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REPORT FROM THE COMMISSION TO THE COUNCIL

**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

The 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, GLR) entered into force on 1 May 2004. It defines the terms under which the provisions of the EU law apply to the movement of persons, goods and services across the Line between the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control and the areas in which it does.

This report covers the period 1 May 2008 - 30 April 2009.

1. AMENDMENTS TO THE GREEN LINE REGULATION

On 16 June 2008 the Council adopted a Regulation amending the Green Line Regulation to further facilitate trade on the island of Cyprus.²

The amending Regulation provided for a general lifting of duties on agricultural products originating in the northern part of Cyprus when being traded across the Line. Furthermore, the total maximum value of goods contained in the personal luggage of persons crossing the Line was increased from €135 to €260 so as to encourage the economic development of the Turkish Cypriot community. Goods up to this amount can now be introduced free of customs, excise duties and taxes across the Line into the government-controlled areas of the Republic of Cyprus or the UK Sovereign Base Area³. This rule does not apply to cigarettes and alcohol for which the limits are defined in Article 6 (2) GLR. Finally, the amendments regulated in a transparent way the temporary introduction of goods (for up to six months) from the northern part of Cyprus into the government-controlled areas or the SBA.

The amendments to the GLR have been implemented without problems. They have not, though, led to a noticeable increase in trade of related products or of the provision of services by Turkish Cypriots across the Line.

With regard to the temporary introduction of goods, national Cypriot rules (in the form of a Circular by the Customs Department; mirrored by the SBA Administration) have been in place since 1 November 2008. Since then, in total, 73 cases have been recorded; 27 cases concerned goods to be repaired, 14 goods to be exhibited and one case concerned professional equipment. A further 31 cases concerned means of transport (registered in other countries) of persons who had entered the government-controlled areas via a port in the northern part of

¹ OJ L 161, 30.4.2004, p. 128. Regulation as last amended by Council Regulation (EC) No 587/2008 (OJ L 163, 24.6.2008, p.1).

² OJ L 163, 24.6.2008, p. 1. Council Regulation EC No 587/2008 of 16 June 2008 amending Regulation (EC) No 866/2004.

³ Hereafter: SBA

Cyprus and who stated an intention to stay in the government-controlled areas for less than six months. So far no guarantee has been required for the temporary introduction.

2. IMPLEMENTING MEASURES

On 21 January 2009, the Commission adopted a Decision on the appointment of additional phytosanitary experts to carry out inspections in the areas of the Republic of Cyprus not under the effective control of the Government (see below point 4.6)

3. CROSSING OF PERSONS

3.1. Crossing at authorised crossing points

The Regulation provides a stable legal framework for the free movement of Cypriots, other EU citizens and third country nationals who cross the Line at the authorised crossing points. According to the available data from the Republic of Cyprus, 730,310 (previous year: 633,163) Greek Cypriots in 193,909 vehicles (previous year: 426,990)⁴ crossed from the government-controlled areas to the northern part of Cyprus and 1,287,126 (previous year: 1,162,739) Turkish Cypriots in 451,334 vehicles (previous year: 602,992) crossed from the northern part of Cyprus to the government-controlled areas during the reporting period.⁵ According to data from the Republic of Cyprus, during the reporting period a further 739,097 non-Cypriot EU citizens and third country nationals crossed the line (figure for the previous year not available).

These figures do not include data on persons and vehicles crossing at the *Pergamos* and *Strovia* crossing points, both under the authority of the SBA Administration. No detailed statistics are kept by the latter for these two crossing points. Average annual figures for this reporting period are estimated by the SBA Administration as 94,000 Greek Cypriots crossing to the northern part of Cyprus and 243,000 Turkish Cypriots crossing to the SBA for *Strovia* and 34,000 Greek Cypriots crossing to the northern part of Cyprus and 168,000 Turkish Cypriots crossing to the SBA for *Pergamos*.⁶

The number of Republic of Cyprus Police (hereafter: CYPOL) personnel working directly at the crossing points was slightly decreased from 67 (2008) to 63 (2009).

No major incidents were reported as regards the daily crossing of people at the check points.

⁴ According to statistics received from the Republic of Cyprus, the average monthly flow of Greek Cypriot vehicles to the northern part of Cyprus was 50,000 to 60,000 until November 2007 and then fell sharply to about a third (15,000 to 20,000 vehicles) and stayed on that low level thereafter, including during this reporting period. This drop results mainly from the exclusion from the reported statistics as from November 2007 of vehicles crossing at the *Pergamos* and *Strovia* crossing points (both under SBA Administration authority).

⁵ The authorities of the Republic of Cyprus do not keep records for the return of Greek Cypriots to the government-controlled areas and for the return of Turkish Cypriots to the northern part of Cyprus (see Annex VII).

⁶ According to information from the Turkish Cypriot community, during the reporting period, 645,091 Greek Cypriots in 200,892 vehicles crossed from the government-controlled areas to the northern part of Cyprus and 1,708,919 Turkish Cypriots in 645,303 vehicles crossed from the northern part of Cyprus to the government-controlled areas.

3.2. Illegal migration across the Green Line

The high number of third country nationals crossing the Line illegally remains an area of serious concern. In the reporting period, data from the Republic of Cyprus indicate that the total number of apprehended illegal immigrants decreased slightly in comparison to last year's record level (from 5844 to 5560) – Annex IV

CYPOL reported that out of these 5,560 illegal immigrants, only 35 directly entered the government-controlled areas whereas 5,525 entered the government-controlled areas across the Green Line. Out of these 5,525 illegal immigrants, 5,347 were apprehended by CYPOL and 178 by the SBA Police and subsequently handed over to CYPOL. According to CYPOL, illegal immigrants originated mainly from the following countries: Syria (48 %), Iran (9%) and West Bank and Gaza strip (9 %). A large number of third country nationals who enter illegally later apply for asylum (2,226 out of 5,560). Similarly, a significant number of illegal immigrants departed voluntarily (2,415, in comparison to 1,509 last year).⁷

The assessment of the entry route into the government-controlled areas by CYPOL is based on the same criteria as in previous years⁸, primarily through documents and statements made by the immigrants themselves.

As regards documents, figures from CYPOL indicate a worrying trend that 65 % (last year: 47 %) of those illegal immigrants who are reported to have entered the government-controlled areas across the Line (3,486 out of 5,347) had either a Turkish or a Turkish Cypriot entry or exit stamp (36 % and 28 % respectively⁹), a visa issued by Turkey which allowed the transit into the northern part of Cyprus (1 %) or a 'visa' or a 'residence permit' of the 'TRNC' (0.2 %) in their passports.¹⁰

According to information from the Republic of Cyprus authorities, 131 illegal immigrants (mostly Syrians and Iraqis) were identified as having used a direct ferry link from Latakia in Syria to Famagusta in the northern part of Cyprus, thus avoiding transit through Turkey. However, they suspect that a much larger number of illegal immigrants used this route.

Several unauthorised "crossing points" in or near the village of *Pergamos* (located partly in the SBA and partly in the northern part of Cyprus), which are still used by local residents and farmers, are particularly difficult to control. In this context, the SBA Administration informed the Commission that the SBA Police, SBA Customs and Immigration Department and UK military resources continue to work closely together to combat illegal migration. In addition, a special intelligence team was established by the SBA Customs and Immigration Department, the latter has also recruited seven additional operational officers, patrols in general are conducted more frequently (in total 2816 patrols during the reporting period), additional training was provided and various technical assets (in particular for night-vision) were purchased. The SBA Administration also continues to successfully share intelligence and maintain a good cooperation with both sides.

⁷ See Annex VI

⁸ See in particular last year's Green Line Report (Communication from the Commission of 27.8.2008, COM(2008) 529 final), page 4.

⁹ The percentages are calculated as components of the 65 % figure.

¹⁰ See Annexes VI and VIII

According to information from the Turkish Cypriot community, during the reporting period, 2,713 third country nationals were not allowed to enter the northern part of Cyprus (1,146 were from Turkey)¹¹; 582 illegal immigrants were detained (most of them coming from Syria) and 564 return decisions were taken (though no deportations were actually carried out).

The Commission has maintained a constructive dialogue with the relevant authorities of the Republic of Cyprus and the Sovereign Base Area Administration at working level. A joint workshop and other meetings were held focusing in particular on the problem of illegal migration across the Line.

On this occasion, the representatives of the Republic of Cyprus informed the Commission of measures taken during the reporting period. These measures included the adoption by CYPOL of a four-year Strategic Plan (2008-2011) of which combating illegal migration forms a part, using additional staff of local Police Stations and other Police Services in patrolling the Line¹², the permanent presence of a Special Police Squad in the vulnerable area of the villages of *Pergamos* and *Pyla*, signing of a Memorandum of Understanding by CYPOL and the Cyprus National Guard in April 2009 aiming at closer cooperation and the use of two helicopters¹³ for the surveillance of the Line.

Both the Republic of Cyprus and the SBA reinforced their surveillance of the Line during the reporting period. The Republic of Cyprus remains careful to avoid any measure which could lead to the Green Line taking on the appearance of an external border. No direct exchange of information between the Greek Cypriot and the Turkish Cypriot communities took place during the reporting period. However, within the framework of the bi-communal Technical Committee on Crime and Criminal Matters operating under UN auspices, the leaders of the two communities did agree in principle to establish a unit for exchange of information.

Control at the crossing points is assessed as effective. However, in view of the still worryingly high flow of illegal immigrants, the Commission is of the opinion that strengthened surveillance of the Line between the crossing points conducted by the Republic of Cyprus pursuant to Art 3 GLR and by the Sovereign Base Area Administration pursuant to Art 2 (5) GLR will be an important contribution to help tackle the problem of illegal migration into the EU. Contacts between the two communities should not be hindered.

4. CROSSING OF GOODS

4.1. Value of trade

Pursuant to Art 8 of the Commission Regulation (EC) 1480/2004¹⁴, the Turkish Cypriot Chamber of Commerce (hereafter: TCCoC) reported on a monthly basis on the type, volume and value of goods for which it has issued accompanying documents.

¹¹ Only 17 of which at the Green Line crossing points.

¹² In total, a minimum total of 129 man hours (last year: 110) per day were used for patrolling the Line between the crossing points by 328 local Police officers (last year: 241); (increase partly due to intensified reporting obligations). Additionally, other Police Services carry out special operations as well as regular and random patrols.

¹³ During the reporting period, two helicopters (one the previous year) carried out in total 100 hours of patrols of the Line (last year: 90 hours).

¹⁴ Commission Regulation (EC) No 1480/2004 of 10 August 2004, OJ L 272, 20.8.2004, p. 3.

The authorities of the Republic of Cyprus also communicated the type, volume and value of goods that have crossed the Line in monthly reports to the Commission. Those reports included goods that entered the government-controlled areas through the crossing points of *Pergamos* and *Strovilia*, which are under the authority of the SBA Administration.

According to reports from the TCCoC, the total value of goods for which accompanying documents were issued in the reporting period amounted to €8,573,421 whereas the value of goods actually traded was €5,471,465.¹⁵

In comparison to the previous reporting period, these figures show an increase in the total value of goods crossing the Line. According to the reports provided by the authorities of the Republic of Cyprus, the total trade value of goods which actually crossed the Line increased by more than a third to €6,111,030, compared to €4,473,408 in the previous reporting period. It should be noted that trade in potatoes accounted again for almost 30% of the overall trade value and is the main component of the increase in Green Line trade.

In October 2008, goods worth more than €830,000 crossed the Line. This was the highest level recorded since the GLR came into force. The main component was potatoes, worth more than €450,000.

Green Line trade as a percentage of overall trade of the Turkish Cypriot community has been steadily increasing, reaching in 2008 a record level of almost 12 %.

Although not covered by the scope of the GLR, it may be noted that trade from the government-controlled areas to the northern part of Cyprus amounted to a value of €1,095,060 in the reporting period compared to €1,015,340 in the previous one according to figures from the Cyprus Chamber of Commerce and Industry. Trade from the government-controlled areas to the northern part of Cyprus therefore remained about the same and amounts to about a sixth of the trade in the opposite direction (in the previous reporting period it was still about a quarter).¹⁶

The Turkish Cypriot community continues to apply a trade system, which, in principle, "mirrors" the restrictions of the Green Line Regulation. However, the 2008 amendments to the GLR have not been mirrored particularly as regards the increase in the duty free facilities for travellers from 135 € to 260 € (see point 1). The Turkish Cypriot trade regime is not always consistently applied, making it difficult to establish sustainable trade relations. Protection of the local economy is openly stated by the Turkish Cypriot side as the main reason. For instance, several Turkish Cypriot potato growers were not permitted to bring seed potatoes into the northern part of Cyprus in summer 2008 through the Green Line. This problem was not of a scale to have a major impact on the potato production there.

4.2. Type of goods

The figures on the types of traded goods show a limited number of new products crossing the Line into the government-controlled areas, fresh fish being the most prominent one. As in the

¹⁵ See Annexes I, II and III

¹⁶ Statistics on credit card expenditure suggest, though, that Turkish Cypriots spent several millions of Euro (and increasingly more) in the supermarkets and other stores in the government-controlled areas, which is not reflected in official Green Line statistics.

previous reporting period, vegetables constituted the main group of products traded, this year followed by building materials and articles of stone.¹⁷

Trade across the Line during the reporting period was with one single exception solely for the purpose of intra-island trade. In May 2008, samples of soil and water (with no commercial value) crossed the Line and were then flown to Germany to be tested. However there continue to be suspicions (as reported to the Commission by the independent phytosanitary experts) that Turkish Cypriot potatoes, originally declared as being destined for consumption in Cyprus, were repacked in the government-controlled areas and sold abroad.

4.3. Irregularities

Since May 2008, eight cases of irregularities (involving a trade value of in total €7,166) have been reported by the Republic of Cyprus authorities in which the goods were not allowed to cross the Line. In three cases fresh fish was confiscated and destroyed as Republic of Cyprus veterinary authorities found that these consignments did not meet food safety standards (total related trade value €2,137). Other reasons for rejecting goods included: products reportedly not according to marking requirements (e.g. building materials and cables), the risk of carrying contagious diseases (grapevine leaves) and the prohibition to trade citrus, eucalyptus and pine wood.

Further, on the basis of an identified risk of the transmission of foot-and-mouth disease, the Commission in April 2009 banned Green Line trade in hay and straw.

In April 2009, during a debate in the Parliament of the Republic of Cyprus, some Members claimed that the Green Line Regulation was misused to introduce products from Turkey. Relevant authorities of the Republic of Cyprus are investigating this. No confirmed cases of irregularities have been brought to the Commission's attention either in the framework of their monthly reports to the Commission or through other official channels.

4.4. Positive developments concerning movement of goods

During the reporting period, positive developments lifted some barriers which previously limited trade across the Line. These developments include:

- In March 2009, the leaders of the Greek Cypriot and the Turkish Cypriot community, on the occasion of an event jointly organised by the TCCoC and the Cyprus Chamber of Commerce and Industry (CCCI), issued a joint statement encouraging Green Line trade.¹⁸
- At the same joint event, the UNDP-ACT funded 'Interdependence' project was launched aiming to increase intra-island trade and business cooperation, enhance of economic interdependence, encourage cooperative planning and create more opportunities for partnerships.
- Continued 'Round Table Meetings' of the three chambers (CCCI, TCCoC, and Cyprus Turkish Chamber of Industry, CTCI).

¹⁷ See Annexes IV and V

¹⁸ For joint statement see <http://www.ktto.net/interdependence/index.html>

- Under the auspices of the USAID funded EDGE Project, various actions have been carried out aiming at facilitating Green Line trade. These included facilitation of the purchase of seed potatoes and agricultural machinery by the Turkish Cypriot community, detailed trade analyses to discover further trade potential, launch and promotion of an interactive website ('Cyprus Producers' Network' web portal) and assistance in the preparatory work for the establishment of a bi-communal Green Line Arbitration Mechanism.
- Potato trade continued smoothly at a high level.

4.5. Still existing obstacles and difficulties concerning the movement of goods

Despite these positive developments, several obstacles for trade across the Green Line continue to exist.

No progress can be reported on the transport issue since last year.¹⁹ Turkish Cypriot commercial vehicles and in particular lorries and buses still cannot move freely through the island. More flexibility on both sides in this regard would enhance economic co-operation.

Also no progress can be reported with regard to other trade barriers as reported to the Commission by the Turkish Cypriot Chamber of Commerce. Turkish Cypriot traders continued to report difficulties in stocking supermarkets and advertising their products and services in the press in the government-controlled areas. There still seems to be a psychological barrier for some buyers south of the Green Line to purchase Turkish Cypriot products if they are marked as such which are less pronounced when the products are (re-) packed without showing the precise origin.^{20 21} Concerning Cyprus' International Trade Fair in 2009, Turkish Cypriot participation is reported to have been very limited.

Finally, smuggling of goods across the Line remains widespread (although possibly at a slightly lower level due to reduced price differentials). Informal comments and press reports²² still suggest the value of smuggled goods exceeds legal trade several times over. On the basis of the goods seized by the Republic of Cyprus and SBA Customs, the most smuggled goods remain cigarettes and other forms of tobacco; other goods smuggled include commercial quantities of fresh fish and snails.

The problem of smuggling of goods underlines the continued need for effective surveillance of the Line by the Government of the Republic of Cyprus and the SBA Administration. Moreover, stricter supervision by the Sovereign Base Area Administration of the nature and quantity of the goods supplied to the Turkish Cypriot population of the village of Pyla, *located in the Buffer Zone* (Art 4 (10) GLR) and stricter controls of the informal "crossing points" in or near the village of *Pergamos* would probably be helpful as well.

4.6. Facilitation of trade

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

¹⁹ For detailed analyses see last year's Green Line Report.

²⁰ For more details see Mete Hatay, Fiona Mullen, Julia Kalimeri, "Intra-island trade in Cyprus – Obstacles, oppositions and psychological barriers", Prio Cyprus Centre 2008

²¹ This is also confirmed by the independent phytosanitary experts.

²² See for instance statements of the President of the CCCI reported in the Cypriot press on 12 and 13 January 2009.

Potatoes

Potatoes are not subject to tariffs; each lorry needs to be accompanied by a Report of Phytosanitary Inspection, issued by independent phytosanitary experts in accordance with Annex III of Commission Regulation (EC) No 1480/2004²³. In order to facilitate potato trade across the Line, the Commission ensured the permanent presence of these experts during the two main harvest seasons.

With the increasing demand for their services, the Commission appointed an additional seven independent phytosanitary experts to help carry out potato inspections.

Citrus fruits

In October 2008 the first ever significant consignment of citrus fruits crossed the Line. It was followed by several consignments and there is potential for further growth.

Honey and fish

Trade in fresh fish commenced at the end of June 2008 and, despite some initial problems, in the end proved successful. In April 2009, fish worth more than €82.000 was traded across the Line. Independent Member State experts appointed by the Commission, in accordance with Annex I of Commission Decision 2007/330/EC²⁴, inspected further Turkish Cypriot fishing vessels.

Trade of honey could not start during the reporting period for reasons of consumer and health protection due to unsatisfactory results of the analysis of honey samples.

Tomatoes and onions

Independent Member State experts carried out random field inspections in order to estimate the respective total crop in support of TCCoC efforts to improve traceability and surveillance.

5. CONCLUSIONS

Control of the Green Line at the authorised crossing points is satisfactory.

Both the Republic of Cyprus and the UK Sovereign Base Areas reinforced their surveillance of the Green Line during the reporting period. However, the number of third country nationals crossing the Line illegally still remains an area of serious concern, although the total number of apprehended illegal immigrants slightly decreased during the reporting period, compared to the previous year's record level. The Commission assesses that further strengthening of the surveillance of the Line between the crossing points conducted by the Republic of Cyprus and the Sovereign Base Area Administration would be important to help tackle the problem of illegal migration. The Republic of Cyprus remains careful to avoid any measure which could lead to the Green Line taking on the appearance of an external border.

As regards goods crossing the Green Line, in comparison to the previous reporting period, reported figures show again an increase in the total value of goods crossing the Line.

²³ Commission Regulation (EC) No 1480/2004 of 10 August 2004, OJ L 272, 20.8.2004, p. 3.

²⁴ Commission Decision 2007/330/EC of 4 May 2007, OJ L 123, 12.5.2007, p. 30.

According to the reports provided by the authorities of the Republic of Cyprus, the total trade value of goods which crossed the Line increased by more than a third and was about €6,111,030, compared to €4,473,408 in the previous reporting period. Almost 30 % was accounted for by trade in potatoes.

Last year's amendments to the GLR have been implemented smoothly. They have not, though, led to a significant increase in trade or of the provision of services by Turkish Cypriots across the Line.

The overall scale of Green Line trade still remains limited, in part due to the restricted scope of the Regulation itself. However, Green Line trade has increased its share of overall Turkish Cypriot trade.²⁵

There were positive developments concerning the movement of goods. However, obstacles to Green Line trade remain. Turkish Cypriot commercial vehicles, in particular lorries and buses, cannot move freely across the island. In addition, no progress can be reported with regard to other barriers to trade. Finally, it appears that smuggling of goods across the Line remains widespread.

The Commission has carried out various measures aiming at facilitating trade across the Line, particularly trade in potatoes, citrus fruits and fish.

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

²⁵ During the five years since the GLR is in place, the share increased from about 2% to 10%. Overall, the annual value of Turkish Cypriot exports is estimated at around 50 M€