

**GENERAL AGREEMENT  
ON TARIFFS AND TRADE**

RESTRICTED

**L/7569**

29 November 1994

Limited Distribution

(94-2591)

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Original: English

WORKING PARTY ON THE FREE TRADE AGREEMENT BETWEEN  
THE EFTA STATES AND ISRAEL

Questions and Replies

Contracting parties were invited (GATT/AIR/3396) to communicate to the Secretariat any questions they might wish to put concerning the Free Trade Agreement between the EFTA States and Israel. No questions were received. Questions received subsequent to the meeting of the Working Party on 30 June were transmitted to the Parties of the Agreement. The questions and the replies which have been received are set out below:

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**1. Objective (Article 1)**

**i.1 Question**

Can the Parties to the Free Trade Agreement confirm that it is their intention to establish a full free-trade area? In this regard can the Parties provide a full plan and schedule for the reduction to zero of tariffs on substantially all the trade between the Parties to the Agreement?

**i.1 Answer**

The objective of the Agreement is to establish a free-trade area in conformity with Article XXIV of the General Agreement. The full plan and schedule for the reduction to zero of tariffs on substantially all the trade between the Parties are contained in the relevant articles of the Agreement as well as in the relevant Annexes and Protocols of the Agreement, which have been provided to the contracting parties together with the original notification. To facilitate, a summary of the plans and schedules is given below:

- (a) The EFTA States abolished, upon the entry into force of the Agreement, all customs duties on imports and any charges having equivalent effect for products of HS Chapters 25 to 97, which are covered by the Agreement.
- (b) Israel abolished, upon the entry into force of the Agreement, all customs duties on imports and any charges having equivalent effect for products of HS Chapters 25 to 97, which are covered by the Agreement.

## **2. Scope (Article 2)**

### **2.1 Question**

What percentage of trade between the EFTA States and Israel is accounted for by:

- (a) Products falling within Chapters 25 to 97 of the harmonised commodity description and coding system. In this regard, what percentage of trade between the EFTA States and Israel is accounted for by the products listed in Annex I to the Agreements?
- (b) Products specified in Protocol A to the Agreements?
- (c) Fish and other marine products as provided for in Annex II to the Agreements?

### **2.1 Answer**

- (a) Products falling in HS Chapters 25 to 97 account for 90.53 per cent of the total trade between the EFTA countries and Israel (1992).

Products listed in Annex I account for 0.0 per cent of imports from Israel (1992).

- (b) Products specified in Protocol A account for 0.68 per cent of the total trade between the EFTA countries and Israel (1992).
- (c) Fish and other marine products as provided in Annex II account for 0.29 per cent of the total trade between the EFTA States and Israel (1992).

### **2.2 Question**

What percentage of trade between EFTA and Israel is accounted for by products not covered by the above?

### **2.2 Answer**

Products not covered by the above are agricultural products, a large part of which are covered by bilateral agricultural arrangements, and they account for 8.5 per cent of the total trade between the EFTA States and Israel (1992). The bilateral agricultural arrangements cover 51.66 per cent of the total agricultural trade (HS Chapters 1-24) between the EFTA States and Israel.

### **2.3 Question**

What are the intentions of the Parties to the Free Trade Agreement for bringing products not covered by Article 2 into the Free Trade Agreement?

### **2.3 Answer**

A large number of those products not covered by Article 2 of the Agreement are basic agricultural products. These are, however, to a large extent covered in the bilateral agricultural arrangements, which have been concluded within the framework of the FTA to provide for measures to facilitate trade in agricultural products. The intentions of the Parties to the Free Trade Agreement are to foster, in so far as their agricultural policies allow, harmonious development of trade in agricultural products. The few products listed in Annex I to the Agreement are excluded on a permanent basis.

## 2.4 Question

Could the Parties explain how they reconcile the omission of products falling within Chapters 1 to 24 of the Harmonized System with the requirement in GATT Article XXIV:8(b) that duties and other restrictive regulations of commerce be eliminated on "substantially all the trade"?

## 2.4 Answer

In the Free-Trade Area between the EFTA States and Israel duties and other restrictive regulations of commerce are eliminated on "substantially all the trade" as required in Article XXIV:8(b).

A number of products of trade interest under the HS Chapters 1 to 24 fall within the scope of the Agreement as defined in Article 2, and are covered by Protocol A of the Agreement (processed agricultural products) and by Annex II (fish and other marine products). It would thus not be correct to state that "products falling within Chapters 1 to 24 of the Harmonized System are omitted". Furthermore, it has to be noted with respect to the other requirements contained in Article XXIV:8(b) that duties and other restrictive regulations of commerce be eliminated on "substantially all the trade" and not on "trade on substantially all products". Hence compliance with obligations under Article XXIV:8(b) has to be judged with regard to the entirety of the Agreement and the share of total trade on which obstacles are eliminated should as such be decisive.

## 3. Rules of Origin (Article 3)

### 3.1 Question

Protocol B, Title 1, Article 1(b) states that originating status will be conferred on products incorporating materials which have not been wholly obtained in a State Party to the Agreement, provided that such materials have undergone sufficient working or processing in that State "within the meaning of Article 5". Please confirm that Protocol B, Article 5, paragraphs 2-5 are the only operative provisions concerning third party inputs to products which may qualify for originating status under the FTA. For example, if a third country exported computer parts to Sweden for assembly into a finished product, would that product, when shipped from Sweden to Israel, have originating status for purposes of the FTA?

### 3.1 Answer

Title I of Protocol B contains all the provisions on the definition of the concept of "originating products". In order to examine whether third country computer parts could be used in the assembly of finished products in Sweden, it would be necessary to consult Annex II to Protocol B and to take into account all the other provisions contained in Article 5 of Protocol B.

## 4. Customs Duties of a Fiscal Nature (Article 5)

### 4.1 Question

What is the basis of distinction between customs duties of a fiscal nature and other forms of customs duties? (What sort of exceptions are made in Protocol C to the requirement to eliminate customs duties of a fiscal nature? How extensive are these exceptions?)

#### 4.1 Answer

Duties of a fiscal nature are non-discriminatory duties applied for revenue purposes on products which are not produced domestically. Protocol C refers to Iceland, Liechtenstein and Switzerland only. Iceland has, however, abolished fiscal duties as of 1 January 1994. For Liechtenstein and Switzerland only a limited number of products is covered by Protocol C. Also in Switzerland the process of abolition of the system of fiscal duties is underway. The Swiss people accepted on 28 November 1993 to create the constitutional basis allowing the elimination of the customs duties of a fiscal nature applied on mineral oils, fuels and certain motor vehicles. These will partially be replaced by internal taxes. The Swiss federal administration is currently preparing the necessary technical and legal measures for the elimination of these customs duties of a fiscal nature. At the entry into force of these measures, which is foreseen on 1 January 1997, Table II to Protocol C of the Agreement will thus become irrelevant.

### 5. Customs Duties on Exports and Charges having Equivalent Effect (Article 7)

#### 5.1 Question

What customs duties or duties having equivalent effect are presently applied on exports by the Parties to this Free Trade Agreement?

#### 5.1 Answer

The provisions of Annex III concern Iceland, Liechtenstein, Switzerland and Israel. The provisions allow Iceland to apply export duties on fish products, but no such duties are applied at present. The export duties in Liechtenstein and Switzerland were abolished on 1 January 1993. Israel applies export duties on waste and scrap of stainless steel, copper, aluminium and lead as well as on billets of refined copper.

### 6. Quantitative Restrictions on Exports and Imports and Measures having Equivalent Effect (Article 7)

#### 6.1 Question

What quantitative restrictions, and measures having equivalent effect, are currently applied by Parties to the Free Trade Agreement on imports and exports?

(What are the terms and conditions of Annex IV?)

#### 6.1 Answer

I. The following import restrictions are applied by the EFTA States:

- (1) Quantitative restrictions on *lignite* apply in Austria.
- (2) Permanent quantitative restrictions apply in Iceland on *brooms and brushes*. The quantitative restrictions applied on petroleum oils were abolished as of 1 January 1994.

II. The following permanent export restrictions are applied by the EFTA States:

- (1) on *ferrous waste and scrap* by Austria, Finland, Liechtenstein and Switzerland;
- (2) on *unwrought copper, copper waste and scrap and on aluminium waste and scrap* by Austria; and
- (3) on *vessels and other floating structures for breaking up* by Finland.

III. Permanent export restrictions are applied by Israel on the following products: petroleum oils and gases and other gaseous hydrocarbons, bitumen and asphalt, ferrous waste and scrap, refined copper and copper alloys, unwrought, waste and scrap of copper, aluminium and lead.

#### 6.2 Question

Could the Parties to the Agreement please confirm what GATT justifications are in place for import and export restrictions on products appearing in Tables A, B and C to Annex IV? What percentage of trade between the Parties is covered by Annex IV?

#### 6.2 Answer

The Austrian import restriction on lignite is maintained for energy reasons and will be phased out within the next 15 to 20 years. Iceland maintains quantitative restrictions on imports of brooms and brushes for social reasons, i.e. to protect the interests of blind people making these products in Iceland. There was no trade in these products between the EFTA States in question and Israel in 1992.

The export restrictions on ferrous and non-ferrous waste and scrap are intended to safeguard the supply of input material. The exports from EFTA countries to Israel in products listed in Table B to Annex IV account for 0.03 per cent of the EFTA exports to Israel (1992).

The export restrictions applied by Israel are maintained for energy reasons or intended to safeguard the supply of input material. The exports from Israel to EFTA countries in products listed in Table C of Annex IV account for 0.04 per cent of the EFTA imports from Israel (1992).

### 7. Non-Economic Reasons for Restrictions (Article 8)

#### 7.1 Question

Article 8 does not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of "protection of the environment". What is the scope of this term?

#### 7.1 Answer

The Agreement does not define the term "protection of the environment", but the notion is basically the same as "protection of human, animal or plant life or health" as understood in Article XX of the General Agreement.

### 8. State Monopolies (Article 9)

#### 8.1 Question

What products are currently subject to State monopolies in the States Parties to this agreement? Have these been notified under Article XVII?

8.1 Answer

The Agreement does not contain any lists of State monopolies or products subject to state monopolies in the States Parties. The question of eventual GATT notification of State monopolies in the States Parties should be dealt with in the appropriate fora, and it is not relevant in Article XXIV review of the Agreement.

9. Trade in Agricultural Products (Article 11)

9.1 Question

In what manner do the bilateral arrangements between the EFTA States and Israel facilitate trade in agricultural products? If products falling within Chapters 1-24 are to be excluded from the FTA, can the Parties to the Agreement confirm that these bilateral arrangements will be GATT-consistent?

9.1 Answer

The bilateral arrangements abolish or reduce customs duties and other duties and charges having equivalent effect on a large number of products of trade interest to the Parties of the Agreement. The arrangements also contain review clauses, thus allowing to review the functioning and also the coverage of the arrangements.

9.2 Question

What agricultural commodities are currently traded between EFTA States on the one hand, and Israel on the other? How will trade in these commodities be affected by the bilateral agreements on agriculture?

9.2 Answer

Trade data for 1993 is attached at Annex. Copies of bilateral agricultural arrangements have been provided to the GATT Secretariat. Detailed effects on individual commodities are clearly indicated in these arrangements.

9.3 Question

Why does the Agreement not apply to trade in bulk agricultural products such as grains, oilseeds, meats, dairy products, etc?

9.3 Answer

Due to the different policies and trade regimes in agriculture in the EFTA States, the States Parties to the Agreement have concluded arrangements on a bilateral basis, providing for measures to facilitate trade in agricultural products of trade interest to Parties. However, reference to these arrangements is made in Article 11 of the Agreement, thus linking them with the other instruments negotiated within the framework of the Free Trade Agreement, which are all relevant instruments for creating the free-trade area.

#### 9.4 Question

Under what mechanism might Israel apply variable import levies on processed agricultural imports from the EFTA countries as provided for in Protocol A?

#### 9.4 Answer

The mechanism under which Israel may apply variable levies is the same as that which applies to the EFTA countries and is contained in Article 4 of Protocol A. That Article stipulates that in order to take into account the differences in the cost of the agricultural raw materials incorporated in the goods covered by Protocol A, the Agreement does not preclude the levying, upon import, of a variable component or fixed amount, or the application of internal price compensation measures; nor the application of measures adopted upon export. Such price compensation measures must not exceed the differences between the domestic price and the world market price of the agricultural raw materials incorporated into the goods concerned.

The provisions mentioned above are the same as those which apply in trade between the EFTA countries and between the EC and EFTA countries. They are also included in all the other FTAs which the EFTA countries have concluded with third countries.

#### 9.5 Question

Why does the Agreement not prohibit the use of export subsidies on agricultural trade between Israel and the EFTA States? Do the EFTA States now subsidize any of their agricultural exports to Israel?

#### 9.5 Answer

GATT does not prohibit the use of export subsidies on agricultural trade. The question of the reduction of export subsidies was addressed in the Uruguay Round and the Parties will commit themselves to the outcome of these negotiations.

#### 9.6 Question

Could the Parties please indicate the percentage of their trade, between the EFTA States on the one hand, and Israel on the other, in products falling within Chapters 1 to 24 of the Harmonized System? What percentage of trade between EFTA States and Israel is covered by the separate bilateral agricultural agreements?

#### 9.6 Answer

Trade between the EFTA States and Israel in products falling in HS Chapters 1 to 24 account for 9.47 per cent of the total trade (1992). The bilateral agricultural arrangements cover 4.89 per cent of the total trade between the EFTA States and Israel (1992).

### 10. Internal Taxation (Article 12)

#### 10.1 Question

Can the Parties to the Agreement clarify what is meant by direct and indirect taxation for the purposes of the provisions of this Article?

10.1 Answer

Income tax or corporate tax is an example of direct taxation, whereas turnover tax and value-added tax are examples of indirect taxation.

**11. Payments (Article 13)**

11.1 Question

Article 13.3 allows Israel to apply exchange restrictions, provided that they are applied in a "non-discriminatory" manner. Does "non-discriminatory" mean multilaterally or only within the context of the Agreement?

11.1 Answer

"Non-discriminatory" means that exchange restrictions will be applied on a multilateral basis. Furthermore, it should be noted that Article 13.3 relates only to certain exchange restrictions connected with the granting or taking up of short- and medium-term credits to the extent permitted according to the status of Israel under the IMF.

**12. Rules of Competition Applying to Undertakings (Article 17)**

12.1 Question

What criteria are to be applied in assessing whether actions prevent, restrict or distort competition, or whether actions by dominant undertakings constitute an abuse of their position? Are these considerations subject to specific legally based processes within the States Parties to this Free Trade Agreement?

12.1 Answer

No further criteria have been defined. The assessment of the conduct of undertakings is made on a case-by-case basis, taking into consideration the effects of the competition and trade between Parties.

**13. State Aid (Article 18)**

13.1 Question

We are interested in the criteria set out in Annex VI. Can the Parties to the Agreement confirm that any action taken in accordance with Article 18 will be in accordance with the relevant provisions of the GATT?

13.1 Answer

Yes.



**14. Anti-dumping (Article 19)  
Emergency Action on Imports of Particular Products (Article 20)**

**14.1 Question**

Can the Parties to this Free Trade Agreement give assurance that any action in respect of dumping or emergency action (Articles 19 and 20) shall not attribute to third countries any injury resulting from imports from States Parties to the Free Trade Agreement, particularly where a commonly acceptable solution is agreed in accordance with Article 23 of the Free Trade Agreement?

**14.1 Answer**

No injury is attributed to third countries by any action in respect of dumping or emergency actions (Articles 19 and 20), not even in cases where a commonly acceptable solution is agreed in accordance with Article 23 of the Agreement.

**14.2 Question**

(Article 19). If a Party to this Agreement fails to take action that complies with the procedures laid out in Article 23, what are the remedies contemplated?

**14.2 Answer**

As regards anti-dumping measures, Article 19 provides that the Parties to the Agreement may only take measures in accordance with the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade and with the procedure laid down in Article 23.

Article 23 provides also for the remedies in situations when any of the Parties have failed to fulfil its obligations under the Agreement.

**14.3 Question**

(Emergency Action on Imports (Article 20) and Safeguards (Article 23)). Is the language in Article 20, including such terms as "serious injury", "serious disturbances" and "serious deteriorations" to be understood as GATT-consistent or GATT-plus? Could the Parties to the Agreement please clarify why there is no incorporation of GATT Article XIX and related instruments here?

**14.3 Answer**

The wording of Article 20 contains elements of the language found in Article XIX of GATT. The notion "serious disturbances" has been taken over from the relevant articles of the earlier agreements between the EFTA States and the European Community. It should be remembered that the Agreement covers only imports from the Parties concerned and thus they cannot be identical to the safeguard measures taken against all m.f.n. imports on the basis of Article XIX.

The character of the Free Trade Agreement also explains why it does not contain specific reference to Article XIX of the GATT. Moreover, the Preamble of the Agreement stipulates that no provision may be interpreted as exempting the Parties from their obligations under the GATT.

**15. Safeguards (Article 23)**

**15.1 Question**

Can the Parties to the Free Trade Agreement provide assurance that any export restrictions applied will be in accordance with the requirements of Article XI of the GATT?

**15.1 Answer**

Any export restrictions, if not based on Article XX of the General Agreement, are applied in accordance with the requirements of Article XI of the GATT.

**15.2 Question**

Australia:

In endeavouring to avoid the imposition of restrictive measures for balance-of-payments purposes, as required under Article 22 of this Free Trade Agreement, can the States Parties to these Agreements give assurance that the interests of third parties will not be prejudiced. In this regard, it is noted that Article XXIV:8(b) of the GATT permits the application of measures for balance-of-payments purposes within free-trade areas.

**15.2 Answer**

Article 22 provides that any measures for balance-of-payments purposes will be applied in accordance with the conditions established under the GATT.

**16. Procedures of the Joint Committee (Article 27)**

**16.1 Question**

Could the Parties to the Agreement give an indication of likely "fields" for future coverage by the FTA? Will the Agreement be modified under this clause to incorporate a Uruguay Round result in areas not currently covered by the FTA?

**16.1 Answer**

The fields for future extension of the coverage of the Agreement may be defined by the Parties within the objectives of the Agreement as set forth in Article 1. The Parties intend to comply with the rules and disciplines incorporated in the Final Act of the Uruguay Round.

EFTA COUNTRIES' TRADE IN AGRICULTURE WITH ISRAEL, 1993  
(The products cover HS 1 to 24)

In thousand US dollars

SITC	Description (shortened)	IMPORTS AND EXPORTS						
		Austria	Finland	Iceland	Norway	Sweden	Switzerland	EFTA
	TOTAL	21,233	16,085	2,112	16,343	24,397	56,825	136,994
057	Fruit and nuts	6,676	7,822	179	4,011	11,712	18,068	48,467
29	Crude animal and vegetable materials	3,162	978	1	2,779	4,374	11,598	22,892
012	Other meat	6,702	0	0	18	19	6,837	13,576
054	Vegetables	1,538	3,191	62	3,876	1,613	3,186	13,464
059	Fruit juices	1,268	410	20	316	741	2,837	5,592
098	Edible products n.e.s.	100	758	0	12	206	3,053	4,128
058	Fruit preserved	113	46	0	46	71	3,764	1,040
034	Fish, fresh, chilled or frozen	47	1	255	3,284	101	140	3,828
017	Meat prepared or preserved	257	10	0	0	1,443	1,689	3,399
056	Vegetables prepared or preserved	38	291	1	967	1,133	793	3,222
081	Feeding stuff for animals	7	0	1,443	0	149	826	2,425
043	Barley	0	2,065	0	0	0	0	2,065
22	Oil seeds and oleaginous fruits	321	0	0	0	0	1,350	1,671
073	Chocolate	262	29	0	62	371	906	1,629
112	Alcoholic beverages	219	336	27	67	385	75	1,109
048	Cereal preparations	232	5	0	15	89	647	987
022	Milk, cream, yoghurt	2	41	0	0	839	51	933
016	Meat salted, in brine, dried or smoked	0	0	0	4	696	16	717
062	Sugar confectionery	132	10	0	11	0	442	594
037	Fish, crustaceans n.e.s.	1	0	104	419	0	5	528
071	Coffee	56	0	0	0	177	245	478
061	Sugar	0	73	0	16	133	127	350
035	Fish, dried, salted, smoked, in brine	3	0	19	271	0	0	293
4	Animal and vegetable oils, fats and waxes	4	19	0	58	81	38	200
075	Spices	67	3	0	63	21	8	162
111	Non-alcoholic beverages	7	0	0	41	11	4	62
024	Cheese	0	0	0	1	0	60	60
122	Tobacco, manufactured	0	0	0	6	21	16	44
091	Margarine	8	0	0	1	0	15	24
001	Live animals	10	0	0	0	6	8	24
074	Tea and mate	0	0	0	0	4	14	18
036	Crustaceans, molluscs, etc.	0	0	0	0	0	7	7
072	Cocoa	4	0	0	0	0	0	4
025	Eggs	0	0	0	0	0	2	2
044	Maize	0	0	1	0	0	0	1
047	Other cereal meals and flours	0	1	0	0	0	0	1

SITC	Description (shortened)	IMPORTS AND EXPORTS						
		Austria	Finland	Iceland	Norway	Sweden	Switzerland	EFTA
011	Meat of bovine animals	0	0	0	0	0	0	0
023	Butter	0	0	0	0	0	0	0
041	Wheat	0	0	0	0	0	0	0
042	Rice	0	0	0	0	0	0	0
045	Other cereals	0	0	0	0	0	0	0
046	Meal of wheat	0	0	0	0	0	0	0
121	Tobacco, unmanufactured	0	0	0	0	0	0	0

Source: UN COMTRADE

Prepared by the economic and statistical support function of Economic Affairs

EFTA COUNTRIES' TRADE IN AGRICULTURE WITH ISRAEL, 1993  
(The products cover HS 1 to 24)

In thousand US dollars

SITC		Description (shortened)	IMPORTS						EXPORTS								
			Austria	Finland	Iceland	Norway	Sweden	Switzerland	EFTA	Austria	Finland	Iceland	Norway	Sweden	Switzerland	EFTA	
001		Live animals	1	0	0	0	0	0	4	4	9	0	0	0	6	5	20
011		Meat of bovine animals	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
012		Other meat	6,702	0	0	0	18	19	6,837	13,576	0	0	0	0	0	0	0
016		Meat salted, in brine, dried or smoked	0	0	0	0	0	696	16	712	0	0	0	4	0	0	4
017		Meat prepared or preserved	257	10	0	0	0	1,443	1,672	3,381	0	0	0	0	0	17	18
022		Milk, cream, yogurt	2	0	0	0	0	839	51	891	0	41	0	0	0	1	42
023		Butter	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
024		Cheese	0	0	0	0	0	0	11	11	0	0	0	1	0	49	50
025		Eggs	0	0	0	0	0	0	2	2	0	0	0	0	0	0	0
034		Fish, fresh, chilled or frozen	46	1	0	0	0	78	140	264	1	0	255	3,284	23	0	3,563
035		Fish, dried, salted, smoked, in brine	3	0	0	0	0	0	0	3	0	0	19	271	0	0	290
036		Crustaceans, molluscs, etc.	0	0	0	0	0	0	7	7	0	0	0	0	0	0	0
037		Fish, crustaceans n.e.s.	1	0	0	0	0	0	5	6	0	0	104	419	0	0	522
041		Wheat	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
042		Rice	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
043		Barley	0	0	0	0	0	0	0	0	0	2,065	0	0	0	0	2,065
044		Maize	0	0	1	0	0	0	0	1	0	0	0	0	0	0	0
045		Other cereals	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

[illegible]

		IMPORTS							EXPORTS						
SITC	Description (shortened)	Austria	Finland	Iceland	Norway	Sweden	Switzerland	EFTA	Austria	Finland	Iceland	Norway	Sweden	Switzerland	EFTA
121	Tobacco, unmanufactured	0	0	0	0	0	0	0	0	0	0	0	0	0	0
122	Tobacco, manufactured	0	0	0	0	0	0	0	0	0	0	6	21	16	44
22	Oil seeds and oleaginous fruits	281	0	0	0	0	1,350	1,631	40	0	0	0	0	0	40
29	Crude animal and vegetable materials	3,116	978	1	2,779	4,373	11,363	22,610	46	0	0	1	1	235	283
4	Animal and vegetable oils, fats and waxes	4	0	0	0	0	25	29	0	19	0	58	81	13	171

Source: UN COMTRADE