



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 4 April 2005

7753/05

LIMITE

**ASIM 12
RELEX 143
LIBYE 1**

NOTE

from : General Secretariat
to : Permanent Representatives Committee
Subject : Technical Mission to Libya on Illegal Immigration

Delegations will find attached the report¹ on the Technical Mission to Libya on Illegal Immigration, carried out between 28 November and 6 December 2004, established by the Commission Services.

¹ This report has been transmitted to the Secretariat in English only.



European Commission

TECHNICAL MISSION TO LIBYA

ON ILLEGAL IMMIGRATION

27 NOV – 6 DEC 2004

REPORT



**Libyan and European representatives join for a photo opportunity
in the course of the mission**

FOREWORD

This report has been established following a Commission technical mission to Libya conducted between 27 November and 6 December 2004. It is the Commission's responsibility, but it has been prepared with participating experts from 14 Member States and from Europol, in a truly collaborative effort which deserves recognition.

The Commission, and all members of the Mission, would like to express their deep gratitude to the Libyan Authorities for their warm hospitality, their clear political will, openness and efforts thanks to which the mission was successful. This appreciation is highlighted by the sensitive nature of the issues covered, the fact that there is little history of EU-Libya cooperation, that EU policy on migration is relatively unknown in Libya, and that interaction with the international community needs to be developed. The mission in itself greatly contributed to advance mutual understanding between the EU and Libya.

Member States represented in Tripoli and in particular the Netherlands Presidency greatly facilitated the implementation of the mission. Italy brought a particular input, due to her knowledge of and experience with Libya on illegal immigration. All are thanked for their full support. Since there is no Commission's Delegation in Libya, the Head of the Commission's Delegation in Tunis, who is also covering Libya, fully participated in the mission with his presence and input.

The report aims to represent a fair although possibly incomplete analysis on the situation as regards illegal immigration in Libya. It is based on the mission's understanding of information gathered in a relatively short time. The Commission hopes that when the report will be shared with Libya, and during subsequent discussions, there will be opportunities to correct possible factual errors that it might contain.

Considering what is at stake, and the prospect of moving forward the EU-Libya relationship, it was felt best to address issues in an open and transparent manner. Only in this way, will it be possible to develop a successful cooperation between the EU and Libya. Furthermore, any future cooperation between the EU and Libya on illegal immigration will succeed only in the context of a long-term global approach, which will address issues in a spirit of partnership.

No formal relations exists at present between the EU and Libya, and orientations for possible cooperation between the EU and Libya included in this report are made considering this particular context, which may evolve in the future.

Finally, it was felt appropriate to establish a short report, based on detailed annexed information gathered per theme highlighted in the terms of reference for the mission. These annexes are part of the report, and support its findings and conclusions. A full list of annexes is also included to facilitate references. Official texts were also received from the Libyan authorities, and were fully taken into consideration.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	5
1. Introduction.....	8
1.1. General background.....	8
1.2. Implementation of the mission	9
1.3. Opening session.....	9
2. General assessment of migration flows and policies	10
2.1. General presentation and background on the issue of illegal immigrants in Libya	10
2.2. Current overview of Institutional Framework, Procedures and Policies.....	11
2.3. Assessment of border management	12
2.4. The specific issue of asylum.....	13
2.5. The management of repatriation.....	14
2.6. Current situation as regards co-operation on migration involving Libya.....	14
3. Orientations for co-operation between the EU and Libya on illegal immigration.....	16
3.1. The conditions for co-operation with Libya	16
3.2. Concrete orientations for co-operation.....	17

LIST OF ANNEXES

Annex 1	Terms of Reference.....	21
Annex 2	Libyan Authorities met.....	25
Annex 3	List Delegation Commission/experts.....	27
Annex 4	Programme.....	28
Annex 5	Field trip to Northern Libya.....	30
Annex 6	Field trip to Southern Libya.....	34
Annex 7	Description of the nature of migration flows.....	36
Annex 8	Legal framework.....	42
Annex 9	Border management: concept, procedures, implementation.....	46
Annex 10	Asylum issues.....	52
Annex 11	Meeting with the CEN-SAD.....	54
Annex 12	Kadhafi Foundation and illegal immigration.....	56
Annex 13	Bilateral cooperation	58
Annex 14	Case study: the Niger-Libya connection.....	64
Annex 15	List official documents received from Libya.....	67
Annex 16	Map.....	68
Annex 17	Photographic annex.....	69

EXECUTIVE SUMMARY

Introduction

In November 2002, the Council considered it essential to initiate co-operation with Libya on migration. An exploratory mission was then conducted by the Commission in Libya in May 2003, and concluded that Libyan authorities were highly interested in co-operating with the EU on illegal immigration. Terms of Reference were prepared in 2003 by the Commission services with EU Member States and the Libyan authorities for a follow up technical mission. However the Council requested at the time the postponement of the mission due to unresolved bilateral issues.

Libya is a Neighbourhood country, but has currently no formal relations with the EU. While the long-term objective of EU Policy towards Libya remains her full accession to this process, the Council of 11 October 2004 decided to embark upon a policy of engagement with this country. The Council lifted the arms embargo, and decided that the technical mission on illegal immigration should be conducted as soon as possible by the Commission with the participation of experts from Member States.

The mission, which is the first effort of the EU to engage with the Libyan authorities on illegal immigration, was conducted between 27 November and 6 December 2004. The objectives defined in the Terms of Reference for this mission are wide: 1) to get an in-depth understanding of migration related issues in Libya; 2) to identify concrete measures for possible balanced EU-Libyan cooperation particularly on illegal immigration. Another key objective was to explain EU policy on migration to the Libyan Authorities. The mission was able to gather a good understanding of the issue of illegal immigration. It was very well received by the Libyan authorities, at high level, and consistent efforts were made by them to meet its requests.

The opening session of the mission was an important opportunity for both the Commission and Libya to introduce their policy on migration, and to build up mutual understanding on migration related issues.

General assessment of migration flows and policies

Libya's population is currently approximately 5.5 million inhabitants. The Libyan authorities estimate the number of legal foreign workers at 600,000, while illegal immigrants are estimated to number between 750,000 and 1.2 million. The Libyan authorities recognise that flows in and out of Libya are poorly controlled and not well known. It is estimated that each year, between 75,000 and 100,000 foreigners enter Libya.

It is unquestionable that Libya is a destination country. Migration towards Libya is the result of a combination of factors: geographic (location of Libya, permeable borders), economic (Libya is an economic pole of attraction), political (negative effects of an open-door policy in particular towards sub-Saharan Africa), and administrative (lack of a global strategy on migration and border management). But Libya has now also emerged as a major transit country towards Europe for illegal immigrants. According to available data, the recent trend shows a sharp rise in illegal immigration through the Sicily Channel and the strengthening of the Libyan transit route.

Illegal immigration, in particular originating from sub-Saharan Africa, is clearly perceived by the Libyan authorities as a growing threat with the dimension of a national crisis, with various potential serious consequences. Migrant smuggling networks are operational in the region. Authorities are concerned about the management of this situation and its possible negative consequences. From an EU perspective, the situation is also of very serious concern; the emergence of Libya as a transit country is a new factor that contributes to increasing pressure on EU external borders in the Mediterranean sea.

Border management was the subject of particular attention during the mission, considering its key importance in the field of illegal immigration. Border control is significantly affected by the length of the borders (4,400 km of permeable borders with six countries, and 1,770 km of coastline), the geographical situation of border areas (desert in most cases) and the absence of demarcation in many locations. The Libyan authorities seem to have understood the serious problems faced as regards the management of Libya's external borders, the need to dramatically increase the number of staff involved, to improve their training, to provide them with proper equipment, to develop international cooperation as well as to improve inter-service cooperation.

The asylum issue was discussed on several occasions. Libya has not signed the 1951 Geneva Convention on the protection of refugees, but has ratified the respective OAU Convention. While the Libyan Constitution foresees the protection of refugees, the Libyan authorities seem reluctant to recognise the refugee dimension given their serious concern that the introduction of legal and formal distinction between asylum seekers and economic migrants would result in an unmanageable situation. Consequently, in practice no refugee policy exists. There is a UNHCR office in Tripoli, but it has no official status and cannot exert its role adequately.

Libya is now pursuing a return policy for foreigners residing illegally in the country. The mission visited various reception camps of different nature, and a main focus of the management of illegal immigration seems to be put on organising repatriation operations. The decision to return illegal immigrants seems to be taken without due consideration to detailed examination at an individual level. No information on specific procedures and criteria for detaining individuals was provided by the Libyan authorities. Conditions of detention in different sorts of camps visited vary greatly, from relatively acceptable to extremely poor. In 2004, Libyan Authorities repatriated 54,000 illegal immigrants of various nationalities, and there is a significant increase in nationals originating from sub-Saharan African countries and Egypt.

Current co-operation between Libya and the international community remains very limited, but Libya has gained an increasing understanding of the need to develop co-operation on migration issues. Bilateral co-operation exists only with Italy and Malta. Italy, the country most directly concerned by illegal immigration through Libya, has in the last years considerably increased her cooperation with Libya. The IOM (International Organisation for Migration) has also developed links with Libya and has prepared a co-operation programme for implementation. The EU has funded a regional project with ICMPD (International Centre for Migration Policy Development), which has fostered co-operation between EU and non EU countries in the region, including Libya. Migration has also become a priority area within the African Union and the informal "5+5" framework to which Libya participates.

Orientations for co-operation between the EU and Libya on illegal immigration

The Libyan authorities have clearly voiced their strong interest in developing co-operation with the EU on illegal immigration. Such a co-operation should be seen as a part of a process of a developing transparent political relationship. The absence of formal relations between the EU and Libya is a restrictive factor to intensified co-operation. But the Commission wishes to initiate a number of actions with Community funding from currently available instruments (AENEAS, ARGO) combined with possibilities offered under the COTONOU Agreement for complementary actions in sub-Saharan countries bordering Libya. Any effort from the EU in the current context should greatly gain from a collaborative effort, coordinated by the Commission, combining possibilities offered by the Community and bilateral co-operation from the Member States.

All aspects causing the current situation in Libya must urgently be addressed by the Libyan authorities under their responsibility. A comprehensive long-term global approach on migration is needed, which should also include combating criminal networks as well as the protection of refugees; a full recognition of the UNHCR status by Libya would constitute a first step in this respect. Libya needs also to reconsider some aspects of her external policies having a direct effect on migration.

The mission recommends that a specific dialogue mechanism be established without delay between the EU and Libya. It will address in a transparent way mainly specific co-operation with Libya as well as develop a coherent Action Plan on migration issues. It will also be a forum to discuss wider issues; a wider political dialogue with Libya on migration is essential.

Concrete orientations for co-operation are summarised as follows:

- Specific co-operation with Libya in a number of areas: In each of the following areas, specific orientations for co-operation are detailed in the report: 1) reinforcement of Institution building; 2) training initiatives; 3) management of asylum; 4) increasing awareness of the public.
- Co-operation with countries of origin: Specific activities aimed in particular at countries of origin: 1) Discuss migration issues with the main African countries of origin to identify possible areas for co-operation; 2) as a pilot initiative, conduct as soon as possible a mission to Niger to explore possibilities to develop co-operation with Niger on migration, following positive signals from this country and an interest from Libya. 3) improvement of border management co-operation between Libya and countries with shared borders.
- Dialogue on a wider regional basis: Four main levels for enhancing regional dialogue are suggested: 1) increased focus on EU-Africa dialogue on migration and on efforts of the African Union to address migration, including all aspects related to criminal organisations; 2) increased focus on migration within the “5+5” setting, and also with the AMU (Arab Maghreb Union); 3) co-operation with the Tripoli based CENSAD, the Community of states bordering the Sahara and the Sahel; 4) dialogue associating origin, transit and destination countries including the support to a Conference hosted by Libya.

It is important that there is prompt follow up to the mission with Libya, and to build up mutual understanding, through concrete but transparent co-operation on all issues related to illegal immigration. Opportunities will then be developed through engagement.

REPORT

1. INTRODUCTION

1.1. General background

Libya is not participating fully in the Barcelona process, and has no formal relations with the EU. While the long-term objective of the EU Policy towards Libya remains her full alignment to this process, the Council of 11 October 2004 decided to embark upon a policy of engagement with this country. In this context, the Council lifted the arms embargo in effect since 1986. The Council also recalled its conclusions of November 2002 that co-operation with Libya on migration was essential and urgent, and decided that the technical mission to Libya on illegal immigration should be conducted as soon as possible on the basis of Terms of Reference developed in 2003.

The October 1999 European Council recognised the need to establish a comprehensive approach to migration addressing political, development and human rights issues in countries of origin and transit. Partnership aimed at efficient management of migration flows with third countries was identified as a key element for the success of such a policy. The June 2002 Seville European Council further underlined the importance of stepping up cooperation with third countries in managing migration flows, including the prevention and combating of illegal immigration and trafficking in human beings.

Migration issues have also been identified by the Council in November 2002 as a matter of high interest and Libya was among the countries for which it was considered essential to initiate cooperation. On this basis, the Commission services conducted a first exploratory mission to Libya in May 2003, and assessed that Libyan Authorities were highly interested in engaging with the EU on illegal immigration. Terms of Reference were then carefully prepared by the Commission with EU Member States and the Libyan Authorities for a technical mission, following important preparatory work in 2003.

Despite the increasing migration pressure through Libya, the Council requested at the time the postponement of the mission due to unresolved bilateral issues.

The main objectives defined in the Terms of Reference for this mission are wide: 1) to get an in-depth understanding of migration-related issues in Libya; 2) to identify concrete measures for possible balanced EU-Libyan cooperation particularly on illegal immigration. Another key objective was to explain EU policy on migration to Libyan Authorities.

Libya has become a key country as regards illegal immigration, which is a priority area for cooperation in the Mediterranean region. There is a recognised need for intensified co-operation on all aspects of illegal immigration, the fight against human trafficking and related networks, border management and migration-related capacity building. Libya has expressed her clear intention to cooperate with the EU.

1.2. Implementation of the mission

The mission, which is the first effort of the EU to engage with the Libyan authorities on illegal immigration, was conducted between 27 November and 6 December 2004.

With the active participation of fifteen highly qualified experts from fourteen Member States, Europol, a Commission team of five (Relex, JLS, DEV, and the full participation of the Commission's Head of Delegation in Tunis), the mission was able to make the best possible use of its time in Libya. It was very well received by the Libyan authorities, at high level, and consistent efforts were made by them to meet its requests.

The mission had various meetings with concerned authorities of the Ministries of Foreign Affairs and of Interior (General people Committee for foreign Liaison and International Cooperation, and General People Committee for Public Security), and with the Head of External Security. It also met with the Kadhafi Foundation, with the CENSAD², and with UNHCR. The Commission debriefed the EU Heads of mission twice. Two field visits were organised, covering the Northern coastal border and the Southern border, to assess the situation in the field and to discuss with local authorities. During those two field visits, many reception camps were seen, and interviews were conducted with illegal immigrants. Although, after some hesitations from the Libyan authorities, the mission also visited Tripoli International Airport. The mission did not meet the Ministry of Justice as requested; for this reason it was not possible to discuss the issue of trafficking of human beings and corruption.

The mission was able to gather good understanding of the issue of illegal immigration, considering the difficulty and the sensitivity of the subject, the context of EU-Libya relations, the language issue, and the difficulty in managing a large delegation from the EU.

1.3. Opening session

The opening session of the mission was an important opportunity for both the Commission and Libya to introduce their respective policies on migration, and to build up mutual understanding on migration related issues.

In an effort to provide an exchange of views on migration issues, the Commission presented the internal and external aspects of EU policy on migration to Libyan authorities, and distributed relevant documentation. This was a very first opportunity to present the EU policy on migration, and to initiate a process of interaction with the Libyan Authorities. The presentation was welcomed, as a first step in clarifying basic concepts of EU policy on migration.

² Community of states bordering the Sahara and the Sahel, established in 1998 in Tripoli. It has now 21 Members. It aims at making of the desert a place of peace.

The Libyan authorities also presented their understanding of the phenomenon of migration and their views on the situation in Libya. It was explained that illegal immigration, in particular originating from sub-Saharan Africa, has now become a serious issue in Libya, resulting in health, cultural, economic and security problems. It was recognised that Libya has difficulties to address the issue in a comprehensive way, and that cooperation with the EU should be developed. Particular emphasis was put by Libya on the root causes of illegal immigration, and on the need to address the phenomenon in its wider African dimension.

2. GENERAL ASSESSMENT OF MIGRATION FLOWS AND POLICIES

2.1. General presentation and background on the issue of illegal immigrants in Libya

On the basis of general discussions with the Libyan authorities, the mission received additional statistical information in addition to figures on migration received in 2003, and was also provided with copies of laws related to migration, visa, and naturalisation policy. Clarifications of these laws were also provided and together this information acts as a basis on which the statistical data on illegal migration is presented in this report.

In terms of GNP per capita, Libya ranks far ahead of all other African countries, thus acting as a pole of attraction for foreign labour, in particular for those workers originating from unstable and underdeveloped sub-Saharan African countries. The Libyan economy is currently dominated by the oil and gas and the public sector, and the main challenge is to promote growth of the non-oil sector, taking advantage of a vast unrealised potential for economic diversification, which is needed to reduce an unemployment rate currently estimated at around 25 percent.

Libya's population is currently numbering approximately 5.5 million inhabitants. Libyan authorities estimate the number of legal foreign workers at 600,000, while illegal immigrants are estimated to number between 750,000 and 1.2 million. Accurate statistics are unavailable; Libyan authorities recognise that flows in and out of Libya are poorly controlled and not well known. It is estimated that each year, between 75,000 and 100,000 foreigners enter Libya.

Libya is a destination country, as demonstrated by figures, and as verified by interviews with illegal immigrants during the mission. This fact is fully recognised by the Libyan authorities³. Migration towards Libya is the result of a combination of factors: geographic (location of Libya, permeable borders), economic (Libya is an economic pole of attraction), political (negative effects of an open-door policy towards sub-Saharan Africa), and administrative (lack of a global strategy on migration and border management). Many migrants have died in the Sahara desert, on their way to Libya.

In addition, new recent data has revealed that Libya has also become a major transit country for illegal immigrants. Focus has recently shifted from Libya's role as a destination country to a new role as a transit country in light of dramatic reports of illegal immigrants attempting to reach Europe mainly via the Italian island of Lampedusa and Malta in the Sicily Channel, often at the cost of their lives. According to available data, the recent trend is that of a sharp rise in illegal immigration through the Channel, the strengthening of the Libyan transit route, and a rise in the number of illegal immigrants from Maghreb or Mashreq countries, sub-Saharan Africa, and even Asian countries.

³ Colonel Qaddafi recently recalled in an interview that Libya was suffering from illegal immigration originating from within sub-Saharan Africa.

According to the Libyan authorities, the uncontrolled movement of illegal immigrants to and through Libya has reached the level of a national crisis, in particular with regards to immigration originating from sub-Saharan Africa. Authorities are concerned about the management of this situation and its possible consequences: criminal activities, a degradation of the overall health situation with particular emphasis on the possible spread of HIV/AIDS and hepatitis, economic disruption due to an excess of availability of cheap labour, cultural difficulties resulting in tensions between Libyan and foreign communities, and the possible infiltration of terrorists. Yet there seems to exist little understanding of the need for a strategic approach, except at the level of few interlocutors at a high level.

The emergence of Libya as a transit country is a new factor that has contributed to increasing pressure on EU external borders in the Mediterranean Sea, exposing some Member States in particular to an emergency situation as regards illegal immigration.

2.2. Current overview of Institutional Framework, Procedures and Policies

The Directorate of Transport and Nationality office of the Ministry of Interior is responsible for legal and illegal immigration matters and the implementation of laws affecting the issue of passports, travel documents, residence permits and identity cards.

On the basis of Law No. 4/1985, the General Directorate of Passports and Nationality is exclusively responsible for issuing, renewing and revoking travel documents. This regulation sets out four different types of travel documents that can be issued according to specific circumstances and conditions: an ordinary individual passport, a collective passport, a temporary travel document, and a travel document for Palestinians.

According to Law No. 6/1987 relating to the entry, residence and exit of foreign nationals in Libya, all nationals from Arab States as well as from the Sudan, Ethiopia and Eritrea may enter Libya without a visa. This policy has been recently revised to exclude nationals of Iraq and Palestine. For other foreigners, various procedures and requirements exist for the different categories of entry visas. Multiple-entry as well as multiple-exit and re-entry visas may be granted for certain categories of persons intending to obtain residence permits. Libyan central authorities must be consulted before a visa can be granted, but procedures for granting entry and exit visas for the purpose of tourism and investment are facilitated. There is currently a lack of central statistical data available on the number of visas issued.

The same Law No. 6/1987 provides for granting two types of residence permits to foreign nationals, depending on the purpose of residence: a red card for short-term residence is issued to those with illegal status and a green card is issued for long-term/residence to those with legal status. Both residence permits have a specified validity period. A red card is issued to those nationals who have entered the country illegally and do not have a work contract. If a work contract is obtained within a three month period, then a green card is issued on this basis. It is apparently relatively easy for companies to present work contracts for this purpose. UNHCR protection card holders are also apparently granted green cards for a period of five years.

Concerning naturalisation, Libya has currently suspended its generous policy of the past of granting Libyan nationality to nearly every Arab under the age of 50 residing in Libya. Law No. 18/1980 sets out this policy, but subsequent amendments have resulted in the suspension of these provisions, and Libya now also recognises dual citizenship⁴.

Despite the various laws in place and the creation of a new administrative department in the Ministry to deal with immigration and naturalisation issues in Libya, the threat of illegal immigration is clearly perceived. Investigations are now conducted on traffickers, on the arrest and deportation of illegal immigrants, on the inspection of companies and on information analysis. A new Law No. 2/2004 is currently being implemented, which would bring stricter penalties for illegal immigrants and those who facilitated their illegal entry and/or stay. Libya has also created a new unit for the administration and enforcement of this new law, and is also in the process of hosting media campaigns warning about penalties for facilitating illegal immigration.

2.3. Assessment of border management

Border management was a subject of particular attention during the mission, considering its key importance in the field of illegal immigration.

Libya is a vast country (1.75 million km²), sharing 4,400 km of border with six other countries⁵ including 1,500 km of border with the sub-Saharan countries of the Sudan, Chad and Niger. The total length of the Mediterranean coastline is approximately 1,770 km. Most of Libya's borders have not yet been demarcated, and lie mainly within open permeable desert land.

The information sessions in Tripoli and the visits to the sea and land borders enabled the experts of the mission to understand the serious problems encountered by the Libyan Authorities as regards the management of their external borders. In particular concerning the border control, the experts had the opportunity to visit Tripoli Airport and a land border checkpoint between Libya and Algeria in Ghat.

The Libyan authorities on several instances mentioned the need for significant improvement in terms of staff reinforcement, as well as training and equipment.

In general, the Libyan authorities understand the need to improve border management in light of the specific difficulties presented by Libyan borders. It is clear that the number of personnel (3,500) responsible for border control and management is insufficient. Improvement of the legal status of professional bodies involved in border management, specific training for all staff responsible for and implicated in border management (in particular in investigation techniques and verification of travel documents) should continue and be made a priority.

The recent decision on the creation of a Coast Guard department could be seen as an important step towards an improvement of the management of the Northern border, although this body is not yet operational.

⁴ A generous naturalisation policy was apparently practised in Libya until 2000/2001 due to the need of foreign labour at the time.

⁵ Egypt, the Sudan, Chad, Niger, Algeria, Tunisia.

The coordination between all bodies involved in border management is a key factor for the immediate improvement of the situation. Specific working Memoranda of Understanding should be drafted to define the conditions and methods of coordination at both central and regional/local level. Common training sessions could facilitate the cooperation and the sharing of information between staff of bodies involved in border issues.

Specific equipment is necessary to enhance border management effectiveness. This should include equipment for the detection of false documents, basic mobile communications material and databases enabling an immediate access of the information required.

Finally, the mission noted that cooperation among Libyan border control officials and authorities responsible for national security could be further developed in addition to extending cooperation on an international level with official counterparts in neighbouring countries.

2.4. The specific issue of asylum

The asylum issue was discussed on several occasions during the mission, and a meeting was held with UNHCR. Libya has neither signed the 1951 Geneva Convention on the protection of refugees nor its Protocol of 1967, but has ratified the respective OAU Convention, which entered into force in 1974. The Libyan Constitution foresees some sort of refugee protection⁶. However, there is no administrative structure dealing with refugees and asylum seekers, and no cooperation agreement between UNHCR and Libya; the local UNHCR office has no official status. Consequently, in practice, international protection of refugees is not assured. Nevertheless, the mission was informed that there is a tendency not to return illegal immigrants originating from countries in conflict (the case of Darfur was taken as an example).

UNHCR has granted refugee status to a number of asylum seekers who applied directly to their office, but has no access to reception centres. The mission was informed that there is a tendency not to deport individuals having been granted such a status. However, and even if the large majority of individuals interviewed in various reception centres said having fled their country for economic reasons, some stated having done so to seek international protection. Some individuals possessed UNHCR refugee cards issued in other countries.

Libyan authorities are apparently seriously concerned that the introduction of a legal and formal distinction between asylum seekers and economic migrants would result in a rapidly unmanageable situation.

⁶ Article II of the Libyan Constitution of December 1969 provides that “the extradition of refugees is prohibited”. According to law 20/1991 article 21: “the Jamahiriya supports the oppressed and the defenders on the road to freedom and they should not abandon the refugees and their protection”.

2.5. The management of repatriation

Libya is trying to develop a return policy for foreigners residing illegally in the country. Individuals concerned are held in reception centres until travel documents can be processed through the embassies of their countries of origin or they are released with a temporary residence permit. Co-operation exists and memoranda of understanding are in place with several countries of origin, but all costs associated with return seem to be covered by Libya⁷.

In 2003, Libyan Authorities repatriated 43,000 illegal immigrants of various nationalities. This number reached 54,000 in 2004, witnessing a significant increase in nationals originating from sub-Saharan African countries and Egypt.

The mission had opportunities to visit reception centres during the Northern and Southern field trips, and to freely interview individuals from many origin countries. It appeared during those visits that the main focus of the management of illegal immigration is on organising repatriation operations. No information on specific procedures and criteria for detaining individuals was provided by the Libyan authorities. Many of the illegal immigrants met in the centres seem to have been arrested on a random basis. The decision to return illegal immigrants to their country of origin seems to be taken for groups of nationalities rather than after having examined individual cases in detail.

Different types of centres were visited, and it was found that conditions of detention vary greatly from relatively acceptable to extremely poor, despite efforts by the Libyan authorities to provide basic necessities. There are short-stay centres and longer-term centres, some of which can be assimilated to prisons. Repatriation centres are also available for illegal immigrants who wish to return to their countries on a voluntary basis and can stay in these centres while their papers are being processed. It was noted that some centres contained unaccompanied minors and women, sometimes not accommodated separately, and who are evidently at risk; this matter needs to be addressed urgently. The mission also visited several neighbourhoods where foreign nationals live and arrange their cultural living environment by nationality. These individuals commute to nearby cities or villages to seek jobs. Access to these areas seemed unrestricted.

2.6. Current situation as regards co-operation on migration involving Libya

Current co-operation between Libya and partners from the EU or the international community remains limited. However, and as explained by Libyan authorities on various occasions during the mission, Libya has gained an increasing understanding of the need to develop co-operation on migration issues.

⁷ Memoranda of understanding covering police cooperation on border control issues and exchange of information have been signed with Sudan, Chad, and Niger.

As regards bilateral co-operation between Libya and countries from the EU, only Italy and Malta are involved at this stage. Due to its geographic position in the Mediterranean, Italy is particularly confronted with the issue of illegal immigrants transiting through Libya, and has therefore become actively involved in developing external cooperation with Libya on that issue. In 2000, a general agreement was signed between both countries to fight terrorism, organised crime, drugs traffic and illegal immigration. This was followed up with several regular high-level meetings and additional agreements. In 2003, a permanent liaison on organised crime and illegal immigration was established between the two countries. Meetings have also been held to discuss needs for training and equipment to help Libya address illegal immigration. Equipment has been provided and training sessions organised. Cooperation in various fields related to illegal immigration is developing. Furthermore, a programme of charter flights for the repatriation of illegal immigrants from Libya back to their countries of origin has been implemented. In 2003, Italy also supported the construction of a reception centre for illegal immigrants in Libya, and the construction of additional camps is planned.

In another context, the International Organisation for Migration (IOM) has defined, in collaboration with the Libyan authorities, a programme of activities called TRIM, as the result of a technical assessment mission carried out in October 2004. This programme aims to support the Government of Libya in taking immediate action to respond to the growing challenges posed by increased illegal immigration, in a humane and orderly manner, while laying the groundwork for a long-term, sustainable migration management approach, in cooperation with all the countries involved. The objectives of this programme are: 1) to improve the reception conditions provided to irregular immigrants, including appropriate health care and other services; 2) to assist their return to their countries of origin through an Assisted Voluntary Return and Reinsertion programme; 3) to set up a constructive dialogue on irregular transit migration with both origin and destination countries with a view to strengthen cooperation and identify common solutions

As regards the EU, the Commission has funded a regional project with ICMPD, the International Centre for Migration Policy Development, which included a Libyan component. On the initiative of this organisation, EU Member States and all other countries that border the Mediterranean Sea, including Libya, met in 2003 and 2004 to informally discuss the long-term approach to transit migration in this region. These meetings have allowed for a better mutual understanding of the EU approach to migration and have fostered cooperation between EU and non-EU countries. They have underlined the need for concrete cooperation and set the stage for various bi- and multilateral projects aimed at promoting migration management. The reports prepared in view of these meetings have provided useful background information in preparing the mission. The Commission has also launched a regional project with UNHCR, which includes Libya, in December 2004. This project includes a number of exploratory and preparatory activities, all geared towards the long term goal, i.e. to create a space for international protection of refugees which includes North African States, as well as a collaborative regional approach to the protection of migrants and refugees rescued/intercepted in the Mediterranean.

International co-operation is developing, in particular within the framework of the African Union (AU), and in the “5 + 5” informal setting.

As a (founding) Member of the AU, Libya can become actively involved in the dialogue on migration issues, which is gaining importance in this continental framework of partnership. Within the dialogue between the EU and the AU, migration issues have become a priority area.

Libya is also an active member of the “5 + 5” informal framework of co-operation. Participating states are: Algeria, France, Italy, Libya, Malta, Mauritania, Morocco, Portugal, Spain and Tunisia. Dialogue on migration was reinforced by the “Tunis Declaration” signed in October 2002. Work is in progress, including through several follow-up meetings, focussing on the fight against illegal immigration, integration of migrants, as well as on co-development in areas of high migration dynamics. Exchange of information and training is also underlined as key to enhanced co-operation. The Algiers Conference held in September 2004, reaffirmed the political consensus and identified strategic actions to respond to migration challenges in the region.

3. ORIENTATIONS FOR CO-OPERATION BETWEEN THE EU AND LIBYA ON ILLEGAL IMMIGRATION

3.1. The conditions for co-operation with Libya

Libya, a destination country and a pole of attraction for labour originating from the Maghreb, the Mashrek and sub-Saharan countries, has now also increasingly emerged as a transit country for illegal immigrants proceeding towards Europe. The dynamics and the results of the phenomenon of illegal immigration have been fully recognised by the Libyan authorities, who are confronted with a serious and growing internal situation as regards this issue. In this context, the Libyan authorities voiced their desire to develop co-operation with the EU.

Historically, there are various political, economic and geographical reasons to explain the phenomenon of illegal immigration not just in Libya but also on the continental, pan-African scale. Libya became a popular destination country for illegal immigrants partly as a result of her ‘open-door’ policy in particular towards sub-Saharan Africa; in addition, due to her relatively high-level standard of living on the African continent, Libya has attracted foreign workers. Geographically, Libya is naturally a pole of attraction for migrants intending to transit through the country to reach Europe. The current acknowledged ‘crisis situation’ is a result of a combination of these factors. To remedy this situation, there is an urgent need to review several aspects causing concern while respecting the strong African vocation of Libya. This review process should not be limited to Libya. There is a need to extend dialogue and action to neighbouring countries (Maghreb/Mashreq countries, as well as sub-Saharan African countries).

Within this context, any intensified co-operation between the EU and Libya should be seen as a part of a process of a developing transparent political relationship. The political will that exists in Libya and within the EU to develop co-operation on illegal immigration should be transformed as soon as possible into concrete actions, implemented within the framework of a global approach. Such cooperation should be aimed at establishing an effective framework for managing migration flows, while fully respecting the human rights of those concerned.

The European Council of 4 November 2004 decided that EU support to third countries on migration should be dependent upon a clear demonstration by those countries of a genuine commitment to fulfil their obligations under Geneva Convention on refugees. The full recognition of the UNHCR status by the Libyan authorities as well as allowing the UNHCR to fully exercise its mandate in Libya, as well the full implementation of the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, are necessary steps of a comprehensive policy on migration to be developed with the support of the EU.

In addition, as concerns in particular the pressure of illegal immigration in the Mediterranean region, the EU's Hague Programme adopted in November 2004 states that 'insufficiently managed migration can result in humanitarian disasters, and the EU expresses its utmost concern about the human tragedies that take place in the Mediterranean as a result of attempts to enter the EU illegally and calls for intensified cooperation in preventing further loss of life.'

Co-operation on illegal immigration must also address criminal organisations involved in migrant smuggling, and also the trafficking of human beings. In practice, both migrant smuggling and trafficking in human beings are sides of the same coin, and therefore the same criminal infrastructure could be used for both forms of crime. Any measure aimed at fighting illegal immigration and human trafficking, particularly women and children, should be carried out in observance of the fundamental rights of the migrant, which is compatible with the legitimate objectives of security and sovereignty of States.

In the absence of a formal cooperation framework between the EU and Libya, any possible cooperation between the EU and this country will greatly gain from a coordinated collaborative effort combining possibilities offered by the Community and bilateral cooperation from Member States. Community funding could originate from specific budget lines ("AENEAS", "ARGO", ...). It should also include dialogue and actions under the COTONOU Agreement with specific countries concerned by the issue of illegal immigration and Libya, an intensification of EU-AU dialogue on migration, as well as making use of regional processes like the "5 + 5" mechanism.

3.2. Concrete orientations for co-operation

The Commission considers that co-operation should be developed at three main levels: 1) specific co-operation with Libya; 2) co-operation with countries of origin; 3) dialogue on a wider regional basis. Initial co-operation will represent in itself an opportunity for further engagement with Libya and will build on the momentum created by improved mutual understanding.

Specific co-operation with Libya

In order to deepen discussions on migration issues in a comprehensive way, a specific joint dialogue mechanism should be established as soon as possible between the EU and Libya. The main tasks of this mechanism will be to develop a strategic comprehensive approach to fight illegal immigration, and to develop a coherent Action Plan which could ultimately incorporate all measures considered relevant in this context. Starting with the concrete follow up on the mission report, it could serve as a forum for regular dialogue between the EU and Libya on migration. This joint mechanism could also constitute a place to discuss wider issues; a wider political dialogue with Libya on migration issues is essential.

On the basis of findings of the mission, co-operation between the EU and Libya should be initiated at this stage on the following areas:

- **Reinforcement of Institution Building:** Based on the political will of the Libyan Authorities as expressed during the mission, cooperation could contribute towards the elaboration of a national strategy to combat illegal immigration and the development of a global approach for the management of Libyan external borders. Concrete actions could be developed towards enhancing the legal framework in areas such as visas, entry conditions, residence permits, asylum, trafficking in human beings and repatriation. The modernisation of the legal status of bodies involved in combating illegal immigration, the reinforcement of their administrative structure and the setting up of cooperation mechanisms between all services concerned and at different levels could contribute to the rapid improvement of the situation. Finally, the creation of a permanent Libyan task force for coordination of operational actions would be a key element in the system.
- **Training initiatives:** training of staff was recognised as a key factor for an effective management of illegal immigration. After selection of the staff concerned, specific actions can be organised, aimed at presenting the various components of EU policy on illegal immigration, as well as the applicable rules and procedures. Technical visits and traineeships at specific European border points could be foreseen in order to familiarise Libyan Border Guards with modern techniques on border control and surveillance. As regards the content of the training sessions, there is an urgent need for courses on document forgery as well as on the use of basic informatics equipment. Other needs include specific training on human rights, in basic investigation techniques, on treatment of the information and risk analysis for staff working (both at the central and regional level) for the new department dealing with illegal immigration and networks of smugglers.
- **Management of asylum:** specific co-operation in the area of asylum should be implemented which would consist essentially, at a first stage, in raising awareness about asylum issues and training staff in charge of border control, reception centres and policy definition in these areas. This can be considered within the framework of UNHCR mandate fully recognised by Libya. In reference to this, the EU is supporting a regional UNHCR programme designed to develop asylum issues in the five countries of the Maghreb; this programme could serve as a basis for the development of the asylum system in Libya, and could also support Libya in her efforts to meet her obligations under the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.
- **Increasing awareness of the public:** Media campaigns aimed at discouraging illegal immigration could be launched in Libya and in neighbouring countries.

In the context of these orientations, the Commission will consider how to address the possible needs of specific equipments which might be necessary to achieve the defined activities.

As regards the management of repatriation, the Commission considers that this would be an important element of the framework for migration management.

Co-operation with countries of origin

The Commission considers that specific activities aimed more particularly at countries of origin should be considered:

- The EU could support the improvement of border management co-operation between Libya and other countries with shared borders.
- Cooperation with the main African countries of origin (such as Mali, Burkina Faso, Ghana, Nigeria, Eritrea, and others) is to be an important part of efforts aimed at fighting illegal migration. The EU should start bilateral dialogue with these countries to discuss migration issues and better understand why people decide to leave their country. This dialogue should create the basis for a series of concrete cooperation measures that will address migration⁸.
- In this context, as a pilot initiative, the Commission should explore possibilities to develop co-operation on migration with Niger. In this respect a Commission's mission to Niger should be considered a priority. Specific areas to be covered by the Terms of Reference could include: assessment of flows of migrants to and through Niger, addressing root causes of migration, developing alternatives to departure, the establishment of measures to control illegal immigration, and border management.

Dialogue on a wider regional basis

The Commission considers that it is important to enhance regional dialogue in a wider context as a part of a comprehensive response to fight illegal immigration. Four areas of dialogue are concerned:

- EU/Africa: Because of its coverage of both sub-Saharan and North African countries and its recent political vocation, the African Union can become a key actor and ally on migration issues. The EU should fully support efforts of the AU to develop its "Strategic Framework for a policy of migration in Africa". Furthermore, the issue of migration has become a priority area in its partnership with the EU, and in December 2004, the EU-AU Troika recommended that the two European and African Union Commissions enhance their dialogue and cooperation on migration. In this context, exchange of views with countries of origin (information, root causes, cross border cooperation, cooperation between origin countries and Libya,) should be developed.
- The dialogue and cooperation between the AU and the EU also provides the framework to address the issue of human trafficking. In December 2004 both sides agreed to submit a Plan of Action on Trafficking in Human beings, especially women and children for consideration by the AU and the EU Ministers with a view to its subsequent adoption by the AU and EU Heads of States and Government. The AU-EU Plan of Action on human trafficking provides a wider framework that could contain concrete measures that are relevant to tackle illegal immigration through Libya.

⁸ Indicative examples of concrete measures could include: campaigns to raise awareness to discourage illegal immigration, assisted returns of illegal immigrants, the support to economic development of their countries by migrants, the facilitation of the flow of migrant remittances,

- Maghreb countries: increased EU focus should be given to the dialogue on migration within the “5 + 5” setting. Co-operation between the Maghreb and the Mashrek as well as with the AMU (Arab Maghreb Union) could also be enhanced.
- CENSAD: a channel for dialogue and concrete co-operation could be developed between the EU and this Tripoli based regional organisation as its mandate covers both North and sub-Saharan African countries. Possible areas for support could include: support to the establishment of an Observatory on migration, training, support to the organisation of workshops (for ex. the CENSAD is planning a workshop in Niamey in the coming months, which could be supported by the Commission)
- A structured tripartite dialogue associating origin, transit and destination countries could be initiated. Support to the organisation of a Conference hosted by Libya, possibly under the sponsorship of the Kadhafi Foundation, should be considered.

TERMS OF REFERENCE

1. General background

In April 1999 at Stuttgart, the third Euro-Med Conference of Foreign Ministers agreed that Libya could become a full member of the Barcelona process as soon as UN Security Council sanctions have been lifted (they have been suspended in April 1999) and Libya has accepted the whole Barcelona acquis. In the meantime, Libya is a passive observer within the Barcelona process. The long-term objective of the EU policy towards Libya is and remains Libya's full accession to the Barcelona Process and adherence to the acquis.

However, migration, and in particular tackling illegal immigration, has been identified by the Council of 16/17 November 2002 as a matter of high interest for which it was deemed essential to initiate cooperation.

On 14 April 2003, the Council agreed that an expert mission should examine the situation concerning illegal immigration, and report back to the Council which will then evaluate the situation in the light of technical and political criteria.

Consequently, and based on a request from the relevant Council group, the Commission services conducted an exploratory mission to Libya between 11 and 17 May 2003. This mission aimed to assess the willingness of the Libyan side to engage in possible cooperation with the European Union in the area of preventing and combating illegal migration and to explore possibilities for concrete cooperation. This Mission accomplished its main tasks. The Libyan authorities expressed a clear interest in cooperating with the EU and presented a list of possibilities for concrete cooperation.

Following the exploratory mission, the Council of 16 June 2003 took note of a request by the Italian delegation that a follow-up mission be sent to Libya to examine arrangements for combating illegal immigration and agreed that the Council's preparatory bodies should prepare terms of reference for the mission.

On 25 June 2003 the Committee of the Permanent Representatives of the EU Member States invited the Commission to present a first draft of the Terms of Reference for discussion in the High Level Working Group on asylum and migration. The mandate for this mission should be clearly defined.

Both the EU and Libya share the understanding that the dramatic socio-economic situation, in sub-Saharan Africa, its situation in term of poverty and exclusion, and the lack of respect of fundamental human rights, was a root cause of illegal immigration, which needs to be addressed. This long term prospect needs to be kept in mind, while short and medium term steps can be taken to address the issue.

Considering that at present there is no institutional framework for cooperation with Libya, the mission will bear in mind that no commitment can be taken on modalities for possible effective cooperation with Libya on migration, without further discussions within the EU.

2. Main mission objectives

The main mission objectives are the following:

- A) To get an in-depth understanding of migration related issues in Libya.
- B) To identify concrete measures for possible cooperation between Libya and the EU in order to enhance Libya's capacity to fight illegal migration, in the broader context of a balanced approach on migration.

The mission will also take the opportunity of interaction with Libyan officials in charge of issues related to migration to inform them on the Community immigration and asylum policy and on measures to integrate migration issues into the Community's external relations.

It will also consider how to ensure an appropriate follow-up on possible EC-Libya cooperation on migration.

3. Detailed tasks

In addition to explaining the Community immigration and asylum policy to Libyan officials, detailed tasks are the following, corresponding to the two main mission objectives:

- A. Description and assessment of the situation in the country regarding migration and illegal immigration in particular

The mission will give specific attention to the assessment of the following elements:

a) Description of the nature of the migration flows

- Number of foreigners and composition of the foreign population in Libya and estimates of the number and nationalities of the people coming into Libya legally and illegally in recent years
- Number of nationals leaving the country for short/long period
- Main causes for migration towards Libya
- Main countries of origin and transit for Libya
- Main countries of (final) destination
- Description of the main travel routes used by migrants that pass through Libya
- Modus operandi of trafficking and smuggling networks

b) *Legal and regulatory framework*

- Situation as regards the signing, ratification and application of the United Nations Convention against Transnational Organised Crime of December 2000, the Protocol to Prevent, Suppress and Punish Trafficking in persons and the Protocol against the Smuggling of Migrants by Land, Sea and Air and other relevant international instruments for migration management and fighting illegal immigration in particular
- Domestic legislation in place with regard to legal migration (including rules on admission and residence) and the smuggling and trafficking in human beings (in particular those measures mentioned in the Palermo Treaty on Organised Crime and its two Protocols on smuggling and trafficking such as maritime and land border controls and security and control of travel documents and visas)
- Domestic legislation on asylum
- Conditions for citizenship
- Inventory of the international agreements between Libya and third countries relevant to legal and illegal migration

c) *Institutional framework, procedures and policies*

- Description of the institutional framework, authorities and agencies involved in migration and asylum management (staff, qualification of the staff, working methods, equipment and management capacity).
- Description of the Libyan migration and asylum policies

Particular attention will be paid to:

- Handling of incoming migrants, legal and illegal, and asylum seekers
- Return policies, transit of returnees and detention, repatriation procedures
- Maritime, air and land border controls, security and control of travel documents and visas
- Description of the international cooperation on border controls (joint patrols of Libyan and neighbouring countries, exchange of information)
- Description of the methods of data collection, observation and analysis of migratory phenomena (technical capacity, equipment)
- Description of the existing cooperation programmes at bilateral and regional level.

B. Exploring concrete measures for possible cooperation

On the basis of the discussions with the Libyans and the assessment of the situation as regards migration and in particular illegal immigration, the mission will identify the technical objectives, priority areas and measures for possible EC-Libya cooperation in the following areas: legislation improvement, institutional building, training and capacity building, improvement of the infrastructures and equipment, improvement of border management (air, land, sea), exchange of information.

Possible measures for preventing and combating illegal immigration between Libya and the EU, in a sub-regional context and in particular with Libya's neighbouring countries in the South will receive attention, while understanding the context of this approach as described above.

4. Expected output of the mission

With the active support of all the participants to the mission, the Commission services will produce a report within four weeks after the finalisation of the mission and present it to the Committee of the Permanent Representatives of the EU Member States.

This report will contain an assessment of the Libyan situation as regards migration and in particular illegal immigration, as well as a description of the needs and the concrete cooperation measures that could be envisaged in order to support Libya in its effort to prevent and combat illegal migration. It will contain a summary of main technical objectives, priority areas and possible measures presented as a coherent programme.

The results of the mission will be subject to further deliberations in the framework of the European Union in order to ensure a proper follow-up to this mission.

5. Logistics and timing of the mission

1. The mission will be composed of:
 - the Commission services (Directorate-General External Relations and Directorate General Justice and Home Affairs)
 - interested Member States, participating fully at expert level
 - EUROPOL
2. The expert mission will be led by the Commission.
3. The mission programme and its Terms of reference will be agreed between Libya and the European Commission services prior to departure.
4. The mission participants would appreciate to have the opportunity to meet at least with the following authorities and persons:
 - Head of External intelligence and Security Services,
 - Ministry of Justice and Public Security,
 - Ministry of Foreign Affairs.
5. The visit of the following locations is suggested to be part of the mission programme:
 - Ghat (Algerian/Niger border)
 - Kufra (Border with Egypt)
 - Al Awyanat (Sudan-Egyptian border)
 - As Sarah (Chad border)
 - Zuwarra (West coast)
 - Zliten (East coast)
 - Misrata (East coast)
 - Tripoli airport
6. Libya will be responsible for the travel arrangements in the country.
7. Each member of the mission takes care of his travel expenses.

AUTHORITIES MET DURING THE MISSION

General People Committee for Foreign Liaison and International Cooperation (Ministry of Foreign Affairs)

Vice Minister for African Union, Mr. Saïd Ereibi Hafyana
Vice Minister for Cooperation, Mr. Mohamed Al Taher Siala
Vice Minister for Maghreb Union, Mr. Moftah Othman Mahdi
General Director Department African Affairs Mr. Ibrahim Amer Juma
General Director Consular Affairs Mr. Ali Mdored
Deputy General Director European Affairs Al Taher Al Dabbash

General People Committee for Public Security/ Ministry of Interior

Minister of Interior Mr. Nasser Al Mabruk
Ministry of Interior's Secretary, Mr. Omrani Al Soudani
D.G. repatriation and clandestine camps control, General Hassan Kasah
General Director Emigration, visa, passports, General Mohammed Al Ramalli
General Director Borders controls, and checking points, General Abdelsalem Al Twir
Chief of Cooperation Department and External Relations, Ingear Mr Saud Saudi
Doctor Mohammed Karkub – INTERPOL TRIPOLI

External Security

Head external security , Professor Musa Kusa

Kaddafi Foundation

General Director Mr. Abdelsalem Salah
Director Human Rights Branch Mr. Joumaa Attaige
General Advisor Mr. Ramadan Sanoussi

CENSAD

General Secretary, Mohamed Al-Madani Al-Azhari
Director of integration, Ibrahim Sani Abani
Ambassadors of CENSAD countries

Zwara Community

General Secretary of ZWARA CHABIA Mr. Mohammed Basset (in charge to fight clandestine immigration)
General of Public Security Haribi Al Drissi

Kufra Community

Public Security Secretary Mr. Ibrahim Omer
Chief of SARRAH Border Point, Colonel Ali El Fatmi Mbarak

Ghat Community

General Secretary, Mr. Hmedi Mussa Souliman Mohammed

Sebah Community

General Secretary, Mr. Ali Al Shaekif

UNHCR

Head, Dr. Larbi Mebtouche

EU Heads of Mission

**List delegation from Commission and Experts
from Member States**

Commission:

Mr. Marc Pierini:	Head of Delegation in Tunis covering Libya
Mr. Xavier Marchal	RELEX F4. <u>Coordinator of the mission and of the report</u>
Mrs. Dafni Gogou	JLS B01
Mr. Marc Richir	RELEX 04
Mr. Serge Christiane	DEV D02

Experts from Member States

Marianne VERDURME	Immigration Liaison Officer Ministry of the Interior, Immigration Office	Belgique
Rainer Helmut KRAPPEN	Advisor on migration and asylum issues Ministry of Interior, Directorate Migration, Asylum	Deutschland
Jan Harald VAN DEURS	Head of Section, Danish Refugee Appeals Board	Danmark
Antonio FERNANDEZ ESTEBAN	Inspector in Spanish National Police Force (C.N.P.)	España
André BIZEUL	Senior chief superintendent - Special advisor of the Police Border's Department Head	France
Cornelis Leendert Aart SCHALKOORT	Staff Royal Netherlands Marechaussee, Head Bordercontrol Immigration Division	Holland
Renato FRANCESCHELLI	Head of Unit external relations and international affairs within the Ministry of the Interior	Italia
Angelo GRECO	General Directorate of Italian State Police, Liaison officer of the Italian Embassy in Tripoli	Italia
Rustamas LIUBAJEVAS	State Border Guard Service	Latvia
Sandro ZARB	Inspector - Malta Police Immigration Department	Malta
Piotr STOCKI	Director of International Co-operation Department of the Border Guard Headquarters	Poland
Francisco José B. COELHO	Portuguese Immigration Service Frontier Guard Colonel (General Staff)	Portugal
Arto Tapani NIEMENKARI	Commander of the Kainuu Frontier Guard District, Finnish Frontier Guard	Suomi
Bengt Eric Ericsson SPARRE	Ministry of Foreign Affairs UK Immigration Service, National Office of the Immigration & Nationality Directorate's Intelligence Section (INDIS)	Sverige
Graham LEESE		United Kingdom
Mikael JENSEN	Crimes against person unit	Europol

PROGRAMME

Saturday 27 November

Travel to Libya

Sunday 28 November

- 07h45 Internal coordination meeting (hotel)
- 09h00 Meeting with EU HoM's
- 10h30 Opening session with the Secretary of General People Committee for Public Security (Ministry of Interior), Mr. Ammar El Mabrouk Eltaiyef
- 11h00 Plenary meeting, with Libyan and Commission presentations, and general discussions
- 14h30 Lunch offered by Libyan Authorities
- 15h30 Individual contacts between experts and their Embassies

Monday 29 November

- 08h00 Internal coordination meeting (hotel)
- 09h00 Meeting with staff from the Italian Embassy
- 10h30 Meeting with the General Secretary of CENSAD, Mr. Mohamed Al Azhari, followed by a meeting with Ambassadors from CENSAD countries headed by Mr. Ibrahim Sani Abani Deputy of CENSAD
- 12h30 Meeting with the Vice FA Minister for African Union, Mr. Said Ereibi Hafyana (restricted delegation).
- 13h30 Meeting with Mr. Moftah Mahdi, Vice FA Minister for Arab Maghreb Union (Commission only)
- 14h30 Meeting with the Director for Counsellor Affairs at Ministry of FA, Mr. Ali Mdurit
- 16h00 Meeting with UNHCR
- 18h30 Reception offered by the Netherlands Ambassador and Marc Pierini at residence of the Ambassador

Tuesday 30 November

- 08h30 Internal coordination meeting (hotel)
- 10h00 Meeting with the General Director for Emigration, visa, and passports, General Mohammed Al Ramalli (part of the delegation)
- 11h00 Meeting with the General Director for Border Control, General Abdelsalem Al Twir (part of the delegation)
- 12h00 Meeting with the Head of External Security, Mr. Moussa Koussa, (Commission only)
- 13H30 Meeting with the Kadhafi Foundation, Mr. Salah Abdu Usalam general Secretary, Mr. Joumaa Attaiga and Mr. Ramadan Sanoussi
- 17h00 Internal coordination meeting (UK Residence)

Wednesday 1 December to Friday 3 December

Visits to the field, in two groups, based on Terms of reference . Group North (1-2 Dec) along the Northern coast with General A. Al Twir. Group South (1-3 December) along Southern border with General H. Kasah.

Saturday 4 December

- 08h30 Internal coordination meeting (Hotel)
- 10h00 Meeting with the Kadhafi Foundation, Mr. Ramadan Sanoussi
- 12h30 Visit of Tripoli airport (part of the delegation)
- 17h00 Internal coordination meeting (Hotel)

Sunday 5 December

- 08h00 Internal coordination meeting (hotel)
- 09h00 Meeting with EU HoM's for debriefing
- 12h00 Concluding meeting with Ministry of Interior, Mr. Saud Saudi, General Director for cooperation and External Relations
- 14h00 Concluding meeting with Vice FA Minister for cooperation, Mr. Mohammed Siala.
- 17h00 Final internal coordination meeting (UK Residence)

Monday 6 December

Departure from Libya

FIELD TRIP TO NORTHERN LIBYA

Introduction- General Comments

The visits took place in the Western zone (Zuwarah) on 01.12.04 and in the Eastern zone (Misratah) on 02.12.04.

The main part of this two-day trip was dedicated to visits to detention centres and camps. The Libyan authorities did not include visits to official cross borders points in the programme and were not able to provide precise information/data on border checks at coastal ports.

In this context, the meetings with the local Authorities in Zuwarah and in Misratah as well as the meeting with the Port Authorities in the small fishing area around Zuwarah were limited to a general presentation of the Libyan Authorities' perception of the illegal immigration phenomenon and a fragmented description of problems (operational and conceptual) occurred at regional level. No contact was allowed with the Navy, currently the only operational body as far as controls at sea are concerned. Police authorities openly acknowledged that there "were no contacts" between the Police and the Navy.

Whilst members of the Mission were grateful for the efforts made by the Libyan authorities in organising the field-trip visits, it was generally considered that the armed Police and Security Service escort was over-represented. This factor, together with the constant presence of TV cameras and photographers, did little to encourage completely open and spontaneous interviews with many interlocutors, officials and illegal immigrants alike.

Detention centres and camps visited

On the basis of the visits on the spot during the trip, the experts consider that they were shown four types of places:

a) Short-stay detention centres

The migrants are detained here until they are returned to other centres or another decision is made: either to be set free, be deported directly or be granted another permit under Libyan law. The prisoners are guarded in these centres by the Police.

This type of centre seems to have been created by improvisation. For example, the one at Sulmam, located between Sabratah and Zuwarah visited on 01.12.04, was completely isolated from the entire population. It hosted some 200 migrants, seating on the ground and guarded by armed police. The building resembled a former barn, was surrounded by a gate, and had various single-floor buildings. Hygiene standards were at a minimum (i.e. showers, bathrooms, toilets), and cleaning had been done just prior to the visit. There were no proper kitchens, places to eat or places to sleep with beds. The majority of the people (mainly from Niger, Ghana and Mali) seem to have been arrested the day before the experts' visit. According to their interviews, they were illegal workers living in Libya since the end of the 1990s. Some of them were holders of identity cards issued by private Libyan companies. Many declared that, although in an illegal situation, they had a regular job with a company and that they did not understand why they were arrested. These repeated affirmations could not be verified.

Another centre used for the preventive detention of illegal immigrants is the one visited on 2 December. It is located on the principal road in the direction of Misratah, next to the road checkpoint of Tajuka. There we met 16 detainees who said they wished to take an inflatable rubber boat in order to reach a bigger boat anchored at sea that would take them to Italy. After speaking with them we made note of various contradictions as it was not true that all of them wanted to take the boat to Italy; on the contrary, the majority confirmed that their intention was to continue working in Libya in order to earn money and return to their countries of origin (mostly illegal immigrants from Ghana). On this occasion we met a young detained Libyan who had made payment to illegal immigrants in his father's barn.

b) long term detention centres

The experts visited detention centres, in which the detainees do not have the freedom to enter or to leave, and can be assimilated to prisons. The difference is simply physical - no galleys or separate cells exist to house groups according to sex, age, race or any other classification, but is comprised of rooms with a capacity of approximately 200 people, lodging not only women, but entire families with accompanying under-aged minors or unaccompanied minors, mixed with the rest of the detainees.

The camp visited in the afternoon of the first day (01.12.04) was located in the centre of Tripoli, in El Fatah Street. It was in fact a brand-new prison, where the authorities claimed to have registered 1,100 people of all African nationalities. In this centre, the detainees were found playing football at the beginning of the visit, which was interrupted by the accompanying Police Brigadier, causing some sharp discontent amongst the detainees.

The following day, another visit was made to a detention centre located on the coast close to the city of Misratah, where some 250 detainees were found, although the detainees stated that more than 700 prisoners had been registered the previous days. According to the presentation made by the Director of the centre, the detainees are kept here until they are returned to other centres or another decision is made (be deported directly to their country or be granted another permit under Libyan law). The prisoners are guarded by the Police officers. Although, it was said that the detainees had the possibility to wash up and eat well (the kitchen was supplied with fruits and vegetables), according to the interviews, the day before the visit of the mission, the prisoners cleaned the centre and their normal food was limited to bread and water. A group of about twenty Moroccans, who were interviewed in French, stated that did not understand the reason for their detention for over seven months in the centre. They claimed that they worked in Libya for several years and that their intention had always been to remain working there. If they had wanted to go to Europe they would have done so by crossing the Straits of Gibraltar or sailing to the Canary Islands.

c) Open camp-village

Plots of land hosting small village-like camps are rented out by the Libyan Authorities to the African communities, so that they can build their own accommodation and become small tradesman (shops). These are places of free access, without apparent police control as the organisation is the responsibility of the inhabitants who are grouped by nationality, having their own Local Council, presided over by a single representative who relates to the Libyan Authorities. Although the authorised stay in these camps is limited to 1-2 years, many persons interviewed confirmed that they lived there since the end of the 1990s.

The inhabitants of these small villages come and go to nearby cities (Tripoli and Misratah) to seek work, in order to have enough money to pay for their stay in the open camps/villages, where they can find minimum services such as restaurants, hairdresser, pharmacy, grocery and clothing stores, repair shops, schools, even churches and mosques for their different religious activities. The organisation of such places, exclusively meant for Africans, is a form of control by the Libyan Authorities of the illegal immigrants, in particular those who do not have access to state housing provided by Libya, since homeowners are not authorised to rent to them. Such village-camps give the distinct impression of a ghetto-like atmosphere, a way for the authorities to keep undesirable foreigners away from the Libyan citizens.

Our Libyan hosts complained of crimes committed in the area surrounding these camps and mentioned the riots that occurred in 2002. However, they were unable to provide us with the total number of these camps in the country. The experts visited one camp on 1 December, called Jensia, located very close to the capital of Tripoli, having a population of approximately 6,000 inhabitants. On 2 December another camp of this type was visited in the Zliten region. In this camp, the different African communities were separated into French and English-speaking groups. There seemed to be bad relations among both groups comprising about 200-300 long-stay residents in each, although the correct number of residents was unclear since all of them had not been registered. According to the information given verbally, eight or ten similar camps have been created around Zliten.

d) Repatriation centre

Another type of centre was visited on 1 December, in El Fatah Street, in downtown Tripoli, in which the Libyan Authorities kept the illegal immigrants before their repatriation. The centre was an open area located in the back of the prison on El Fatah Street, where illegal immigrants who wished to return voluntarily to their country could be interviewed by a Consular officer from his/her Embassy and issued a Travel Certificate in the expectation that an airplane would take them home.

In this centre, the immigrants sit still with their luggage as they do not dare to leave for fear of being arrested by the Police. They told the experts that they have been in the area for more than seven days without any visitors, including from organisations such as “Media Luna Roja.” Several of the migrants met had a Travel Certificate with the seal of his Embassy (in this case of Ghana). It was confirmed that the day after the EU mission visit, an airplane departed repatriating 149 Ghanaian citizens who returned voluntarily to Accra. It must be stressed however that the EU mission had no access to the exact procedure which is followed for these types of returns.

General Remarks

Varying from one centre to the other, the experts had the opportunity to interview the detainees who, when not in presence of the Police guards, complained about the arbitrary character of their detention. The detainees did not understand the reasons for their detention since many had already spent years in Libya, mostly working and establishing themselves on a temporary basis in the fringes of any process allowing legal residence. Some of the detainees had refugee documents obtained in other countries such as Ghana. Other confirmed that, although escaping from civil war (Sudan, Ethiopia), they were unable to obtain refugee documents. A majority of the interviewed detainees confirmed that their intention was to remain in Libya for some years working there and later return to their countries once they had saved some money.

None of the detainees knew what the maximum duration of detention in the centres was nor had any information on the legal procedures and conditions for repatriation. The same kind of information was requested by our Libyan hosts who were unable to provide a clear answer.

The mission to the Northern coast encountered some difficulties (logistics, police pressure, too much media attention), which at a later stage were recognised by the Libyan authorities.

FIELD TRIP TO SOUTHERN LIBYA

The field trip to the South took place from 1 to 3 December. The Delegation was accompanied by Brigadier Hassan EL KASSAH, Head of General Security at Ministry of Public Order (Interior Ministry), and coordinator of the High Commission on illegal immigration. The mission travelled by special plane to these main locations corresponding to three Shabias (states): Sebha, Ghat, Kufrat. On each location the mission was received by the Secretary of Public Order (Ministry of Interior of the Shabia, reporting to the Ministry of Interior).

The mission was extremely well received in all locations. Although it is difficult in such a short time to fully assess all elements, and considering wide differences of context and culture between the EU and Libya, the mission considered that it had the opportunity to gather good field information and understanding on how illegal immigration is being addressed on the Southern front, in particular as regards reception camps for illegal immigrants, repatriation and border control. Far from formalities and the bureaucracy of Tripoli, officials are reacting on a day to day basis with limited means and capacity to the drama of illegal immigration.

Reception camps for illegal immigrants

In Sebha, Ghat and Kufrat, the mission visited several camps. It appears that the main focus is put on organizing operations of repatriation.

The mission visited four camps in which illegal immigrants are gathered on a voluntary or forced basis before being sent back to their country of origin: one in Sebha (divided in two parts: voluntary return and forced return), one in Ghat (forced return), two in Kufrah (forced return). Despite occasional “mise en scène”, the mission was able to talk freely to immigrants, most of them men, and gathered interesting even if often dramatic stories of individuals having left their families behind in search of a living. Many had held small jobs in Libya for various durations before being arrested or before deciding to return on a voluntary basis (and sometimes using the Libyan Authorities to organise and fund their return). In general, conditions in the camps were found to be difficult but relatively acceptable in the light of the overall general context. The Libyan Authorities seems willing to provide basic services (food, blankets and mattresses, medical services, etc) and immigrants were found to be informed on their fate. However, there is room for improvement. Health seem to be a real concern, including the fear that immigrants might bring diseases to Libya (AIDS, hepatitis, etc.). In addition, it was noticed that the camps contained a certain proportion of non-accompanied minors evidently at risk.

The vast majority of migrants talked to said having come to Libya for finding a job, while some migrants mentioned having fled their country to seek protection. The mission was also explained that Libyan Authorities tend not to deport immigrants from countries or regions in conflicts.

Repatriation

The illegal immigrants talked to reported being in the camps since very recently (from a few hours to one week). Reasons on the basis of which they were arrested by the Libyan authorities and brought to the camps are unclear and appear at random. Certain among them had already been repatriated before but nevertheless came back to Libya. The decision to deport an illegal immigrant back to his country clearly seems to be at general and collective level and not at an individual level. The mission was informed that administrative procedures and paper work for the purpose of identification is conducted, including involvement of concerned national consulates, concluded by a decision taken by the Head of the “Commission for deportation” in Tripoli. However, the mission expresses doubts about the systematic implementation as well as the efficiency of this procedure. In addition, the mission was informed that third countries consulates representatives are sometimes reluctant to visit the camps in order to identify their nationals. Finally, no individual order of deportation seems to be taken.

The mission also visited several neighbourhoods almost entirely inhabited by immigrants, most of them referred as illegally present but being able to remain free. The Libyan authorities informed the mission of the fact that, following the massive arrival of immigrants, certain villages have been left by Libyan citizens. In addition, fights among immigrants originating from different countries or ethnic groups seem to take place.

Border control

In Ghat, the mission made a long tour along the Algerian border, came into contact with an Algerian patrol on a tour with Algerian journalists making a study on illegal immigration, and visited the border post (road from Ghat to Djanet). In Kufrah, the mission had talks with the Head of the Border Control between Libya and Chad. In the absence of a comprehensive strategy, crucial activities related to border control seem to need extensive development. The infrastructural and logistical setup and the equipment needed to effectively control large and permeable borders seem to be totally inadequate. Border control of inexistent borders as applied in the EU does not exist in fact, and is limited to a few random operations. The number of trained staff able to apprehend all aspects of relevant tasks seems also to be insufficient.

The mission had opportunities to understand how border management is organised. The Libyan border management system has a multilevel organisational structure and requires a high degree of coordination between different authorities involved in border security matters on regional and central levels. Detailed information is the subject of a separate annex.

Effective cooperation with counterparts from contiguous countries need obviously to be developed. Concerning Algeria, there exist cooperation and contacts. Concerning Niger, relations are good and there clearly exist a disposition to reinforce cooperation, which at this stage remains embryonic. With Chad, there seems to be little cooperation. Concerning Sudan the border is currently closed, in relation to the Darfour crisis.

DESCRIPTION OF THE NATURE OF THE MIGRATION FLOWS

General overview of migration flows based on statistical data made available by the Libyan authorities and EU Member States

a) Data provided by Libyan authorities

According to the information provided by the Libyan authorities, each year between 75,000 and 100,000 foreign nationals enter the country. The following tables provide information on the number of legal and illegal residents in Libya – data on repatriation statistics follows⁹:

Table 1: number of legal residents

Year	Employed	Unemployed	Total
2001	38769	15189	53958
2002	41037	15825	65861
2003	8478	3141	11619

Table 2: number of illegal residents

According to the Libyan authorities, making estimates of numbers is difficult due to the seclusion of the immigrants and because they enter Libya mostly through illegal channels without passing through legal points of entry. The number of illegal immigrants who were apprehended and resettled at the expense of the Libyan authorities over the past few years were as follows:

Nationality	2000	2001	2002	2003	Total
Niger	115	227	1519	1274	3185
Sudan	194	160	1553	2570	4777
Mali	586	735	804	464	2589
Ghana	813	181	477	162	1633
Guinea Conakry	69	47	61	27	204
Nigeria	368	165	372	61	966
Burkina Faso	53	24	380	64	521
Sierra Leone	37	2	35	1	75
Gambia	52	39	42	18	151
Cameroon	162	4	14	-	180
Egypt	223	173	312	55	763
Chad	61	2137	1147	846	4191
Syria	1	5	5	1	12
Liberia	121	33	54	10	218

⁹ The methodology used for collecting the data is unknown, and the information was not confirmed during the mission

Benin	18	14	21	30	83
Senegal	38	38	67	43	168
Morocco	33	22	38	3	96
Tunisia	39	43	23	14	119
Togo	11	21	19	36	87
Mauritania	4	7	19	1	31
Ivory Coast	38	6	20	10	74
South Africa	2	5	4	-	11
Zambia	-	-	2	-	2
Ethiopia	3	-	1	3	8
Algeria	10	6	14	10	31
Burundi	1	-	-	1	1
Iraq	-	6	4	-	12
Congo	8	3	2	8	17
Somalia	3	7	7	3	17
As-Saqiyah l-Hamra	2	-	-	2	2
Bulgaria	2	1	-	2	3
Guinea Bissau	4	-	1	4	5
Pakistan	10	21	5	10	36
Ukraine	3	-	1	3	4
Yugoslavia	1	-	-	1	1
Eritrea	1	-	-	1	5
Palestine	-	-	-	1	1
Bangladesh	-	2	3	-	5
India	-	2	2	-	4
Namibia	-	2	-	-	3
Jordan	-	1	2	-	3
Thailand	-	-	1	-	1

Our visits to the voluntary and forced detention camps confirmed the presence of numerous sub-Saharan Africans among the foreign nationals in these camps. Some nationalities were represented by thousands of individuals (i.e. Sudan, Chad, Niger, and Mali) while hundreds of others came from Ghana, Nigeria, Liberia, Burkina Faso, Guinea Conakry, Sierra Leone, Egypt and other Arab countries.

Currently, the local Authorities estimate the number of legal foreign workers at 600,000, while illegal immigrants are estimated to number between 750,000 and 1.2 million. The population of Libya is approximately five million, which clearly highlights the immigration risk for this North African country. The almost total lack of a national policy on border control rules out the possibility of analysing this data. In fact, it would be better to rely on statistics obtained from recent exercises carried out by Libyan Authorities to repatriate illegal persons from Libya back to countries of origin.

In 2003, Libyan Authorities repatriated 43,000 illegal immigrants of various nationalities: 38% were Egyptians, 15% Nigerians, 12% Sudanese, 11% Ghanians, 10% Nigerians. The remaining nationals were Moroccans, Malians, Eritreans and Somalis, while a small percentage came from Bangladesh, Pakistan and the Far East. In 2004, a total of 54,000 illegal immigrants were repatriated, with a significant increase in nationals coming from Sub-Saharan Africa and Egypt. The increase in repatriation concerned nationals returned to Nigeria, Niger, Ghana, Mali and Egypt.

b) Data provided by EU member states

For most EU member states, only a small percentage of illegal immigrants are Libyan nationals confined to coastal residents. No statistics were provided to us on this matter by the Libyan Authorities during the mission. However, in 2003, Italy registered 14,017 arrivals from North Africa. By 2 December 2004, 12,737 landed illegal immigrants were identified as having the same origin. It is worth noting that 60% of all illegal immigrants who have reached the Italian coast are Egyptian nationals, even if they declare to be Palestinians, English-speaking, and attempt to reach those countries where English is spoken and where they can join their same ethnic groups (in particular the UK, Germany and some Scandinavian countries). Illegal immigrants coming from Sub-Saharan Africa comprised 28%, while the rest come from Maghreb countries, Somalia and Eritrea. Another interesting aspect concerns the number of boats carrying illegal immigrants: in 2003, there were 319 boats coming from Northern Africa to Italy; while in 2004 (until 2 December) there were only 231 boats, which is 23% less than the previous year.

In the first ten months of 2004, Malta registered 1,369 arrivals by boat with 533 originating from Somalia, from Egypt: 203, Eritrea: 199, Sudan: 64, Ethiopia: 53, and from Ivory Coast: 52. In France there are no specific figures available on the transit of illegal immigrants through Libya to France but in 2004, there was a notable increase of immigrants making illegal transit to the UK, originating from countries known to use Libya as a transit route: Somalia ((280 Somalis detained in 2003 and 2,500 in 2004), Ethiopia, Niger, Egypt, Eritrea, Nigeria, Guinea, Liberia, and Ghana). Denmark has no available statistics on the transit of illegal immigrants through Libya to Denmark, but many people have entered these countries from North Africa. Until 30 November 2004; for example, from Somalia there were 133, from Nigeria: 83, Algeria: 43, Libya: 16, Morocco: 15, and from Sudan: 16.

Main causes of migration towards Libya

Besides the fact that it is difficult to maintain 5,000 km of land borders and 1,850 km of maritime borders, due to the geography, and the lack of regional cooperation and sufficient means to reach those areas in light of sub-Saharan underdevelopment, other reasons for migrating to Libya are as follows:

Libya's Pan-African policy has been and still is one of the main reasons that contributes to attracting thousands of immigrants from all of Africa who have fled from war, famine, disease, AIDS, etc, coming particularly from the Sub-Saharan region and the Horn of Africa. For many of them, Libya is a destination country although few of them have the possibility to legally establish themselves as foreign workers in Libya.

The mission ascertained that in the southern cities of the Libyan desert, many immigrants of border countries, in particular from Chad, Niger and Sudan, settled in Libya for economic reasons without intending to transit to Europe. It seems logical that a country so geographically well-situated and having a GNP per capita of approximately US\$3000 would be attractive to migrants. Moreover, the «distributive» policy of the Libyan regime towards its own nationals generates a strong demand for foreign workers. These immigrants work in experimental agriculture, on farms and particularly in small trade. Their stay can last from a few weeks to several years. Some are sent back to their countries against their will following questioning during police operations about which we were not able to determine neither the strategy nor the duration.

Those migrants who return voluntarily are those were unable to find work or those who saved up sufficient wages or goods to make it worth returning to their country. On presenting themselves to the authorities as illegal immigrants, they are obliged to stay in a detention camp for a certain length of time but expect the Libyan authorities to cover the costs of the trip back to their country of origin.

A large percentage of emigrants consider Libya as a transit country and a “jumping board” to reach Europe: they remain in Libya only for the period necessary to work and earn (legally or illegally) the money required to fund the last leg of their voyage. The Libyan authorities often told the mission that the illegal migrants wants to go to Europe because they watch satellite TV from Europe in their home country and they hear from their relatives that they can get social benefit if they are not able to get a job in Europe. The transit trough Libya of Sub-Saharan individuals is confirmed by some information given by Members States experts.

Main travel routes used by migrants that pass through Libya

The largest numbers of Sub-Saharan nationals who enter Libya illegally do so by using the southern land borders. The borders between Libya and Niger, Chad, Sudan and Egypt represent 60% of the country’s total land borders and are basically left uncontrolled. It appears that most illegal immigrants originating from western Africa (Nigeria, Cameroon, Ghana, Togo, Benin) use a nexus point in Mali or in Niger as also explained in Annex 14.

By a variety of routes and different means of transport, the immigrants are facilitated astride the Algerian and Tunisian borders in order to reach the central Libyan city Sabhâ and to follow the long road to the Libyan coast.

It is evident that certain groups of sub-Saharan nationals arriving in northern Libya travel towards Ghadamès city located where the Libyan, Algerian and Tunisian borders meet, and subsequently head towards the straits of Gibraltar while traversing Algeria through El Golea and then Morocco – however, the full scope and scale of this traffic is not known. The largest concentration of illegal arrivals is concentrated in the vast barren and mountainous region at the above-mentioned border point.

The most common way of crossing the Mediterranean to reach Europe is through the use of rather large and old fishing boats chartered by the facilitators in Libya or in the neighbouring countries. In order to transit to Europe, immigrants sometimes enter Libya by sea from Egypt or Tunisia by illegally approaching the Libyan coast during the night in smaller boats.

Our visit of the passenger route at Tripoli International Airport showed that it might be particularly easy for African, Middle Eastern or Asian nationals in possession of falsified or illegally-obtained documents to transit through Libya to Europe, as there is no possibility to check or control any forged documents. The visit to the passenger controls at Tripoli International Airport revealed a lack of a proper infrastructure for detecting any forged documents. As a consequence, third country nationals – e.g. from Africa, the Middle East and Asia – transiting the airport to the EU are unlikely to experience any difficulty when presenting falsified or illegally-obtained documents.

The mission was not afforded access to the port control areas and was unable, therefore, to assess the effectiveness of the maritime borders or to determine to what extent illegal migrants could be smuggled out of Libya in commercial liners or other vessels.

Modus operandi of smuggling networks

According to the Libyan Authorities, smuggling networks exist in Niger, Libya, Italy, and Malta. It is claimed that non-Libyans (mainly Egyptians) run 70% of the illegal networks for people smuggling. These networks have the following means of support for their activities: in order to secure transport the migrants pay fixed sums of money in their countries of origin. They are then transported to nexus points in Libya before being transferred on fishing vessels to the Southern European coastal areas. Most of the fishing boats are (or had recently been) registered in Libya. The port authorities claimed that they list the vessels when they are leaving the harbours. The relatively good roads in Libya provide excellent links between the different key entry and nexus points. The smuggling networks use a variety of modern means of communication between members of the networks in various countries and have an abundance of telephone equipment (even satellite phones). Underground banking (Hawhala) is widely used for the transfer of money and to commission the smuggling of an illegal immigrant. Houses, storage facilities and fields (farms) are used to accommodate the illegal immigrants awaiting further transportation. Local Libyan citizens provide this shelter.

Whilst the Libyan Authorities broach the subject of human smuggling in a very general way by stating that there are simply no international criminal organisations that organise illegal immigration for Sub-Saharan nationals, other individuals in the same Libyan authority contradict this statement by admitting that the facilitation of illegal immigration to and via Libya is highly organised. However, it is recognised that limited regional networks exist which allow entry into the country to the south, others organise transit across the country and still others are responsible for departure by boat from the north coast. The networks are assumedly interconnected, but not in a *mafia-like* hierarchical structure. Furthermore, related to the nature of illegal maritime migration, it is highly likely that Libyan nationals regionally are involved in providing shelter at the local nexus points (gathering places before the mostly nightly embarkations) and in providing (letting/selling) vessels. Due to the necessity of *further in-land facilitation* in the EU, it is deduced that organised crime groups in Libya as well as in countries of origin are well-connected to organised crime groups in the countries of disembarkation (mainly Italy).

According to Italian information, recent figures suggest an improvement in the organizational capabilities of the smugglers, who now carry more illegal immigrants in a smaller number of boats, thus better managing to elude controls on departures and arrivals.

However, it is apparent that well-organised networks do indeed exist. For example, there are those that facilitate illegal immigrants of Asian origin (i.e. from Bangladesh, Pakistan, Sri Lanka, India and Thailand) to enter Libya through airports in Chad and Niger. These illegal immigrants are then smuggled over the Libyan border by truck up to the coast (a trip of about 2,500 km). The police unit responsible for handling investigations related to organised crime including the facilitation of illegal immigration were not met during the mission, neither were the relevant services of the Ministry of Justice that set the procedures for this unit. The Libyan counterpart to Interpol did not provide details on the flow of traffic. Therefore it was not possible to get a clear picture of the involvement or the structure of the criminal investigation police and how much or what kind of actions are carried out against the criminal networks of facilitators. However, the Libyan authorities claimed that 99 facilitators had been arrested and 109 cases had been brought to court for human smuggling offences.

Corruption (low salaries and the high amount of profit in human smuggling) is presumably another key factor contributing to the relatively low number of ‘detected and arrested’ facilitators and illegal migrants.

Comments

The data provided to the mission by the Libyan authorities related to illegal migration and trafficking are not only very general and approximate estimates, but are also lacking in foundation as can be seen from the Libyan statement that no organised criminal networks for illegal immigration exist in Libya. The only reliable data was obtained from the local officials met during our land visits, yet they were not impartial. This anomaly can be explained by defects in the approach towards border management and by the lack of administrative coordination in the prevention and fight against illegal immigration.

In all destination and transit countries, a precise evaluation enriched by an analysis of legal and illegal migration flows is required at the initial establishment of immigration strategies and policy. We were able to determine that at present, Libya does not have any tools or means that would allow gathering the information required to obtain such knowledge. In any case, the country lacks the capacity to translate such knowledge into strategic or organisational terms, for the deployment of means, to act efficiently in this field. This is certainly an essential point to consider within the framework of any future cooperation with Libya.

**VISAS-RESIDENCE PERMITS-NATURALISATION : LEGAL AND REGULATORY
FRAMEWORK/ INSTITUTIONAL FRAMEWORK, PROCEDURES AND POLICIES**

In meetings with General Ramali, Director of the Passport and Nationality Office (MoI), it was explained that this growing department was responsible for legal and illegal migration issues and the implementation of laws affecting the issue of passports, travel documents, residence permits and identity cards. The department has 18 branches across the country and 16 specialist units covering various areas, i.e. permits for employees of airlines and oil companies.

Passports and travel documents

On the basis of Law No 4 of 1985 relating to travel documents/ passports, Libyan authorities issue four different types of travel documents: an ordinary individual passport, a collective passport, temporary travel document and a travel document for Palestinians.

In addition to the above, a special Pilgrimage Passport can be obtained by any Libyan citizen (except for women under the age of 50 unless accompanied by their husband) for the purpose of making a pilgrimage.

Any Libyan citizen can obtain an individual passport on providing four passport-sized photographs, an official certificate specifying his/her profession or trade, copies from the civil status records, Family Record book or Certificate of Arab nationality. A collective passport is issued for sports, technical and scouts teams, as well as for studies or training groups sent under the supervision of one and the same party numbering between five and fifty persons.

A temporary Libyan travel document can be issued for different categories of persons: those citizens unable to obtain a passport or who have lost their passport, any person failing to return among those listed in the collective passport, for the purpose of returning to Libya only, refugees, stateless individuals, politically oppressed persons unable to obtain a travel document from their country of origin, returnees of Libyan origin who do not have certificates of Arab nationality as well as wives and minor children of individuals of these categories.

Palestinians may obtain a travel document by showing that he/she does not have the nationality of any given country and is not the bearer of any travel document issued by another state.

The Passport Control Division (and its regional branches) is responsible for issuing Libyan passports.

No statistical data have been provided concerning the total number of passports issued or concerning the passports lost.

Visas

All nationals from Arab states as well as from Sudan, Ethiopia and Eritrea can enter Libya visa-free and may take up employment or study. Recently, however, Libya has tightened up its policy on issuing visas to certain high-risk countries. A visa requirement has now been introduced in respect of Palestinian and Iraqi nationals, which represents a change in Libya's traditional open-door policy. A visa requirement is also being considered for nationals of Afghanistan.

Law No 6 of 1989 defines the procedures and requirements concerning entry visas for foreign nationals. Available visa categories include work (in particular for contracted workers of large companies operating in Libya for which employment contracts and health certificates are required), tourist (currently in groups only), business, study, transit and family reunification. The current rules foresee the possibility of granting multi-entry visas for a longer period of validity (six months to one year). Visas can be issued in the 15 Libyan General Consulates, in all Libyan Embassies abroad and, in exceptional cases, at the borders. Before issuing a visa the Libyan Embassies and Consulates must consult the central authorities. When issuing visas at the border (in practice only at Tripoli airport), the Libyan Authorities consult a black list of persons updated periodically by the central authorities.

The Libyan Authorities confirmed the lack of central statistical data on visas, although insubstantial data are available at Consular level.

Libyan nationals require a visa to enter the EU. Outside the context of the official meeting, an official of the Ministry of External Relations expressed the interest of the Libyan Authorities in the availability of visa facilitations for certain categories of persons (diplomats in particular) and referred to the special visa agreement that is in place between Italy and Libya.

Residence permits

Law No 6 of 1987 provides also the procedures for the issuing of residence permits to foreign nationals. There are two types of residence permits available for Libya: a red card (short-term residence) and a green card (long-term/permanent residence). The validity of the residence permit depends on the purpose of residence i.e. length of study, length of employment, etc.

Those entitled to green cards are migrants who enter legally with work contracts and are entitled to residence on that basis.¹⁰ A second group of migrants who enter illegally but possess valid travel documents can eventually obtain a green card providing they find work within three months of entry. Initially this group is issued with a red card valid for three months (renewable once for the same period) and once a proper work contract is drawn up, they can subsequently obtain a green permit. It is apparently rather easy for any small businessman to produce an employment contract without meeting formal requirements. Upon producing a health certificate and a tax and social insurance certificate, the green card is issued.

A third classification relates to illegal migrants who do not possess any documentation. It is this group that the authorities seek to apprehend and deport, although obtaining *laissez-passer* documents from some local Embassies (e.g. Nigeria) often proves difficult.

¹⁰ Note that holders of a UNHCR protection card having refugee status are *allegedly* issued a green card entitling them to reside in the country for five years.

Naturalisation

A generous naturalisation policy was apparently practiced in Libya until 2000/2001 due to the need for foreign labour at the time. Article 1 of Application Decree of Law No 18 of 1980 related to the Provisions of Nationality Law entitles any Arab entering Libyan territory (except Palestinians) to Libyan nationality. Citizenship could be obtained if the Arab national had a clean criminal record, was not married to a non-Arab and intended to take up residence in Libya.

Following extensive abuse of this generous regulation and against the backdrop of increasing immigration, however, the Libyan government has currently suspended the laws governing the naturalisation process for foreigners. At present, only spouses of Libyan nationals and a small number of other exceptional cases are able to become Libyan citizens. Representing a change in its previous position, Libya now also recognises dual citizenship.

Combating illegal migration

In response to an increased threat from illegal migration flows, a new unit had now been established within the MoI, headed by General Abdul Hamid.

This central illegal immigration unit has six branches around the country, although they are not yet fully operational. It is envisaged that the total staffing for the central unit and its branches would eventually reach 2,500 employees. Tasks of the new unit include the investigation of the agents and traffickers behind illegal migration, the apprehension and deportation of illegal migrants, the inspection of companies and information analysis.

In respect of information analysis, the Libyan authorities were clearly aware of the need to include data security and protection within their plans for the new unit. It was also evident that they would be most receptive to EU help in terms of specialist immigration intelligence training: collection, evaluation and development of information into intelligence. An area where specialist training is also sought is that of forgery detection.

A new law (No 2 of 2004)¹¹ bringing in tougher penalties for illegal migrants and those who facilitated them has been drawn up and is currently in the Prime Minister's office. It is expected that this law will soon be implemented. Among a range of new, tougher measures, Article 19 of this law brought in a stricter penalty for facilitation of at least one year's imprisonment and/or a LD 2000 (€1,160) fine.

Aware of the need to give greater publicity to the increased phenomenon of illegal migration flows, the Mission was informed that a media campaign had been promoted in the last two years warning of the risks and penalties of entering Libya illegally.

Lack of time did not allow for discussion of the UN Convention on Transnational Organised Crime, its two protocols on trafficking and people smuggling and the implications for Libya of signing them on 24 September 2004. It was significant, however, that no reference was made to this fact by any of our interlocutors.

¹¹ Law No. [2] of 2004 for amending certain provisions of Law No. [6] of 1989 for Organising Entry & Residence of Aliens in Libya

Return and cooperation with neighbouring countries

According to the Libyan authorities, Libya is pursuing a consistent and systematic return policy. Foreign nationals residing illegally in the country and who do not fulfil the requirements for a residence permit are required to leave Libya. Individuals who are apprehended at the border or in the country are accommodated in detention centres until travel documents can be obtained from the Embassy of their country of origin. If this is not possible, the detainees are allegedly released and issued with a red card (temporary residence permit).¹²

Cooperation with some of Libya's neighbouring countries in the return of their own nationals, in particular with obtaining travel documents, seems to be successful. Cooperation with Niger, Egypt, Chad and Algeria has been emphasised. A transit agreement for expellees from Mali has been recently concluded. However, the Libyan authorities have complained that they must bear all costs as regards return procedures.

As regards bilateral cooperation in other areas, Libya has signed Memoranda of Understanding with Chad, Niger and Sudan covering police co-operation on border control issues and the exchange of information.

A cooperation treaty was signed on 13 December 2000 between Libya and Italy related to combating drugs, terrorism, organised crime and illegal migration. Treaties relating to the return of illegal immigrants have been drafted with Ukraine and Malta, and a draft cooperation treaty is currently under study with Spain. Finally, Libya has signed the two protocols on illegal migration and human trafficking to the UN Convention on Transnational Organised Crime 2000.

¹² See Annex 5 and 6 for details on visits to detention camps.

BORDER MANAGEMENT IN LIBYA: CONCEPT, PROCEDURES, IMPLEMENTATION

National borders

Libya shares borders with Egypt (total length = 1150 km.), Sudan (383 km.), Chad (1055 km.), Niger (354 km.), Algeria (982 km.), and Tunisia (459 km). The total length of the coastline is approximately 1770 km. Most of Libya's borders have not yet been demarcated. Libyan authorities confirmed that all border disputes with neighboring countries have been resolved.

Institutional framework

The border management concept identifies three types of actions in terms of national security, in particular concerning border security. Actions on the border line, or first line actions, must ensure the sovereignty and integrity of the country in case of any military threat and is the responsibility of the Ministry of Defense. Actions in the border zones, or second line actions, are directly linked to internal security, which include passport controls and border surveillance. Third line actions are also linked to internal security and ensure control of foreigners inside the country.

The Department of Border Controls and Checkpoints and the Immigration Control Department under the Ministry of Interior are in charge of border surveillance and border checks on land and at airports. The Department of Public Security within the Ministry of Interior is responsible for the control of foreign nationals in the country and for running the camps. The Department for External Security plays an important role in international cooperation in particular concerning questions relating to the repatriation of foreign nationals. In summer 2004, the Decree on the creation of the Coast Guard under the Ministry of Interior was adopted, containing provisions on the protection of the sea border (territorial waters), fishery control, and search and rescue operations, but no steps have yet been taken to make it functional. Libyan authorities told the experts that 250 officers who have graduated from the Naval Academy will be transferred to the Coast Guard.

The Libyan border is divided into six security zones (Border units) responsible for the control and surveillance of specific parts of Libyan land borders. These zones are at El Assa on the Tunisian border, Ghadames on the Tunisian/Algerian border, Ghat on the Algerian/Niger border, El Ghatroun on the border with Niger, Khoufra which is responsible for sections of the Chad, Sudan and Egyptian borders, and finally El Gahboub, a zone in eastern Libya on the border with Egypt. Commanders of the units are directly subordinate to the Director of the Department of Border Controls and Checkpoints in Tripoli but also cooperate horizontally with other institutions in Shabias. The Secretary for Public Security in Shabias' government is elected by the people, directs and coordinates all matters relating to general and internal security of the 'shabia' but is not involved in military matters, which fall under the direction of the General Committee (Ministry) for Defence. Cooperation on an operational level is achieved through regional Command and Control Centres. Here, representatives of different institutions (border control, the police, army, etc.) exchange information and coordinate actions. Police stations work at the operational level of the border management structure and are responsible for patrolling and passport checks.

Personnel and training

According to information received from Libyan Authorities, the total number of personnel responsible for border control is 3,500. There are approximately 150-300 officers in each border unit (Al Kufra – 300 officers, Ghat – 175 officers). Taking into account the length of Libya's borders, it is obvious that this number is insufficient. Libyan authorities plan to deploy additional staff. Plans exist to increase the total number of officers to 42,000. Local authorities consider this to be a great challenge in terms of administrative capacity.

Officers are being recruited from local regions. Employed officers receive basic police training during 6-9 month training courses during their first year but may receive additional training later. Training in certain specialised fields, particularly for border guard activities, is rather superficial.

In reference to bilateral cooperation on training, the Italian authorities have implemented several projects, including training on falsified documents. Libyan authorities identified training as an urgent need and possible field for future cooperation with the EU. Development of content of the training for border guards should be a priority. Training on investigation of travel documents and border guard tactics should continue and be increased.

Control and Surveillance of borders

i) Control and Surveillance of land borders

The surveillance of Libyan borders is significantly affected by the geographical situation of the border regions and by the fact that in most cases, the borders have not been demarcated. The land border mostly passes through the desert, especially in the southern part of the country, making it very difficult to control line. Border guarding comprises vehicle patrols and stationary posts on main roads. According to explanations by the Commander responsible for border controls in Ghat, there are 13 patrols and seven stationary posts in the region. Personnel involved in the fight against illegal immigration in this area seemed aware of routes and methods used in illegal migration and measures required to combat them. However, it was reported that no cooperation exists with the army as it is subordinate to a different Ministry (Secretariat) covering different aspects, and the army is only involved in cases where armed crossings occur.

At present, Border Guards have no adequate technical means for surveillance of land borders: vehicle patrols have no radio links to headquarters or even amongst themselves. The insufficient amount of infrastructure, lack of personnel, and lack of technical and communication equipment hamper the activities of land border guards. Currently, the reaction of the responsible law enforcement bodies is insufficient to respond to current pressure on the borders. Further development of infrastructure, creation of a special training program as well as recruitment of new personnel is necessary. The most vulnerable parts of the border should use special technical means in order to detect border violations or illegal border crossings.

ii) Surveillance of maritime borders and border control in seaports

There are two main seaports in Tripoli and Benghazi and many smaller, mainly fishing, ports. The coastline is rather flat with long beaches, but some parts of the coastline are rocky. There are also many small bays without infrastructure but which are used by local fisherman to moor their boats. The area adjacent to the coastline is covered by farms and is the only area in Libya conducive to farming – this area is the most economically developed.

According to information from various sources, approximately 15,000 migrants tried to reach the Italian coast illegally by crossing the Mediterranean Sea and close to 2,000 perished during the journey. The shape of the coastline allows boats to be launched from almost any place, particularly from small bays. The number of farms allows the accommodation of illegal migrants in the coastal area while they wait to depart Libya by boat. The majority of illegal migrants live in the coastal area because of its developed economy. Well-organized groups of traffickers lure migrants to travel across the sea, although it is worth emphasizing that only a very small number of migrants decide to cross the Sea. On the basis of conversations with migrants at detention camps, it was learned that they fear sailing and cutting ties with their relatives in Africa. They prefer to stay in Libya to work. Very often traffickers are former illegal migrants; however, Libyan nationals can also be involved with organising illegal Sea crossings. They provide accommodation, food and earn money from this activity. Experts met a group of migrants who had tried to sail to Italy by small boat (three from Ghana, 13 from Sudan) and who said that they paid a trafficker US\$1100 – 1300 each for the boat and US\$50 each to a farm owner for accommodation.

On the basis of talks with Libyan authorities and field visits to regional Police units and seaports, it was established that the Naval Coast Guard (NCG) comprises part of the Libyan Navy. The NCG is not equipped with enough patrol vessels and boats. No information was provided to the experts on naval activities in the area of sea border protection. The NCG has small offices at seaports that supervise and authorize the departure of fishing boats. The Fishery Inspection does not have any ships – all inspections are carried out at seaports. According to a questionnaire statement by a Libyan policeman, the Police organize patrols along the coastline once or twice daily. There is no cooperation between the Police and NCG. Until now, the Libyan government does not accept any foreign vessels for the purpose of assisting Libyan law enforcement authorities within Libyan territorial waters (i.e. Italian proposal to assist Libya, as was organized between Italy and Albania).

iii) Visits of border checks

There were limited possibilities to visit border crossing points in Northern Libya, however, visits were made to the border checkpoint at Tripoli airport and to the Tibis border checkpoint on the Libyan-Algerian border.

Visit to the Tripoli airport

The Tripoli airport is becoming one of the main transit airports in North Africa. This visit proved to be a major problem for the Libyan authorities, as they showed reluctance in providing information to the experts.

a) First the experts visited the KLM office. KLM airlines fly three times a week from Amsterdam to Tripoli round-trip. They transport many foreign nationals working in Libya, especially in the oil industry. There are not many tourists, currently travelling to Libya.

The experts requested specific information referring to the Annex 9 of the Chicago Convention (mandatory acceptance of repatriated refused persons). In particular they presented a scenario in which a third-country national travels from Tripoli to Amsterdam and during the flight he destroys his passport, leading to refused entry into the Schengen area. In such a case, Libya must agree to accept this individual back under Annex 9. The Libyan authorities, present to the discussion, stated that this would be impossible since the traveller would no longer have a visa for Libya, adding that such cases are not within his jurisdiction and he was only responsible for security. Currently, Libyan authorities only accept their own nationals.

It was confirmed that on arrival to the airport, passengers who do not have a visa can obtain one on-the-spot. Visas can only be issued to people who are visiting Libya for tourism, rather than for business purposes. If KLM transports someone to Libya without a valid travel document, they are fined LD 500 (€300), which occurred five times in 2004. If someone overstays the period of validity of his visa, they are not permitted to leave the country. The individual must report to the immigration office in Tripoli. According to KLM, there is no system at the airport for registering the names of people entering the country, or removing their names on departure from Libya

According to KLM staff, there is absolutely no knowledge in recognising false or counterfeit documents. Only airline employees have training in this area.

b) The experts visited the passenger control department and had the possibility to discuss with the Immigration Officers

Immigration service personnel working at the airport are poorly educated and are unauthorised to make dissenting decisions. Decisions must be made by a high-ranking executive in Tripoli and not at the airport.

If a traveller arrives at Tripoli airport and holds a valid visa, as is often the case, the immigration officer does not ask any questions. The Libyan authorities do not inquire as to the length of stay in Libya and how much currency the traveller is bringing into the country. Even if this was the case, it would be impossible since immigration officers do not speak any language other than Arabic.

The experts also met the Chief of Immigration at Tripoli Airport, during which a similar scenario was presented, where a non-Libyan national arrives in Amsterdam from Tripoli without any currency. In the opinion of the Chief of Immigration, such a problem was the responsibility of the airline, that is, for checking the amount of money before departure. The experts did not share his approach. Despite various efforts, it was not possible to confirm the number of personnel working in immigration control at the airport.

At the arrival control, the main focus is on visas. One of the officials questioned business travellers about their employer and this data was entered into a computer.

At the passport control gates, the situation was very heated and tense - there was no clear control of the situation at the gate. The experts observed one person approaching the desk with multiple passports, which turned out to belong to friends and relatives. Many people, presumably working at the airport, pass through the gates without any control or supervision.

The experts requested a visit with the falsification department and were told that this department would be visited at the end of the day. However, the story was suddenly changed and experts were told that this department was not at the airport but was actually located in Tripoli. If any arriving passenger is suspected of travelling on a false or counterfeit document, he would be taken to Tripoli for further investigation. The only device for the detection of false or counterfeit documents present at the airport was an infrared light.

Visit to Libyan-Algerian land border

The experts also visited the Tibis border checkpoint on the Libyan –Algerian border. The checkpoint is located 5 km from the border on the main road between Ghat and Djanet. The checkpoint is also the base for a regional patrol unit and a customs inspection point. The checkpoint is open to citizens of Libya and Algeria and has 20-30 border crossings daily. Passports are checked by immigration control officers and are cross-checked against lists in reference books. According to the Libyan authorities, information on border crossings is sent to Headquarters in Tripoli via telephone. The quality of the inspection of travel documents is diminished by the fact that officers working at border crossing points do not have appropriate training, they lack a sufficient amount of investigation equipment and documents for comparison.

Cooperation between the authorities associated with the national borders and international cooperation

Although Libyan authorities noted a satisfactory level of cooperation among different institutions, cooperation among authorities responsible for national security seems to be lacking. Apparently there are no cooperation agreements between the Customs, Army, Navy, and Police. Cooperation between different departments within the Ministry of Interior seems to be more functional. It should be mentioned that the Libyan border management system has a multilevel organizational structure. Coordination between different authorities involved in border security matters on regional and central levels is being achieved through different taskforce groups and committees. As a part of the national security system, institutions responsible for border control participate in horizontal activities within Shabias. In light of this, the conclusion of cooperation agreements seems to be very important, as they clarify the position of the authorities in terms of sharing responsibilities. Comprehensive internal cooperation is necessary for efficient international cooperation with neighboring countries.

Cooperation with neighboring countries has been established only on the central level. Meetings between heads of border control institutions seem to be fragmented. The Libyan authorities mentioned cooperation with Niger, Algerian, and Egyptian border authorities. In some cases, Libya provides technical assistance to neighboring countries (i.e. to Niger) in order to strengthen their border control capabilities. There are no specific agreements on cooperation with neighboring countries in border management matters. Libya has, however, concluded agreements or protocols of understanding on repatriation with Niger, Chad, Sudan, Algeria and some other countries in the region. Officials responsible for border control on the regional level seem to underestimate the importance of international cooperation on border controls.

Conclusions

Taking into account the length of Libya's borders, it is obvious that the number of personnel responsible for border controls is insufficient. Training in certain specialised fields especially in border guard activities is very superficial. Development of the content of training for border guards should be considered a priority. Training on the investigation of travel documents and border guard tactics should continue and be increased.

At present, Border Guards have no adequate technical means for the surveillance of land borders, and patrols have no radio communication. Reaction capabilities of the respective law enforcement bodies are insufficient to respond to current pressure on the borders. Further creation of a special training program and recruitment of new staff as well as development of infrastructure is necessary.

Maritime border control capabilities are very limited from a technical and administrative point of view. A Coast Guard Department subordinated to the Ministry of Interior has recently been created but is not yet functional.

Immigration and border control officials have little knowledge of statutory international laws. There is a great lack of management. Knowledge concerning document falsification is very poor. The quality of investigation of travel documents is diminished by the fact that officers working at border crossing points do not have appropriate training, they lack investigation equipment and documents for making comparisons.

Cooperation among authorities responsible for national security seems to be underdeveloped. Cooperation with neighboring countries has only been established on the central level. Officials responsible for border control on the regional level underestimate the importance of international cooperation on border controls.

ASYLUM ISSUES

Legal framework regarding asylum

Libya has not signed the 1951 Convention and its 1967 Protocol but Libya ratified in 1981 the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa entered into force in 1974. Nevertheless, Libya has not transposed the OAU Convention in its national law, and there are no administrative structures dealing with refugees and asylum seekers.

In addition, Article 11 of the Libyan Constitution of December 1969 provides that “The extradition of political refugees is prohibited”. According to law 20/1991 article 21: “The Jamahiriya supports the oppressed and the defenders on the road to freedom and they should not abandon the refugees and their protection”. This article is in fact a prohibition of refoulement.

Practice regarding asylum

During meetings with different Libyan authorities the mission was told that Libya does not acknowledge the presence of refugees and asylum seekers on its territory, considering that all immigrants present are economic immigrants. In addition, the Libyan authorities seemed concerned by the fact that, in the absence of means to check the exact origin and status of the illegal immigrants, the establishment of a distinction between asylum seekers and economic migrants would certainly push an important part of the economic illegal immigrant population to claim for international protection. This would result in problems for processing a large number of ungrounded applications. When visiting the camps, it appeared that while the vast majority of people had only travelled to Libya in order to work and earn money, there were also people who mentioned having fled their country for international protection related reasons (a few of them showed UNCHR refugee cards issued by UNHCR offices in other countries, Ivory Coast e.g).

According to the Libyan authorities, Libya does not examine migrant’s cases and does not make its return decisions on an individual basis. Nevertheless, the mission was told that, in practice, when a person present in a camp is identified by the Libyan authorities as coming from an area of conflict, he or she can not be repatriated. However, the mission was unable to assess who makes the decision that one or another area is excluded for repatriation purposes, and how such a decision is then implemented in operational terms. The visits in the camps showed that there is no form of asylum procedure. It was also difficult to determine if people coming from an area of conflict are given some kind of residence permit in Libya and under which conditions. According to the Libyan authorities, these people are given the opportunity to seek work outside the camp. If they get a job, they will be given a residence permit.

The relationship with the UNHCR

There is no cooperative agreement between the UNHCR and the Libyan authorities and, until now, UNHCR has not been granted an official status. Since 1991 (first Gulf war) there is however a UNHCR Office in Tripoli that consists in one Chief of Mission, one Regional Senior Staff and several local staff.

Despite this lack of formal recognition by the Libyan authorities, the UNHCR office in Tripoli has granted refugee status to a number of asylum seekers who came and applied on their own initiative to the UNHCR Tripoli office. According to UNHCR figures, between 2000 and 2003, 831 asylum requests were lodged with the UNHCR and 381 individuals have been recognised as being in need of protection. During this period, the number of applications increased (from 149 in 2000 until 389 in 2003). Concerning 2004, in reference to the period going from January to October, the UNHCR received 656 applications among which 225 have been recognised (34%).

However, UNHCR has no access to the places where illegal immigrants are being detained, and consequently, can not determine whether there are there persons in need of international protection.

It seems so far that Libya does not repatriate any person that has been registered as a refugee by UNHCR Tripoli. Nevertheless, it seems that a number of recognised individuals and families that received attestations in the UNHCR Tripoli Office are currently being detained as illegal immigrants. However, the Libyan authorities stated that people who have been recognized as refugee by the UNHCR are given a residence permit for a maximum period of five years. This residence permit can be renewed.

Prospects

At political level, the Libyan authorities should certainly be encouraged to formally recognise the UNHCR This would enable it to carry out its mandate and work with asylum seekers and refugees. Implementation of the OAU Convention of 10th of September 1969 should also be enhanced.

Raising awareness about asylum matters in Libya seems to be important. On that purpose, initiatives should be developed, aiming at clarifying the amplitude of the phenomenon of migration, enhancing the understanding of the asylum related concepts by government officials, NGOs staff and mass media professionals and organising several refugee law training.

MEETING WITH THE CEN-SAD¹³

The mission met the CEN-SAD Secretary-General (Mr. Mohamed Al Azhary, from Libya), and also the Director of Integration and Complementarities (Mr. Ibrahim Sani Abani, from Niger), on 29 November. It also met separately the Ambassadors from the CEN-SAD countries. On those occasions, the mission emphasised in particular the multi-dimensional aspect of migration and the wish of the European Union to develop a comprehensive approach on migration, including development concerns. It also stressed its intention to approach the issue taking into account the need to associate the countries of origin, transit and destination in any long term approach on migration. Therefore, the cooperation of both Maghreb countries and Sub-Saharan countries is essential as well as setting up a bridge between the Barcelona Process and the Cotonou Agreement. The CEN-SAD considered very important that the EU begins a dialogue with this organisation in the same time as it begins to develop its relations with Libya. To that end, it expressed the wish to set up a periodical relationship with the European Community and proposed various concrete areas for cooperation (see under). It also insisted on the need for addressing the migration related issues at their source, in the origin countries, and for assessing the possible consequences on the countries of origin of the EU approach towards transit countries such as Libya.

Referring to the CEN-SAD objectives, the CEN-SAD stressed the fact that CEN-SAD countries are exposed to many problems due to their weak economy, the lack of democracy and the difficult climatic conditions (drought in particular). In addition, he underlined that the necessary infrastructures for ensuring a real freedom of movement are lacking.

Concerning migration specifically, the CEN-SAD noted that it includes essentially countries of origin and transit. It was acknowledged that migration is not just border control and repatriation but that it covers many other essential dimensions such as development, health, labour, and humanitarian aspects. All this calls for the development of a strategy including short term and long term measures and associating the origin, transit and destination countries.

The CEN-SAD also informed the mission about the fact that, in the CEN-SAD context, migration is sometimes discussed on the occasion of the annual meeting of the Ministers for Security matters. However, CEN-SAD members seem to have no real policy in that area. It was proposed that the Commission should participate to these meetings in order to inform the CEN-SAD countries about its policies and possibly assist them in the definition of their own migration policies. It was also noted that, contrary to the United States which would wish to be present in the region for addressing terrorism issues but which is confronted with opposition to their physical presence, Europe is much more welcome.

¹³ CEN-SAD, created in 1998 in Tripoli, is the Community of the States bordering the Sahara and the Sahel Deserts. It counts 21 Members among which Libya and all its neighbours but Algeria. It aims at making of the desert a pole of peace, solidarity and development. More precisely, the CEN-SAD has various objectives such as setting up an economic union; ensuring the free movement of persons, capitals, goods products and services; promoting external trade; developing means of communication and transport and harmonising the educative, scientific and cultural systems. (The CEN-SAD Member States are Benin, Burkina Faso, Djibouti, Egypt, Eritrea, Gambia, Libya, Mali, Morocco, Niger, Nigeria, Central African Republic, Senegal, Somalia, Sudan, Chad, Togo, Tunisia.)

Concretely speaking, the CEN-SAD referred to the following elements of interest as regards migration:

- Europe could do more concerning humanitarian assistance.
- Mali gave 100.000 hectares of arable land to the CEN-SAD; there is now a need to reflect on how to exploit this land in such a way that labour can be created and migration avoided. The EU could help in this reflection as well as in the implementation of adequate measures.
- Libya has difficulties in containing migration coming from sub-Saharan Africa; it should be helped while taking account migrants' interests and rights.
- CEN-SAD has begun discussions with the International Organisation for Migration on a project consisting in setting up an institute for studying migration flows in the region; the European Union could encourage this.
- Training in all its dimensions is very important.

Questioned about the CEN-SAD objective to suppress entry and stay visas between the CEN-SAD countries, the mission was indicated that a first step will be suppressing the visas for diplomats and official missions, the second step being the exoneration for researchers and businessmen. However, this will take time given that, at the moment, the CEN-SAD countries apply different norms.

On the occasion of their meeting with the mission, the Ambassadors from CEN-SAD countries stressed the importance and the sensitivity of the migration issue for Africa, its close link with development and the need for a global approach addressing development issues such as the "brain drain". They asked questions about the EU intentions as regards the fight against illegal immigration in Libya and, referring to the Libyan reception camps for illegal immigrants and to its repatriation policy, expressed concerns about the consequences for migrants originating from their countries of a reinforcement of the Libyan immigration and security policy. They highly welcomed this opportunity to talk to the mission, and to be given an understanding of the global approach on migration which is the one of the European Union.

THE KADHAFI FOUNDATION AND ILLEGAL IMMIGRATION

The mission held two meetings with the Director General and senior staff of the Foundation, one plenary on 30 November and one restricted (Marchal, Pierini) on 4 December.

On both occasions, the Foundation representatives stressed its strong desire to be involved in the illegal immigration dossier, based on its interest as an NGO for the human rights aspects of the issue. There was however no indication of any active role, at present, of the Foundation on such issues within Libya.

Rather, the mission formed the impression that the Foundation seeks to be involved on illegal immigration as it generally does on any major issue concerning the future of Libya¹⁴ in order to bring about a balanced and global view of the issues at hand.

The main operational point made by the Foundation during the two meetings is the organisation of an **international conference on illegal immigration through and from Libya**. This point was later confirmed by the statements made on 5 December in the Italian press by Seif al Islam Kadhafi, Chairman of the Foundation¹⁵, who himself put the conference project at Heads of State level, a detail that was not mentioned by our interlocutors.

The project is not yet thoroughly developed, but its main features are as follows, as was understood from discussions with the Kadhafi Foundation:

- Format: conference covering the EU, Libya, CENSAD countries, and all facets of the issue: border control, consequences on Libya, human rights aspects, development issues in Africa;
- Organisers: Kadhafi Foundation, preferably with a reputable European NGO or Foundation;
- Timing: not clear, possibly mid 2005;
- Main speakers: EU institutions and governments, Libyan and CENSAD officials, NGOs (IOM), UN (HCR ?), World bank;

¹⁴ For example, settling the major contentious issues with European countries, or the AIDS dossier.

¹⁵ «We want to gather around the same table heads of state and of government of the countries which care about the phenomenon so they can take the necessary decisions together» (interview in Rome with La Stampa quoted in AP, 5 Dec. 2004).

- Foreseen agenda: this was not formally discussed as the Foundation had no draft available, but the following item emerged in the conversation: 1) General introduction, including definitions and legal aspects, 2) Analysis: magnitude of the phenomenon, effects on Libya, effects on EU, effects on origin countries, 3) Root causes: economic situation in Africa, trafficking, 4) Remedies: border management, migration management, information, development schemes in origin countries (NB: the agenda certainly needs further discussions).

**INTERNATIONAL COOPERATION BETWEEN LIBYA
AND THIRD COUNTRIES: MALTA & ITALY**

Malta

The issue of entry to Malta of illegal (mostly undocumented) migrants by sea has started to hit the island in unprecedented waves since 2002. Before that, incidents of illegal entry to Malta by “boat-people” were few and far between.

Investigations into these incidents have led the authorities to establish that in such cases, Malta was not the target country for these migrants but they invariably end up on our shores or in our territory by accident on their way to mainland Europe, namely Italy. It has also been established that these crossings originate from North African shores, namely Libya. Most of these illegal trips start in the fishing ports of Zuwara and Zliten. During the years 2002 to 2004, over 3 500 people have been apprehended in Malta after having left Libya illegally.

In view of the magnitude of this phenomenon, Malta and Libya have been discussing the issue at a high political and technical level for several months. Besides both states participating in multi-lateral forums such as the CIMO (5+5), on a bi-lateral level Malta and Libya have reached a provisional (draft) Readmission Agreement. This agreement caters to the readmission of both citizens of the contracting parties as well as to citizens of third states. It also envisages the admission of transit passengers who are citizens of third countries. It is hoped that this agreement will come into effect in the near future.

Italy

Over the last three years Italy has signed bilateral accords with several Mediterranean countries, achieving a decrease in the pressure exercised by clandestine immigration flows from Africa.

Its geographical position has made of Italy a natural landing place for thousands of illegal immigrants, coming from so many far and different lands, who reach north Africa, Libya in particular, hoping to reach Europe as a final destination.

Since the end of the 90's the Italian Ministry of Interior began giving special attention to geographical and demographic characteristics of Libya, and to the presence in this country of a high number of illegal immigrants originating from sub-Saharan countries, and from the Near and Middle East .

As a consequence of the emergency caused by the large number of illegal immigrants who had reached the coasts of Sicily in the summer 2000, the Italian and Libyan Governments signed in Rome a general agreement to fight terrorism, organized crime, drugs traffic and, in the first place, illegal immigration.

The follow-up of this agreement was the gathering, in Tripoli, of the first High Level Security Libyan-Italian Committee in September 2002. In that occasion the two Ministries of Interior also achieved an operational agreement which led, in July 2003, to establish the permanent liaison in the fields of organized crime and illegal immigration between Italian police officers collaborating in Tripoli with colleagues of the Libyan Security General Directorate.

Further technical, political and operational meetings have been held in Rome on January 6 and April 28, and in Tripoli on August 25 and September 26, 2004.

Also, four technical meetings have been held, in Rome and Tripoli, to better define the Italian engagement in the fields of special training and supplies of devices and equipments requested by the Libyan Authorities, which would enable them to more effectively fight the phenomenon of illegal immigration.

Next to the support offered to Libya in tackling the issue of illegal immigration, the Italian Ministry of Interior intends to grant humanitarian support to Libyan Authorities, providing technological means for sea rescue and funding for the building of camps for immigrants in respect of human conditions.

In this respect, in 2003 Italy approved the supply of the means listed in the annex no. 1, and the financing of a program of charter flights for the repatriation of illegal immigrants from Libya towards the originating countries, which implies a substantial economic contribution (annex no. 2).

In 2003 Italy financed the construction of a camp for illegal immigrants, in line with European criteria to be built in the north of the Country; the construction has already been started at the end of November 2004. In the financial exercise 2004-2005 a special allocation is foreseen for the realization of two more camps in the south of the Country, in Kufra and Sebha.

Another important contribution is also given in terms of professional police officers' training; details are listed in annex no. 3.

Since the beginning of Italian and Libyan cooperation in this field, with the development of the operational agreements, Italian and Libyan police officers work together to fight with every available resource the criminal organizations trafficking in human beings and exploiting the clandestine emigration.

Being aware of the technological gap and of the scarce knowledge of the phenomenon itself by the Libyan Interior Department, the Italian Department of the Interior is particularly concerned with providing assistance, support and means for development of the whole immigration policy to be adopted by the Libyan Authorities.

Italy is ready and willing to provide this kind of assistance, also in Libyan territory and with the help of Italian experts, who would provide an effective control strategy with the purpose to realize the infrastructures and means of telecommunication which are most suitable for the Libyan needs.

Italy is also engaged in determining, together with the Libyan Authorities, which are the main targets in facing the emergency of the increasing flow of illegal immigrants crossing Libya, by means of an extensive project to be realised in a three years period. Funds will be supplied by the Libyan Government, but the possibility of Italian and EU participation is also foreseen.

Moreover Italian Authorities consider favourably the delivery to Libya of 70 all roads cars, 1 or 2 reconnaissance airplanes, 1 or 2 coastguard boats and 20 night time viewers.

ANNEX 1

MEANS THAT HAVE BEEN ALREADY DELIVRED TO LIBYA
6 Mitsubishi cars 4 by 4
3 Iveco buses
80 forgery document kits
12.000 mixed wool covers
6.000 mattresses and pillows
6.000 metallic cots
12.000 sheets and pillowcases
1.000 field curtains
65 curtains for community
150 binoculars for daylight vision
500 lifebuoys and 500 lifejacket
500 wetsuits
100 Zodiac life boats mod. G380
100 underwater lamps
500 nautical light bulbs
50 underwater cameras
25 road gps mod. street pilot-III plus and 25 naval gps mod. sodena-sun color 1500
50 signaling rockets within 12 miles and 50 signaling rockets over 12 miles
5 kits for checking crime evidence
5 kits for finger print
1.000 sacks for corpses transport
250 aid cassettes
5 cameras and films
40 nighttime viewers

MEANS TO PROVIDE DURING 2005
Regular and mobile radio displays (long and short ray)
Radiating panels
Anti-bullet jackets
4 anti-explosive dogs
4 anti-drug dogs

ANNEX 2

CHARTER FLIGHTS LIST

	<i>DEPARTURE DATE</i>	<i>FLIGHT COMPANY</i>	<i>DESTINATION</i>	<i>NATIONALITY</i>	<i>NUMBERS OF FOREIGNERS</i>
1	16/08/2003 2 charters	Air Libya Tibesti	Cairo	Egitto	56+58
2	18/08/2003	Air Libya Tibesti	Damasco	Siria	39
3	22/08/2003	Air Libya Tibesti	Islamabad	Pakistan	103
4	26/09/2003	Air Libya Tibesti	Niamey	Niger	67
5	02/10/2003	Buraq Air	Lagos/Accra	Nigeria/Ghana	54+91
6	13/10/2003	Buraq Air	Cairo	Egitto	129
7	25/10/2003	Buraq Air	Lagos/Accra	Nigeria/Ghana	46+99
8	11/11/2003	Air Libia Tibesti	Cairo/Dacca	Egitto/Bangladesh	85+52
9	21/11/2003	Air Libya Tibesti	Niamey	Niger	119
10	22/11/2003 2 charters	Buraq Air	Cairo	Egitto	220
11	11/12/2003	Buraq Air	Niamey	Niger	59
12	17/12/2003 2 charters	Air Libia Tibesti	Cairo	Egitto	110+106
13	29/12/2003	Buraq Air	Karachi	Pakistan	150
14	29/01/2004	Buraq Air	Cairo	Egitto	130
15	10/02/2004	Air Libia Tibesti	Lagos/Accra	Nigeria/Ghana	54+87
16	15/03/2004	Air Libia Tibesti	Cairo	Egitto	145
17	22/03/2004	Buraq Air	Khartum	Sudan	55
18	09/05/2004	Air Libia Tibesti	Cairo	Egitto	134
19	10/05/2004	Air Libia Tibesti	Nigeria/Ghana	Nigeria/Ghana	21 + 72
20	31/05/2004	Air Buraq	Cairo	Egitto	93
21	21/07/2004	Air Libia Tibesti	Asmara	Eritrea	109
22	02/08/2004	Air Libia Tibesti	Ghana	Ghana	143
23	03/08/2004	Air Libia Tibesti	Nigeria	Nigeria	143
24	04/08/2004	Air Libia Tibesti	Cairo	Egitto	135
25	11/08/2004	Buraq Air	Ghana	Ghana	203
26	26/08/2004	Air Libia Tibesti	Nigeria	Nigeria	145
27	05/09/2004	Buraq	Ghana	Ghana	123
28	06/09/2004	Buraq	Ghana	Ghana	125
29	06/09/2004	Air Libia Tibesti	Bamako	Mali	64
30	07/09/2004	Buraq	Ghana	Ghana	125
31	09/09/2004	Buraq	Ghana	Ghana	125
32	15/09/2004	Air Libia Tibesti	Nigeria	Nigeria	125
33	17/09/2004	Air Libia Tibesti	Nigeria	Nigeria	125
34	18/09/2004	Air Libia Tibesti	Nigeria	Nigeria	125
35	19/09/2004	Air Libia Tibesti	Nigeria	Nigeria	125
36	20/09/2004	Air Libia Tibesti	Nigeria	Nigeria	121
37	04/10/2004	Buraq Air	Ghana	Ghana	132
38	09/10/2004	Buraq Air	Nigeria	Nigeria	156
39	15/10/2004	Buraq Air	Mali	Mali	122

40	08/10/2004	Air Libia Tibesti	Ghana	Ghana	130
41	09/10/2004	Air Libia Tibesti	Ghana	Ghana	125
42	16/10/2004	Air Libia Tibesti	Mali	Mali	126
43	20/10/2004	Air Libia Tibesti	Nigeria	Nigeria	135
44	21/10/2004	Air Libia Tibesti	Nigeria	Nigeria	137
45	06/11/2004	Buraq Air	Nigeria	Nigeria	130
46	Within the end of 2004	Air Libia Tibesti	Nigeria	Nigeria	250
47	Within the end of 2004	Air Libia Tibesti	Ghana	Ghana	375
				Total	5.688

NATIONALITY	TOTAL	TOTAL REPATRIATED
BANGLADESH	52	
EGIZIANI	1.401	
ERITREI	109	
GHANESI	1.580	
NIGER	245	
NIGERIANI	1.804	
PAKISTANI	253	
SIRIANI	39	
SUDAN	55	
MALI	312	
		5.688

ANNEX 3

TRAINING FOR LIBYAN POLICE
Updated situation to December 8th 2004
2004
3 courses in forgery documents for 60 officers (Tripoli feb/may 2004)
1 course in ballistic, survey traces of effraction for 3 officers (Rome)
4 courses of Italian language for officers (Tripoli)
1 course in anti-drug for 19 officers (Rome nov/dec 2004)
1 course in dog training (anti-explosive and anti-drug) for 8 operators + 2 observers (Rome/Tripoli dec.2004/mar.2005)
2005
1 course in forgery documents for 20 officers (Tripoli feb.2005)
1 course in forgery documents (advanced) for 20 officers (Rome mar. 2005)
1 course anti-terrorism for 20 officers (Rome feb./mar. 2005)
1 diving course for 6 officers (La Spezia – Italy – apr./jun. 2005)
1 course of Italian language (advanced) for officers (Tripoli feb. 2005)
* courses for trainers (Rome-Tripoli)

*to be determined

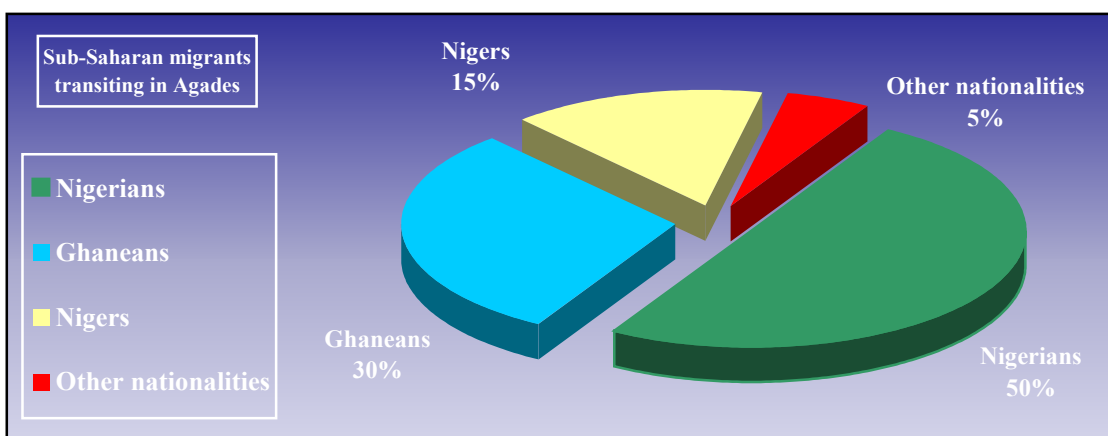
CASE STUDY: THE NIGER-LIBYAN CONNECTION

Overview of the situation

The migratory channels between the Sahelian countries and the Maghreb are organised along the South Algerian and South West Libyan borders, mainly on the borders separating Libya from Niger, Algeria from Mali, and especially on those separating Niger from Algeria and Libya. In the Saharan region, two cities constitute the crossroads of migration: namely Agadez and Tamanrasset. These cities are part of a network of cities on the trans-Saharan migration routes.

Before migrants take the North-Western or North-Eastern routes, they gather in Agadez, North of Niger, between the Sahel and the Maghreb. Agadez is now a city of about 100,000 inhabitants, but it had only 30,000 inhabitants in 1985 (about the same rate of growth as the Niger urban population, only slightly above the country's 3.6% population growth as a whole). Traditionally a transit point, Agadez has developed into a passenger transport centre. From here the trucks cross the Tenere Desert, the only possible route between Agadez and the large cities in the South Maghreb.

The migrants usually come from Western regions such as Burkina Faso, Ivory Coast, Ghana, Togo or Benin via the Niger capital city of Niamey. Most of the migrants heading for Agadez are Nigerians - 50 % of the sub-Saharan - and usually arrive after regrouping in the cities of Sokoto, Kano, Tessaoua and Tahoua. In these cities even South-African migrants have been reported. The geographic situation of Agadez is of strategic importance for the smuggling networks. Once the migrants heading towards Europe pass to the North of Sahel, several convoy channels come into play, based upon the South-North-East and South-North-West routes. A smaller but critical transit point North is the oasis of Bilma. A high proportion of traffic to the North transits through this small town and it might be useful to reinforce the capacity to monitor flows at this particular point.



(Source: ICMPD)

Position of the Niger Government

- Niger is a poor country. Immigration flows through and from the country are a source of revenue, and even if the will to restrict those flows would exist, there exists neither the equipment nor the know-how to fight against transit illegal immigration.
- Nationals from Niger immigrating to Libya are economic and temporary migrants. In general they do not intend to go to Europe. They stay a while in Libya in order to make money. When they have enough money they go back to their villages.
- Most of the African people transiting through Niger are from ECOWAS Region and are therefore authorised to cross the border of Niger without any formalities.
- Even if the state gains little from flows through the country, individuals do, both legitimately through sales to passengers and illegal in various ways: networks, corruption, etc..

It should also be noted that Niger does not want to be in conflict with its Southern neighbour's countries as it needs to have an access to their port facilities.

Finally, the distinction between Niger nationalities from Niger and Nigeria are very distinct, and there is extensive movement of people and goods across their generally open common border. Smuggling is also widespread.

The flow of migrants is only part of wider trafficking through the country. Cigarettes and other smuggled goods are mixed with more legitimate trade flows in a confusion which is not conducive to sound statistical observation let alone control.

Since there is Government concern about rebels in the North of Niger and international concern about possible terrorist links, this could offer a ground for a common understanding of the desirability of control and of addressing the issue of illegal immigration.

The possible way forward.

Niger is a vast country with a population growth amongst the highest in the world. Since most of the country is an empty space, the population is concentrated along the Southern frontiers where irregular rainfed agriculture offers them a life at the limit of survivability. When the population growth will double, people will have a high propensity to seek survival elsewhere including North of the Sahara. The issue of population growth cannot be excluded from any global response to the migration crisis, and nor can poverty. The EU must continue to prioritise these issues if there is to be a long term solution to illegal migration.

Niger may be disposed to assist in the gathering of information on flows. It would be in everyone's interest including theirs to have a better understanding of who is moving where, from where, and when.

Niger has a vast space to track and a long border to control. Cooperation is likely to be seen in term of needs for equipment for the army, the police, the customs and other services.

Niger would be interested in a stronger dialogue with the countries to the North and would be open to this being a means to address immigration issues.

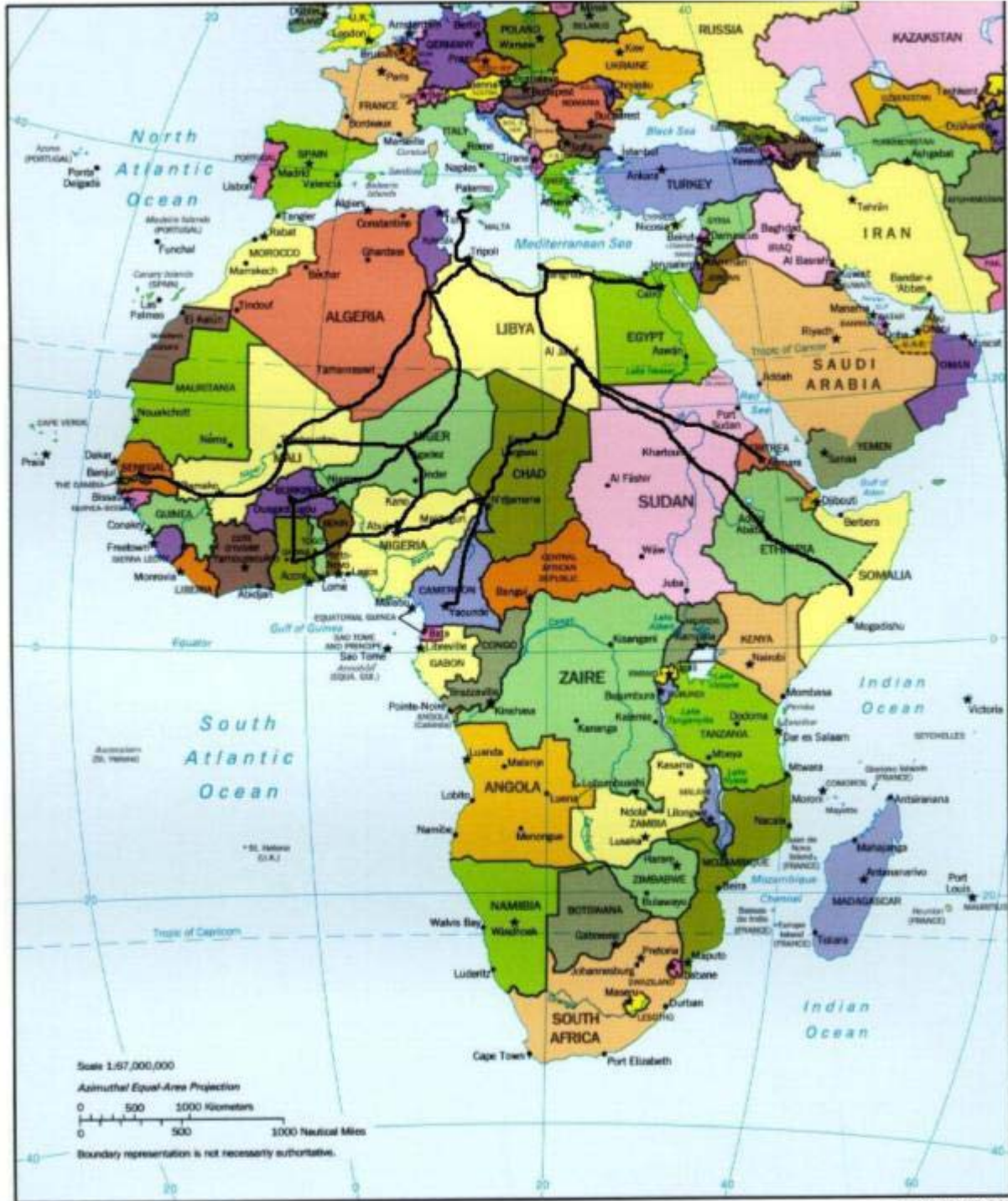
Niger would like to have more formal trading with the North and indeed with Europe through the North. While at present Niger has little to offer, she should be interested in the idea of being connected to Europe via the North rather than through the ports of West Africa to the South.

All those issues will have to be formally discussed with the new Government from Niger established following the recent December 2004 elections. In principle, it would be worth considering a technical exploratory mission to Niger to address those issues and investigate avenues for possible cooperation.

LIST OF OFFICIAL DOCUMENTS RECEIVED FROM LIBYA

- Law N°6/1987 on organisation of entry and stay of foreigners in Libya and on their departure
- Application decree N° 247/1989 of Law 6/1987
- Law number 4 of the year 85 C.E. regarding travel documents
- Chief of the People's general Security Committee decision N° 100 of 1372/2004 on the adaptation of particular principles of the decision N° 86 of 1372/2004 on internal system of the People's General Security Committee administrative apparatus
- Law 20/1991 on consolidation of Liberty
- Resolution of the General People's Committee N° 472/1985 in the application of Decree of Law 4 of 1985 related to travel documents/passports
- International Treaties signed between the Great Libyan Arab Jamahiriya and other countries in relation to immigration
- Libya meeting with Public Security Secretary

AFRICA MAP WITH MAIN MIGRATION ROUTES TO AND THROUGH LIBYA



Note: This map is purely indicative, and is presented to give a visual impression of migration flows towards and through Libya. It does not include other routes through other North African countries. Any border is not to be assumed as recognised by the Commission.

PHOTOGRAPHIC OVERVIEW OF THE MISSION

The objective of this annex is to give a visual overview of important aspects of the mission



Formal opening session by the Minister of Interior, Mr Nasser Al Mabruk, and by Mr. Marc Pierini, Commission's Head of Delegation in Tunis



Libyan hospitality : dinner offered at Ghat



Meeting at the CENSAD



Meeting at Kadhafi Foundation



Tea ceremony in Ghat

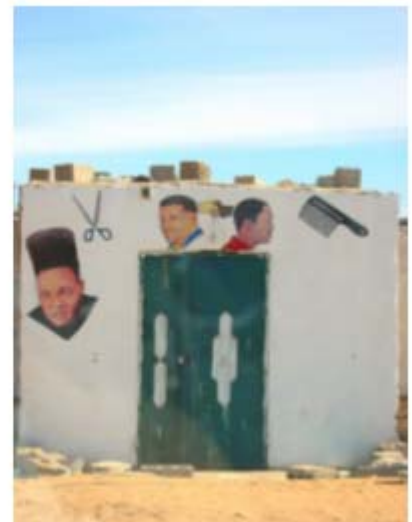


Port of Zuwarah



Sub-Saharan neighbourhood in Sebha

Sub-Saharan
shop in Sebha





Reception camp in Sebha



Camp in Sebha with immigrants leaving back to their countries on a voluntary basis



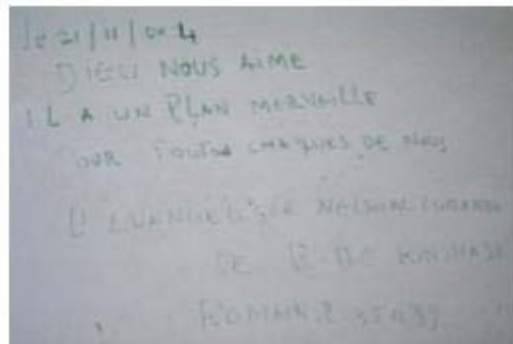
A camp along the northern coast



Women are also present as immigrants



Discussion with immigrants in a camp



An inscription on a wall in a camp