



The Libya Recovery Trust Fund (LRTF)

Terms of Reference

19 September 2011

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I. Introduction

1. The Libya Recovery Trust Fund (hereafter referred as the “LRTF”) is anchored on the United Nations (UN) Security Council Resolutions 1970 and 1973, as well as international calls for UN leadership in the aftermath of the conflict. It is coherent with the principles emphasized by the UN Secretary General Ban Ki-Moon, in his 30 August 2011 briefing to the UN Security Council, recalling national ownership, speed of response and rapid delivery, and effective coordination of international assistance, and in line with the UN Security Council Resolution 2009 that *inter alia*, establishes the UN Support Mission in Libya (UNSMIL). It is also consistent with the two phased approach implicit in the UN Secretary General’s 7 September 2011 letter to the President of the UN Security Council:

- a) Engage immediately in a way that will help determine the needs and wishes of Libya for UN support, and will deliver urgent advice and assistance.
- b) Propose any adjustments that may be required, taking account of the wishes of the transitional authorities for the scope and nature of the UN support beyond immediate needs.

2. The Chairman of the National Transitional Council’s Stabilization Team convened an initial meeting of the UN, the European Union and the World Bank, who agreed to support a multi-sectoral assessment of Libya’s needs, consistent with the principles of Post-Conflict Needs Assessment (PCNA) which the National Transitional Council has asked to proceed with implementation.

3. The needs assessment will focus on needs and responses in the following sectors:

- a. Social Services (including health and education);
- b. Civil Society (including strengthening women’s rights);
- c. Infrastructure Repairs (including supply of water, desalinization plants, energy and transport);
- d. Border Control;
- e. Disarmament, Demobilization and Reintegration;
- f. Public Security and the Rule of Law (including police training and reform, transitional justice and human rights);
- g. Electoral and Constitutional Processes;
- h. Public Assurance/Messaging (including training for Libyan media);
- i. Shared Services (Public Financial Management, Public Service Delivery, Public Administration, Civil Service Reform);
- j. Economic Recovery and Employment Generation including agriculture and food security, with a focus on Youth.

4. The LRTF is established under the sponsorship of the recognized National Transitional Council and the Deputy Special Representative of the Secretary-General (DSRSG)/UN Resident Coordinator on behalf of and in consultation with the UN Country Team.

5. All programmes/projects funded by the LRTF will be in support of, and strictly aligned with the National Transitional Council priority sectors, ensuring national ownership. The LRTF will complement other immediate recovery and related support that will be provided to Libya by its various development partners and bring strategic value in developing capacity and promoting sustainability. The LRTF will enhance UN coherence, transparency and accountability towards Libyan authorities, citizens and Libya's development partners.

6. These Terms of Reference (TOR) describe the essential features of the LRTF including the roles, responsibilities and functions of the Participating UN Organizations and the Administrative Agent, towards the achievement of the objectives of the LRTF.

II. Purpose, Scope and Principles of the LRTF

7. The LRTF is established to support Libya's recovery efforts and longer term development activities by enhancing the work of the UN and non-UN entities that may benefit from funding and to improve aid effectiveness and ownership of the National Transitional Council. In particular, the LRTF will support the National Transitional Council's transition plans in the aftermath of the conflict, with UN participation in the implementation of priority sectors that will be identified in the multi-sectoral assessment consistent with the principles of the PCNA.

8. The LRTF governance structure and operational arrangements aim to ensure, in particular, that:

a) Each project approved for funding is part of a nationally-approved priority programme related to early recovery and development initiatives. It is based on or formulated in consultation with line ministries and beneficiary communities.

b) Funding and implementation are undertaken with special attention to transparency and accountability.

c) The structure of the Fund will enhance speed and flexibility in delivering results and efficient utilization of funds.

d) The LRTF will focus on building the capacities of the National Transitional Council and other national institutions, developing sustainable local capacities for the long term.

III. Description of the LRTF

a) Administration of the LRTF

9. The LRTF shall be administered by UNDP through its Multi-Partner Trust Fund Office (MPTF Office), as Administrative Agent, on behalf of the Participating UN Organizations, as agreed with the National Transitional Council. The MPTF Office, as Administrative Agent, will administer the Fund in accordance with UNDP's regulations and rules. It will establish a separate ledger account for receipt of contributions to this Fund. The LRTF will be established upon the signature of the Memorandum of Understanding (MOU) between the Participating UN Organizations and the Administrative Agent and will be operational with the signing of the first Standard Administrative Arrangement (SAA) between a donor and the Administrative Agent.

10. Unless otherwise agreed by the National Transitional Council, the UN and the contributing donors, the LRTF shall terminate on such date as the contributed funds will have been fully disbursed and after satisfaction of all commitments and liabilities.

b) Contributions to the LRTF

11. Contributions to the LRTF may be accepted from governments, intergovernmental or nongovernmental organizations, and private-sector organizations upon signing of the SAA with the Administrative Agent.

12. Contributions to the Libya Recovery Trust Fund may be accepted in fully convertible currency or in any other currency that can be readily utilized. Such contributions shall be deposited into the bank account designated by the Administrative Agent.

13. The value of a contribution payment, if made in other than United States dollars, shall be determined by applying the UN operational rate of exchange in effect on the date of payment. Gains or losses on currency exchanges shall be recorded in the LRTF account established by the Administrative Agent to transfer funds to Participating UN Organizations.

14. To achieve optimal progress and ensure maximum flexibility and adaptation to emerging and changing national priorities, a guiding principle for resource mobilization would be that donors are encouraged to contribute with multi-year un-earmarked resources. However, if this is not possible, earmarking at the level of priority sectors, as defined in the multi-sectoral assessment consistent with the principles of the PCNA, will be accepted.

c) Eligibility for LRTF funding

15. Participating UN Organizations may be eligible for funding by concluding a MOU with the Administrative Agent of the Fund. Non UN-entities that are members of the UN Country Team and that have a similar international character and financial rules and regulations comparable to

the UN may also become Participating Organizations by concluding a separate MOU with the Administrative Agent.

16. Through the Participating UN Organizations, non-governmental organizations (NGOs), civil society organizations (CSOs) and national institutions may receive funds from the LRTF based on a project agreement concluded with such entities as implementing partners of the concerned Participating UN Organization in accordance with its regulations, rules and procedures. Use of funds, reporting obligations, liability, audit and other matters relating to the management of the funds provided and the activities shall be addressed in such project agreements in the manner that is customary for the concerned Participating UN Organization.

d) Utilization of the LRTF

17. Resources from the LRTF will be utilized for the purpose of meeting the direct and indirect costs of programmes/projects approved by the Steering Committee and managed by the Participating UN Organizations. Details of such programmes/projects, including respective budgets and implementation partners (national entities, NGOs, CSOs, intergovernmental organizations) will be set out in the relevant project documents.

18. The indirect costs of the Participating UN Organizations recovered through programme support costs will be seven percent (7 %). All other costs incurred by each Participating UN Organization in carrying out the activities for which it is responsible under the LRTF will be recovered as direct costs.

19. The Administrative Agent will charge a one-time-fee of one percent (1%) for fund management and fiduciary responsibilities, which will be deducted from the contributions to the LRTF at the time that they are deposited.

20. Participating UN Organizations shall assume full programmatic and financial accountability for the funds disbursed to them by the Administrative Agent. Such funds shall be administered by each Participating UN Organization in accordance with its own regulations, rules, directives and procedures.

IV. Governance Arrangements

a) The Policy Board

21. The Libya Recovery Trust Fund will be governed by a Policy Board that will provide strategic guidance and oversight as well as make decisions on fund allocation to the agreed and or priority sectors, (in line with the recommendations of the multi-sectoral assessment consistent with the principles of the PCNA. The Policy Board operates by consensus and is chaired by the representative of the National Transitional Council.

22. The members of the Policy Board are:

- Representative of the National Transitional Council (Chair);
- DSRSG/UN Resident Coordinator;
- 2 to 3 representatives from the line Ministries;
- 2 to 3 representatives from contributing donors on an annual or six-monthly rotational basis;
- 2 to 3 representatives from Participating UN Organizations upon invitation of the DSRSG/UN Resident Coordinator and depending on the agenda of the Policy Board's meetings; and
- One representative of CSOs/NGOs.

23. The Policy Board may invite other international or regional organizations, as it deems appropriate and depending on the issues on its agenda.

24. The Policy Board will be responsible for:

- a) Approving the LRTF strategy and key policies and providing strategic guidance;
- b) Providing oversight and exercising overall accountability of the LRTF;
- c) Determining funding criteria and envelope;
- d) Reviewing LRTF status and overall progress of operations including consolidated progress reports of the Administrative Agent;
- e) Ensuring coherence and collaboration between the LRTF and national programmes, maintaining close collaboration with national authorities to ensure flexible adaptation of the LRTF activities to changes in national programmes; and
- f) Deciding on the Fund End Date.

25. The Policy Board shall meet periodically in Libya. Reports and recommendations of the Policy Board and minutes of its meetings will be shared with the LRTF stakeholders.

b) *The Steering Committee*

26. The Steering Committee is the body that takes project level decisions, based on criteria and funding envelope determined by the Policy Board and on the technical evaluation made by the LRTF Secretariat, and approves fund transfers from the Administrative Agent to the Participating UN Organizations.

27. The Steering Committee is co-chaired by the Representative of the National Transitional Council and the DSRSG/UN Resident Coordinator. It shall review and approve project proposals and allocate funds.

28. The members of the Steering Committee are:

- Representative of the National Transitional Council (Co-Chair);
- DSRSG/UN Resident Coordinator (Co-Chair);
- 2 to 3 representatives from the line Ministries;
- 2 to 3 representatives from Participating UN Organizations (representing priority sectors) on an annual or six-monthly rotational basis; and
- The Administrative Agent as *ex officio* member.

29. The Steering Committee will be responsible for:

- a) Reviewing and approving proposals submitted for funding; ensure their conformity with the requirements of the LRTF agreements (MOUs, SAAs) and the alignment with the funding criteria and envelope determined by the Policy Board;
- b) Monitoring and reporting on project/Fund level progress on periodic basis, establishing LRTF requirements and priorities concerning, *inter alia*; programme/projects management, including consistent and common approaches to programme/project costing, cost recovery, implementation modalities, results-based reporting, impact assessment and information management including appropriate LRTF, National Transitional Council and contributing donors' visibility;
- c) Ensuring that appropriate consultative processes take place with key stakeholders at the country level to promote coordination between the LRTF and other funding mechanisms;
- d) Reviewing and approving the periodic progress reports (programmatic and financial) consolidated by the Administrative Agent based on the progress reports submitted by the Participating UN Organizations; and
- e) Reviewing findings of evaluation reports to highlight and communicate lessons learnt to the Policy Board, and periodically discuss follow-ups by Participating UN Organizations on recommended actions that have LRTF-wide impact.

30. The Steering Committee shall meet periodically in Libya. Reports, recommendations and minutes of its meetings will be shared with the LRTF stakeholders.

31. The Steering Committee Terms of Reference and Rules of procedure will be elaborated in detail in a special separate document.

c) *The LRTF Technical Secretariat*

32. The LRTF Technical Secretariat will support the LRTF Policy Board and the Steering Committee and will be based within the DSRSG/UN Resident Coordinator Office. Costs for such

tasks will be agreed in advance and approved by the Policy Board, and charged to the LRTF account as direct costs.

33. In assisting the Policy Board the LRTF Technical Secretariat will be responsible for:

- a) Logistical arrangements required to facilitate the Policy Board meetings, including the preparation of agenda and minutes, sharing information on behalf of the chair, distribution of documents, etc.;
- b) Documenting, communicating and ensuring follow-up of the Policy Board decisions;
- c) Assisting the Policy Board chair in following up and oversight actions and decisions, and in communicating important milestones to donors and other stakeholders; and
- d) Periodically reviewing the TOR of the LRTF and recommending changes or revisions.

34. In assisting the Steering Committee the LRTF Technical Secretariat will be responsible for:

- a) Logistical arrangements required to facilitate the Steering Committee meetings, including the preparation of agenda and minutes, sharing information on behalf of the co-chairs, distribution of documents, etc.;
- b) Tracking the Steering Committee decisions, approvals, allocations, implementation progress, closure of projects and identifying challenges to be reported to the Steering Committee on quarterly basis;
- c) Periodically reviewing the TOR and Rules of Procedure of the Steering Committee and recommending changes or revisions;
- d) Develop in coordination with the Administrative Agent, forms and templates to be used by the Participating UN Organizations, to submit project proposals and provide result-based reporting to the Steering Committee.
- e) Review programmes/projects submissions of Participating UN Organizations to ensure adherence to the LRTF TOR and any subsequent criteria approved by the Steering Committee.

d) *The Administrative Agent*

35. The UNDP MPTF Office, as Administrative Agent, shall be responsible for concluding MOUs with Participating UN Organizations and SAAs with donors. It shall receive, administer and transfer funds to Participating UN Organizations upon instructions from the Steering Committee and submit yearly consolidated narrative and financial reports to the Steering Committee for onward submission to the Policy Board and all donors that have provided

financial contributions to the LRTF. The Administrative Agent will liaise with the LRTF Technical Secretariat on all actions related to the signature of MOUs and SAAs, and copies of such agreements would be posted on the UN in Libya website (<http://www.un.org.ly/>), as well as in the Administrative Agent website, the MPTF Office GATEWAY (<http://mdtf.undp.org>).

36. Each Participating UN Organization shall sign a standardized MOU with the Administrative Agent that sets out the duties and responsibilities of each party.

37. Each donor contributing to the LRTF would sign an SAA with the Administrative Agent that sets out the terms and conditions governing the receipt and administration of the contribution.

38. Subject to the availability of funds, the Administrative Agent shall normally make each disbursement to the Participating UN Organization within three to five business days after receipt of instructions from the Steering Committee accompanied with the approved relevant project document that has been signed by all parties concerned.

V. Monitoring and Evaluation

39. All programmes funded through the LRTF will include a Monitoring and Evaluation (M&E) component that will be consistent with the respective regulations, rules and procedures of the Participating UN Organizations.

40. The National Transitional Council, donors, the Administrative Agent and the Participating UN Organizations will hold annual consultations, as appropriate, to review the status of the LRTF.

41. In addition, the Steering Committee, in consultation with the Policy Board, may commission an independent lessons-learned and review exercise relating to the operations and management of the LRTF.

VI. Audit

42. The Administrative Agent and Participating UN Organizations will be audited in accordance with their own Financial Regulations and Rules. In addition, the Fund's projects implemented by the Participating UN Organizations may be audited in accordance with the Framework for Auditing Multi-Donor Trust Funds which has been agreed to by the Internal Audit Services of Participating UN Organizations and endorsed by the UNDG in September 2007.

VII. Reporting

a) Participating UN Organizations

43. Each Participating UN Organization will provide the Administrative Agent with the following statements and reports prepared in accordance with their own accounting and reporting procedures:

- a) Annual narrative progress reports, to be provided no later than three months (31 March) after the end of the calendar year;
- b) Annual financial statements and reports as of 31 December with respect to the funds disbursed to it from the Fund Account, to be provided no later than four months (30 April) after the end of the calendar year;
- c) Final narrative reports, after the completion of the activities in the approved programmatic document and including the final year of the activities, to be provided no later than four months (30 April) of the year following the financial closing of the Fund. The final report will provide a summary of results and achievements; and
- d) Certified final financial statements and final financial reports after the completion of the activities in the approved programmatic document and including the final year of the activities in the approved programmatic document, to be provided no later than six months (30 June) of the year following the financial closing of the Fund.

b) Administrative Agent

44. The Administrative Agent will prepare consolidated narrative progress and financial reports, based on the reports referred to in paragraph 42 (a) to (d) above, and will provide those consolidated reports to each donor that has contributed to the Fund Account, as well as the Steering Committee, in accordance with the timetable established in the SAA.

45. The Administrative Agent will also provide the Steering Committee and the Participating UN Organizations with the following statements on its activities as Administrative Agent:

- a) Certified annual financial statement (“Source and Use of Funds” as defined by the UNDG guidelines) to be provided no later than five months (31 May) after the end of the calendar year; and
- b) Certified final financial statement (“Source and Use of Funds”) to be provided no later than seven months (31 July) of the year following the financial closing of the Fund.

46. Consolidated reports and related documents will be posted periodically on the website of the Administrative Agent, MPTF Office GATEWAY (<http://mdtf.undp.org>).

VII. Public Disclosure

47. The Administrative Agent in consultation with the UN Resident Coordinator and the Participating UN Organizations will ensure that decisions regarding the review and approval of the LRTF as well as periodic reports on the progress of implementation of the LRTF, and any associated external evaluation are posted for public information on the UN in Libya website (<http://www.un.org.ly/>) and the website of the Administrative Agent, MPTF Office GATEWAY (<http://mdtf.undp.org>). Such reports and documents may include the LRTF Steering Committee approved programmes, LRTF annual financial and progress reports and external evaluations, as appropriate.

VIII. Termination of the LRTF

48. The LRTF will continue until the Fund End Date, which will be determined by the Policy Board. The final date for approval of new projects, final date for transfer of new funds and for operational closure will be established based on the Fund End Date.

49. The LRTF will terminate upon completion of all programmes funded through the LRTF and after satisfaction of all commitments and liabilities. Notwithstanding the completion of the programmes financed from the LRTF, any unutilized balances will continue to be held in the LRTF Account until all commitments and liabilities incurred in implementation of the programmes have been satisfied and programme activities have been brought to an orderly conclusion.

50. Any balance remaining in the LRTF Account or in the Participating UN Organizations' separate ledger accounts upon winding up of the LRTF will be used for a purpose mutually agreed upon by the Policy Board and/or Steering Committee.

IX. Visibility and Joint Communication

51. Each participating UN Organization will take appropriate measures to publicize the LRTF and to give due credit to the National Transitional Council and to other Participating UN Organizations. Information given to the press, to the beneficiaries of the Fund, all related publicity material, official notices, reports and publications, will acknowledge the role of the National Transitional Council, the donors, the Participating UN Organizations, the Administrative Agent and any other relevant entities. In particular, the Administrative Agent will include and ensure due recognition of the role of each Participating UN Organization and national partners in all external communications relating to the Fund.

ANNEX 1. Governance and flow of funds of the LRTF

