

RESULTS OF THE STAKEHOLDER CONSULTATION

(ANNEX 2 TO THE COMMISSION IMPACT ASSESSMENT ON THE CUSTOMS UNION MODERNISATION WITH TURKEY)

http://ec.europa.eu/smart-regulation/impact/ia_carried_out/cia_2016_en.htm#trade

Online public consultation on the future of EU-Turkey trade and economic relations

The European Commission has actively engaged with stakeholders and conducted a comprehensive online public consultation in view of the future modernisation of trade and economic relations between the EU and Turkey, as envisaged in the [Consultation Strategy](#).

This report summarizes the main results of the online public consultation.

On 16 March 2016, the European Commission launched an open online public consultation with a view to collecting stakeholders' input with a view to modernise the EU-Turkey trade and economic relations. Respondents were invited to respond to 41 questions covering a wide range of themes concerning trade between the EU and Turkey, including the modernisation of the current agreement, customs practice, trade barriers, public procurement, competition law, intellectual property rights and the impact that a new agreement would have on social rights, human rights and the environment.

The Commission received 169 eligible responses to the online public consultation, mainly from companies and business associations.

Overview of respondents

Overall, 169 responses were received¹. They were submitted mainly by companies (101 respondents, or 60% of all replies) and business associations (57, or 34%). Four NGOs (2.4%), four private citizens expressing their personal view (2.4%), two public authorities (1.2%) and one think tank (0.6%) also took part in the consultation.

A comprehensive range of sectors was represented in the replies, both as regards companies and business associations. All sizes of companies were represented, from micro enterprises (less than 10 employees) to large enterprises (250 or more employees).

In terms of geographical distribution, most respondents were based in the EU (125, or 74%). The rest of the replies (44, or 26%) were submitted by stakeholders established outside of the EU, with Turkey (22, or 13% of total replies) and China (16, or 9% of total replies) accounting for largest parts.

The majority of respondents were involved in trade between the EU and Turkey (68%). About a quarter of EU and Turkish respondents (27%) had investments in the other party (EU investment in Turkey, or Turkish investment in the EU). As regards the main export destinations by all the respondents, the EU was the most popular destination (for 42% of the respondents), followed by Turkey (25%), the USA (21%) and China (12%).

¹ Out of the total 173 replies 2 were excluded because they were duplicates, while 2 respondents did not identify themselves, thus invalidating their replies.

Limitations of the consultation

Firstly, as in any such online public consultation, **the replies submitted by the respondents cannot be regarded as a representative sample of all stakeholders**. This is natural given the form of this method of consultation (including that the number of questions and the length of the questionnaire has to be balanced with the aim to collect as much and comprehensive information as possible, in a period of three months).

Secondly, as mentioned above, **the vast majority of respondents were either companies (101) or business associations (57)**. This means that 158 out of the 169 eligible replies were provided by this type of respondents. This is in a way natural in view of the most direct interest of this group of stakeholders in the process of modernising the EU-Turkey bilateral trade and economic relationship.

Accordingly, the results of the public consultation should be interpreted in this context, i.e. that most of the replies were submitted by parties that view the process from the business perspective, while it provides much more limited inputs as regards the perspectives of other groups of stakeholders.

Thirdly, it should be recalled that this Impact Assessment Report is aimed at supporting the Commission's recommendation to open negotiations and negotiate with Turkey, without knowing the eventual outcome of the negotiations. **The potential economic, social, human rights and environmental impacts of the eventual agreement will be examined by means of an independent Sustainability Impact Assessment (SIA)**, which will be carried out by external consultants simultaneously with the negotiations.

The SIA will rely on a wide-ranging, continuous consultation of stakeholders – notably civil society – in the EU and in the partner country. The SIA will be finalised ahead of the initialling of the agreement and its findings will feed into the negotiating process. The SIA will aim to: (a) assess the likely effects of the agreement on sustainable development and human rights in the EU, Turkey and other relevant countries, especially Least Developed Countries (LDCs); and (b) to make recommendations and propose flanking measures to maximise the benefits of the agreement and prevent or minimise potential negative impacts.

Summary of the respondents' contribution by issue

1. Overall satisfaction and awareness of the EU-Turkey bilateral trade and economic relations

The results of the public consultation show a good awareness among participants of the bilateral trade framework between the EU and Turkey. Almost all participants are aware of the existence of the customs union and the majority of them are also aware of the preferential trade agreement on agricultural and fishery products and the free trade agreement on coal and steel products.

Concerning the effectiveness of the bilateral preferential trade framework, the majority of respondents are of the opinion that the objectives of the Customs union, i.e. free movement of industrial goods, Turkey's regulatory alignment with the EU in areas of direct relevance for the customs union, and Turkey's alignment with the EU's commercial policy towards third countries were partly achieved, while the majority of the respondents had no opinion regarding the achievement of objectives of sectorial agreements, i.e. liberalisation of trade in agricultural fisheries products and free trade for coal and steel products. As far as cost-effectiveness of the bilateral preferential trade framework between the EU and Turkey is concerned, a part of the respondents were not able to assess it by choosing the reply "I do not know".

As regards the overall satisfaction of the current state of bilateral trade and economic relations between the EU and Turkey, the majority of the respondents considered it either to be not satisfactory or to be only partly satisfactory. Only a very small number of respondents were fully satisfied with the current situation.

Similarly, the majority of the respondents reported that the EU-Turkey trade and economic relations partly addressed their needs and that further improvements could be made. Other respondents indicated that the EU-Turkey trade and economic relations did not address their needs.

Finally, the majority of the total number of the respondents deemed the current framework of EU-Turkey economic relations to be coherent or partly coherent with the EU's current commercial policy. Other respondents either stated that the current framework of EU-Turkey economic relations is not coherent or did not have an opinion (or did not reply).

2. Problems identified by the respondents

2.1 Customs, tariffs, rules of origin

2.1.1 Customs

The majority of the respondents indicated that there are problems with current practices in customs procedures and border enforcement in the context of the existing EU-Turkey trade and economic relations. Only a small part of the respondents believed that there are no problems as regards current practices in customs procedures and border enforcement.

The results of the public consultation show that the most common problems in Turkey are disproportionate administrative burdens, inspections and controls during clearance, documentary requirements (including A.TR. certificates) and transparency/publication of relevant regulations. As regards the EU, the participants indicated the following issues as problematic: lack of uniformity in applications of procedures, lack of co-ordination between the different border agencies, lack of mutual recognition of authorised economic operators, as well as inspections and controls during clearance.

As regards trade in industrial products, almost all respondents who considered this area to be relevant for their activities indicated that they use the A.TR. movement certificate in order to benefit from the customs union. About half of them reported that they have difficulties in using it. Respondents experiencing difficulties with A. TR. movement certificate reported that goods are sometimes unduly subject to added duties, especially when they enter Turkey via the EU from third countries. According to them, electronic filling and processing of A. TR certificates would also simplify transactions.

2.1.2 Tariffs in trade in agricultural and fishery products

The large majority of the respondents involved in trade in agricultural and fishery products reported that they would like to export to Turkey but are prevented from doing so due to the high level of import duties.

In addition, the majority of respondents representing this sector indicated that they use the preferences set by the related EU-Turkey preferential agreement. The participants who reported of not using the preferences indicate different reasons for doing so, including the fact that the preferences available are limited and they do not have access to the quota, that the procedures are too complicated or that there are no preferences available for their products.

2.1.3 Tariffs in trade in coal and steel products

The majority of respondents who are involved in trade in coal and steel products indicated that they use the preferences set by the related EU-Turkey free trade agreement. The most common reason why

participants did not use the preferences set by the related EU-Turkey free trade agreement is that the procedures to be followed in order to obtain the preferences are too complicated.

2.1.4 Rules of origin for agricultural, fishery, coal and steel products

The majority of respondents who trade in agricultural and fishery products, or trade in coal and steel products, considered that there are problems with rules of origin. According to most of them, the problems could be mitigated by reviewing the rules of origin requirements and certification procedures in order to take into account the latest developments in EU trade agreements with other countries. Other respondents also suggested tackling the problems on rules of origin by facilitating the obtaining of certificates of origin.

A slight majority of respondents who had an opinion on the issue reported that they do not make use of the system of Pan-Euro-Mediterranean cumulation of origin.

2.2 Non-tariff measures (trade barriers)

The results of the public consultation show that technical barriers to trade are a major concern to respondents, as they have a strong negative impact on trade activities. In fact, according to the large majority of participants, the differences between EU and Turkish regulations or standards hinder trade activities. Most respondents indicated that trade barriers arise from divergent standards, technical regulations and conformity assessment procedures.

2.2.1 Technical barriers to trade

Participants from a wide range of industrial sectors expressed serious concerns about the technical barriers that currently hinder trade between the EU and Turkey as these raise costs for exporters and cause delays in the delivery of goods. These sectors include – but are not limited to – industries involved in the production of footwear, sporting goods, pharmaceuticals, cars, agricultural machines, alcoholic beverages and cosmetics. These barriers are mainly caused by technical regulations and conformity assessment procedures that are not harmonised with EU standards and lead to additional burdens and requirements for European exporters.

In order to tackle the problems of technical barriers to trade, most respondents indicated the following potential solutions: establishing mutual recognition of certificates or legislation, increasing transparency, and promoting good regulatory practice and seeking compatibility and convergence of technical regulations through the application of EU standards. A large number of respondents also encouraged streamlining testing and certification requirements through the adoption of risk-based conformity assessment procedures.

2.2.2 Sanitary and phytosanitary measures

Participants in the public consultation highlighted a series of concerns as regards sanitary and phytosanitary measures. For example, respondents complained that Turkey's failure to implement OIE legislation (article 8.3.8) on beef trade caused decrease in exports of bovine and a loss of revenues for exporters in this sector. Respondents also expressed concern as regards the different standards of animal welfare legislation between the EU and Turkey. Finally, respondents indicated that the non-harmonisation and the application of different regulations, relating to agricultural commodities, undermine and disrupt the integrity of the customs union. The absence of a functioning regulatory procedure in Turkey to manage requests for authorisation of cultivation and imports of GMOs authorised in the EU is of major concern for European traders.

In order to tackle trade barriers related to sanitary and phytosanitary measures, respondents suggested potential solutions such as (i) establishing appropriate mechanisms to facilitate trade (such as:

harmonisation, equivalence, risk analysis and assessment, regionalisation, control, inspection and approval procedures, audits (including allocation of costs), import checks (including inspection fees), alternative and/or emergency measures, recognition of the EU as a single entity, the possibility for approval of establishments without prior inspection), as well as (ii) ensuring that SPS measures are based on EU standards, and (iii) ensuring that SPS measures are based on the WTO SPS Agreement, such as risk analysis, equivalence, regionalisation, control, inspection, and approval procedures.

2.2.3 Other barriers to trade

The results of the public consultation also shed light on other barriers to trade. Respondents indicated further problems such as the lack of application of the customs union to Cyprus, and difficulties in the legal recourse at Turkish courts in case of contract breach by a Turkish trade partner.

Almost all respondents who indicated other barriers to trade as an issue to be dealt with agreed that a modernised trade agreement between the EU and Turkey should address measures designed to protect, favour or stimulate domestic operators at the expense of imported goods, services, or foreign-owned or foreign-developed intellectual property.

2.3 Services, Investment

2.3.1 Trade in Services

The majority of respondents who had an opinion on this issue reported that there are barriers to trade in services between the EU and Turkey. Only a small part of all respondents indicated that there were no barriers to trade in services. According to the results of the public consultation, the most common effects of these barriers are that they discriminate in favour of domestic service providers, they discriminate against cross-border service provision, and they affect the ability of foreign service providers to establish physical presence or require to supply services with local participation.

The barriers to trade in services result in increased costs and cumbersome procedures for a wide range of industries. Some of the recurring problems across industries are caused by the complex Turkish taxation system, free currency tradability and the difficulties of intra-province/intra-corporate movement of workers. Participants also expressed concern on legal agreements by locally-established banks that do not comply with international regulations and on the Turkish postal service law, which established a partial monopoly.

2.3.2 Investment

The majority of respondents who had an opinion on this issue reported that there are no barriers to direct investment flows from Turkey to the EU. However, the majority of respondents that had an opinion on this issue reported that there are barriers to direct investment flows from the EU to Turkey.

The picture is similar as regards the question of discriminatory treatment of investors: while the majority of respondents that had an opinion on this issue reported no problems in the EU, a considerable number of them indicated that they encountered such problems in Turkey. In addition, the majority of respondents who mentioned encountering problems indicated that they were not able to successfully deal with them following their contacts with the Turkish authorities.

2.4 Intellectual Property Rights, Public Procurement, Competition

2.4.1 Intellectual Property Rights

The majority of respondents who had an opinion on this issue reported that there are no problems as regards the protection and enforcement of intellectual property rights in the EU. On the contrary, they stated that these problems are present in Turkey. Respondents highlighted that the level of protection

of intellectual property rights in Turkey is not equivalent to that in the EU, and encouraged further alignment.

According to them, the most common issues about intellectual property rights are related to enforcement (due to difficulties in obtaining search warrant and to the overload of specialised courts), copyright and related rights, regulatory data protection, trademarks and patents. Transparency and protection of GIs were also recurrent concerns.

2.4.2 Public Procurement

The majority of respondents who had an opinion on this issue reported that there are no difficulties for Turkish companies to access the public procurement market in the EU. In contrast, almost all respondents stated that EU companies encounter difficulties when trying to access the public procurement market in Turkey. The results of the public consultation show that the main problems are the preferential regime for domestic suppliers, the lack of transparency on procurement opportunities (for example, information on public procurement contracts is not easily accessible), local content requirements, and lack of clarity on the applicable rules or procedures.

As regards the preferential regime for domestic suppliers, domestic candidates in Turkey enjoy a significant advantage in public tenders. More specifically, foreign companies registered several problems such as a price advantage of up to 15% for domestic suppliers, difficult procedures for obtaining documents (work experience certificates and work completion certificates), and e-procurement registration.

2.4.3 Competition

According to the majority of respondents who had an opinion on this issue, the current regulatory framework does not ensure fair competition in Turkey. Participants in the public consultation indicated that these problems are caused by the fact that Turkish enterprises are granted special or exclusive rights or privileges, by state aid practices, and by vertical and horizontal restrictions of competition.

As regards more specific issues, various respondents expressed concerns as regards the implementation of the competition chapter of the bilateral preferential steel free trade agreement, notably as regards state aid provided to the steel industry. Besides, the use of trade defence instruments such as safeguard measures was recurrently indicated by respondents as a problem.

3. Respondents views on an updated EU-Turkey trade and economic relationship

3.1 What should be covered by the new Agreement?

3.1.1 What should be the objectives and priorities of the new Agreement?

Respondents highlighted several problems in the current trade and economic relationship between EU and Turkey. For example, recurring issues are the Turkey's difficulty in completing free trade agreements with all those third countries with which the EU has also concluded free trade deals, as required by the rules of the customs union, the reduction of tariff barriers and the full application of the Customs Union Agreement to Cyprus.

According to the respondents, the most important topics that the new trade agreement between the EU and Turkey should cover are the following: trade facilitation, technical barriers to trade, trade and sustainable development, dispute settlement, and competition.

3.1.2 What should be developed to address the problems of EU or Turkish SMEs?

The majority of respondents who had an opinion on this issue reported that SMEs encounter more problems in Turkey rather than in the EU. In view of the planned modernisation of the EU-Turkey

trade and economic relations, participants indicated that the most pressing issues for SMEs are customs procedures, tariff barriers, technical barriers to trade, protection of intellectual property rights and rules of origin.

Most respondents who had an opinion on this issue believed that an updated EU-Turkey trade and economic relationship could lead to the following potential benefits for SMEs: increased business cooperation between European and Turkish companies, more output and employment thanks to increased exports, lower costs for import requirements, and facilitation of trade thanks to converging standards.

3.1.3 Further comments on what the new Agreement should cover

The majority of respondents stated that an updated EU-Turkey trade and economic relationship should lead to more cooperation of both parties in order to promote adherence to internationally agreed principles, rights, and agreements on labour and the environment.

In addition, the majority of respondents stated that a revised trade agreement between the EU and Turkey should include specific provision on energy and raw materials (for example, measures aimed at increasing transparency, ensuring non-discrimination and limiting anti-competitive practices).

Finally, almost all respondents who had an opinion on whether a revised agreement should include provisions on improving future regulatory coherence were in favour of the idea.

3.2 What could be the potential impacts of an updated trade and economic relationship?

As a preliminary remark, **the limitations of the public consultation explained above should be recalled here, as regards the potential social, environmental and human rights impacts (points 3.2.2, 3.2.3 and 3.2.4 below)**. As stated above, the vast majority of respondents were either companies or business associations; consequently, the results of the public consultation should be interpreted in this context, i.e. that most of the replies were submitted by parties that view the process *from the business perspective*, while it provides much more limited inputs as regards the perspectives of other groups of stakeholders. Also, as explained above, the potential economic, social, human rights and environmental impacts of the eventual agreement will be examined by means of an independent *SIA* which will be carried out by external consultants *simultaneously with the negotiations*, relying on a wide-ranging, continuous consultation of stakeholders – notably *civil society* – in the EU and in Turkey.

3.2.1 Potential impact of trade liberalisation on consumers

Almost all respondents who had an opinion on this issue agreed that the reduction of barriers to trade between the EU and Turkey would have an impact on consumers. Respondents expected a positive impact both on consumers in Turkey and on European consumers.

As regards EU consumers, respondents indicated that the reduction of barriers to trade would lead to a wider choice and availability of goods and services, lower prices of goods and services for end-users, better quality of goods and services and more available information. However, a large number of respondents thought that the reduction of barriers would have no impact on the quality of goods and services for EU consumers.

As for the impact on consumers in Turkey, a positive impact in all the same areas as expected for EU consumers. In addition, according to the respondents, Turkish consumers would also enjoy an improvement in the safety of goods and services available to them.

3.2.2 Potential social impact from the reduction of trade barriers (see preliminary remark under 3.2)

The majority of respondents who had an opinion on this issue agreed that the reduction of trade barriers between the EU and Turkey could lead to a social impact, although with a stronger effect on Turkey rather than on the EU. About a third of all respondents stated that they had no opinion on whether the reduction of trade barriers would have an impact on social affairs and on human rights.

With regards to the social impact in the EU, the majority of respondents expect a positive impact thanks to an increased number of jobs, higher wages and higher social incomes. However, in other areas such as social protection, poverty reduction and labour standards, the majority of respondents indicated that the reduction of trade barriers would have no significant impact.

As regards Turkey, the majority of respondents indicated that the reduction of barriers would lead to a positive social impact in all areas. According to them, the reduction of trade barriers would lead to more and better jobs, higher household income and the reduction of poverty. In addition, they also indicated that labour rights, such as the freedom of association and the effective recognition of the right to collective bargaining, as well as the social dialogue, would be improved.

3.2.3 Potential human rights impact (see preliminary remark under 3.2)

The majority of respondents who had an opinion on this issue agreed that, in general, the reduction of trade barriers would have no significant impact on human rights protection in the EU. In contrast, the majority of participants stated that they expect a positive impact in Turkey, especially as regards the right to just and favourable conditions at work, and the right to an adequate standard of living.

3.2.4 Potential environmental impact from the reduction of trade barriers (see preliminary remark under 3.2)

The majority of respondents who had an opinion on this issue stated that the reduction of trade barriers between the EU and Turkey could lead to an impact on the environment. However, about two third of the respondents did not express their views on the environmental impact. Either they stated that they had no opinion on this issue or they did not reply. Similarly, the majority of respondents did not express their opinion on the specific areas that would see an impact from the reduction of trade barriers.

As concerns the expected environmental impact in the EU, a slight majority of respondents who had an opinion on this issue indicated that they expect a positive impact, except for greenhouse gas emissions, where they expect no impact.

In contrast, as regards the environmental impact in Turkey, the majority of respondents who had an opinion on this issue expect a positive effect in all areas, including on the level of greenhouse gas emission and pollutants, as well as the greening of the economy.
