

P-1618/08EN
Answer given by Mr Borg
on behalf of the Commission
(18.4.2008)

The Commission is aware of the incident involving the Italian-flagged fishing vessel "Vito Manciaracina", based in the Sicilian port of Mazara del Vallo. However, the Commission has not been informed of the exact position of the vessel at the moment of its arrest by a Libyan patrol vessel. It is only aware that the arrest allegedly took place in waters that are claimed by Libya as part of her fisheries protection zone.

The controversy regarding the status of the waters off the Libyan coast above the Gulf of Sirte concerns the establishment of baselines by Libya for the determination of the seaward breadth of its territorial waters (12 nm from baselines) and the fisheries protection zone (62 nm from the limit of the territorial sea, or 74 nm from the baselines). These maritime claims by Libya stem from Resolution No (104) of the General People's Committee, issued on 20 June 2005, on the "Straight Baselines of the Libyan territorial waters and sea areas" and from Resolution No (105) of the General People's Committee, issued on 21 June 2005, on the "Definition of Libyan Fisheries Protection Zone in the Mediterranean Sea". Under these Resolutions, Libya considers that the waters of the Gulf of Sirte form an integral part of Libya's territory and Libya therefore measures the breadth of its fisheries protection zone as from a straight line that cuts across the geographical ends of the Gulf. However, under the U.N. Convention on the Law of the Sea (UNCLOS), the Gulf of Sirte does not fulfil the conditions for it to be considered as internal waters of Libya and hence for the baselines to be drawn from that point. For an expanse of water to be considered as a bay and hence internal waters UNCLOS stipulates that the base line is not longer than 24 nm whereas the base line in the case of the gulf of Sirte is of almost 300 nm.

Although Libya is not a party to the UNCLOS, its provisions are acknowledged, including by Libya, as codifying international customary law.

The views of the European Union with regard to this issue have been repeatedly presented to Libya, most recently by means of a note verbale delivered by the EU Presidency in December 2005. The response given by Libya to this demarche is a reaffirmation of their position that the Gulf of Sirte constitutes an historic gulf not covered by the rules of the UNCLOS.

With regard to the powers of the Commission to act in the present case, it is necessary to recall that matters pertaining to the determination of the maritime space under the sovereignty or jurisdiction of the coastal State fall within the competence of Member States as they relate to the administration of national territory. When such issues arise in an international context, the competence of Member States extends to international negotiations or demarches, such as the case of the Libyan baselines. This is the reason why the various diplomatic demarches undertaken with respect to Libya were either joint EU demarches or were made by individual Member States. This being said, the Commission has been associated to the development and the implementation of these initiatives.

The Commission is also actively developing the basis for a structured dialogue with Libya in matters of reciprocal EU-Libya interest through a framework agreement.

In the meantime, the situation of the crew of the Vito Manciaracina is of concern to the Commission. These kinds of situations, however, should be addressed at the consular level by the flag Member State concerned, and the Commission is aware that the competent Italian authorities have taken the necessary steps in this respect.