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COMMUNICATION FROM THE COMMISSION

**Annual Report on the implementation of Council Regulation (EC) 866/2004 of 29 April
2004 and the situation resulting from its application**

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Introduction

Council Regulation (EC) 866/2004 of 29 April on a regime under Article 2 of Protocol 10 to the Act of Accession¹ (hereafter: Green Line Regulation) provides in Article 11 (1) that “*the Commission shall report to the Council on an annual basis, starting not later than one year after the date of entry into force of this Regulation, on the implementation of the Regulation and the situation resulting from its application, attaching to this report suitable proposals for amendment if necessary*”.

The Green Line Regulation has been operational since 1 May 2004. It defines the terms under which the provisions of the EU law apply to the movement of goods and persons across the line between the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus exercises effective control and the areas in which does not.

This report covers the period 1 May 2005 – 30 April 2006.

1. IMPLEMENTING MEASURES

On 3 August 2005, the Commission adopted Regulation 1283/2005 amending Annex I of the Green Line Regulation. On this basis the list of crossing points has been extended by three additional crossing points: *Kato Pyrgos - Karavostasi*, *Kato Pyrgos – Kokkina* and *Kokkina – Pachyammos*.²

On 4 October 2005, the Commission adopted Regulation (EC) No 1624/2005 allowing citrus fruits to cross the Green Line without being subject to customs duties or charges having equivalent effect.³

On 27 February 2006 the Council adopted Regulation (EC) No 389/2006 establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community.⁴ It provides for the legal basis for financing the work of phytosanitary experts and covering costs of other activities facilitating trade across the Green Line.

The Commission is currently working on a Decision on lifting prohibitions and laying down conditions applicable for trade of certain animal products in the framework of the Regulation (EC) No 866/2004, which shall determine conditions for trade in honey and fish across the Green Line.

¹ OJ L 161, of 30 April 2004, p. 128 as amended by Council Regulation (EC) 293/2005 of 17 February 2005, OJ L 50 of 23 February 2005, p. 1

² Commission Regulation (EC) No 1283/2005 of 3 August 2005, OJ L 203 of 4 August 2005, p. 8

³ Commission Regulation (EC) No 1624/2005 of 4 October 2005, OJ L 259 of 5 October 2005, p. 17

⁴ Council Regulation (EC) No 389/2006 of 27 February 2006, OJ L 65 of 7 March 2006, p. 5

2. CROSSING OF PERSONS

According to Article 2 of the Green Line Regulation the Republic of Cyprus “*shall carry out checks on all persons crossing the line with the aim to combat illegal immigration of third country nationals and to detect and prevent any threat to public security and public policy*” whereas Article 3 states that “*effective surveillance shall be carried out by the Republic of Cyprus all along the [Green] Line, in such a way as to discourage people from circumventing checks at the crossing points.*”

The Regulation provides for a stable legal framework for the free movement of Cypriots and other EU citizens who daily cross the line at the crossing points. According to the available data 3,375,409 crossings of Greek Cypriots and Turkish Cypriots altogether were registered in the reporting period (1,195,594 of Greek Cypriots and 2,179,815 of Turkish Cypriots respectively). No incidents were reported as regards the daily crossing of people at the check points.

The growing number of third country nationals (many of them individuals holding a visa from Turkey) crossing the Green Line illegally is raising serious concern. According to the data submitted by the authorities of the Republic of Cyprus the number of illegal immigrants detained after crossing the Green Line increased from 725 in 2002 and reached the level of 3796 in 2003, 5287 in 2004 and 4748 within nine months of 2005. According to the same source, the majority of illegal immigrants apply later for asylum (the number of asylum seekers stepped up from 950 in 2002 over 4410 in 2003 up to 9860 in 2004). The Commission is of the opinion that the surveillance of the line conducted by the Republic of Cyprus pursuant to Article 3 of the Regulation needs further strengthening. The Commission will continue to examine aspects relating to the origin of these illegal immigration trends.

In order to address this problem the Commission's services launched a dialogue with the competent authorities of the Republic of Cyprus at working level. Within this framework a workshop focusing on the problem of illegal migration across the Green Line was organised in Brussels in December 2005 offering the opportunity to exchange information and discuss measures to be taken in the near future. As the representatives of the Republic of Cyprus indicated, the latter may include increase in the number of personnel dealing with migratory flows (also police), establishment of new detention centres for illegal immigrants, purchase of additional equipment for surveillance of the Green Line, introduction of more restrictive rules related to issuance of visa and to rights of asylum seekers, as well as launch of an information campaign aiming to discourage potential illegal immigrants and asylum seekers to enter the areas under the effective control of the Government of the Republic. Whereas a decision on the increase in the number of personnel and of detention centres had already been taken, the agreement on the remaining ones was (at the time of the meeting) still pending and required further discussion within the Government. The Commission recommended that the authorities of the Republic take concrete steps in order to comply with their obligation under the Green Line Regulation, also with a view to the future participation of Cyprus in the Schengen area. Even though the Green Line does not constitute an external border the surveillance obligations on the side of the Republic of Cyprus should be met effectively while at the same time not hindering the contact between the two Communities

3. CROSSING OF GOODS

3.1. Value of trade

Pursuant to Article 8 of the Commission Regulation (EC) 1480/2004⁵ the Turkish Cypriot Chamber of Commerce reported on a monthly basis on the type, volume and value of goods for which it issued accompanying documents.

Accordingly the authorities of the Republic of Cyprus communicated the type, volume and value of goods in monthly reports to the Commission. Those reports included goods that entered the areas under the effective control of the Government through the crossing points of *Pergamos* and *Strovilia*, which are under the authority of the Eastern Sovereign Base Area.

According to the Turkish Cypriot Chamber of Commerce the total value of goods for which accompanying documents were issued in the reporting period, amounted to €2,237,869 whereas the value of goods actually traded was about €1,933,067.⁶ The Commission was informed that due to cancellation of some orders not all the applications submitted to the Turkish Cypriot Chamber of Commerce were followed later by issuance of accompanying documents. Moreover as the documents were sometimes issued for an estimated and not an exact quantity of goods (as e.g. was in the case of vegetables) the quantity and therefore also the value of goods which finally crossed the line was smaller than the figures mentioned in the accompanying documents (another reason was a resignation of the potential customer).

Furthermore, a difference exists between the value of goods crossing the line as reported by the Turkish Cypriot Chamber of Commerce and the value reported by the Republic of Cyprus.⁷ Whereas the former was €1,933,067, the latter amounted to €1,734,770.⁸ The Commission was informed that the accompanying documents were not always presented or checked when the goods were crossing the line.

In comparison to the previous reporting period figures show an increase in the total value of goods crossing the Green Line. According to the reports provided by the Turkish Cypriot Chamber of Commerce, the total trade value of goods which actually crossed the line was about €1,933,067 compared to €1,000,617 in the last reporting period (however, it is to be noted that the previous reporting period was shorter as the Green Line Regulation became fully operational only in August 2004). The monthly average value of traded goods has significantly increased from €99,000 in the last reporting period, to €161,089.

3.2. Type of goods

The figures on the types of traded goods show a limited number of new products crossing the line (e.g. electronic equipment and kitchen equipment), however their introduction contributed in some cases to a significant (though temporary) increase in the monthly trade value.⁹

⁵ Commission Regulation (EC) 1480/2004 of 10 August 2004, OJ L 272 of 20 August 2004, p. 3

⁶ see Annex III

⁷ see Annex IV

⁸ see Annex II

⁹ Annex VI (see the values for February and March 2006)

As in the previous reporting period wooden products, furniture, vegetables, electronic equipment, plastic and paper products constituted the main groups of products traded.¹⁰

Pursuant to Article 4 (2) of the Green Line Regulation, the authorities of the Republic of Cyprus applied duties to agricultural products eligible for export refunds or intervention measures.

Trade across the Green Line was solely for the purposes of intra-island trade with one single exception: on one occasion goods crossed the Green Line with a final destination outside the Republic of Cyprus. A consignment of 1,112 kg of Cyprus Delights (confectionery) for a value of 1,112 CYP was traded via Limassol Port to the UK on 30 December 2005.

3.3. Reported irregularities

Since November 2005 seven cases of irregularities have been reported in which the goods were not allowed to cross the line. In four of them (concerning furniture, kitchen furniture, a heating appliance and animal food) an accompanying document was not produced. Among the remaining ones there was one case (concerning plastic caps for bottles) in which the required certificates were not produced, one case of a product marking being not in line with the requirements and one case of a product of animal origin which according to Article 4 (9) of the Regulation is not allowed for trade across the Green Line.

3.4. Obstacles and difficulties concerning movement of goods

Many obstacles for trade across the Green Line continue to exist. Turkish Cypriot commercial vehicles such as buses, lorries, taxis, minibuses and rented cars cannot move freely through the island. The Republic of Cyprus does not accept roadworthiness certificates of commercial vehicles nor professional driving licences issued by the Turkish Cypriot authorities.

The Republic of Cyprus began preparatory work on legislation with the aim to facilitate Turkish Cypriot lorries to transport goods across the Green Line. However, no decisions regarding this issue were taken during the reporting period. On several occasions protests of Greek Cypriot truck drivers were organised to express objections against attempts to liberalise the use of Turkish Cypriot lorries for the Green Line trade.

Difficulties for Turkish Cypriot traders to advertise in parts of the press in the Republic of Cyprus were reported as another example of a barrier which could limit trade across the line.

The Commission received some complaints from Turkish Cypriot traders regarding delays in clearing of goods crossing the line including those crossing the line temporarily to be exhibited at trade fairs in the government-controlled areas. These delays were explained by the authorities of the Republic of Cyprus as resulting from food safety requirements or the need to assess whether goods contained any ingredients subject to export refunds or intervention measures (e.g. sugar) for which (according to the Green Line Regulation) duties are to be applied.

In one case the Commission was made aware by the Republic of Cyprus of suspicions that tomatoes traded through the Green Line originated from Turkey. The Commission examined the issue and came to the conclusion that this was not the case.

¹⁰ Annex V

On 31 March 2006 a consignment of 22 tons of citrus fruits which were to be shipped after crossing the Green Line through the port of Limassol (situated in the government-controlled areas) to an EU Member State was to cross the line. However on 29 March the supplier cancelled the transaction after protests of dockers and truck drivers were organised in Famagusta port and at the check point where the consignment should have been cleared. The trader complained about various forms of pressure from within the Turkish Cypriot community that were exerted on him to cancel the transaction.

Representatives of the UK informed the Commission about practical difficulties for the services of the Eastern Sovereign Base to handle goods requiring a phytosanitary certificate due to a lack of technical facilities.

It should be noted that trade from the government-controlled areas to the northern part of Cyprus amounted to a value of €442,408 in the reporting period according to figures from the Cyprus Chamber of Commerce and Industry which is less than one fourth of the trade in the opposite direction.

3.5. Temporary crossing of goods

Difficulties were encountered as far as the temporary crossing of goods was concerned. There are three main categories of goods where this issue comes up:

- temporary crossing of goods needed for the provision of a service (example: music instruments of a Turkish Cypriot rock band performing a concert in the government-controlled areas; interpretation equipment of a Turkish Cypriot interpretation company rendering a service in the government controlled areas)
- temporary crossing of Turkish Cypriot goods to be exhibited at a fair in the government-controlled areas
- temporary crossing of Turkish Cypriot technical devices to be repaired in the government-controlled areas.

The Green Line Regulation does not offer a clear cut solution for this problem. The Republic of Cyprus is applying a system of ad hoc decisions which does not seem to be sufficiently transparent. *De lege ferenda* this issue should be taken up in a future amendment to the Green Line Regulation.

3.6. Facilitation of trade

The following measures have been taken to facilitate the trade in certain products:

Citrus fruits

As reported above on 4 October 2005, the Commission adopted Regulation (EC) No 1624/2005 allowing citrus fruits to cross the Green Line without being subject to customs duties or charges having equivalent effect.¹¹

¹¹ Commission Regulation (EC) No 1624/2005 of 4 October 2005, OJ L 259 of 5 October 2005, p. 17

Independent experts from several Member States appointed by the Commission carried out an annual pre-harvest inspection in the autumn of 2005. They confirmed the results of previous checks performed in 2003 and 2004 that harmful organisms do not occur in the northern part of Cyprus. The Commission envisages continuing survey work as a collateral monitoring activity besides inspections and controls of orchards and of consignments of citrus fruit intended for trade across the Green Line.

Potatoes

Independent phytosanitary experts conducted sampling and surveys during two growing seasons in order to check whether the EU requirements/standards have been fulfilled. This included laboratory testing. After completion of the procedures the green light for trade in potatoes was given by the competent service of the Commission in early 2006.

All stakeholders were informed about the opportunity to trade potatoes across the Green Line.

The Commission continues its monitoring activities in order to ensure the possibility of trade. Potatoes are not subject to tariffs. During the reporting period no trade in potatoes took place.¹²

Honey and fish

The Commission is currently working on a Decision on lifting prohibitions and laying down conditions applicable for trade of certain animal products in the framework of the Regulation (EC) No 866/2004, allowing for trade in honey and fish across the Green Line.

3.7. VAT issues

The Republic of Cyprus renewed its request to the Commission to propose amendments to the Green Line Regulation and/or the 6th VAT Directive in order to simplify certain VAT provisions concerning the trade across the Green Line. The proposals included a request to apply a reverse charge mechanism for supplies made by taxable persons established in the areas¹³ to taxable persons in the government-controlled areas, a request to apply simplified procedures for the collection of tax on goods supplied by taxable persons established in the areas when these are supplied in the government-controlled areas to non-taxable persons, a request to allow for supplies made to the areas to be treated as export transactions (amending Article 5 of the Green Line Regulation) and the request to allow for simplified procedures when goods are crossing the line with a view to be transferred to other Member States. The Commission has seriously examined these proposals and communicated to the Republic of Cyprus extensively why the majority of the proposals would have deviated too much from the *acquis* to be taken up by the Commission, even though some of them may be attractive from the point of view of simplification.

¹² In July 2006 two major consignments of potatoes destined to be sent through the port of Limassol to EU Member States were cancelled at the last minute after politically motivated pressure had been exerted on the Turkish Cypriot traders. However in August 2006 some lorry loads of potatoes destined for consumption on the island successfully crossed the line without major obstacles.

¹³ For the purposes of this part of the Report the term “areas” shall mean those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control.

One example can be given for illustration: The Republic of Cyprus requested that supplies made to the areas be treated as export transactions (amending Article 5 of the Green Line Regulation). This proposed measure is not consistent with the provisions and the philosophy of the Green Line Regulation where it is assumed (upon request from the Republic of Cyprus) that no importation takes place when goods arrive from the areas. Consequently, the reverse transaction cannot be treated as exportation. In other words: zero-rating supplies made from the Government-controlled areas to the areas could only be justified if these were to be treated as exports. This is the case irrespective of whether these supplies are called exports. If goods leaving for the areas are treated as exports, goods coming from the areas must equally be treated as imports. Only under those circumstances would the proposed change be acceptable.

4. CONCLUSIONS

The Regulation continues to provide a stable legal framework for the free movement of Cypriots and other EU citizens who daily cross the line at the crossing points. However increasing figures of illegal migration through the Green Line give reasons for serious concern.

Taking into consideration the registered trends concerning the number of persons crossing the line illegally the Commission is of the opinion that the surveillance conducted by the Republic of Cyprus pursuant to Article 3 of the Regulation needs further improvement.

Reported figures show an increase in the total value of goods crossing the Green Line as compared with the first reporting period. However, the overall scale of Green Line trade (approximately €2 million per year) remains very limited. In the reporting period some new products were introduced, contributing to a significant (though temporary) increase in the monthly value of trade. Only in one single case goods crossed the Green Line with a destination outside the island.

Several reported cases confirm that there are still many obstacles to the further development of Green Line trade. The Republic of Cyprus still does not accept roadworthiness certificates of commercial vehicles or professional diving licences issued by the Turkish Cypriot authorities. Legislation pending in the Parliament of the Republic may constitute a step towards the improvement of the current situation.

Pressure groups on both sides of the Green Line are active to prevent the development of trade across the line for various reasons. A new negative feature is direct pressure on traders from within the Turkish Cypriot community.

The issue of temporary crossing of goods needs to be taken up *de lege ferenda*.

The overall conclusion is that the Green Line Regulation continues to provide a workable basis for allowing the passage of goods and people to and from the government-controlled areas of the Republic of Cyprus although the flow of goods remains limited. The Commission will continue to monitor the implementation of the regulation.

Annex I Overview table summarising the monthly reports of the Turkish Cypriot Chamber of Commerce according to Article 8 of Commission Regulation 1480/2004 (EUR)

Traded Products	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	Total
Aluminium/PVC Products	7.109	8.703	3.648	4.340	13.596	6.095	9.484	9.045	8.840	3.062	10840	1.6633	101.395
Building/Articles of Stone	16.172	7.169	13.802	19.055	5.326	13.045	20.874	13.217	10.578	28.336	20.314	13.188	181.076
Charcoal	0	0	0	0	3.093	0	0	0	0	0	0	0	3.093
Chemical Products	998	15.398	1.445	3.850	2.929	1.445	2.517	2.283	1.776	2.766	2.467	4.062	41.936
Clothing	3.279	3.626	3.190	2.993	0	517	2.207	0	776	0	133	0	16.721
Earth/Stone	0	0	0	0	172	0	0	0	0	3.262	186	662	4.283
Electronic Equipment	0	0	0	0	0	34.238	14.134	12.336	31.941	5.8419	82.357	11.022	24.445
Food/Drink	16	0	0	0	331	0	187	1.917	0	0	0	415	2.866
Handicraft products	1.141	2.316	1609	4.476	2.591	4.650	1.793	2.514	1341	1.212	1724	1.395	26.762
Industrial Kitchen equipment	0	0	0	0	0	0	0	0	0	0	0	26.293	26.293
Iron/Steel	202	1.759	18.600	7.017	517	538	1.793	3.286	0	0	345	1.397	35.453
Paper Products	2.5034	18.929	18.748	20.571	18.533	18.583	14.548	10.491	10867	1.0178	11.043	13.136	181.501
Plastic Products	13.893	10.938	14.540	15.424	20.560	12.053	25.374	14.333	10.641	27.576	24.353	37.822	227.509
Pre-fabricated buildings	62.010	0	0	0	0	0	0	0	0	0	0	0	62.010
Printed books/newspapers	0	0	11.828	0	0	0	0	0	0	0	0	0	11.828
Raw metal	3.103	7931	4.138	13.103	11.083	6.172	5.517	4.310	0	4.526	9.052	8.147	77.083
Saddlery and Harness	0	0	1.453	0	0	0	860	0	0	0	0	0	2.314
Vegetables	10.950	27.626	17107	45.436	8.210	41.991	17.869	20.709	35.855	47.264	41.671	10.940	325.628
Water Storage/heating	0	2.241	0	0	0	0	0	0	1.497	0	0	0	3.738
Wooden products/furniture	14.574	48.282	2.9357	2.4943	34.831	25.993	29.395	36.436	19.850	32.926	25.741	25.647	347.976
Total	158.483	154.919	139.464	161.209	121.774	165.320	146.555	130.878	133.960	210.367	230.226	170.756	1.933.072

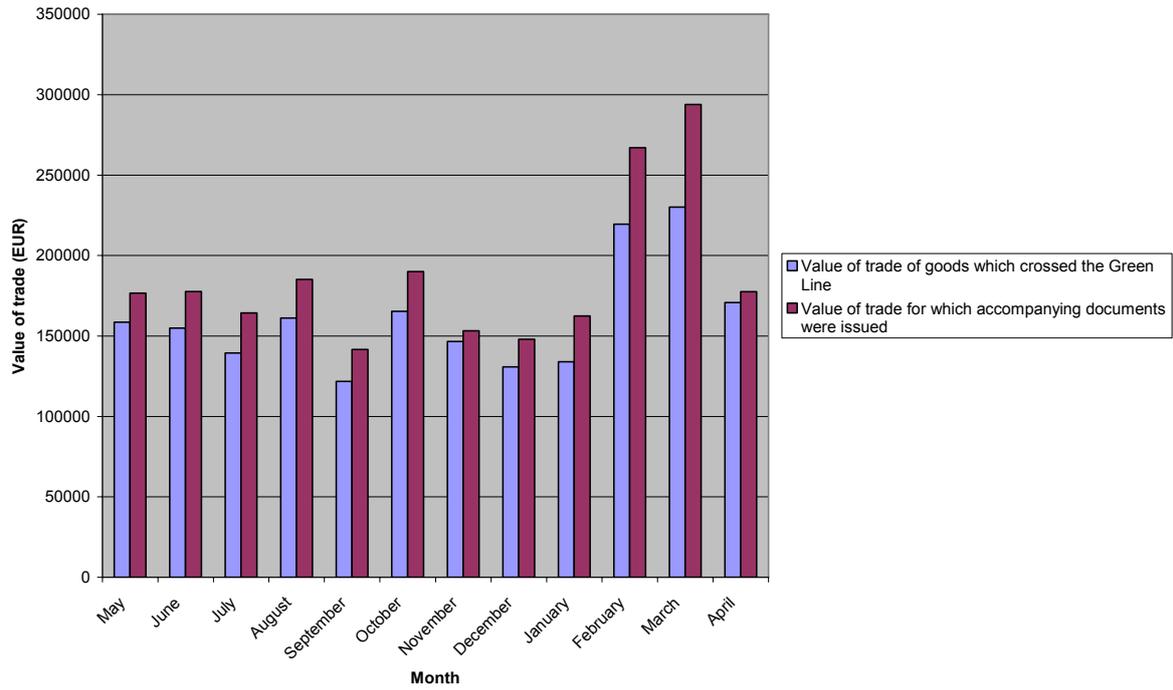
1 EUR = 0,58 CYP

Annex II: Value of goods crossing the Green Line reported by the authorities of the Republic of Cyprus (May 2005-May 2006)

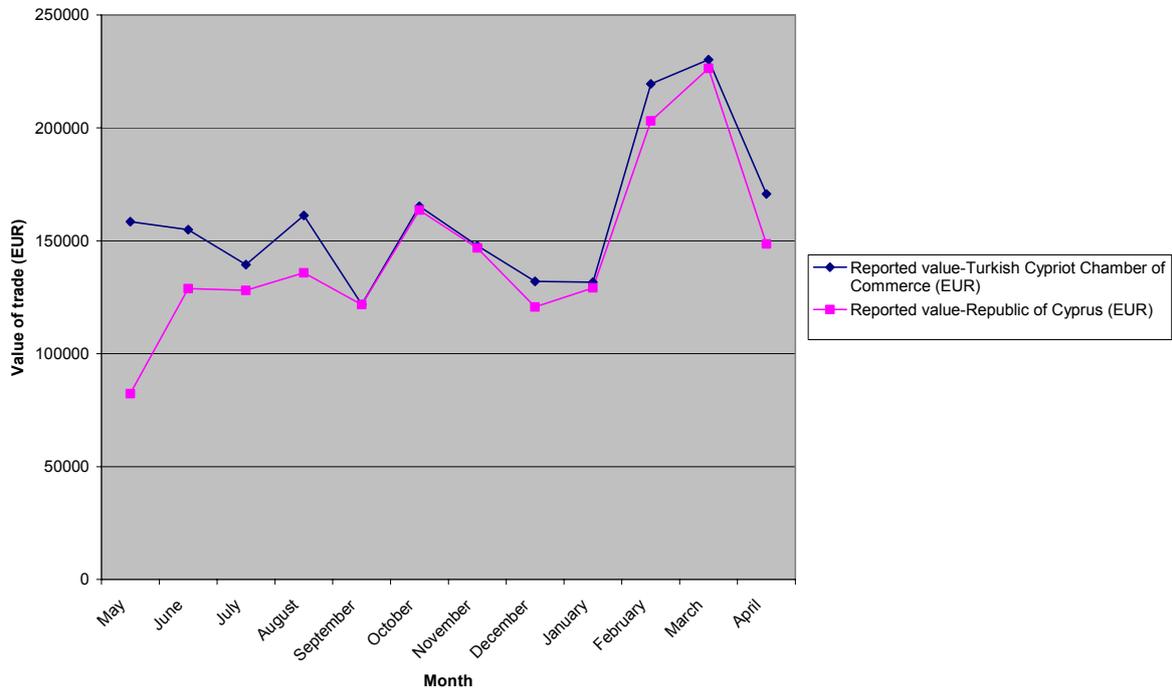
May	€ 82.318
June	€ 128.795
July	€ 128.014
August	€ 135.837
September	€ 121.712
October	€ 163.555
November	€ 146.785
December	€ 120.685
January	€ 129.137
February	€ 203.019
March	€ 226.283
April	€ 148.630
Total	€ 1.734.770

1 EUR=0.58 CYP

ANNEX III: Values of goods which crossed the Green Line and value of goods for which accompanying documents were issued by the Turkish Cypriot Chamber of Commerce



Annex IV Value of Goods crossing the Green Line according to the authorities of the Republic of Cyprus as compared to the figures reported by the Turkish Cypriot Chamber of Commerce



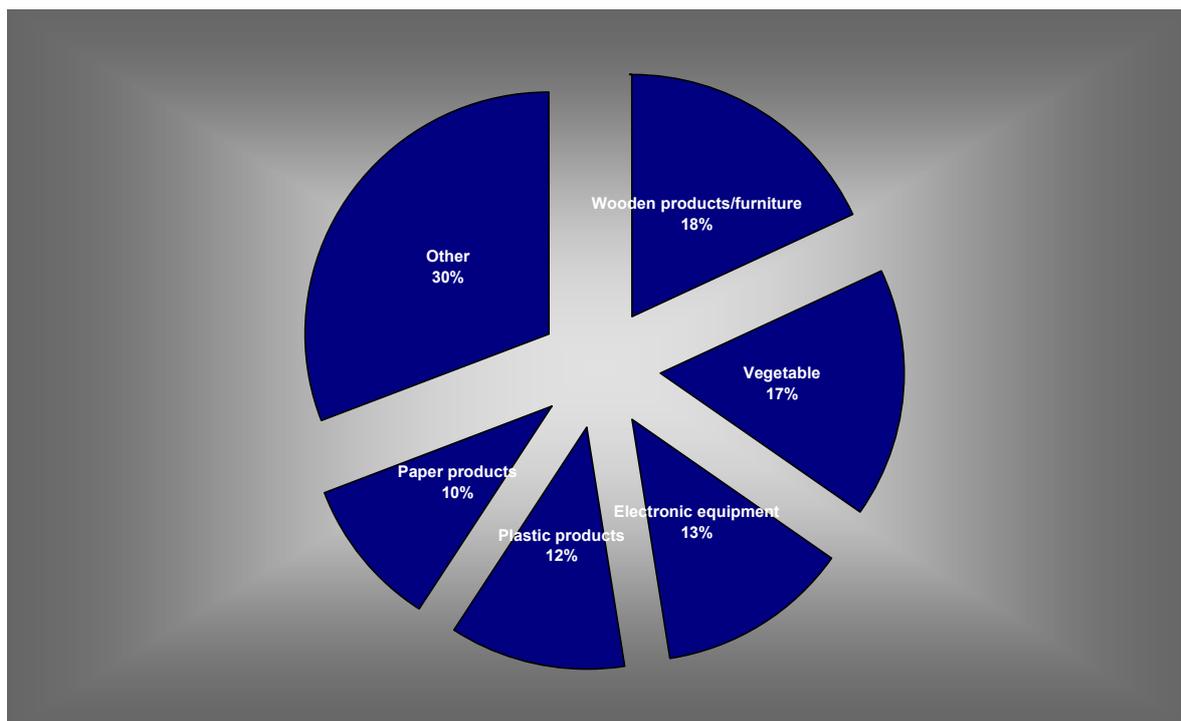
Total value reported by the Republic of Cyprus:

€ 1.734.770

Total value reported by the Turkish Cypriot Chamber of Commerce:

€ 1.933.067

Annex V: Most traded goods



Wooden products/furniture:	€ 347.975
Vegetables:	€ 325.628
Electronic equipment:	€ 244.447
Plastic products:	€ 227.507
Paper products:	€ 190.661
Other:	€ 596.849
Total:	€ 1.933.072

ANNEX VI: Development of most traded goods

Development of trade of goods with highest trade value

