

### III. TRADE POLICIES AND PRACTICES BY MEASURE

#### (1) INTRODUCTION

1. Slovakia's transformation to a market economy has been accompanied by significant trade and investment liberalization. Trade policy is playing a key role in Slovakia's economic performance. While it has generally resisted protectionist pressures, some exceptions apply, especially in agriculture and certain manufacturing activities. The current Government has accelerated the reform agenda in an effort to prepare Slovakia for EU accession by 2004.

2. Average MFN tariffs have declined during the review period, to 6.1% in 2001. All duties are *ad valorem* and bound, almost entirely at applied levels. Tariff reform has nevertheless been setback by frequent recourse to widely applied import surcharges for balance-of-payments reasons. The latest surcharge, initially of 7%, was terminated on schedule from 1 January 2001. Slovakia's preferential tariffs granted to the EU and other regional neighbours, are much lower than its MFN levels, thereby raising the prospect of trade diversion. Most of Slovakia's trade is conducted under preferential agreements.

3. Slovakia applies some relatively high MFN tariffs, especially on certain agricultural products. Seasonal duties also apply to certain flowers, fruit, and vegetables. Agricultural liberalization has been slowed by consistently not filling tariff quotas; farmers benefit from a complex maze of direct payments and other assistance arrangements, such as concessional loans and input subsidies. Producers of a number of key commodities, such as malt and dairy products, are assisted by export subsidies, and market price support is provided to many key commodities. To date, special safeguard provisions reserved for agricultural products were used only once, on ice cream. General safeguard action has been used only twice, albeit on agricultural commodities; previously on imported pigmeat and currently on sugar.

4. Outside agriculture, there are few formal trade restrictions. Slovakia has introduced anti-dumping legislation since the last review, but has not taken such action to date. Although subject to greater monitoring and legislative controls, state aid continues to provide substantial assistance throughout the economy. Such assistance is likely to continue at high levels for some time, aimed at facilitating industry restructuring.

5. Progress has been made in harmonizing Slovak standards and technical regulations with EU and international norms. Standards became voluntary from 1 January 2001, unless incorporated in technical regulations. Its comprehensive intellectual property protection regime continues to be revised as part of EU accession requirements. The main weakness appears to be enforcement. Privatization has been accelerated in recent years, and the Government intends to divest a number of natural monopolies. The Government is also taking steps to privatize and deregulate important service sectors, such as telecommunications and financial services.

6. Competition policies have been strengthened and the role of the Antimonopoly Office increased, with a view to controlling anti-competitive and monopolistic behaviour. In addition, the Government intends to set up several independent regulatory bodies for key services so as to aid deregulation and privatization, such as the recently formed Telecommunications Office.

**(2) MEASURES DIRECTLY AFFECTING IMPORTS**

**(i) Customs procedures**

7. Customs legislation, administered by the Customs Directorate, has been substantially amended since the last Review. Most of these changes reflect on-going efforts to harmonize legislation with EU requirements. Slovakia does not require preshipment inspection.<sup>1</sup>

**(a) Valuation, clearance, and inspection**

8. Slovakia introduced a new Customs Law on 1 July 2001. The law was introduced mainly to align Slovak's customs procedures with those of the EU; according to Slovak authorities, it is now fully consistent with these requirements.<sup>2</sup> The main changes made related to the favourable tariff treatment for goods having a special end-use, and standards applied to customs proceedings, offences, bond, seizure, and organization.

9. Slovakia levies tariffs on the transaction value of imports. The import's value for duty purposes is the c.i.f. (cost, insurance and freight from the exporting country) price paid or to be paid for the product. This is usually the invoice price, subject to certain adjustments, such as adding some expenses, including packaging and container costs, and deducting others, like transport costs incurred after arrival. The new legislation provided clear rules for establishing customs value, and made amendments to alternative valuation methods. Transaction value can be rejected by customs if, *inter alia*, the buyer and seller are related. In such cases, the value is to be established by applying the following alternative valuation methods: (i) transaction value of identical or similar goods; (ii) deductive method (i.e. the resale price less such costs as customs duties, taxes, and commissions); and (iii) computed value, derived from costs of production, profit, and other expenses. The importer can request, in writing, an explanation from customs on how it determined the import value.

10. The WTO Committee on Customs Valuation has not examined Slovakia's customs legislation. The latest customs legislation notified by the Government was that previously notified by Czechoslovakia under the Tokyo Round Code. However, Slovakia has indicated that this legislation remained valid under the WTO.<sup>3</sup> Slovakia notified implementation of the Committee's decision not to include in customs value interest rate charges paid by buyers under financial arrangements to purchase imports.<sup>4</sup> It also notified that the Committee's decision on valuation of carrier media bearing software for data processing equipment would be implemented, by including in customs value only the cost of the carrier medium itself, and not of the data or instructions, where these costs were separable. In addition, Slovakia has incorporated the decision regarding cases where customs administrations have reasons to doubt the truth or accuracy of the declared value.

11. Goods transiting through Slovakia may be released without payment of duty provided the importer accepts liability for the customs debt and guarantees that the goods will leave the country as intended. Storage in public or private (in bond) customs warehouses is available, without time limit. Special arrangements allow suspension of customs duties to enable certain inward processing of imported products.<sup>5</sup> If goods approved for inward processing are subsequently released on the

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<sup>1</sup> WTO document G/PSI/N/1/Add.8, 28 September 1999.

<sup>2</sup> The Slovak Republic is not requesting any derogation or transitional periods for the implementation of customs legislation for EU accession.

<sup>3</sup> WTO document G/VAL/N/1/SVK/1, 28 November 1995.

<sup>4</sup> WTO document G/VAL/M/17, 14 February 2001.

<sup>5</sup> Processing operations allowed include: (i) the processing of goods including their installation, assembly, completion or combination with other goods or adaptation to other goods; (ii) the remaking of goods;

domestic market, customs duty is assessed on the imported products, and interest levied on the delayed payment at currently 200% of the central bank discount interest rate. Provisions also permit imports to be processed, under customs control, into goods of a different tariff classification with a lower tariff rate, provided there are no non-tariff restrictions. Such processing under customs control is permitted provided it does not circumvent any trade policy measures, and that the processed goods cannot be transformed into their original state. In addition, temporary imports, such as for re-export, can be authorized upon request without payment of duties for a maximum duration of 24 months, but this period can be extended. Where imports are foreign owned, partial duty exemptions apply, with 3% of the relevant duty paid for each month, up until 34 months when the exemption phases out completely.

12. Securing the customs debt, either by depositing cash or a bank cheque with customs or arranging a third-party guarantee, usually a bank, is obligatory in some cases, where, for example, customs authorities have reasonable grounds to believe that payment is at risk. Customs debt is payable within ten days, after which interest is charged. Postponement of payment and payment by instalments may be possible, subject to the debt, including interest, being secured.

13. Customs decisions may be appealed internally, or through other judicial instances. Initial appeals are made to the customs officers, based on the Customs Code and Administrative Law; these must be made within 30 days. Any appeal must be submitted to the customs authority that issued the decision. If the relevant customs authority does not take a decision on the appeal (in autoremedy procedure), the Customs Directorate or the Ministry of Finance may review the decision. Complaints against customs decisions may also be made, within two months, to the courts. The number of appeals handled by customs was 1,222 in 2000, 1,080 in 1999 and 1,409 in 1998. The number of cases subject to judicial review has increased steadily in recent years, from 31 in 1998 to 42 in 1999 and 75 in 2000.

14. Provision exists for customs to authorize simplified procedures for importers upon request. There are several kinds of simplified procedures, covering transit and other arrangements; any importer meeting the legal conditions has access to the simplified procedures. Slovakia is also a member of the ATA Carnet System, whereby certain shipments covered by a carnet can be cleared through simplified importation procedures. These include commercial samples, advertising materials, and certain personal and professional items, such as computers, repair tools, scientific and medical equipment, fine arts, jewellery, clothes, motor vehicles, live animals, and lighting and photographic equipment.

15. Slovakia became a member of the World Customs Council in 1993. It is also a signatory to the International Convention to Facilitate the Importation of Commercial Samples and Advertising Material. From 1 January 1997, all imported advertising material must be in the Slovak language. In 1999, Slovakia acceded to the convention on Customs Treatment of Pool Containers Used in International Transport, and signed the Protocol of Amendment of the International Convention on Harmonization and Simplification of Customs Procedures in June 2000. It has also been a member since 2000 of the Nairobi Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences and acceded to the Convention Relating to Temporary Admission in 2000.

16. Slovakia's integrated customs tariff, issued initially in 2000, is consistent with the EC Integrated Tariff (TARIC). All customs declarations are registered electronically. The customs

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(iii) the repair or adaptation of goods including renovation or restoring of the original state; (iv) the use of equivalent goods which are not included in processed products but enable or facilitate their production and in the process are partially or completely used.

service uses the declaration module DM1 and the ASYCUDA system.<sup>6</sup> At present, this system processes about 8.5% of customs declarations representing some 10% of the value of total imports. It is expected that up to 75% of customs declarations will be processed using ASYCUDA by end-2002.

17. Clearance times under normal procedures depend upon the type and volume of products imported and vary substantially between ports. According to the Slovak authorities, in very simple cases the time taken from submission of the customs declaration to verifying the documents and releasing the goods is approximately 15 minutes. On average, the time taken to clear imports has been reduced by half since Slovakia's previous Trade Policy Review. These improvements are due mainly to more stable foreign trade activities and enhanced selectivity in customs use of physical controls.

18. A comprehensive risk analysis system of importers and products for customs control is being developed. ASYCUDA's selectivity module, created as a technical tool for risk analysis, is being tested. Databases are also being prepared (for example, of non-paying importers and of high risk goods) for use within the module. These results will be used to introduce a four-colour scheme for prescribing different levels of customs control. This scheme is expected to become operational by end-2002.

(b) Registration and documentation

19. Slovakia has no restrictions on the rights of individuals and entities, including foreign companies, to import goods and services, subject to the terms and conditions specified in its customs and trade-related legislation. All entities registered in the business register (a public registration list that entities must complete before commencing business) may engage in foreign trade.

20. To clear imports, a customs declaration document, the Single Administrative Document (SAD), identical to that of the EU, must be lodged and the necessary documentation attached.<sup>7</sup> This includes the invoice, declaration of customs value where goods exceed Sk 100,000, transportation papers, appropriate certificate or proof of origin<sup>8</sup>, and any special requirements, such as licences, as well as veterinary and phytosanitary certificates.<sup>9</sup> From July 1997, the SAD became the only acceptable customs declaration document. Specific information, including the importers' and exporters' details, data about securing of customs debt and bank data for customs payments, must also be supplied. Advanced submission of documents is possible, but subject to the goods being presented for clearance within a time period specified by customs, after which the customs declaration becomes invalid.

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<sup>6</sup> The Automatic System for Customs Data is a computerized customs management system developed by UNCTAD; it covers most foreign trade procedures, including the generation of trade statistics.

<sup>7</sup> Decree of the Ministry of Finance No. 167/1997 on Laws on the Form, Content and Requirements of the Customs Declaration and on the Maintenance of Records for the Purpose of Customs Statistics, as amended by Decree of the Ministry of Finance No. 373/1997 and No. 3/1999. From 1 July 2001, this was replaced by the Decree of the Ministry of Finance No. 251/2001 on Customs Law Provisions.

<sup>8</sup> Importers must have the original certificate to clear the goods through customs. For imports benefiting from preferential tariffs under bilateral trade agreements, the origin has to be proved. This can be either a movement certificate EUR.1 or the exporter's declaration of origin on the invoice, on the transport document or on other business documents.

<sup>9</sup> Customs documents may be submitted electronically. Oral declarations are allowed for commercial goods if their total value is not above Sk 50,000.

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(c) Rules of origin

21. Slovakia applies the same preferential and non-preferential rules of origin for imports as the EU. Non-preferential rules assign the origin to the country where the product was wholly obtained or where it underwent its "last substantial, economically justified processing." As of 1 July 2001, the new Customs Law established that certain goods have to meet specific processing requirements.

22. Slovakia's preferential rules of origin apply to trade with its customs union partner (the Czech Republic), the EU, CEFTA countries, EFTA states, Estonia, Latvia, Lithuania, Turkey and Israel. Products are considered as originating in these countries if they were wholly obtained or sufficiently processed there. Sufficient processing is determined by a change in tariff classification; or by the value added criterion (for most cases Slovak requirements specify a minimum of 60% local content); or by meeting the specific processing stage required.

23. Since 1 January 1997, Slovakia has applied the concept of pan-European cumulation of origin to all its free-trade agreements, except that with Israel. This effectively merged numerous separate free-trade zones into a Europe-wide network comprising the EU, EFTA, CEEC and Baltic countries, and Turkey. This simplified customs procedures. Products do not obtain "European origin" (there is no full cumulation), but the origin of a particular country. The product's origin has to be proved by a certificate of origin every time it is imported into another country zone. Whether it retains its previous origin depends on the degree of processing in the new zone. The rules of origin with Israel are similar but cumulation is only possible with the Slovak and Czech Republics.

24. Rules of origin apply to developing country imports eligible for preferential tariffs under Slovakia's Generalized System of Preferences (GSP). Prior to the adoption of the new Customs Law, products originating in developing countries were considered to be those products which were wholly obtained or processed in the developing country using original materials or materials from other developing countries, the Slovak Republic or third countries. In the case of materials from third countries (including materials of unknown origin), their value could not exceed 50% of the product's export price. For the goods to receive preferential tariff treatment, the exporter's residence needed to be in a developing or least developed country. Since 1 July 2001, the new customs legislation has introduced GSP rules of origin that are the same as those applied by the EU. These have established new rules for fulfilling the conditions on sufficient processing, proving changes in origin, and creating the possibility of regional cumulation.

**(ii) Tariffs**

25. Slovakia shares a common external tariff with the Czech Republic as part of their customs union. It uses the EU's Combined Nomenclature (CN) classification, which is consistent with the Harmonized System (HS).<sup>10</sup> From 2000, Slovakia will publish annually an integrated customs tariff, which includes general (MFN) applied customs duties, bound rates, preferential tariff rates provided under bilateral agreements and GSP, import surcharge rates, and tariff quotas. The customs schedule is issued annually on 1 January as a government regulation.

26. The tariff schedule contains two general duty rates. The autonomous rate is in principle applied to non-WTO members, and the conventional rate is the WTO bound rate. Thus, the MFN applied rate is the conventional rate, unless it is above the autonomous rate, in which case the latter becomes the MFN rate. The applied MFN rate is therefore the lower of the conventional (bound) and autonomous rates. Many non-WTO members area also eligible for this rate under bilateral agreements requiring reciprocal MFN treatment.

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<sup>10</sup> There is a one-to-one correspondence between the CN and HS up to the 6-digit tariff level.

27. Slovakia does not grant MFN treatment to nine non-WTO members. No bilateral agreements exist with these territories.<sup>11</sup> These territories therefore face the autonomous tariff rate that is often higher than the MFN tariff (or conventional) rate. Oman was extended MFN treatment on becoming a WTO Member in November 2000.

(a) Average levels

28. During the period under review, Slovakia lowered its simple average MFN tariff by 2 percentage points to 6.1% in 2001 (Tables III.1 and AIII.1). Disparities in rates, as measured by the standard deviation, also narrowed from 13.5 percentage points to 9.9 percentage points. MFN rates became increasingly skewed towards duties of between zero and 5%; these rates covered 45% of tariff lines in 2001, up from 35% in 1995 (Chart III.1). The share of duty-free items also increased, from around 15% in 1995 to 19% in 2001, and the proportion of lines with rates exceeding 50% fell from 2% to 1%. Although the highest rates also declined, some very high rates of up to 125% remain. The share of goods subject to tariff spikes (duties exceeding the overall simple average rate by at least three times) remained constant, at close to 5% of tariff lines.

**Table III.1**  
**Key features of the Slovak MFN tariff structure, 1995-2001**  
(Per cent)

	1995	1998	2000	2001		2000 EU <sup>a</sup>
				MFN	U.R.	
Number of rates	254	241	193	207	198	521
Simple average tariff	8.0	6.9	6.1	6.1	6.1	6.7
Standard deviation (simple average)	13.5	11.2	9.9	9.9	10.0	12.7
Duty-free lines	14.8	15.9	18.7	18.7	19.5	21.3
Maximum tariff	232.7	168.1	125.0	125.0	125.0	462.9
Domestic tariff "spikes" (three times the overall tariff average)	4.8	4.5	4.8	4.8	4.9	4.8
Share of <i>ad valorem</i> rates	100	100	100	100	100	90.3
Share of bound rates	100	100	100	100	100	100
<b>By sector:</b>						
<i>By HS:</i> Agriculture (HS 01-24)	15.6	13.3	11.6	11.8	11.8	16.7
Industry (HS 25-97)	5.7	5.0	4.5	4.4	4.4	4.1
WTO Agriculture <sup>b</sup>	17.4	15.1	13.1	13.2	13.3	16.7
WTO non-agriculture <sup>c</sup>	5.5	4.8	4.4	4.3	4.2	4.5
<i>By ISIC:</i> Agriculture (ISIC 1)	6.7	6.1	5.3	5.4	5.5	8.9
Mining and quarrying (ISIC 2)	0.3	0.2	0.2	0.2	0.2	0.2
Industry (ISIC 3)	8.2	7.0	6.3	6.2	6.2	6.7
Industry excluding processing (ISIC 3-31)	5.9	5.1	4.6	4.5	4.5	4.2

a The data are based on the MFN *ad valorem* rates for 2000 and the *ad valorem* equivalents (AVEs) for 1999, adjusted for the rates applied in 2000; the adjustment has been made by proportionally scaling down the AVEs.

b 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.

Note: Tariff averages exclude the in-quota rates and are based on the out-of-quota rates.

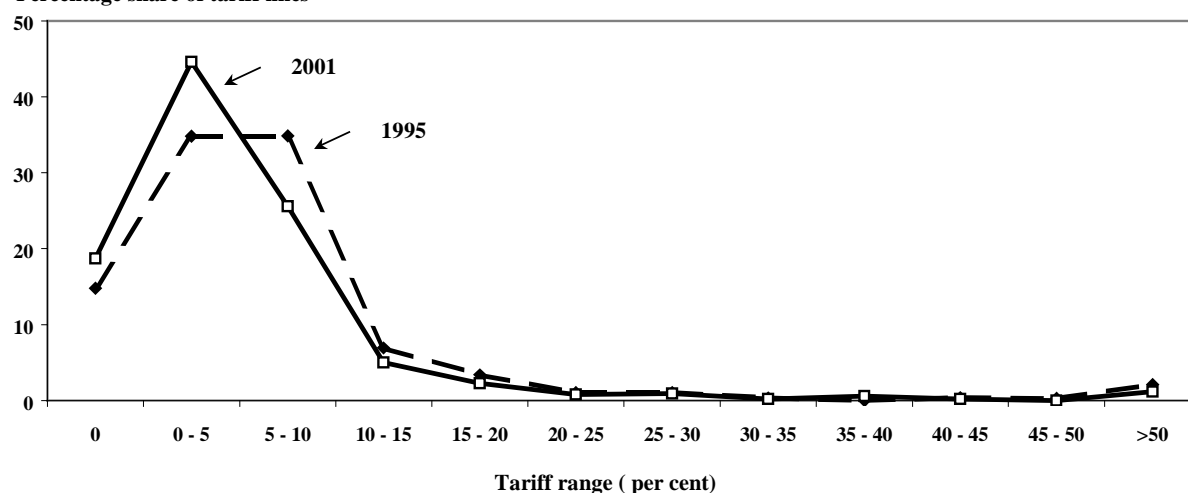
Source: WTO Secretariat.

<sup>11</sup> These are Antarctic territories, Bouvet Island, Heard Islands, Vanuatu, Western Sahara, Bhutan, Comores, Nauru, and Western Samoa. Nevertheless, the last five countries qualify for GSP treatment.

Chart III.1

## Frequency distribution of MFN tariffs, 1995 and 2001

Percentage share of tariff lines



Note: 0 - 5 should be interpreted as tariffs larger than zero and less or equal to 5%.

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

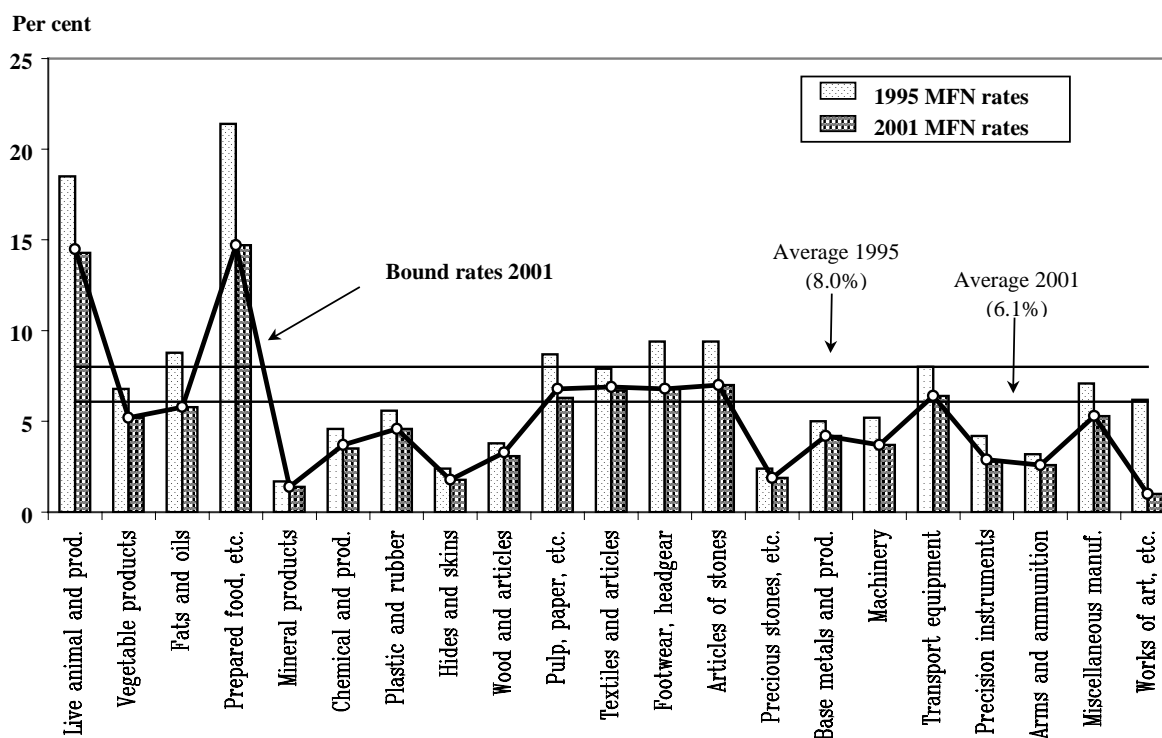
29. Efficiency losses from Slovakia's tariff structure depend on both the average level of tariff protection and the dispersion in rates across products. The higher the dispersion, particularly within groups of similar and thus highly substitutable products, the greater the likelihood of consumers' and producers' decisions being distorted by the tariff structure. On average, products with the highest tariffs in 2001 were prepared foods, live animal and animal products, and stone articles (Chart III.2).

30. EU accession is likely to result, overall, in a higher, and more disparate tariff structure for Slovakia. This will mainly be driven by higher agricultural tariffs in the EU, which in 2000 exceeded Slovak 2001 levels on average by almost 50%. The overall average EU MFN tariff in 2000, for example, was 6.7% and the standard deviation was 12.7 percentage points (Table III.1).

31. Reductions in preferential tariffs have substantially exceeded those in applied MFN tariffs. Consequently, Slovakia's preferential tariffs are increasingly falling below MFN duties. In 2000, its preferential tariffs, excluding developing country preferences, averaged 2%, or about one third of the MFN average rate (section (d) below). Slovak MFN tariffs are also escalatory. The tariff structure continues to provide lower rates on raw materials than on intermediate or processed products, thereby affording higher levels of effective protection to manufactured goods. In 2001, the average tariff on processed products, of just over 7%, was more than double that of 3% on raw materials (Table III.2). Capital goods, on average, in 2001 received more than double the MFN tariff protection level of consumer goods, although many such imports are eligible for preferential duties. Tariff escalation is most pronounced between unprocessed and semi-processed products. In some categories, the average duty on semi-processed goods exceeds that for fully processed products, such as for "other manufacturing" and "non-metallic mineral products" (Chart III.3). The highest tariff escalation occurs for "food, beverages and tobacco", and for "textiles and clothing".

**Chart III.2**

**Applied MFN tariffs 1995 and 2001 and bound rates 2001, by HS section**



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

**Table III.2**  
MFN tariffs (simple average) by stage of processing, 1995, 1998, and 2001  
(Per cent)

	1995	1998	2001
All products	8.0 (13.5)	6.9 (11.2)	6.1 (9.9)
<b>By stage of processing:</b>			
Raw materials	4.2 (13.6)	3.5 (12.6)	3.0 (11.4)
Intermediate goods	6.0 (7.4)	5.3 (6.2)	4.7 (5.4)
Processed goods	10.0 (15.4)	8.4 (12.6)	7.4 (11.1)
<b>By function:</b>			
Consumer goods	5.5 (3.0)	4.7 (2.8)	3.9 (2.7)
Intermediate goods	6.0 (8.9)	5.1 (7.5)	4.6 (6.8)
Capital goods	12.6 (20.0)	10.9 (16.7)	9.6 (14.5)

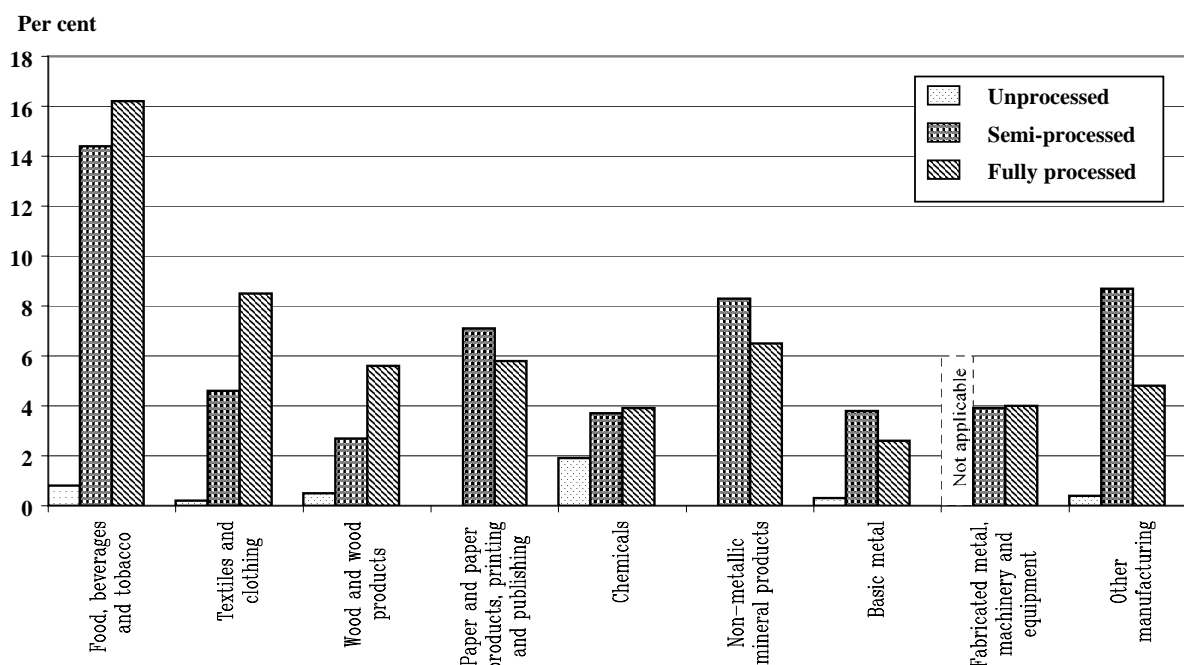
Note: Tariff averages exclude the in-quota rates; they are based on the out-of-quota rates. The standard deviation is in brackets.

Source: WTO Secretariat.

32. Higher tariffs on agricultural products than on industrial products reflect mainly the tariffication of variable levies by Slovakia during the Uruguay Round. Slovakia adopted relatively high MFN tariffs on products such as meat, dairy, potatoes, oilseeds, sugar, wine, alcoholic beverages, and starches; tariff rates continue to be well above pre-tariffication levels on many of these products. In 2001, MFN agricultural tariffs averaged 13.3%, more than three times that for manufactured products, based on WTO classifications (Table III.1).



**Chart III.3**  
**Tariff escalation by 2-digit ISIC industry, 2001**



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

33. A transparent feature of the Slovak tariff is that all duties are *ad valorem*. Nevertheless, considerable scope exists to rationalize and simplify the tariff structure by rounding off duties and reducing the large number of different rates.

34. The complex nature of Slovakia's tariff structure is increased by the existence of many preferential rates (section (d)). *Ad valorem* seasonal duties also apply to 19 tariff items covering certain fresh flowers, fruit, and vegetables, and provide greater tariff protection during the home marketing season when imports compete directly with domestic production.<sup>12</sup> Lower out-of-season rates are contained in Annex 6 of the tariff schedule. While the same product coverage exists as in 1995, the difference between the two tariff rates has generally decreased in line with MFN duties. Nevertheless, substantially lower out-of-season rates apply to several products. In-season and out-of-season rates vary as much as 100 percentage points on new potatoes and 13 percentage points on certain cut flowers (Table III.3). Some products, such as potatoes, pears, and apples, have two out-of-season rates depending upon when they are imported. Because the highest tariffs apply when domestic production is marketed, consumers pay more for these products during the in-season.

<sup>12</sup> The products are roses, carnations, gladioli, chrysanthemums, other flowers, new potatoes, tomatoes, broccoli, cabbages/lettuces, rooted or German celery, cucumbers, table grapes, cider apples, perry pears, sour cherries, plums and strawberries.

**Table III.3**  
**Seasonal tariffs, 2001**  
(Per cent)

Product	Out-of-season period	Tariff rate		
		In-season	Out-of-season	Difference
Flowers				
- roses	From 1.1 to 31.5 & 1.11 to 31.12	17	4	13
- carnations	From 1.1 to 31.5 & 1.11 to 31.12	17	4	13
- gladioli	From 1.1 to 31.5 & 1.11 to 31.12	17	4	13
- chrysanthemums	From 1.1 to 31.5 & 1.11 to 31.12	17	4	13
- other	From 1.1 to 31.5 & 1.11 to 31.12	17	4	13
Vegetables				
- new potatoes	From 1.1 to 15.5	100	Free	100
	From 15.5 to 30.6	100	8.5	91.5
- tomatoes	From 1.1 to 14.5 & 1.11 to 31.12	12.7	Free	12.7
- cauliflower & broccoli	From 1.1 to 14.4 & 1.12 to 31.12	12	Free	12
- cabbage lettuce	From 1.1 to 31.3 & 1.12 to 31.12	11.8	Free	11.8
- celeriac	From 1.5 to 30.9	12	Free	12
- cucumbers	From 1.1 to 15.5 & 1.11 to 31.12	14	Free	14
Fruit				
- table grapes	From 1.1 to 14.7 & 1.11 to 31.12	12	2	10
- apples				
- golden delicious	From 1.1 to 31.3	15	12	3
	From 1.4 to 31.7	15	3	12
- granny smith	From 1.1 to 31.3	15	12	3
	From 1.4 to 31.7	15	3	12
- other	From 1.4 to 31.3	15	12	3
	From 1.4 to 31.7	15	3	12
- other pears	From 1.1 to 31.3	7	4.2	2.8
	From 1.4 to 15.7	7	2.5	4.5
- cherries	From 1.1 to 30.4 & 16.7 to 31.12	8.5	2.5	6
- plums	From 1.1 to 30.6 & 1.10 to 31.12	7	Free	7
- strawberries	From 1.1 to 30.4 & 1.8 to 31.12	8.5	Free	8.5

Source: Slovak customs schedule, Annex 6.

(b) Temporary tariff reductions

35. The customs union enables Slovakia (and the Czech Republic) to temporarily set tariffs below the common external rate. These are determined annually and are valid for one year. They are published in Annex 5 of the tariff schedule. In 2001, lower duties applied to 151 tariff items, covering mainly certain chemicals, synthetic yarns and fibres, and electric motors and generators. The most common temporary rate was "free". These temporary rates apply to imports from all countries, except from the Czech Republic. However, the trade advantages of having such lower tariff rates may be reduced by the uncertainty created by them being temporary and subject to annual review.

(c) Tariff bindings

36. Slovak tariffs are entirely bound at the applied MFN rate. The only cases where applied MFN tariffs are below bound levels are for those products temporarily designated with lower rates. Comprehensive tariff bindings at existing rates provide a more predictable business environment for Slovakia's trading partners.

(d) Tariff preferences

37. Slovakia provides substantial, and deepening, tariff preferences to various trading partners under regional free-trade agreements. These include mainly tariff preferences for imports from the

Czech Republic, the EU, EFTA, and CEFTA members, as well as from the Baltic States, Israel, and Turkey (Chapter II). GSP preferences are also extended to developing countries. Over two thirds of Slovakia's imports come from preferential trading partners, with the EU accounting for about half of total imports. Consequently, a relatively low and declining share of Slovakia's imports attract MFN duties.

38. Tariff preferences under regional trade agreements vary considerably between trading partners and across products (Table III.4). Poland receives the lowest preferential average tariff of 1.9%, apart from zero for the Czech Republic, and Turkey the highest at 2.6%. These differences reflect mainly variations in preferential rates on agricultural products, which average 9% across regional trading partners compared with duty free for industrial goods. EU imports, by far the largest share, are dutiable on average at 2.4%; zero on industrial products and 10.8% on agricultural products.

**Table III.4**  
**Slovak tariff preferences by agreement and import volumes, 2001**  
(Per cent)

Trading partner	Share of total imports (1999)	Simple average tariff rate	Agricultural products (HS01-24)	Industrial products (HS25-97)	Raw material	Intermediate goods	Processed goods
Total imports	100.0						
MFN trading partners	..	6.1	11.8 (9.1)	4.4	3.0	4.7	7.4
LDC	0.03	0.0	0.0	0.0	0.0	0.0	0.0
GSP	..	5.2	11.6 (8.9)	3.3	2.9	3.8	6.3
European Union	51.7	2.4	10.8 (6.7)	0.0	2.6	0.8	3.2
European Free Trade Association (EFTA)	1.5	2.5	11.1 (8.5)	0.0	2.8	0.8	3.3
Central European Free Trade Agreement (CEFTA)							
- Bulgaria	0.1	2.1	9.4 (7.6)	0.0	1.7	0.8	2.9
- Hungary	2.3	2.1	9.2 (7.1)	0.0	1.6	0.7	2.8
- Poland	2.8	1.9	8.4 (7.0)	0.0	1.2	0.7	2.6
- Romania	0.1	2.1	9.5 (8.1)	0.0	1.7	0.8	2.9
- Czech Republic	16.7	0.0	0.0	0.0	0.0	0.0	0.0
- Slovenia	0.6	2.1	9.3 (7.4)	0.0	1.6	0.8	2.8
Estonia	0.0	2.5	11.0 (8.4)	0.0	2.5	0.8	3.3
Israel	0.1	2.5	11.7 (8.6)	0.0	2.8	0.8	3.5
Latvia	0.1	2.3	10.2 (8.3)	0.0	1.8	0.8	3.2
Lithuania	0.0	2.3	10.2 (8.3)	0.0	2.0	0.7	3.1
Turkey	0.2	2.6	11.8 (8.7)	0.0	2.8	0.8	3.5

.. Not available.

Note: Tariff averages in parenthesis are based on the in-quota rates. All other tariff averages exclude the in-quota rates and are based on the out-of-quota rates.

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

39. Slovakia allows preferential access to goods imported directly and originating from developing and least developed countries under its GSP scheme. Goods imported from the 48 listed eligible least developed countries (Annex No. 4 of the tariff schedule) are duty free. Many imports from a further 98 listed eligible developing countries (Annex No. 3 of the tariff schedule) receive either a full or partial (half) tariff preference. Since Slovakia's 1995 Trade Policy Review, the number of eligible least developed countries has increased by one, while the number of developing countries has been reduced by four. Eligible imports for GSP treatment are limited to an annual level of US\$2 million per country (Chapter II).

40. Slovakia's GSP tariffs for developing countries averaged 5.2% in 2001, compared with an average MFN rate of 6.1%. GSP rates are substantially higher than average tariffs applied to its regional trading partners. The GSP margin of preference provided by Slovakia is negligible on agricultural products, averaging 0.2 percentage points, while on industrial goods it is 1.1 percentage points.

41. All products originating directly from least developed countries enter duty free. For developing countries, the coverage of eligible goods is restricted to only about half of all tariff lines, since sensitive products are excluded. Goods classified as "non-sensitive" are importable duty free while "less sensitive" goods receive a 50% tariff preference.<sup>13</sup> The incidence of eligible items for GSP treatment is much lower for agricultural products. No preferences apply in 11 of the 24 HS agricultural chapters, and with the exception of Chapters 8 (fruit and nuts), 9 (coffee, tea and spices) and 15 (animal and vegetable fats and oils), the incidence of preferential rates is well below 10%. For industrial goods, no preferences apply in Chapters 31 (fertilizers), 47 (wood pulp), 57 (carpets, etc), 66 (umbrellas, etc), 72 and 73 (iron and steel and articles thereof).

42. Slovakia intends to fully harmonize its GSP scheme with the EU scheme by end-2002. This may imply a change in the preferential access provided to least developed countries.

(e) Tariff exemptions and concessions

43. Machinery imported as a non-cash contribution of a foreign entity for manufacturing production by a company with headquarters in Slovakia is exempt from customs duty and VAT provided that the total value exceeds Sk 5 million. Until 1 July 2001, the minimum non-financial contribution was Sk 10 million, and the foreign entity's equity share in the Slovak firm had to be at least 35%.

44. Imports of new high technology equipment as defined by the OECD (contained in HS chapters 84 and 85) by manufacturing and service enterprises, except for banking, insurance, and distribution, established after September 1999, are also exempt from duty if imported after 1 July 2000.<sup>14</sup> The total value of imports must exceed Sk 5 million. Imports of all individual parts must be completed within three years, and used afterwards by the firm for a minimum of 3 years.

45. Slovakia has a system of tariff suspensions for inward processing and a drawback system. Under the drawback system, duties paid on imported inputs are reimbursed if used to process goods that are exported. Drawback is permitted where it is possible to identify the imported inputs in the processed products exported. According to the authorities, drawback is not used as widely as the inward processing tariff suspension system.

46. Establishment of customs-free zones is provided for in the 2001 Customs Law, which specifies the conditions that such zones must satisfy. Permission for customs-free zones is issued by the Ministry of Finance.

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<sup>13</sup> Non-sensitive products are identified in the GSP column of the tariff schedule with an entry of "-100" (100% tariff reduction), and "less sensitive" products by an entry of "-50" (50% tariff reduction).

<sup>14</sup> Regulation of Ministry of Finance No. 115/1999, 25 August 1999, and Decree of the Ministry of Finance No. 191/2000 on Exemption of Machines, Machinery Equipment, Instruments and Tools from Import Duty.

**(iii) Import surcharge and balance-of-payments measures**

47. Slovakia has used temporary import surcharges several times to protect its balance of payments in accordance with WTO provisions (GATT Article XVIII:B). The latest surcharge, introduced at a rate of 7% from 1 June 1999 and reduced to 5% and then to 3% from 1 July 2000, was terminated on schedule from 1 January 2001 (Decree of the Ministry of Finance No. 451/2000).<sup>15</sup> It had applied to about 80% of tariff lines, irrespective of source. Certain agricultural and manufactured products were excluded, such as most electrical machinery classified under Chapter 84 of the tariff schedule.<sup>16</sup> Phasing out and eventually removing the surcharge improved Slovakia's tariff structure by reducing overall levels. While a convenient short-term measure, reliance on import surcharges to protect the balance of payments penalizes exporters and does not address the fundamental economic causes of external deficits.

48. In 2000, the import surcharge collected Sk 9.4 billion, compared to Sk 3.7 billion in normal duty collections. Trade taxes represented about 12% of government tax revenue in 2000, but this share will fall substantially in 2001 following the removal of the import surcharge.

49. From May 1997, Slovakia applied a non-interest bearing import deposit scheme equivalent to 20% of the invoiced import price, also for balance of payments reasons, as part of a wide-ranging package of monetary, fiscal and income policy measures taken to address the economic situation. This scheme lasted for only a few months and was subsequently replaced in July 1997 by an import surcharge.

**(iv) Indirect taxes, customs fees, and other charges**

50. Slovakia does not impose any fees or charges on imports, other than indirect taxes, which are also levied on domestic production.

51. Imported and domestically produced goods and services are subject to VAT; excise duties also apply to certain products, whether imported or not. The current VAT system, introduced in January 1993, is based on the main principles of the EU legislation, and has been amended recently to further meet these requirements. The VAT has two rates. A basic or standard rate of 23% is levied on most goods and a few services. A lower rate of 10% (increased from 6% on 1 July 1999) applies to certain goods, mainly food and other non-durable consumer goods, including non-alcoholic drinks, coal, and most services. Exports of goods and services are zero-rated, thereby not subject to VAT, and exporters are entitled to tax credits for VAT paid on their inputs. Small firms (annual turnover in three consecutive months below Sk 750,000) do not have to be registered for VAT and are therefore outside the scope of the tax. Certain banking and financial services are exempt from VAT but cannot claim a tax credit for VAT paid on inputs.

52. Excise taxes, in the form of specific duties, apply to alcoholic beverages (spirits, beer, and wine), cigarettes, fuels, and lubricants. Rates of excise duties, except on wine, have been modified as from 1 January 2000. Excise rates are levied on imported products under Slovak legislation, and are additional to (not a component of) the customs duties. Excise taxes on imported products are part of customs debt, and the customs duty and excise tax are both included in the VAT tax base. There is some relief from excise taxes for certain taxpayers, such as agricultural and certain service providers who receive a refund of excise taxes paid on fuel inputs. These tax rebates will apply until end-2001.

<sup>15</sup> WTO document WT/BOP/N/55, 17 January 2001. The previous import surcharge introduced in July 1997 was terminated from 1 October 1998. Its introduction shortly followed the termination from 1 January 1997 of the 10% import surcharge that was introduced in March 1994.

<sup>16</sup> WTO documents WT/BOP/N/52, 31 July 2000 and WT/BOP/R/49, 25 May 2000.

53. Indirect taxes do not discriminate against imports. VAT and excise duties are levied equally on imports (at the point of entry) and domestically produced goods, using an equivalent tax base. The VAT is levied on the c.i.f. value of imports plus duty and excise tax, if applicable.

54. Slovakia intends to fully implement the taxation requirements of the *acquis communautaire* by 1 January 2004. A transitional period until end-2008 has been requested in a few areas, such as raising VAT rates on energy products and lowering the registration turnover threshold to EU levels. Excise rates are to be harmonized progressively with EU levels prior to accession.

**(v) Tariff quotas**

55. Slovakia maintains tariff quotas under three categories: (i) MFN tariff quotas, implemented under the WTO, on agricultural products, aimed at ensuring minimum and current market access; (ii) other temporary MFN tariff quotas; and (iii) mainly preferential tariff quotas agreed under regional free-trade agreements.

56. All tariff quotas, except for a few temporary MFN quotas applied mainly to certain glass, chemicals, and textile fibers, apply to foodstuffs, including alcoholic beverages and tobacco (Table AIII.2). MFN and preferential tariff quotas frequently apply to the same products. In these cases, Slovakia also includes preferential imports in administering the multilateral quotas notified to the WTO on agricultural products. These annual tariff quota levels and in-quota rates are published in Annex No. 2 of the tariff schedule. All in-quota duties are *ad valorem*. The preferential margin of in-quota tariffs is falling over time as MFN (above-quota) rates decline. However, as indicated below, because many tariff quotas remain consistently unfilled, tariff protection is set by the in-quota duty, so that reducing above-quota rates alone has little impact on reducing agricultural assistance for many sensitive products. Differences exist in the product coverage of tariff quotas and in the quota levels applied by the Slovak and Czech Republics.

57. MFN tariff quotas apply on 24 agricultural product categories, covering mainly live animals and meat, dairy products, potatoes, grapes, starches, oil seeds, margarine, certain sugars, pasta, sweetened waters, wine and spirits (Table AIII.2). Above-quota rates were set at bound levels. In-quota rates on these products averaged almost 30% in 2001, and ranged from 5% on live sheep meat to 70% on strong un-denatured alcohol. Differences between in- and above-quota rates ranged from as low as 1% on certain sunflower or safflower oil to as high as 105% on certain sheep meat.

58. All tariff quotas are applied globally, and are administered by the Customs Directorate. Import entitlements are allocated automatically among importers on a first-come, first-served basis according to importers' applications. The Slovak Republic does not reallocate unused quota to other importers. MFN and other temporary MFN tariff quotas (including annual levels and in-quota rates) are published in Annex No. 2 of the tariff schedule. Remaining preferential tariff quotas are published in the Integrated Customs Tariff and are accessible on the Internet. Information on quota utilization (updated daily) is available at all customs offices and published weekly in the economic gazette.<sup>17</sup>

59. Tariff quotas have been consistently under-utilized (Table III.5). In 2000, the average quota utilization rate was 34%, compared with 46% in 1999 and 45% in 1998; the average utilization rate for this three-year period was 42%. In 2000, there were no imports of live sheep and meat, meat offal, milk and cream, rapeseeds and oil, or strong ethyl alcohol. Over three quarters of the product categories had utilization rates below 40% in 2000. In the same year, quotas were fully utilized only for potatoes, other sugar, ice cream, and grape wine. Low utilization rates suggest that the in-quota

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<sup>17</sup> WTO document G/AG/N/SVK/29, 5 April 2001.

tariff duties on these products are set too high given market conditions to make all in-quota imports feasible. Utilization rates of these MFN quotas are even lower if preferential quota imports that also count towards such quota are excluded. Preferential quotas overlapped in eight product categories in 1999, and excluding these imports reduced the average utilization rate on an MFN basis from 46% to 38%.<sup>18</sup>

**Table III.5**  
**Usage of agricultural tariff quotas, 1998-2000**  
(Per cent)

Product category	1998	1999	2000	Three-year average
Live bovine animals and meat	67	52	30	50
Live swine animals and meat	68	100	19	62
Live sheep and meat	94	59	0	51
Poultry meat	18	33	39	30
Meat offal, salted, in brine, dried	1	0	0	0
Milk and cream	3	1	0	1
Yoghurt	91	100	17	69
Butter	4	15	11	10
Potatoes	69	14	100	61
Grapes, fresh	0	53	44	26
Starches, inulin	4	2	10	5
Rape seeds	0	0	0	0
Sunflower seeds	15	13	3	10
Sunflower-seed oil	46	26	2	25
Rape oil	0	0	0	0
Margarine	15	15	7	12
Other sugars	75	80	100	85
Pasta	61	85	59	68
Ice cream	100	100	100	100
Waters, sweetened	28	56	8	31
Wine of grapes	100	100	100	100
Undenatured ethyl alcohol (over 80% alcohol by volume)	20	0	0	7
Undenatured ethyl alcohol (below 80% alcohol by volume)	57	48	1	35
Dextrines and starches	100	100	3	68
<b>Average</b>	<b>45</b>	<b>46</b>	<b>34</b>	<b>42</b>

Source: WTO documents G/AG/N/SVK/27, 26 March 2001; G/AG/N/SVK/21, 18 April 2000; and G/AG/N/SVK/15, 12 July 1999.

60. According to Slovakia, the continued sharp fall in fill rates of tariff quotas on milk and cream was due to the high level of imports from the Czech Republic.<sup>19</sup> These enter duty free under the customs union while in-quota rates of 30% apply to MFN imports. For live animals, the low quota fill

<sup>18</sup> The overlapping product categories were: live pigs and meat (500 tonnes for Hungary); poultry meat (300 tonnes for the United States); meat offal (100 tonnes each for Hungary and Poland); milk and cream (200 tonnes for the EU); butter (160 tonnes for EU); potatoes (2,000 tonnes for Hungary, 1,000 tonnes for the EU); wine (200 tonnes for Hungary); and undenatured ethyl (below 80%) alcohol (1,000 tonnes for Hungary, 200 tonnes for Poland). In 1999, preferential imports included in the MFN quota levels represented 18% of total in-quota imports.

<sup>19</sup> WTO document G/AG/R/23, 27 July 2000.

was due, according to the authorities, to sufficient domestic supplies and the resulting low demand for imports.<sup>20</sup> MFN in-quota tariffs are 30% on live cattle, beef, and pig meat; 25% on live pigs; 20% on sheep meat; and 5% on live sheep. The authorities attributed the low fill rates on rapeseed and rape oil to self-sufficiency and the competitiveness of domestic production.<sup>21</sup> MFN in-quota tariffs on these products are 20%.

61. Preferential tariff quotas on imports from regional trading partners cover a much wider range of agricultural and beverage products, including beer, as well as tobacco products (Table AIII.2). The number of countries and products receiving such preferential tariff quotas has increased since the last review of Slovakia in 1995. The in-quota rates are usually expressed as a percentage of the MFN tariff and thus are reduced as the MFN rate declines. Increases in these quotas are not typically called for in the agreements, but in many cases the parties are negotiating further liberalization. Unused quota from any preferential country is not reallocated to other countries.

62. According to the Slovak authorities, temporary MFN tariff quotas are set annually and used mainly to increase imports of inputs necessary for Slovakia's production and development. MFN tariff quotas are also used periodically to lower tariffs temporarily below MFN levels when a product is in short supply. Their imposition requires the agreement of the Czech Republic. In 2000, 18 product categories were covered, including mainly agricultural products, certain glass, and textiles. The in-quota rate on all these products was zero.

**(vi) Trade prohibitions and sanctions**

63. Slovakia does not apply any import prohibitions. It currently enforces several trade sanctions in compliance with UN resolutions. These currently cover trade with Iraq, Angola, Sierra Leone, Liberia, and Afghanistan.

**(vii) Import licensing and quantitative restrictions**

64. Slovakia liberalized its import licensing system during the review period. In particular, a number of products have been removed from the list of non-automatic licensing, such as uranium, lignite, fuel items of nuclear reactors, and waste paper. Automatic import licences still apply to a range of sensitive goods for statistical and monitoring purposes, including agricultural and food products, tobacco products, chemicals, used textile products, poisons, and pharmaceuticals (Table AIII.3). Importers are granted licences within 14 days of application, usually in full. Goods subject to import licences are published annually by the Ministry of Economy. In addition, Slovakia maintains automatic licences on a range of products for security reasons, such as explosives and firearms.

65. Non-automatic licensing involving volume limits (quantitative restrictions) applies to a small number of sensitive products. Quotas were recently introduced on imports of shoes from China. The annual quota of 2.5 million pairs is due to expire at end-2004. In May 2001, Slovakia introduced quantitative restrictions on imported sugar based on safeguard measures. Imports of sugar from the Czech Republic are limited to 3,500 tonnes annually, and will apply until end-2002. Imports of sugar from other countries are limited to 3,900 tonnes and will apply until 2004. Beer and non-alcoholic beverages, including sweetened mineral waters, imported from the Czech Republic are also subject to an annual quota of 540,000 hl and 532,000 hl, respectively. These quotas, which according to authorities are substantially under-filled, are due to terminate at end-2001. Such quotas with the Czech Republic have been applied under safeguard provisions contained in the customs union

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<sup>20</sup> WTO document G/AG/R/23, 27 July 2000.

<sup>21</sup> WTO document G/AG/R/23, 27 July 2000.



arrangements. Import entitlements are allocated on a first-come, first-served basis or among importers according to their historical import levels. During the review period, Slovakia removed non-automatic licences on imports of coal and fuels.

**(viii) Anti-dumping and countervailing actions**

66. During the review period, Slovakia enacted legislation on anti-dumping, effective from 1 July 1997 (Act No. 59 of 6 February 1997).<sup>22</sup> The legislation applies "unless otherwise stipulated by an international agreement binding on the Slovak Republic". Slovakia has not taken any anti-dumping actions to date.<sup>23</sup> The Slovak legislation was reviewed in the WTO Committee on Anti-Dumping Practices in April 1998.<sup>24</sup>

67. The Ministry of Finance is responsible for administering anti-dumping measures. It conducts the investigation to ascertain if dumping has occurred and whether the imports are causing or threatening to cause "material" injury to domestic producers. In determining these and other related matters, the Ministry shall request, early in the process, the written opinion of the Ministries of Economy and Foreign Affairs. It is also required to request an opinion from the Antimonopoly Office from the point of view of protecting economic competition. This requirement explicitly recognizes the anti-competitive nature of anti-dumping actions, and therefore, in principle at least, provides a further constraint on its use. However, although the Office indicated that such opinions would be provided in accordance with its legislation, precisely how this would operate in practice, and the exact role of the Office in anti-dumping cases appears to be unclear. This uncertainty is accentuated by the lack of any specific details in the anti-dumping legislation, and since no anti-dumping cases have occurred to date, no such opinions have been requested. It would seem that the Office's role is limited to providing an opinion, which has no legal enforceability. Thus, the Ministry of Finance could still find in favour of an anti-dumping action even though the Antimonopoly Office had expressed anti-competitive concerns from such action. It appears that the importer would not be able to challenge the decision based on these opinions.

68. Slovakia has also adopted legislation on countervailing measures (Act No. 226/1997 On Subsidies and Countervailing Measures). This is administered by the Ministry of Economy. To date, no countervailing actions have been initiated. The legislation requires the Ministry of Economy to request an opinion from the Antimonopoly Office on whether such action should be taken against subsidized exports. No such requests have been made to date. However, as for anti-dumping, the Office's precise role in the application of these arrangements appears ambiguous.

**(ix) Safeguard actions**

69. Slovakia introduced legislation on safeguards, effective 1 September 1997 (Act on Import Safeguard Measures No. 214, 2 July 1997).<sup>25</sup> The Ministry of Economy administers the legislation. Slovakia's safeguard legislation was reviewed in the WTO Committee on Safeguards in April 1998.<sup>26</sup>

70. In conducting investigations, the Ministry is required to request the opinion of the Antimonopoly Office on whether to take protective measures. As for anti-dumping and countervailing cases, the Office's precise role appears ambiguous. Slovakia has taken two safeguard

<sup>22</sup> WTO document G/ADP/N/1/SVK/2, 31 July 1997.

<sup>23</sup> WTO document G/ADP/N/59/Add.1/Rev.1, 20 October 2000. According to the authorities, the latest safeguard measure taken on sugar was initially raised as an anti-dumping complaint by the domestic industry.

<sup>24</sup> WTO document G/ADP/M/12, 9 September 1998.

<sup>25</sup> WTO document G/SG/N/1/SVK/2, 6 October 1997.

<sup>26</sup> WTO document G/SG/M/11, 29 July 1998.

actions, both involving agricultural products. However, unlike for its investigations on non-agricultural products, the Antimonopoly Office did not record its opinions on these cases in its Annual Report.<sup>27</sup> In total, the Office issued 17 standpoints of which ten opinions concerned agricultural products.

71. In May 1999, an investigation was initiated on the importation of fresh, frozen and chilled pig meat (tariff heading 0203).<sup>28</sup> The Government introduced provisional safeguard measures on 21 May 1999, in the form of an additional tariff of 43.7%, on all imports of pig meat, except meat originating from the Czech Republic and developing countries.<sup>29</sup> The duration of the measure was limited to 200 days. In October 2000, another investigation was initiated on sugar (cane or beet sugar under tariff heading 1701).<sup>30</sup> Measures were introduced on 1 May 2001 in the form of an annual quota on such imports originating from all countries, except the Czech Republic and developing countries. This quota will apply for four years. Poland has the largest quota, set at 3,500 tonnes annually in 2001 and 2002, rising to 4,000 tonnes in 2003 and 4,600 tonnes in 2004. The total quota for all other exporters is 400 tonnes in 2001 and 2002, increasing to 500 tonnes in 2003 and 600 tonnes in 2004.<sup>31</sup>

72. On industrial products, the Antimonopoly Office has provided seven opinions to date, based on its own investigations. In 2000, it provided an opinion to the Ministry of Economy that a safeguard action against Chinese imports of leather products was unsubstantiated.<sup>32</sup> This case was terminated in June 2000 without any safeguard action taken. In 1999, four opinions were given. In two of these, involving imports of bricks and of crushed stoneware from all sources, the Office disapproved the adoption of protective measures against imports on the grounds that this would be inconsistent with its competition objectives and would harm consumers. These cases were subsequently terminated. In the third case, involving imports of wooden internal doors from the Czech Republic, the office did not recommend additional duties on imports, and indicated that if applied, they should be for a short period only. In the fourth case, involving imports of flat rolled iron products from the Russian Federation and the Ukraine, the Office supported the imposition of additional duties to protect local producers from increased imports of low-quality goods. In this case, it was concluded that application of safeguard measures should prevent a worsening of the competitive environment. No safeguard action was taken in any of these cases.

73. Slovakia has also retained the right to use transitional safeguard measures under the WTO Agreement on Textiles and Clothing. It has not applied such safeguard actions to date. It submitted its third stage list of textiles and clothing products, covering 18.5% of the quantity of imports in 1993 (the first year of existence of Slovakia), that are to be integrated into GATT 1994.<sup>33</sup> Expressed at the six-digit HS level, this list covers yarns, fabrics, made-up textiles and clothing.

74. In addition, Slovakia reserved the right to take transitional safeguard actions on agricultural products tariffed in line with the WTO Agreement on Agriculture. So far, it has taken such action

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<sup>27</sup> According to the authorities, the Office's Annual Report records only selectively the opinions it provides because of the substantial number involved.

<sup>28</sup> WTO document G/SG/N/6/SVK/1, 19 May 1999.

<sup>29</sup> WTO document G/SG/N/7/SVK/1, 8 June 1999.

<sup>30</sup> WTO document G/SG/N/6/SVK/2, 6 November 2000.

<sup>31</sup> WTO document G/SG/N/8/SVK/1, 2 May 2001.

<sup>32</sup> Antimonopoly Office (2000), p. 33.

<sup>33</sup> WTO document G/TMD/N/378/Corr.1, 15 February 2001. Previous lists were notified in WTO documents G/TMB/N/247/Corr.2, 18 November 1997 (second stage covering 17.8% of the quantity of 1993 imports) and G/TMB/N/88/Add.1 (first stage covering 16.1% of 1993 imports).

once, in August 1997, when special safeguard measures were implemented on ice cream imports.<sup>34</sup> The measure consisted of an additional import duty of 41%, unless imports originated from the Czech Republic. The measure was terminated in January 1998.

**(x) Standards and other technical requirements**

**(a) Standards, testing, and certification**

75. Slovakia is harmonizing its standards and technical regulations with those of the EU as part of its EU accession process. To meet these requirements, several new laws and regulations have been introduced during the period under review. Legislation, effective 1 January 2000, on Technical Requirements for Products and on Conformity Assessment (Act No. 264/1999), contained many principles of EU legislation, and introduced many elements of the EU's New and Global Approach into Slovak legislation. These changes have generally simplified Slovakia's testing and certification requirements. The new legislation reaffirmed the Office of Standards, Metrology and Testing as the central state body in the area of technical standardization and conformity assessment. The Office accepted the Code of Good Practice for the Preparation, Adoption and Application of Standards from September 1995.<sup>35</sup> The Slovak Institute for Standardization (SUTN) took over this acceptance in May 2001.

76. The Office is responsible for formulating government policy on standardization and for supervising the transposition of EN, ISO and IEC standards, which support the EU legislation. The Office designated, as from 17 January 2000, the SUTN as the National Standardization Organization (NSO) responsible for the development, approval and issuance of Slovak standards (Act No. 264/1999 Coll.). It writes, publishes, and maintains both a register and database of Slovak and European standards.<sup>36</sup> The Institute establishes Technical Standardization Committees to set and review standards.<sup>37</sup> The SUTN is also responsible for developing cooperative links and executing Slovakia's membership of international and European standardization organizations. SUTN is a member of the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC), as well as an affiliate member, without voting rights, of the European Committee for Standardization (CEN), and the European Committee for Electrotechnical Standardization (CENELEC). Based on a contract with the Office, SUTN fulfils the activities of Slovakia's enquiry point with the WTO under the TBT Agreement and, with the agreement of the Ministry of Agriculture, the activities of contact point for the SPS Agreement. In July 2000, SUTN concluded an agreement with the Czech Standards Institute on mutual cooperation in EN transposition whereby it acquired over 4,000 Czech EN transposed standards.

77. Slovakia inherited many national standards from the former Czechoslovakia, and began introducing its own standards (STNs), mainly as temporary measures, pending EU alignment. This process has accelerated recently. The Government's main policy objectives on standards and technical requirements are to protect public interest and to achieve full compatibility with the EU. A Legislative Council Working Group was established in January 2000 (Government Resolution No. 17/2000) to review technical regulations, including their compliance with EU requirements. The number of national standards continues to increase, due to the adoption of EU standards. At end-March 1999, Slovakia had 19,500 standards, of which 75%, or 14,625, represented national standards;

<sup>34</sup> WTO documents G/AG/N/SVK/22, 18 April 2000, and G/AG/N/SVK/16, 12 July 1999.

<sup>35</sup> WTO document G/TBT/CS/2/Rev. 7, 8 February 2001.

<sup>36</sup> Databases also contain international and other foreign standards.

<sup>37</sup> There are currently 83 Committees, covering mechanical engineering (24), civil engineering (17), electrical engineering (19), chemistry and agriculture (13), environment (4) and miscellaneous (6).

14% (2,769), European standards; and 11% (2,145), adopted from international standards.<sup>38</sup> At end-May 2001, the number of standards had increased to 23,199; national standards represented 62% (14,477), European standards about 27% (6,423), and the remaining 10% (2,236) were international standards, mainly ISO and IEC standards. The Slovak Institute for Standardization (SUTN) plans to have transposed about 80% of European standards to the Slovak set of standards, including cancellation of conflicting Slovak standards, by end-2001. It intends to apply EU standards or relevant international standards, where they exist, and would adopt European standards over international ones if then differed.

78. In line with its objective of harmonizing standards, certification and testing procedures with the EU, Slovakia's standards became voluntary from 1 January 2001. This represented a major change from using mandatory standards. The new legislation makes conformity with Slovak standards voluntary, unless required under other technical regulations. Slovak standards remain mandatory only if they are directly included in a technical regulation. Mandatory certification is also specified under this legislation for so-called "determined products".<sup>39</sup> Determined products, once certified, can carry the Slovak conformity mark. Foreign, including EC, marks are recognized under the conditions stipulated in §33 of Act 264/1999 Coll.

79. Mandatory technical regulations, voluntary harmonized standards, and standards suitable for conformity assessment, used by accredited Slovak testing agencies, manufacturers, and importers, apply to a large number of products that are considered a threat to safety, health, and the environment, such as foodstuffs, kitchen appliances, electrical equipment, engineering products, agricultural machinery, plastics, paints, polishes, cosmetics. Obligatory technical standards were introduced but subsequently removed on many products, such as outdoor shoes<sup>40</sup>, ceramic tiles<sup>41</sup>, textiles and clothing<sup>42</sup>, and mineral waters. From 1 February 2001, foodstuffs have not been certified but the manufacturer or importer must issue a declaration of conformity on the basis of tests performed by an authorized or accredited body.<sup>43</sup> New foodstuffs are also subject to approval by the Chief Hygienist. Engineering products and agricultural machinery are assessed according to Governmental Ordinance No. 391/1999 Coll. and Governmental Ordinance No. 475/2000 Coll. on technical requirements for machinery. As from 1 February 2001, cosmetics were excluded from Governmental Ordinance No. 400/1999 Coll. so their sale is not restricted by certification. Paints and polishes are subject to conformity assessment, which is within the competence of the Ministry of Construction and Regional Development (Act 90/1998 Coll. on construction products). Plastics are subject to conformity assessment only as products that come into contact with foodstuffs.

80. Certification and conformity assessment is performed by authorized testing agencies. These must be accredited by the Slovak National Accreditation Service, the independent national accreditation body since January 2000 (Act No. 264/1999 Coll. On Technical Requirements for Products and on Conformity Assessment). The Service, established in 1993, has been a member of the European Accreditation Agency since 1998. ISO rules on accreditation are applied. As at end-

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<sup>38</sup> Slovak Institute for Standardization (2000), p.6.

<sup>39</sup> These are products whose specification is given in the relevant Slovak ordinances and are subject to third party assessment and issued with an EC type certificate. Such products are equally assessed in the Slovak Republic (see for example, Machinery Directive 98/37/EC, Annex 4).

<sup>40</sup> Introduced in September 1997 and terminated in 2001.

<sup>41</sup> Introduced in 1996 but terminated in July 1998 when the new Construction Product Law was passed.

<sup>42</sup> Introduced in July 1997 and terminated in November 1997.

<sup>43</sup> Decree No. 27/2001 Coll. of the Ministry of Agriculture (Amendment to Decree No.36/1997 Coll. of the Ministry of Agriculture) on the notification of the production of foodstuffs, tobacco products, and cosmetics, and on the conditions for putting them into circulation.

May 2000, 38 testing entities had been accredited. All national authorized testing centers are accredited.

81. Slovakia recognizes foreign documents or foreign marks as proof of conformity assessment for certification, under reciprocal mutual recognition agreements. Slovakia concluded an agreement with the Czech Republic on mutual cooperation in standardization, metrology and testing. Both countries generally accept each other's technical standards, quality certificates, and safety and testing procedures on a reciprocal basis. Slovakia also has similar bilateral agreements with other countries, including Poland, Russia, Bulgaria, Belarus, Slovenia, the Ukraine, and Romania. CEFTA members took additional steps during the review period to mutually recognize each other's certification and testing procedures. Slovakia has also been negotiating a protocol on conformity assessment with the EU (PECA) covering both acceptance of test results and recognition of certificates, which is due to become operational in 2002. It is also expected to become a member of the multilateral agreement for mutual recognition of certificates and reports issued by accredited bodies (MRA).

82. According to the authorities, standards, certification, and conformity assessment apply uniformly to imports, and no longer represent a significant impediment to trade.<sup>44</sup> One substantial improvement was the introduction of "self-declaration" certification by the manufacturer or importer prior to sale on the market for many products. As relevant EC directives gradually become incorporated into the Slovak legal system, its procedures for conformity assessment will be increasingly governed by the same principles as those in EC Member States; i.e. in the majority of cases, the manufacturer or importer issues the declaration of conformity and places the product for sale on the Slovak market. Nevertheless, certification procedures may still involve substantial delays and cost. Certification is sometimes applied on the basis of an importer rather than a product, and is for a limited duration, requiring re-certification. However, for products assessed according to Governmental Ordinances from January 2001, certification is issued for the same period as in EU Member States, and according to the conformity assessment module chosen by the manufacturer.

83. Effective September 1997, quality certificates have applied to certain products, including imports. It is estimated that these apply to about 9% of imports.<sup>45</sup> ISO 9000 series of standards are being used increasingly as evidence of product quality.

(b) Sanitary and phytosanitary arrangements

84. Under the Food Code of Slovakia (Act No. 152/1995 On Foodstuffs) and the Act on Protection of Human Health (No. 272/1994), many agricultural products and their processing points are subject to hygiene and health testing procedures to ensure that foodstuffs are fit for human consumption. This legislation sets maximum residue limits for contaminants, including maximum aflatoxin levels. According to the authorities, these requirements apply uniformly to imported and domestic foodstuffs. These are set and implemented jointly by the Ministries of Agriculture and Health in line with the regulations contained in the Codex Alimentarius of the Slovak Republic. The Preventive and Clinical Medicine Institute assesses the toxicological properties of plant products to protect human health.

<sup>44</sup> A 1999 FIAS Investment Report noted that foreign investors had identified obtaining certification of imported products as one of the most significant trade and investment impediments. Foreign investors reportedly claimed that the certification process was non-transparent and corrupt, and deliberately discriminated against foreign investors and imports. It had also previously been claimed that Slovakia's continued introduction of obligatory certification and pre-market testing procedures had created non-tariff barriers to various agricultural products. See EC (1998), p.14.

<sup>45</sup> Central and Eastern European Business Information Center online information. Available at: [www.mac.doc.gov/eebic/countryr/slovakr/expfact.htm](http://www.mac.doc.gov/eebic/countryr/slovakr/expfact.htm).

85. SPS standards in Slovakia are primarily the responsibility of the Ministry of Agriculture. The main legislation governing sanitary and phytosanitary measures are the Act on Veterinary Care (No. 337/1998) implemented by the State Veterinary Administration, and the Act on Plant Health Care (No. 285/1995). One of the regulations of the 1995 Act concerns phytosanitary conditions to be met for the import, export, and transit of plants and plant products, and other objects that may transmit harmful organisms.

86. Slovakia imposes import restrictions as part of its quarantine regulations. Goods prohibited from import or transit through Slovakia due to veterinary diseases, are: all categories of bovine animals and their products as well as embryos, meat and bone powder, because of bovine spongiform encephalopathy (BSE); and ruminants and swine, semen and embryos, meat and meat products, treatment of which does not guarantee clearance of the foot and mouth disease (FMD) virus, due to FMD. In addition, some foodstuffs cannot be imported from specified countries, for example, pigs, pork meat, and feed concentrates and unheated products from the Czech Republic, since June 1997 following the outbreak of Hog cholera. Other countries affected by the ban due to hog cholera are Germany, Spain, Greece, Austria, Italy, Portugal, Netherlands and Belgium. Slovakia has also banned, since 15 January 2001, the importation of cattle and certain beef products, originating from regions or countries likely to be affected by BSE, including Belgium, Denmark, France, Germany, Great Britain, Ireland, Italy, Liechtenstein, Luxembourg, Netherlands, Portugal, Spain, and Switzerland.<sup>46</sup> It also introduced a ban, from 9 April 2001, on imports of live domestic and wild bi-ungulates, their products and by-products from France, Great Britain, Ireland, the Netherlands, and other countries with FMD.<sup>47</sup> Slovakia also bans imports of GMO food and of meat treated with growth-promoting hormones.

87. Some plant commodities prohibited from import or transit through Slovakia are subject to Annex No. 11 to the Decree of the Ministry of Agriculture No. 2785/1998, which contains a list of such plants. In 1998, Slovakia notified to the WTO a phytosanitary measure on imports of potatoes for human consumption concerning the treatment of potatoes with the "neo-stop" agent against germination. Following consultations with the EC, Slovakia agreed to allow potatoes to be treated with other agents containing the chemical chloroprotham. This action was also notified to the WTO. Slovakia also maintains a rigorous surveillance system on imports of potatoes and fruit, including apples, pears, and quinces.<sup>48</sup> According to the Government, these measures are based on a pest risk assessment conducted in accordance with EPPO recommendations, and exist to preserve the country's disease-free status.<sup>49</sup>

88. Slovakia regularly submits notifications on its quarantine measures to the WTO, for comment, prior to their entry into force. The Slovak Institute for Standardization is the national enquiry point, and the Ministry of Agriculture is the national notification authority to the WTO.

(c) Marking, labelling, and packaging

89. Slovakia maintains regulations regarding labelling of food products and a range of other products. Food labelling requirements are not yet fully harmonized with EU regulations. Differences include the requirement to show both date of production (over the EU standard) and expiry date for consumption. This difference will be removed when the Act on Foodstuffs and the respective chapter

<sup>46</sup> WTO document G/SPS/N/SVK/16, 7 March 2001.

<sup>47</sup> WTO document G/SPS/N/SVK/17, 19 April 2001.

<sup>48</sup> The latest notification of these measures was WTO document G/SPS/N/SVK/15, 22 July 1999.

<sup>49</sup> WTO document G/SPS/R/17, 24 February 2000. Poland has questioned the scientific basis of these measures, especially on fruits, and criticized their inconsistent application by Slovak authorities, as well as the frequent changes made to the requirements (WTO document G/SPS/GEN/159, 5 January 2000).

of the Codex Alimentarius of Slovakia are amended, expected to be from 1 January 2002. Contents, ingredients, country of origin, name of producer, and instructions for use, where applicable, must also be given, in the Slovak language since January 1996. Name brands are not affected and may include foreign words. Packaging requirements are covered also by a particular chapter of the Codex Alimentarius of Slovakia.

**(xi) Government procurement**

90. New legislation on government procurement became effective on 1 January 2000 (Act No 263/1999 on Public Procurement), incorporating most EU directives. The legislation also established a new independent central body, the Office for Public Procurement, to administer public procurement and to supervise procurement activities, including monitoring compliance with the principles of non-discrimination and equal treatment of tenderers. The Government Regulation on the publishing of preliminary notices, notices of invitation to public procurement, tender documents, and the results of public procurement also became effective. The *Journal of Public Procurement* commenced publication in 2001.

91. These changes improved the transparency of the public procurement process. The legislation covers procurement by all ministries and many public entities, including some major state-owned enterprises, such as in areas of postal services, transport, water management, electricity and gas.<sup>50</sup> However, these arrangements do not apply to Ministry of Defence procurement of a wide range of specified goods, which are exempt from the list given in Annex 1 of the Act on Public Procurement. The legislation covers procurement contracts for services or supplies/goods exceeding Sk 500,000 (net of VAT) during the calendar year or during the contract term, where the contract is concluded for a period exceeding one calendar year, and Sk 1 million (net of VAT) for works during the contract term. Different rules and reporting requirements apply to procuring entities depending upon additional statutory thresholds. For example, entities are required to provide procurement details to the Office only for works contracts above EUR 5 million (net of VAT). Fines, ranging up to Sk 1 million, may be imposed on entities found by the Office to have breached the procurement provisions. The Office will maintain from 2002 a public list of registered tenderers, which will include overseas suppliers.

92. Entities may let procurement contracts covered by the legislation either by open or restricted tender. Under certain conditions, specified in the legislation, tenders may also be awarded using "negotiated procedures with or without prior notification," whereby the entity can reduce the number of invited tenderers to a minimum of three or one, respectively. For example, contracts may be awarded by invitation "with prior negotiation" following an unsuccessful open or restricted tender and if contract conditions have not changed substantially. In 2000, some 46% of procurement contracts were let by open tender; 6% by restricted tender; 1% by negotiated procedures with prior notification; and 47% by negotiated procedures without prior notification. According to the Office, the total Slovak public procurement market covered by public procurement methods was around Sk 57 billion in 2000.

93. Domestic price preferences do not apply to procurement contracts. Procurement contracts may support regional development in areas with unemployment above the national average for the preceding two years. In these cases, procuring entities may stipulate that the tenderers commit to using a minimum level of local labour or materials. For larger contracts above the threshold of EUR 5 million (net of VAT), the approval of the Office is required. To date, the Office has received no such requests.

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<sup>50</sup> Includes legal entities with majority state ownership.

94. Any firm, including foreign entities, may file an objection to the Office against the selection decisions of any procuring entity. Such objections may cover the conditions stated in the competition documentation; the exclusion of a tenderer or candidate; the ranking of the tenders or evaluation of performances; and the conditions stated in the notice or in the invitation. There were 559 objections in 2000 against practices of procuring entities, of which around 30% were successful. Decisions by the Office regarding objections may be appealed to the Supreme Court.

95. Slovakia obtained observer status in the WTO Committee on Government Procurement in October 2000, and intends to become a member by end-2002.

**(xii) Performance and local-content requirements**

96. Slovakia has no legislation on local-content or performance requirements for foreign investors.

**(xiii) State trading enterprises**

97. According to its most recent notification to the WTO, the Slovak Republic does not maintain any state trading enterprises within the meaning of the WTO definition.<sup>51</sup> Until 1999, the only enterprise notified by Slovakia to the WTO as a "possible" state trading entity was the State Fund for Market Regulation (SFMR).<sup>52</sup> The SFMR regulates the markets for selected agricultural commodities (such as grain, cattle, beef, pork meat, butter, and sugar). In order to support farm prices and promote price stability, the Fund sets guaranteed prices at which it intervenes when necessary to purchase surplus production. However, the SFMR has no monopolistic or exclusive position in the market and other traders are free to import or export the same products on competitive terms under normal market conditions. The SFMR is the sole entity responsible for paying export subsidies. It does not engage directly in foreign trade, but rather conducts export/import operations through commercial traders.

98. As part of its early market transformation, Slovakia abolished the state monopoly on foreign trade, and the legal provisions on which state-owned companies had exclusive authorization to produce tobacco, salt, and alcohol. Slovak legislation does not allow permanent import or export rights to be granted. Any such licences must be limited in time.

**(xiv) Measures implemented in exporting countries**

99. The Government has no arrangements with foreign governments or enterprises designed to influence the quantity or value of goods and services exported to Slovakia. However, a number of informal auto-limitation agreements apply between respective producers' associations to control trade in sensitive agricultural products between the Slovak and Czech Republics.<sup>53</sup> These arrangements are applied in consultation with the Customs Union Council. Decisions on auto-limitation agreements between the Slovak and Czech Republics are based on imports during the three preceding years. Volume limits are applied on commodities by mutual agreement between respective producer associations.

**(xv) Other measures**

100. Slovakia maintains no surveillance measures on imports. Since 1996, the Customs Union Council monitors, by mutual agreement, imports of a number of sensitive, mainly agricultural,

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<sup>51</sup> WTO document G/STR/N/6/SVK, 31 May 2001.

<sup>52</sup> WTO documents G/STR/N/4 7 and 5/SVK, 23 September 1999.

<sup>53</sup> Ministry of Agriculture (2000a), p.37.



products from the Czech Republic. The list of products covered was extended recently from 8 to 48 items, to include pepper, vegetable oils, wheat, alcoholic beverages, and cigarettes. Some of the products, such as sugar, water and beer, are currently subject to quotas when imported from the Czech Republic.

### **(3) MEASURES DIRECTLY AFFECTING EXPORTS**

#### **(i) Duties, taxes, and minimum export prices**

101. During the period under review, Slovakia has not levied any export taxes, charges or other fees. Exports of goods and services are free from VAT. Slovakia has not maintained any official minimum or reference export prices since its last Review.

#### **(ii) Export prohibitions, quotas, and licensing**

102. Slovakia does not apply export prohibitions, except for those covered by UN resolutions.

103. In early 1998 export licences were introduced on certain kinds of coniferous wood. In June 1998 these were converted to export quotas, which were replaced from 1 January 1999 with automatic licences issued by the Ministry of Economy (Act on Licences No.487/2000). Non-automatic export licences on a number of other products were also converted to automatic licences in 1999 (Licensing Decree on Reclassification of Selected Commodities from the Regime of Non-Automatic Export Licences to the Regime of Automatic Export Licences). Automatic export licences currently apply for statistical and monitoring purposes to a range of products, including raw leather, wooden products, precious metals (like gold, silver, and platinum), iron and steel products, and pharmaceuticals (Table AIII.3).

104. Slovakia also maintains export quotas on certain commodities to stabilize the domestic market, these include live animals, cereals (e.g. wheat, rye, and barley), flour, rapeseed oil, bran, and iron and steel. Quotas on artworks and agricultural exports cover all destinations. Other export quotas exclude sales to the EU, EFTA States, and the Czech Republic, and quotas on flat steel products apply only to Hungary. Since 1997, export licences issued by the Ministry of Economy for agricultural products also require approval from the Ministry of Agriculture.

#### **(iii) Export subsidies**

105. Slovakia maintains export subsidies on certain agricultural products; in recent years they have covered a narrower range of commodities, namely dairy products (milk powder, butter, and cheeses), malt, fruit, and vegetables. In 2000, export subsidies totalled Sk 534.6 million, compared with Sk 490.9 million in 1999 and Sk 432.5 million in 1998, when export subsidies were also paid on sugar, beef, cereals, and flour — an overall rise of 24%, albeit on fewer commodities (Table III.6). The corresponding quantities of subsidized exports in those years were 120,000 tonnes in 2000, 129,300 tonnes in 1999 and 87,400 tonnes in 1998. In 2000, Slovakia's export subsidies represented 65% and 89%, respectively, of its total WTO commitment levels on subsidized products of Sk 817.9 million and 135,100 tonnes.<sup>54</sup> On fruit and vegetables, committed levels on export subsidies in 2000 exceeded actual payments by almost 25 times. Export subsidies have increased substantially on malt, by over 300% since 1998, and although quantities were at their bound levels in 1999 and 2000, payments in 2000 remained substantially below committed amounts, at 78% usage.

<sup>54</sup> The respective usage figures for subsidies paid in 1999 were 55% and 92% compared with 31% and 30% in 1998.

Slovakia has also used cumulative export subsidy volumes on other dairy products, especially cheese.<sup>55</sup>

106. In total, Slovakia reserved the right to apply export subsidies on 17 agricultural product categories, also including poultry and eggs, pork, sheep meat, vegetable oil fats, yeast, beer, wine, spirit beverages, and starch. Although exports of many of these products have never been or are no longer subsidized, Slovakia can apply such subsidies within its WTO commitments. In all, these value and volume commitments bound direct export subsidies in 2000 to a total of Sk 1,656.2 million and to 3,125,600 tonnes and 125.7 million litres. Allowing for all commodities on which commitments were made further lowers Slovakia's overall usage rates to well below half both in value and volume terms during the three-year period ending 2000 (Table III.6). Its potential to increase export subsidies by broadening the product coverage of payments to include other products covered by commitments is substantial.<sup>56</sup>

107. Export subsidies are administered by the State Fund for Market Regulation through commercial contracts made with exporters. Payments are set on a per unit basis to cover the difference between production costs and export prices, reduced as a rule by 10%. It has been claimed that procedures for determining the payment of export subsidies have in the past been unclear for some commodities, and that ad hoc decisions were often taken that reflected stronger lobby pressure rather than market balancing intentions.<sup>57</sup> However, according to the authorities, the procedures for determining the payment of export subsidies are clear, and the process fully transparent. Ad hoc decisions in the case of some commodities were aimed at ensuring market balance. Lobby pressure is also seen to be irrelevant, since decisions to provide export subsidies are taken by the Fund Council headed by the Minister of Agriculture.

**Table III.6**  
**Usage of export subsidies, 1998 to 2000**  
(Sk million, tonnes, and per cent)

Commodity	1998			1999			2000		
	Committed	Actual	Usage	Committed	Actual	Usage	Committed	Actual	Usage
<b>By value</b>	<b>(Sk million)</b>		<b>(per cent)</b>	<b>(Sk million)</b>		<b>(per cent)</b>	<b>(Sk million)</b>		<b>(per cent)</b>
Beef	216.6	80.3	37	199.5	0	0	182.4	0	0
Pork	38	0	0	35.0	0	0	32.0	0	0
Poultry, eggs & products	136	0	0	125.3	0	0	114.6	0	0
Sheep meat	23.6	0	0	21.7	0	0	19.8	0	0
Milk powder	320	130	41	294.7	144.5	49	269.4	178.6	66
Other dairy products	287.3	163.2	57	264.6	172.1	65	241.9	166.5	69
Fruit & vegetables	81.3	0	0	74.9	4.4	6	68.5	2.8	4
Hop seeds	64.6	0	0	59.5	0	0	54.4	0	0
Vegetable oil fats	20.5	0	0	18.9	0	0	17.3	0	0
Sugars & confectionery	60.8	14.8	24	56.0	0	0	51.2	0	0
Yeast	6.1	0	0	5.6	0	0	5.1	0	0
Beer	31.1	0	0	28.7	0	0	26.2	0	0
Wine	45.6	0	0	42.0	0	0	38.4	0	0
Spirit beverages	74.5	0	0	68.6	0	0	62.7	0	0
Starch	59.3	0	0	54.6	0	0	49.9	0	0

Table III.6 (cont'd)

<sup>55</sup> WTO document G/AG/R/23, 27 July 2000.

<sup>56</sup> The five-year transitional period under the WTO Agricultural Agreement to allow members to transfer unused subsidy commitments between products expired in 2000.

<sup>57</sup> EC (1998), p.51.

Commodity	1998			1999			2000		
	Committed	Actual	Usage	Committed	Actual	Usage	Committed	Actual	Usage
Malt	282.7	43.2	15	260.4	169.9	65	238.1	186.7	78
Cereal & flour products	218.9	1	0.4	201.6	0	0	184.3	0	0
<b>Total</b>	<b>1,966.9</b>	<b>432.5</b>	<b>22</b>	<b>1,791.6</b>	<b>490.9</b>	<b>27</b>	<b>1,656.2</b>	<b>534.6</b>	<b>32</b>
<b>By quantity</b>	<b>(Tonnes)</b>		<b>(per cent)</b>	<b>(Tonnes)</b>		<b>(per cent)</b>	<b>(Tonnes)</b>		<b>(per cent)</b>
Beef	31,000	5,000	16	29,700	0	0	28,400	0	0
Pork	5,200	0	0	5,000	0	0	4,700	0	0
Poultry, eggs & products	12,000	0	0	11,600	0	0	11,000	0	0
Sheep meat	1,700	0	0	1,700	0	0	1,600	0	0
Milk powder	16,300	9,900	61	15,700	9,300	59	15,000	6,800	45
Other dairy products	7,700	8,500	110	7,400	8,300	112	7,100	6,600	93
Fruit & vegetables	7,700	0	0	7,400	1,100	15	7,100	700	10
Hop seeds	6,000	0	0	5,800	0	0	5,500	0	0
Vegetable oil fats	4,300	0	0	4,100	0	0	3,900	0	0
Sugars & confectionery	4,300	4,300	100	4,100	0	0	3,900	0	0
Yeast	500	0	0	500	0	0	500	0	0
Beer (million litres)	72.2	0	0	69.3	0	0	66.4	0	0
Wine (million litres)	9.5	0	0	9.1	0	0	8.7	0	0
Spirit beverage (million litres)	55.1	0	0	52.8	0	0	50.6	0	0
Starch	12,900	0	0	12,300	0	0	11,800	0	0
Malt	115,300	55,000	48	110,600	110,600	100	105,900	105,900	100
Cereal & flour products	118,700	4,700	4	113,800	0	0	109,000	0	0
<b>Total (tonnes)</b>	<b>343,600</b>	<b>87,400</b>	<b>25</b>	<b>329,700</b>	<b>129,300</b>	<b>39</b>	<b>315,400</b>	<b>120,000</b>	<b>38</b>
<b>(million litres)</b>	<b>136.8</b>	<b>0</b>	<b>0</b>	<b>131.2</b>	<b>0</b>	<b>0</b>	<b>125.7</b>	<b>0</b>	<b>0</b>

Source: WTO Secretariat from WTO documents G/AG/SVK/26, 26 March 2001; G/AG/N/SVK/23, 18 April 2000; G/AG/N/SVK/17, 12 July 1999; and Schedule XCIII of the Slovak Republic.

#### (iv) Export finance, insurance, and guarantees

108. Under its 1999 legislation on State Aid (Article 4 (4)), Slovakia provides state assistance to exports in accordance with applicable OECD rules (essentially the Arrangement on Guidelines for Officially Supported Export Credits) and the Berne Union rules.

109. Eximbank was established in 1997 to finance export and import credits (Act No. 80/1997 on the Export-Import Bank and subsequent amendments). Its activities include refinancing of export and import credits; insurance and re-insurance of export credits; and providing guarantees for exports and imports. The Government's priority is to develop the state-owned Eximbank into a modern financial institution that support exports by offering suitable forms of financing and insurance to minimize exporters' risk. Eximbank's primary objective is to support the maximum possible volume of exports of sophisticated products principally to EU and OECD countries, by mitigating the risks associated with insurance, credit, guarantee, and financial transactions. Its registered capital at end-2000 was Sk 2.67 billion while its equity stood at Sk 3.49 billion. Funds come from its equity and internally generated resources, as well as from ad hoc state budget allocations assigned specifically for refinancing and insuring export credits; Sk 500 million was allocated in 2000 while no state funding was made available in 1999.

110. Eximbank's main operations cover refinancing of short- and long-term export credits with a view to supporting exports predominantly of Slovak origin. Refinancing facilities are extended to commercial banks for them to on-lend at favourable interest rates to their client exporters. The annual interest rate charged by Eximbank on such refinancing facilities was 6.5% as at end-June 2001, and the additional margin allowed for commercial banks is fixed at 3%. Exports totalling Sk 8.5 million and Sk 13.9 billion received such support in 1999 and 2000, respectively, representing 89% and 93% of all exports supported by Eximbank. Other export assistance includes bill of exchange credits and the provision of guarantees and contract bonds. In 1999 and 2000, guarantee products supported exports of Sk 503 million and Sk 609 million, respectively, while bill of exchange products enabled corresponding exports of Sk 563 million and Sk 306 million. Light engineering, metallurgical, and electrical engineering industries are the main recipients of support.

111. Eximbank also provides export credit insurance against commercial and political risks. In 1999, exports totalling Sk 5.9 billion were supported by short-term insurance against commercial and combined risks. Such insurance mainly covered pulp, paper, ferrous metal products, transport vehicles, stoneware and glass products, and machinery and equipment. In addition, exports totalling Sk 583.9 million in 1999 were covered by short-term insurance against political risks, supporting mainly sales to Iran, India, and Uzbekistan, while medium- and long-term insurance supported exports of Sk 72 million to Cuba.

112. The Ministry of Agriculture has negotiated with commercial banks to provide farmers and food processors with "green loans" on softer terms, to support the financing of storage, processing, and marketing of agricultural commodities, aimed at improving Slovakia's trade balance. In 1997, such loans were granted by a commercial bank. The loans, bearing an effective interest rate to the borrower equal to the central bank discount rate plus an allowed additional margin of 3% per annum, were collected in full and the underlying commitment extinguished by 1999. The funds, administered by the commercial bank, were principally meant to support exports of fruit, vegetables, potatoes, canned goods, and wine.

**(v) Export promotion and marketing assistance**

113. The Ministry of Economy has recently established a semi-governmental organization, the Slovak Export Information Centre (SEIC), to support exports. The Centre provides information on products and international markets, including price trends, foreign customs procedures, and transportation schedules, as well as on political and business conditions in specific countries. The SEIC represents Slovakia at the European Trade Promotion Organisation.

114. The Government funds export promotion through the Foreign Trade Promotion Fund, established in 1997 (Act No. 379/1996). Grants are paid to cover part of firms costs of attending international fairs, exhibitions, and advertising abroad, including market research. State aid provided in 1997 amounted to Sk 38 million.<sup>58</sup> The Fund's operations are self-funded through contributions from domestic exporters and importers. As from 1 January 2000, these contributions were made voluntary.

115. The Slovak Agency for Investment and Trade Development (SARIO) was established in 1999 to integrate the activities of the Foreign Trade Promotion Fund and the Agency for Foreign Investment into a "one-stop shop". It administers several support programmes aimed at encouraging exports of small and medium-size enterprises (SMEs). These help SMEs to develop e-commerce, to participate at international exhibitions, in marketing research and collection of information, and the

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<sup>58</sup> WTO document G/SCM/N/38/SVK, 28 June 2000.

development of industrial zones. Total funding for these programmes was Sk 50 million in 2000, and it is expected to decrease to Sk 30 million in 2001.

116. The Slovak Guarantee and Development Bank is responsible for administering the Export Support Program, since its introduction in May 2000. State funding of Sk 20 million was provided in 2000; this is expected to fall to Sk 12 million in 2001.

**(vi) Customs-free zones**

117. Customs-free zones are permitted under Slovakia's customs legislation, which, according to authorities, is fully harmonized with EU requirements following adoption of the 2001 Customs Law. This law specifies conditions on the establishment of customs-free zones. There are six customs-free zones in the Slovak Republic at: Kosice, Banska Bystrica (two), Bratislava, Trencin and Nova Dubnica. Goods moving in and out of the zones are subject to customs control. Goods imported within the zones are exempt from duties, taxes, and customs control.

**(vii) Other measures**

118. According to the authorities, no export cartels exist in Slovakia.

119. No voluntary export restraints or export surveillance arrangements are applied to exports. A double-checking system was introduced in 1995 for exports of certain steel products covered by the ECSC and EC Treaties.

**(4) OTHER MEASURES AFFECTING PRODUCTION AND TRADE**

**(i) State aid**

120. Slovakia's complex state-aid system remains substantial. It takes many forms, such as grants, tax concessions, concessional loans, and state guarantees, which lower the cost of loans raised by private firms and incur a potential liability for the Government should the borrower default.<sup>59</sup> Some estimates have suggested that the value of state assistance in Slovakia since 1997 has risen from around Sk 15 billion annually to Sk 26 billion in 2000, equivalent to 3-4% of GDP and about 7-8% of central government expenditure.<sup>60</sup> It is estimated that almost one-quarter of these subsidies go to agricultural enterprises.

121. The Government introduced major steps designed to improve the transparency of state aid and to better control its provision, mainly prompted by requirements on state aid in the Europe Agreement and, more recently directly, as part of EU accession. The Slovak authorities believe that proposed amendments to apply from 1 January 2002 will fully align the legislation with the *acquis*.

**(a) Manufacturing**

122. An important development during the period under review was the enactment of the State Aid Act in 1999, effective 1 January 2000, and the establishment of the Office of State Aid. State aid is defined in the legislation to cover any national budgetary assistance in any form, direct and indirect, such as subsidies, realization and provision of state guarantees, loans, and the provision of services at

<sup>59</sup> This has occurred on several occasions in Slovakia. For example, realized state guarantees were estimated to cost the Government Sk 1.9 billion in 1996, and Sk 2.0 billion in 1997; in 1998, the cost rose to Sk 2.1 billion, it doubled, to Sk 4.2 billion in 1999, and reached Sk 5.7 billion in 2000.

<sup>60</sup> IMF (2001a).

below cost. Other forms of state aid are also specified in the State Aid Act: provision and realization of bank guarantees, returnable financial assistance, full or partial refund of interest from loans, partial refund of loans, sale of real estate in state or municipal ownership at below-market prices, and different kinds of abatements. The Office must approve all state aid above the threshold "de minimis" levels; however, these levels do not apply to state aid provided to ore and coal mining, exports, transportation, steel and shipbuilding. So-called "unjustified state assistance" (assistance provided prior to receiving approval from the Office or despite its disapproval) must be returned, and the providing agency can be fined (0.2% of the assistance involved). Decisions by the Office on eligibility of state aid are subject to judicial review under the Rules of Civil Procedure. The state aid legislation does not cover assistance to agriculture, forestry, fisheries, and water management. A proposed amendment to the State Aid Act is expected to remove the exclusion of forestry and water management.

123. The new legislation prohibits state aid exceeding the equivalent of €100,000 in three consecutive years per enterprise when it "restricts or threatens to restrict competition" or "adversely affects commerce with the EU". However, the legislation specifies a number of large sectoral exemptions from the prohibition. These substantially weaken the scope of the controls by allowing state aid in the industrial sectors that mainly benefited from such assistance in the past. State aid, subject to specified limits, can be provided to the steel, shipbuilding (including repair), automotive, and man-made fibre industries for certain specified purposes, and to ore and coal mining industries when provided in accordance with the Agreement of the European Coal and Steel Community (Article 4). State aid can be also provided to specific sectors to coordinate transportation services or to compensate for losses resulting from public-interest performance contracts.

124. State aid legislation focuses on allowing direct assistance to facilitate industrial restructuring. This reflects Slovakia's industrial policy, which is aimed at applying sectoral programmes to help industries restructure within state aid limits and competition rules.<sup>61</sup> The legislation also permits state assistance to manufacturing industries for specified purposes, subject to certain limits. Allowable purposes cover economic development of districts, research and development, and environmental improvements. "Entrepreneurs in difficulty" may receive, once only, state assistance in the form of a loan, credit or loan guarantee for redemption (for a maximum of six months), to implement a viable restructuring plan, or where the "continuity of production is in the interests of all society." State assistance for restructuring may be provided to entrepreneurs in difficulties provided several conditions are met. The restructuring plan, which is the most important, must be capable of restoring long-term competitive viability and profitability within a reasonable period of time without increasing production capacity. The entrepreneur is also required to contribute to the restructuring plan using his own (or commercially obtained) financial resources. Continuity of production is particularly seen to be in the society's interest where entrepreneurs are located in areas of very high unemployment or very low living standards. State assistance is also allowed to small or medium-sized enterprises (SMEs) to cover certain costs. These include up to 50% of the cost of participating in international exhibitions as well as of up to 15% of the justified costs (7.5% for medium-sized enterprises) of acquiring tangible assets (land, buildings, machines, tools and equipment) to expand or diversify production. Assistance can also be granted to acquire tangible assets required to commence a new business, and to obtain intangible assets for utilizing new technologies (for both up to 15% of justified costs for small enterprises and 7.5% of justified costs for medium-sized enterprises). Aid to SMEs located in districts with a per-capita ratio of GDP below 75% of the country's average over the

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<sup>61</sup> For example, the legislation allows state assistance to the steel industry to cover up to 50% of the severance payments associated with the complete or partial termination of a steel producer. Similar assistance may be provided to the production of man-made fibres where it would facilitate a reduction in output, or at least not substantially increase it. In shipbuilding and automotive industries, state assistance of up to 10% of the cost may be provided to introduce new production technologies.

previous three years, can be increased to 65% of justified costs. State assistance for SMEs may also be provided for research and development, environmental purposes, and for advisory and consulting services.

125. The allowed limits on state assistance to eligible sectors and/or purposes appear somewhat arbitrary and high on occasions. Total state aid in 1999 was estimated at Sk 15.2 billion, compared with Sk 6.8 billion in 1998 and Sk 6.2 billion for the first six months of 2000 (Table III.7).<sup>62</sup> The major beneficiaries of state aid in 1999 were transport and communications (Sk 7 billion), financial services (Sk 2.6 billion), mining and metallurgy (Sk 307 million), steel (Sk 125.7 million), and media/culture (Sk 61.6 million). In addition, horizontal aid was estimated in 1999 at Sk 4.6 billion.

**Table III.7**  
**State aid, 1999**  
(Sk million)

Sector/branch	A1	A2	B1	C1	C2	D1	Total
<b>Horizontal aid</b>							
Research and development	307.1	0	0	0	0	0	307.1
Development of SMEs	64.6	0	0	40.4	0	0	105.0
Credits with state guarantees	0	0	0	0	0	4,213.0	4,213.0
<b>Total</b>	<b>371.7</b>	<b>0</b>	<b>0</b>	<b>40.4</b>	<b>0</b>	<b>4,213.0</b>	<b>4,625.1</b>
<b>Selected branches</b>							
Transport and communications	7,049.0	0	0	0	0	0	7,049.0
Financial services	0	0	0	0	0	2,636.2	2,636.2
Regional support	421.8	0	0	10.0	0	0	431.8
Mining and metallurgy	307.5	0	0	0	0	0	307.5
Steel	0	0.1	0	0	125.6	0	125.7
Media and culture	61.6	0	0	0	0	0	61.6
Shipbuilding	0	0.2	0	0	2.2	0	2.4
Automobile	1.8	0.1	0	0	0	0	1.9
Synthetic fibres	0	0	0	0	0	0	0
Tourism	0	0	0	0	0	0	0
<b>Total</b>	<b>7,841.7</b>	<b>0.4</b>	<b>0</b>	<b>10.0</b>	<b>127.8</b>	<b>2,636.2</b>	<b>10,616.1</b>
<b>Total aid</b>	<b>8,213.4</b>	<b>0.4</b>	<b>0</b>	<b>50.4</b>	<b>127.8</b>	<b>6,849.2</b>	<b>15,241.2</b>

Notes: State aid is measured using the following classification:

A1 = grants or interest reimbursements;

A2 = tax relief and tax, customs and import charge concessions;

B1 = equity participation of the Government in any private company, eg. debt conversion into share capital;

C1 = soft credits or loans from public or private sources;

C2 = deferral of tax payment and allowed tax installments; and

D1 = losses arising from guarantee schemes after deduction of paid fees.

Source: State Aid Office of Slovak Republic (2001), *Report About Granted State Aid for the Period 1999*, March.

126. While these figures include many forms of state assistance, they exclude aid from government state guarantees on irrecoverable loans. According to the Slovak authorities, provision of state guarantees is excluded from state assistance because it is considered to be an indirect form of state aid that, when made, does not represent a real transfer of state resources, but rather constitutes a potential

<sup>62</sup> Under the legislation, the Office is required to produce an annual state aid report identifying the types and levels of state assistance. The report is provided to Government and subsequently released to the public. The first report was for 1998, and the latest available report is for 1999. The 2000 report is due to be released during 2001. The Office has also commenced publishing information on the provision of state aid in its *Commercial Journal*.

state liability. However, realizations of state guarantees are included. State guarantees are authorized under the Law on Budgetary Rules and under Government Decree No. 91/1996 on State Guarantees. Total state guarantees in 1999 amounted to some Sk 156 billion, of which Sk 122 billion (equivalent to 16% of GDP) remained active.<sup>63</sup> With as much as half of these outstanding loans non-performing, the OECD estimated the potential budgetary implications as high as Sk 13 million annually. Realization of state guarantees from the budget is decreasing.

#### *Restructuring and adjustment assistance*

127. The Agency for Industrial Development and Revitalisation (AIDR), a semi-state body created in 1996, aims to assist firms to restructure their debt and corporate operations. It is responsible for implementing the Slovak Programme for Companies with Excessive Indebtedness (SPEED), which relies mainly on EU Phare grants. Some 30 companies are expected to be approved for assistance under the programme. The Government believes that the programme needs to be extended to roughly double the number of firms receiving assistance.

128. The Act on Revitalisation (No. 211/1997), which was implemented in 1997 to help firms to restructure, was repealed in 1998. The scheme provided selected enterprise debt and tax reductions during restructuring, including exemption from bankruptcy, conditional on meeting certain criteria, such as employment, social and regional development, and exports. It increased the state role in industrial restructuring. However, the scheme had only limited success, and may have aggravated the restructuring process by creating "an expectation of easy terms of forgiveness of past debts", thereby undermining financial discipline by encouraging firms to accumulate payment arrears, and reducing the pressures on them to adjust.<sup>64</sup>

129. The Slovak Postprivatisation Fund (SPPF), formed in 1996 with support from the EBRD and the EU, provides technical assistance and equity capital to help restructure and revitalize viable firms with temporary financial difficulties.

#### *Support for SMEs*

130. A number of programmes exist to support small and medium-sized enterprises (SMEs). The National Agency for Development of Small and Medium Enterprises coordinates and administers many of these, aimed at providing financial support through access to concessional loans. For example, the Support Loan Programme, established in 1994 between the Government and several commercial banks, provides loans of up to Sk 5 million to SMEs in the fields of production, crafts, services, and tourism. At end-1999, loans outstanding amounted to Sk 2.7 billion. Loans are distributed by the participating commercial banks at concessional interest rates set at the central bank discount rate plus 2.5%, equivalent currently to 11.3% annually. According to the State Aid Office, the value of assistance provided by this scheme amounted to Sk 34.5 million in 1999.

131. The Agency also operates a micro-loan programme to provide regional SMEs credit of up to Sk 500,000. During 1999, loans totalling Sk 29.3 million were distributed. It also makes equity and loan investments in SMEs, through its Seed Capital Company, of up to Sk 5 million. At end-1999, investments amounted to Sk 60.2 million, of which the equity component was Sk 37.2 million. A Small Loan Scheme is also run to provide credit and other assistance to SMEs with less than 25 employees.

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<sup>63</sup> OECD (2000a), p. 33. Government authorities indicated that state guaranteed debt had fallen to Sk 148 billion at end-2000.

<sup>64</sup> OECD (2000a), p. 27.



132. The Slovak Guarantee and Development Bank provides grants, concessional loans, and guarantees to assist SMEs through various guarantee, contributory, and credit programmes. Funds are provided by the Ministry of Finance, and other ministries, such as Agriculture, Economy, Transport, Post and Telecommunications, and Environment. In 1999, the Bank received state funds amounting to Sk 341.3 million. The State Aid Office estimated the total state aid provided by the Bank in 1999 from grants, concessional loans, and guarantees to be Sk 104.7 million. Tourism and agriculture are the major beneficiaries of the programmes.

#### *Regional support*

133. The responsibility for regional development was transferred to the Ministry of Construction and Regional Development from December 1999 (Law No. 293/1999). The Government's policy is to support regional development in areas with unemployment rates exceeding 20%. Criteria were established to assess, approve, and finance such projects. Grants up to Sk 3 million are provided for small regional firms to undertake production, services, and tourism. In 1999, grants totalled Sk 42 million; most averaged Sk 0.6 million. According to the State Aid Office, total regional support amounted to Sk 48.5 million in 1999.

#### *Research and development*

134. Slovakia provides support for industrial research and development through the Innovation Fund. The Government's objective is to increase the share of loans provided as opposed to grants, and to introduce greater competition into the distribution of industrial research funds. With this in mind, the Law on establishing an independent Agency for Support of Research and Development in Industry became operative from 1 July 2001, aimed at providing budgetary resources for industrial research. According to the State Aid Office, Sk 307.1 million of assistance was provided to research and development in 1999.

#### *(b) Agriculture*

135. Agriculture is a major beneficiary of state aid, which is provided by the Ministry of Agriculture. Such assistance is outside the state aid legislation and not monitored by the State Aid Office. The Ministry of Agriculture nevertheless monitors and publishes estimates of agricultural assistance. In 2000, total assistance was estimated at Sk 8.3 billion, down from 8.6 billion in 1999 (Table III.8). The main components of this assistance in 2000 were: support to less favoured areas (40%); provision of seeds and seedlings (19%); technology investment and capital construction (15%); and subsidies for milk production (13%).

136. Another indication of state support to agriculture is Slovakia's current total Aggregate Measure of Support (AMS) notified to the WTO. This was Sk 7.9 billion for 2000, almost half of total assistance estimated for industry by the State Aid Office.<sup>65</sup>

137. Slovakia's AMS payments are overwhelmingly non-product specific and run under general schemes. The only exception in 2000 was a Sk 6 million "feeding mixture and substitute production subsidy" programme for milk powder production.<sup>66</sup> In addition, payments excluded from multilateral

<sup>65</sup> WTO document G/AG/N/SVK/30, 25 June 2001. The corresponding AMS figure for 1999 was Sk 7.0 billion.

<sup>66</sup> The main payments notified and the amounts were: to offset for worsening natural conditions (Sk 3.5 billion); cow breeding for milk production (Sk 1 billion); plant production (Sk 1.6 billion); capital construction (Sk 1.2 billion); and irrigation (Sk 0.2 billion). In 1999, the only specific programme was a Sk 21 million "quality production subsidy" for promoting tobacco production.

reductions – so-called Green Box support – in 2000 amounted to Sk 3.4 billion, mainly due to natural disaster relief, such as floods, of Sk 3.1 billion.<sup>67</sup> In 2001, Slovakia notified a "blue box" payment for 2000 of Sk 69 million as a set-aside programme.

**Table III.8**  
**Domestic support to agriculture, 1996-2000**  
(Sk million)

Support measure	1996	1997	1998	1999	2000
Worse natural (mountain) conditions	3,305.0	3,255.0	3,056.0	3,562.0	3,260.0
Sheep and cattle breeding stabilization	129.2	139.0	145.0	140.0	191.0
Tobacco production	0	20.0	20.0	20.0	82.0
Set-aside programme (e.g. grassing)	36.3	42.0	25.0	30.0	69.0
Rural tourism	21.9	36.0	42.0	40.0	36.0
Ecological programme	20.1	48.0	59.0	20.0	192.0
Interest reimbursement	153.6	47.0	20.0	533.0	17.0
Seeds and seedlings	1,170.0	1,486.0	1,409.0	1,500.0	1,567.0
Plant genetic fund	70.5	76.0	77.0	70.0	70.0
Animal genetic fund	151.7	172.0	227.0	90.0	150.0
Promotion of historical actions	75.9	93.0	104.0	70.0	70.0
Promotion of cow milk production	742.1	899.0	911.0	1,080.0	1,071.0
Breeding revitalization	77.3	78.0	109.0	350.0	50.0
Technology investment and capital construction	1,110.1	1,701.0	1,692.0	925.0	1,223.0
Irrigation	97.9	109.0	115.0	120.0	190.0
Export promotion	6.4	6.0	23.0	25.0	15.0
<b>Total</b>	<b>7,168.0</b>	<b>8,207.0</b>	<b>8,034.0</b>	<b>8,575.0</b>	<b>8,253.0</b>

Source: Slovak authorities.

138. Agricultural subsidies are designed to support farming in less favoured areas as well as entrepreneurial activities in agriculture. Payments to farmers in less favoured areas account for about half of the subsidies and about one third of total expenditure for agriculture.<sup>68</sup> Payments amounted to Sk 3.3 billion in 1998, and Sk 3.5 billion in 2000. The basis of these area payments changed from 1 May 1999 (amendments to Act No. 240/1998 On Agriculture to Comply with the System of Subsidies Provided by the EU's Common Agriculture Policy). Per hectare payments to less favoured areas are differentiated according to the type of land and soil price category. They range from Sk 475 to Sk 1,850 for arable land; Sk 950 to Sk 3,700 for permanent grassland; and Sk 517 to Sk 3,614 for other land. While this income support is not product specific, subsidies have benefited mainly cattle, dairy, and sheep grazing. Direct subsidies are also paid for certain commodities under this legislation, including per hectare payment of Sk 900 for cereals, including maize; Sk 850 for oil crops; and Sk 800 for protein crops (principally peas). Subsidies of up to Sk 6,000 per hectare are also paid for sowing grass that will be preserved for at least five years.

139. Subsidies were also granted from May 1999 (Decree No.928/2/1999-100) to partially subsidize farmers' premiums for voluntary crop and animal insurance against natural disasters and to support the implementation of development programmes in plant and animal production. New

<sup>67</sup> WTO document G/AG/N/SVK/30, 25 June 2001. In 1999, total "green box" payments were Sk 0.7 billion. Effective 1 July 1998, disaster relief is granted by way of either reimbursement of up to 20% of disastrous damages or up to 10% reimbursement of interest from loans taken to cover direct damages (WTO document G/AG/N/SVK/2, 8 February 2000).

<sup>68</sup> EC (1998), p.43.

subsidies also include payments to promote producer and marketing organizations<sup>69</sup>; dried milk used to produce milk fodder mixes and substitutes; breeding riding horses<sup>70</sup>; and bee breeding.<sup>71</sup> The Government also pays milk quality premiums to farmers, amounting to about Sk 1 billion annually.

140. Concessional loans, guarantees, and investment support are provided to farmers by the State Support Fund for Agriculture and Food Industry. Its role is to support investment in agriculture and the food industry and to stimulate the development of the land market.<sup>72</sup> Support is provided to purchase land used in agriculture (up to 90% of the price) and investments aimed at increasing export capacity. New farmers are also eligible for support of up to Sk 1 million, and outstanding repayments financed at up to Sk 5 million on commercial bank investment loans. Loans are mainly provided to dairy and pig farmers, as well as to refurbish food processing facilities, especially for meat and dairy. In 1999, outgoings from the Fund amounted to Sk 976 million, up from Sk 748 million in 1998. An estimated minimum of Sk 3 billion was distributed by the Fund from 1994 to 1997 through loans and guarantees to farmers.<sup>73</sup> The State Fund for the Protection and Enhancement of Agricultural Land also provides support in the form of loans to enhance soil fertility and maintain hydro-amelioration equipment. These outgoings were Sk 814 million in 1999, down from Sk 843 million in 1998.

141. Farmers receive concessional finance through "green bill credits" provided by the National Bank, worth Sk 1.5 billion in 1998. By re-discounting these agricultural bills of exchange, the Bank extends loans at a concessional rate of 1.5 times its normal discount rate. In 1997, the volume of bills for farmers and processors was increased by 50% and covered mainly wheat, sugarbeet, potatoes, hops, oil crops, grapes, maize, legumes, and pigs for slaughter. The list of preferred commodities was extended in 1999 to cover processed milk as well as beef and poultry for slaughter. In 1999, the Bank allocated Sk 2 billion. In 2001 the National Bank of Slovakia ceased re-discounting these agricultural bills. The Slovak Guarantee and Development Bank provides bank guarantees for short-term loans to primary producers and processors to cover seasonal expenses of inputs (seeds, plants, fertilizers, and chemicals), and insurance premiums. The guarantee covers 70% to 90% of loans below Sk 100 million and 60% for higher amounts.

142. The Ministry of Agriculture has, at times, supported agriculture through agreements with commercial banks to provide soft loans. These agreements required commercial banks to develop appropriate products for providing subsidized credit to farmers. In 1998, loans totalling Sk 9.9 billion were provided under these arrangements. According to authorities, these schemes no longer operate.

143. Farmers are also assisted by input subsidies. Initially, these were limited to certified seeds, planting materials, pesticides, and breeding animals. However, in 1997 fertilizers and additional plants, such as potatoes and vegetables, became eligible. These input subsidies amounted to Sk 1.75 billion in 1997, and Sk 1.6 billion in 2000 on seeds and seedlings alone (Table III.8). Sugar farmers have been a major beneficiary of input subsidies. Input subsidies are based on certain eligibility criteria, which vary between activities. For example, cereal farmers receive a 30% rebate

<sup>69</sup> Effective 1 January 1998, the subsidy covers up to 50% of these costs for newly established production or sales associations. Annual cost is estimated at Sk 22 million (WTO document, G/AG/N/SVK/20, 8 February 2000).

<sup>70</sup> Effective 1 January 1998, the subsidy is paid especially for testing of sport endurance of racing horses, at an estimated annual cost of Sk 105 million (WTO document G/AG/N/SVK/20, 8 February 2000).

<sup>71</sup> Effective 28 January 2000, the subsidy is paid to bee keepers to preserve at least five bee colonies and for purchase of bee breeding equipment up to Sk 120 per colony per year. Estimated annual cost is Sk 17 million (WTO document G/AG/N/SVK/20, 8 February 2000).

<sup>72</sup> The Fund is financed mainly from the central budget as well as from the proceeds of sale or liquidation of state-owned agri-food enterprises and contributions from the National Property Fund. In 1997, its budget was Sk 1.7 billion.

<sup>73</sup> EC (1998), p.43.

on seed and fertilizer costs and of 40% on pesticides. The extent to which input subsidies benefit farmers, in practice, or processors is unclear.<sup>74</sup> Farmers also receive subsidized services, including partial reimbursement of irrigation charges and provision of advisory and extension services by the Ministry of Agriculture.

144. Several bodies are concerned with agricultural research and development. The Research Institute of the Ministry of Agriculture specialises in agri-food applied economic research, including on appropriate economic policies for the sector's development.<sup>75</sup> It advises the Ministry of Agriculture on EU integration and transformation of Slovakia's agricultural economy. It also provides information to farmers and processors on commodity markets, including collection, processing, and price analysis. The Research Institute of Plant Production also conducts research into growing technologies and breeding methods for cereals, forage crops, legumes, oil crops, and hops, as well as developing and providing seeds.

## **(ii) State-owned enterprises and privatization**

145. Privatization of state-owned enterprises (SOEs) has been a key feature of Slovakia's transition to a market economy. The Government recognizes that private ownership of resources will enhance the economy's efficiency and competitiveness, and help improve the country's public finances. Privatisation policy, including selection of entities to be divested and the type of privatization, continues to be determined by the Government, and formulated by the Ministry of Administration and Privatisation of National Property.<sup>76</sup> The independent statutory body, the National Property Fund (NPF), continues to be responsible for implementing the privatization programmes, including transition of SOEs to joint-stock companies, sale of shares, and collection of privatization receipts (Act No.92/1991 on the Conditions of Transfer of State property to Other Persons).<sup>77</sup>

146. The so-called "second wave" of the large-scale mass privatization programme, which included 610 state-owned enterprises with assets valued at Sk 137 billion, commenced in 1994. It continued well beyond its initial end date of 1996, but is now virtually complete.<sup>78</sup> The Government abolished the voucher scheme of privatization and introduced the bond method, whereby public holders of vouchers were compensated through the issue of National Property Fund Bonds, due to mature at the end of 2000 (Act No.190/1995). These amounted to Sk 35 billion (about 4% of GDP),

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<sup>74</sup> One view expressed is that they benefit mainly the food processing sector, and not farming (EC, 1998, p.54).

<sup>75</sup> In addition, the Slovak Academy of Agricultural Sciences engages in research and development in many areas of agriculture, including soils, crop and animal production, veterinary medicine, forestry and water management. It is responsible to the Ministry of Agriculture. The Forest Research Institute conducts forest research and is responsible to the Ministry of Agriculture.

<sup>76</sup> Under the original legislation, the privatization of 11 designated natural monopolies required approval by the National Council (Parliament).

<sup>77</sup> Surplus funds do not become part of general budgetary revenue, but must be used in accordance with legislation specified in various government regulations and decrees. Such uses include fulfilling financial obligations of enterprises to be privatized; strengthening the financial bases of banks and savings institutions; supporting development programmes; meeting state guarantees on bank loans; funding the healthcare system; and repayment of state debt.

<sup>78</sup> The State still retains a significant shareholding in a number of these privatized enterprises through the NPF, the largest shareholder in Slovakia. It owns some 43% of shares issued during the second wave of privatization in joint-stock companies. The NPF also maintains a significant shareholding in a number of key companies recently privatized, such as in Slovak Telecom (15%).

and must be paid within one year.<sup>79</sup> A disadvantage of voucher privatization was that it led to fragmented shareholdings, and largely prevented foreign participation.

147. Direct privatization based on public tender or auctions was also used extensively, and accounted for about 60% of privatized entities (or 38% by value). However, it appears that during the period 1994 to 1998, direct privatizations began to take place according to non-transparent rules and political interference. Legislative amendments (No. 369 to Act No.92/1991) facilitated this by transferring to the NPF powers to rescind government decisions on the direct sale of state property.<sup>80</sup> Consequently, a number of privatizations during this period were effected with prices well below their apparent commercial value<sup>81</sup>, often on the basis of generous instalment programmes that were not met. This undermined the efficiency of the privatization process, and seriously restricted industrial restructuring. Foreign participation in the privatization programme was also disadvantaged.

148. The current Government took immediate steps to revitalize the privatization programme, and to inject greater transparency and foreign participation.<sup>82</sup> The NPF examined past divestments between 1995 to 1998 and concluded that 41 contracts out of the 906 audited, substantially violated regulations. It sought cancellation of past divestments in some cases. Most importantly, it also amended the Privatisation Act (Act No. 253/1999), which cancelled the 1995 Privatisation of Strategically Important State Owned Enterprises Act ((No.192/1995)<sup>83</sup>, and strengthened the transparency and procedures for privatization, including providing greater power to the Ministry of Privatisation. This no longer exempted certain specified natural (or strategic) monopolies from privatization. Instead, minimum private ownership limits of 51% were set in one transportation and five energy state enterprises, and of 34% in the fixed-line telecommunications operator, Slovak Telecom, the main retail bank (Slovak Savings Bank) and the dominant insurer (Slovak Insurance Company) (Table III.9).<sup>84</sup> Only four designated natural monopolies – the postal service, railways, forestry, and water supply – must remain fully state owned. This amended legislation also removed the differential application of the so-called "strategic interest of the state" in privatization that left room for preferring domestic over foreign investors.<sup>85</sup>

149. Opening up these large SOEs to private, including foreign, ownership has unblocked for privatization a significant part of the Slovak economy, estimated at some 14% of GDP. Around 84% of GDP was generated by the private sector in 1999, compared with 37% in 1993 and 77% in 1997. The Government updated the List of State-owned Companies Proposed for and Excluded from Transformation and Privatisation, in April 1999 (Resolution No. 313) and again in November 1999

<sup>79</sup> Bonds were redeemable earlier for specific purposes. About one third were redeemed early.

<sup>80</sup> This was subsequently ruled by the courts to be non-constitutional.

<sup>81</sup> NPF figures indicate that the ratio of purchase price to book value of property privatized fell from 34% in 1995 to 2% in 1998. (National Property Fund of Slovakia online information. Available at: [http://www.natfund.gov.sk/english/privatizacia\\_velka.htm](http://www.natfund.gov.sk/english/privatizacia_velka.htm)).

<sup>82</sup> A public register of privatized property was established in 1999, and the processes made transparent by passing the Principles for the Submission of Proposals for the Issuance of Decisions on the Privatisation of the Property of State Enterprises and Organisations Through Direct Sale (Resolution No.1012 of November 1999).

<sup>83</sup> The 1995 legislation prohibited privatization for 29 companies and preserved majority state ownership in a further 45 companies. These enterprises were mainly in the infrastructure, telecommunications, armaments, and agriculture sectors.

<sup>84</sup> Privatization of natural monopolies reserved for majority state ownership must be approved by the National Council. Although the 1999 legislation did not specify the level of minimum state equity for the three other entities, this has since been set at 34% in the approved strategies established for privatizing these entities. These divestments no longer have to be approved by the National Council, unless the ownership limits are to be exceeded.

<sup>85</sup> OECD document DAF/INV/IME(99)9, 20 December 1999, p.5.

(Resolution No. 1013). In June 2000, it considered a paper on Strategy for Further Process of Privatisation aimed at accelerating privatization. It has embarked on a number of additional privatizations, including the recent divestment of a majority stake in Slovak Telecoms. Government plans also include the conversion to joint-stock companies in preparation for divestment by late 2001 of three major electricity companies, and a fourth during 2002; the gas industry by October 2001; petroleum distribution (Transpetrol) by October 2001; water distribution and sewerage firms; and the Slovak Bus Transport companies by end-2001. Privatization of the banking sector is also well advanced, with three major banks targeted (Chapter IV). Privatization receipts of the National Property Fund amounted to Sk 28.6 billion in 2000, and totalled Sk 55.3 billion over the period 1995 to 2000.

**Table III.9**  
**Privatization of natural monopolies, September 1999**  
(Per cent)

Company and activity		Ministry with ownership	Permanent state ownership
SPP s.p.	<b>Gas distribution</b>	Economy	51%
ZsEZ s.p.	<b>Electricity distribution (west)</b>	Economy	51%
SsEZ s.p.	<b>Electricity distribution (central)</b>	Economy	51%
VsEZ s.p.	<b>Electricity distribution (east)</b>	Economy	51%
Slovenska Posta s.p.	<b>Postal services</b>	Transport, Post and Telecom	Part of the property
Slovensky Vodohospodarsky podnik s.p.	<b>Water management</b>	Agriculture	Part of the property
Železnice SR s.p.	<b>Railway</b>	Transport, Post and Telecom	Part of the property
Transpetrol a.s.	<b>Transportation</b>	Economy	51%
Slovenske Elektrarne a.s.	<b>Electricity generation</b>	NPFa	51%
Slovenske Telekomunikacie a.s.	<b>Telecommunications</b>	Transport, Post and Telecom	34%
Lesy SR s.p.	<b>Forestry</b>	Agriculture	Part of the property

Notes: Shareholder rights exercised by the Ministry of Economy.

Source: OECD (2000a), Interim Economic Assessment Slovak Republic, May 2000, p. 45.

150. Despite the relatively quick privatization of the Slovak economy, it is generally conceded that it has not generated the industrial restructuring envisaged to substantially raise economic efficiency. Many factors help explain this outcome. An important bottleneck impeding restructuring was that privatization largely preceded development of the necessary institutions for a market economy to function efficiently, including legal and accounting rules, to enable inefficient firms to either restructure or close. Bankruptcy laws, for example, were inadequate and cumbersome, and failed to protect creditors' rights.<sup>86</sup> Slovakia has only made progress in implementing effective bankruptcy legislation since 1997. A new bankruptcy law, which entered into force on 1 August 2000, improved the legal framework for industry development (Chapter II). However, a large backlog of outstanding cases exists. Only 659 bankruptcies were declared in 1999, compared with about 6,000 unprocessed cases.

151. Poor corporate governance, and diffuse shareholder control created by the voucher/bond privatization methods, also undermined restructuring. Regulation of the financial securities industry was also inadequate. Many large state-owned enterprises indebted to state-owned banks delayed

<sup>86</sup> Despite some 40% of enterprises being technically insolvent during 1993 to 1997, the number of companies declared bankrupt was small. Laws required conciliatory procedures and exemptions that made the process non-transparent, often favouring government-connected enterprises, and delayed the process. See EC (1998), p.18.

restructuring through access to continued credit from the banks. An inefficient capital market reduced access to capital needed by efficient firms to expand. The direct privatization during 1995 to 1998 of several key enterprises on non-commercial terms due to political interference also undermined investor confidence. Until recently, most privatization cases favoured domestic investors, thereby denying enterprises access to better overseas technology and improved production and management techniques.

152. In March 2000, the Government approved a regulatory framework and timetable for regulating so-called natural monopolies (Concept for the Regulation of Natural Monopolies).<sup>87</sup> This should facilitate deregulation of these markets to encourage greater competition. A proposed Act on Regulation of Power-Branches was prepared in 2000, and is expected to take effect from 2002 when the Office for Regulation of Power Branches will be established.

### (iii) Competition policy

153. Slovakia is strengthening its competition policies to help counteract monopolistic and other anti-competitive practices. The Antimonopoly Office, formed in 1991, is responsible for administering the relevant legislation (Act No.136/2001 On Protection of Competition, and earlier legislation).<sup>88</sup> Since the last Trade Policy Review of Slovakia, the legislation has been amended several times to bring it into line with EU requirements. For example, exemptions from the prohibition of agreements restricting competition in production of certain agricultural products (milk, animals raised for meat, oil plants, cereals, sugar beet, vegetables, fruit, and potatoes) were removed (amended by Act No. 121/2000). Two important notices were also introduced by the Antimonopoly Office: Notice 167, which sets out details for calculating turnover; and Notice 168, which provides the conditions for notification of industry concentration.

154. The new legislation strengthened the independence of the Antimonopoly Office including through appointment of the Chairman for a fixed period by the President of the Slovak Republic, following a proposal from Government. A number of provisions were also revised to remove ambiguities of interpretation of certain provisions, and to better ensure compliance by administrative bodies and municipalities. Certain procedural provisions were introduced into the legislation where the general rules on administrative proceedings (Act No. 71/1967 On Administrative Proceedings) were insufficient for competition cases.

155. Slovakia's competition legislation covers goods and services. It prohibits agreements between suppliers whose object or effect is or might be to restrict competition, unless provided for in the Act.<sup>89</sup> Prohibited agreements include those on price fixing, commitments to limit or control production, sales, technical development or investment, and on dividing the market or sources of

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<sup>87</sup> Based on overseas evidence, it is not clear that those activities designated in the legislation are indeed natural monopolies. Many previously thought natural monopolies, such as basic telecom services and electricity, have been shown to be capable of competitive supply once they have been deregulated and competition is encouraged.

<sup>88</sup> Article 55(2) of the Constitution, also provides for protection and promotion of economic competition.

<sup>89</sup> Agreements restricting competition are permitted if they contribute to improving the production or distribution of goods or to promoting technical or economic progress; allow users a fair share of the resulting benefit; do not impose on the parties such restrictions which are indispensable to the attainment of these objectives; and do not afford the parties the possibility of eliminating competition in respect of a substantial part of the goods in question. In 2000, a threshold test was also introduced whereby agreements restricting competition (other than those fixing prices or dividing the market or sources of supply) are not prohibited if the combined or cumulative effect does not exceed 5% of the total market share of the good. In May 2001, this threshold was raised to 10%.

supply (Article 4). Such agreements are void. Consumers may take civil action in the courts requiring that the violating party to such an agreement refrain from such illegal behaviour or to remedy the breach. Review of possible anti-competitive practices accounts for most (around 80%) of the Office's cases. In 2000, 29 cases were reviewed, compared with 131 in 1999, 217 in 1998, and a total of 65 cases during the three years 1995 to 1997.

156. Abuse of dominant position by a supplier that is not subject to "substantial competition" or due to his "economic strength can behave independently" is prohibited (Article 8). The revised legislation no longer presumes that a supplier is not subject to "substantial competition" if his market share is 40% or above. Such abusive behaviour covers enforcement of disproportionate contractual conditions; restricting production or sale of goods to the detriment of consumers; and applying different trade conditions to entrepreneurs regarding comparable performance. The legislation contains provisions on abuse of dominant position by a holder of an "essential facility" (Article 8(3)-(5), and against predatory pricing behaviour (Article 8(2)e). In 2000, the Office handled 35 cases on abuse of dominant position. A dominance test is also applied to mergers or acquisitions. These are prohibited if they "create or strengthen a dominant position, which may result in major barriers to effective competition in the relevant market" (Article 12(3)). Threshold limits apply to mergers that are subject to control and must be notified to the Office.<sup>90</sup> In 2000, the Office reviewed 134 merger cases.

157. The Office may impose fines on entrepreneurs for illegal activity; these may be up to 10% of turnover for the previous closed accounting period, and up to Sk 10 million where turnover was zero or is impossible to calculate. In 2000, the Office imposed fines totalling Sk 11.3 million and collected penalties of Sk 3.8 million. Repeated fines may be levied for continuing offences. Any decision by the Office can be reviewed by the Supreme Court.

158. The Act applies to all activities and actions of undertakings that restrict or may restrict competition, with the exception of restrictions on competition performed by undertakings that provide services of public interest pursuant to special regulations.

**(iv) Price controls and price support marketing arrangements**

159. Price controls apply mainly to utility charges, especially energy. The Ministry of Finance sets these prices. The Government has taken recent steps to increase regulated prices to better recoup supply costs. For example, household electricity and heating prices have each risen by well over 100% in the past year; and rents have increased by 70%. Administered prices were last adjusted upwards on average by 17% in February 2001. Electricity prices for households are cross subsidized, paid for by industrial users. Milk prices at the farm gate were deregulated from 1 January 2001. Goods and services subject to price regulation account for about 5% of GDP. The Government intends to raise administered prices annually to eliminate cross subsidies and to achieve full cost recovery.

160. Substantial price support and marketing arrangements apply in the agriculture sector. The State Fund Market Regulation (SFMR) supports guaranteed prices for a number of commodities by intervening in the market to buy and stockpile, as required. The products covered, together with the guaranteed prices, intervention quantities, and the level of export subsidies, are set annually by the SFMR Council. Commodity councils, which include farmer and Ministry of Agriculture

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<sup>90</sup> Where the combined annual turnover of participants is at least Sk 500 million, and the annual turnover of at least two of them is above Sk 150 million each, or if they hold 25% or more of the market.



representatives, advise the SFMR.<sup>91</sup> The main commodities covered are cereals (wheat, industrial maize, and barley); live cattle and beef meat; live swine and pork meat; milk and dairy products; potatoes; live poultry; fresh eggs; and beet sugar. Most intervention has been on dairy products and beef since 1995. Intervention purchases occur whenever the market price falls below the guaranteed price. The Council also sets production quotas and higher minimum prices paid by food processors for such output. Any surplus above production is purchased at the guaranteed price by the SFMR. The guaranteed price is set at 90% of production costs. In 2000, the guaranteed and minimum prices on wheat were Sk 3,000 per tonne and Sk 4,000 per tonne respectively, and on potatoes Sk 2,000 per tonne and Sk 4,500 per tonne. State budget contributions to the operations of the Fund were Sk 0.9 billion in 1999, Sk 0.8 billion in 1998, and Sk 1.1 billion in 1997.

161. In 1999, state intervention purchases amounted to Sk 0.6 billion, down from Sk 1.4 billion in 1998.<sup>92</sup> For some commodities, such as wheat, maize, sugar, and beef, SFMR purchases are as high as 10% of marketed quantities. The Fund's intervention decisions are claimed to be ad hoc, even though market orders or rules exist on a number of commodities, such as cereals, milk, pigmeat, beef, and sugar.<sup>93</sup> During 1999, new market orders, effective from 2000, were prepared for cereals, potatoes, sugar, beef, and pork meat. The main change was the introduction of production quotas for purchase by processors at administered minimum prices.

162. The State Reserve Fund (SRF) can also influence prices by maintaining strategic stocks of commodities such as wheat, barley, and sugar. The SRF activities are handled separately by the Government and, according to authorities, are not influenced by agricultural policies. However, the two Funds appear to be closely related, and one SRF member sits on the commodity councils that advise the SFMR. This creates some uncertainty regarding whether the SRF also performs a price support function.<sup>94</sup>

#### (v) Protection of intellectual property rights

163. Slovakia is a party to all the major multilateral agreements on intellectual property rights. Since its previous Review, it has ratified the WIPO treaties on Internet protection and has joined the Patent Law Treaty. It maintains a comprehensive system for protecting intellectual property rights (Table III.10). Legislation has been amended to comply with EU requirements as part of the *acquis*. The WTO Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS) reviewed Slovakia's copyright legislation in 1999.<sup>95</sup> Slovakia did not seek the special transitional arrangements available until 2000 under the WTO TRIPS Agreement for centrally planned economies undergoing transition to a market economy. According to the authorities the main changes have been made primarily to harmonize arrangements with the EU for accession. Consequently, a number of EC directives and regulations have been implemented during the review period, covering most aspects of intellectual property legislation, including copyright, industrial property, trade marks, and topographies of semiconductor products. Slovakia has not requested any transitional periods from the EU on intellectual property.

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<sup>91</sup> For example, the composition of the commodity council for cereals is: six members from the Chamber for Agriculture and Food Industry, of which two are from the agricultural union, and one member each from the purchasing organization, society of millers, and the union of beer and malt producers; three members from the Ministry of Agriculture; one member from the SFMR Fund; and one member from the State Reserve Fund. The Ministry of Agriculture appoints the Chairman, Vice-chairman and members of the council.

<sup>92</sup> Ministry of Agriculture (2000), p.51.

<sup>93</sup> EC (1998), p.51.

<sup>94</sup> EC (1998), p.51.

<sup>95</sup> WTO documents IP/C/M/18, 11 June 1998 and IP/Q/SVK/1/Add.1, 5 January 1999.

Table III.10  
Summary of intellectual property protection in the Slovak Republic, 2001

Form	Main legislation	Coverage	Selected exclusions	Duration	Competency
<b>Copyrights and related rights</b>	Copyright Act No. 383/1997 and amendments	Literary, scientific, and artistic works (including computer programs and makers of databases)  Related rights cover performers, phonograms, audiovisual fixations, broadcasters and publishers		Life of author plus 70 years (50 years from the creation for performers, phonograms, audiovisual fixations, broadcasters and publishers; and 15 years from the making for databases)	Ministry of Culture
<b>Patents</b>	Part one of Act No. 527/1990 on Inventions, Industrial Designs and Rationalization Proposals (new legislation pending)	Any invention product that meets the requirements for patentability specified by the Patent Law. Compulsory licences may be decided by the Industrial Property Office	Public interest; plant or animal varieties; biological processes	20 years from filing date	Industrial Property Office
<b>Topographies of integrated circuits</b>	Act No. 146/2000 on Topographies of Semi-conductor Products	Results of creators' intellectual effort that are not commonplace in the semi-conductor industry. Compulsory licences may be decided by the Industrial Property Office		10 years from filing date (or, if earlier, from first use)	Industrial Property Office
<b>Trade marks</b>	Act No. 88/1997 on Trademarks	Trade marks, service marks, and collective marks. Use requirement of five years		10 years from filing date, with possibility to be renewed indefinitely for 10-year periods	Industrial Property Office
<b>Industrial designs</b>	Part 2 of Act No. 527/1990 on Inventions, Industrial Designs and Rationalization Proposals	Protects a design that is new and susceptible of industrial application	Public interest; humanitarian principles; morality	5 years, with possibility of two five-year extensions	Industrial Property Office
<b>Geographical indications (including appellations of origin)</b>	Act No. 159/1973 on Protection of Appellations of Origin	Protection for appellations of origin of agriculture, industrial and handicraft products		Unlimited	Industrial Property Office
<b>New plant varieties</b>	Act No. 132/1989 on New Plant and Animal Variety Protection	New, distinct, homogenous and stable varieties. Compulsory licences may be decided by the Ministry of Agriculture		Generally 20 years from the date of the filing; 25 years for varieties of hop, grapevine, fruit, ornamental and forest wood species and rootstocks thereof; and throughout the duration of the breed for breeds	Ministry of Agriculture
<b>Utility models</b>	Act No. 478/1992 on Utility Models	Any technical solution that is new, exceeds the framework of mere professional skill, and is industrially applicable	Plant varieties, animal breeds, biological reproduction materials; production processes or work activities	4 years from filing date, with two three-year extensions possible	Industrial Property Office

Source: WTO Secretariat, based on information provided by the Slovak authorities, and WTO (1995), *Trade Policy Review – Slovak Republic*, Geneva.

*Copyright*

164. Following amendments to its Copyright Act (No. 383/1997), effective 1 August 2000 (Act No. 234/2000), Slovakia's copyright protection, according to authorities, complies fully with EU requirements. The main change concerned adding legal protection for the development of digital information technologies and databases, as per changes in the WIPO "Internet" treaties, on Copyright and on Performances and Phonograms. Slovakia ratified both these treaties on 14 January 2000. The new copyright legislation does not provide express protection for pre-existing works and sound recordings.<sup>96</sup> The Ministry of Culture continues to be responsible for copyright protection.

165. Slovakia's copyright legislation provides for the principle of national exhaustion of the holder's exclusive right of reproduction, distribution, broadcast and communication to the public. This means that the first lawful sale of this work in Slovakia exhausts the holder's right. According to the authorities, no restrictions apply to parallel imports of genuine goods from other licensed international distributors. Sole distributorships of copyright products in Slovakia are not limited to sole distributorships issued by the copyright holder.

166. Intellectual property is also covered by the competition legislation administered by the Antimonopoly Office. Agreements to transfer rights or to grant licences over inventions, industrial designs, trade marks, protected varieties of plants or animal breeds, utility models, and protected topographies of semiconductor products, that impose unnecessary restrictions on competition for the purpose of protection, are prohibited (Article 5 of the competition legislation).

*Industrial property*

167. The Industrial Property Office administers industrial property rights. Current legislation covers patents, industrial designs, and utility models. New legislation is to be adopted at end-2001 which, according to authorities, will be fully compatible with EU requirements. It will also incorporate revisions to the European Patent Convention. Slovakia signed the Final Act for adopting the Patent Law Treaty in June 2000, and has been invited to join the European Patent Office as from 1 July 2002. At end-2000, there were 3,572 valid patents in Slovakia.

168. The number of foreign applicants for patents in Slovakia has increased during recent years, from 1,498 in 1996 to 1,799 in 2000. Most patent applications are from foreign inventors, covering almost 90% in 2000. Applications come mainly from the United States, Germany, and the United Kingdom. In 2000, patents were awarded on about half of applications. The average period for processing a patent application was five years. Applications are published after 18 months and a full examination of the patent may be requested within 36 months from the date of filing.

169. New legislation (Act No.146/2000) was adopted on Topographies of Semiconductor Products, effective 1 June 2000. This is fully consistent with EU requirements according to the authorities. No applications for topography of semiconductor products were filed in 2000. At end-2000, five topographies were protected, all processed under the previous legislation.

170. Compulsory licences can be issued for patents, utility models, and topographies of semiconductor products. In the area of patents and utility models, compulsory licences can be granted if the owner of the patent does not use it sufficiently or where an important public interest is endangered. The compulsory licence for non-use may not be granted within the period specified by the Paris Convention – four years from the date of filing or three years from the date when it was granted, whichever is the later. The duration of the compulsory licence is not specified in the

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<sup>96</sup> International Intellectual Property Alliance (2001), p. 474.

legislation, but is determined by the Office. Courts may issue a compulsory licence for topographies of a semiconductor product after three years from its date of registration, or before in the case of a serious public nuisance, provided it has not been exploited by the owner without reasonable grounds or insufficiently, and that the products containing the protected topography are not present in Slovakia in sufficient quantities. The compulsory licence may be issued exclusively, such as to remedy anti-competitive practice by the owner, as determined by the Antimonopoly Office, or non-exclusively limited for the duration and purposes, subject to being predominantly supplied on the domestic market.

#### *Trade marks and geographical indications*

171. Amendments to trade mark legislation (Act No.55/1997) will become effective from 1 January 2002. In 2000, there were 4,408 national trade mark applications, about half from domestic sources. At end-2000, there were 27,247 registered trade marks in Slovakia, and 86,682 international trade marks were valid in Slovakia. It has been claimed that there are lengthy delays in registering trade marks in Slovakia. According to the authorities, the registration period was shortened in 2000 to about 1 to 1.5 years.

172. Slovakia will strengthen its protection of geographical indications for alcoholic beverages with amendments to its legislation on Protection of Product's Origin (Act No. 159/1973), to become effective during the first half of 2003. This will focus on all kinds of geographical indications, including alcoholic beverages.

#### *Enforcement*

173. Slovakia's enforcement provisions are found in the specific intellectual property legislation as well as in the Commercial Code (Law No. 513/1991) and the Civil Court Proceedings Code (Act No. 99/1963). Trade mark legislation enables the mark owner to enforce his rights in the courts to prevent illegal use, and to seek compensation for damages. Holders of a registered appellation of origin may also exercise their rights to prohibit infringement. Similarly, holders of industrial property rights may protect their rights through the courts and be indemnified for losses incurred. The Commercial Code protects against "unfair competition" by prohibiting the "deceitful description of goods and services" and "practices contributing towards mistaken identity." Persons whose rights have been infringed by such practices may seek to have them stopped and seek appropriate compensation from the offender. The Civil Code allows courts to issue preliminary or final injunctions requiring defendants of court actions, including cases of intellectual property, to desist from certain actions; and to order compensation for damages.

174. Criminal proceedings against intellectual property rights infringements are contained in the Penal Code (Act No. 140/1961). Illegal use of trade marks, including appellation of origins, is punishable by imprisonment of up to one year or by a fine or by forfeiture of the offending goods (Section 150). Violations of industrial property rights, including patents, industrial designs, utility models or topographies of semiconductors are punishable by imprisonment of up to three years or by a fine (Section 151). Copyright offences are subject to a fine or imprisonment for a maximum of two years, or from six months to five years if "considerable profit" (100 times the minimum salary) resulted, and seizure of the infringing material (Section 152).

175. The Customs legislation obliges authorities to consider prohibitions and restrictions regarding intellectual property (Section 60). The trade mark legislation also specifically prohibits the import or export of goods carrying an illegal mark (Section 25). Right holders can request suspension of imports and their non-release if justified suspicion exists that these goods infringe their rights, including over copyright as well as trade marks. Moreover, while there is no obligation on customs

authorities to check for illegal products, they may withhold the release of such goods on reasonable suspicion.

176. Customs legislation, which became effective on 1 July 2001, is aimed at strengthening the enforcement mechanisms against importation of counterfeit and pirated products. It gives customs officers additional powers to seize imports of alleged illegal products. The Government also intends to make amendments to the Civil Code in order to improve enforcement procedures. In addition, recent amendments to the copyright legislation strengthened enforcement procedures by providing for the possibility of seizure and destruction of infringing copies. However, it is claimed that the changes failed to remedy a presumption against permitting monetary compensation for infringements, which have made obtaining adequate damages in copyright cases difficult in Slovakia, and that they do not contain civil ex parte provisions on the application of provisional measures to prevent infringements.<sup>97</sup> In 2001, Slovakia was added to the US “watch list” of countries the United States sees as failing to provide adequate intellectual protection to American interests under the “Special 301” provisions of the US Trade Act.<sup>98</sup>

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<sup>97</sup> International Intellectual Property Alliance (2001), p. 475.

<sup>98</sup> According to U.S. sources, substantial piracy of entertainment and business software applications exist in Slovakia, estimated at 85% and 45%, respectively, in 2000. The incidence of motion picture piracy and of sound recordings was estimated to be much lower, at 20% and 10%, respectively. The main concerns were inadequate enforcement of copyright protection, especially in controlling the importation of illegal material from neighbouring countries, such as the Ukraine. (International Intellectual Property Alliance (2001), p. 473.