

**QUESTIONNAIRE ON TRADE IN FISH AND FISHERY PRODUCTS BETWEEN EU AND
LIBYA**

01 APRIL 2009

Introduction

In July 2008, the Council of Ministers authorised the European Commission to open negotiations for a Framework Agreement with Libya. One of the main components of this Agreement is to conclude a deep and comprehensive **Free Trade Agreement (FTA)**: Libya and the EC agreed to consider a FTA covering trade in industrial and agricultural/fishery products, services and investment as well as trade rules/regulatory cooperation on issues such as intellectual property rights, public procurement, competition and sustainable development.

The following questionnaire has been prepared to give the fisheries sector the opportunity to provide us with information that will help the Commission establish priorities and take decisions throughout the negotiating process. The Commission, subject to the application of the EU's rules on access to documents, will treat the information that you provide as confidential. EU rules on access to documents allow the Commission to withhold access to a document where disclosure would undermine the commercial interests of a natural or legal person or harm the EU's relations with third countries, unless there is an overriding public interest in disclosure.

Please note that Libya is not yet a WTO member.

For each question and as far as it is relevant, please provide an answer.

In addition, where possible, we would appreciate receiving quantification of your interest, prioritisation within sectors and your recommendation for solutions where you identify a problem.

The questionnaire will be included on Directorate-General Trade's webpage for consultations of civil society. You are welcome to reply to this website by **31 May 2009**:

<http://ec.europa.eu/yourvoice/ipm/forms/dispatch?form=Libya>

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Background information

During the period 2005-2008, the EU exported an average of 1,616 tonnes per year of fish and fishery products worth €4.47 million to Libya. The EU's main export commodities were prepared or preserved tunas and skipjack of tariff lines 1604 14 11 and 1604 14 18, accounting for 60% of exports to Libya. While Libya has not been levying direct import duty since 2005, it currently levies indirect import duties which include:

- i. a port service fee on all imported commodities which was increased from 4% to 10% as from 15 February 2009 to cover customs fees;
- ii. a consumption tax on imports of 109 sensitive goods that are produced locally. The rates range between 10 and 100% of the value of the goods. However, fish and fishery products do not appear on the list of products subject to Libyan consumption tax.

Libya currently benefits from the reduced customs tariffs under the Generalised System of Preferences, i.e. a reduction of 3.5 percentage points.^[1] However, in order to export fish and fishery products to the EU, Libya has to be included in the list of third countries from which imports of fishery products are permitted (Decision 2006/766/EC – Community hygiene requirements). Libya has applied to be included on the list. Its application has been evaluated and the Food and Veterinary Office (FVO) of SANCO has scheduled an on-the-spot inspection mission in October / November 2009. The mission will verify, in particular, the implementation of the health attestations laid down in the model of official health certificate for imports of fishery products intended for human consumption (Appendix IV to Annex VI of Regulation (EC) 2074/2005). A satisfactory result of this inspection will allow the Commission to propose the inclusion of Libya in the above-mentioned list of third countries.

^[1] except live ornamental saltwater fish which are duty-free

TRADE IN FISH AND FISHERY PRODUCTS

This section of the questionnaire is organised in the following manner:

- 1) General questions related to trade in fish and fishery products
- 2) Questions related to indirect import duties
- 3) Questions related to export restrictions
- 4) Questions related to import and export procedures (included under "trade facilitation")
- 5) Questions related to discrimination and transparency in Libyan regulation and taxation
- 6) Other issues related to trade in fish and fishery products

1) General

- a) Please indicate your area of business (ship-owner, fisherman, importer, exporter, processor etc.)
- b) What are the existing trade flows in the fish sector and what is your potential interest?
- c) How do you assess Libya's export potential for fish and fishery products?
- d) Please specify your overall **offensive** interest, i.e; what kind of fish and fishery products would you like to export to Libya¹?
- e) What is your **defensive** interest, i.e. what kind of fish and fishery products are sensitive for EU stakeholders¹?
- f) Please indicate whether you see a twofold interest in supplying goods to Libya, in particular an export interest from the EU to Libya and an interest in setting up production facilities there? How would you describe the EU interest in pursuing these two interests?
- g) Could you provide your priorities (ranked) for your sector in Libya? Please indicate what criteria you applied for the determination of priorities, both in terms of import duties as well as non-tariff barriers and measures? Trade volume to Libya? Trade volume to comparable countries? Economic cost of a barrier?
- h) How important is it in your sector to be able to give assurances about the sustainability (especially social and environmental) of conditions throughout the supply chain, and what issues arise in relation to Libya?
- i) Are you interested in establishing a commercial presence in the fisheries sector in Libya? Have you experienced any barriers in establishing a commercial presence in the fisheries in the past?

¹ if possible, please indicate the tariff line of the Combined Nomenclature (Official Journal of the European Union, L 291, 31 October 2008, available at: <http://eur-lex.europa.eu>

2) Questions related to indirect import duties

- a) Do you face problems with Libya's indirect import duties? If so, please specify (e.g. too high, additional or specific duties, non-transparent structure, etc.)
- b) Please describe your interests with respect to the envisaged tariff dismantling for Libya: (1) priorities per tariff line for frontloading (i.e. early tariff elimination); (2) backloading (tariff elimination over a transitional period); and (3) interconnections with other trade areas (e.g. rules of origin; safeguards; removal of non-tariff barriers).
- c) Do you have problems of tariff classification? If so, please specify.

3) Questions related to export restrictions and prohibitions

- a) Do you face export restrictions with respect to Libya? If so, which (export duty; VAT rebate schemes; licensing; discriminatory promotions schemes)? Please specify relevance of their elimination.

4) Trade facilitation (import, export and transit procedures)

Please respond with yes/no and where possible provide comments to expand on the replies to the following:

- a) Overall problems with import, export and / or transit procedures and requirements in Libya?
- b) Specific problems related to:

- transparency/publication of and access to trade regulations
- documentary requirements
- data requirements
- fees and charges
- inspections and controls during clearance
- other customs procedures
- discriminatory treatment
- lack of uniformity in application of procedures
- customs valuation
- co-ordination between different border agencies
- use or non-use of information technology
- application or non-application of relevant international standards
- procedures for legal recourse/appeal

5) Questions related to discrimination and transparency in domestic regulation and taxation

- a) Is your sector faced with discriminatory measures and practices between domestically produced goods and imported goods into Libya? If so, could you describe the nature of this discrimination (is it based on a legal act or a factual discrimination? Concerns a regular domestic regulation and/or taxation regime?) and provide documentation?
- b) Do you encounter problems due to lack of transparency e.g. lack of publication of legislation or other documents relevant for your trade behaviour?

6) Other issues related to trade in fish and fishery products

Are there any other issues e.g. Sanitary and Phytosanitary Measures that are not mentioned in this questionnaire and that you would like to address?