

III. TRADE POLICIES AND PRACTICES BY MEASURE

(1) MEASURES DIRECTLY AFFECTING IMPORTS

(i) Introduction

1. In face of economic difficulties resulting from the break-up of the former Socialist Federal Republic of Yugoslavia (SFRY), Slovenia launched a process of gradual trade liberalization aimed at re-orienting trade flows towards market-oriented economies, and restoring economic incentives for traders and investors in the country. Compliance with the requirements of WTO membership and preparations for accession to the EU provided a strong anchor for these reforms, which resulted in a major overhaul of the trading regime. In less than a decade, Slovenia dismantled the complex system of restrictions and direct trade controls inherited from the SFRY, adapted trade-related legislation in line with international standards, and moved away from state-trading and other government-run activities; at the border, customs procedures have been simplified. The tariff regime has been rationalized, and applied MFN tariff rates have been reduced to a simple average of less than 11%, albeit less rapidly than preferential tariffs. Quantitative restrictions on imports, which affected principally agricultural products, have been dismantled, and export taxes removed. Conditions of access to the Slovenian market have also been simplified by the complete overhaul of "behind-the-border" legislation in areas such as trade defence, standards, government procurement, competition, investment, state aid, and intellectual property rights, as a result of implementation of WTO obligations and EU accession requirements.

2. Under the EU accession process, Slovenia is preparing itself for the adoption of the EU Common External Tariff (CET). To this aim, Slovenia adopted a policy to reduce MFN tariff rates to CET levels by the date of accession, which would entail further tariff cuts in agriculture, textiles and clothing, and metals. These sectors, and a few others, continue to be sheltered from international competition by a combination of high tariffs, state subsidies, and in some cases residual quotas (textiles), thereby retarding their adaptation to a very competitive European market. The reduction of preferential margins would also be a welcome development for third countries, as the gap between MFN and preferential tariffs have increased in recent years. The operation of multiple free-trade agreements, involving frequent renegotiation of numerous product- and country-specific preferences (mostly in agriculture) contained in the agreements, has led to a complex (micro-) management of tariff preferences. Further simplification of the tariff regime in agriculture would be desirable for both traders and domestic producers. Slovenia's legal framework has been largely adapted to the requirements of a modern market-oriented economy; effective enforcement is important to ensure a fair and open environment for all businesses regardless of origin. The strengthening of newly created regulatory institutions in the areas of government procurement and state aid would be useful. The further opening up of investment restrictions and privatization processes would contribute to the restructuring of sectors that are currently sheltered from international competition.

(ii) Customs regime

(a) Valuation, clearance, and inspection

3. Slovenia's legislation on customs valuation was amended in 1996 to conform with Article VII of the GATT, incorporate decisions of the WTO Customs Valuation Committee, and harmonize it with EU standards. Slovenia does not require preshipment inspection.

4. Based on the provisions of the Customs Act of 1999, the customs value of imported goods is determined on the basis of the agreed transaction value, i.e. the price actually paid or payable for the goods sold for importation (specified in the invoice), adding all costs and expenses related to the sale

and purchase of the goods before entering the Slovenian customs.¹ When the customs value of the imported goods cannot be determined as described, Article 18 of the Customs Act provides for the following alternative methods: (i) the use of the transaction value of identical or similar goods; (ii) the deductive method (i.e. the resale price less such costs as customs duties, taxes, and commissions); or (iii) the computed value, utilizing costs of production, profit, and other expenses.² The decisions of the WTO Committee on Customs Valuation on the treatment of interest charges and on valuation of computer software were implemented by Slovenia on 1 January 1996.³

5. According to the European Commission, as a result of the successive revisions of the Customs Act (the latest was adopted in 1999), Slovenia's customs legislation has become largely compatible with that of the European Union, including on customs valuation.⁴ A single administrative document, for the purposes of customs clearance, has been in use in Slovenia since 1992. According to the authorities, the estimated time for customs clearance of an average consignment was up to two hours in 2001.

6. In recent years, Slovenia has increased efforts to strengthen administrative and operative capacity in the field of customs administration, in order to facilitate trade and transit operations. Data submission for the purpose of customs clearance has been digitalized; declarations regarding import, export, and transit can be made electronically. While Slovenia uses its own computerized system for transit supervision – based on the principles of the European Common Transit Convention – it is preparing for future participation in the EU's New Computerised Transit System (NCTS) Project, which is aimed at reducing fraud in the common transit regime. In order to speed up customs procedures, Slovenia has also introduced "simplified customs procedures", access to which is reserved to authorized traders only. The administrative capacity of Customs has been increased, in particular through the appointment of new staff and the reorganization of the relevant institutions. For example, the Intelligence Service of the Directorate General of Customs has obtained additional resources, special equipment to fight smuggling and trafficking, and new computer equipment. In addition, the Customs Service increased computer control in most of the major routes crossing the territory of Slovenia.⁵

7. Slovenia's Customs Act provides for the right of appeal against customs decisions. According to Article 6 (e) of the Customs Act, decisions made by Customs authorities can be appealed to the Administrative Court. The next stage – administrative dispute settlement – is submitted to the Supreme Court.⁶

¹ These include costs related to transport, insurance, packaging, agents' commissions, loading and re-loading; proportionate shares of the value of raw materials, semi-manufactures and parts purchased abroad; proportionate shares of the value of other goods, models, tools, master copies, etc., supplied to the buyer free of charge or at reduced prices; compensation and costs related to rights deriving from the use of patents, prototypes, trade marks, etc.; shares in the resale, transfer or use of imported goods payable to the seller; and proportionate shares of the value of services performed abroad which were paid separately by the buyer and which were necessary for production; and exclude all expenses, taxes, and duties levied in the customs territory of Slovenia (GATT document L/7492, 1 July 1994).

² WTO document G/VAL/N/1/SVN/2, 24 July 2000.

³ WTO document G/VAL/N/3/SVN/1, 16 December 1997.

⁴ European Commission (1997), Customs section.

⁵ European Commission (2000).

⁶ GATT document L/7492, 1 July 1994.

(b) Rules of origin

8. Slovenia's non-preferential and preferential rules of origin reflect those applied by the EU and several other EU candidates.⁷ Non-preferential rules of origin assign the origin to the country where the product has been wholly obtained or where it underwent its "last substantial, economically justified processing". According to the Customs Act, preferential rules of origin may apply in the context of Slovenia's preferential trade agreements, or for goods that could be subject to unilateral tariff preferences. In the latter case, preferential rules of origin are subject to two sets of definition. First, originating products are those wholly obtained in that country (mainly agricultural, fishing, and mining products). Second, the origin of products may be defined in terms of the location of the last major transformation of the product ("sufficiently processed in that country", according to the Decree on the Implementation of the Customs Act).

9. Since 1 January 1997, Slovenia has been applying new rules of origin in all free-trade agreements to which it is a signatory, as part of the new European-wide system of diagonal cumulation. The establishment of the new system required the harmonization of the rules of origin among 30 participating countries, including Slovenia. The implementation of this new origin network has two major consequences. Firstly, semi-finished products originating in any country of the system and further processed or assembled in any other partner country are considered as originating products. Secondly, originating products can be traded between any of the countries involved in the system. As a result of the new system of cumulation of origin, customs procedures have been simplified. Once a product has been given origin of a country in this European-wide system, there is no need for the origin to be determined again.

(iii) Tariffs and other charges affecting imports

10. Slovenia has undertaken significant consolidation of its MFN tariffs in recent years, as a result of WTO membership and preparations for EU accession. Upon accession to the WTO, Slovenia replaced variable levies and import quotas in agriculture by bound duties, eliminated import surcharges on several products, and incorporated a number of charges (including a 1% formality tax) in its Tariff Schedule.⁸ In preparation for EU accession, applied MFN rates are being reduced, albeit less rapidly than tariff reductions on preferential trade. Slovenia's stated objective is to harmonize its MFN duties with the EU CET by the date of accession, which should entail further reduction of applied rates in agriculture, textiles and clothing, and metals. However, the difference between Slovenia's bound and applied MFN rates remains relatively large, as a result of initially high levels of bindings and faster reductions in applied rates. This gap leaves room for increases in applied rates, as seems to have been the case in 1998 for some agricultural products (Chapter IV(1)). The potential for increased tariff protection is not in accord with the predictability and stability of trading conditions in Slovenia. In addition, the operation of numerous free-trade agreements results in the complex micro-management of several hundreds of country-specific and product-specific tariff quotas pertaining to agricultural products, contained in 14 different lists, many of which carry mixed duties. Given that preferences may be renegotiated, traders in this sector may be subject to complex and changing access conditions.

⁷ Slovenia's rules of origin are contained in the 1999 Amendments to the Customs Act (Articles 4, 11a to 14b) and in Chapter 3 of the 1999 Decree on the Implementation of the Customs Act (Articles 30 to 34 and Annexes 4,5,6 and 7), as notified in WTO document G/RO/N/29/Rev.1, 21 November 2000.

⁸ The 1% formality tax for customs clearance, inherited from the former SFRY, was incorporated into Slovenia's Schedule upon accession.

(a) MFN tariffs (applied and bound)

11. The large majority of Slovenia's 10,300 tariff lines at the eight-digit level, contained in the 2001 MFN applied tariff, are *ad valorem* (96 % of the total). However, there are some 400 lines subject to compound tariffs (i.e. a combination of *ad valorem* and specific tariffs), all of which are in agriculture (WTO definition). The share of tariff lines carrying compound rates is somewhat larger in the bound tariff schedule for 2001 (615 lines, i.e., around 5% of the total). Some 94 lines carry tariff quotas, all in agriculture, for which out-of-quota rates are also expressed in specific terms. Slovenia adopted a strategy of gradual tariff reduction, which resulted in relatively limited reduction of the simple average tariff in the first half of the 1990s, but much faster progress since the start of EU accession negotiations. In 2001, Slovenia's simple (unweighted) average MFN tariff was 10.8% (Table III.1). The minimum *ad valorem* rate is 0% and the maximum 45%. However, when including the *ad valorem* equivalent of non-*ad valorem* rates, the maximum tariff reaches 293.1%. The number of tariff rates has been reduced, and two thirds of tariff lines are in the 0-10% range. About 10% of tariff lines are duty free, and 27% have rates between zero and 5% (Chart III.1).

Table III.1
Key features of the Slovenian MFN tariff structure, 2001
(Per cent unless specified otherwise)

	Applied	Bound
Simple average tariff ^a	10.8	23.8
Standard deviation	9.1	11.3
Duty-free lines	10.5	3.1
Maximum tariff	293.1	406.4
Domestic tariff "spikes" (number of lines subject to three times the overall tariff average)	197	31
Share of <i>ad valorem</i> rates	96.1	94.9
Share of bound rates		100
By sector:		
By HS: Agriculture (HS 01-24)	15.3	25.4
Industry (HS 25-97)	9.5	23.3
WTO Agriculture ^b	16.0	25.5
WTO Non-agriculture ^c	9.5	23.3
By ISIC: Agriculture (ISIC 1)	8.2	21.1
Mining and quarrying (ISIC 2)	1.7	23.9
Industry (ISIC 3)	11.1	23.9
Industry excluding food processing (ISIC 3-31)	9.7	23.4

a Calculations of the average tariff include all lines, including those carrying mixed (*ad valorem* and specific) duties. The *ad valorem* equivalent of the specific component of such mixed duties have been provided by the Government of Slovenia.

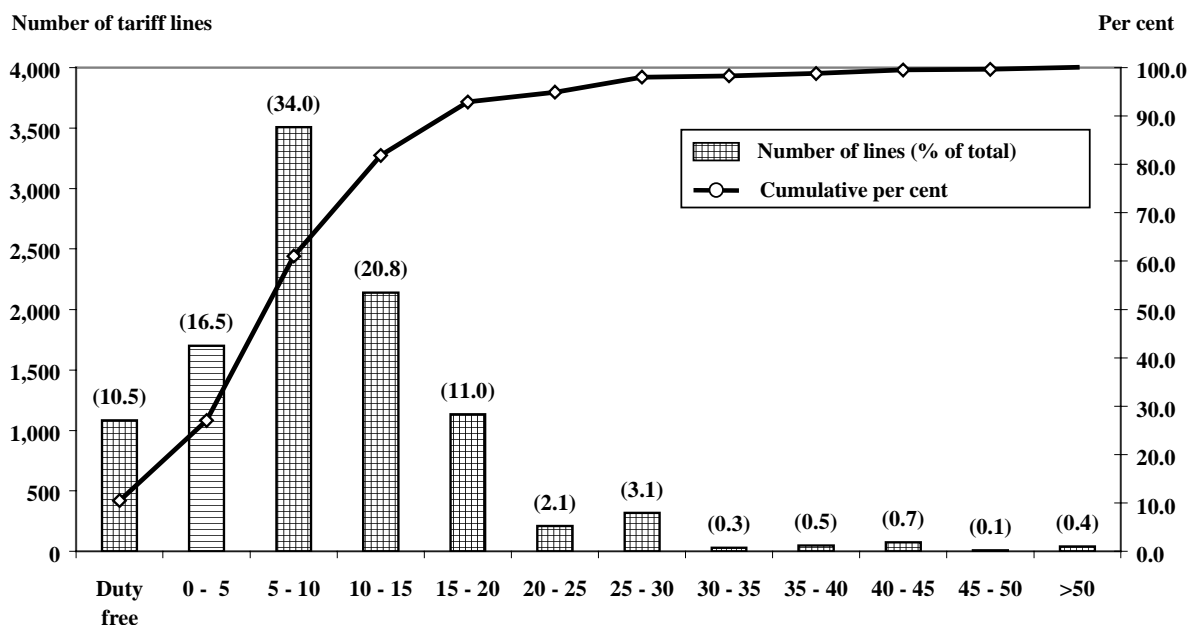
b WTO definition of agriculture: HS Chapters 01-24 less fish and fishery products (HS 0301-0307, 0509, 051191, 1504, 1603-1605 and 230120) plus some selected products (HS 290543, 290544, 290545, 3301, 3501-3505, 380910, 382311-382319, 382360, 382370, 382460, 4101-4103, 4301, 5001-5003, 5105-5103, 5201-5203, 5301 and 5302).

c Excluding petroleum.

Source: WTO Secretariat calculations, based on data provided by the Slovenian authorities.

12. There is a relatively large gap between bound and applied MFN rates. This is a consequence of, on the one hand, the binding of a large number of lines at the uniform rate of 27% (with peaks well beyond 100% for lines subject to tariff quotas), and, on the other hand, the relatively rapid reduction of applied rates. In 2001, the margin was 13 percentage points, with an average bound rate of 23.8% and an average applied rate of 10.8%. The difference is 13.8 percentage points for non-agricultural products, and 9.5 percentage points for agricultural products (WTO definitions).

Chart III.1
Applied MFN tariff distribution, 2001



Note: Data in parentheses is the share of total lines.

Source: WTO Secretariat estimates, based on data provided by the Slovenian authorities.

13. In 1999, the authorities adopted a plan aimed at aligning Slovenia's applied MFN tariffs on the EU Common External Tariff. The authorities expect that the process will be completed by the date of accession. This implies further MFN tariff reductions from present levels.⁹ This would limit the disadvantages for third countries, as the gap between MFN and preferential tariffs has increased in recent years. It would also lead economic sectors that are still protected by higher tariffs than their competitors in the EU to adjust to the lower protection afforded by the CET.¹⁰ Upon accession, Slovenia has committed to adopt the EU's bound rates.

14. The simple average MFN tariffs applied on industrial goods (HS 25-97) was 9.5% in 2001. The minimum rate was 0% and the maximum 27%. Local manufacturing production currently subject to restructuring is generally protected by higher-than-average duties. This is particularly true for articles of apparel and clothing accessories (17% at the HS 2-digit level), vehicles other than railway equipment (15%), and furniture (16%). At the more disaggregated level, products such as certain electrical and non-electrical machinery are subject to the maximum rate of 27%. More details on individual products are presented in Tables AIII.1 to AIII.3, and Chart IV.2.

⁹ The EU average MFN applied tariff was estimated at 6.9% in 2000, some 4 percentage points below that of Slovenia. WTO (2001).

¹⁰ In its 2001 Regular Report on Slovenia's Progress Towards Accession, the European Commission writes (p.82) that: "Upon accession Slovenia will be required to align its tariffs with those of the EC. [According to the EC] Slovenia's applied tariffs currently average 9% on all products, 13.7% on agricultural products, 5.9% on fishery products, and 8.1% on industrial products. By comparison the EC's tariffs currently stand at 6.3% on all products, 16.2% on agricultural products, 12.4% on fishery products, and 3.6% on industrial products".

15. Agricultural goods are protected on average by higher applied tariffs (Table III.1). Taking into account the *ad valorem* equivalent of the specific component of compound duties, the simple average MFN tariff for agricultural products (HS 01-24) in 2001 was 15.3%.¹¹

16. Under an HS two-digit classification, the tariff profile shows peaks (i.e. tariff averages above 15%) in several product categories, including: meat and edible meat offal (19.4%); dairy produce (23.1%); products of the milling industry (16.6%); preparation of meat (22.8%); sugar and sugar confectionery (24.6%); cocoa and cocoa preparations (20.4%); preparation of cereals and flour (26.8%); preparation of vegetable, fruit and nuts (20.5%); and beverages, spirits and vinegar (28.3%) (Table AIII.1). At the four-digit level, the highest tariff rates are levied on products such as wheat, fruit and vegetables, beef, dairy products, and certain beverages.

17. Tariff escalation is relatively significant (Table III.2). Slovenia continues to apply a system with lower rates on raw materials than on intermediate products or processed goods, thereby providing higher levels of effective protection to the manufacturing sector than that reflected by the nominal rates. Escalation appears to exist in nearly all industries (Chart III.2), with the highest levels affecting the food, beverages, and tobacco industries. The 2001 average MFN rate for processed goods is about two-and-half times that for raw materials. By function, the Slovenian tariff system shows a similar pattern.

Table III.2
MFN tariffs (simple average) by stage of processing, 2001
(Per cent)

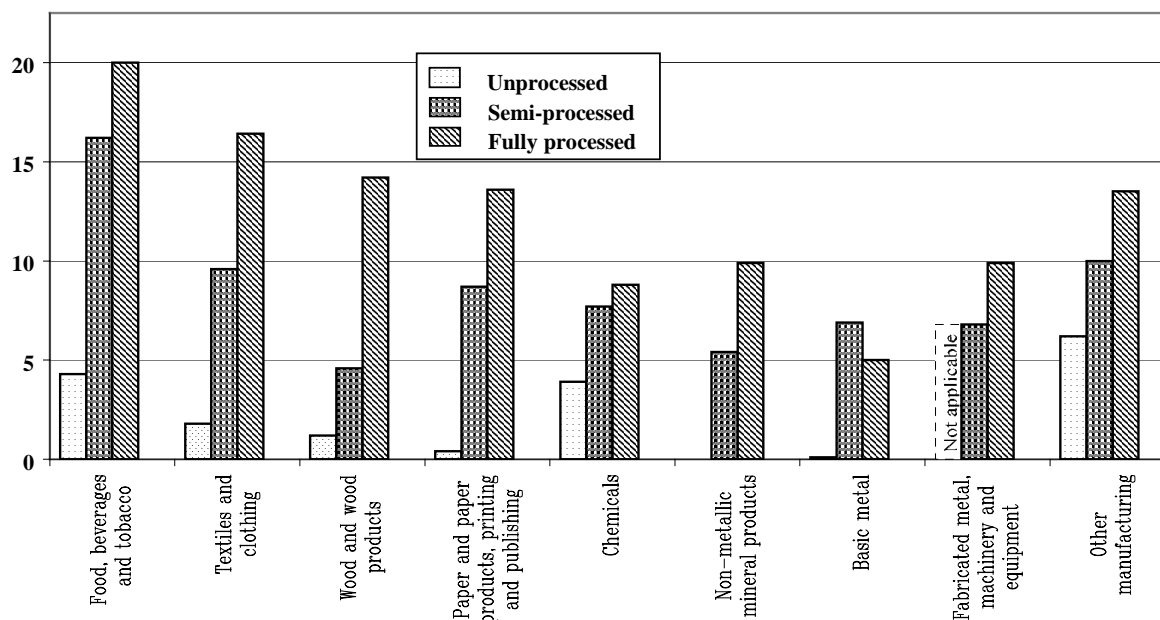
	Applied	Bound
All products	10.8	23.8
By stage of processing		
Raw materials	5.6	20.9
Intermediate goods	8.3	24.6
Processed goods	13.1	24.0
By function		
Consumer goods	16.3	26.2
Intermediate goods	8.1	23.1
Capital goods	9.1	20.6

Source: WTO Secretariat calculations, based on data provided by the Slovenian authorities.

¹¹ Based on ISIC classification, the simple average MFN tariff applied to the agricultural sector (ISIC 1) is lower than that applied to the industrial sector (ISIC 3). This reflects the relatively higher tariff protection for processed agricultural goods.

Chart III.2
Tariff escalation by 2-digit ISIC industry, 2001

Per cent



Source: WTO Secretariat calculations, based on data provided by the Slovenian authorities.

(b) Tariff preferences

18. Slovenia has concluded a number of preferential trade agreements with its largest trading partners, in particular the EU, countries linked to the EU by preferential-trade agreements (EFTA and CEFTA countries, Baltic States, Israel, Turkey), Croatia, and the former Yugoslav Republic of Macedonia. According to the authorities, preferential trade accounted for around 82% of total trade in 2001. Another indication of the increased importance of preferential trade is the difference between the collection rate (i.e. customs duty revenue divided by imports) and the average MFN rate. The collection rate was 1.7% in 2000, and customs duty revenues represented 2.4% of total general government revenues.¹²

19. Tariff preferences cover mainly industrial products. Customs duties on most imports were removed upon entry into force of the preferential agreements; Slovenia's current trade with its largest trading partners is conducted under almost duty-free terms. For example, in 2000 the average tariff on industrial imports from the European Union was 0.5% (80% of all tariff lines were duty free). Average tariffs on industrial imports from CEFTA and EFTA countries were also below 1%.

20. Agricultural trade is subject to a more gradual liberalization; both the pace and depth of liberalization depends on each agreement, although efforts have been made to harmonize tariff schedules across agreements, in particular by applying relatively similar rates on the majority of tariff lines. However, for sensitive products, a list of tariff quotas with limited access has been negotiated with each trading partner, resulting in a wide variety of product-specific and country-specific preferences in Slovenia's import regime. The number of lines subject to tariff quotas varies widely,

¹² Ministry of Finance.

from eight tariff lines under the EFTA Agreement (2000), to 253 lines in the Europe Agreement (with the European Union), and a maximum of 512 tariff lines in the free-trade agreement with the Former Yugoslav Republic of Macedonia. The products subject to restrictions also vary by country. For example, tariff quotas affecting EU products apply mainly to live animals and cereals, while in the free-trade agreement with Hungary they apply to wine, yellow corn, malt, and sugar beet. Access under these bilateral agreements is renegotiated on a regular basis through additional protocols. This variety of restrictions, combined with the form of tariffication used (widespread use of specific tariffs), does not aid simplicity, stability or transparency in Slovenia's tariff regime.

(c) Tariff quotas and seasonal tariffs

21. Tariff quotas are managed by Slovenia under two different regimes: (i) tariff quotas resulting from the WTO Agreement on Agriculture and applied on an MFN basis; and (ii) preferential tariff quotas agreed under preferential trade agreements.¹³ Quantities and rates for products subject to tariff quotas are determined annually in specific decrees. In 2001, MFN tariff-quotas covered 94 distinct tariff lines concerning agricultural and processed agricultural goods. For the large majority of lines (80%), out-of-quota rates carry mixed duties (with an *ad valorem* and a specific component). Most tariff quotas apply to meat, meat products (beef and pork) and live animals, although tariff-quotas also concern dairy products (cheese), cereals, sugar, and swine. As indicated above, Slovenia has introduced a large number of preferential tariff quotas as a result of preferential trade agreements. In most cases (agreements with Bulgaria, the Czech Republic, Hungary, the European Union, Lithuania, Poland, and the Slovak Republic) preferential tariff quotas cover a larger number of tariff lines than MFN tariff quotas. The preferential margin (i.e., the difference between the MFN rate and the lowest possible preferential rate) is largest for live animals and meat products.

22. Slovenia applies a system of seasonal tariffs on 12 tariff lines, covering fruit and vegetables (Table AIII.4).¹⁴ During the marketing period of the year, the applied MFN tariff takes on the higher values in the tariff range, while the lower values apply during the period when local production is not being marketed.

(d) Tariffs concessions and exemptions

23. The Customs Act, which was last modified in 1999 and deals with incurrence and payment of customs debt, defines several schemes under which concessional entry or relief from customs debt can be provided. Duty-free treatment applies to goods not directly linked to an economic activity ("customs procedures without economic impact", according to the terms of the Act), such as diplomatic consignments and other imports enjoying privileges and immunities under international conventions, personal luggage or items sent by post. Full or partial relief may also be granted for goods "directly linked to economic activity". Under an inward processing scheme, exporters may apply either for a suspension (relief) or a drawback (refund) of duties on imported goods or inputs that are processed in Slovenia (Article 90 of the Customs Act). An outward processing scheme allows full or partial relief from duty on the imported product containing Slovenian goods temporarily exported for processing. The other categories of suspensive arrangements include partial or full relief on (i) goods earmarked for re-export, (ii) goods in transit, (iii) goods kept in customs warehouses,

¹³ The licensing of products regarding WTO obligations is governed by the Decree on Determining Tariff Quotas, which is updated every year.

¹⁴ Products subject to seasonal tariffs are: tomatoes, onions, cabbage lettuce, celery, cucumbers, peas, beans, courgettes, apricots, sour cherries, cherries, and plums.

(iv) goods processed under customs supervision, and (v) goods destined for re-export within a period of two years in an unaltered state (temporary importation).¹⁵

24. Investors may also take advantage of the 1998 Economic Zones Act and Articles 127 to 140c of the 1999 Customs Act regarding the economic or free-trade zones. Designated free-trade zones are considered as separate customs territories, where goods can be imported without restriction and duty-free, and used for production or stored for an unlimited period of time. Equipment used for production in these zones, such as machines and equipment, instruments and tools are also exempt from customs duty, as long as they remain in the designated zone.¹⁶ The provision relating to imports of equipment into the economic zones was abolished on 1 January 2002. Importers of equipment can claim a deduction of the VAT, paid upon importation of the equipment.

25. The list of products subject to tariff reduction or exemption is updated annually in a specific decree (the Decree on the Autonomous Measures of Reduction or Abolition of Duty Rates for Specific Goods), which is enacted as part of the annual Law on Customs Tariff. These exemptions or reductions are applied on an MFN basis. For 2001, 1,621 tariff lines at the eight-digit level (i.e., 15.7% of the total number of tariff lines) were subject to reduction or exemptions, covering 77 out of a total of 97 HS chapters (Table AIII.5).

(e) Other charges and indirect taxation

26. Most imports are subject to an *ad valorem* VAT, which is applied uniformly on foreign and domestically produced goods.¹⁷ The VAT replaced the sales tax system in 1999, and is based on the principles of the VAT legislation of the EU. On 1 January 2002, VAT rates were increased from 19% to 20% for most goods and services, and the reduced rate from 8% to 8.5% applying to a more limited list of "essential" supplies.¹⁸ Exported goods and services are zero-rated. The threshold for taxation is in the order of € 25,000 for all taxable persons, except for farmers for which a lower taxable threshold applies (€7,500). Very small firms are exempted from VAT; certain categories of products and services are also exempted.¹⁹ This includes activities of public interest (broadcast, cultural, educational, medical and social security services, as well as political, religious, philosophical activities, and trade unions), and other specified services (insurance and financial services, real estate and gaming). On the basis of a decision by the Constitutional Court all postal services are taxed. Products exempted from import duties are generally also exempted from VAT. These include personal goods and luggage, goods in transit, and goods protected by diplomatic conventions; imports exempted under the Economic Zones Act; and imports exempted under customs procedures with economic impact (goods kept in warehouses or processed under customs supervision, goods earmarked for re-exports, etc.). Non-resident buyers are entitled to VAT refunds on goods valued at

¹⁵ Temporary importation procedures are defined in Sub-section 5 of the Customs Act. Article 108 provides a list of products benefiting from total relief, including, *inter alia*, goods for display or use at fairs and exhibitions; medical, surgical, and laboratory equipment; goods of any kind to be subjected to tests, experiments, or demonstrations not constituting a gainful activity; and works of art imported for the purpose of exhibition.

¹⁶ This provision does not apply to office furniture, office equipment and other administrative facilities, and motor vehicles that are not intended for exclusive use in the FTZ.

¹⁷ The Customs Administration is responsible for the collection of the VAT on imports. VAT on imported goods is payable within 30 days.

¹⁸ The reduced rate applies to: foodstuffs; agricultural inputs; water; pharmaceutical products; accessories for the disabled; public transport; books; newspapers and periodicals; services of authors; composers, and cultural events; sporting events and facilities; housing; hotel and similar accommodation; funerals; and waste treatment.

¹⁹ Exemption is defined as no VAT being charged, but VAT paid on goods and services used in the production of the goods and services concerned cannot be reclaimed.

more than SIT 15,000 (about € 75).²⁰ Refunds are also available to foreign taxable persons not established within Slovenia (only in respect of certain goods).

27. Certain items (either imported or domestically produced) are subject to excise taxes, namely alcoholic beverages, mineral oils and gas, and tobacco products. Excises duties were introduced in 1999, based on EU Directives on the harmonization of excise duties in the Single Market. The rates of excise duties for these products are expressed in specific terms (in euro), under the conditions described in Table III.3. The Excise Duties Act provides for increases in excise duties levied on cigarettes to 51% of the retail selling price in July 2002, and to 57% in January 2004. Exemptions from customs duties and VAT may be granted for certain categories of products,²¹ including goods imported by diplomatic missions and international organizations, goods stored in customs warehouses, goods in transit, as well as goods used in scientific research, production of medicines, air transport, and the production of energy.²² Exemptions apply equally to foreign and domestically produced goods.

Table III.3
Excise duties by product, January 2002

Products	Excise duties	
Alcohol and alcoholic beverage	Per hectolitre (euro)	
Still wine	0.0	
Sparkling wine	0.0	
Beer (for 1% volume of alcohol)	7.4	
Fermented beverages	0.0	
Intermediate products	67.7	
Ethyl alcohol	751.5	
Mineral oils and gas	Per 1,000 litres unless specified (euro)	
	currently	maximum (permissible under law)
Leaded petrol	406.0 ^a	643.2 ^a
Unleaded petrol	406.0	541.6
Gas oil used as/for:		
propellant	286.4	473.9
heating purpose	33.9	50.8
Liquid petroleum gas and methane used as/for:		
propellant	145.3 ^b	257.3 ^b
commercial/heating	0.0 ^b	0.0 ^b
Kerosene used as/for:		
propellant	282.5	473.9
heating	22.6	33.9
Heavy fuel oil	13.5 ^b	33.9 ^b
Natural gas	6.8 ^c	10.2 ^c
Tobacco products	Percentage of retail selling price	
Cigarettes	49 ^d	
Cigars-cigarillos (per 1,000)	5	
Fine and cut tobacco	30	
Other smoking tobacco	20	

a From 1 July 2001 not for sale.

b Per 1,000 kg.

c Per 1,000 m³.

d To be increased gradually up to 57%.

Source: WTO Secretariat, based on information provided by the authorities.

²⁰ Refunds cannot be obtained on mineral oils, tobacco products or alcoholic beverages.

²¹ There are no special provisions for the treatment of excisable goods in economic (free-trade) zones.

²² There can be exemptions for the excisable goods in transit, but certain guarantees need to be given to the Customs Administration that goods will not be sold in the Slovenian territory.

(iv) Import licensing, controls, and prohibitions**(a) Trade prohibitions**

28. Slovenia maintains few trade prohibitions; those in place are based on sanitary and phytosanitary considerations, and to implement UN resolutions. Slovenia recently harmonized its legislation on plant protection against harmful organisms with applicable EU regulations. Pursuant to the new Plant Health Act of June 2001, imports of a number of plants, plant products and related articles have been banned.²³ According to Slovenian veterinary rules, imports, transit, and storage of consignments of animals, foodstuffs, raw materials, waste, feedingstuffs, and other animal items can be subject to restrictions, after veterinary inspection, if they present a danger for human health. On that basis, imports of certain meat products from EU countries affected by BSE have been subject to temporary bans in the recent past; all BSE-related bans are now terminated.

29. Based on U.N. Security Council Resolutions, Slovenia currently maintains embargoes on Afghanistan (air embargo, financial sanctions, trade embargo on military equipment of any kind, and trade embargo on chemical acetic anhydride), Angola (air embargo, oil embargo, trade embargo on diamonds, and financial restrictions towards UNITA) and Iraq (trade embargo, air embargo, financial embargo, and adjustment of Iraqi oil trade).

(b) Import licensing, with and without quantity limits

30. Slovenia's licensing system has been significantly liberalized in the past decade. Prior to WTO accession, Slovenia maintained a number of import quotas, which, in the period of transition to a market economy, were regarded by the authorities as "an instrument for managing and preserving the use of economic factors through less painful restructuring".²⁴ Most quotas concerned agricultural goods (335 tariff lines), and textiles and clothing products. During WTO accession negotiations, all import quotas for agricultural goods were abolished and converted into variable levies, and subsequently to bound tariffs, upon entry into the WTO; some of these tariff lines are now subject to tariff quotas (section (iii)(c) above). Hence, since WTO accession, the only remaining quantitative restrictions are those on textiles and clothing products, which are being phased-out in accordance with the programme of integration presented by Slovenia under the WTO Agreement on Textiles and Clothing.²⁵ The list of products subject to import (and export) licensing is presented in Table AIII.6.

31. Slovenia's legal framework regarding import licensing is based on Article 8 of the Foreign Trade Act, and a number of supporting decrees, such as the Decree Determining Import and Export Regimes for Specified Goods, the Decree on the Manner, Time Periods and Conditions for the Allocation of Import Quotas, and the annual Decree Determining Tariff Quotas and other special laws and regulations that govern certain areas such as arms and medicines. According to Slovenian legislation, three categories of products are subject to import licensing:

- products affecting public security, order, health, environment and the cultural heritage;
- textiles and clothing products that are subject to quantitative restrictions; and

²³ Import bans apply to certain plants (such as chestnut trees, oak trees, citrus plants, quince, apple and pear trees, rose, and strawberry), tubers (seed and ware potato), isolated bark (maple and poplar trees from certain countries), and soil and plants from selected countries.

²⁴ GATT document L/7191, 23 March 1993, p.18.

²⁵ WTO document G/TMB/N/186, 28 June 1996.

- agricultural products that are subject to tariff quotas.

32. The Government of Slovenia indicates that the licensing requirement regarding the first category of products "is not intended to restrict the quantity or value of import but to protect national security, health, environment, cultural heritage, prevent money laundering and fulfil international commitments undertaken by Slovenia".²⁶ Non-automatic licensing requirements (without volume limits) apply to imports of weapons, ammunition, and explosives; poisons, drugs, psychotropic substances and precursors; substances affecting the ozone layer; radioactive chemical elements and radioactive isotopes, their compounds, and nuclear material and equipment; special waste and scrap equipment; seeds and semen; special objects of arts; and gold and coins. Licences are granted by the competent Ministry depending on products.²⁷ The Slovenian authorities are preparing a new and full notification to the WTO.

33. Slovenia maintains quantitative restrictions on 65 textiles and clothing products at the eight-digit level (Table AIII.7). Non-automatic licensing, in this case, is intended to restrict the quantity of imports (volume limits). Licences are based on annual quotas determined by the Government at the beginning of each calendar year, and allocated to importers through the Chamber of Commerce.²⁸ These licences are issued for importation from all sources, except countries that already benefit from quota-free access under preferential-trade agreements. According to the authorities, the quotas are not applied rigidly; unutilized quotas can be allocated to another restricted line.

34. A third licensing system is used to administer imports of agricultural products that are currently subject to tariff quotas. In this case, the Ministry of Economy is responsible for issuing licences for in-quota imports, after consultation with the relevant agencies (Ministry of Agriculture, Ministry of Finance, and the Chamber of Commerce). There are two forms of tariff quota subject to licences: tariff quotas linked to Slovenia's commitments under the WTO, and tariff quotas negotiated under preferential and free-trade agreements. Licensing regarding the implementation of Slovenia's Tariff Schedule under the WTO is governed by the annual Decree on Determining Tariff Quotas. Licences for tariff quotas under bilateral agreements are subject to decrees specific to these agreements. Tariff-quota administration for agricultural products was transferred to the Ministry of Agriculture, Forestry and Food. Import licences are issued by the Agency for Agriculture Markets and Rural Development. The commission for the distribution of quotas was abolished on 1 January 2002 and replaced by the first-come-first-served system and by an auction system.

(v) Contingency measures

(a) Anti-dumping and countervailing measures

35. In the context of its accession to the WTO, Slovenia enacted legislation on anti-dumping and countervailing measures (Part V of the Law on the Protection of Competition, adopted on

²⁶ WTO document G/LIC/N/3/SVN/1, 26 June 1997, p.2. International commitments are to be understood as commitments related to the respect of international conventions regarding environmental protection, the prevention of the manufacture and trafficking of illicit drugs, and public safety.

²⁷ For example, the Ministries of Interior and Defence for imports of explosives, arms and ammunition, depending on their civil or military use; the Ministry of Health for drugs, psychotropic substances and precursors; the Ministry of Environment and Spatial Planning for wastes and ozone-layer-depleting substances; the Ministry of Agriculture, Forestry and Food for seeds and propagating material, breeding material, and plant-protection products; and the Ministry of Culture for antiques.

²⁸ According to the authorities, the Chamber of Commerce is largely regulating the quota system, in close cooperation with the Textiles Importers' Association and the industry. Licences are granted on a first-come-first-served basis or among importers taking into account their past imports.

25 March 1993, complemented by the Decree on Dumped and Subsidized Imports of 23 June 1994). The key procedures related to anti-dumping and countervailing actions are presented in Box III.1.

36. Slovenia is not an active user of its anti-dumping and countervailing measures legislation. Since it was enacted, Slovenia has initiated only one anti-dumping case (against imports of turkey meat from Hungary), which was concluded without the imposition of a measure, as the investigation did not find causal link between dumping and injury (or threat of). As of January 2002, Slovenia had neither imposed nor initiated any countervailing measures.

(b) Safeguard measures

37. Since the entry into force of the WTO Agreement on Safeguards, Slovenia has introduced one provisional safeguard measure, on imports of meat of swine, fresh, chilled or frozen (HS tariff heading 0203). The measure was imposed on 21 November 1998 and terminated two months later (16 January 1999), after the investigation concluded that the domestic industry had not been seriously injured by the increase in imports.²⁹

38. The WTO Agreement on Safeguards also provides for the elimination of pre-existing "grey-area" measures (Article 11.1(b)) such as voluntary export restraints and orderly marketing arrangements, according to fixed timetables and within four years from the entry into force of the Agreement (i.e., 31 December 1999 at the latest). Slovenia notified a list of export taxes on wood and wood products to be eliminated.³⁰ It removed export taxes on all but one category of products (wood in the rough) on 1 January 1997, and eliminated the last measure a year later (section (2)(i)(a)).³¹

39. In October 2000, Slovenia introduced legislation on safeguards (Decree on Safeguard Measures) to ensure compliance with the relevant WTO Agreement.³² The Decree states that a safeguard measure can be imposed if it has been ascertained that a product is imported in such increased quantities and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces the like or directly competitive products, or serious disturbances in any sector of the economy. The Decree applies neither to imports of textiles and clothing products subject to quantitative restrictions, which fall under the Agreement on Textiles and Clothing,³³ nor to products imported under free-trade agreements. However, it covers agricultural imports. It provides for special treatment of developing countries, by exempting their imports from safeguard measures if their market share does not reach 3%.³⁴ The key procedures related to safeguard measures are presented in Box III.2.

²⁹ The investigation and the imposition of the provisional measure were notified in WTO document G/SG/N/6/SVN/1, 26 November 1998, and the termination of the measure was notified in G/SG/N/7/SVN/1/Suppl.1, 22 January 1999.

³⁰ WTO document G/SG/N/3/SVN, 27 March 1995.

³¹ WTO document G/SG/N/5/SVN/Suppl.2, 1 April 1998.

³² The legislation was notified in WTO document G/SG/N/1/SVN/2, 10 January 2001.

³³ Article 6 of the WTO Agreement on Textiles and Clothing allows transitional safeguards to be introduced for products not yet integrated into the disciplines of the Agreement in the event of increased imports, provided that such increase causes or threatens to cause serious damage to domestic producers. No such safeguard has been used by Slovenia since the entry into force of the Agreement.

³⁴ This exemption does not apply if developing countries with individual import shares smaller than 3%, collectively account for more than 9% of the imports.

Box III.1: Key procedures related to anti-dumping and countervailing measures

According to the Slovenian legislation, an *anti-dumping duty* may be imposed when products are imported at dumped prices and when such imports are causing injury to the domestic industry. A dumped product is considered to be a product with an export price less than the "normal" value of the like product in the exporting country; the normal value is based on a comparable price paid or payable for the like product in the exporting country or "the value determined in accordance with the international treaties to which the Republic of Slovenia is a signatory" (Article 15 of the Law on the Protection of Competition).

The Competition Protection Office (the Office) is in charge of initiating and conducting investigations. It may start an investigation on the basis of a written complaint by one or several companies. The complaint should contain evidence of: the existence of dumping, injury (or threat of injury), and the causal link between dumped imports and the actual injury or threat of injury. In reaching its decision on the commencement of a procedure, the Office takes into account the opinion delivered by the Advisory Committee composed of representatives of government ministries (Economy, Finance, Agriculture and Forestry, and Foreign Affairs) and of the Chamber of Commerce. The case is published in the *Official Gazette*. An investigation is normally concluded within one year of initiation (1½ years in special circumstances) and the decision is published in the *Official Gazette*. Interested parties have the right to be heard during the period of investigation, and to present to the Office any material evidence that may help the investigation. The duty shall not be higher than the dumping margin found and shall be applied for a maximum period of five years. The duty can be less than the dumping margin if such lesser duty would be adequate to remove the injury. A provisional duty can be imposed if certain conditions have been met (those contained in Article 7 of the Anti-Dumping Agreement). Provisional duties may not exceed the margin of dumping and shall not be imposed sooner than 60 days from the date of commencement of the investigation. Provisional duties may remain in force for four months; they are extendable to six or nine months in exceptional circumstances. Before proposing to the Government imposition of provisional or definitive anti-dumping duties, the Office receives an opinion from the Advisory Committee. Decisions on the imposition are published in the *Official Gazette*.

The Competition Protection Office is also the competent authority for countervailing cases. It may impose countervailing duties if it has been ascertained that the subsidized imports cause injury or represent a threat to the domestic industry. The Office may start an investigation based on a complaint, which must contain evidence of the existence of subsidized imports (and of the degree of support), of the injury or threat of injury, and of the causal link between subsidized imports and injury. The same Advisory Committee that deals with anti-dumping cases delivers an opinion on the initiation of a procedure. In its investigation, the Office invites written inputs and may conduct hearings with all interested parties. As for anti-dumping, the Office may seek cooperation from the competent authorities in the subsidizing country. If a mutually agreed solution is not found (for example through the acceptance of a price undertaking), proceedings are initiated. The decision to initiate a proceeding is published in the *Official Gazette* and an investigation is to be concluded within 12 months of initiation (18 months for special cases). The duty shall not exceed the subsidy provided and the amount sufficient for eliminating the injury or its threat. The countervailing duty may be applied for a maximum of five years. Countervailing duties may be either provisional or definitive. Provisional duties may be imposed if there has been a preliminary finding that the subsidized imports caused injury or are a threat to the domestic industry. The duties may be imposed no sooner than 60 days from the initiation of the investigation and for a period of four months. They may be extended for a further two months. Countervailing import duties, provisional or permanent, are enforced by a government decision, which is published in the *Official Gazette*.

While no particular provisions exist in Slovenia's legislation for appeals against decisions on anti-dumping and countervailing duties, according to the general rules, there is the possibility for a court review. The Office, or any interested parties, may request a review if the conditions that lead to the investigation change. The review may commence after a period of one year from the conclusion of the initial investigation. On the basis of the review, and of an opinion of the Advisory Committee, the Government may change or abolish the measures in force.

Source: WTO documents G/ADP/N/1/SVN/1 and G/SCM/N/1/SVN/1, 5 April 1995.

Box III.2: Key procedures related to safeguard measures

A *safeguard measure* may be imposed by the Government upon recommendation by the investigating authority (Ministry of Economy) when a product is being imported into Slovenia in such increased quantities and under such conditions as to cause or threaten to cause a serious injury to the domestic industry. The Ministry may start an investigation based on a complaint by the domestic industry or on its behalf by the relevant association, and, in the case of agricultural products, by the Ministry of Agriculture. In its investigation, the Ministry invites written inputs from all interested parties. The decision to initiate an investigation is published in the *Official Gazette*. Interested parties have the right to be heard during the investigation. The measure may be applied for a period of four years, extendable to eight years in total (if the safeguard measure is to exceed three years, the Ministry of Economy should review its need no later than in the middle of the period of application of the safeguard measure). A provisional duty not exceeding 200 days can be imposed.

Source: WTO document G/SG/N/1/SVN/2, 10 January 2001.

(vi) Standards and technical regulations

40. Aside from fulfilling its obligations under the WTO Agreement on Technical Barriers to Trade, Slovenia aims to harmonize its legislation and practices with those of the EU in the area of standards, regulation, and conformity assessment. In this context, three new laws were introduced in 1999, the Standardization Act, the Act on Accreditation, and the Act on Technical Requirements for Products and Conformity Assessment, in order to complete the segregation of the accreditation, certification, and standardization functions that were previously performed by a single body, the Standards and Metrology Institute of Slovenia (SMIS). These functions are now performed by two newly created, non-governmental agencies: the Slovenian Accreditation, and the Slovenian Institute for Standardization (SIST).³⁵ The SMIS (now called Metrology Institute of the Republic of Slovenia (MIRS)) retains an important coordinating role among these institutions, and a technical role concerning legal metrology and pre-packaging. The Ministry of Economy keeps overall responsibility for regulation, international cooperation, and implementation of the TBT Agreement.³⁶

41. The 1999 Standardization Act and supporting regulations confirmed ongoing efforts to simplify the standardization processes. Use of standards is not, in principle, mandatory in Slovenia, unless it is so stipulated by a particular legal act. Products for which safety is an issue (food, electrical equipment, construction material, medical devices, etc.) are generally subject to technical regulations, and therefore can be subject to testing, certification or prior approval procedures. Spot-checks to ensure compliance of goods with these requirements are conducted by relevant market surveillance authorities as stated in the particular act. Procedures for the development and publication of standards and the framework for setting mandatory technical requirements in specific sectors are specified in the Standardization Act.

42. Steady progress is being achieved by Slovenia in harmonizing national standards and technical regulations with international and EU standards and relevant legal Acts.³⁷ Slovenia is a full member of the International Organization for Standardization (ISO), and of the International Electrotechnical Committee (IEC), and an associate member of the European Committee for

³⁵ The Slovenian Accreditation started work in May 2001, and the SIST was established in September 2001.

³⁶ The Ministry of Economy is also responsible for "horizontal" legislation, such as the Act on the General Safety of Products. Preparation and implementation of legal acts regarding specific products is left to specialized Ministries, such as the Ministry of Transport (vehicles safety), the Ministries of Agriculture and Health (agricultural and food products), and the Ministry for Information Society (electro-magnetical compatibility, telecommunication equipment, etc.).

³⁷ European Commission (2000), p. 31.

Standardization (CEN) and the European Electrotechnical Committee for Standardization (CENELEC). It is also a full member of the European Telecommunication Standard Institute (ETSI). By September 2001, Slovenia had adopted some 11,400 standards, of which 2,400 are ISO and IEC standards, 8,800 are EU standards (CEN, CENELEC and ETSI), and 200 are foreign standards (DIN, BS). There are only 16 purely national standards in force. Slovenia's standardization organizations also cooperate on a bilateral basis with several countries' national standardization organizations. In July 2000, Slovenia adopted a Decree transposing the EU Directive on the notification procedures for standards and technical regulations. The relevant Slovenian law on the notification procedures concerning the TBT Agreement of the WTO has been in force since 1995.

43. While most products are subject to self-assessment procedures (i.e. performed by producers or importers), the most dangerous products can only be marketed after conformity assessment is performed by a third party designated by the competent Ministry.³⁸ Products subject to mandatory conformity assessment include, *inter alia*, construction products, some personnel protective equipment, medical devices, lifts, pressure equipment, and radio and telecommunications terminal equipment. Slovenia may recognize foreign documents or foreign marks as a proof of conformity assessment, on the basis of reciprocity, and/or if the legislation of the country concerned is based on the same principles as that of Slovenia. Slovenia plans to conclude a mutual recognition agreement (MRA) for the results of conformity assessment with the European Union, covering in particular the acceptance of test results and the recognition of certificates.

44. A series of sector-specific legislative acts and decrees have recently been adopted in alignment with EU legislation, to establish the requirements for products that are subject to hygiene and health testing procedures. In early 2000, regulations were issued on the criteria for authorization of testing organizations in foodstuffs, on additives, on erucic acid, mineral and spring water, and on labeling of pre-packed foodstuffs. Other legislation was adopted to cover restrictions on marketing or use of certain dangerous substances and preparations, classification, packaging and labeling of dangerous preparations of chemical products. Regulations have also been adopted concerning pharmaceutical product and cosmetics (testing, authorization requirements, etc.). As provided by the Health Inspectorate Act of November 1999, the Health Inspectorate is responsible for surveillance and enforcement activities in these areas.

45. The main laws governing sanitary and phytosanitary measures are the Plant Product Protection Act, the Agriculture Act, the Veterinary Service Act, the Act Regulating the Sanitary Suitability of Foodstuff, and Products and Materials Coming in Contact with Food. These regulations, which the Slovenian authorities consider to be in accordance with international conventions, are based on the recommendations of the European Plant Organization and the UN/FAO regional plant protection organization. These regulations do not discriminate against imported products. According to Slovenian law, Slovenia's veterinary authorities may impose sanitary and phytosanitary measures in the form of import bans.³⁹ Import bans apply to plants and plant products on which listed quarantine pests occur (insects, bacteria, viruses, and parasitic plants). Certain goods must fulfil special quarantine requirements to be allowed entry. Phytosanitary certificates are

³⁸ In cases where mandatory certification is required, national certificates of conformity are delivered by testing and certification bodies designated by the Ministry of Economy or the competent ministries. However, under simplified procedures producers may issue a simple declaration of conformity if the products are believed to be in conformity with existing standards or technical regulations. In such cases, the producer must show evidence of such conformity.

³⁹ Slovenia imposed import bans on cattle and certain products originating from cattle, in relation to bovine spongiform encephalopathy (BSE), as well as on other live animals to provide protection against the transmission of foot-and-mouth disease. These measures have been notified in WTO documents G/SPS/N/SVN/2, 3, 11 and 12.

required for the importation of certain plant products, fruits, vegetables and seeds (section (1)(iv)(a)). A veterinary certificate is required for the importation of certain animals, foodstuffs, and raw materials of animal origin.

(vii) Government procurement

46. Potential benefits from open procurement in Slovenia would be considerable in terms of efficiency, competition, rational use of public finances, and deficit reduction. Total procurement of works, supplies, and services were roughly estimated in 2001 at about 12% of GDP.

47. Changes have been introduced recently to Slovenia's government procurement legislative framework in order to align domestic provisions with EU Directives and the WTO Government Procurement Agreement (GPA), to which Slovenia is an observer.⁴⁰ The Review of Public Procurement Procedures Act was adopted in 1999, and the Public Procurement Act was revised in 2000. The former introduces a system of remedies and increases protection for bidders throughout the tendering procedure, as required by both the GPA and the EU Directives. The Act also provides for the establishment of an independent review body, the National Review Commission (NRC); its members are appointed by Parliament to guarantee their independence.

48. The Public Procurement Act of April 2000, revising the 1997 Act, regulates public procurement of supply, works, and services, including in the utility sector covering water, telecommunications, energy, and transport. It applies to the central government, local governments, public undertakings, and utilities. One of its main features is the unification of all procedural requirements into one single Act and the creation of a central administrative authority in charge of its implementation (the Public Procurement Office).⁴¹ The Office's tasks also include participation in the preparation of rules and procedures in the field of public procurement, the provision of regular analysis of the procurement situation, cooperation with foreign institutions, and notification to the National Review Commission of infringement by contractors in implementing the public procurement rules. The revised Act also provides for increased transparency through enhanced publication requirements, and emphasizes the principles of fair competition (Article 5) and equality among all tenderers (Article 7), whether domestic or foreign.⁴² In this context, the 10% preference for domestic bidders that prevailed in previous legislation has been eliminated.

49. According to the new Act, public procurement contracts are awarded through public and open tenders (involving an unlimited number of parties). However, the Act (Article 17) also provides for restricted procedures and negotiated procedures for procurement, depending on the situation. Intended tenders have to be published in the *Official Gazette*, and, above certain thresholds, also in the *Bulletin of the European Communities* (Article 30 and 83 of the Act). Normally, bids complying with the conditions specified in the invitation for bids are judged on the basis of lowest price, or the most "economically advantageous" bid (Article 51).⁴³ Unsuccessful bidders must be informed of the

⁴⁰ Slovenia has started accession procedures for membership in the GPA.

⁴¹ The Public Procurement Office was put in place in the spring of 2001.

⁴² Publication requirements include the publication of the terms of tenders, the evaluation criteria for the invitation of tenders and for the selection of bids, and the outcome of the procedure.

⁴³ The criteria defining the most economically advantageous bid include the completion date, running costs, cost-effectiveness, quality, aesthetic and functional characteristics, technical merit, after-sales services and technical assistance, guarantee period, commitments regarding spare parts, post-guarantee maintenance, and price.

reasons for their exclusion. Appeals against the contracting authority's decision may be brought to the National Review Commission. Cases may also be brought before the courts.⁴⁴

50. While it has been noted that the revised Act is a significant step in the process of harmonization with EU rules, executing regulations are still needed to guide the tender process.⁴⁵ Other issues have been raised, in particular the requirement, in some cases, to use Slovenian standards and technical specification in public procurement.⁴⁶

(viii) Other measures affecting imports

51. Slovenia has never applied import restrictions for balance-of-payments reasons. According to the authorities, the Government does not maintain countertrade arrangements, has no legislation on local-content or performance requirements affecting manufacturing, and has no state-trading enterprises within the meaning of the Understanding on the Interpretation of GATT Article XVII.⁴⁷

(2) MEASURES DIRECTLY AFFECTING EXPORTS

(i) Export duties, taxes, and restraints (controls/prohibitions, licensing)

(a) Export duties and taxes

52. Slovenia no longer imposes any duties, taxes or other charges on exported goods; nor does it maintain any official minimum or reference export prices. It had notified to the WTO the list of items on which it levied export taxes, as pre-existing "grey-area" measures covered by Article 11 of the Agreement on Safeguards (Table AIII.8), along with the timetable for the phase-out of such measures. Taxes of 10% or 15% were levied on exports of wood and wood products, and of 25% on ferrous, aluminium and copper waste and scrap. According to the authorities, the measures were aimed at addressing shortages in the domestic market.⁴⁸ On 1 January 1997, Slovenia abolished the export tax for all notified products, except for wood in the rough. For this product, the export tax was reduced from 10-15% to 4%, and eliminated one year later (1 January 1998).⁴⁹

⁴⁴ Normally, decisions by the National Review Commission are final. However, the Commission cannot judge claims for indemnification. Cases can therefore be started or re-started in the courts for this purpose.

⁴⁵ The authorities consider that the current legislation goes far beyond EU requirements. Following complaints by contractors on the complexity and length of tender procedures, the authorities are considering possible simplifications, without compromising transparency.

⁴⁶ European Commission (2000), p.33.

⁴⁷ WTO document G/STR/N/1/SVN, 29 July 1996. However, the Slovenian authorities notified the activities of the Agency of the Republic of Slovenia for Commodity Reserves. The main purpose of the Agency is to provide and maintain stocks of wheat and sugar, the two commodities it deals with, to support market stabilization measures. These measures are implemented through market interventions in cases of shortage, oversupply or in emergency situations. However, the authorities made clear that the Agency does not assume state-trading functions within the meaning of GATT Article XVII (WTO document G/STR/N/6/SVN, 26 June 2000).

⁴⁸ The Slovenian authorities noted that the "measure is to restrict exports of domestic materials and/or exhaustible natural resources necessary to ensure essential quantities of such materials to a domestic processing industry during the period of restructuring of that industry when the domestic prices of specified materials are below the world prices" (WTO document G/SG/N/3/SVN, 27 March 1995, p.1).

⁴⁹ WTO document G/SG/N/5/SVN/Suppl.2, 1 April 1998.

(b) Export restraints and licensing requirements

53. No export prohibitions, other than the embargos maintained in the context of UN Security Council Resolutions, are currently in force.

54. A certain number of products are currently subject to export licensing requirements (Table AIII.6). Some two thirds of the tariff lines concerned cover dangerous chemicals and radioactive substances (contained in HS chapters 27, 28, 29 and 38), as well as other products (raw materials, precious metals, auxiliary chemical substances and pharmaceuticals) for which licensing is aimed at fulfilling Slovenia's obligations under certain international treaties and conventions (conventions on trade in endangered species, hazardous substances and other environmentally sensitive products). Licenses for these products are delivered essentially by the Ministries of Health and Environment. A quarter of tariff lines concern weapons and arms, parts and accessories (including explosives, automatic and non-automatic firearms, etc.), for which (non-automatic) licensing is under the responsibility of the Ministries of Interior and Defence.

55. In 2000, Slovenia adopted a regulatory framework governing the control of exports of dual-use (military and civilian) goods and technologies, composed of the Exports of Dual-Use Goods Act, a Decree specifying the list of dual-use goods and an Administrative Order regulating the format and content of forms required for the issuance of export authorizations for these goods.

56. According to the authorities, Slovenia does not participate in any arrangements designed to limit or control its exports to third countries at the request of foreign governments. The authorities are not aware of any such arrangements between private Slovenia's firms and foreign countries.

(ii) Export promotion and assistance

57. Slovenia does not provide any specific and direct financial assistance for exports. The authorities are of the view that Slovenia's competitiveness will be best ensured by eliminating any anti-export bias in Slovenia's trade policy. This entailed the recent elimination of taxes affecting Slovenia's exports, and the pursuit of a generally outward-oriented policy regarding imports.

Export subsidies

58. According to the Government, Slovenia does not provide explicit export subsidies, either on industrial products or on agricultural products.⁵⁰

Export finance, insurance and guarantees

59. Export credit insurance is provided by the Slovene Export Corporation (SEC), a financial institution owned by the Government (91%) and minority shareholders (mostly banks). Its primary purpose is to facilitate exports and contribute to the competitiveness of the Slovenian economy. The SEC insures export credit and investment against non-commercial (mostly political) and commercial risks. All Slovenian-based enterprises are eligible, regardless of ownership. SEC insures export credits and investment abroad against non-commercial risks, and medium-term export credits against commercial risks "on account" of the State.⁵¹ In return, the Government guarantees SEC's obligations

⁵⁰ Each year since its accession to the WTO, Slovenia has notified that it provides no export subsidies on agricultural products (WTO documents G/AG/N/SVN/2, 7, 10, 15 and 17).

⁵¹ SEC's operations on behalf of the State are managed and accounted separately from the operations performed by SEC on its own account. They include: insurance of export credits and investments as well as medium-term export credits against non-commercial risks; insurance of short-term export credits against

arising from insurance of those risks, and provided the initial funds for the establishment of SEC's "precautionary reserves".⁵² SEC also insures "on its own account" private companies against short-term commercial risks, both in domestic and international trade. This insurance is offered on a commercial basis; reinsurance is arranged with major reinsurance companies and, thus, exempt from any state support.

60. SEC is also increasingly active in export finance, essentially by providing refinancing for banks' export loans. The value of the transactions refinanced by SEC in 2000 amounted to some 4% of Slovenia's exports. SEC benefits from a state guarantee when it borrows in international markets to finance these activities.⁵³

61. SEC participates in the management of the Interest Rate Equalization Programme, a state-sponsored interest-rate subsidy programme allowing exporters to benefit from export credits on terms more favourable than market conditions. Under the programme, the Government pays the difference between the cost of funds and the actual interest rate applied when providing officially supported export credits. The amount of the state subsidy for this programme is set on an annual basis in the Budget. It was in the order of SIT 700 million in 2000 (€3.5 million).

Export promotion and marketing assistance

62. The Slovene Trade and Investment Promotion Agency (TIPO), a government agency, promotes and assists the development of mutual trade and industrial cooperation between Slovenia and other countries. TIPO supports Slovenian exporters through various initiatives, including the organization of trade missions abroad, and promotes foreign investment. It provides information on legislation, taxes, and incentives in Slovenia, organizes fact-finding missions, and provides links with industry and local authorities. In 1995 and 1997, TIPO received financial assistance from the EU's Phare programme to strengthen its trade and investment promotion activities.

63. Slovenia has a specific trade promotion programme for agriculture, aimed at providing assistance to net exporting activities such as wine, apples, dairy products, and poultry in their search for new markets (Chapter IV(1)). Budgetary allocations are granted for participation at trade fairs abroad, co-financing marketing studies and promotional materials, introducing new varieties of products targeted for export, and extension and consulting services. According to the Government, these measures are considered as necessary marketing tools for exports but are not contingent on any export performance, and therefore cannot be considered as export subsidies.

Customs-free zones

64. Slovenian legislation provides for the establishment of free-trade zones into which goods may be imported and later exported without payment of customs duties and other taxes. According to the authorities, there are currently two free-trade zones in Slovenia, at Maribor and the seaport of Koper.

commercial (non-marketable) risks in non-OECD countries; insurance against exchange rate risks; and, as an agent of the State, a contribution to the management of the Interest Rate Equalization Programme (IREP).

⁵² Precautionary reserves are intended to cover claims arising from insurance against non-commercial and medium-term and short-term (non-marketable) commercial risk performed by SEC on account of the State. The initial funds for these reserves were provided by the State from the privatization proceeds.

⁵³ Slovene Export Corporation (2000).

(3) OTHER TRADE-RELATED MEASURES AFFECTING PRODUCTION AND TRADE**(i) State aid**

65. While Slovenia has established a functioning market economy, the State continues to provide subsidies on economic or social grounds. Subsidies are granted in the form of aid to industrial restructuring (steel, coal mining, and textiles and clothing industries), direct support to output (agriculture), or regional aid and other horizontal programmes (employment and training, research and development aid, etc.). The direct cost of the state aid system has been declining slowly, from 2.5% of GDP in 1998 to 2.1% in 2000. Current figures show that the gradual reduction of subsidies to industry and horizontal programmes is partly offset by the strong increase in subsidies to agriculture (Table III.4). In addition to direct costs to the budget, there are indirect costs as a result of forgone revenues, associated with, for example, duty and tax exemptions (duty-free zones, the large number of autonomous MFN exemptions).

66. As part of the requirements for EU accession, Slovenia has established an independent system for monitoring state aid. The legislative framework, the State Aid Control Act, as well as secondary regulations, entered into force in 2000.⁵⁴ It provides extensive powers to the monitoring entity, the Commission for State Aid Control, to assess and approve state aid (ex-ante control), as well as to monitor its use (ex-post control). Based on notifications made by the institutions granting subsidies, the Commission prepares an annual review of state aid covering all sectors, including agriculture and fisheries. Progress in establishing a state aid inventory and widening the notification system to all levels of Government (local, national) are under way.⁵⁵ Major sectoral aid programmes, such as those for the restructuring of the leather, footwear, textiles, apparel, and steel industries have been examined by the Commission for State Aid Control, and approved under certain conditions. Up to September 2001, the Commission had examined 166 notifications of subsidies and approved two thirds (98, of which 57 conditionally).⁵⁶ Further work is under way to draw a detailed map of support to regional development, and ensure that it is consistent with EU legislation.

Table III.4
State aid in Slovenia, 1998-00
(Million SIT, unless otherwise indicated)

Category	1998	1999	2000
Total state aid	82,364	88,923	83,494
Total state aid (in million euro)	442	459	407
Agriculture and fisheries	17,194	26,922	38,333
Horizontal objectives	43,615	43,155	29,505
Research and development	14,374	14,723	4,098
Environment	543	4,048	2,134
Restructuring	12,648	5,782	5,316
Small and medium-sized enterprises	2,632	2,079	2,924
Employment	5,573	13,599	13,258
Training	5,816	1,323	439
Other objectives	2,028	1,601	1,337
Particular sectors	21,106	18,301	14,889
Steel industry	3,434	2,019	784
Transport	13,629	10,985	11,481
Coal mining	3,378	4,830	2,356
Other manufacturing sectors	665	467	268
Regional aid	449	545	768

Source: Government of Slovenia, *Third Survey on State Aid*.

⁵⁴ Secondary regulations include the Decree on the Purposes and Conditions for the Granting of State Aid, and the Decree on the Content and Procedure of Supplying Data for State Aid Control.

⁵⁵ The Commission for State Aid Control receives technical and administrative assistance from the State Aid Control section in the Ministry of Economy.

⁵⁶ European Commission (2000), p.42; and information provided by the Slovenian authorities.

Assistance to agriculture

67. Support to agriculture has recorded the fastest increase in recent years. Total subsidies to the sector more than doubled between 1998 and 2000 (Table III.4).⁵⁷ In preparation for EU accession, Slovenia is putting in place the necessary structures and subsidy programmes to implement the EU Common Agricultural Policy. In 1999, the Government established the Agency for Agricultural Markets and Rural Development (ARSAMRD), under the Ministry of Agriculture, Forestry and Food, to carry out those tasks. The ARSAMRD has been provided with powers to regulate markets (based on EU common market organizations, for the main categories of production) through price support, direct payments to farmers, and set-aside schemes. To this aim, all domestic support programmes as well as the EU's SAPARD pre-accession funds to support Slovenian agriculture have been placed under the responsibility of the ARSAMRD.

68. In the past two years, the Government also adopted market organizations for all major agricultural products, in a move aimed at aligning Slovenia's market regulation system with the Common Agricultural Policy. Market organizations have been adopted for cereals, sugar, seeds of agricultural plants, hops, fresh fruit, vegetables and olive oil, wine grapes, must and wine, beef, sheep and goat meat, and milk and dairy products (Chapter IV(1)). In most cases, the introduction of the market organizations resulted in the elimination of remaining state monopolies (wheat and rye markets), the liberalization of administrative controls on prices (sugar and sugar beet markets) and the lowering of support prices. To offset the impact of lower domestic prices on producers' income, the Government also introduced direct payments to farmers for all major crops (area payments per surface unit, generally hectares) or animal production (support in the veal and beef markets is granted in the form of premiums for suckler-cows, male bovines, and sheep). Slovenia notified, for the first time, to the WTO its "blue box" measures as well as a strong increase in "green box" measures.⁵⁸

69. In addition, a number of structural support programmes exist for the renovation of agricultural and food production (rehabilitation of enterprises and cooperatives; modernization of training and research centres; programmes for young farmers; investment programmes to reach EU veterinary and ecological standards), environmental and rural development, the development of less-favoured agricultural areas, and land operations (consolidation, irrigation, and draining for more efficient use of land). These programmes involve various forms of support, ranging from direct payments (as for environmental programmes and aid to the less favoured areas), to subsidized credits, and guarantees on loans from banks.

(ii) Competition policy

70. The foundation of Slovenia's legal framework for competition is Article 74, paragraph 3 of the Constitution, which prohibits all practices that restrict competition in a manner contrary to the law. While a first law regulating competition was enacted in 1993 (the Law on the Protection of Competition), competition rules were recently amended, in the context of the adoption of the *acquis communautaire*. The new Prevention of the Restriction of Competition Act entered into force on 14 July 1999. It transposes into domestic legislation EU anti-trust rules regarding restrictive agreements (Part II of the Act), abuse of dominant position (Part III), and rules on concentration (Part IV). The Act is supported by secondary legislation, such as the Decree on the Contents and Elements required

⁵⁷ In European Commission (2000), p.27, the Commission reports that "agricultural policy is characterized by subsidy and price levels well above the EU levels in a number of production branches and is the most protectionist in the region."

⁵⁸ WTO document G/AG/N/SVN/18, 14 September 2001.

for the Notification Form for the Concentration of Undertakings and the Decree on Block Exemptions, and Instructions on the Methods and Conditions for Defining the Relevant Market.⁵⁹

71. The main features of this legislation, which covers both goods and services, are described in Table III.5. All legal and natural persons are treated equally under the law, irrespective of their legal status (private and public companies) or ownership affiliation (domestically and foreign-owned companies) (Article 2 of the Act). The Act prohibits in principle all forms of restrictive agreements (Article 5(1)), both horizontal and vertical, with some exceptions, which are authorized under individual or block exemptions (Article 5(3) and 9).⁶⁰ It also prohibits the abuse of a dominant position (Article 10). A dominant position is held by a legal or natural person (an undertaking) when it has no competition or significant competition for a specific product or service in the Slovenian market. A 40% market-share threshold is used as a reference to assess market dominance, but other criteria are also taken into account.⁶¹ The Act also takes into account the case in which two or more companies enjoy joint dominance of the market (duopoly or oligopoly). The Act prohibits concentrations, in particular through mergers, when they may result in the elimination of effective competition in the relevant market. Concentrations must be notified by the companies concerned. Merger control is exercised on companies with turnover exceeding SIT 8 billion. An alternative threshold of 40% of the relevant market can be used. The Competition Protection Office (see below) publishes guidelines on how market shares are calculated and how relevant markets have been defined. Restrictive practices covered by the law can be subject to investigation, prohibition, and fines. Fines for breaking competition rules are imposed by the courts, and range from SIT 10 to 30 million for concluding an agreement to restrict competition and abusing dominant position in the market (Article 52 of the Act).

72. The Competition Protection Office was established by Article 4 of the Act to monitor the implementation of competition rules in all economic sectors.⁶² It was conferred fairly extensive powers to review the restrictive arrangements and concentrations described in the law, request information, open and conduct investigations, organize hearings, and impose penalties (Part V of the Act).⁶³ At the same time, it was granted independence to exercise its tasks; it does not need to report to any executive or legislative body. However, important decisions of the Office, such as decisions to commence an investigation and final decisions, must be published in the *Official Gazette*. Decisions

⁵⁹ The Decree on notification forms defines the content of the notification form that companies are required to submit to the Competition Protection Office. The Decree on Block Exemptions defines groups of restrictive agreements that are allowed under the law (see below).

⁶⁰ Article 5(3) of the Act explicitly permits certain restrictive agreements if they "contribute to improving production or distribution of goods or promoting technical progress, while allowing consumers a fair share of the resulting benefits". However, such agreements, decisions or concerted practices cannot eliminate competition in the market concerned or impose conditions that are not indispensable for the attainment of these objectives. This provision is applied through individual or block exemptions. The Competition Protection Office can provide exemptions on an individual basis, while fixing the limits and obligations imposed on the company concerned. Article 9 of the Act allows the Government to define more broadly the categories of agreements that meet the conditions of Article 5(3), i.e., the agreements that will be exempted from competition rules. The Decree on Block Exemptions covers essentially vertical agreements such as franchising, exclusive distribution, and purchasing, and stipulates the conditions and limits of those block exemptions.

⁶¹ In determining whether there is a dominant position, the Competition Protection Office goes well beyond the market share criteria to determine market control, in particular whether companies benefit from particular advantages with regard to access to finance or investment.

⁶² The Office performs other tasks, in particular in procedures relating to dumped and subsidized imports (Box III.1).

⁶³ The Office only imposes "process penalties", concerning infringements to competition procedures by non-cooperating undertakings (refusal to provide data or to comply with the Office's recommendations).

of the Office may be reviewed by the Administrative Court, and appeals can be made to the Supreme Court.⁶⁴

Table III.5
Main provisions of Slovenia's competition law

Prohibition	Examples of prohibition
Agreements distorting competition (Article 5 = Article 81/1 of EEC Treaty)	<p>Article 5(1) provides that: "agreements between undertakings regarding business conditions in the market which have as their object or effect the prevention, restriction or distortion of competition in the Republic of Slovenia shall be prohibited and shall be null and void". The prohibition applies in particular to agreements that:</p> <ul style="list-style-type: none"> directly or indirectly fix prices or set business terms; limit or control production, investment, technical development or investment; share markets or sources of supply; apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a disadvantage; and make the conclusion of contracts subject to acceptance of obligations that by nature have no connection with the subject of the contract.
Dominant market position (Article 10=Article 82 of EEC Treaty)	<p>A competitor/undertaking is deemed to have a dominant position if its share of purchasing or selling goods or services in Slovenia amounts to at least 40% of the total. Two or more undertakings are deemed to have a dominant position if no significant competition exist between them, and if the aggregate share of purchasing or selling goods and services exceed 60% of the total.</p> <p>The market share represents an important, but not exclusive, criterion for determining the dominant position in the market. According to Article 10(2), other factors should be taken into consideration, such as the degree of competition in the market, the financial situation of competitors, and barriers to entry in the market. Competition rules prohibit the abuse of a dominant position and confer on a dominant undertaking an obligation to refrain from any practices that restrict or prevent competition in the market without justifiable reason. The Act does not define the notion of abuse but enumerates certain abusive practices.</p> <p>Examples of prohibitions include:</p> <ul style="list-style-type: none"> - imposition of unfair terms and conditions (including prices) in contracts - "unjustifiably increasing or reducing prices" in contracts - applying dissimilar conditions to equivalent transactions - making the conclusion of contracts subject to acceptance by the other parties of obligations that have no connection with the object of the contract
Concentration (Article 11=EEC Reg. No. 4064/89)	<p>Article 11 prohibits "concentrations which strengthen the power of one or more undertakings, individually or jointly, as a result of which effective competition on the relevant market would be significantly impeded or excluded".</p> <p>Operations that would be assumed as concentrations are:</p> <ul style="list-style-type: none"> - mergers of two or more independent undertakings - acquisitions by one or more persons or undertakings already controlling at least one undertaking - concentrative joint ventures <p>Exceptions include businesses (in particular banks, saving banks, financial institutions or insurance undertakings) whose activities include dealing in securities holding, or holding on a temporary basis shares that they have acquired in another undertaking with a view to reselling them, provided they do not exercise the voting rights in order to determine or influence the competitive behaviour of such undertaking (Article 11 (5)). In assessing whether the concentration might lead to a dominant position, the Competition Protection Office should examine the following criteria: the choice available to suppliers and users; market positions of the affected undertakings; access to sources of supply and to the market itself; the structure of market shares; the state of competition in the market; barriers to entry in the market; the financial capabilities of the affected companies or undertakings; the evolution of supply and demand for the good or service affected by the concentration; the international position of market participants (Article 13).</p>

Source: WTO Secretariat, based on the Prevention of the Restriction of Competition Act (1999).

⁶⁴ This procedure differs from the previous law, the Protection of Competition Act, under which the affected company could bring an action under civil procedures.

73. According to the Office's 2000 Annual Report, the Office has handled 20 antitrust cases: two concerned restrictive agreements, nine abuse of dominant position (six of which had been initiated before the year 2000), six were applications for individual exemptions and three were applications for negative clearance. In addition, the Office issued 39 decisions on concentrations; no infringements were found, sometimes due to additional commitments by the parties. Three decisions were reached during 2001 (price cartel on investment funds; merger in the electronic industry; and individual exemptions on security services).

(iii) Privatization

74. Slovenia implemented a major privatization programme during the 1990s, as part of its transition into a market-oriented economy. The main legislation in this area, the 1992 Ownership Transformation Act, was aimed at achieving a smooth transfer of ownership for socially owned enterprises, which accounted for the large majority of enterprises inherited from the SFRY (socially owned enterprises were enterprises held by the State, but run jointly by employees and management). This process is well advanced; more than 90% of the shares of these enterprises have been transferred into private hands. The share of GDP accounted for by the private sector was 64.2% in 1999.⁶⁵

75. The 1992 legislation provided for a decentralized approach to privatization, in which individual enterprises adopted their own privatization plans under the general conditions set out by the law.⁶⁶ The law required in particular that ownership transfers followed a pre-determined formula, allowing for a large proportion of the companies' shares to be allocated to employees and management, or to be sold to the public.⁶⁷ Public participation was encouraged by the 1993 Voucher Program, which granted to each Slovenian citizen a voucher account that could be used to buy non-transferable shares of privatized enterprises.⁶⁸ The vast majority of privatizations therefore occurred through direct management-employee buyouts, voucher-based purchases, and direct sales to buyers. Other methods, albeit somewhat marginal, included the acquisition of companies' assets through liquidation, and takeovers by increase in equity.

76. The privatization process achieved one of its main objectives, i.e. the transfer of ownership of most socially owned companies to the private sector while preserving the social consensus over privatization. As in neighbouring countries, the process was inevitably subject to shortcomings and problems. The Slovene Development Corporation (the Corporation), created to restructure companies before offering them to the public, was not always able to sell its shares in enterprises, due to insufficient interest from buyers. In this regard, questions were raised regarding the auction methods of the Corporation, and problems of transparency (even collusion) among privatization investment funds were reported.⁶⁹ As the process developed, the authorities attempted to address each of these

⁶⁵ This is the latest official data provided by the Institute for Macroeconomic Analysis and Development.

⁶⁶ These plans were subject to authorization by Slovenia's Agency for Restructuring and Privatization.

⁶⁷ 10% of the shares were to be transferred to the Compensation Fund, a fund providing compensation payments to previous owners; 10% to the Pension Fund; 20% to the Slovene Development Corporation, which would subsequently sell its portfolio to individual privatization investment funds (those funds have mainly been set up to collect vouchers from the public and buy enterprise shares held by the Development Corporation); 20% for internal distribution (including current and former employees in exchange for vouchers); and 40% to either insiders (internal buyouts where employees receive shares at a discount value) or to the public through commercial sales (public tenders, auctions, and offerings).

⁶⁸ Ownership certificate accounts were opened for each Slovenian citizen with a nominal value between SIT 100,000 and 400,000 (approximately US\$800 and US\$3,100). The overall nominal value of certificates issued was SIT 567 billion (some US\$ 4.6 billion).

⁶⁹ A description of the role of the Development Corporation and the investment funds, as well as shortcomings of the privatization process is available in IMF (1998b).

problems through modifications of the legislation (featuring in particular increased transparency requirements) and peer pressure on key players (such as the Slovene Development Corporation and the privatization investment funds).

77. It has also been argued that the privatization methods, which emphasized gradualism and preservation of social structures inherited from the past, have also resulted in slowing down the pace of economic restructuring. Questions have been raised on the role of institutional funds (social and compensation funds), which hold non-controlling shares in large segments of the economy, and in the decision-making process of individual enterprises.⁷⁰ In addition, the role of the Slovene Development Corporation, which still manages a large number of companies to be restructured, privatized or liquidated, has been subject to criticism.⁷¹ In both cases, the continued involvement of the State in the economy, through its control of the funds, may have been associated with the perception of slow restructuring in certain sectors. At the same time, the method of privatization has also resulted in a wide dispersion of ownership among investors (including state funds, management and employees, and small investors), which may have impaired shareholder controls and restructuring of the privatized enterprises.⁷²

78. Foreign participation in Slovenia's privatization process was limited in the early phase of the process by various legislative provisions, including pervasive capital controls, a two-year freeze on share transfers for newly privatized companies, which protected them from hostile takeovers, investment restrictions in the banking and insurance businesses, and more generally the Stock Market's relatively limited role in the privatization process. Since 1999, these restrictions have been gradually relaxed, as the relationship between slow privatization and the fall of FDI inflows became evident.⁷³

79. In the context of this review the authorities emphasized their desire to complete the "first phase" of privatization (the divestment in socially owned enterprises) and "fill the privatization gap". Efforts are currently being made to restructure the Slovene Development Corporation and to liquidate it once its remaining portfolio of companies has been transferred, sold or liquidated.⁷⁴ The second phase of privatization, which entails the sale of state-owned companies, including the largest banks, utilities (in particular capital-intensive energy utilities), the airport, the Adriatic seaport of Koper, the railways, the telecommunications company, and other major industrial companies is under way.⁷⁵ Parts of the national telecommunication company and of a major bank have already been sold. The authorities believe that this second phase presents significant opportunities for foreign investors.

⁷⁰ European Commission (2000), p.24.

⁷¹ European Commission (2000), p. 24. The Commission writes that "the Slovenian Development Corporation has an increasingly unclear role as it maintains a large number of enterprises in its portfolio with only slow progress in restructuring and divestment. A new management team was appointed recently and it is planned to speed up the divestment process in 2000 including by offering assets to foreign investors."

⁷² IMF (2001), p.10.

⁷³ European Commission (2000), p.21. The Commission writes: "the lack of privatization has kept FDI inflows low in 1999 and early 2000".

⁷⁴ On 31 December 2000, the portfolio of the Corporation still comprised 93 companies, a third of which was expected to be sold in the course of 2001. The bulk of the remaining companies will be transferred to authorized investment funds for the exchange of ownership certificates. Since privatizing these companies is contingent on the fulfilment of certain legal and administrative procedures, companies that would not be ready for privatization by the end of 2001 were to be temporarily transferred to the Ministry of Finance. The process of liquidation of the Slovene Development Corporation was to be initiated at the end of 2001.

⁷⁵ A string of industrial assets are on the privatization list. They include Slovenske Železarne (the steel group), Talom (the aluminium maker), the tyre maker, and Lek and Krka, the two largest pharmaceutical producers.

(iv) Price controls and regulations

80. The Government is gradually liberalizing prices of all products and services considered to be competitively established in the market to a sufficient extent, and for which price disparities between Slovenia and comparable EU countries have already been removed. Over the last few years, prices of the following products have been liberalized: medical products (in 1998), heavy heating oils and gas oils (1998, in 2000 regulated prices were reintroduced), compulsory automobile insurance (1999), sugar (1999), postage (2000); the pricing of public utility services was transferred to local communities in 2000. Price controls still apply to some strategic products and services. In April 2000 a model for the pricing of petrol was introduced, on the basis of which prices are adjusted every 14 days according to fluctuations in the prices of oil derivatives in the world market and the exchange rate of the U.S. dollar. In 2000, 14.8% of prices of products and services monitored by the Office of Statistics were under direct or indirect Government control. According to the authorities, the share of controlled-price products in the statistical basket of goods (consumer price index) is falling every year, and reached 12.7% in 2001. The products and services under direct or indirect price control at the end of 2001 were: electric power; oil derivatives; postage for basic postal services up to 100 gr.; basic telecommunications services; railway passenger transport; distance communal heating; school textbooks; basic public utility services; and LPG (propane and butane).

(v) Protection of intellectual property rights**(a) Overview**

81. Slovenia has a comprehensive legal framework for the protection of intellectual property rights. This includes a revised Law on Industrial Property (adopted in May 2001 and entered into force on 7 December 2001), covering patents, industrial designs, trade marks and geographical indications; a law on copyright and related rights (April 1995, amended in February 2001); a law on the protection of topographies of integrated circuits (April 1995); and the Protection of New Varieties of Plants Act adopted in 1998. The main provisions of these laws are detailed in Table III.6.⁷⁶ In addition to its acceptance of the obligations of the Agreement on Trade-Related Aspect of Intellectual Property Rights (the TRIPS Agreement), Slovenia has become a party to all major international conventions and multilateral agreements on intellectual property (Table AIII.9). Slovenia is an observer to the European Patent Organization, and has concluded an agreement with the European Union on patent extension.⁷⁷

Table III.6
Summary of intellectual property protection in Slovenia, 2001

Form	Main legislation	Coverage	Selected exclusions	Duration	Sanctions
Copyrights and related rights	Copyright and Related Rights Act of February 2001, amending the Law of April 1995	Literary, scientific and artistic works (including computer programs) Related rights include rights of performers, phonograms, films producers, broadcasters, and publishers		Life of author plus 70 years	Fines unlimited; imprisonment of up to three years; and seizure and destruction under Civil and Penal Code

Table III.6 (cont'd)

⁷⁶ In their responses to questions from WTO Members during the review of Slovenia's intellectual property legislation, the Slovenian authorities confirmed that the TRIPS Agreement is directly applicable under Slovenian law.

⁷⁷ This Agreement provides that once a patent is filed in the EU, it is automatically extended to Slovenia and vice versa.

Form	Main legislation	Coverage	Selected exclusions	Duration	Sanctions
Patents	Law on Industrial Property of May 2001, amending the Laws of 1992 and 1993	Any inventions, in all fields of technology that are new, involve an inventive step and are susceptible of industrial application. Compulsory licences may be granted when it is in the public interest or when the patentee misuses rights granted under the patent	Public interest; plant or animal varieties; biological processes; inventions contrary to public order or morality; inventions on surgical or diagnostic methods or methods of treatment practiced directly on the living body	20 years from filing date Supplementary protection, up to five years, may be granted once	Fines; imprisonment of up to three years; and seizure and destruction under Civil and Penal Code
Topographies of integrated circuits	Law on Protection of Topographies of Integrated Circuits of April 1995	Original creation of topography, that was not commonplace in the semiconductor industry (article 5). No possibility of compulsory licence		10 years from filing date (or, if earlier, from first use)	As above
Trade marks	Law on Industrial Property of May 2001	Trade and service marks, collective marks and well-known marks. Five-year use requirement		10 years from filing date, with possibility of renewal indefinitely for 10-year periods	As above
Industrial designs	Law on Industrial Property of May 2001	An industrial design, if it is new and has individual character	Public interest; principles of morality	One or more periods of 5 years from the filing date; renewable up to a total of 25 years	As above
Geographical indications (excluding appellations of origin)	Law on Industrial Property of May 2001	Registration of geographical indications for goods attached to a particular origin or of special cultural importance. Does not include agricultural products and wines		Unlimited	As above
New plant varieties	Law on Industrial Property of May 2001	Any inventions in all fields of technology that are new and involve an inventive step		Same duration as patents	As above
Biological inventions	Law on Industrial Property 2001	Any inventions in all fields of technology that are new and involve an inventive step		Same duration as patents	As above

Source: WTO Secretariat, based on notifications by the Slovenian authorities.

82. Changes to the legal framework have been implemented by Slovenia with a view to bringing its intellectual property rights regime in line with both the TRIPS and the EU *acquis communautaire*. According to the Slovenian authorities, as reflected by recent and regular revisions of the laws on industrial property and copyrights, Slovenia makes every effort to incorporate in its domestic legislation state of the art developments in international law. To this aim, consultations are being held on a regular basis with the WIPO, the European Union, and other bilateral partners. According to the European Commission, Slovenia's legislation is now "well developed", ⁷⁸ and "broadly in line with the

⁷⁸ European Commission (1997).

acquis".⁷⁹ In the WTO, Slovenia did not seek the special transitional provisions available under the TRIPS Agreement, so that the provisions of the Agreement have been applied from 1 January 1996. In some areas, Slovenia's legislation is more stringent than the minimum standards laid down by the TRIPS Agreement. In the case of duration of copyright protection, for example, whereas the TRIPS stipulates the life of the author plus 50 years, Slovenia's current copyright law provides protection for the author's life plus 70 years. Slovenia's IPR legislation has been subject to a comprehensive review by WTO Members in the TRIPS Council.⁸⁰

83. Slovenia, together with some other countries, is seeking to extend the coverage of additional protection for geographical indications to products other than wine and spirits.⁸¹ While the authorities have brought laws on the protection of intellectual property towards international standards, enforcement appears to have lagged. A newly enacted law provides for tough criminal sanctions for infringement, but the Slovenian courts have not yet imposed such sanctions in practice.

(b) Compulsory licences

84. Slovenian courts may grant compulsory licences, i.e. the right to exploit an invention without the authorization of the patent holder, to the Government or a third party when the public interest (national security, protection of health and nutrition) is at stake, or when the owner of the patent or his licensee misuses the patent rights (Article 125 of the Industrial Property Act). The compulsory licence may not be granted within a period specified in the Paris Convention (i.e. four years from the date of filing or three years from the date when the patent was granted, whichever period expires last). Owners of patents under a compulsory licence are entitled to remuneration (Article 127). The Slovenian laws on the protection of topographies of integrated circuits and on new plant varieties do not provide for the possibility of compulsory licences.

(c) Parallel imports

85. Current IPR legislation does not refer expressly to parallel imports. Regarding patents, the patentee is granted the right to exclude others from importing the patented invention during the term of the patent protection. A similar prohibition concerns trade marks: no one is allowed to use a mark without the consent of its owner. A copyright holder enjoys the exclusive right of reproduction, distribution, broadcast, and communication to the public. The 2001 revisions of the laws on industrial property (Article 21 of the new law) and copyrights (Article 50) introduced the notion of exhaustion of rights conferred by a patent or trade mark.⁸²

⁷⁹ In its 2000 report, the Commission notes that "in certain areas, only slight technical and terminological improvements are necessary" and that "the major remaining legislative step is the adoption of an act on border enforcement, which should cover both fight against piracy and against counterfeiting, as well as a new act on industrial property". The latter has been followed by the adoption of a revised law (European Commission (2000), p.40).

⁸⁰ See in particular WTO documents IP/Q/SVN/1, 29 October 1996, IP/Q2/SVN/1, 3 October 1997, IP/Q3/SVN/1, 4 February 1998, and IP/Q4/SVN/1, 1 March 1999.

⁸¹ These countries have argued that the issue is an integral part of the built-in agenda of the TRIPS Agreement (WTO document IP/C/W/204/Rev.1, 2 October 2000).

⁸² For example, Article 21 of the Industrial Property Act provides that: "the rights conferred by a patent shall not extend to acts concerning a product covered by that patent which are done in the Republic of Slovenia after that product has been put on the market by the owner of the patent or with his express consent, unless there are grounds which, under the law of the Republic of Slovenia, would justify the extension to such acts of the rights conferred by the patent. The exhaustion of rights may be extended beyond the territory of the Republic of Slovenia, if this is in conformity with an international treaty which is binding on the Republic of Slovenia".

(d) Enforcement

86. The Slovenian authorities have recently focused their efforts on improving the enforcement of IPR legislation.⁸³ However, systematic collection of data on enforcement activities has started only recently. The data available since 1996 indicate that the number of cases initiated has increased every year.⁸⁴ The average length of proceedings at the first instance (from filing the suit to judgement) is between one and two years. As a result, provisional measures are often sought and are granted in the majority of copyright cases. The number of provisional measures is quite high in trade mark cases; it is lower in patent cases. Around 15 criminal cases were lodged between 1996 and 2000 (most concerning alleged infringement of copyrights). While the number of cases is relatively limited, courts recognize the TRIPS Agreement as directly applicable and self-executing in the Slovenian territory.

87. Legislation on border measures (the Law on Customs Measures Relating to Infringement of Intellectual Property Rights, entered into force on 1 November 2001). The Law establishes the conditions under which the customs administration may intervene against alleged infringing or counterfeit goods. It allows customs officials to withhold goods violating intellectual property rights upon the request of the owner of the trade mark or patent (Articles 9 to 12 of the Law), or based on their own suspicion (ex-officio seizures) (Article 14).

⁸³ Further information regarding IPR enforcement can be found in Slovenia's responses to the Checklist of Issues on Enforcement (WTO document IP/N/6/SVN/1, 13 September 1996) and the review of Slovenia's legislation on IPR enforcement (WTO document IP/Q4/SVN/1, 1 March 1999).

⁸⁴ The number of court cases initiated was 11 in 1996, 23 in 1997, 47 in 1998, 34 in 1999 and 96 in 2000.