

# WORLD TRADE ORGANIZATION

RESTRICTED

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**Working Party on the  
Accession of Montenegro**

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## **ACCESSION OF MONTENEGRO**

### Memorandum on the Foreign Trade Regime

In a communication circulated in document WT/ACC/CGR/1 on 23 December 2004, the Government of the Republic of Montenegro applied for accession under Article XII of the Agreement Establishing the World Trade Organization (WTO).

The General Council established a Working Party (WT/ACC/CGR/2) on 23 February 2005 with the following terms of reference: "To examine the application of the Government of the Republic of Montenegro to accede to the WTO Agreement under Article XII, and to submit to the General Council recommendations which may include a draft Protocol of Accession."

In accordance with the established procedures (WT/ACC/1), the Secretariat is circulating the attached Memorandum on the Foreign Trade Regime received from Montenegro. WTO Members wishing to submit questions on the Memorandum are invited to do so by 31 March 2005 for transmission to the authorities of Montenegro.

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## I. INTRODUCTION

The Republic of Montenegro is one of two member states of the State Union of Serbia and Montenegro, representing a specific economic system with defined and autonomous customs territory. During the last ten years, still within FRY, with increasing differences between the economic systems of the Republic of Montenegro and the Republic of Serbia, Montenegro has been gradually setting up its own legal system and initiated creating its own economic policy already during the mid 90's.

The Montenegrin Government passed the Economic Reforms Agenda in March 2003, which defined the main goals in economic policy. These goals are the establishment of an open economy based on the private sector, the creation of a favourable business environment attractive for foreign investors, accession to the EU and the WTO, and reform and development of various sector policies, including justice, state administration, education, tourism, and agriculture. Even before the Economic Reform Agenda was passed, Montenegro had enacted significant reform oriented legislation and achieved significant successes in reducing inflation, introducing the German Mark and then the Euro as the legal currency, deregulating foreign trade by abolishing import and export quotas and import licenses for a large number of products, reducing customs duties, establishing an efficient financial system by privatizing the banks, improving the control of public expenditures and corruption, enacting new tax legislation and introducing VAT, and reforming customs administration through a new customs law.

In 2002, Montenegro signed the Accord on principles in relations between Serbia and Montenegro ("Belgrade Agreement") with Serbia and the EU, which established a new State Union of Serbia and Montenegro on 4 February 2003. The Union has limited responsibilities in the area of foreign affairs, defence, human rights, intellectual property rights, standardization and technical regulations, metrology and statistics. All other areas are at the responsibility of the member states. This is very different from the former Federal Republic of Yugoslavia, in which responsibility for all major economic activities, and particularly foreign trade related matters, was at the federal level. Following the Belgrade Agreement, Montenegro and Serbia agreed on the Action Plan of Harmonization of Economy Systems of Member States of the State Union of Serbia and Montenegro for the purpose of Preventing and Removing Obstacles to Free Movement of People, Goods, Services and Capital ("Action Plan"), whose purpose was to bring the two economic systems together so that they could move jointly toward EU accession. In practice, however, harmonization of tariffs and trade policy proved difficult, with the result that in October 2004 the EU proposed a "two-track" approach to EU accession for Serbia and Montenegro, in which economic issues would be dealt with separately for the two Member States, and separate accessions to the WTO were approved in principle. The member states have agreed upon making amendments to the Action Plan and enabling undisturbed negotiations with the WTO and EU in the area of economy, in accordance with the new proposal of the EU.

Despite the political problems with Serbia, Montenegro has made significant progress in reforming its economic, legal and political system. However, Montenegro has not still achieved a sufficient dynamics of economic growth. In 2004, there was a increase of 3.7 per cent in GDP, GDP is only €2,379 per capita, unemployment is high – circa 22 per cent. FDI remains limited at €70 million, while the average gross wage is circa €300. There are still too many administrative barriers to doing business in Montenegro, which is one reason for thousands of insolvent domestic companies and for the modest presence of foreign companies and a low level of FDI in general. On the other hand, Montenegro has reduced its budget deficit to a level below 3 per cent of GDP, as well as inflation. The process of liberalizing tax policy is still ongoing, which should contribute to a better environment for investing.

In the forthcoming period, the priority of Montenegro are certainly fast economic reforms which will get the economic system of Montenegro closer to international market, as well as enable a sustainable and dynamic economic growth of the country. Strategic priorities are certainly Euro-Atlantic

integrations, stronger cooperation with the EU and the Region, WTO and EU accession as well as harmonization with the European standards in the economy and institutions of Montenegro.

The Government of Montenegro has set membership in the WTO as one of its priorities, and has provided strong political support of that objective. The Government has established a Commission for Coordination of the WTO Accession Process. This Commission is actively coordinating the activities of all government agencies involved in the process of WTO accession, reviewing existing and proposed laws and to insure conformity of Montenegrin foreign trade policy with WTO requirements. Membership in the WTO is a priority goal of the Economic Reform Agenda, which includes also the reforms necessary for compliance with WTO requirements.

The Government thus begins the WTO accession process having already accomplished considerable reforms, but at the same time recognizes that much remains to be accomplished to complete the process. With continued strong political support and adequate resources to do the work, the Government of Montenegro intends to complete its accession to WTO in the minimum possible time.

## **II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE**

### **1. Economy**

#### **(a) General description**

##### **- Territory**

Montenegro is a small, mountainous, mediterranean, richly endowed and beautiful area of about 13,214 square kilometres, which is strategically located in the Western Balkans region of Southeast Europe, with about 293 kilometres of coastline on the Adriatic. It is bordered by Albania (on the East), Kosovo (on the North-East), Serbia (on the North), Bosnia and Herzegovina (on the West), Croatia (on the South-West) and Adriatic Sea (on the South).

The Border totals 908 km, of which 614 km is land (as summarized in Table II.1) and 294 km is water boundary on the Adriatic Sea and Skadar Lake (border with Albania).

Table II.1 – Land Boundaries

Country	Land Boundary
Serbia	203 km
Croatia	14 km
Bosnia and Herzegovina	225 km
Albania	172 km
Total	614 km

The capital is Podgorica, which is also the largest city. The climate is varied; the Mediterranean climate prevails at the seaside, but only a few kilometres away, across the coastal mountains, the dominant climate is continental.

The geographical position of Montenegro provides favourable conditions for specific economic activities, above all, transport and tourism.

Montenegro is connected with the world through two international airports, in Podgorica and Tivat, by sea routes through the ports of Bar (the most important one), Kotor, Zelenika and Risan, by a



railway (going from Bar and Podgorica to Serbia, and Central and Eastern Europe), as well as by a number of roads.

There are three main regions in the country: Southern, Central and Northern. The southern, coastal part of Montenegro has a beautiful coast with many beaches. This region is primarily important due to tourist and transport activities. The central part is the biggest lowland region of Montenegro and its most fertile area. It boasts the main economic activities of the country, concentrated in particular in the capital city of Podgorica and in Niksic, the second largest city. The northern region is covered by high (more than 2,000 m) mountains, among which Durmitor (under protection of UNESCO) stands out as the most beautiful one.

Table II.2 – Country particulars

Longest beach:	(Long Beach)Ulcinj-13,000m
Highest peak:	Bobotov kuk (Mt. Durmitor)-2,522 m
Largest lake:	Lake Skadar - 391 km <sup>2</sup>
Deepest canyon:	Tara River – 1,300 m
Largest bay:	Boka Kotorska (The Bay of Kotor)
National parks:	Durmitor – 39,000 ha Lovcen – 6,400 ha Biogradska gora – 5,400 ha Lake Skadar – 40,000 ha
World heritage under the UNESCO protection:	Mt. Durmitor with the Tara canyon Kotor - the old City

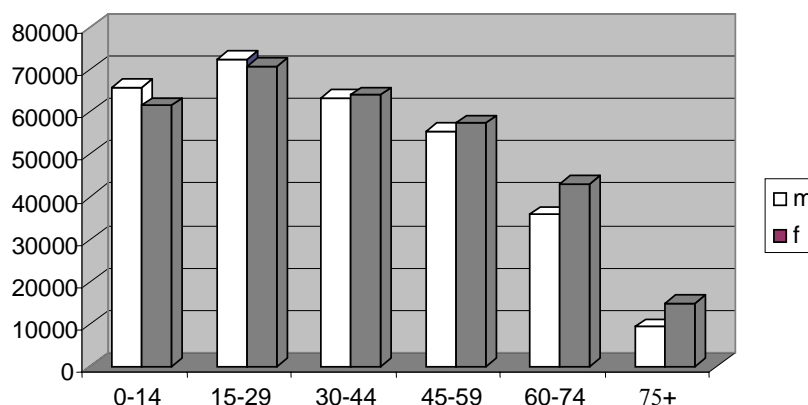
- Population

The geographic position at the crossroad between the East and the West made Montenegro the scene of dramatic historic events over many centuries, a place where many different peoples and religions existed and merged. Specific cultural and historic heritages and intermingling, as well as the characteristics of the territory on which they crossed, resulted in the formation of the multiethnic, multicultural and multi-religious community that is Montenegro today.

According to estimates made in 2003, the population number is around 672,000 (permanent residents around 620,000). There are 21 municipalities in Montenegro. Podgorica as the largest city (170,000 inhabitants), is the administrative centre of Montenegro, and Cetinje is the historical capital.

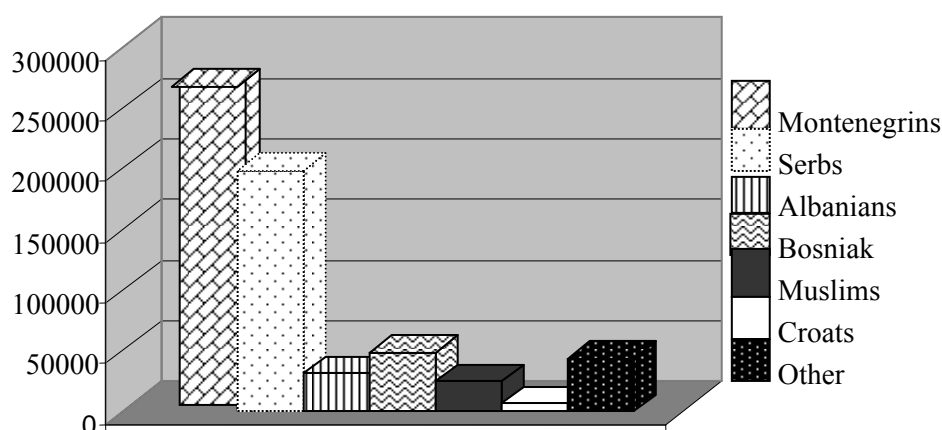
According to the 2003 census, 22.55 per cent (male 65,903; female 61,558) of the population are under the age of 14, and 11.959 per cent (male 31,984; female 42,176) are over the age of 65.

Chart II.1. Population by sex and age



The main religion is Orthodox Christianity (approximately 69 per cent of the population), followed by Islam, Roman Catholic, and Protestant Christianity. Montenegro population is made up of Montenegrins, Serbs, Bosnians, Muslims, Albanians and other minorities.

Chart II.2. Population by national or ethnic affiliation



- Economic Specialization

Montenegro has: (1) a large pool of talented and multi-lingual professionals and a highly skilled labour force familiar with technological developments; (2) significant deposits of natural resources; and (3) limited tracts of arable land.

The main development fields of Montenegro are tourism, agriculture, industry and transport. For additional details, please consult Table A1.2 in document WT/ACC/CGR/3/Add.1.

Tourist accommodation capacities are 140,000 beds, of which 37,000 are in the basic-type facilities (hotels, motels, tourist villages). A marked disproportion in the physical distribution of the accommodation results in numerous attractive, ecologically appealing tourist potentials which present a good ground for international investments. The most developed are "swimming" (summer) and "skiing" (winter) forms of tourism.

On the Montenegrin seaside (the coastline of 293 km) there are numerous sand and pebble beaches - 117 in total, 73 km in length of which sand beaches make 33 km. The capacity of the beaches is 230,000 persons. The fact that the air temperature over six months of the year is higher than 18°C, together with warm water temperatures and abundant sunshine, makes the Montenegrin seaside one of the warmest and sunniest tourist regions in the Europe.

When speaking of tourism, Montenegro has chosen the path of development directed towards the creation of an image of exclusive destination for highly distinctive and demanding guests.

Tourism generated revenues in the previous period have scored a significant growth, and, according to the World Travel and Tourism Council (WTTC), it is expected that the tourism economy will contribute to the GDP in 2004 for 14.8 per cent. It is also expected that tourism and travel in Montenegro will score 9 per cent of annual growth during the next ten years, when speaking of GDP, and 4.5 per cent when speaking of employment in tourism.

Official data, provided by the Central Bank of Montenegro and Monstat, has shown positive trend in tourism. Indicators have shown trend of positive growth in the number of guests from abroad, which resulted in the larger share of these guests in the total number of tourists. Also, financial indicators have shown trend of positive growth, which indicates changes in the structure of guests in favour of guests with greater purchasing power.

Due to its comparable advantages with respect to natural convenience, the installed capacities, and the overall revenues, the shipping industry is very important for the overall economy of the Republic and is one of its development priorities. The main subjects in the shipping industry are: Port of Bar and other ports, Adriatic Shipyard and shipping companies. The Port of Bar, located at the entrance into the Adriatic Sea is able to reload about 5 million tons of commodities in a year. The Port encompasses a free customs zone, with extensive possibilities for the development of production and services and construction of warehousing facilities, from which goods may be easily transported by sea, or by the Bar-Belgrade railway further to the Central Europe. The Adriatic Shipyard in Bijela is equipped for the repair of all types of vessels with the loading capacity up to 120,000 tons.

Montenegro has a road network 5,227 km long, of which 1,720 km are modern highways and regional roads, and the balance are local roads. The normal-gauge railroad lines are 250 km long and electrified for the most part. The railroad hub in Podgorica connects the interior of the country with the Adriatic Sea, through Port of Bar, and the Podgorica-Bozaj railroad with neighbouring Albania. Montenegro has two airports in Podgorica and Tivat.

Industry is mainly based on the existing resources and the most significant contributor is the mining-energy-metal processing production chain. The available resources may be the basis of a much more developed processing industry than the existing one.

Montenegro has the capacities that may produce 400,000 tons of raw steel, 800,000 tons of red bauxite, 280,000 tons of alumina, 100,000 tons of aluminium, 45 – 50,000 tons of sea salt, 2,000,000 tons of lignite, and 250,000 tons of brown coal, while the electric power plant (hydro-power plants Perucica and Piva and thermal-power plant Pljevlja) generate about 3 billion KWh per year.

This basic industrial structure is complemented by capacities in metal processing, machine industry, wood processing, textiles, chemical industry, footwear and leather industry, garments industry, home appliance, construction machine and forestry machine industries, as well as significant building capacities.

Montenegro has a number of plants for the processing of agricultural products: slaughterhouses, fish processing plants, flour mills with silos, dairy plants, bakeries, breweries and fruit juice factories, fruit

processing factories, grapevine processing and wine cellars, medical herbs processing, tobacco plants, coffee processing, etc.

To put the existing capacities in use, new owners should be found through restructuring, bankruptcy and privatization process that will provide conditions necessary for investments.

Agricultural land and waters are well preserved from industrial pollution and enable the production of healthy ecological food, particularly meat (poultry – 2,125 t; lamb, mutton and goat – 4,830 t, veal and beef – 8,500 t), milk and milk processed products (225,000 t), honey (about 350 t per year), fish – 2,180.5 t, vegetables – 179,883 t (tomato – 19,010 t, pepper – 17,042 t, cucumber etc.), fruits – 64,022 t (plums, apples, grapes – 38,000 t, citrus fruits – 5,000 t per year, olives) and high quality wines (Vranac, Krstac etc.), then naturally pure water of best qualities (measured by strict world standards). The soil is convenient for some special cultures such as forest fruits (blueberry, edible mushrooms, etc.) and wild medical herbs, especially sage.

Montenegrin fishermen catch about 1,300 tons of sea fish per year, and they produce circa 400 tons of freshwater fish in the existing fishponds. The total potential, only for the sea fish is 123,427 tons, of which 81,965 t anchovies; 27,895 t pilchards; 13,577 t of other types of sea fish.

Forests and forest land cover the area of 720,000 hectares or 54 per cent of the total surface of the Republic, of which the largest part (572,000 hectares) is situated in the north-east. The total growing stock in Montenegro is 59.6 million cubic metres. The total volume of wood is estimated at 71.9 million cubic metres, of which 28.0 million cubic metres (39 per cent) of coniferous trees and 43.9 million cubic metres (61 per cent) of deciduous trees and the annual increment is 1.2 million cubic metres.

- Main Economic Indicators

Table II.3 below summarize key economic indicators of Montenegro. Please see Annex 1 in document WT/ACC/CGR/3/Add.1 for additional statistics and indicators.

Table II.3 – Montenegro Key Economic Indicators

	2002	2003	2004*	2005**
GDP (€ mil.)	1,250	1,375	1,475	1,580
GDP growth rate (in %)	0.4	2.5	3.7	4.1
GDP (€ per capita)	2,031.06	2,225.86	2,378.22	2,500
Inflation (in %)	9.4	6.7	3.4	3
Unemployment rate	23.25%	22.00%	21.00%	20.00%
Balance of payments (US\$ mil.)	-154	-114	-70*	-
Foreign direct investments (mil.)	US\$73.8 mil	US\$50.5 mil	€70 mil*	€150 mil**
Savings (€ mil.)	22	44	-	-
Approved loans (€ mil.)	125	201	258*	-
Grey economy	30%	20%	15%	13%

Note: \* - estimated; \*\* - predicted

Source: Central Bank of Montenegro, Monstat, Ministry of Finance of Republic of Montenegro

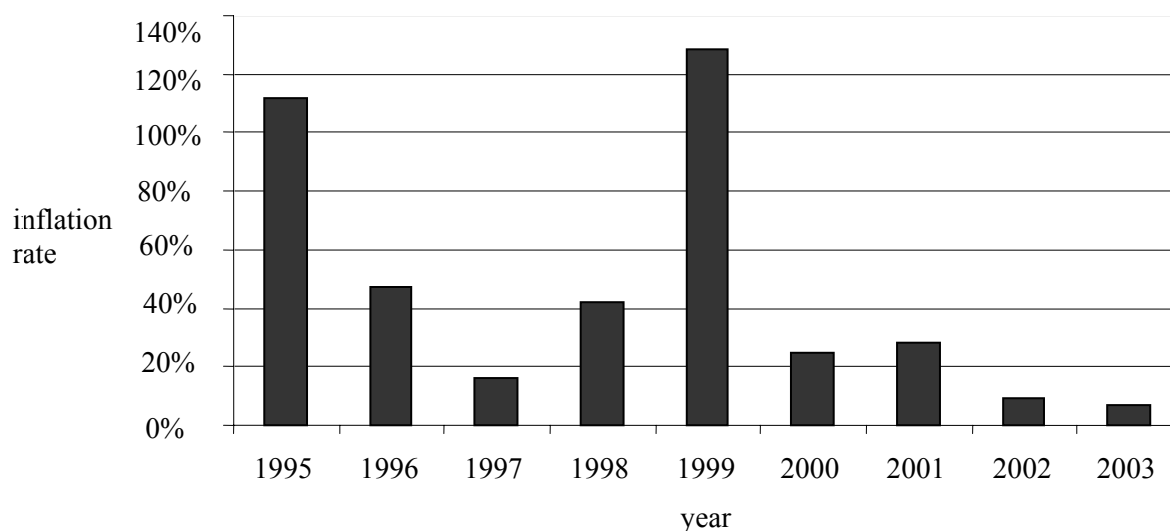
**(b) Current economic situation**

GDP in the Republic of Montenegro for the year 2004 was €1,475 million which represents real growth of 3.7 per cent when compared with GDP for 2003 of €1,375 million. GDP per capita in 2003 was €2,231, while for the year 2004 it is envisaged to be €2,379.

In recent years, the Government of the Republic of Montenegro has managed to:

- Achieve positive trends in growth of GDP and industrial production rates (13.8 per cent in 2004);
- Decrease inflation rate (Please see chart II.3) and reduction of budget deficit below 3 per cent;
- Reduce the foreign trade deficit (Please see Annex 1 of document WT/ACC/CGR/3/Add.1);
- Increase turnover from tourism (Please see Annex 1 of document WT/ACC/CGR/3/Add.1); and
- Achieve the growth of savings and approved loans.

Chart II.3 - RM Inflation Rates 1995-2003



The introduction of the Euro in January 2002 as the sole legal tender has been the most significant step in recent reforms in Montenegro. In addition, Montenegro has carried out a reform of the payment and clearing system (ZOP), and transferred payment operations in the banking system.

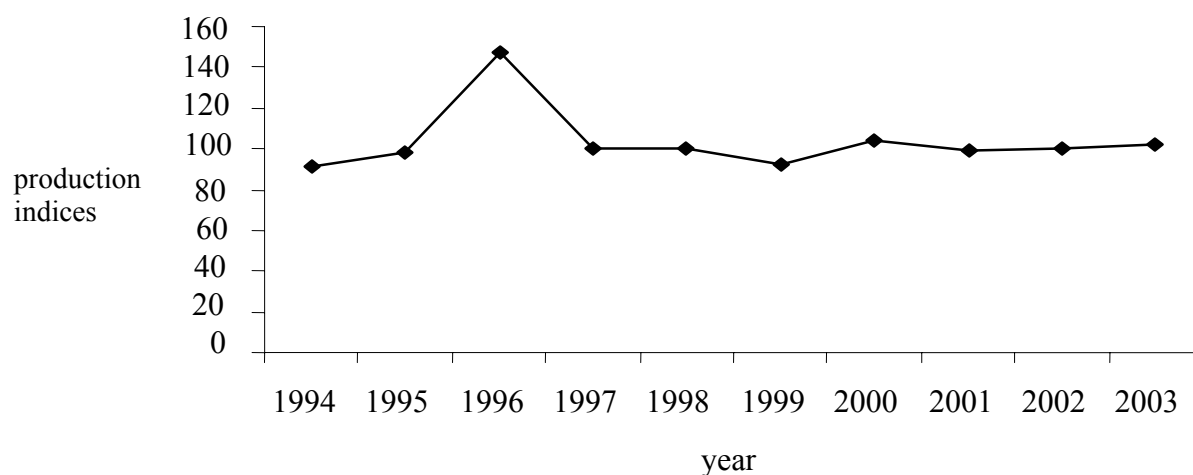
The Government of Montenegro started with mass voucher privatization (MVP) in 2002. That process was finalized in the same year. Of the more than 400,000 citizens of Montenegro who acquired those vouchers for free, most exchanged them for shares of companies or investment units of privatization investment funds. MVP has contributed to the development of the capital market in Montenegro. Today, shares of companies and investment units are traded on the two stock exchanges, NEX Montenegro and Montenegro Stock Exchange. More than 67 per cent of the former state-owned capital has been privatized. Control packages of shares in the sixteen remaining large state owned companies will be privatized in the near future.

The indicators of the current economic situation in the Republic of Montenegro are as follows:

- Increase in industrial production of 13.8 per cent in 2004 (please see the Chart II.4 for previous years);
- Unemployment estimated at 21 per cent (2004);
- Net average salary: €302.81 per month (2004);
- Current account deficit of €56.3 million (January – September 2004);
- Decline in inflation from 9.4 per cent in 2002 to 6.7 per cent in year 2003, and to 3.4 per cent in 2004;

- The total tourism (a main sector of economy) revenues estimated at the level of €178 million (2004);
- Foreign direct investments was €50.5 million in 2003;
- Savings at the level of €44 million in 2003; and
- Approved loans at the level of €201 millions in 2003.

Chart II. 4. – RM Production Indices 1994-2003



## **2. Economic Policies**

### **(a) Main directions of the ongoing economic policies**

#### **- Pricing Policy**

Legal framework for regulation of prices in the area of providing services of the public interest (electric energy supplying, telecommunication services, etc.) is established by the Law on Energy, Law on Telecommunications, Law on Broadcasting, Law on Construction, etc. According to these laws, prices of certain services are formed on the basis of supply and its correction within the competencies of regulatory bodies, which are independent from the Government of the Republic of Montenegro (RM) in their work.

Besides the above mentioned solutions introduced in the legal system of Montenegro by using experiences from the EU countries as well as by implementation of certain EU acts, there is also the Law on Social Price Control (RM OG No. 45/90), which is not applied since prices are, in general, formed on the basis of supply and demand (market principles).

The Law on Social Price Control (RM OG No. 45/90) regulates prices in Montenegro. The Law provides authority for the Government to establish prices in broad areas such as construction, road transport, insurance, higher education and research, publishing, (except local newspapers), radio and TV stations (state owned), health and social care, and banking. The Law also provides that the Government can set the prices of certain agricultural products to stimulate agricultural production. In addition, the Law authorizes controls in the case of significant price disturbances or when it is obvious that the economic policy plans prescribed by the Republic cannot be achieved without price control.

- Controls currently in effect in Montenegro

Despite the broad authority provided in the Law on Social Price Control, however, price controls are actually imposed only in limited areas. In general, pricing policy in Montenegro is based on market principles and price liberalization is almost complete. Only a small number of products are currently subject to administrative price control, including medicines for human consumption, oil and derivative products, and postal services, while local authorities may control prices of certain utility services.

Recent legislative action relevant to price controls includes:

- In June 2003, the Law on Energy (RM OG No. 39/03) transferred the authority for determining the prices electricity and of coal intended for electricity production to the regulatory Agency for Energy;
- In December 2003, the Law on Emergency Procurement (RM OG No. 69/03) was enacted and thus the Law on Commodity Reserves (RM OG No. 56/92, 69/03) was abolished. Therefore, the Government has no instruments to influence determination of the prices for products, since the Directorate for Commodity Reserves no longer exists;
- The Decision on Control of the Prices of Railway Transport for the Needs of Aluminium Company and Nikšić Steel Company was abolished (RM OG No. 41/03);
- The Government passed the Decree on Method of Establishment of Maximum Retail Prices of Oil Derivatives (RM OG No. 52/02, 55/02, 23/03); and
- The Law on Telecommunications (RM OG No. 59/00), established the Regulatory Agency for Telecommunications, which is responsible for determining prices of telecommunication services by a monopoly operator or an operator with a significant market share.

- Economic development plans

The Economic Reform Agenda (see Section I) is a comprehensive four-year plan adopted by the Government of Montenegro in March 2003 aimed achieving the following goals:

- Economic growth, with a decisive impact by the private sector;
- EU compatibility of legislation and processes;
- Valorisation of Montenegro's potential, particularly in areas that represent comparative advantages;
- Improvements in the standard of living; with adequate educational and health system and a sustainable social security system; and
- Protection of the Environment.

At the end of the four-year program, it is expected that the Montenegrin economy will exhibit the following characteristics:

- Fiscal Sustainability, i.e. budget execution according to plan without arrears carried over to the following year and without significant un-met liabilities, this will occur in the context of a tax regime adjusted for development of private sector.
- Transformation of the Pension System based on the principle of financial sustainability.
- A private, stable, well regulated Financial Sector that enables rapid resolution of disputes, high levels of competition, mechanisms to protect the rights of lenders and depositors, and a wide variety of investment options for savings.
- A stable Business Environment in which it is quick, easy and efficient to do business. Resolutions of disputes are fair, just and rapid. There are firm protections for property rights, and all laws are harmonized with EU and WTO rules. There is a clear system of regulations that are non-discretionary as a rule.

- The Tourism sector will grow as a percentage of GDP. There is a steady increase of domestic and international tourists, who are attracted to Montenegro by higher quality. Policy and legal frameworks are in place to support fast privatization with incentives for investment in hotel capacity, and improvements in water and waste water treatment, solid waste disposal and traffic conditions. There is a noted improvement in the level of professionalism and customer service offered by those employed in the tourism sector.
- Montenegro is competing effectively in high value niches in Agriculture, Forestry, and Wood Processing, using modern business and technological methods. Citizen awareness about the importance of Environment Protection in accordance with principles of Ecological State, is high. Montenegro passed the Declaration on Ecological State of Montenegro in 21 September 1992.
- The Energy Sector provides stable sources of electricity through a reliable transmission-distribution system. Fair prices and transparent tariff setting procedures support investment in the sector, and policies and incentives that are consistent with Montenegro's designation as an ecological state are in place.
- Public Administration is able to attract and retain highly qualified, highly motivated public servants who are dedicated to serving the citizens of Montenegro, and professional governance. Working conditions and remuneration are competitive. Staff are selected and promoted through open competition and on the basis of merit.
- Privatization will be completed, with the exception of a very few strategic assets, by auctioning sale of remaining state assets to the private sector and investors who are capable of driving reinvestment and growth. Private sector participation in the provision of public services is widespread, leading to an improvement in the quality and efficiency of services delivered.
- Local Governments with full responsibility for local economy, autonomy in its key functions and with independent tax collection capacity to finance these new authorities and responsibilities.
- Significant improvement in building Montenegro as Information Society based on the systematic development of an IT culture and application of Information and Communication Technologies (ICT) in accordance with the Agenda for information society signed by Montenegro on 29 October 2002 (concept of accession of Stability Pact Countries to SEE e-initiatives of EU). Besides, the Government of Montenegro adopted the Strategy on Development of Information Society on 17 June 2004. Availability of new business services and mechanisms as well as availability of government and public services via Internet through an initiative of the e-Government.
- Poverty will be greatly reduced as a result of economic growth and the revitalization of previously depressed regions of Montenegro and sectors of the economy. The Government of Montenegro adopted the Strategy for Development and Poverty Reduction in November 2003, in accordance with the methodology of the World Bank. The absolute poverty rate is 12 per cent, while the economically imperilled population totals circa 35 per cent.

The Government enacts on an annual basis an economic policy plan for the following year, specifying goals that have to be achieved in accordance with the Agenda.

- Privatization Plans

State owned companies in Montenegro were transformed under the Law on Ownership and Management Transformation (RM OG No. 2/92, 27/94, 23/96) in the early nineties. Under that Law, employees were granted 10 per cent of shares free of charge and up to 30 per cent more, to be paid in instalments with a discount based on the working period that has been spent in a company. The remaining 60 per cent or more of the shares were transferred to three state owned funds: the Development Fund (60 per cent), Pension Fund (30 per cent) and Employment Fund (10 per cent).



Approximately 350 companies were involved in this process. Subsequently, 117 of these companies were sold through different methods of sales including direct sales of majority or minority stakes and auction sale.

The goods of general use (e.g. public roads, parks, squares, streets) and natural resources will not be privatized.

The Privatization Council, established in 1998, is responsible to the Government for management of privatization. Privatization is governed by following legal acts:

- The Law on Ownership and Management Transformation (RM OG No. 2/92, 17/92, 59/92, 4/93, 27/94, 30/94, 23/96);
- The Law on Privatization of the Economy (RM OG No. 23/96, 6/99, 59/00 and 42/04);
- Decision on Establishment and Structure of the Privatization Council (RM OG No. 33/98, 24/99, 38/01, 48/03 and 72/04);
- Decree on Sale of Shares and Company Assets by Public Auction (RM OG No. 20/04);
- Decree on Sale of Shares and Company Assets by Public Tender (RM OG 8/99, 31/00, 14/03, 59/03 and 65/03);
- Decree on Publishing, Acquiring and Use of Privatization Vouchers (RM OG No. 17/01, 37/01, 11/02);
- Decree on Dematerialization of Securities and Privatization Vouchers (RM OG No. 8/99 and 26/00);
- Decree on the Mode of Implementing Employees' Rights to Free Shares (RM OG No. 24/99);
- Law on Settling Obligations and Claims Related to Foreign Debt and Foreign Currency Saving Deposits of the Citizens (RM OG No. 55/03, 11/04);
- Law on Restitution of Property Rights and Compensation (RM OG No. 21/04); and
- Law on Investment Funds (RM OG No. 49/04).

Privatization is conducted in accordance with annual plans of privatization, issued by the Government and based on proposals made by the Privatization Council. The plans contain the number of shares in each company to be privatized or given back to former owners of industries nationalized after World War II.

The Law envisages the following methods of privatization: sale of stocks, sale of assets, mass voucher privatization, batch sale, debt equity swap, joint venture, and a combination of these methods. Shares are supposed to be sold by cash auctions and international tenders. Debt equity swaps and joint ventures are allowed only as exceptions, if other methods have not been successful. Each company being privatized may sell its assets only after obtaining approval from the Privatization Council.

Mass Voucher Privatization (MVP) was relatively successfully completed. In this process more than 200 companies, covering about one fourth of the state-owned companies, were privatized. The process included all adult citizens, which is about 90 per cent of Montenegrin citizens. About 66.47 per cent of voucher points were invested in privatization funds, and 29.05 per cent directly in the companies. Six privatization funds were licensed: HLT Fund, Eurofond, Trend, Atlas Mont, Moneta and MIG, which met the requirement to collect more than 50 million voucher points and other legal prerequisites. More than 50 per cent of Montenegrin citizens became owners of social capital by way of vouchers and internal shares. However, the trade in shares is slow, so that new majority owners are not found quickly. Restructuring is progressing more slowly than expected partly due to the much diversified ownership structure that will take time to concentrate in the process of free trade in shares.

Over 67 per cent of the state capital has been privatized, but this percentage is smaller in the largest companies. In general, 130 firms are completely privatized. About 80 per cent of the capital in an additional 179 firms has been privatized and 70 per cent of the capital in 27 companies. However, in the 17 largest companies, there is only 35 per cent of private capital, and the rest expected to be privatized by international tender.

Models of investment so far are:

- purchase of shares (majority, minority packages);
- increase of capital;
- purchase of facilities by public auction;
- establishment of banks;
- joint ventures for:
  - mobile telephony;
  - insurance;
  - tourism;
  - pharmaceutical industry;
  - food production;
  - footwear and garments industry;
  - regional water supply system; and
  - metal industry.
- BOT system (Anode Plan in KAP);
- Concessions (water springs, submarine research and other natural resources);
- Establishment of branch offices;
- Donations for some programs in infrastructure building; and
- Establishment of companies.
- Sector priorities

Sector priorities in the Republic of Montenegro are outlined in the following table:

Table II.4. Sector priorities

Sector	Priorities
Industry, energy system and mining	stabilization, enhancement of business efficiency and the quality of products adjusting production of goods to market needs restructuring and privatization of enterprises, and implementation of recovery program for the lumber industry connecting Montenegrin energy system to the systems of other countries (October 2004)
Agriculture, forestry and water management	supporting entrepreneurship and private initiative, balancing regional development giving incentives for light industry based on domestic raw materials strengthening of expert and inspection functions establishment of stronger connection between tourism and agriculture (domestic food for foreign guest), in order to achieve the most favourable form of export strengthening of competitiveness of domestic manufacturers and increased exports of agricultural goods creation of all the necessary prerequisites for increased utilization of all available natural resources through implementation of the structured utilization of agricultural land development of family business in agriculture, with introduction of machinery as well as through modernization of the working process

Sector	Priorities
Maritime industry, transportation and communications	<ul style="list-style-type: none"> <li>- <u>Maritime industry</u> reconstructing and modernization of large dock in Adriatic shipyard, rehabilitating and reconstructing of accessory mole and other projects of the Port of Bar</li> <li>- <u>Transportation</u> reconstruction of existing road infrastructure and construction of new traffic infrastructure rehabilitation of Montenegrin section of Bar-Belgrade railway establishment of new air traffic connections</li> <li>- <u>Communications</u> privatization SC "Telekom" of Montenegro</li> </ul>
Tourism	<ul style="list-style-type: none"> <li>improved and broader tourist infrastructure</li> <li>modernization of hotels and other forms of tourists accommodation</li> <li>improved conditions for foreign investments in tourism</li> <li>support to the private entrepreneurship</li> <li>privatization of hotels and Ski centre</li> <li>improved competitiveness of human resources</li> </ul>

- Regional development plans

Montenegro is traditionally divided into three regions: coastal, central and northern region. Developed coastal area is concentrated on tourism, industry and services are dominant in the central region, while the mountainous north is relatively undeveloped, in which traditional agriculture and wood processing are the main activities, along with the possibility for further development of ski tourism. Reducing the development differences between the regions is one of the main goals of development policy in Montenegro, and is a priority in the Economic Policy for the year 2005. The Republic Secretariat for Development is in charge for realization of regional development programs, and it has elaborated document "Strategy on Regional Development of Montenegro" for the next mid-term period.

The goals of regional development for 2005 are defined by the Strategy of Regional Development, as well as by the Action Plan for its implementation. They include:

- Provision of special incentives for least developed areas through adequate tax and credit policy and donor assistance;
- Special development programs for the telecommunication and traffic infrastructure;
- Completion of electrification in un-electrified village settlements;
- Beginning of valorization of Bjelasica project (development of eco-tourism) in the North; and
- Implementation of the program on integral development Montenegro's Prokletije (mountain chain) and the Durmitor area.

Development policy measures are intended to stimulate positive changes in movement of population and revitalization of demographically endangered areas and villages, particularly in the high mountains areas, as well as in the areas where the population density is below six inhabitants per km<sup>2</sup>.

Adequate measures are planned to be enforced in order to improve health and social protection of the citizens in these areas.

In all activities related to regional development, the accent will be on monitoring of the municipality development indicators (within the Republic Bureau for Statistics-Monstat there will be a special

department in charge for collecting information at the municipality level) and work on drafting of nomenclature for the zoning units "NUTS" in accordance with European standards.

With respect to transportation infrastructure, the Government will complete building of the Sozina tunnel by mid-2005, which will significantly reduce the travel time between Podgorica and the seaside, and will improve freight transportation between the Port of Bar and the interior. Also, rebuilding of the main road between Podgorica and Kolasin in the north of Montenegro should begin soon. Rebuilding of this road will also significantly improve communication between Montenegro and Serbia. At present, that road is the main road for transport between Serbia and Montenegro, but the traffic is functioning with more difficulty during the winter time.

**(b) Monetary and fiscal policies**

- Monetary policy

According to the Law on the Central Bank of Montenegro, the Central Bank is an independent institution of the Republic of Montenegro, exclusively responsible for monetary policy, establishment and maintenance of a stable banking sector, and an efficient payments system in the Republic.

The Central Bank has had a very limited role in monetary policy since the adoption of the Euro on 1 January 2002. Adopting the Euro was effective in reducing inflation to 6.7 per cent in 2003, but resulted in the loss of the primary monetary instrument and forced a reform of the old ZOP payments system.

The change in its role turned the Central Bank of Montenegro (CBM) into a bank supervision and payments oversight authority, allowing inflation to be a combination of imported inflation and supply side shocks. An important result was the restructuring of banks and enhanced supervision over their work by the Central Bank.

The main point of the restructuring of the banking system in Montenegro is the privatization of state-owned banks and the improvement of standards and supervision of the banks through the introduction of international standards.

The Government of the Republic of Montenegro in its strategic document Economic Reforms Agenda (see Section II, Economic development plan) emphasizes privately owned banking system that should be completely integrated into international structures, and should offer predictable and stable conditions for depositors and reasonable credit rates, as well as fully implementation of international accounting standards.

Major reforms have already been carried out. Three years ago, there were no foreign banks in Montenegro. Today, approximately 75 per cent of the banking sector is privately owned, much of it by foreigners. Ten banks now operate in Montenegro, three of them either totally or majority foreign-owned. After the privatization of the Podgoricka Bank, there will be no state owned capital in the banking sector (privatization planned for the year 2005).

The banking sector is both liquid and solvent. All banks fulfil the prescribed minimum capital adequacy ratio of 8 per cent. In the 2001-2003 period, more than 41 million Euros have been invested in banks in Montenegro. In the same period, deposits increased from €10 to more than €224 million. Certificates of deposits have grown rapidly. Almost 80 per cent of deposits are held in private banks. Approximately 55 per cent of deposits are private ownership. Savings of citizens increased from €5 to more than €45 million in the same period.

As of August of 2003, the annual growth rate of total loans was 73 per cent. Approximately 83 per cent of these loans were given to private companies and natural persons.

Banking services have also increased. Four banks now issue debit cards and three banks offer housing loans.

The Central Bank has passed the Decision on Micro-Credit Financial Institutions (RM OG No. 1/03) and the Decision on Credit Unions (RM OG No. 1/03, 53/03). These laws regulate establishing, issuing and revoking of licenses, dealing and control of micro-credit financial institutions and credit unions.

The Central Bank of Montenegro has adopted a fully-fledged regulatory framework governing commercial bank operation. Thirty-five by-laws governing bank supervision have been adopted and an additional seven by-laws govern financial and banking operations. In mid-2003, independent auditors of Bearing Point Group performed an assessment of compliance with the Basel principles in Montenegro, which showed that the Central Bank of Montenegro has managed to harmonize its banks supervision as it follows:

- 9 main principles-fully harmonized;
- 14 significantly harmonized;
- 4 principles remain significantly non-harmonized;
- 1 is not harmonized at all; and
- 2 principles are considered non-applicable in Montenegro.

The Central Bank has conducted 80 direct on-site reviews of commercial banks. The CAMELS methodology has been adopted and implemented. Bank ratings are being continuously monitored. A software package for bank portfolio analysis and reporting of commercial banks to the CBM has been developed. With the aim of harmonizing banks with modern business standards, the rules related to the interest rate and the requisite reserve rate have been adopted. The requisite reserve rate was reduced from the initial 100 per cent at the beginning of 2002 to 23 per cent in 2003.

The measures prescribed by the law have been applied to insolvent banks. The bankruptcy procedure was initiated for one bank; the liquidation procedure was initiated for a second bank, one bank was granted a merging procedure; and the largest state-owned bank (Montenegro bank) was restructured and privatized.

There are other important steps that have been undertaken aimed at banking sector reform in Montenegro:

- The Law on Regulation of Obligations and Claims Based on Foreign Debt and Foreign Currency Savings of Citizens (RM OG No. 55/03, 11/04) has been adopted. By this Law, obligations based on foreign debt and foreign currency savings became public debt, which increased the solvency of the financial sector and the confidence of citizens in the Government and the banking sector.
- In December 2002, new regulations were adopted to enable the CBM to supervise offshore banks in accordance with regulations applicable to onshore banks, and with a view to terminating off-shore operations in Montenegro. According to the provisions of the old Law on Companies Established and Operating under Special Conditions in Montenegro (RM OG No. 23/96, 34/02, 62/02), foreign companies could be established and could operate under privileged conditions with guarantee of such position even in the case of future amendments of legislation, and with guarantee of confidentiality of business data. However, these provisions were first abolished by the decision of Constitutional Court of Montenegro in July 2002, and subsequently by amendments of the Law in November 2002, by which the title

of the Law was changed into Law on Foreign Companies Established and Operating in Montenegro.

- The Law on Prevention of Money Laundering (RM OG No. 55/03) entered into force on 9 October 2003 and the regulations for its implementation have been enacted. The administrative authority responsible for preventing money laundering was established by this Law. Amendments to the Law will also be made regarding the prevention of terrorism financing.
- The Law on Protection of Deposits (RM OG No. 40/03) has been enacted.
- As of 5 January 2004, the payments system operates through commercial banks. Formerly, the payments system was centralized within the Central Bank of Montenegro.
- The draft Insurance Law has been prepared.
  
- Fiscal policy

The Government of the Republic of Montenegro determines tax policy and implements fiscal system reform. These reforms are being undertaken in consultation with the World Bank and the International Monetary Fund.

Fiscal reform in Montenegro started in 2001. Many laws were adopted with a view to establish a more transparent and efficient collection of budget revenues. All laws have been harmonized with EU legislation. There are many reform-oriented activities in the fiscal system, but the most radical changes were introduced by the following:

- The monopoly of the domestic payment services (the former ZOP) was abolished, allowing commercial banks to initiate and settle inter-bank payments without mandatory intermediation of any institution or agency;
- The new Law on Budget (RM OG No. 40/01, 44/01) was adopted in Montenegro in 2001;
- Value added tax, as opposed to the previously-applied sales tax system, was implemented in Montenegro in April 2003; and
- Fiscal cash registers have been introduced and tax identification numbers applied.

The Treasury of the Republic of Montenegro has been established on the basis of the Law on Budget and the Instructions on the State Treasury Work. Its establishment and enforcement of the Law on Public Procurement (RM OG No. 40/01) have increased the level of transparency, as well as the efficiency of public expenditures control, while discretionary rights and the possibility of corruption in public administration have been reduced. Revenues, which were previously distributed through public administration bodies, judicial bodies and other institutions, have been centralized within the Budget of the Republic. More efficient collection of taxes has been achieved. Additional improvement in management of public expenditures is related to the introduction of the concept of the middle-term framework of budget expenditures, which was for the first time presented in the Budget Law for 2003.

Currently the concept of a program budget is being developed. A pilot project has been implemented in two institutions: the Ministry of Transport and Maritime Affairs and the Institution for Execution of Penalties (penitentiary). Implementation of the program budget has been continued, and therefore program budget has been implemented in the following institutions: Ministry of Education and Science, Bureau for Education, Ministry of Tourism and Tourist Organization of Montenegro, in accordance with the Budget of the Republic for 2005. Internal audit has been established within the Ministry of Finance. The Law on Supreme Financial Institution for Auditing has been adopted and published in the "Official Gazette of RM", No. 28/04. According to this law, Supreme Financial Institution for Auditing is established, as well as Senate of this institution. The institution is in charge of external control of public revenues, consumption and managing of state property.

A new Excise Tax Law came into force on 1 April 2002. The list of excise goods has been reduced to: alcohol beverages, tobacco products and mineral oils, derivatives and substitutes thereof.

The Personal Income Tax Law and Corporate Profit Tax Law, which came into force on 1 July 2002, prescribe progressive tax rates. Proportional 19 per cent income tax rate has been replaced by the progressive rates ranging from 0 per cent to 25 per cent. Flat corporate profit tax rate of 20 per cent has been replaced by progressive rates of 15 per cent for profits up to €100,000 and 20 per cent for profits over €100,000. In accordance with the amendments to the Corporate Profit Tax Law, introduced in December 2004, the progressive rate of 9 per cent was introduced. The implementation of these laws has had a positive impact on budget revenues. In January 2003 the citizens of Montenegro submitted tax declarations for the first time.

The Law on Real Estate Tax came into force on 1 January 2003. Municipalities are in charge of implementation of this Law. They collect total revenue from the taxes. The tax rates are based on the market value of real estate rather than on the estimated value.

With the implementation of the Value Added Tax Law (1 April 2003), the sales tax of 12 per cent on services and 24 per cent on most goods were replaced by the VAT rate of 17 per cent. Exemptions and "zero" tax rate have been prescribed for certain goods and services. Exempted goods are basic foodstuffs (milk, bread, oil, sugar), medical equipment, and books. The "zero" tax rate is applied to export of goods and services. The introduction of VAT significantly reduced the grey economy in both goods and services.

The following tax laws were adopted in Montenegro (Please see Annex 2 of document WT/ACC/CGR/3/Add.1 for details):

- The Law on Corporate Profit Tax (RM OG No. 65/01);
- The Law on Personal Income Tax (RM OG No. 65/01);
- The Law on Value Added Tax (RM OG No. 65/01, 38/02, 72/02 and 21/03);
- The Law on Excise Tax (RM OG No. 65/01);
- The Law on Tax Administration (RM OG No. 65/01);
- The Law on Administrative Fees (RM OG No. 55/03);
- The Law on Local Self-Government Financing (RM OG No. 42/03, 44/03);
- The Law on Sales Tax for Used Motor Vehicles, Vessels and Aircrafts (RM OG No. 55/03);
- The Law on Sales Tax on Real Estate (RM OG No. 69/03); and
- The Law on Amendments to the Law on Personal Income Tax (RM OG No. 37/04).

**(c) Foreign exchange and payments system**

- Foreign Exchange and Payments System

Foreign exchange is not an issue in Montenegro. Under the Law on the Central Bank, the Central Bank (CBM) is an independent institution exclusively responsible for monetary policy, creating and maintaining a sound banking sector, and an efficient payments system in the Republic. In accordance with this Law, the Euro is the monetary unit, the legal tender and the reserve currency. The Euro was introduced in order to facilitate the turnover of goods and services and international communication of Montenegro, which, as a small, open country, needs to have a strong convertible currency.

The new Law on the Central Bank, the Law on Banks (RM OG No. 52/00, 53/00), as well as the Foreign Investment Law (RM OG No. 52/00) enable free payments without any restrictions. According to the Decision on Keeping Foreign Currencies with a Commercial Bank (RM OG No. 8/01), payments can be made without any restrictions, except for the requirement to inform the Central Bank of Montenegro.

Payment system reform began with the Law on the Central Bank, which transferred ownership and the employees of the old ZOP payments system to the Central Bank.

The payment system reform in Montenegro was implemented as part of the overall plan for fiscal and banking sector reform. This key reform has accomplished a fundamental change in the roles of the payments system participants (Central Bank, commercial banks, Post Office) without disruption to Public and private Sector.

Phase I has accomplished the following fundamental changes:

- The ZOP has been integrated into management and the operational structures of the CBM;
- Migration of most significant payment operations to the commercial banks has been finalized (opening, maintenance, and closing of accounts, receiving and executing of cash and non-cash payment orders, treasury operations, and operations in terms of reporting to clients). Simultaneously, enlarging the "branch network" of commercial banks, approvals were issued for these payment system operations in 73 counters within each municipality in the Republic of Montenegro;
- The ZOP physical branch network has been dismantled;
- Regional Centers of the CBM have been opened for the purpose of cash distribution for banks and to ensure payment operations for clients of the CBM;
- Finalization of project dealing with Post-office operations under new terms, i.e., "Post-office as bank agent". The Post Office, as the authorized agent of the banks, can receive and disburse cash for clients which are not involved in registered activities;
- Fixed fees have been established for 95 per cent of Central Bank services, replacing the former *ad valorem* tariffs; and
- Banks now receive fees for providing services, while the Central Bank receives income from charged operating costs.

With the finalization of Phase I, the commercial banks have taken over the major part of the payments system activities: the opening and closing of the accounts, reception and performance of cash and non-cash orders, treasury operations, and reporting to clients.

Phase II of the Payment System reform will include closing the legacy system of processing bank payment orders, and development of a new CBM payment system in line with the development of internal systems in commercial banks.

The payment systems reform did not end with the migration of cashless and cash payment operations services to banks. The development of a new payment system is ahead, which will be in accordance with the international standards. This implies the development of a payment system within each bank that will enable payment processing for their clients. The function of the Central Bank will be to process inter-bank payments. The Central Bank will continue to provide payment services for its clients (Government agencies, domestic and foreign banks, international financial institutions and donor organizations).

The Law on Current and Capital Transactions with Abroad is being drafted.

- Relations with the IMF

The former SFRY was one of the countries participating in the Breton Woods Conference (in 1944) and one of the founders of the IMF and the World Bank. From that moment on, the SFRY was approved for thirteen stand-by arrangements. The most intensive cooperation with the IMF occurred between 1980 and 1991, when the SFRY was approved for seven stand-by arrangements in the value of 3.5 billion "special drawing rights" (SDR), 2.7 billion of which has been used. The SFRY made



the first financial arrangement with the IMF in 1949, in the value of US\$9 million, and the last one in 18 March 1990, in the value of SDR 460 million.

The Board of Executive Directors of the IMF concluded that the SFRY ceased to exist on 14 December 1992, and therefore was no longer a member of the IMF. At the same time, the IMF set up the terms for the successor-countries (Bosnia and Herzegovina, Croatia, the FYROM, Slovenia and the FRY) to succeed as members of the IMF. The FRY's share of assets and liabilities of the former SFRY was 36.52 per cent.

On 20 December 2000, the IMF Committee of Executive Directors decided that the FRY met all requirements for becoming a member of the institution, with retroactive effects from 14 December 1992.

On that day, the IMF approved SDR 116.9 million under the urgent post-conflict facility to support the program of economic stabilization and the recovery of the FRY institutions and the administration. A share of this amount was used to pay off the "bridge" loan of SDR 101.1 million, which Switzerland and Norway approved for settling financial obligations towards IMF.

The present quota of the Serbia and Montenegro in the IMF is SDR 467.7 million.

In 11 June 2001, the Committee of Executive Directors of the IMF approved a stand-by credit of SDR 200 million to the FRY to support the economic program of the Federal Government. In May 2002, the IMF approved an Extended Arrangement for SDR 650 million (about US\$829 million) to support the FRY's economic program in 2002-2005.

The establishment of the State Union of Serbia and Montenegro raised the question of who would represent the new state in the IMF. That question was particularly important because the two member states have full autonomy in their monetary and fiscal policies, and use two different currencies. The issue was resolved in the Agreement on Representation of the State Union of Serbia and Montenegro in the International Financial Organizations (Decision on Representation of the State Union of Serbia and Montenegro in the IMF, 15 April 2003), signed between the Republic of Serbia and the Republic of Montenegro in 2003. That Agreement is Annex 19 of the Action Plan.

The Governments of Serbia and of Montenegro agreed with the International Monetary Fund to adjust the rights and obligations of Serbia and Montenegro to in a manner appropriate to the new constitutional arrangement of the State Union of Serbia and Montenegro.

The fiscal agent for the State Union in the IMF is the National Bank of Serbia, in cooperation with the Central Bank of Montenegro. The depositor for Serbia and Montenegro is the National Bank Serbia and the governor of Serbia and Montenegro in the IMF is the governor of the National Bank of Serbia. The alternate governor in the IMF is the chairman of the Central Bank of Montenegro.

The local currency for transactions with the International Monetary Fund is the Dinar in Serbia, and the Euro in Montenegro.

Table II.5. Financial Position in the Fund, 31 December 2004

I. Membership Status: Joined: 14 December 1992;		Article VIII
II. General Resources Account:	SDR Million	%Quota
Quota	467.70	100.00
Fund holdings of currency	1,088.68	232.77
Reserve Position	0.00	0.00
Holdings Exchange Rate		
III. SDR Department:	SDR Million	%Allocation
Net cumulative allocation	56.66	100.00
Holdings	0.03	0.06
IV. Outstanding Purchases and Loans:	SDR Million	%Quota
Extended Arrangements	462.50	98.89
Stand-by Arrangements	158.46	33.88
V. Latest Financial Arrangements:		
	Amount Approved	Amount Drawn
Type	SDR Million	SDR Million
EEF	650.00	462.50
Stand-by	200.00	200.00

**(d) Foreign and domestic investment policies**

Investment policy of Montenegro is primarily directed towards the rapid inclusion in the world trends of foreign direct investments, and thus towards the improvement of entire investment climate, through realization of key goals given in the Economic Reforms Agenda. Attracting foreign investments is one of the top priorities of Montenegro, having in mind positive effects that foreign investments might cause, such as reduced unemployment rate as well as creation of new working positions.

Foreign and domestic investment policies are targeted toward establishing an open/liberal, transparent, non-discriminatory, and fair investment environment that provides strong legal protection and guarantees to investors, regardless of their origin, including profit repatriation, national and MFN treatment, access to dispute settlement bodies, and protection against expropriation. Expropriation (limitation or deprivation of the real estate ownership right) is possible only if it is in the public interest prescribed by the law, or on the basis of the law, with the compensation which cannot be lower than the market compensation as well as with the interest until the final payment.

Furthermore, the overall policy, legal, and institutional reform in Montenegro is targeted toward improving and stabilizing the investment environment. This includes conforming the foreign trade regime to the WTO agreements, modernizing the commercial legal environment, protecting property rights, streamlining administrative procedures, reforming the financial sector, and stabilizing macroeconomic policies. The Government of Montenegro has enacted the Economic Reform Agenda, which is an overall policy document that sets the strategy and tasks in all economic and related areas. A key goal of the Agenda is to develop an environment favourable for foreign investments.

In July 2003, the Foreign Investment Advisory Service (FIAS) undertook a two-week mission to Montenegro to evaluate the investment environment and advise on ways in which it could be improved. The FIAS mission reviewed policies, examined legislation and regulations to assess how accurately they reflected announced policies, assessed their implementation through administrative processes, and reviewed the investment promotion strategy, including the adequacy of the existing law, institutions and activities. The most important suggestions were that the Montenegrin Government establishes a new regulatory body attached to the Prime Minister's cabinet, and make certain changes in the existing Law on Foreign Investments in order to provide better conditions based on international principles. In response, a new Montenegrin Investments Promotion Agency (MIPA)

has been established in 2004 by the Decision of the Government of the Republic of Montenegro. The Agency should act as a promoter of investment projects. The Agency sets the investment promotion strategy, coordinates all activities on attraction of foreign investments, and develops partnerships between the public and private sector.

The Foreign Investment Law of RM (RM OG No. 52/00) prescribes no limitations on the participation of foreign capital in Montenegro, except in the cases of production or trade in weapons and ammunition, or production in the border district, or in national park where a foreign person cannot independently possess more than 49 per cent of stocks. A foreign investor may be a legal person with the head office in foreign country; a foreign natural person or a Montenegrin citizen with residence in a foreign country longer than one year; a company established by a foreign person in Montenegro, or a domestic company with more than 25 per cent foreign interest. Foreign investors are subject to the same treatment as domestic investors (national treatment principle) and there are no reciprocity requirements. All foreign investments in RM must be insured in accordance with the insurance regulations, and must be registered with the Agency for Foreign Investments and Reconstruction of Economy for statistical purposes only. Foreign investment in the production or trade in weapons requires approval from the defence authorities. The Government intends to amend this law in order to further strengthen legal guarantees.

FDI in Montenegro in 2003 was at the level of €50.5 million. Their volume for 2004 is estimated to be circa €70 million, and projection for the year 2005 is €150 million. Please see Section II. 4. for more details on the composition and volume of foreign investments.

It is expected that foreign direct investment will increase given profitable opportunities in Montenegro and improved access to domestic and foreign markets.

**(e) Competition policies**

Montenegro does not yet have a developed system of competition regulations. Although the FRY Antimonopoly Law (FRY OG No. 29/96) remains technically in force, it has never been applied in practice.

The Ministry of Economy of Montenegro, in cooperation with the relevant ministry in Serbia, has prepared a draft Law on the Protection of Competition that is expected to be enacted separately in both Montenegro and Serbia. The principal reasons for introducing competition regulations into Montenegro are:

- The goal of Montenegrin long-term development policy is to develop a market economy on the model of developed countries with developed competition legislation;
- Montenegro intends to become a member of the European Union, and thus must establish competition legislation that will meet modern European standards; and
- A modern system of competition law in Montenegro should prevent dealing in the market that represents unfair practices. Unfair practices weaken the competitiveness of the economy as a whole, which results in slower economic and technological development and higher prices for consumers of goods and services.

Main elements of the draft Law on the Protection of Competition. The draft Law has seven parts:

PART I - Main Provisions

Part I defines the subject and purpose of the law, the type of legal acts and actions infringing competition, the territorial and ratio personae application of the law, and the relevant market, based on which the assessment of any infringement of competition is made.

## PART II - Infringements of Free Competition

Part II defines acts infringing competition as follows:

- Prohibited agreements: Agreements preventing, restricting, or impairing competition are prohibited, except in the events envisaged by law when a general or more far-reaching interest is present that justifies a temporary infringement of competition; when agreements contribute to the improvement of production or distribution, or to the stimulation of technical or economic development, while consumers are given a fair share of benefit, and limitations are introduced, necessary for achieving such goals and do not unbalance competition in the large part of goods and services;
- Abuse of a dominant position: A dominant position is not prohibited; but it is prohibited to abuse such a dominant position, such as by selling below the cost of production and marketing with an intent to destroy competitors, and similar practices; and
- Merger Control: Mergers of market participants with significant economic and financial power, such that their merging would result in a dominant position, will be prohibited if the consequence would be an infringement of competition. This is another form of control of abuse of dominant position.

## PART III - Competition Protection Agency

An independent Competition Protection Agency that would be responsible for further development of the competition regulations and their proper application will be established.

## PART IV - Administrative Procedure

Part IV provides procedures for the conduct of individual cases, emphasizing differences from general rules of the administrative procedure. Decisions of the Agency are final, and against such decisions the administrative dispute may not be undertaken directly in the Administrative Court of the Republic of Montenegro. Therefore, judicial protection is provided.

## PART V - Penal Provisions

Part V provides sanctions for offences against the law. The draft is specific, with strict punishments for violating the competition rules.

The Draft Law is in compliance with: Articles 81, 82 and 86 of the Treaty on European Union; European Commission Regulation 2790/1999; European Commission Regulation 139/2004; European Commission Regulation 17/62; European Commission Decree OJ C 372/1997; and European Commission Decree OJ C 368/2001.

It was estimated that approximately €100,000 will be needed for the enforcement of this Law during 2005. These financial assets will be provided from the Budget of the Republic of Montenegro.

### **3. Foreign trade in goods and services**

During the past few years, Montenegro has been running a large deficit in the foreign trade in goods, a slight surplus on the services balance, and a substantial current account deficit (Trend of the foreign trade, expressed in Euros for the period 2000-2004, is given in the Annex 1 of document WT/ACC/CGR/3/Add.1).

Table II.6. Exports and imports in Montenegro - 2002-2004 (US\$ thousand)

	2002	2003	2004 (I-VII)
GOODS Balance	-401,590	-408,556	-253,680
Exports	305,065	304,884	272,176
Imports	706,655	713,440	525,856
SERVICES Balance	93,815	126,584	74,014
Revenues	162,372	217,135	142,913
Expenditures	68,557	90,551	68,899

Source: The Central Bank of Montenegro

Visible exports in the course of 2003 amounted to US\$305 million, the same as in 2002. In 2003, aluminium made up 40 per cent of the total visible exports of Montenegro. Visible imports in 2003 amounted to US\$713 million and it increased by US\$7 million or 1 per cent compared with the same period in 2002.

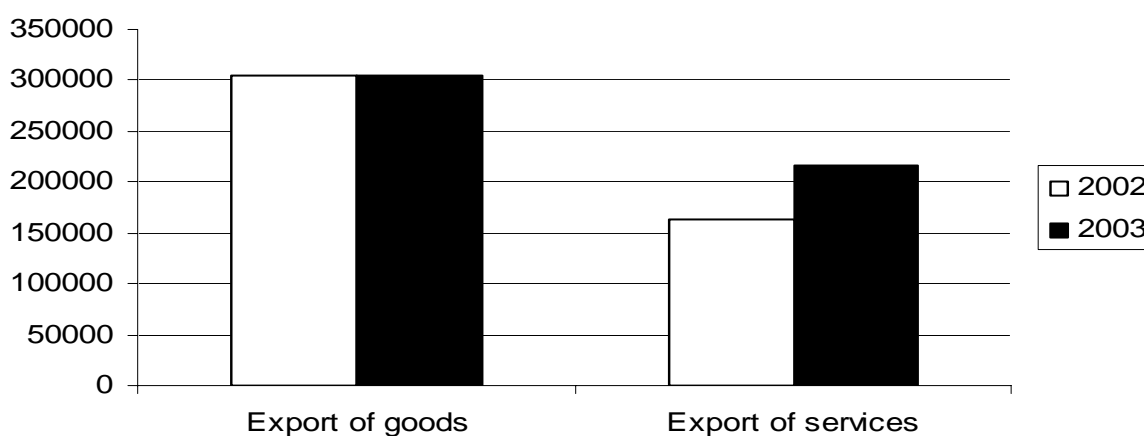
Revenues from services in 2003 amounted to US\$217 million and they increased by US\$55 million or 34 per cent compared with the same period the year before. Expenditures from services in this period were US\$91 million and they increased by US\$22 million or 32 per cent compared with the same period in 2002.

The value of exported goods in the first seven months of 2004 was US\$272 million, which is 51 per cent more than in the corresponding period in 2003. Visible imports in this period amounted to US\$526 million, US\$158 million more than in the same period the year before. The average monthly imports amounted to US\$75 million, while this monthly average for the entire 2003 was US\$52.5 million.

The main characteristics of Montenegrin imports for the first seven months of 2004 are a 45 per cent increase in oil imports, an increase in import of other goods and goods from Serbia and Kosovo of 64 per cent and 19 per cent, respectively, and a 6 per cent increase in imports of electricity.

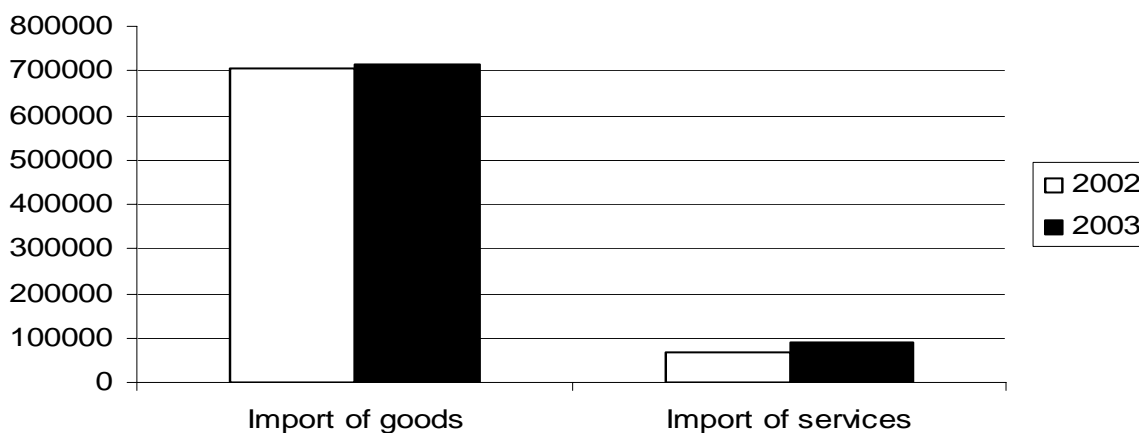
Revenues from services in the first seven months were US\$143 million, which is 30 per cent more than in the corresponding period in 2003. Expenditures for services amounted to US\$69 million, thus being US\$23 million or 16 per cent more than the same period in 2003.

Chart II. 5. Exports in the period January –December 2002/2003(US\$ thousand)



Source: The Central Bank of Montenegro

Chart II. 6. Imports in the period January –December 2002/2003(US\$ thousand)



Source: The Central Bank of Montenegro

Table II. 7. Structure of goods exports by countries (US\$ thousand)

Exports	2002	%	2003	%	Index 2003/2002
Switzerland	149,164	48.90	113,912	37.36	76.37
Italy	14,377	4.71	22,658	7.43	157.60
Greece	849	0.28	5,852	1.92	689.28
Virgin islands	1,397	0.46	5,193	1.70	371.73
Germany	842	0.28	2,088	0.68	247.98
Serbia & Kosovo	96,349	31.58	105,432	34.58	109.43
B&H	7,804	2.56	19,591	6.43	251.04
Croatia	1,157	0.38	6,206	2.04	536.39
Hungary	5,059	1.66	2,752	0.90	54.40
Slovenia	886	0.29	2,429	0.80	274.15
Albania	2,083	0.68	2,516	0.83	120.79
Cyprus	6,223	2.04	6,858	2.25	110.20
Malta	2,565	0.84	1,506	0.49	58.71
Other	16,310	5.35	7,891	2.59	48.38

Source: Central Bank of Montenegro and Customs Administration of Montenegro

Analyzing the exports by regions, it can be seen that the biggest trade partners of Montenegro were developed countries, then countries in transition, mainly Serbia and Kosovo.

Table II. 8. Structure of goods imports by countries (US\$ thousand)

Imports	2002	%	2003	%	Index 2003/2002
Italy	62,042	8.78	58,689	8.23	94.60
Greece	39,641	5.61	60,237	8.44	151.96
Germany	33,432	4.73	34,360	4.82	102.78
Austria	24,505	3.47	28,037	3.93	114.41
Switzerland	10,411	1.47	12,103	1.70	116.25
USA	29,091	4.12	7,397	1.04	25.43
France	4,226	0.60	7,606	1.07	178.29

Imports	2002	%	2003	%	Index 2003/2002
Sweden	6,346	0.90	4,266	0.60	67.22
Virgin Islands	7,018	0.99	3,247	0.46	46.27
G. Britain	58,455	8.27	47,005	6.59	80.41
Netherlands	9,834	1.39	3,996	0.56	40.63
Spain	4,991	0.71	3,747	0.53	75.08
Serbia & Kosovo	169,637	24.01	245,737	34.44	144.86
Slovenia	54,270	7.68	52,110	7.30	96.02
Croatia	53,037	7.51	46,982	6.59	88.58
B&H	23,435	3.32	22,103	3.10	94.32
Hungary	10,662	1.51	9,237	1.30	86.97
FYR Macedonia	9,163	1.30	7,729	1.08	84.35
Czech Republic	4,443	0.63	5,680	0.80	127.84
Bulgaria	4,460	0.63	6,257	0.88	140.29
Romania	1,106	0.16	4,053	0.57	366.46
Albania	4,699	0.66	2,835	0.40	60.33
Cyprus	26,526	3.75	14,267	2.00	53.78
Other	55,185	7.81	25,724	3.61	46.61

Source: Central Bank of Montenegro and Customs Administration of Montenegro

Analyzing imports by regions, it can be seen that in 2003 the biggest trade partners of Montenegro were countries in transition (48 per cent), than developed countries (42 per cent) – Greece, Italy, and Great Britain from which most electricity was imported.

See Section VI. 1. for more details on trade in services.

#### **4. Domestic trade in services including value and composition of foreign direct investment**

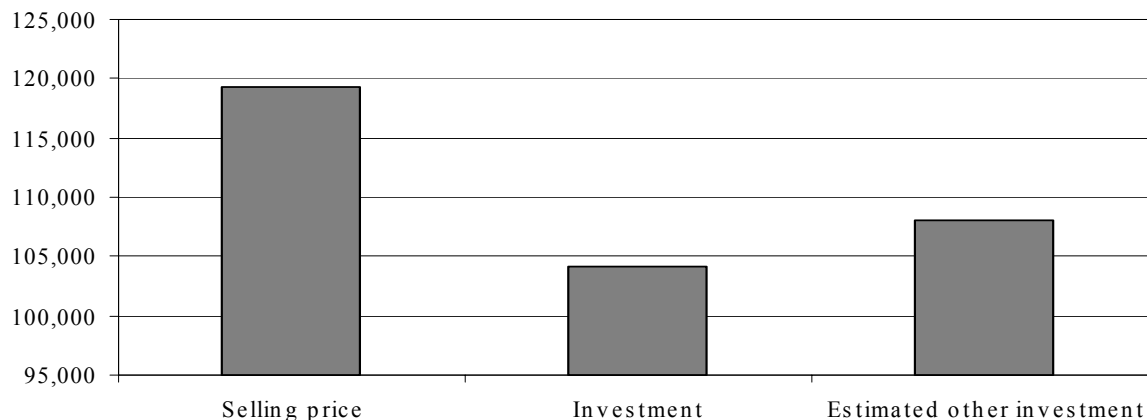
There are no statistics regarding domestic trade in services.

Montenegro has one of the highest ratios of foreign investments per capita in South-East Europe. Positive steps in political stability in the region and implementation of activities that promote economic freedom development led to Montenegro's being one of the most attractive countries for foreign investments in the region. In the period 1997–September 2003, direct foreign investments in Montenegro were at the level of €331 million.<sup>1</sup> The amount includes the price of privatized companies, contracted three-year investments of the new owners, and estimated other investment, including greenfield investment.

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<sup>1</sup> Source: Agency for Reconstruction and Foreign Investment of Montenegro, October 2003

Chart II.7. FDI in Montenegro, 1997-2003, (in €1,000)



The largest portion of FDI in Montenegro so far has been realized through privatization, as in other transition countries. The most significant investors that came through privatization include the Japanese ball bearings company, "Daido Metal Company", Greek Oil Company "Hellenic Petroleum", Belgian Interbrew and Slovenian hotel management company "HIT" and Nova Ljubljanska Bank.

In order to attract foreign investments, the Government of Montenegro created a favorable legal framework that provides national treatment for foreign citizens in accordance with the Law on Foreign Investment (RM OG No. 52/03) foreign citizens are given the same rights as domestic citizens.

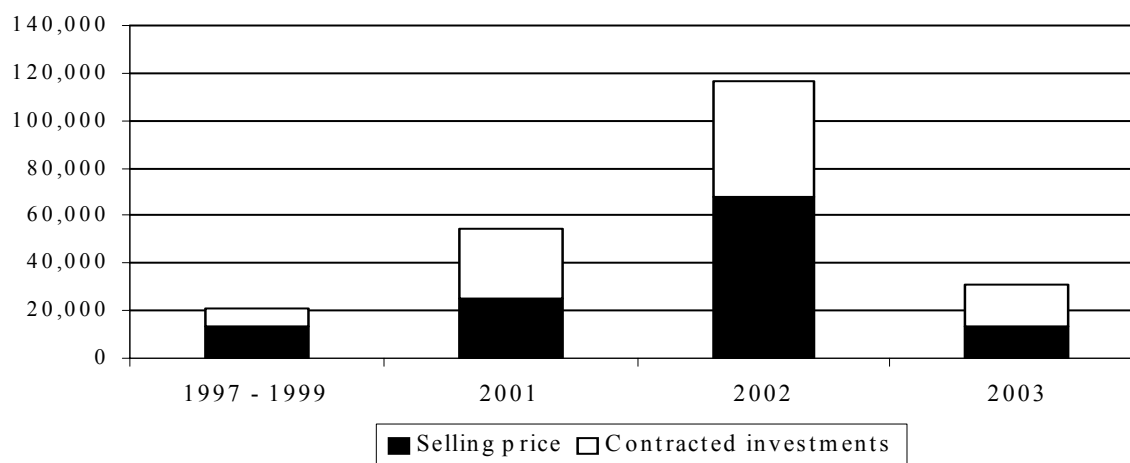
The Greek-Norwegian consortium ETL (European Telecom Luxembourg) and the establishment of the company ProMonte in March 1996 were the first foreign direct investments in Montenegro. It is estimated that the total amount of investments to date are about €75 million, with approximately €55 million invested in the period 2000-2003<sup>2</sup>.

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<sup>2</sup> Source: ProMonte GSM, Podgorica



Chart II. 8. FDI through privatization (in €1,000)



A significant further flow of foreign capital is expected through the privatizations of the big national companies, Aluminium Plant and Telecom Montenegro. However, there are still many things to be done in order to eliminate barriers to foreign investments and to insure the success of the process and further develop other foreign capital inflow channels<sup>3</sup> through institutional building, further activities to insure full protection of property rights and development of economic freedom.

Statistics related to FDI.

Table II. 9. Foreign Direct Investments in Montenegro – by countries 2002-2004 (US\$ thousand)

	2002	2003	2004 Jan-Aug	Total
Australia	-	261.81	-	261.80
Austria	1,718.05	2,145.57	2,301.28	6,164.91
Belgium	996.49	495.53	-	1,492.02
FYR Macedonia	-	80.87	-	80.87
Bosnia and Herzegovina	-	1,360.88	63.84	1,424.73
Virgin Islands	-	235.53	0.00	235.53
Estonia	-	309.01	284.13	593.13
France	-	41.42	95.35	136.77
Greece	14,466.70	55.29	216.85	14,738.8
Netherlands	27.95	1,301.07	-	1,329.02
Hong Kong	-	72.77	-	72.78
Croatia	0.88	102.75	72.85	176.48
Ireland	-	-	183.62	183.62
Israel	667.08	-	371.46	1,038.54
Italy	88.82	84.70	-	173.52
Japan	-	776.60	1,380.18	2,156.78

<sup>3</sup> Source: Survey on Business Environment, August 2003, CEED. Two hundred and two managers and directors of Montenegrin companies were asked to evaluate what were the biggest barriers for foreign investment.

	2002	2003	2004 Jan-Aug	Total
Canada	-	33.76	140.65	174.402
Cyprus	62.47	2,151.80	1,801.76	4,016.03
Lesotho	-	-	18.20	18.19
Latvia	-	248.07	3,468.41	3,716.48
Liechtenstein	-	-	241.371	241.37
Lebanon	-	662.73	-	662.73
Lithuania	-	-	357.84	357.84
Luxembourg	-	831.92	-	831.92
Hungary	-	-	2,877.06	2,877.06
Germany	20,117.546	6,173.94	3,889.26	30,180.75
Norway	-	96.52	-	96.53
Panama	-	-	1,608.68	1,608.68
Russian Federation	17.60	269.31	798.94	1,085.85
USA	526.49	265.48	563.82	1,355.79
Slovakia	-	-	121.38	121.38
Slovenia	3,417.43	15,159.61	16,440.79	35,017.83
Serbia	492.00	684.05	270.69	1,446.74
Switzerland	1,052.35	8,641.65	5,781.49	15,475.49
Sweden	-	80.75	13.57	94.32
Denmark	-	-	62.69	62.69
United Kingdom	28,343.96	7,866.68	502.86	36,713.50
Other	9.62	21.45	-	31.067
TOTAL	73,855.44	50,511.27	43,687.63	166,445.93

Source: The Central Bank of Montenegro statistics of foreign payment operations

Composition of foreign direct investment.

Table II.10. Composition of foreign direct investments in Montenegro  
by countries in 2002 (US\$ thousand)

	Production	Services	Financial Organizations
Austria	1,674,011	-	44.04
Belgium	-	996.49	-
Greece	-	14,466.70	-
Netherlands	-	-	27.95
Croatia	-	0.88	-
Italy	-	-	88.82
Cyprus	6.04	56.43	-
Germany	827.66	16,583.31	2,706.58
Russian Federation	-	17.60	-
USA	-	499.91	26.59
Slovenia	-	3,192.12	225.32
Serbia	5.00	132.00	355.00
Switzerland	800.00	252.35	-
Denmark	-	1,850.00	-
United Kingdom	-	28,343.96	-
Israel	-	667.08	-
Other	-	9.62	-
TOTAL	3,312.716	67,068.43	3,474.30

Source: The Central Bank of Montenegro statistics of foreign payment operations

Table II. 11. Composition of foreign direct investments in Montenegro  
by countries in 2003 (US\$ thousand)

	Production	Services	Real estate	Financial Organizations
Australia	-	-	261.81	-
Austria	1,328.11	817.47	-	-
Belgium	-	-	495.53	-
FYR Macedonia	-	-	80.87	-
Bosnia and Herzegovina	-	1,270.08	90.80	-
Virgin Islands	-	235.53	-	-
Estonia	-	39.66	269.35	-
France	-	16.37	25.04	-
Greece	-	-	55.29	-
Netherlands	-	-	58.46	1,242.60
Hong Kong	-	-	72.77	-
Croatia	-	35.90	66.85	-
Italy	-	2.42	82.28	-
Japan	776.60	-	-	-
Canada	-	-	33.76	-
Cyprus	-	1,737.37	414.43	-
Latvia	-	-	248.07	-
Lebanon	-	626.09	36.65	-
Luxembourg	-	831.92	-	-
Hungary	-	-	-	-
Germany	193.84	3,908.37	865.57	1,206.16
Norway	-	96.52	-	-
Russian Federation	-	186.92	82.39	-
USA	-	-	265.47	-
Slovenia	-	4,886.90	458.13	9,814.58
Serbia	51.89	34.882	597.27	-
Switzerland	99.89	7,138.03	1,403.74	-
Sweden	-	-	80.75	-
United Kingdom	-	6,133.22	30.04	1,703.43
Other	5.68	15.53	-	0.24
TOTAL	2,456.01	28,013.17	6,075.08	13,967.01

Source: The Central Bank of Montenegro statistics of foreign payment operations

Table II. 12. Composition of foreign direct investments in Montenegro  
by countries for January - August 2004 (US\$ thousand)

	Production	Services	Real estate	Financial Organizations
Australia	-	-	-	-
Austria	-	2,301.28	-	-
Belgium	-	-	-	-
FRY Macedonia	-	-	-	-
Bosnia and Herzegovina	-	-	63.84	-
Virgin Islands	-	-	-	-
Estonia	-	145.58	138.54	-
France	-	95.35	-	-
Greece	-	31.06	185.79	-
Netherlands	-	-	-	-
Hong Kong	-	-	-	-

	Production	Services	Real estate	Financial Organizations
Croatia	-	-	72.85	-
Ireland	-	183.62		
Israel		371.46		
Italy	-	-	-	-
Japan	1,380.18	-	-	-
Canada	-	-	140.65	-
Cyprus	-	230.03	1,571.72	-
Latvia	-	3,468.41	-	-
Lebanon	-	-	-	-
Luxembourg	-	-	-	-
Hungary	-	2,507.01	370.05	-
Germany	-	3,542.81	346.45	-
Norway	-	-	-	-
Panama		1,485.09	123.59	
Russian Federation	-	798.94	-	-
USA	242.20		252.55	69.07
Slovakia			121.38	
Slovenia	5.12	15,133.77	-	1,301.90
Serbia	211.91	20.78	38.00	-
Switzerland	-	5,450.59	330.90	-
Sweden		-	13.57	-
United Kingdom	-	135.69	367.18	-
Lithuania			357.84	
Lesotho		18.20		
Denmark			62.69	
Liechtenstein		241.37		
TOTAL	1,839.41	36,161.02	4,557.60	1,370.971

Source: The Central Bank of Montenegro statistics of foreign payment operations

**5. Information on financial movements related to nationals working abroad, remittances, etc.**

No information is available on this subject.

**6. Information on growth in trade in goods and services over recent years and forecasts for years to come**

Please see Section II. 3. for details on data about foreign trade in goods and services.

**III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES AFFECTING FOREIGN TRADE IN GOODS AND TRADE IN SERVICES**

**1. Powers of executive, legislative and judicial branches of government**

**A. Serbia and Montenegro**

The State Union of Serbia and Montenegro was formed on 14 March 2002 by the mutual consent of the two constituent member states: the Republic of Serbia and Republic of Montenegro.

On 4 February 2003, the Federal Parliament adopted the Constitutional Charter of the State Union Serbia and Montenegro (SCG OG No. 1/03). This is the date of establishment of the State Union Serbia and Montenegro, which is the legal successor of the Federal Republic of Yugoslavia.

The powers of the State Union, as defined by the Constitutional Charter, are much more limited than those of the Federal Republic of Yugoslavia. The Union has no responsibility for foreign trade or other WTO-relevant matters other than those related to standardization, intellectual property, measures and precious metals and statistics (Article 19 of the Constitutional Charter). The executive authority in the Union is further divided between the President of the Serbia and Montenegro, who is also president of the Council of Ministers, which serves as the state union government.

Economic relations in Serbia and Montenegro are based on a market economy that rests on free entrepreneurship, competition, liberal foreign trade policies and the protection of property rights.

The State Union of Serbia and Montenegro is a single subject under international law and is a member of international, global and regional organizations, the membership of which requires international personality. The member states may become members of international organizations for which membership does not require international personality.

The State Union is responsible for international relations with other states and international organizations, and concludes international treaties and agreements. The member states may maintain international relations, conclude international agreements and establish missions in other states as long as this is not contrary to the powers of the State Union or the interests of the other member state.

Ratified international agreements and generally accepted rules of international law take precedence over the law of Serbia and Montenegro and of the member states, according to Article 16 of the Constitutional Charter (Rule on Supremacy of International Law).

Three years after the establishment of the State Union, the member states have the right to hold a referendum on withdrawal from the State Union (2006). If Montenegro withdraws from the State Union, Serbia would be considered the successor state to the Federal Republic of Yugoslavia, and international documents, particularly United Nations Security Council Resolution No. 1244, would be applied to it. If both member states were to declare in favour of independence, all outstanding issues would be resolved in the succession procedure, in a same manner as it was with the former Socialist Federal Republic of Yugoslavia (Article 60 of the Constitutional Charter).

- Powers of the Executive

- The President of Serbia and Montenegro.

The President of Serbia and Montenegro is the Head of the State Union. The competencies of the President include:

- Representing Serbia and Montenegro at home and abroad;
- Chairing the Council of Ministers and managing its activities;
- Nominating candidates for the Council of Ministers;
- Membership in the Supreme Defence Council;
- Appointing and recalling heads of diplomatic and consular missions of Serbia and Montenegro;
- Conferring medals and other awards;
- Promulgating laws and other regulations passed by the State Union Parliament and the Council of Ministers; and
- Calling elections for the State Union Parliament.

The President is elected indirectly by the State Union Parliament on the proposal of the Chairman and Deputy Chairman of the Parliament. The President of the State Union and the Chairman of the Union Parliament may not be from the same member state.

If the Court of Serbia and Montenegro finds that the President violated the Constitutional Charter, the Parliament of Serbia and Montenegro may dismiss him.

- The Council of Ministers

The Council of Ministers of Serbia and Montenegro is the main executive power at the State Union level, and is elected by and responsible to the State Union Parliament. The Council is elected for a four-year term.

The competences of the Council of Ministers include:

- Setting and implementing the policy of Serbia and Montenegro in line with the common policy and interests of the member states;
- Coordination of the work of the Union Ministries;
- Proposing to the Parliament of Serbia and Montenegro laws and other acts;
- Appointing and recalling heads of diplomatic and consular missions of Serbia and Montenegro and other officials; and
- Introducing by-laws necessary for the implementation of laws.

The Council of Minister consists of the President of the Council (who is also the President of the State Union) and five ministers. Two of the ministers come from the same member state as the President, while the other three of them must be from the other member state. As a rule, both the Minister for Foreign Affairs and the Minister for Defence may not be from the same member state. The same rule is applied to their deputies.

- Powers of the Legislature

Legislative power is exercised by the State Union Parliament, which is made up of 91 deputies from Serbia and 35 deputies from Montenegro, appointed from the member states parliaments for a four-year term. The Constitutional Charter prescribes that two years after the enactment of the Constitutional Charter the members of the State Union parliament are to be elected directly on parliamentary elections organized in the two member states (political dialogue on adjustment of dates for referendum is underway). As a rule, both the President and the Vice President of the State Union Parliament may not be from the same member state.

The competences of the Parliament of Serbia and Montenegro are in Article 19 of the Constitutional Charter. The Parliament of Serbia and Montenegro is entitled to enact laws and other acts on:

- Institutions established in accordance with the Constitutional Charter and their operation;
- Implementation of international law and conventions establishing the obligation of cooperation between Serbia and Montenegro and international courts;
- Declarations of war and peace, with prior consent of the member states assemblies;
- Military and defence matters;
- Membership of Serbia and Montenegro, as an international legal subject, in international organizations, and the rights and obligations stemming from that membership, with prior consent of relevant bodies of the member states;
- Alterations of the frontiers of Serbia and Montenegro, with prior consent of the assembly of a member state on whose territory the border extends;
- Issues related to standardization, intellectual property, measurements, precious metals and statistics;
- Policy of immigration and asylum, visa system and integrated border management in accordance with the standards of the European Union;
- Ratification of international treaties and agreements of Serbia and Montenegro;

- Annual revenue and expenditures necessary for funding of the activities of the State Union, at the proposal of relevant bodies of the member states and the Council of Ministers;
  - Prevention and removal of obstacles to the free flow of goods, services, persons and capital within Serbia and Montenegro;
  - Election of the President and the Council of Ministers of Serbia and Montenegro; and
  - The flag, anthem and the coat-of-arms of Serbia and Montenegro.
- Powers of the Judiciary

The Court of Serbia and Montenegro is composed of an equal number of judges from each member state, who are elected and dismissed by the State Union Parliament upon the nomination of the Council of Ministers for six years term. Candidates for judges have to have at least 15 years of professional experience and they may not hold any other public office or engage in any other professional activity.

In accordance with Article 46 of the Constitutional Charter and Article 34 of the Law on Court of Serbia and Montenegro (SCG OG No. 26/03), the Court of Serbia and Montenegro has jurisdiction to:

- settle disputes as may arise between institutions of Serbia and Montenegro over matters related to their competences under the Constitutional Charter;
- settle disputes as may arise between Serbia and Montenegro and one or both member states or between the two member states over matters related to their competences;
- rule on claims of citizens if no other recourse has been provided for in case that the institutions of Serbia and Montenegro have violated their rights or freedoms guaranteed by the Constitutional Charter;
- rule on whether the constitutions of the member states are in conformity with the Constitutional Charter;
- rule on whether the laws of Serbia and Montenegro are in conformity with the Constitutional Charter;
- rule on whether the laws of the member states are in conformity with the legislation of Serbia and Montenegro; and
- rule on the legality of final administrative acts of the institutions of Serbia and Montenegro.

The Court of Serbia and Montenegro may abolish laws, regulations and other legal acts of the institutions of the State Union that are contrary to the Constitutional Charter and the laws of the State Union. The rulings of the Court are final and binding and cannot be appealed (Article 48 of the Constitutional Charter). The Court of Serbia and Montenegro within its competencies provides for an additional mechanism for maintenance of unified application of international agreements. Moreover, transparency and due process provisions have always been general constitutional principles in both member states.

According to the Article 46 of the Constitutional Charter and Article 34 of the Law on the Court of Serbia and Montenegro, the Court may rule on whether:

- the constitutions of the members states are in conformity with the Constitutional Charter (and the rule on supremacy of international law, including ratified WTO agreements);
- the laws of the State Union are in conformity with the Constitutional Charter (and the rule on supremacy of international law, including ratified WTO agreements); and
- the laws of the member states are in conformity with the legislation of the State Union (and the rule on supremacy of international law, including the ratified WTO agreements).

B. The Republic of Montenegro

Authority in the Republic of Montenegro is divided among:

- the President, representing Republic at home and abroad;
  - the Government, which is headed by the Prime Minister and has executive authority;
  - the Assembly, which has constitutional and legislative authority; and
  - the Judiciary (Supreme Court of Montenegro, Administrative Court, Appellate Court, courts of general jurisdiction, and commercial courts).
- Powers of the Executive
- The President of the Republic of Montenegro

Citizens directly elect the President for a five-year term. The same person may be elected twice. The Assembly may dismiss the President, in the procedure initiated by the Assembly itself, provided that the Constitutional Court establishes a violation of the Constitution by the President.

The President nominates the Prime Minister who is elected by the Assembly. The Assembly will be dissolved if it fails to confirm a nomination of Prime Minister and Government within 60 days. The Assembly is dissolved by the mere fact that the term has elapsed. The President declares this fact by a decree.

The President:

- Represents the Republic in the State Union of Serbia and Montenegro and abroad;
  - Calls for parliamentary elections;
  - Nominates the candidates for the posts of Prime Minister, and the President and the justices of the RM Constitutional Court;
  - Proposes scheduling of referendum to the Assembly; and
  - Promulgates Republic laws by decree within seven days after their enactment by the Assembly. The President may also request that the Assembly reconsider enacted laws, but a law that has been approved twice by the Assembly must be promulgated.
- The Republic Government

The Government consists of the Prime Minister, one or more Vice Prime Ministers and the ministers. The Government is elected if the Assembly accepts the program presented by the nominee for Prime Minister. If the program of the Prime Minister nominee is not accepted, the President nominates a new candidate. A member of the Government may not be a member of the Assembly, perform any other public function, or be professionally committed to any other activity.

The Government:

- Establishes and carries out internal and foreign policy;
- Proposes and enforces laws and legal acts;
- Enacts decrees and other legal acts for enforcement of laws;
- Concludes international agreements within the competence of the Republic;
- Proposes the development plan, budget plan and the annual balance sheet;
- Determines organization and manner of work in the state administration;
- Rules by decree if the Assembly cannot meet, during a state of war or state of emergency; and
- Supervises the work of the ministries and other administrative authorities.



The resignation of the Prime Minister is considered to be the resignation of the Government. The Assembly, on the proposal of the Prime Minister, may dismiss a Member of the Government.

The Government itself, or at least ten deputies may initiate a vote of confidence procedure in the Assembly. The assembly decides by majority vote of all deputies. If the motion is accepted, the Government must resign. If the motion is not accepted, another vote of confidence on the same issue may not be taken for 90 days thereafter.

- Powers of the Legislature

Deputies are elected directly, with one deputy elected for every 6,000 voters. A deputy has immunity and may not be called to account for votes or statements made in the Assembly. Neither criminal nor other charges can be brought against a deputy without the approval of the Assembly. A deputy may not be detained without the approval of the Assembly unless convicted of a crime for which a sentence of more than five-year of imprisonment is designated. The President of the Republic, members of the Government, judges, judges of the RM Constitutional Court and the state prosecutor enjoy the same extent of immunity.

The assembly elects the president and one or more vice presidents of the Assembly from the ranks of deputies for the four-year term. The President of the Assembly calls for the presidential election.

The Assembly:

- Enacts the Constitution, laws and legal acts;
- Elects and dismisses the President and Vice President of the Assembly from within its own members;
- Elects the Prime Minister, ministers, the justices and presidents of the RM Constitutional Court, Supreme Court and other courts, the Republic Public Prosecutor and public prosecutors, and other officials;
- Enacts the budget and annual balance sheet;
- Enacts the area zoning plan of RM; and
- Ratifies international treaties under the competence of the Republic.

The Assembly sits in regular session twice a year (in March and October), and in extraordinary session at the request of not less than one third of all the deputies or at the request of the President or the Prime Minister.

- Powers of the Judiciary

Judicial authority is independent and belongs to the courts, whereas constitutional and legislative protection, in compliance with the RM Constitution, belongs to the RM Constitutional Court. Laws and other general acts and regulations must be in compliance with the Constitution. When the Constitutional Court determines that a law or other legal act is not in compliance with the Constitution, such act or some of its provisions cease to be effective on the day when the Constitutional Court passes the decision.

The organization of Courts in Montenegro is as follows:

- The Supreme Court of Montenegro is the highest court;
- The Administrative Court rules on legality of administrative acts and on extraordinary legal remedies in the offence procedure;
- The Appellate Court rules in appeal procedure on decisions issued by the Higher Courts in first instance and on decisions issued by the Commercial Courts;

- The Basic Courts and Higher Courts<sup>4</sup> are the courts of general jurisdiction; and
- The Commercial Courts.

Montenegro has Judicial Council, consisting of the President and ten members, five of whom are elected by the Assembly. The President of the Supreme Court is the president of the Judicial Council. The Assembly nominates member of the council as follows: six from the rank of judges, two from the rank of Law Faculty professors, and two from the rank of eminent legal experts. The competences of the Judicial Council are to propose nomination or dismissal of judges and assistant judges, to initiate procedure for assessment of a judge's responsibility, to determine the number of judges for each court, and to submit proposals to the Government, concerning the special division of the budget according to the needs of courts.

## **2. Government entities responsible for making and implementing policies affecting foreign trade**

In accordance with the Constitutional Charter, Montenegro is responsible for its own foreign trade policy. This has been confirmed recently by amendments to the Law on the Action Plan (RM OG No. 1/05), which deleted requirements to harmonize tariffs, trade and tax policy between Serbia and Montenegro and which were adopted in the Assembly of RM 28 December 2004. At the State Union level, the Ministry of Internal Economic Relations is responsible for enacting substantive law with respect to standardization, measures and precious metals, and intellectual property. Within that Ministry are the Accreditation Body of Serbia and Montenegro, the Institution for Standardization, the Bureau for Intellectual Property and the Bureau for Measures and Precious Metals.

However, the enforcement and administration of laws enacted at the Union level, including all those relevant to WTO, is the responsibility of the member states.

The Union Minister for International Economic Relations is responsible for negotiating and coordinating the implementation of international treaties, including treaty relations with the European Union and the coordination of relations with international economic and financial institutions, following consultations with competent ministers of the member states.

Under the Constitutional Charter, Montenegro is responsible for all WTO-relevant issues except the areas noted above that are reserved to the State Union. Under Article 81 of the Constitution of the Republic of Montenegro and Article 15 of the Constitutional Charter, the Parliament of Montenegro may ratify international agreements that are not contrary to the competencies of the State Union or the interests of the other Member State.

Article 11 of the Constitutional Charter empowers the State Union to coordinate and harmonize the economic systems of the two member states, and Article 12 of the Constitutional Charter provides for establishment of a common market within the State Union.

In pursuit of these goals, the two member states enacted the Law on Action Plan. The Action Plan deals in detail with harmonization of the economic systems of the member states. However, as a result of recent amendments, the requirement to harmonize tariff, trade policy and tax policy between the two member states has been deleted. Montenegro and Serbia continue to maintain entirely separate customs territories and to act independently with respect to tariff and trade policy, as well as sector policies and other related economic topics.

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<sup>4</sup> Basic Courts and Higher Courts in RM have the same jurisdiction and organization as the Municipal and District courts in RS. Please see further details in section III.6.

In order to better coordinate the work of the two customs administration, a Customs Commission has been established under the Annex 4 of the Action Plan. The Office of Customs Administration of Serbia and Customs Administration of Montenegro is concerned principally with coordination and control of matters related to the issuance of certificates of origin in Serbia and Montenegro.

In order to fulfil the goals defined in the Action Plan regarding simplified customs procedures between Serbia and Montenegro, the Government of Montenegro has passed the Decree on the Procedure with Goods and Passengers at the Border Between Montenegro and Serbia (RM OG No. 26/03, 81/03) and the Government of Serbia has passed the Decree on the Procedure Governing Goods Traffic with the Republic of Montenegro (RS OG No. 130/03). The two Customs Administrations have also concluded the Agreement on Customs Cooperation and Mutual Assistance (Annex 3 of the Action Plan) in order to simplify customs formalities and speed up goods traffic. All these documents are integrated in the Action Plan as its annexes.

By developing "twin track" model, the custom policies will be conducted at the member states level, while the international standards and procedures (EUR1) will be introduced in the area of issuance and control of certificates on origin.

Harmonization of the taxation systems of Serbia and Montenegro was also a goal of the Action Plan, and certain measures have been adopted in both states to simplify administration of these taxes with respect to trade between the two states. However, Montenegro and Serbia maintain and administer separate tax systems, for which each has sole responsibility, and there is no current intent to harmonize or integrate these systems.

### **3. Division of authority between central and sub-central governments**

With respect to the division of authority between the State Union and the member states, please see Section III.1.

The Law on Local Self-Government (RM OG No. 42/03, 28/04) prescribes competences of the local governments which are mainly limited to internal issues, but in certain aspects may have impact on international trade. Local government is in charge of drafting development plans; construction land usage plans; space and zoning plans; and environmental development programs. Also, the local self-government provides conditions for utility activities to be performed; for development of entrepreneurship and for usage of business premises. It prescribes also conditions for construction of buildings and usage of facilities; conditions for liner transport on its territory; conditions for providing taxi transport services. Local governments control all these activities through their inspection services.

### **4. Legislative programmes or plans to change the regulatory regime**

The Montenegrin legal regime is undergoing transition. Modernization of the legal regime is being implemented in a number of areas including commercial law, labour, finance, power, telecommunications, and the court system. Montenegro has already enacted laws to ensure conformity with the WTO agreements in several areas which include: freedom to engage in international trade; customs (including valuation and rules of origin); anti-dumping, countervailing duty and safeguard measures; and public procurement. In addition, plans to enact other laws necessary for the WTO accession are well advanced. At the State Union level, five TRIPS-compliant laws governing all aspects of intellectual property protection and TBT-compliant laws covering technical regulations and voluntary standards are expected to be enacted in the first quarter of 2005. Legislation necessary to enforce these laws will be enacted by Montenegro. Montenegro is also in the process of drafting several SPS-compliant laws incorporating various sanitary and phytosanitary measures.

All new laws relevant to the WTO agreements will be provided to the Working Party when available.

## **5. Laws and Legal Acts**

The list of laws and legal acts related to trade in goods and services is provided in Annex 2 of document WT/ACC/CGR/3/Add.1.

## **6. Description of judicial, arbitral or administrative tribunals or procedures**

### **- General**

Montenegrin courts are either courts of general jurisdiction or commercial courts. Proceedings in both are similar. The organization of courts is regulated by the Law on Courts (RM OG No.5/02, 49/04).<sup>5</sup>

The courts of general jurisdiction in Montenegro include 15 Basic Courts, two Higher Courts, the Appellate Court and the Supreme Court of Montenegro. According to the Law on Courts there is also one Administrative Court in Montenegro.

The Basic Courts' jurisdiction is limited to the territory of one or several municipalities. Their primary jurisdiction is civil law cases involving natural persons and not arising from commercial activity. In some instances, legal persons may also fall within the jurisdiction of these courts if the dispute does not arise from commercial activity. Basic Courts are also the courts of first instance in certain criminal cases (for criminal offences penalized with the imprisonment up to ten years).

The Higher Courts have original jurisdiction over cases involving infringement of intellectual property rights (where at least one party is a natural person) and in some criminal cases (penalized with the ten and more years of imprisonment). They are also courts of appellate jurisdiction with respect to decisions of the Basic Courts under their jurisdiction.

The Commercial Courts have original jurisdiction over disputes arising from commercial activity, including those arising from commercial aspects of intellectual property. Their jurisdiction extends to both legal and natural persons engaged in commercial activities. There are two Commercial Courts, whose jurisdiction, under the Law on Courts, is limited to a designated territory.

The Appellate Court of Montenegro is the court of appellate jurisdiction over the higher courts acting as courts of first instance, and over the commercial courts.

The Administrative Court of Montenegro is the court of appellate jurisdiction for all administrative decisions. It decides also upon extraordinary legal remedies in the offence procedure.

The Supreme Court of Montenegro has appellate jurisdiction only. It decides as the third instance authority in certain cases. The decisions of a Higher Court, acting as a court of first instance, may be appealed to the Supreme Court of Montenegro. Under certain circumstances, an extraordinary legal remedy, known as a "revision," in a case heard first in a Basic Court or Commercial Court and subsequently appealed to a Higher Court or the Supreme Court of Montenegro, may be filed in the Supreme Court of Montenegro.

Military courts were abolished by the Constitutional Charter and their cases are now heard by the courts of general jurisdiction in Montenegro.

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<sup>5</sup> Official Gazette of the Republic of Montenegro, edition/year.

- Judicial Procedures

Foreign legal and natural persons, regardless of nationality, may pursue claims in the court system of Montenegro in the same way and to the same extent as domestic persons.

Depending of the size (value of the claim) of the dispute, a case may be decided by a single judge or by a panel of one judge and two jurors. The parties to a contract may agree that any court (commercial or of general jurisdiction depending on the situation) in the territory of Montenegro will settle disputes. In the absence of such an agreement, the jurisdiction will be determined according to the residence of the defendant.

The parties may agree to settle a dispute at any time prior to the court's decision. In such an event, the court will record the terms of the settlement and dismiss the case. Such a settlement has the force of the court's judgment, and can be enforced accordingly.

When initiating an action, the plaintiff must show grounds for the claim. After a procedure in which both plaintiff and defendant present their evidence and the representatives of both parties are heard, the Court concludes the proceedings. The Court will render the judgment in writing, mailing its copy to each of the parties involved. The Law on Civil Procedures (RM OG No. 22/04) prescribes that the verdict of the Court should be written and sent to the parties within 30 days from the day the proceedings were concluded. As a date of reaching a verdict it is usually considered the day when the verdict is rendered in writing.

The filing of an appeal suspends a judgment until the appeal is considered and decided. A panel of three judges reviews the case, without hearings, deciding the appeal upon the evidence in the case files.

The appellate court may either confirm the judgment, in which case it becomes final and enforceable, or annul the judgment and order the court of first instance to hear the case again under stated conditions. The appellate court may also decide the case itself, but in practice this does not happen often. In such a case the decision of the appellate court is final.

In certain limited circumstances, an appeal for revision as an extraordinary legal remedy may be filed with the Supreme Court of the Republic. If a revision is granted, the Supreme Court may annul part of or the entire judgments of the courts of first and second instance. In such a case, the Supreme Court may decide the case itself, making the judgment final or annul all previous judgments and order the court of first instance to hear the case again. The effect is to set aside all previous proceedings and so the case starts again from the beginning.

The Law on Civil Procedures regulates the proceedings before the court. If at least one party is a foreign person and the contract between the parties so stipulates, foreign substantive law may be applied in proceedings before the Commercial Court.

- Arbitral Procedures

The parties to a contract may agree that disputes will be settled by arbitration, and may choose any arbitral tribunal, including foreign ones.

The Chamber of Commerce of Montenegro take over the responsibilities of the Former Yugoslav Chamber of Commerce and Industry in area of the foreign trade arbitration. Since the Montenegrin Chamber of Commerce is not capable at the moment for such activity, it reached agreement with the Chamber of Commerce of the Republic of Serbia to perform such procedures for them, when needed. The Serbian Chamber of Commerce applies old rules of the former Foreign Trade Court of

Arbitration of the Yugoslav Chamber of Commerce. Generally, if both parties are Montenegrin entities, and where the parties have so agreed, the Court Of Arbitration at the Serbian Chamber of Commerce, will hear the case. Although parties may choose any other arbitral tribunal, it does not happen often and most disputes are settled before commercial courts.

The parties may agree that the arbitration will be conducted under the UNCITRAL Rules; in the absence of such an agreement, the Rules of the Foreign Trade Court of Arbitration shall apply. If the Rules do not contain a relevant provision, the provisions of the Law of Civil Procedures shall apply if they are in conformity with the competencies and principles of the arbitral proceedings.

Under its rules, the Foreign Trade Court of Arbitration will apply substantive law as stipulated by the parties. In the absence of such a stipulation, the Court of Arbitration will apply laws and rules that it deems to be the most appropriate choice of law.

The arbitrators must in all cases make the award in conformity with the provisions of the contract, and must consider trade usages that may be applicable to the transaction. The award may be made *ex aequo et bono* only if the parties have so agreed.

The arbitrators may be domestic or foreign nationals, selected from a Panel of Arbitrators drawn up by the Assembly of the Chamber of Commerce and Industry. A dispute will be settled by a sole arbitrator when the parties have so agreed or, in the absence of an agreement, when the sum in dispute is below US\$70,000. In all other cases, and especially when the parties have so agreed, the arbitral tribunal will consist of three members.

Hearings are held in the seat of the Arbitration, but upon the request of the parties may be held at another location. Arbitral proceedings are normally conducted in Serbian, but parties may agree that proceedings are to be conducted in another language, provided that the additional costs are paid.

If the parties reach a settlement before arbitrators make a decision, the settlement will be recorded in the form of an arbitral award, without reasons. Such a settlement has the force of an arbitral award.

The Law on Enforcement (RM OG No. 23/04) regulates the enforcement of an award of the foreign court not specifying whether the regular court or arbitral award. The enforcement of a foreign court award, recognized in accordance with international agreement or national law, may be ordered in the same manner as the enforcement of an award of the national court or arbitral tribunal.

- Administrative Procedures

The Law on Administrative Procedures (RM OG No. 60/03) and the Law on Administrative Disputes (RM OG No. 60/03) regulate the settlement of disputes over the decision of a governmental office or official.

An administrative decision must be appealed first to a higher rank official of the office concerned. If the original decision is confirmed, the dissatisfied party may challenge the decision in an appeal to a court. The competent court in Montenegro is the Administrative Court.

In case of a decision of a State Union agency, the competent court of appellate jurisdiction is the Court of Serbia and Montenegro. A panel of three judges will decide the case without hearings. The court may rule on "request for assessment of the legality of the administrative act" for second instance administrative decision, first instance decisions that may not be appealed in the administrative procedure and in cases when the competent authority didn't take action in the administrative procedure within the prescribed period of time ("silence of administration"). The decision of the Court is final and is binding on the agency making the original decision.

#### **IV. POLICIES AFFECTING TRADE IN GOODS**

##### **1. Import Regulation**

###### **(a) Registration requirements for engaging in importing**

The Foreign Trade Law (RM OG No. 28/04) prescribes that all persons may conduct foreign trade activities in accordance with their legal and commercial capacities, and in accordance with relevant legislation regulating commercial activities. According to Article 11 of the Foreign Trade Law, any person may import or export goods subject to their status under relevant legislation. Therefore, any person may import or export following items (list is not exclusive):

- goods intended for sale, inward or outward processing, or any other commercial transaction, subject to legislation that regulates commercial activities;
- goods intended for own use of legal entities, personal or family use; and
- goods necessary to perform professional activities (entrepreneurs, farmers and natural persons conducting professional activities or providing services).

In order to be engaged in foreign trade, a firm must be registered at the Central Register of the Commercial Court, must obtain the "statistical" number from the Montenegrin Bureau of Statistics, and register with the customs payers register in order to obtain customs number. The registration process is automatic, subject to submission of application. The Customs Administration imposes no additional requirements with regard to registration of firms intending to engage in import or export.

The company registration process has been significantly simplified by the Law on Business Entities (RM OG No. 6/02), which has helped Montenegro to become a leading country in the region. The Law on Business Entities prescribes that a business entity will be deemed registered unless the Central Register of Commercial Court, which is in charge for registration, rejects the registration documentation within four days. Minimal capital for establishment of a joint-stock company is €25,000 while for the limited liability companies the amount is €1. The fees for registration paid to the Central Register are €50 for joint stock companies and €10 for entrepreneurship, partnership, limited liability company and limited partnership. For registration of notification on registration continuation, a €1 fee is to be paid, and, in case of registration expiry, a fee of €100 is to be paid for registration of notification.

According to the Law on Production and Circulation of Narcotics (FRY OG No. 46/96, 37/02), in order to be engaged in import and export of psychotropic substances, legal entities have to be registered for the production and circulation of psychotropic substances. Legal entities registered for wholesale production of medicines may import and export medicines containing psychotropic substances.

The Law on Production and Circulation of Poisonous Substances (FRY OG 15/95, 28/96, 37/02), prescribes that legal entities and entrepreneurs must register with the Ministry of Health in order to import, export, sell or store poisonous substances.

The Law on Medicines (RM OG No. 80/04) prescribes that only legal persons with a seat at the territory of Montenegro, which have licence issued by the responsible administrative authority may be involved in circulation of medicines. Circulation in the scope of this Law, includes import and export.

Carriers of poisonous substances must register with the Ministry of Transportation.

The Law on Plant Protection (FRY OG No. 24/98, 26/98) prescribes that only legal persons may import pesticides.

The Law on Tobacco (RM OG No. 80/04) prescribes that importers, exporters and entities engaged in transit of tobacco and tobacco products have to be registered within the administrative authority competent for tobacco.

**(b) Characteristics of national tariff**

The customs tariffs of Serbia and Montenegro have been largely harmonized between the member states, and 93 per cent of harmonized tariff rates are applied as of 15 August 2003. Montenegro passed the Decree on Customs Tariff (RM OG No. 47/03) in which harmonized rates are applied. The remaining harmonized tariff rates will be applied after 18 months or 24 months from the date the Action Plan entered into force.

Customs tariffs for 56 tariff lines of agricultural products designated as strategic goods for Montenegro are initially planned to be harmonized within three years from the date of the adoption of the Law on the Action Plan. This period may be extended for an additional two years.

However, recent amendments to the Law on the Action Plan deleted requirements to harmonize tariffs, trade and tax policy between Serbia and Montenegro. It is not clear at this point whether the harmonized tariff regime will be maintained.

Montenegrin tariff nomenclature is based on the Harmonized System (HS) 96 at the moment. There are 8,554 tariff lines at the 10-digit level. All rates are *ad valorem* ranging from 0 per cent to 30 per cent. There are 13 *ad valorem* tariff brackets (please see Table IV.1).

Table IV.1 – Breakdown of Imports by Tariff Rates

Customs Duty Rate	Number of Tariff Lines	Percentage of Total
0 %	175	2.04
1 %	3,253	38.02
3 %	684	7.99
5 %	1,555	18.17
7 %	85	0.99
8 %	289	3.37
10 %	1,317	15.39
12 %	17	0.19
15 %	288	3.36
18 %	246	2.87
20 %	242	2.82
22 %	224	2.61
25 %	41	0.47
30 %	138	1.61
Total	8,554	100

The Ministry of Finance of the Republic of Montenegro in cooperation with EU (CAFAO) has started work on a new customs tariff nomenclature based on HS 2004. It is expected that the new Law will enter the Parliament in early 2005.

**(c) Tariff quotas, tariff exemptions**

The Republic of Montenegro does not apply any tariff rate quotas except those provided under Free Trade Agreements. Please see Section VII for details on tariff quotas applied under the FTA's.

Article 184 of the Customs Law (RM OG No.7/02, 38/02, 72/02, 21/03, 31/03), which became effective 1 April 2003, provides for exemption from import duties:



- For goods specified by an international agreement that is binding on the Republic of Montenegro;
- For goods of non-commercial nature that are brought in by travellers from abroad and are of prescribed kind, value and quantity;
- For goods forwarded by natural persons from abroad to natural persons in the Republic of Montenegro free of charge, provided that these consignments are not of a commercial nature and comply to the prescribed type, quantity and value;
- For medals and awards obtained at the international events, and presents received in respect of international relations;
- For goods satisfying basic human necessities, such as food, medications, clothes, bed linen, toiletries and similar, which are imported by registered humanitarian organizations for distribution free of charge to endangered categories of people and victims of natural and other catastrophes;
- For humanitarian organizations, associations of blind and deaf or hearing-impaired persons, persons suffering from muscular or neuromuscular disorders and their members importing specific equipment, devices and instruments, spare parts and disposable material for the needs of those persons; and
- For trademarks, patents, designs, and supporting documents, application forms for patent registration or innovations which are sent to organizations in charge for copyright and industrial rights protection;
- For the following items:
  - application forms and documents which are received by the state authorities for the purpose of performing activities for which they are competent;
  - items representing evidence in court or other proceedings before state authorities;
  - printed material released within the framework of standard exchange of information between public services or bank institutions;
  - securities;
  - designs, technical drawings, models, descriptions and other similar documents which are imported for the purpose of complying with the conditions for participation at international contests organized in the country;
  - printed forms which are, in accordance with international agreements, used as official documents in international trade; and
  - letter mail.
- For agricultural products, products of crop cultivation, livestock breeding, forestry, fish breeding, and apiculture obtained from private holdings that the citizens of the Republic of Montenegro, situated in the frontier strip, possess in the frontier strip of the neighbouring country, as well as for offspring and other products obtained from livestock bred at these holdings for the reason of field works, grazing or wintering;
- For fire-prevention and fire-fighting equipment;
- For items which domestic or foreign citizens with permanent residence in the Republic of Montenegro have inherited in a foreign country;
- For goods used for reconstruction, maintenance and restoration of protected cultural monuments, subject to opinion of the competent authority;
- For goods directly used for museum, archival, restoration, literary, art, musical and stage, and film activities, subject to the opinion of the competent authority;
- For goods donated to cultural institutions and other non-profit persons in the field of culture, freelance artists or artists for performance of their activities, subject to the opinion of the competent authority;
- For goods which are brought in from abroad by scientists, writers and artists as their own works;

- For goods which are brought in as an investment by a foreign party in accordance with a relevant law; and
- For equipment imported by state authorities for their activities that is not produced in Montenegro.

In accordance with Article 185 of the Customs Law, domestic goods having been exported from the customs territory, and returned to the customs territory within a period of two years and placed in circulation are exempted from customs duties at the request of the declaration submitter.

Article 188 of the Customs Law prescribes exemption from import duties for the products of sea-fishing and other products taken from the sea outside the territorial waters of Montenegro, and their derivative products, by vessels registered or recorded in Montenegro and sailing under its flag.

Procedures for claiming customs duty exemptions are prescribed in the Decree on Procedure for Realization of Rights on Customs Duty Exemption (RM OG No. 22/03).

The Free Zones Law (RM OG No. 42/04) provides exemption from customs duties, customs charges, and the value added tax for goods entered into a free zone or free warehouse and consumed or used in accordance therein, including goods imported by the operator or the user of the free zone or the free warehouse and intended for construction and maintenance of facilities, infrastructure and equipment in the zone or warehouse, and, generally, for creation of the conditions for functioning and development of the zone and the warehouse. Such goods may remain in the zone or the warehouse indefinitely.

The Decision on Seasonal Customs Duties on Import of Certain Agricultural Products (RM OG No. 38/00) imposes additional customs duties on seasonal goods in Montenegro. This Decision prescribes seasonal customs duties for agricultural products in addition to usual customs duties, in amounts not exceeding 20 per cent of the customs value of the goods and within limited time periods.

Although Montenegro intends to keep seasonal customs duties with respect to a limited number of products, these duties will be applied within the framework of tariff bindings arising in the course of negotiations in the WTO accession process.

Please see Section IV. 4. a) for details on seasonal duties.

**(d) Other duties and charges, specifying charges for services rendered**

The Law on Administrative Fees (RM OG No. 55/03, 46/04) is the main law that sets fees applied at the Republic level. Table A10.1 in Annex 10 of document WT/ACC/CGR/3/Add.1 summarizes trade-related fees provided in this law. These include fees for import and export licenses; acts and certificates connected with veterinary, sanitary, and phytosanitary inspections; and customs forms, declaration, control, classification, complaints, and acts. All trade-related fees in this law are fixed value.

Article 291 of the Customs Law of Montenegro (RM OG No. 07/02, 38/02, 72/02, 21/03) provides that the Customs Administration shall charge a fee for customs procedures, which may be a percentage of the customs value (*ad valorem*) or a fixed amount. These fees and the procedures for their collection are prescribed in the Decree on Amount and Procedure of Charging of Fees for Services Rendered by the Customs Authorities (RM OG No. 20/03, 62/04). Fees may range between 0 per cent and 1 per cent of the customs value or from €3 to €120 in fixed amounts depending on the procedure.

The Customs Service charges as follows for the following procedures:

- temporary storage of goods and customs storage – €20 per declaration;
- issuing of information on classifying goods according to the Customs Tariff – €120 or €100 depending on the necessary testing of goods (additional testing costs may be imposed on the applicant); and
- issuing information on origin of goods – €50.

According to the Decision on the Level and Method of Paying Fees Covering Costs of Quality Control of Agriculture and Food Products and Products Made Thereof Destined for Export or Import (FRY OG No. 62/97 and 55/98), there is a €4.60 fee for shipments of up to 20 tons and €0.30 for every additional ton for quality control of agricultural and food products that are exported or imported.

Montenegrin Chamber of Commerce issues certificate of origin, Form A, for which a fee of €8 is prescribed.

The Decree on Special Charge on Importation of Agricultural and Food Products (RM OG No. 61/03, 63/03) authorizes special charges on the import of agricultural and food products for the purpose of protecting production of agricultural and food products and ensuring stability of the market taking into account prices. The Decree on Special Charge on Importation of Agricultural and Food Products lists around 130 agricultural and food products that are subject to specific charges (Euro/kg, Euro/litre, or Euro/piece). The Decree on Special Charges includes 124 tariff positions. Please see Annex 10 of document WT/ACC/CGR/3/Add.1 for the list of products subject to these special charges.

According to the Decree on Fee Charged for Health Inspection of Plant Shipments and Control of Pesticides and Fertilizers in Traffic Through the Territory of FRY (FRY OG No. 71/00), fee is charged depending on the manner of delivery, quantity and sort of shipment.

According to the Decree on Fee Charged for Veterinary – Sanitary Control of Animals, Products, Raw Materials and Waste of Animal Origin in Production and Traffic (RM OG No. 51/03), fee is charged in percentages, on the basis of purchase price and selling price from the bill of lading or invoice, ranging from 0.06 per cent to 1 per cent.

**(e) Quantitative import restrictions including prohibitions, quotas and licensing systems**

- Import Prohibitions

In April 2004, the Government of the Republic of Montenegro passed the Foreign Trade Law (RM OG No. 28/04), which is fully compliant with WTO rules. Under this Law, goods may not be imported if trade in such goods is banned in Montenegro (Article 14). The Government may also ban imports, temporary imports or transit of goods if circulation of such goods is banned under the legislation of the country of export, of origin, or of destination of such goods.

The Decision on the Control List for Export and Import of Goods (RM OG No.44/04) of 17 June 2004, contains the list of dangerous waste (Annex 5), which may not be imported into Montenegro.

Also, import of animals, plants, animal and plant products and other goods that may carry or transmit pests and disease that may endanger the health of humans and animals, may be prohibited from specific countries or territories thereof based on international recommendations and guidelines, available scientific evidence and the animal and plant health status of such countries or territories

relative to that of Montenegro. Any such restrictions will be applied consistently with the Agreement on Sanitary and Phytosanitary Measures.

- Import Quotas

According to the provisions of Article 15 of the Foreign Trade Law, the Government may impose quantitative restrictions on imports only in the form of safeguard measures. The rules on safeguards are contained in Articles 44-50 of the Foreign Trade Law and in Articles 38-42 of the Decree on Implementation of the Foreign Trade Law (RM OG No. 52/04) and are consistent with the Agreement on Safeguards. Please see Section IV.1.(o)

- Import Licensing

The Government may, based on the Foreign Trade Law, require licenses for the import or transit of certain goods, based on objective and rational criteria, conditions and procedures. The Government may require import or transit licenses only when it is necessary to:

- protect human, animal or plant life or health;
- protect national security;
- protect environment or exhaustible natural resources;
- protect public morals;
- protect intellectually property right; and
- enforce any special rules related to gold and silver.

The Decision on Control List for Export and Import of Goods defines the competent bodies for the issuance of licenses and approvals for goods listed in the Control List and its Annexes.

The integral parts of this Decision are:

- The Control list for export and import (Annex 1);
- The List of narcotics and psychotropic substances (Annex 2);
- The List of precursors (Annex 3);
- The List of substances damaging the ozone layer (Annex 4);
- The List of dangerous waste (Annex 5); and
- The List of endangered wild plant and animal species – CITES (Annex 6).

Please see the detailed list (HS code and description) in Annex 11 of document WT/ACC/CGR/3/Add.1.

**(f) Import licensing procedures**

The Ministry for International Economic Relations and European Integration is responsible for foreign trade in Montenegro, and for deciding upon applications for import, transit or export licenses, except that:

- The Ministry of Agriculture, Forestry and Water Supply decides upon applications for licenses for the import of animals, plant and animal products and other goods that may carry or transmit pests, animal disease or zoonoses to plants, animals and humans;
- The Ministry of Culture decides upon applications for licenses for the export of artefacts of artistic, cultural, historical and archaeological value;
- The Ministry for Environmental Protection and Urban Planning decides upon applications for licenses for import of hazardous waste, as well and rare plant and animal species; and

- The Ministry of Health decides upon applications for licenses for the import of medicines, medical devices and other goods that may be used for medicinal purposes.

Applicants submit applications for licenses to the relevant Ministry in written form. An application for a licence may not be refused for procedural documentation errors that do not alter the basic data contained therein. A decision on refusal of a licence must be provided to the applicant in writing with the rationale for such decision.

The period for processing applications for import licenses may not exceed 15 days if applications are considered as and when received, i.e. on a first-come first-served basis. However, the period may not exceed 30 days when all applications are considered simultaneously, where such period begins to run on the day following the closing date of the announced application period.

Licenses are issued for one or more types of goods. In the case of agricultural goods or other goods that may carry a pest or disease that can cause significant harm to the health or life of plants or animals in Montenegro, the licence is issued for a single type of goods; in case of artistic, cultural, historical and archaeological artefacts the licence is issued for each particular article or a single licence is issued for more articles if they constitute one consignment.

Licenses are valid for a specified period up to a maximum period of one year. The number of shipments during such period is not limited.

**(g) Other border measures**

The Decision on Control List for Export and Import of Goods (RM OG No. 44/04) classifies goods upon modes of import or export. Beside import or export licenses, there are goods subjected to import or export approvals, regardless whether they are already on licenses regime or on liberal foreign trade regime. Approvals are issued by either the Ministry of Environment Protection and Urban Planning (LB5 or D5), the Ministry of Health (LB1 or D1), the Ministry of Culture (LB6 or D6) or the Ministry for Agriculture, Forestry and Water Supply (also LB1 or D1), depending on the type of good. Also, the Control List prescribes possibility for import or export of certain goods to be:

- subjected to issuance of metrology certificate by the organization authorized by the Government of Montenegro (LB2 or D2);
- subjected to issuance of conformity assessment by the organization authorized by the Government of Montenegro (LB3 or D3); and
- subjected to issuance of conformity assessment with the Standardization Law (FRY OG No. 30/96, 59/98, 70/01, 8/03) by the organization authorized by the Government of Montenegro (LB4 or D4)

Please see Annex 11 of document WT/ACC/CGR/3/Add.1 for a detailed list (HS code and description).

In addition, in accordance with Article 64 of the Law on Plant Protection (FRY OG No. 24/98, 26/98) the Ministry for Agriculture, Forestry and Water Supply issues import approvals for pesticides and fertilizers, active (chemical) substances and semi-finished concentrates for the production of pesticides and fertilizers.

Trade in genetically modified organisms, wild species of flora and fauna and biotechnologies require a permit from the Ministry for Agriculture, Forestry and Water Supply, or the Ministry for Urban Planning and Environment Protection.

**(h) Customs valuation**

All customs duties in the Republic of Montenegro are *ad valorem*. Customs valuation is compliant with the WTO Customs Valuation Agreement. Please see Annex 4 for details. The customs valuation rules are currently articulated in the following legal documents:

- The Customs Law (primarily Articles 29-45); and
- The Law on Ratification of the Agreement on Implementation of Article VII of GATT and its associated Protocol (FRY OG 1/82 –international agreements).

**(i) Other customs formalities**

The following documents are required for customs import processing: declaration, invoice, Bill of Lading, certificates (fact, force majeure, end user), and, where required, other certificates (origin, conformity, veterinary, health, quality, phytosanitary), approvals, and licenses.

**(j) Pre-shipment inspection**

Pre-shipment inspection is not required in Montenegro.

**(k) Application of internal taxes on imports**

Montenegro applies the Law on Excise Tax (RM OG No. 65/01, 12/02) of 28 December 2001. This Law applies excise tax equally on both, domestically produced and imported goods.

Excise taxes on domestic products are collected by the tax authorities; excise taxes on imports are collected by the customs authorities together with import duties. Excise taxes on domestic goods become payable when the goods are released into free circulation.

In general, excise taxes are not collected on goods that are exported. However, under the Law on Excise Tax, excise taxes are collected on goods sold to Serbia (which does not collect excise on such goods), and are not collected on goods imported from Serbia except to the extent that the excise tax otherwise due in Montenegro is greater than the excise already paid in Serbia.

The following categories are subject to excise taxes:

- Alcohol and alcoholic beverages;
- Tobacco products; and
- Mineral oils, mineral oils derivatives and their substitutes.

1. Alcohol and alcoholic beverages

Alcohol and alcoholic beverages are subject to excise tax on the basis of the classification of these products by HS tariff numbers and their alcoholic content.

The following categories of alcohol are subject to excise taxes:

a. Beer

Beer is defined as any product falling within HS code 2203 or any product containing a mixture of beer and non-alcoholic drinks falling within HS code 2206, in either case with the content of alcohol exceeding 0.5 per cent vol.

b. Wines

Wines can be divided into two categories: table wines and sparkling wines.

Table wines are all products falling within HS tariff number 22.04 and 22.05, (except sparkling wines):

- with alcoholic content greater than 1.2 per cent but not more than 15 per cent, provided that the entire content of alcohol derives only from fermentation; and
- with alcoholic content greater than 15 per cent but not more than 18 per cent, provided that the entire content of alcohol derives only from fermentation, without enrichment.

Sparkling wines are all products falling within tariff numbers HS 2204.10.11.00, 2204.10.19.00, 2204.10.90.00 and tariff number HS 2205 that are:

- contained in bottles with "mushroom stoppers" held in place by ties or fastenings, or that have an excess pressure due to carbon dioxide in solution of three bar or more; and
- that have an alcoholic content greater than 1.2 per cent but not more than 15 per cent, provided that the entire content of alcohol derives only from fermentation

c. Other fermented beverages, except for wines and beers

Other fermented beverages are products falling within HS number 2204 and 2205 that are not classified as wines and products falling within HS number 2206 that are not classified as beers, provided that they:

- have an alcoholic content greater than 1.2 per cent but not more than 10 per cent; or
- have an alcoholic content greater than 10 per cent but not more than 15 per cent, provided that the entire content of alcohol is derived by fermentation.

d. Light alcoholic beverages

Light alcoholic beverages are all products falling within HS number 2204, 2205 and 2206 with an alcoholic content, that exceeds 1.2 per cent but does not exceed 22 per cent.

e. Ethyl alcohol

Ethyl alcohol includes:

- all products falling within HS number 2207 and 2208 with an alcoholic content that exceeds 1.2 per cent regardless of whether such products are ingredients of a product which falls within another tariff number;
- all products falling within HS numbers 2204, 2205 and 2206 with an alcoholic content that exceeds 22 per cent; and
- other alcoholic drinks containing ethyl alcohol whether dissolved or not that are not classified as specific types of alcohol beverages.

The excise tax base for wines, light alcoholic beverages and other fermented beverages is the quantity of the goods measured in hectolitres. The excise tax base for beer and ethyl alcohol is alcohol capacity (cubage) per hectolitre.

Excise tax is paid on alcohol and alcoholic beverages at the following rates:

- €1.90 per cubage of alcohol content in one hectolitre of beer;
- €0.00 per hectolitre of table wine;
- €35 per hectolitre of sparkling wine;
- €40 per hectolitre of other fermented beverages;
- €70 per hectolitre of light alcohol beverages; and
- €550 per hectolitre of pure alcohol.

Exemptions:

Ethyl alcohol in HS number 2207 is exempt from excise tax if used as a raw material for:

- the production of fermented products;
- the production of vinegar in HS number 2209;
- the production of food items subject to condition that the alcohol content in chocolate goods from HS number 1806 of the customs tariff does not exceed 8.5 litres of pure alcohol per 100 kilograms of goods, or for other food items, 5 litres of pure alcohol per 100 kilograms of goods; or
- the production of chemical and cosmetics products.

Ethyl alcohol may be dispatched from an excise goods warehouse for use in the chemical and cosmetics industries only if such alcohol is denatured.

Ethyl alcohol for medical purposes is exempt from excise tax if procured by institutions in the health sector, which are issued a licence for this purpose by the tax authorities.

A small producer of alcoholic beverages solely for personal use is exempt from excise tax on such products.

2. Tobacco products

Tobacco products subject to excise tax are cigarettes, cigars and cigarillos, finely shredded tobacco (for rolling cigarettes) and other smoking tobacco.

The excise tax for cigarettes is a combination of a specific tax per 1,000 pieces and a percentage of the retail price of cigarettes, provided that the total amount of the excise tax may not exceed 57 per cent of the retail price of the cigarettes.

The excise tax on other tobacco products is:

- Cigars and cigarillos: €10.00 per kg;
- Finely shredded tobacco (for rolling cigarettes): €20.00 per kg; and
- Other smoking tobacco: €15.00 per kg.

3. Mineral oils, mineral oils derivatives and their substitutes

Mineral oils, their derivatives and substitutes are subject to excise tax as follows:

Petrol and other light oils:

- €0.120 per kilogram of airplane petrol (HS number 2710.00.11.10);
- €0.364 per litre of motor petrol unleaded (HS number 2710.00.11.20);
- €0.120 per kilogram of fuel for jet engines of petrol type (HS number 2710.00.11.30); and
- €0.364 per litre of other motor petrol (HS number 2710.00.11.90).



Kerosene:

- €0.120 per kilogram of petroleum (kerosene) for engines (HS number 2710.00.21.10);
- €0.120 per kilogram of fuel for jet engines of petroleum (kerosene) type (HS number 2710.00.21.20);
- €0.120 per kilogram of other kerosene (HS number 2710.00.21.90); and
- €0.069 per kilogram of fuel for jet engines of petroleum type (HS number 27.10.00.21.20) used as heating fuel.

Gas oils:

- €0.270 per litre of diesel fuels (HS number 2710.00.31.00);
- €0.120 per litre of diesel fuels (HS number 2710.00.31.00) used as heating fuel;
- €0.270 per litre of ship fuel and other fuel (HS number 2710.00.32.00) and
- €0.120 per litre of other oils (HS number 2710.00.39.00).

Heating oils:

- €0.023 per kilogram of low-sulphured oil for metallurgy (HS number 2710.00.41.00); and
- €0.023 per kilogram of other heating oils (tariff number CN 2710.00.49.00).

Oil gases and other gas hydrocarbons:

- €0.069 per kilogram of mixture of propane and butane (HS number 2711.19.00.10); and
- €0.069 per kilogram of other oil gases (HS number 2711.19.00.90).

The excise tax on additives and extenders of mineral oils is equal to the excise tax prescribed for the product to which they are added. Any hydrocarbon, produced from crude oil and used as heating fuel (with exception of coal, lignite, peat or similar solid hydrocarbons and natural gas) is taxed at the rate for the equivalent mineral oil.

Buyers are entitled to an excise tax drawback of 50 per cent for mineral oils used as fuel for agricultural, and forestry machinery (including tractors).

- Exemptions

Excise tax is not paid on mineral oils:

- that are used as fuel in air and maritime traffic and as fuel for fishing boats, except when aircraft, vessels and fishing boats are used for private purposes;
- that are used as fuel in the production of electric energy and in plants for the joint production of electric and heating energy;
- that a producer uses for further processing of other mineral oils, unless used as a fuel for transportation; or
- that are injected in blast furnaces for chemical reduction purposes as an additive to coke as the basic fuel.

- Excise tax drawback

There is a possibility for excise reimbursement and drawback for following excise licensees:

- An excise licensee that acquired excise goods at a price that includes excise, and that used such goods in an excise goods warehouse for the production of excise goods;

- An importer that is returning imported goods abroad in an unchanged condition, and that paid excise tax for such goods in their import;
- An exporter who is exporting excise goods on which excise tax has been paid; and
- Person who acquired excise goods for a price in which the excise tax is included or for which the excise tax was paid in import, and which were used for particular purposes (see: "Exemptions" in Alcohol and alcohol beverages and in Mineral oils, mineral oils derivatives and their substitutes).

- Excise tax exemptions

1. Excise tax exemptions for diplomatic and consular missions and international organizations

Excise tax is not paid on:

- Goods for official needs of diplomatic and consular missions accredited in Montenegro;
- Goods for official needs of international organizations, if this is established by the international agreements;
- Goods for personal needs of foreign staff members of diplomatic and consular missions accredited in Montenegro, including their family members; or
- Goods for personal needs of foreign staff members of international organizations, including their family members, if this is established by the international agreements.

2. Other excise tax exemptions

Excise tax is also not paid on:

- Goods that are sold on ships and in aircraft on international traffic routes;
- Goods that a passenger may bring from abroad as part of his/her personal luggage that are exempt from import duty; or
- Mineral oils, mineral oil derivatives and their substitutes in the standard reservoirs of motor vehicles, vessels or aircrafts arriving from abroad that are not intended for further sale and are exempt from import duties.

- Value Added Tax

The Law on Value Added Tax (RM OG No. 65/01, 12/02, 38/02, 72/02, 21/03) entered into force on 1 April 2003 and abolished the sales tax regulations.

The Law prescribes that the tax base for imported goods is the value of the goods, determined in the conformity with the customs regulations. The obligation of payment of VAT on imported goods is established at the same moment when the obligation of payment of customs duty and other import charges on goods is established.

With respect to goods that are not subject to customs duties and other import charges, VAT accounts for at the moment when obligation to pay import duties has been established.

The tax base includes:

- Excise tax and other taxes, levies and other charges paid outside Montenegro and on import, excluding VAT; and
- Indirect expenses, such as commissions, cost of packing, transport and insurance, which arise after the import of goods to the first place of destination in Montenegro.

For import of goods, the tax base excludes price reductions and discounts:

- Price reductions and discounts given on the invoice at the time the supply is performed; and
- Amounts which the taxpayer charges, receives or pays in the name and for the account of the purchaser or third party.

The tax base for the import of goods that were previously temporarily exported by the taxpayer for processing, repair or mounting abroad, are the value of processing, refining, repair or mounting, including the value of materials used for those purposes and other costs abroad related to the dispatch and delivery of those goods.

VAT is paid at the rate of 17 per cent on the import of goods, except for import of goods for which it envisaged that the VAT is not assessed and paid as well on import of goods that are at zero rated.

The following services that are in public interest are exempt from the VAT payment:

- Health services and care and delivery of goods including supply of human organs, blood and human milk performed in accordance with the law governing the field of health care activities
- Copyrights and services related to literature and art areas;
- Copyrights related to science and art products, works of art and antiques;
- Services provided by non-government organizations established in accordance with the regulations governing the activities of those organizations unless it is unlikely that such exemptions would lead to a distortion of competition; and
- Supply of water.

The following are the general exemptions from VAT:

- Main food items for human consumption (bread, milk, fat, oil and sugar);
- Medicines and medical items, determined by Decree on production and supply of medicines;
- School books for elementary, middle, and high school education, which are approved by the responsible Minister;
- Books and publications of a special interest for science, art, culture and sport by virtue of an opinion given by a competent minister;
- Insurance and reinsurance services, including services provided by insurance brokers and agents;
- Supply of immovable propriety, except the first transfer of the ownership rights that is the rights to dispose of newly-constructed immovable property; and
- Services of leasing and subletting of residential houses, apartments and permanent residential premises for longer than 60 days and lease of agricultural land or forests, which are registered in land books.
- Banking and financial services, such as:
  - Approving and managing credits, and approving and managing guarantees that is other forms of credit insurance on the part of the lender;
  - Services relating to the management of deposits, savings, bank accounts, conducting payment transactions, transfers, executing due liabilities, cashing cheques or other financial instruments, except for recovery of debts and factoring;
  - Transactions, including the issuing of bank notes and coins, which are legal tender in any country, excluding collector items; the collector items shall be considered to be coins of gold, silver and other material, bank notes not in use as legal tender, and coins with a numismatic value;
  - Trading in shares that is other forms of participation in companies, bonds and other securities, including their issuance, except for the safekeeping of securities;

- Investment fund management;
- Current postage stamps, administrative and court and tax stamps;
- Supply of gold and other precious metals to the Central Bank of Montenegro; and
- Services of games of chance.

The following are exemptions from VAT related to import of goods:

- Imported goods supply of which is exempt from VAT in Montenegro;
- Goods brought into Montenegro in transit procedure;
- Re-imported goods imported in an unchanged state by the person who exported the goods, provided that such goods are exempted from payment of customs duties in accordance with customs regulations;
- Re-imported goods on which services have been performed abroad but in respect of which the right to a deduction that is refund of VAT has not been recognized;
- Goods imported by state bodies or humanitarian organizations, which are intended for, people, as a free of charge delivery, for their social needs. This exemption does not include alcohol drinks, tobacco and tobacco products, coffee and vehicles, except rescue vehicles;
- Imported goods exempted from payment of customs duties intended for official purposes of diplomatic, consular organizations and international organizations and to members of such organizations, within the limits and under the conditions set forth in international conventions establishing the organizations, on the basis of an opinion issued by a minister responsible for foreign affairs;
- Services related to imports of goods, provided that the value of such services is included in the tax base; and
- Gold and other precious metals, bank notes and coins imported by the Central Bank of Montenegro.

Goods that are temporarily imported are exempt from VAT payment provided that are exempt customs duties according to the customs legislation.

Other special exemptions:

- the release of imported goods that are not placed into free circulation provided that those goods are intended for storage in an excise warehouse;
- Imports of goods intended:
  - to be submitted to customs authorities and when permitted to be stored temporarily in accordance with customs regulations;
  - to be entered into a free customs zone; and
  - to be subjected to a customs warehousing procedure or import procedure for export under suspension arrangement.

The payment of VAT is exempt on condition that the goods are not released for free circulation and that the amount of VAT on release for free circulation is the same amount as would have been charged and levied if such supply of goods had been taxed at import into Montenegro.

Besides, Article 43 of the Law on Value Added Tax prescribes that farmer, which is not VAT payer, has the right on flat compensation of entry VAT (3 per cent of the purchasing value of the product) on the basis of delivery of agricultural and forest products and services to persons registered for VAT.

**(l) Rules of origin**

The Customs Law contains detailed provisions on rules of origin. The rules of origin applied by Montenegro are compliant with the Agreement on Rules of Origin. Please see Articles 23-28 of the Customs Law and the provisions of Articles 13-67 of the Decree on Implementation of Customs Law (RM OG No.15/03) and Annex 4 of document WT/ACC/CGR/3/Add.1.

Preferential rules of origin which goods need to comply with in order to benefit from favourable tariff treatment are specified in several free trade agreements. Please see Annex 4 of document WT/ACC/CGR/3/Add.1.

The Customs Administration of Montenegro issues certificates of preferential origin (See Section III.2.), while the Chamber of Commerce of Montenegro issues certificates of domestic origin of goods – non-preferential origin.

- Trade Remedies

- General

The Montenegrin Foreign Trade Law allows the imposition of safeguard measures, antidumping duties, and countervailing duties consistently with the relevant WTO Agreements. The detailed procedure related to the introduction of these measures is given in the Decree for Implementation of the Foreign Trade Law

**(m) Anti-dumping regime**

The Foreign Trade Law prescribes in Article 36 that the Government may levy an anti-dumping or countervailing duty only where it has been established on the basis of investigations conducted in accordance with the Law that:

- there has been a significant increase in dumped or subsidized imports compared to the level of domestic production or consumption;
- there has been significant price undercutting by the dumped or subsidized imports compared with the price of the like domestic product or the prices of such imported products have depressed to a significant degree the price of the like product or have prevented that price from increasing as it would otherwise have done; and
- as a result, Material Injury is caused to the domestic industry or there is a threat of such injury to the domestic industry.

Countervailing or anti-dumping duties may not be levied if investigations show that the main factors causing injury to the domestic industry are factors other than subsidized or dumped imports.

The anti-dumping duty may not exceed the lesser of the amount necessary to remove the injury to the domestic industry or the amount of the full margin of dumping, i.e. the difference between the normal value of goods and the price for such goods when intended for exports to the Republic of Montenegro.

The countervailing duty may not exceed the lesser of the amount necessary to remove the injury to the domestic industry or the full amount of subsidy.

The Ministry for International Economic Relations and European Integration is responsible for conducting an investigation on the basis of a written application made by, or on behalf of the domestic industry, i.e. by the domestic producers whose collective output constitutes more than 25 per cent of the total domestic production of the like product. If the competent authority determines that the

application is justified, it will initiate the investigation process and publish a notification in the Official Gazette. The investigation procedure has to be concluded within one year of its initiation.

The Government, on the recommendation of the Ministry when the existence of dumping or subsidizing is confirmed, decides whether anti-dumping or countervailing duties are to be levied. The Government of Montenegro may also apply provisional antidumping or countervailing duty, or security, in the amount equal the provisionally estimated anti-dumping or countervailing duty, if after the expiry of 60 days from the day of initiation of the investigation procedure, it was determined that:

- both the existence of dumping and/or subsidizing and of injury to the domestic industry are probable;
- delay would cause damage which it would be difficult to repair; and
- the interested parties have been given an opportunity to submit data necessary for protection of their interests.

The application of provisional measures may not exceed six months in the case of antidumping duties, and four months in the case of countervailing duties.

An anti-dumping or countervailing duty may remain in force for as long as necessary to remedy an injury, but not exceeding four years. The Ministry must review the need for the continued imposition of the duty during the period of its application and it may recommend that the Government terminate an antidumping or countervailing duty, if as a result of such review it determines that the reasons for its application have ceased to exist.

Both the decision on introduction of anti-dumping or countervailing duty and the decision on introduction of provisional anti-dumping and countervailing duty have to be published in the Official Gazette.

The provisions of the Foreign Trade Law and the Decree for Implementation of the Foreign Trade Law related to anti-dumping and countervailing duties are fully compliant with the relevant WTO agreements: GATT; Agreement on Implementation of Article VI of GATT 1994 and Agreement on Subsidies and Countervailing Duties.

For further details please see Annex with the text of the Foreign Trade Law and the Decree for Implementation of the Foreign Trade Law.

**(n) Countervailing duty regime**

Please see IV. 1. (m)

**(o) Safeguard regime**

The Government, on the recommendation of the Ministry for International Economic Relations and European Integration, may apply safeguard measures for excessive import in the form of a quantitative restriction or tariff rates increase if it has been determined that imports of a particular product within a period of time are being imported in such increased quantities with regard to domestic production, in the way to cause or threaten to cause serious injury to domestic producers making 50 per cent of the overall domestic production of this or related products.

The Ministry's recommendation to impose safeguard measures is based on the results of an investigation initiated and conducted in accordance with the regulations. The Ministry's decision to initiate an investigation is published in the Official Gazette of the Republic of Montenegro.

If a safeguard measure is introduced in the form of a quantitative restriction, it may not reduce the quantity of imports below the average level of imports in three representative years preceding such imports. Safeguard measures are applied only to the extent necessary to prevent or remedy serious injury and to facilitate adjustment of the domestic industry.

The Government of Montenegro may introduce a provisional safeguard measure, for a period not exceeding 200 days, in the form of tariff increase, if the evidence clearly shows that:

- increased imports have caused or are threatening to cause serious injury to the domestic industry; and
- delay in introducing safeguard measures would cause injury difficult to repair.

If the subsequent investigation determines that increased imports have not caused or threatened to cause serious injury to a domestic industry, any amounts collected on the basis of the provisional safeguard measure, are promptly refunded to the importers concerned and the duration of any provisional safeguard measure is calculated in the total duration of the safeguard measures, if introduced after the full investigation procedure. Safeguard measures may remain in force for as long as necessary to remedy an injury, but not exceeding four years. Exceptionally, the application period may be extended provided that the Government has determined that the safeguard measure continues to be necessary and that there is evidence that the injured or endangered industry is adjusting. However, the total period of application of a safeguard measure may not exceed eight years.

The provisions of the Foreign Trade Law and the Decree for Implementation of the Foreign Trade Law related to safeguard measures are fully compliant with the relevant WTO agreements: GATT; Agreement on Implementation of Article VI of GATT 1994 and the Safeguards Agreement.

For further details please see Annex with the text of the Foreign Trade Law and the Decree for Implementation of the Foreign Trade Law.

## **2. Export Regulation**

### **(a) Registration requirements for engaging in exporting**

Please see Section IV. 1. (a) above.

### **(b) Customs tariff nomenclature**

The export customs tariff nomenclature is the same as the import customs tariff nomenclature. The Republic of Montenegro applies 15 per cent export duty only for export of scrap steel and ferrous metals and 20 per cent export duty for export of raw leather. Please see Table IV. 2.

Table IV.2 - Tariff numbers subject to export duty

Tariff number for steel and ferrous metals	Export duty %	Tariff number for leather	Export duty %
7204100000	15%	4101101000	20%
7204210000		4101109000	
7204290000		4101210000	
7204300000		4101220000	
7204411000		4101290000	
7204419100		4101301000	
7204419900		4101309000	
7204491000		4101400000	
7204493000		4102101000	
7204499100		4102109000	
7204499900		4102210000	
7204501000		4102290000	
7204509000		4103100000	
7404001000		4103200000	
7404009100		4103900010	
7404009900		4103900090	
7503001000			
7503009000			
7602000000			
7802000000			
7902000000			
8002000000			

**(c) Quantitative export restrictions, including prohibitions, quotas and licensing systems**

- Export Prohibitions

There are no export prohibitions in the Republic of Montenegro.

- Export Quotas

The Government, based on Article 15 of the Foreign Trade Law may impose quantitative restrictions on exports:

- in case of critical shortages of products essential to the Republic, or for the relief of consequences of such shortages; or
- in order to protect exhaustible natural resources, if export restrictions are applied simultaneously with restrictions on domestic production or consumption

The Ministry for International Economic Relations allocates any quotas on the basis of a public invitation to submit requests for allocation of quotas. The Ministry allocates quotas on the basis of objective and rational criteria and conditions, defined in the notice of public bid, which may not have a protective purpose or competition distorting effect, including inter alia:

- the economically justified quantities of goods under quota;
- the performance of the applicant in utilizing previously allocated quotas; and
- allocating quotas to persons previously not having been allocated quotas.

Decisions on quota allocation specify conditions to be fulfilled by the persons receiving quotas, including the period of time, not exceeding one year, during which the quota must be used. The number of shipments during the period of validity of the quota is not limited. The exporter is free to



choose the destination country. A person who has been allocated a quota may not transfer such quota to another person, nor allow its use by other person.

**(d) Export licensing procedures**

The Government may, in accordance with the provisions of the Foreign Trade Law, require licenses for the export of certain goods, which shall be based on objective and rational criteria, conditions and procedures.

The Government may require export licenses only when it is necessary to:

- protect national treasure of artistic, cultural, historic or archaeological value;
- protected endangered species or plants;
- protect national security;
- protect environment or exhaustible natural resource;
- protect intellectual property rights; or
- enforce any special rules for trade in gold and silver.

The export licensing procedure is essentially the same as the import licensing procedure. For details please see the Section IV.1.(f).

The Decision on Control List for Export and Import of Goods is based on Article 6 of the Foreign Trade Law. The Decision defines the competent bodies for issuing licenses and approvals for goods listed in the Control List and its Annexes. Please see the Section IV.1.(f) and detailed list (HS code and description) in Annex 11 of document WT/ACC/CGR/3/Add.1.

**(e) Other measures**

The Republic of Montenegro does not apply any other export measures such as minimum export prices, voluntary export restrictions, or orderly marketing arrangements.

**(f) Export financing, subsidy and promotion policies**

The Republic of Montenegro does not apply export subsidies.

**(g) Export performance requirements**

There are no export performance requirements in Montenegro.

**(i) Import duty drawback schemes**

Articles 128 to 132 of the Customs Law regulates duty drawback. The drawback system applies to all goods on which duties have been paid, with the exception of goods that are subject to quantitative import restrictions or that qualify for preferential tariff treatment or for the export of which drawback or a tax is envisaged at the time the declaration for release for free circulation is accepted

The declaration for release for free circulation must indicate that the drawback system is being used and provide particulars of the authorization. The holder of the authorization may request drawback when he can prove to the satisfaction of the customs authorities that the goods released for free circulation or compensating products or goods in an unaltered state have been:

- exported; or

- placed, with a view of being subsequently re-exported under the internal transit procedure, under the customs warehousing procedure, the temporary importation procedure or inward processing procedure (suspensive arrangement), or in a free zone or free warehouse, provided that all other stipulated conditions have been fulfilled.

Drawback of customs duty may be requested no later than three years from the day when the customs debt was incurred.

### **3. Internal policies affecting foreign trade in goods**

#### **(a) Industrial policy, including subsidy policies**

Industrial policy in Montenegro is directed towards stabilization, the enhancement of business efficiency and the quality of industrial products; adjusting range of produced goods to the market needs; and restructuring and privatization of enterprises.

In Montenegro there are only a small number of subsidies for industrial products and they are introduced as assistance to enterprises in the restructuring and privatization process.

The Republic of Montenegro Budget for 2003 provided subsidies for the energy sector only, in the amount of €1,177,000 (in the preceding year these subsidies were €5,112,918). These funds are intended to cover a part of the overhaul costs in the electric power plant "Elektroprivreda" and Coal Mine "Pljevlja". The subsidies were provided to facilitate overhaul of energy facilities and due to the fact that in the previous period prices of electricity and coal for production of electricity were much below the costs of production. Current price of coal covers costs of production, and average price of electricity is c€ 4.6/kWh. Subsidies for the energy sector in 2004 are planned in the amount of €500,000.

According to the budget of the Republic of Montenegro for 2005, the amount of energy-related subsidies will be €800,000 and will be mostly oriented toward the Iron and Steel Plant in Nikšić (Željezara Nikšić) on the basis of a privatization contract, through which the Government promised to pay to the Iron and Steel Plant in Nikšić the price difference between the price agreed with the Electric Power Industry of Montenegro and the price determined in the privatization contract, for a certain period after the privatization is completed.

In 2003 the Government adopted the Program of Restructuring of Enterprises, which provides that the companies that have undergone mass voucher privatization, and whose programs are to be accepted, will receive loans for financing operating assets, smaller scale investment, and solving the issue of technical and economical surpluses, through banks and with the participation of credit funds of the banks. The Budget for 2004 provides €2.5 million for this Program, as well as part of the funds planned for solving the issue of technical and economical surpluses (with the Ministry of Labour and Social Welfare, the funds in the amount of €10.9 million were planned for solving the issue of technical and economical surpluses and for employment of first-time employees).

#### **- Other subsidies**

Tax incentives are provided for under the provisions of Articles 30, 31 and 32 of the Law on Legal Entities Profit Tax (OG RM No. 65/01, 12/02). The tax incentives instruments provided in this Law include tax relief as follows:

- Twenty-five per cent profit tax deduction for investment in fixed assets for the purpose of own activity, but such tax credit may not exceed 30 per cent of the calculated tax for the year

- in which the investment was made. Fixed assets include all permanent fixed assets subject to depreciation excluding passenger vehicles; and
- New production enterprises in underdeveloped municipalities are exempt from profit tax for the first three years.

The Law also prescribes that the following entities are not entitled to this type of tax exemption:

- A legal entity established by merger, division of an existing legal entity, or any status change;
- A legal entity that ceased to exist or stopped operating in the same or similar activities in the three-year period prior to its establishing; and
- A newly established legal entity whose founder or cofounder is a related person.

Legal persons established as non-governmental organizations are exempt from tax on up to €4,000 of profit, provided they use such profits for purposes for which they have been established.

#### **(b) Technical regulations and Standards**

Since the former SFRY was a signatory to the TBT Code under GATT 1947, a number of principles of that Agreement, and the subsequent WTO TBT Agreement are contained in the current legislation of the State Union Serbia and Montenegro.

Standards, technical regulations and conformity assessment procedures are adopted at the level of the State Union Serbia and Montenegro. The Law on Standardization (FRY OG No. 30/96, 59/98, 70/01 and 8/03) and its two relevant decrees, the Decree on the Procedure for the Elaboration and Enactment of Technical Regulations and for Keeping the Registry of these Regulations (FRY OG No. 4/97) and the FRY Decree on the Procedure for the Elaboration, Adoption, and Enactment of Yugoslav Standards (FRY OG No. 4/97) are the three key legal documents governing the adoption and administration of standards and technical regulations in the State Union Serbia and Montenegro. The Decree on the Procedure for Conformity Assessment and for the Performing of Technical Surveillance (FRY OG No. 55/97, 57/97, and 3/03) regulates conformity assessment procedures. A detailed description of these decrees is provided in Annex 5 of document WT/ACC/CGR/3/Add.1. All of these laws and regulations are binding for Montenegro.

The State Union Serbia and Montenegro is a full-fledged member of ISO and IEC, and has accepted the WTO TBT Code of Good Practice for the Preparation, Adoption, and Application of Standards on 1 January 1998 through the ISO Council.

The Institute for Standardization, along with the Ministry of Internal Economic Relations of the State Union, is in charge of implementing the Law on Standardization and adopting standards in Serbia and Montenegro. Standards for defence related goods, services, and processes are not set by the Institute for Standardization and do not have the status of Yugoslav standard. Sector specific standards have been elaborated in many fields including telecommunications, railway transport, and the electric power industry. The Bureau of Measures and Precious Metals, within the Union Ministry of Internal Economic Relations, is in charge of implementing the Law on Units of Measurements and Measuring Instruments (FRY OG No. 80/94, 83/94, 28/96 and 12/98) and the Law on Control of Precious Metal Articles (FRY OG No. 80/94, 83/94 and 28/96). There are no similar regional bodies or bodies at the Republic of Montenegro level.

Technical regulations may be elaborated by ministries of the Republic of Montenegro within their areas of responsibility and in consultation with the Institute for Standardization and Union Ministry of Internal Economic Relations. Technical regulations may refer to or incorporate standards. They must be enacted by the Ministry of Internal Economic Relations of the State Union.

The Decision on Control List lists goods subject to technical regulations (see Table IV.10 below). Domestic goods are subject to the same measures.

Table IV. 3. – Technical Measures on Imports

Measures <sup>6</sup>	Goods
Certificate of Homologation	79 goods in chapters 40, 65, 70, 84, 85, and 87
Certificate of Conformity	320 goods in chapters 25, 44, 69, 73, 84, 85, 86, 87, and 90
Certificate of Compliance with Metrological and other Requirements for Measuring Instruments Subject to Import	126 goods in chapters 70, 84, 85, 90, and 91

Lastly, the Law on Quality Control of Agricultural and Food Products in Foreign Trade (FRY OG No. 12/95, 28/96 and 59/98) and the Decision on Designation of Food and Agricultural Products and their Manufactured Products Intended for Import and Export that are Subject to Quality Control (FRY OG No. 13/96 and 39/96) subject 53 items to import quality control and 8 items to export quality control. Please see Annex 5 of document WT/ACC/CGR/3/Add.1 for a detailed list of the goods.

The following brief notes outline the nature and main features of standards in Serbia and Montenegro:

- The majority of standards are or have been developed on the basis of international, European and other developed country standards;
- A number of standards and technical regulations deal with shelf-life requirements for goods, especially for food products;
- Technical regulations primarily deal with products such as household appliances, electrical equipment, food products, cement, and building materials;
- Most standards and technical regulations do not provide higher protection than relevant international standards and guidelines; and
- Products subject to technical regulations may not be imported or marketed unless a certificate of conformity is obtained.

The Institute for Standardization aims to harmonize standards with the European Union. Standards dealing with pressure vessels and environmental protection have already been harmonized with the EU standards.

The Accreditation Body of Serbia and Montenegro, within the Union Ministry of Internal Economic Relations, is responsible for accreditation of entities for conducting conformity assessment (i.e. inspection, calibration, testing, quality management, environmental management, and product or personal certification). The Accreditation Body of Serbia and Montenegro conducts accreditation in accordance with Article 13 of the Law on Standardization (FRY OG No. 30/96, 59/98, 70/01 and 8/03) and Article 60 of the Law on Measuring Units and Measurements (FRY OG No. 80/94, 83/94, 28/96, and 12/98).

The State Union Serbia and Montenegro is a signatory to a number of international agreements on mutual recognition of certification and test results for specific products. The Accreditation Body of Serbia and Montenegro recognizes certificates and test reports on the basis of bilateral and multilateral agreements (Article 32 of the Law on Standardization).

Although the Accreditation Body of Serbia and Montenegro exists, the Ministry of Internal Economic Relations of the State Union may also authorize ("accredit") institutions for certification. There are a number of accredited laboratories in the Union covering a wide range of goods. Test fees are charged

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<sup>6</sup> For additional details, please see Annex 5 of document WT/ACC/CGR/3/Add.1.

to importers in the same manner as those charged to domestic producers. Test results from foreign laboratories are accepted, provided an agreement on recognition exists.

The Ministry of Economy of the Republic of Montenegro has the authority for surveillance over the compliance with the technical regulations and standards at the territory of the Republic of Montenegro. Market Inspection in Montenegro, within the Ministry of Economy, is in charge of ensuring compliance with technical regulations at the border and within the domestic market of the Republic. Market Inspection has representatives at border points who examine all shipments of goods subject to technical regulations and forward samples to laboratories for testing. Furthermore, the Government of Montenegro established the Board for Quality, consisted of the experts from various disciplines relevant for the TBT and the ministers and deputy PM who are in charge for areas relevant for TBT as well.

New laws on standardization, technical requirements for products and conformity assessment, accreditation, and metrology are currently being drafted at the Union level. It is expected that these laws will be compliant with the WTO Agreement on Technical Barriers to Trade. Authorities of the Republic of Montenegro were strongly involved in drafting of these laws.

**(c) Sanitary and phytosanitary measures**

The current laws governing sanitary, phytosanitary, and veterinary measures are the following:

- The Law on Health of Foodstuffs and Items of General Use (SFRY OG No. 53/91; FRY OG No. 24/94, 28/96, 37/02);
- The Law on Production and Circulation of Poisonous Substances (FRY OG No. 15/95, 28/96, 37/02);
- The Law on Plant Protection (FRY OG No. 24/98 26/98); and
- The Veterinary Law (RM OG No. 11/04).

Goods subject to these laws may not be imported without a certificate of origin, border testing, and the relevant certificate (sanitary, phytosanitary or veterinary) issued by an authorized body in the country of exportation.

- Sanitary Measures

Montenegro currently applies the Law on Health of Foodstuff and Items of General Use (SFRY OG No. 53/91; FRY OG No. 24/94, 28/96, 37/02) as the main law governing health requirements and supervision connected with sale of imported and domestically produced foodstuffs and other items of general use. According to this law, food includes any goods suitable for eating or drinking and which have been processed or are still in their original state. Food includes public water supplies—in the form of drinking water and water used for the production of other types of food intended for sale. Please see Annex 12 of document WT/ACC/CGR/3/Add.1, which lists the conditions under which the food and items of general use are considered to be in accordance with sanitary requirements.

In addition, the Law, inter alia: determines specific labelling requirements for diet food and food and items of general use containing additives and nutritional substances (e.g. vitamins, minerals); and imposes advertising requirements for consumer protection.

Imported food and items of general use must have a sanitary certificate issued in the country of origin. In addition, samples are taken by the sanitary and veterinary inspector at the border and sent for testing to an accredited laboratory. The first shipment is always tested. Subsequent shipments are physically inspected. Testing takes place in case of doubt regarding the food safety. As a rule, shipments may not clear customs before testing is complete. Goods, which may be released from

customs, may not be circulated until the sanitary and veterinary inspectors issue an Act of Health Quality, indicating conformity with regulations. No guarantee is required for released goods. A penalty, however, is applied in the case of sale of goods prior to sanitary clearance.

The importer must cover the expenses for testing and health quality examination. If imported goods do not conform, then they must be either destroyed or returned to country of exportation at the expense of the importer. Once imported, foodstuffs and items of general use are, same as domestic goods, subject to periodic or random inspections at storage facilities and retail outlets by the veterinary and/or sanitary inspector as well as market inspectors. Furthermore, foods in their original state (e.g., fresh fruits and vegetables) are also inspected at the border by the phytosanitary inspection.

There are no regulations connected with the import of frozen foodstuff. International practices are, however, applied in practice.

According to the Economic Reform Agenda, the Government of the Republic of Montenegro plans enactment of a new Food Safety Law some time in 2005.

- Phytosanitary Measures

The Law on Plant Protection from 1998 is the main law governing phytosanitary measures in the Republic of Montenegro. Phytosanitary measures are equivalent to the European measures. Plants,<sup>7</sup> fertilizers and pesticides,<sup>8</sup> when imported, exported or transited through the Republic of Montenegro, are subject to phytosanitary control. A phytosanitary certificate (in accordance with the International Plant Protection Convention) and inspection by the phytosanitary inspector at the border are required in order to clear customs.<sup>9</sup> If the phytosanitary certificate does not accompany the shipment or examination indicates that the shipment is infected, the phytosanitary inspector may order return of the shipment to the country of exportation or the destruction of shipment in the presence of customs officers.

The Regulations on Health Inspection of Plant Shipments Crossing the State Border (FRY OG No. 69/99) regulates the manner of carrying out health control of plant shipments, pesticide shipments and plant-nourishment means (fertilizer) shipments during the import, export and transit, as well as conditions under which the shipments should be exported and transited. In the Article 2 of the Regulations it has been defined what the "plant shipment" implies and lists all goods subject to phytosanitary inspection at the border. Please see Annex 12 of document WT/ACC/CGR/3/Add.1.

The Order on Imported Types of Planting Material and Surveillance Over End-user's State of Health (FRY OG No. 8/99) defines types of imported planting materials carrying or spreading quarantine type hazardous organisms, whose presence can not be determined during health control at border crossing.

If the possibility for transmission of harmful organisms is eliminated by chemical, thermal or any other method of plant processing, products will no longer be subject to phytosanitary inspection. The following goods are not subject to phytosanitary inspection: steamed parquet, plywood sheet, panel, steamed veneer, processed cork, impregnated wood, carpentry, weavings, conserved and frozen fruits

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<sup>7</sup> Only certain border crossings have phytosanitary inspection. Imports of all plants must be routed through these points.

<sup>8</sup> Import is only authorized to legal persons.

<sup>9</sup> Shipments of seeds, nursery plants, and seedlings may clear customs without inspection provided a phytosanitary certificate accompanies the shipment. Inspection, however, must take place before the use of such goods.

and vegetables, roasted coffee, roasted almond and pistachio, and spun and chemically processed plant fibres.

Last, the Order on Prohibiting Import and Transit of Specific Types of Plants and Determining Quarantine Surveillance over Specific Types of Plants that are Imported for Variety (FRY OG 8/99) prohibits the import or transit of 14 categories of plants (please see Annex 12 of document WT/ACC/CGR/3/Add.1). In addition, the Order subjects a number of plants to quarantine surveillance. Please see Annex 12 of document WT/ACC/CGR/3/Add.1.

The Ministry for Agriculture, Forestry and Water Supply has drafted a new Law on Plant Protection, which contains all WTO and EU necessary provisions. This Law is expected to be passed during the first half of 2005. During 2005, the following laws are planned to be passed: Law on Pesticides, Law on Seeds and Law on Planting Material.

The Ministry of Agriculture, Forestry and Water management has drafted the new Law on Plant Protection containing all the necessary WTO and EU provisions. This Law is expected to be passed by the end of 2004.

- Veterinary Measures

The Veterinary Law is the main law governing veterinary measures in Montenegro. The Law governs animal protection from contagious diseases that jeopardize the whole country, protection from contagious diseases that can be transmitted from animals to people and veterinary-sanitary control over production and circulation of products, raw materials and waste of animal origin. The Law provides a list of contagious diseases of animals. Please see Annex 12 of document WT/ACC/CGR/3/Add.1. Around 175 goods are subject to veterinary measures. Please see Annex 12 of document WT/ACC/CGR/3/Add.1.

Veterinary border inspectors conduct examinations and implement control at the border for imports, exports, and transit goods. Also, the veterinary inspectors conduct veterinary-sanitary examination and control after goods clear customs. The importer is obliged to hold animals in quarantine for examination after they are imported. Importers bear all testing expenses.

Import, export and transit of shipments of animals, products, raw materials and waste of animal origin, semen, fertilized egg cells for animal fertilization and other items which can transmit contagious disease, are allowed only on certain border crossings and are subject to veterinary inspection to determine health conditions. The veterinary inspector examines shipping documents and takes samples (without compensating the value) for the purpose of conducting veterinary-sanitary inspection. If disease is identified or the shipment does not comply with the required veterinary-sanitary conditions, the Inspector may order the destruction of the shipment or its return to the country of exportation. These measures are defined through an act issued by the veterinary inspector. Administrative appeal against such act is possible within eight days. The appeal, however, does not prevent the act from being executed.

The Article 6 of the Law prescribes that international obligations regarding the prevention, detection, control and uproot of infectious animal diseases, products, raw materials, foodstuffs, animal feed and animal origin waste, as well as other objects carrying and spreading diseases, should be fulfilled in accordance with international conventions and other international agreements.

The Ministry of Agriculture, Forestry and Water Supply applies Order on Measures for Prohibiting Import of Contagious Animal Disease BSE of Cattle (FRY OG 6/01), which prohibited/restricted import and transit of:

- Live cattle;
- Products, primary products and (waste) originating from cattle;
- Semen and fertilized cells for artificial cattle breeding;
- Animal food containing ingredients of animal origin (meat flour, bone flour, any combination of the two, blood flour, liver flour, and other additives originating from animal food ruminants);
- Medicines and vitamins containing ingredients originating from ruminants;
- All other products used for nutrition or cosmetics containing substances originating from ruminants and other things that can be infected with BSE; and
- Humanitarian aid consisting of the above listed products.

**(d) Trade-related investment measures**

The Republic of Montenegro does not apply any trade-related investment measures (TRIMs).

Please see II. 2. (d) for details on foreign investment policies.

**(e) State-trading practices**

Please see Annex 6 of document WT/ACC/CGR/3/Add.1 for details on state trading in Montenegro.

**(f) Free zones**

Articles 167-181 of the Customs Law regulate free zones and free warehouses in Montenegro. Free zones and free warehouses are areas where special measures of customs control and supervision and special privileges pertaining to customs procedures apply such as:

- for the purpose of import duties and commercial policy import measures, foreign goods are not considered to have entered the customs territory, provided that the goods have not been released for free circulation or placed under another customs procedure or use, or consumed or used under conditions other than those provided for in customs regulations, and
- domestic goods intended for export are subject to measures that would apply on export of such goods.

Both foreign and domestic goods may enter a free zone or free warehouse. Goods placed in a free zone or free warehouse, may not be consumed or used during the period they remain therein. Goods leaving the free zones and entering the territory of Montenegro outside of the free zones are subject to normal customs duties and taxes.

There is no limit to the length of time goods may remain in a free zone or free warehouse; exceptionally for certain domestic goods intended for export specific time limits may be imposed. Where domestic goods intended for export are not exported within the prescribed time or are returned to another part of the customs territory, the customs authorities take the measures prescribed for the cases where the goods fail to comply with the specific conditions.

Foreign goods placed in a free zone or free warehouse may:

- be released for free circulation;
- undergo the usual forms of handling, without special authorization by the customs authorities;
- be placed under inward processing procedure;
- be placed under the procedure for processing under customs supervision;
- be temporarily imported, be abandoned to the government; or



- be destroyed or otherwise rendered unsuitable for any use, provided that the customs authorities are furnished with all the information they judge necessary.

Domestic goods intended for export in a free zone or free warehouse may undergo only the usual forms of handling which are performed for the purpose of their preservation, improvement of their appearance or marketable quality or preparation for distribution or sale.

Domestic goods which are not intended for export or processing in the zone, may be stored in a free zone or free warehouse separately from other goods, where specially authorized by the customs authorities. The customs authorities do not authorize storage of such goods, where it would make supervision over operations in a zone or warehouse more difficult.

**(g) Free economic zones**

The Law on Free Zones (RM OG No. 42/04) regulates establishment, management and conditions for performance of business activities in the free zones and the free warehouses, while the Customs Law regulates the treatment of goods in free zones and warehouses, as a form of customs-allowed treatment and utilization, after a free zone and warehouse starts with its operation.

Free zones and the free warehouses are defined as parts of the customs territory of the Republic of Montenegro where business activities are carried out under special conditions. However, the zone may consist of several spatially divided parts, sub zones. All business activities may be conducted in the zone and the warehouse, with exception of those presenting hazard to the environment, human health, material goods and the country's safety.

The zone and the warehouse may be founded in the area of or in the vicinity of the seaport or airport, as well as in other suitable locations.

Goods entered into the zone and warehouse and consumed or used in accordance with the Law on Free Zones (RM OG No. 42/04), are not subject to customs duties, customs charges, and the value added tax. Goods may remain in the zone or the warehouse indefinitely, after being registered to the competent Customs office.

Goods from the zone and warehouse transferred to other parts of the Republic in order to be placed into circulation are subject to customs duties, customs charges and the value added tax, and application of possible import restrictions.

The customs duties and customs charges are not payable for the domestic component (raw materials, workforce, etc) in the goods in the zone or warehouse. When the domestic component exceeds 50 per cent, the goods in the zone or warehouse, shall not be subject to restrictions related to the foreign trade regime.

Goods may be temporarily taken out of the zone and the warehouse at the other parts of the territory of the Republic, or taken into the zone and warehouse from other parts of the territory of the Republic, for the purposes of processing (reprocessing, finishing or treatment), mounting, testing, attestation, repair, marketing presentation, etc; such goods have to be returned into the zone and the warehouse or exported abroad within the period required to complete the above operations, and not later than a year from the day they are taken out of the zone and the warehouse.

The Law on Free Zones provides certain favourable conditions for enterprises operating in a free zone:

- Enterprises are not liable to pay profit tax;

- Foreign payment operations are generally unrestricted and may be carried out through any bank in Montenegro;
- Loans may be granted or accepted without restrictions;
- Labour agreements may be freely negotiated, and up to 10 per cent of employees may be foreign citizens;
- Capital investments may be made without restriction, and repatriation of capital and profits and stakes is free;
- Banks and other financial organizations and insurance companies with a seat in the zone and warehouse may be entirely foreign-owned; and
- Private property may not be subject to nationalization or expropriation.

Currently, there is one free zone in the Republic of Montenegro in the Port of Bar and there are a few requests for establishment of the free zone or warehouse submitted to the Ministry for International Economic Relations.

#### **(h) Trade-related environmental policies**

Montenegro applies the FRY Law on the Basic Principles of Environment Protection (FRY OG No. 24/98, 24/99), Law on Environment (RM OG No. 12/96, 55/00) and Law on Protection from Ionizing Radiation (FRY OG No. 46/96). The Law on the Basic Principles of Environment Protection sets the policy framework for, inter alia, regulation of trade for compliance with the environmental regulations. The Law is primarily under the administration of the Ministry of Environmental Protection and Urban Planning and provides the following authority for the Ministry:

- To order, in case of doubt, the inspection of imported technology, products, semi-finished products, and raw materials despite having proper documents concerning their harmful effect on the environment;
- To regulate the import, export or transit of substances damaging the ozone layer;
- To regulate the import, export, or transit of endangered and protected species of wild flora and fauna and of their developing forms and parts in accordance with the CITES Convention. The Law requires the issuance of an export licence by the Ministry of Environmental Protection and Urban Planning primarily to ensure that the exported quantity or the number of specimens of an endangered or protected species of wild flora and fauna will not endanger the survival of those species in the country; and
- To regulate the import, export, and transit of waste. Waste may be imported only if not available in Montenegro and if it's necessary as the secondary raw material for production. A licence is required for the import, export or transit of waste from the Ministry of Environmental Protection and Urban Planning. The Ministry also controls the movement of waste through the territory of the Republic of Montenegro.

The Law provides the republic ecological inspection the authority to control and inspect import, export or transit at the border of technologies, products, semi-finished products and raw materials, waste, endangered species and genetic species of the wild flora and fauna, biotechnologies and genetically modified organisms. The republic ecological inspection is authorized to review the documentation, to inspect the shipments, to take samples of goods and conduct other measures and activities. While conducting inspection, the ecological inspector has a number of rights and obligations including:

- To prohibit the export of protected and endangered species of the wild flora and fauna if the criteria established by the law are not fulfilled;
- To prohibit the import of endangered species of wild flora and fauna prohibited by international conventions and to send them back to the country of exportation;

- To prohibit import of genetically modified organisms if they do not fulfil the conditions established in international conventions, and to send them back to the country of exportation;
- To prohibit import of technologies and biotechnologies that can endanger the environment;
- To prohibit import of products, semi-finished products and raw materials that can endanger the environment, and send them back to the country of exportation;
- To prohibit import and transit of waste, if it is not conducted according to the prescribed conditions, and send them back to the country of exportation; and
- To prohibit export of the waste if it is not conducted according to the prescribed conditions.

The ecological inspector must issue a decision in a written act. The decision may be challenged through administrative appeal.

The Law on Environment requires that Montenegro adjust its economic and social development to the principles of environmental protection, and ensure preservation of natural resources and improvement of the quality of the environment, with a view to improving the quality of living.

The Law establishes the Ecological Program which sets forth the economic, technical, scientific and other measures for protection of the environment.

The Ecological Program particularly sets forth:

- basic elements and conditions required for preservation and protection of the environment;
- terms for implementation of the most favourable technical, technological, economic and other solutions for optimal environmental development and management;
- terms for the re-use of packaging materials, collection of secondary raw materials and recycling;
- short-term and long-term measures for prevention and limitation of the environmental pollution;
- control on the quality of the environment (monitoring), which is considered as the matter of the interest for the Republic;
- reclamation measures as for the presently damaged environment;
- sequence of the implementation of respective measures with the effectuation of the deadlines set therewith; and
- sources and amounts of funds required for effectuation of the measures.

The document "Directions of Development of Montenegro as Ecological State" have been enacted by the Government as a strategy for establishing an "ecological state" by directing economic and social development towards the principles of ecologically sustainable development based on, before all, on Montenegro's potentials and resources.

- Hazardous and Other Waste

In December 1999 the FRY ratified the Basel Convention on Trans-Boundary Movement of Hazardous Waste and their Disposal. Montenegro is bound by and applies this Convention. In accordance with the Convention, the import, export, or transit of certain hazardous and waste materials is subject to prohibitions or licence. All imported waste subject to licensing is tested at the Eco-toxicological laboratory at the expense of importers. Fees charged for this testing are fixed. Montenegro has included the Annexes VIII and IX of the Basel Convention into the Control List, i.e. regulation classifying goods on the import-export basis.

In addition, Article 28 of the Law on Transport of Hazardous Substances (FRY OG No.27/90, 45/90, 24/94, 28/96, 21/99, 44/99, 68/02) prohibits the import of hazardous waste of foreign origin for the purpose of permanent disposal in Montenegro.

- Endangered Species of Flora and Fauna

In November of 2001, the former FRY ratified the Convention on International Transit of Endangered Species of Wild Flora and Fauna (CITES). Montenegro, as a member state of the State Union of Serbia and Montenegro, observes the CITES provisions through issuance of import, export, transit or re-export licenses by the Ministry for Environmental Protection and Urban Planning for endangered and protected species. Furthermore, Montenegro includes Annexes of CITES Convention into the Control List, regulation that classifies goods upon modes of export and import.

- Substances Damaging the Ozone Layer

In 1990 the former FRY ratified the Montreal Protocol on Substances Damaging the Ozone Layer and the Vienna Convention on the Protection of the Ozone Layer. Since the adoption of the Law on the Implementation of the Constitutional Charter of the State Union of Serbia and Montenegro (SCG OG No. 1/03), import licenses for all the chemicals listed under the Montreal Protocol have been issued by the Ministry for Environmental Protection and Urban Planning. Montenegro has included Annexes from the Montreal Protocol, as well as additional amendments, into the Control list.

- Sources of Ionizing Radiation

According to the Law on Protection from Ionizing Radiation (FRY OG No. 15/95, 28/96, 37/02), a licence is required to be issued by the Ministry of Environmental Protection and Urban Planning for the circulation of the sources of ionizing radiation not used for medical purposes and radioactive materials. The Article 21 of the same Law forbids the import of radioactive waste material, as well as the processing, warehousing and disposal of foreign-origin radioactive waste materials. A licence is required to be issued by Ministry of Environmental Protection and Urban Planning so the sources of ionizing radiation could be imported to free zones and consignment warehouses (Article 22, Paragraph 5 of the Law on Protection from Ionizing Radiation).

**(i) Mixing regulations**

There are no mixed regulations in Montenegro.

**(j) Government-mandated counter-trade and barter**

There is no government mandated counter-trade and barter in Montenegro.

**(k) Trade agreements leading to country-specific quotas allocation**

Montenegro is not a party to any such agreements, with exception of the Free Trade Agreements signed within the Stability Pact with the countries in the South East Europe region (please see Section VIII for details on FTA's).

**(l) Government procurement practices**

In August of 2001, Montenegro enacted the Law on Public Procurement (RM OG No. 40/01), which requires transparency and equity among suppliers and fights corruption. The Law precedence over all existing provisions on government procurement in Montenegro. Key features of the Law include:

- Eligibility (Article 4): Natural persons, companies or firms shall not be eligible for the award of contracts if they are bankrupt or have been found guilty of certain crimes or other failures; and

- Equality in Participation (Article 5): All public entities shall take the necessary measures to ensure the widest possible participation on equal terms in invitations to offer.

- Principles for selection

Goods and works shall be procured by a search for suppliers offering the right quality to meet identified needs for the specified quantity, at the lowest calculated price and at the right time. Solicitation documents shall specify any factors, in addition to price, which will be taken into account in evaluating offers, and how such factors will be quantified or otherwise calculated.

- No unsolicited offer

Offers can only be received after proper solicitation and due care shall be taken to ensure confidentiality of the content of offers.

- Clarity for equality

Documents for solicitation shall encourage open competition. Documents shall set forth detailed needs, the place of delivery, the minimum performance requirements, the warranty, the maintenance requirements as well as any other pertinent terms and conditions.

Procurement Methods/Competition (Article 7): The Law permits a number of methods including: (i) shopping, (ii) competitive bidding (limited or open, local or international), (iii) two stage bidding (limited or open, local or international), (iv) open international pre-qualification of suppliers for major contracts followed by limited competitive bidding, and, (v) permissible standardization of goods undertaken in compliance with this Act. A detailed description of these methods is provided in Annex 15 of document WT/ACC/CGR/3/Add.1.

The Law does not provide any special privileges or preferences to local goods, goods providers, or service suppliers. Local competitive bidding is considered when it is determined that foreign companies are not interested or when the project is too small.

**(m) Regulation of trade in transit**

The Customs Law prescribes the rules applied to trade in transit in Montenegro. Certain rules are also prescribed in the Decree on Implementation of the Customs Law (RM OG No. 15/03) and the Decree on Fees for Use of Roads for Transit of Goods across the Territory of Montenegro (RM OG No. 33/03).

Under the Foreign Trade Law, transit may be prohibited for certain goods if trade in such goods is banned under the legislation of the Republic.

Also, the Government may ban imports, temporary imports or transit of goods if circulation of such goods is banned under the legislation of the country of export, of origin, or of destination of such goods.

Articles 19 and 20 of the Foreign Trade Law prescribe the conditions under which it is possible to require licenses for the transit of goods. The Government may require licenses for the Import, Export, or Transit of certain goods based on objective and rational criteria, conditions and procedures, when it is necessary to:

- protect human, animal or plant life or health;
- protect national security;

- protect environment or exhaustible natural resources;
- protect public morals;
- protect intellectual property rights; or
- enforce any special rules related to gold and silver.

Under Article 29 of the Foreign Trade Law, transit (and import and export) of animals, plants, animal and plant products and other goods that may carry or transmit pests and disease that may endanger the health of humans and animals, may be prohibited from specific countries or territories thereof based on international recommendations and guidelines, available scientific evidence and the animal and plant health status of such countries or territories. Transit of goods, as well and import and export, is subject to relevant veterinary, sanitary and phytosanitary requirements prescribed for particular type of goods. Please see IV. 3.(c) for details on sanitary, phytosanitary and veterinary measures.

#### 4. Policies affecting foreign trade in agricultural products

##### (a) Imports

Customs duties are the main type of border protection for agricultural products. For more details about customs duties please see Annex 1 of document WT/ACC/CGR/3/Add.1. In addition to customs duties, Montenegro maintains other duties and a number of border measures on the import of main agricultural products.

A summary of trade measures applied on imported agricultural goods is provided in the Table IV. 4. below. For more details, please see the trade measures outlined in Annex 11 of document WT/ACC/CGR/3/Add.1.

Table IV. 4 - Summary of Trade Measures Applied on Imported Agricultural Goods

Measures	Chapters
Licensing	2 items under chapters 12 and 13
Approval	7 items under chapters 13 and 15

The Decree on Special Charges on Importation of Agricultural and Food Products (RM OG No.61/03, 63/03) imposes special charges on the import of agricultural and food products for the purpose of protecting production of agricultural and food products and ensuring market stability taking into account prices. It subjects around 130 agricultural and food products to specific charges (€/kg, €/litre, or €/piece). Please see Annex 10 of document WT/ACC/CGR/3/Add.1 for the list of products subject to these special charges.

In addition, the Decision on Seasonal Customs Duties for Import of Certain Agricultural Products (RM OG No. 38/00), imposes seasonal customs duties in addition to regular customs duty for agricultural products, not exceeding 20 per cent of the customs value of goods, for a limited period of time. Please see the table below for the list of agricultural products subject to these seasonal customs duties:

Table IV. 5 - List of goods on seasonal duty rates regime

Tariff no.	Tariff item	Description	Period
07.02	07 02. 00 00 00	-Tomato, fresh or chilled	from 01.04 to 31.08
07.04	07 04. 90 00 10	Cabbage, cauliflower, kale and similar cabbage eatables vegetable, fresh or chilled --Cabbage	from 01.02 to 30.06
		Lettuce ( <i>Lactuca sativa</i> ) and chicory	

Tariff no.	Tariff item	Description	Period
07.05	07 05. 11 00 00	(Cichorium spp),fresh or chilled: -Lettuce -Cabbage lettuce	from 01.11 to 30.05
07.07	07 07. 00 00 00	Cucumbers and pickles, fresh or chilled	from 01.04 to 30.06 and from 01.09 to 30.11
08.05	08 05. 20 00 00	Agrums, fresh or dry: -Tangerines	from 01.11 to 31.12
08.06	08 06. 10 00 00	Grapes, fresh or dry: -Fresh	from 01.07 to 30.09
08.07	08 07.11 00 00	Melons, watermelons etc, fresh: -Melons, watermelons: --Watermelons	from 01.07 to 31.08
08.09	08 09. 30 08 09. 30 00 10	Apricots, cherries, sour cherries, peach (including nectarines) plums fresh: Peach including nectarines: --Peach	from 01.06 to 30.08
08.10	08 10. 50 00 00	Other fresh fruit: -Kiwi	from 01.11 to 31.03

Note that sanitary, phytosanitary and veterinary measures also applied on many agricultural goods. For details, please see Section IV.3.(c) above and Annex 12 of document WT/ACC/CGR/3/Add.1.

**(b) Exports**

Montenegro does not apply export subsidies in agriculture.

**(c) Export prohibitions and restrictions**

A summary of trade measures applied on exported agricultural goods is provided in Table IV.6 below. For more details, please see trade measures outlined in Annex 11 of document WT/ACC/CGR/3/Add.1.

Table IV. 6 - Summary of Trade Measures Applied on Exported Agricultural Goods

Measure	Chapters
Licensing	2 items under chapters 12 and 13
Approval	7 items under chapters 13 and 15

In accordance with the provisions of the Article 29 of the Foreign Trade Law, export of animals, plants, animal and plant products and other goods that may carry or transmit pests and disease that may endanger the health of humans and animals, may be prohibited from specific countries or territories thereof based on international recommendations and guidelines, available scientific evidence and the animal and plant health status of such countries or territories relative to that of the Republic of Montenegro.

**(d) Export credits, export credit guarantees or insurance programmes**

There are no any export credits, export credit guarantees or insurance programs apply in Montenegro.

**(e) Internal policies**

The Government and the Ministry of Agriculture, Forestry and Water Management carry out agriculture policy. Agriculture policy is directed with following goals:

- providing food safety, including satisfying needs of domestic population the demands of tourists in Montenegro;
- exporting specific domestic products (early vegetables, meat of the lamb, njeđuški smoked ham, cheeses, wine, fish, honey, medicinal herbs and forest products and other products);
- supporting entrepreneurship and private initiative;
- improving competitiveness of food producers on, both, domestic and international markets;
- balancing regional development and creating better conditions for life in villages; and
- including agriculture in regional, European and international integration process.

The Government's Agro-budget for 2004 planned €9.2 Million for programs in cattle raising, horticulture, apiculture, fishing, veterinary services and for programs of general importance. For more details about these programs, please see the following table:

Table IV. 7 - Agro-budget for 2004 schedule

	Programs	Amount (€)	Shares (%)
	Cattle Raising	1,520,000	16.52
1.	Activities of the Dairy Laboratory	42,000	0.46
2.	Activities of Livestock Selection Service	160,000	1.74
3.	Regional Exhibitions of Livestock Breeding	40,000	0.43
4.	Premiums for raising of quality breeding animals-bulls, heifers and stallions	140,000	1.52
5.	Development of cattle raising in less favourable areas - outside milk purchase zone	280,000	3.04
6.	Support to commodity production in milk purchase zone	60,000	0.65
7.	Development of sheep and goat raising	418,000	4.54
8.	Support to weight gain through grazing of young steers	48,000	0.52
9.	Artificial insemination of cows and sows	312,000	3.39
10.	Preserving genetic resources in cattle raising	20,000	0.22
	Veterinary services	914,325	9.94
11.	Monitoring epizootology and diagnostic testing of diseases and deaths of animals where contagious diseases are suspected	36,500	0.40
12.	Controlling and eradication of tuberculosis in animals	174,980	1.90
13.	Controlling and eradicating brucellosis in cattle, sheep, and goats	159,050	1.73
14.	Controlling and eradicating enzootic leucosis in cattle	31,250	0.34
15.	Diagnostic examination of mastitis in cows	22,300	0.24
16.	Controlling and eradicating hog cholera	126,090	1.37
17.	Preventing and eradicating of rabies in dogs and cats, and, depending on the epizootologic situation, in other domestic animals, and eradicating echinococcus in dogs	202,455	2.20
18.	Prevention and eradicating of anthrax, gas gangrene and para-gas gangrene	8,170	0.09
19.	Preventing and eradicating of enzootic miscarriage in sheep	4,380	0.05
20.	Preventing and eradicating of entero-toxemia in sheep and dysentery in lambs	1,980	0.02
21.	Prevention and eradication of New Castle disease (poultry)	12,600	0.14
22.	Diagnostics of honeybee diseases and indemnification for elimination	34,570	0.38
23.	Participation in building veterinary laboratory	100,000	1.09
	Apiculture	57,000	0.62
25.	Expert training of beekeepers	14,000	0.15
26.	Production and purchase of selected queen bees	18,000	0.20
27.	Production of modern types of beehives	9,000	0.10
28.	Production of anti - varroas floor	16,000	0.17
	Fishing	96,800	1.05
29.	Raising fish population in water flows, accumulations, and lakes	20,000	0.22



	Programs	Amount (€)	Shares (%)
30.	Drafting fishery grounds for the river lim and plavsko lake	10,700	0.12
31.	Assessing sardine and anchovy stocks in the territorial international waters of the Montenegrin seaside shelf	37,000	0.40
32.	Controlling demersal settlements on the Montenegrin seaside shelf	7,000	0.08
33.	Founding repro-centres for production of the autochthonous salmonoid species fish fry	12,100	0.13
34.	Support NGO in protect fish stock	10,000	0.11
	Horticulture	855,000	9.29
36.	Work Counsellor service for plant production	150,000	1.63
37.	Arable land exploitation program for hilly and mountainous regions in Montenegro	105,000	1.14
38.	Improvement of quality of seed potatoes	85,000	0.92
39.	Enhancement of tobacco production	150,000	1.63
40.	Preservation of the autochthonous grapevine varieties	35,000	0.38
41.	Development of raspberry cultivation	145,000	1.58
42.	Controlling production seed materials for perennial plants	15,000	0.16
43.	Intensify growing of fig	15,000	0.16
44.	Development of olive cultivation	30,000	0.33
45.	Prognostication of emergence and protection of olive crops from Bactrocera (Dacus) oleae	50,000	0.54
46.	Reporting-prognostication services	15,000	0.16
47.	Prevention of pests infestations	15,000	0.16
48.	Meteorological parameters for the requirements of agriculture	10,000	0.11
49.	Control of soil fecundity	25,000	0.27
50.	Formation of the collective plantations of the continental and Mediterranean fruit varieties	10,000	0.11
	Program of general importance	5,756,875	62.57
51.	Realization of foreign aid to the agriculture of Montenegro	200,000	2.17
52.	Construction of the rural infrastructure	700,000	7.61
53.	Improvement of market position of Montenegrin agricultural products	1,800,000	19.57
54.	Development of organic agriculture	120,000	1.30
55.	Reform of the cooperatives and encouragement of other kinds of farmers' associations	60,000	0.65
56.	Studies, projects and engagement of experts	60,000	0.65
57.	Support to the workforce potential	100,000	1.09
58.	Equipping the inspection services	20,000	0.22
59.	Old-age pensions for farmers	2,300,000	25.00
60.	Program "Young Farmers"	150,000	1.63
61.	Equipping the educational institutions- secondary schools and the Institute laboratory	30,000	0.33
62.	Operation of the Montenegrin Mycology Center	15,000	0.16
63.	Information system in agriculture and creation of land registry	50,000	0.54
64.	Publishing, media, public relations, presentations, procurement of publications	50,000	0.54
65.	Funds for assistance and indemnification of losses in agriculture	75,000	0.82
66.	Reserve for unpredicted budget expenditures	26,875	0.29
	Total	9,200,000	100

Montenegro will provide more details on this subject matter in the Accession Document WT/ACC/4.

**5. Policies affecting foreign trade in other sectors**

**(a) Textiles regime**

Montenegro does not have special measures regarding trade in textiles.

**(b) Policies affecting foreign trade in other major sectors**

The Republic of Montenegro doesn't apply any policies affecting foreign trade in other major sectors with exception of the state trading practices for certain goods (please see Annex 6 of document WT/ACC/CGR/3/Add.1 for details on state trading).

**V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME**

**1. General**

**(a) Intellectual property policy**

Current intellectual property policy in the Republic of Montenegro is characterized by an ongoing effort to harmonize domestic intellectual property laws with conventional international law in this field, guided by appropriate solutions from comparative law. The leading principle of this effort is that the freedom of creation and publication of scientific and artistic works, scientific discoveries and technical inventions, as well as moral and property rights of their creators, shall be respected. In the course of implementation of this policy, the following authoritative sources are taken into account: (1) solutions which in various forms are recommended by the World Intellectual Property Organization (WIPO); (2) EU directives to the member states on how to harmonize their regulations in this field; and (3) recommendations of the AIPPI (International Organization of Intellectual Property Experts) on how particular intellectual property matters are to be regulated.

The State Union is responsible for enactment of substantial intellectual property laws, whereas Member States are responsible for their implementation and enforcement

**(b) Responsible agencies for policy formulation and implementation**

The Intellectual Property Office (IPO) is the governmental organization responsible for the formulation and implementation of policy in the field of intellectual property. The Office operates within the Union Ministry for Internal Economic Relations, but works closely with the relevant agencies of the Government of Montenegro.

**(c) Membership of international intellectual property conventions and of regional or bilateral agreements**

Ratified international agreements and generally accepted rules have precedence over the legislation of the State Union and its member states (Article 16 of the Constitutional Charter).

The former Federal Republic of Yugoslavia, and its successor Serbia and Montenegro, have ratified the following conventions and agreements in the field of intellectual property:

- Convention Establishing of the World Intellectual Property Organization (1967) (member since 1 October 1973);
- Paris Convention for the Protection of Industrial Property (1883) (member since 26 February 1921);

- Berne Convention for the Protection of Literary and Artistic Works (1886) (member since 17 June 1930);
- Madrid Agreement Concerning the International Registration of Marks (1891) (member since 26 February 1921);
- Protocol relating to the Madrid Agreement Concerning the International Registration of Marks (member since 19 February 1997);
- Patent Cooperation Treaty (1970) (member since 1 February 1997);
- Hague Agreement Concerning the International Deposit of Industrial Designs (1925) (member since 30 December 1993);
- Universal Copyright Convention (1952) (member since 1966);
- Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (1957) (member since 30 August 1966);
- Locarno Agreement Establishing an International Classification for Industrial Designs (1968) (member since 16 October 1973);
- Convention Relating to the Distribution of Program-Carrying Signals Transmitted by Satellite (1974) (member since 25 August 1979);
- Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (1977) (member since 25 February 1994);
- Trademark Law Treaty (1994) (member since 15 September 1998);
- Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (1958) (member since 1 June 1999);
- Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods (1891) (member since 18 May 2000);
- Nairobi Treaty on the Protection of the Olympic Symbol (1981) (member since 18 March 2000);
- Treaty on Intellectual Property in Respect of Integrated Circuits (1989) (signed, not ratified);
- International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (member since 20 December 2002);
- Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of their Phonograms (member since 20 December 2002);
- WIPO Copyright Treaty (member since 20 December 2002); and
- WIPO Performances and Phonograms Treaty (member since 20 December 2002).

Montenegro intends to join the International Convention for the Protection of New Varieties of Plants (UPOV Treaty) as well.

**(d) Application of national and m.f.n. treatment to foreign nationals**

In accordance with regulations governing the area of intellectual property, applicable in Montenegro, foreign nationals have generally accorded treatment no less favourable than that accorded to nationals of Serbia and Montenegro. Foreign nationals generally enjoy the same rights in intellectual property matters when so provided under international agreements, such as the Paris and Berne Conventions, or under the principle of reciprocity.

An exception to the general rule of national treatment is that the intellectual property laws of Serbia and Montenegro require that foreign nationals, dealing with governmental bodies administering intellectual property rights, must be represented by registered agents or attorneys who are citizens of Serbia and Montenegro.

With respect to most favoured nation treatment, the general rule is that the intellectual property laws of Serbia and Montenegro do not extend advantages, favours, privileges or immunities to nationals of some countries without extending those same advantages to nationals of other countries.

**(e) Fees and taxes**

All fees are in accordance with the FRY Law on Administrative Fees (FRY OG No. 81/94, 85/94, 61/95, 63/96, 29/97, 12/98, 59/98, 17/99, 44/99 74/99, 73/00, 21/01) applicable as of 1 January 1999. An applicant, who is domestic legal or natural person pays 10 per cent of all fees listed below.

Table V.1 – Patent and Industrial Design Registrations and Petty Patent Certifications

Service	Fee (Dinars)
Filing of application for patent registration or certification for up to 10 patent claims	1,500.00
Each additional claim	150.00
Filing of application for petty patent registration or certification	1,200.00
Filing of application for industrial design (i.e., model registration or certification for up to one design (model))	1,200.00
Each additional design or model	900.00
Submission of amendments or supplements to application	450.00
Publication of application information	900.00
Substantive examination of application materials	3,600.00
Filing of request to convert application	330.00
Filing of appeal of final decision by the competent federal body	200.00
Publication of grant and specifications	58.00
Filing of objection to registration	6,000.00
Annual maintenance fee for the patent:	
For the 3rd year from the application filing	1,500.00
For the 4th year from the application filing	1,600.00
For the 5th year from the application filing	1,800.00
For the 6th year from the application filing	2,400.00
For the 7th year from the application filing	3,000.00
For the 8th year from the application filing	3,200.00
For the 9th year from the application filing	4,500.00
For the 10th year from the application filing	5,500.00
For the 11th year each subsequent year until the expiration of patent	2,000.00
Annual maintenance fee for the petty patent:	
For the 3rd year from the application filing	1,200.00
For the 4th year from the application filing	1,300.00
For the 5th year from the application filing	1,500.00
For the 6th year from the application filing	2,200.00
For the 7th year from the application filing	2,400.00
For the 8th year from the application filing	2,900.00
For the 9th year from the application filing	3,600.00
For the 10th year from the application filing	4,400.00
Filing of application to revoke decision on grant	9,000.00
Filing of application to annul	9,000.00
Registration of licence agreement or agreement to transfer rights	800.00

Table V.2 – Trademarks, Service Marks and Geographical Indications

Service	Fee
Filing of application for registration For up to three classes Each additional class	4,500.00 600
Fee for collective mark: For up to three classes Each additional class	10,000.00 2,400.00
Geographical indication application	2,500.00
Filing of request for recognition as an authorized user of a geographical indication	7,500.00
Granting and annual maintenance trademark fee: For the first ten years For each class of goods and services	6,000.00 1,000.00
Granting and annual maintenance collective trademark fee For the first ten years For each class of goods and services	18,000.00 1,000.00
Filing of application to cancel registration or recognition as authorized user	9,000.00
Registration of licence agreement or agreement to transfer rights	800.00

Table V.3 – Copyright and Related Rights

Service	Fee
Deposit of works and subjects of related rights with the competent federal body	3,000.00

Table V.4 – Topography of the Integrated Circuits

Service	Fee
Registration of topography	5,000.00

Table V.5 – Models and Designs

Service	Fee
Renewal of right of design, i.e. model for a five year period For the first design (i.e., model)	2,000.00
For the second and each subsequent design (i.e., model from the series)	2,200.00

According to the Article 49 of the Law on Personal Income Tax (RM OG No. 65/01, 12/02, 37/04), the tax on net income originating from the intellectual property rights is 20 per cent. The article 35 of the Law determines the right to recognition of standard expenditures to the level of 35 per cent of the incomes earned from property and property rights, without the need of documenting those expenditures. If there is a possibility for real expenditures to be documented, hence, they are being recognized and deducted from the taxable basis.

Capital profit tax rate (net profit from sale or other transfer of intellectual property rights) is 15 per cent after deduction for resident, while for the non-resident income tax rates it depends on the amount of revenue on which tax is being imposed, and therefore, 0 per cent is the tax rate for the amount up to €785; 15 per cent for the amount between €785 and €2,615; €274 for revenue between

€2,615 and €4,577 plus 19 per cent for the amount over €2,615 and for revenue over €4,577, tax rate is €647 plus 23 per cent for the amount over €4,577.

## **2. Substantive standards of protection, including procedures for the acquisition and maintenance of intellectual property rights**

### **(a) Copyright and related rights**

The Law on Copyright and Related Rights (RM OG No.61/04) regulates the object and the content of copyrights and related rights, the organization for collective realization of copyrights and related rights, and sanctions for infringement. That law extends copyright protection to any "original intellectual creation of the author, expressed in particular form, irrespective of its artistic, scientific or other value, its purpose, size, contents and manner of expression, as well as the permissibility of public announcement of its contents."

Property rights in copyrighted material generally last for the life of the author, plus seventy years; moral rights are perpetual.

Rights of copyright arise by virtue of the creation of an original work; no acquisition or maintenance procedures are required. However, the Law provides for optional deposit procedures.

Related rights recognized under the law are the rights of performers, producers of phonograms, producers of videograms, broadcasting organizations, and data base producers.

Property rights of performers last for 50 years as of the day the recording of the performance was made public, or as of the day of the recording, for unpublished performances; the moral rights of the performer survive the termination of economic rights. The rights of phonograms and videograms producers last for 50 years as of the day the recording was made public, or as of the day of creation, for unpublished recordings. The rights of broadcasting organizations last for 20 years as of the first broadcast. The database producer's right lasts for 15 years as of the day of the creation of the database, but if significant modifications to the database contents are made, this term is extended for another 15 years.

There are no formal acquisition or maintenance requirements for the protection of related rights. However, holders of related rights may deposit copies of the subjects of their rights for record keeping purposes.

The Law on Copyright and Related Rights is available through WT/ACC/CGR/3/Add.2).

### **(b) Trademarks, including service marks**

The Law on Trademarks (SCG OG No. 61/04) regulates the acquisition and protection of rights in trademarks. That law extends protection to trademarks and service marks that can be represented graphically and that can serve to distinguish the goods or services of one producer from those of another. A mark may consist of words, slogans, letters, numbers, pictures, drawings, colour combinations, three-dimensional forms, or a combination of such elements, as well as musical phrases that can be shown graphically.

Protection of a trademark is acquired by means of an administrative procedure carried out under the authority of the Intellectual Property Office. Prior use is not a precondition for registration. The procedure is initiated by the submission of an application. The application, which must include a request for registration, the sign for which protection is sought, and a list of goods or services to which the sign applies, is examined for both formal and substantive compliance with the legal

standards for protection. Additional requirements apply to applications for registration of collective marks. Priority dates for registered marks are set according to filing dates and according to the rules of the Paris Convention. The procedure is subject to fees set out under the law.

Registered marks are published in the official journal of IPO. Registration is effective for ten years as of the application filing date. Validity may be extended an unlimited number of times by payment of the appropriate fee. A mark may be cancelled on the basis of non-use under specified circumstances. Registration of a mark may be nullified, in whole or in part, if it is established that at the time of the decision on the recognition of rights was made, the legal requirements for recognition were not fulfilled.

The Law on Trademarks is available through document WT/ACC/CGR/3/Add.2.

**(c) Geographical indications, including appellations of origin**

The Law on Geographical Indicators of Origin (FRY OG No. 15/95, 35/95, 28/96) differentiates two types of geographical indications: appellations of origin and indications of source. An appellation of origin is a geographic name of a country, region or place from which the commodity originates, and indicates that the quality and special properties of the product are exclusively or predominantly influenced by the geographic environment, including natural and human factors, and that production, processing or finishing take place in the particular designated area. An appellation of origin may also consist of a name which is not the official geographic name of the country, region or place, but which due to long-standing use in trade has become generally known as the name of the product originating from the area. An indication of source is a geographic name used to indicate that a product originates from the particular country, region or place named. A geographical name may not be protected if it contravenes the law or morality; violates existing copyrights or industrial property rights; or would tend to cause confusion in trade with respect to the nature, origin, quality, method of production, or other characteristics of the product.

Protection of geographical indications and recognition of users of geographical indications are acquired through registration with the IPO. The procedure for the registration of a geographical indication is initiated by an application, which can be made only by natural or legal persons producing in the indicated geographical region products that are being designated by the name of that geographical area. The application must include a request for registration, data on the geographical area, and, in the case of an application for an appellation of origin, a report on the method of production and the qualities and characteristics of the product. The procedure for recognition as an authorized user of a geographical indication is initiated by submission of an application for recognition as an authorized user. The application must include a request for recognition as an authorized user, proof of activity, and the product control certificate if the application relates to an appellation of origin.

The IPO evaluates both types of applications for compliance with both formal and substantive requirements of the law. On the basis of the decision on these issues, the application is either accepted and entered in the appropriate register or rejected. Approved geographical indications and recognitions of authorized users are published in the official journal of the IPO.

The protection period for a registered geographical indication is not limited. The right to use a geographical indication lasts for five years as of the date of entry of the authorized user in the appropriate register and, upon the application made by the authorized user, may be extended an unlimited number of times.

The registration of a geographical indication or the recognition of an authorized user of a geographical indication may be nullified if it is established that, at the time the decision was taken, the legal

requirements for registration or recognition were not satisfied. The decision to recognize an authorized user may be revoked if it is established that the conditions for recognition have ceased to exist.

The Law on Geographical Indications is available through document WT/ACC/CGR/3/Add.2.

**(d) Industrial designs**

The Law on Legal Protection of Design (SCG OG No. 61/04) provides protection of rights with respect to the appearance of a product, i.e. the complete visual impression that the product makes on an informed consumer or user. The design is defined as a three-dimensional or two-dimensional appearance of the entire product or a part thereof, defined by its features, in particular the lines, contours, colours, shape, texture and materials of the product itself or its ornamentation, as well as their combination.

A design is protected by an exclusive right (design right) if it is new and has an individual character. The procedure for the registration of a design is initiated by an application filed with IPO. A registered design is protected for a period of 25 years as of the filing date of the application, provided the prescribed fees for maintaining the right are paid.

The right-holder receives a certificate of registration and the particulars of the registered design are published in the official journal of the IPO.

The registration of a design or model may be nullified if it is established that, on the filing date of the application, the applicable requirements for the registration were not fulfilled.

The Law on Legal Protection of Design is available through document WT/ACC/CGR/3/Add.2.

**(e) Patents**

The Law on Patents (SCG OG 32/2004) protects inventions under patent and petty patent regimes. Patents protect inventions that "represent a new technical solution to a specific problem," that involve "an inventive step," and that are "susceptible of industrial application." A petty patent protects an invention involving a lesser inventive level.

Legal protection for inventions is acquired through an administrative procedure managed by the IPO. The procedure for patent protection is initiated by the filing of an application, which must contain a request for the recognition of a patent; a description of the invention; one or more claims for the protection of an invention by a patent or petty patent; any drawings referred to in the description or claims; and an abstract. The payment of a filing fee must accompany the application.

Priority rights are established according to filing date or, if applicable, according to the priority rules set out in the Paris Convention.

After a formal examination of the application, the IPO proceeds to the substantive examination. If the subject matter of a patent application qualifies for protection, the IPO publishes the patent application in its official journal.

After receiving the fee for the substantive evaluation of the patent application, the IPO examines the application for fulfilment of all substantive requirements for the patent protection, renders a decision, and causes the patent to be published, if appropriate.



A petty patent application is subjected only to a formal examination. Petty patent applications are not published. If, on the basis of the formal examination, it is established that the application meets the formal requirements for protection, the IPO approves the petty patent application and publishes it.

Patent duration is 20 years as of the application filing date and is not extendable. A petty patent has a duration of six years as of the application filing date and is extendable, two times by two years. The maintenance of rights is subject to payment of periodic fees.

At any time during the term of a patent or petty patent, protection is subject to nullification if it is established that at the time of the grant of rights, the requirements for protection were not met, or the extent of the rights granted was broader than justified by the description of the invention.

For further details please see the attached the Law on Patents.

**(f) Plant variety protection**

In accordance with provisions of the Law on Patents, plant varieties and essentially biological procedures for plant production are excluded from patent protection. Plant varieties are protected under a plant breeder's rights system under the Law on Protection of Varieties of Agricultural and Forest Plants (FRY OG 28/2000). Subject matter that can be protected under the Law on Protection of Varieties of Agricultural and Forest Plants are plant varieties which are new, distinct, uniform, stable, and which meet the requirements for denomination as protected varieties.

The protection procedure for plant varieties is initiated by an application filed by the breeder of the variety or, in the case of a foreign variety, by the breeder or his authorized representative. The application must include documentation on developing the new variety; samples of the propagating material of the variety for the purpose of evaluation and preservation; and a certificate that parent trees of perennial species of plants of that variety are grown. The applicant must choose a denomination for the variety, in accord with specific rules for denominations. If the application is complete and proper, it is entered in the Register of Applications. Priority rights are determined according to filing dates.

For the purpose of testing the fulfilment of the requirements for protection, the variety is evaluated in a test field or laboratory, at the applicant's expense. If testing establishes that all legal requirements for protection are met, the breeder's right is granted, appropriate data entered in the Register of Protected Varieties, and the information on the variety is published.

The plant breeder's right lasts for a period of 20 years, except that rights in perennial crops last for 25 years. In order to maintain protection, the holder of the breeder's right must pay the maintenance fees, and must maintain the variety or its hereditary components unchanged during the entire protection period.

The breeder's right may terminate prior to the expiration of the foregoing periods if the breeder renounces his right, or if he fails to pay maintenance fees in a timely manner. Breeder's rights may also be nullified at any time if it is established that protection conditions were not met, or revoked if the right holder fails to maintain the variety.

Harmonization of this Law with the UPOV Convention is ongoing aimed at Montenegro's accession to the UPOV.

**(g) Layout designs of integrated circuits**

The Law on Protection of Topographies of Integrated Circuits (SCG OG No. 61/04) regulates the protection of rights with respect to integrated circuits and topographies thereof.

Legal protection of topography is acquired through an administrative procedure carried out by IPO.

Exclusive rights with respect to the protected topography are established as of: (a) a filing date of the application that meets requirements, or (b) a date of the first commercial use of the topography anywhere in the world, whichever comes earlier.

Exclusive rights with respect to the protected topography will cease when the calendar year elapses in which it will be ten years, starting from the day it was created.

For further details please see the attached the Law on Protection of Topographies of Integrated Circuits.

**(h) Requirements on undisclosed information, including trade secrets and test data**

Protection of undisclosed information, as a specific form of intellectual property according to the provisions of the TRIPS Article 39 (3), is not regulated by special regulations. However, protection of business secrets, i.e. data on tests, is regulated by more special laws, including as well:

- The Law on Business Companies (RM OG No. 6/02) prescribes in its Article 44 the obligation of the members of company's Board of directors to keep business secrets;
- The Criminal Code (RM OG No. 70/03, 13/04), Article 280, provides criminal-legal protection of a business secret defined as data and documents declared by law, other regulation or responsible body's decision made in accordance with law, to be a business secret whose revealing has caused or might cause consequences harmful to business companies or organizations. Persons revealing information, considered to be a business secret, to other persons without authorization, as well as persons gathering such information in order to submit it to other persons, will be sentenced to five-year imprisonment. In cases when this offence is committed with gain as a motive or when subject matter under discussion is top-secret information, offenders might be even sentenced to ten-year imprisonment;
- The Law on Plant Protection (RM OG No. 24/98, 26/98) prescribes the obligation of organizations engaged in the examining pesticides to keep data (information), considered by an applicant to be a business secret, during a ten year period; and
- Law on Protection of Topography of Integrated Circuits (SCG OG No. 62/04) prescribes that parts of submitted documents for registration of topography, marked as a business secret, must not be accessible to third persons without permission or judicial ruling.

**(i) Any other categories of intellectual property**

The Law on Protection of Competition, which is expected to be adopted in the near future, will regulate the issue of competition protection in Montenegro. Text of this Law will be submitted soon after its adoption.

**3. Measures to control abuse of intellectual property rights**

Abuses of intellectual property rights are curtailed through compulsory licensing provisions in appropriate laws (e.g., patent and industrial design laws), and through the application of appropriate provisions of the Law on Protection of Competition.

#### **4. Enforcement**

##### **(a) Civil judicial procedures and remedies**

Enforcement of intellectual property rights is governed in a general way by the Law on Civil Procedures, (RM OG No. 22/04) and more specifically by the special laws regulating each area of intellectual property.

The provisions of the Law on Civil Procedures, which apply to proceedings involving intellectual property rights, require written notification regarding a dispute and protections for evidence and the rights of the parties involved, in compliance with TRIPS Agreement Article 42. The law further provides that the court's preparations for the main hearing on a dispute include preliminary evaluation of the claims involved, service of claims on the defendant for the purpose of responding to those claims, the setting of a preliminary hearing, and the scheduling of a main hearing. With respect to representation of parties, the law prescribes that the parties may appear on their own behalf or via attorneys, but the court may require a represented party to appear in court in person for the purpose of deposition on the facts concerned.

Each party must state all facts required to support its claims, offer evidence needed to establish its statements, and respond to the statements and evidence offered by the opposing party.

With respect to providing evidence that is under control of the opposing party (referenced in TRIPS Agreement Article 43) the law allows the Court to compel production of documents or things within a given time limit. The party so compelled may not refuse to produce the document or thing, if that party has referred to it as evidence of its claims, or if it is a document or thing which it is obliged to produce or show according to the law, or if the document at issue, in view of its contents, is considered to be the common property of both parties. When the party compelled to produce a document or thing denies that it is in his possession, the Court may, for the purpose of establishing of this fact, take relevant evidence. The Court shall, in view of all circumstances, and according to its belief, weigh the significance of the refusal to act by the holder of the document or case, against the belief of the Court that the party does not have the document.

The laws regulating specific areas of intellectual property rights (Law on Copyright and Related Rights, Patent Law, Trade Mark Law, Law on Models and Designs, Law on Geographical Indications and Law on Integrated Circuit Topography Protection), regulate more precisely the legal remedies that right holders have at their disposal.

##### **(b) Provisional measures**

For the purpose of preventing infringement of intellectual property rights, provisional measures are set forth in all laws regulating these rights.

The Law on Copyrights and Related Rights provides that upon the request of the right holder, which shall include credible evidence of imminent or actual infringement, the Court may order the provisional measures of seizure or removal from channels of trade of infringing objects, or an injunction prohibiting the continuation of actions that could lead to infringement. Further, on an application made by the right holder that is supported by credible evidence of imminent infringement of a copyright or related right, or evidence that pertinent evidence may be destroyed or will be impossible to obtain later, the Court may order that the evidence be provided, without a prior hearing given to the entity from which the evidence is being sought. Likewise, the inspection of the rooms, books, documents, databases and other as well as seizure of records of such documents, and examination of witnesses and experts is permitted. Provisional measures and the providing of

evidence may be requested before the formal initiation of a suit. An appeal from an order for provisional measures does not stay the execution of the decision on the provisional measures.

Laws regulating other intellectual property issues (the Patent Law, the Trademark Law, and the Law on Protection of Design) contain similar provisions.

The Law on Executive Procedures (RM OG No. 23/04) regulates issues relating to provisional measures that are not regulated by the intellectual property laws.

**(c) Administrative procedures and remedies**

Protection of intellectual property rights by the Intellectual Property Office enforces procedures for intellectual property rights protection in accordance with provisions of the Law on General Administrative Procedure (FRY OG No. 31/01)

There is no second-level administrative authority that can review decision of the IPO as first-instance authority. However, all decisions of the IPO can be appealed before the Court of Serbia and Montenegro.

**(d) Special border measures**

The Customs Law prescribes in the Article 67 that the Government is in charge of regulating the procedure with goods for which there is a founded suspicion that their import might abuse the intellectual property rights. In that sense, the Customs Administration of Montenegro has prepared draft Decree on Intellectual Property Protection Measures carried out by customs services, containing specific provisions on border measures whose objective is prevention of import, transit and export of counter freight and pirated goods. This Decree is expected to be enacted in the near future. Text of the Decree will be submitted soon after its adoption.

**(e) Criminal procedures**

Criminal sanctions, including, in some cases, imprisonment, are provided against infringement in almost all areas of intellectual property rights, except the protection of right to trademark. In addition, criminal prosecution against copyrights, inventor's rights and related rights, can be carried out after a personal complaint is lodged. In the hitherto practice, this kind of protection is considered to inadequate. In order to ensure a full legal protection of intellectual property rights analogue to modern legal trends, the Government of the Republic of Montenegro has taken measures, among all amendments to the Criminal Code which is expected to be adopted in the near future. Text of the amendments made to the Criminal Code will be submitted soon after its adoption.

**5. Laws, decrees, regulations and other legal acts relating to intellectual property rights**

**a. Laws**

- Law on Copyright and Related Rights (SCG OG No. 61/04);
- Law on Patents (SCG OG No. 32/04, 35/04);
- Trademark Law (SCG OG No. 61/04);
- Law on Protection of Design (SCG OG No. 61/04);
- Law on Geographical Indicators of Origin (FRY OG No. 15/95, 35/95, 28/96);
- Law on Integrated Circuit Topography Protection (SCG OG No. 61/04);
- Law on Federal Administration Taxes (FRY OG No. 81/94, 85/94, 61/95, 63/96, 29/97, 12/98, 59/98, 17/99, 44/99, 74/99, 73/2000, 21/2001, 71/01);
- Law on Protection of the Agricultural and Forest Plants Variety (FRY OG No. 28/2000);

- Company Law (RM OG No. 6/02);
- Criminal Code of the Republic of Montenegro (RM OG No. 70/03, 13/04);
- Law on Plant Protection Marketing Agents (FRY OG No. 24/98 and 26/98);
- The Law on Production and Marketing of Medicines ( );
- Law on Cinematography of the Republic of Montenegro (RM OG No. 45/93 and 27/94);
- Law on Civil Procedure (RM OG No. 22/04);
- Law on General Administrative Procedure (FRY OG No. 33/97 and 31/01);
- Law on Executive Procedure (RM OG No. 23/04);
- Law on Administrative Dispute (FRY OG No. 46/96); and
- Law on Obligatory Relations (SFRY OG No. 29/78, 39/85 and FRY OG No. 31/93).

b. Decrees and regulations

- Decree on Entry in the Register of Representatives kept by the Federal Office for Intellectual Property (FRY OG No. 39/95);
- Regulation on the Manner of Taking Special Licensing Examination for the Persons Acting as Representatives in the Procedure for the Protection of Inventions, Trade Marks, Models, Samples and Marks of Geographic Origin (FRY OG No. 48/95);
- Decree on the Patent; i.e., Small Patent Recognition Procedure (FRY OG No. 7/96);
- Decree on the Trade Mark Recognition Procedure (FRY OG No. 7/96);
- Decree on the Model and Design Recognition Procedure (FRY OG No. 7/96);
- Decree on the Mark of Geographic Origin Establishment and Recognition of the Capacity of the Authorized User of the Mark of Geographic Origin (FRY OG No. 12/98);
- Decree on the Integrated Circuit Topography Protection Procedure (FRY OG No. 44/98, 47/98); and
- Decree on Records and Deposition of Author's Works and Objects of Related Rights (FRY OG No. 50/99).

**6. Statistical data on applications for and grants of intellectual property rights as well as any statistical data on their enforcement**

The tables below summarize data kept by the Federal Intellectual Property Office (FIPO) on applications for and grants of intellectual property rights. There are no available statistics on enforcement of intellectual property rights.

Table V.6 – FIPO Registered and Deposited Author's Works and Objects of Related Rights

Year	Author's Work		Related Rights		Total
	Foreign	Domestic	Foreign	Domestic	
2000	-	61	-	-	61
2001	-	178	-	-	178

Table V.7 – Patent Applications and Registration at FIPO

Year	Number of patent applications	Number of registered patents	Number of small patent applications	Number of registered small patents
1992	1,125	375	-	-
1993	839	497	-	-
1994	788	674	-	-
1995	814	511	8	-
1996	714	282	96	54
1997	513	203	154	90
1998	618	249	111	93
1999	723	108	66	67

Year	Number of patent applications	Number of registered patents	Number of small patent applications	Number of registered small patents
2000	848	3	72	5
2001	935	42	110	112

Table V.8 – Trade Mark Applications

Year	International Applications	National Applications		Total
		Foreign	Domestic	
1992	4,806	823	570	6,199
1993	3,804	313	477	4,594
1994	3,309	322	604	4,235
1995	3,150	424	731	4,305
1996	3,266	852	872	4,990
1997	4,634	923	573	6,130
1998	4,668	866	529	6,063
1999	4,439	587	310	5,336
2000	4,726	827	462	6,015
2001	5,162	893	969	7,054

Table V.9 – Registered Trade Marks

Year	International Applications	National Applications		Total
		Foreign	Domestic	
1992	4,627	730	200	5,557
1993	3,804	288	120	4,212
1994	3,074	619	255	3,921
1995	3,150	472	203	3,825
1996	3,223	435	288	3,946
1997	4,338	457	290	5,085
1998	4,340	1,093	551	5,984
1999	4,128	615	243	4,986
2000	4,438	189	172	4,799
2001	4,456	386	279	5,121

Table V.10 – Design and Model Applications

Year	International Applications	National Applications		Total
		Foreign	Domestic	
1992		39	170	209
1993		10	176	186
1994	304	9	116	429
1995	451	4	164	619
1996	573	16	179	768
1997	754	29	148	931
1998	810	12	119	941
1999	825	13	141	979
2000	913	11	99	1,023
2001	933	29	132	1,094

Table V.11 – Registered Designs and Models

Year	International Applications	National Applications		Total
		Foreign	Domestic	
1992		16	80	96
1993		12	46	58
1994	304	22	35	361
1995	451	6	44	511
1996	573	28	58	659
1997	754	6	64	824
1998	810	19	110	939
1999	825	1	23	849
2000	913	5	14	932
2001	933	18	66	1,017

## VI. TRADE-RELATED SERVICES REGIME

### 1. General

The Republic of Montenegro has traditionally been a net exporter of services, mainly because of the tourism and transport sectors.

Over the past ten years, Montenegro has run a considerable trade deficit in goods, accompanied however, by a slight surplus on the services balance. Dramatic variations in the volume of trade in services came as a consequence of the recent reform policies. The volume of exports and imports of services almost doubled in last few years compared with previous period. See the following Table VI.1 presents the details:

Table VI.1 – Trade in Services, 2002-2003 (US\$ thousands)

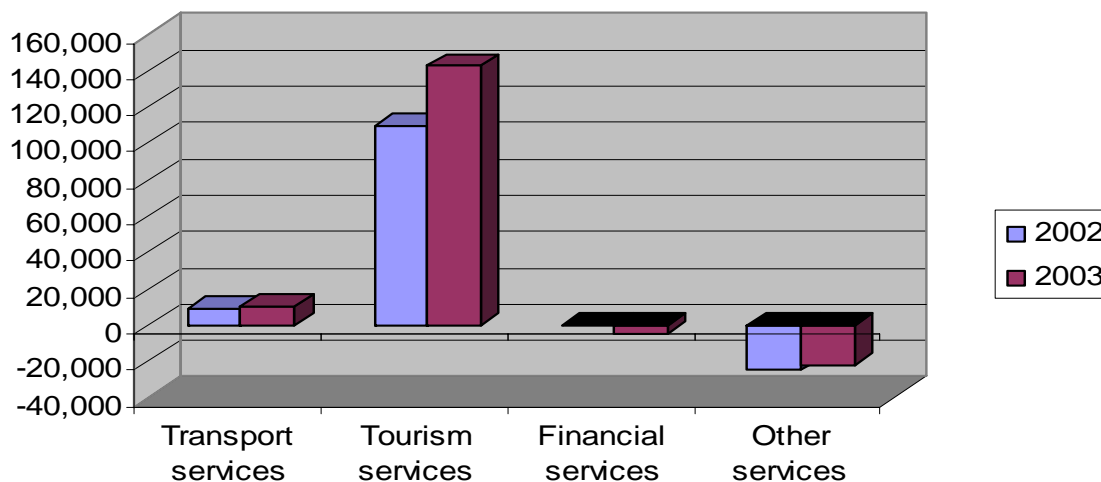
	2002	2003	Index	Difference
Transportation Revenues	30,297	39,753	131.2	9,456
Transportation Expenditures	20,830	29,485	141.6	8,655
Transportation services balance	9,467	10,268	108.5	801
Revenues from Tourism	117,474	154,161	131.2	36,687
Expenditures in Tourism	7,573	11,496	151.8	3,923
Tourism balance	109,901	142,665	129.8	32,764
Revenues from Financial services	2,540	3,219	126.7	679
Expenditures in Financial services	3,151	7,623	241.9	4,472
Financial services balance	-611	-4,404		-3,793
Revenues from other services	12,061	20,002	165.8	7,941
Expenditures in other services	37,003	41,947	113.4	4,944
Balance of other services	-24,942	-21,945	88.0	2,997
Revenues from services	162,372	217,135	133.7	54,763
Expenditures in services	68,557	90,551	132.1	21,994
Balance of services	93,815	126,584	134.9	32,769

Source: The Central Bank of Montenegro

The table shows a substantial increase in the tourism services balance, with lesser transport and other services, offset by a modest decrease in the financial services balance. The increase in transport

services balance was mainly due to marine transport and aviation, the latter being to some extent related to the tourism increase. The following chart displays this information graphically.

Chart VI.1.



Montenegro provides national treatment to foreign persons rendering services in Montenegro, provided the foreign service provider is established in accordance with the Law on Foreign Investment (RM OG No. 52/00).

Licensing is not the rule in the legal system of Montenegro. In a few cases (including banking, insurance, medical and educational services) a licence is required prior to registration. In general, state bodies responsible for issuing licenses for a particular activity are also responsible for its supervision. For any commercial activity, proper registration is required. Companies (legal persons) and entrepreneurs are registered at the Commercial Court registry. Please see the summary in Table VI.2 below and details in Annex 7 of document WT/ACC/CGR/3/Add.1 under the respective sectors.

Non-state bodies (associations) in most cases keep registers (list of members) of the individuals providing professional services. In rare instances, a non-state body (e.g., the Bar Association, Association of Engineers, etc) may have a licensing role too. The lists of main laws, decrees, decisions, and other legal instruments affecting trade in services are summarized in Section 5.A. of Annex 2 of document WT/ACC/CGR/3/Add.1.

## **2. Policies Affecting Trade in Services**

### **(a) Government departments, agencies, professional associations or other bodies with authority or a role relevant to the conduct of service activities**

Table VI.2 and Table VI.3 below outline the roles of state and non-state bodies, respectively, with regard to regulating the conduct of service activities. For more specific details regarding the roles of state and non-state bodies, please see Annex 7 of document WT/ACC/CGR/3/Add.1.



Table VI.2 – State Bodies with a Regulatory Role in Service Activities

Body	Role
Central Bank of Montenegro	Commercial bank licensing; approval of securities issuance and sale of large blocks of commercial bank shares, approval of the auditor chosen by the commercial bank.
Ministry of Education and Science	Licensing authority for secondary schools and universities.
Ministry of Labor and Social Welfare	Issuance of work permits.
Ministry of Health	Issuance of approvals for compliance with health standards, supervision, and inspection.
Ministry for Tourism	Licensing, classification, supervision, and inspection of tourism related services.
Ministry of Maritime Affairs and Transportation	Licensing of inland transport related services.
Ministry of Environmental Protection and Physical Planning	Issuance of permits for fulfilment of environment standards, supervision and inspection.
The Securities Commission	Licensing for exchanges and other activities (brokerage, dealing, investment management, and underwriting and investment consultancy).
Ministry of Finance	Licensing for accounting and auditing services.
Ministry of Agriculture, Forestry and Water Supply	Issuance of commercial fishing licenses, approval of hunting permits for foreign nationals.
The Energy Regulatory Agency	Issuance of licenses for the Generation, Transmission, Distribution, Supply and sale of electricity; for commercial transport; warehousing, distribution, sale and shipment of gas, oil and oil derivatives; for market operators, transmission and distributive networks
The Agency for Broadcasting	Issuance of broadcasting licenses.
The Agency for Telecommunications	Issuance of licenses for telecommunications.

Table VI.3 – Non-State Bodies with a Regulatory Role in Service Activities

Body	Role
The Bar Association	Licensing (registration) of attorneys.
The Association of Doctors	Registration of medical doctors and dentists.
The Association of Pharmacists	Registration of pharmacists.
The Association of Engineers	Licensing of engineers and companies who are involved in layout and construction of facilities;
The Association of Hunters	Registration, issuance of hunting permits for foreign citizens
The Veterinary Chamber	Licensing (registration) of veterinarians

**(b) Judicial, arbitral or administrative tribunals or procedures providing for the review of, or remedies in relation to, administrative decisions affecting trade in services**

Please see Section III.6 above.

(c) **Provisions, including those in international agreements, concerning qualification requirements and procedures, technical standards and licensing and/or registration requirements for the supply of services**

- Registration

According to the provisions of the Law on Business Entities proper registration is required for any commercial activity. All commercial establishments must register with the Central Registry of the Commercial Court by submitting a registration statement. They receive a registration certificate, which has no legal effect as a business licence.

Companies (legal persons) and entrepreneurs are registered at the commercial court registry. In both cases, persons who want to be engaged in future business have to obtain all necessary operational approvals in accordance with specific regulations. However, obtaining of these approvals is not precondition for registration.

The main forms prescribed by the Law on Business Entities through which commercial activities may be performed are as follows:

- the individual entrepreneur;
- the joint stock company ("JSC"),
- the limited liability company ("LLC");
- the general partnership ("GP");
- the limited partnership ("LP"); and
- foreign companies branch offices.

Doctors, dentists, pharmacists, attorneys and engineers must be members of their respective Associations. These Associations are established in order to improve conditions in the professions. Membership for other professionals is not mandatory. Initial and annual registration fees (the same for domestic and foreign nationals) are charged for most of these professions.

- Licensing

Most commercial activities in Montenegro are not subject to licensing. Licensing requirements are described in detail in Annex 7 of document WT/ACC/CGR/3/Add.1.

The following state bodies have licensing authorities: the Central Bank of Montenegro, the Securities Commission, the Ministry of Education and Science, the Ministry for Tourism, the Ministry of Maritime Affairs and Transportation, the Ministry of Environmental Protection and Urban Planning, the Ministry of Finance, the Ministry of Agriculture, Forestry and Water Supply.

Non-state bodies with roles relevant to the conduct of service activities are the Hunters Association, the Bar Association, the Association of Engineers and the Veterinary Chamber. Licenses or certifications for specializations are issued by the Doctors Association of Montenegro, the Dentists Association of Montenegro, and the Pharmaceutical Association of Montenegro, which are established by the Law on Health Care (RM OG No. 39/04) and regulated by the Ministry of Health. Licenses for enterprises, as well as authorizations for engineers in the area of planning and constructing, are issued by the Chamber of Engineers established in accordance with the Law on Constructing Objects (RM OG No. 55/00), while the Ministry of Environmental Protection and Urban Planning is the institution responsible for supervision and control.

- Qualification Requirements

Qualification requirements are imposed for professional, financial, health-related, tourism, and transport services. Please see additional details in Annex 7 under respective sectors. Establishment of many services requires premises for practicing the services. In addition, in some cases it is required that individuals may not have been convicted of criminal acts inconsistent with the profession.

- Technical Standards

For all commercial activities, services included, fulfilment of safety, health and environmental standards is required. Inspectors, who are under the aegis of the competent ministry (health, environment, economy) are entitled to inspect premises and issue approvals for compliance with standards. However, obtaining of these approvals is not a precondition for registration.

**(d) Provisions governing the existence and operation of monopolies or exclusive service suppliers**

Telekom Montenegro is the leading telecommunications operator in Montenegro. It was registered as a separate legal entity on 31 December 1998. Telecom Montenegro was created from the separation of the state owned PTT Montenegro, which provided postal, telegraphic, and telecommunication services.

The principal telecommunications service providers in Montenegro are Telekom Montenegro, the fixed line operator; ProMonte, the first GSM mobile service provider; and Monet, the second GSM mobile service provider. On 27 December 2000, the Government of Montenegro passed a new telecommunications law in order to provide a clear regulatory framework for Montenegro's telecommunications sector. In accordance with the Telecommunication Law (RM OG No. 59/00, 58/02), the Telecommunication agency was established in March 2001 as an independent regulatory agency for the telecommunication sector. The Agency is responsible for promoting competition and access to networks, issuing licenses to operators and regulating tariffs in accordance with the Law.

After the Mass Voucher Privatization (MVP) program, 49 per cent of the ownership of Telecom Montenegro is in the hands of private investors (Privatization Investment Funds and citizens). The Agency of Montenegro for Economic Restructuring and Foreign Investments announced a public tender process for the sale of the remaining Government-owned shares in Telecom Montenegro.

**(e) Provisions relating to safeguard measures as they apply to trade in services**

There are no safeguard measures in place or contemplated related to trade in services.

**(f) Provisions relating to international transfers and payments for current transactions of services**

There are no specific provisions governing international transfers and payments for services. See below, paragraph (g).

**(g) Provisions relating to capital transactions affecting the supply of services**

Montenegro uses the EURO as its sole legal tender. Therefore, there are no restrictions on foreign exchange transactions, and no current restrictions on capital transactions. The Central Bank is currently drafting a new Law on Capital Transactions. The draft law will be provided to the WTO Working Party as soon as possible.

**(h) Provisions governing the procurement by governmental agencies of services**

The Law on Government Procurement (OG RM No.40/01) of 14 August 2001, regulates procurement by ministries, departments, secretariats, courts, local authorities, government-owned companies, entities or firms not financially autonomous and not established under civil and commercial law, and any public entity using public funds for procurement.

Chapter 9 of the Law regulates the procurement of consulting services. Procurement of consulting services has to be in accordance with the Terms of Reference, set by the public procurement rules. The request for proposals includes the terms of reference, the letter of invitation, the instructions to suppliers of services and the proposed contract. The letter of invitation has to state the intention of the public entity to enter into a contract for services, the date and venue for submission of proposals.

The selection of candidates (short list, comprising of three to seven candidates) is based on competence and experience in the area in which the services are to be delivered. The basic selection method is quality and cost-based. Other selection methods (quality-based selection, selection under a fixed budget, single source selection, selection of United Nations Agencies or reputed procurement Agents or accredited inspection Agents) must be performed in accordance with the public procurement rules.

As a rule, contracts on the procurement of consulting services are on a lump-sum basis, but may also be made as time-based contracts, a retainer or contingency fee contracts, a percentage contract or an indefinite delivery contract.

Negotiations preceding the contract include discussions of the Terms of Reference, the methodology, staffing, the public entity's inputs, and special conditions of the contract. However, these discussions may not substantially alter the original Terms of Reference or the terms of the contract, the quality of the final services delivered its cost and the relevance of the initial evaluation. After negotiations are successfully completed, the contract is signed, and the public entity promptly notifies in writing other suppliers of services on the short list that they were unsuccessful.

If the negotiations fail to result in an acceptable contract, the public entity terminates the negotiations and invites the next highest ranked supplier for negotiations. The supplier of services has to be informed of the reasons for termination of the negotiations. Once negotiations are commenced with the next highest ranked supplier of services, earlier negotiations may not be reopened.

**(i) Provisions concerning any form of aid, grant, domestic subsidy, tax incentive or promotion scheme affecting trade in services**

The Law on Tourism (RM OG No. 32/02, 41/02, 45/02, 38/03 and 11/04) prescribes that in order to stimulate certain types of tourism, as well as to stimulate domestic and foreign organized tourist circulation, travel agencies, hotels and carriers engaged in road, air, rail and maritime transport who perform organized transport of passengers may apply for subsidy for coverage of part of their costs.

Procedures and conditions for tour operators and other legal entities who intend to apply for subsidies for tourism package arrangements, holiday programs, organized group transport and cruises, will be prescribed by separate program of subsidies in tourism. The main purpose of subsidies is to facilitate creation of Montenegrin tourism product; increase utilization of capacities, to stimulate development of tourism in particular areas, etc.

The Law on Cinematography (RM OG No. 45/93, 27/94) prescribes that foreign producers wishing to make a movie or TV series without a Montenegrin partner must pay a fee of US\$3,000 for a movie of

regular duration; US\$5,000 for a TV series and the fee for a short film or documentary is US\$300 per day of shooting. These fees are intended to support production of domestic films.

The Law on Environment (RM OG No. 12/96, 55/00) envisages:

- Concessions and tax exemption, as well as exemption from paying other public revenues for the utilization of technologies, production, products turnover, whose impact on the environment is more favourable than the impact of related technologies, production and products, utilization of renewable sources of energy (the Sun, wind, sea waves, biogas, etc.), as well as the equipment and devices used in the environmental protection and monitoring;
- Concessions and tax reduction, as well as reduction of other public revenues for producers organizing replacement of used and unused devices, machines or their parts, products or their packing material, caution, or if they in any other organized way reduce the negative impacts of their operations on the environment; and
- Concessions and stimulations for all legal persons engaged in collecting secondary raw materials or in production on the basis of secondary raw materials (recycling), as well as for all those persons using many ways and means in order to remove secondary raw materials and waste from the environment, and by this contributing to its quality improvement.

Procedures and conditions for acquiring concessions will be regulated by special regulations.

### **3. Market Access and National Treatment**

#### **(a) Limitations on the number of service suppliers**

There are no limitations or restrictions in this regard in Montenegro.

However, subject to various pieces of legislation, some of the work activities and/or professions are restricted to foreign nationals, including the following:

- Foreign persons may not establish a company for production and/or trade in weapons, or establish companies in territory designated as restricted areas, such as the frontier strip or national parks). Foreign persons may establish or invest in such companies with domestic persons, but may not have majority ownership. For investment in these companies, foreign person need to obtain an approval from the competent ministry.
- Attorneys must be citizens of Serbia and Montenegro; exceptionally, foreign nationals who fulfil the conditions to be an attorney in the state of his or her citizenship can be an attorney and practice law in Serbia and Montenegro, subject to reciprocity.

#### **(b) Limitations on the total value of service transactions or assets**

There are no limitations regarding the total value of service transactions or assets.

#### **(c) Limitations on the total number of service operations or on the total quantity of service output**

There are no such limitations in Montenegro.

#### **(d) Limitations on the total number of natural persons that may be employed in a particular service sector**

There are no limitations on the total number of natural persons that may be employed in a particular service sector.

**(e) Restrictions on, or requirements of specific types of legal entity through which a service may be supplied**

Restrictions include:

- Commercial banks must be formed as joint stock companies. Founders of banks must be at least two legal or natural persons, either domestic or foreign;
- Exchanges and companies engaged in brokerage, dealing, investment management and underwriting must be incorporated as joint stock companies. Investment consulting may be provided by a limited liability company or an individual entrepreneur; and
- A representative office of a foreign bank is not a legal entity and is restricted to the purpose of representing the interests of such bank.

**(f) Limitations on the participation of foreign capital**

The Foreign Investment Law of RM prescribes no limitations on the participation of foreign capital in the services sector. The only exception to this principle is related to trade in weapons and in restricted areas (see above, paragraph: (a) There are no provisions on reciprocity. Foreign investments must be registered with the Foreign Investment Agency, for statistical purposes only.

The Law on Broadcasting prescribes that a foreign person may not own a company that is a public broadcaster.

**(g) Measures providing for less than the treatment accorded to national services or service suppliers**

There are no limitations or restrictions in this regard in Montenegro with exception of those explained under Section VI. 3. items (a), (e), (f) above.

**4. Most-Favoured-Nation Treatment**

There are no specific bilateral agreements that provide MFN treatment in the service sector. However, preferences are provided in some instances through agreements on promotion and protection of investments (services included), providing either MFN treatment, or a choice between MFN and national treatment, whichever is better (please see Tables VI.5 and VI.6). There are only few measures in RM providing for less than the MFN treatment accorded to national services or service suppliers as it follows:

The charter road transport licenses are issued subject to reciprocity.

The Ministry of Transport may authorize the customs authorities to issue a special licence for bilateral or transit transport to a foreign carrier who is from a country with which there is no signed agreement on international freight road transport, subject to reciprocity.

Working permits may be issued to a foreign person employed subject to reciprocity or international agreement, engaged in business entity or its branch office subject to business cooperation agreement, engaged for education activities on national and ethnic minorities' languages; to sports professionals; and to the husband/wife and children of a foreign person with a permanent residence permit.

Foreign persons operating businesses in Montenegro may, subject to reciprocity, own any real estate necessary for its business. Foreign persons not involved in any business activity may, subject to reciprocity, own an apartment or apartment building in the same manner as any citizen of Montenegro.

Foreign nationals who fulfil the conditions to be an attorney in the state of his or her citizenship can be an attorney and practice law in Serbia and Montenegro, subject to reciprocity (see Section VI.3.(a)).

The State Union of Serbia and Montenegro is a single subject under international law and is a member of international, global and regional organizations, the membership of which requires international personality. The Republic of Montenegro may become a member of international organizations for which membership does not require international personality. The State Union is responsible for international relations with other states and international organizations, and concludes international treaties and agreements. The member states may maintain international relations, conclude international agreements and establish missions in other states as long as this is not contrary to the powers of the State Union or the interests of the other member state. Agreements signed by the former FRY are binding for the Republic of Montenegro, as are agreements signed by the State Union of Serbia and Montenegro. The list of agreements that are not specifically services related and that govern trade in services indirectly applied in the Republic of Montenegro includes the following:

Table VI.4 – Bilateral Agreements Providing MFN Treatment

Country	Signed	Ratified	In Power	Published
Arab Republic of Egypt	03.06.1977	30.03.1978	20.03.1979	SFRY OG- IA No 3/78
Kingdom of Sweden	10.11.1978	12.10.1979	21.11.1979	SFRY OG No 12/79
Kingdom of the Netherlands	16.02.1976	27.10.1976	01.04.1977	SFRY OG Annex No 49/76
Ukraine	01.08.1995	29.08.1996	29.08.1996	FRY OG-IA No 4/96
Republic of Tajikistan (Trade)	27.12.1995	27.12.1996	28.01.1997	FRY OG-IA No 6/96
Republic of Slovakia (Trade)	30.01.1996	29.08.1996	12.09.1996	FRY OG-IA No 4/96
Republic of Bulgaria (Trade)	11.12.1995	29.08.1996	12.09.1996	FRY OG-IA No 4/96
Republic of Belarus (Trade)	06.03.1996	29.08.1996	25.01.1997	FRY OG-IA No 4/96
Republic of Yemen	17.02.1963	04.06.1963	02.11.1963	SFRY OG Annex No 13/63
Republic of China	18.12.1995			FRY OG-IA No 4/96
Hungary (Trade)	14.05.1996		14.09.1996	FRY OG-IA No 4/96

Table VI.5 – Bilateral Agreements Providing MFN and National Treatment

Country	Signed	Ratified	In Power	Published
Republic of Poland	03.09.1996	27.12.1996	23.01.1997	FRY OG-IA No 6/96
Republic Guinea	22.10.1996	03.03.1998	15.07.1998	FRY OG-IA No 2/98
DPR Korea	26.08.1998	24.12.1999	14.08.2000	FRY OG-IA No 1/99
Japan	28.02.1959	28.04.1959	20.07.1959	SFRY OG Annex No 7/59
Republic of Greece	25.06.1997	03.03.1998	08.05.1998	FRY OG-IA No 2/98
Romania	28.11.1995	29.08.1996	16.05.1997	FRY OG- IA No 4/96
Republic of Bulgaria (PPI)	11.12.1995	29.08.1996	12.09.1996	FRY OG-IA No 4/96
FYROM	04.09.1996		22.07.1997	FRY OG-IA No 5/96
Republic of Slovakia	30.01.1996	29.08.1996	16.07.1998	FRY OG- IA No 4/96
Republic of Italy		09.05.2001	17.05.2001	FRY OG- IA No 1/01
Czech Republic	13.10.1997	03.03.1998	29.01.2001	FRY OG-IA No 2/98

Country	Signed	Ratified	In Power	Published
Republic of Belarus	06.03.1996	29.08.1996	25.01.1997	FRY OG-IA No 4/96
Republic of Austria	25.10.1989	18.10.1990	04.11.1990	SFRY OG- IA No 12/90
FR Germany	10.07.1989	28.06.1990	14.07.1990	SFRY OG- IA No 7/90
Turkey		22.06.2001	30.06.2001	FRY OG- IA No 4/01
Zimbabwe	19.10.1996	26.06.1997	04.07.1997	FRY OG-IA No 2/97

Many sector-specific agreements, in particular agreements in the transport, telecommunications and tourism sectors, regulate relations between the Republic of Montenegro and other countries, but they don't contain provisions that provide service suppliers from these countries MFN and/or national treatment.

The Republic of Montenegro also applies agreements on avoiding double taxation with France, Sweden, Belgium, Denmark, Great Britain, Netherlands, Finland, FR Germany, Egypt, China, the Philippines, Malaysia, Czech Republic, Italy, Poland, Cyprus, Sri Lanka, Romania, Hungary, the Russian Federation, FYROM, Belarus, Bulgaria, and DR Korea.

## **VII. INSTITUTIONAL BASE FOR TRADE AND ECONOMIC RELATIONS WITH THIRD COUNTRIES**

International agreements and membership in international and multilateral organizations fall under the jurisdiction of the Council of Ministers of Serbia and Montenegro, and are binding on Montenegro as a Member State. However, the Constitutional Charter also allows member states to become members of international organizations for which membership does not require international personality. Also, member states may maintain international relations, conclude international agreements and establish missions in other states as long as this is not contrary to the powers of the State Union or the interests of the other member state (Article 15 of the Constitutional Charter). Having in mind that the Marrakech Agreement doesn't require from the accession candidate to have international personality, the Republic of Montenegro is completely capable to accede separately to the WTO and to accept all the obligations and responsibilities resulting from such membership.

### **1. Bilateral or plurilateral agreements relating to foreign trade in goods and trade in services**

#### **- Trade in Goods**

Serbia and Montenegro is a signatory to more than 200 trade-related agreements, as a contracting party or as a successor in rights of SFRY and the FRY, with number of countries, including: Algeria, Albania, Angola, Afghanistan, Argentina, Australia, Bahamas, Bulgaria, Benin, Bolivia, Bangladesh, Belarus, Belgium, Botswana, Burma, Brazil, Cambodia, Canada, Cameroon, Chile, China, Cuba, Congo, Colombia, Costa Rica, Croatia, the Czech Republic, Cyprus, Denmark, Ecuador, El Salvador, Ethiopia, Egypt, European Union, France, Finland, Gabon, Germany, Greece, Great Britain, Guinea, Guyana, Guinea-Bissau, Hungary, Iceland, Iran, Iraq, Ireland, Italy, India, Israel, Indonesia, Jamaica, Liberia, Japan, Jordan, Kuwait, Lebanon, Libya, Luxemburg, the FYROM, Madagascar, Malaysia, Mali, Malta, Mauritania, Mexico, Mongolia, Morocco, Nepal, Netherlands, Nigeria, Norway, New Zealand, Pakistan, Paraguay, Philippines, Poland, Portugal, the Russian Federation, Rwanda, San Marino, Senegal, Spain, the Slovak Republic, Slovenia, Sri Lanka, Sudan, Syria, Sweden, Switzerland, Tajikistan, Togo, Thailand, Tunisia, Turkey, Trinidad and Tobago, Ukraine, United States of America, Uruguay, Venezuela, Vietnam, Yemen, and Zaire. A complete list of countries with which the Serbia and Montenegro has bilateral trade agreements is provided in Table A8.1 in Annex 8.



These agreements primarily deal with trade in goods and most of them provide MFN treatment. Certain exceptions from MFN are:

- Privileges and advantages granted to neighbouring countries to facilitate local border trade;
- Members of customs unions or free trade areas; and
- Developing countries in accordance with international agreements.

- Trade in Services

- Sector-Specific Agreements

With regard to services, some of the bilateral trade and economic agreements include general provisions that call for improving and increasing cooperation with regard to trade in services between Serbia and Montenegro and other countries. In addition, Serbia and Montenegro is a signatory (as a contracting party or as a successor in rights of SFRY and the FRY) to at least 360 sector-specific bilateral agreements, including tourism, telecommunications, and transport (air, land, rail, river, and sea transport) with many countries including Austria, Afghanistan, Albania, Belarus, Bulgaria, Cyprus, China, Croatia, Colombia, Egypt, Finland, France, Greece, Hungary, Italy, Iran, ROM, Malta, Mongolia, Morocco, Poland, Portugal, Romania, Russia, Spain, Syria, Switzerland, Tajikistan, Tunisia, Turkey, United Kingdom, and the United States of America.

These agreements contain general provisions on facilitating trade in services, without reference to any specific preferences. National treatment and MFN treatment for services are accorded in many of these agreements with certain exceptions (e.g. free trade, customs union, contiguous countries, international agreements related to taxation). A number of these agreements contain reciprocity provisions. Lists of these agreements are provided in Annex 8 of document WT/ACC/CGR/3/Add.1 (Tables A8.4-A8.13).

- Double Taxation

The State Union of Serbia and Montenegro is a signatory (as a contracting party or as a successor in rights of SFRY and the FRY) to at least 35 agreements on avoidance of double taxation and the prevention of fiscal evasion with many countries including Belgium, Cyprus, Denmark, Egypt, France, Finland, Hungary, Italy, Netherlands, Norway, Slovenia, Croatia, Malaysia, Russia, Sweden, and the United Kingdom. Please see Table A8.2 in Annex 8 of document WT/ACC/CGR/3/Add.1.

- Investment Promotion and Protection

The State Union of Serbia and Montenegro is a signatory to at least 55 bilateral agreements connected with investment, some of which are Investment Promotion and Protection Agreements (IPPA), with many countries including Austria, Bulgaria, Belarus, Canada, China, Congo, the Czech Republic, Egypt, France, Germany, Greece, India, Indonesia, Italy, Korea, Kuwait, Libya, ROM, Malaysia, the Netherlands, Peru, Poland, Romania, the Slovak Republic, Tanzania, Ukraine, and United States of America. Please see Table A8.3 in Annex 8 of document WT/ACC/CGR/3/Add.1. These agreements include general provisions on promoting and protecting investments, including clauses on profit repatriation, access to arbitration and dispute settlements, fair expropriation rules and compensation of losses. Some of these agreements contain MFN provisions, some others contain national treatment provisions, and others contain either MFN or national treatment, whichever is better. Exceptions from the preferences stipulated in these agreements include: customs unions and economic union agreements and double taxation agreements.

## **2. Economic integration, customs union and free-trade area agreements**

Neither Serbia and Montenegro nor the Republic of Montenegro is a member of any Customs Union.

The Memorandum on Trade Liberalization and Facilitation, signed 27 June 2001, committed the eight SEE countries to establishing a network of 28 bilateral free trade agreements. This network is now virtually complete, with the State Union having signed and ratified agreements with all seven SEE partners. All of these FTAs are accepted by and binding on Montenegro, although the agreement with Macedonia, applied since 1996, is currently under review to ensure harmonization with GATT Article XXIV and the Memorandum on Trade Liberalization and Facilitation.

Serbia and Montenegro is implementing eight free trade agreements. The free trade agreement with the Russian Federation was signed on 28 August 2000 and ratified 9 May 2001.

### **A. Agreement with the Russian Federation**

The Agreement with the Russian Federation (RF) includes the following substantive provisions:

- Gradual elimination of import duties, charges, and other measures of equivalent effect for goods originating in the customs territories of both countries (five-year schedule). No schedule has yet been prepared;
- Non-discriminatory application of SPS measures;
- Rules of origin in accordance with the legislation of the importing country. General rules of origin are applied on the basis of FORM A (GSP-based). Value added should be at least 50 per cent of the value of the good;
- Contracting parties shall not allow non-sanctioned re-export of goods originating in the customs territory of the other contracting party that are subject to tariff and non-tariff measures;
- Exceptions from free trade in line with Articles XX and XXI of the GATT 1994;
- Protection of intellectual property rights according to conventions to which both parties are signatories;
- No restrictions on transfers and payments;
- Anti-dumping, countervailing, and safeguard measures in accordance with respective WTO agreements; and
- Special procedures for applying protective measures and measures for balance-of-payments measures for limited duration.

Terms of the agreement are indefinite. It could, however, be terminated after the expiry of six months from the receipt of a written notification of one contracting party to the other of the intent to cancel the agreement.

### **B. Stability Pact Free Trade Agreements**

#### **1. Background**

In the last decade significant economic and political reforms in Southeast Europe have taken place. The countries of this region have reoriented their economic development on the basis of market economy principles.

Support to this process has been given through the Stability Pact for Southeast Europe, SEE Cooperation Initiative and SEE Cooperation Process, in which Serbia and Montenegro participate actively. Under the auspices of the Stability Pact for Southeast Europe, the ministries of Foreign Trade of eight countries in the region signed the Memorandum of Understanding on Trade

Liberalization and Facilitation (Memorandum) in Brussels, on 27 June 2001. Please see Table VII.1. for signatory countries.

All free trade agreements are based on GATT 1994 principles.

A network of 28 bilateral agreements on liberalization of trade regime has been established. By the end of September 2004, 22 agreements entered into force, and six others are expected to be implemented by the end of year 2004. The following table shows that Serbia and Montenegro signed all seven planned bilateral agreements; that they entered into force and that the transition period for decrease/abolishment of tariffs and non-tariffs barriers is going to be finished by year 2007.

Table VII. 1 - Countries with which S&M signed and ratified FTA's agreements

Country	Date of signing	Date of entering to force	Transition period
The Republic of Albania	13.11.2003	01.08.2004	by 01.01.2007
Bosnia and Herzegovina	01.02.2002	01.06.2002 <sup>10</sup>	by 01.01.2004
The Republic of Bulgaria	13.11.2003	01.06.2004	by 01.01.2007
The Republic of Croatia	23.12.2002/14.01.2004 <sup>11</sup>	01.07.2004	by 01.01.2007
The Republic of Macedonia	04.09.1996	07.10.1996	No transition period
The Republic of Moldova	13.11.2003	01.09.2004	No transition period
Romania	22.12.2003	01.07.2004	by 01.01.2007

Based on UN Security Council Resolution No. 1244, Memorandum on Understanding and current status of Kosovo, the activities on involving the UNMIK/Kosovo in the process of liberalization of the regional trade were initiated during the year 2004. The free trade agreement between the UNMIK and the Republic of Albania has been signed on 7 June 2003, and implemented from October 2003, while the talks between the BIH and Macedonia are underway and are expected to be finalized by the end of 2004.

It is expected that the FTA's will liberalize a minimum of 90 per cent of mutual trade during the transition period, which is not longer then six years. In the same time, it is necessary to harmonize regulations with the EU regulations in different areas, primarily those related to customs procedure, competition rules, tax and banking systems, agriculture and implementation of IP protection in accordance with EU and WTO standards.

A free trade area will be fully established only when the services sectors become liberalized. There are many obstacles for free trade in services now, particularly in transport, telecommunications, finance and public services. Therefore, the OECD experts are engaged within the Stability Pact Working Group to prepare a study on liberalization of trade in services.

Finally, the Memorandum established the obligation of gradual removal of non-tariff barriers to trade, corruption practices, abolishment of restrictive visa regime, needless procedures and technical barriers, which can be even more serious problem in practice then the tariffs.

<sup>10</sup> Applied in Montenegro from September 2003.

<sup>11</sup> The Agreement on Changes of the Free Trade Agreement between the S&M and the Republic of Croatia

## 2. Common elements and characteristics of the Agreements

Since the free trade agreements are based on the WTO rules, the basic principles of all the agreements are the obligation to comply with the rule of non-discrimination, which provides for national treatment and customs duties on the principle of most favoured nation treatment.

The Memorandum stipulates the basic principles that have to be included in each FTA provision, by which the contracting parties undertake the following:

- That they will not in their mutual trade, impose new export duties or taxes of the same effect as of the date of FTA coming into force, and that they will abolish all export duties or taxes of the equal effect as customs duties upon coming into force of the FTA;
- That import duties and taxes of the same effect should be abolished for at least 90 per cent of the mutual trade value of the contracting parties and tariff items under the HS, to the effect that they are abolished for the majority of products upon the FTA coming into force, and progressively for the most sensitive goods in the transitional period not longer than six years;
- That they will initiate the procedure of abolishing quantitative restrictions and measure of the same effect, particularly of those that do not comply with the WTO rules. If the FTA's provide for exemptions from the quantitative restrictions abolishing, their implementation must be selective and limited in time;
- That they will apply preferential rules of origin;
- That they will apply transparent and non-discriminatory measures in the area of public procurement, government aid and state monopoly;
- That they will simplify the customs procedures, primarily at the border crossings;
- That they will harmonize the methods of collecting statistical trade data;
- That they will ensure that regulations relating to the health of plants, animals and people, and environmental safety and protection be harmonized with the rules of the WTO, EU and other relevant international institutions;
- That they will harmonize local tax and banking legislation with the EU regulations;
- That they will implement intellectual property protection in compliance with the EU and WTO standards;
- That they will cooperate on implementation of the standards, technical regulations, conformity assessment, testing, metrology and accreditation systems, which have been adjusted to the EU and international principles;
- That they will liberalize trade in services;
- That they will ensure that the provisions of free trade agreements, which relate to implementation of antidumping, countervailing and safeguard measures comply with the WTO rules; and
- That they will review the existing free trade agreements, in order to harmonize them completely with the above principles of the Memorandum.

### 2.1. Scope of application

The free trade agreements include industrial<sup>12</sup> and agriculture products.<sup>13</sup> Trade facilities provided for in FTA's are different for industrial and agricultural products.

The basic duty for each products to which gradual facilities stipulated in the FTAs are applied is the MFN duty applicable on the date of the FTA's coming into force.

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<sup>12</sup> Term "industrial products" denotes products specified under Chapters 25 to 97 of the HS.

<sup>13</sup> Term "agriculture products" denotes products specified under Chapters 1 to 24 of the HS.

In principle, a higher level of liberalization is achieved with the industrial products. Depending on the structure of trade with certain country, on average 50 per cent to 90 per cent of mutual trade is included in the free trade regime. Other products are considered to be sensitive and trade liberalization with regard to such products is to be carried out over a transitional period of not longer than six years.

Because of the special sensitivity of the agricultural sector, trade benefits for these products are mainly restricted. For trade liberalization of agriculture products are applied models of liberalization as it follows:

- Complete abolishing of customs duties upon the FTA coming into force or during the transitional period;
- Reducing of customs duties upon the FTA coming into force or during the transitional period; and
- Abolishing or reducing customs duties for limited product quantities (tariff rate quotas).

Trade of agricultural products that are not included in any of the above categories, as well as product quantities exceeding the levels set by tariff rate quotas, shall be subject to MFN duties.

It is important to point out that the agreed trade facilities refer only to products originating in the contracting parties, which is to be proved by presenting the certificate of origin EUR1 or by declaration by the exporter.

Table VII. 2 - Exchange of sensitive agricultural products

Country	Exchange regime				Percentage Duty Decease			
	Zero Duty <sup>14</sup>	TRQs		MFN Duty <sup>15</sup>	When in Force	1 Jan 2005	1 Jan 2006	1 Jan 2007
		Zero Duty	Low Duty					
Albania	√	√	-	√	80%	60%	40%	0%
Bosnia and Herzegovina	√	-	-	-	100%	-	-	-
Bulgaria	√	√	√	√	80%	60%	40%	0%
Croatia	√	√	√	√	60%	40%	20%	0%
Macedonia	√	-	-	-	100%	-	-	-
Moldova	√	-	√	√	100% <sup>16</sup>	-	-	-
Romania	√	-	√	√	70% <sup>17</sup>	40%	20%	0%

## 2.2. Main characteristics of the agreements

All free trade agreements provide gradual, phased decrease of tariffs within a period of 2, 4, 6 or 8 years, and their final abolition not later than 2007. Customs free trade regime will be applied for 90 per cent of the trade flows, and it will be followed with the abolishment of other non-tariff barriers to trade. Agreements are applied only for goods produced in the signatory countries.

<sup>14</sup> 97 per cent is exported and imported without tariffs

<sup>15</sup> Full duties are paid above the agreed quantities

<sup>16</sup> Except 10 tariff items

<sup>17</sup> Except for few products for both sides for which the level of decrease of the tariff rate is 50%.

### 2.3. Specifics of free trade agreements signed by Serbia and Montenegro

#### a. Certificates of Origin

The free trade agreements define the manner of issuing and verifying certificates used to prove the origin of goods. Essentially, origin is proved by submitting the certificate on origin of goods EUR1.

In addition to the customs services of the two Republics of Serbia and of Montenegro, the Office of the Customs Administration of Serbia and of the Customs Administration of Montenegro is also in place at the level of the State Union to assist in coordination of customs policy. This Office has specific responsibility for the issuance and control of certificates on origin of goods intended for the EU countries.

The Customs Administration of Montenegro ("CAM") have signed agreements on international customs cooperation with several foreign customs services, providing for direct communication between customs services, thus enabling improved cooperation and efficiency in carrying out customs activities. Pursuant to such agreements, the CAM have submitted to the customs services of the countries in the region models of the stamp imprints of the CAM and the address of the body responsible for control of the certificate of origin EUR1. With respect to goods not intended for EU countries, certificates of origin are authenticated by the CAM.

#### b. Quotas

As indicated in Table VII.2, most of the FTAs include Tariff Rate Quotas with respect to preferential treatment of sensitive agricultural products.

#### c. Safeguard measures

The FTAs provide that temporary safeguards may be introduced, pursuant to WTO standards, provided that the other party to the agreement is notified, the safeguard decision is justified, and negotiations on gradual liberalization are continued.

### 3. Bilateral agreements

#### 3.1. The Republic of Albania

The Free Trade Agreement between Serbia and Montenegro and the Republic of Albania was signed on 13 November 2003 in Rome. It came into force on 1 August 2004.

Under the Agreement, trade in industrial products is duty free, except for two lists of sensitive industrial products, for which a gradual reduction of duties is provided for in the period from 2004 to 2007. On the date the Agreement entered into force, duties on these products were cut to 80 per cent of the basic customs duty; as of 1 January 2005, they will be further lowered to 60 per cent of the basic customs duty, as of 1 January 2006, to 40 per cent of the basic customs duty, and abolished as of 1 January 2007.

For agricultural products, a common list has been agreed, which contains the products that can be traded free of customs duties and other taxes of equal effect as customs duties, and two lists of sensitive products, containing the products traded using concessions in the form of annual duty-free quotas. Trade in these products in excess of the quantities provided in these quotas will be subject to normal duties.

### 3.2. Bosnia and Herzegovina

The Federal Republic of Yugoslavia signed the Free Trade Agreement with Bosnia and Herzegovina (FRY OG "IA" No. 4/02) on 1 February 2002. This Agreement entered into force in Montenegro on 1 September 2003.

Under this Agreement, goods originating in Bosnia and Herzegovina (with the exception of oil derivatives, all types of petrol, diesel and heating oil, protected and used pneumatic tires) are not subject to import duties or related fees when imported into Montenegro. Tariffs and fees for the excepted products were reduced to 60 per cent of the MFN amount upon the Agreement's entering into force, to 40 per cent in 2003, and were abolished in 2004. Similar provisions exist with respect to goods of Montenegrin origin imported into Bosnia and Herzegovina. Certificates of origin are issued and certified on the EUR1 form.

All quantitative restrictions on the exports of the signatory countries were abolished when this Agreement entered into force, with the exception of:

- Live animals;
- Types of cattle, whole big and small cattle hide;
- Wheat, corn, wheat flour, Soya bean, sunflower seeds, sugar, molasses; and
- These products, when exported to Bosnia and Herzegovina, are subject to the normal export regime.

### 3.3. The Republic of Bulgaria

Serbia and Montenegro signed the Free Trade Agreement with the Republic of Bulgaria on 13 November 2003 in Rome. The Agreement entered into force on 1 June 2004. The Agreement provides for a symmetrical model of mutual trade.

The transitional period for the gradual reduction of duties on sensitive industrial products will last to 1 January 2007. The customs duties have been or will be cut to:

- 80 per cent of the basic customs duty at the day of Agreement entering into force;
- 60 per cent of the basic customs duty as of 1 January 2005;
- 40 per cent of the basic customs duty as of 1 January 2006 and
- 0 per cent as of 1 January 2007.

The Lists of sensitive products include about 1,600 tariff items, 800 for each contracting party. Mutual concessions in trade of agricultural products was set out on a reciprocity basis in Annex A of the Protocol 1<sup>18</sup> and Annex B<sup>19</sup>.

For the most sensitive products, not specified in the above Annexes, and for quantities exceeding annual customs quotas, full customs duties and other import levies shall be paid by both contracting parties, and these make about 40 per cent of the tariff items.

### 3.4. The FYR Macedonia

The Federal Republic of Yugoslavia signed the Trade Agreement with the Republic of Macedonia (FRY OG "IA" No. 5/96) on 4 September 1996. The Agreement came into force 7 October 1996.

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<sup>18</sup>Fully liberalized trade with abolished customs duties without quotas

<sup>19</sup>Trade of products for which customs duties have been lowered or abolished within certain annual quotas

An Agreement on Amendments and Modifications of the Trade Agreement between the Serbia and Montenegro and the Republic of Macedonia is being negotiated. Renegotiation of this Agreement is necessary because the original Agreement was signed during the period of sanctions against Serbia, when Serbia and Montenegro couldn't export their products. Thus the Agreement provided for possibility to export from the Macedonia in Serbia and Montenegro without tariffs and quantitative restrictions, but not vice versa.

Further information on the renegotiation of this Agreement will be provided when available.

### 3.5. The Republic of Moldova

The Free Trade Agreement between the Serbia and Montenegro and Moldova was signed on 13 December 2003 in Rome, and entered into force on 1 September 2004. The Agreement provides for the symmetrical model of mutual trade.

Customs duties for industrial products were abolished when the Agreement came into force. Full liberalization was agreed for agricultural and food products, with the exception of certain products<sup>20</sup> whose import is subject to symmetrical annual quotas under preferential rates. Imports in excess of these quotas are subject to normal MFN duties.

### 3.6. Romania

The Free Trade Agreement between Romania and Serbia and Montenegro, was signed on 23 December 2003 in Bucharest and entered into force on 1 July 2004. The Agreement provides for the symmetrical model of mutual trade.

Trade of industrial products is duty free except for four lists of sensitive industrial products for which a gradual reduction of duties has been provided for by 2007, at which time trade in all industrial products will be duty free.

Two longer lists of sensitive industrial products, under which tariff rates shall be reduced at a somewhat lower pace by the end of the transitional period, contain just above 400 commodities.<sup>21</sup>

Two common lists have been agreed for trade in agricultural products. Under the first one (Annex A to Protocol 2), trade is duty free. The second list (Annex B) covers products for which tariff rate quotas have been established.

### 3.7. The Republic of Croatia

The Free Trade Agreement with the Republic of Croatia was signed on 23 December 2002 in Belgrade, and Amendments and Modifications thereto in Zagreb on 14 January 2004. The Agreement came into force on 1 July 2004. The Agreement provides for the symmetrical model of mutual trade.

The Agreement provides for duty free trade for about 70 per cent of industrial products. Other products are on the sensitive list, for which tariffs will be eliminated by 1 January 2007 following an annual schedule: to 60 per cent, 40 per cent, 20 per cent, and 0 per cent of the basic duty.

With respect to agricultural and food products, the Agreement covers all products specified in Chapters 1-24 of the Customs Tariff. Treatment of import of these products is specified in Protocol 2 of the Agreement in the form of 3 Annexes.

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<sup>20</sup> Tobacco, cigarettes, wine and alcoholic beverages

<sup>21</sup> 223 tariff items on the Serbia and Montenegro list, and 204 tariff items on the Romanian list



Annex A contains products on which import duties will be abolished gradually or lowered gradually by 2007 on a schedule set out in the Annex.

Annex B contains products for which the customs duties shall be lowered within the period until 2005; i.e., until 2007 in accordance with the schedule set out for each product.

Annex C establishes tariff rate quotas at either zero or preferential rates for the most sensitive products. Imports in excess of the quotas are at normal MFN rates. This list includes more than 50 groups of major products, or approximately 50 per cent of tariff lines for agricultural and food products.

#### 4. Trade with South Eastern Europe countries in the period January-September 2004

The total trade in goods between Montenegro and the SEE countries in the period from January to September 2004 was €60.1 million, a reduction of 7.6 per cent. Imports were €46.8 million, exports were €13.3 million, the ratio of exports to imports was 28.5 per cent, and the deficit in trade in goods €33.5 million. When compared to the same period in 2003, exports increased by €5.05 million, or 61.1 per cent. The largest increase of exports in the absolute amount was noted in trade with Bosnia and Herzegovina, while the largest increase of exports by percentage was present in trade with Croatia. The decrease in exports was present in trade with Bulgaria and Macedonia, while there were no exports into Moldova.

Table VII. 3 - Total exports per SEE countries (€ thousand)

Country	Jan – Sep 2003		Jan – Sep 2004		2004/2003
	Amount	%	Amount	%	Index
Albania	972	11.7	1,178	8.8	121.2
Bosnia and Herzegovina	5,545	67.0	8,694	65.2	156.8
Bulgaria	6	-	33	-	55.0
Croatia	1,121	13.5	2,942	22.1	262.4
Macedonia	621	7.5	468	3.5	75.4
Moldova	-	-	-	-	-
Romania	16	-	23	-	143.8
TOTAL	8,281	100	13,338	100	161.1

Data source: Montenegrin Customs Administration

The largest imports are still from Croatia (€20.4 million), although in the period compared they dropped by 32.9 per cent. The largest increase in imports (by value) was registered in trade with Bosnia and Herzegovina.

Table VII. 4 - Total imports per SEE countries (€ thousand)

Country	Jan – Sep 2003		Jan – Sep 2004		2004/2003
	Amount	%	Amount	%	Index
Albania	2,077	3.7	1,196	2.5	57.6
Bosnia and Herzegovina	11,932	21.1	15,094	32.2	126.5
Bulgaria	3,339	5.9	2,384	5.1	71.4
Croatia	30,367	53.7	20,378	43.5	67.1
Macedonia	5,827	10.3	3,864	8.2	66.3
Moldova	-	-	156	0.3	-

Country	Jan – Sep 2003		Jan – Sep 2004		2004/2003
	Amount	%	Amount	%	Index
Romania	2,962	5.2	3,792	8.1	128.0
TOTAL	56,504	100	46,864	100	82.9

Data source: Montenegrin Customs Administration

#### 4.1. Republic of Albania

Albania's share in Montenegrin foreign trade in goods stands at less than 1 per cent. The trade balance is even, although the level of trade is way below actual potential. Exports to Albania are mainly food industry waste, wood and wood products, beverages, alcohols and vinegar, and iron and steel products; while imports are mainly mineral fuels, oils, fish, crustaceans, molluscs, ceramic products, etc.

Table VII. 5 - Trade in goods with the Republic of Albania for 9 months in 2004 (€ thousand)

		Export	%	Import	%
	TOTAL RM	231,490	100.0	498,083	100.0
	Albania	1,178	0.51	1,196	0.24
No	Description				
1	Mineral fuels, mineral oils	-	-	586	49
2	Fishes, crustaceans, molluscs	-	-	133	11.2
3	Ceramic products	9	0.7	128	10.7
4	Aluminium and aluminium products	8	0.6	94	7.8
5	Ships, boats	-	-	73	6.1
6	Coffee, tea, mate tea and spices	-	-	40	3.3
7	Protein substances	-	-	21	1.7
8	Food industry waste	437	37.1	-	-
9	Wood and wood products	176	15.1	16	1.3
10	Beverages, alcohols and vinegar	97	8.2	2	0.2
11	Iron and steel products	97	8.2	9	0.7
12	Grain milling industry products	91	7.7	-	-
13	Salt, sulphur, earth, stone	66	5.6	5	0.4
14	Products for photographic purposes	34	2.9	-	-

Data source: Montenegrin Customs Administration

#### 4.2. Bosnia and Herzegovina

Total trade in goods with Bosnia and Herzegovina for the period from January to September 2004 was in the amount of €23.8 million. Exports from Montenegro to Bosnia and Herzegovina were €8.7 million, or 3.8 per cent of the total for Montenegro in the said period. Imports were worth €15.1 million, which is 3.0 per cent of total imports. This trade in goods had the deficit in the amount of €6.4 millions.

During the last four months of 2003, with the implementation of the FTA with Bosnia and Herzegovina, a large trade deficit was present. Exports were mainly beverages, alcohol and vinegar, iron and steel, and hides; while imports were mainly vehicles, boilers, machinery and mechanical devices, and electrical machinery.

Table VII. 6 - Trade in goods with Bosnia and Herzegovina for nine months in 2004 (€ thousand)

		Exports	%	Imports	%
	Total for Montenegro	231,490	100.0	498,083	100.0
	Bosnia and Herzegovina	8,694	3.8	15,094	3.0
No.	Description				
1.	Vehicles, except for railway vehicles	117	1.4	1,716	11.4
2.	Boilers, machinery and mechanical devices	176	2.0	1,598	10.6
3.	Electrical machinery and equipment	506	5.8	1,199	7.9
4.	Paper and cardboard	55	0.6	772	5.1
5.	Iron and steel products	198	2.3	728	4.8
6.	Pharmaceutical products	92	1.1	585	3.9
7.	Mineral fuels, mineral oils	240	2.8	551	3.7
8.	Plastics and plastic products	119	1.4	533	3.5
9.	Iron and steel	1,631	18.8	523	3.5
10.	Grain milling industry products	-	-	494	3.3
11.	Printed books, newspapers, paintings	-	-	403	2.7
12.	Products from cereals and flour	237	2.7	356	2.4
13.	beverages, alcohols and vinegar	2,217	25.5	-	-
14.	Large and small raw hides	1,434	16.5	-	-
15.	Aluminium and aluminium products	615	7.1	-	-

Data source: Montenegrin Customs Administration

#### 4.3. Republic of Bulgaria

Trade with Bulgaria was characterized by almost symbolic exports and imports worth €2.4 millions. Goods most present in trade were: boilers, machinery and mechanical devices, electrical machinery and parts, glass and glass products.

Table VII. 7 - Trade in goods with Bulgaria for 9 months in 2004 (€ thousand)

		Exports	%	Imports	%
	Total for Montenegro	231,490	100.0	498,083	100.0
	Bulgaria	33	0.01	2,384	0.48
1	Boilers, machinery and mechanical devices	5	15.5	751	31.5
2	Electrical machinery and parts	-	-	456	19.1
3	Glass and glass products	-	-	208	8.7
4	Products from cereals and flour	-	-	176	7.4
5	Vehicles and parts	-	-	158	6.6
6	Paper and cardboard	-	0.4	157	6.6
7	Furniture, linen, mattresses	-	-	65	2.7
8	Iron and steel	-	-	57	2.4
9	Inorganic chemical products	-	-	54	2.3
10	Large and small raw hides	25	75.7	-	-
11	Optical, medical instruments	-	0.3	16	0.7
12	Oil seeds and fruits	1	4.3	-	-
13	Extracts for tanning or dyeing	1	3.2	1	0.1
14	Various products	-	0.1	-	-

Data source: Montenegrin Customs Administration

#### 4.4. Republic of Macedonia

Since 1996, when Montenegro started implementing the FTA with the Republic of Macedonia, Montenegro has experienced a steady deficit in trade in goods, as well as the decrease in the total volume of trade.

The first nine months of this year saw the deficit in the amount of €3.4 million. Total Montenegrin exports to Macedonia are only 0.2 per cent of total exports, while imports from Macedonia are 0.8 per cent of total imports. The dominant products in trade with Macedonia are iron and steel products and tobacco.

Table VII. 9 - Trade in goods with Macedonia for nine months in 2004 (€ thousand)

		Exports	%	Imports	%
	Total for Montenegro	231,490	100.0	498,083	100.0
	Macedonia	468	0.2	3,864	0.8
No.	Description				
1	Iron and steel	-	-	439	11.4
2	iron and steel products	-	-	375	9.7
3	Tobacco and tobacco substitute products	87	18.7	256	6.6
4	Electrical machinery and equipment	-	-	254	6.6
5	Pharmaceuticals products	-	-	232	6.0
6	Plastics and plastic products	-	-	187	4.8
7	Products from vegetables, fruits and other plants	14	2.9	154	4.0
8	Vegetables, roots and edible corms	-	-	151	3.9
9	Products from stone, mortar, cement, concrete	-	-	148	3.8
10	Edible fruits, citrus fruits peels or melon and watermelon	18	3.9	138	3.6
11	Ceramic products	2	0.5	136	3.5
12	Other finished textile products	-	-	132	3.4
13	Cocoa and cocoa products	-	-	120	3.1
14	Various food products	102	21.8	51	1.3
15	Aluminium and aluminium products	91	19.4	11	0.3
16	Boilers, machinery and mechanical devices	38	8.2	183	4.7
17	Wood and wood products, lignite	32	6.8	1	0.0

Data source: Montenegrin Customs Administration

#### 4.5. Republic of Moldova

Foreign trade with Moldova is only symbolic. For the period from January to September 2004 the only imports were iron and steel, while there were no exports.

Table VII. 10 - Trade in goods with the Republic of Moldova for nine months in 2004 (€ thousand)

		Exports	%	Imports	%
	Total for Montenegro	231,490	100.0	498,083	100.0
	Moldova	-	-	155	0.03
No	Description				
1	Iron and steel	-	-	155	100

Data source: Montenegrin Customs Administration

#### 4.6. Romania

Foreign trade with Romania suffered from a deficit of €15.1 million. Total exports and imports in trade with Romania are insignificant.

Most dominant products in foreign trade are vehicles, their parts and equipment, machinery and mechanical devices, and electrical machinery and equipment.

Table VII. 11 - Trade in goods with Romania for nine months in 2004 (€ thousand)

		Exports	%	Imports	%
	Total for Montenegro	231,490	100.0	498,083	100.0
	Romania	23	0.01	15,094	0.03
No	Description				
1	Vehicles, their parts and equipment			1,715	11.4
2	Machinery and mechanical devices	4	17.3	1,598	10.57
3	Electrical machinery and equipment			1,198	7.9
4	Furniture, linen, mattresses			1,015	6.72
5	Paper and cardboard			772	5.14
6	Pharmaceutical products			585	3.87
7	Plastics and plastic products			536	3.57
8	Iron and steel			523	3.46
9	Mineral fuels, mineral oils			550.62	3.7
10	Chemical industry products	19	82.6	105	0.7
11	Grain milling industry products			493	3.3
12	Fishes, crustaceans and molluscs			447	2.9
13	Beverages, alcohols and vinegar	0.03	0.01		

Data source: Montenegrin Customs Administration

#### 4.7. Republic of Croatia

Foreign trade between Montenegro and Croatia amounted to €23.3 millions. There was a deficit in the amount of €17.4 millions. Import from Croatia into Montenegro was at the level of 4.1 per cent of total imports in this period, and the share of exports in total exports of Montenegro was 1.3 per cent.

Most dominant products in this trade were: electrical machinery and equipment, salt, sulphur, earth, stone, mortar, etc.

Table VII. 12 - Trade in goods with Croatia for nine months in 2004 (€ thousand)

		Exports	%	Imports	%
	Total for Montenegro	231,490	100.0	498,083	100.0
	Croatia	2,942	1.3	20,378	4.1
No.	Description				
1	Electrical machinery and equipment	11	0.4	3,990	19.6
2	Salt, sulfur, earth, stone, mortar	6	0.2	2,294	11.3
3	Mineral fuels, oils	-	-	2,094	10.3
4	Boilers, machinery and mechanical devices	34	1.2	1,874	9.2
5	Various food products	-	-	886	4.4
6	Beverages, alcohols and vinegar	113	3.8	586	2.9
7	Products from cereals and flour	-	-	427	2.1
8	Tobacco and tobacco substitute products	-	-	424	2.1
9	Plastics and plastic products	10	0.3	410	2.0
10	Milk and milk products	-	-	345	1.7
11	Iron and steel products	1,309	44.5	-	-

		Exports	%	Imports	%
12	Ships, boats and floating constructions	889	30.2	-	-
13	Edible fruits, citrus fruits or watermelons	248	8.4	-	-
14	Perfumery and cosmetic products	162	5.5	-	-

Data source: Montenegrin Customs Administration

### **3. Labour markets integration agreements**

The State Union of Serbia and Montenegro is a signatory to 12 bilateral labour markets integration agreements, ten of which are signed with France, Sweden, Germany, Luxembourg and Belgium. These agreements include general provisions on facilitating movement of labour between Serbia and Montenegro and the aforementioned countries. The other two bilateral agreements are signed with the European Council Reintegration Fund for the purpose of cooperation and development between Serbia and Montenegro and the member countries of the Fund. Serbia and Montenegro is acting as a joint member of the Fund. Please see the list of all these agreements in Table A8.15 in Annex 8 of document WT/ACC/CGR/3/Add.1.

The State Union of Serbia and Montenegro is a member of the International Labour Organization (ILO) and has signed over 60 multilateral labour agreements, all under the auspices of the ILO. Please see the list in Annex 8 of document WT/ACC/CGR/3/Add.1.

### **4. Multilateral economic cooperation, membership in the multilateral economic organizations, trade-related programmes of other multilateral organizations**

The State Union of Serbia and Montenegro is a member of at least 30 multilateral economic organizations. Please see Annex 8 of document WT/ACC/CGR/3/Add.1. The Union is also a signatory to at least 350 international conventions in the following areas: trade, customs, economic, air transport, rail transport, road transport, sea transport, Danube River transport, tourism, posts, and telecommunications. A list of all these conventions is provided in Tables A8.16-A8.26 in Annex 8 of document WT/ACC/CGR/3/Add.1.

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