Expertise France Practical Survey Series

Funded by

This project is funded by the European Union

Implemenetd by

EXPERTISE FRANCE GROUPE AFD

In cooperation with

giz Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

EU4PSL Private Sector Libya

Reforms Guide to Improving the Business Environment in Libya

A list of the top 20 priority reforms
and practical suggestions to implement them

This survey and publication were conducted and authored by Dr. Antoine KURUNERI-MILLET and Mr. Yahya Ganjour who were commissioned by Expertise France and GIZ. The authors would like to express their deepest gratitude for the individuals and institutions whose contributions made this publication possible.

The Ministry of Economy and Trade seeks, among the priorities of its strategic vision for economic diversification, to improve the business and investment environment, and to develop the efficiency of the related economic systems, through effective participation and dialogue between the public and the private sectors.

In this context, and within the activities of the Libyan Private Sector Support Program funded by the European Union, which was implemented in joint cooperation between the Ministry of Economy and Trade, the General Federation of Chambers of Commerce and Industry, Expertise France, and the German technical cooperation agency, a field study was conducted to analyse the reality of challenges and difficulties facing the Libyan private sector.

This study led to the identification of priority reform issues and concrete proposals to improve the business environment in order to help the government to enhance the economic reform process and start establishing the institutional structure for economic diversification and investment climate development, where the focus was on the main and achievable reforms that will have the most positive impact on the majority of Libyan institutions, whatever their sector, size or location, in the shortest possible period of time.

Therefore, this guide is considered a practical beginning to guide government reform measures and enrich dialogue between the public and private sectors in order to improve the business environment and investment climate, and to monitor and measure the tangible progress made by the government in implementing these priority reforms.

Through this context, the Ministry of Economy and Trade will work continuously to build an effective dialogue that enhances confidence between stakeholders from the public sector, the private sector, the finance sector, and civil society institutions, through which it is possible to create a Libyan business environment that stimulates domestic and international investment, and improve Libyan economic competitiveness indicators at the level local, regional and international.

Dr. Suhel Busheha

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When facing the challenge of supporting private sector development, governments can opt to extend direct support to enterprises, but they also have the capacity to improve the quality of the business environment. In order to better understand the most suitable way to design their interventions, the private sector's own view of what reforms are considered a priority is one of the most relevant sources of information to feed this strategy.

In that sense, Expertise France, in collaboration with the Libyan Chambers of Commerce, the Union of Chambers of Commerce, and the Ministry of Economy and Trade, supported the production of this Reforms Guide on priority reforms, gathering the feedback of more than 600 Libyan companies from all over the country. This document allows the identification of the most crucial improvements to the business environment that could strongly and positively impact the development of the private sector in Libya.

Moreover, as an internationally recognized tool for prioritizing reforms, this guide provides a sense of priority, which is always challenging for an administration in a transitioning economy facing a multiplicity of needs. Based on a robust consolidation of qualitative and quantitative data, this Reforms Guide also represents a reference that may be useful for the international community when considering the support that it may bring to its Libyan partners in developing the private sector in the country. Moreover, this 2023 Reforms Guide can be considered as a benchmark that, if this exercise is repeated periodically, is useful to measure the impact of public policies and reforms, and allows for reorient these interventions depending on the evolution of the needs of the private sector stakeholders.

Finally, it is essential to consider the relevance of such an initiative in terms of its capacity to gather both the public and the private sectors around the same table to engage in a series of dialogues to facilitate the economic development of Libya, a fundamental pillar for a country that faces both the challenges and the opportunities of a fast-evolving and increasingly-complex national, regional and global economic context.

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1.1. What is the Reforms Guide?

The Reforms Guide is the list of the top common reform priorities identified by Libyan enterprises owners and managers, based on the top common obstacles they face, accompanied by concrete proposals for improvement.

The Reforms Guide is a private sector led initiative in cooperation with the public sector, upon its publication and presentation to the government, enables a constructive public-private sector dialogue and enhanced reforms for the economy of the country.

Priority reforms listed in the Reforms Guide have been identified on the basis of an extensive several months survey of Libyan private enterprises of all sizes and all sectors across the entire Libyan territory.

The concept of Reforms Guide is recognized by the OECD, the EU and the wider international community as an international best practice for enhanced and effective economic reforms in transition, post conflict and emerging economies.

In the present case, this initiative has been made possible thanks to the EU4PSL (EU for Private Sector in Libya) project funded by the European Union and implemented by Expertise France and GIZ International Servies, in cooperation with the General Union of Libyan Chambers of Commerce and Libyan Chambers of Commerce.

1.2. Goal of the Reforms Guide

The objective of this Reforms Guide is to provide the government, notably the ministry of Economy and Trade, and the central bank of Libya with a list of prioritized reform issues and concrete proposals for improvement, in order to help the government enhance the economic reform process by focusing on key and achievable reforms which will have the most positive impact on the majority of Libyan enterprises, whatever their sector, size or location, within the shortest possible time period.

Libya, like all fragile, transition and developing countries, receives numerous valid reform advice from the international community. However, within this relevant vast "to do list", the challenge for the government is to know what to start with in order to make the maximum positive impact on the economy of the country.

This is the goal of the Reforms Guide:

- Providing the government with the top priorities for reforms to start with, for the maximum and quickest positive impact on the majority of Libyan enterprises;
- Explaining how the listed priority issues negatively impact the Libyan economy;
- Providing concrete proposals for government action and improvement;
- Presenting the expected benefits for Libya of the proposed reform actions.

The goal of the Reforms Guide is therefore to be an operational and practical tool to guide government reform actions, to substantiate public-private sector dialogue for enhanced economic reforms, and to monitor and measure the concrete progress made by the government in the implementation of these priority reforms.

As such, Reforms Guides from representative private sector constituencies are also a precious, powerful and operational tool for the media, the international community, the civil society, the business community and development aid donors and implementers, in order to monitor and measure progress made with priority reforms, to provide targeted support when necessary, and to apply peer pressure on the government and public administrations for rapid priority reform implementation.

1.3 Why the Reforms Guide was prepared

The international and national credibility and the strength of a Reforms Guide primarily lies with the representativity of the private sector constituency which initiates and contributes to its formation, and their contribution to identifying the priority reforms and designing policies that would enhance the business environment, investment climate, and advise the government on how to improve the economic situation and secure the future of the country.

In Libya, membership with Libyan Chambers of Commerce is mandatory for all domestic enterprises as per the Commercial Law, 2010, and the Chambers of Commerce and the General Union of Libyan Chambers of Commerce have the official legal duty to advise the government in economic and private sector matters. Moreover, Chambers of Commerce represent all Libyan enterprises whatever their activity sectors, their size or their location all across the Libyan territory. As such, Libyan Chambers of Commerce are the only fully legitimate and representative private sector constituency in Libya.

Accordingly, the public-private dialogue will be the main and direct tool to discuss these reforms and how to implement them.

1.4. Added value of the Reforms Guide

The Reforms Guide is not only a simple list of issues faced by the Libyan business community. It is the list of priority issues that are the top common issues faced by all Libyan enterprises. As such, it is the list of priority reforms to be urgently implemented by the Libyan government to improve the business environment as per the World Bank's ease of doing business index which ranks Libya in year 2020 at 186 out of 190 countries.

It is also a guide for the government as for each priority issue listed, the negative economic impact is presented, a concrete operational solution for improvement is proposed and the economic benefits of the proposed reform are clearly stated, in order to fully substantiate and guide the action of the government.

1.4.1.For the government

It is a practical knowledge, reflection and action tool to progress the economic development of Libyan enterprises and Libya.

The Libyan government get plenty of quality and very relevant advice from Libyan experts and the international community. However, for decision-makers at the government, the question remains what reforms to start with? The Reforms Guide is the answer to this question.

This Reforms Guide is for the government the tool needed to know what reform to start with in order to make the maximum positive impact on the majority of Libyan enterprises whatever their size, activity sector or location, and this in a minimum of time. It is also a tool to facilitate and boost inter-ministerial and inter institutional cooperation around the achievement of clear and objective concrete reform goals that are mutually beneficial for all economic stakeholders.

This is the added value of the Reforms Guide for the government. A practical tool offered to the government by Libyan Chambers of Commerce to guide and progress reforms as part of their official mandate to provide consultative advice to the government for economic development and to provide Libyan enterprises with solutions to develop up to their potential.

1.4.2.For the international community

The international community is also flooded with quality and relevant analysis and recommendations from international institutions. However, alike the Libyan government, it lacks 3 things which make for the added value of the Reforms Guide for the international community.

First, the international community is in need of reality-checked information on the actual situation of Libyan enterprises and Libyan business environment. Second, it too, alike the Libyan government, must know what reforms to push for and support first in order to progress private sector and economic development in Libya. Third, the international community must know what to monitor and watch for in terms of critical priority reforms, in order to measure progress made or not made with reform.

With the elaboration and publication of the Reforms Guide, the international community has gained a reality-checked agenda for operational dialogue with Libyan decisions-makers, for operational and objectivized peer pressure on Libya, and for shaping international development aid and technical assistance to Libya.

1.4.3. For the Libyan business community

The added value of the Reforms Guide for Libyan business owners and managers is now the possibility to regroup around priority issues that are common to all of them and to demand reforms about any of the issues raised in the Reforms Guide without being answered dismissively that this is just an issue for their specific enterprise or that nothing can be done.

The Reforms Guide shows that some issues are faced by all Libyan enterprises whatever their size, the activity sector or their location and that some concrete actions can be taken by then government to solve them. The Reforms Guide is a common agenda for urgent change for the benefit of the entire Libyan business community.

The Reforms Guide is also an opportunity and a tool for the Libyan business community to participate actively in the reform process of their business environment by an taking active part in the occurrence of change through their Chamber of Commerce. It is also a tool to monitor objectively progress made or not made by the government with the most critical issues they face through clearly stated priority issues and concrete proposals for improvement.

1.4.4.For the Libyan media

It is always difficult for the media to fully capture the economic challenges faced by a country let alone to know which of them are the top priorities for reform for the majority of enterprises and what concrete changes and possible solutions could rapidly have a major positive impact on the economy of the country.

The Reforms Guide is an operational guide for the media to focus their information actions on the top common issues shared by Libyan enterprises whose solution by the government could kick start the economic development of Libya . The Reforms Guide is also an operational and simple expert information source for the media to substantiate their dialogue and interviews with the government and Libyan decision makers in the area of economic reforms. The Libyan media have now access to a reference tool to deepen their analytical work and to engage with strength, legitimacy, confidence and relevance with Libyan decision-makers on top priority reform issues for the country.

Last but not least, the Reforms Guide is the ultimate reform monitoring tool for the Libyan media. The media can now, at a glance, refer to this list of 20 specific priority reform issues to check what progress was made with them and what actions are being taken by the government towards improvement.

As such, the Reforms Guide is for the media a simple and expert reference tool to focus their dialogue and information work, to substantiate their exchanges with decision-makers, and to monitor actual progress made with reforms in the most critical economic areas of the country.

II. METHODOLOGY

II. METHODOLOGY

Reforms Guides worldwide, in all transition and emerging economies, draw their relevance, legitimacy and strength for guiding priority change implementation by governments from the methodology behind their elaboration. The methodology of the Reforms Guide is a mix of rigorous principles which make it a field reality-checked instrument for change to the benefit of all enterprises for the ultimate benefit of the country economy.

2.1 A mere private sector driven process

The Reforms Guide is a mere private sector driven process from the initial collection of data to the presentation of issues and solutions through the objective selection of priority issues for reform.

The Reforms Guide was elaborated by the Libyan chambers of Commerce in collaboration with the General Union of Libyan Chambers of Commerce using internal and private sector expertise. The scientific relevance and reliability of the entire process was ensured by senior international and Libyan experts from GIZ, the German National Cooperation Agency within the framework of the European Union financed project EU4PSL (EU for Private Sector Libya) implemented by Expertise France.

The process started with a survey of the country private enterprises by the Libyan Chambers of Commerce aiming at identifying the top common issues they face in their business activities:

- A scientific survey questionnaire divided into the 3 basic enterprise activity cycles (planning, operations and business development) was elaborated in order to cover all the possible issues that can be faced by enterprises completed by open answers questions in order to avoid ignoring any business issue.

This survey is then conducted by the Libyan Chambers of Commerce under the supervision of the General Union of Libyan Chambers of Commerce. The survey targets Libyan enterprises of all sizes, all activity sectors and from all over the Libyan territory without any restriction. The Survey is conducted online by means of an e-questionnaire in Arabic. In order to arbitrate possible analytical uncertainties, a significant fraction of the survey was conducted by mean of direct physical interviews of Libyan business owners and managers which enabled the further contextualization and further capture of subtle nuances and refined data which led to very reliable results analysis and robust results.

- The process continued with the scientific analysis of the results of the survey and with establishing a draft list of priority issues.

Issues mentioned by all enterprises are listed from the most frequently quoted to the least frequently quoted and the issue appreciation by respondents in terms of impact is of course factored in. The process then was continued with the analysis of the list of prioritized issues by Chambers of Commerce in order to shortlist issues that are the most important to the majority of Libyan enterprises and which can be reasonably addressed by the government for the maximum positive impact in the shortest period of time. Once the short list of the 20 priority issues has been established. Chambers of

Commerce analyze and explain the negative economic impact of each issue, research and elaborate the best concrete solution for improvement, and finally present and explain the economic and social benefits expected from the implementation by the government of the proposed reform.

2.2 A participatory approach

Central to the legitimacy, relevance and strength of the Reforms Guide is its field reality-checked dimension based on the participatory approach, from Libyan enterprises unprecedented major involvement in providing the data necessary to identify the top common priority issues for reforms to the internal discussions within the Chambers of Commerce to agree to common positions on the impact of selected issues, on the anticipated benefits of proposed reform solutions and on reform solutions themselves.

The extent of the participatory approach of the Reforms Guide is reflected by the design and the conduct of the survey performed by Libyan Chambers of Commerce in order to collect the required data which lasted several months from July 2021 to October 2021 and gathered 618 Libyan enterprises who participated in this demanding survey. This is an exceptional level of participation even by European Union country standards which provided an exceptionally analytical basis unmatched to date in Libya.

The Reforms Guide participatory approach also rests in a process piloted by business for business where each Libyan enterprise has had the opportunity to contribute by sharing the problems it faces, their consequences for them and the country economy, their possible concrete solutions to these issues and the anticipated benefits of the proposed solution for their business operations and for the subsequent development of the Libyan economy.

This has been thoroughly discussed and assessed by Libyan enterprises and chambers of commerce on the occasion of several workshops in December 2021 and March 2022 conducted by Expertise France under the EU4PSL project, funded by the European Union.

The participatory approach is eventually reflected a Reforms Guide made by Libyans for the Libyans and for Libya's economic future. Libyan business owners and managers and their Chambers' representatives have participated in the process from A to Z from the survey design through data collection to final decisions under high level international and Libyan expert guidance.

2.3 A structured & follow through Reforms Guide approach by chambers of commerce

Each of the 20 top common issues selected for urgent priority reforms belongs to one of the 4 broad policy areas (Legal, Labour, Finance, Public Policy) which match future Chambers of Commerce Specialized Working Groups for a structured reform implementation dialogue with the government along the reform process.

While the Reforms Guide proposed solutions for improvement to the 20 priority issues are all simple, concrete and straightforward, policy dialogue and cooperation between the government and Chambers of Commerce remain vital to the successful reform implementation all along the reform process.

Indeed, the reform impulse must and can only come from the government and is the government responsibility. The means for reform must come from the relevant ministries and public institutions and are their unique responsibility. However, in order to be successful, the reform process along the lines of the Reforms Guide must enable a permanent technical dialogue which will have to be engaged and maintained by the government with the Chambers of Commerce.

To that purpose the Reforms Guide prepared by the Chambers of Commerce (COC) also encompasses the fact that the General Union of Libyan Chambers of Commerce will establish 4 COC Specialized Working Group, made of relevant chambers staff and COC enterprise members, in order to specifically follow-up on progress made by the government on each of the 20 reform priorities that can be regrouped under 4 broad policy areas that are "Legal", "Labour", "Finance" , "Public policy".

As such, the Reforms Guide is a practical tool but also a commitment of Libyan Chambers of Commerce to follow-up progress made or not made with listed priority reforms and to guide technical dialogue with government experts to facilitate reform implementation.

2.4 For the government

The Reforms Guide is both a guide for priority action and a self-monitoring tool for reform implementation by the government.

The Prime minister, the government – especially the Ministry of Economy and Trade and the Central bank of Libya -, public administrations and the parliament of Libya have now all the information required and a clear list of 20 reform priorities to start with economic reforms in order to have the maximum positive impact on the majority of Libyan enterprises in the minimum period of time whatever their size, sector or geographic location. The Reforms Guide:

- Gives them a clear description of each of the 20 priority issues;
- Informs them of the Negative Business and Economic Impact;
- Provides them with the Action Required and Proposed for Improvement;
- Explains them the Expected Business and Economic Benefits from the Proposed Action.

The Prime minister's office must now:

- Review the 20 issues for priority reforms and allocate each of them to a lead ministry for time bound action;
- Each ministry must instruct its services to urgently review each issue, research technical information if needed and prepare a draft decree or a draft amendment to the law plus its subsequent application decree depending on the issue;
- Each Ministry must share the draft amendments and draft decrees for timebound consultative advice by the relevant Libyan public institutions and by the General Union of Libyan Chambers of Commerce;
- Revise and fine tune the draft laws and decrees based on consultative advice and:

- Submit the draft decree for signature by the Minister and approval by the Prime minister.
- Submit the draft amendment to the law to the Parliament for priority examination and approval.

The Prime minister's Office must make public the above-mentioned action plan and subsequent deadlines for each action in order to ensure swift actions without unnecessary delays.

The Prime minister's Office and each lead minister for the 20 priority reforms should report publicly every 3 weeks on ongoing actions and progress made and specify the problem faced if no progress was made during the reporting period.

2.5 For the media

The role of the media in the successful implementation of the 20 priority reforms of the Reforms Guide is paramount. It is their information of the Libyan public about the Reforms Guide and their follow-up of progress or lack of progress made with the 20 reform priorities in newspapers, on radio, TV and in the social media which will:

- Show the Libyan public that quick and concrete economic development and better lives are possible if these priority reforms are rapidly implemented by the government;
- Generate public pressure on the government for change;
- Reinforce the commitment to reform implementation by the government.

The media should use the Reforms Guide to:

- Inform, educate and mobilize the public about each of the 20 priority issues by using the information provided by the Reforms Guide so that the Libyan public develop a feeling of ownership of the ongoing reform process about the 20 priority issues;
- Educate the public about the link between a sound and enabling framework for business outside the oil sector and the sustainable economic resilience, development and growth of Libyan families and the country;
- Frame news report and interviews around the 20 reform priorities and to substantiate discussions with Libyan decision-makers so that a positive media pressure and momentum for change is generated;
- Report on progress made or not made with the 20 reform priorities, on possible obstacles or reluctance met which impede the reform process.

2.6 For private sector consistuencies

While Chambers of Commerce are the only fully representative Libyan organization representing enterprises of all sizes, sectors and geographic location, Libya also benefits from a number of specialized private sector constituencies which represent some territories, industries, etc.

As previously mentioned, the 20 reform priorities listed in the Reforms Guide are relevant and were selected for ensuring a maximum positive impact on all Libyan enterprises whatever their size, activity sector or location.

The Reforms Guide is therefore an opportunity for all specialized private sector constituencies to join forces with Chambers of Commerce on a mutually beneficial concrete and operational reform agenda.

For each of the 20 priority issues, the proposed reform solution may, provided it does not negatively impact the majority of enterprises nor delay the reform implementation process, incorporate additional specific measures for specific activities, types of enterprises or geographic locations while remaining effective for the majority of Libyan enterprises which is the logic of the Reforms Guide and of the proposed reform priorities.

Therefore, private sector consistencies should join forces with Libyan Chambers of Commerce around the Reforms Guide and:

• Review each of the 20 reform priorities and identify if specific additional measures must be adopted to the proposed reform proposal to address a specific issue within the issue without harming the majority of enterprises;

• Share their specific recommendations if any with the General Union of Libyan Chambers of Commerce which, as per its official mandate and as per international best practices advocated in the Reforms Guide, will be requested for consultative advice on draft decrees and amendments prepared by the government.

2.7 For entreprises

Libyan enterprises are already the makers of the Reforms Guide and will be represented by the General Union of Libyan Chambers of Commerce throughout the reform implementation process, so their main role has been completed.

However, each individual enterprise owner or manager can relay the Reforms Guide content to his relatives and/or the media and help create and keep the momentum for the implementation of these 20 reform priorities.

2.8 For the international community

The international community has now, in addition to all international governmental organizations and financial institutions' recommendations for reforming Libya, a clear and substantiated list of priorities issues for reform to start with in order to make the maximum positive impact on the majority of Libyan enterprises whatever their size, sector or location. The international community, from foreign governments to multilateral organizations through national development aid agencies should therefore use the Reforms Guide to:

• Apply peer pressure for the swift implementation of the 20 priority reforms;

• Focus policy dialogue with the Libyan government;

• Monitor progress made with each of the 20 priority reforms for both the economic development of the country and as an objective indicator of the actual reform willingness and capacities of the Libyan government;

• Adjust ongoing development aid and shape future technical assistance to Libya on the basis of the Reforms Guide.

2.9 For civil society

In transition countries like Libya, the civil society is developing but often lack objective elements and information to mobilize and structure civil society members around critical reforms for the country.

The Reforms Guide gives the Libyan society an agenda for social and economic reforms that are vital to for the country and, as such, is both a developing and structuring tool for the Libyan civil society.

It is an opportunity for each civil society member or organization to take part into change implementation by providing their expertise, time and goodwill and/or means to:

- Advocate concrete change proposals presented in the Reforms Guide;
- Join the future specialized working groups of the General Union of Libyan Chambers of Commerce to assess draft amendments and draft decrees prepared by the ministries on each of the 20 priority issues;
- Monitor progress made or not made with the 20 reform priorities and demand greater commitment to reform implementation;
- Create and keep momentum for priority social and economic reforms in Libya through dedicated events and the social media.

III. 20 PRIORITY ISSUES

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PRIORITY 1 - MAKING EQUIPMENT LEASING POSSIBLE FOR LIBYAN ENTERPRISES

DESCRIPTION OF THE ISSUE

Leasing is authorized in Libya since 2010 but cannot be used in absence of the application decree. The Law 15 of 2010 has authorized the leasing of equipment in Libya but leasing operations cannot take place because the application decree with all the operational provisions has not been drafted nor signed by the Ministry of Economy and Finance. Therefore, the leasing of equipment although authorized by law cannot take place in Libya.

Definition of "leasing"

The leasing of equipment is the operation which enables an enterprise to rent the equipment it needs for a given period of time (usually for 3,5,7 10 years maximum) instead of buying it cash or by means of a credit. The enterprise only pays for the use of the equipment during the chosen period of time and not for its property, and the leasing company will sell the equipment as used to any interested buyer upon the termination of the leasing period.

The advantages of leasing over credit are much smaller monthly payments than a credit (thanks to monthly payments only calculated on the use of the good during the leasing period and not on the entire value of the good), access to the most competitive equipment of the time and the possibility to always have the latest and most performant equipment at a low cost.

Example:

You need a machine to boost your business for the next 10 years.

The machine is worth 120 000 USD but 1) you don't have 120 000 USD cash nor have the financial capacity to take a loan and make monthly credit reimbursements of 1 000 USD within 10 years, and 2) you know that this model will be obsolete in your market after 10 years, and difficult to resale as used in your market in order to buy a new one.

Leasing enables an equipment leasing company to 1) buy the machine in your place at 120 000 USD, 2) estimate that the resale value of this used machine after 10 years will still be 60 000 USD and 3) lease it to you for a price not based on the amount of the machine but for a price based on the depreciation of the machine during the 10 years of use i.e. 40 000 USD.

As a result your monthly payments will not be 1 000 USD per month but only 40 000: 10 years: 12months = 333,33 USD!

Of course, because the leasing company has spent money to buy the equipment for you, bears the risk of reselling the used equipment(cost and time of looking for a buyer of the used machine) and must make a profit, there will be a small financial premium added to your monthly payments (e.g. 67 USD for a total of 400 USD per month) which will represent the benefit of the leasing company in this operation.

Today, in OECD countries (the most advanced countries in the world), 99% of enterprise equipment is leased instead of being bought cash or by means of a credit. Leasing is not only applicable to professionals. In most advanced countries today, even private cars are not bought anymore by individuals but leased for 1, 3 or 5 years for very low monthly payments compared with the nominal price with good deals estimated to be monthly payments which do not exceed 1% of the value of the car.

NEGATIVE BUSINESS AND ECONOMIC IMPACT OF THE ISSUE

• Libyan business owners and managers have no reasonable financial means to acquire/use the equipment they need to start and normally operate their production activity and/or to optimize, develop and grow their activity, unless they have a personal fortune to buy (cash or credit) equipment;

• Libyan enterprises are deprived of the primary financial tool necessary to access modern enabling equipment and to create subsequent qualified jobs for Libyans;

• Libyan enterprises are excluded from global business competitiveness both in foreign markets and in their own domestic market by foreign international competitors who have access to leasing and can use it to produce better products at better conditions;

• Non-performing loans cannot be restructured into leasing in order to alleviate the financial burden of the loan for the borrower while preserving attractive revenues and security for the lender.

Key observation

Equipment such as machines for the production of goods and services, be they high technology or basic machines and systems, has always been expensive. This has long kept poor and middle-class people away from entrepreneurship or limited them to simple small craftmanship activities with no possibility of development and expansion, which limited their income, job creation and the economic growth of their country.

The invention of credit and the implementation of loans and subsequent regulations to avoid unreasonable interest rates only mitigated part of the problem of the financial capacity necessary to start and grow a business because the costs of labour and production to manufacture quality equipment has increased dramatically and because, in addition, equipment also incorporate more and more costly high-tech features. Moreover, equipment manufacturers worldwide have been encouraged to design more costly equipment with a higher selling price given the fact that, today, all enterprises in the world lease their equipment instead of buying it and can thus anyway access it at a fraction of their theoretical selling price. The nominal selling price of an equipment has therefore lost part of its traditional relevance as a buying criteria for enterprises since it is only the difference between the initial selling price and the potential reselling price calculated as used at year + 3 or 5 which now matters in order to assess the final actual cost for the enterprise. It must be noted that enterprise equipment manufacturers and prices being a world globalized market, it is obvious that a country which would not enable leasing, prohibits it or reduce the benefits of leasing will not be able to obtain lower selling prices in exchange. This country simply be excluded of global competitiveness at the expense of its own economy.

Today, in Libya, unless a person has already a personal fortune, it is almost impossible for a nevertheless skilled and qualified individual to acquire the necessary equipment to start producing goods, or for an established business owner or manager to acquire the equipment which would enable his enterprise to increase its production, accelerate production times, reduce unitary production cost, reach out to new customers, enter new markets or to produce goods with more added value in order to increase its profit margins.

The current result is at best the economic stagnation of Libyan private SMEs and the absence of any perspective of economic development for the country. In 2021, the European Union financed EU4PSL project surveyed the Libyan private sector and measured that 74,2% of Libyan enterprises were not making profits of losing money, and that only 24 % of Libyan enterprises were profitable and growing with the possibility to increase their income, create more jobs, pay more taxes for the country and to achieve an economic development up to their potential (Source: EU4PSL Survey Publication: Profiles of Libyan Enterprises and of Libyan Business Owners and Managers - June 2021). Without leasing i.e. without the possibility for Libyan enterprises to equip themselves with the relevant and necessary machines and systems at the reasonable and accessible costs offered by leasing, no government reform will unleash the potential of Libyan established SMEs and new entrepreneurs.

ACTION REQUIRED AND PROPOSED FOR IMPROVEMENT

The Libyan Ministry of Economy and Trade, and the Central bank of Libya must:

• Prepare and publish the application decree providing the operational conditions for leasing activities in line with the provision of Law 15 of 2010 which authorized leasing;

• Ensure that the decree authorizes leasing offers by banks and not only by dedicated leasing companies;

• Seek consultative advice from the Central Bank of Libya, the European Banking

Authority and the General Union of Libyan Chambers of Commerce;

• Implement a massive communication campaign to Libyan SMEs in order to inform them that leasing is now possible and to raise enterprise awareness about its benefits for business.

EXPECTED BUSINESS AND ECONOMIC BENEFITS FROM THE PROPOSED ACTION

Equipment Leasing is regarded both as a "low risk form of lending" as the equipment remains the property of the leaser, and as "powerful economic and social growth tool" by international financial institutions, OECD countries, the European Union and all leading emerging economies. Notably:

Leasing will allow Libyan enterprises to use newer and better equipment at a low cost which will:

- Simplify their manufacturing operations and /or
- Increase their production volume capacity and/or
- Speed-up their production capacity and reduce order to delivery delays and/or
- Reduce their production costs and/or
- Enable production flexibility and/or
- Increase the quality of their products and/or
- Improve employees' safety and/or
- Meet world technical and certification standards for international trade

Leasing will result in:

- Better and more competitive Libyan products and services;
- Enhanced profit margins and increased revenues for business owners and managers;
- Access to new domestic and foreign markets and customers providing for increased sales and for job creation;
- Openings for more qualified jobs likely to attract and absorb Libyan graduates., and reduce the public expenditure and salaries in the public sector.

Leasing will enable:

- The restructuration of non-performing loans into a leasing operation thus avoiding repayment default by both alleviating the financial burden for the borrower and by preserving attractive revenues and security for the lender.

Enabling banks, and not only dedicated leasing companies, to propose leasing offers to their business clients will:

- Enlarge leasing possibilities and ensure a real competitive leasing market for business in Libya.

PRIORITY 2 - IMPLEMENTING IAS (INTERNATIONAL ACCOUNTING STANDARDS) IN LIBYA

DESCRIPTION OF THE ISSUE

Currently, IAS are not authorized in Libya and cannot be used as accounting norms and tools by Libyan enterprises.

NEGATIVE BUSINESS AND ECONOMIC IMPACT OF THE ISSUE

IAS are not only the universal accounting standard used by all markets and enterprises in the world enabling comparison between enterprises, evaluation against common accounting and financial references, and compliance with international financial regulations and laws. IAS are also a common standard for assets valuation and for risk evaluation. Without a Libyan accounting system in line with IAS:

• Libyan enterprises cannot communicate on common standards with the international business community and therefore cannot interact with the world global economy up to their potential:

Concretely, foreign companies and foreign financial institutions (banks, insurances, stock exchange, etc.) as well as international markets cannot assess the performance nor the value, the levels of risks or the compliance of Libyan enterprises in accordance with their standards and thus:

- Make it very difficult for Libyan enterprises to partner with foreign companies for trade, from international joint-venture and from international investment;
- Make it very difficult for Libyan enterprises to enter foreign and international financially regulated markets;
- Make it very difficult for Libyan enterprises to benefit from international insurance schemes and trade supports mechanisms;
- Expose Libyan enterprises to compliance defaults with international laws and regulations and subsequent sanctions.

• Libyan enterprises who nevertheless manage to deal with foreign partners and international markets suffer from a strong deficit of competitiveness notably due to a level of risk which cannot be assessed against the international risk standards set by IAS. This translates for Libyan enterprises into higher costs and less favorable commercial terms.

ACTION REQUIRED AND PROPOSED FOR IMPROVEMENT

The government must:

• Introduce and implement International Accounting Standards Libyan by amending the Law 7, 2010 regulating accounting and taxes;

- Train and certify Libyan chartered accountants and auditors in IAS implementation;
- Include IAS in the accounting curricula of Libyan universities;
- Authorize international accounting and auditing firms to operate in Libya in order to share IAS know-how, spread best practices and place Libya on the global map of international business, by amending the Law 1161973- regulating the accountant profession and restricting it to Libyan citizens;
- Seek joint consultative advice from the Association of Libyan Accountants and Auditors and the General Union of Libyan Chambers of Commerce.

EXPECTED BUSINESS AND ECONOMIC BENEFITS FROM THE PROPOSED ACTION

- IAS adoption and the authorization of international accounting and auditing firms to operate in Libya will integrate Libya into the global economy;
- IAS adoption and the authorization of international accounting and auditing firms will generate more trade and investment opportunities for Libyan enterprises with foreign partners, reduce commercial and financial risks and costs for the latter and result in better terms and more business volumes for Libyan enterprises;
- The authorization of international accounting and auditing firm will support the implementation process of IAS in Libya and will generate increased profits for Libyan chartered accountants: once authorized, international accounting and auditing firm usually proceed through the acquisition of or partnerships with existing local chartered accountants and auditors firms which, in addition to often generous terms, also benefit from increased business volumes, in house trainings in IAS and from international best practices in accounting processes for increased efficiency and profit margins;
- Last but not least, IAS implementation will also address the current gaps between modern business practices and the current Libyan accounting regulations, and will also enable the digitalization of accounting and auditing procedures which will facilitate the life of Libyan enterprises and managers while improving their interaction with foreign partners, international markets and financial regulations.

PRIORITY 3 – INTRODUCING CLEAR LEGAL GROUNDS FOR BOTH THE LATE OR NON-PAYMENT OF TAXES WITHOUT PENALTY AND FOR APPEAL POSSIBILITIES AGAINST FINES ESPECIALLY IN THE CASE OF "FORCE MAJEURE"

DESCRIPTION OF THE ISSUE

Today, there is no law providing exemptions from penalty and appeal possibilities against fines for the late or non-payment of taxes, especially in the case of "Force Majeure".

NEGATIVE BUSINESS AND ECONOMIC IMPACT OF THE ISSUE

The absence of legal exceptions and of clear and predictable provisions allowing for the late or non-payment of taxes and providing for appeal possibilities against fines in the case of "Force Majeure":

- Weaken enterprises tax acceptance and compliance, and result in tax evasion and in reduced budget resources for the Libyan State:
  - When legal exceptions for acceptable late or non-payment of tax do not exist or are too restrictive i.e. disconnected from national business life reality in the field, tax payers start to question and challenge the relevance of taxes which may ultimately result in refusal to pay taxes and budget loss for the State;
  - When legal exceptions for acceptable late or non-payment of taxes (e.g. "Force Majeure") are not defined clearly and thereby reasonably predictable, tax-payers loose trust in the rule of law and this encourages and reinforces opportunities for corruption.

In a country like Libya where war, civil conflicts and disorders are frequent or never far and where daily difficulties to operate a business are multiple, there is a reinforced need to ensure that tax law reflects the actual business conditions likely to be met in the field, and also that tax law is applied in a fair i.e. in a predictable way for the tax-payer.

ACTION REQUIRED AND PROPOSED FOR IMPROVEMENT

The Ministry of Finance must:

- Set clear acceptable legal grounds for the late or non-payment of taxes;
- Set clear legal grounds for appeal possibilities against fines for late or non-payment of taxes;

Clarify the definition of "Force Majeure" in Libyan legal texts applicable to late or non-payment of taxes around the 3 international legal principles to be met in order to invoke "Force Majeure"*:

- Un-foreseeability: the event must not have been reasonably foreseeable;
- Inevitability: the event must have been out of the control of the parties;
- Irresistibility: the event must have been not reasonably surmountable.

The use of these 3 criteria is more efficient and effective than listing specific cases of Force Majeure whose list would be both endless and never comprehensive thus creating flaws to tax payers protection (except in Common Law countries - which is not the case of Libya – where jurisprudence can mitigate unforeseen cases.

The Ministry of Finance could use here the 2020 definition of "Force Majeure" of the ICC (International Chamber of Commerce) organized around these 3 criteria and which is both internationally recognized by EU countries and easily operational and actionable.

EXPECTED BUSINESS AND ECONOMIC BENEFITS FROM THE PROPOSED ACTION

A legal regime of exceptions pertaining to tax payment obligations, which both captures and reflects enterprise field conditions and clearly defines all possible exceptions and appeal possibilities, usually translates in:

- Enhanced legal security;
- Less opportunity for corruption and reduced corruption possibilities;
- Increased number of compliant tax-payers and increased fiscal revenue for the State;
- Increased number of taxes paid on time and less time-consuming chasing procedures of tax-payers with no to low tax recovery rate.

PRIORITY 4 - REFORMING/ABOLISHING THE STAMP TAX

DESCRIPTION OF THE ISSUE

According to laws 46 of 1973, 12 of 2004 and 8 of 2011, a stamp tax of 1% of the main contract and of each copy of it and of 0,1% on sub-contracts and of each copy of it must be applied to and paid for every purchase or transaction by the buyer and/or the beneficiary, and stamp taxes of different fixed values must be applied to and paid for official administrative certificate requested by any individual or enterprise.

Failure to comply is first a breach of the tax law punished by fines and secondly challenges the validity of the contract(s). In addition to the amount of the stamp tax it is the logistics nightmare faced by the buyers of good and services and by contract beneficiaries which is at stake.

The issues are multiple: a) the stamp tax is often simply not available, b) applying and paying for the stamp tax require the buyer or beneficiary to travel when the enterprise of the seller is registered in a different and distant tax office, c) the stamp tax cannot be refunded even if the contract or the purchase is cancelled d) the stamp tax cannot be adjusted if the amount of the initial purchase or contract is increased or lowered which require to pay a new stamp tax for the new amount in order to avoid fine and to preserve the legal validity of the contract.

NEGATIVE BUSINESS AND ECONOMIC IMPACT OF THE ISSUE

First, the difficulties to obtain the stamp tax encourages buyers and sellers of goods and services to operate on the shadow market to avoid paying and having to deal with this tax, which increases the importance of the informal economy and create unfair competition to official enterprises;

Second, in practice, because of the logistics nightmare for the buyer to obtain and pay for the stamp tax, such as having to undertake long travels if the selling enterprise is registered in a tax office different from the buyer, sellers tend to do the administrative process and pay for the stamp tax instead of the buyers, which generate additional costs and administrative times that far exceed the cost of the stamp tax and cannot be charged to the buyer who would otherwise go to the shadow market;

Third, many SMEs do not dare participating in public tenders or secure their transactions by means of written contracts by fear of losing the stamp tax money paid if the tender is cancelled or if the contract is cancelled or must be modified. This results in lost business opportunities and into weak legal security for enterprises which hampers their development;

Fourth, SMEs lack of awareness of the importance of having the stamp tax on each original and copies of the contract and on original sub-contracts and their copies cause the loss of their legal rights and has dramatic economic consequences for enterprises.

ACTION REQUIRED AND PROPOSED FOR IMPROVEMENT

The Ministry of Economy and Trade, and the Ministry of Finance must:

- Review the tax laws to update the stamp tax rates and structure;
- Amend the tax laws to :
  - Require the application and payment of the stamp tax only on the original of the contract or subcontract and not on copies;
  - Refund the stamp tax when the contract is cancelled, not executed or partially executed;
  - Enable the adjustment of the stamp tax amount to the new amount of the contract in case of its modification;
  - Cancel the provisions making the payment of the stamp tax a condition of validity of the contract, which contradicts the legal fundamental principles of all OECD and EU country legal systems (notably the fundamental principle of the autonomy of will of the parties to a contract), and only keep fines as sanction of the non-payment of the stamp tax.
- Connect electronically tax offices across the country to avoid costly and time-consuming travels;
- Set-up an automated stamp tax collection system from the seller for the sales of goods and services;
- Eventually, introduce VAT to replace the stamp tax on purchases and contracts in order to simplify the tax collection system and related administrative processes.

EXPECTED BUSINESS AND ECONOMIC BENEFITS FROM THE PROPOSED ACTION

- Reduce the size of the informal economy;
- Reduce the costly and time-consuming administrative burden on contracts and on the sales of goods and services;
- Enhance trade stakeholders' compliance with tax regulations and increase State tax revenues;
- Put Libyan law in line with OECD and EU country fundamental legal principles for the validity of contracts;
- Facilitate the operations of the tax administration.

PRIORITY 5 - ENABLING THE OFFICIAL REGISTRATION OF LIMITED LIABILITY COMPANIES WITH 1 LYD CAPITAL

DESCRIPTION OF THE ISSUE

The minimum capital amount required for the official registration of a company is too high to enable and motivate enterprise founders and managers to disburse and/or immobilize that amount of money, in order to legally register their business.

NEGATIVE BUSINESS AND ECONOMIC IMPACT OF THE ISSUE

Most Libyan start-ups operate without being legally registered and only a fraction of Libyan established MSMEs is legally registered and, as a result:

- A large part of the Libyan economy remains informal;
- The State budget cannot levy nor benefit from corporate taxes associated with enterprises' official registration;
- The Libyan national statistics system and the government cannot measure the actual real Libyan economy nor design any relevant private sector development strategy;
- Non-legally registered enterprises cannot benefit from access to finance opportunities (micro-financing means, leasing, corporate loans, etc.) nor from business support services and mechanisms available for their equipment and improvement and, as a result:
    - These non-registered enterprises cannot develop their business and grow up to their potential;
    - These non-registered enterprises cannot create jobs in numbers up to their potential;
    - These non-registered enterprises cannot provide social security to their employees;
    - These non-registered enterprises cannot certify nor guarantee their products and services;
    - These non-registered enterprises cannot offer any security to their customers and partners;
    - These non-registered enterprises cannot insure their risks and remain extremely fragile and not sustainable despite their economic performance.

ACTION REQUIRED AND PROPOSED FOR IMPROVEMENT

The Ministry of Economy must:

- Prepare and submit a draft amendment to the Law 23 of 2010 (or modify its application decree) in order to authorize the legal official registration of limited liability companies with a capital amount of 1 LYD (instead of a current minimum capital amount from 3 000 LYD for LLCs to 100 000 LYD for shareholding companies).

EXPECTED BUSINESS AND ECONOMIC BENEFITS FROM THE PROPOSED ACTION

Numerous advanced OECD countries (e.g. France, United Kingdom, etc.) have already successfully authorized the creation of enterprises with a capital of just 1 or 2 monetary unit of their currency.

The possibility to legally register an enterprise with 1 lyd will:

- Motivate and enable young entrepreneurs and business founders and managers of existing informal businesses to legally register their business.
- Formerly informal businesses will be able to:
- Improve, develop and grow as legal enterprises who can benefit from financing mechanisms, insurance, business support services, product certification and international support programs for MSMEs;
- Offer better quality products and services to Libyan and foreign customers and partners;
- Create jobs up to their potential and to offer social security coverage to their employees;
- Benefit from international SME support programs and to engage into sustainable commercial development partnerships with other domestic and foreign enterprises.
- The Libyan state will be able to:
- Reduce the informal economy;
- Collect more corporate taxes to the benefit of the State budget;
- Gather meaningful statistics on its private sector, know its profile and shape Libyan economic policies accordingly.

Key Observation

It sometimes happens in transition countries that some people claim that companies without a significant amount of legal capital are not serious and will endanger the market stakeholders and their creditors.

This belief comes from the western 19th century industrial revolution when, apart from craftsmen and shop owners, business was mainly made of very large import-export companies, banks and big industrial plants in a social economic context marked with no to very limited middle class between "those who had" and "those who had not" and where social ascension through an economic activity was neither possible nor encouraged beyond the status of small shop owner.

As a result, the provisions, spirit and objective of corporate law which were born in that time and durably shaped people's mind were to a) Acknowledge the reality that without a high capital, no company could be legally registered because no industrial enterprise (the only enterprise business in the 19th century) could be initiated without a significant capital,

and b) Ensure that the legal capital of the enterprise set by already rich people would protect the creditors of these industrial enterprises i.e. banks which despite the wealth of enterprise founders had to be massively financially involved in any industrial entrepreneurial adventure.

Firstly however, since the end of the 20th century and nowadays in 2022, this conception of the enterprise capital as an "existing stock" has strongly evolved in all advanced developed countries and financing techniques have been so modernized that the capital of an enterprise is now conceive has a flow i.e. a tool / amount of money that one can use and which is not meant anymore to protect the potential creditors of the enterprise:

Modern venture capital investors, commercial partners and bankers in OECD countries and leading transition and emerging economies worldwide do not look anymore at the legal capital of a company to commit themselves. They look at the product, the management and if necessary, at the true assets of the company such as real estate, patents, etc. which can either guarantee them and/or strengthen their trust in the company. In other terms, the "market" has replaced the law to decide who "can" create a company and fly successfully. The amount of the capital of a company is not looked at anymore as a relevant indicator to decide of the seriousness and potential of an enterprise. In fact, many well-known and successful brands are owned and run by companies with a ridiculously low amount of legal capital.

Secondly, since the end of the 20th century and nowadays in 2022, the majority of enterprises created and successful pertain to activities which do not require important amounts of money to start. Often, a simple computer and a garage space are enough like for AMAZON when Jeff Bezos started to operate it. Internet and cheap new technologies and open applications have made irrelevant an important company legal capital to officially register a business.

Thirdly, since the end of the 20th century and nowadays in 2022, all modern and socially and economically advanced countries (including in many authoritarian market economy countries) have realized that "the market" and its stakeholders do not need the intervention of the state to protect themselves and decide who has what it takes financially to start operating a business safely. Moreover, as previously mentioned, modern economic activities undertaken by enterprises have made a minimum capital decided by the state to officially register a company totally irrelevant as a tool to safeguarding market stakeholders

Today, the role of the capital is strictly meant to symbolize the legal separation of the assets of the company from the private assets of the shareholder(s) and to protect the latter from the enterprise creditors. As a result, all modern advanced economies have now long legally endorsed the principle of limited liability company with a capital of 1 of their currency (or sometimes 2 units for technical reasons but never more). OECD countries that had started by simply reducing the minimum amount of capital in the 90's without going down to 1 unit of their currency have now all recognized that they had lost a lot of time and of economic growth during this years of "trial".

In the 21st century, the proof of the benefits and of the absence of negative impact of 1 LYD/USD/GBP/EUR capital company has been made.

PRIORITY 6 - REDUCING THE MINIMUM CAPITAL OR DEPOSIT FOR LIBYAN ENTERPRISES WITH FOREIGN CAPITAL

DESCRIPTION OF THE ISSUE

The minimum capital required by the law to create and register a company with foreign capital (250 000 LYD) and the mandatory deposit for a joint-venture (1 000 000 LYD) are too high and are an obstacle to partnerships between Libyan enterprises and foreign small and medium size enterprises

NEGATIVE BUSINESS AND ECONOMIC IMPACT OF THE ISSUE

Key Observation

This provision is typical of the legal framework of most former socialist and authoritarian relatively closed economies where no SME would ever venture to operate and invest, but only large multinational corporations operating in economic sectors such as energy involving multimillion-billion business deals and investments to whom the host country and its publicly owned companies could demand this type of foreign partner to make a very high level financial participation in the capital of the domestic host entity without these amounts being obstacles to partnership and join-venture.

Today, former socialist authoritarian and closed countries like Libya have moved to or are transitioning to open market economies where partnerships and joint ventures between domestic and foreign SMEs are economic wealth and growth instruments. In addition, modern businesses do not require a high minimum company capital to operate successfully and even the few intensive capital economic sectors outside the energy sector cannot afford to devote and immobilize part of the investment money available for the company capital. Moreover, in a country like Libya already perceived by enterprises from developed countries as a risky business destination, further restricting access to the Libyan market to only large multinational corporations by demanding a high(er) minimum capital to register a company with foreign capital in Libya is:

- A clear “no go” sign for OECD, EU and emerging successful countries showing that Libya is not ready yet for business with developed modern economies
- A counter-productive legal provision for a mainly trade economy like Libya’s which is oriented towards imports where a high amount of company capital is irrelevant and not necessary;
- A concrete obstacle to foreign direct investments by and partnerships with SMEs from OECD and EU countries;
- An objective obstacle to any trade and foreign investment promotion strategy outside the oil sector;

• A source of dependency of the Libyan economy to large multinational corporations whose foreign direct investments in Libya will be necessary to reconstruct the country economic infrastructure but not enough to prime pump the development, growth and sustainability of the Libyan private sector and of the real economy of the country:

- (FDI from large multinational corporations into infrastructure reconstruction which is ephemeral by nature have been proved to have a less leverage effect on domestic SMEs development in terms of business opportunities, of job creation, of technology and know-how transfer, access to foreign markets and in terms sustainable economic activity and job creation compared with FDI and partnerships with foreign SMEs that are also the new growth and innovation leaders in the world today.)

• The higher minimum capital required by the law to create and register a company with foreign capital is not a problem for large foreign direct investors which will be temporarily needed to reconstruct Libya but Libya also has a vital need of foreign SMEs to set-up and invest directly in Libya by joint-venturing and partnering with Libyan SMEs, in order, import modern techniques, open new markets, create additional economic dynamics, increase Libya's wealth and create jobs for Libyans and by importing modern techniques opening new market which existing Libyan enterprises and future Libyan entrepreneurs will be able to surf on and benefit from. International experience shows that foreign SMEs are immediately put off when imposed a higher minimum legal capital as it signals a lack of market maturity and government readiness for modern business.

ACTION REQUIRED AND PROPOSED FOR IMPROVEMENT

The Ministry of Economy and Trade must, in consultation with the General Authority for Investment Promotion:

• Amend the Decree 207 of 2012 in order to lower the minimum capital and minimum deposit required to create and register a Libyan company with foreign capital by mean of a branch or of a joint-venture.

EXPECTED BUSINESS AND ECONOMIC BENEFITS FROM THE PRO-POSED ACTION

This measure will:

• Enable Libyan SMEs to partner with all relevant SMEs worldwide and therefore to further develop and grow to the benefit of the Libyan economy;

• Contribute to a better image of Libya abroad and to place Libya on the global economic map as an actual business destination;

• Make Libya more competitive in the world market thanks to increased technology and know-how transfers from developed countries SMEs;

• Make Libya and its SMEs less fragile vis à vis cheap imports from Asia;

• Create more qualified jobs for young Libyans in Libya and limit the brain drain.

PRIORITY 7 - ENABLING THE OFFICIAL REGISTRATION OF UNIPERSONAL COMPANIES WITH 1 SHAREHOLDER

DESCRIPTION OF THE ISSUE

The minimum of 2 shareholders required for the official registration of a Limited Liability Company, and of 10 shareholders for other companies a) prevents individual entrepreneurs/start-uppers as well as individual owners of an informal business to legally register their activity and b) it prevents individual business owners officially registered as sole traders to transform their activity into a company – i.e. a legal form which will create a distinct legal person (the company) from themselves and enable the separation of their private assets from their business assets (i.e. which company assets) - and to protect their private assets from risks strictly related to the business activity and from business creditors.

NEGATIVE BUSINESS AND ECONOMIC IMPACT OF THE ISSUE

Key Observation

Numerous valid business projects and successful activities are one man/woman shows which can nevertheless be supported by employees hired by the individual entrepreneur who may not need nor wish to partner i.e. to share risks and benefits with associates i.e. a second or more shareholders.

There is no benefit to the minimum requirement of 2 shareholders and numerous inconvenient to this legal requirement. The minimum of 2 shareholders to create and legally register a company:

Discourages individual entrepreneurs from starting a business by fear of risking their own or family private assets because only the legal form of a company allows to officially separate your private assets from your business/professional assets.

Or

Puts individual entrepreneurs at risk by forcing them to partner with non-wished and often inappropriate partners in order to meet the minimum legal requirement of 2 shareholders to register officially as a company and thus be able to separate their private assets from their business assets.

Or

Encourages individual entrepreneurs to create illegal fictive partnerships with family members or friends which may disservice the latter, expose them to corporate liabilities if the real unique shareholder defaults, and force individual entrepreneurs to share their profits with people who do not contribute to their business other than on paper.

Or

Encourage people to do business informally instead of officially registering legally as a company, which paradoxically - because most ignore that in case of they would financially default or be found liable their entire private assets will be used to satisfy their obligations towards their business debtors – put these people and their family at a high legal risk of losing everything they own.

And

Prevents businessmen already officially registered as sole trader from seizing opportunities to further develop their business by upgrading to company status since as simple sole trader all risks taken such as increase in activity volumes result in increased risk and personal exposure of his private assets – talented sole traders are therefore often forced to stay small instead of growing and creating more wealth and jobs.

And

Prevents unemployed people from engaging safely in self-employment entrepreneurship which has proved to be an effective and sustainable means to reduce unemployment in most economies.

ACTION REQUIRED AND PROPOSED FOR IMPROVEMENT

The Ministry of Economy and Trade must:

- Amend Law 23 of 2010 in order to authorize the legal official creation and registration of unipersonal limited liability companies with 1 shareholder.

EXPECTED BUSINESS AND ECONOMIC BENEFITS FROM THE PROPOSED ACTION

Authorizing the legal creation and registration of unipersonal limited liability company with 1 shareholder will:

- Reduce the level of informal economy in Libya;
- Put the Libyan legal framework for enterprises on par with the legal framework of leading economies;
- Provide Libya's State budget with increased revenues;
- Boost entrepreneurship, enterprise creation and private sector development in Libya;
- Enable the Libyan economy to achieve social and economic results up to its actual potential;
- Protect and reduce risks and liabilities over the private assets of Libyan businessmen, their family and their relatives when a Libyan engages in business informally or as sole trader or when a Libyan businessman is forced to partner with a relative as second shareholder just to legally register as a company;

• Reduce the number of unemployed people by means of self-employment entrepreneurship which has proved to be an effective and sustainable means to reduce unemployment levels and to boost the economy in both developing and developed countries.

Key Observation

The main purpose of engaging into business under the legal form of a company is to create a distinct legal person from oneself, in order to separate business assets from private assets and to strictly circumscribe potential business-related financial liabilities and risks to the only business structure and assets i.e. the legally registered company.

The possibility provided by the legal form of a company to officialize the association of several partners designated as shareholders around a common business goal is only a plus, a secondary purpose and benefit not the primary objective which remains the separation, by means of the creation of a distinct legal person, between the personal sphere, obligations and assets and the business sphere, obligation and assets. This is considered in legal modern doctrine as a prerequisite for safely starting and enabling the development and growth of any economic activity.

PRIORITY 8 - ABOLISHING THE PRACTICE OF DEMANDING A MINIMUM AMOUNT OF COMPANY CAPITAL TO BE ELIGIBLE TO PUBLIC TENDERS

DESCRIPTION OF THE ISSUE

The minimum capital of companies to be eligible to public tenders is usually too high to allow Libyan SMEs to compete while it is not a relevant eligibility criterion to ensure future delivery nor to protect the public bodies emitting public tenders.

NEGATIVE BUSINESS AND ECONOMIC IMPACT OF THE ISSUE

Key Observation :

Today a minimum amount of company capital is not anymore a relevant eligibility criteria to ensure that the expected service or product delivery will effectively take place and that the emitting beneficiary public body will be protected.

All most advanced economies now use a combination of simple criteria* other than the company capital amount to allow enterprises to make an offer. *based on modern business evaluation criteria.

Most Libyan SMEs are consequently deprived from the right to answer to public tenders despite their technical and human capacities and maturity.

The State and Public administrations remain prisoners of an old set of private enterprises who meet this minimum capital requirement but whose technical performance, overall quality and commitment to deliver may be weak.

The State and public administration are not given the possibility to explore the offers from SMEs who simply do not meet this minimum capital requirement but may meet all other requirements in terms of capacities which safeguards end delivery and security for the beneficiary public body, in addition to their offering of better technical solutions.

ACTION REQUIRED AND PROPOSED FOR IMPROVEMENT

The Ministry of Economy and Trade must:

- Prohibit the current practice of requiring enterprises a minimum amount of capital to authorize them to participate in public tenders but keeping other eligibility criteria, in order to address pending needs and to boost the economy;
- Replace this eligibility criteria by a combination of more relevant yet very simple economic criteria from modern business evaluation techniques or from benchmarking OECD countries best practices in this area;
- These eligibility criteria, contrary to the technical evaluation criteria of the service/ product offer, must remain simple and shall not force bidding companies to resort to costly external expertise in order to address the requirement for eligibility.

EXPECTED BUSINESS AND ECONOMIC BENEFITS FROM THE PROPOSED ACTION

- The opening of public tenders to SMEs without legal capital amount consideration are long known in OECD countries to be key economic growth driver to prime-pump a weak or collapsed economic growth like Libya’s or to re-launch a fading economy;
- Value existing SMEs and start-ups in Libya;
- Value private sector innovation in the country;
- Ensure fair competition between enterprises;
- Ensure a greater quality of offers thanks to an enlarged competition of bidders.

Key Observation

Making public tenders accessible to the maximum of domestic Libyan enterprises is vital and while the need to ensure that applicants to public tenders will actually be able to deliver what they pledged to do for a given amount is paramount indeed, there are other and more relevant criteria than the amount of the company capital to look at.

For instance, the turn-over of a company is more relevant indicator of its capacities than its capital and in today modern economy, as mentioned for reform issue X, the capital of a company does not reflect anymore its maturity, capacities and know-how, etc.

In many sectors such as public markets for the design and implementation of e-administration solutions, relevant IT companies may not meet these minimum capital amount requirements because it simply does not make sense to immobilize money for this in their market. In fact, such companies maybe rejected in favour of old enterprises who meet this capital requirements but are technically poor with weakly committed employees for instance.

Today, relevant indicators for the eligility of a company to public tenders can easily be availed from modern business evaluation techniques

PRIORITY 9 - LOWERING THE OFFICIAL LEGAL FEES FOR ENTERPRISE REGISTRATION AND REGISTRATION RENEWAL

DESCRIPTION OF THE ISSUE

The fees for the official registration of a business as a company and for renewal every year are too high for most SMEs and start-ups.

NEGATIVE BUSINESS AND ECONOMIC IMPACT OF THE ISSUE

It discourages business owners and managers from officially legally registering their business as a company and from regularly renewing their official legal registration every year.

And as a result, it:

- Increases the size of the informal economy;
- Encourages entrepreneurs to register their business as a simple individual enterprise which put them at risk by entailing their unlimited responsibility on their entire personal and family assets;
- Limits enterprises development possibilities open only to registered companies through official access to finance, partnerships, international operations, etc;
- Prevents the employees of the business to have social security coverage;
- Prevents official statistics from having information on the actual number and type of Libyan enterprises;
- Prevents public administrations from keeping track of existing businesses and of their activities after the first registration has expired without being renewed;
- Deprives the state budget from corresponding corporate taxes revenues;
- Hampers the formulation of relevant private sector strategies for companies by the government.

ACTION REQUIRED AND PROPOSED FOR IMPROVEMENT

The government must:

- Lower the amount of the fee for the official legal registration of SMEs and start-ups;
- Adopt the principle of a free automatic renewal of enterprise official legal registration for SMEs to avoid unnecessary procedures and cost.

Key observation

In most OECD and EU countries:

The registration fee is not meant to be a key fiscal revenue for the State but only meant to cover all, or part, of the administrative process to register enterprises – Its amount must not put off entrepreneurs and jeopardize much more important fiscal revenues such as the corporate taxes paid by registered enterprises

Enterprises are registered once for all (sometimes for the set duration of the company defined in the articles of association which is usually 99 years) until they officially suspend their activity or end their existence by means of an official information of the tax authority who then inform all relevant other public administrations of the enterprise situation.

It must be noted that in the Framework of the European Union financed project EU4PSL, Expertise France facilitated the implementation, in partnership with the Libyan Ministry of Economy and Trade of Ejraat, an online official registration portal for companies where entrepreneurs can both find the procedure to follow and the documents required for the registration of their business under any of the legal forms available in Libya. This ongoing initiative both simplify the company official registration process and therefore reduces the amount of lawyers' procedure fees paid by entrepreneurs in addition to advisory fees for the drafting of the articles of association and to the official company registration fee.

EXPECTED BUSINESS AND ECONOMIC BENEFITS FROM THE PROPOSED ACTION

The reduction of the official registration fee will encourage Libyan enterprises to officially and legally register their existence and activities.

The Libyan State will be able to:

- Know and monitor the actual number and activities of enterprises and of their activities and sectors;
- Reduce the informal economy and protect legally registered businesses;
- Increase its fiscal revenues through more corporate tax payers;
- Adopt economic strategies and policies based on relevant statistics.

Newly officially and legally registered Libyan enterprises will be able to:

- Unleash their full potential in terms of access to finance, business development and international operations;
- Reduce risks for their personal and family assets associated with the operation of an informal enterprise in case of business debts.

PRIORITY 10 - INTRODUCING SPEEDY AND EFFECTIVE PROCEDURES FOR ENTERPRISE INTERIM RELIEF

DESCRIPTION OF THE ISSUE

There are no effective "procedures for interim relief" for commercial cases enabling the adoption of temporary measures by a judge in case of emergency or to end a manifestly unlawful disturbance, without prejudice to a future court decision on the trouble after a full contradictory debate between the parties; and arbitrators are not authorized to adopt and implement such measures within the framework of commercial arbitration.

NEGATIVE BUSINESS AND ECONOMIC IMPACT OF THE ISSUE

- Libyan enterprises have no legal means to immediately stop a manifestly unlawful discordance (until a court trial takes decision on the substance of the issue);
- Libyan enterprises have no legal means to address emergency situations (until a court trial takes decision on the substance of the issue);
- Due to the very nature and high level of risks usually aimed to be mitigated by procedures for interim relief, Libyan enterprises may therefore go bankrupt or be deprived from their fundamental rights and freedoms by the time a court decision is rendered on the substance.

Key observation

Worldwide, judiciary processes, limited court resources and the complexity of disputes usually require several months or years prior to having a court decision on a conflict matter.

Therefore, most OECD and EU country laws have put in place special speedy legal procedures by which, in case of emergency or to end a manifestly unlawful disorder, a party can refer to a judge to take immediate temporary measures until the case can be debated in front of a court and a decision on the substance is rendered by the court.

Examples:

In case of a conflict between enterprises about the legitimacy of a payment, the judge can take a conservatory measure and decide that the amount of this claimed payment be blocked on a special bank account until a court decision is rendered on the substance, in order to avoid that the alleged debtor arrange his insolvency.

In case of the libeling of a company by another one manifestly defaming it by means of a media campaign, the judge can order that the campaign be immediately stopped until a court decision is rendered on the substance deciding whether or not there has been defamation and on the amount of the subsequent damages to the victi company.

ACTION REQUIRED AND PROPOSED FOR IMPROVEMENT

The Ministry of Justice must:

- List and review Libyan procedures for interim relief currently applicable to enterprises;
- Identify operational causes for their slowness and their ineffectiveness and propose subsequent mitigating legal measures;
- Propose new and enhanced mitigating legal measures based on the best legal provisions and criteria in this matter already universally developed and proposed by the International Chamber of Commerce (ICC);
- Adjust ICC interim relief provisions and ICC criteria established for "emergency" and "manifestly unlawful disturbance" to the existing Libyan legal framework and cancel all prior legal provisions directly or indirectly related to the matter within the Libyan legal framework;
- Amend the existing law(s) on judiciary procedures applicable to enterprises;
- Amend the Article 758 of the Libyan Code of Civil Procedure in order to Authorize arbitrator to also adopt measures of interim relief within the framework of commercial arbitration.

As for all new judiciary procedures, proper trainings of judges are of the essence to ensure a satisfactory implementation.

Also, procedures for interim relief being a highly jurisprudential area likely to evolve over time in their practical application (not in substance), regular legal seminars and workshops with Libyan lawyers should be envisaged by the Ministry of Justice in order to ensure an harmonized jurisprudence across the entire territory, and to keep-up with the evolution of legal conflicts eligible for this procedure.

EXPECTED BUSINESS AND ECONOMIC BENEFITS FROM THE PROPOSED ACTION

Speedy and effective procedures for interim relief in Libya will:

- Increase the legal security of Libyan enterprises and of all enterprises operating in Libya to whom Libyan law is applicable;
- Extend the legal security of the parties to contracts providing for solving litigation between the contracting parties by means of commercial arbitration instead of court trial;
- Reduce the procedural competitive gap with OECD and EU country legal systems;
- Have a positive impact on the fragile economic situation of most Libyan SMEs and increase their resilience to the challenging business life.

PRIORITY 11 - CREATING AN EFFECTIVE AND OPERATIONAL REGISTRY OF INTELLECTUAL PROPERTY RIGHTS

DESCRIPTION OF THE ISSUE

Absence of an effective and operational registry of intellectual property rights attesting to the legal and official ownership of Libyan copyrights, patents, trademarks and trade secrets.

Key observation

There is a registry of innovation within the Ministry of Industry but it has limited competencies and it is not operating effectively due to a lack of human and technical capacity for the proper registration of innovation at the national and international levels. It currently only issues a letter indicating that a party has filled-in the registration process for an application but the letter has no legal value for the protection of rights in Libya or internationally.

There is also a trademark registration office within the Ministry of Economy which was suspended from 2003 to 2015 which currently only allow a party to fill-in an application but does not validate any application neither deliver any certificates nor grant any rights to the applicant.

NEGATIVE BUSINESS AND ECONOMIC IMPACT OF THE ISSUE

- Enterprises and entrepreneurs in Libya have no means to effectively:
  - Legally and officially register their intellectual property rights;
  - Check and attest to the ownership of Libyan copyrights, patents, trademarks and trade secrets.
- Infringements to Libyan intellectual property rights cannot be prevented nor brought to courts and sanctioned;
- The Libyan Law on intellectual property rights is deprived of its operational basis and left almost useless;
- Enterprises and entrepreneurs in Libya cannot protect their intangible mind creations such as copyrights, patents, trademarks and trade secrets which:
  - Hampers Libyan innovation;
  - Prevents business development and scaling up;
  - Does not allow the Libyan economy to grow up to its potential.

ACTION REQUIRED AND PROPOSED FOR IMPROVEMENT

The government must:

- Establish one unified official Libyan registry of intellectual property rights;
- Review current registration and checking procedures as well as the data management system, and identify operational weaknesses, obstacles and/or effectiveness gaps;
- Research and apply WIPO (World Intellectual Property Organisation) best provisions, practices and guidelines;
- Design and implement an effective data management system and user-friendly registration and check procedures;
- Hire and train additional staff;
- Seek WIPO and/or EU country Intellectual Property Institutes' trainings and coaching for staff of the registry.

EXPECTED BUSINESS AND ECONOMIC BENEFITS FROM THE PROPOSED ACTION

- Property is the fundamental pillar of the market economy: An operational and effective official register of Libyan intellectual property rights is a prerequisite to the development and sustainable growth of the Libyan economy;
- Libyan enterprises will have a chance to play a role up to its potential in a world where private sector wealth now mainly results from intangible mind creations encompassed in intellectual property rights;
- Libya will be able to join the world community of advanced and emerging economies where intellectual property rights are the core heart of social and economic development and progress.

PRIORITY 12 - ENABLING ONLINE PAYMENTS BY CREDIT CARD

DESCRIPTION OF THE ISSUE

Online payments by credit card were made “technically” possible during the elaboration of this Reforms Guide but online payments by credit cards cannot be secured and fully operational in Libya a) because of the absence of a new e-commerce law providing for a specific legal framework setting the duties and protecting the rights of sellers, customers and payment service providers, b) because of the slowness of the Central Bank of Libya (CBL) licensing of banks to perform electronic payments, telecom companies and fintech providers for the operation of electronic payment mainly due to gaps between new e-services available and the current legislation, c) because, due to the current political situation, the legal framework enacted for credit card, mobile and e-payments and settlements was made by means of simple CBL administrative circulars instead of an electronic transaction law.

NEGATIVE BUSINESS AND ECONOMIC IMPACT OF THE ISSUE

- Without a legal framework making online payments by credit card clear, safe and operational in Libya:
    - Libyan enterprises cannot develop by expanding their customer base and sales to distant clients across all Libya and abroad;
    - Commercial B2B and B2C transactions cannot be captured by the State administrations and institutions for strategic statistical use and for enhanced fiscal revenue collection;
    - Libya cannot digitalize itself, be part of the digital world economy and enter into the modern digital era.
- In a primarily trade centered economy like Libya, limits to trade due to the impossibility to operate online credit card payments are a serious handicap to domestic and international economic development.
- The issue and its negative economic impact are significantly made worse due to the absence of sufficient cash money available to citizens and enterprises.

ACTION REQUIRED AND PROPOSED FOR IMPROVEMENT

The government must adopt 2 new laws in 2 areas: for e-commerce, and for e-transactions, mitigate possible money laundering risks and adopt disaster recovery measures.

For the adoption of a new law on e-commerce, the government must:

- Review international best practices and guidelines defining the status, duties and rights of online sellers, customers and payment service providers;

- Prepare and adopt a new law on e-commerce and its application decree (s) on the status, rights and duties of online sellers, customers and payment service providers;

For the adoption of a new law on electronic transaction:

- Review recent e-services made available for e-commerce;
- Review subsequent international best practices and guidelines for credit card and mobile payments and settlements;
- Review past legal work done in 2008 and prepare and adopt a new law on electronic transactions and its application decree (s).

For mitigating money laundering risk, the government must:

- According to the World Bank: Clarify "whether telecommunication companies would or should share information with CBL as "currently the CBL does not oversee telephone transfers that are within a bank leading to possible AML (anti-money laundering) concerns";
- Ensure legal compliance of the new e-commerce and e-transaction laws with AML international legislations and regulations.

For mitigating disaster risks, the government must:

- Adopt disaster recovery measures

EXPECTED BUSINESS AND ECONOMIC BENEFITS FROM THE PROPOSED ACTION

Adopting the specific legal framework required to make online payments by credit cards fully operational will:

- Enable the implementation and ensure the effectiveness of online payments by credit cards and:
- Fully enable e-commerce;
- Fully support SME growth;
- Fully facilitate cross border trade;
- Fully foster economic development;
- Fully increase state revenues through direct and indirect impact.

PRIORITY 13 - REINSTATING LETTERS OF CREDIT FOR THE INTERNATIONAL PAYMENT OF IMPORTED GOODS

DESCRIPTION OF THE ISSUE

Letters of Credit in Libya have been abolished by the Central Bank of Libya in 2015, which prevents Libyan SMEs from accessing foreign markets for the import of goods.

Definition of "Letter of Credit"

A Letter of Credit is essentially a financial contract between a bank, a bank's customer and a beneficiary. Generally issued by an importer's bank, the letter of credit guarantees the beneficiary (seller/exporter) will be paid once the conditions of the letter of credit have been met i.e. once the delivery was made to the buyer (importer). Through the issuance of the Letter of Credit by the importer's bank, the foreign seller (exporter) is guaranteed to be paid and the buyer (importer) is guaranteed to be delivered. In exchange of the Letter of Credit, the importer's bank charges the buyer a very reasonable commission of 1% of the amount covered.

NEGATIVE BUSINESS AND ECONOMIC IMPACT OF THE ISSUE

Worldwide, letters of credits are the most used, cheapest and most secured way to pay for and guarantee the import of foreign goods.

The abolition of Letters of Credit:

- Deprives Libyan SMEs of a usually cheap, simple and low risk financial tool to pay for the import of foreign goods and to guarantee their delivery;
- Excludes from international trade the majority of SMEs without available cash or simply willing to secure their commercial transactions;
- Forces enterprises with cash to go on the black market whose higher costs increase consumer prices;
- Creates de facto monopolies in the import of goods into Libya, which increases the final prices of imported goods for end consumers due to the lack of fair competition in the market;
- Restricts the access of Libyan enterprises and citizens to world products and quality goods;
- Bans Libya and Libyan enterprises from the global economy and from its opportunities;
- Reinforces OECD and EU countries' distrust in Libyan enterprises and in the Libyan market.

In a primarily trade economy like Libya's, the abolition of letters of credits stops the rational and natural economic functioning of the country thus cancelling business development and job creation all along the huge foreign trade value chain and any perspective for the economic development and growth of the country.

Reminder:

Since the abolition of Letters of Credit, the financing of Libyan imports to be paid in foreign currency is made using Documentary Credit. However, Letters of Credit are not only instruments of payment but, also a) banking guarantees of payment to the benefit of the seller/exporter, b) banking guarantees of delivery to the benefit of the buyer/importer and, c) the importer can 1) arrange payment delays with his seller and 2) make a down payment to his bank of a fraction only of the total amount guaranteed.

The replacement of Letters of Credit by Documentary Credit for the financing of imports obliges Libyan importers to immediately pay upfront to their bank 100% of the total amount of their order (at the official exchange rate).

Thus, Documentary Credit does not replace Letters of Credit and have also perverse effects on the Libyan economy and on private sector resilience and development in the country:

Imports activities in Libya have been limited to large and liquid companies and kicked SMEs outside of the imports market.

The share of the informal economy and the level of corruption has increased because Medium Size Enterprises (not Small Size) with "connections" have to and could turn to the black market to maintain some import activities. This, without even having any "positive" offsetting effect on restrictions to access foreign goods at reasonable prices created by the abolition of letters of credit because these few medium sized enterprises are much less numerous than the small companies that make the bulk of the Libyan corporate landscape and could previously import goods into Libya under good terms and conditions through letters of credit.

Last but not least, for the few medium or large companies who can afford documentary credit, the poor reputation of Libyan banks in the international and notably western banking sector leads to a very high refusal rate of Documentary Credit from western banks and even from banks from the MENA region. This whereas Letters of Credit did not face that obstacle thanks to its concept which is much less risky than Documentary Credit and because no to little risk rest on Western Banks in the use of Letters of Credit. As a result, even the most liquid and best Libyan companies are now marginalized in international trade markets.

ACTION REQUIRED AND PROPOSED FOR IMPROVEMENT

The government must:

- Reinstate the use of Letters of Credit in Libya;

And jointly:

- Organize and ensure fair and transparent enterprises access to letters of credits and approval process by the CBL in order to:
  - Limit corruption possibilities of the banking sector;
  - Enable Letters of Credit to play their positive economic role.
- Conduct an independent expert economic survey in order to identify, propose and set a reasonable official exchange rate to reduce the gap with the black-market rate.

EXPECTED BUSINESS AND ECONOMIC BENEFITS FROM THE PROPOSED ACTION

- Fair competition among Libyan existing and potential foreign trade operators;
- Reduction of the prices of imported goods for Libyan consumers and enterprises;
- Economic development and job creation all along the foreign good import value chain across the country;
- Reinstatement of Libya within the global economy;
- Simplification of operations since documentary credit, contrary to letters of credit, rest on the feasibility of receiving original documents in a context of unforeseen airport closure for unknown period of time during which air express mail cannot be delivered.

PRIORITY 14 - CANCELLING THE MINIMUM LEGAL AMOUNT OF ORDERS, THE RESTRICTED PRODUCT LIST AND THE MANDATORY RESORT TO FOREIGN WHOLE SALE INTERMEDIATES FOR THE IMPORT OF GOODS, AND LIFTING ENTERPRISE QUOTAS FOR INTERNATIONAL TRANSFERS

DESCRIPTION OF THE ISSUE

Libyan enterprises are not free to trade internationally. In order to be authorized to import goods, they must first order a minimum amount of goods (currently USD 100 000), second restrict their purchase of goods to a list of limited items and, third, they cannot buy directly from foreign exporting retailers but must go through foreign wholesale intermediates and, eventually, Libyan SMEs are subject to restrictive quotas for international money transfers

NEGATIVE BUSINESS AND ECONOMIC IMPACT OF THE ISSUE

• These are obstacles to SMEs' development through trade and imports which are the main sources of economic development of Libya outside the oil sector.

• These anti-economic measures were adopted in order to reduce foreign currency demand from Libyan enterprises for making international payments by:

- Excluding Libyan SMEs from international trade thanks to a minimum order of USD 100 000 of goods, as foreign currency demand mainly emanates from SMEs who cannot make orders of that amount;
- Reducing the imports of "non-necessary products" by only authorizing the import of first necessity limited products officially listed;
- Reducing buying prices by forcing importers to buy directly from exporting foreign retailers instead of using wholesale intermediates;
- Limiting SMEs international operation possibilities by imposing restrictive quotas to enterprises on international money transfers for payment purposes.

However, in practice:

• The minimum amount of import which can only be overcome by a few Libyan enterprises has kicked-out most Libyan SMEs out of trade activities, created unhealthy imports monopolies which increase retail prices for Libyan end consumers, and has reduced trade volumes and the levels of domestic economic activity;

• In addition, consumer prices inflation is further increased (and the objective of reducing foreign currency demand by reducing buying prices of foreign products has failed), since Libyan importers are forced to buy at higher prices from foreign sellers/exporters because the quantities they purchase (including by the largest importers) are too small to get them discounts from foreign manufacturers, and they cannot go anymore through foreign wholesale dealers who offer much lower prices;

- Worse, the inflation of retail prices in Libya mainly hit the most basic products since only "necessary" listed products can be imported;
- Quotas on international transfers successfully put away Libyan SMEs from going international;
- Paradoxically, it is worth mentioning that some of the large importing companies able to meet the minimum order requirements are afraid to spend their cash by fear of a drop of the official exchange rate and are therefore limiting their import operations;
- Last but not the least, restrictions on importable products create numerous shortages of goods in Libya which negatively impact Libyan families but also domestic SMEs in need of foreign intermediate products or equipment to pursue their economic activity;
- Initially meant to mitigate one specific technical challenge, these restrictions are resulting in a major general economic collapse:
    - Libyan SMEs, who constitute the primary sustainable economic heart and strength of Libya outside the oil sector, are put out of business, as well as all their partners along the internal Libyan trade value chain;
    - Libyan households and domestic enterprises suffer from numerous shortages of many products;
    - Import costs and consumer prices are sky rocketing especially those of the most basic and necessary products which are the only ones authorized for importation;
    - The share of the informal economy increases marginally as economic actors seek and implement alternative solutions which further worsen the Libyan economic situation.

ACTION REQUIRED AND PROPOSED FOR IMPROVEMENT

The government must:

- Abolish the minimum order of USD 100 000 for imports;
- Withdraw the limited list of authorized products for imports;
- Authorize Libyan importers to buy from international wholesale intermediates;
- Lift quotas of authorizations to make international transfer.

EXPECTED BUSINESS AND ECONOMIC BENEFITS FROM THE PROPOSED ACTION

Financial technical failures such as foreign currency shortages generated by poor financial infrastructure and management weaknesses cannot be mitigated successfully by measures against the real economy. Especially when these measures hit the core of the domestic economy outside the oil sector.

Reinstating trade freedom for Libyan economic stakeholders will:

- Revive the entire trade value chain of Libyan SMEs from importers to retailers through transport, production of intermediate goods and exports to sub markets such as sub-Saharan Africa;
- Bring back consumer prices to the reasonable levels produced by fair and open market competition;
- Limit the growth of the informal economy;
- End shortages of final goods and intermediate products;
- Simplify import procedures as current restrictions go with additional and lengthier procedures, and result in increased red tape for Libyan importers;
- And even possibly reduce foreign currency spending since de facto the buying prices abroad were paradoxically significantly increased by restrictions to trade freedom.

PRIORITY 15 - INCREASING CENTRAL BANK OF LIBYA (CBL) ACCOUNTABILITY TO THE PUBLIC AND ENTERPRISES

DESCRIPTION OF THE ISSUE

Central Bank decisions strongly impact Libyan enterprises operations often negatively without having in place effective accountability measures to the latter such as consultative dialogue, advice and reporting mechanisms prior and after CBL decisions between the management of the Central Bank and Libyan economic stakeholders likely to ensure the adoption of the best possible economic measures, to perform post-implementation impact reality-checks, and to enhance monetary policies predictability and trust.

NEGATIVE BUSINESS AND ECONOMIC IMPACT OF THE ISSUE

Over the past 10 years, in absence of effective accountability mechanisms of the CBL to the public and enterprises, multiple CBL questionable decisions have seriously compromised the business operations of Libyan enterprises while the Central Bank erratic monetary policies failed to comply with the fundamental principles of clarity, stability and predictability.

The independence of the Central Bank of a State is paramount to sound macroeconomic management. However, it does not mean that there cannot be dialogue with, consultative advice from, and relevant reporting to the economic stakeholders of the country, prior and after its discretionary independent decisions.

This is particularly true and required in a national crisis context where central bank policies and decisions gain further vital importance and have impacts of a deeper and broader magnitude on the daily life of enterprises.

ACTION REQUIRED AND PROPOSED FOR IMPROVEMENT

The government must:

- Request the Central Bank of Libya to indicate publicly, jointly for each of its decision, the possible negative impact on SMEs, Trade and Business Development;
- Set the principle of a CBL courtesy quarterly public reporting to the General Union of Libyan Chambers of Commerce on the microeconomic impact of its measures on enterprises' operations and development for the past 3 months, which is now the international best practice of central banks of leading economies;
- Set the principle of a quarterly consultative dialogue between the Central Bank of Libya and the General Union of Libyan Chambers of Commerce, in order to review and address ongoing challenges and future needs of Libyan enterprises in relation to the CBL areas of competences;
- Request that the consultative advice of the General Union of Libyan Chambers of Commerce be sought by the CBL prior to any decision pertaining to external trade freedom.

EXPECTED BUSINESS AND ECONOMIC BENEFITS FROM THE PROPOSED ACTION

Without calling into question the principle of the independence and discretionary power of the Central Bank, the above-mentioned government actions will result in:

- Increased CBL operational knowledge of business activities;
- Increased CBL awareness of enterprises' needs;
- Better informed economic decisions by the CBL;
- Enhanced predictability of CBL policies;
- Enhanced stability of CBL exchange rates enabling business simplification and stronger development;
- Regular impact assessment and reality checks of CBL measures on the real economy;
- Increased trust of Libyan economic stakeholders into the Central Bank policies and decisions;
- In addition, the proposed provisions for improvement will also help indirectly identifying and addressing Libya banking infrastructure deficiencies.

Ultimately, these provisions should prevent the wrong practices of using short-term microeconomic measures against the real economy to solve financial infrastructure issues, and thus trigger and contribute to guide Libya financial infrastructure reforms which are the cause of many macroeconomic challenges faced by the CBL.

PRIORITY 16 - REINSTATING INTER-BANKS CLEARING OPERATIONS

DESCRIPTION OF THE ISSUE

Inter-banks clearing operations were stopped in 2015 due to political issues which turned into technical issues, which prevents from making financial operations outside the local bank where the company has its bank account.

NEGATIVE BUSINESS AND ECONOMIC IMPACT OF THE ISSUE

Libyan enterprises cannot perform any single bank operation outside the premises of the local bank agency where they have their bank account;

• No cash deposits, withdrawals, currencies exchanges, bank transfers, regular bank account checks or consultation nor any basic banking operation are possible from the premises of another bank agency even within the same banking network;

• Business operations away from the location where the enterprise has its local bank agency are impossible and result in extremely slow and unnecessarily complex processes to do business;

• Basic trade activities are seriously impeded and Libya national and international trade potential cannot be concretized although they are the economic lung of the country outside the oil sector;

• Libyan enterprises and managers unable to bank from abroad or even on the move inside Libya lose credibility with and trust from their existing or potential international business partners.

• Banking and subsequent inter-banks clearing operations is the cornerstone of any economic life. Without inter-banks clearing:

- Only the informal economy can survive and grow using traditional payment methods which do not address all enterprises' needs;
- No economic activity can seriously take place and develop, and all economic and business reforms are useless.

ACTION REQUIRED AND PROPOSED FOR IMPROVEMENT

The Prime Minister Office and the Ministry of Economy and Trade, and the Ministry of Finance must:

• Gather and consult with Libyan and foreign banks present in the country and with the Libyan central bank, in order to identify the concrete procedural and infrastructure issues behind the stoppage of inter-banks clearing operations;

• Share and seek operational advice for inter-banks clearing reinstating solutions from international financial institutions (IMF, World Bank, African Development Bank);

• Mandate the Central Bank within a clear deadline to propose 3 possible solutions each with a budget, an operational action plan and a timeline;

• Share proposed solutions with banks and IFIs for consultative advice within a clear deadline;

• Validate a solution, seek related technical assistance and/or financial support if necessary and implement the inter-bank clearing reinstating solution;

• Monitor implementation jointly with the General Union of Libyan Chambers of Commerce, the CBL and banks and measure and publish progress by stakeholders made against the timeline.

To that purpose, there is a need to end the anti-economic existence of 2 central banks one in the capital city of Tripoli and, since 2015, one in the East, in order to enable the economic development of all Libyan enterprises outside the oil sector and to allow the country to develop up to its economic potential. This is not a political matter but a mere common sense objective economic decision for the good of all Libyan enterprises whatever their geographic location.

EXPECTED BUSINESS AND ECONOMIC BENEFITS FROM THE PROPOSED ACTION

• Reinstating inter-banks clearing will enable Libya to resume with an economic life and development up to its potential;

• Reinstating inter-banks clearing operations is a prerequisite to any effective economic reform and private sector development in Libya;

• Reinstating inter-banks clearing will benefit all enterprises whatever their geographic location including enterprises in the East of the Libyan territory.

PRIORITY 17 - SETTING-UP COMPULSORY SOCIAL SECURITY COVERAGE FOR PRIVATE SECTOR EMPLOYEES

DESCRIPTION OF THE ISSUE

Social security coverage for private sector employees is not compulsory in Libya. It is up to the employer to provide and pay for social security coverage or not. As a result, most private sector employees have no social security coverage.

NEGATIVE BUSINESS AND ECONOMIC IMPACT OF THE ISSUE

- Private sector development in Libya is strongly handicapped by the lack of compulsory social coverage for private sector employees;
- It is a major breach of equality between private sector employees and public sector employees who automatically benefit from State social security coverage;
- It reinforces the bad image of private sector activities and of private sector jobs within the Libyan civil society for whom working for the public sector is the ultimate professional achievement.

As a result:

- It is a major disincentive to people for working in the private sector;
- Libyan young graduates are not considering professional careers in the private sector;
- Libyans with work experience are not considering possible jobs in private enterprises;
- The best support staff, employees and executives are only looking at public sector positions;
- Enterprises have difficulties in finding support staff, simple employees and mid-level executives;
- Numerous functions within enterprises remain understaffed and the latter cannot develop up to their potential.

ACTION REQUIRED AND PROPOSED FOR IMPROVEMENT

The Ministry of Labor must:

- Prepare a draft law obliging all private sector enterprises to provide social security coverage to all their employees.

And the government will have to:

- Advertise and communicate massively on this major social progress in order to increase Libyans' consideration for private sector jobs and careers.

EXPECTED BUSINESS AND ECONOMIC BENEFITS FROM THE PROPOSED ACTION

- Provide equal social security coverage to all Libyan employees, public and private;
- Improve Libya's public health situation and reduce public health risk occurrences;
- Bring private sector jobs' objective attractiveness closer to, and on par with, public sector jobs;
- Increase Libyan young graduates and experienced professionals' consideration and their exploring for private sector jobs and career opportunities;
- Contribute to enhancing the private sector image within the Libyan civil society as a legitimate, positive and socially rewarding professional path.

PRIORITY 18 - ENFORCING THE PROHIBITION TO WORK BOTH IN THE PUBLIC SECTOR AND IN THE PRIVATE SECTOR

DESCRIPTION OF THE ISSUE

The Libyan law 12 of 2010 which prohibits all public sector employees to engage into any private sector activity is not enforced. As a result, numerous public sector employees up to high-ranking ones have a second job in a private sector enterprise, offer private consulting services or operate a business at the same time.

NEGATIVE BUSINESS AND ECONOMIC IMPACT OF THE ISSUE

On the public sector side:

The lack of enforcement of the legal prohibition to work both in the public sector and in the private sector encourages public sector employees to engage into private sector activities, which:

• Makes public sector employees actually only work part-time although they are paid for a full-time job which is a steal of State public money;

• Prevents public sector employees from fully focusing and performing as they should in their public sector position, which generate multiple flaws within public services and administrations that are:

- Detrimental to the service of Libyan citizens;
- Detrimental to the service of Libyan enterprises;
- Detrimental to the service of the Libyan government.

• Generates conflicts of interests between their duties, responsibilities and power as a public servant and their private sector occupation;

• Increases the corruption within Libyan public services and administrations;

• Persisting and growing poor reputation of Libyan public sector employees among the international community.

On the private sector side:

The lack of enforcement of the legal prohibition to work both in the public sector and in the private sector:

• Generates a major breach of equality in the Libyan market between regular mere private sector operators and private sector operators in the market that are also at the same time public sector employees;

• Public sector employees benefit from illegal advantages which violate the principle of fair competition such as:

- Entitlements facilitating their business operations;
- A regular income from their public job which enable them to propose their

products and services at prices lower than normal market prices;

- Privileged public information allowing them to perform insider trading;

- Discourages Libyans from engaging into entrepreneurship;
- Prevents Libya from being a real market economy and thereby from joining the international community of the respected and promising emerging economies.

ACTION REQUIRED AND PROPOSED FOR IMPROVEMENT

Weaknesses in the enforcement of the prohibition to work both in the public and private sector currently rest on combined causes:

- The absence of political will to address the issue;
- Inappropriate legal provisions which do not capture the ongoing materiality of facts;
- Inappropriate investigation means available to investigation bodies and their staff;
- Inappropriate judiciary and administrative procedures and sanctions;
- Inappropriate judiciary processing capacities;
- Impossibility to take interim relief measures when there is an emergency or to end a manifestly unlawful disturbance.

First, under the direct supervision of the Prime Minister's office, the Ministry of Justice and the Ministry of Economy andTrade must engage jointly into:

- A full review and revision of possible gaps within the prohibition Law 12 of 2010 itself in light of current violation practices;
- A full review and revision of the current enforcement provisions of the law and its application decree(s) for more effectiveness in enforcing the prohibition;
- A full review and revision of the operational means currently dedicated to the enforcement of the prohibition law (staff, equipment, etc.) for an increased investigation capacity of the enforcement bodies and staff;
- A full review and revision of the current judiciary and administrative treatment of violations for accelerated and enhanced procedures plus heavier sanctions:
    - In OECD and EU countries, the minimum sanction is the loss of the public position, the loss of the statute of public sector employee, and the prohibition to ever work again in any public sector function as a public sector employee or as a consultant;
- A full review and revision of the judiciary and administrative operational capacities for enhanced case processing capacities in this specific legal area;
- The adoption of a complementary "procedure for interim relief" and of subsequent immediately applicable "temporary interim measures" that can be taken by a judiciary or administrative judge, in case of emergency or to end a manifestly unlawful disturbance, without prejudice to a future court decision on the trouble after a full contradictory debate between the parties.

Second, in parallel, the Prime Minister's office jointly with the Ministry of Justice and the Ministry of Economy and Trade must discourage ongoing and further violations of the prohibition law by ordering a major national investigation on the possible private sector occupations of Libyan public servants:

- The investigation should be publicly announced 3 months in advance, in order to encourage and enable public sector employees to terminate their private sector occupation and to therefore avoid sanction;
- The investigation should be a top-down operation starting with high-ranking public employees down to simple support staff;
- The investigation team should be a joint task force gathering staff from the Ministry of Justice, the Ministry of Economy and Finance and the Ministry of Interior;
- Once a manifest violation is identified, the author should be summoned to stop and informed that the investigation team will revert to him again once the legal framework has been revised and will prosecute and sanction the author accordingly if the violation still exists.

EXPECTED BUSINESS AND ECONOMIC BENEFITS FROM THE PRO-POSED ACTION

- Discourage the ongoing wrong practices;
- Enable an effective enforcement of the prohibition to work both in the public and the private sector;
- Increase public sector employees' efficiency, commitment to the service of the public and effectiveness in implementing government instructions;
- Strengthen the use of public money and public sector employees for the public good only;
- Reduce conflicts of interests' possibilities, corruption and unfair economic competition in Libya.

PRIORITY 19 - ADOPTING A PUBLIC TRANSPORT INSFRASTRUCTURE DEVELOPMENT POLICY PRIORITIZING FIRST HIGHWAYS & ROADS, SECOND SEA PORT AND THIRD AIRPORTS IN LINE WITH PRIVATE SECTOR NEEDS

DESCRIPTION OF THE ISSUE

There is currently no government policy to prioritize and engage the renovation and development of public transport infrastructure that are critical to business and to the Libyan economy. As a result

NEGATIVE BUSINESS AND ECONOMIC IMPACT OF THE ISSUE

Public transport infrastructures are central to the economic life and vital to trade which is the leading private sector activity outside the energy sector.

Missing and pitiable existing highways and normal roads:

- Increase transport time, risks, costs and reliability;
- Deprive some Libyan regions from any trade and economic activity possibilities;
- Encourage illegal trafficking whose high profit margins can best mitigate current transport constraints.

Missing, limited capacity and crumbling seaports and airports:

- Prevent Libya from being the natural international trade imports hub of OECD, EU and leading emerging countries for Sub-Saharan and Eastern African growing markets;
- Prevent Libya from playing an economic role up to its potential in international trade in general;
- Libyan enterprises with a potential for export cannot benefit from competitive transport infrastructure.

The absence of a government prioritized renovation and development policy for public transport infrastructure based on private sector needs has a double negative impact:

- Non-prioritization encourages the statu quo and justifies the absence of any transport renovation and development initiative;
- Transport infrastructure prioritization in line with objectives private sector needs enables and justify action, avoid ill-conceived public transport infrastructure policies, and reduce room for personal political interest interferences in public policy design.

ACTION REQUIRED AND PROPOSED FOR IMPROVEMENT

The government must:

- Address the public transport infrastructure challenge by focusing its action priorities:
  - First on highways and normal roads renovation then construction;
  - Second on existing seaports renovation and optimization then on new seaport constructions;
  - Third on airports new constructions.
- Request the General Union of Libyan Chambers of Commerce to prepare and submit:
  - The list/plan of highways and roads for priority renovation and development;
  - Their basic inventory of the situation of existing seaport and airport infrastructure (buildings and equipment status, capacities, connections, etc.) and of their operational shortcomings;
  - Their estimate of the required seaports and airports increased processing and storage capacities to, at least, enable the normal processing of current trade flows of required.
- Prepare a draft renovation and development policy for Libyan public transport infrastructure incorporating private sector priority needs;
- Share its draft renovation and development policy with the General Union of Libyan Chambers of Commerce for legitimate consultative advice as the unique official and comprehensive representative of Libyan enterprises of all sectors, sizes and geographic locations.

In parallel, the government must:

- Review and revise freight transportation regulations in the light of current needs and practices - for instance reviewing and revising the maximum weight of trucks depending on the type or situation of roads;
- Strengthen the enforcement of freight transportation rules – for instance sanctioning the violation of the maximum weight of trucks for a given road to avoid destroying roads.

EXPECTED BUSINESS AND ECONOMIC BENEFITS FROM THE PROPOSED ACTION

- These government actions will enable the country to fully engage into private sector and economic development after years without investment in public transport infrastructure followed by destructive wars.
- A prioritized public transport infrastructure renovation and development policy in line with private sector needs will:

- Dynamize the entire Libyan private sector by enabling enterprises to prepare strategically to taking advantage of the future renovated and developed transport infrastructures;
- Allow Libyan enterprises as well as foreign enterprises to operate, invest and trade within, with and through Libya up to the potential of the Libyan market and of the African and the MENA region markets.

• A Libyan public transport infrastructure policy aligned on private sector priorities and needs will:

- Objectivize government discussions and facilitate arbitrages;
- Enable and force Libyan ministries to think State actions or lack of action in terms of economic development outside the energy sector;
- Bring the Libyan government to consider and leverage the reality and potential of Libyan private enterprises.
- Last but not least, enabling public transport infrastructure is also a prerequisite to the international, national, regional and local circulation of knowledge, ideas and opportunities which fuel innovation, and thus determine the social and economic progress possibilities of Libya.

PRIORITY 20 - ADOPTING A POLICY AGAINST RED TAPE AND NEGATIVE ATTITUDES TOWARD ENTERPRISES IN THE PUBLIC SECTOR

DESCRIPTION OF THE ISSUE

Public sector often negative attitudes vis à vis enterprises' administrative requests and the multiple unnecessary, ineffective and inefficient administrative rules, requirements, customs and practices, are not mitigated by any government policy and provisions to simplify and facilitate administrative procedures, and to enhance relations between enterprises and public administrations.

NEGATIVE BUSINESS AND ECONOMIC IMPACT OF THE ISSUE

Red tape and negative attitudes towards enterprises lead to:

- Unreliable administrative procedures;
- Loss of time;
- Missed opportunities;
- Increased cost of doing business;
- Unclear administrative status and Conflicts.

Ultimately, the objective of the mission of public administrations and civil servants, which is to ensure public good, to service the people, enterprises and civil society organizations while preserving the interest of the State, is missed. The State interests are not better protected if protected at all by negative attitudes and unnecessary, inefficient and non-effective processes, and the compulsory service of public administration users is not rendered.

ACTION REQUIRED AND PROPOSED FOR IMPROVEMENT

OECD and EU countries have faced this issue and therefore long identified and implemented a set of 5 best administrative practices as principles to mitigate possible hostile attitudes and red tape faced by enterprises when interacting with public administrations.

The Libyan government must, primarily, independently from the future public administration reforms that are required, implement the following 5 best principles:

1 . After 1 month with no decision by the administration on a request for authorization made in good and due form, the authorization is deemed accepted;

In some cases, this delay can be extended to 2 months.

2 . After 1 month with no answer from the administration to a hierarchical recourse or an ex gratia appeal, the appeal is deemed to have been rejected;

In some cases, this delay can be extended to 2 months.

For principles 1 and 2, rejection or authorization in case of lack of answer from the administration must be defined depending on the administrative procedure at stake

3 . An administration cannot request from a legal person a document which has already been issued by another administration – the administration in need of the document must ask directly the other administration;

4 . Any regulatory change affecting the administrative life of enterprises must be preceded by a prior compulsory advisory opinion from the official body representing the private sector - i.e the General Union of Libyan Chambers of Commerce – on the occasion of regular consultative sessions or by means of an ad hoc consultative session;

5 . Regular circulars must be sent by their administration to public sector employees reminding them the importance of the private sector for job creation, innovation and the economic development of the country, while signs conveying this message must be placed in all administrative premises receiving enterprises for administrative procedures.

The above mentioned 5 principles can and must be adopted and implemented for immediate positive impact without having to wait for any big public administration reform.

Once these 5 best principles have been implemented or in parallel to their implementation, the Libyan government will have to urgently:

First:

- Equip public administration employees with personal computers, scanners and printers and,
- Train public sector employees in the use of basic Microsoft software (Word, Excel, PowerPoint, Outlook as the international standards for public and private sector applications), and into the fundamentals of email communication.

Second:

- Audit the IT infrastructure of public administrations and institutions, and
- Seek the provision of harmonized and compatible IT infrastructure and solutions among all public administrations,
- and in parallel
- Both audit and improve the organization and operational functioning of public administrations within the framework of ambitious public administration reforms.

Third:

- Engage into the digitalization of public administration services with a double priority:
    - On the Ministry of Economy and Finance as the heart of Libyan economic life and development;
    - On the digital communications between the ministry and its decentralized services in the Libyan regions.

Last but not least, the government must make compulsory the publication of administrative procedures either on the website of each public administration or on a dedicated government website.

EXPECTED BUSINESS AND ECONOMIC BENEFITS FROM THE PROPOSED ACTION

The adoption of these 5 best principles will contribute to immediately address the consequences of administrative red tape and negative attitudes towards enterprises and to:

- Reduce administrative inertia;
- Reduce administrative and regulatory uncertainty;
- Protect public administrations against time consuming abusive appeals;
- Force and improve inter-administration communications and cooperation for enhanced efficiency and effectiveness, while also protecting the State against counterfeited administrative documents;
- Force regulatory authorities to anticipate the social and economic actual impact of their decisions on enterprises;
- Contribute to enhancing the Libyan regulatory environment for business.

IV NEXT PUBLIC-PRIVATE SECTOR DIALOGUE, CO-OPERATION AND IMPLEMENTATION STEPS

IV NEXT PUBLIC-PRIVATE SECTOR DIALOGUE, CO-OPERATION AND IMPLEMENTATION STEPS

The Reforms Guide is an operational tool to kick-start a reform process on 20 top priorities likely to make a maximum positive impact on the majority of Libyan enterprises in the minimum of time whatever their size, activity sector and geographic location.

The reform process based on the Reforms Guide can be summarized into four successive logical phases:

- Official Instruction given by the Prime minister to Ministries to engage the reform process on the 20 priority issues, and official allocation of each issue to a relevant lead Ministry;
- Preparation of draft reforms by the lead ministries;
- Adoption and official publication of draft reforms;
- Implementation of reforms.

Phase 1 is the entire responsibility of the government once the publication and presentation of the Reforms Guide has been made to the government, the international community and the media.

Phase 3 is also the entire responsibility of the government.

However, phase 2 "Preparation of draft reforms" i.e. draft amendments or decrees, and phase 4 "Implementation of reforms" are 2 phases for which effectiveness and relevance require both the following of successive logical practical steps and seeking chambers of commerce consultative advice.

4.1 Step 1 identifying relevant public counterparts for reform propasals and implementation

Identifying the relevant public administration services, institutions and people necessary to reform a topic is a prerequisite to engaging in the preparation of the draft reform.

This is important in order to ensure that all technical factors are well taken into account into the draft reform, and that no public service even a minor one be left aside of the process which might create at some point a reluctance to act swiftly due to a lack of ownership of the reform process by this very administrative service.

Thus, the identification of all the relevant public administrative interlocutors for each of the 20 reform issues is a shared responsibility of a) each lead ministry appointed by the Prime Minister who must identify which of its services and institutions must be tasked with the reform elaboration, and b) of the General Union of Libyan Chambers of Commerce who must also investigate what ministerial services, public administration departments and institutions might also need to be involved for a quick, effective and successful process.

The completion of this step is critical to:

• Organize effective preliminary technical workshops gathering the General Union of Libyan Chambers of Commerce and the representatives of the relevant public counterparts identified as relevant by the lead ministry and the GULCC.

• Have effective technical exchanges between the GULCC and the lead ministry reform team during the preparation of draft amendments or decrees by the lead ministry.

4.2 Step 2 Organizing issues focused joint COC-public counterparts workshops to identify necessary successive implementation steps

While every reform process follows a general immutable pattern of logical phases, each reform issue has its specifics which may call for additional and/or specific implementation steps which must be identified prior to any drafting of the reform.

The lead Ministry of each of the 20 reform priorities will have to organize a preliminary issue focused workshop gathering GULCC relevant representatives for the issue and public counterparts identified as relevant by the Ministry and the GULCC, in order to:

- Further the issue;
- Adopt the best reform vehicle (law, amendment to the law, decree);
- Design a clear progress plan with clear implementation steps and a timeline from the initial draft up to the final draft of the lead ministry.

4.3 Step 3 Identifying the format the reform should take (law, amendment, decree)

Government reform may use different legal vehicles depending on the issue at stake which condition both the legality of the reform and the duration of the process.

Therefore, it is important for each of the 20 priority issues that the lead ministry jointly with GULCC organizes preliminary issue focused workshops in order to:

- Further the issue;
- Define the appropriate legal vehicle for the reform at stake;
- Design a clear progress plan with clear implementation steps and a timeline from the initial draft up to the final draft of the lead ministry.

The constitution indicates what issues falls under the regulatory domain and must be reformed law or amendments to an existing law plus an application decree, and what issues fall under the regulatory domain and can be reformed by decrees.

For issues which fall under the regulatory domain

If no decree exists:

- A ministerial decree must be prepared by the lead ministry;
- The ministerial decree must be signed by the lead minister, approved by the Prime

minister and officially published.

If a decree already exists:

- A ministerial decree must be prepared by the lead ministry to cancel the existing decree provisions and replace them by the new ones;
- The ministerial decree must be signed by the lead minister, approved by the Prime minister and officially published.

For issues which fall under the legislative domain:

If no law exists:

- A draft law must be prepared by the lead ministry together with a decree of application which will specify the precise modalities of application of the law;
- The draft law must be adopted by the parliament and the application decree must be signed by the minister in charge and approved by the Prime minister, then the law and the decree must be officially published.

If an inappropriate law already legislates the issue:

- A draft amendment to the law must be prepared by the lead ministry with, if necessary, a decree of application which will specify the precise modalities of application of the law;
- The draft amendment to the law must be adopted by the parliament and if an application decree is necessary, it must be signed by the minister in charge and approved by the Prime minister, then the amended law and the decree must be officially published.

If an appropriate law already legislates the issue but lack its application decree:

- A draft application decree must be prepared by the lead ministry;
- The draft decree must be signed by the minister in charge and approved by the Prime minister, then the law and the decree must be officially published.

The duration of the reform process depends on the legal vehicle necessary to solve the 20 priority issues ، It is clear that the possibility to reform is made easier and extremely fast when just a ministerial decree must be prepared by the lead ministry, signed by the minister and approved by the Prime Minister.

An amendment(s) to an existing law take a bit more time since it is prepared by the lead ministry but must be adopted by the parliament (and sometimes completed by an application decree).

When a new law is needed, the length of the text and the need to have it adopted by the parliament make it the longest reform process.

However, none of these legal vehicles requires more than 6 months from reform preparation to adoption and in many cases less than 3 months.

This is the average duration of the reform work in developing, transition and emerging countries in the economic sphere.

This is because economic reforms in developing, transition and emerging countries do not call by nature for philosophical debates but only obey to the common sense of everyone involved in the reform process from civil servants to parliamentarians through lead ministers.

Moreover, the 20 Reforms Guide reform priorities were also precisely selected for their potential for rapid adoption and each issue and respectively presented with its current negative impact for the economy of the country and with its anticipated economic benefits for the country which is meant to objectivize debates and to limit discussions to only technical matters.

4.4 Step 4 Organizing focused public-private sector dialogue between the government and the general union of Libyan chambers of commerce for consultative advice on each of the 20 priority issues

This Reforms Guide is the proof that advice to the government from a representative private sector organization officially mandated for that purpose can yield very concrete positive economic effects for the good of the country.

It is true, as the Reforms Guide does, in order to prioritize critical reforms and to inform the government on what economic reforms to start with in order to have the maximum positive impact on the majority of Libyan enterprises in the minimum of time whatever their size, sector or geographic location.

However, public-private sector dialogue is also vital and a must, by all international best practices, for achieving enhanced economic reforms. Indeed, public-private sector dialogue by means of workshops, of consultative advice and of joint revision and drafting sessions is mandatory to ensure the relevance of the content of government reforms.

Public - private sector dialogue must take place during the phase 2 “preparation of draft reforms by the lead ministry” and phase 4 “reform implementation” of the reform process.

Public-private sector dialogue for each issue during the reform preparation by the lead ministry

Discussion with and consultation of the GULCC must take place at 3 precise junctures:

First, as previously mentioned, as soon as an issue has been officially allocated to a lead ministry for reform, a preliminary workshop gathering relevant public sector interlocutors and the GULCC must take place to:

- Further the issue;
- Define the appropriate legal vehicle for the reform at stake;

• Design a clear progress plan with clear implementation steps and a timeline from the initial draft up to the final draft by the lead ministry.

Second, as soon as the lead Ministry has prepared a first draft (law, amendment, decree), this draft must be shared by the lead ministry with the GULCC for written consultative comments and advice.

Third, as soon as the lead ministry has prepared a final draft (law, amendment, decree), a joint revision and final drafting session must be organized between relevant public sector interlocutors and the GULCC in order to fine-tune the legal text if necessary.

Public-private sector dialogue for each issue during the implementation of the reform in the field by the lead ministry

Discussion with and consultation of the GULCC must take place at 2 precise junctures:

First, regular and ad hoc implementation monitoring joint meetings between the lead ministry and the GULCC must be held in order to immediately identify, signal and solve all practical implementation difficulties reported from the field.

Second, reform adjustment meetings must be held every 3 months between the lead ministry and the GULCC after the full implementation of the reform, in order to mitigate jointly any provision which, after field reality-checks would prove to hamper the full effectiveness of the reform at stake.

Five key principles to comply with for effective and successful public-private sector dialogue

Compliance with the following 5 principles proved compulsory worldwide for effective public private sector dialogue. All the 5 are critical to success.

Set strict deadlines for consultative advice:

Seeking consultative advice must not be an opportunity and means to bury a reform by not responding to requests for comments and advice.

When a lead ministry seeks consultative advice from another public institution or from a private sector constituency, the request must provide for deadline for feedback – usually 15 days maximum

This is also a means to force public institutions and private sector constituencies who claim they must be consulted to mobilize themselves and deliver.

Set precise and detailed agenda for meetings and workshops stating the objectives of the meeting / workshop

Because public private sector dialogue is often new to governments and private sector constituencies, they often satisfy themselves with the simple fact that a meeting is taking place but public-private sector dialogue is not about meeting and discussing, it is about agreeing on concrete findings, decisions and actions.

Therefore, a precise and detailed agenda must be set in advance and the objectives of the dialogue or consultations must be concrete and operational and made very clear to participants.

Adopt a Written Procedure:

Minutes of meetings and workshops and especially decisions taken and agreed action points must be acknowledge in written and shared with all participants.

This is the only means to a) avoid bad faith, oversight and subsequent lack of action from participants and b) to force constructive discussions and inputs from participants that lead to written decisions and written action points.

Producing written documents is the best means to mobilize people and to achieve results.

Set Timebound Targets:

The implementation of a decision or of an action cannot reliably take place if it is not timebound.

All decisions taken and action points agreed by the participants during public-privates sector dialogue must be accompanied by a mandatory deadline for completion.

Otherwise, people adopt a laid back attitude and/or agree to things knowing they will never implement them.

Select participants based on their technical skills in the matter at stake:

Public-private sector dialogue events such as meetings and workshops are not event for representation but technical sessions organized to achieve technical results.

Therefore, if there is a need for the public sector team and for the private sector team to have each one high-level participant who can officially commit to decisions taken during the event, all other participants must be selected on the basis of their technical competencies in the matter at stake only.

V MONITORING & MEASURING PROGRESS MADE WITH THE REFORMS GUIDE RECOMMENDATIONS

V. MONITORING & MEASURING PROGRESS MADE WITH THE Reforms Guide REFORM RECOMMENDATIONS

The Reforms Guide is an operational tool which indicates what are the 20 reform priorities for the government to start with in order to have the maximum positive impact on the majority of Libyan enterprises in the minimum period of time whatever their size, sector of activity and geographic location.

Beyond these clear 20 priority reform objectives, the Reforms Guide also highlights the negative economic impact of the 20 priority issues and formulates concrete proposals for improvement with the indication of the concrete economic benefits expected from their implementation by the government.

This Reforms Guide also highlights how it should be used by Libyan society stakeholders, sets clear operational steps for the reform process to be engaged and stresses the importance of public-private sector dialogue all along the reform process.

Yet, keeping track of the reform process of 20 priority issues during several months while keeping all stakeholders alert and active, as well as the reform momentum, demand some monitoring and measurement of progress made.

5.1 A joint public-private sector-civil society duty

A famous proverb says "What gets measured gets done"! Indeed, the monitoring of progress made with the 20 reform priorities is paramount if they are to be implemented rapidly and effectively and both stop the damages made by these 20 issues to the Libyan business and economy and yield their expected benefits for the country.

Therefore, monitoring and measuring progress made or not made with reforms is an obvious duty not only for the private sector, the Libyan media, the Libyan civil society and the international community in order to play their respective roles, but also for the Libyan government itself in order to take corrective measures to progress these 20 reforms and take action against the possible stalling of the process in some cases.

Achieving reforms is primarily the government responsibility. However, change for the best in Libya is a common concern and therefore a common duty to all Libyan stakeholders (private sector, media, civil society) and the international community committed to support the social and economic transition process in Libya.

5.2 A simple monitoring process for effective and constructive pressure for reform implementation

Effective and constructive pressure from all stakeholders requires a common monitoring referential, which must therefore be simple in order to be easily used and understood by various users and audiences from different backgrounds.

Then, the goal of this monitoring exercise is to trigger action by the government when a priority reform is stalled, to encourage further progress when a reform priority shows minimum progress, and to praise deserving lead ministries, public institutions and the government when significant progress is being made.

Monitoring and measuring progress with a Reforms Guide recommendation is not about tight, detailed, complex and numerous evaluation indicators meant to enable micro process improvements. It is made on the contrary to spot and highlight gross inaction, only basic or good progress in order to put fair pressure on the government priority issue per priority issue. Therefore, the Reforms Guide monitoring process and tools obey the same characteristics as the Reforms Guide itself: practicality, operationality and effectiveness.

Overall, the monitoring of the progress made with all the 20 reform priorities will give Libyans and the international community a clear signal about the actual willingness and capacity of the government to reform the country.

5.3 The possibility to turn the 20 priority reforms into timebound targets for increased effectiveness

No deadline means no timeline and results in inaction or in inefficient and ineffective reform processes.

Step 2 of the reform implementation process presented in Chapter 4 of this Reforms Guide consists in holding preliminary issue per issue focused workshops gathering the lead ministry and the GULCC in order to:

- Further the issue;
- Adopt the best reform vehicle (law, amendment to the law, decree);
- Design a clear progress plan with clear implementation steps and timeline from the initial draft up to the final draft of the lead ministry.

The Reforms Guide recommendations should start right from its presentation to the government and the media without specific deadlines other than the fact that the 20 reform priorities were also selected because none of them requires more than 3 to 6 months maximum for implementation by any willing government.

However, once the preliminary issue by issue workshops have been held resulting among others in the agreement of a timeline for implementation, the final date for the said reform priority issue reform completion should be incorporated in the monitoring process of the 20 Reforms Guide recommendations and turned into 20 "critical timebound targets".

5.4 Need for post implementation reality-check on true improvements made in the field

The monitoring spirit should not end with the adoption of the 20 expected priority reforms by the government.

Both the GULCC through the local Chambers of Commerce and the lead ministries through their decentralized services when they exist should engage into regular reality-checks operation in the field to assess the benefits from each of the 20 reforms and to identify and correct any flaw with the operation of the new legal framework set in place for each issue.

Last but not least, carefully monitoring and documenting the concrete benefits drawn from each reform in the field is a fantastic society and government engine for further change and improvement of the economic and business environment and usually acts as an accelerator of economic change in the country.

VI. CONCLUSION & FIVE BROAD POLICY AXES FOR PRIORTY REFLECTION AND ACTION

VI. CONCLUSION & FIVE BROAD POLICY AXES FOR PRIORITY REFLECTION AND ACTION

The 20 priority reform issues accompanied by concrete proposals for improvement presented in this Reforms Guide are an operational basis for the government to engage immediately into the 20 reforms which will have the maximum positive impact in the minimum time on the majority of Libyan enterprises whatever their size, activity sector or geographic location.

As such, this Reforms Guide is also a practical tool and agenda for the government to engage into operational dialogue and cooperation with the General Union of Libyan Chambers of Commerce on these straightforward 20 priority reform issues and their concrete proposals for improvement.

Eventually, this Reforms Guide is also a clear and simple practical reference for any person, media, international organization and financial institution or Libyan civil society representative who wish to monitor, measure and boost progress made or to be made with priority reforms for Libya’s economic resilience and development.

However, in addition to these 20 straightforward priorities set for immediate reform action, Libya should also engage into reflection and define national strategies in 5 broad priority policy areas.

The methodology which enabled to identify the 20 priority reforms for immediate action has also enabled the identification of 5 priority public policy axes for reflection, national strategy design then implementation by the government in the mid-term.

These are also 5 areas for priority reflection and action by the international donor community and the Libyan civil society in cooperation with the Libyan government.

First, there is a need for a Libyan national strategy, policy and action plan for structured and enhanced SMEs’ access to suppliers, distributors and service providers, and for structured and enabled sector value chains.

Currently, Libyan SMEs face major difficulties in:

- Mutualizing the sourcing and procurement of raw material, spare parts and other intermediate products to address their increasing scarcity and mitigate their strongly increasing prices;
- Identifying the relevant potential suppliers of the intermediate goods (e.g., spare parts, raw materials, etc.) and the service providers they need to operate normally and to possibly expand their business activities, and vice versa;
- Identifying the relevant distributors and/or partners they need to market their products and start or expand their business activities;
- Integrating their activity into structured and enabling sector value-chains.

This is not only a matter of B2B enterprise information and data provision. It is first and foremost a matter of shaping and implementing enabling Libyan public infrastructure (e.g. sector or service-based free trade areas) and public mechanisms, and a matter of shaping and implementing coordinated and integrated public policies and action plans for the creation of relevant sector value chains.

This reflection and actions towards a national strategy, policy and action plan must target the international, national, regional and local levels.

Eventually, in order to be effective and efficient, this reflection and actions for a structured and enhanced access of SMEs to suppliers, distributors and service providers, and for sector value chains, must primarily focus exclusively on 3 to 4 priority activity sectors where a) Libyan start-ups could be the most competitive and present the highest potential for growth, and where existing Libyan enterprises would have the strongest potential for first making or resuming with profits and then for expansion [This in a context where 74,2% of Libyan enterprises are losing money or not making profits (Source: EU4PSL Survey Publication: Profiles of Libyan Enterprises and of Libyan Business Owners and Managers - June 2021)].

This is an area already targeted by the European Union through the new EU financed project E-NABLE implemented/for implementation by Expertise France where the commitment of the Libyan government is paramount, but where additional actions, partnerships and synergies must also be sought by the government and the community of international donor and development aid implementers.

Second, there is a need for a national strategy and action plan for the creation of an effective Compendium of Libyan Laws and Regulations, and for a public policy ensuring the legislative and regulatory coherence of the Libyan legal framework.

Social and economic reforms mean amending existing laws and adopting new laws and decrees whose coherence between themselves and with the existing legal framework is paramount for the effectiveness of government reforms.

Draft amendments, laws and decrees for reforms must be effectively checked before validation and official publication for full compatibility and proper articulation with other drafts and with the existing legal framework, and subsequent necessary modifications to the latter must be fully identified and implemented before the entry into force of the new legislations and regulations, then thoroughly monitored during the first months of implementation.

As a transition country, it is also paramount for facilitated reform shaping and more effective reform implementation that all economic stakeholders as well as law makers and civil servants have easy access to a comprehensive and real-time updated Compendium of Libyan laws and regulations.

However, currently, Libya lacks:

- An easily accessible comprehensive and regularly updated Compendium/Database compiling all Libyan legislation and regulations;
- A public policy to ensure the legislative and regulatory coherence between existing and upcoming legal norms.

Addressing these 2 gaps is a priority policy axe for reflection and action by the Libyan government, civils society and the international community of donors and of development aid implementers for effective reforms in Libya.

Third there is a need for a national strategy, public policy and action plan for the collection and dissemination of economic statistics for economic development and country management.

There cannot be sound and effective reforms if the current economic status of the country is not known by means of comprehensive, updated and operational statistical information.

No relevant economic targets can be set if the country economy cannot be measured and quantified to constitute a statistical baseline for action. Progress or lack of progress with reforms cannot be objectively measured and accurate and timely corrective actions are hard to design and implement. An old say says "what get measured gets done".

However, currently, Libya lacks:

- An effective public service (better trained staff and optimized organization), tools and methodology to collect and store economic statistics, and to analyze and disseminate collected data within the government, public administrations and to make it available to the public and in particular to economic stakeholders.

The European Union financed E-NABLE project implemented by Expertise France will tackle a large chunk of the statistical challenge presented by Libya and government commitment is paramount to success. However, additional reflection, actions and synergies for a national strategy, policy and action plan are required to give the country the means to reform effectively and develop up to its potential.

Fourth, there is a need for a national strategy, public policy and action plan for the design and implementation of selected tariff barriers in order to protect the Libyan internal market and domestic manufacturers.

As a mainly trade import economy, Libya must strike a smart balance between the needs to import foreign goods to fuel its economy and the need to protect some domestic manufacturers whose products are in competition with foreign ones on the internal Libyan market and on Libya key re-export markets such as selected MENA countries and sub-Saharan Africa.

While the World Trade Organization which rules international trade advocates that customers must be able to buy the products they want price and quality wise, temporary restrictive import measures through tariff barriers on selected products can be envisaged, in order to enable domestic manufacturers to gain maturity and become competitive with foreign products imported.

However, currently, Libya lacks:

- A clear and realistic vision of sectors and products value chains where Libya must import products to:
  - Serve its internal market;
  - Take advantage of being a natural trade hub and re-export to MENA countries and sub-Saharan Africa.
- The knowledge of sectors and products where Libyan enterprises are not likely to become competitive where no tariff barriers must be established.
- The knowledge of sectors and products where Libyan enterprises are or could become competitive price and quality wise in the short-mid-term where temporary tariff barriers might be established in order to give time to Libyan manufacturers to adjust and mature their products and to be in fairer competition with foreign imports.

The review of past sector surveys and new surveys and reflection must fuel the design of national strategy, policy and action plan for relevant trade tariff barriers and enable Libya to both leverage its comparative advantages and set a related stable and enabling monetary policy not anymore shaped to simply limit foreign currency spendings through short-sighted often anti economic measures which harm Libyan enterprises. This is a priority policy axe for urgent reflection and action by both the Libyan government and the international donor and development aid implementers community.

Fifth, there is a need for a national strategy, public policy and action plan for the national and international certification of Libyan products.

While the potential for the export of Libyan raw or transformed products is relatively limited outside the energy sector, raw and transformed Libyan products with a potential for significant profits on international markets must first reach international certification standards and second be able to be internationally certified. In addition, raw materials produced and products manufactured in Libya for the Libyan market must also meet certification standards before they hit the market in order to ensure, among others, the security of Libyan customers and their access to quality Libyan products.

This does not only require an effective institution and clear procedure for applying a certification stamp on Libyan domestic products. It is also a matter of training that staff, of monitoring and adjusting to international standards evolution, and of implementing decentralized certification services to make the process available to all Libyan producers and manufactures all across the country. Most importantly, it requires a major national effort in assisting Libyan domestic producers and manufacturers to meet the relevant international certification standards for their products.

It calls for a structured approach first prioritizing Libyan products with a strong and meaningful comparative advantages on the international and domestic markets, and this work must be articulated with priority public policies previously mentioned for trade barriers, structured and enabling sector value chains. The national and international certification of Libyan products is therefore a priority policy area for reflection and action by the government and the international donor and development aid implementers community in Libya.

With 20 reform priorities and possible solutions for immediate action and 5 priority axes for reflection by the government and the international community, this Reforms Guide of Libyan Chambers of Commerce is a powerful operational tool to guide and monitor the reform process and to measure progress made or not made in top priority area for the maximum positive impact on the majority of Libyan enterprises whatever their size, sector and geographic location.

VII ANNEX EXAMPLE OF SUMMARY SCORE CARD FOR MONITORING AND MEASURING PROGRESS WITH TOP COMMON PRIORITYREFORMS OF THE Reforms Guide

Priority Reform Issue	Date of issue - WB Presentation to the Government	Date of Progress Assessment	Government Agreed Deadline for Completion	Lead Ministry or Institution Responsible	No Progress Made NPM	Some Progres s Made SPM	Significant Achievemen t Made SAM	Reform Achiev ed* RA	Illustration of Progress** Since last month	Performance in Previous Months	Progres s Trend
Reform Issue 1 Title:	01-2023	Mar-2023	30 06 2023	Ministry of Economy and Trade	X				0	Jan NPM Feb NPM	○
Reform Issue 2 Title:	01-2023	Mar-2023	30 06 2023	Ministry of Labour			x		Advanced steps made: Finalization of the draft decree	Jan SPM Feb SPM	↑
Reform Issue 3 Title:	01-2023	Mar-2023	30 03 2023	Ministry of Justice		x			Preliminary steps implemented: Preliminary issue focused joint workshop held	Jan SPM Feb NPM	↔
Reform Issue 4 Title:	01-2023	Mar-2023	30 02 2023	Ministry of Economy and Trade				x	Amendment to the law adopted	Jan SPM Feb SAM	✓
Etc... up to 20											

* REFORM ACHIEVED = Adoption of law, decrees, Adoption of official strategy, etc.

**ILLUSTRATION OF PROGRESS = Preliminary steps implemented e.g. Workshop with public administration counterparts, Workshop with parliamentarians, Public-Private Sector Task Force creation on the issue, etc.

Concrete Steps taken e.g. Drafting of an official strategy/policy paper, Drafting of law or decree