

III. TRADE POLICIES AND PRACTICES BY MEASURE

(1) INTRODUCTION

1. Since its previous Review in 2006, the United Arab Emirates has given high priority to trade facilitation. In this respect, the authorities have streamlined the procedures to prepare documents and have reduced the time required to clear customs, mainly by introducing fully electronic clearance procedures around the clock, and by allowing the use of electronic signatures (at present only possible at the Dubai Customs). Also, a risk assessment system has been introduced. However, despite this progress, imports must still be processed by a designated trade agent, who is subject to nationality restrictions. A trade agent requires a trading licence, and licences are granted only to UAE nationals or to companies that are at least 51% owned by UAE nationals.

2. The UAE applies the Gulf Cooperation Council's (GCC) Common External Tariff (since 2003). The tariff structure is relatively simple, with a low dispersion: it comprises four *ad valorem* tariff rates: zero; 5%, which is the general tariff rate; and 50% and 100%, which are applied on alcohol and tobacco, respectively. Some 97% of all tariff lines are *ad valorem*; duties are levied on the c.i.f. value of imports. Alternate or specific duties apply to 0.3% of all tariff lines. Since the last Review of the UAE, the average tariff rate has come down somewhat, from 5.1%, to 4.9%. The UAE has bound all tariff lines. Bound rates are in general considerably higher than applied rates, ranging from zero to 200%, giving scope for their reduction. Some three quarters of lines are bound at 15%, three times the general applied tariff rate. The UAE does not apply other duties and charges on imports.

3. Import prohibitions apply on some 30 HS tariff lines, and another 244 lines at the HS 8-digit level are considered restricted goods. Restrictions and prohibitions are mostly applied on safety, religious or moral grounds. No import licensing regime is in place, and the transaction value of goods is generally used for valuation purposes.

4. In 2005 the UAE issued national legislation to adopt and implement the provisions on anti-dumping, countervailing, and safeguards measures contained in the GCC Treaty. No anti-dumping or countervailing measures were taken during the period under review; no investigations were initiated. The GCC initiated two safeguard investigations in November 2009 regarding uncoated paper and paper board, and steel angles, channels and beams. However, the investigations were terminated on 31 May 2010 because injury could not be determined.

5. The Emirates Standardization and Metrology Authority (ESMA), established in 2001, is the standardization body in the UAE. The ESMA develops and adopts standards, which are prepared by its technical committees at the request of the Government, industry, and consumers. In general, standards are developed according to existing international and regional standards; however, if no international standards are available Dubai develops its own standards. Drafts are circulated to the relevant bodies for comments. There is no central body in charge of preparing technical regulations in the UAE. These may be developed by the ESMA, initially in the form of a standard and then made mandatory, or may be devised directly by a Ministry; all technical regulations are approved by Cabinet decision for legal implementation. The ESMA monitors the application of standards and technical regulations. In mid 2011, there were 6,000 standards, mostly based on GCC standards, in the UAE. It is estimated that, at present, some 65-70% of the applied standards are in conformity with international standards. During the period under review, the UAE made over 90 notifications to the TBT Committee.

6. The Ministry of Environment and Water is responsible for sanitary and phytosanitary (SPS) issues at the federal level in the UAE. Additionally, each emirate has its own responsible agency. The UAE has an extensive body of national legislation to regulate SPS measures, most of the laws are based on GCC standards. All plants and plant products entering the UAE are subject to quarantine, and require a phytosanitary certificate. Similarly, all animals and animal products are subject to quarantine and require a sanitary certificate. All shipments of food are inspected to ensure compliance with labelling and shelf-life regulations.

7. In general, the UAE does not apply export taxes, charges, and levies, with the exception of a tax on steel scrap exports. Exports of dual-use goods require a licence. The UAE applies a number of programmes to promote exports, including an extensive free-trade-zones (FTZ) programme, established in 1980 to attract foreign capital by offering incentives. Foreign ownership in firms established in FTZs may be up to 100%, and investors are exempt from personal income taxes and corporate taxes for 15 years, renewable for an additional 15 years. Goods may be imported into an FTZ duty free. Companies located in FTZs are exempted from agency/distributorship, sponsorship, and national ownership requirements. There are some 26 FTZ operating in the UAE, with investments of US\$4 billion. FTZs produce goods and provide services.

8. During most of the period under review, the Emirate Industrial Bank (EIB), a majority-government-owned institution administered by the Ministry of Finance provided credits to both new and existing companies, mostly private and semi-private, engaged in industrial activities. To be eligible, the project was required to have a minimum of 51% UAE or GCC equity participation and be located in the UAE. The loan financed up to 70% of the project's total cost at a preferential interest rate. In October 2011, the EIB was restructured and converted into the Emirates Development Bank; its scope and policies were still to be defined at the time of the Secretariat's visit in November 2011.

9. The UAE economy would benefit from the adoption of a competition law, given the relative concentration of producers/suppliers in some sectors. A draft UAE competition law including restrictive agreements, abuse of a dominant position, and mergers and acquisitions, is under consideration by the Ministerial Cabinet.

10. The UAE is not a party or an observer to the WTO Plurilateral Agreement on Government Procurement. The procurement policy continues to give preference to local companies and suppliers, as foreign participation is limited by nationality requirements. However, there is a strong reliance on foreign companies, particularly for major projects for which local expertise is not always available. An offset programme is in place for defence contracts. Given the federal nature of the UAE, the majority of procurement (by value) is at emirate level.

11. Domestic laws relating to intellectual property rights protection are supplemented with laws issued by the GCC. In recent years, the UAE has implemented programmes to increase awareness of intellectual property protection. The goal is to establish an environment that promotes innovation, and to attract investment in intellectual-property-related areas in the UAE. All main intellectual property laws provide measures to prevent violation of intellectual property rights, including preventive seizure, confiscation, removal or destruction of products and equipment, as well as elimination of the effects of the illegal acts, and compensation, and imprisonment in certain instances.

(2) MEASURES DIRECTLY AFFECTING IMPORTS

(i) Customs procedures

12. Importers and exporters require a trading licence to operate in the UAE. Trading licences are granted to UAE nationals and to companies that are at least 51% owned by UAE nationals. Licences

specify the commodities that may be imported and the region; they may be emirate specific. Importers intending to supply the free-trade zones are exempt from the licensing requirement.¹ Imported goods must be distributed by a trade agency. Ownership of these agencies is restricted to UAE nationals or domestic companies fully owned by UAE nationals. In addition, only UAE nationals or judicial persons fully owned by UAE nationals may act as trade agents (see also Chapter II(6)).² Trade agents are entitled to an exclusive territory encompassing at least one Emirate for the specified products (Article 5(1) of the Commercial Agencies Federal Law).

13. Trade (also called commercial) agencies must be registered in the Registry of Commercial Agents. Applications for registration must be submitted to the Ministry of Economy and are subject to a fee. The relationship between the agent and importer must also be registered (currently with the UAE Ministry of Economy). Termination or refusal to renew a contract with a trade agency is not permitted unless the importer can present to the Commercial Agencies Committee and/or court (as applicable) "a material reason justifying its termination or non-renewal".³ Termination of the contract is then decided by the Committee or the Court, as applicable. The limitations on exiting the market or changing agents may act as a deterrent for foreign companies and individuals to undertake foreign trade operations.

14. Despite these remaining obstacles to trade, since the previous Review of the UAE, trade facilitation has been a high priority in the UAE, which has undertaken a number of steps in this direction.⁴ For example, it has streamlined the procedures to prepare documents and reduced the time required to import (export) with the launch of new clearance systems used at local Customs; the main ones were launched by Abu Dhabi Customs and Dubai Customs. Dubai's new customs system, Mirsal 2, allows clients to complete clearance procedures electronically around the clock, and allows the use of electronic signatures. The system also features a Risk Assessment Engine linking Dubai Customs with local, regional, and international organizations to help ensure the global trading process's security. In general terms, the UAE gives high priority to trade facilitation, due to the importance of re-exports and to its position as a global hub.

15. Customs are not authorized to release imported items other than through the designated trade agent, unless permission is granted by the Ministry ((Article 23) of the Trade Agencies Federal Law). The right of trade agents to exclusive distribution (including area of distribution), and the impediment to terminating a contract with an agent act as a barrier to trade at the border and between the emirates, as goods cannot be moved freely from one emirate to another unless the agent has the right to do so. This seems to be in contradiction with the aim of free movement of goods within the GCC and the single entry principle.

16. Imports entering the UAE require a customs declaration that must be submitted to the appropriate customs authorities when goods enter the country. The import declaration must be accompanied by: a bill of lading in its original copy⁵; an original commercial invoice (legalized); a packing list; a certificate of origin legalized by a UAE Consulate; a sanitary or phytosanitary

¹ Dun and Bradstreet (2006).

² The Trade Agencies Federal Law (Federal Law No. 18 of 1981) has been amended by: Federal Law No. 14 of 26 December 1988; Federal Law No. 13 (To amend certain provisions of the Federal Law No. 18 of 1981 Apropos the Regulations of Commercial Agencies) of 3 June 2006; and by Federal Law No. 2 of 2010.

³ Federal Law No. 2 of 2010. This law amended Federal Law No. 18 of 1981, which is the law regulating commercial agencies in the UAE.

⁴ World Bank and the International Finance Corporation (2010).

⁵ The bill of lading must include the following information: port of shipment, country or origin, name of consignee or notifying party and address, all container marks and numbers, a description of the goods, and quantity, weight, and volume.

certificate as required; and for restricted imports a permit and a letter of exemption from the competent authority. Imported meat and poultry products require a health certificate from the country of origin and a halal slaughter certificate issued by an approved Islamic Centre in the country of origin.⁶ Each customs office (in each emirate) has its own electronic clearance system.

17. The authorities indicated in the course of this Review, that the UAE is working on applying a single window for import procedures (and for exports).

18. Consular fees of US\$15 per document are charged to legalize certificates of origin, commercial invoices, packing lists, original bills of lading, airway bills, etc. An additional fee of US\$15 is charged for legalization of each additional copy.

19. The inspection of goods and other customs procedures are conducted at all customs offices, generally based on the results of risk assessment (see below) or for goods subject to an import licensing requirement, sanitary or phytosanitary certificate, or any other restriction. However, Customs has the authority to inspect any inbound cargo at any time in any place, to confirm that it has been correctly declared, that it is eligible for entry, and to determine the value. Customs inspections are generally made at the receiving port before the goods are delivered to the consignee. If the consignee wishes to unpack the container in his own warehouse, Customs will seal the container and make the inspection at the warehouse, upon request. Inspections done within a port are free of charge; however, those made elsewhere incur a fee.

20. In accordance with the Customs Law, the Administration may use Electronic Data Interchange (EDI) system in customs clearance.⁷ The customs clearance systems were upgraded at the Abu Dhabi and Dubai's Customs to enable business partners to submit customs declarations online from the client's own system for processing and e-payment.

21. The UAE uses a risk-management system for inspection at Customs, rather than 100% inspection. It uses the Authorized Economic Operators (AEO) concept, which facilitates customs clearance, with the aim of unifying the database federally. However, the authorities indicated that the AEO system is used only by Abu Dhabi and Dubai in mid 2011. The Federal Customs Authority is developing a Federal Risk Analysis Mechanism to exchange risk indicators at the federal and local level.

22. The UAE has signed customs cooperation agreements with several trading partners; those with Algeria and Pakistan have been ratified.⁸ In addition, as a signatory of the Kyoto Convention (in April 2011), the UAE is working with the GCC members and secretariat to review the GCC Common Customs Law, including the procedures outlined in the Convention.⁹ The UAE signed the Istanbul Convention in 2010 and started implementing it in April 2011. The authorities indicated that, as of June 2011, a unified trader code (UTC) is applied across the UAE. Previously, traders had to register separately in each emirate. The introduction of the UTC allows traders (importers or exporters) to operate throughout the UAE. The authorities indicated that the UTC may be obtained online, and is used as a means of assuring that information is made readily available to the trader. The authorities consider that the use of the UTC facilitates risk management, and constitutes an important step towards the adoption of a single window system.

⁶ Dun and Bradstreet (2006).

⁷ Common Customs Law.

⁸ Information provided by the UAE authorities.

⁹ Cabinet Decree No. 33 of 2011.

23. There is no advance ruling system in place. In the context of this Review the authorities indicated that implementation of an advance ruling system would require further assistance due to the complications posed by the UAE's particular federal system.

24. The UAE applies four import regimes: transit, temporary admission, warehousing, and goods imported into the free-trade zones. Customs duties do not need to be paid on goods in transit but a deposit or bank guarantee is required, equal to the customs duties that would be payable upon import plus some nominal charges.¹⁰ The deposit is refundable in full while the charges are not. Goods in transit must be transported through specified routes, which are set by a resolution of the Minister or the competent authority.¹¹ The Customs Administration prohibits the transit of goods for which importation into the UAE is restricted or prohibited. The transit of goods infringing intellectual property rights through the UAE is also prohibited.¹²

25. Certain goods may be imported temporarily with approval from Customs, provided they are re-exported within six months, with the exception of capital goods, which may remain up to three years, upon payment of a deposit in lieu of duty or a bank guarantee (Table III.1). The deposit or guarantee is refundable on proof of export. The materials and articles that enter under temporary admission may not be used, allocated or disposed of for purposes and objectives other than those for which they were imported as stated in the declaration submitted.¹³ Customs is allowed to inspect the use of goods that enter the UAE temporarily. There is a fee for the on-site inspection.¹⁴ Goods remaining in the UAE over six months are liable for duty payment.

Table III.1
Goods that may be imported under temporary admission, 2011

Goods that may be imported under temporary admission
Heavy machinery and equipment for completion of projects or for conducting the experiments and tests relating to such projects
Foreign goods imported for completion of processing.
Items temporarily imported for playgrounds, theatres, exhibitions, and like events
Machinery and equipment imported into the country for repair
Containers and packing imported for refilling
Animals admitted for grazing
Commercial samples for exhibition

Source: Article 90 of the Common Customs Law.

26. Warehouses may be established by a resolution of the Minister in charge of Customs or the competent authority inside or outside the Customs Office. Goods may be deposited with the warehouses without payment of customs duties and taxes for storage.

27. At the time of clearance, even if exempted from customs taxes and duties, a detailed customs declaration, conforming to the requirements of the GCC member states, must be submitted to the Customs Office, containing all the information that would enable the levying of customs taxes and duties.¹⁵

¹⁰ Charges include: AED 30 for a customs transportation card; AED 10 if the customs transportation card needs to be amended; AED 50 for the transit declaration; and AED 20 for a temporary admission plate for vehicles (Decrees No. 45 of 2009 and No. 1 of 2011).

¹¹ Common Customs Law.

¹² Common Customs Law.

¹³ Common Customs Law.

¹⁴ Article 92 of the Common Customs Law.

¹⁵ Common Customs Law.

28. When goods are to be inspected, the designated customs officer must examine the goods wholly or partially after registering the customs declarations at the Customs Office (Article 53); in certain cases, when goods require special handling, examinations may be conducted outside the Customs Office. Examinations are conducted in the presence of the owner of the goods or his representative. However, if a customs officer suspects the presence of prohibited or illegal merchandise, packages may be opened for inspection in the absence of the owner or his representative, and the customs officer may inspect and analyse the goods prior to notifying the owner. If goods prove through inspection or analysis to be harmful or do not conform to the approved specifications, the Director General of Customs may order their destruction (or re-export) at the expense and in presence of their owners or their representatives.

29. Prior authorization from the appropriate government body is required to import specific goods, including weapons and ammunition, all alcoholic beverages, pork products, tobacco products, publications, visual and audio tapes, telecommunication equipment, all foodstuffs, animals and their products, animal feeds, additives, living bees and bee queens, fireworks and explosives. Other goods are regulated or require registration, as is the case for pharmaceuticals.

30. Some restrictions apply with respect to the transport and unloading of goods. Vessels irrespective of their load capacity, are prohibited from anchoring at any harbour other than those designated for receiving them. Vessels loaded with prohibited or restricted goods, of a loading capacity of less than 200 marine tons may not enter or be involved in shipping activities within the marine customs zone, except in emergency situations. This restriction excludes vessels transporting goods within the UAE's various ports for which customs procedures have been finalized at the port of entry.

(ii) Customs valuation and rules of origin

(a) Customs valuation

31. Imported goods are valued on the basis the transaction value. If the transaction value of the imported good cannot be determined the transaction value of a similar or identical good is used. If neither of these values can be determined, the valuation methods used are: the deductive value, the computed value or the flexible method. The importer may request application of the computed value method before the deductive value method.¹⁶ This request must be made at the time of submitting the Customs Declaration.¹⁷

32. Customs duties are levied based on the transaction value declared in the customs declaration. If, following the physical inspection, a discrepancy is found between the value of the goods and what is stated in the customs declaration, customs taxes and duties will be levied on the basis of this finding. In this case, Customs has the right to levy a fine.

33. Imported goods are subject to the duties applicable on the date of registering the customs declaration with the Customs Office. Goods taken from the free zones and duty-free shops into the local markets are subject to the customs tariff effective at that time.

34. The Valuation Committee is in place to settle any disputes between importers and the Customs Office about the value of imported goods. Importers may appeal a customs decision before the Valuation Committee within 15 days following registration of the customs declaration or from the

¹⁶ The United Arab Emirates invoked paragraph 3 of Annex III of the Agreement on Customs Valuation (WTO document G/VAL/2/Rev.24, 27 April 2007).

¹⁷ Rules of Implementation of the GCC Common Customs Law.

date of the valuation notice sent by registered mail. The importer is informed in writing of the decision taken by the Committee. Importers may also appeal before a judicial court. The authorities indicated that no cases have been taken to court.

35. Customs may release the goods in dispute, if not prohibited, after collecting a deposit in an amount equivalent to customs duties and taxes determined by the Customs Office. Samples of the goods are maintained temporarily for reference, when necessary; they are returned unless they are used during the inspection and analysis purposes.

(iii) Rules of origin

36. The UAE does not apply non-preferential rules of origin. Preferential rules of origin apply to goods produced in the GCC and in PAFTA members (Table III.2). Under PAFTA and the GCC, the certificate of origin must be issued by the producer, and be authenticated by the competent authorities in the country of origin. The authorities indicated that, in mid 2011, new legislation with respect to rules of origin was being drafted.

Table III.2
Preferential rules of origin, 2011

Agreement/country	Rules
Goods of GCC origin	Wholly obtained Substantial transformation, with at least 40% of local value-added, and produced in plants that are at least 51% owned by GCC nationals
PAFTA	Value added no less than 40% when there is substantial transformation Value added no less than 20% for assembly industries

Source: WTO Secretariat.

(iv) Tariffs

(a) Applied tariff

37. The UAE adopted the Gulf Cooperation Council (GCC) common external tariff (CET) on 1 January 2003. The CET is mainly *ad valorem* except for duties levied on tobacco. The CET is a five-year tariff. The current CET is for 2007-2012. Tariff changes require approval from the other GCC countries.

38. Under the "single port of entry" principle, customs duties are collected at the first point of entry to the GCC states.¹⁸ The authorities indicated that the distribution of duties is through quarterly electronic transfers between GCC countries, through the "Electronic Clearing Customs". Duties are collected at the first point of entry but allocated to the country where the imported good is finally used. The authorities noted that the GCC has a special committee to deal with problems that might emerge from the redistribution of tariff proceeds. Complaints are lodged first with the respective national Customs Administration which, in turns, transfers the matter to the GCC.

39. The 2011 applied tariff (HS2007 nomenclature) has 7,101 tariff lines at the eight-digit level, comprising four *ad valorem* tariff rates: zero; 5%, which is the general tariff rate; 50%, applied on alcoholic beverages; and 100%, applied on tobacco (Chart III.1). Some 99.7% of all tariff lines are *ad valorem*; duties are levied on the c.i.f. value of imports. Alternate or specific duties apply to 0.3% of all tariff lines, a slight decrease from 2005 (0.4%) (Table III.3).

¹⁸ Gulf Cooperation Council (undated).

Table III.3
Structure of MFN tariff, 2011
(%)

		MFN applied		Final bound ^a
		2005 ^a	2011	
1.	Bound tariff lines (% of all tariff lines)	100.0	100.0	100.0
2.	Duty-free tariff lines (% of all tariff lines)	5.9	9.4	2.7
3.	Non- <i>ad valorem</i> tariffs (% of all tariff lines) ^b	0.4	0.3	0.0
4.	Non- <i>ad valorem</i> tariffs with no AVEs (% of all tariff lines) ^b	0.4	0.3	0.0
5.	Tariff quotas (% of all tariff lines)	0.0	0.0	0.0
6.	Simple average tariff rate	5.1	4.9	14.6
	Agricultural products (WTO definition)	6.2	6.3	25.0
	Non-agricultural products (WTO definition)	4.8	4.6	12.7
	Agriculture, hunting, forestry and fishing (ISIC 1)	3.3	3.2	16.7
	Mining and quarrying (ISIC 2)	5.0	4.9	15.0
	Manufacturing (ISIC 3)	5.2	5.0	14.5
7.	Domestic tariff "spikes" (% of all tariff lines) ^c	0.5	0.5	0.9
8.	International tariff "peaks" (% of all tariff lines) ^d	0.5	0.5	0.9
9.	Overall standard deviation of applied rates	5.6	5.7	17.8
10.	"Nuisance" applied rates (% of all tariff lines) ^e	0.0	0.0	0.2

a Based on WTO (2006).

b Final bound rates are based on the 2005 tariff schedule in HS02 nomenclature. Calculations on bound averages are based on 7,143 bound tariff lines.

c In the 2011 tariff schedule no rates are available for 28 tariff lines, of which 24 tariff lines are denoted as "prohibited".

d Domestic tariff spikes are defined as those exceeding three times the overall simple average applied rate (indicator 6).

e International tariff peaks are defined as those exceeding 15%.

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

40. The simple average applied MFN tariff was 4.9% in 2011 (2007/12), slightly lower than in 2005. The non-agricultural average tariffs declined, but protection for agriculture (6.3% according to the WTO definition) rose and remains higher than for non-agricultural goods (4.6%) (Table III.4).

Table III.4
Summary analysis of MFN tariff, 2011

	Number of lines	Average (%)	Range (%)	Standard deviation	Duty free (%)
Total	7,101	4.9	0-100	5.7	9.4
HS 01-24	1,198	6.0	0-100	13.6	25.0
HS 25-97	5,903	4.7	0-5	1.2	6.3
By WTO category					
WTO agricultural products	1,122	6.3	0-100	14.0	21.6
Animals and products thereof	145	3.1	0-5	2.4	37.9
Dairy products	33	5.0	5.0	0.0	0.0
Fruit, vegetables, and plants	329	3.7	0-5	2.2	26.1
Coffee and tea	38	3.7	0-5	2.2	26.3
Cereals and preparations	172	3.6	0-5	2.2	27.3
Oils seeds, fats, oil and their products	90	4.8	0-5	0.9	3.3
Sugars and confectionary	38	3.6	0-5	2.3	28.9
Beverages, spirits and tobacco	83	36.5	0-100	39.7	1.2
Cotton	5	5.0	5.0	0.0	0.0
Other agricultural products, n.e.s.	189	4.5	0-50	3.8	15.3

Table III.4 (cont'd)

	Number of lines	Average (%)	Range (%)	Standard deviation	Duty free (%)
WTO non-agricultural products	5,979	4.6	0-5	1.3	7.1
Fish and fishery products	162	3.2	0-5	2.4	35.8
Minerals and metals	1,189	4.9	0-5	0.7	2.1
Chemicals and photographic supplies	1,249	4.5	0-5	1.5	9.3
Wood, pulp, paper, and furniture	428	4.6	0-5	1.4	8.9
Textiles	725	5.0	0-5	0.4	0.6
Clothing	255	5.0	5.0	0.0	0.0
Leather, rubber, footwear, and travel goods	212	5.0	5.0	0.0	0.0
Non-electric machinery	636	4.6	0-5	1.3	7.7
Electric machinery	307	3.8	0-5	2.1	24.1
Transport equipment	233	4.4	0-5	1.6	11.2
Non-agricultural products, n.e.s.	549	4.7	0-5	1.3	6.7
Petroleum	34	5.0	5.0	0.0	0.0
By ISIC sector^a					
ISIC 1 - Agriculture, hunting and fishing	430	3.2	0-100	9.7	53.3
ISIC 2 - Mining	123	4.9	0-5	0.8	2.4
ISIC 3 - Manufacturing	6,547	5.0	0-100	5.4	6.7
By stage of processing					
First stage of processing	831	3.9	0-100	7.1	30.4
Semi-processed products	2,120	4.8	0-5	1.0	4.1
Fully processed products	4,150	5.2	0-100	6.7	7.9

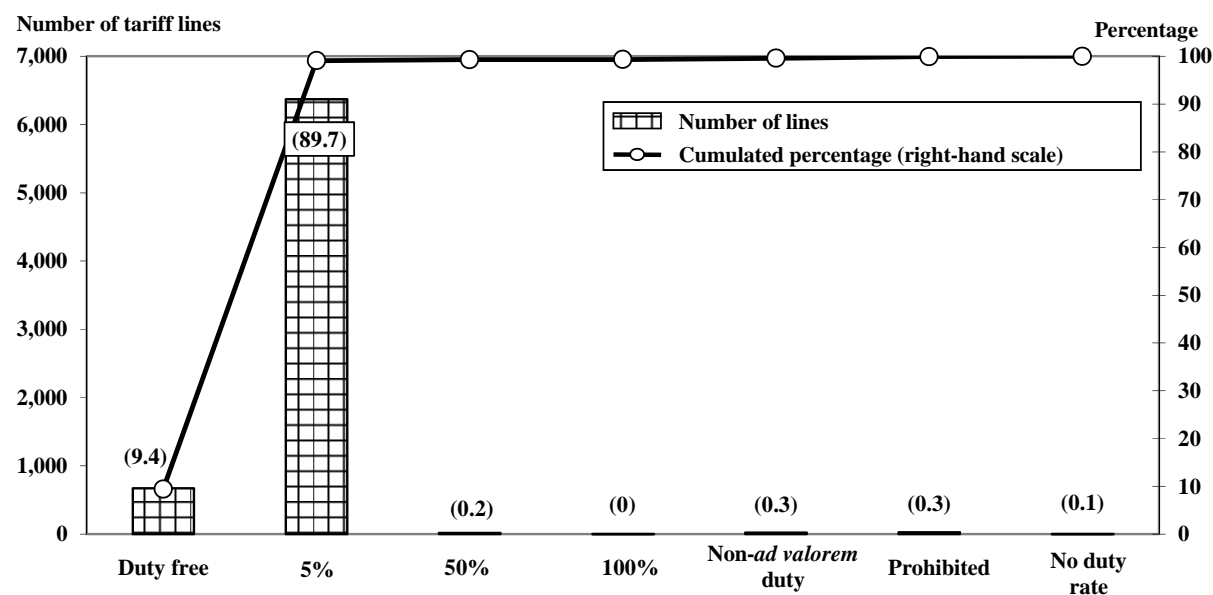
a International Standard Industrial Classification (Rev.2). Electricity, gas, and water are excluded (1 tariff line).

Note: Calculations for averages are based on national tariff line level (8-digit).
For non-*ad valorem* rates (19 tariff lines), calculations include the *ad valorem* part used for mixed duty rates. No duty rates are provided for four tariff lines.

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

Chart III.1

Frequency distribution of applied MFN tariff rates, 2011



Note: The figures in brackets correspond to the percentage of total lines.

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

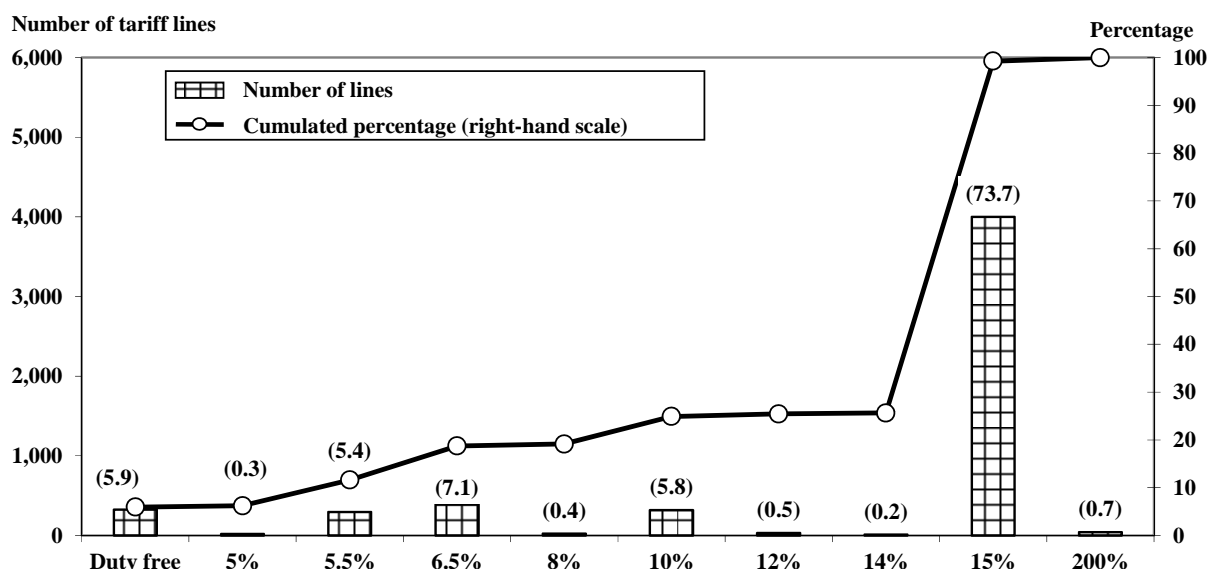
41. There have been no major changes in the tariff distribution. In 2011, tariffs range from zero to 100% (Table AIII.1). The majority of lines (89.7%) carry a rate of 5%, while 9.4% of total lines have a tariff rate of zero (up from 5.9% in 2005). Non-*ad valorem* tariffs (0.3% of tariff lines) and higher tariff rates (100%) apply to alcoholic beverages and tobacco products.

(b) Bound tariffs

42. The UAE has bound all tariff lines in the WTO. Bound rates are all *ad valorem* and range from zero to 200% (Chart III.2). Most tariff lines (74%) are bound at 15%. The highest bound rates of 200% apply to swine meat, alcoholic beverages, and tobacco products, which are also "restricted" or "prohibited" goods.

Chart III.2

Frequency distribution of bound tariffs



Note: The figures in brackets correspond to the percentage of total lines.

Source: WTO Secretariat calculations, based on data provided by WTO, CTS database.

(c) Preferential tariffs

43. The United Arab Emirates is a member of the Gulf Cooperation Council (GCC), comprised of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates. Under the GCC, duty-free access is provided to all goods produced in GCC states that meet GCC content requirements (at least 40% value added within GCC, in plants that are at least 51% owned by GCC nationals). On 1 January 2003, the GCC established a customs union with a common external tariff (CET). The GCC fixed the CET at 5% for most imports from outside of the GCC. Essential products are zero rated. Where importation is permitted, tariffs on alcohol and tobacco may be 50% or 100%. Appendix No. 1 of the Implementing Procedures for the GCC Customs Union lists 417 subheadings that are to be exempt from customs duties. There is a list of special goods at the GCC level, and each member state is allowed to decide whether these goods are subject to a tariff and restricted or prohibited; hence each member can issue its own list of prohibited and restricted goods. Goods produced in free-trade zones within the GCC are taxed at the applied MFN tariff. Goods entering one

GCC member state are allowed to be transported to any other member state without further inspection or duty payments.

44. The UAE is a member of the Pan Arab Free Trade Area Agreement (PAFTA) (see Chapter II(5)). Under the PAFTA all customs duties on goods produced by members were eliminated on 1 January 2005.

(d) Duty and tax concessions and exemptions

45. Tariff exemptions apply to goods imported under various import regimes (e.g. goods in transit, goods in temporary admission, warehoused goods, and goods imported into free-trade zones). Imports by international organizations, diplomatic missions, personal effects and household items, philanthropic societies, and the military forces and internal security forces continue to be exempt from import duties.

46. Goods produced in the UAE that have been exported may be re-imported into the UAE within one year of exportation. Goods that have been temporarily exported for finishing or repair are subject to the customs duties in an amount equivalent to the value addition resulting from such finishing or repair.¹⁹

(v) Other charges affecting imports

47. There are no transit duties amongst the emirates, or any other additional duty, according to the UAE authorities. In general, no other duties are applied on imports, with the exception of alcoholic beverages, which may be subject to municipality taxes; e.g. liquor is subject to a 30% municipality tax in Dubai.

(vi) Import prohibitions, restrictions, and licensing

48. The GCC Common Customs Law distinguishes absolute import prohibitions from restricted imports. There is a Common GCC prohibited and restricted list of goods. However, each member has the right to have its own list. The UAE applies the GCC prohibited and restricted list and has an additional list.

49. Imports are prohibited in the UAE based on environmental, health and safety, and religious and moral considerations, and to implement international conventions.²⁰ Thus, the UAE prohibits: imports of goods that are incompatible with the Islamic faith and morals; goods originating in Israel or with Israeli slogans and flags; any equipment devoted to gambling games of all kinds; candy in the form of cigarettes and stored in boxes similar to cigarettes; and any goods contaminated with radiation or nuclear dust. In addition the UAE prohibits imports of products classified in around 30 tariff lines at 8-digit level (Table III.5).

¹⁹ Article 105 of the Customs Law (Returned goods).

²⁰ The UAE is a signatory to the Convention on International Trade in Endangered Species (CITES), the Basel Convention, Rotterdam Convention, and the Kimberly process for trade in diamonds.

Table III.5
Prohibited goods, 2011

HS code ^a	Description
01 03 00 00	Live swine
01 06 19 10	Camels
05 07 10 00	Ivory natural
06 02 20 10	Palm tree seedlings
09 08 20 00	Mace
12 07 91 00	Poppy seeds
12 07 99 10	Poppy
12 07 99 20	Hemp seeds
12 11 30 00	Coca leaf
12 11 40 00	Poppy straw
12 11 90 20	Black poppy
12 11 90 60	Cannabis sativa
13 02 11 00	Opium
13 02 19 10	Hashish
24 03 99 20	Chopped or pressed tobacco for chewing
25 24 00 00	Asbestos
29 39 91 10	Cocaine
40 12 00 00	Retreaded or used pneumatic tyres of rubber; solid or cushion tyres, interchangeable tyre treads and tyre flaps, of rubber
56 08 11 00	Made-up fishing nets of man-made textile materials
56 08 19 00	Knotted netting of twine, cordage or rope; made-up fishing nets and other made-up nets, of textile materials of man-made textile materials
56 08 90 00	Knotted netting of twine, cordage or rope; made-up fishing nets and other made-up nets, of textile materials
68 11 40 00	Containing asbestos
68 12 80 00	Fabricated asbestos fibres; mixtures with a basis of asbestos or with a basis of asbestos and crocidolite
68 12 93 00	Compressed asbestos fibre jointing, in sheets or rolls
68 13 20 00	Containing asbestos
72 04 10 00	Waste and scrap of cast iron (imports from Iraq only)
72 04 21 00	Waste and scrap of alloy steel: of stainless steel (imports from Iraq only)
72 04 29 00	Waste and scrap of alloy steel: other than stainless steel (imports from Iraq only)
72 04 30 00	Waste and scrap of tinne iron or steel of stainless steel (imports from Iraq only)
72 04 41 00	Turnings, shavings, chips, milling waste, sawdust, filings, trimmings and stampings, whether or not in bundles (imports from Iraq only)
72 04 49 00	Waste and scrap other than turnings, shavings, chips, milling waste, sawdust, filings, trimmings and stampings, whether or not in bundles (imports from Iraq only)
72 04 50 00	Re-melting scrap ingots (imports from Iraq only)
..	Organic fertilizers untreated and non-sterile
..	All the goods that are incompatible with the Islamic faith and morals
..	Goods originating in Israel or with the slogans and Israeli flags
..	Tools, machinery and equipment devoted to gambling games of all kinds
..	Goods contaminated with radiation and nuclear dust
..	Children's candy in the form of cigarettes and stored in boxes similar to cigarettes
..	Waste, and hazardous industrial waste

.. Not available.

Source: Information provided by the authorities.

50. Imports and transit of rough diamonds are prohibited unless these are accompanied by a Kimberly certificate and imported in a tamper-resistant sealed container. Imports and exports of

diamonds must enter and exit through designated points.²¹ Imports permitted in one GCC member state may not transit through a member state in which they are prohibited.²²

51. In addition to import prohibitions, imports of 244 tariff lines at the 8-digit level were restricted in 2011; these comprise mainly swine and alcohol products.²³

52. During the period under Review the UAE made no notifications to the Committee on Import Licensing Procedures. The UAE does not appear to have an import licensing regime in place.

(vii) Import-related operations of state enterprises

53. The UAE has no state trading enterprises in the sense of Article XVII of the GATT 1994.

(viii) Contingency measures

54. In 2005, the UAE issued Federal Law No. 7 to adopt and implement the provisions on anti-dumping, countervailing, and safeguards measures contained in the GCC Treaty.²⁴ Thereafter, the UAE adopted the GCC's Anti-dumping and Countervailing Measures and Safeguards Act, as amended in December 2010, and its Rules of Implementation. Both the Act and the Rules are compulsory within member states, which are mandated to establish local enforcement bodies. The Directorate of Anti-Dumping at the Ministry of Economy is the UAE institution in charge of contingency trade remedies.²⁵

55. The GCC Anti-dumping and Countervailing Measures and Safeguards Act is implemented by the Ministerial Committee (MC), the Permanent Committee (PC), which is a body in charge of dealing with injurious trade practices at the regional level, and the Bureau of the Technical Secretariat of the PC.²⁶ All complaints must be submitted to the Technical Secretariat, which examines the accuracy and adequacy of the complaint within 30 days, and submits a preliminary report to the PC with its recommendation to initiate an investigation or reject the complaint. The PC issues a decision to initiate or reject the complaint within 15 days, and this decision is notified to the complainant within 7 days. Provisional trade measures may be imposed by the PC, and do not need to be decided by the MC. The MC, is the competent authority for the imposition of definitive measures; it receives recommendations from the PC. Decisions may be appealed to the MC, within 30 days from their date of publication in the *Official Gazette* issued by the Technical Secretariat. The MC must decide on the petition within 60 days of its submission.

56. GCC member states have agreed on a definition of domestic industry to encompass the regional aspect of the investigations. Domestic industries eligible to submit complaints are the GCC producers of "like products" or "directly competitive products" as a whole, or those producers whose collective output represents a major proportion of the GCC production of those products.²⁷ In trade

²¹ Federal Law No. 13 Regarding Supervision of Import/Export and Transit, 20 July 2004.

²² Implementation Procedures for the GCC Customs Union. Viewed at: <http://www.gcc-sg.org/eng/index9038.html?action=Sec-Show&ID=93>.

²³ At the four-digit level 165 tariff lines are considered restricted (information provided by the authorities).

²⁴ GCC Common Law on Anti-dumping, Countervailing, and Safeguard measures, 21 December 2003 and Rules of Implementation 11 October 2004.

²⁵ WTO documents G/ADP/N/14/Add.30 and G/SCM/N/18/Add.30, 22 October 2010.

²⁶ The Ministerial Committee refers to the GCC Industrial Cooperation Committee, which consist of the members' Ministers of Industry.

²⁷ This definition follows the Anti-dumping Agreement, adapting it to the (GCC) regional level. Consequently, an application is considered to have been made "by or on behalf of the domestic industry" if it is

remedy investigations, the GCC market is considered as one market, and all GCC producers of the "like products" or "directly competitive products" within the GCC are treated as a single domestic industry. Contingency trade measures are applied throughout the customs union.

57. The UAE has not applied any anti-dumping measures during the period under review, although notifications to the WTO for this period are not complete. The UAE notified to the WTO that no anti-dumping measures were imposed during 1996, 1998, first half of 1999, and in July-December 2010.²⁸ No countervailing actions have been taken, although here, too, notifications are incomplete; the UAE has only notified to the WTO that no countervailing actions were taken in 1998, January-June 1999, in 2010, and in January- June 2011.²⁹

58. The GCC initiated two safeguard investigations in November 2009 regarding uncoated paper and paper board, and steel angles, channels and beams.³⁰ However, these investigations were terminated on 31 May 2010 because injury could not be determined.³¹ In 2010, a Notice of termination was published in the *Official Gazette* of the Bureau of the Technical Secretariat. The UAE has not imposed any safeguards since 2005.

(ix) Standards and other technical requirements

(a) Standards, testing, and certification

59. The Emirates Standardization and Metrology Authority (ESMA), established under Law No. 28/2001, is the sole standardization body in the UAE. The ESMA is chaired by the Minister of Environment and Water and comprises representatives of the main parties involved in the standardization in the UAE.³²

60. The ESMA is in charge of drafting, formulating, and issuing standards, as well as adopting international standards and technical regulations issued by binding resolutions of the Cabinet. Standards are developed based on demands of the Government, industry, and consumers, through the work of the ESMA's ten technical committees.³³ Draft standards are prepared by the technical committees based on existing international and regional standards. The draft is circulated for comments to the stakeholders in the relevant field; these must be provided within 60 days. Draft standards are circulated abroad for comments if they are not based on an existing international standard. The technical committee studies the comments and suggestions received, and amends the draft standard as required. Once approved, a standard is numbered and published in the *Official Gazette*. Thereafter, it is printed and is available for sale. Technical regulations are approved

supported by those domestic (GCC) producers whose collective output constitutes more than 50% of the total production of the like product produced by that portion of the domestic (GCC) industry expressing either support for or opposition to the application. No investigation may be initiated when domestic (GCC) producers expressly supporting the application account for less than 25% of total production of the like product produced by the domestic (GCC) industry.

²⁸ WTO documents G/ADP/N/16/Add.1/Rev.12, G/ADP/N/22/Add.1/Rev.9, G/ADP/N/41/Add.1/Rev.9 and G/ADP/N/47/Add.1/Rev.6, and G/ADP/N/53/Add.1/Rev.7, all dated 27 April 2009; and G/ADP/N/209/Add.1, 26 April 2011.

²⁹ WTO documents G/SCM/N/40/Add.1/Rev.9, 28 April 2009; G/SCM/N/52/Add.1/Rev.1, 2 May 2000; G/SCM/N/219/Add.1, 26 April 2011; and G/SCM/N/228/Add.1, 20 October 2011.

³⁰ WTO document G/SG/Q2/ARE/1, 19 November 2010.

³¹ WTO document G/SG/Q2/ARE/2, 2 February 2011.

³² The main parties involved are the Federal Government, industrial sector, traders, laboratories, and calibration bodies.

³³ For more information see ESMA online information. Viewed at: <http://www.esma.ae/en-us/aboutesma/Pages/VisionMissionObjectives.aspx>.

by Cabinet decision for legal implementation by all state agencies (see below). The ESMA monitors the application of standards and technical regulations.

61. In mid 2011, there were 6,000 standards in the UAE, mostly based on GCC standards. When there are no national or GCC standards, the ESMA will follow international standards that are suitable for the UAE environment, as mandated by Ministerial Decision No. 114/2 of 2004. It is estimated that some 65-70% of the applied standards are in conformity with international standards.

62. Since 2005 the ESMA has been the UAE national enquiry point for standards information; it represents the UEA in regional and international conferences and organizations. The ESMA is a member of several international standards organizations including the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), the International Laboratory Accreditation Cooperation (ILAC), the GCC Standardization Organization (GSO), the Arab Industrial Development and Mining Organization (AIDMO), the International Organization of Legal Metrology (OIML), and Codex Alimentarius.

63. The ESMA is responsible for metrology and calibration in the UAE. Under the national system of measurement (NMS), established in 2006³⁴, the ESMA is responsible for regulating the use of measuring instruments. The authorities indicated that the ESMA is planning to establish a National Metrology Institute.

64. The UAE has implemented the Emirates Quality Mark Scheme since 2007 to ensure that products comply with the approved standards and to give consumers confidence in the products that carry this mark for sale locally or exported. The Emirates Quality Mark, granted to a certain product by the ESMA, proves that the product meets the approved standards and its production system meets the quality management system requirements as per ISO 9001. The conformity assessment process for granting the mark verifies that the approved standard is implemented, which is similar to granting a product conformity certificate.

65. In 2004, the ESMA started operating the National Accreditation System (ENAS) in accordance with Decision of Council of Ministers No. 22 of 1 June 2004. Institutions seeking accreditation must to apply to the ESMA; after an assessment, the ESMA decides whether to grant; accreditation. Once accredited institutions are surveyed. The authorities have noted that accreditation in the UAE follows international requirements and procedures, and that the ENAS operates in accordance with the international practices for accreditation bodies (ISO/IEC 17011). In the context of this Review, the authorities indicated that there are 31 accredited laboratories, 8 inspection bodies and 2 certification bodies in the UAE.³⁵

66. The UAE does not implement the GCC International Conformity Certification Programme (ICCP). It implements the Emirates Conformity Assessment Scheme (ECAS) as a mandatory product certification scheme, which applies to products that affect health and safety or have an impact on the environment, such as low-voltage equipment and toys.³⁶ The authorities indicated that the ECAS' aim is to ensure the safety and quality of products and to protect consumers. The ECAS may also cover

³⁴ Cabinet Resolution No. 31, 2006.

³⁵ For more information, see: <http://www.esma.ae/en-US/OurServices/ENAS/Pages/CABs.aspx>.

³⁶ The "mandatory" products are: electric storage water heaters; electric power extension cords and adaptors; electric irons; microwave ovens; washing machines and clothes dryers; electric cooking stoves; refrigerators, chillers and freezers; room air-conditioner; household cooking appliances; electromechanical kitchen appliances; vacuum cleaners; fans and fan systems including air-purifiers. ESMA online information. Viewed at: <http://www.esma.ae/SiteCollectionDocuments/ECAS/EMPro.pdf>.

products subject to (voluntary) standards for which interested parties may request certification.³⁷ The conformity assessment process verifies that the product complies with the approved standards and an effective quality management system is implemented. The process involves sampling and testing products, as well as visiting and auditing the factory to ensure that products and system requirements are satisfactorily complied with. If successful, ESMA issues a license to use the Emirates Quality Mark on the product and the Certificate of Conformity (COC) for the product, to the producer or trader. Locally manufactured products as well as imports are included in this scheme.

(b) Technical regulations

67. There is no central body in charge of preparing technical regulations in the UAE. They may be developed by the ESMA, initially in the form of a standard and then made mandatory, or may be devised directly by a Ministry. According to the authorities, the former is the more common, and the standard is made mandatory by Cabinet resolution. In the context of this Review, the authorities noted that the decision whether a standard will become a technical regulation is generally taken before the standard is drafted. However, in some cases, however, an existing standard may be the base for issuing a technical regulation. The final draft of the standard must be approved by the ESMA Board of Directors before being sent to Cabinet for approval.

68. During the period under review the UAE made 90 notifications to the Committee on Technical Barriers to Trade. Most (86) relate to draft technical regulations distributed for comments. The measures notified relate to food and tobacco products, motor vehicles, cosmetics, detergents, toys, and natural gas. Comments by Members or other interested parties on these proposed measures are sent to the ESMA, who channels them to the appropriate Committee for consideration.

69. The UAE notified its acceptance of the WTO TBT Code of Good Practice for the Preparation, Adoption and Application of Standards in 2006.³⁸ In 2007, the UAE designated the Emirates Authority for Standardization and Metrology (ESMA) as the national enquiry point to implement the Agreement on Technical Barriers to Trade.³⁹ In September 2011, there were 632 technical regulations in place.

(c) Labelling and packaging requirements

70. Labelling requirements in the UAE apply mainly to toys, cigarettes, and food. All warning labels on toys are required to be in Arabic or in Arabic and English. Cigarette packages require a special health warning in Arabic.

71. Food labels must also include: product and brand names in Arabic or Arabic and English; ingredients listed in descending order of proportion, as well as additives, using their "E" numbers; the origin of all animal fats; net content, expressed in metric units; and country of origin. The labels for specialty items such as diet, health or baby foods must contain detailed nutritional information.

72. The production and expiry dates (best use-before date) must appear on food products as a fully integrated part of the packaging (i.e. printed on the label or embossed on the can). The production date must be preceded by the word "Production" or the letter "P". Stickers and rubber stamping are not acceptable for date markings.

³⁷ ESMA online information. Viewed at: <http://www.esma.ae/en-us/ourservices/ecas/Pages/Home.aspx>.

³⁸ WTO document G/TBT/CS/N/166, 2 May 2006.

³⁹ WTO document G/TBT/2/Add.96, 11 September 2007.

73. GMOs are not specifically banned in the UAE; however, food labels should indicate if any of the ingredients used are genetically modified.⁴⁰

(x) Sanitary and phytosanitary requirements

74. The Ministry of Environment and Water is responsible for sanitary and phytosanitary (SPS) issues at the federal level in the UAE. Additionally, each emirate has its own responsible agency. The UAE's SPS enquiry point and national notification authority is the Protection and Agricultural Quarantine Department in the Ministry. The Review, Notification and Inquiry Unit in the Ministry maintains a data base of notifications, both by the UAE and its trading partners, and receives comments from partners.⁴¹ The UAE made 12 notifications under the Agreement on the Application of Sanitary and Phytosanitary Measures during 1 January 2006 to 1 September 2011; most (11) were emergency measures submitted in 2006.

75. In general, UAE federal regulations on SPS requirements are based on GCC standards. The UAE's has an extensive body of national legislation to regulate sanitary and phytosanitary measures (Table III.6). The main national laws are Federal Law No. 5 of 1979 on agricultural quarantine, as amended, and Federal Law No. 6 of 1979 on veterinary quarantine, as amended. All main federal laws, executive by-laws, and ministerial decrees with respect to SPS issues are available at the Ministry of Environment and Water's website.⁴² The UAE applies the GCC laws on veterinary quarantine and plant quarantine, which were implemented by ministerial resolutions and by-laws and apply at the federal level.⁴³

76. In addition to federal laws, executive by-laws and ministerial decrees, each emirate has the authority to issue regulations on SPS measures to implement federal laws and regulations. Also, each emirate has its own authority responsible for SPS issues. For instance, the Abu Dhabi Food Control Authority (ADFCA) is responsible for the emirate's food safety and agriculture, including animal health.⁴⁴

77. Under Federal Law No. 5 of 1979 on agricultural quarantine, all plants and plant products entering the UAE are subject to quarantine. Plants and plant products in transit are subject to plant quarantine regulations and must stay in quarantine centres for at least seven days. It is prohibited to introduce plants and plant products affected with pests before their disinfection. Federal Law No. 5 of 1979 specifies insects and diseases that may not enter the UAE. In general, it is prohibited to import living insects, bacteria, virus, parasites, and agricultural materials infected by any pests without previous authorization from the relevant authority. To protect plant and animal health and the environment, the Minister in charge, may at any point prohibit or restrict the importation, sale, cultivation, propagation or movement of any plant, soil or any item that can spread a pest. In these cases, the Minister must issue an Administrative Decision to enforce the restriction or import prohibition.

⁴⁰ Articles 2, 6, and 7 of Technical Regulation UAE.S GSO 9/2007 (Labelling Of Pre-packaged Foodstuffs).

⁴¹ Ministry of Environment and Water online information. Viewed at: http://uaeagricent.moew.gov.ae/msps/index_e.htm.

⁴² Ministry of Environment and Water online information. Viewed at: http://uaeagricent.moew.gov.ae/msps/index_e.htm.

⁴³ Ministerial Resolution No. 248 of 2003 issuing the Implementing Regulation of the Law (Regulation) on agricultural quarantine in the GCC states, and Ministerial Decree No. (460) of 2001, concerning the executive by-law of the veterinary quarantine in the GCC states.

⁴⁴ Law No. 02 of 2008 in respect of food within the Emirate of Abu Dhabi, and food hygiene throughout the food chain, Regulation No. (6) of 2010 of the Abu Dhabi Food Control Authority.

Table III.6
Rules and regulations related to SPS issues

Federal Law No. (5) of 1979 concerning agricultural quarantine
Federal Law No. (6) of 1979 concerning veterinary quarantine
Federal Law No. (6) of 1992 concerning the amendment of some provisions of the Federal Law No. (5) of 1979 regarding agricultural quarantine
Federal Law No. (7) of 1992 on the amendment of some provisions of the Federal Law No. (6) of 1979 regarding veterinary quarantine
Federal Law No. (38) of 1992 regarding the establishment of nurseries and regulating of production, importing and circulation of seedlings
Federal Law No. (39) of 1992 concerning production, importing and circulation of fertilizers and agricultural conditioners
Federal Law No. (41) of 1992 concerning pesticides
Federal Law No. (23) of 1999 regarding the exploitation, protection and development of the living aquatic resources in the waters of the State of the United Arab Emirates
Ministerial Decision No. (434) of 2001 concerning veterinary medicine stores
Ministerial Decree No. (458) of 2001 concerning the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
Ministerial Decree No. (460) of 2001, concerning the Executive By-law of Veterinary Quarantine in the Cooperation Council for the Arab States of the Gulf
Federal Law No. (10) of 2002 on practicing the veterinary medicine profession
Federal Law No. (11) of 2002 concerning regulating and controlling international trade in endangered species of wild fauna and flora
Federal Law No. (223) of 2002 concerning importation of honey bees
Ministerial Decree No. (170) of 2003 concerning issuance of the executive by-law of the Federal Law No. (10) of 2002 regarding the practicing of veterinary profession
Ministerial Decree No. (255) of 2003 concerning investigation procedures of infectious abortion disease (brucellosis)
Ministerial Decree No. (383) of 2005 on adopting precautionary measures to avoid the infection of bird flu in the country
Ministerial Decree No. (44) of 2006 on banning importation of all kinds of live, tamed, wild, ornamental birds, their products and their offal from the Republic of Nigeria
Ministerial Decree No. (45) of 2006 on banning importation of all hoofed, live animals, and their products from some provinces in Argentina
Ministerial Decree No. (90) of 2006 on banning importation of all kinds of live, tamed, wild, ornamental birds, their products and their offal from the Republic of Albania
Ministerial Decree No. (91) of 2006 on banning importation of all kinds of live, tamed, wild, ornamental birds, their products and their offal from the State of Cameroon
Ministerial Decree No. (96) of 2006 on banning importation of all kinds of birds, live, slaughtered, tamed, wild, bred in captivity, their products and their offal from the Republic of Niger
Ministerial Decree No. (112) of 2006 concerning banning importation of all kinds of live, slaughtered, domestic, wild, bred in captivity birds, and products and offals from Burkina Faso
Ministerial Decree No. (175) of 2006 on banning importation of all species of live, domestic, wild ornamental birds, their products and offal from Funen Town in Denmark
Ministerial Decree No. (276) of 2006 concerning banning importation of all kinds of live, domestic, slaughtered, wild, ornamental birds, their products and offal from Alava province in Spain

Source: Information based on UAE Environmental and Agricultural Information Centre online information. Viewed at: http://uaeagricent.moew.gov.ae/RULES_REGULATIONS/rules_regulations_e.stm.

78. The Ministry of Environment and Water issues requirements and conditions for the importation (exportation) of plants and plant products prior to shipment of the consignment, for the exporting country. No agricultural consignments may be introduced in the UAE without a sanitary or phytosanitary certificate issued by the relevant authority in the country of origin, certified by the UAE Embassy. All imports (exports) of plants and plant products are subject to control and inspection. If an imported item presents any risk of introducing or spreading pests, in the absence of an appropriate treatment, the merchandise may be re-exported or destroyed.

79. The Department of Veterinary Quarantine in the Ministry of Environment and Water must authorize the importation of animals and their products, animal feeds, and additives. Under Federal Law No. 6 of 1979 on veterinary quarantine, as amended, the introduction of imported live animals, meat, animal products, and animal residues that have not undergone quarantine measures is

prohibited. Imported animals, meat, animal products, and animal residues may enter only through specific border crossing points. Importers of live animals and animal products require a licence issued by the competent veterinary body. Imports of live animals, meat, animal products, and animal residues also require: an official veterinary certificate from the country of origin; a report of the captain of the vessel transporting them attesting that the animals did not enter into contact with sick animals; a certificate of origin certified by the UAE Embassy; a certificate attesting that the animals were slaughtered following the Islamic method; and a certificate attesting that the animal or animal products are free from radiation. Consignments of animals and their products are retained for observation and to conduct the necessary tests prior to entry. Live animals imported to be slaughtered are quarantined. Importation of vaccines and serums without prior authorization is prohibited.

80. All animals and animal consignments in transit are subject to control and inspection. The veterinary authority has the right to confiscate and destroy any consignment that upon examination would appear to cause harm to human health. Sperm used for industrial insemination and hen eggs for hatching may be imported only if accompanied by an attested certificate of origin that they stem from animals free from disease.

81. The Ministry of Environment and Water regulates the importation of food. All shipments of food are visually inspected to ensure compliance with labelling and shelf-life regulations. Imported and locally produced food products are treated equally regarding food safety regulations and labelling requirements. Food products may also be subject to random laboratory testing at the time of importation and at the point of sale, except for edible oils and baby food, which are subject to 100% testing. These shipments are stored under bond (for about 7 to 10 days) until the laboratory results are given. If the food imported is found unfit for human consumption it will either be destroyed or returned to the country of origin within 30 days, according to the importer's preference, and, depending on the severity of the infraction, fines may be levied.

82. The UAE enforces Gulf Standard No. 150/1993, Part I, which regulates shelf-life duration for approximately 120 food products, including labelling requirements. A product must have at least half of its shelf-life remaining at the time of importation. Under specific circumstances some plant and animal imports may require a statement that the products are not contaminated by radiation.

83. The UAE notified to the WTO the GCC Guide for Control on Imported Foods, which has not yet been implemented.⁴⁵ The guide describes the requirements that the exporting country and the importing GCC countries must follow to assure the safety of imported food. It provides a list of the animal and plant health certificates needed, and aims at harmonizing the requirements and procedures to import food amongst GCC members. According to the authorities, the new requirements are based on risk analysis and conform to international standards including the Codex Alimentarius, the World Organization for Animal Health (OIE), and the International Plant Protection Convention (IPPP), particularly where no GCC requirements are available.

(3) MEASURES DIRECTLY AFFECTING EXPORTS

(i) Procedures

84. Exports must be cleared at Customs, which requires a customs declaration and other documentation (i.e. international air waybill and commercial invoice) issued by the Ministry of Economy as well as by the various chambers of commerce in the respective emirates.⁴⁶ Specific

⁴⁵ WTO document G/SPS/N/ARE/22, 6 June 2011.

⁴⁶ Commercial invoices must include: complete shipper and consignee information, the quantity of the goods exported, a complete description of the goods, the value of each of the commodities in the shipment, the

export permits or licences are required for commodities subject to export controls, for instance under CITES. Exports of meat, seeds, fruit, vegetables, and marine goods require phytosanitary certificates.

85. Imported goods may be re-exported under specific circumstances within 180 days of importation; shipments must be inspected before re-export.⁴⁷ Reimbursement of the duties is possible within 30 days of re-export.

(ii) Export taxes, charges, and levies

86. In general the UAE does not apply export taxes, charges, and levies. However, since 2004 exports of steel scrap have been subject to an export tax of AED 250 per tonne.⁴⁸

(iii) Export prohibitions, restrictions, and licensing

87. Exports are prohibited or restricted on safety, security, environmental, and moral grounds, and to ensure compliance with international treaties and conventions. Prohibited exports include: psychotropic substances; endangered fish and wildlife species; items that are offensive to Muslim culture; items that cause corruption and disorder; and irradiated food products.

88. Licenses are required for exports of dual-use goods (goods that may be used in both military and civilian application). Licence requirements depend on an item's technical characteristics, the destination, the end-use, end-user, and other activities of the end-user. Export licences are also required for: controlled substances and precursor chemicals, endangered fish and wildlife species (Ministry of Environment and Water), defence and nuclear material, fuel, and drugs and medical devices.

(iv) Export support

89. During the period under review the UAE made no notifications to the WTO Committee on Agriculture regarding subsidies.⁴⁹ In accordance with Articles 25.1 and 25.2 of the Agreement on Subsidies and Countervailing Measures and Article XVI:1 of the GATT 1994, the UAE notified the Committee on Subsidies and Countervailing Measures that the UAE does not grant or maintain any subsidy within the meaning of Articles 1.1 and 2 of the Agreement, or that operates directly or indirectly to increase exports from or reduce imports into its territory within the meaning of Article XVI:1 of the GATT 1994. However, the last notification was made in 2000.⁵⁰

90. The UAE has free-trade-zone (FTZ) regime, which was established in 1980 to attract foreign capital by offering incentives. In contrast to the general investment regime, which places limitations on foreign investment, foreign ownership in firms established in an FTZ may be 100%, and investors are exempt from paying corporate taxes for 15 years, renewable for a further 15 years. Additionally, goods are imported into an FTZ duty free. Companies located in the FTZs are exempted from agency/distributorship, sponsorship, and national ownership requirements.

91. Each free zone is governed by an independent FTZ authority which is responsible for issuing FTZ operating licences and assisting companies to establish their business in the FTZ. Investors may

country of origin for each of the commodities in the shipment, currency type, and signature of shipper with date and title.

⁴⁷ GCC Customs Law Article 95.

⁴⁸ Cabinet Ministerial Decision No. 262/4 of 2004.

⁴⁹ WTO CRN database.

⁵⁰ WTO document G/SCM/N/38/ARE, G/SCM/N/48/ARE, G/SCM/N/60/ARE, 18 April 2000.

either register a new company in the form of a Free Zone Establishment (FZE) or establish a branch or representative office of their existing or parent company based within the UAE or abroad in the FTZ. An FZE is a limited liability company governed by the rules and regulations of the free zone in which it is established. Under Federal Law No. 15 of 1998, the provisions of the Commercial Companies Law (CCL) do not apply to FZEs, provided that the free zones have special provisions regulating such companies. Each free zone has its own regulations.

92. Goods prohibited from entering the UAE may not enter an FTZ.⁵¹ Other products prohibited from FTZs include: flammable goods, except fuels necessary for the operation of industries; radioactive materials; arms, ammunition, and explosives, of any kind, except those licensed by the competent authorities; narcotic drugs and derivatives thereof; and any good prohibited from entering the country. Customs officials may inspect the FTZ to detect the presence of any prohibited goods.

93. Imported goods may be transported from one FTZ to another without payment of taxes. However, once goods are taken out of the free zones into a Customs Office, they are treated as foreign goods even if they incorporate local raw materials. Goods imported from the free zones into the UAE are treated as foreign goods and hence subject to duties and any other charges. There is no limit regarding the percentage of FTZ products that may be sold in the national territory, provided that import duties are paid. To import products from an FTZ to the national territory an agent is needed.

94. Most FTZs are located near major ports and have large warehousing and storage facilities available to facilitate trade. The FTZs have been successful in attracting a large number of companies and foreign direct investment to the UAE, as well as expanding net non-oil exports. In September 2009 (latest available information) there were 26 FTZs operating in the UAE, with investments of US\$4 billion. FTZs produce goods and provide services. In 2010, the volume of total trade (exports plus imports) in UAE free zones grew by 23% year on year, to AED 352.8 billion, of which imports accounted for AED 201.4 billion, and exports and re-exports accounted for AED 151.4 billion. In 2010, the major exports from FTZs were telephones and reception apparatus (HS84.43, 85.25, 85.27, and 85.28), and the major markets were Saudi Arabia and Iran; in 2009 the major markets were China and India.⁵²

95. The Jebel Ali Free Zone Authority (Jafza), built around Dubai's Jebel Ali Port, is one of the largest and fastest growing export processing zones, as well as an important trans-shipment centre. The authorities have indicated that over 6,000 businesses from over 110 countries operate at Jafza: some three-quarters are involved in trading, warehousing, and distribution; 20% in manufacturing; and the rest in services. Jafza functions as a commercial organization but is supported financially by its only shareholder, the Government of Dubai, to which it submits quarterly performance reports. A number of other FTZs are dedicated to specific services subsectors, including Dubai Internet City, Dubai Media City, Dubai Health Care City, and Knowledge Village. Twelve FTZs are under development, and Dubai has announced the launch of several more.

96. The UAE does not have a duty drawback system in place; however, any customs duties "taxes" collected on the imports are totally or partially refunded if the good is re-exported.

(v) Export finance, insurance, and guarantees

97. During most of the period under review exporters had access to funding from the Emirates Industrial Bank (EIB), through the export credit facility. Loans were provided for up to 80% of the value of the export contract, as long as the value of the loan did not exceed 7% of the paid-up capital

⁵¹ Each emirate may have its own list.

⁵² Federal Customs Authority (2010) and (2011b).

and reserves of the EIB for a single project or 14% for a group of projects. Loans were granted until the exporter was paid. The exporter could be the actual manufacturer or an agent. To be eligible, the operation needed to have a minimum 51% UAE or GCC ownership and to be established in the UAE.⁵³ According to the authorities, exporters did not use this facility during the period under review.

98. The Export Credit Insurance Company of the Emirates (PSC-ECIE), wholly owned by the Government of Dubai, is the only trade credit insurer within the UAE. The PSC-ECIE offers short-term credit insurance of not more than 180 days, which may cover up to 90% of the gross invoice value. However, in certain cases, credits for a longer term, of up to 360 days, may also be considered. The risks covered include: buyer's insolvency; non-payment; delay in payment, due to the imposition of foreign exchange controls in the purchasing country; cancellation or imposition of import licence in the purchasing country or export licence in the UAE; and political risk.⁵⁴

(vi) Export promotion and marketing assistance

99. Export promotion and marketing assistance is the responsibility of the federal authorities as well as of each emirate.

100. The Dubai Export Development Corporation, is an autonomous organization established in 2006⁵⁵, to facilitate exports.⁵⁶ The services provided by EDC include: information about existing markets and new market opportunities; advice to first time exporters; identification of market development opportunities for non-traditional exports; organization of local exhibitions and trade fairs and participation in international ones; assistance in identifying new export opportunities, including matching buyers with exporters; and provision of legal and regulatory advice to assist exporters.

(4) MEASURES AFFECTING PRODUCTION AND TRADE

(i) Incentives

101. The UAE's most recent "new and full" notification regarding subsidies dates back to 2000 (section (3)(iv) above). At that time the UAE notified that no subsidies were granted.⁵⁷

102. Under Federal Law No. 1 of 1979, the Council of Ministers may provide certain incentives to industrial undertakings. However, according to the authorities these provisions are not applied. The only incentive available to all licensed industrial undertakings is the granting of the right to import duty free all materials included in the industrial project's licence.

103. The UAE is planning to enact a Foreign Investment Law, which will provide further incentives and benefits to foreign investors.

104. At the federal level, the Emirate Industrial Bank (EIB), a specialized state-owned institution founded in 1982 to promote the economic diversification in the UAE, provided financing for the industrial sector during the review period. At the time of completing this report (November 2011),

⁵³ EIB online information. Viewed at: <http://www.eib.ae/index.php>.

⁵⁴ ECIE online information. Viewed at: <http://www.ecie.ae/who-we-are.html>.

⁵⁵ Law No. 10/2006, 1 May 2006.

⁵⁶ DEDC online information. Viewed at: <http://www.dedc.gov.ae/en/2/>.

⁵⁷ WTO document G/SCM/N/38/ARE, G/SCM/N/48/ARE, G/SCM/N/60/ARE, 18 April 2000.

the EIB was undergoing a process of reform and was being transformed into the Emirates Development Bank (EDB), created by Federal Law No. 7 of 2011.

105. The aims of the EIB were to promote economic growth in the UAE through economic diversification, by assisting in the development of the industrial structure. EIB credits were directed towards both new and existing companies and targeted mainly private and semi-private companies engaged in industrial activities. To be eligible, the project required a minimum of 51% UAE or GCC equity participation and had to be located in the UAE.

106. The EIB's loan amount for any project could not exceed 20% of the bank's subscribed capital and reserves or 70% of the project's total cost (including three months working capital), whichever was lower. The borrower was charged an annual interest rate of EIBOR plus a profit margin to be determined by the management. In the context of this review, the authorities noted that this translated into rates of 3-5%. The EIB provided short (less than 2 years), medium (2-5 years), and long-run credits. The grace periods could be between six months and three years. The withdrawal period was of 12 months. In its lending, the EIB gave priority to industries that employed modern technology and adopted a capital-intensive approach; industries that depended on local resources (capital, energy) and marketed their products locally and abroad; and import substitution industries.⁵⁸

107. The authorities indicated that during 2006-10 an average of 29 projects were financed each year, and that most were replacement projects, rather than new investments. The EIB's annual average budget amounted to some AED 321 million.

(ii) Role of state-owned enterprises, and privatization

108. In October 1996, the UAE notified the WTO that it did not maintain any state-trading enterprises within the meaning of Article XVII of the GATT.⁵⁹ However, a number of state-owned companies appear to be engaged in international trade, for example in the hydrocarbon subsector. Wholly or partially government-owned companies that engage in trade include: Etisalat; the Abu Dhabi National Oil Company (ADNOC); the Dubai Petroleum Company; the Emirates National Oil Company; the Sharjah Oil Refining Company; and the Dubai Aluminium Company.

109. In general, although the Government has an open approach towards the economy, the federal state or the governments of the emirates are involved in a number of important economic sectors, and their participation in the economy is considerable. Privatization has been limited by the foreign ownership limit of 49% maintained outside of free zones. The only significant steps towards privatization since the UAE's WTO Membership in 1996 have been in Abu Dhabi's electricity and gas subsectors (Chapter IV(3)), although Abu Dhabi has also initiated plans for the sale of certain companies in the manufacturing sector. Some of the state-owned companies have significant presence abroad through foreign investments. Some of these companies (e.g. in electricity and air transport) act as both operators and regulators of their respective sectors.

110. Among the main state-owned enterprises are: (a) the Abu-Dhabi Investment Authority (ADIA), which is one of the largest investment funds in the world and has several investment arms abroad⁶⁰; (b) the Abu Dhabi Investment Council (ADIC), a joint-stock company, spin-off from

⁵⁸ Emirates Industrial Bank (EIB) (2011).

⁵⁹ WTO document G/STR/N/1/ARE, 14 October 1996.

⁶⁰ ADIA was originally established in 1967 as Abu Dhabi's Financial Investments Board, under the Department of Finance. In 1976, the Government of Abu-Dhabi decided to make ADIA an independent institution. Following a period of organization, ADIA started investing in private equity in 1989. In 1998, ADIA started investing in inflation-indexed bonds. ADIA continued to expand its scope of activities and, in

ADIA, which specializes in providing investment and corporate finance in addition to advisory services, and invests in private equity, real estate, asset management, and infrastructure. ADIC owns some 73% of the equity of the National Bank Abu Dhabi; (c) the Emirates Investment Authority (EIA), a federal fund established in November 2007 and mandated to manage the sovereign wealth of the UAE Federal Government; (d) the International Petroleum Investment Company (IPIC), an Abu Dhabi state enterprise established in 1984 and responsible for all foreign investments in the oil and chemicals sector⁶¹; (e) the Investment Corporation of Dubai (ICD), which owns Emaar, Dubai Holding, and Borse Dubai, constituted in 2006 and which is Dubai's sovereign wealth fund and is composed of several operating investment companies; (f) Dubai World, which owns Nakheel, DP World, Drydocks World, Economic Zones World, and Istithmar; (g) Mubadala, a public joint-stock company established in October 2002 and wholly owned by the Emirate of Abu Dhabi, which seeks to diversify Abu Dhabi's economy. Mubadala comprises nine separate business units: energy, industry, aerospace, information and communication technology, services ventures, real estate and hospitality infrastructure, healthcare, and acquisitions; and (h) the Investment and Development Office (IDO) in Ras Al Khaima, set up in January 2004 with the aim of identifying new investment opportunities and facilitating setting up new businesses in Ras Al Khaimah.

(iii) Competition policy and regulatory issues

111. The UAE does not have a competition law, but the authorities noted that a draft UAE competition law is under consideration by the Ministerial Cabinet. The Ministry of Economy has the mandate to develop and implement the competition law.

112. The draft law covers three major areas: restrictive agreements, abuse of a dominant position; and mergers and acquisitions. It includes a general clause that allows the competition authority to exempt anti-competitive practices and agreements if such practices and agreements help to improve the production or distribution of goods or services or to promote technical or economic progress. The violation of the law may result in the imposition of fines. The authorities indicated that the law will apply to all enterprises operating in the UAE with the exception of state-owned enterprises and SMEs, and enterprises operating in sectors that are subject to specific competition regulations (e.g. telecommunications, the financial sector, petroleum and gas, and distribution of water and gas).

113. A draft GCC competition law is also under consideration by the GCC member states. This law would only cover anti-competitive practices arising from cross-border trade between GCC member states. The authorities have noted that the law will apply to all enterprises engaged in commercial activities in the GCC.

114. There are no price controls in the UAE. The Ministry of Economy only monitors the price of food products.

(iv) Government procurement

115. The UAE is not a party or an observer to the WTO Plurilateral Agreement on Government Procurement. Government procurement continues to favour local companies and suppliers, as foreign participation is limited by nationality requirements. However, there is a strong reliance on foreign

2007, started investing in infrastructure. In 2008 ADIA was appointed to co-Chair with the IMF the International Working Group of Sovereign Wealth Funds. ADIA is a founding member of the International Forum of Sovereign Wealth Funds (IFSWF). The extent and amount of ADIA's investments are not disclosed.

⁶¹ The IPIC portfolio includes investments in Austria, Egypt, Germany, Japan, Oman, Pakistan, Portugal, Spain, South Korea, and the UAE. Its investments are in areas such as downstream hydrocarbon operations, petrochemical plants, pipelines, power utilities, and shipping.

companies, and companies established in free zones, particularly for major projects for which local expertise is not always available. In this case, the foreign company or company operating in the free zone must open a branch in the UAE and employ a local agent. For defence contracts, an offset programme is in place. Given the federal nature of the UAE, the majority of procurement (by value) is at emirate level. The importance of the public sector, including state-owned companies, means that public purchases are particularly large in relation to total expenditure. National accounts data show that consolidated government expenditures on goods and services amounted to AED 11.1 billion (US\$3 billion), or 3.7% of the UAE's GDP in 2010. These figures exclude purchases in the context of development projects (AED 1.2 billion), or procurement by government bodies, estimated at AED 13.8 billion (US\$3.8 billion), or 4.6% of GDP.

116. The main regulations with respect to federal government procurement are contained in the Federal Regulation of Conditions of Purchases, Tenders and Contracts, Financial Order No. 16 of 1975 (the Public Tenders Law), Ministerial Decision No. 20 of 2000 on the administration of the contracts system, as well as Amendment Decision No. 90 of 2009. These regulations do not apply to purchases by the Ministry of Defence or acquisitions and tenders of the State Security System, which are conducted pursuant to Decree No. 12 of 1986 of the Deputy Supreme Commander of the Armed Forces (the Armed Forces Procurement Regulations). Also excluded from the scope of the regulations are purchases for any "projects" handled by the Permanent Project Committee, as well as any project explicitly excluded from the ambit of the regulation by a resolution or law passed by the Council of Ministers. The Public Tenders Law and the decisions relate to federal government procurement and not to procurement by the governments of the individual emirates, which have their own procurement systems, although these generally follow the federal regulations.

117. Procurement is decentralized. The federal ministries and governmental authorities are authorized to contract directly their procurement, including purchases, imports of materials, works or service contracting. Each ministry audits its own procurement process and reports to the Ministry of Finance.

118. Under the Decision of 2000, the main modality for purchases of products, services, and construction works is "general tender" (open tender). Under the general tender, bids are to be advertised publicly. The use of other tendering modalities is allowed depending on the circumstances, and, in practice, most procurement takes place under modalities other than the general tender (see below).

119. Under the "practical participation" method, a committee requests quotations from selected contractors without any tendering process. This method is used: (a) when the product is only available from a certain dealer or agent; (b) the product required is hard to describe in detail; (c) for works that require technical assistance or a specialist to be appointed; (d) for urgent procurement of products or contracting works; (e) when the procurement requires confidentiality due to public interest (the approval of the relevant Minister must be obtained in this case); (f) for low-cost products, not commensurate with the cost of preparing a general tender; (g) in case of products produced under monopolistic conditions; (h) when two or more suppliers have provided similar price and condition quotations in the tendering process; (i) for products or works that have already been tendered under the general tender method, but have received only one quotation or none, or when the quotation that has been provided has not been accepted and it is not possible to open another tendering process; (j) for the completion of the remaining work in a contract that has been terminated before completion. The "limited tender" method is generally used when only a limited number of suppliers is available; in this case, bids are requested from a list of pre-approved suppliers. The "direct order" method is used in exceptional circumstances, such as the absence of competitive markets (e.g. monopoly).

120. The vast majority of procurement takes place under practical participation procedures. In 2010, some 60% of total procurement was under this method, 20% was under the general tender method, while 10% of procurement was under limited tender, and 10% under direct order.

121. The UAE procurement regulations contain nationality restrictions. Any bidder must be a GCC citizen or a company with maximum foreign equity of 49%. This must be proven by an official, notarized contract showing the partnership shares in the company capital, with the exception of contracts ratified abroad or that take place through correspondence. The bidder must also be registered in one of the municipalities or chambers of commerce and industry or one of the economic departments in the UAE, or in the Commercial Agents Registry of the Ministry of Economy in the case of an agent. The bidder is required to be registered in the Suppliers and Contractors Registry at Ministry of Finance for tenders and auctions invited by federal ministries and departments. In some cases, tenders may be exempted from the nationality conditions and opened to foreign companies and establishments, mainly when these are the only available suppliers, or for foreign companies established in free zones. In these cases, the foreign company must open a branch and employ a local service agent (Chapter II(5)).

122. The UAE's e-procurement system continued to develop during the review period. A procurement notice is usually posted electronically for one month by the Ministry of Finance or the relevant ministry, and is published twice in two widely disseminated newspapers. Access to the electronic system requires registration with the Ministry of Finance and payment of AED 1,000 the first year and AED 500 for renewal.⁶² The notice includes a description of goods and services to be procured, the authority receiving tenders, the period of validity of tenders, and the deadline for submission of tenders. Specifications and conditions of the procurement must be in Arabic but, if necessary, they may be translated into one or more foreign languages.

123. For tenders above AED 100,000, bidders must place a bid bond of 5% of the bid value with a UAE bank; this bond acts as an initial guarantee, in accordance with Article 32 of the Decision. The letter of initial guarantee is returned to non-accepted bidders automatically upon expiry of the tender or earlier if the final guarantee has been collected from the successful bidder. The evaluation of tenders is done by the Tenders committee of the relevant procuring ministry. Tenders Committees are expected to assess the tenders and select the "best and lowest" bid. The selected company must provide a performance bond, generally of 10% of the bid value, to finalize the contract. Majority-government-owned companies are exempt from the two bond obligations.

124. Tenders committees must post their procedures in an official *procès verbal* stating all the facts of the tender, its remarks, and recommendations. Final approval of the tender is granted by different authorities, depending on the value of the tender. Approval by the Chairman of the Tenders Committee is required for tenders of up to AED 3 million; tenders between AED 3 million and AED 10 million must be approved by the undersecretary of the relevant ministry, and tenders above AED 10 million by the competent minister.

125. There is no standard system for suppliers to challenge the award of a contract. In accordance with the Decision, a committee formed within the Ministry of Finance analyses claims submitted by the bidders regarding faults in the tenders or in decisions by the tenders committee.

126. Defence purchases are centralized at the federal level and conducted by the Ministry of Defence. Under the UAE offset policy, all purchases by the UAE armed forces or elements thereof are subject to the offset obligation. In general, all contracts with a cumulative value exceeding

⁶² UAE Government online information. Viewed at: www.uae.gov.ae and egov.uae.gov.ae (Arabic only).

US\$10 million in any five-year period are subject to an "offset programme", by the UAE Offset Program Bureau (OPB). The OPB was created in 1992, and is mandated to set up joint ventures, as well as to invest in commercial, industrial, financial, and educational projects and to create investment funds in the UAE and abroad. In 2007, the OPB created a fully-owned subsidiary, Tawazun Holding, to contribute substantially in diversifying the UAE's oil-dominated economy by focusing on the development and expansion of selected emerging companies across a wide range of industrial and commercial areas. The OPB is also entitled to require offsets on other than military public purchases, but does not do this at present. OPB purchases are conducted through direct negotiation with contractors.

127. The procurement and offset processes start in parallel. A defence contractor is informed of the requirement to enter into an offset agreement during the bidding process; the contract award process is linked to the signing of the agreement. Suppliers (domestic or foreign) that sign a defence procurement contract must undertake to set up a joint-venture with the private sector that will generate returns equal to an agreed-upon share of the contract, over a specified period. An investment agreement is reached on an "offset programme" with each foreign defence supplier. Under the programme, the foreign company undertakes to "fulfil its offset obligation", i.e. it is required to add economic and commercial value to the UAE's economy equivalent to 60% of the supply contract value. The level of obligation does not directly correspond to investments made in an offset venture but to the value created by an offset venture in terms of contributions and profits generation over time. The UAE Offsets Group (UOG) measures the output of an offset project through its profits. Typically, all defence contractors are expected to fulfil their offset obligations over a period of seven years. Certain projects may be granted an additional grace period depending on the level of complexity, sophistication, and infrastructure requirements.

128. A certain level of obligation is expected at the end of each year, specifically: 5%, 10%, 10%, 15%, 15%, 20%, 25% in each of the seven years, respectively.⁶³ Investors may also use a hybrid programme consisting of input and output-based activities to generate the expected value added. Input credit generating activities are limited to 30% of the total contribution, while output credit generating activities should not be less than 70% of the value added created. In case of non-performance of the obligations, damages of 8.5% of the unfulfilled portion of the obligation are charged.

129. Offset projects cover a wide range of economic activities, including advertising, fish farming, language centres, shipbuilding, leasing and financial services, and medical services. In the future, to align with the Abu Dhabi Vision 2030, the OPB will be focusing on building capabilities in the manufacture of end-user products (systems) and all their components.⁶⁴

130. Apart from the federal regulations, each emirate has specific provisions regulating government procurement activities. In Abu Dhabi, Law No. 4 of 1977 regulates contracts between a foreign company and an Abu Dhabi government department. Under the law, only local companies or local agents of foreign companies that are registered in Abu Dhabi may submit tenders. A bid bond

⁶³ Offset Program Bureau online information. Viewed at: <http://www.offset.ae/EN/Menu/Index.aspx?MainMenuID=&MenuID=84&mnu=&LeftImage=62420101106458731250.jpg&TopImage=62420101106459356250.gif&division=Cat&CatName=Offset+Policy+Guidelines&PriID=34&Rmnu=OUR+PROGRAM&URL=&CatID=&SubName=>.

⁶⁴ Offset Program Bureau online information. Viewed at: <http://www.offset.ae/EN/Menu/Index.aspx?MainMenuID=&MenuID=85&mnu=&LeftImage=62420101106458731250.jpg&TopImage=62420101106459356250.gif&division=Cat&CatName=Area+of+Focus&PriID=34&Rmnu=OUR+PROGRAM&URL=&CatID=&SubName=>.

must accompany all tenders for government contracts, and the bond is automatically forfeited if a bid is withdrawn before the date for the opening of the tenders.

131. Dubai Law No. 6 of 1997 contains provisions regulating contracts between Dubai government departments and companies, including the preparation of tender documents, issuing the tender, bid-bond requirements, and performance-bond requirements. The Dubai Government also requires a foreign company to employ a service agent. Certain governmental purchases may be handled electronically (since 2000).⁶⁵

(v) Intellectual property rights

(a) Overview

132. The intellectual property regime in the UAE is still developing; the first intellectual property (IP) laws were enacted in 1992 and replaced or amended in 2002. Domestic laws relating to intellectual property rights protection are supplemented with laws issued by the Cooperation Council for the Arab States of the Gulf. The authorities indicated that the UAE is currently drafting legislation to protect layout-designs (topographies) of integrated circuits and undisclosed information. The UAE does not have laws to protect geographical indications.

133. The UAE has been a member of WIPO since 1974, and is a member of: the Paris Convention (1996); the Patent Cooperation Treaty (1999); the Berne Convention (2004); the Rome Convention (2004); the WIPO Copyright Treaty (WCT) (2004); and the WIPO Performances and Phonograms Treaty (WPPT) (2005). The UAE is party to the Gulf Cooperation Patent Treaty.

134. The Ministry of Economy is the federal authority responsible for implementing and enforcing IP laws regarding patents, industrial designs, and copyright, and it is the UAE contact point in the WTO.⁶⁶ Enforcement at the border is mainly dealt with by the Federal Customs Authority. The Ministry of Justice is responsible at the federal level, for any IP related matters referred up by local courts.

(b) Patents

135. The Patent and Design Law No. 17 of 2002 provides for the protection of patents and industrial designs. Patents are granted for any invention that is the result of an innovative idea, or for an innovative improvement on a patented invention, whether in relation to a new industrial product, an industrial process or method or to the application of a known industrial process or method. The term of patent protection is 20 years (non-renewable) from the date of filing the application.

136. The Patent and Design Law extends protection to innovations in all fields of technology, including pharmaceuticals and agricultural chemical products, and it covers both products and processes. Micro-organisms are patentable. However, exceptions from patentability exist for: plant and animal research, or biological processes for the production of plants or animals, with the exception of microbiological processes and products; scientific principles and discoveries; diagnostic, therapeutic, and surgical methods for the treatment of humans or animals; inventions related to national defence; or inventions that would be contrary to public order and morality.

⁶⁵ In the Emirate of Dubai, Tejari.com is used to advertise public purchases of information technology equipment.

⁶⁶ WTO document IP/N/3/Rev.4/Add.3, 12 September 2000.

137. Law No. 17 of 2002 enables a patent holder to prevent others from manufacturing, importing, offering for sale, selling, using or otherwise keeping for the purpose of selling or using the product, or using the method.

138. Patent applications must be filed with the UAE Patent Office. Applications are examined with respect to compliance with formalities and patentability under the Patent Law, including novelty, inventiveness, and industrial applicability. In case of refusal, an applicant has the right to appeal to the Committee in the Patent Office. Accepted applications are published in the *Official Gazette*, and any interested party has the right to appeal to the Committee within 60 days of publication. In the absence of opposition, the letters-patent or the utility certificate is issued.

139. The law allows for the granting of compulsory licences, where the right-holder does not satisfy the stipulated working requirements within three years from the grant date of the patent.⁶⁷ Compulsory licences may also be granted if exploitation of the patent is stopped for two consecutive years, or if the owner refuses to license it voluntarily under a contract. To obtain a compulsory licence, an applicant must prove that efforts have been made to obtain a licence from the patent owner on reasonable conditions. No compulsory licences have been granted during the period under review. There are no provisions on parallel imports of patented products and there has been no jurisprudence in the UAE in this regard.

(c) Industrial designs

140. Industrial designs are protected by the Patent and Design Law (Law No. 17 of 2002). Industrial designs must be registered to be protected. Applications to register a design are filed with the Patent Office once examined for compliance with the law. If accepted, the application is published in the *Official Gazette*. The examination procedure for designs and industrial models is the same as that for patents. There is a 60-day period for any interested party to oppose registration. In the absence of any opposition, a certificate of registration is issued.

141. The term of protection for a design is 10 years. The holder is accorded exclusive rights over imports of any product related to the industrial design, or processing of such a product for the purpose of offering it for sale or selling it. A special register is kept by the Ministry of Economy as per Law No. 31 of 2006.

(d) Copyright and related rights

142. Copyrights and Neighbouring Rights Law No. 7 of 2002, as amended by Federal Law No. 32 of 2006, is the main legislation protecting copyright. The law provides for the exclusive right to exploit, under the rental right, literary works, including computer programs and cinematography work (Table III.7). Copyright protection is in general for 50 years. Registration with the Ministry of Economy is not required for the work to be protected.

143. Registration with the competent authority is optional, but is regarded as the authoritative reference to the copyrighted information. However, non-registration does not mean that the work is not protected.

144. An author's rights are protected for life plus 50 years. Holders of copyrights and neighbouring rights may assign their economic rights to specialized professional societies to administer them, or authorize other bodies to practice these rights.

⁶⁷ The authorities have indicated that the working of a patent refers only to commercial exploitation and does not include importation.

Table III.7
Protected works under the Copyright and Neighbouring Rights Law, 2011

- Books, booklets, articles and other literature
- Computer software and applications, databases and similar works defined in a decision to be issued by the Minister
- Lectures, speeches, sermons and other works of similar nature
- Plays, musicals and pantomimes
- Musicals accompanied by dialogue and musicals which are not accompanied by dialogue
- Audio and video work or audio visual work
- Architectural work and architectural plans and drawings
- Work involving drawing, painting, sculpturing, etching, lithography, screen printing, relief and intaglio prints and other similar works of fine art
- Photographic work
- Works of applied art and plastic art
- Charts, maps, plans, 3-D modelling for geographical and topographical applications and architectural design etc.
- Derivative works, subject to the protection afforded to the work(s) upon which they are based. The protection shall extend to the title of the work if created as well as the creative concept devised for broadcast material
- Translations, summaries, editorials, modifications and commentaries which have been carried out with the consent of the author
- Any other works whose means of expression are writing, sound, drawing, photography or movement

Source Federal Law No. 7 of 2002 concerning Copyrights and Neighbouring Rights.

145. Performers and their successors also have literary and economic rights (Table III.8). The economic rights of performers and producers of phonograms are protected for 50 years from the beginning of the calendar year following that in which the performance was accomplished. If the performance was fixed in a phonogram, the period is calculated from the end of the year in which the fixation was made. The rights of broadcasting organizations are protected for 20 years, calculated from the beginning of the calendar year following the year of first transmission.

Table III.8
Protection of neighbouring rights, 2011

Performers enjoy the right to:

- transmit their unfixed performance and communicate it to the public
- fix their performance on a phonogram
- reproduce their fixed performance on a phonogram
- fix live performances on a phonogram for direct or indirect commercial revenue, rental, transmission

Producers of phonograms enjoy the right to:

- prohibit any exploitation of their phonograms by any means without their authorization
- copy, rent, broadcast, or re-broadcast
- disseminate their recordings via wire, wireless, computer or other means

Broadcasting organizations enjoy the right to:

- grant licences for exploitation of their recordings and broadcast programmes
- prohibit any communication of their programmes or recordings to the public without their authorization

Source: Federal Law No. (7) of 2002 concerning copyrights and neighbouring rights.

146. Applications for a compulsory licence for either copying or translating any protected work may be submitted to the Ministry of Economy three years after the date of publication in case of a translation licence and five years for photocopying.

147. There are no provisions on parallel imports in the copyright legislation.

(e) Trade marks

148. Federal Law No. 37 of 1992 on trade marks, as amended by Law No. 19 of 2000 and Law No. 8 of 2002, provides protection for registered trade marks in the UAE. The law includes the definition of trade marks, signs that cannot be registered as trade marks, trade mark registration and cancellation procedures, transfer of ownership and mortgage of trade marks, licensing others to use trade marks, penalties for trade mark law infringement and general and transitory provisions.

149. Federal Law No. 37 defines a trade mark as any distinguishing form of names, words, signatures, letters, figures, graphics, logos, titles, hallmarks, seals, pictures, patterns, announcements, packs or any other marks or group of marks used or intended to be used either to distinguish goods, products or services from whatever sources or to indicate that certain services, goods or products belong to the owner of the trade mark because of their provision, manufacturing, selection or trading. The law also contains provisions on the protection of well-known marks. The trade mark law also specifies signs that may not be registered (Table III.9).

150. Trade marks may be registered with the Ministry of Economy, which is in charge of registration in the UAE. Once an application is filed, it is examined to assess the trade mark's registrability. Applications accepted by the Registrar are published in the *Trade mark Journal* and two local Arabic newspapers. There is a 30-day period for filing an opposition by any interested party. In the absence of opposition, the published trade mark is registered, and a certificate of registration is issued. Approved trade marks are published in the *Trademark Journal* and two Arabic newspapers at the expense of the applicant. Applications for renewal must be submitted during the last year of the protection period. There is a three-month grace-period for late renewal, upon payment of a fine. Renewals are also published in the *Trademark Journal* and in two local Arabic newspapers. Trade mark registration is valid in all the emirates for ten years, renewable for consecutive periods of ten years.

Table III.9
Signs that may not be registered as a trade mark, 2011

<ul style="list-style-type: none"> • Signs without any distinctive character or property or that use common names of goods, products and services or ordinary drawings or pictures of goods and products • Signs that offend public morals or are contrary to public order • Signs using or imitating public symbols, flags and other logos of the UAE or any Arab or international organization or any foreign country without their authorization • The emblem of the Red Crescent or the Red Cross or any similar symbols or signs or their imitations • Signs that are identical or similar to symbols with absolutely religious character • Geographical names if their use can cause confusion about the origin or source of the goods, products or services • The name, title, image or logo of a third party unless he or his heirs agreed to their use in advance • Particulars of degrees of honour that do not prove that the applicant is legally entitled thereto • Signs that may mislead the public or contain false statements or descriptions about the origin or source of products or services, as well as marks that contain a fictitious, imitated or forged trade name. • Trade marks owned by individuals or legal entities with which any deal is prohibited • Signs whose registration could result in undervaluation of other products or services distinguished by such signs • Trade marks that contain words or expression such as Concession, Concessionaire, Registered, Registered Drawing, Copyright, or other similar words and phrases • National and foreign medals, coins or bank notes • Trade marks that are merely a translation of a renowned or already registered trade mark if the registration would confuse consumers about the products distinguished by the trade mark
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Source: Law No. 8 of 2002.

151. The Ministry may remove a registered trade mark after notifying the concerned party of the reasons for removal. Affected parties may appeal the removal decision in the relevant civil court within 30 days of notification of removal. Trade marks may be cancelled by any interested party who

can prove that the trade mark was not actually used for five consecutive years. There have been no such cases during the period under review.

152. Violations of the trade marks law, such as: forging or imitating a registered trademark, the deliberate use of a forged or imitated trade mark, and the sale, display, promotion or possession (with the intent of selling) of products with a forged, imitated or illegally placed trade mark may lead to imprisonment and/or a fine of at least AED 5,000. A person giving the false impression that he holds a registered trade mark is also subject to imprisonment and a fine.

153. The trade mark law does not contain provisions with respect to parallel imports or to national or international exhaustion of rights. However, the owner of a trade mark may, by a written notarized contract, grant to any person a licence to use the trade mark. The licence has no effect on third parties unless it has been recorded in the Register and published as prescribed in the Executive Regulations. According to the authorities, the trademark law could, as a result, be invoked by the owner of the trade mark to prevent parallel imports; no such case has so far been filed in the UAE.

(f) Enforcement

154. The UAE has implemented programmes to increase awareness regarding IP protection. According to the authorities, this is in order to establish an environment that promotes innovation, which could help attract investment in IP-related areas in the UAE.

155. The laws on copyright, patents and designs, and trade marks provide for measures to prevent violation of intellectual property rights, including preventive seizure, confiscation, removal or destruction of products and equipment, as well as elimination of the effects of the illegal acts, and compensation, and imprisonment in certain instances.

156. The trade marks law defines penalties with regard to counterfeit, imitation, misleading practices, and fraudulent use of registered trade marks. Fines of at least AED 5,000 may be levied, as well as prison sentences of up to three years, depending upon the crime. The copyrights law lays down similar procedures, with minimum detention of two months, fines of AED 10,000-500,000 and/or closure of the premises. Articles 60-62 of the patent and design law also lay down criminal sanctions and monetary penalties in the range of AED 5,000-100,000, according to the crime.

157. Customs is entitled to take measures at the border to prevent any violation of IPRs, in accordance with the above-mentioned laws as well as under customs regulations. These measures may be taken upon demand of the right-holder, based on a judicial order or by the customs authorities on their own initiative.