

## **“Libyan Investment Law: Before and After”**

### **Political Development and Economic Policies:**

It has been proven that political development is a prerequisite for economic development. In other words, to stabilize a national economy, economic growth must be accompanied by political maturity. Political maturity in turn will attract external capital which will stimulate the country's development. The Soviet Union in the later stages of its life provides an example. In the late 1980s, Mr. Gorbachev unveiled his reform program, known as "Perestroika" which literally means "restructuring". Perestroika was declared without establishing a new political system that would go hand in hand with the economic restructuring to ensure social justice and equality of opportunities. Rather, the old the Soviet political structure was maintained with its overwhelming level of bureaucracy and lack of transparency. Perestroika simply did not incorporate these basic tenets of good governance as it was concerned primarily with liberalizing the market. As a result, the Soviet political system failed to create a comfortable atmosphere for investments. Further, this is arguably, the very same reason which led to the failure of the entire Soviet experience. Simply stated, a country must be politically stable where its laws and decisions are clearly defined and integrated in order to succeed economically. In addition, it should have an independent, mature judicial system that responds and deals competently with the foreign investors complaints while safeguarding people's rights.

The mere availability of capital, infrastructure and investment opportunities does not guarantee stability. Actually, a country must provide tangible guarantees that ensure maintenance of investor's rights. Further, the announcement of the formulation of investment laws and its implementation, as well as the designation of certain areas of free trade, does not indicate the establishment of an investment environment or ensure the rights of the investor identified by the laws.

### **Libya Topped the Third World Countries:**

In 1975, a comparative economic study was issued by the Organization of Economic Cooperation and Development (OECD), an organization comprising the USA, Australia and developed European countries. The study addressed the gap of economic growth between rich and poor nations and raised the issue of whether it was possible for this gap to be closed? The study's main concern was: how many years would it take for Third World countries to catch up with the developed countries? The study's authors chose to list the most developed nations of the Third World as well as those that came in at the lowest levels, including several Arab countries such as Libya, Saudi Arabia, Tunisia, Iraq and Syria. In addition, other countries listed were Singapore, Malaysia and China. The countries were rated on the basis of their economic growth between the years of 1965 and 1974. Libya topped the list of the Third World countries, with a growth rate of 11.8%, followed by Saudi Arabia, with a growth rate of 11.6% , Singapore 7.6%, Israel 5.0%, Iraq 4.4%, Turkey 4.0%, while the economic growth of Malaysia and China was at 3.8%.

The study concluded that if the Third World countries maintain their achieved economic growth during the previous period, they will be considered as a part of the

developed countries after a certain number of years. The study concluded that Libya needed only two years to catch up with developed nations. The Kingdom of Saudi Arabia needed 14 years, Singapore needed 22 years, Israel needed 37 years, Iraq needed 223 years, Turkey needed 675 years, Malaysia needed 2293 years, while China was in need of 2900 years to catch up with developing countries.

Interestingly, the study conducted by the OECD in 1975 predicted 22 years for the arrival of Singapore to the ranks of developed countries. This prediction proved credible when the world declared in 1997, the admission of Singapore to the advanced nations. Libya was not as fortunate.

Instead of maintaining the fiscal policies that would have continued the level of its economic growth, at that time, the Libyan government decided to cancel the free economic system by abolishing all business licenses. Further measures by the Libyan government were to allow the government to control the commercial and industrial activities, while preventing the private sector from practicing its commercial and industrial professions. As a result of the state run economy, the atmosphere encouraged lackadaisical business practices and the institutionalization of bribery, as well as the constant looting of public funds. Instead of announcing the arrival of Libya to the level of the first world countries, Libya sank into a deep abyss of political, administrative and economic corruption.

After many years of self-imposed economic isolationism, the former Libyan regime decided to open up to the outside world by announcing a wide array of investment opportunities in various fields. The response was well received from both Arab and foreign investors alike. Free Zones were identified, and laws enacted that guaranteed the bulk of the investor benefits, including tax exemption and the transfer of profits abroad.

However, as with the Soviet experience, the former regime was intentionally not concerned with establishment of a free political and economic system that ensures equal opportunities, fair competition, and reduced corruption. Rather, the regime used the economic openness as an opportunity to give close cronies the right to receive all the capital and business opportunities coming from abroad, and using them for their own personal interests. Administrative corruption became rampant and public funds were used unlawfully. These circumstances are from where the resentment of political oppression and economic deprivation led to the explosion that turned into the popular revolution that brought down the former regime.

### **The Future of Investment in Libya:**

After the victory of the Libyan people over the old regime, the new Libyan leaders have started to reinstate the country to the ranks of the stable, politically sophisticated, constitutional countries. Due to the fact that Libya is still one of the Third World countries which is rich in natural resources, utilization of foreign expertise is essential for its success. Foreign expertise along with their advanced technologies will be needed to help Libya exploit and market its natural resources as well as develop its infrastructure. Such capital and expertise shall be welcomed by the Libyans to operate within a well defined framework of cooperation and mutual benefits.

As there is a current debate in Libya about how to attract foreign capital and technical expertise, there must be better administrative effort than just legislation. Clear rules must be established for integration and how to regulate the economic relationship between the country and foreign capital. All rules must take inconsideration the legal rights of the foreign investors. Also needed are laws that demonstrate the procedures for open tendering, to ensure the highest degree of transparency.

In conclusion, the relationship between a country that invites foreign capital and foreign investors should be based on transparency and the highest level of common interests for both parties.

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