

QUESTIONNAIRE ON A FREE TRADE AGREEMENT WITH LIBYA

30/09/2008

RESPONSE BY BUSINESSEUROPE

Introduction

Last July the European Commission received the negotiating directives to open negotiation for a Framework Agreement with Libya. One of the main components of this Agreement is to conclude a deep and comprehensive Free Trade Agreement: Libya and the EC agreed to consider an FTA covering trade in industrial and agricultural/fishery goods, services and investment as well as trade rules/regulatory cooperation on issues such as intellectual property rights, public procurement, competition & sustainable development.

The following questionnaire has been prepared in order for you to provide us with information that will help the Commission establish priorities and take decisions throughout the negotiating process. Contributions sent in reply to this questionnaire will be handled in line with the EU's rules on access to documents.

This questionnaire is based on the ones launched last year for the FTAs on Ukraine, Korea, India, ASEAN, Central America and the Andean Community. We have opted for fairly detailed questions in order to capture all possible issues related to our trade interests in these countries. We realise that this choice may lead to some difficulties in filling in all the details in which case you are invited to focus on the questions which are most relevant for you. Please note that in contrast to the above mentioned countries, Libya is not yet a WTO member.

The questionnaire is divided into the following sections:

- A. Trade in Goods
- B. Trade in Services and Investments
- C. Regulatory Issues (Intellectual Property Rights, Competition, Government Procurement)
- D. Sustainable Development
- E. Other issues

For each question and to the extent 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 solution where you identify a problem.

Please send your replies by Friday 28 November to the following e-mail address:
Trade-Industrial-Sectors@ec.europa.eu

A. TRADE IN GOODS

The Trade in Goods section of this questionnaire is organised in the following manner:

- 1) General goods related questions
- 2) Questions related to import duties and rules of origin
- 3) Questions related to export restrictions
- 4) Questions related to import and export procedures (included under a chapeau "trade facilitation")
- 5) Questions related to discrimination and transparency in domestic regulation and taxation
- 6) Questions related to trade defence instruments (safeguards; antidumping; anti-subsidy)
- 7) Questions related to Technical Barriers to Trade (TBT) (industrial goods)
- 8) Questions related to Sanitary and Phytosanitary Measures (SPS) (agricultural goods, fish and fishery products)

1) General goods related questions

- a) What are the existing trade flows in the sector(s) of interest to you and what is your potential interest?

As a horizontal organisation, **BUSINESSEUROPE** represents all EU business sectors.

- b) If possible, could you specify your overall offensive and defensive interest?

The overall balance for **BUSINESSEUROPE** is offensive.

- c) If applicable, could you explain whether you see a twofold interest in supplying goods to Libya, notably an export interest from the EU to this country and an interest in setting up production facilities in it? How would you describe the EU interest taking up these two interests?

Yes, **BUSINESSEUROPE** has a combined interest in trade and investment with Libya.

- d) Could you provide your priorities for your sector (ranked) 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?

According to a combination of the above factors, the priority issues for **BUSINESSEUROPE**'s are as follows:

Removing investment restrictions; improving customs governance; dealing with an unstable regulatory framework; strengthening economic governances.

The problem with customs is exacerbated by the lack of transparency in the way tariffs are structured and applied. Libyan import tariffs are calculated on the basis of different tariff structures sometimes also topped up by a local tax charge which in effect amounts to an additional duty.

- e) 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?

These issues are of concern for some sectors. Social and environmental sustainability are important to BUSINESSEUROPE. For Libya specifically BUSINESSEUROPE notes that the Libyan administration has relatively little experience in socio-environmental considerations and that local policies are not in synch with European standards and legislation. EU companies therefore can be at pains to implement voluntary corporate responsibility schemes. Technical and administrative exchanges between the EU and Libya could improve this situation over the medium to long term.

- f) Do you support a specific mediation mechanism to deal with Non-Tariff Barriers? If so, please motivate.

Yes, BUSINESSEUROPE fully supports the inclusion of a robust NTB mediation mechanism to be included in the FTAs analogous to the EC proposal for the WTO DDA negotiations. Such agreement should facilitate the removal of non tariff barriers in a constructive, effective, rapid and non-confrontational manner. A strong and effective dispute settlement mechanism must also be included in the new FTA for both trade and investment related matters.

2) Questions related to import duties and rules of origin

- a) Do you face problems with the import duty of Libya? If so, please specify (e.g. too high, additional or specific duties, non-transparent structure)

Yes, companies face significant problems in trading with Libya particularly at the import stage in part due to the excessive bureaucracy encountered in Libyan ports. Progress has been registered in recent years, however the customs structure and customs clearance methodology is not transparent. Custom tariffs also change frequently, sometimes with limited advance notice, whilst delays in customs clearance is an operational problem on the ground for both importers and exporters trading on the Libyan market.

- 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).

The objective for BUSINESSEUROPE is 100% coverage of tariff lines without a priori exclusions to address Europe's economic needs. Anything less than this would allow the exemption of highly protected sectors and dramatically reduce the potential benefits to the European economy. Industry sectors will respond to the Commission individually as regards any frontloading or backloading of tariff dismantling.

An ambitious services chapter is also needed as the Libyan procurement market is potentially an attractive one. The liberalisation of trade in medical, educational and IT & general communications services is of reciprocal interest to both EU operators and Libyan businesses/government services. Generally, Libya could benefit from improving the quality and efficiency of its services sector.

- c) Do you have problems of tariff classification? If so, please specify.

Misclassification of products can have negative affects on European companies' business by imposing artificially high tariffs on certain products. There are real problems with the tariff formulation and calculation process in Libya. This sometimes puts EU operators at a disadvantage even vis-à-vis North African operators in Libya.

- d) What preferential rules of origin should apply in the sector(s) of your interest in the future FTAs with Libya?

In BUSINESSEUROPE's views the rules of origin should be simple, transparent and as close as possible to the WTO system, not imposing any additional burden on economic operators. Rules of origin should not act as a non-tariff barrier.

Libya must be compliant with the EU GSP, to avoid products such as sugar to enter the EU through Libya (from countries like Brazil or South Africa).

As a "Union for the Mediterranean" observer country, Libya should be eligible to the PanEuromed system.

3) Questions related to export restrictions and prohibitions

- a) Does your sector have an interest in purchasing raw materials from Libya? If so, please specify what raw material and describe the economic relevance and any environment issues arising.

The main industry concerned is that of the energy industry, oil and natural gas. Libya exports some 1.3 million barrels of crude oil per day and some 5 billion cubic meters of natural gas per year. Libya produces and exports only small amounts of other raw materials. The main focus for European countries remains on energy.

- b) Does your sector face export restrictions with respect to Libya? If so, which ones (export duty; VAT rebate schemes; licensing; discriminatory promotions schemes)? Please specify relevance of their elimination.

Some of BUSINESSEUROPE's members have reported the existence of a prohibited goods list. The list of goods that cannot be imported into Libya also changes on a regular basis.

An additional problem – political in origin – relates to trade with Libya involving Israeli-originating products. EU exporters have to be aware of the Arab boycott of Israel. This means that products of Israeli origin, products/services tendered in partnership or even shipped by an Israeli shipping line (including partly-owned by Israeli interests) are not allowed to enter the Libyan market. All documents are to carry a certificate of origin which is to be legalised and stamped by a Chamber of Commerce (adding costs) and then endorsed by the Libyan People's Bureau in the respective EU member state. This is a cumbersome and expensive system which should be dismantled.

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 issues:

a) overall problems with import, export and / or transit procedures and requirements in Libya?

Yes. Specifically: Bureaucratic burdens, clearance, lack of transparency, fees and charges and the lack of cross-border cooperation; complicated and changing procedures.

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

Practically all areas reported here are problematic:

- Transparency: non-existent;
- Fees and charges – fluctuate considerably and are currently quite expensive.
- other customs procedures – very autocratic and not at all transparent and commissions are always involved to top up the requested payments
- lack of uniformity in application of procedures
- customs valuation – lack of transparency
- coordination between borders – non-existent
- application of international standards – non-existent
- procedure for legal recourse – may exist but not advisable to venture into

The priorities for BUSINESSEUROPE in the negotiations should be:

- b) the minimisation and/or elimination of fees and charges;
- c) procedures for legal recourse and appeal, complaint or mediation services in the case of disputes with customs;
- d) the establishment of a single window;
- e) publication of trade regulations and
- f) accelerated and simplified procedures for release and customs clearance of goods.

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?

There is little documentary evidence sustaining claims of discrimination between locally-produced goods and imported produce. It is reasonable to expect that discriminatory trade practices would be limited to the few industries that exist in Libya. In general Libya is highly-

dependent on imported goods and services tendered by government-procured international services. The Libyan industry is clustered around the following product categories:

Cigarettes, biscuits, pasta products, pastries, plastic, steel, traditional carpet weaving.

- 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? Please also refer to the detailed questions under section C) below regarding transparency.

BUSINESSEUROPE members do encounter significant problems due to a lack of transparency. Problems are encountered across the administration particularly vis-à-vis the proper customs documentation required by the Libyan authorities.

6) Questions on trade defence instruments (anti-dumping, anti-subsidy and safeguards)

- a) Did you have any experience related to the use of trade defence instruments in Libya (anti-dumping, anti-subsidy or safeguards)?
- b) Did you notice particular difficulties in communicating with and/or receiving information from its administrations dealing with those instruments?

The best lines of communications with the Libyan trade authorities is through a local customs agent or else through the national shipping company as the official channels of communication are particularly difficult to charter for foreign business operators.

- c) Have you encountered market distortions (subsidies, pricing policies) in Libya which should be addressed by e.g. trade defence measures or other types of measures or which create structural trade difficulties?

Yes, there are considerable market distortions. Some of these market distortions, such as the manipulation of raw material prices, could be targeted by trade defence measures.

The price of bread is fixed by the government, flour is being subsidised by ENMA. This limits the potential benefits of Libyan bakers and therefore their willingness to work towards higher quality standards.

7) Technical Barriers to Trade

Technical Barriers to Trade (TBT) refers to conformity assessment systems, technical regulations, standards, testing and certification procedures.

Please respond with yes/no and where possible provide comments to expand on the replies to the following issues. Comments are particularly welcome if industry considers that some or any of the areas should take priority in the TBT discussions.

- 1) Are TBT a problem in exporting your products to Libya?

Yes. BUSINESSEUROPE advocates the prioritisation by the EU of the removal of technical and non-tariff barriers across all of the FTAs. In many markets such barriers provide an extremely high effective level of protection to partner country industry and can constitute the principal block on EU exports.

In the past, exports to public sectors in Libya had to be submitted to strict pre-shipment controls organised by Libyan control companies with demanding inspectors. This was a control that was very expensive and should be avoided in the future.

- 2) If you have encountered TBT problems with Libya can these be explained as being specific (specific "cases", i.e. specific obstacles arising from a specific rule for a specific product) and/or more of a systemic nature (anything that would qualify as a systemic obstacle related to technical regulations in general or across broad product boundaries).

There is scarce information on TBT application in Libya. What we know for sure is that if there is any consultation with traders on TBTs this would be done via the General People's Committees and we can safely assume that foreign operators have no clear regulatory channels where to address their recommendations. BUSINESSEUROPE insists that both specific and systemic issues are tackled by the EU in the FTA negotiations.

- 3) Does Libya have a public comments procedure for proposed technical measures, to which industry can submit comments?
- 4) Do importers (or domestic industry of Libya) have other opportunities to submit comments during the drafting of new technical measures, before the proposal is adopted?
- 5) In your experience, are comments made by stakeholders taken into account?
- 6) Based on the benchmark set by the TBT Agreement do the following issues pose particular problems with regard to export?

All of these issues arise in one form or another across the FTA partner countries.

- transparency in the drafting procedure (of new measures)
- poor alignment to international standards
- short implementation periods
- discriminatory treatment
- labelling
- standards (e.g. burdensome, unnecessary)
- regulations (e.g. burdensome, unnecessary)
- conformity assessment (e.g. burdensome, unnecessary)
- proportionality
- documentation required (e.g. burdensome, unnecessary)

With your knowledge of the technical regulations, standards and conformity assessment systems both in the EU and Libya do you have any recommendations for solutions which would facilitate trade? Please indicate whether you consider that your solution would be achievable within the provisions of current regulatory systems applied in the EC and Libya currently or if a change of the systems or legislative framework would be necessary.

8) Sanitary and Phytosanitary Measures (Agricultural products, fish and fishery products)

An SPS chapter with an adequate enforcement mechanism would discourage arbitrary and discriminatory recourse to import restrictions and should be included in EU FTAs.

B. TRADE IN SERVICES AND INVESTMENT

- a) What are the main barriers that your sector encounters in cross-border services trade with Libya?
- b) What are the main barriers that your sector encounters in establishing a commercial presence in the primary, secondary or tertiary sector in Libya?
- c) What are the main barriers that your sector encounters with regard to the temporary movement of natural persons for business purposes in the primary, secondary or tertiary sector in Libya?
- d) Do you observe any self-imposed constraints relating to environmental and social aspects of sustainable development, in the context of investment or services trade, which it would be to your advantage to see generalised or codified in Libya? And if so, which?
- e) Do you encounter problems due to lack of transparency e.g. lack of publication of legislation or other documents relevant for your trade behaviour? Please also refer to the detailed questions under section C) below regarding transparency.

BUSINESSEUROPE's priorities are the removal of investment restrictions for industry and services, the liberalisation of cross-border services trade and the facilitation of access of key personnel for both industry and services.

Besides the removal of investment restrictions another key priority should be trade facilitation in terms of easing the everyday conduct of business including basic services such as business licensing processing by the Libyan authorities and the freedom of movement of persons where the delivery of services is concerned.

Overall business is particularly keen to ensure that there is liberalisation of services linked to manufacturing exports such as distribution services (which can have a major impact on wider market access in certain industries), as well as infrastructural services such as construction, communications, financial services, computer and related services and the full range of professional services, including legal services. BUSINESSEUROPE also supports the more detailed submission of the European Services Forum on these issues. As previously stated, a negative list approach is BUSINESSEUROPE's favoured strategy for FTA negotiations on services. Given that the Commission is, however, using a positive list approach it is imperative that it ensure partners do not use the positive list to avoid negotiations on sectors of offensive interest to European companies.

C. REGULATORY ISSUES

GENERAL: To the extent applicable, please also reflect on problems you face due to lack of transparency like lack of publication of legislation or other documents relevant for your trade behaviour? In particular:

- a) Is information on trade-related regulations and their administration published and readily available, including on laws and regulations, procedures, penalties, appeal procedures, administrative guidelines and practice, decisions, and agreements with Libya where relevant.

No

- b) Is information made available in a readily accessible way, including through websites?

No

- c) Are there enquiry points available and accessible to interested parties (including through web-sites) which help making information on trade-related regulations and their administration available?

No

- d) Other requirements, suggestions concerning the availability of information?

- e) Are the intervals between publication and entry into force sufficient to allow interested parties to become acquainted with and well prepared for complying with them?

Not sufficient, no prior notice is provided.

- f) Are appropriate opportunities offered for prior consultation and commenting on new and amended rules?

- g) Are there effective consultation mechanisms between interested parties and government? Are there any areas or sectors where consultation could be improved?

Everything is decided at General People's Committee level.

- h) Are advance rulings available from the administration (like for trade in goods on customs classification and origin)?

- i) Are there adequate complaints possibilities and appeal procedures?

No

- j) Are the appeal procedures adequate in terms of non-discrimination, transparency, possibility for representation by independent legal counsel, cost and timelines?

- k) Other comments on the administration of trade related regulations, including on the use of discretion, system of penalties, coordination and control mechanisms?

Please specify any shortcomings which you identify. Where transparency is of a particular concerns in a specific field (e.g. concerning technical barriers to trade – point A) 7 above, sanitary and phytosanitary measures – point A) 8 above, or specific regulatory areas below). Where available, please identify best practices (like existing information and transparency mechanisms in Libya) that could serve as reference or starting point.

As the levels of tariff and border protection around the world become gradually lower the significance of the barriers created by domestic regulation increases. Non-tariff barriers take the form of customs barriers and export restrictions but are also the result of discriminatory or divergent regulation and standards, particularly for highly regulated sectors. FTAs must seek to address this, in both guaranteeing full implementation of the principle of national treatment as a minimum and through setting a course towards regulatory convergence - around transparent, predictable, proportionate and science-based regulation. Strong disciplines on domestic regulation should be an element of all FTAs, and this should cover transparency, predictability, right of appeal, as well as impact and risk assessment.

1) INTELLECTUAL PROPERTY

1. Are you satisfied with the current conditions of protection and enforcement of intellectual property rights (IPR) in Libya? Please explain briefly nature/scope of problem, if any?

BUSINESSEUROPE is not satisfied with the current conditions. Stricter controls on the sale of counterfeit products in Libya should be a priority for the EU. The situation on the ground is that there are simply no IPR-enforcement rules. IPR is virtually non-existent in the Libyan regulatory environment.

2. Is an adequate and effective protection and enforcement of IPR in the country essential for the prosecution of your trading activities there?

For a huge range of EU industries IPR protection with trading partners is essential to carrying out international trade. Libya is not a major producer of counterfeit products but there are concerns about the sale of imported counterfeit products on the local market.

3. Please indicate whether you consider the intellectual property issues as priorities:

All of these issues arise in one form or another across the FTA partner countries.

- (a) Copyright and related rights
- (b) Trademarks
- (c) Geographical Indications (GIs)
- (d) Designs
- (e) Patents
- (f) Data protection
- (g) Plant variety
- (h) Enforcement

4. Please indicate one particular aspect of intellectual property protection or enforcement that you would wish to see addressed in a trade agreement.

4-1. Have you encountered problems in protecting/enforcing your IPRs in Libya? If yes, how did the protection/enforcement mechanisms function in this country? Did you encounter difficulties in protecting/enforcing your rights being a foreigner in Libya?

4-2: Did you use the services of an IP agent or lawyer in this country? How do you judge their competence, time for reaction, costs and fees?

4-3: Did you participate in meetings/seminars on awareness in IPR? If yes, what was the reaction/opinion of competent authorities, public or private entities?

4-4: According to your experience/knowledge of the technical capacities of the Libyan industrial/services sector, do you think that trading in technology and technology transfer may be an important aspect to develop in the future FTA with this country?

Implementation of a comprehensive system of IPR protection in partner countries is vital and in BUSINESSEUROPE's view can go beyond current of protection agreed in TRIPS to better protect EU enterprises against IPR infringements where necessary.

2) COMPETITION POLICY

a) Have you encountered any anti-competitive practices in these markets (cartels, abuse of dominant position, vertical or horizontal restrictions of competition) that are harming your business? If yes, describe briefly the nature of the practices and the problems encountered.

Competition Policy – The Libyan market is a controlled economy where instance of abuse of dominant positions are profuse.

b) Have you brought these problems to the attention of the relevant competition authority? If yes, what has been their response/follow up and how have decisions been enforced?

There is no dispute resolution mechanism much less a competition authority.

c) Government subsidies to imported products into the EU can be dealt with by trade defence instruments (countervailing measures- Question A) 6). However, subsidies may have trade effects outside the EU which cannot be addressed by such measures. Are you aware of instances where government subsidies or state aids to firms in Libya have made it more difficult for you to compete, both in their domestic market and in export markets? If so, please describe the nature and the subsidies involved (e.g. export rebates, tax/duty exemptions, below-market loans) and give an estimate of their amount. What steps have you taken to raise this matter, either in Libya concerned or with the appropriate authorities in the EU?

We are aware of substantial government subsidies for the main fledgling Libyan industries – pasta and sugar. The role of the state in the Libyan economy is a particular concern.

3) GOVERNMENT PROCUREMENT

Libyan public procurement is very fragmented with instances of government agencies including large quangos in the oil and gas sector such as the National Oil Corporation (NOC) operating via various decentralized bodies each making their own procurement arrangements.

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

a) Are you satisfied with the current conditions of access to the national procurement market?

No. Tenders should be more open and more transparent. Any rules or regulations that prevent European companies applying for the national procurement market should be prohibited.

The European public procurement is already very open; therefore we call for reciprocity in this area. Libya is a potential market for infrastructure project and it should become more open to European companies especially in the area of energy and transport.

b) Are you aware of any existing legislation on government procurement in Libya? Which are your experiences with its practical application?

c) Please indicate whether you consider the following possible elements of a procurement chapter as a priority:

In the following order:

(1) National and MFN treatment

- (2) A single point of entry giving an overview of, and access to, all relevant procurement opportunities in a given jurisdiction
 - (3) Effective review mechanisms including the possibility to obtain interim measures
 - (4) Easy access to the qualification system
 - (5) Transparency in the tendering process
 - (6) Use of international rather than local technical standards
- d) Please indicate which key sectors and procuring entities are priorities for EU suppliers.
- e) Please indicate the key regulatory and market access obstacles faced by EU suppliers when tendering for public contracts. Please specify at what level (central, regional and/or sub-federal).

D. SUSTAINABLE DEVELOPMENT

1) ENVIRONMENT

- a) What are the main environmentally-related issues that your sector encounters in cross-border trade of goods and services with Libya?

None

- b) Are you satisfied with the current level of implementation of environmental legislation?

There is little if any respect for environmental protection/standards. Street cleaning is only regularly maintained in the institutional areas in Tripoli and Benghazi and in the vicinity of the largest hotels in the city centres.

- c) Please indicate whether you consider the following possible elements of an environment chapter as a priority:

- (1) Membership of multilateral environmental agreements
- (2) Effective enforcement of domestic legislation
- (3) Effective implementation of international environmental agreements

None. BUSINESSEUROPE notes that exports tend to lead to improvements in enforcement of environmental rules and regulations. BUSINESSEUROPE further believes that the respective secretariats of the multilateral environmental agreements hold responsibility for overseeing enforcement of their internationally agreed rules.

- d) What provisions in a trade agreement would you consider conducive to better local compliance with environmental legislation?

2) SOCIAL/LABOUR

- a) What are the main social/labour-related issues that your sector encounters in cross-border trade of goods and services with Libya?
- b) Are you satisfied with the current level of implementation of social/labour-related legislation?
- c) Please indicate whether you consider the following possible elements of a social/labour chapter as a priority:

(1) Signature of ILO Conventions on core labour standards

(2) Effective enforcement of domestic legislation

(3) Effective enforcement of ILO core labour standards

- d) What provisions in a trade agreement would you consider conducive to better local compliance with social/labour legislation?

With regards to the ILO, **BUSINESSEUROPE** notes that exports tend to improve the economic conditions for workers. **BUSINESSEUROPE** further believes that the International Labour Organisation holds responsibility for enforcement of internationally agreed rules on labour rights.

For business, the main social/labour related obstacle to the provision of cross-border trade in goods and services with Libya is the restricted and often unregulated manner by which visas are granted to foreign workers. The Libyan Government also enforces an employment equivalency rule whereby the number of visas granted to a company employing expats on the Libyan territory, the same company is legally obliged the same amount of Libyan nationals irrespective of skills and remuneration levels.

Up to a few years ago a similar rule also applied to foreign firms setting up investment holding companies in Libya whereby such businesses were expected to match their capital with a counterbalancing 50% locally-sourced capital often also entailing co-ownership rights

E. OTHER ISSUES

Are there any other issues that are not mentioned in this questionnaire and that you would like to address?

BUSINESSEUROPE is concerned about the status of Turkey in FTA negotiations. As the EU has a Customs Union with Turkey **BUSINESSEUROPE** is of the strong opinion that Turkey should not be treated any differently than any of the 27 EU members by third countries with which we sign FTAs when it comes to customs issues. Unfortunately it is the experience of our members that the treatment of Turkey has not always been fair in past FTA agreements. We urge the European Commission to keep this in mind and we invite the European Commission to ask **BUSINESSEUROPE** for specific examples of custom's related incidents.

BUSINESSEUROPE is worried about the World Trade Organisation's "Most Favoured Nation" (MFN) clause in relation to a Libyan FTA. The European Commission has yet to give us a satisfactory answer that an FTA with Libya as a non-WTO member will not have direct implications for our dealings with WTO members through the MFN clause – the result would be that any FTA with Libya would have to be within bounds of the WTO existing rules on duties and tariffs, perhaps limiting the scope of the possible FTA.