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**Trade Policy Review Body**

**TRADE POLICY REVIEW**

REPORT BY THE SECRETARIAT

MONTENEGRO

*Revision*

This report, prepared for the first Trade Policy Review of Montenegro, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Montenegro on its trade policies and practices.

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Document WT/TPR/G/369 contains the policy statement submitted by Montenegro.

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## SUMMARY

1. Since its WTO accession in April 2012, Montenegro's small and open import-dependent and services-orientated economy has been on a fluctuating growth path. Action has been taken through fiscal consolidation and reform measures to address several economic challenges. During the review period, Montenegro's annual GDP growth ranged from -2.7% (in 2012) to 3.5% (in 2013); its annual average growth rate for the period 2012-16 stood at 1.8%, a slowdown compared to 3.4% over the 2001-11 period. Following a fiscal loosening in 2016, reforms have been under way to spur economic recovery, including a Fiscal Consolidation Plan (December 2016), a Fiscal Consolidation Strategy (June 2017), and a 2017-2019 Economic Reform Programme. Developments in Montenegro's regional and international competitiveness were affected by productivity-related and other challenges, some of which are being addressed. Whereas consumer price inflation dropped from a peak of 4.1% in 2012 to 1.5% in 2015, including two years of deflation, and averaged 1.4% in the period 2012-2016, the unemployment rate declined progressively but remained relatively high at an average of 18.5%.

2. During the review period, some trade and trade-related structural reforms were undertaken in areas such as tax administration, competition policy, and the labour market. Reforms aimed at spurring productivity growth – to address Montenegro's persisting production diversification and international competitiveness challenges – are under way in several areas (e.g. public finance management, energy, transport and telecommunications, business environment, reduction of the informal economy, foreign trade and investment facilitation). The fiscal deficit has been on the rise to accommodate additional government spending related to a major highway construction project, social welfare expenses (mothers' and pension benefits) and public-sector wage increases.

3. Montenegro's monetary policy is subject to limitations. Its lack of a national currency constrains to some extent its ability to absorb external shocks. The adoption of the euro as the domestic currency in 2002 has benefited foreign direct investment (FDI) inflows, foreign trade and GDP growth as a whole. Persistent stagnant productivity, rising labour costs, and continued large current account deficits have resulted in an appreciation of the real effective exchange rate since 2007; the depreciation of the euro in conjunction with quantitative easing by the European Central Bank eased this appreciation. The current account registered sustained deficits, averaging 15.4% of GDP during 2012-15, with a sharp increase in 2016 reaching 19% of GDP due to the continuing decline of exports of goods and the steady rise of imports of construction goods for large-scale infrastructure projects. Gross external debt dropped from 155.9% of GDP in 2012 to 152.1% in 2015. Foreign exchange reserves have increased steadily, *inter alia*, due to negative interest rates in the euro area.

4. The openness of the Montenegrin economy to international trade and its aim to integrate into the world economy continues to be reflected in the ratio of its trade (exports plus imports) in goods and services to GDP, which was 103.4% in 2016, a progressive decline from a peak of 111.8% in 2012. International trade and FDI trends reflect the continued importance of Europe as Montenegro's main regional market and supplier, with the European Union remaining its major trading and FDI partner. Furthermore, trade under regional trade agreements (RTAs) continues to account for more than 80% of total foreign trade. Montenegro is open to FDI; its only FDI restrictions relate to the ownership of land and assets within one kilometre of the border line and agricultural land. It actively encourages investment through various incentive schemes which are applied in a non-discriminatory manner. Efforts to improve the business environment have been reflected in improved international rankings but seemingly not yet in the country's competitiveness.

5. Since WTO accession, Montenegro has adopted constitutional amendments to reinforce judicial independence and has undertaken institutional and legislative reforms to combat corruption. As outlined in its 2017-2019 Economic Reform Programme, Montenegro's trade and trade-related policy objectives are focused on strengthening the competitiveness of service exports, diversifying goods exports and increasing value-added in export-orientated production.

6. Despite the country's attachment to multilateralism, Montenegro's authorities consider that its geographical and economic specificities make regionalism an important driving force in its legal and institutional developments. Since joining the WTO, Montenegro has undertaken commitments in government procurement and trade facilitation; it also accepted the Protocol Amending the TRIPS Agreement. Montenegro has never been involved in a WTO dispute settlement case either

as complainant, respondent or third party. While Montenegro has submitted notifications to the WTO in most areas, some remain outstanding; the pending notifications (e.g. on import licensing, SPS, TBT, and production support) are expected to be addressed in the course of 2018.

7. Montenegro participates in five RTAs with a total of 41 economies. It is a founding member of the Central European Free Trade Agreement (CEFTA), it is a party to the EU–Montenegro Stabilization and Association Agreement, and it has RTAs with the European Free Trade Association (EFTA), Turkey, Ukraine and the Russian Federation. Only the RTAs with the European Union and Ukraine incorporate specific commitments on services. Over the review period, the RTAs with EFTA and Ukraine entered into force, and at the CEFTA level there have been developments with respect to trade facilitation, rules of origin and trade in services. EU accession negotiations were launched in 2011 and are ongoing; as at end-2017, negotiations had been opened on 30 policy chapters.

8. Over the review period, new and/or amended trade and investment-related laws and regulations have been introduced across the board. Many of the legislative reforms have been driven by requirements to align relevant legislation with the EU *acquis communautaire*. Various initiatives to cut red tape and to involve stakeholders in policy formulation have been taken. For example, Montenegro: introduced new guidelines for stakeholder consultations in the process of formulating laws; continued to implement a "regulatory guillotine project" to simplify administrative procedures; established an obligatory regulatory impact assessment process for all primary and secondary legislation; and set a framework for conducting public hearings as part of the process of drafting laws.

9. The tariff is one of the main trade policy instruments and a significant, albeit declining, source of tax revenue (2.4% of total tax revenue in 2016). Although most tariff lines are *ad valorem*, and therefore transparent, the tariff's complexity increased as a result of its EU alignment and in 2017 it involved a multiplicity of rates (55 *ad valorem* duties and 29 compound duties). As a result of an increase in both the number of tariff bands and the number of duty-free tariff lines (including on information technology items), and a decrease in the coverage of compound rates, the simple average MFN applied tariff rate dropped slightly from 6% in 2012 to 5.1% in 2017. Tariff protection varies substantially across and within sectors, averaging 12.3% for agricultural products and 3.1% for non-agricultural products in 2017 (WTO definitions). Tariff rates range from zero to 30% (*ad valorem* rates) or 50% (ceiling of compound rate, tomatoes); almost 89% (86.8% in 2012) of rates are 10% or below. All tariff lines are bound on an *ad valorem* basis and the implementation of the few remaining commitments is to be completed in 2022. Whereas all *ad valorem* ceilings of the compound rates seem to be in line with bound levels, the MFN rates applied to at least 56 eight-digit HS items (e.g. meat, fish, office machines, electrical equipment, telephone sets and instruments) appear to have exceeded their bound level in 2017; action was to be taken to correct this situation as from 1 January 2018. The small gap between the simple average MFN applied and bound rates (1.4 percentage points) ensures largely predictable and stable market access conditions. Montenegro's expansion of bilateral and regional free trade agreements meant that its simple average tariff rate on imports from preferential sources remained considerably below the MFN average tariff rate; under its RTAs with the European Union and Turkey, Montenegro applies tariff rate quotas to 149 agricultural products.

10. During the review period, trade facilitation developments included the ratification of the WTO Trade Facilitation Agreement (TFA) in 2016, steps to implement an authorized economic operator scheme, the establishment of a National Trade Facilitation Committee to address bottlenecks in this area, and participation in trade facilitating initiatives at the CEFTA level. Regarding customs valuation, the transaction value was the most used method and no reference or minimum prices or fixed valuation schedules were used.

11. Import licensing requirements, which cover approximately 356 ten-digit HS tariff items or 3.6% of all tariff lines (240 in 2011 or 2.6% of all tariff lines (HS07)), are maintained for various reasons including protection of national security, human, animal or plant life or health, and to meet international commitments. The fees for import licences for medicines and medical devices are based on the total import value and those relating to the import/export/transit of drugs and psychotropic substances amount to 1% of the total import/export/transit value, in line with the international conventions. Standard harmonization and full integration into the European and international standardization systems remain a significant element of Montenegro's industrial policy. Montenegrin standards have more than doubled over the review period and those adopted in mandatory technical regulations accounted for 40.7% of all adopted standards in 2017; 98.8%



of standards in place were identical to European standards and the rest identical to international standards. Only two purely Montenegrin standards seem to be in place. During the review period, changes and updates were made to the comprehensive regulatory and institutional framework for sanitary and phytosanitary measures to, *inter alia*, ensure compliance with the EU *acquis* in numerous areas; certain imports of different origin are subject to bans or controls for SPS purposes. A traceability system for genetically modified organisms is to be introduced in 2018. No contingency measures have been introduced so far despite the existence of a regulatory and institutional framework in this area.

12. Montenegro does not apply any export duties. It has temporarily (2017-2019) prohibited exports of some kinds of wood and wood products. Quantitative restrictions on exports may be imposed in cases of critical shortage or to protect exhaustible natural resources, but so far there have been no such cases. A free zones and warehouses scheme provides tax and non-tax incentives to established firms; currently there is only one free trade zone in Montenegro.

13. Grants, tax concessions, guarantees, concessional loans, debt write off and rescheduling continued to support investment, production and trade by, *inter alia*, encouraging micro, small and medium-sized enterprises (MSMEs), R&D, competitiveness improvements, cluster development, regional development, entrepreneurship and job creation. Their duration ranges from one year to the completion of a project. Industry-specific support is available to agriculture, fisheries, energy, and processing activities. Depending on the support scheme, corporate tax exemptions and other types of support do not apply to primary production of agricultural products, fisheries, steel shipyards, transport, the defence industry and gambling activities.

14. State involvement in the economy, including trade, seems limited and targeted at areas considered to be of current strategic importance (e.g. energy, broadcasting, transport, and tourism). The State or state funds hold shares in 60 companies and the internal debt of state-owned firms dropped recently. Privatization plans are set annually, and the privatization process seems to be in its final phases. Substantial changes have been made to the government procurement legislation to bring it in line with the EU *acquis* and the WTO Agreement on Government Procurement (GPA) of which Montenegro became a Member in July 2015. Although the value of contracts awarded to foreign suppliers rose more than fourfold over 2013-16, they are equivalent to about 14% of the total contracted value and roughly 6% of the total number of contracts. No preferences are granted to domestic suppliers and SMEs participating in government procurement operations. Public procurement remains decentralized, though monitored and facilitated by a single agency; ongoing initiatives to raise procurement efficiency and monitoring, *inter alia*, involve the introduction of e-procurement tools.

15. Montenegro's intellectual property rights legislation has been strengthened with wide-ranging and comprehensive amendments or new laws. Protection was further enhanced with the expansion of international commitments. Nevertheless, enforcement remains subject to challenges involving, *inter alia*, resource constraints. During the review period, several legislative and institutional changes were undertaken under the competition policy and consumer protection framework; pro-competitive agreements in certain areas (e.g. spare parts and servicing of motor vehicles, insurance, and road/rail/maritime traffic) are exempt from competition rules. Competition policy and consumer protection enforcement difficulties relating to limited financial and human resources and expertise are being addressed; difficulties relating to the fragmented nature of the existing consumer protection legislation and regulations are noticeable. Price controls on certain medicines, oil derivatives, and electricity tariffs are in place.

16. Agriculture (excluding agro-processing), together with forestry and fishing, accounted for 9% of GDP in 2016; it is estimated that around 8.3% of the working age population in Montenegro is engaged in agriculture. The sector is characterized by low productivity with competitiveness hindered by: fragmented parcels (the average farm size being 5.8 ha in 2016); obsolete mechanization; unfavourable credit terms; and underdeveloped rural infrastructure. Recognizing Montenegro's inability to produce on a large-scale, emphasis is, *inter alia*, being placed on helping farmers to produce high-quality products which can be marketed through tourism. Montenegro's main agricultural activity is livestock breeding, mainly of cattle and sheep. Montenegro is a net importer of agricultural products. Only a few export products (wine, meat, bakery products, and beer) account for the vast majority of agricultural and agro-food exports. With the exception of cereals, the main products produced are assisted by significant levels of MFN (and sometimes preferential) tariff protection. The State owns some agricultural land, which is partially rented and

has a majority shareholding in the country's major wine producer. Montenegro does not provide export subsidies. Domestic support is modest and comprises: market price policy measures; Rural Development Measures; support for general services and social transfers in agriculture and institutional development and fisheries development measures. Market price policy measures include direct payments which are coupled to production; the main beneficiaries being the beef and milk sectors. In the context of EU accession, a gradual decoupling of payments from production is envisaged. Since 2002, the Government and the Pension and Disability Insurance Fund have provided subsidies for the purchase of lamb meat, in order to support producers and consumption of lamb by the most vulnerable group of pensioners.

17. Nearly 70% of Montenegro's territory is covered by forests or forest land and in recent years reforestation has occurred as farmers have abandoned agricultural land. Sawmilling is the main economic activity in the wood processing industry and rural populations continue to rely on wood as a source of energy. Around half of the country's forests are state-owned and commercial exploitation takes place under concession agreements. Wood cut from state-owned forests must be processed (to a primary level of production) before it is exported. In mid-2017, Montenegro imposed temporary export restrictions on certain wood products in order to ensure adequate supply for the domestic market in the wake of a logging ban in neighbouring Albania and a consequent surge of exports to this market.

18. Montenegro's fisheries sector is underdeveloped, under exploited and of an artisanal character. Foreign fishing vessels may obtain a licence to operate in Montenegrin waters. Every year Montenegro sets a maximum allowable catch; over the review period the actual catch has been significantly below this threshold. Montenegro is a net importer of fish products. Tariff protection ranges from zero to 20%. Budgetary support to the fisheries sector is small.

19. All of the Montenegro's mineral wealth is state-owned, with exploitation largely taking place under concession contracts; since 2012, revenue from concession fees has ranged from €810,517 to €5.2 million. Tariff protection in the mining sector is low; the simple average applied tariff in 2017 (ISIC definition) was 1.2%, with tariffs ranging from zero to 8%. In 2016, exports of mining products (mainly, aluminium ores and concentrates, zinc ores and concentrates, other non-ferrous base metal waste and scrap, and unwrought aluminium and aluminium alloys) accounted for nearly 32% of total exports.

20. Montenegro's energy production comes from hydro-electricity, coal and fuelwoods. To meet domestic demand, it imports around 10%-15% of its energy needs. All petroleum is currently imported; all but one of the oil and gas companies operating in Montenegro are privately owned. Offshore exploration for hydrocarbons is in a research phase. The electricity market was unbundled and fully opened to competition in 2015; however, the State has a significant ownership stake in the electricity market in the areas of generation, transmission and distribution. Prices of electricity transmission and distribution are regulated. Electricity tariffs do not differ by the type of subsector but only by voltage levels; the only preferential electricity prices in place are for those considered to be vulnerable customers (households and small customers that do not belong to the household category). Electricity from renewable sources is supported through a feed-in tariff.

21. In 2016, the GDP share of manufacturing (including agro-processing) in the economy was 4.6% and the sector accounted for 6.3% of the total number of employed persons. Manufacturing production is dominated by: pharmaceutical products and preparations; basic metals and metal products; food products, beverages and tobacco; other non-metallic mineral products; machines and equipment, and wood and cork products. Its main exports are iron and steel bars and rods; medicines; and certain machinery and transport equipment. Manufacturing companies may benefit from incentives under general as well as manufacturing-specific schemes.

22. Services account for more than 70% of economic activity. Montenegro has undertaken GATS commitments in all of the 12 sector groups listed in the Services Sector Classification List and in over 80% of its subsectors. It has also scheduled a number of "additional commitments" in the areas of basic telecommunications, postal and courier services and port services.

23. Montenegro's banking and insurance sectors are open to foreign investment. Conditions in the banking sector have strengthened over the review period as steps have successfully been taken to tackle a serious problem of non-performing loans. Bank lending has picked up but has not

responded to a rebound in economic growth and conditions of high liquidity. The sector appears to be overbanked which presents a challenge for profitability. Over the review period, the Central Bank's responsibilities have been extended to overseeing consumer credit and supervising financial leasing, factoring and purchase of receivables activities. Analysis suggests a reduction in concentration in the insurance sector over the past decade. Only insurance companies established in Montenegro may insure property and persons in Montenegro, with certain exceptions, including reinsurance.

24. The telecommunications sector is fully privately owned, with significant levels of foreign direct investment. There is little real competition in the field of fixed network infrastructure and fixed line call termination prices are significantly above the European average; the opposite is the case for the mobile sector. In the area of broadcasting, foreign and domestic investors are treated equally under Montenegrin rules and regulations; the only content requirements currently in place are that the general television broadcaster must ensure that content considered as in-house production represents at least 10% of its monthly airtime. A Film Centre of Montenegro started operations in 2017 which, *inter alia*, provides incentives to foreign and domestic producers that intend to film in the country.

25. State ownership of companies operating in the transport sector remains significant in the maritime, rail and air sectors, although the Port of Adria, the main commercial port, was privatized in 2013. Efforts are being made to tackle transport infrastructural shortcomings through the construction of the first segment of a major highway project, which will ultimately join Montenegro's seaport at Bar with Boljare at the border with Serbia, and ongoing efforts to upgrade rail tracks and rolling stock. Maritime cabotage services may only be provided by vessels flying the Montenegrin flag. The maritime sector is facing competition from ports in neighbouring countries, which has resulted in declining passenger and freight numbers.

26. Tourism remains one of Montenegro's main economic activities and sources of government revenue as well as serving as a stimulus to other sectors; its main tourism products are currently related to coastal activities, but diversification efforts are ongoing. There are no FDI restrictions on any type of tourism accommodation in Montenegro, and no nationality requirements applied to tourist service providers. Various incentives are offered, particularly to stimulate investment in high quality facilities.

27. Montenegro's growth is likely to accelerate in the near future, driven largely by highway construction spending and tourism and energy investments, as well as related higher consumption. Notwithstanding these prospects and existing buffers, downside risks to the economic outlook remain. As a consequence of its size, import dependence and limited diversification, the economy remains vulnerable to exogenous shocks including reliance on foreign capital to fund large public financing needs and fluctuations in external demand, as well as endogenous risks, *inter alia*, related to the implementation of large public infrastructure investment projects, an early retiring and aging population, and a high unemployment rate. Future prosperity and sustainable and inclusive growth depend on the implementation of the fiscal consolidation strategy, continued vigilance in the financial sector, labour market reforms and gains in the business environment and governance. These and productivity- and production diversification-enhancing structural reforms would increase the flexibility of the Montenegrin economy and its ability to respond to growing external challenges as well as its further integration into the multilateral trading system, thus enabling it to continue meeting its broad-based economic and welfare objectives including inclusive growth and a narrower wealth divide.

## 1 ECONOMIC ENVIRONMENT

1.1. Since its WTO accession, Montenegro has experienced a fluctuating growth path and action has been taken through fiscal consolidation and economic reform measures to address several economic challenges (Section 1.2.1, Table 1.1). Persistent high levels of unemployment, continuous labour market rigidities (exacerbated by low productivity and high costs), steady current account deficits and substantial external debt have slowed its economic performance during the review period (Sections 1.2.1, 1.2.4.4 and 1.2.2).<sup>1</sup> Developments in Montenegro's regional and international competitiveness were affected by these and other challenges, although some of them are being addressed (Sections 1.2.4.1 and 1.2.5).<sup>2</sup> Despite progress in human development performance, income inequality rose.<sup>3</sup> International trade and foreign direct investment (FDI) trends reflect the continuous importance of Europe as Montenegro's major market and supplier, with the European Union, Serbia, Bosnia and Herzegovina, China, and the Russian Federation remaining its main individual trading and inward FDI partners (Section 1.3.2).

1.2. Although growth is expected to accelerate, downside risks to the economic outlook remain. In addition to Montenegro's import dependence (Section 1.1), exogenous risks include: reliance on foreign capital to fund large public financing needs, as well as fluctuations in external demand (especially for tourism, which is substantially dependent on incomes in the Russian Federation, Serbia, and the euro area), and a possible decline in FDI.<sup>4</sup> The endogenous risks include high sensitivity to the implementation of large public infrastructure investment projects which would boost growth but could place further pressure on public finances. Other endogenous challenges include a relatively high and rising public debt and ongoing bank deleveraging as well as an early retiring and aging population and a high unemployment rate (Section 1.2.4.4). Further implementation of a fiscal consolidation strategy (Section 1.2.3.2), continued vigilance in the financial sector, labour market reforms, and gains in the business environment and governance are crucial for achieving sustainable and inclusive growth. According to the IMF, the improvement in global growth, particularly in Europe, could have positive spillovers to the Montenegrin economy.<sup>5</sup> In the medium to long term, the construction of the Serbian part of the Belgrade-to-Montenegro highway could improve growth.

<sup>1</sup> IMF (2017), *Montenegro Selected Issues*. IMF Country Report No. 17/277, September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-Selected-Issues-45245>.

<sup>2</sup> In 2017-2018, Montenegro ranked 77<sup>th</sup> out of 137 countries (72<sup>nd</sup> out of 144 countries in 2012-2013) in the World Economic Forum (WEF) Global Competitiveness Index. According to the WEF, in 2017/18 despite improvements in several areas, the areas of greatest concern were access to financing, inefficient government bureaucracy, corruption, inadequate supply of infrastructure, lack of innovation and an inefficient labour market. WEF (2017), *The Global Competitiveness Report 2017-2018*, 26 September, Geneva. Viewed at: <http://www3.weforum.org/docs/GCR2017-2018/05FullReport/TheGlobalCompetitivenessReport2017%E2%80%932018.pdf>; Government of Montenegro (2017), *Economic Reform Programme for Montenegro 2017–2019*, January.

<sup>3</sup> In 2016, Montenegro ranked 48<sup>th</sup> out of 188 countries in the UNDP's human development category (52<sup>nd</sup> out of 186 countries in 2012), thus being part of the group of countries with very high human development. Income inequality as measured by the Gini coefficient rose from 30.0 (2000-2010) to 31.9 (2010-2015) but remains the lowest in the Western Balkans and close to the average for OECD countries (30.8); a value of zero represents absolute equality, a value of 100 absolute inequality. According to the authorities, MONSTAT data covering the period 2013-16 were to be released by end-2017. UNDP (2013), *Human Development Report 2013 - The Rise of the South: Human Progress in a Diverse World*. Viewed at: <http://hdr.undp.org/en/2013-report>; UNDP (2016), *Human Development Report 2016 - Human Development for Everyone*. Viewed at: [http://hdr.undp.org/sites/default/files/2016\\_human\\_development\\_report.pdf](http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf); World Bank Report (2016); WTO document WT/TPR/S/346/Rev.1, 6 January 2017.

<sup>4</sup> IMF (2017), *Montenegro - 2017 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 13 September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>.

<sup>5</sup> IMF (2017), *Montenegro Selected Issues*. IMF Country Report No. 17/277, September, Washington D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-Selected-Issues-45245>.

## 1.1 Main Features of the Economy

1.3. Montenegro is a small and open services-orientated economy with a population of 0.6 million (as of 2016) that became an independent State in 2006.<sup>6</sup> Its high import dependence makes it vulnerable to external shocks and international price changes, especially those for food and energy. Montenegro's size-related high costs of developing and running national institutions are compounded by a limited capacity to exploit economies of scale in the provision of public goods and services.<sup>7</sup> At the same time, while still in the process of transitioning to a market economy, restructuring activities and privatization of a few state-owned enterprises (SOEs) remain under way (Sections 1.2.4.2 and 3.3.4). Montenegro submitted its application for EU membership in 2008 and accession negotiations opened in June 2012; it has been using the euro as its domestic currency since 2002 (Sections 1.2.3.1 and 2.3.2.1.3).<sup>8</sup>

## 1.2 Recent Economic Developments

### 1.2.1 Growth, income, and employment

1.4. During the review period, Montenegro's annual GDP growth ranged from -2.7% (2012) to 3.5% (in 2013) (Table 1.1); its annual average growth rate for the period 2012-16 stood at 1.8%, a slowdown compared to the average of 3.4% over the 2001-11 period.<sup>9</sup> According to the IMF and the World Bank, the reasons for these developments include: overreliance on external capital inflows and tourism which made the economy vulnerable to external shocks and geopolitical tensions; falling aggregate demand which reduced the output and the demand for labour; a change in investors' perceptions of financial risks; a decline in manufacturing and construction sectors; stagnated productivity and increased costs which were exacerbated by a rigid labour market with high youth and long-term unemployment, weak demographics, and low labour force participation; high public spending; and increased public debt.<sup>10</sup> In response to the challenging environment, after a fiscal loosening in 2016, to spur the economic recovery the authorities undertook a Fiscal Consolidation Plan (December 2016), a June 2017 Fiscal Consolidation Strategy (FCS), a 2017-2019 Economic Reform Programme, and other reforms (Sections 1.2.3.2, 1.2.4, 1.2.4.3, 1.2.4.4, 3.3.3, and 2.2).<sup>11</sup> According to the IMF, notwithstanding an estimated modest negative impact of the fiscal adjustment, in 2017 growth is expected to accelerate to 3%, driven largely by an expected doubling of highway construction spending to 6% of GDP, and tourism and energy investments. Over 2017-22, growth may average 2.8%, also supported by consumption in later years; according to the authorities this rate would be 3.1% for the period 2017-20.<sup>12</sup>

<sup>6</sup> Heritage.org online information. Viewed at: <http://www.heritage.org/index/pdf/2017/countries/montenegro.pdf>.

<sup>7</sup> World Bank online information. Viewed at: <http://www.worldbank.org/en/country/montenegro/overview>.

<sup>8</sup> IMF (2015), *Montenegro - 2015 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 8 March, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2016/12/31/Montenegro-2015-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-43772>; World Bank online information. Viewed at: <http://www.worldbank.org/en/country/montenegro/overview>; European Commission (DG - Environment) online information. Viewed at: <http://ec.europa.eu/environment/enlarg/candidates.htm>.

<sup>9</sup> World Bank and Montenegro Central Bank data.

<sup>10</sup> World Bank (2016), *Montenegro - Achieving Sustainable and Inclusive Growth amidst High Volatility: Systematic Country Diagnostic*, March. Viewed at: <http://documents.worldbank.org/curated/en/642701468179098025/pdf/105019-SCD-P151813-OUO-9-SecM2016-0165.pdf>; IMF (2017), *Montenegro - 2017 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 13 September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>; and IMF (2017), *Montenegro Selected Issues*. IMF Country Report No. 17/277, September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-Selected-Issues-45245>.

<sup>11</sup> IMF (2017), *Montenegro - 2017 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 13 September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>.

<sup>12</sup> The highway construction is expected to add to growth through direct demand effects during construction and indirect supply effects after its completion, although both impacts are smaller than for most investment projects. IMF (2017), *Montenegro - 2017 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 13 September,

**Table 1.1 Selected macroeconomic indicators, 2012-16**

	2012	2013	2014	2015	2016
<b>National accounts</b>					
Real GDP (%age change)	-2.7	3.5	1.8	3.4	2.9
By type of expenditure (% of GDP)					
Final consumption expenditure	103.8	100.5	99.6	98.4	96.4
Household final consumption expenditure	82.7	81.0	80.2	79.2	76.8
Government consumption	21.1	19.5	19.4	19.2	19.6
Gross fixed capital formation	19.8	20.2	19.0	20.1	23.2
Changes in inventories	0.8	-0.6	1.2	-0.1	2.9
Net exports	-24.4	-20.1	-19.8	-18.5	-22.5
Exports of goods and services	43.7	41.3	40.1	42.1	40.5
Import of goods and services	68.1	61.4	60.0	60.6	62.9
Unemployment rate (%)	19.7	19.5	18.0	17.6	17.7
<b>Productivity</b> (Percentage change)					
Labour productivity	2.4	0.7	6.8	1.8	1.1
Capital productivity	3.0	3.6	3.1	3.8	5.8
Total factor productivity	1.4	-0.5	1.4	-0.9	-4.8
<b>Prices and interest rates</b>					
Inflation (CPI, %age change)	4.1	2.2	-0.7	1.5	-0.3
Lending interest rates in % (weighted)					
Nominal rates	8.90	8.76	8.56	8.10	7.21
Effective rate	9.56	9.39	9.41	8.93	7.97
Deposit interest rates in % (weighted)					
Nominal rates	3.26	2.91	2.14	1.48	1.08
Effective rate	3.26	2.91	2.14	1.46	1.07
<b>Exchange rate</b>					
€/US\$ (annual average)	0.78	0.75	0.75	0.90	0.90
Real effective exchange rate (based on CPI; average %age change) <sup>a</sup>	3.20	0.80	-2.00	..	..
<b>Consolidated fiscal balance (% of GDP)</b>					
Total revenue and grants	39.9	41.3	43.5	40.7	43.3
Total revenue	39.4	41.0	43.2	40.4	42.9
Current revenues	39.2	40.8	43.0	40.2	42.8
Taxes, of which	24.7	25.7	27.5	25.5	26.8
VAT	11.1	12.8	14.4	12.6	13.3
Excises	4.8	4.8	4.5	4.7	4.8
Taxes on international trade	0.9	0.7	0.6	0.6	0.6
Social security contributions	10.0	10.6	11.6	10.8	11.0
Non-tax revenues	4.5	4.5	4.0	3.8	4.9
Capital revenues	0.2	0.3	0.2	0.2	0.1
Grants	0.5	0.3	0.3	0.3	0.4
Total expenditures and net lending	45.7	45.8	44.2	46.6	49.4
Total expenditures	45.6	45.7	44.5	46.5	49.3
Net lending	0.1	0.1	-0.3	0.1	0.1
Overall balance <sup>b</sup>	-5.8	-4.5	-0.7	-5.9	-6.0
General government debt (gross) <sup>c,d</sup>	53.4	55.2	59.9	66.7	67.5
<b>Saving and investment (% of GDP)<sup>e</sup></b>					
Gross national savings	1.9	5.1	5.0	6.7	6.1
Gross investment	20.6	19.6	20.2	20.0	25
Savings-investment gap	-18.7	-14.5	-15.2	-13.3	-18.9
<b>External sector</b> (% of GDP, unless otherwise indicated)					
Current account	-18.5	-14.5	-15.2	-13.2	-18.1
Goods and services balance	-24.2	-20.1	-19.8	-18.5	-22.5
Goods	-43.5	-39.5	-39.8	-40.0	-41.9
Export	12.2	11.8	10.3	8.9	8.7
Import	55.7	51.3	50.1	48.9	50.6
Services	19.3	19.4	20.0	21.6	19.4
Revenues	29.9	29.6	29.8	33.2	31.7
Expenditures	10.6	10.1	9.8	11.6	12.3
Capital account	0.2	0.1	0.0	0.0	0.0
Financial account <sup>f</sup>	-15.1	-11.4	-8.1	-9.3	-12.4
Direct investment, net	-14.5	-9.6	-10.2	-16.9	-9.4
Terms of trade	..	..	..	..	..
Merchandise exports (% change) <sup>g</sup>	-17.6	2.1	-9.7	-9.0	6.2

	2012	2013	2014	2015	2016
Merchandise imports (% change) <sup>a</sup>	-0.1	-2.7	0.6	3.2	12.0
Service exports (% change) <sup>a</sup>	5.2	4.6	3.6	17.8	3.3
Service imports (% change) <sup>a</sup>	9.2	1.0	-0.3	24.8	14.3
Total reserves (includes gold, US\$ million)	458.7	584.0	661.4	733.5	846.5
in months of imports	1.9	2.4	2.7	3.4	3.4
Total external debt, % of GDP (stock at end of period)	155.4	155.4	160.0	160.5	158.0
of which: private sector <sup>h</sup>	115.2	111.3	109.6	94.8	..

.. Not available.

a A minus sign (-) refers to depreciation.

b According to the authorities, the methodology is based on the Law on Budget and Fiscal Responsibility and data is in compliance with the Financial Statement of Budget. Data on the overall balance was -5.3% (2012), -4.6% (2013), -2.9% (2014), -8.3% (2015), and -3.6% (2016) of GDP.

c The arrears of local governments in their definition of general government gross debt are not included.

d According to the authorities, data on the gross general government debt was 53.4% (2012), 57.5% (2013), 59.9% (2014), 66.2% (2015), and 64.4% (2016) of GDP.

e Preliminary figure for 2016.

f Net lending (+) / net borrowing (-).

g Based on BoP figures at nominal prices.

h Estimates, since private debt statistics are not published.

Source: Central Bank of Montenegro online information. Viewed at: <http://www.cb-cg.org/eng/index.php>; Statistical Office of Montenegro – MONSTAT online information. Viewed at: <http://monstat.org/eng/index.php>; data provided by Ministry of Finance; and IMF (2017), *Montenegro - 2017 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 13 September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>.

1.5. Since 2012, changes in the overall sectoral pattern of Montenegro's GDP and employment have been relatively minor, with services accounting for more than 70% of economic activity followed by agriculture and construction whose shares have slightly increased (Table 1.2, Section 4.4). During the review period, labour productivity has remained stagnant as real unit labour costs have increased in line with wage developments (Section 1.2.4.4).<sup>13</sup> Montenegro has lost cost competitiveness compared to peers as labour costs have greatly outpaced productivity. Total factor productivity (TFP) growth has been negative except for 2012 and 2014, and in 2016 bottomed to -4.8% (Table 1.1); growth of its contribution to GDP ranged from -5.3% to 1.8% in the period 2012-2016. No data on Montenegro's level of integration into global value chains (GVCs) were available with the authorities.

1.6. During the review period, Montenegro's unemployment rate dropped progressively but remained relatively high at an average of 18.5% (Table 1.1) despite large fluctuations in business cycles indicating that the economy is operating well below its potential.<sup>14</sup> Firms constrained by

<sup>13</sup> After the 2008 crisis, productivity declined sharply and then rose unevenly, while growth slowed. Labour productivity is still below its 2008 level and the country still lags behind its South East Europe peers. While in other countries in the region productivity quickly returned to trend following a deceleration in 2009, Montenegro experienced a sharper decline in 2009 and despite a quick recovery in 2010 productivity has remained stagnant since then. Most of the employment gains were in labour-intensive industries, like tourism and agriculture (also with the largest share of informality), while real estate and financial sectors took a lead with the highest growth of value added. IMF (2017), *Montenegro - 2017 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 13 September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>; World Bank (2016), *Montenegro - Achieving Sustainable and Inclusive Growth amidst High Volatility: Systematic Country Diagnostic*, March. Viewed at: <http://documents.worldbank.org/curated/en/642701468179098025/pdf/105019-SCD-P151813-OUO-9-SecM2016-0165.pdf>.

<sup>14</sup> This aspect of the Montenegrin economy (and of several other States in South Eastern Europe) is important for understanding the links between economic growth, the rate of unemployment, and poverty reduction, and for evaluating the contribution of transitory factors (domestic and external) and of permanent/structural shifts towards inclusive growth over the next decade. World Bank (2016), *Montenegro - Achieving Sustainable and Inclusive Growth amidst High Volatility: Systematic Country Diagnostic*, March.



firing restrictions are reluctant to hire in the first place, thus increasing long-term unemployment, which accounts for three-fourths of total unemployment (Section 1.2.4.4).<sup>15</sup> Furthermore, informal work remains an issue (1.2.4.4).

**Table 1.2 Basic economic and social indicators, 2012-16**

	2012	2013	2014	2015	2016
Current GDP at market prices (€ million)	3,181.5	3,362.5	3,457.9	3,654.5	3,954.2
GDP per capita at current market prices (€)	5,126.5	5,412.9	5,561.1	5,873.5	6,354.2
<b>GDP by economic activity at constant prices (%age change)</b>					
Agriculture, forestry and fishing	-12.8	13.6	1.8	2.1	3.9
Mining and quarrying	-7.7	-6.9	-0.1	3.4	-13.0
Manufacturing	-12.9	6.5	-2.1	6.0	-4.1
Electricity, gas, steam and air conditioning supply	1.4	38.7	-2.4	-4.7	3.5
Water supply, sewerage, waste management and remediation activities	0.1	-6.0	4.4	-0.1	-4.8
Construction	-11.9	1.2	2.2	4.7	32.1
Services	..	..	..	..	..
Wholesale and retail trade	-1.8	4.2	2.6	4.3	1.9
Transportation and storage	-4.1	4.6	1.6	4.8	4.8
Accommodation and food service activities	3.2	2.7	1.9	16.6	1.9
Information and communication	2.2	-4.7	0.4	3.2	-3.5
Financial and insurance activities	-1.7	-3.5	6.0	3.6	6.7
Real estate activities	0.9	1.4	2.2	2.3	1.5
Professional, scientific and technical activities	4.0	3.0	3.4	4.2	0.0
Administrative and support service activities	4.3	14.4	7.1	-0.2	2.3
Public administration and defence	2.8	1.5	1.5	2.7	1.4
Education	3.3	1.4	0.8	-0.3	-2.4
Human health and social work activities	0.2	1.2	2.5	2.7	-2.1
Arts, entertainment and recreation	2.5	3.7	2.6	3.8	-0.8
Other service activities	-1.9	4.2	7.4	5.3	-0.3
<b>Share of sector in current GDP at basic prices</b>					
Agriculture, forestry and fishing	8.9	9.8	10.0	9.7	9.0
Mining and quarrying	1.3	1.3	1.4	1.4	1.3
Manufacturing	4.9	4.9	4.8	4.9	4.6
Electricity, gas, steam and air conditioning supply	3.5	5.7	5.0	4.2	4.3
Water supply, sewerage, waste management and remediation activities	2.6	2.4	2.3	2.3	2.1
Construction	5.5	4.5	4.2	4.5	6.8
Services	73.4	71.4	72.3	72.9	71.8
Wholesale and retail trade	14.5	14.1	14.2	14.8	14.8
Transportation and storage	4.9	4.6	4.4	4.4	4.9
Accommodation and food service activities	8.1	7.9	8.2	9.1	8.6
Information and communication	5.9	5.5	5.2	5.1	4.7
Financial and insurance activities	4.9	5.4	5.9	5.6	5.3
Real estate activities	8.2	7.9	8.0	7.6	7.2
Professional, scientific and technical activities	3.5	2.9	3.5	3.2	3.0
Administrative and support service activities	1.1	1.4	1.3	1.3	1.5
Public administration and defence	9.3	9.0	9.0	9.0	8.9
Education	5.9	5.6	5.4	5.3	5.2
Human health and social work activities	4.7	4.7	4.7	4.6	4.7
Arts, entertainment and recreation	1.5	1.6	1.7	1.8	1.8
Other service activities	0.8	0.9	0.8	1.1	1.2

Viewed at: <http://documents.worldbank.org/curated/en/642701468179098025/pdf/105019-SCD-P151813-OUO-9-SecM2016-0165.pdf>.

<sup>15</sup> IMF (2017), *Montenegro - 2017 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 13 September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>.



	2012	2013	2014	2015	2016
<b>Share of sector in total employment</b>					
Agriculture, forestry and fishing	1.5	1.6	1.5	1.5	1.3
Mining and quarrying	1.1	1.1	1.1	1.0	0.9
Manufacturing	7.8	7.5	6.9	6.4	6.3
Electricity, gas, steam and air conditioning supply	1.9	1.8	1.7	1.6	1.5
Water supply, sewerage, waste management and remediation activities	2.8	2.8	2.9	2.9	2.8
Construction	5.0	4.9	5.2	5.3	5.7
Services	79.9	80.3	80.7	81.3	81.6
Wholesale and retail trade	22.6	21.8	20.7	20.8	20.6
Transport and storage	5.6	5.8	5.6	5.7	5.8
Accommodation and food service activities	7.9	8.4	8.2	8.2	8.3
Information and communication	2.9	2.8	2.8	2.8	2.8
Financial and insurance activities	2.6	2.6	2.5	2.5	2.5
Real estate activities	0.8	0.8	0.9	1.0	0.9
Professional, scientific and technical activities	4.2	4.2	4.3	4.4	4.5
Administrative and support service activities	2.2	2.9	4.5	4.6	4.8
Public administration and defence	11.9	12.0	12.1	12.0	11.9
Education	7.9	7.7	7.7	7.7	7.7
Human health and social work activities	6.5	6.4	6.5	6.5	6.6
Arts, entertainment and recreation	2.6	2.7	2.7	2.8	2.9
Other service activities	2.1	2.1	2.2	2.3	2.3

Source: Statistical Office of Montenegro – MONSTAT online information. Viewed at: <http://monstat.org/eng/index.php>; and data provided by the authorities of Montenegro.

### 1.2.2 Prices

1.7. During the review period, consumer price inflation (CPI) dropped from a peak of 4.1% in 2012 to 1.5% in 2015, including two years of deflation, and averaged 1.4% (Table 1.1). In 2014, the 0.7% CPI deflation was due to a fall in the prices of food and non-alcoholic beverages, despite slight inflationary pressure from a rise in domestic demand and revisions of administratively controlled prices (electricity prices increased by 1% in August 2014).<sup>16</sup> Driven by strong growth in consumption, inflation resumed in 2015 but inflationary pressures subsided again in 2016, owing to declining international food and energy prices, thus mitigating the impact of growing domestic demand and leading to 0.3% deflation.<sup>17</sup> According to the IMF, inflation is to increase to 2.25% in 2017, in line with the inflation outlook in the euro area and higher global oil and food prices.<sup>18</sup> In 2018, the increase in the value-added tax (VAT) and electricity prices is projected to add approximately 1 percentage point to inflation (Sections 1.2.3.2, 1.2.4.1, and 3.3.1.1.2). With euroization and high unemployment, inflation is projected to be contained at 2% over 2019–22 (Section 1.2.3.1).

<sup>16</sup> BTI (2016), *Montenegro Country Report*. Bertelsmann Stiftung, 2016. Viewed at: [https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI\\_2016\\_Montenegro.pdf](https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI_2016_Montenegro.pdf).

<sup>17</sup> EIU (2016), *Montenegro Country Report 4<sup>th</sup> Quarter 2016*, London. Viewed at: [http://www.eiu.com/FileHandler.ashx?issue\\_id=1144922698&mode=pdf](http://www.eiu.com/FileHandler.ashx?issue_id=1144922698&mode=pdf).

<sup>18</sup> IMF (2017), *Montenegro - 2017 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 13 September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>; EIU (2016), *Montenegro Country Report 4<sup>th</sup> Quarter 2016*, London. Viewed at: [http://www.eiu.com/FileHandler.ashx?issue\\_id=1144922698&mode=pdf](http://www.eiu.com/FileHandler.ashx?issue_id=1144922698&mode=pdf); and IMF (2017), *Montenegro Selected Issues*, IMF Country Report No. 17/277, September, Washington D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-Selected-Issues-45245>.

### 1.2.3 Main Macroeconomic Policy Developments

#### 1.2.3.1 Monetary and exchange rate policy

1.8. Monetary policy is conducted under the euroization regime (see below) by the Central Bank of Montenegro (CBCG), an independent institution.<sup>19</sup> Its mission is to promote and preserve the stability of the financial system, including support and maintenance of a sound banking system, and safe and efficient payment transactions. The CBCG contributes to price stability by publishing reports on price stability and delivering them to policymakers.<sup>20</sup>

1.9. The use of the free floating euro (Section 1.1) as Montenegro's domestic currency means that the CBCG has limited ability to conduct monetary policy – as it lacks the traditional monetary policy tools to influence interest rates or inflation – which in such a highly open and liberal economy is virtually in a self-balancing mode.<sup>21</sup> In the long-run, Montenegro's inflation rate is in line with the average in the euro area, despite some short-term deviations (Section 1.2.2).<sup>22</sup> As the CBCG is not an issuing central bank, it does not have a reference interest rate, which effectively reduces its ability to influence bank lending.<sup>23</sup> Interest rates are not necessarily in line with the average Eurozone rates level as they reflect Montenegro's market realities, i.e. its size limitations, its relatively high number of banks and their operational costs, and risks. Between November 2012 and May 2013, the CBCG temporarily limited banking interest rates with a view to maintaining financial system stability.<sup>24</sup> Since then the CBCG continued monitoring the interest rate trends; in 2014 the CBCG Council discussed the interest rate levels, which in light of the domestic market realities were high and negatively affecting financial stability, and recommended the banks reduce them by the end of the third quarter of 2014. As a result, interest rates dropped and continued falling. At end-September 2017, the weighted effective interest rate and the

<sup>19</sup> Dollarization or euroization refers to cases where a country decides to abandon its own currency and to substitute it with a foreign currency. The independence of the CBCG is ensured under the Law on the Central Bank of Montenegro of July 2010, the Law Amending the Central Bank of Montenegro Law and the Law Amending the Law on Foreign Current and Capital Operations passed on 16 October 2017. The Central Bank may, for the purpose of pursuing the established objectives and without prejudice to its autonomy and independence, cooperate with the Government and other government bodies and organizations, and take any actions within its authority to promote this cooperation. Central Bank of Montenegro Law (OG Nos. 40/10, 46/10, and 6/13). Viewed at: [http://www.cb-cg.org/eng/slike\\_i\\_fajlovi/fajlovi/fajlovi\\_brzi\\_linkovi/propisi/laws/cbcg\\_law.pdf](http://www.cb-cg.org/eng/slike_i_fajlovi/fajlovi/fajlovi_brzi_linkovi/propisi/laws/cbcg_law.pdf).

<sup>20</sup> BTI (2016), *Montenegro Country Report*, Bertelsmann Stiftung, 2016. Viewed at: [https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI\\_2016\\_Montenegro.pdf](https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI_2016_Montenegro.pdf).

<sup>21</sup> According to the Central Bank of Montenegro Law (OG Nos. 40/10, 46/10 and 6/13), the primary monetary policy instruments include open market operations (OMOs), credit operations and reserve requirements. In addition, the Law stipulates that in the achievement of its objectives and exercising of its functions, the Central Bank may decide on the use of other monetary policy measures and instruments. However, these instruments are used in a limited manner. The authorities indicated that they only used the reserve requirement and only on two occasions (2011, 2017). CBCG online information. Viewed at: [http://www.cb-cg.org/eng/index.php?mn1=monetary\\_policy&mn2=cbc\\_monetary\\_policy\\_instruments](http://www.cb-cg.org/eng/index.php?mn1=monetary_policy&mn2=cbc_monetary_policy_instruments); World Bank (2016), *Montenegro - Achieving Sustainable and Inclusive Growth amidst High Volatility: Systematic Country Diagnostic*, March. Viewed at:

<http://documents.worldbank.org/curated/en/642701468179098025/pdf/105019-SCD-P151813-OUO-9-SecM2016-0165.pdf>; and BTI (2016), *Montenegro Country Report*, Bertelsmann Stiftung, 2016. Viewed at: [https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI\\_2016\\_Montenegro.pdf](https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI_2016_Montenegro.pdf); and Fabris, N., *Monetary policy framework of Central bank of Montenegro*, Summary.

<sup>22</sup> The European Central Bank (ECB) aims at inflation rates of below, but close to, 2% over the medium term. ECB online information. Viewed at: <https://www.ecb.europa.eu/mopo/html/index.en.html>; and Fabris, N., *Monetary policy framework of Central bank of Montenegro*, Summary.

<sup>23</sup> OMOs, effectively possible in this regime, have not been used so far. Also, there are several different credit lines for liquidity support to banks. The only real monetary policy instrument is the reserve requirement. Fabris, N., *Monetary policy framework of Central bank of Montenegro*, Summary; World Bank (2016), *Montenegro - Achieving Sustainable and Inclusive Growth amidst High Volatility: Systematic Country Diagnostic*, March. Viewed at: <http://documents.worldbank.org/curated/en/642701468179098025/pdf/105019-SCD-P151813-OUO-9-SecM2016-0165.pdf>.

<sup>24</sup> During this period, the banks' lending activity did not slow down, the average weighted effective interest rate (WAEIR) declined, the spread between the WAEIR and the average weighted nominal interest rate (WANIR) was reduced, and the majority of the banks reduced deposit interest rates, in accordance with their business policies.

weighted nominal interest rate on total banking loans stood at an average of 6.31% and 6.98%, respectively.<sup>25</sup>

1.10. The euro has benefited Montenegro's foreign direct investment inflows, foreign trade and GDP growth as a whole.<sup>26</sup> During the review period, the nominal €/US\$ exchange rate marginally appreciated in 2012, before a sharp depreciation in 2015 (Table 1.1). According to the IMF, persistent stagnant productivity, rising labour costs, and continued large current account deficits have resulted in an appreciation of the CPI-based real effective exchange rate (REER) since 2007; the nominal effective exchange rate weighted by trading partners was the driver of this appreciation.<sup>27</sup> In addition, the depreciation of the euro in conjunction with quantitative easing by the European Central Bank (ECB) eased the appreciation of the REER.

### 1.2.3.2 Fiscal policy

1.11. During the review period, Montenegro ran persistent annual fiscal deficits forcing a policy shift in 2017. Following a steady decline to 0.7% of GDP in 2014, subsequent fiscal loosening led to Montenegro's fiscal deficit progressively rising to reach 6% of GDP in 2016 (Table 1.1) largely due to cost overruns of the Bar-Boljare highway construction project initiated in 2015, the approval of a new Mothers' Benefit in 2016 (Section 1.2.4.4), and public-sector wage increases.<sup>28</sup> In response to these developments, the expansionary fiscal policy stance shifted to a more consolidated one in order to reduce unsustainable public debt, resolve large market refinancing needs, and introduce budgetary restraints to expenditure pressures (Sections 1.2.1 and 1.2.4.1).<sup>29</sup> The first phase of the Fiscal Consolidation Plan was built into the 2017 Budget, and its second phase is aimed at putting public finances on a stable footing over the medium term through the

<sup>25</sup> System-wide solvency and liquidity indicators in the banking sector appear broadly sound, but significant pockets of vulnerabilities exist among domestically owned banks (Section 4.4.1.1). BTI (2016), *Montenegro Country Report*, Bertelsmann Stiftung, 2016. Viewed at: [https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI\\_2016\\_Montenegro.pdf](https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI_2016_Montenegro.pdf); World Bank (2016), *Montenegro - Achieving Sustainable and Inclusive Growth amidst High Volatility: Systematic Country Diagnostic*, March. Viewed at: <http://documents.worldbank.org/curated/en/642701468179098025/pdf/105019-SCD-P151813-OUO-9-SecM2016-0165.pdf>.

<sup>26</sup> In response to the hyperinflation of the 1990s that led to fiscal problems and destabilization of the financial sector, in 2000 Montenegro introduced the German Mark (Deutsche Mark) that was followed by the unilateral adoption of the euro without officially joining the euro area. Main benefits from euroization include: a solid anchor for inflation; lower interest rates through elimination of the currency risk; lower transaction costs from using one instead of two currencies promoting trade or financial intermediation; stronger guarantee for stability than the currency board in promoting prudent economic policies as changes in parity are ruled out. Main costs include the central bank's loss of seigniorage revenue; and potential large swings in output from adjustments to external shocks. Economic adjustments to meet the convergence criteria might be required as part of the EU accession process. World Bank (2016), *Montenegro - Achieving Sustainable and Inclusive Growth amidst High Volatility: Systematic Country Diagnostic*, March. Viewed at: <http://documents.worldbank.org/curated/en/642701468179098025/pdf/105019-SCD-P151813-OUO-9-SecM2016-0165.pdf>; BTI (2016), *Montenegro Country Report*, Bertelsmann Stiftung. Viewed at: [https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI\\_2016\\_Montenegro.pdf](https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI_2016_Montenegro.pdf) and WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011; The Globaleconomy online information. Viewed at: <http://www.theglobaleconomy.com/guide/article/16/>; Sorsa, P., (2002), *Euroization, Exit Strategies and Recent Critique of the IMF*, August. Viewed at: <https://www.imf.org/external/country/bgr/rr/081202.pdf>.

<sup>27</sup> IMF (2017), *Montenegro - 2017 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 13 September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>; and IMF (2017), *Montenegro Selected Issues*, IMF Country Report No. 17/277, September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-Selected-Issues-45245>.

<sup>28</sup> The completion of the Bar-Boljare highway connecting the main Montenegrin seaport of Bar with Serbia is expected in 2019. Its original cost of €809 million (20% of GDP) was increased to nearly €1 billion (1/4 of GDP) because the dollar-denominated loan from China's ExIm Bank was not hedged. IMF (2017), *Montenegro - 2017 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 13 September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>.

<sup>29</sup> IMF (2017), *Montenegro - 2017 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 13 September, Washington D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>.

2017-2020 Fiscal Consolidation Strategy (FCS) (Section 1.2.1).<sup>30</sup> The 2017-2020 FCS is aimed at raising revenues rather than reducing expenditure.<sup>31</sup> Furthermore, it aims to stem further public debt growth, which during the review period increased steadily from 53.4% (in 2012) to 67.5% (in 2016) and to an estimated nearly 80% (in 2017) of GDP (Table 1.1); it is expected to be reduced towards the fiscal rule target of 60% of GDP by 2027.<sup>32</sup> With highway construction spending set to increase substantially over 2017-19, the overall fiscal deficit is expected to average 5.75% of GDP, causing general government debt (including guarantees) to reach 81% of GDP by 2019.<sup>33</sup> Once highway spending is completed, the overall fiscal balance should improve significantly in 2020, placing debt on a firm downward trajectory.

## 1.2.4 Structural reforms

1.12. Trade and domestic reforms are considered intrinsically linked. According to the IMF, structural reforms to improve the business environment are crucial to strengthen Montenegro's competitiveness.<sup>34</sup> The 2017-2019 Economic Reform Programme (Sections 1.2.1 and 2.2), which is targeted at reaching sustainable and inclusive growth that would reduce a development gap between Montenegro and the EU average, envisages 20 priority reform measures in 9 areas: public finance management (e.g. introduction of e-procurement); energy, transport and telecommunications markets; sectoral development (e.g. industry, agriculture, tourism, finance); business environment and reduction of the informal economy (e.g. electronic fiscal invoices, improvement of support to SMEs); research and innovation (e.g. establishment of a Science and Technology Park); foreign trade and investment facilitation (e.g. development of business zones); education and skills (e.g. development of qualifications in line with labour market needs); employment and the labour market; and social inclusion, poverty reduction and equal opportunities.<sup>35</sup>

### 1.2.4.1 Tax reform

1.13. During the review period, in addition to the tax-related measures of the Fiscal Consolidation Plan and the FCS (Sections 1.2.1, 1.2.3.2, 3.3.1.1.1 and 3.3.1.1.2), Montenegro has taken several

<sup>30</sup> The first phase, expected to deliver fiscal savings of 2.7% (2% according to the IMF) of 2017 GDP, consists of measures ranging from increasing the excise tax on fuel, extending the "progressive crisis" personal income tax, and partial cuts in Mothers Law Benefits to reducing public sector wages of senior officials, wage coefficients and performance bonuses. According to the authorities, the progressive crisis tax refers to the following: monthly advance payment of personal income tax is subject to a rate of 9% on the gross personal money income; the monthly advance payment of personal income tax on earnings exceeding the amount of average monthly gross earnings in the previous year are subject to a rate of 11%.

<sup>31</sup> The revenue increase measures include: VAT increase from 19% to 21% (expected raise of an additional 1% of GDP in revenues) as from 1 January 2018; progressive increase on excise taxes on cigarettes (expected to raise an additional 0.5% of GDP), sweetened carbonated beverages (expected to raise an additional 0.1% of GDP), alcohol (expected to raise an additional 0.1% of GDP) and on coal (expected to raise an additional 0.1% of GDP) until 2020, and tax debt rescheduling programme permitting tax debts to be repaid over five years, with forgiveness of interest/penalties. The expenditure cut measures include: reform of the Mother's Law reducing the spending by nearly 0.75% of GDP by 2020; reduction in the public wage bill by an initial 8% in 2017 and later by 6%; and discretionary spending cuts amounting to one third of GDP. IMF (2017), *Montenegro Selected Issues*, IMF Country Report No. 17/277, September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-Selected-Issues-45245>.

<sup>32</sup> World Bank (2017), *Project appraisal document on a proposed loan in the amount of €14 million (US\$15.7 million) to Montenegro for a revenue administration reform project*, July. Viewed at: <http://documents.worldbank.org/curated/en/492411501725677020/pdf/Montenegro-Revenue-PAD-07122017.pdf>; IMF (2017), *Montenegro Selected Issues*. IMF Country Report No. 17/277, September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-Selected-Issues-45245>.

<sup>33</sup> IMF (2017), *Montenegro – 2017 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 13 September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>.

<sup>34</sup> IMF (2017), *Montenegro - 2017 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 13 September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>.

<sup>35</sup> Government of Montenegro (2017), *Economic Reform Programme for Montenegro 2017-2019*, Podgorica, January.

steps to reform and modernize its tax administration.<sup>36</sup> The amendments in the legal framework were related to a clarification of the role of the tax and customs administration in revenue collection, simplification of tax procedures, strengthening of internal control of tax administration and the integrity of tax officials, and improving tax collection. In 2013, the tax audit function was transferred to a new government-wide Inspection Directorate. The Montenegro Tax Administration (MTA), under the Ministry of Finance as from 2013 (previously autonomous), remains, *inter alia*, responsible for collection of a substantial part of the tax revenues and contributions to the Health and Pension Funds.<sup>37</sup> In 2015, responsibility for the collection of excise duty was transferred to the Customs Administration.<sup>38</sup> Established in 2012, a Large Taxpayers Office (LTO) continues its responsibility for tax audits and is to provide taxpayer services as from 2018.<sup>39</sup>

1.14. A 2014-2019 Tax Administration Corporate Strategy is aimed at, *inter alia*, strengthening the tax administration capacities in line with the EU accession process, modernizing IT to support business processes and the tax administration's human resources, increasing budget revenue collection and reducing the tax debt, preventing the grey economy, and diminishing the tax gap.<sup>40</sup> The 2014-2019 Business Strategy for the tax administration introduced a new tax accounting sub-system in line with audit recommendations.<sup>41</sup> The 2016-2020 World Bank Group Country Partnership Framework (CPF) for Montenegro envisages, *inter alia*, improving the effectiveness and efficiency of the MTA, and reducing the burden of compliance with tax legislation. The project entails an investment of €14 million (US\$15.7 million equivalent) with financial and technical support.<sup>42</sup>

1.15. According to the World Bank and the European Union, the Montenegrin tax administration faces a number of organizational, human resources, and IT challenges that hinder further improvements in performance. Significant investments are required to acquire a modern revenue management IT system and equip the staff with modern tools to improve tax registration,

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<sup>36</sup> While tax rates are relatively low, the burden of compliance for taxpayers is relatively high. According to *Doing Business 2016*, Montenegro is placed at 64<sup>th</sup> position out of 189 countries in terms of ease of paying taxes, mostly because of the significant time required to pay taxes and social contributions; 314 hours per year compared to close to 260 hours for other countries in the Western Balkan region. The high compliance burden is a result of narrow scope and effectiveness of taxpayer services, as well as weaknesses in the legislative framework and information technology (IT) systems being used for revenue management. World Bank (2017), *Project appraisal document on a proposed loan in the amount of €14 million (US\$15.7 million) to Montenegro for a revenue administration reform project*, July. Viewed at: <http://documents.worldbank.org/curated/en/492411501725677020/pdf/Montenegro-Revenue-PAD-07122017.pdf>.

<sup>37</sup> World Bank (2017), *Project appraisal document on a proposed loan in the amount of €14 million (US\$15.7 million) to Montenegro for a revenue administration reform project*, July. Viewed at: <http://documents.worldbank.org/curated/en/492411501725677020/pdf/Montenegro-Revenue-PAD-07122017.pdf>.

<sup>38</sup> World Bank (2017), *Project appraisal document on a proposed loan in the amount of €14 million (US\$15.7 million) to Montenegro for a revenue administration reform project*, July. Viewed at: <http://documents.worldbank.org/curated/en/492411501725677020/pdf/Montenegro-Revenue-PAD-07122017.pdf>.

<sup>39</sup> There are currently 245 large taxpayers, which contributed €317 million (excluding excise collection) of tax revenue or close to 34% of total net revenue in 2016. This is a relatively low share as LTOs in modern tax administrations typically collect close to 50% of the revenues. World Bank (2017), *Project appraisal document on a proposed loan in the amount of €14 million (US\$15.7 million) to Montenegro for a revenue administration reform project*, July. Viewed at: <http://documents.worldbank.org/curated/en/492411501725677020/pdf/Montenegro-Revenue-PAD-07122017.pdf>.

<sup>40</sup> Ministry of Finance (2014), *Tax Administration Corporate Strategy 2014-2019*, Podgorica, 2014. Viewed at: <http://www.poreskauprava.gov.me/en/news/170143/TAX-ADMINISTRATION-BUSINESS-STRATEGY-2014-2019.html>.

<sup>41</sup> *Fiscalis 2020* is an EU cooperation programme enabling national tax administrations to create and exchange information and expertise. European Commission (2015), *Montenegro 2015 Progress report*. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2015/20151110\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2015/20151110_report_montenegro.pdf).

<sup>42</sup> World Bank (2017), *Project appraisal document on a proposed loan in the amount of €14 million (US\$15.7 million) to Montenegro for a revenue administration reform project*, July. Viewed at: <http://documents.worldbank.org/curated/en/492411501725677020/pdf/Montenegro-Revenue-PAD-07122017.pdf>.



collection, audit, enforcement, and taxpayer services.<sup>43</sup> The informal economy constitutes another tax collection challenge and its formalization is a priority (Section 1.2.4.4).

#### 1.2.4.2 Privatization

1.16. State involvement in the economy is limited compared to the past and focuses on areas of strategic importance (e.g. energy, transport, and tourism); the privatization process has slowed down as it seems to be in its final phase (Section 3.3.4). The main aim of the 2017 privatization plan is to increase the competitiveness and efficiency of state-owned companies, boost foreign investments and entrepreneurship in all areas, and raise living standards.<sup>44</sup> According to the IMF, the reinvigoration of the privatization process is key to creating fiscal space for high-quality projects, as some SOEs are a drag on public finances and productivity.<sup>45</sup>

#### 1.2.4.3 Competition policy

1.17. During the review period, Montenegro undertook several legislative and institutional changes to competition policy, *inter alia*, to harmonize domestic regulations with those of the European Union (Section 3.3.3.). However, enforcement remains relatively weak due to insufficient staffing and expertise. Notwithstanding these limitations, growing competition in banking has lowered interest rate spreads since 2014 and is expected to boost credit supply, lower interest rates, and, thus, support the economy.<sup>46</sup> According to the 2017-2019 Economic Reform Programme, the telecommunications market needs further advancement of competition and development of the telecommunications infrastructure.<sup>47</sup>

#### 1.2.4.4 Labour market policies

1.18. During the review period, a number of legislative changes were introduced with the aim of, *inter alia*, boosting competitiveness and labour-market flexibility, enforcing sanctions for unregistered work, increasing market participation, combating the grey economy, and providing regulations for the rights of employees in the event of bankruptcy. Action Plans for combating the grey economy are established annually. The 2016-2020 National Strategy for Employment and Human Resources Development is aimed at creating optimal conditions for employment growth and improvement of human resources, through four priorities: increasing employment; the efficient functioning of the labour market; improving qualifications in accordance with the needs of the labour market; and promoting social inclusion and poverty reduction.

1.19. Despite these initiatives, labour market rigidities persist and cause high levels of long-term and youth unemployment, discourage open-ended employment and affect productivity. According to the IMF, the adoption of the current labour market regulations increased the size of the grey economy because of high dismissal costs, a relatively high minimum wage, regulations on wages, and high tax burdens on low-income workers.<sup>48</sup> At present, Montenegro does not have any

<sup>43</sup> World Bank (2017), *Project appraisal document on a proposed loan in the amount of €14 million (US\$15.7 million) to Montenegro for a revenue administration reform project*, July. Viewed at: <http://documents.worldbank.org/curated/en/492411501725677020/pdf/Montenegro-Revenue-PAD-07122017.pdf> and European Commission (2016), *Montenegro 2016 Progress report*. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf).

<sup>44</sup> Government of Montenegro (2017), *Economic Reform Programme for Montenegro 2017-2019*, Podgorica, January.

<sup>45</sup> IMF (2017), *Montenegro - 2017 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 13 September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>; IMF (2017), *Montenegro Selected Issues*, IMF Country Report No. 17/277, September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-Selected-Issues-45245>.

<sup>46</sup> IMF (2017), *Montenegro - 2017 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 13 September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>.

<sup>47</sup> Government of Montenegro (2017), *Economic Reform Programme for Montenegro 2017-2019*, Podgorica, January.

<sup>48</sup> Average informal wages are at the level of the minimum wage. As of 2017, the minimum wage in Montenegro amounted to €288.1. As of 2014, 23% of those at work were engaged informally and 10% worked

incentives focused on the formalization of economic activities. Furthermore, the public sector employs one-third of workers and pays more than the private sector, thus reducing overall productivity.<sup>49</sup> During the review period, labour productivity (Section 1.2.1) stagnated as an inflexible labour market drove up unit labour costs (key measure of competitiveness), which increased by 22% during 2008-16, compared with an average 9% for other Western Balkan countries.<sup>50</sup> According to the IMF, improvements in labour market flexibility can help reduce the size of the informal economy and create more employment opportunities.<sup>51</sup> In this regard, the preparation of amendments of legislation in the labour market field, including a new Labour Law and the Law on Employment Mediation, were under way in November 2017.

1.20. During the review period, some *ad hoc* pension reforms with fiscal consequences were implemented.<sup>52</sup> They include life-time Mother's Benefit and penalty-free retirement for certain jobs. The 2015 changes to the Law on Social and Child Protection gave mothers with three or more children the right to life-time benefit instead of a pension. As a result of this reform, 5,000 mothers gave up their pension rights, accounting for a 3.3% drop in the total number of pensioners. In total, 22,051 mothers claimed the new Mother's Benefit with a fiscal cost of 2% of GDP. In 2017, the Constitutional Court declared the law unconstitutional and the authorities implemented a less costly benefit. In 2016, all pension benefits were increased by 3% and the minimum pension was increased by 20%. Several special privilege pension types were introduced for miners (who can retire with 30 years of service, 20 of which in mining) on 17 March 2010 and for parents of disabled children (who can retire with 20 service years) that account for less than 1% of total pensioners on 20 July 2011.<sup>53</sup> A major challenge in the pension system is a consistently large funding gap (3.1% of GDP in 2016), where spending outpaces contributions; furthermore, at 10.4% of GDP, Montenegro's pension funding is high compared to 9% of GDP in advanced economies and 5% of GDP in emerging economies.

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formally but paid only a fraction of the taxes and contributions they should pay. Informal employment is the highest among the young, the elderly, and those with a lower level of education; however, if not for this informal sector the number of unemployed would be higher and more people would face the risk of poverty. CountryEconomy.com online information. Viewed at: <https://countryeconomy.com/national-minimum-wage/montenegro>; IMF (2017), *Montenegro Selected Issues*, IMF Country Report No. 17/277, September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-Selected-Issues-45245>; and UNDP (2016), *Informal work from challenges to solutions*, Podgorica. Viewed at: [http://hdr.undp.org/sites/default/files/montenegro\\_national\\_human\\_development\\_report\\_2016\\_informal\\_work.pdf](http://hdr.undp.org/sites/default/files/montenegro_national_human_development_report_2016_informal_work.pdf).

<sup>49</sup> IMF (2017), *Montenegro Selected Issues*, IMF Country Report No. 17/277, September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-Selected-Issues-45245>.

<sup>50</sup> Largest productivity improvements occurred in growing sectors: tourism-related sectors of entertainment, food, and accommodation. Manufacturing and mining scaled back employment to boost productivity during this period. In real estate, employment growth is twice output growth, indicating an overcapacity of firms may be driving down profits. The construction sector experienced the largest fall in productivity (-40% since 2011) and responded to falling output by adding employment. IMF (2017), *Montenegro Selected Issues*, IMF Country Report No. 17/277, September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-Selected-Issues-45245>.

<sup>51</sup> IMF (2017), *Montenegro - 2017 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 13 September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>.

<sup>52</sup> Before 2012, Montenegro undertook two major pension reforms. The 2004 reform introduced, *inter alia*, a point system with a 50-50 Swiss-formula for valorization and indexation, phasing in a higher retirement age (from 60 to 65 for men, from 55 to 60 for women), and tightening disability and survivor eligibility. However, the 2010 reform package introduced several unproductive reform measures. While increasing the retirement age to 67 for men and women (by 2025 for males and 2041 for females), it introduced several early retirement schemes. As a result 70% of new pensioners were early retirees below the statutory retirement age of 66 for men and 61 for women. The Pension formula was changed to 75% CPI and 25% wage valorization and indexation, which yields fiscal savings in the long term at the expense of increasingly lower pension benefits, which ultimately become socially unsustainable. The current benefit is about €280 per month, which is around 56.2 % of net wages. IMF (2017), *Montenegro Selected Issues*, IMF Country Report No. 17/277, September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-Selected-Issues-45245>.

<sup>53</sup> IMF (2017), *Montenegro Selected Issues*, IMF Country Report No. 17/277, September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-Selected-Issues-45245>.

### 1.2.5 Balance of payments

1.21. In line with the trend of the growing share of trade in services versus the declining share of manufacturing, Montenegro continued to run a rising surplus in trade in services and a deficit in merchandise trade (Table 1.3). The merchandise trade deficit considerably exceeded the surplus in services. Consequently, during the review period the current account registered sustained deficits, averaging 15.4% of GDP during 2012-15, and a sharp increase of up to 18.1% of GDP in 2016 due to the steady rise of imports of construction goods for large-scale infrastructure projects as well as for energy and tourism-related investments. The widening of the current account deficit reflects the extent to which gross investment (25% of GDP, 2016) continues to increasingly exceed the gross national savings (6.1% of GDP, 2016) (Table 1.1).<sup>54</sup> According to the IMF, the current account deficit is projected to increase to 22% of GDP in 2018, when construction-related imports and commodity prices are to peak with investment projected to grow by 6 percentage points of GDP.<sup>55</sup>

1.22. During the review period, Montenegro's gross external debt rose from 155.4% of GDP in 2012 to a peak of 160.5% in 2014 and 2015 before dropping to 158% in 2016 (Table 1.1) due to deleveraging. According to the IMF, external debt is expected to peak at 175% of GDP by 2019, before declining to 165% in 2022. The implementation of the fiscal adjustment strategy, sustainable management of finances and improvement of the investment climate are key to place debt on a downward path and bolster market access.<sup>56</sup>

**Table 1.3 Balance of payments, 2012-16**

(€ million)

	2012	2013	2014	2015	2016
<b>Current account</b>	-587.6	-486.6	-525.8	-482.8	-715.0
Goods and services balance	-771.4	-675.4	-686.1	-674.4	-888.2
Goods	-1,384.2	-1,328.6	-1,376.4	-1,463.5	-1,657.3
Export	387.5	395.7	357.5	325.3	345.3
Import	1,771.7	1,724.3	1,733.9	1,788.8	2,002.6
Services	612.8	653.2	690.3	789.2	769.1
Revenues	950.6	994.4	1,030.6	1,213.9	1,254.6
Transport	167.5	173.1	176.9	214.6	234.0
Travel - tourism	643.2	665.6	682.3	813.0	835.7
Construction	34.3	41.4	48.2	45.4	31.6
Other business services	41.8	42.8	48.2	50.8	64.6
Other services	63.7	71.5	75.0	90.1	88.7
Expenditures	337.7	341.2	340.3	424.8	485.5
Transport	125.5	130.5	131.4	150.7	185.2
Travel - tourism	30.5	35.9	35.6	40.2	60.1
Construction	35.8	8.3	20.0	48.2	25.8
Other business services	67.8	89.9	72.8	91.1	102.1
Other services	78.2	76.5	80.6	94.6	112.4
Primary income	53.8	65.5	45.9	92.8	52.9
Revenues	206.2	212.7	226.1	247.7	257.8
Compensation of employees	186.9	197.9	211.1	229.9	246.0
Investment income	19.3	14.7	15.0	17.8	11.8
Expenditures	152.4	147.1	180.2	154.9	204.9
Compensation of employees	13.1	12.7	17.1	15.5	21.9
Investment income	139.3	134.5	163.1	139.4	183.1
Secondary income	129.9	123.2	114.4	98.8	120.4
Revenues	186.4	187.8	184.1	171.9	189.3

<sup>54</sup> Montenegro remains dependent on personal remittances from its workers abroad that represented 9.5% of GDP in 2015. Between 2012 and 2016, inflows grew steadily by about 15%, i.e. from €342.8 million to €393.4 million. Online information. Viewed at: [http://ec.europa.eu/eurostat/statistics-explained/index.php/Personal\\_remittances\\_statistics](http://ec.europa.eu/eurostat/statistics-explained/index.php/Personal_remittances_statistics).

<sup>55</sup> IMF (2017), *Montenegro Selected Issues*. IMF Country Report No. 17/277, September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-Selected-Issues-45245>.

<sup>56</sup> IMF (2017), *Montenegro Selected Issues*. IMF Country Report No. 17/277, September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-Selected-Issues-45245>.



	2012	2013	2014	2015	2016
Expenditures	56.5	64.6	69.7	73.1	68.9
<b>Capital account</b>	7.4	2.6	0.0	-0.2	0.8
<b>Balance from current account and capital account</b>	-580.2	-484.1	-525.8	-482.9	-714.2
<b>Financial account<sup>a</sup></b>	-481.6	-383.9	-280.3	-338.5	-490.1
Direct investment, net (=assets-liabilities)	-461.6	-323.9	-353.9	-619.3	-371.6
Net acquisition of financial assets	20.8	13.0	20.7	11.1	-167.0
Net incurrence of liabilities	482.4	336.9	374.6	630.3	204.5
Portfolio investment, net (=assets-liabilities)	24.7	-42.0	-84.4	-112.1	19.3
Net acquisition of financial assets	20.1	37.9	66.6	-13.7	54.3
Net incurrence of liabilities	-4.6	79.8	151.0	98.4	35.0
Other investment, net (=assets-liabilities)	-89.3	-95.4	39.7	267.2	-298.3
Net acquisition of financial assets	92.1	-61.9	23.1	269.0	-128.8
Net incurrence of liabilities	181.5	33.5	-16.6	1.9	169.5
Reserve assets of Central Bank of Montenegro	44.6	77.4	118.4	125.7	160.6
Net errors and omissions	98.6	100.2	245.5	144.4	224.1

a Net lending (+) / net borrowing (-).

Source: Central Bank of Montenegro online information. Viewed at: <http://www.cb-cg.org/eng/index.php>.

1.23. Since 2012, Montenegro's total reserves have increased steadily by an overall 84.5% due to growth of the positions of foreign currency and securities related to negative interest rates in the Eurozone (Table 1.1); in 2016, they were equivalent to 3.4 months of imports of goods and services. As of October 2017, foreign exchange reserves stood at US\$886.6 million and they were equivalent to about 2.7 months of imports of goods and services. According to the IMF, overall liquidity buffers appear adequate in the event of modest deposit run pressures on banks; by 2022, Montenegro's gross international reserves are projected to reach US\$1.1 billion.<sup>57</sup>

### 1.3 Developments in Trade and Investment

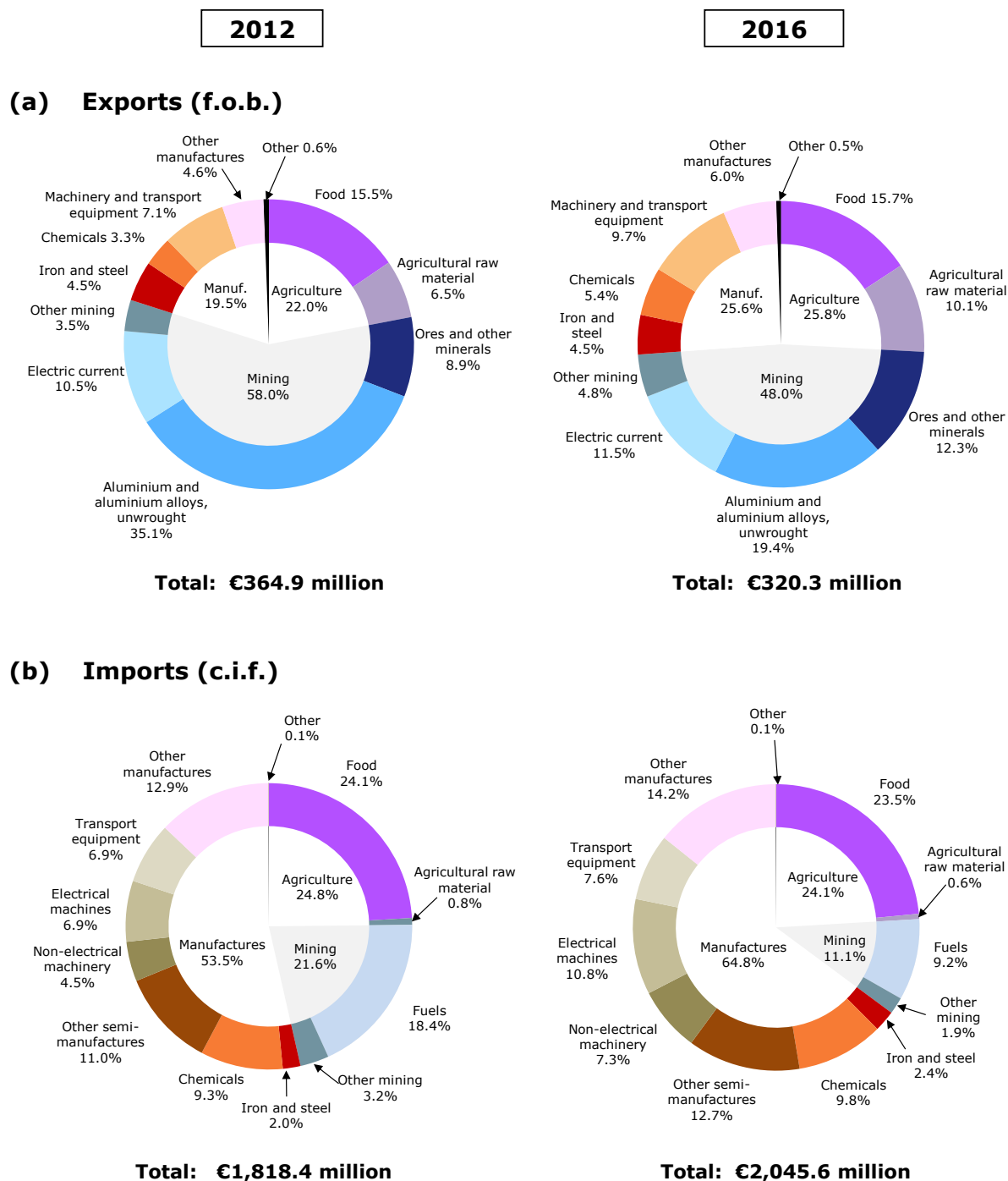
#### 1.3.1 Trends and patterns in trade

1.24. The openness of the Montenegrin economy to international trade, and the aim to integrate into the world economy continue to be reflected in the ratio of its trade (exports plus imports) in goods and services to GDP which, despite a progressive decline from a peak of 111.8% in 2012 to 100.1% in 2014, rose gradually to 103.4% in 2016 (Table 1.1) partly due to trade developments related to machinery for the highway construction, energy investments and tourism-related services.

1.25. Since 2012, Montenegro's merchandise trade has remained dependent on mining and manufactures (Chart 1.1, Tables A1.1 and A1.2). The share of agriculture, machinery and transport equipment, chemicals, ores and electric current in total exports has risen, whereas the share of aluminium and aluminium alloys dropped. According to the IMF, the goods-export base is becoming increasingly concentrated in low value-added sectors, which are exposed to volatile commodity prices and competition from low-cost countries.<sup>58</sup> Manufactures continue to account for more than half of total imports, whereas agriculture accounts for around 24%.

<sup>57</sup> IMF (2017), *Montenegro - 2017 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 13 September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>; IMF (2017), *Montenegro Selected Issues*, IMF Country Report No. 17/277, September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-Selected-Issues-45245>.

<sup>58</sup> IMF (2017), *Montenegro - 2017 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 13 September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>.

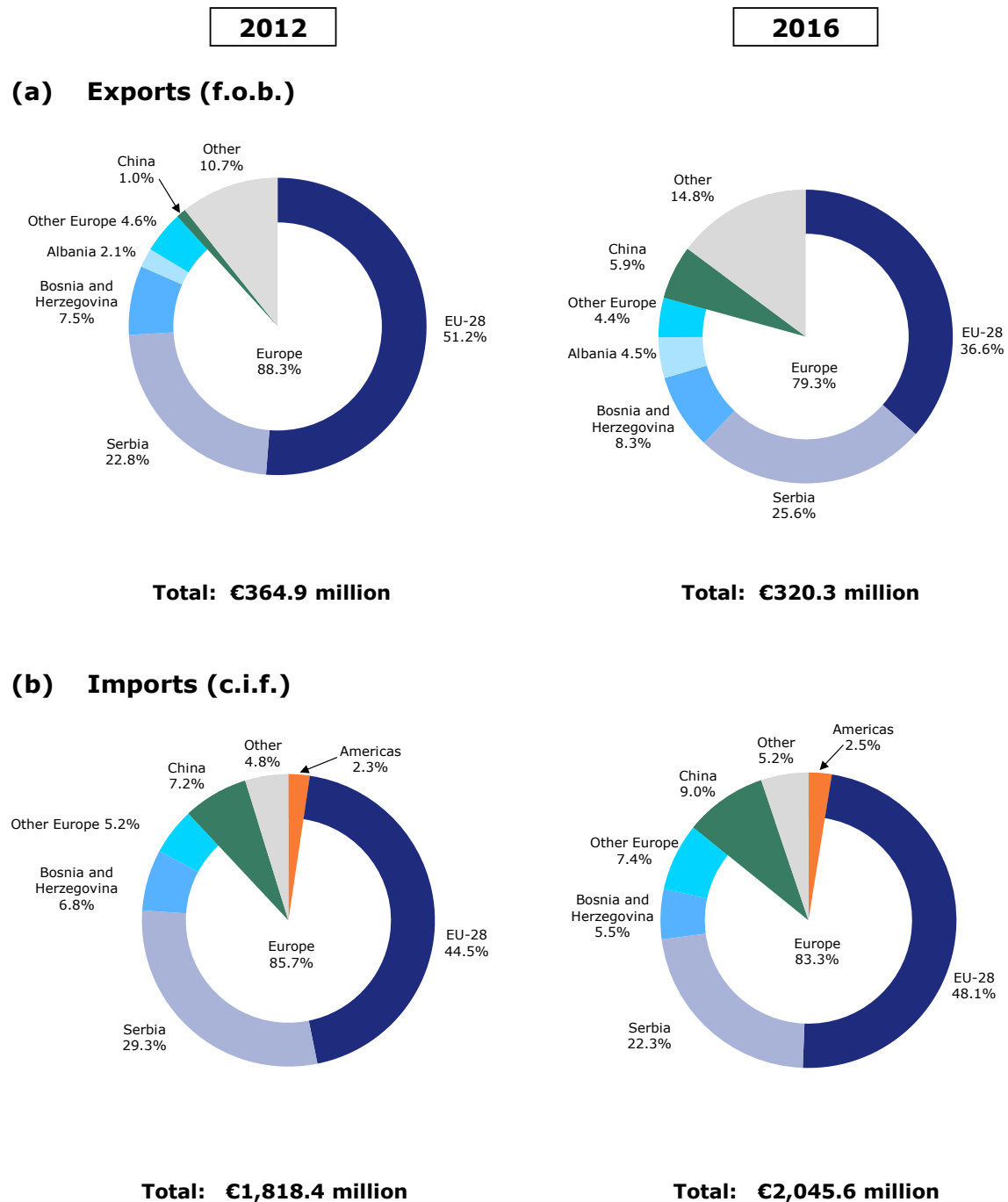
**Chart 1.1 Composition of merchandise trade, 2012 and 2016**

Source: UNSD, Comtrade database (SITC Rev.3).

1.26. At the same time, Europe remains Montenegro's main market and supplier. While the direction of merchandise trade with countries in the region has remained virtually unchanged for imports, the pattern of exports within Europe shifted slightly from the European Union to other Western Balkan countries partly reflecting Montenegro's sensitivity to market shifts of its limited export-base (Chart 1.2, Tables A1.3 and A1.4). Notwithstanding some fluctuations in trade shares, almost half of all imports continue to originate in the European Union; more than 33% of imports are from other Western Balkan countries. With regards to exports, the European Union remains the main destination despite a rise in the share of neighbouring countries. Montenegro's main individual trading partners remain the European Union, Serbia, Bosnia and Herzegovina, and China

whose merchandise trade share increased considerably mainly due to the highway construction by the China Road and Bridge Corporation.<sup>59</sup>

**Chart 1.2 Direction of merchandise trade, 2012 and 2016**



Source: UNSD, Comtrade database.

<sup>59</sup> IMF (2017), *Montenegro - 2017 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 13 September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>.

### 1.3.2 Trends and patterns in foreign direct investment

1.27. During the review period, Montenegro remained a major importer of capital. Inward FDI is not only an additional source of capital, but it also brings with it entrepreneurship, management skills, and especially new technology, which contribute to improved total factor productivity. The authorities see FDI as critical to boosting long-term growth and promoting economic diversification, particularly in tourism and energy.<sup>60</sup> After a drop of about 30% in 2013 due to a decline of equity investments, net FDI inflows (on a balance-of-payments basis) peaked in 2015 (€619.3 million), and consequently decreased by about 40% in 2016 mainly due to withdrawal of accumulated profit of one company (Table 1.3); between January and September 2017, net FDI inflows rose by an estimated 10.6% compared to the same period of the previous year. Similar developments are also reflected in total FDI inflows (Table 1.4) that are estimated to have had negative growth of 25.7% in the period from January to September 2017 on a year-to-year basis. So far the largest part of FDI inflows has been directed to the purchase of real estate and into tourism activities rather than greenfield or productive investment.<sup>61</sup> Between 2012 and 2016, FDI inflows related to real estate purchases almost halved to 3.5% of GDP, while intercompany debt and more productive investments in companies and banks increased.<sup>62</sup> No data on FDI inflows by sector were available with the authorities. The inward FDI pattern by investment origin has undergone some changes. In 2016, FDI inflows originated mainly in the European Union, Norway and the Russian Federation, the second largest source of FDI in 2013, whose share dropped significantly due to its recent recession (Table 1.4). According to the IMF, inward FDI will remain the largest financing item for the large trade deficit in goods and services in the balance of payments.<sup>63</sup>

**Table 1.4 Total FDI inflows, 2012-16**

	2012	2013	2014	2015	2016
<b>Total inflows (in € million)</b>	633.7	479.2	498.1	757.4	687.2
	(% of total)				
Norway	4.3	1.0	0.4	0.4	27.5
Russian Federation	25.5	28.5	24.6	9.1	7.7
Italy	5.7	0.4	0.5	3.1	7.4
Azerbaijan	0.0	0.0	0.0	2.2	6.9
Hungary	3.4	0.1	0.2	1.0	5.0
Switzerland	6.3	7.9	11.2	4.4	4.7
Serbia	4.2	3.0	6.2	6.5	3.7
United Arab Emirates	1.9	2.4	2.4	3.0	3.1
Slovenia	9.2	9.9	8.2	2.4	2.9
Turkey	3.9	4.7	2.9	2.3	2.6
Germany	2.3	4.7	4.5	1.6	2.4
Austria	1.5	2.5	1.8	34.8	2.4
South Africa	0.0	0.0	0.0	0.0	2.2
United Kingdom	2.4	1.8	4.5	3.5	1.9
Bosnia and Herzegovina	0.4	0.3	1.6	1.9	1.6
Luxembourg	0.3	6.9	1.9	1.0	0.9
United States	0.6	2.5	1.9	1.5	0.8
Cyprus	2.7	1.7	2.7	1.2	0.8
Netherlands	19.8	5.7	10.3	9.4	0.6
Virgin Islands (GBR)	0.2	3.1	3.1	0.5	0.6
Other trading partners	5.2	12.8	11.3	10.3	14.3

Source: Central Bank of Montenegro online information. Viewed at: <http://www.cb-cg.org/eng/index.php>.

<sup>60</sup> IMF (2015), *Montenegro - 2015 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 8 March, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2016/12/31/Montenegro-2015-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-43772>.

<sup>61</sup> World Bank (2016), *Montenegro - Achieving Sustainable and Inclusive Growth amidst High Volatility: Systematic Country Diagnostic*, March. Viewed at: <http://documents.worldbank.org/curated/en/642701468179098025/pdf/105019-SCD-P151813-OUO-9-SecM2016-0165.pdf>.

<sup>62</sup> IMF (2017), *Montenegro Selected Issues*, IMF Country Report No. 17/277, September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-Selected-Issues-45245>.

<sup>63</sup> IMF (2017), *Montenegro - 2017 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 13 September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>.

## 2 TRADE AND INVESTMENT REGIMES

### 2.1 General Framework

2.1. Montenegro has been an independent and sovereign State since 2006. As set out in the 2007 Constitution, state power is divided between the legislative, executive and judicial branches. Montenegro is divided into 23 municipalities or local government units (LGUs), each with its own President and Assembly. Municipalities exercise certain property-related powers over state-owned assets, have their own budget, and are financed from their own resources and the assets of the State.<sup>1</sup>

2.2. The President of Montenegro represents the country abroad, proclaims laws, calls Parliamentary elections, proposes the Prime Minister-Designate to the Parliament, and appoints and revokes ambassadors and heads of diplomatic missions. The President is elected through direct ballot for a period of five years, with one re-election possible. The last presidential election was in April 2013, with the next to take place in 2018.

2.3. Legislative power is exercised by the Parliament of Montenegro which adopts: the Constitution; laws, regulations and general acts; the budget; and the Development Plan and Spatial Plan of Montenegro. The Parliament also regulates state administration; elects and dismisses from duty the Prime Minister and members of the Government, the President of the Supreme Court, and the President and judges of the Constitutional Court; and confirms international agreements.<sup>2</sup> The Parliament consists of 81 Members of the Parliament elected for a four-year period through a direct ballot. The last legislative election took place in October 2016, with the next to be held in 2020.

2.4. The executive authority rests with the Government of Montenegro which is, *inter alia*, in charge of internal and foreign policy; enforcement of laws, regulations and general acts; adoption of decrees, decisions and other acts for the enforcement of laws; signing international agreements, proposals for the budget, and Development and Spatial plans.<sup>3</sup> Within 30 days of the constitution of the Parliament, the President proposes a candidate for Prime Minister, who then presents his/her programme and the composition of the Government.<sup>4</sup> As at November 2017, the Government of Montenegro was composed of the Prime Minister, three deputy Prime Ministers and 19 ministers, including one without portfolio.<sup>5</sup>

2.5. The judicial system comprises the Constitutional Court and courts of regular competence, namely, the Supreme Court, the Administrative Court, the Appellate Court, the Commercial Court, two high courts, fifteen basic courts and three misdemeanour courts. The misdemeanour courts decide over misdemeanour offences, with appellate recourse to the High Misdemeanour Court. Basic courts are first instance courts which have jurisdiction over criminal offences, civil cases, labour law cases, and other legal matters. High courts adjudicate, *inter alia*, in the first instance on criminal proceedings and in the second instance on appeals against basic court decisions. The Court of Appeal hears appeals against high court decisions in the first instance and appeals against the decisions of the Commercial Court, as well as resolving jurisdictional conflicts between basic and high courts. The Supreme Court, the highest court in Montenegro, adjudicates, *inter alia*, in the third instance when so mandated by law, over extraordinary legal remedies against decisions of the courts in Montenegro and against decisions of its panel, when so prescribed by law.<sup>6</sup> The judge, the president of the court and the lay judges are elected or dismissed from duty by the Judicial Council. The Council is elected for a period of four years and is composed of the President

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<sup>1</sup> The Municipality is entitled to express its view when laws and regulations are drafted that define the status, rights, and duties of local self-government. Articles 115 and 116 of the Constitution of Montenegro; Article 13 of the Law on local self-government (42/03, 28/04, 75/05, 13/06, 88/09 and 3/10). Viewed at: <http://uom.me/en/wp-content/uploads/2010/12/Law-on-Local-Self-Government.pdf>.

<sup>2</sup> Article 82 of the Constitution of Montenegro.

<sup>3</sup> Article 100 of the Constitution of Montenegro.

<sup>4</sup> Article 103 of the Constitution of Montenegro.

<sup>5</sup> Government of Montenegro online information. Viewed at: <http://www.gov.me/en/homepage/Cabinet-members>.

<sup>6</sup> The Supreme Court of Montenegro online information. Viewed at: <http://en.sudovi.me/vrhs/judicial-power/organisation/> and <http://en.sudovi.me/vrhs/judicial-power/jurisdiction/>.

of the Supreme Court, four judges, four reputable lawyers, and the Minister in charge of judicial affairs.<sup>7</sup>

2.6. In July 2013, 16 constitutional amendments were introduced to strengthen the independence of the judiciary by reducing political influence on the appointment of prosecutors and high-level judicial officials through more transparent and merit-based procedures, and qualified majority thresholds where parliament is involved.<sup>8</sup> These reforms are designed to bring Montenegro in line with the recommendations of the Venice Commission and with European standards.<sup>9</sup> Additionally, a 2014-2018 Judicial Reform Strategy has resulted in increased judicial efficiency and a reduction in the backlog of pending cases.<sup>10</sup> According to the 2017 World Bank's Doing Business Report, resolving a standard contract enforcement dispute takes 545 days and costs 25.7% of the claim, thus putting Montenegro in 41<sup>st</sup> place out of 190 economies in the ranking of the ease of enforcing contracts (133<sup>rd</sup> place out of 183 economies in 2012).<sup>11</sup>

2.7. The right to propose laws and other acts is granted to the Government and Members of Parliament, as well as to a petition from 6,000 voters, through the Member of the Parliament they authorize.<sup>12</sup> In practice, the vast majority of laws in Montenegro are drafted by the Government.<sup>13</sup> The procedure for adopting laws in the Parliament is initiated by the submission of a Bill by at most two designated representatives of the Parliament. Upon the submission of a Bill, the President of the Parliament communicates it to the Members of the Parliament and competent Committees and posts it on the parliamentary website. The Government (unless it is a proposer) provides its opinion within 15 days of the receipt of the Bill.<sup>14</sup> Depending on the area, laws are adopted by the Parliament through a majority or two-third majority vote.<sup>15</sup> An adopted law is passed to the President of Montenegro, who proclaims it within seven days.<sup>16</sup>

2.8. In descending order of importance, Parliamentary acts include: the Constitution, laws, spatial plans, Rules of Procedure of the Parliament, declarations, resolutions, decisions, recommendations and conclusions.<sup>17</sup> Ministries pass bylaws, orders and instructions for their implementation.

2.9. According to the Constitution, ratified and published international treaties become part of the internal legal order. They have supremacy over national legislation and are directly applicable

<sup>7</sup> Amendment VIII of Article 127 of the Constitution of Montenegro.

<sup>8</sup> In particular, the reformed areas were related to the appointment and dismissal of the President of the Supreme Court (Article 124 of the Constitution of Montenegro, Amendment VII); the composition and competence of the Judicial Council (Articles 127 and 128 of the Constitution of Montenegro, Amendments VIII and IX); the election and dismissal of judges of the Constitutional Court (Articles 151 and 153 of the Constitution of Montenegro, Amendments XV and XVI); and the appointment and dismissal of the Supreme State Prosecutor and prosecutors (Articles 135, 136 and 137 of the Constitution of Montenegro, Amendments X, XI and XII). European Commission (2013). *Montenegro 2013 Progress report*. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2013/package/brochures/montenegro\\_2013.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2013/package/brochures/montenegro_2013.pdf); Constitution of Montenegro; Amendments to the Constitution of Montenegro.

<sup>9</sup> European Commission (2013), *Montenegro 2013 Progress report*. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2013/package/brochures/montenegro\\_2013.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2013/package/brochures/montenegro_2013.pdf).

<sup>10</sup> UNDAF (2017), *Integrated UN Programme for Montenegro 2017-2021*. Viewed at: [https://www.unecf.org/fileadmin/DAM/operact/Technical\\_Cooperation/Delivering\\_as\\_One/UNDAF\\_country\\_files/UNDAF\\_files\\_2015-2020/Montenegro-UNDAF-2017-2021-Final.pdf](https://www.unecf.org/fileadmin/DAM/operact/Technical_Cooperation/Delivering_as_One/UNDAF_country_files/UNDAF_files_2015-2020/Montenegro-UNDAF-2017-2021-Final.pdf).

<sup>11</sup> World Bank (2017), *Doing Business 2017: Equal Opportunities for All*, Washington, D.C. Viewed at: <http://www.doingbusiness.org/~media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>; World Bank (2012), *Doing Business 2012: Doing business in a more transparent world*, Washington, D.C. Viewed at: <http://www.doingbusiness.org/~media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB12-FullReport.pdf>.

<sup>12</sup> Article 93 of the Constitution of Montenegro.

<sup>13</sup> BTI (2016), *Montenegro Country Report*, Bertelsmann Stiftung, 2016. Viewed at: [https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI\\_2016\\_Montenegro.pdf](https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI_2016_Montenegro.pdf).

<sup>14</sup> Thereafter the Bill is, firstly, considered by the relevant Committees (first reading), and, secondly, at the sitting of the Parliament (second and third readings). Articles 130-150 of The Rules of Procedure of the Parliament of Montenegro.

<sup>15</sup> Article 91 of the Constitution of Montenegro.

<sup>16</sup> In the case of a speedy procedure the law is to be proclaimed within three days or sent back to the Parliament for a new decision-making process. The re-adopted laws are to be proclaimed. Article 94 of the constitution of Montenegro.

<sup>17</sup> Articles 129 of the Rules of Procedure of the Parliament of Montenegro.



when they regulate relations differently from internal legislation.<sup>18</sup> An international treaty must be ratified by law and the legislative procedure is similar to the one on the adoption of internal laws.<sup>19</sup>

2.10. Over the review period, initiatives have been taken to improve the quality of regulations. Initiatives include the "Regulatory Guillotine" project and the introduction of a regulatory impact assessment (RIA) process.

2.11. The objectives of the Regulatory Guillotine project, launched in 2010, are to simplify administrative procedures, improve the business environment and ensure speedier and higher quality exercise of citizen's rights before state administrative bodies through an overall analysis of regulations. The analysis process has followed three phases. Firstly, the collection of the overall legal corpus in Montenegro as the basis for the development of an electronic registry of regulations; secondly an analysis of the regulations themselves, involving citizens, the professional public and the business sector; and thirdly the provision of opinions and recommendations for amendments to, or abolishment of regulations, conducted in cooperation with regulators or line ministries, state administrative bodies and regulatory agencies. The process covered business regulations, system reforms, inspection procedures, and the harmonization of administrative proceedings.<sup>20</sup> In May 2012, the Government of Montenegro adopted a first Action Plan with 1,872 recommendations to be implemented by 2015; this was followed by a revised Action Plan, issued in 2013.<sup>21</sup> Out of the 1,872 recommendations, 1,446 were accepted (the remaining 426 recommendations referred to legislation that had either been changed or no longer existed). By mid-2017, 1,229 or 85% of the accepted regulations had been implemented. The authorities indicated that once full implementation has been achieved, the Ministry of Finance will undertake a selective impact analysis.

2.12. The Regulatory Impact Assessment (RIA) process was introduced in January 2012 under which the proponents of primary and secondary legislation are obliged to conduct a regulatory impact assessment of proposed laws. The RIA must be sent to the Ministry of Finance for its opinion prior to it being sent to the Government for discussion and approval.<sup>22</sup> Since 2012, the Ministry of Finance has provided around 1,750 opinions on legislation and accompanying RIA reports in terms of implications for the business environment and its impact on the state budget.<sup>23</sup> RIAs and MOF opinions are not yet publically available. The OECD has reported that while the RIA framework is well developed, the private sector has expressed concern that the Government has

<sup>18</sup> Article 9 of the Constitution of Montenegro.

<sup>19</sup> The Bill on the ratification of an international treaty must be supported by an explanatory statement including the reasons for proposing its ratification and an estimate of required financial resources if it incurs liabilities for the budget of Montenegro. Articles 160 and 161 of the Rules of Procedure of the Parliament of Montenegro.

<sup>20</sup> Regulations etc. in the following areas have been subject to analysis: internal trade and competitiveness protection, consumer protection, intellectual property, standardization, accreditation, communal activities, budget and treasury, general security and defence, industry and entrepreneurship, human and minorities rights, meteorology and precious materials, technical provisions, hunting, tobacco and tobacco products, culture and media, social and children protection, waters, wine and olive growing, education, vocational rehabilitation and employment of persons with disabilities, the strategic impact assessment, geology and hydrocarbons, concessions, mining, tourism and hospitality, real estate, landscaping and construction, the pension and disability insurance, labour regulations and occupational health and safety, employment of foreigners, veteran and disability protection, and international cooperation. Ministry of Finance online information. Viewed at: [http://www.mif.gov.me/en/sections/regulatory\\_reform/](http://www.mif.gov.me/en/sections/regulatory_reform/).

<sup>21</sup> European Economic and Social Committee (2014), *Chapter 20 of the accession negotiations – Enterprise and industrial policy*. Viewed at: <http://www.eesc.europa.eu/?i=portal.en.events-and-activities-montenegro-icc-meeting-05-reports.34302>; and Government of Montenegro (2017), *Economic Reform Programme for Montenegro 2017-2019*. Podgorica, January.

<sup>22</sup> This obligation is stipulated in Articles 33 and 40 of the Rules of Procedure of the Government of Montenegro (OG No. 3/12). The Department for Implementation of Regulatory Impact Assessment within the Ministry of Finance is, *inter alia*, responsible for: the implementation of policies and procedures; the efficient implementation of the RIA process; analysis of RIA reports and assessing their adequacy; supporting ministries to ensure RIA reports include all the possible implications that new regulations could have on citizens, businesses and the country; and for undertaking training activities. The Directorate for the Budget within the Ministry of Finance reviews each RIA to assess the completeness and adequacy of the RIA fiscal impact assessments. The Directorate for Financial System and Improvement of the Business Environment within the Ministry of Finance is, *inter alia*, responsible for preparing opinions on the new regulations from the perspective of business barriers.

<sup>23</sup> Presentation by Bojana Boskovic, Director General of the Ministry of Finance of Montenegro – *Implementation of RIA in Montenegro*. Provided by the authorities.

not been thoroughly implementing follow-ups to RIA recommendations.<sup>24</sup> Over the review period, steps have been undertaken to improve the process through training of civil servants responsible for preparing regulations and introducing RIAs into the regulatory system, as well as through development of a RIA manual.<sup>25</sup> The authorities noted that the Strategy of Public Administration for the period 2016-2020 contains as a priority improving the RIA preparation process, while respecting OECD quality standards. This Strategy also envisages extending the scope of the RIA process to other socio-economic areas such as social policy and the environment. A proposal has been made by the Ministry of Finance and the Ministry of Public Administration to make RIA reports available when regulations are the subject of public debate (see below), in order to initiate a wider social dialogue on the effects of new regulations.<sup>26</sup>

## 2.2 Trade Policy Formulation and Objectives

2.13. The Ministry of Economy of Montenegro has prime responsibility for formulating and implementing policies related to multilateral, regional and bilateral trade as well as for negotiating and coordinating implementation of international treaties and relations with international economic institutions. Various other ministries are involved in international trade policy and trade relations. In particular, the Ministry of Finance is in charge of cooperation with international financial institutions as well as dealing with issues related to GSP, customs procedures, import/export tariffs and public procurement. The Ministry of Agriculture and Rural Development enacts SPS measures related to exportation and importation of agricultural goods and has responsibility for the agricultural aspects of RTAs. The Ministry of Foreign Affairs communicates and coordinates communications in the area of foreign affairs and also carries out diplomatic missions and other professional affairs related to the realization of political, economic and other relations with other States and international organizations. The Statistical Office of Montenegro (MONSTAT) provides updated statistical data on trade and the Central Bank of Montenegro is in charge of statistics on FDI and balance of payments.<sup>27</sup>

2.14. Inputs from citizens, businesses and civil society organizations into trade policy-making, as in other areas, are undertaken within the framework of the 2012 Decree on the Procedure and Method for Conducting Public Hearings in Drafting Laws. This Decree applies only to laws and not their implementing regulations. It sets out guidelines for public-private consultations and a minimum duration for those meetings. An e-government portal, <https://www.euprava.me/en/Business>, announces the public consultations, plan of activities, and final report. The Private sector is mostly represented through business associations (chambers of commerce, the Montenegro Business Alliance and the Montenegrin Employers' Federation).<sup>28</sup> With respect to proposals for laws and other regulations that govern the tax system and measures of economic policy, the private sector is also entitled to express its views through the Chamber of Economy of Montenegro which gives its opinion to the public authorities and the trade unions.<sup>29</sup>

2.15. Another avenue for stakeholders' input into economic policymaking is the Competitiveness Council created in June 2017 (which replaces the Council for the Improvement of Business Environment, Regulatory and Structural Reforms). The Council is chaired by the Prime Minister and its members include ministers responsible for the business environment as well as representatives from business associations, employer associations, the American Chamber of Commerce, the Foreign Investors Council and the academic community. The Council, *inter alia*, coordinates the

<sup>24</sup> OECD (2016), *SME Policy Index. Western Balkans and Turkey 2016*. Assessing the implementation of the small business act for Europe. Viewed at: <https://europa.ba/wp-content/uploads/2016/06/SME-Policy-Index-Western-Balkans-and-Turkey-2016.pdf>.

<sup>25</sup> In 2017, the Ministry of Finance provided training to civil servants on how to conduct analysis based on the application of the standard cost model, with the aim of improving the analytical quality of RIAs.

<sup>26</sup> As noted by the authorities, in order to make this change, firstly the Law on Public Administration must be amended (this is a parliamentary procedure) and then a bylaw regulating public consultation must be adopted.

<sup>27</sup> WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011; Presentation by Goran Šćepanović, Director General of the Ministry of Economy – *Trade Policy of Montenegro*. Overview and challenges. Chisinau, 24 November 2015. Viewed at: <http://cefta.int/wp-content/uploads/2016/05/Mr.-Goran-Scepanovic-Director-General-at-the-Ministry-of-Economy-of-Montenegro.pdf>.

<sup>28</sup> OECD (2016), *SME Policy Index. Western Balkans and Turkey 2016*. Assessing the implementation of the small business act for Europe. Viewed at: <https://europa.ba/wp-content/uploads/2016/06/SME-Policy-Index-Western-Balkans-and-Turkey-2016.pdf>.

<sup>29</sup> Article 8 of Law of the Chamber of Economy of Montenegro.



implementation of priority reform measures defined in strategic development documents, with the aim of removing obstacles to the competitiveness and faster economic growth of the country.

2.16. As outlined in the 2017-2019 Economic Reform Programme, Montenegro's trade and trade-related policy objectives are focused on strengthening the competitiveness of service exports, diversifying goods exports and increasing the value-added in export-oriented production. To attain these objectives, the country requires significant investments in processing capacities to increase the level of processing production intended for export. The policy tools used to attract investments include tax exemptions, cash grants, and subsidies (Section 3.3.1). During the review period, Montenegro maintained its objective of enhancing trade and economic integration and free trade agreements, since they facilitate the placement of Montenegrin products – meeting demanding international standards – into wider international markets (Section 2.3).<sup>30</sup>

2.17. As highlighted in the Montenegro Regional Development Strategy 2014-2020, Montenegro's economic potential is mostly located in rural and least-developed areas. To unfold this potential and achieve a more balanced regional development, the Ministry of Economy is focusing on, *inter alia*, infrastructure development; increasing economic activity and development of entrepreneurship in SMEs; attracting foreign investors and identifying areas of investment; and improving the standard and quality of education and training.<sup>31</sup> In line with the above-mentioned strategies, the Government of Montenegro also aims to create a green economy and incentive mechanisms for an inclusive economy. To accomplish these goals its National Strategy for Sustainable Development (NSSD) to 2030 targets the following areas: i) introducing a green economy; ii) preservation and valorization of natural capital; iii) inclusive growth; iv) knowledge-based development; v) management for sustainable development; and vi) balanced regional development.<sup>32</sup> Sector-specific trade-related objectives are thoroughly elaborated, *inter alia*, in the Montenegro Development Directions 2015-2018, Agriculture and Rural Development Strategy 2014-2020 (Section 4.1), Industrial Policy of Montenegro until 2020 (Section 4.2), and Energy Development Strategy of Montenegro by 2030 (Section 4.3).<sup>33</sup>

2.18. Since Montenegro's accession to the WTO in 2012, trade and investment-related legislation has been amended or introduced in virtually all areas (Table 2.1). Additionally, various implementing regulations have also been introduced (Sections 3 and 4).

**Table 2.1 Principal trade-related laws, 2017**

Area	Law, official gazette (OG) number (amendments)
Investment	- Foreign Investment Law 18/11 (45/14)
E-commerce	- Law on Electronic Commerce 80/04 (41/10, 40/11 and 56/13)
State aid	- Law on State Aid Control 74/09 (57/11)
Import/export procedures	- Law on Foreign Trade, 28/04 (37/07; 73/10; 01/14; 14/14; and 57/14) - Decree on Implementation of the Law on Foreign Trade, 52/04 (44/07)
Customs	- Customs Law, 07/02 (38/02; 72/02; 21/03; 31/03; 29/05; 66/06; 08/08 21/08; 01/11; 39/11; 8/12 and 62/13) - Decree on Implementation of the Customs Law 15/03 (81/06, 38/08, 28/12, 11/16, 40/17) - Law on Customs Tariff, 28/12 - Decree on Customs Tariff for 2017, 09/17 (43/17) - Law on Customs Service, 3/16
Taxation	- Law on Value Added Tax, 65/01 (29/13; 9/15; 1/17 and 50/17) - Law on Excise Taxes, 65/01 (28/12; 38/13; 45/14; 1/17 and 50/17)
TBT	- Law on Standardization, 13/08 - Law on Technical Requirements for Products and Conformity Assessment, 53/11 - Law on Accreditation, 54/10 (43/15)

<sup>30</sup> Government of Montenegro (2017), Economic Reform Programme for Montenegro 2017-2019. Podgorica, January.

<sup>31</sup> Ministry of Agriculture and Rural Development (2015), *Strategy for the Development of Agriculture and Rural Areas 2015-2020*, June 2015. Viewed at: <https://www.eu.me/en/11/11-documents>.

<sup>32</sup> UNDAF (2017), *Integrated UN Programme for Montenegro 2017-2021*. Viewed at: [https://www.unece.org/fileadmin/DAM/operact/Technical\\_Cooperation/Delivering\\_as\\_One/UNDAF\\_country\\_file\\_s/UNDAF\\_files\\_2015-2020/Montenegro-UNDAF-2017-2021-Final.pdf](https://www.unece.org/fileadmin/DAM/operact/Technical_Cooperation/Delivering_as_One/UNDAF_country_file_s/UNDAF_files_2015-2020/Montenegro-UNDAF-2017-2021-Final.pdf).

<sup>33</sup> Ministry of Finance online information. Viewed at: <http://www.mf.gov.me/en/news/153253/Montenegro-Development-Directions-2015-2018.html>; Ministry of Economy online information. Viewed at: [http://www.mek.gov.me/EN/WTO/LIBRARY/strategic\\_documents/](http://www.mek.gov.me/EN/WTO/LIBRARY/strategic_documents/).

Area	Law, official gazette (OG) number (amendments)
SPS	- Law on Food Safety, 57/15 - Veterinary Law, 30/12 (48/15) - Law on Plant Health Protection, 28/06 (28/11, 48/15)
Competition	- Law on Protection of Competition 44/12
Public procurement	- Law on Public Procurement, 46/06 (42/11; 57/14; 28/15 and 42/17)
Intellectual property rights	- Patent Law, 42/15 (2/17) - Law on Copyright and Related Rights, 37/11 (53/16) - Law on Trademarks, 72/10 (44/12; 18/14 and 40/16) - Law on Legal Protection of Industrial Design, 80/10 (27/13, 42/16) - Law on Protection of Topographies of Semiconductors, 75/10 (40/16)
Agriculture	- Law on Agriculture and Rural Development 56/09 (34/14; 1/15; 30/17) - Law on Wine 41/16 - Law on Tobacco 48/08 (42/15) - Law on Olives and Olive Oil 45/14 (39/16) - Law on Livestock 72/10 (48/15)
Forestry	- Forest Law 74/10 (47/15)
Fisheries	- Law on Marine Fisheries and Mariculture 56/09
Mining	- Law on Mining 65/08 (74/10)
Energy	- Law on Energy 5/16 (51/17)
Banking	- Central Bank of Montenegro Law, 40/10 (46/10, 06/13) - Banking Law, 17/08 (44/10, 40/11) - Law on Bank Bankruptcy and Liquidation, 47/01 (62/08 and 44/10)
Insurance	- Insurance Law, 78/06 (19/07; 53/09; 73/10; 40/11; 45/12; 06/13; and 055/16)
Securities	- Securities Law, 59/00 (10/01; 43/05; 28/06; 53/09; 73/10; 40/11; and 06/13)
Telecommunications	- Law on Electronic Communications 40/13 (02/17)
Air Transport	- Law of Air Transport, 30/12
Maritime Transport	- Law on Maritime and Inland Navigation, 19/78 - Law of the Sea, 17/07 - Law on Ports, 51/08 (27/13)
Rail Transport	- Law on Railways 27/13
Road Transport	- Law on Roads 42/04 (54/09 and 36/11)
Distribution	- Law in Internal Trade, 49/08
Tourism	- Law on Tourism 61/10 (40/11, 53/11, 31/14)

Source: Information provided by the authorities.

2.19. Montenegro attaches importance to making laws and other regulations transparent and readily accessible, including by foreigners. Most Montenegrin trade and investment-related laws and regulations are available in English and are accessible on the Internet from the websites maintained by relevant ministries and agencies. The MIPA website (<http://www.mipa.co.me>) provides diverse trade and investment-related information including legislation, tenders and actions, information on privatization, requirements and documentation to start a business, sector and business opportunities, and taxation and investment incentives.<sup>34</sup>

## 2.3 Trade Agreements and Arrangements

### 2.3.1 WTO

2.20. Montenegro acceded to the WTO in April 2012. It is a signatory to the WTO's plurilateral Civil Aircraft Agreement and Information Technology Agreement and is party to the WTO's Government Procurement Agreement (GPA) (it acceded to the revised GPA in 2015) (Section 3.3.5). In 2013, it accepted the Protocol Amending the TRIPS Agreement (Section 3.3.6) and, in 2016, it accepted the Protocol concerning the Trade Facilitation Agreement (Section 3.1.1.1).<sup>35</sup> Montenegro has never been involved in a WTO dispute settlement case either as complainant, respondent or third party.

2.21. Since its accession, Montenegro has submitted notifications to the WTO in most areas (Table 2.2). However, as at December 2017, notifications were outstanding in the areas of agriculture (Art. 18:2: domestic support), government procurement (Art. XVI:4-5, Decision AGP 2012 Committee of 30 March 2012 – procurement thresholds), import licensing (Art. 7.3 and

<sup>34</sup> MIPA online information. Viewed at: <http://www.mipa.co.me/en/about-mipa/>.

<sup>35</sup> WTO online information. Viewed at: [https://www.wto.org/english/tratop\\_e/trips\\_e/amendment\\_e.htm](https://www.wto.org/english/tratop_e/trips_e/amendment_e.htm) and [https://www.wto.org/english/news\\_e/news16\\_e/fac\\_10may16\\_e.htm](https://www.wto.org/english/news_e/news16_e/fac_10may16_e.htm).

G/LIC/3 – annual), quantitative restrictions, and subsidies and countervailing measures. It has not submitted any trade in services notifications under Art III:3 and Art. VII:4.<sup>36</sup>

**Table 2.2 Montenegro's notifications to the WTO, January 2012 to December 2017**

Agreement	Requirement	Symbol and date of latest notification
<b>Agreement of the implementation of Article VI of the GATT 1994 (Anti-dumping)</b>		
Article 16.4	Anti-dumping actions	G/ADP/N/237, 20/12/2012 G/ADP/N/237/Add.1/Rev.1, 22/10/2013 G/ADP/N/244, 13/06/2013 G/ADP/N/244/Add.1, 17/10/2013 G/ADP/N/265, 12/12/2014 G/ADP/N/265/Add.1, 24/04/2015 G/ADP/N/286, 15/06/2016 G/ADP/N/286/Add.1, 20/10/2016 G/ADP/N/294, 16/12/2016 G/ADP/N/294/Add.1, 21/04/2017 G/ADP/N/294/Add.1/Rev.1, 22/10/2013
Articles 18.5, 32.6 and 12.6	Laws/regulations (and changes thereto, including changes in the administration of such laws)	G/ADP/N/1/MNE/1, G/SCM/N/1/MNE/1, G/SG/N/1/MNE/1, 26/09/2013
Articles 16.5 and 25.12	Competent authorities and procedures	G/ADP/N/14/Add.36, G/SCM/N/18/Add.36, 14/10/2013
<b>Agreement on Technical Barriers to Trade</b>		
Annex 3	Code of Good Practice for the Preparation, Adoption and Application of Standards	G/TBT/CS/N/180, 13/03/2013
Article 15.2	Enquiry point and notification point, publication of standards and information, relevant laws and regulations	G/TBT/2/Add.110, 18/03/2013
<b>Agreement on Subsidies and Countervailing Measures</b>		
Article 25	Subsidy programmes	G/SCM/N/284/MNE, 22/05/2015
Article 25.11	No countervailing duty actions	G/SCM/N/281, 12/12/2014 G/SCM/N/281/Add.1, 24/04/2015 G/SCM/N/313, 16/12/2016 G/SCM/N/313/Add.1, 21/04/2017
<b>Agreement on Rules of Origin</b>		
Article 5	Information and procedures for modification and introduction of new rules of origin	G/RO/N/126, 20/02/2015
Annex II	Common declaration with regard to preferential rules of origin	G/RO/N/98, 13/09/2013
<b>Agreement on Import Licensing</b>		
Article 7.3	Replies to questionnaire on import licensing procedures	G/LIC/N/3/MNE/1, 14/04/2015
Articles 1.4(A) and 8.2(B)	Publication of import licensing procedures	G/LIC/N/1/MNE/1, 14/04/2015
<b>Agreement on Agriculture</b>		
Articles 10 and 18.2	Export subsidy (ES:1)	G/AG/N/MNE/1, 01/10/2013
Articles 10 and 18.2	Export subsidy (ES:1)	G/AG/N/MNE/2, 27/11/2014
Articles 10 and 18.2	Export subsidy (ES:1)	G/AG/N/MNE/3, 23/04/2015
Articles 10 and 18.2	Export subsidy (ES:1)	G/AG/N/MNE/4, 13/02/2017
<b>GATT 1994</b>		
Article XVII:4(A)	State-trading activities	G/STR/N/15/MNE, 24/11/2014
Article XVII:4(A)	State-trading activities	G/STR/N/16/MNE, 27/09/2016
Article XXIV:7(A)	Notification of regional trade agreement: Montenegro and the EFTA States	WT/REG323/N/1, 25/10/2012
Article XXIV:7(A)	Notification of regional trade agreement: Montenegro and Ukraine	WT/REG338/N/1, 25/04/2013
Article XVI:1	Subsidies	G/SCM/N/284/MNE, 22/05/2015
<b>Agreement on implementation of Article VII of GATT 1994 (Customs valuation)</b>		
Articles 1, 4, 5, 6, 7, 9, 10, 11, 12, 13 and 16	Replies to questions on customs valuation	G/VAL/N/2/MNE/1, 22/12/2014
Article 22	Laws/regulations	G/VAL/N/1/MNE/1, 15/12/2014

<sup>36</sup> WTO Central Registry of Notifications.

Agreement	Requirement	Symbol and date of latest notification
Article 4	Notification of treatment of interest charges in customs value of imported goods	G/VAL/N/3/MNE/1, 22/12/2014
<b>Agreement on Trade-Related Investment Measures</b>		
Article 6.2	Notification of publications	G/TRIMS/N/2/Rev.24, 15/09/2014 G/TRIMS/N/2/Rev.24/Add.4, 05/05/2015
<b>Agreement on Trade Facilitation</b>		
WT/L/911	Category A commitments	WT/PCTF/N/MNE/1, 07/10/2014
WT/L/931	Notification of category commitments under TFA	G/TFA/N/MNE/1, 31/05/2017
<b>Trade-Related Aspects of Intellectual Property Rights</b>		
Article 69	Specification of contact points; changes to the information on specified contact points	IP/N/3/MNE/1, 13/02/2013
Article 63.2	Laws/regulations made effective by the notifying Member; amendments to a law/regulation	IP/N/1/MNE/U/1, 11/04/2013 IP/N/1/MNE/T/1, 08/04/2013 IP/N/1/MNE/P/1, 08/04/2013 IP/N/1/MNE/O/10, 09/04/2013 IP/N/1/MNE/O/9, 09/04/2013 IP/N/1/MNE/O/8, 09/04/2013 IP/N/1/MNE/O/7, 09/04/2013 IP/N/1/MNE/O/6, 08/04/2013 IP/N/1/MNE/O/5, 09/04/2013 IP/N/1/MNE/O/4, 09/04/2013 IP/N/1/MNE/O/3, 08/04/2013 IP/N/1/MNE/O/2, 08/04/2013 IP/N/1/MNE/O/1, 08/04/2013 IP/N/1/MNE/L/1, 08/04/2013 IP/N/1/MNE/G/2, 09/04/2013 IP/N/1/MNE/G/1, 09/04/2013 IP/N/1/MNE/E/1, 08/04/2013 IP/N/1/MNE/D/2, 10/07/2013 IP/N/1/MNE/D/1, 09/04/2013 IP/N/1/MNE/C/1, 09/04/2013 IP/N/1/MNE/7, IP/N/1/MNE/L/2, 13/12/2016 IP/N/1/MNE/6, IP/N/1/MNE/D/3, 13/12/2016 IP/N/1/MNE/5, IP/N/1/MNE/T/2, 13/12/2016 IP/N/1/MNE/4, IP/N/1/MNE/C/2, 13/12/2016 IP/N/1/MNE/3, 23/06/2014 IP/N/1/MNE/2, 10/07/2013 IP/N/1/MNE/1, 25/03/2013
Article Unspecified	Replies to questions	IP/N/6/MNE/1, 11/03/2013
<b>General Agreement on Trade in Services</b>		
Article V:7(a)	Notification of Regional Trade Agreement: Ukraine and Montenegro	S/C/N/694, 25/04/2013
Article III:4 and IV:2	Contact enquiry points	S/ENQ/78/Rev.14, 25/10/2013
Article VII:4	Recognition of foreign educational credentials	S/C/N/711, 20/09/2013
Article VII:4	Recognition of foreign certificates of acquired education	S/C/N/710, 20/09/2013
<b>Government procurement</b>		
Paragraph 3.2 (C) of Committee's decision on a work programme on SMEs	Replies to questionnaire to GPA parties on SME measures	GPA/WPS/SME/14, 16/12/2015 GPA/WPS/SME/46, 8/11/2016 GPA/WPS/SME/47, 8/11/2016 GPA/WPS/SME/49, 18/11/2016

Source: WTO Secretariat.

## 2.3.2 Regional and preferential agreements

### 2.3.2.1 Regional trade agreements (RTAs)

2.22. As at end-November 2017, Montenegro had five RTAs in force with a total of 41 economies (Section 3.1.2 and Section 3.1.3.6). All RTAs have been notified to the WTO Committee on Regional Trade Agreements, with the exception of the RTA with the Russian Federation which dates back to 2000. The scope and depth of each of the agreements differs.

#### 2.3.2.1.1 Central European Free Trade Agreement (CEFTA)

2.23. Montenegro is one of the founding members of CEFTA. The Agreement was signed in December 2006 and entered into force in May 2007. As at end-August 2017, parties of the Agreement were: Albania, Bosnia and Herzegovina, the Republic of Moldova, Montenegro, Serbia, The former Yugoslav Republic of Macedonia, and Kosovo.<sup>37</sup> In 2016, according to UNCOMTRADE data, Montenegro's merchandise trade with CEFTA members constituted 29.2% of total imports and 38.4% of total exports. These figures do not take into account trade between Montenegro and Kosovo, which the authorities estimate to account for 0.2% of imports and 5.9% of exports.<sup>38</sup> The Agreement covers goods only and, *inter alia*, contains provisions relating to competition as well as broadening cooperation in services, investment, government procurement, and protection of intellectual property rights.<sup>39</sup> The Agreement has not yet been subject to consideration in the WTO's Committee on Regional Trade Agreements (CRTA).

2.24. Montenegro has eliminated customs duties on all goods from CEFTA parties. All customs duties on industrial products<sup>40</sup> were eliminated by 31 December 2008<sup>41</sup>, and on agricultural products<sup>42</sup>, by January 2012.<sup>43</sup>

2.25. CEFTA parties concluded negotiations on the Additional Protocol 5 on trade facilitation in 2016; it was adopted by CEFTA parties on 26 May 2017 and ratified by the Montenegrin Government on 5 December 2017. The general objectives of the protocol are to: simplify inspections related to all clearance procedures and reduce of formalities; enable the exchange of data between customs authorities; and ensure the mutual recognition of the national Authorized Economic Operators' Programmes in each CEFTA party. Provisions in the Protocol include the establishment of risk management systems by the parties; publication of customs-related notifications, guidance etc. in the national and English languages; and standardized and simplified transit procedures.<sup>44</sup>

2.26. Other key developments at the CEFTA level since 2012 have been: amendments to the CEFTA protocol on originating products in order to create a link between CEFTA and the Regional Convention on Pan-euro-Mediterranean preferential rules of origin (its application began in April 2014)<sup>45</sup>; a decision by CEFTA parties in 2015 allowing the introduction of full cumulation and

<sup>37</sup> Bulgaria and Romania withdrew from CEFTA upon their accession to the EU in 2007, and Croatia withdrew following its accession to the EU in 2013. CEFTA online information. Viewed at: <http://cefta.int/cefta-parties-2/>.

<sup>38</sup> UN Comtrade online database.

<sup>39</sup> CEFTA 2006. Viewed at: <http://cefta.int/wp-content/uploads/2016/05/ANN1CEFTA-2006-Final-Text.pdf>.

<sup>40</sup> Industrial products are those contained in the combined nomenclature (CN) chapters 25-97 except products listed in Annex 1 which are considered to be agricultural products (Products listed in Annex 1 were viewed at <http://cefta.int/legal-documents/#1463498451954-049a1331-0c1c>).

<sup>41</sup> Upon entry into force of the Agreement, Montenegro and other CEFTA members eliminated all customs duties on imports of industrial products, with the exception of products in Annex 2 of the Agreement for which a transition period until 31 December 2008 for duty elimination was granted.

<sup>42</sup> Agricultural products are listed in chapters 1 to 24 of CN and in Annex 1 of the Agreement.

<sup>43</sup> Upon entry into force of the Agreement, Montenegro fully eliminated import duties on goods from Bosnia and Herzegovina, The former Yugoslav Republic of Macedonia, Serbia and Kosovo. With the entry into force of an Additional Protocol in January 2012, import duties on agricultural products were eliminated for all CEFTA parties.

<sup>44</sup> Article 12 of the Additional Protocol 5.

<sup>45</sup> The Joint Committee of the CEFTA Agreement adopted Decision No. 3/2013 in November 2013, which amends Annex 4 of the CEFTA Protocol Concerning the Definition of the Concept of "Originating Products" and methods of administrative cooperation.

duty drawback in trade between CEFTA parties (its application should start in 2019)<sup>46</sup>; the finalization of the technical part of negotiations on CEFTA Additional Protocol 6 (Protocol on Trade in Services) in December 2016. CEFTA parties are currently discussing the possibility of launching negotiations on an additional protocol that would define dispute settlement procedures.

### 2.3.2.1.2 EU–Montenegro Association Agreement and EU accession negotiations

2.27. The EU–Montenegro Stabilisation and Association Agreement was signed in October 2007 and entered into force in January 2008 (for goods) and May 2010 (for services).<sup>47</sup> It was considered by the CRTA in June 2011.<sup>48</sup> In 2016, the EU accounted for 48.1% of Montenegro's total merchandise imports and 36.6% of its total merchandise exports. By the end of the transition period for full implementation of tariff elimination commitments in 2013, 94.9% of Montenegro's tariff lines were duty free for imports from the European Union.<sup>49</sup> Upon entry into force of the Agreement, 97.3% of the EU's tariff lines were duty-free for imports from Montenegro.<sup>50</sup> Among the products excluded from tariff concessions by Montenegro are dairy spreads and some lines of mineral water. The European Union excluded sugar from its liberalization commitments.<sup>51</sup> Both sides have maintained tariff-rate quotas on some agricultural products.<sup>52</sup>

2.28. The Agreement also incorporates services commitments. As from the entry into force of the Agreement, subsidiaries and branches of EU companies have the right to use and rent real property in Montenegro, and acquire and enjoy real estate where such rights are necessary for the conduct of economic activities for which they are established. Moreover, Montenegro grants national treatment to EU nationals acquiring real estate in the country.<sup>53</sup> The European Union's services commitments go beyond the scope of its GATS commitments in various respects.<sup>54</sup> The Agreement, *inter alia*, contains provisions on government procurement, intellectual property rights and competition. In addition, the Agreement foresees a gradual approximation of Montenegro's legislation, in particular standardization, metrology, accreditation and conformity assessment (Art. 75), and consumer protection and goods safety standards (Art. 78), with the EU *acquis* within a five-year period.<sup>55</sup>

2.29. In 2008, Montenegro applied for EU membership. The accession process was launched in 2011 and accession negotiations were opened in 2012.<sup>56</sup> The 2008-2012 National Programme for Integration (NPI), aimed at alignment with the EU *acquis* and creating a basis for reform-oriented activities and drafting of government work programmes, was succeeded by the 2014-2018 Programme of Accession of Montenegro to the EU (PPCG), adopted in 2013. The Programme defines the framework and pace of reforms that are needed for Montenegro's further alignment

<sup>46</sup> Joint Committee of the CEFTA Agreement Decision No. 3/2015. This derogation from Appendix I of the Regional Convention on pan-euro-Mediterranean preferential rules of origin (PEM Convention) was adopted by the Joint Committee of the Convention in June 2017.

<sup>47</sup> WTO online information. Viewed at: <http://rtais.wto.org/UI/PublicShowMemberRTAIDCard.aspx?rtaid=154>; WTO document WT/REG236/1, 15 April 2011.

<sup>48</sup> WTO online information. Viewed at: <http://rtais.wto.org/UI/PublicShowMemberRTAIDCard.aspx?rtaid=154>.

<sup>49</sup> WTO document WT/REG236/1, 15 April 2011

<sup>50</sup> The Agreement covers agriculture, fishery and industrial products (Chapters 1-97 of CN). For a more detailed description of products, see WTO document WT/REG236/1, 15 April 2011 and WTO document WT/REG236/R/1, 24 October 2016.

<sup>51</sup> WTO document WT/REG236/R/1, 24 October 2016.

<sup>52</sup> The European Union maintains tariff-rate quotas on baby-beef, sugar and wine; while Montenegro maintains tariff-rate quotas on agricultural products (poultry, cheese, meat preparations and wine), some processed agricultural products (mineral waters and soft drinks) and on some fishery products. WTO document WT/REG236/R/1, 24 October 2016 (Section 2.1.2).

<sup>53</sup> WTO document WT/REG236/1, 15 April 2011.

<sup>54</sup> For a more detailed description of the services commitments taken under the RTA between Montenegro and the European Union, as well as a comparison between the GATS and RTAs commitments, see WTO document WT/REG236/1, 15 April 2011 (Chapter IV).

<sup>55</sup> WTO document WT/REG236/1, 15 April 2011.

<sup>56</sup> The negotiation process includes the conditions and timing of the candidate's adoption, implementation and enforcement of all current EU rules (the "*acquis*"). These rules are divided into 35 different policy fields (chapters), such as transport, energy, environment etc., each of which is negotiated separately. European Commission online information. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/policy/conditions-membership\\_en](https://ec.europa.eu/neighbourhood-enlargement/policy/conditions-membership_en).



with the European Union's legal system.<sup>57</sup> A PPCG for the period 2017-2018 is currently being implemented and preparation of a PPCG for the period 2018-2020 is ongoing.

2.30. As at end-2017, the accession negotiations had been opened on 30 policy Chapters. Three of the 30 Chapters were provisionally closed, namely, Chapter 25 – Science and research in 2012; Chapter 26 – Education and culture in 2013; and Chapter 30 – External relations in 2016.<sup>58</sup> Each year the European Commission presents a detailed assessment of Montenegro's progress, its achievements over the year and guidelines on reform priorities in each of the policy fields. The European Commission has issued progress reports on an annual basis with the most recent published in November 2016.<sup>59</sup> A new reporting methodology on the progress of the countries of the Western Balkans and Turkey was introduced in 2015 and is now applied to reporting on all chapters and all areas.

2.31. To monitor and support the accession process, the European Union issued the 2007-2013 EU Instrument for Pre-Accession Assistance (IPA) which was succeeded by IPA II for the 2014-2020 period. The key objectives of IPA II include, *inter alia*, stable economic growth and convergence towards EU development through competitiveness and innovation, education, employment and social policies; developing the economic potential and alignment with the EU *acquis* in the fields of agriculture and rural development, environment, transport, and reconciliation and regional integration through regional cooperation and territorial cooperation.<sup>60</sup> For the implementation of IPA II, an indicative allocation of €270.5 million is foreseen for the period 2014-2020.<sup>61</sup>

### 2.3.2.1.3 European Free Trade Association (EFTA)–Montenegro

2.32. Montenegro's RTA on trade in goods with EFTA was signed in November 2011 and entered into force on 1 September 2012 (Montenegro, Liechtenstein and Switzerland), 1 October 2012 (Montenegro and Iceland), and 1 November 2012 (Montenegro and Norway). It was considered in the WTO's CRTA in September 2013.<sup>62</sup> In 2016, Montenegro's merchandise trade with EFTA members constituted 1.5% of its total imports and 1.4% of total exports.<sup>63</sup> The Agreement covers liberalization of trade in goods but not services. Montenegro's tariff liberalization is taking place over a six-year transition period, from 2012 to 2018. By the end of this period, 84.9%, 85.1%, and 86.3% of Montenegro's tariff lines will be duty free for imports from Iceland, Norway, and Switzerland, respectively.<sup>64</sup> EFTA Members undertook tariff liberalization in one go upon entry into force of the Agreement; 93.7% of Iceland's tariff lines, 87.9% of Norway's and 83.7% of Switzerland's are duty free for import from Montenegro.<sup>65</sup> The Agreement also, *inter alia*, contains provisions on government procurement, intellectual property rights, investment, services, competition and labour and environmental issues.<sup>66</sup>

<sup>57</sup> Government of Montenegro online information. Viewed at: <https://www.eu.me/en/montenegro-and-eu/montenegro-eu-relations>.

<sup>58</sup> European Commission online information. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-country-information/montenegro\\_en](https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-country-information/montenegro_en), <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20170328-negotiations-status-montenegro.pdf>.

<sup>59</sup> European Commission online information. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/countries/package\\_en](https://ec.europa.eu/neighbourhood-enlargement/countries/package_en).

<sup>60</sup> European Union online information. Viewed at: <http://www.delme.ec.europa.eu/code/navigate.php?Id=63>.

<sup>61</sup> European Union online information. Viewed at: <http://www.delme.ec.europa.eu/code/navigate.php?Id=59>.

<sup>62</sup> Documents for this meeting may be viewed at: <http://rtais.wto.org/UI/PublicShowMemberRTAIDCard.aspx?rtaid=765>.

<sup>63</sup> UN Comtrade online database.

<sup>64</sup> For more detailed information on excluded products, see Annex I. Article 7 of the FTA between EFTA States and Montenegro. Viewed at: <http://www.efta.int/media/documents/legal-texts/free-trade-relations/montenegro/montenegro-main-agreement.pdf>.

<sup>65</sup> WTO document WT/REG323/1, 12 June 2013.

<sup>66</sup> EFTA online information. Viewed at: <http://www.efta.int/free-trade/free-trade-agreements/montenegro>.

#### 2.3.2.1.4 Turkey–Montenegro

2.33. The Turkey–Montenegro Free Trade Agreement was signed in November 2008 and entered into force in March 2010. The Agreement was considered by the WTO's CRTA in June 2011.<sup>67</sup> It covers liberalization of goods but not services. In 2016, merchandise trade with Turkey constituted 3.3% of Montenegro's total imports and 1.6% of total exports.<sup>68</sup> The Agreement provided for tariff liberalization over a five-year transition period for Montenegro, ending in 2015. At the end of this period, a total of 78.1% of Montenegro's tariffs were duty free for Turkish imports. Montenegro also has a tariff rate quota (TRQ) in place for imports of dried apricots from Turkey. Turkey undertook its tariff liberalization upon entry into force of the Agreement; 81.2% of its tariff lines are duty free for imports from Montenegro. Turkey has in place TRQs for pasta, jams and wine. The agreement, *inter alia*, contains provisions on government procurement and intellectual property rights.<sup>69</sup>

#### 2.3.2.1.5 Ukraine–Montenegro

2.34. Montenegro's Free Trade Agreement with Ukraine was signed in November 2011 and entered into force in January 2013. The Agreement was considered by the WTO's CRTA in June 2014.<sup>70</sup> The Agreement provides for liberalization of goods and services.<sup>71</sup> In 2016, Montenegro's merchandise trade with Ukraine constituted 0.3% of its total imports and 0.2% of its total exports.<sup>72</sup> Tariff liberalization took place for both parties upon entry into force of the Agreement. As a result, 99.2% of Montenegro's tariffs are duty free for imports from Ukraine. 99.6% of Ukraine's tariff lines are duty free for imports from Montenegro.<sup>73</sup> With respect to trade in services, Montenegro's services commitments under the Agreement substantially reflect its commitments under the GATS with a few exceptions.<sup>74</sup> The Agreement also, *inter alia*, contains provisions on government procurement and intellectual property rights.

#### 2.3.2.1.6 Russian Federation–Montenegro

2.35. The Free Trade Agreement was signed between the Federal Republic of Yugoslavia and the Russian Federation in August 2000, and ratified in May 2001. In 2016, Montenegro's merchandise trade with the Russian Federation constituted 0.2% of its total imports and 0.7% of its total exports.<sup>75</sup> Under the Agreement, both parties gradually phased out their tariffs over a five-year period. After independence in 2006, Montenegro continued to apply the provisions of the Agreement. Under the Agreement, 97.7% of Montenegro's tariff lines are duty free for imports from the Russian Federation (Table 3.2). The Agreement covers goods but not services.<sup>76</sup> Goods exempt from tariff liberalization by Montenegro are fertilizers, air and vacuum pumps, taps, cocks, valves, balls or roller bearings, transmission shafts, electric transformers and accumulators, tractors, motor cars and other vehicles. Goods exempt from tariff liberalization by the Russian Federation are meat and edible offal, starches and inulin, sausages and similar products, sugar and sugar confectionary, chocolate, fruit juices, beer, wine and certain alcohol products, cigars and cigarettes, medicaments, soap, various fabrics and yarns, carpets, bed linen, refrigerators, washing machines, calculating machines, cash registers, television receivers, tractors, motors cars and other vehicles, seats, mattresses and other furniture parts. The Agreement, *inter alia*, also contains provisions on intellectual property rights.<sup>77</sup> Negotiations with the Russian Federation on

<sup>67</sup> Documentation for this meeting may be viewed at:  
<http://rtais.wto.org/UI/PublicShowMemberRTAIDCard.aspx?rtaid=708>.

<sup>68</sup> UN Comtrade online database.

<sup>69</sup> WTO document WT/REG282/1/Rev.1, 1 July 2011.

<sup>70</sup> Documentation for this meeting may be viewed at:  
<http://rtais.wto.org/UI/PublicShowMemberRTAIDCard.aspx?rtaid=868>.

<sup>71</sup> WTO document WT/REG338/1/Rev.1, 2 July 2014.

<sup>72</sup> UN Comtrade online database.

<sup>73</sup> WTO document WT/REG338/1/Rev.1, 2 July 2014.

<sup>74</sup> For a more detailed description of Montenegro's services commitments under the Agreement, see WTO document WT/REG338/1/Rev.1, 2 July 2014 (Section 4.4.1).

<sup>75</sup> UN Comtrade online database.

<sup>76</sup> 2000 Russian Federation–Federal Republic of Yugoslavia FTA. Viewed at:  
[http://www.mid.ru/foreign\\_policy/international\\_contracts/2\\_contract/-/storage-viewer/bilateral/page-205/46653](http://www.mid.ru/foreign_policy/international_contracts/2_contract/-/storage-viewer/bilateral/page-205/46653).

<sup>77</sup> 2000 Russian Federation–Federal Republic of Yugoslavia FTA. Viewed at:  
[http://www.mid.ru/foreign\\_policy/international\\_contracts/2\\_contract/-/storage-viewer/bilateral/page-205/46653](http://www.mid.ru/foreign_policy/international_contracts/2_contract/-/storage-viewer/bilateral/page-205/46653).



further liberalization have stalled; they also included Eurasian Economic Union signatories, Kazakhstan and Belarus.

### 2.3.2.2 PTAs

2.36. Montenegro remains a beneficiary under the Generalized System of Preferences (GSP) schemes of Belarus, Japan, Kazakhstan, Norway, the Russian Federation, Ukraine and the United States.<sup>78</sup> Data is not collected specifically on Montenegro's merchandise exports under PTAs.

2.37. Under the 2000 Preferential Treatment Agreement with the European Union, Montenegro, along with five other Western Balkan countries, continues to benefit from more favourable concessions than those provided for under bilateral agreements.<sup>79</sup> Japan's GSP (effective until March 2021) continues to provide duty-free treatment to certain agricultural and fishery products (HS chapters 1-24) and industrial products (HS chapters 25-97).<sup>80</sup> The United States provides duty-free treatment under its GSP programme for manufactured and semi-manufactured products and also certain agricultural, fishery, and primary industrial products that are not otherwise duty-free.<sup>81</sup> Kazakhstan and the Russian Federation provide tariff preferences for agricultural and industrial products under a unified customs tariff.<sup>82</sup> From the date of its accession to the European Union, Montenegro will need to apply the EU GSP scheme.<sup>83</sup>

## 2.4 Investment Regime

### 2.4.1 General investment regime

2.38. Montenegro, being a small and open economy encourages investment, which is prevalent across the economy, particularly in tourism, agriculture, energy and banking.<sup>84</sup> The national investment agency, the Montenegrin Investment Promotion Agency (MIPA), set up by the Government of Montenegro in 2005, continues to promote foreign investment and facilitate economic development in Montenegro by partnering with foreign and domestic investors; the public and private sectors; international organizations and private individuals.<sup>85</sup>

2.39. The 2011 Foreign Investment Law (OG Nos. 18/11, 45/14), amended in 2014, regulates the modes of foreign investment, protection of foreign investors and their rights, and promotion and other issues of importance for foreign investments in Montenegro.<sup>86</sup> The 2014 amendments, *inter alia*, improved the investment environment by removing restrictions for investing in

<sup>78</sup> WTO online information. Viewed at: <http://ptadb.wto.org/Country.aspx?code=893> and European Commission (2013), Screening report Montenegro. Chapter 30 – External relations. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening\\_reports/screening\\_report\\_montenegro\\_ch30.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch30.pdf), p. 3.

<sup>79</sup> According to the EU regulation, wine originating from Montenegro is entitled to a global tariff quota of 30,000 hectolitres per year subject to exhaustion of its individual quota provided for in the Protocol on wine. *Guide: Trade Preferences for countries of the Western Balkans*. Viewed at: [http://ptadb.wto.org/docs/EU\\_WBalkans/2017/EN%20-%20EU%20Western%20Balkans.pdf](http://ptadb.wto.org/docs/EU_WBalkans/2017/EN%20-%20EU%20Western%20Balkans.pdf) and Regulation (EU) No. 1336/2011 of the European Parliament and the Council of 13 December 2011. Viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:347:0001:0006:EN:PDF>.

<sup>80</sup> For more detailed information on the product coverage and the depth of tariff cuts see: <http://www.mofa.go.jp/policy/economy/gsp/explain.html#section1> (Sections 2 and 3).

<sup>81</sup> For more detailed information on the product coverage, see: <https://hts.usitc.gov/current>.

<sup>82</sup> For more detailed information on the product coverage, see: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_94243/](http://www.consultant.ru/document/cons_doc_LAW_94243/) (Section 7) (available in Russian).

<sup>83</sup> EC (2013), Screening report Montenegro. Chapter 30 – External relations. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening\\_reports/screening\\_report\\_montenegro\\_ch30.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch30.pdf).

<sup>84</sup> MIPA online information. Viewed at: <http://www.mipa.co.me/en/sector-opportunities/>.

<sup>85</sup> MIPA online information. Viewed at: <http://www.mipa.co.me/en/about-mipa/> and WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

<sup>86</sup> The term "foreign investor" applies to a company that has been set up in Montenegro by a foreigner, or foreign legal entity, whose share of investment capital is higher than 25% of total capital invested. MIPA online information. Viewed at: <http://www.mipa.co.me/en/-investment-incentives/>.

Article 1 of the Foreign Investment Law. Viewed at: [http://www.mek.gov.me/EN/WTO/LIBRARY/ep\\_actual\\_legislation/Investment\\_regime](http://www.mek.gov.me/EN/WTO/LIBRARY/ep_actual_legislation/Investment_regime) and information provided by the authorities.

companies that are engaged in production of and trade in weapons and military equipment. Under the Law, foreign investors enjoy the same legal status and the same rights and obligations as local investors. The assets of foreign investors may not be expropriated, unless the public interest and law prescribe otherwise, in which case an investor must be compensated.<sup>87</sup> Any disputes arising from foreign investment are resolved by the competent court in Montenegro unless the agreement stipulates that disputes should be settled through domestic or foreign arbitration (Section 2.2).<sup>88</sup>

2.40. The 2015 Decree on Direct Investment Incentives (OG No. 80/15) aims to promote the country's development by attracting direct investment in the manufacturing and services sectors. It also regulates criteria for allocating financial incentives and cash grants, encouraging direct investment, and the schedule of disbursement of these incentives (Table 3.7). As at November 2017, there were six companies benefitting from direct investment incentives, operating in the areas of: wood production; cattle fodder production; security of persons and property; food production; pharmaceuticals; and tourism. The total value of these investment projects, which are in the process of being realized, is €7,182,429; they should generate 253 jobs. The value of awarded investment incentives is €1,482,000. The authorities indicated that they are currently evaluating applications for incentives received from the 2017 public announcement and are planning future public announcements.<sup>89</sup> Investment incentives are not awarded for financing projects in the following sectors: primary agricultural production; synthetic fibre production; transport including the transport of passengers by air, sea, road and rail and by inland waterways or commercial transportation of cargo services; games of chance; trade; primary production of coal and steel; production of electricity; oil and gas; tobacco and tobacco products; weapons and ammunition; production of genetically modified organisms and hazardous waste.<sup>90</sup>

2.41. Montenegro also provides a range of tax exemptions for investments in various sectors (Section 3.3.1.2). These tax exemptions include: VAT exemption for certain goods and services, real estate property and turnover tax exemptions, corporate tax exemptions and exemptions from customs duties.<sup>91</sup> In addition, favourable conditions exist for investors in business zones (Table 3.7 and Section 4.2).

2.42. Montenegro does not impose on foreign investors any limitations on the amount of investment capital. Potential investors can invest in any industry and freely repatriate/transfer all financial and other assets, including profits and dividends.<sup>92</sup> The only limitations for foreign

<sup>87</sup> Articles 6 and 11 of the Foreign Investment Law. More detailed information on expropriation can be found in the Law on Expropriation (OG RM Nos. 55/00, 12/02, and 28/06) which contains basic provisions on expropriation of immovable, preparatory activities, expropriation procedure, and compensation for expropriated property. Law on Expropriation (OG RM Nos. 55/00, 12/02, 28/06) Viewed at: <http://www.nekretnine.co.me/dok/Zakoni/6.%20Law%20on%20o%20expropriation%202006.pdf>.

<sup>88</sup> Article 30 of the Foreign Investment Law.

<sup>89</sup> The procedure for announcing and awarding incentives is as follows: after a public announcement is published, entities submit their applications within the deadline set. A public opening of applications is organized and an evaluation of the technical correctness of the applications is conducted and compliance with spatial and other development plans is undertaken. Thereafter a meeting of the Committee for the Evaluation of Investment Projects takes place whereby the scoring system (as set out in the decree) is applied and the value of incentive per employee is calculated. A recommendation is sent to the Government for its final decision. Thereafter an agreement is signed with the investor on the use of incentives. Funds are disbursed in three equal instalments: upon signature; after 50% of the project has been implemented; and upon completion of the project. Performance bonds are required from the investors. Projects are monitored for three years for small and medium-sized companies and for 5 years for large companies.

<sup>90</sup> Article 5 of the Decree on Direct Investment Incentives (OG No. 80/15).

<sup>91</sup> VAT exemptions apply to, *inter alia*, construction and equipping of catering facilities, energy facilities for electricity generation and the facilities to produce food products. Real estate property tax exemptions refer to buildings and parts of buildings owned by investors classified as "construction in progress" or "finished goods inventory", buildings owned by people registered in the agricultural producers' registry, and partial real estate tax exemptions refer to 4 and 5 star tourist facilities which have been in operation for more than 12 months; real estate turnover exemptions apply when real estate is brought into a business organization as initial capital/increasing assets and when the real estate is acquired in the process of transformation, merger or division of business organizations. Income tax is exempted for an eight-year period for commencement of business activities in economically undeveloped municipalities. Customs duty exemptions apply to capital goods other equipment imported from abroad to perform activities in Montenegro, goods intended for trade promotion purposes, and goods (fixed assets) representing foreign investment.

<sup>92</sup> Any natural or legal person, both domestic or foreign, has the right to participate in privatization tenders or auctions. The Decree on Sale of Shares and Company Assets by Public Auction and the Decree of Sales of Shares and Company Assets by Public Tender. Information provided by the authorities.

investors include property rights on natural wealth, common goods, agricultural land, forest and forest land, cultural monuments and immovable property within one kilometre of the border line. However, foreign investors have rights for concession, long-term rent, build-operate-transfer (BOT) arrangements, and public-private partnership (PPP) on the above-mentioned categories.<sup>93</sup> Additionally, foreigners may not own agricultural land in Montenegro, but may rent it (Section 4.1.1).

2.43. According to the Government's 2015-2017 Economic Reform Programme, a key challenge for Montenegro is to increase investments into added value activities and those which diversify the country's export base.<sup>94</sup> As outlined in the 2015-2018 Montenegro Development Directions, the focus must be put on the improvement of the overall investment environment in order to attract primarily greenfield investments and implement projects through PPPs and concessions.<sup>95</sup>

2.44. According to the OECD policy outlook, Montenegro has taken positive steps to foster investment. However, some challenges still remain. They include: implementation and monitoring of the legislation and regulations set forth in the New York Convention and ICSID, especially with regard to the enforcement of arbitration awards; monitoring of its dispute settlement arrangements; and development of CRM practices linking foreign investors and local suppliers.<sup>96</sup>

2.45. Since Montenegro's accession to the WTO, new bilateral investment treaties (BITs) have entered into force with Azerbaijan, Moldova and the United Arab Emirates; new double taxation agreements have entered into force with Ireland, Austria, Serbia, Azerbaijan, and the United Arab Emirates. Additionally, the EFTA–Montenegro FTA, which entered into force in 2012, contains investment provisions. BITs with the Belgium–Luxembourg Economic Union (signed in 2010) and Turkey (2012) have not yet entered into force. Montenegro is a signatory to various intergovernmental agreements with investment-related provisions (Box 2.1).

### Box 2.1 Investment framework, 2017

#### FTAs with investment provisions (date of entry into force)

EFTA–Montenegro FTA (1/11/2012); Montenegro–Turkey FTA (1/3/2010); EU–Montenegro Association Agreement (1/5/2010); CEFTA (22/11/2007).

#### Bilateral investment treaties (BITs) in force (date of entry into force)

Austria (2002); Azerbaijan (2012); Cyprus (2008); Czech Republic (2001); Denmark (2009); Finland (2010); France (1975); Germany (1990); Greece (1998); Israel (2006); Lithuania (2005); Malta (2011); Moldova (2015); Netherlands (2004); Poland (1997); Qatar (2009); Romania (1997); Serbia (2010); Slovakia (1998); Spain (2004); Switzerland (2007); The former Yugoslav Republic of Macedonia (2011); and the United Arab Emirates (2013).

#### Double-taxation agreements in force (date of entry into force)

Agreements inherited by Montenegro at independence: Albania; Belgium; Belarus; Bosnia and Herzegovina; Bulgaria; Czech Republic; Denmark; Egypt; Finland; France; the Netherlands; Croatia; Italy; China; Cyprus; Korea; Kuwait; Latvia; Hungary; Macedonia; Malaysia; Moldova; Germany; Norway; Poland; Romania; Russia; Slovakia; Slovenia; Sri Lanka; Sweden; Turkey; Ukraine; and United Kingdom. Agreements signed by Montenegro as an independent country: Malta (23/09/2009); Ireland (01/12/2011); Austria (21/04/2015); Serbia (21/12/2011); Azerbaijan (04/11/2013); and United Arab Emirates (date not available). A DTA with Portugal has been signed but not yet ratified.

<sup>93</sup> Ministry of Sustainable Development and Tourism, *Montenegro Investment Opportunities Guide*. Viewed at: <http://www.montenegroinvestments.info/uploads/docs/Montenegro-investment-guide.pdf>.

<sup>94</sup> Government of Montenegro (2017), *Economic Reform Programme for Montenegro 2017-2019*. Podgorica, January.

<sup>95</sup> Ministry of Finance (2015), *Montenegro Development Directions 2015-2018*, June.

<sup>96</sup> OECD (2016), *Competitiveness in South East Europe: A Policy Outlook*, Competitiveness and Private Sector Development, Paris. Viewed at: <http://www.oecd-ilibrary.org/docserver/download/0316011e.pdf?expires=1502893361&id=id&accname=quest&checksum=A862514217D397EF7FFAD54E715DC47D>.

**Intergovernmental agreements with investment-related provisions (date of adoption)**

MIGA Convention (1985); ICSID Convention (1965) and New York Convention (1958)

**Other treaties with investment provisions (date of entry into force)**

The Energy Charter Treaty (16/4/1998)

Source: UNCTAD Investment Policy Hub. Viewed at: <http://investmentpolicyhub.unctad.org/IIA/CountryBits/140#iiaInnerMenu>; Ministry of Finance of Montenegro online information. Viewed at: <http://www.mif.gov.me/biblioteka/ugovori>; OECD online information, "tax treaties". Viewed at: <http://www.oecd.org/tax/treaties/beps-mli-position-serbia.pdf> and <http://www.oecd.org/tax/treaties/beps-mli-position-malta.pdf>; and Eurofast online information. Viewed at: <http://eurofast.eu/global/montenegro-austria-agreement-on-avoidance-of-double-taxation/>.

2.46. Since 2012, there have been seven investor-state dispute cases taken against the State of Montenegro. Three investor-state disputes have been taken to ICSID and four cases have been brought under the UNCITRAL arbitration rules. According to the authorities, the final awards on behalf of Montenegro were rendered in the four UNCITRAL arbitration proceedings, while the three other cases are ongoing.

**2.4.2 Business environment**

2.47. During the review period, Montenegro improved its ranking relating to the environment for business, trade and investment according to the World Bank's Doing Business reports. In 2018, it was ranked in 42<sup>nd</sup> place out of 190 economies in comparison to 56<sup>th</sup> place out of 183 economies in 2012. Over this period, the country has improved its performance with respect to dealing with construction permits, getting electricity, registering property, paying taxes, trading across borders and resolving insolvency. According to the OECD SME Policy Index, in 2016, Montenegro made significant progress in standardization and technical regulation, public procurement and innovation policy for SMEs compared to the 2012 results. It considers that Montenegro performs best in the region in facilitating trade across borders and comes close to the OECD average for cost, time and number of documents needed to import and export (Section 3.3.2; 3.3.5; 3.3.1.2; and 3.1.1.1).<sup>97</sup> However, the country showed a slightly poorer performance in the World Economic Forum's 2017-2018 Global Competitiveness Index (Section 1). According to the World Bank, firm-level data from the 2013 Enterprise Surveys (BEEPS) suggests that, although Montenegro's regulatory environment significantly improved, more progress is needed on implementation of reforms and transparency of procedures.<sup>98</sup>

2.48. As outlined in its 2017-2019 Economic Reform Programme, the Government realizes the obstacles faced by the business community and has defined its priorities aimed at removing the identified barriers to boost competitiveness (Section 3.3.1.2).<sup>99</sup> The authorities indicated that the Economic Reform Programme for 2018-2020 is being prepared and will be submitted to the Government for adoption in mid-January 2018.

2.49. A key step taken over the review period to improve the business environment has been to streamline the process of registering a business. Since May 2011, a one-counter operating system has enabled business entities registering in the Central Registry of Business Entities to also be automatically registered in the register of the Department of Statistics, the register of taxpayers and customs payers, and the register of payers of value added tax (VAT) and excise taxpayers.

2.50. Efforts have also been taken to improve the environment for small and medium-sized enterprises (SMEs). Adopted in December 2010, the Promotion Programme of Business Development encourages the development of SMEs on land connected to utilities, aims at increasing employment in less developed municipalities as well as attracting the capital of

<sup>97</sup> OECD (2016), *SME Policy Index. Western Balkans and Turkey 2016*. Assessing the implementation of the small business act for Europe. Viewed at: <https://europa.ba/wp-content/uploads/2016/06/SME-Policy-Index-Western-Balkans-and-Turkey-2016.pdf>.

<sup>98</sup> World Bank (2017), *Montenegro Policy Notes 2017*. Viewed at: <http://documents.worldbank.org/curated/en/400341486444604697/pdf/112642-WP-MontenegroPolicyNotesEng-PUBLIC.pdf>.

<sup>99</sup> Government of Montenegro (2017), *Economic Reform Programme for Montenegro 2017-2019*, Podgorica, January.

domestic and foreign investors interested in the project.<sup>100</sup> The 2011-2015 Strategy for Development of SMEs is aimed at strengthening the financial support and competitiveness of SMEs and promoting entrepreneurship.<sup>101</sup> Within the 2015-2018 Montenegro Development Directions framework, the government aims to support the SME sector through strengthening financial support to SMEs. For this purpose, a MoU between Montenegro and the EU Programme for the Competitiveness of SMEs – COSME was signed with a total budget of €2.3 billion for the 2014-2020 period, opening the possibility for improving access to finance for SMEs, primarily through the instrument of loan guarantees. To strengthen competitiveness and promote Montenegrin SMEs in various international events, conferences and business meetings, the Government is connected to the Enterprise Europe network (Network-EEN). Moreover, it has adopted the 2015-2019 Strategy for Lifelong Entrepreneurial Learning with the objective of creating conditions for further promotion of entrepreneurial education and skills that would help individuals obtain better jobs and set up new companies.<sup>102</sup>

### E-commerce

2.51. The Law on Electronic Commerce (OG Nos. 80/04, 41/10, 40/11 and 56/13) regulates the provision of processing and data storage services, liabilities of providers of information society services, and rules on electronic contracts. The amendments to the Law on E-commerce, adopted in November 2013, were aimed to bring legislation into alignment with the Directive 2000/31/EC of the European Parliament and of the Council on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market.<sup>103</sup> Further laws in this area include the Law on Electronic Document (OG No. 05/08), the Law on Electronic Identification and Electronic Signature (OG No. 31/17) and the Law on Information Security (OG Nos. 14/10, 40/16). All electronic commerce legislation has been harmonized with the relevant *acquis*. Related by-laws are in the process of being prepared.

2.52. The Ministry of Public Administration and the Ministry of Economy are the competent authorities in the area of the regulatory framework for networks and services and radio spectrum. In 2016, the Strategy for the Information Society Development 2020 was adopted, with the aim to, *inter alia*, increase the share of e-commerce in total commerce (on the national level) by 1.5% in 2020 (compared to 0.5% in 2018).<sup>104</sup>

2.53. The adopted legislation promotes the secure and efficient utilization of electronic means of communication by specifying requirements for certain electronic signatures and authorizing the issuance of certificates for electronic signatures. Since June 2014, PayPal has been available in Montenegro allowing online payments from Montenegro. The authorities indicated that they are working to get PayPal approval to extend the system's functionality to include payments to Montenegro.<sup>105</sup> According to the 2015 UNCTAD B2C E-commerce Index, Montenegro scored 41.5 (compared to Bosnia and Herzegovina with a score of 40.7, Croatia - 69.6, and Serbia - 55.9).<sup>106</sup>

<sup>100</sup> Information provided by the authorities.

<sup>101</sup> European Commission, *Montenegro: Strengthening the competitiveness and innovation sector of Montenegro*. Instrument for Pre-Accession Assistance (IPA II) 2014-2020. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/ipa\\_2016\\_37896\\_2\\_me\\_competitiveness\\_and\\_innovation.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/ipa_2016_37896_2_me_competitiveness_and_innovation.pdf).

<sup>102</sup> Ministry of Finance (2015), *Montenegro Development Directions 2015-2018*, June.

<sup>103</sup> Government of Montenegro (2013), *Negotiating position of Montenegro for the intergovernmental conference on the accession of Montenegro to the European Union for Chapter 10: Information society and media*, Podgorica, October.

<sup>104</sup> Ministry of Information Society and Telecommunications (2016), *Strategy for the Information Society Development 2020*, Podgorica. Viewed at: <http://www.mid.gov.me/en/library/strategije>.

<sup>105</sup> Montenegro, Country Commercial Guide online information. Viewed at: <https://www.export.gov/apex/article2?id=Montenegro-ECOMMERCE>.

<sup>106</sup> The UNCTAD B2C E-commerce Index is composed of four indicators: Internet use penetration, secure servers per 1 million inhabitants, credit card penetration and a postal reliability score. This year's Index was improved by increasing the geographic coverage (from 130 to 137 economies) and fine-tuning the indicator to measure the delivery aspect of e-commerce. The straightforwardness and transparency of the Index allow countries to compare how they perform in different areas. The 137 economies represent 96% of the world population and 99% of world GDP. UNCTAD (2016), *UNCTAD B2C E-commerce index 2016*. UNCTAD Technical Notes on ICT for Development. Viewed at: [http://unctad.org/en/PublicationsLibrary/tn\\_unctad\\_ict4d07\\_en.pdf](http://unctad.org/en/PublicationsLibrary/tn_unctad_ict4d07_en.pdf).



## ***E-government***

2.54. In 2014, a Law on E-government was adopted (OG No. 32/14). Its objective is to facilitate cooperation between the state authorities at the level of data exchange, as well as to ensure better communication by the public administration with citizens and businesses with respect to information society-related obligations. An amendment to this law is being drafted to take into account institutional changes and three rule books will be adopted on the basis of the law in 2018. An e-government portal (<https://www.euprava.me>) has been established which provides information to individuals and businesses on certain aspects of public administration. There are also the portals of the Tax Administration (<http://www.poreskauprava.gov.me>), Customs Administration (<http://www.upravacarina.gov.me>) and Real Estate Administration (<http://www.nekretnine.co.me>).

## ***Measures to combat corruption***

2.55. In October 2006, Montenegro became a party to the 2005 United Nations Convention against Corruption (UNCAC).<sup>107</sup> In recent years, Transparency International has noted gradual improvements in perceptions of the level of public sector corruption; Montenegro's score in its Corruption Perceptions Index 2016 was 45, compared to 44 in 2015 and 42 in 2014.<sup>108</sup> As indicated by the authorities, Montenegro has undergone three rounds of evaluation under the Council of Europe's Group of States against Corruption (GRECO) and has implemented all 38 recommendations addressed to it.

2.56. In 2014, the Government of Montenegro opted for a centralized preventative anti-corruption institutional framework, which replaced the former decentralized system. In January 2016, the Law on Prevention of Corruption entered into force. This provided for the establishment of a special Agency for Prevention of Corruption in 2016, which replaced the Directorate for Anti-Corruption Initiative and Commission on Prevention of Conflict of Interest. The main areas dealt with by the Agency are conflicts of interest, the financing of political parties, lobbying, and the protection of whistle-blowers.<sup>109</sup> As at end-2017, there were 56 people working in this Agency. As set out in law, its budget may not be below 0.2% of GDP, ensuring that it has sufficient financial resources. The work of the Agency is regulated by three laws: the Law on Prevention of Corruption, the Law on Financing of Political Entities and Electoral Campaigns; and the Law on Lobbying all of which were adopted in December 2014. In 2013, the Government prolonged the action plan for the implementation of the 2010-2014 Strategy for the Fight against Corruption and Organized Crime for the 2013-2014 period. The latest report on implementation of this Action Plan indicated that 59.13% of measures had been implemented, 29.57% of measures had been partly implemented and 11.3% of measures had not been implemented. The continuation of national anti-corruption strategic planning is provided through the Action Plan for Chapter 23 and the Operational Document for prevention of corruption in seven special risk areas (public procurement, spatial planning, privatization, education, health sector, local government and the police). The latter contains measures that were assessed as partially or not implemented from the Action Plan 2013-14 as well as new measures. Monitoring of the implementation of these documents and reporting is undertaken by a chapter 23 working group established by the Government, which brings together government agencies, independent agencies and NGOs.

2.57. According to the 2016 European Commission report, Montenegro has achieved some level of preparation in the fight against corruption. However, it remains prevalent in many areas and continues to be a serious problem. Despite some further steps taken, the track record both on successful investigations and convictions, in particular in high-level corruption cases and on prevention of corruption, remains limited.<sup>110</sup> In the context of this Review, the authorities provided details on corruption prevention measures undertaken by the Agency in 2016 and the

<sup>107</sup> Under this Convention, parties are required to establish criminal and other offences to cover a wide range of acts of corruption. UNODC online information. Viewed at: <https://www.unodc.org/unodc/en/treaties/CAC/signatories.html>.

<sup>108</sup> Transparency International Corruption Perceptions Index 2016. Viewed at: [https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2016#table](https://www.transparency.org/news/feature/corruption_perceptions_index_2016#table).

<sup>109</sup> BTI (2016), *Montenegro Country Report*, Bertelsmann Stiftung. Viewed at: [https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI\\_2016\\_Montenegro.pdf](https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI_2016_Montenegro.pdf).

<sup>110</sup> European Commission (2016), *Commission Staff Working Document, Montenegro 2016 Report*. Brussels. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf).



first 9 months of 2017. These included: 6,497 verified asset declarations of public officials in 2016 and 6,569 in 2017 (these are available on the Agency's website – [www.antikorupcija.me](http://www.antikorupcija.me)). It issued a total of 266 binding opinions relating to the prevention of conflicts of interest regarding public officials; this resulted in 105 resignations of public officials and fines amounting to €121,667 applied for failing to comply with provisions on prevention of conflicts of interest and asset declarations. The Agency issued five decisions on the suspension of the transfer of budget funds to political entities due to the failure to report on the collected and spent funds in the election campaign and made public officials at the central and local levels publish 9,440 reports on the use of public funds in elections; fines imposed for non-compliance amounted to €80,830. It also received 107 whistle blower reports and initiated 19 procedures "ex officio". A total of 676 authorities appointed integrity managers, and adopted 672 integrity plans; these authorities are required to report to the Agency on implementation of these plans by mid-April 2018. The Agency also issued eight opinions on laws with the aim to "corruption-proof" this legislation. As noted by the authorities, these opinions are not binding but they are publically available hence may be used to put pressure on the Government during the drafting process of the respective laws.

### 3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1. Since its WTO accession, the general thrust of Montenegro's trade policy has remained relatively unchanged. While no unilateral liberalization has been undertaken, there have been openings or policy and/or regulatory developments in certain areas including trade facilitation, tariffs, preferential trade agreements, sanitary and phytosanitary requirements, government procurement, competition policy, and intellectual property rights to ensure alignment to EU standards and/or WTO commitments.

3.2. The tariff is one of the main trade policy instruments; its complexity increased due to its EU alignment in 2017 and its relatively low simple average MFN applied tariff rate dropped slightly. Binding observance concerns were addressed in early 2018. The small gap between the simple averages of the MFN applied and bound rates ensures largely predictable and stable market access conditions. Non-automatic import licensing requirements are in place. The fees for import licences for medicines and medical devices and drugs and psychotropic substances are based on the import value. No contingency measures have been introduced so far. Montenegro prohibits temporarily exports of some kinds of wood and wood products. Several general or industry-specific measures, *inter alia*, involving tax concessions, grants, guarantees, concessional loans, debt write off and rescheduling continued to support investment, production and trade.

3.3. State involvement in the economy seems limited and targeted to areas of strategic importance. No preferences are granted to domestic suppliers participating in government procurement operations. Despite progress, competition policy, consumer protection and IPR enforcement remain subject to challenges, including resource constraints that are being addressed. Certain sectoral coverage exemptions of pro-competitive agreements from competition rules and a few price controls are in place.

#### 3.1 Measures Directly Affecting Imports

##### 3.1.1 Customs procedures, valuation, and requirements

###### 3.1.1.1 Procedures and requirements

3.4. Foreign trade activities may be performed by all persons registered in accordance with the customs regulations regardless of national origin and with no requirement of physical presence or investment in Montenegro.<sup>1</sup> As of October 2017, there were 5,718 importers and 1,324 exporters registered with the Customs Administration compared to 5,249 and 1,361 in 2012 respectively; at the same time, there were 40 companies undertaking import/export operations of controlled goods (arms and military equipment) registered with the Ministry of Economy.<sup>2</sup>

3.5. Montenegro uses a fairly standard import/export documentation process (generally requiring a bill of lading and related sales documents).<sup>3</sup> With the liberalization of the trade regime and reform of the trade/customs-related institutions, Montenegro is moving toward harmonizing its import documentation with the European Union. Import document requirements consist of a packing list, standard CMR (UN Convention on the Contract for the International Carriage of Goods by Road) waybill, certificate of origin, commercial invoice, and customs import/export declaration. An E-CMR project is to be considered under the next Business Strategy of the Customs Administration from 2018 onwards.

3.6. No single window system is in place yet; the Ministry of Finance is conducting preliminary negotiations with a potential international donor for technical assistance support and financing. The Trade Facilitation Strategy (see below), currently under preparation, is to include actions for the development of a single window system.

3.7. Since April 2003, the Customs Administration has implemented a Customs Information System (CIS), *inter alia*, covering clearance, transit, TIR Carnet, risk management system, the

<sup>1</sup> WTO document WT/ACC/CGR/38, WT/MIN (11)/7, 5 December 2011. Foreign Trade Law (OG Nos. 28/04, 37/07 and 57/14).

<sup>2</sup> Law on Foreign Trade in Arms and Military Equipment (OG No. 40/16).

<sup>3</sup> U.S. Department of Commerce (2017), *Montenegro Country Commercial Guide 2016*. Viewed at: [https://me.usembassy.gov/wp-content/uploads/sites/250/2017/02/Montenegro\\_2016\\_CCG.pdf](https://me.usembassy.gov/wp-content/uploads/sites/250/2017/02/Montenegro_2016_CCG.pdf).

finance module and the guarantee module. Data are processed in real time and made available to the business users through analyses and decisions. The CIS enables an electronic exchange of messages and data from a single administrative document (SAD); the system lacks electronic signature or public key infrastructure (PKI), therefore although data may be submitted electronically through SAD, the procedure can only be launched upon submission of the SAD's paper version.

3.8. Since 2003, the Customs Law has exempted goods with a value below €150, including those purchased online (as from 2015, OG No. 20/15), from payment of customs duties and provided expeditious clearance (Section 2.4.2); in addition, the 2017 amendments of the Law on Value Added Tax allow for VAT exemption of goods purchased online with a value below €75. Between July 2016 and September 2017, the total value of internet-purchased goods exempt from payment of customs duty stood at €2.2 million.

3.9. Montenegro has undertaken several trade facilitation initiatives in recent years. Under the 2016 amendments, the provisions of the Customs Law Implementing Regulation, which relate to simplification of procedures, were fully aligned with the relevant Regulation for the Implementation of the (European) Union Customs Code (UCC); as a result, the Customs Administration has been issuing authorizations for import simplified procedures on the basis of the bookkeeping entry.<sup>4</sup> The Customs Administration introduced an application for electronic monitoring of simplified procedures for declaring goods on the basis of bookkeeping records so that the licence holders submit only an electronic customs declaration. The user of these simplified procedures is obliged to keep all documentation accompanying the goods and to make it available to the customs authority in case of documentary control.

3.10. The provisions of the 2008 Authorized Economic Operator (AEO) scheme for entities/persons with headquarters within the customs area of Montenegro have been revised so as to allow it to be revoked or temporarily suspended, and the national Decree regulating AEO status came into effect in June 2015.<sup>5</sup> An AEO may benefit from simplified security check procedures upon entry and exit of goods as prescribed by the customs legislation. AEO status may be granted for an indefinite period to those who, *inter alia*: complied with the customs legislation in the previous three-year period; keep satisfactory business and, when necessary, transport records allowing for appropriate customs controls; are financially reliable and stable; and maintain appropriate protection and security measures. However, the launched AEO scheme is not yet operational, *inter alia*, due to technical reasons including regulatory changes both at the EU and Montenegrin level.<sup>6</sup> According to the authorities, as of December 2017, following the successful implementation of activities related to simplified procedures based on bookkeeping entries, the AEO scheme implementation is under way. A Business Plan for Implementation of the AEO programme was drafted, and the next step is to develop an AEO Guide in accordance with the latest amendments to the AEO Guidelines, the AEO Implementation Instruction and other documents.<sup>7</sup> The Customs Administration is currently receiving World Bank Group technical support for the implementation of simplified procedures and the development of the AEO programme.

3.11. Montenegro ratified the WTO Trade Facilitation Agreement (TFA) by depositing its instrument of acceptance on 10 May 2016 (Section 2.3.1); on 1 October 2014, it submitted its Category A notification to the WTO indicating which provisions of the TFA it intended to implement

<sup>4</sup> The Customs Law and the Customs Law Implementing Regulation, both in force since 2003, prescribe simplified customs procedures (incomplete declaration, simplified procedure based on invoices and simplified procedure based on book entry).

<sup>5</sup> Article 6b of the Customs Law (OG Nos. 7/02, 38/02, 72/02, 21/03, 31/03, 29/05, 66/06, 21/08, 39/11, 40/11, 28/12, 62/13); Customs Law and Decree on Implementation of the Customs Law of 6 March 2003; Decree on the Conditions for Granting the Status of Authorized Economic Operator in the Customs Territory of Montenegro (OG No. 38/15).

<sup>6</sup> The authorities indicated that the new EU Customs Law Implementing Regulation which regulates AEO status, entered into force in July 2016, and therefore the Montenegrin legislation had to be aligned to the new Union Customs Code (UCC); the latest relevant amendments to the Montenegrin Customs Law came into force on 8 November 2017. Further amendment work to the secondary legislation of Montenegro in this area is under way.

<sup>7</sup> CEFTA member States are working on the harmonization of regulations and development of EU-coordinated AEO programmes, which will be a condition for the mutual recognition of AEO status among these countries.

upon entry into force of the Agreement. Montenegro ensures international customs cooperation with the European Union member States in accordance with Protocol 6 (Protocol on mutual administrative assistance in customs matters) of the Stabilisation and Association Agreement (SAA). In the context of the Central European Free Trade Agreement (CEFTA) (Sections 2.3.2.1.1 and 3.1.3.6), on 26 May 2017 Montenegro signed Additional Protocol 5 relating to the simplification of inspections, reduction of formalities, and electronic exchange of data concerning the carriage of goods between CEFTA Parties and cooperation in trade partnership programmes; as of end-October 2017, its ratification process and the preparatory work for its implementation were under way.<sup>8</sup> Montenegro, a member of the World Customs Organisation since 2006, has taken over and is applying international treaties and agreements entered into as the state community of Serbia and Montenegro.<sup>9</sup> Since 2006, it has maintained agreements on mutual administrative assistance and cooperation in customs matters with: Croatia, Albania, Iran, Slovenia, Moldova, Ukraine, Kosovo, Serbia, The former Yugoslav Republic of Macedonia, Turkey, and Azerbaijan.

3.12. Montenegro's National Trade Facilitation Committee (NTFC), a multi-agency body composed of representatives of 17 agencies (including 6 from the private sector) established in May 2015, ensures coordination and cooperation between stakeholders in the process of trade facilitation reform. All ongoing trade facilitation projects are overseen by the NTFC. Under the NTFCs supervision, the first National Trade Facilitation Strategy – intended to address systemic bottlenecks in cross-border trade and define a five-year framework for the implementation of concrete trade facilitation reforms – is under preparation and is expected to be adopted by the end of first quarter of 2018. The Strategy is to also support Montenegro's economic development goals and meet its WTO TFA commitments as well as undertakings in the context of the process of accession to the European Union and other relevant international and regional agreements in this area.

3.13. In 2016, Montenegro ranked 43<sup>rd</sup> out of 190 economies on the ease of trading across borders, lower than a number of countries in the region but better than its 53<sup>rd</sup> position (out of 189 economies) in 2013.<sup>10</sup> According to World Bank Doing Business data, in 2016 importing a shipment of goods required border and documentary compliance equivalent to 23 hours and US\$306, and 10 hours and US\$100, respectively. In 2013, importing a shipment required 5 documents, took 14 days and cost US\$985. Imports proceed through a three-track clearance control management system consisting of low-risk (green) fast clearance, medium-risk (yellow) and high-risk (red) (e.g. document audits and physical inspections); in 2016, 91.6% (89.4% in 2014) of import-related customs declarations proceeded through the green channel, whereas 3.2% and 5.2% were processed through the yellow and red clearance tracks. The Montenegro Customs Administration conducted its first time release study (TRS) in line with the WCO's guidelines in November/December 2016 and its final version was presented in October 2017. Among its findings were the following average release times: 16 hours 4 minutes for road cargo imports; 1 day 14 hours 4 minutes for air cargo imports; and 3 days 14 hours 6 minutes for sea cargo transit. The TRS also found that public and private sector stakeholders could benefit from initiating coordinated collective actions among CEFTA economies, especially in the areas of information sharing, standardization of documents and regulations, recognition of AEOs and further harmonization of cross-border procedures aligned with the national Integrated Border Management Strategy, the WTO TFA and the CEFTA Protocol 5.

3.14. Under the Law on Administrative Procedure and the Law on Administrative Dispute, at first instance complaints regarding decisions of the Customs Administration can be filed with the Ministry of Finance; at second instance, the complainant may initiate an administrative dispute against decisions of the Ministry of Finance before the Administrative Court of Montenegro.

<sup>8</sup> Final draft of the Additional Protocol 5 to the Agreement on Amendment of and Accession to the Central European Free Trade Agreement as at 25 October 2016.

<sup>9</sup> These are the customs cooperation agreements with Italy, Poland, France, Austria, Germany, Greece, Romania, Slovenia, Hungary, Slovakia, and Bosnia and Herzegovina.

<sup>10</sup> According to the authorities, this progress was due to the launching in 2013 of a new risk analysis system; since then the percentage of goods examined through the information system has been continuously reduced thus accelerating the flow of goods and customs procedures. World Bank (2016), *Doing Business 2017: Equal Opportunity for All – Economy Profile 2017 Montenegro*, Washington, D.C. Viewed at: <http://www.doingbusiness.org/~media/wbg/doingbusiness/documents/profiles/country/mne.pdf>; World Bank (2013), *Doing Business 2014 Economy Profile: Montenegro*, 29 October, Washington, D.C. Viewed at: <https://openknowledge.worldbank.org/bitstream/handle/10986/18469/829130Montenego0Box0382100B00PUBLICO.pdf?sequence=1&isAllowed=y>.

Between 2015 and 2016, there were 220 first instance appeals at the Ministry of Finance and 14 judicial appeals, including customs valuation related appeals (Section 3.1.1.2), of which 55% were adopted and 45% rejected.

3.15. Smuggling activities involve cigarettes, alcoholic beverages and narcotics as well as counterfeit items (Section 3.3.6.3.2). Between 2012 and mid-2017, the Customs Administration undertook 5,511 controls, found 1,927 irregularities, imposed fines of a total amount of €1.3 million and initiated 74 criminal charges. During the period 2012-2017, fifteen auctions for the sale of seized goods were held pursuant to the Decree on Conditions and Methods of Selling Customs Goods and Other Customs Procedures, and €644,489 was raised.

### 3.1.1.2 Customs valuation

3.16. According to the authorities, Montenegro's customs valuation legislation is in line with the WTO Agreement on Customs Valuation. Imports are valued at their c.i.f. price. Under the legislation, the customs value of imported goods is the transaction value but in case of doubt the second, third and sixth methods envisaged under the WTO Agreement are used.<sup>11</sup> According to the authorities, as of 2017 the transaction value was the most used method; in a small number of cases the fourth and fifth valuation methods are used. No specific data on the cases in which the transaction value and other methods have been used were available from the authorities. No reference or minimum prices or fixed valuation schedules are used.<sup>12</sup>

3.17. Importers have the right of appeal against the valuation carried out by Customs (Section 3.1.1.1).<sup>13</sup> At first instance, appeals can be submitted to the Ministry of Finance, and at second instance to the Administrative Court. Concerning under-invoicing, between 2013 and 2016 the Customs Administration sent 394 requests to foreign customs administrations for initiating procedures for post collection of customs debt and for launching customs offences and received 46 negative answers (false invoices). No data on under-invoicing cases were available from the authorities but they plan to create such a database.

3.18. In 2014, Montenegro notified to the WTO its customs valuation legislation, the implementation of the Decision of the Committee on Customs Valuation on the Treatment of Interest Charges in Customs Value of Imported Goods, and replies to the checklist of issues on the implementation and administration of the Agreement on Customs Valuation (Section 2.3.1).<sup>14</sup>

### 3.1.2 Rules of origin

3.19. Preferential rules of origin apply to imports under preferential trading arrangements and RTAs.<sup>15</sup> According to the legislation (Customs Law Article 28), preferential origin is established on the basis of evidence of the origin of goods as established under the provisions of the preferential agreement. Preferential rules of origin covering imports under CEFTA, and from the EU, EFTA, Turkey, and Ukraine are subject to and/or based on the provisions of the Regional Convention on Pan-euro-Mediterranean Preferential Rules of Origin (Convention).<sup>16</sup> Eligible imports from these

<sup>11</sup> Customs Law – Title II – Chapter 3: Value of the Goods for the Customs Purposes and Decree on Implementation of the Customs Law – Part 4: Customs Valuation of Goods. WTO document G/VAL/N/1/MNE/1, 15 December 2014.

<sup>12</sup> Upon its WTO accession, Montenegro undertook not to use such valuation. WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

<sup>13</sup> WTO document G/VAL/N/2/MNE/1, 22 December 2014.

<sup>14</sup> WTO documents G/VAL/N/1/MNE/1, 15 December 2014; G/VAL/N/2/MNE/1, 22 December 2014; and G/VAL/N/3/MNE/1, 22 December 2014.

<sup>15</sup> Customs Law – Title II – Chapter 2: Origin of Goods – Non-preferential Origin, and Decree on Implementation of the Customs Law – Part 3: Origin of goods – Non-preferential. WTO document G/RO/N/126, 20 February 2015.

<sup>16</sup> The pan-Euro-Mediterranean cumulation zone includes the European Union, the EFTA States (Iceland, Norway, Switzerland and Liechtenstein), the participants in the Barcelona Process (Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Syria, Tunisia, Turkey, Palestine) and the Faroe Islands. This convention includes in the zone the participants in the Stabilization and Association Process (Albania, Bosnia and Herzegovina, Croatia, Montenegro, Serbia, and the Former Yugoslav Republic of Macedonia, as well as Kosovo under UNSC Resolution 1244/99). Regional Convention on pan-Euro-Mediterranean preferential rules of origin online information. Viewed at: <http://ec.europa.eu/world/agreements/prepareCreateTreatiesWorkspace/treatiesGeneralData.do?step=0&redirect=true&treatyId=9641>.

countries are based on common principles in line with the "goods wholly obtained" or "undergone sufficient working or processing" criteria.<sup>17</sup> Concerning fisheries products, a fishing vessel must, *inter alia*, be: registered in the exporting country; sail under the exporting country's flag; have at least 50% of its equity, owned by nationals of the exporting country; and at least 75% of its crew must be nationals of the exporting country.<sup>18</sup> Certain manufactured goods are subject to a value-added criterion, namely, manufacture in which the value of all the materials used does not exceed either 25% (for HS Chapters 30, 39, 84–91 and 94), 30% (for HS Chapters 84–91 and 94) or 40% (for HS Chapters 28–29, 30–39, 84–91 and 94) of the ex-works price of the product.<sup>19</sup> Furthermore, *de minimis* clauses allow non-originating materials which cannot normally qualify for origin status to be used, provided that their total value does not exceed 10% of the ex-works price of the product, and that any of the percentages given in the Convention's Annex II for the maximum value of non-originating materials are not exceeded. The *de minimis* rule does not apply to products in HS Chapters 50–63 (textiles and clothing). Regardless of the *de minimis* clause, certain operations are considered as insufficient working or processing to confer the status of originating products.<sup>20</sup>

3.20. Under the Free Trade Agreement between the Federal Government of the Federal Republic of Yugoslavia (FRY) and the Government of the Russian Federation, the rules of origin are defined by the: Rules on the Origin of Goods from the FRY that are Imported into the Territory of the Russian Federation under the Agreement; and, Rules of Origin of Goods from the Russian Federation that are imported into the Territory of the FRY under the Agreement. They involve criteria such as "wholly obtained products", "sufficiently worked or processed products", and use of domestic raw materials.

3.21. Montenegro applies non-preferential rules of origin to all other imports. Under the Customs Law (Articles 24 and 25) goods originating in a country are those wholly obtained or produced in that country, including its territorial waters. Goods whose production involved more than one country shall be deemed to originate in the country where they underwent their last substantial, economically justifiable processing (treatment, final treatment, or further treatment) resulting in new products or representing a crucial stage of manufacture. Under the Customs Law (Article 24 paragraph 1 item 3), imported live animals will have non-preferential origin if they are live animals born and raised in a country. The non-preferential origin is determined on the basis of the relevant certificate issued by the competent authorities of the exporting country as well as other commercial documents (e.g. invoices).

3.22. The legislation governing non-preferential rules of origin was notified to the WTO Committee on Rules of Origin in 2015, and those applied under the RTA between Ukraine and Montenegro in 2013 (Section 2.3.2.1).<sup>21</sup>

### 3.1.3 Tariffs

#### 3.1.3.1 General features

3.23. Since January 2017, Montenegro has used the 2017 version of the Harmonized System of Tariff Classification (HS), at present consisting of 9,528 eight-digit lines (145 more lines than in 2012) (Table 3.1). Under the Law on Customs Tariff, Montenegro adopts, not later than November of each year, the Decree on Customs Tariff for the following year that harmonizes its Customs Tariff Nomenclature with the EU's Combined Nomenclature. According to the authorities, the current tariff is in line with the EU's Combined Nomenclature; its sub-headings derive from the eight-digit tariff sub-heading of the Combined Nomenclature by adding a ninth or tenth digit for specific types of goods.

<sup>17</sup> Articles 2 and 4 of the Convention. Viewed at: <http://ec.europa.eu/world/agreements/prepareCreateTreatiesWorkspace/treatiesGeneralData.do?step=0&redirect=true&treatyId=9641>.

<sup>18</sup> More detailed information is available in Article 4 of the Convention. Viewed at: <http://ec.europa.eu/world/agreements/prepareCreateTreatiesWorkspace/treatiesGeneralData.do?step=0&redirect=true&treatyId=9641>.

<sup>19</sup> Article 5 and Annex II of the Convention.

<sup>20</sup> Articles 5 and 6 of the Annex II of the Convention.

<sup>21</sup> WTO documents G/RO/N/98, 13 September 2013 and G/RO/N/126, 20 February 2015.



3.24. The Customs Tariff contained in the annual Decree on Customs Tariff comprises several rates according to the source of imports. These are the MFN tariffs from non-preferential sources (termed applied), the WTO bound rates and preferential tariffs for imports from the EU, EFTA, CEFTA, the Russian Federation, Ukraine, Turkey and least developed countries (Sections 2.3.2.1 and 3.1.4.6). The Customs Tariff in the Decree reflects changes in nomenclature and the agreed tariff liberalization under the relevant trade agreements, i.e. WTO and RTAs.<sup>22</sup> Since 2011, Montenegro has submitted its Customs Tariff to the WTO Integrated Data Base annually.<sup>23</sup> Following a drop from a 2012 peak, in the period 2013-16 taxes on international trade (i.e. customs duties) accounted for 2.3%-2.6% of total tax revenue (Section 3.3.1.1.1).

### 3.1.3.2 Applied MFN tariffs

3.25. Since 2012, the tariff structure has changed through, *inter alia*, the implementation of WTO accession commitments, an increase in both the number of tariff bands and the number of duty-free tariff lines (including information technology items), and a decrease in the coverage of compound rates (see below). As a result, the 2017 simple average (unweighted) MFN applied tariff dropped slightly to 5.1% (6% in 2012) (Table 3.1 and Chart 3.1). Tariff protection varies substantially across and within sectors, averaging 12.3% for agricultural products and 3.1% for non-agricultural products in 2017 (WTO definitions).<sup>24</sup> In agriculture, average tariffs are highest for prepared food, beverages and tobacco (HS Section 4), at 15.4% (Chart 3.1, Table A3.1); on a WTO-definition basis the average rate for dairy products stands at 24.3%. Manufacturing tariffs are highest for arms and ammunition (15%), followed by footwear and headgear (HS Section 12) at 5.6%, and textiles and articles (HS Section 11) at 5.4%. By according varied levels of protection to selected industries, especially agriculture, tariffs distort competition by favouring some activities.

**Table 3.1 Tariff structure of Montenegro, 2012 and 2017**

(%, unless otherwise indicated)

	MFN applied		Current bound <sup>a</sup>	Final bound <sup>a</sup>
	2012	2017		
Bound tariff lines (% of all tariff lines)	n.a.	n.a.	100.0	100.0
Simple average rate	6.0	5.1	6.5	6.4
WTO agricultural products	14.9	12.3	15.2	14.8
WTO non-agricultural products	3.4	3.1	4.3	4.2
Duty-free tariff lines (% of all tariff lines)	26.5	29.0	27.5	28.6
Simple average of dutiable lines only	8.1	7.2	9.0	9.0
Tariff quotas (% of all tariff lines)	0.0	0.0	0.0	0.0
Non- <i>ad valorem</i> tariffs (% of all tariff lines)	2.8	1.5	0.0	0.0
Domestic tariff "peaks" (% of all tariff lines) <sup>b</sup>	10.3	7.1	6.9	6.8
International tariff "peaks" (% of all tariff lines) <sup>c</sup>	10.3	7.1	7.4	7.4
Coefficient of variation	1.4	1.4	1.2	1.2
Nuisance applied rates (% of all tariff lines) <sup>d</sup>	21.1	21.5	7.4	6.9
Total number of tariff lines	9,383	9,528	9,833	9,833
<i>Ad valorem</i> rates	9,123	9,382	9,833	9,833
of which, duty-free rates	2,484	2,762	2,703	2,812
Compound rates with <i>ad valorem</i> ceiling	260	135	0	0
Other	0	11 <sup>e</sup>	0	0

n.a. Not applicable.

a Calculations for final bound rates are taken from the CTS database. The final bound schedule is based on HS07 nomenclature (10-digit).

b Domestic tariff peaks are defined as those exceeding three times the overall simple average applied rate.

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

<sup>22</sup> Article 1 of the Decree on Customs Tariff for 2017 and Article 4 of the Law on Customs Tariff (OG No. 28/12).

<sup>23</sup> WTO document G/MA/IDB/2/Rev.45, 21 April 2017.

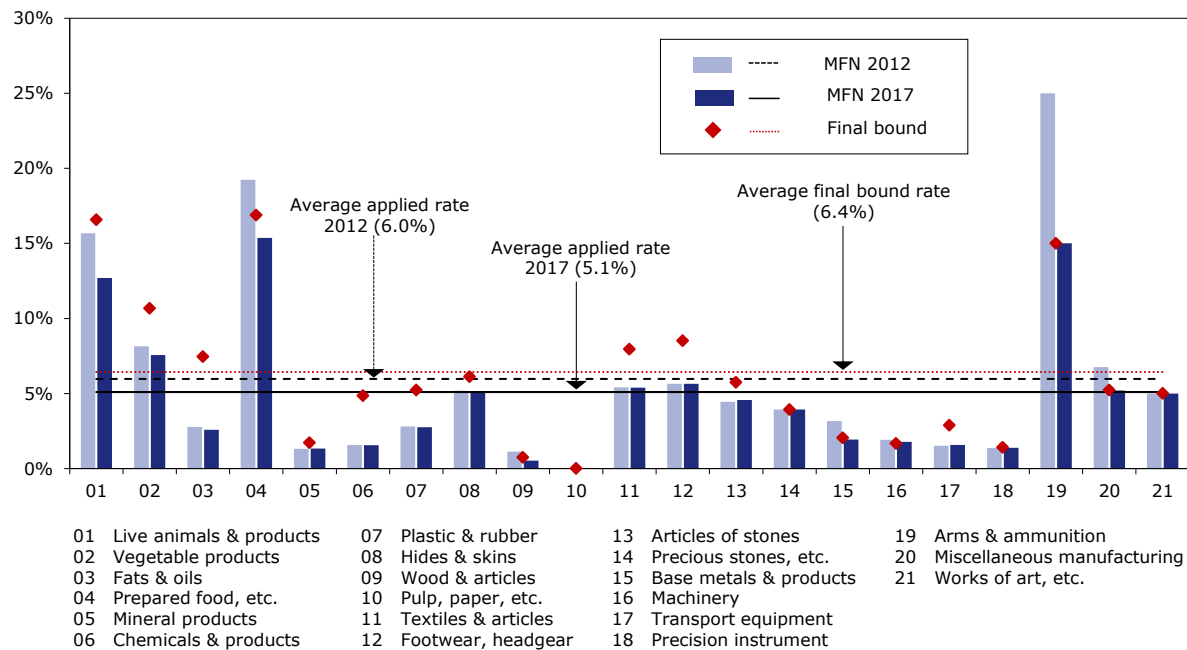
<sup>24</sup> WTO definition of industrial products covers all non-agricultural products, i.e. products not covered by the WTO Agreement on Agriculture. WTO agricultural products include all processed and unprocessed agricultural commodities (HS Chapters 1 to 24, less fish and fish products, plus some additional HS items).

- d Nuisance rates are those greater than zero, but less than or equal to 2%.
- e Other rates refer to cases where one tariff code at the national tariff line level consists of different types of duties (*ad valorem* and compound rates with *ad valorem* ceiling). For example, the tariff code of HS 07020000 consists of different types of duties (with different product descriptions), namely an *ad valorem* tariff (30%) and compound rates with an *ad valorem* ceiling (30%+€0.20/kg, max. 50%).

Note: The 2012 tariff is based on HS12 nomenclature, and the 2017 tariff on HS17. Calculations for averages are based on national tariff line level (8-digit). Simple average rate calculations contain *ad valorem* equivalents (AVEs) based on 2012 import data for the 2012 tariff and 2016 import data for the 2017 tariff at the national tariff line level. In cases of no trade flow of tariff lines subject to non-*ad valorem* rates, the *ad valorem* ceiling of the compound rate is used.

Source: WTO Secretariat calculations, based on WTO IDB and CTS database.

**Chart 3.1 Average applied MFN and bound tariff rates, by HS section, 2012 and 2017**



Note: Calculations for averages include *ad valorem* equivalents (AVEs) which were estimated based on 2012 and 2016 import data for the 2012 and 2017 tariffs, respectively, at the national tariff line level. In cases of no trade flow of tariff lines subject to non-*ad valorem* rates, the *ad valorem* ceiling of the compound rate is used. The final bound tariff is based on HS07 nomenclature, the 2012 tariff on HS 2012, and the 2017 tariff on HS17.

Source: WTO Secretariat calculations, based on WTO IDB and CTS database.

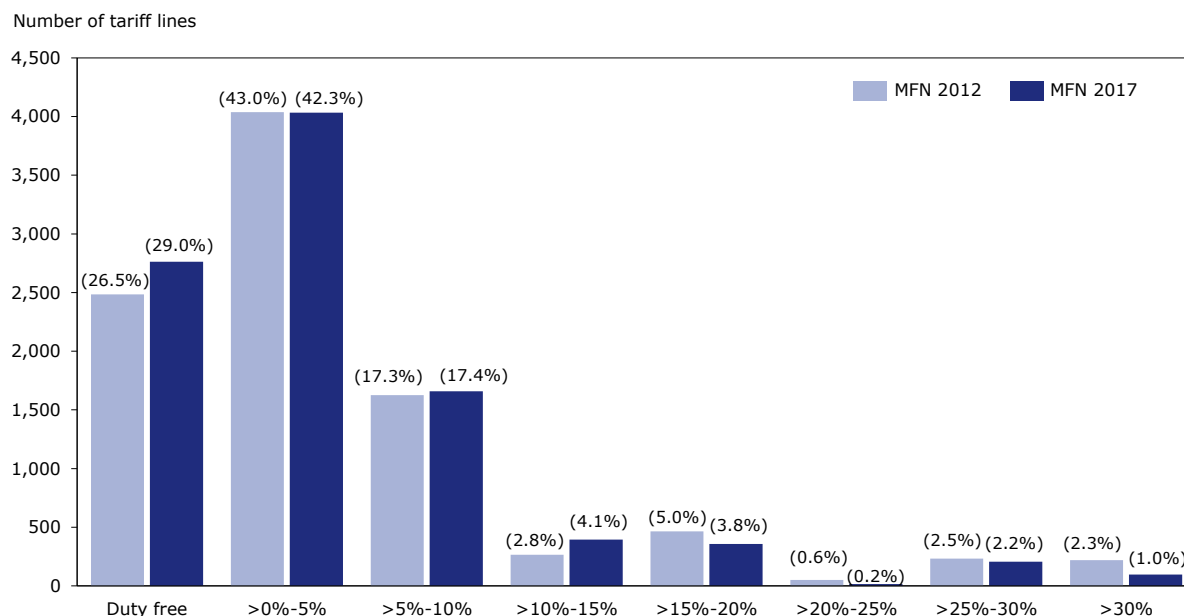
3.26. Although the tariff structure's complexity increased due to its EU alignment (Section 3.1.3.1), over 98% of tariffs are *ad valorem*, and therefore transparent. In 2017, there were some 84 (61 in 2012) different rate bands (55 *ad valorem* duties, 29 compound duties) of which 37 involved decimal *ad valorem* rates. Compound rates (see below) tied to an *ad valorem* ceiling ranging from 5% to 50% apply to 1.4% of total tariff lines (135), compared to 2.8% in 2012. Tariff rates continue to range from zero to 30% (*ad valorem* rates) or 50% (*ad valorem* ceiling of compound rate) (Table A3.1). After joining the Information Technology Agreement (ITA 2) negotiations, Montenegro's ITA 2 implementation scheme was ratified in November 2015, thus eliminating import duties on high technology products, including computers, telecommunication equipment, semiconductors, semiconductor manufacturing and testing equipment, software, scientific instruments, as well as most of the parts and accessories of these products.<sup>25</sup> Almost 89% (86.8% in 2012) of rates are 10% or below, and rates of over 30% apply

<sup>25</sup> WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011 and online information. Viewed at: [https://www.wto.org/english/tratop\\_e/inftec\\_e/montenegro.xls](https://www.wto.org/english/tratop_e/inftec_e/montenegro.xls); European Commission (2016), *Montenegro 2016 Report*, Commission Staff Working Document SWD (2016) 360 final, 9 November, Brussels. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf).

to 1% of tariff items (2.3% in 2012) (Chart 3.2). In the absence of EU tariff alignment commitments, the tariff could have been rationalized, for example, by reducing the large number of rate bands and removing decimal rates.

3.27. Non-*ad valorem* tariffs continue to be part of compound rates involving also an *ad valorem* ceiling, and to affect agricultural products, mainly wine, dairy, and meat. According to the Secretariat's calculations, by mid-2017 the *ad valorem* ceiling was attained in the case of tomatoes (50%) whereas the *ad valorem* equivalents (AVEs) for other products ranged from 30.4% to 35% (wine). Although these compound rates do not form part of Montenegro's WTO tariff binding commitments, their *ad valorem* ceilings seem in line with these undertakings (Section 3.1.3.4).

**Chart 3.2 Distribution of MFN tariff rates, 2012 and 2017**



Note: Figures in parentheses indicate the share of total lines. Calculations for averages include *ad valorem* equivalents (AVEs) which were estimated based on 2012 and 2016 import data for the 2012 and 2017 tariffs, respectively, at the national tariff line level. In cases of no trade flow of tariff lines subject to non-*ad valorem* rates, the *ad valorem* ceiling of the compound rate is used.

Source: WTO Secretariat calculations, based on WTO IDB.

### 3.1.3.3 MFN tariff dispersion and escalation

3.28. Between 2012 and 2017, indicators of tariff dispersion (coefficient of variation) and escalation, which remains pronounced, showed little change (Table 3.1 and Chart 3.3).

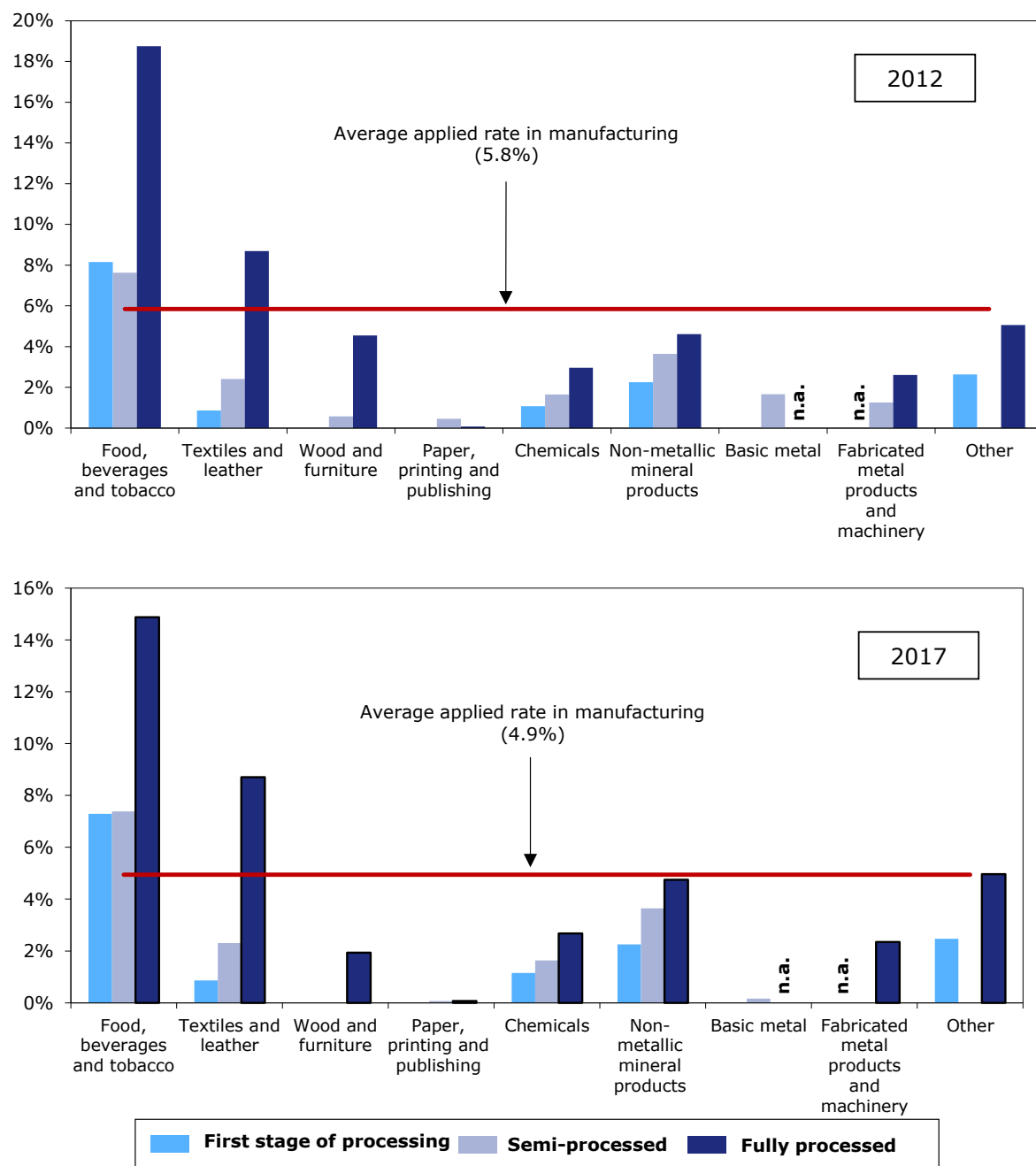
### 3.1.3.4 MFN tariff bindings

3.29. Upon accession, Montenegro bound all tariff lines on an *ad valorem* rate basis; the majority of its bindings are already in force and the implementation of the remaining commitments is to be completed in the year 2022.<sup>26</sup> Whereas all *ad valorem* ceilings of the compound rates (Section 3.1.3.2) seemed in line with binding levels in 2017, the MFN rates applied to at least 56 eight-digit HS items (covering, *inter alia*, certain meat, fish, office machines, electrical equipment, telephone sets and instruments) appeared to be higher than bound rates but action under the Decree on Customs Tariff for 2018 was to be taken to correct this situation as from 1 January 2018 (Section 3.1.3.1 and Table A3.2). The overall gap between the simple averages of

<sup>26</sup> Montenegro also undertook to not list any "other duties and charges" in its Schedule of Concessions and Commitments on Goods under Article II:1(b) of the GATT 1994, binding such charges at "zero" from the date of accession. WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011. Schedule CLXVI – Montenegro. Viewed at: [https://www.wto.org/english/thewto\\_e/countries\\_e/montenegro\\_e.htm](https://www.wto.org/english/thewto_e/countries_e/montenegro_e.htm).

MFN applied and bound rates stands at 1.4 percentage points (Table 3.1), thus ensuring largely predictable and stable market access conditions.

**Chart 3.3 Tariff escalation by 2-digit ISIC industry, 2012 and 2017**



n.a. Not applicable.

Source: WTO Secretariat calculations, based on WTO IDB.

3.30. Montenegro's Schedule of Tariff Concessions (Schedule CLXVI) remains based on the Harmonized System 2007. Similar to most developing WTO Members, the transposition into the 2012 version of the HS was prepared by the WTO Secretariat and approved by Montenegro in September 2017. At the time of writing the transposition file still requires multilateral review at an informal meeting of the Committee on Market Access scheduled for February 2018. Montenegro has not been included in several collective waivers suspending the application of the provisions of Article II of GATT 1994 to allow Members to reflect the changes resulting from the HS 2012

nomenclature in their Schedule of Tariff Concessions. However, the Ministry of Agriculture and Rural Development requested to postpone the transposition from HS 2012 to HS 2017 because of the new classification of fishery products in the latter, and in April 2017 Montenegro requested to be included in the waiver relating to the implementation of the HS 2017 changes until 31 December 2017.<sup>27</sup>

### 3.1.3.5 Tariff quotas

3.31. Montenegro applies tariff-rate quotas (TRQs) only under its RTAs (Sections 2.3.2.1.2, 2.3.2.1.4 and 3.1.4.6).<sup>28</sup> They currently affect imports of 149 agricultural products from the European Union in line with the Stabilisation and Association Agreement (e.g. poultry meat, fish, cheese, waters, and wine) since 2008, and imports of dried fruit from Turkey since 2010 (Table A3.3, Sections 4.1.1.2 and 4.1.3). TRQs are allocated by the Customs Administration on a first-come, first-served basis. Between 2012 and 2017, the fill-in ratio of these TRQs ranged from zero (certain fish) to 100% (e.g. certain fish, cheese, meat, water); the average rate rose from 30.8% (2012) to 59.8% (2013), 74.3% (2014) and 74.8% (2015) before dropping to 72.5% (2016) and 69.1% (October 2017).

### 3.1.3.6 Tariff preferences

3.32. Montenegro's expansion of bilateral and regional free trade agreement undertakings meant that its simple average tariff rate on imports from RTAs and LDCs remained considerably below the 5.1% MFN average tariff rate (Table 3.2).

**Table 3.2 Summary analysis of the preferential tariff, 2017**

	Total				WTO agriculture		WTO non-agriculture	
	Average (%) <sup>a</sup>	Duty-free lines (%) <sup>b</sup>	Agreement coverage (%) <sup>c</sup>		Average (%)	Duty-free lines (%) <sup>b</sup>	Average (%)	Duty-free lines (%) <sup>b</sup>
			duty = zero	duty > zero				
MFN	5.1	29.0	n.a.	n.a.	12.3	17.8	3.1	32.1
CEFTA	0.3	99.0	70.0	0.0	1.5	95.5	0.0	100.0
EU	0.9	94.9	65.9	3.7	3.7	80.2	0.1	99.0
EFTA								
Norway	2.3	85.2	56.2	0.7	10.2	34.1	0.02	99.7
Switzerland/Liechtenstein	1.7	86.2	57.2	5.2	7.5	38.4	0.02	99.7
Iceland	2.3	85.1	56.1	0.7	10.3	33.6	0.02	99.7
Russian Federation	0.4	97.7	68.8	0.0	1.5	95.5	0.1	98.4
Turkey	3.2	76.7	47.7	0.02	12.3	18.2	0.6	93.2
Ukraine	0.3	99.0	70.0	0.0	1.5	95.5	0.0	100.0
LDC	0.8	93.8	64.9	0.0	1.7	94.2	0.5	93.7

n.a. Not applicable.

a Average comprising both MFN and preferential rates.

b MFN and preferential tariff rate as a percentage of total tariff lines.

c % of total number of lines. Only rates that are lower than the corresponding MFN rate (excluding MFN rate = duty free) are taken into account.

Note: Calculations for averages include *ad valorem* equivalents (AVEs) which were estimated based on 2016 import data for the 2017 tariff at the national tariff line level. In cases of no trade flow of tariff lines subject to non-*ad valorem* rates, the *ad valorem* ceiling of the compound rate is used.

Source: WTO Secretariat calculations, based on WTO IDB.

<sup>27</sup> WTO documents WT/L/902, 27 November 2013; WT/L/947, 12 December 2014; WT/L/969, 2 December 2015; WT/L/999, 12 December 2016; and WT/L/999/Add.5, 21 April 2017.

<sup>28</sup> The TRQs under the bilateral trade agreements with Albania and Moldova were phased out upon the entry into force of the Additional Protocols of CEFTA, i.e. on 6 January 2012 (Albania) and 13 January 2012 (Moldova).

### 3.1.3.7 Duty concessions/exemptions

3.33. Since 2003, import duty relief has been granted by the Customs Administration upon certification of the relevant agency for various purposes including: capital goods and other equipment imported from abroad to perform activities in Montenegro (e.g. hotels with five or more stars, energy facilities or processing facilities); goods (fixed assets) imported as an investment of a foreign person; agricultural, farming, livestock breeding, forestry, fisheries, and bee-keeping products from frontier/border zones; seeds, fertilizers and products for the treatment of soil and crops; and, sea fishing products.<sup>29</sup> Between July 2016 and September 2017, the total value of import goods that were exempt from payment of customs duty under this regime stood at €42 million. No data on the customs/tax revenue forgone from import duty relief and the main products concerned were available from the authorities.

### 3.1.4 Other charges affecting imports

3.34. Under the Law on Administrative Fees (last amended in 2014) charges are set on a service cost basis; their rates are contained in the Law which is available online ([http://www.minekon.gov.me/EN/WTO/LIBRARY/ep\\_actual\\_legislation/Monetary\\_policy\\_foreign\\_exchange/Fiscal\\_policy](http://www.minekon.gov.me/EN/WTO/LIBRARY/ep_actual_legislation/Monetary_policy_foreign_exchange/Fiscal_policy)). Under the Decree on the type, amount and method of payment of the fee for the services of the customs authority, charges for customs control out of working hours and/or outside official premises are levied at a fixed amount of €15 per customs officer per hour.

### 3.1.5 Import prohibitions, restrictions, and licensing

#### 3.1.5.1 Prohibitions

3.35. Montenegro prohibits a few imports, mainly to protect health, safety, security, the environment and natural resources. Imports of radioactive waste (HS28.44.10.10, HS28.44.30.55 and HS28.44.50) and trade in nuclear materials (from HS28.44.20.25 to HS28.44.20.99) are prohibited.<sup>30</sup> No other import prohibitions are in place.

#### 3.1.5.2 Import approval and restrictions

3.36. Import approval is governed by the Law on Foreign Trade and the National Control List for Export and Import, which consolidates in a single document restrictions contained in 15 other laws.<sup>31</sup> The National Control List for Export and Import, containing the list of commodities subject to import and export licensing, is updated annually by the Ministry of Economy (MEK) to harmonize it with the Combined Nomenclature of the European Union; in 2017, the Control List was harmonized with the 2016 Amendments to the Combined Nomenclature of the European Union.<sup>32</sup> Import approval of weapons and military equipment is governed by specific legislation (Section 3.1.1.1).<sup>33</sup>

3.37. Similar to prohibitions, import licensing procedures are maintained for various reasons including protection of national security, human, animal or plant life or health, and to meet commitments under international conventions to which Montenegro is a signatory, e.g. the

<sup>29</sup> Custom Law (Article 184) and Decree on Conditions and the Procedure for Exercising Rights to Reliefs from Customs Duty Payment (undated) published in the OG No. 20/15; Secretariat for Development Projects (undated), *Investment Climate in Montenegro*.

<sup>30</sup> Decision on the control list for export and import of goods (OG No. 24/17), the Law on Ionizing Radiation Protection and Radiation Safety (OG Nos. 56/09, 58/09, 40/11 and 55/16) and the National Control List for Export and Import (OG Nos. 22/14, 38/15, 29/16, 62/16 and 24/17).

<sup>31</sup> Relevant regulations are listed in WTO document G/LIC/N/3/MNE/1, 14 April 2015, and published in OG Nos. 28/04, 37/07, 1/14, and 57/14. The National Control List for Export and Import was published in the OG Nos. 22/14, 38/15, 29/16, 62/16 and 24/17.

<sup>32</sup> In accordance with the Stabilisation and Association Agreement (SAA) between the European Communities and their Member States and the Republic of Montenegro signed on 15 October 2007. European Commission implementing Regulation (EU) No. 1821/2016, 6 October 2016.

<sup>33</sup> The Law on Foreign Trade in Weapons and Military Equipment (OG No. 40/2016) and the National Control List of Weapons and Military Equipment (OG No. 33/17) and online information. Viewed at: <https://www.eu.me/mn/31/31-dokumenti>.



Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).<sup>34</sup> In 2017, these requirements covered approximately 356 ten-digit HS tariff items, or 3.6% of all tariff lines, comprising explosives, headgears, optical instruments, pharmaceutical products, insecticides, contact lenses, uranium and apparatus based on the use of X-rays or alpha, beta or gamma radiation (Table 3.3), compared to 240 items in 2011 (2.6% of all tariff lines (HS07)); according to the authorities, this increase was, *inter alia*, due to HS Nomenclature changes, and the insertion of some items into the National Control List (e.g. certain chemicals and medical devices).<sup>35</sup> Regarding the importation of used products certain technical requirements must be met.<sup>36</sup> Used motor vehicles being imported or being marketed for the first time in Montenegro can be put into free circulation and must meet the prescribed safety and technical requirements, conditions related to environment protection and human health, in accordance with the "Rulebook on technical requirements and conditions for vehicles imported or marketed for the first time in Montenegro and requirements that must be met by legal entity authorized for approval of vehicles" (OG No. 5/15) i.e. EU Directives and Regulations in this field. The amount of costs incurred when importing or placing a vehicle on the market is determined by the Decision on Homologation Expenses for Vehicles which are Imported or Put on the Market in Montenegro for the First Time (OG No. 50/15). Waste tyres can only be imported for processing, on the basis of an approval or an import licence issued by the Environmental Protection Agency, provided that their import does not endanger the environment or human health.<sup>37</sup>

**Table 3.3 Import licensing in 2017**

Ministry/Agency	Products (tariff lines)	Validity period
Ministry of Economy	Porous aluminium nitrate for explosives (1)	1 year
	Explosives, pyrotechnic products, matches, pyrophoric alloys, certain combustible preparations (20)	1 year
	Other made-up textile articles, sets, worn clothing and worn textile articles, rags (1)	1 year
	Headgear and parts thereof (2)	1 year
	Silver, base metals clad with silver, gold, coin (31)	1 year
	Miscellaneous articles of base metal (1)	1 year
	Machines (devices) for the production of optical disks (4)	1 year
	Electrical machinery and equipment and parts thereof, sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles (6)	1 year
	Aircraft, spacecraft, and parts thereof (6)	1 year
	Photographic, cinematographic, measuring, checking, precision (1)	1 year
	Arms and ammunition, parts and accessories thereof (14)	1 year
	Toys, games and sports requisites, parts and accessories thereof (2)	1 year
	Optical, medical or surgical instruments and apparatus, parts and accessories thereof (1)	3 months
	Pharmaceutical products (55)	3 months
Agency for Medicines and Medical Devices or state administration body in charge of matters relating to human health protection	Artificial tears solutions, contact lenses (1)	3 months
	Stockings for varicose veins of synthetic fibres (1)	3 months
	Glass and glassware (1)	3 months
	Medical, surgical or laboratory sterilizers (1)	3 months
	Contact lenses (49)	3 months
	Dentists' chairs (2)	3 months
	Miscellaneous articles (1)	3 months
	List of narcotic drugs, psychotropic substances and plants that may be used for the production of narcotic drugs - Annex 1 of the National Control List	3 months
	List of psychotropic substances and plants	6 months

<sup>34</sup> These reasons are set out in Article 3a of the Law on Foreign Trade of 2004. In the case of CITES, ozone depleting substances and waste management licensing intends to control the quantity of imports (i.e. quotas).

<sup>35</sup> Paragraph 112 in WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

<sup>36</sup> Article 30 of the Law on Foreign Trade.

<sup>37</sup> Article 49, paragraphs 1 and 2 of the Law on Waste Management (OG Nos. 64/11 and 39/16).

Ministry/Agency	Products (tariff lines)	Validity period
	Group 1. Psychotropic substances harmonized with List I of the UN Convention on Psychotropic Substances of 1971	
	Group 2. Psychotropic substances harmonized with List II of the UN Convention on Psychotropic Substances of 1971	6 months
	Group 3. Psychotropic substances harmonized with List III of the UN Convention on Psychotropic Substances of 1971	6 months
	Group 4. Psychotropic substances harmonized with List IV of the UN Convention on Psychotropic Substances of 1971	6 months
	Narcotics – including derivatives and salts (51 or 148 "ex" positions in Annex 2 of the National Control List)	6 months
	Precursors (23 in Annex 3 of the National Control List)	30 days
Environmental Protection Agency or state administration body in charge of matters relating to human health protection	Uranium or thorium ores and concentrates (4)	1 year
	Natural uranium (33)	1 year
	Organic chemicals (16)	1 year
	Plastics and articles thereof (2)	1 year
	Nuclear reactors (4)	1 year
	Apparatus based on the use of X-rays or of alpha, beta or gamma radiation, and X-ray tubes (8)	1 year
	Wastes	1 year
	Substances that deplete the ozone layer (Annex 4 of the National Control List), alternative substances and the list of products containing ozone depleting substances or produced by means of such substances	1 year

Source: The National Control List for Export and Import (OG Nos. 22/14, 38/15, 29/16, 62/16 and 24/17). Viewed at: [http://www.mek.gov.me/sto/biblioteka/tr\\_aktuelna\\_legislativa/zakon\\_o\\_spoljnoj](http://www.mek.gov.me/sto/biblioteka/tr_aktuelna_legislativa/zakon_o_spoljnoj); and information provided by the authorities.

3.38. Although all licences are non-automatic, they are not intended to restrict the quantity or value of imports.<sup>38</sup> They are granted by 3 institutions – the Ministry of Economy, the Agency for Medicines and Medical Devices, and the Environmental Protection Agency – upon consultation with other relevant state bodies whenever required. According to the authorities, licence applications are screened or checked in a "fair" manner and reasons for any refusal are given in writing. The period for processing applications for import, transit, or export licences (Section 3.2.3) must not exceed 30 calendar days as of the day of application (when received) and are processed on a first-come first-served basis. According to the authorities, it is not difficult to obtain a licence and it may be used for multiple shipments during its period of validity; in practice, processing does not usually exceed an average of 30 days, and consideration starts on the day following the closing date of the announced application period.<sup>39</sup> An annual import quota for drugs must be observed in line with Montenegro's commitments under the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. The decision fees for import licences for medicines and medical devices are based on the total import value, and those relating to the import/export/transit of drugs and psychotropic substances in line with the international conventions amount to 1% of the total import/export/transit value rather than the service cost.<sup>40</sup> According to the authorities, these fees are based on the merchandise value because the cost of the evaluation and inspection service depends on the import value, i.e. a higher value usually means that there are more medicines to control.

<sup>38</sup> According to the authorities, under Article 19 of the Law on Foreign Trade, the Government may prescribe automatic licences for administrative or statistical purposes ensuring that such licences do not restrict foreign trade. The system of automatic licences may remain in place for as long as the circumstances which gave rise to its introduction prevail and as long as its underlying administrative purposes cannot be achieved in a more appropriate way. According to the authorities, such licences are optional and were used once temporarily on CD imports. WTO document G/LIC/N/3/MNE/1, 14 April 2015.

<sup>39</sup> U.S. Department of Commerce (2017), *Montenegro Country Commercial Guide 2016*. Viewed at: [https://me.usembassy.gov/wp-content/uploads/sites/250/2017/02/Montenegro\\_2016\\_CCG.pdf](https://me.usembassy.gov/wp-content/uploads/sites/250/2017/02/Montenegro_2016_CCG.pdf).

<sup>40</sup> Upon accession, Montenegro undertook to ensure that all fees and charges for services applied in connection with importation and exportation would be applied in conformity with the WTO Agreement, including Articles VIII and X of the GATT 1994. WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

3.39. Permission to conduct activities is necessary for: the import and export of tobacco, processed tobacco and tobacco products; tobacco processing; production of tobacco products; and wholesale and retail trade of tobacco products (Sections 3.3.6.3.2 and 4.1.1).<sup>41</sup> The Tobacco Agency under the Ministry of Agriculture and Rural Development (MARD) is the administrative authority responsible for registering and licensing all participants in the chain of production and trade of tobacco, as well as monitoring the situation in the tobacco products market for the purposes of controlling illegal trade and ensuring fair market competition.<sup>42</sup>

3.40. Since its accession, Montenegro has made one notification under the Agreement on Import Licensing Procedures and another containing its replies to the Questionnaire on Import Licensing procedures; both notifications were submitted on 14 April 2015 (Section 2.3.1).<sup>43</sup> Montenegro's notification under the 2012 Decision on Notification Procedures for Quantitative Restrictions is pending.<sup>44</sup> The authorities plan to submit pending notifications in this area in the course of 2018.

3.41. Although the 2004 Law on Foreign Trade decreased the barriers for doing business and executing foreign trade transactions in accordance with WTO Agreements, it still provides for some restrictive measures, such as quotas.<sup>45</sup> Under the Law on Foreign Trade, quantitative restrictions on imports may be imposed as a safeguard or for balance-of-payments purposes (Section 3.1.7).<sup>46</sup> Since Montenegro's accession to the WTO no such measures have been taken.

### 3.1.6 Anti-dumping, countervailing, and safeguard measures

3.42. Montenegro notified its legislation on anti-dumping, countervailing and safeguard measures in 2013 and 2014 and considers it in line with the relevant WTO provisions (Section 2.3.1).<sup>47</sup> Its notification indicates that the relevant provisions of the WTO agreements in these areas were incorporated into national law in the period 2004-07.<sup>48</sup> Legislation in this area was part of the agenda of the WTO Committee on Anti-Dumping Practices meeting held on 29 October 2014; Montenegro provided written answers to the written questions of the United States in this area.<sup>49</sup> According to the authorities, no contingency measures have been introduced so far.

3.43. The MEK is responsible for conducting investigations upon written request filed by or on behalf of the domestic industry (i.e. producers collectively accounting for more than 25% of the national output of a like product).<sup>50</sup> A notification announcing the initiation of proceedings must be published in the Official Gazette (OG). The investigation should be concluded within one year of the initiation. Upon confirmation by the Ministry of the existence of dumping or subsidization, and the resulting injury to the domestic industry, a recommendation is made to the Government, which decides on the imposition of an anti-dumping or countervailing duty. Decisions to levy anti-dumping or countervailing duties – whether provisionally or definitely – are published in the OG. Provisional anti-dumping duties can be levied for a maximum period of six months; for provisional countervailing duties, the period should not exceed four months. Subject to review by the Ministry, anti-dumping or countervailing duties remain in force as long as necessary to remedy the injury, but not for more than four years.

<sup>41</sup> Law on Tobacco (OG Nos. 48/08, 76/08, 40/11 and 42/15).

<sup>42</sup> Online information. Viewed at:

[http://www.who.int/fctc/reporting/party\\_reports/montenegro\\_5y\\_report.pdf](http://www.who.int/fctc/reporting/party_reports/montenegro_5y_report.pdf) and <http://www.pioneer-investors.com/article.asp?ItemID=3394&cid=3&scid=48&page=3>.

<sup>43</sup> WTO documents G/LIC/N/1/MNE/1 and G/LIC/N/3/MNE/1, 14 April 2015.

<sup>44</sup> WTO document G/L/59/Rev.1, 3 July 2012.

<sup>45</sup> U.S. Department of Commerce (2017), *Montenegro Country Commercial Guide 2016*. Viewed at: [https://me.usembassy.gov/wp-content/uploads/sites/250/2017/02/Montenegro\\_2016\\_CCG.pdf](https://me.usembassy.gov/wp-content/uploads/sites/250/2017/02/Montenegro_2016_CCG.pdf).

<sup>46</sup> U.S. Department of Commerce (2017), *Montenegro Country Commercial Guide 2016*. Viewed at: [https://me.usembassy.gov/wp-content/uploads/sites/250/2017/02/Montenegro\\_2016\\_CCG.pdf](https://me.usembassy.gov/wp-content/uploads/sites/250/2017/02/Montenegro_2016_CCG.pdf).

<sup>47</sup> WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

<sup>48</sup> Act Number 01-622/2 of 26 April 2004, published in the OG No. 28 on 29 April 2004; Amendments to the Law on Trade, Act Number 01-772/2 of 11 June 2007, published in the OG No. 37 on 19 June 2007 and Decree for the implementation of the Law on Foreign Trade, Act Number 02-4452 of 8 July 2004 published in the OG No. 52 of 2 August 2004; Amendments to the Decree for the implementation of the Law on Foreign Trade, Act Number 03-4946 of 28 June 2007 published in the OG No. 44 of 23 July 2007. WTO documents G/ADP/N/1/MNE/1, G/SCM/N/1/MNE/1, G/SG/N/1/MNE/1, 26 September 2013, and G/ADP/N/1/MNE/1/Suppl.1, G/SCM/N/1/MNE/1/Suppl.1, G/SG/N/1/MNE/1/Suppl.1, 9 May 2014.

<sup>49</sup> WTO document G/ADP/M/47, 2 February 2015.

<sup>50</sup> WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

3.44. Safeguard measures in the form of a quantitative restriction or a price-based measure can also be imposed upon recommendation of the MEK.<sup>51</sup> The recommendation must derive from an investigation and the decision to initiate it is published in the OG. A provisional safeguard measure – in the form of a tariff increase for a period not exceeding 200 days – may be adopted based on evidence that the increased imports were causing or threatening to cause serious injury to the domestic industry, and a delay would cause injury difficult to repair. Safeguard measures may remain in force as long as necessary to remedy an injury, but not for more than four years (or a total of eight years in exceptional circumstances).

## 3.2 Measures Directly Affecting Exports

### 3.2.1 Customs procedures and requirements

3.45. Similar to imports, all persons registered in accordance with the customs regulations can undertake export operations, and the same types of documents are required (Section 3.1.1.1). Following the 2016 amendment to the Customs Law Implementing Regulation (Section 3.1.1.1), simplified export procedures are available upon request of the exporting company. Only operators having access to simplified procedures based on bookkeeping records can submit customs declarations electronically without support documents (Section 3.1.1.1); even in such cases, 7 or 30 days later a supplementary declaration accompanied by the invoices for the exported goods must be submitted to the controlling customs office. According to World Bank Doing Business data, in 2016 exporting a shipment of goods required border and documentary compliance equivalent to 8 hours and US\$158, and 5 hours and US\$67, respectively. In 2013, exporting a shipment of goods required 6 documents, took 14 days and cost US\$985.<sup>52</sup> According to Montenegro's 2017 TRS (Section 3.1.1.1), the average release times by type of transport and customs regime are as follows: 8 hours 7 minutes for road cargo export; and, 2 hours 22 minutes for air cargo exports.

### 3.2.2 Taxes, charges, and levies

3.46. Since 2006, Montenegro has not applied any export duties.<sup>53</sup>

### 3.2.3 Export prohibitions, restrictions, and licensing

3.47. Since 2017, exports of some kinds of wood and wood products (HS 44.01.11.00, HS 44.01.12.00 and HS 44.03), in total 26 tariff lines, are temporarily prohibited until 1 May 2019 (Section 4.1.2).<sup>54</sup>

3.48. Quantitative restrictions on exports may be imposed – in case of critical shortages of products essential to Montenegro, for the relief of consequences of such shortages, or in order to protect exhaustible natural resources – if export restrictions are applied simultaneously with restrictions on domestic production or consumption. In 2014, Montenegro adopted the classification of goods for export into the following regimes: free exports (LB) and licensed exports (D). Non-automatic export licences are required for the following commodities: drugs, medicines derived from blood and for immunological products, precious metals, explosives, arms, military equipment, and national art treasures. The requirement for a non-automatic licence for the exportation of ferrous and non-ferrous scrap metal was abolished on 23 December 2011.<sup>55</sup> Export licence fees are contained in the Law on Administrative Fees (Section 3.1.4). Fees for issuance of the approval for export of immunological medicine and medicine derived from blood and plasma are contained in Decision on the payment method and fees for the issuance of authorizations, certificates and approvals for the manufacture and marketing of medicines (OG No. 22/13, 17 May 2013).

<sup>51</sup> WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

<sup>52</sup> World Bank (2016), *Doing Business 2017: Equal Opportunity for All – Economy Profile 2017 Montenegro*, Washington, D.C. Viewed at: <http://www.doingbusiness.org/~media/wbg/doingbusiness/documents/profiles/country/mne.pdf>; World Bank (2013), *Doing Business 2014 Economy Profile: Montenegro*, 29 October, Washington, D.C. Viewed at: <https://openknowledge.worldbank.org/bitstream/handle/10986/18469/829130Monteneg0Box0382100B00PUBLIC0.pdf?sequence=1&isAllowed=y>.

<sup>53</sup> WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

<sup>54</sup> Decision on Temporary Limitation of Export of Certain Wood Articles (OG No. 23/17), and the National Control List for Export and Import (OG Nos. 22/14, 38/15, 29/16, 62/16 and 24/17).

<sup>55</sup> WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

3.49. Montenegro applied for membership in the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies in September 2015 and has provided relevant information as requested.<sup>56</sup> According to the authorities, the arrangement plays a significant role in contributing to regional and international security and stability.

### 3.2.4 Export support and promotion

#### 3.2.4.1 Subsidies

3.50. Montenegro provides no export subsidies to agricultural or other products.<sup>57</sup>

#### 3.2.4.2 Duty and tax concessions

3.51. Montenegro allows for the reimbursement of customs duties and VAT on inputs used in the manufacture of export goods. The Customs Law provides for the repayment/reimbursement to the exporter of the amount of customs duties paid on inputs used for exported goods, or their write-off (repayment system). Exports are VAT-free. Based on input invoices, the amount of VAT paid on inputs used for export items is refunded to taxpayers who mainly export goods (income from abroad more than 51% of total revenues) and indicate a surplus of input VAT in more than three successive VAT returns, within 30 days from the date of filing of the VAT return (Sections 3.3.1.1.2 and 3.3.1.2).<sup>58</sup> No data from 2012 onwards on the amounts disbursed and the export value by main product category involved were available from the authorities.

#### 3.2.4.3 Free-trade export zones

3.52. Since 2004, Montenegro has allowed for the operation of free zones and warehouses aimed at achieving significant results in exportation, employment, modern technology transfer, economic restructuring, etc. Their legal framework, which seems in line with EU legal standards, consists of the 2004 Law on Free Zones last amended in 2016 to restrict tax benefits only to goods entering for processing or handling and introduce control of weapons and military equipment in free zones and warehouses.<sup>59</sup> Benefits for both domestic and foreign investors include: free import without customs duties, customs fees or value-added tax (VAT); storage incentives; and simplified customs procedures.<sup>60</sup> Licences or other possible foreign trade restrictions do not apply to foreign goods imported into free zones and warehouses or to goods for export abroad. Goods leaving free zones or warehouses to be brought into free circulation in Montenegro are subject to all import measures under the Law on Foreign Trade. The Port of Bar, established in 2000, is currently the only free trade zone in Montenegro. As at end-October 2017, there were 28 firms with a turnover

<sup>56</sup> European Commission (2016), *Montenegro 2016 Report*, Commission Staff Working Document SWD(2016) 360 final, 9 November, Brussels. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf); and online information. Viewed at: <http://www.wassenaar.org/about-us/>.

<sup>57</sup> WTO documents G/AG/N/MNE/4, 13 February 2017 and G/AG/N/MNE/3, 23 April 2015.

<sup>58</sup> Articles 37 and 38 of the Law on VAT prescribe conditions for deduction of input VAT. Ministry of Economy (2017), *Business Stimulating Programs*, Podgorica. Viewed at: [http://www.bizniszona.me/wp-content/uploads/2017/06/Business-Stimulating-Programs\\_brochure.pdf](http://www.bizniszona.me/wp-content/uploads/2017/06/Business-Stimulating-Programs_brochure.pdf).

<sup>59</sup> Law on Free Zones (OG Nos. 42/04, 11/07, 76/08, 73/10, 40/11, and 40/16). Viewed at: [http://www.minekon.gov.me/EN/WTO/LIBRARY/tg\\_actual\\_legislation/Free\\_zones](http://www.minekon.gov.me/EN/WTO/LIBRARY/tg_actual_legislation/Free_zones); Secretariat for Development Projects (undated), *Investment Climate in Montenegro*; U.S. Department of Commerce (2017), *Montenegro Country Commercial Guide 2016*. Viewed at: [https://me.usembassy.gov/wp-content/uploads/sites/250/2017/02/Montenegro\\_2016\\_CCG.pdf](https://me.usembassy.gov/wp-content/uploads/sites/250/2017/02/Montenegro_2016_CCG.pdf); European Commission (2016), *Montenegro 2016 Report*, Commission Staff Working Document SWD (2016) 360 final, 9 November, Brussels. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf).

<sup>60</sup> Complete equality has been guaranteed to foreign investors in reference to ownership rights, economic activity in the zone, transfer of profits and deposits, and investment security. Under Article 23 of the 2004 Law on Free Zones users and zone operators are not liable to profit tax. Upon its accession, Montenegro undertook that its free zones or free economic zones would be administered in compliance with WTO provisions, including those under the WTO TRIPS, TRIMs, and Subsidies and Countervailing Measures Agreements, and that the right of firms to establish and operate in these zones would not be subject, *inter alia*, to export performance, trade balancing, or local content requirements. WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011; U.S. Department of Commerce (2017), *Montenegro Country Commercial Guide 2016*. Viewed at: [https://me.usembassy.gov/wp-content/uploads/sites/250/2017/02/Montenegro\\_2016\\_CCG.pdf](https://me.usembassy.gov/wp-content/uploads/sites/250/2017/02/Montenegro_2016_CCG.pdf).



of €9.7 billion employing 425 persons operating at the Port of Bar Free Zone, of which: 20 began their activity prior to 2012; 11 had their headquarters abroad; 18 operated in transshipment, storage and purchase and sale of goods; 5 supplied goods to vessels and duty-free shops; 1 supplied fuel to vessels; 1 engaged in storage, processing and trade of fertilizers; 1 ensured maintenance of the port information system; and 1 provided berthing, unberthing, pilotage and towage of vessels. No data on the amounts of forgone tax revenue relating to the free zone's operations were available from the authorities.

### 3.2.5 Export finance, insurance, and guarantees

3.53. No measures seem to be in place in this area. Regarding the regulatory framework on export credits, the Ministry of Finance in cooperation with the Investment and Development Fund of Montenegro (IDF) passed a Law on Amendments to the Law on the Investment and Development Fund of Montenegro (IDF) (OG No. 080/17, 1 December 2017), which defines IDF responsibilities related to export credits. Both institutions are to adopt a regulation on the modalities for issuing export credits, no later than one year after the day of entry into force of the new Law, which would be harmonized with the relevant EU regulations. Public debate on the draft legislation concluded in August 2017 and, by end-November of the same year, it was under parliamentary procedure. At the same time, the setting of export guarantees was under consideration.

## 3.3 Measures Affecting Production and Trade

### 3.3.1 Incentives

#### 3.3.1.1 Taxation

##### 3.3.1.1.1 Features

3.54. Total tax revenue as a share of GDP remains stable and relatively high (25.7% in 2016).<sup>61</sup> Since 2012, Montenegro's reliance on indirect taxes rose and their share in tax revenues remained high at 70% (Table 3.4). VAT remains the main indirect tax component, followed by excises. Following a drop in 2013, taxes on international trade (i.e. customs duties) accounted for 2.3%-3.7% of total tax revenues; during the period 2013-2016, taxes on international trade increased in value terms but their share as a percentage of total tax revenues decreased. Exports are generally exempt from indirect taxes.

**Table 3.4 Structure of direct and indirect tax revenue, 2012-16**

	2012	2013	2014	2015	2016
Total tax revenue (€ million)	786.0	863.5	950.1	925.6	1,012.8
	(% of total tax revenue)				
Direct taxes	23.9	20.7	20.7	20.8	21.6
Personal income tax	14.0	14.4	14.4	14.7	15.8
Corporate income tax	8.1	4.7	4.7	4.6	4.5
Taxes on turnover of real estate	1.8	1.6	1.6	1.6	1.3
Indirect taxes	68.1	71.0	71.2	70.2	69.9
Value-added tax	45.1	49.7	52.4	49.4	49.4
of which: on imports	28.9	30.7	32.8	29.3	30.9
Excises	19.3	18.7	16.5	18.4	18.0
of which: on imports	9.7	9.4	8.2	9.4	9.8
Taxes on international trade (i.e. customs duties)	3.7	2.6	2.3	2.5	2.4
Local government taxes	6.5	7.7	7.5	8.2	7.6
Other taxes	1.5	0.6	0.6	0.8	0.9

Source: Ministry of Finance of Montenegro. Viewed at: <http://www.mif.gov.me/organizacija/sektor-za-ekonomsku-politiku-i-razvoj/176123/SAOPsTENJE-GDDS-tabela-sa-fiskalnim-i-podacima-o-javnom-dugu.html>.

<sup>61</sup> According to the IMF, in 2016 taxes accounted for 62.1% of total government revenue (62.2% in 2012); the rest consisted of social security contributions (27.2%), non-tax revenues (11.4%), and grants (0.7%). IMF (2017), *Montenegro - 2017 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Montenegro*, IMF Country Report No. 17/276, 13 September, Washington, D.C. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>. Online data viewed at: <http://www.mif.gov.me/organizacija/sektor-za-ekonomsku-politiku-i-razvoj/176123/SAOPsTENJE-GDDS-tabela-sa-fiskalnim-i-podacima-o-javnom-dugu.html>.



### 3.3.1.1.2 Indirect taxation

3.55. Montenegro's indirect tax structure comprises a broad-based value-added tax (VAT), excise taxes and a coffee tax all applied under the same rates and conditions to domestic and foreign goods and services according to the authorities (Tables 3.5 and 3.6). The general VAT rate on goods and services was raised to 21% on 1 January 2018, previously at 19% (2013-17) and 17%.<sup>62</sup> The reduced rates of zero and 7%, *inter alia* covering basic food products, remain unchanged (Table 3.5). VAT exemptions cover, *inter alia*, services of general interest and other services such as insurance and reinsurance services, sale of real estate, banking and financial services and services of games of chance and entertaining games. The VAT valuation basis is the c.i.f. price plus customs duties and other taxes, wherever applicable. Exports are zero-rated for VAT.

**Table 3.5 Value-added tax in Montenegro, 2018**

Object of taxation	Rate
<b>I. Sale of all goods and services and imports of all goods (excluding those for which paying of reduced or zero VAT rate is prescribed)</b>	<b>21%</b>
<b>II. Sale of goods and services and imports of goods:</b>	<b>7%</b>
Basic products for human consumption (milk, bread, oil and sugar)	
Medicines (including veterinary medicine); orthotic and prosthetic tools	
Textbooks and teaching aids; books, monographic and serial publications; daily and periodic press	
Services of accommodation in hotels, motels, tourist settlements, boarding houses, leisure, camps and villas	
Potable water, except for bottled water	
Services of public transportation of passengers and their personal baggage	
Services of public hygiene	
Funeral services and goods related to those services	
Copyrights and services in the area of education, literature and art; copyright in the areas science and art products, collections and antiques	
Services regarding the use of sports facilities for non-profit purposes	
Services provided in marinas	
Fodder, fertilizer, devices for plant protection, reproduction seeds, planting material and breeding stock	
<b>III. Sale of goods and services and imports of goods:</b>	<b>Zero</b>
Goods that have been exported from Montenegro by the seller or exported on his behalf by another person	
Sale of services, including transport and other ancillary services	
Goods exported from Montenegro by a purchaser that is another person on behalf of the purchaser, who has not established a business in Montenegro, except for goods intended to sale private watercrafts, aircrafts means of transport for private use	
Services performed on goods imported in Montenegro and exported by a person who has provided the service or by a client if he has not established the headquarters, business unit, i.e. a permanent or usual residence in Montenegro	
Sale of services provided by representatives or other intermediaries in the name and for the account of another person, provided that those services are a part of services listed in the relevant legislation or services provided outside Montenegro. Exemption does not relate to travel agents that are providing services in the name and for the account of travellers outside Montenegro	
Sale of fuel and other necessary goods used for supplying	
Vessels for open-sea sailing which transport passengers for consideration that are intended for performing commercial and industrial activities; sea rescue and assistance vessels	
Military vessels leaving Montenegro, whose destinations are foreign piers, that is anchorages	
Goods and services used in international air and maritime traffic	
Goods and services intended for	
The official purposes of diplomatic and consular representatives	
The official purposes of international organizations, if provided by an international treaty	

<sup>62</sup> In addition, in an effort to harmonize with European Union rules in this area, a series of exceptions were specified to the applicable general rule that services are taxable according to the place of a service provider irrespective of supplies to VAT payers (so-called B2B supplies) and to entities that are not VAT payers (so-called B2C supplies). Law on Amendments to the Montenegrin VAT Law passed by the Parliament on 6 July 2017 and entered into force the following month. Online information. Viewed at: <https://home.kpmg.com/me/en/home/insights/2017/07/bill-of-the-law-on-amendments-to-the-montenegrin-vat-law.html>; <https://home.kpmg.com>; <http://www.mif.gov.me/biblioteka/zakoni>; and <https://www.pwc.at/de/newsletter/cee-spotlight/serbien-montenegro/2013/9-13-tax-alert-increase-of-vat-in-montenegro.pdf>.

Object of taxation	Rate
For personal needs of foreign staff of diplomatic and consular representatives including their family members	
For personal needs of foreign staff of international organizations including members of their families, if provided by international treaties	
Medicines and medical devices, determined by the list of medicines, i.e. medical devices prescribed and issued at the expense of the Health Insurance Fund of the Republic	
Goods and services used for exploration of petroleum drills on the open sea	
Sale of goods and services for construction and equipping of five or more star hospitality industry facilities, electricity generation facilities with nameplate capacity higher than 10 MW and facilities for production of foodstuffs classified in section C group 10 of the Law on classification of Activities (OG No. 18/11) whose investment value exceeds €500,000	
Deliveries of goods to the free zone, free and customs warehouses and deliveries of goods within a free zone, free and customs warehouses	
Delivery of goods or services when it is envisaged by international agreements or contracts on donations that taxes shall not be paid from the received funds	
Sale of goods or services carried out in accordance with a credit or loan contract concluded between Montenegro and an international financial organization or another State as well as between a third party and an international financial organization or another State where Montenegro acts as a guarantor in the part being financed from received monetary proceeds, when such a contract envisages that taxes shall not be paid from monetary proceeds	
<b>IV. Services of general interest and other services:</b>	<b>Exempt</b>
Public postal services, as well as sale of goods directly related with these	
Health services and care and delivery of goods including sale of human organs, blood and human milk, performed in accordance with the relevant legislation	
Social security services performed in accordance with the relevant legislation	
Services in education performed in accordance with the relevant legislation	
Services related to culture, as defined in the relevant legislation	
Services related to sport and sport education performed by non-profit organizations (unions, associations, etc.)	
Services of public radio broadcasting service, except for services of commercial character	
Religious services and sale of goods directly linked to religious services performed by religious institutions, in accordance with the regulations related to those communities	
Services provided by non-government organizations established in accordance with the regulations governing the activities of these organizations, unless there is probability that such exemption would lead to a distortion of competition	
Insurance and reinsurance services, including services provided by insurance brokers and agents	
Sale of real estate, except the first transfer of the ownership rights, that is the rights to dispose of newly-constructed immovable property	
Services of leasing or subletting of residential houses, apartments and permanent residential premises for longer than 60 days and lease of agricultural land or forests, which are registered in land books	
Banking and financial services, such as: credits, guarantees, deposits, savings, bank accounts, payment transactions, transfers, executing due liabilities, cashing cheques or other financial instruments, except for recovery of debts and factoring; transactions, including the issuing of bank notes and coins, which are legal tender in any country, excluding collector items (numismatic collection); bank notes not in use as legal tender, and coins with a numismatic value; trading in shares, that is other forms of equity interests in companies, bonds and other securities, including their issuance, except for the safekeeping of securities; and investment fund management	
Current postage stamps, administrative and court and tax stamps	
Sale of gold and other precious metals by the Central Bank of Montenegro	
Services of gambling	

Source: Information provided by the authorities.

3.56. Excise taxes apply to alcohol and alcoholic beverages, tobacco products, mineral oils, mineral oil derivatives and their substitutes, and since 2012 carbonated water (Table 3.6). The Law on Excise was last amended in August 2017 to consolidate public finances and to harmonize the excise policy with the relevant EU policy.<sup>63</sup> This amendment introduced a gradual increase of the excise on cigarettes based on an "excise duty calendar".<sup>64</sup>

<sup>63</sup> Online information. Viewed at: [http://webcache.googleusercontent.com/search?q=cache:Z2s0vez\\_kVcJ:www.gov.me/ResourceManager/FileDownload.aspx%3Frid%3D269867%26Type%3D2+%cd=1&hl=en&ct=clnk&ql=ch](http://webcache.googleusercontent.com/search?q=cache:Z2s0vez_kVcJ:www.gov.me/ResourceManager/FileDownload.aspx%3Frid%3D269867%26Type%3D2+%cd=1&hl=en&ct=clnk&ql=ch) and <https://home.kpmg.com/me/en/home/insights/2017/06/increase-in-the-general-vat-rate-and-excise-duty-rates-in-monten.html>.

<sup>64</sup> *Economic Reform Programme for Montenegro 2017–2019*.

Table 3.6 Excise tax rates, 2017-18

	Rates
<b>Alcohol and alcoholic beverages</b>	<p>€5 "per content" of alcohol by volume per hectolitre of beer          €0 (nil) per hectolitre of still wine          €35 per hectolitre of sparkling wine          €0 (nil) per hectolitre of other non-sparkling fermented beverages          €35 per hectolitre of other sparkling fermented beverages          €100 per hectolitre of intermediate alcoholic beverages; and          €850 per hectolitre of ethyl alcohol</p> <ul style="list-style-type: none"> <li>- from 1 January 2018 to 31 December 2018 - €1,050;</li> <li>- from 1 January 2019 to 31 December 2019 - €1,250; and</li> <li>- from 1 January 2020 - €1,500.</li> </ul>
<b>Tobacco products</b>	<p><b>Specific component of excise tax on cigarettes</b> (1,000 pieces):</p> <p>From 1 November 2014 until 31 March 2015 - €19;          From 1 April 2015 until 31 March 2016 - €20;          From 1 April 2016 until 31 March 2017 - €22;          From 1 April 2017 until 31 July 2017 - €24;          From 1 August 2017 until 31 December 2017 - €30;          From 1 January 2018 until 31 December 2018 - €40; and          From 1 January 2019 - €50.</p> <p><b>Ad valorem component of excise tax on cigarettes</b> (retail price):</p> <p>From 1 November 2014 until 31 March 2015 - 35%          From 1 April 2015 until 31 March 2016 - 34%          From 1 April 2016 until 31 March 2017 - 33%          From 1 April 2017 - 32%</p> <p>Other tobacco goods, i.e. cigars and cigarillos, fine-cut tobacco, and other tobacco for smoking:</p> <ol style="list-style-type: none"> <li>1) For cigars and cigarillos - €25;</li> <li>2) For fine-cut tobacco - €54;</li> <li>3) For other tobacco for smoking - €25.</li> </ol> <p>Heat-not-burn tobacco:          The excise tax for the heat-not-burn tobacco is paid per kilogram of tobacco mixture at the amount of 40% of the minimum excise tax on 1,000 pieces of cigarettes set for the category of the weighted average retail price of cigarettes.</p> <p>Liquids for refilling electronic cigarettes (From 1 august 2017):          The excise tax amount for the liquids for refilling electronic cigarettes is €0.9/millilitre.</p> <p><b>Other tobacco goods</b>, i.e. cigars and cigarillos, fine-cut tobacco, and other tobacco for smoking: €25 per kg</p>
<b>Mineral oils, mineral oil derivatives and their substitutes</b>	<p>Leaded petrol (HS2710 11 31 00, 2710 11 51 10, 2710 11 51 90 and 2710 11 59 00), €554 per 1,000 litres          Unleaded petrol (HS 2710 11 31 00, 2710 11 41 00, 2710 11 45 00 and 2710 11 49 00), €549 per 1,000 litres          Kerosene (HS 2710 19 21 00 and 2710 19 25 00) used:</p> <ul style="list-style-type: none"> <li>- as motor fuel, €330 per 1,000 litres</li> <li>- for heating, €89.7 per 1,000 litres</li> </ul> <p>Gas oils (HS 2710 19 41 to 2710 19 49) used:</p> <ul style="list-style-type: none"> <li>- as motor fuel, €440 per 1,000 litres</li> <li>- as motor fuel for industrial and commercial purposes, €259 per 1,000 litres</li> <li>- for execution of works for the Bar-Boljare Highway Project, €169 per 1,000 litres</li> <li>- for heating, €207 per 1,000 litres</li> </ul> <p>Natural gas (HS 2711 11 and 2711 21) used as motor fuel, industrial and commercial purposes, and for heating: zero          Fuel oil (HS 2710 19 61 00 to 2710 19 69 00), €19.50 per 1,000 kg</p>

	<b>Rates</b>
	Liquid petroleum gas (HS 2711 12 11 00 to 2711 19 00 00) used: <ul style="list-style-type: none"> <li>- as motor fuel, €125 per 1,000 kg</li> <li>- as motor fuel for industrial and commercial purposes, €58.40 per 1,000 kg</li> <li>- for heating, €26 per 1,000 kg</li> </ul> Bio fuel, €350 per 1,000 litres
<b>Coal</b>	Excise tax on coal per gross gigajoule of caloric value: <ul style="list-style-type: none"> <li>- from 1 August 2017 until 31 December 2018 - €0;</li> <li>- from 1 January 2019 until 31 December 2019 - €0.15; and</li> <li>- from 1 January 2020 - € 0.30.</li> </ul>
<b>Carbonated water with added sugar or other sweeteners or aromatization agents</b>	Excise tax per hectolitre of carbonated water: <ul style="list-style-type: none"> <li>- until 31 December 2017 - €10.00;</li> <li>- from 1 January 2018 until 31 December 2018 - €20;</li> <li>- from 1 January 2019 until 31 December 2019 - €30;</li> <li>- from 1 January 2020 - €40.</li> </ul>

Source: Ministry of Finance.

3.57. To ensure the same tax treatment to both imported coffee and coffee processed in Montenegro, since 2015, a tax on coffee has been levied at rates ranging from €0.80/kg to €1.30/kg, depending on the type of the coffee, as well as on products and beverages that contain coffee at a rate of €2.50 for 1 kg of net coffee contained in the final product.<sup>65</sup> Between 2012 and 2015, only imports of coffee and coffee products were subject to a 20% excise tax on the value determined by the Customs Administration.

3.58. Central Government taxes on the use of passenger motor vehicles, vessels, aircrafts and airplanes as well as transactions of used motor vehicles, vessels, aircrafts and airplanes are also in place.<sup>66</sup> Their rates range from €25 to €1,500 for motor vehicles, €10 to €300 for motorbikes, €5 to €3,000 for vessels and from €1,500 to €5,000 for aircrafts and flying objects.

3.59. Municipalities levy different taxes and fees.<sup>67</sup> They consist of: a real estate tax (0.25%-1%); a 13% surtax on assessed personal income (15% for the capital (Podgorica) and old royal capital (Cetinje)) (Section 3.3.1.1.3); local administrative fees (in accordance with the Law on Administrative Fees (Section 3.1.4)); local utility fees (in accordance with the Law on Local Communal Taxes); fees for municipal utility equipment (Law on Spatial Planning and Construction of Facilities); and fees for the use of municipal roads (Law on Roads).

### 3.3.1.1.3 Direct taxation

3.60. Personal income tax and corporation tax remain the third- and fourth-largest single sources of revenue after VAT and excise tax (Table 3.4). Personal income is subject to a withholding tax at a flat rate of 9%.<sup>68</sup> The amount of gross salary exceeding the average monthly gross salary in Montenegro for the previous year (€751 in 2016) is subject to an 11% income tax. In 2013, the Personal Income Tax Law was amended to introduce temporarily a higher tax rate of 15% on gross

<sup>65</sup> Between 1 January 2012 and 28 February 2015, an excise tax affected coffee and processed coffee imports only. Montenegro is not a coffee producing country and the authorities indicated that this measure was for revenue purposes only. Law on Tax on Coffee published at the OG No. 8 of 27 February 2015. Viewed at: [http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag=%7B09059B1D-C756-427B-AA74-C12C3D754421%7D](http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag=%7B09059B1D-C756-427B-AA74-C12C3D754421%7D;); online information. Viewed at: <http://taxsummaries.pwc.com/ID/Montenegro-Corporate-Other-taxes>; and information provided by the authorities.

<sup>66</sup> Online information. Viewed at: <https://www.eu.me/mn/16/16-prezentacije-s-bilateralnog-skrininga>.

<sup>67</sup> Municipalities own taxation accounts for 43% of local governments' financial resources; they rely primarily on property tax (70%) and surtax on personal income tax (30%). The Law on Financing of Local Self-Government (OG Nos. 42/03, 44/03, 5/08, 74/10, 1/15, 78/15, 3/16 and 30/17) regulates sources of funds, the manner of financial equalization and usage of conditional subsidies, as well as the manner of financing the activities of local self-governments (municipalities, Capital and Old Royal Capital), and provides for municipal taxes, as well as the distribution of common revenues between the State and local self-government. Online information. Viewed at: <https://www.eu.me/mn/16/16-prezentacije-s-bilateralnog-skrininga>, <http://www.oecd.org/regional/regional-policy/profile-Montenegro.pdf>, and <http://taxsummaries.pwc.com/ID/Montenegro-Individual-Taxes-on-personal-income>.

<sup>68</sup> Online information. Viewed at: <http://taxsummaries.pwc.com/ID/Montenegro-Corporate-Other-taxes>.

personal income above €720 per month until end-2015.<sup>69</sup> Resident taxpayers are taxed on income gained in and outside of Montenegro. Non-resident taxpayers are taxed on their Montenegrin-sourced income or income attributed to their Montenegrin permanent establishment. Non-residents are also subject to withholding tax on income sourced in Montenegro.

3.61. Entities operating in Montenegro are also subject to a 9% corporate profit tax (CPT).<sup>70</sup> The Law on Corporate Profit Tax was amended in 2013 regarding tax exemptions on corporate and personal income for activities in less developed municipalities to further comply with state aid rules.<sup>71</sup> Its 2016 amendments, which came into effect on 1 January 2017, referred to tax deductibility of certain expenses, submission of tax returns, taxation of non-residents and penalties.<sup>72</sup> For enterprises/entrepreneurs commencing activities in less developed municipalities, the CPT for the first 8 years is reduced by 100% (Section 3.3.1.2, Table 3.7); in addition, a taxpayer in the same areas employing a person on the basis of a contract for an indefinite period, unlimited period or for at least 5 years is exempt from payment of the assessed and withheld personal income tax on wages of such an employee for a period of 4 years from the day of commencement of employment.<sup>73</sup>

3.62. Property tax at rates ranging from 0.25% to 1% on the market value of assets as of 1 January of each year is charged to legal entities that own or have user rights over real estate located in Montenegro. A 3% transfer tax is levied on the market value of the acquired real estate property.<sup>74</sup>

### 3.3.1.2 Production assistance

3.63. Montenegro maintains general and industry-specific tax and non-tax incentives, mostly implemented by the Ministry of Finance, the MEK and the Investment Development Fund of Montenegro (IDF), to businesses regardless of their origin. It has notified several direct support programmes to the WTO Committee on Subsidies and Countervailing Measures (Section 2.3.1); its next notification in this area covering support in 2015 and 2016 is to be submitted in the course of 2018. Its first and only notification, in May 2015, indicated that there were 8 and 10 subsidy schemes in 2013 and 2014, respectively, most of which were in place both years.<sup>75</sup> Grants, tax concessions, guarantees, concessional loans, debt write off and rescheduling were used to assist a range of micro, small and medium-sized enterprises (MSMEs) and large companies in job creation, competitiveness boosting, regional development (Brown Coal Mines), firm restructuring (Enterprise Montavar Metalac Ltd. Nikšić), cluster development, and agricultural, fisheries and aquaculture activities. Many of these schemes were of one-year duration or until completion of a project. In 2013 and 2014, these schemes involved an estimated funding of €172.5 million, of which 46.4% was due to the 2015 Annual Activity Plan of the JSC Investment and Development Fund of Montenegro (IDF), 31.9% to the 2014 Annual Activity Plan of the JSC Investment and Development Fund of Montenegro (IDF), and 20.6% to the Annual Activity Plan of the Investment and Development Fund (IDF) for 2013 – IDF's Medium-term Activity Programme, 2013 Annual Plan.

3.64. As at 2017, Montenegro's tax incentives supported activities undertaken in free zones, business zones and economically less-developed municipalities (Section 3.2.4.3, Table 3.7); the latter incentives exclude certain activities and involve corporate profit tax breaks. In 2016, the

<sup>69</sup> Online information. Viewed at: <https://assets.kpmg.com/content/dam/kpmg/me/pdf/2013/02/me-2013-february-kpmg-tax-alert-montenegrin-personal-income-tax-law-amended.pdf>.

<sup>70</sup> Articles 7 to 25 of the Corporate Profit Tax define its tax base. Viewed at: <http://www.mif.gov.me/en/library/zakoni?alphabet=lat>.

<sup>71</sup> Online information. Viewed at: [https://eeas.europa.eu/sites/eeas/files/20141008-montenegro-progress-report\\_en.pdf](https://eeas.europa.eu/sites/eeas/files/20141008-montenegro-progress-report_en.pdf).

<sup>72</sup> Online information. Viewed at: <http://taxsummaries.pwc.com/ID/Montenegro-Corporate-Significant-developments>.

<sup>73</sup> Article 31 of the Law on Corporate Profit Tax and Articles 32 to 32b of the Law on Personal Income Tax last amended in 2016. Viewed at: <http://www.mif.gov.me/en/library/zakoni?alphabet=lat>.

<sup>74</sup> Law on Tax on Immovable Property Transactions. Viewed at: <http://www.mif.gov.me/en/library/zakoni?alphabet=lat>; and online information. Viewed at: <http://www.pkf.com/media/10026021/montenegro-tax-guide-2015-16.pdf>.

<sup>75</sup> Upon its WTO accession, Montenegro undertook to not grant or maintain any export or import-substitution subsidies and to provide a subsidy notification. WTO documents WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011, and G/SCM/N/284/MNE, 22 May 2015.



corporate profit tax breaks in 16 less-developed municipalities granted to 13 firms with virtually no involvement in export operations ranged from €500 to €30,000 and totalled €75,146; they *inter alia* involved repair of communication equipment, manufacture of builders' joinery, printing, legal jobs, field testing by drilling and sounding, artistic creativity, packaging, funeral and related activities, health and beauty clubs, and hotels and similar accommodation services.<sup>76</sup> No data on all forgone tax revenue resulting from all incentives as well as the main beneficiaries (i.e. type of activities/firms) from 2012 onwards was available from the authorities.

3.65. Non-tax incentives for several activities, in the form of grants/funding, concessional loans or other measures, were in place under several programmes to attract direct investment, support activities in business zones, support cluster development, and promote entrepreneurship development in 2017 (Table 3.7, Sections 2.4.1 and 4.2).<sup>77</sup> Local self-government units are obliged to adopt the Decision on the establishment of a business zone in line with the provisions of the Decree on Business Zones by 21 June 2018; so far, this has been done by the Municipality of Mojkovac (where there is a greenfield location and no businesses) and the Municipality of Berane (where there is one company and Regional Business Centre). Subsequently, the Ministry of Economy is to create a single register of all the economic entities operating within the zones in accordance with the provisions of the Decree on Business Zones. Assistance to MSMEs, as defined under the Decree on Promoting Direct Investment (Table 3.7) and all programmes implemented by the Ministry of Economy, was, *inter alia*, provided to promote regional and local competitiveness through alignment with international standards of operation, innovation enhancement (see below) and mentoring.<sup>78</sup> MSMEs represent 99% of total firms and generate 75% of value added as well as 82% of employment.<sup>79</sup> Access to finance is one of the major challenges for SMEs and the IDF channels the largest portion of public sector support for SMEs through credit lines for start-ups and financing programmes. The strategic priority activities eligible for co-financing under the Cluster Development Programme in Montenegro 2017-2020 include wood processing, some food processing activities, and the tourism and hospitality industry.<sup>80</sup> The IDF finances the sectors of production, wood processing, services (including the IT sector), agriculture and food production, and tourism through a credit line for cluster development. Since mid-2016, support has been provided for modernization of processing, the most important and largest industry sector, in which 70% of the companies operate (Table 3.7, Section 4.2).<sup>81</sup> Some activities (e.g. primary agricultural production, production of synthetic fibres, transport, gambling, trade, primary production of coal and steel, electricity, oil and gas generation, tobacco and tobacco products, genetically modified organisms and hazardous waste) are excluded from the tax relief and non-tax incentives for innovation enhancement in SMEs. No data on the total budgetary cost of all these incentive schemes other than those contained in Table 3.7 were available from the authorities.

<sup>76</sup> Montenegro's municipalities are classified as less-developed in line with guidelines and methodology contained at the Rulebook on the use of tax exemption on the basis of corporate profit tax and income tax of natural persons in economically underdeveloped municipalities (<http://www.mif.gov.me/biblioteka/pravilnici>). The List of levels of development of local self-government units for the period 2013 – 2015 (last update); these municipalities are found in the Annex of the Rulebook on setting up the list of the index of development of local self-government units.

<sup>77</sup> In addition to the reliefs available only in the Business Zones (Table 3.7), the investors operating on these sites have access to other national- and local-level reliefs, such as subsidies under the Decree on Promoting Direct Investment, IDF loans and similar support programmes, all in line with state aid rules. As of August 2017, business zones of local importance were established in the municipalities of Berane, Bijelo Polje, Kolašin, Mojkovac, Cetinje, Nikšić, Podgorica, Ulcinj and Rožaje. More information on the incentive schemes is also available in Secretariat for Development Projects (undated), *Investment Climate in Montenegro*.

<sup>78</sup> The model of provision of SME services has been expanded – introduction of the institution of mentors in the format of direct work with an enterprise, problem solving and planning of future business activities. A total number of 13 enterprises received mentoring services in the period from July to November 2014. In March 2015, 15 companies in total, from Podgorica, Bar, Cetinje, Nikšić and Bijelo Polje, were beneficiaries of mentoring services. Results of training needs analysis for micro and small enterprises, including artisans and entrepreneurs, were published in June 2015 by the Directorate for Development of SMEs and SEECEL ([www.nasme.me](http://www.nasme.me)).

<sup>79</sup> European Commission (2016), *Montenegro 2016 Report*, Commission Staff Working Document SWD (2016) 360 final, 9 November, Brussels. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf).

<sup>80</sup> Secretariat for Development Projects (undated), *Investment Climate in Montenegro*.

<sup>81</sup> Government of Montenegro (2017), *Economic Reform Programme for Montenegro 2017–2019*, January.



**Table 3.7 Main domestic support measures, 2012-18**

<b>INCENTIVES</b>		
<b>1 TAX INCENTIVES</b>		
<b>Tax Reliefs</b> (introduced by amendments to the Law on Corporate Income Tax and the Law on Personal Income Tax in 2013 and still ongoing)		
<ul style="list-style-type: none"> <li>For newly established legal entities in economically less-developed municipalities for the first eight years of operation: i) such entities do not pay corporate income tax, ii) taxes on the taxpayer's personal income are reduced by 100%, and iii) tax relief cannot exceed €200,000. These tax exemptions do not apply to taxpayers operating in the primary production of agricultural products, transport or shipyards, fisheries and steel.</li> <li>Where the amount of tax liability (output tax) in the VAT period is less than the amount of input VAT which may be deducted by the taxpayer in the same VAT period, the difference is recognized as a tax credit for the following VAT period, or refunded upon request within 60 days of the date of filing the VAT return.</li> </ul> <p>If the taxpayer's deadline for the payment of other taxes has expired, the difference by virtue of VAT is reduced by the amount of the tax debt.</p>		
<b>2 NON-TAX INCENTIVES</b>		
	<b>Incentives/ requirements/measures</b>	<b>Budgeted amounts</b>
<b>a) GENERAL</b>		
<b>i. The Decree on Promoting Direct Investment</b>		
(Decree on Promoting Direct Investment, 30 December 2015, OG No. 80/15)		
<b>Incentives<sup>a</sup></b>	<ul style="list-style-type: none"> <li>€3,000-€10,000<sup>b</sup> per newly employed person<sup>c</sup> <ul style="list-style-type: none"> <li>If implemented in the capital city or in the southern region - minimum investment value is €500,000 and at least 20 new jobs must be created within three years of the date of concluding the agreement on the use of funds.</li> <li>If implemented in the central region (excluding the capital city) and the northern region - minimum investment value is €250,000 and at least 10 new jobs must be created within three years of the date of concluding the agreement on the use of funds</li> </ul> </li> <li>For capital investments exceeding €10 million and job creation for at least 50 new employees, the incentives can be awarded of up to 17% of the investment project's total value without conducting a "scoring" procedure in accordance with award criteria and methodology</li> <li>Reimbursement for infrastructure incurred for purposes of the investment project implementation.</li> </ul>	2015: .. 2016: €681,333 2017: €1,300,000 2018: €1,200,000
<b>Requirements</b>	<ul style="list-style-type: none"> <li>Screening criteria: <ul style="list-style-type: none"> <li>references of the business entity;</li> <li>extent of participation of other business entities from Montenegro during the implementation and after the completion of the investment project;</li> <li>value of the investment project;</li> <li>effects of the investment project on research and development, human resources, environment and regional development;</li> <li>volume of international turnover;</li> <li>economic effects of the investment project;</li> <li>investment project impacts on the regional development;</li> </ul> </li> <li>letter of intent from the local self-government unit in the territory of which the business entity intends to invest. Investment projects in the manufacturing and services sectors (i.e. excluding primary agricultural production, production of synthetic fibres, transport, games of chance, trade, primary production of coal and steel, production of electricity, oil and gas</li> </ul>	

INCENTIVES		
	<p>generation, tobacco and tobacco products, weapons and ammunition, genetically modified organisms and hazardous waste).</p> <ul style="list-style-type: none"> <li>○ The decision on the incentives to be awarded is made by the Government of Montenegro;</li> <li>○ Beneficiary of funds concludes the direct investment incentive agreement with Government of Montenegro;</li> <li>○ Awarded funds shall be disbursed in three equal instalments;</li> <li>○ Instalments must be backed up with bank guarantees.</li> </ul>	
<b>ii. Business Zones Development Project<sup>d</sup></b>  The implementation of the project started in 2012 with the adoption of the Business Development Promotion Programme, legally regulated in 2016 by the adoption of the Decree on Business Zones		2015 <sup>e</sup> : €81,000 2016 <sup>e</sup> : €112,000 2017 <sup>e</sup> : €100,000
<b>Incentives</b>	<ul style="list-style-type: none"> <li>○ For persons employed in the business zone, the firm is exempt (up to five years from the starting day of person's employment) from:               <ul style="list-style-type: none"> <li>○ contributions for compulsory social insurance on earnings (contributions for pension and disability insurance, health insurance and unemployment insurance) and contributions to the Labour Fund; and</li> <li>○ tax on personal income.</li> </ul> </li> <li>○ Local government units (LGUs) provide additional incentives such as: favourable prices of land lease/purchase, exemptions from or reduction of utility fees, fees for provision of utility connections, reduced tax rates on real estate, exemptions from surtax on personal income and one stop shop.</li> <li>○ The user of the business zone is entitled to other benefits – i.e. state aid, provided that together these benefits do not exceed the maximum allowable aid intensity of 60% for medium-sized enterprises and 70% for small enterprises.<sup>f</sup></li> </ul>	
<b>iii. Cluster Development Fostering Programme</b>  Programme for the period 2012-2016 and continuation for the period 2017-2020		2012: €40,000 2013: €50,000 2014: €50,000 2015: €50,000 2016: €50,000 2017: €100,000 2018: €150,000
<b>Incentives</b>	<ul style="list-style-type: none"> <li>○ Funds from the programme can be used to cover:               <ul style="list-style-type: none"> <li>○ costs of investment into tangible and intangible assets (excluding IT equipment and transport equipment) up to 50% (increased by 15% to clusters from less developed LGUs<sup>g</sup>); and</li> <li>○ operating costs – up to 50% (increased by 15% to clusters from less-developed LGUs). Personnel costs and administrative expenses (including overhead costs) are considered as justified operating costs.</li> </ul> </li> <li>○ Support approved by the Ministry of Economy cannot exceed 50% or 65% of the value of the project – up to €15,000 (excluding VAT) per project.</li> </ul>	
<b>iv. Entrepreneurship Development Support Programme</b>  The implementation of the programme started in 2015 and was finalized in 2016 (two public calls). New public call was published in 2017 and its realization is in progress.		2015-2016: €1,000,000 2017-2018: €1,000,000

<b>INCENTIVES</b>		
<b>Incentives</b>	<ul style="list-style-type: none"> <li>○ Investment Development Fund of Montenegro provides loans to improve conditions for development of entrepreneurship:               <ul style="list-style-type: none"> <li>○ up to €50,000 for the following target groups:                   <ul style="list-style-type: none"> <li>• small and medium enterprises that are 100% privately owned, which are established and operated in accordance with the Companies Act (OG No. 06/02), up to 1 year from the date of filing the application;</li> <li>• future entrepreneurs who want to develop entrepreneurial ideas;</li> <li>• women who want to ensure their existence and independence by establishing their own business;</li> <li>• persons who are on the register of the Employment Service;</li> <li>• persons with disabilities</li> </ul> </li> <li>○ annual interest rate below 2.5% with the proportional interest calculation method. The proportional interest rate on an annual basis is reduced to a monthly interest rate. Repayments are planned throughout equal monthly annuities.</li> <li>○ annual interest rate of 2% is applied, subject to the proportional method of interest calculation for entities implementing projects in the municipalities of the northern region and in municipalities that are below the average development level, i.e. projects that are implemented in municipalities in the northern region of Montenegro and in less developed cities (Cetinje, Niksic and Ulcinj)</li> <li>○ with repayment period of up to 12 years (including grace period of up to 4 years)</li> </ul> </li> </ul>	
<b>b) SMEs</b>		
<b>i. Regional and Local Competitiveness Boosting Programme through alignment with the requirements of International Standards of Operations</b>  Programme for period 2014-2016 and continuation for period 2017-2020		2014: €50,000 2015: €100,000 2016: €100,000 2017: €100,000 2018: €150,000 (plan)
<b>Incentives</b>	<ul style="list-style-type: none"> <li>○ Reimbursement of SMEs costs of accreditation for the series of standards MEST EN ISO/IEC 17000 (17025, 17020, 17021, 17065, 17024) if the accreditation is received from the Accreditation Body of Montenegro;</li> <li>○ reimbursement of SMEs implementation costs of standards/certification/recertification for: the series MEST EN ISO 9000; MEST EN 18000; MEST EN ISO 14000;</li> <li>○ up to 70% of eligible costs for entrepreneurs and small enterprises, and up to 60% of eligible costs for medium-sized enterprises, up to €5,000 (excluding VAT) per applicant; the remaining 30% or 40% of the total investment is financed by the applicant independently.</li> </ul>	
<b>ii. Innovation Enhancing in Small and Medium-Sized Enterprises Programme</b>  Based on the annual working programme of the Ministry of Finance and in line with the Action Plan for Implementation of the Industrial Policy until 2020; this programme needs to be adopted by the Government and its timeframe is one year.		2015: €30,000 2016: €30,000 2017: €30,000 2018: ..

<b>INCENTIVES</b>		
<b>Incentives</b>	<ul style="list-style-type: none"> <li>Financial support of up to €3,500 per applicant (€2,500 in 2015 and 2016) for the introduction of innovations such as: <ul style="list-style-type: none"> <li>product innovation</li> <li>business process innovation</li> <li>organization innovation</li> <li>marketing innovation.</li> </ul> </li> <li>Companies are to fund 100% of the costs of external consultant for the implementation of innovative activity and after the completion of activity, to seek reimbursement up to 50% of eligible costs, i.e. €3,500 in 2017 excluding VAT.</li> </ul>	
<b>Requirements</b>	<ul style="list-style-type: none"> <li>The financial support programme for innovative activities is designed for the companies in the manufacturing industry (except for the industries of steel, coal and synthetic fibres; shipbuilding; manufacture of coke and refined petroleum products; manufacture of tobacco products; manufacture and sales of military equipment or services, trade, gambling, etc.).</li> </ul>	
<b>iii. Mentoring for Small and Medium-Sized Enterprises</b>  Phase I of the project started in 2014 and was finalized in 2016; phase II was to start in September 2017.		2015: €10,156 2016: €11,625 2017: .. 2018: ..
<b>Incentives</b>	<ul style="list-style-type: none"> <li>Diagnosis - analysis of the current situation in the company</li> <li>Assistance in the preparation of development activities/plans/projects and their implementation</li> <li>Counselling and coordination of activities aimed at access to funds, government programmes supporting the development of businesses, new technologies, consulting services, etc.</li> <li>Assistance in finding business partners</li> </ul>	
<b>Requirements</b>	Companies: <ul style="list-style-type: none"> <li>Located in Podgorica, Bar, Cetinje, Budva, Bijelo Polje or Nikšić;</li> <li>operating for two years at least; and</li> <li>not operating in the defence industry, gambling/lottery, and tobacco and alcoholic beverages industries.</li> </ul>	
<b>c) PROCESSING INDUSTRY</b>		
<b>i. Industry Modernization Support Programme</b>  Based on the annual working programme of the Ministry of Finance and in line with the Action Plan for Implementation of the Industrial Policy until 2020; this programme needs to be adopted by the Government and its timeframe is one year.		2015: .. 2016: €100,000 2017: €100,000 2018: ..
<b>Incentives</b>	<ul style="list-style-type: none"> <li>Co-financing of the eligible costs of equipment up to 20% for entrepreneurs, micro and small-sized enterprises, and up to 10% for medium-sized enterprises with the rest of the required funding provided through a loan arrangement with the Investment and Development Fund of Montenegro.</li> <li>Value of the co-financing for equipment procurement envisaged from €5,000 to €20,000. <ul style="list-style-type: none"> <li>Value of the equipment procurement is envisaged from €25,000 to €100,000.</li> </ul> </li> </ul>	
<b>Requirements</b>	<ul style="list-style-type: none"> <li>Potential grant beneficiaries are to pre-apply for a loan with the IDF. Once they have met the IDF's criteria/requirements they become entitled to a subsidy/grant of the Ministry.</li> </ul>	

<b>INCENTIVES</b>		
<b>ii. Program for Improvement of Innovative Activities of SMEs in Manufacturing</b>  Based on the annual working programme of the Ministry of Finance and in line with the Action Plan for Implementation of the Industrial Policy until 2020; this programme needs to be adopted by the Government and its timeframe is one year.		2015: €30,000 2016: €30,000 2017: €30,000 2018: ..
<b>Incentives</b>	<ul style="list-style-type: none"> <li>○ Financial support of up to €3,500 per applicant (€2,500 in 2015 and 2016) for the introduction of innovations such as: <ul style="list-style-type: none"> <li>○ product innovation</li> <li>○ business process innovation</li> <li>○ organization innovation</li> <li>○ marketing innovation.</li> </ul> </li> <li>○ Companies are to fund 100% of the costs of external consultant for the implementation of innovative activity and after the completion of activity, to seek reimbursement up to 50% of eligible costs, i.e. €3,500 in 2017 excluding VAT.</li> </ul>	
<b>Requirements</b>	<ul style="list-style-type: none"> <li>○ The financial support programme for innovative activities is designed for companies in the manufacturing industry (except for the industries of steel, coal and synthetic fibres; shipbuilding; manufacture of coke and refined petroleum products; manufacture of tobacco products; manufacture and sales of military equipment or services, trade, gambling, etc.).</li> </ul>	

.. Not available.

- a Investors implementing investment projects ensuring job creation and contributing to economic and regional development of Montenegro may be beneficiaries of financial incentives awarded by a Decision of the Government of Montenegro on the allocation of funds for direct investment promotion.
- b The total value of allocated funds may not exceed:
- 50% of the value of the investment project for large enterprises (over 250 employees and total annual balance sheet exceeding €43 million)
  - 60% of the value of the investment project for medium-sized enterprises (50 to 250 employees and an annual turnover not exceeding €50 million or total annual balance sheet not exceeding €43 million)
  - 70% of the value of the investment project for small enterprises (up to 50 employees and an annual turnover or total annual balance sheet not exceeding €10 million)
- c A newly employed person is deemed to be a person entitled to a contract of indefinite duration in positions involving implementation of the investment project. The beneficiary of funds is required to keep the number of newly employed persons for at least three years upon completion of the investment project's implementation for small and medium-sized enterprises, and five years for large enterprises.
- d Business zone is a single entity in the territory of a local government, partly or fully equipped with infrastructure, providing different incentives to investitures. Business zones of strategic importance are established by the Government and managed by a company founded by the Government. Business zones of local importance are established by LGUs and managed by a manager appointed by the mayor or the company founded by the LGU.
- e The state budget does not foresee the amount for the development of the business zone. The only investments at state level were related to the joint project of the Ministry of Economy and UNDP. Besides the business zone, the same funds were supporting the development of business clusters in Montenegro.
- f Pursuant to the Law and the rules on granting state aid, the intensity of aid for small and medium enterprises must not exceed the limited amount. The rule is harmonized with EU legislation. For example, if an investment project is worth €1,000,000, a small company cannot obtain over €700,000 of state aid, based on various incentive programmes. Assigned incentives are considered cumulatively.
- g In accordance with the Rulebook establishing the level of development of local government units (OG No. 82/16) less developed LGUs are: Petnjica, Gusinje, Andrijevica, Šavnik, Bijelo Polje, Rožaje, Kolašin, Plav, Mojkovac and Berane.

Source: Government of Montenegro (2017), *Economic Reform Programme for Montenegro 2017–2019*, January; Ministry of Economy (2017), *Business Stimulating Programs*, Podgorica. Viewed at: [http://www.bizniszona.me/wp-content/uploads/2017/06/Business-Stimulating-Programs\\_brochure.pdf](http://www.bizniszona.me/wp-content/uploads/2017/06/Business-Stimulating-Programs_brochure.pdf); and Decree on Business Zones (OG Nos. 77/16 and 38/17).

3.66. Research and development (R&D) activities are financed and/or subsidized by the Ministry of Science.<sup>82</sup> Although the 2016 budget for scientific research was increased, total national spending on R&D in 2014 stood at 0.36% of GDP.<sup>83</sup> The Strategy of innovation activity (2016-2020) includes an increase in public and private expenditure by 2020 (0.6% of GDP in overall public R&D spending and 0.3% of GDP from private investment). The programme to enhance innovation in SMEs ([www.mek.gov.me](http://www.mek.gov.me)) is aimed at strengthening cooperation with innovative organizations (science and research institutions, science and technology parks, centres of excellence, innovation entrepreneurship centres, business incubators, consultancy companies), and advancing R&D for the development of new products, processes, organization models and marketing improvements.<sup>84</sup> In 2016 and 2017, four companies involved in meat processing, wood sawmilling and printing benefited from the programme. The Montenegrin Council for Scientific Research Activity adopted the National Roadmap for the European Research Area in April 2016.

3.67. A 2008 programme of support for self-employment (Innovative Programme for Continuous Stimulation of Employment and Entrepreneurship), targeted at unemployed persons, individual agricultural producers, entrepreneurs and small enterprises, provides concessional loans of €5,000 for each newly opened work place for up to three work places (i.e. maximum loan amount €15,000). In 2016, 10 loans of a total amount of €90,000 were granted to entrepreneurs and small enterprises and led to the creation of 18 new work places; in addition, 20 loans totalling €110,000 were granted to unemployed persons and created 22 new jobs. Furthermore, support has been available to legal persons and entrepreneurs who decide to hire some categories of unemployed persons registered with the Employment Agency of Montenegro between 1 January 2016 and 31 December 2017.<sup>85</sup> Employers are exempt from payment of the compulsory social insurance contribution to salaries, the contribution to the Labour Fund, and personal income tax of the employed person for a period of 12 months from the day of hiring. The subsidy may amount to up to 50% of the gross remuneration of the recruited person, in line with the relevant state aid regulations. In 2016, this type of support allowed 500 employers to hire around 5,500 new employees.

3.68. In the framework of the Increasing the Competitiveness of the Economy in Montenegro project, jointly funded and implemented by the MEK, the United Nations Development Programme (UNDP), the city of Podgorica, Cetinje and the municipality of Bijelo Polje, technical support was provided to 7 local government units (LGUs) (i.e. Podgorica, Cetinje, Žabljak, Kolašin, Petnjica, Berane and Tivat) to create strategic development plans to support the socio-economic development of LGUs.<sup>86</sup>

3.69. Sector specific support, including under the Cluster Development Programme, is *inter alia* provided in agriculture, fisheries, energy, manufacturing and tourism (see above, Sections 4.1.1.3, 4.1.3, 4.2, 4.3 and 4.4.5).

3.70. According to a 2016 European Commission report, the level of subsidies remains modest. In 2015, the general government budget provided for a modest allocation of state aid of 0.6% of GDP for subsidies (down from 0.8% of GDP a year before), plus an additional 0.3% of GDP for new state guarantees; however, overall state subsidies and recapitalization of the state-owned national airways (Montenegro Airlines, Sections 3.3.4 and 4.4.4.2) represented 1.6% of GDP.<sup>87</sup> The

<sup>82</sup> Government of Montenegro (2017), *Economic Reform Programme for Montenegro 2017-2019*, January.

<sup>83</sup> European Commission (2016), *Montenegro 2016 Report*, Commission Staff Working Document SWD(2016) 360 final, 9 November, Brussels. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf).

<sup>84</sup> Secretariat for Development Projects (undated), *Investment Climate in Montenegro*.

<sup>85</sup> These subsidies are available to the employers who hire: anyone older than 50 years of age or a single person with one or more dependants; anyone out of work for the past 6 months; anyone who did not complete secondary education or gain a professional qualification; anyone who completed regular schooling and did not obtain employment within two years; members of the Roma and Egyptian population; or anyone participating in the public works programmes. Decree on the Subsidised Employment of Specific Categories of Unemployed Persons published at OG No. 80/15, 31 December 2015; Secretariat for Development Projects (undated), *Investment Climate in Montenegro*.

<sup>86</sup> Ministry of Economy (2017), *Business Stimulating Programs*, Podgorica. Viewed at: [http://www.biznisona.me/wp-content/uploads/2017/06/Business-Stimulating-Programs\\_brochure.pdf](http://www.biznisona.me/wp-content/uploads/2017/06/Business-Stimulating-Programs_brochure.pdf).

<sup>87</sup> Montenegro Airlines has been subject to a European Commission investigation that began in February 2016 on the grounds of possible anti-competitive state aid. EIU (2017), *Country Report – Montenegro*, 15 February; European Commission (2016), *Montenegro 2016 Report*, Commission Staff Working



introduction in 2015 of tax exemptions to attract new investments in priority sectors requires a comprehensive review to make sure it hinders neither competition nor public finances. No mechanism for the quantification/measurement and appraisal of the effectiveness of tax and non-tax incentives is in place.

### 3.3.2 Standards and other technical requirements

#### 3.3.2.1 Standards, testing, and certification

3.71. Since its WTO accession, Montenegro's institutional setting in this area has remained relatively unchanged. The Department of Quality Infrastructure of the Directorate of Internal Market and Competition of MEK was established in 2016 and is in charge of coordination activities related to standards and technical regulations, as well as the supervision of quality infrastructure institutions (accreditation, standardization and metrology).<sup>88</sup>

3.72. The Institute of Standardization of Montenegro (ISME), a non-governmental institution set up in 2007, remains responsible for planning and coordinating the national standards policy and is in charge of designing and adopting standards and related documents.<sup>89</sup> ISME regularly informs the public about the existing standards (national, European and international) and its standardization activities. Information on the existing standards is available on its web portal ([www.isme.me](http://www.isme.me)).<sup>90</sup> According to the 2013 Decree on the Notification of Technical Regulations, Standards, Regulations on Information Society Services and Conformity Assessment Procedures (OG No. 11/13), ISME is an official enquiry point on standards and information provision under the WTO Agreement on Technical Barriers to Trade.<sup>91</sup> According to the European Commission, ISME is independent and able to fully implement European and international standards, but it faces challenges including a lack of adequate human and financial resources.<sup>92</sup>

3.73. Six ministries are responsible for development and adoption of technical regulations in their areas of competence upon opinion of the MEK, which remains the domestic enquiry point for technical regulations and conformity assessment procedures.<sup>93</sup> Other standards-related organizations include: the Accreditation Body of Montenegro and the Bureau of Metrology (Section 3.3.2.1.2).

3.74. The 2014-2018 Standardization Development Strategy for Montenegro is focused on: fostering the competitiveness of the domestic economy; increasing participation of interested parties in the development of Montenegrin standards; cooperating with the State; improving ISME's management; securing sustainable financing arrangements for the operation of ISME;

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Document SWD (2016) 360 final, 9 November, Brussels. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf).

<sup>88</sup> WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011; and Ministry of Economy (2014), *Strategy of Montenegro for the Implementation of the Acquis in the Field of Free Movement of Goods 2014-2018*. Viewed at: [http://www.mek.gov.me/EN/WTO/LIBRARY/strategic\\_documents/](http://www.mek.gov.me/EN/WTO/LIBRARY/strategic_documents/).

<sup>89</sup> The 2008 Law on Standardization (OG No. 13/08) governs the principles and objectives of standardization; the establishment, organization and activities of the organization for standardization; the adoption, issuing and application of Montenegrin standards and related documents in the standardization area, as well as inspectorial supervision of the implementation of this Law. ISME (2014), *Standardization Development Strategy for Montenegro*, April. Viewed at: [http://www.mek.gov.me/EN/WTO/LIBRARY/strategic\\_documents/](http://www.mek.gov.me/EN/WTO/LIBRARY/strategic_documents/); and WTO document G/TBT/39, 15 March 2017.

<sup>90</sup> ISME online information. Viewed at: <https://www.isme.me/catalog>.

<sup>91</sup> The Institute consists of 17 technical committees, *inter alia*, oil and oil products, euro codes, food products, energy management systems and energy efficiency, human resources management (dormant), power, corporate social responsibility, pressure equipment, tourism and related services, and codification language.

<sup>92</sup> ISME is funded through the sale of standards, related documents and other publications; membership fees; fees for services rendered; the Budget of Montenegro; and other sources. Article 9 of the Law on Standardization and European Commission (2016), *Montenegro 2016 Report*, Commission Staff Working Document SWD (2016) 360 final, 9 November, Brussels. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf).

<sup>93</sup> These agencies are the Ministry of Economy, the Ministry of Sustainable Development and Tourism, the Ministry of Health, the Ministry of Transport and Maritime Affairs, the Ministry of Internal Affairs and the Ministry of Agriculture and Rural Development. Law on Technical requirements and conformity assessment of products, Article 6.

providing training and raising the level of awareness of interested parties regarding standardization and standards implementation; developing standards in new standardized fields; and strengthening the administrative capacities of ISME.<sup>94</sup>

### 3.3.2.1.1 Voluntary, compulsory, national, and aligned standards

3.75. The Montenegrin standardization system consists of mandatory standards contained in technical regulations developed by the six competent ministries, and voluntary standards designed by ISME.<sup>95</sup> Standards are developed by ISME and in the process of preparation of a technical regulation the relevant ministries in charge submit to ISME a request for information on existing national, international and European standards. Montenegro's regulations for industrial products are based either on the EU "Old Approach" (laying down detailed specific technical requirements) or the "New and Global Approach" (setting-up of essential requirements defined to meet health, safety, and environmental objectives). According to Montenegro Development Directions 2015-2018, harmonization with international standards is crucial for the economy to achieve "smart" growth through increased competitiveness and attraction of foreign direct investment.<sup>96</sup> According to the authorities, standards related to Montenegro's development priorities are to be based on international standards; in the absence of adequate international standards, European standards are adopted.<sup>97</sup> Standard harmonization and full integration into the European and international standardization system remain a significant element of Montenegro's industrial policy until 2020. Full harmonization of technical regulations and standards would contribute to simplified procedures and better business access to domestic and foreign markets.<sup>98</sup>

3.76. As of December 2017, about 7,000 (40.7% of all standards) Montenegrin standards (MESTs) were contained in technical regulations issued by the six competent ministries.<sup>99</sup> At the same time, a total of 17,191 MESTs were adopted (6,970 in 2012).<sup>100</sup> Montenegro had harmonized 3,082 MESTs according to the International Classification for Standards, and they were mainly allocated to environment, health protection, and safety (507), electrical engineering (308), construction materials and building (270), telecommunications, audio and video engineering (245), and health care technology (225).<sup>101</sup> There were only two national standards, and these were maintained due to the lack of equivalent international and/or European standards.<sup>102</sup> All other ISME standards are based on international or European standards; 16,999 MESTs are identical to European standards (CEN, CENELEC, ETSI (see below)) and the rest identical to international standards. Some MESTs are issued in Montenegrin while others are adopted under the "cover page" method (where the text of the standard is in another language, such as English).<sup>103</sup>

3.77. Since 2014, Montenegro's Agency for Electronic Communications and Postal Services has been a full member of the European Telecommunications Standards Institute (ETSI). ETSI

<sup>94</sup> ISME (2014), *Standardization Development Strategy for Montenegro*, April. Viewed at: [http://www.mek.gov.me/EN/WTOLIBRARY/strategic\\_documents/](http://www.mek.gov.me/EN/WTOLIBRARY/strategic_documents/).

<sup>95</sup> Ministry of Economy (2014), *Strategy of Montenegro for the Implementation of the Acquis in the Field of Free Movement of Goods 2014-2018*. Viewed at: [http://www.mek.gov.me/EN/WTOLIBRARY/strategic\\_documents/](http://www.mek.gov.me/EN/WTOLIBRARY/strategic_documents/); Article 12 and Article 16 of the Law on Standardization.

<sup>96</sup> Ministry of Finance (2015), *Montenegro Development Directions 2015-2018*, June. Viewed at: <http://www.mf.gov.me/en/news/153253/Montenegro-Development-Directions-2015-2018.html>.

<sup>97</sup> WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

<sup>98</sup> Ministry of Economy (2016), *Industrial policy of Montenegro until 2020*. Viewed at: <http://www.mek.gov.me/en/library/strategije>.

<sup>99</sup> The authorities indicated that these standards are mostly related to technical regulations prepared in line with EU legislation, therefore, they are presumed to be in conformity with prescribed requirements.

<sup>100</sup> WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

<sup>101</sup> According to the Ministry of Economy, as of September 2017, 3,053 MESTs were harmonized with EU Directives/Regulations.

<sup>102</sup> The two national MESTs are identical to the Occupational Health and Safety Assessment Series (OHSAS) and consist of: specific requirements for an occupational health and safety (OH&S) management system, to enable an organization to control its OH&S risks and improve its OH&S performance; and, a guideline providing generic advice on the application of OHSAS 18001:2007. Standard OHSAS 18001 was developed according to the rules given by ISO/IEC Directives, part 2, and compatible with ISO 9001:2000 (quality) and ISO 14001:2004 (environment). Therefore the authorities consider that they do not create obstacles to trade.

<sup>103</sup> European Commission (2016), *Montenegro 2016 Report*, Commission Staff Working Document SWD(2016) 360 final, 9 November, Brussels. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf).

produces globally applicable standards for information and communication technology (ITC), including fixed, mobile, radio, converged, broadcasting and internet technologies.<sup>104</sup> ISME remains a correspondent member of the International Organization for Standardisation (ISO) and an associate member of the International Electrotechnical Commission (IEC).<sup>105</sup> Montenegro has been an affiliate of the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardization (CENELEC) since 2008 and 2009, respectively.<sup>106</sup>

3.78. On a bilateral level, in February 2014 ISME signed cooperation agreements with the Turkish Standards Institution (TSE) and in September 2016 with the Standardization Administration of China (SAC). A 2015 MoU between ASTM International and Montenegro is aimed at assisting Montenegro with the development of standards supporting health, safety, the environment and economic growth.<sup>107</sup>

### 3.3.2.1.2 Conformity assessment

3.79. Depending on the risk of the product, conformity assessment can be performed by manufacturers or bodies authorized/designated by the competent ministries. Montenegrin authorized/designated conformity assessment bodies (CABs) are responsible for conformity assessment for the needs of public administration and manufacturers with the MEK playing a coordination role (Article 11 of the Law on Technical Requirements for Products and Conformity Assessment, OG No. 53/11).<sup>108</sup> After the conformity assessment procedures conducted by the CABs have been completed and the relevant test/calibration/inspection reports or certificates issued, the CABs attest to the conformity of the products concerned with technical regulations.<sup>109</sup> Conformity assessment procedures and certificates issued by foreign CABs are accepted as equivalent upon the evaluation of a declaration of conformity and a technical dossier as well as evaluation on whether conformity assessment procedures performed by foreign CABs fulfil the goals and requirements of the domestic technical regulation. Conformity assessment documents issued by EU notified bodies are accepted as equivalent in Montenegro. As at December 2017, there were 35 accredited CABs, including 22 testing laboratories, 6 inspection bodies, 2 calibration laboratories, 1 certification body for products, and 4 certification bodies for management systems.<sup>110</sup>

<sup>104</sup> Agency for Electronic Communications and Postal Services (2015), *Annual Report for 2014*, Podgorica, April. Viewed at: <http://www.ekip2.me/download/izvjestaji/oradu/GI%202014%20-%2017%2009%20ENG%20VERZIJA%2022%2009.pdf>.

<sup>105</sup> Correspondent members observe the development of ISO standards and strategy by attending ISO technical and policy meetings as observers. Correspondent members can sell and adopt ISO International Standards nationally. ISO online information. Viewed at: <https://www.iso.org/members.html>; Associate members – NC has full access to all working documents but limited voting rights in the technical work and no eligibility to managerial functions within the IEC. IEC online information. Viewed at: <http://www.iec.ch/about/profile/members.htm> and <http://www.iec.ch/dyn/www/?p=103:5:0>.

<sup>106</sup> Countries formally recognized by the EU as potential candidates for EU membership can become affiliates of CEN, CENELEC and ETSI. European Committee for Standardisation online information. Viewed at: <https://standards.cen.eu/dyn/www/?p=CENWEB:9:::NO>, and <https://www.cen.eu/about/Pages/default.aspx>; CENELEC online information. Viewed at: <https://www.cenelec.eu/aboutcenelec/whoweare/index.html>.

<sup>107</sup> ASTM International is a globally recognized leader in the development and delivery of voluntary consensus standards that are used around the world to improve product quality, enhance health and safety, strengthen market access and trade, and build consumer confidence. ASTM International online information. Viewed at: <http://www.astmnewsroom.org/default.aspx?pageid=3795>.

<sup>108</sup> As from 2016, the Department of Quality Infrastructure (previously the Department for Internal Market and Competition) of the Ministry of Economy has been the official enquiry point for technical regulations and conformity assessment procedures. TBT information management system online information. Viewed at: <http://tbtims.wto.org/en/NationalEnquiryPoints/Search>.

<sup>109</sup> Documents of conformity in some cases can be issued by the producers (self-assessment declaration) and in other cases, if the technical regulation requires the participation of a third party, additional documents of conformity are prepared either by the authorized or designated body. *Montenegro's Accreditation System Development Strategy (for the period between 2015 and 2018)*. Viewed at: [http://www.mek.gov.me/EN/WTQ/LIBRARY/strategic\\_documents/](http://www.mek.gov.me/EN/WTQ/LIBRARY/strategic_documents/), and Ministry of Economy (2014), *Strategy of Montenegro for the Implementation of the Acquis in the Field of Free Movement of Goods 2014-2018*. Viewed at: [http://www.mek.gov.me/EN/WTQ/LIBRARY/strategic\\_documents/](http://www.mek.gov.me/EN/WTQ/LIBRARY/strategic_documents/).

<sup>110</sup> Conformity assessment bodies include testing laboratories, calibration laboratories, inspection bodies, certification bodies providing certification of products (processes/services), management systems and persons. They carry out conformity assessment procedures to determine whether the item to be assessed fulfils relevant requirements laid down in relevant technical regulations, standards and/or technical

3.80. Montenegro's national accreditation system includes the national accreditation body (Accreditation Body of Montenegro (ATCG)) (see below), accredited CABs, the relevant competent authorities and other parties directly or indirectly related to accreditation (see below).<sup>111</sup> Its Accreditation System Development Strategy for 2015-2018, is *inter alia* aimed at: adopting and implementing the EU accreditation-related policies and rules; fulfilling the obligations arising from membership of the European Union and international organizations for accreditation; upgrading administrative and technical capacities of the national accreditation body (ATCG); encouraging the use of accreditation when implementing public policies; and, strengthening international accreditation-related cooperation.<sup>112</sup> Since 2014, the Programme for Enhancing Regional and Local Competitiveness through Harmonization with International Standards of Business (Table 3.7), has aimed to maximize MSMEs' competitiveness through harmonization of product-related international standards and providing support for conformity assessment accreditation. It has operated a reimbursement scheme covering a large part of related costs.<sup>113</sup>

3.81. The ATCG, established in 2007 as an independent and not-for-profit organization and supervised by both the MEK and the Ministry of Finance, keeps and updates its Register of Accredited CABs.<sup>114</sup> It conducts its activities in accordance with the Law on Accreditation (OG Nos. 54/10 and 43/15) to, *inter alia*, strengthen the cross-border accreditation policy.<sup>115</sup> Given the insufficient number of Montenegrin assessors and experts, whenever necessary the ATCG contracts assessors and experts from other national accreditation bodies.<sup>116</sup>

3.82. The limited human and financial resources of ATCG appear to affect the implementation of the 2015-2018 strategy by impeding it from raising public awareness on the benefits of accreditation and preventing it from participating in the activities of the European Cooperation for Accreditation (EA), although this situation is about to improve.<sup>117</sup> The ATCG is a signatory to bilateral cooperation agreements with the national accreditation bodies of Serbia (ATS), the former Yugoslav Republic of Macedonia (IARM), Bosnia and Herzegovina (BATA), Croatia (HAA), Albania (DA), Moldova (MOLDAC), and Bulgaria (BAS).

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specifications. Montenegro's Accreditation System Development Strategy (for the period between 2015 and 2018). Viewed at: [http://www.mek.gov.me/EN/WTO/LIBRARY/strategic\\_documents/](http://www.mek.gov.me/EN/WTO/LIBRARY/strategic_documents/); European Commission (2016), *Montenegro 2016 Report*, Commission Staff Working Document SWD (2016) 360 final, 9 November, Brussels. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf).

<sup>111</sup> Montenegro's Accreditation System Development Strategy (for the period between 2015 and 2018). Viewed at: [http://www.mek.gov.me/EN/WTO/LIBRARY/strategic\\_documents/](http://www.mek.gov.me/EN/WTO/LIBRARY/strategic_documents/).

<sup>112</sup> Montenegro's Accreditation System Development Strategy (for the period between 2015 and 2018). Viewed at: [http://www.mek.gov.me/EN/WTO/LIBRARY/strategic\\_documents/](http://www.mek.gov.me/EN/WTO/LIBRARY/strategic_documents/).

<sup>113</sup> Secretariat for Development Projects (undated), *Investment Climate in Montenegro*.

<sup>114</sup> Article 16 of the 2009 Law on Accreditation. Additional legislation relating to ATCG operations comprises: Decree on the form, content and appearance of a mark of conformity (OG No. 55/12); Decree on manner of recognition of foreign documents of conformity and marks of conformity (OG No. 55/12); Decree on notification of technical regulations, standards, regulations on information society services and conformity assessment procedures (OG No. 11/13); Rulebook on the content and manner of keeping the register of technical regulations, conformity assessment bodies, foreign documents and conformity marking (OG No. 18/13); Rulebook on the manner of notification of designated conformity assessment bodies (OG No. 27/13). More information on these regulations is available in Ministry of Economy (2014), *Strategy of Montenegro for the Implementation of the Acquis in the Field of Free Movement of Goods 2014-2018*. Viewed at: [http://www.mek.gov.me/EN/WTO/LIBRARY/strategic\\_documents/](http://www.mek.gov.me/EN/WTO/LIBRARY/strategic_documents/); and Articles 7 and 11 of Law on Technical Requirements for Products and Conformity Assessment.

<sup>115</sup> Other legislation includes: the Decision on Establishment of the Accreditation Body of Montenegro (OG No. 21/07), the Statute of the Accreditation Body of Montenegro and internal rules and procedures of the Accreditation Body (12 internal rules and 7 procedures) that are in line with requirements of standard MEST EN ISO/IEC 17011:2010 – Conformity assessment – General requirements for accreditation bodies accrediting conformity assessment bodies and rules and procedures of European and international organizations for accreditation (EA, ILAC and IAF). European Commission (2015), *2015 Montenegro report*. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2015/20151110\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2015/20151110_report_montenegro.pdf).

<sup>116</sup> Montenegro's Accreditation System Development Strategy (for the period between 2015 and 2018). Viewed at: [http://www.mek.gov.me/EN/WTO/LIBRARY/strategic\\_documents/](http://www.mek.gov.me/EN/WTO/LIBRARY/strategic_documents/).

<sup>117</sup> European Commission (2015), *2015 Montenegro report*. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2015/20151110\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2015/20151110_report_montenegro.pdf), and European Commission (2016), *Montenegro 2016 Report*, Commission Staff Working Document SWD (2016) 360 final, 9 November, Brussels. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf).



## Metrology

3.83. Montenegro's Strategy for Development of Metrology in 2016-2018 is, *inter alia*, aimed at: ensuring metrological traceability; improving the procedures for standards/measuring instruments calibration and compliance assessment procedures for legal measuring instruments; reinforcing metrological supervision; and complying with the EU legislation.<sup>118</sup> The MEK remains responsible for the supervision and monitoring of issues related to metrology, while the Bureau of Metrology (BoM), founded in 2006, continues to perform expert and related administrative affairs in the field of legal, scientific and industrial metrology as Montenegro's National Metrology Institute (NMI) in accordance with the Strategy and the regulatory framework in this area.<sup>119</sup> The BoM is accredited by the ATCG and the Croatian Accreditation Agency (HAA). It also represents Montenegro in regional and international organizations: EURAMET – full membership, OIML – corresponding member, WELMEC – associate member, CGPM – associate member, and IAAO – member. In July 2016, the BoM obtained a licence for performing scientific-research activities in the field of technical-technological and interdisciplinary sciences. During the review period, national calibration laboratories were established and developed within the BoM, of which eight are recognized as competent for carrying out calibrations for the ATCG and the HAA.<sup>120</sup>

### 3.3.2.1.3 Transparency

3.84. Human and financial resources limitations in this area also constitute constraints to Montenegro's ability to make regular TBT notifications to the WTO. Montenegro's two notifications in this area date back to 2013 (Section 2.3.1); they consist of a statement on the implementation and administration of the Agreement on Technical Barriers to Trade under Article 15.2 and the acceptance of the Code of Good Practice.<sup>121</sup> The authorities consider that as technical regulations refer to MESTs that are based on international or European standards for a specific product or product group they do not create a technical barrier to trade; they are to address the issue of notification requirements in this area in the course of 2018. So far, there have been no specific trade concerns (STCs) raised at the Committee on Technical Barriers to Trade either by Montenegro with respect to other Members' measures, or by other Members with respect to Montenegrin measures.<sup>122</sup> In 2012, a workshop, aimed at promoting a better understanding of the TBT Agreement and the challenges of its implementation, was held in Montenegro.<sup>123</sup>

### 3.3.2.2 Sanitary and phytosanitary measures

#### 3.3.2.2.1 Food standards-setting framework

3.85. Montenegro's legislative system adopts and updates the relevant SPS laws and regulations to ensure compliance with the EU *acquis*. The main law affecting food standards is the Law on Food Safety (OG No. 57/15), which replaced the 2007 Law (OG No. 14/07). The 2015

<sup>118</sup> European Commission (2016), *Montenegro 2016 Report*, Commission Staff Working Document SWD (2016) 360 final, 9 November, Brussels. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf), and Government of Montenegro (2015), *Strategy of Metrology Development in Montenegro for period 2016-2018*, Podgorica, December. Viewed at: [http://www.mek.gov.me/EN/WTO/LIBRARY/strategic\\_documents/](http://www.mek.gov.me/EN/WTO/LIBRARY/strategic_documents/).

<sup>119</sup> Since WTO accession, in addition to the Law on Metrology (OG Nos. 79/08 and 40/11) a set of various regulations has been adopted. They are based on the practices and experiences of relevant international and European organizations and institutions. More information on the regulations is available in *Strategy of Metrology Development in Montenegro for period 2016-2018* (Section 2.2). Government of Montenegro (2015), *Strategy of Metrology Development in Montenegro for period 2016-2018*, Podgorica, December. Viewed at: [http://www.mek.gov.me/EN/WTO/LIBRARY/strategic\\_documents/](http://www.mek.gov.me/EN/WTO/LIBRARY/strategic_documents/).

<sup>120</sup> These laboratories include: the Laboratory for mass; Laboratory for length; Laboratory for Temperature; Laboratory for Pressure; Laboratory for electrical quantities; Laboratory for Time and Frequency; Laboratory for small volumes; and, the Laboratory for large volumes. Also, the Bureau of Metrology established the Laboratory for electrical power and the Laboratory for certification of measuring the speed of a moving vehicle. Government of Montenegro (2015), *Strategy of Metrology Development in Montenegro for period 2016-2018*, Podgorica, December. Viewed at: [http://www.mek.gov.me/EN/WTO/LIBRARY/strategic\\_documents/](http://www.mek.gov.me/EN/WTO/LIBRARY/strategic_documents/).

<sup>121</sup> WTO documents G/TBT/2/Add.110, 18 March 2013; G/TBT/34, 7 March 2014; and G/TBT/CS/N/180, 13 March 2013.

<sup>122</sup> TBT database online information. Viewed at: <http://tbts.wto.org/en/SpecificTradeConcerns/Search>.

<sup>123</sup> WTO document G/TBT/33, 27 February 2013.

amendments to the 2007 Law were mainly aimed at establishing a more efficient system with clearly defined competences and responsibilities, simplifying the chain of command, achieving better coordination and communication, and facilitating the training of employees.<sup>124</sup> The amendments accorded all competences to the Ministry of Agriculture and Rural Development (MARD) and provided for the establishment of its new Administration for Food Safety, Veterinary and Phytosanitary Affairs (AFSVPA).<sup>125</sup> The AFSVPA was formed by merging the Veterinary and Phytosanitary Administrations of MARD and the Division for Food Safety of the Ministry of Health (MoH). It consists of three sectors: the Sector for Food Safety (responsible for food safety, feed safety and inspection of food and feed); the Veterinary Sector (responsible for animal health and welfare, animal by-products and veterinary inspection); and, the Sector for Phytosanitary Affairs (responsible, *inter alia*, for plant health protection, seeds, planting materials, GMO, plant variety protection, plant products, fertilizers and phytosanitary inspections). Montenegro is a member of the World Organization for Animal Health (OIE), the Food and Agriculture Organization and the Codex Alimentarius Commission as well as a signatory to the International Plant Protection Convention (IPPC).<sup>126</sup>

3.86. All imported and domestic food and animal feed must comply with the relevant requirements set out under the 2015 Law (Article 18). Moreover, since 2007, Article 41 of the Law has obliged the business operator to establish, apply and continuously maintain procedures based on the principles of Hazard Analysis and Critical Control Point (HACCP) at all stages of production, processing and distribution of food.<sup>127</sup> According to a 2013 European Commission report, the majority of large capacity establishments apply HACCP principles. However, small establishments have most problems with applying these principles. Therefore, training is ongoing to raise awareness on the implementation of HACCP principles within small-scale establishments.<sup>128</sup>

3.87. As from 2015, all business operators engaged in primary production of food must be registered with the AFSVPA. As at 1 September 2017, there were: 2,342 producers in the Register of food business operators engaged in primary food production; 282 facilities for food production and storage of food under controlled conditions in the Register of approved facilities; and 1,427 newly registered facilities (2016/2017) in the Register of Registered Facilities in accordance with the newly-issued Ordinance listing the activities that are approved and registered.<sup>129</sup>

### Maximum residue levels

3.88. Since 2015, MARD remains responsible for regulating pesticide residues in foodstuffs, in accordance with the maximum residue levels (MRLs) set out in the Law on Food Safety, the Law

<sup>124</sup> Prior to AFSVPA, the Ministry of Health (MoH) was responsible for safety of food of plant origin after primary production, safety of composite food and safety of traded food; while the Veterinary and Phytosanitary Administration of MARD was in charge of safety of food and safety of traded food of animal/plant origin at primary production. European Commission (2013), *Screening report Montenegro. Chapter 12 – Food safety, veterinary and phytosanitary policy*. Viewed at: [http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening\\_report\\_montenegro\\_ch12.pdf](http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening_report_montenegro_ch12.pdf), and Government of Montenegro (2015), *Montenegro's Strategy for Transposition and Implementation of the EU Acquis relevant for Chapter 12 – Food Safety, Veterinary and Phytosanitary policy including a General Action Plan and a Specific Action Plan for Control and Eradication of Classical Swine Fever*, July. Viewed at: <https://www.eu.me/en/12>.

<sup>125</sup> Government of Montenegro (2015), *Montenegro's Strategy for Transposition and Implementation of the EU Acquis relevant for Chapter 12 – Food Safety, Veterinary and Phytosanitary policy including a General Action Plan and a Specific Action Plan for Control and Eradication of Classical Swine Fever*, July. Viewed at: <https://www.eu.me/en/12> and Decree amending the Decree on Organization and Manner of Work of State Administration (OG No. 80/15).

<sup>126</sup> WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

<sup>127</sup> Montenegro has adopted a Good Hygiene Practice Guide for food business operators performing activities that do not identify critical control points in the preparation, production and processing of food for the purpose of establishing good hygiene practices. Law on Food Safety (OG Nos. 14/07 and 57/15), Articles 18 and 41. Viewed at: <http://extwprlegs1.fao.org/docs/pdf/mne155850.pdf> (in Montenegrin).

<sup>128</sup> European Commission (2013), *Screening report Montenegro. Chapter 12 – Food safety, veterinary and phytosanitary policy*. Viewed at: [http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening\\_report\\_montenegro\\_ch12.pdf](http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening_report_montenegro_ch12.pdf).

<sup>129</sup> Under the previous regime, in 2013 the MARD had registered 341 food establishments, and the MoH 2,065 establishments. The same year the MARD had approved 25 establishments for meat of ungulates, 5 for poultry meat, 40 for meat products, 3 for minced meat, meat preparations and mechanically separated meat, 14 for fishery, 2 for live molluscs, and 28 for dairy products. European Commission (2013), *Screening report Montenegro. Chapter 12 – Food safety, veterinary and phytosanitary policy*. Viewed at: [http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening\\_report\\_montenegro\\_ch12.pdf](http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening_report_montenegro_ch12.pdf).



on Plant Protection Products (OG Nos. 51/08, 40/11 and 18/14) and the 2015 Regulation on maximum residue levels (MRLs) of pesticides in or on plants, plant products, food or feed (OG No. 21/15 and 44/15).<sup>130</sup> The Regulation lists MRLs of pesticides in products of plant and animal origin used as fresh, processed and/or combined food or animal feed (Annex I); in or on food and feed for animals (Annex II); and for products for which a MRL is not determined (Annex III) ([www.ubh.gov.me/biblioteka/sektor\\_3/](http://www.ubh.gov.me/biblioteka/sektor_3/)).<sup>131</sup> All information and data on plant protection products and residue of plant protection products are collected and inserted in a database maintained by the competent authorities and used for regulating trade in this area (Article 43). Importation of plant protection products registered in Montenegro is allowed by companies, other legal persons, or entrepreneurs registered in the Register of importers (Article 41) (Section 3.1.2.1). As of 1 September 2017, the register contained 30 such importers.<sup>132</sup> Food importers do not have to provide lists of food ingredients and additives to MARD. Import tolerances for agrochemicals not already registered for use in Montenegro are subject to the relevant EU MRL; in the absence of such MRL, the default MRL of 0.01 ppm applies.

3.89. Since 2009, Montenegro has conducted annual monitoring of pesticide residues in line with EU recommendations.<sup>133</sup> As from 2012, 62 training activities on the use of pesticides have taken place. The MARD budget for the 2016 Programme on Phytosanitary measures stood at €190,018, of which €10,000 was allocated to monitoring pesticide residues in food of plant and animal origin, €6,000 to fruit, and €5,000 to vegetable crops.<sup>134</sup>

### **Food additives**

3.90. The 2015 Law on Food Safety defines and regulates food additives.<sup>135</sup> As prescribed by the Law, the secondary legislation – the Regulation on food additives (OG No. 19/16) – provides for quality requirements and conditions for the use of additives. The Regulation defines the food additives, classifies different types of additives that can be used in food, prescribes the conditions for their use, labelling, placing on the market and their specification (Articles 1 and 10 of the Regulation) ([http://www.ubh.gov.me/biblioteka/sektor\\_1/lista\\_aditiva/](http://www.ubh.gov.me/biblioteka/sektor_1/lista_aditiva/)).<sup>136</sup> Only additives from Lists I and II of the Regulation can be used and placed on the market under specific conditions whenever applicable. Food additives are grouped into 27 classes (Appendix I) and are listed with detailed specifications (Appendix II). Article 8 stipulates that additives cannot be used in unprocessed food, food for new-borns and children, processed food based on cereals, and food for special medical purposes unless specifically determined for these purposes. There is no national

<sup>130</sup> Articles 6 and 7 of the Law on Food Safety (OG Nos. 14/07 and 57/15); Article 11 of the Law on Plant Protection Products (OG Nos. 51/08, 40/11 and 18/14). Viewed at: <http://extwprlegs1.fao.org/docs/pdf/mne155771.pdf>; and The Regulation transposes the rules contained in the Regulation (EC) No. 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin. Ecolex online information. Viewed at: <http://extwprlegs1.fao.org/docs/pdf/mne156957.pdf> and <http://extwprlegs1.fao.org/docs/pdf/mne157012.pdf> (in Montenegrin).

<sup>131</sup> Article 2 of the Regulation. Ecolex online information. Viewed at: <http://extwprlegs1.fao.org/docs/pdf/mne156957.pdf> and <http://extwprlegs1.fao.org/docs/pdf/mne157012.pdf> (in Montenegrin).

<sup>132</sup> Articles 41 and 43 of the Law on Plant Protection Products (OG Nos. 51/08, 40/11 and 18/14).

<sup>133</sup> European Commission (2013), *Screening report Montenegro. Chapter 12 – Food safety, veterinary and phytosanitary policy*. Viewed at: [http://edz.bib.uni-mannheim.de/daten/edz-k/gde/13/screening\\_report\\_montenegro\\_ch12.pdf](http://edz.bib.uni-mannheim.de/daten/edz-k/gde/13/screening_report_montenegro_ch12.pdf).

<sup>134</sup> Similarly, the total budget in 2013 amounted to €190,000, including €10,000 for monitoring of pesticide residue in food of plant and animal origin, €5,590 for fruit, and €6,989 for vegetable crops. FAO online information. Viewed at (in Montenegrin): <http://extwprlegs1.fao.org/docs/pdf/mne157204.pdf> (for 2016) and <http://extwprlegs1.fao.org/docs/pdf/mne155999.pdf> (for 2013).

<sup>135</sup> Article 7 and 58 of the Law on Food Safety (OG Nos. 14/07 and 57/15).

<sup>136</sup> The regulation transposes the Regulation (EC) No. 1331/2008 of the European Parliament and of the Council of 16 December 2008. Government of Montenegro (2015), *Montenegro's Strategy for Transposition and Implementation of the EU Acquis relevant for Chapter 12 – Food Safety, Veterinary and Phytosanitary policy including a General Action Plan and a Specific Action Plan for Control and Eradication of Classical Swine Fever*, July. Viewed at: <https://www.eu.me/en/12> and Regulation on Food additives. Viewed at: <http://www.sluzbenilist.me/SluzbenilistDetalii.aspx?tag={D2C57A39-E70B-42E0-9F45-9AC3AAD5564F}&> or <http://extwprlegs1.fao.org/docs/pdf/mne167808.pdf> (in Montenegrin).

production of food additives in Montenegro. Controls of food additives are performed by authorized laboratories in cooperation with sanitary and veterinary inspectors (see below).<sup>137</sup>

3.91. A 2016 Regulation on vitamins, minerals and other food additives defines and classifies the sorts and types of vitamins, minerals and other substances that can be added to food and foodstuffs, including various requirements that must be met, such as the manner and conditions for the correct labelling and placing on the market. As of December 2017, Montenegro had a positive list of 156 vitamins/minerals and their forms.<sup>138</sup>

### **Genetically modified products**

3.92. Montenegro's legislation on genetically modified products applies equally to domestic and imported products. The Law on Food Safety provides a definition of genetically modified food and/or animal feed and prescribes and/or prohibits its placement on the market unless specific conditions are fulfilled (Article 71).<sup>139</sup> The 2008 Law on Genetically Modified Organisms (OG No. 22/08), setting the conditions for the use of GMOs and products containing/consisting of or deriving from GMOs, remains unchanged.<sup>140</sup> The November 2016 Regulation on methods for sampling and laboratory testing of animal feed for the presence of genetically modified materials (OG No. 69/16) prescribes the methods for food sampling (official controls, inspection) and laboratory testing for the purpose of research/analysis on the effective presence of genetically modified materials (food safety issues). Montenegro ratified the Cartagena Protocol on Biosafety to the Convention on Biological Diversity in October 2006.<sup>141</sup>

3.93. In the past, several institutions (e.g. the Ministry of Sustainable Development and Tourism) have had GMO-related responsibilities thus rendering the regulatory framework and its implementation cumbersome.<sup>142</sup> AFSVPA has taken the responsibility for the authorization of testing laboratories, approval of use of GMOs for experimental purposes and authorization for GMOs in food. The Environmental Protection Agency is responsible for approving the intentional introduction into the environment of GMOs. No applications have been received so far and the National Council for Biological Safety has not yet granted authorizations or monitored GMO cultivation in Montenegro. At present, no local GMO food is authorized in the domestic market. According to the authorities, national legislation provides for an adequate control framework; however, as of 2015, there were no accredited laboratories to test GMOs and tests are performed in accredited laboratories in Serbia or laboratories accredited for GMO testing in other countries.<sup>143</sup>

3.94. Imports of GMOs and wild species of flora and fauna require a permit either from MARD or the Ministry of Sustainable Development and Tourism (new species).<sup>144</sup> Sanitary inspections are conducted by a sanitary inspector (health issues), veterinary inspector (veterinary issues), a

<sup>137</sup> European Commission (2013), *Screening report Montenegro. Chapter 12 – Food safety, veterinary and phytosanitary policy*. Viewed at: [http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening\\_report\\_montenegro\\_ch12.pdf](http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening_report_montenegro_ch12.pdf).

<sup>138</sup> For more detailed information on the type of vitamins and minerals and their forms see Annexes 1 and 2 of the Regulation on vitamins, minerals and other food additives.

<sup>139</sup> Law on Food Safety (OG Nos. 14/07 and 57/15). Viewed at: <http://extwprlegs1.fao.org/docs/pdf/mne155850.pdf>.

<sup>140</sup> Law on Genetically Modified Organisms (OG No. 22/08). Viewed at: <http://extwprlegs1.fao.org/docs/pdf/mne155769.pdf>; WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011; and ECOLEX online information. Viewed at: [https://www.ecolex.org/details/legislation/regulation-on-methods-for-sampling-and-laboratory-testing-of-animal-feed-for-over-the-presence-of-genetically-modified-materials-lex-faoc168444/?q=&xkeywords=GMO&xcountry=Montenegro&xdate\\_min=&xdate\\_max=](https://www.ecolex.org/details/legislation/regulation-on-methods-for-sampling-and-laboratory-testing-of-animal-feed-for-over-the-presence-of-genetically-modified-materials-lex-faoc168444/?q=&xkeywords=GMO&xcountry=Montenegro&xdate_min=&xdate_max=).

<sup>141</sup> Convention on Biological Diversity online information. Viewed at: <https://www.cbd.int/information/parties.shtml#tab=1>.

<sup>142</sup> European Commission (2013), *Screening report Montenegro, Chapter 12 – Food safety, veterinary and phytosanitary policy*. Viewed at: [http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening\\_report\\_montenegro\\_ch12.pdf](http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening_report_montenegro_ch12.pdf).

<sup>143</sup> European Commission (2013), *Screening report Montenegro, Chapter 12 – Food safety, veterinary and phytosanitary policy*. Viewed at: [http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening\\_report\\_montenegro\\_ch12.pdf](http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening_report_montenegro_ch12.pdf); and Government of Montenegro (2015), *Montenegro's Strategy for Transposition and Implementation of the EU Acquis relevant for Chapter 12 – Food Safety, Veterinary and Phytosanitary policy including a General Action Plan and a Specific Action Plan for Control and Eradication of Classical Swine Fever*, July. Viewed at: <https://www.eu.me/en/12>.

<sup>144</sup> WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

phytosanitary inspector (phytosanitary issues) or the authority responsible for environmental protection (environmental protection). The sanitary inspector performs the checks at customs warehouses and/or in free zones (Section 3.2.4.3). The phytosanitary inspector is empowered to ban importation, exportation and transit if relevant regulations are not met.<sup>145</sup> It is compulsory to indicate/label additives, enzyme preparations or seed materials that are genetically modified or contain GMOs.<sup>146</sup>

### 3.3.2.2.2 Quarantine regulations

3.95. Montenegro's main laws on quarantine requirements for imports include the Law on Plant Health Protection (OG Nos. 28/06, 28/11 and 48/15) and the Veterinary Law (OG Nos. 30/12 and 48/15). Relevant regulations and rulebooks have been issued to ensure compliance with the EU *acquis*. The Law on Plant Health Protection regulates, *inter alia*, the protection of plants, measures on the prevention of the introduction, spread and control of harmful organisms, and checks of plant health and plant health consignments.<sup>147</sup> The Veterinary Law regulates the conditions and manner of carrying out veterinary activities as well as animal health protection, and measures related to the protection of public and animal health.<sup>148</sup> Since 2015, animal, plant and fisheries quarantine and inspection are handled by AFSVPA (Section 3.3.2.2.1).<sup>149</sup>

### Phytosanitary measures

3.96. Importers (and exporters) of consignments must be registered and imports must be accompanied by a phytosanitary certificate issued by a competent authority in the exporting country.<sup>150</sup> The implementation of a Plant Passport System began in 2015; as of

<sup>145</sup> Law on Genetically Modified Organisms (OG No. 22/08). Viewed at: <http://extwprlegs1.fao.org/docs/pdf/mne155769.pdf> and WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

<sup>146</sup> European Commission (2013), *Screening report Montenegro. Chapter 12 – Food safety, veterinary and phytosanitary policy*. Viewed at: [http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening\\_report\\_montenegro\\_ch12.pdf](http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening_report_montenegro_ch12.pdf).

<sup>147</sup> Other related laws include: Law on Agricultural Plants Seeds Materials (OG No. 28/06, 61/11 and 48/15), the Law on Planting Material (OG No. 28/06, 61/11 and 48/15) and the Law on Plant Varieties Protection (OG Nos. 48/07, 48/08, 73/10 and 40/11). Relevant regulations include: Regulation on obligation for registration of producers, processors, importers, distributors and store plants, plant products and regulated objects (OG No. 15/13); Rulebook on the manner of keeping records of production, processing and trade in plants, plant products and regulated object (OG No. 19/13). European Commission (2013), *Screening report Montenegro, Chapter 12 – Food safety, veterinary and phytosanitary policy*. Viewed at: [http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening\\_report\\_montenegro\\_ch12.pdf](http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening_report_montenegro_ch12.pdf); and Government of Montenegro (2015), *Montenegro's Strategy for Transposition and Implementation of the EU Acquis relevant for Chapter 12 – Food Safety, Veterinary and Phytosanitary policy including a General Action Plan and a Specific Action Plan for Control and Eradication of Classical Swine Fever*, July 2015. Viewed at: <https://www.eu.me/en/12>.

<sup>148</sup> Article 1 of the Veterinary Law (OG Nos. 30/12 and 48/15). Further related laws include: the Law on Animal Welfare Protection and the Law on Animal Identification and Registration. European Commission (2013), *Screening report Montenegro. Chapter 12 – Food safety, veterinary and phytosanitary policy*. Viewed at: [http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening\\_report\\_montenegro\\_ch12.pdf](http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening_report_montenegro_ch12.pdf). Further Regulations include: The 2015 Regulation on preventive measures, measures for detection, suppression and eradication of exotic and non-exotic diseases of aquatic animals and the health conditions for their placing on the market; the 2015 Regulation on the list of animals and products of animal origin subject to veterinary inspection at border inspection posts; the 2015 Regulation on the notification of consignments of animals and products of animal origin imported into Montenegro; the 2015 Regulation on the manner of carrying out veterinary inspections of consignments of products of animal origin entering Montenegro; the 2016 Regulation on the manner of carrying out veterinary checks on live animals imported into Montenegro; the 2015 Regulation on preventive measures, measures for detection, suppression and eradication of exotic and non-exotic diseases of aquatic animals and the health conditions for their placing on the market (will enter into force upon accession to the EU); the 2016 Regulation on closer conditions for import and transit of animals and products of animal origin; the Rulebook laying down animal health condition for imports of certain birds on list and types of live animals and animal products subject to veterinary inspection (to be implemented in 2018); and the Rulebook on requirements for quarantine of aquaculture animals (to be implemented in 2018).

<sup>149</sup> Article 148 of the Veterinary Law provides that animals imported for participation in sporting competitions, exercises, exhibitions and trade fairs, dogs and cats temporarily imported as well as animals imported for slaughter are not required to be quarantined if, on the basis of epizootic data the situation in the exporting country is not jeopardized by the introduction of infectious animal diseases.

<sup>150</sup> Government of Montenegro (2015), *Montenegro's Strategy for Transposition and Implementation of the EU Acquis relevant for Chapter 12 – Food Safety, Veterinary and Phytosanitary policy including a General*

1 September 2017, 616 subjects were registered. Imports (and exports) of plants and plants products are subject to documentary, identity and plant health checks by 13 phytosanitary inspectors at Montenegro's 13 official entry points.<sup>151</sup>

3.97. The Law on Plant Health Protection provides for a list of quarantine harmful organisms relevant for Montenegro and a list of harmful organisms to be monitored.<sup>152</sup> According to the 2016 Programme on phytosanitary measures, special control measures are applied to the imports of potatoes, some herbs, and certain plants.<sup>153</sup> Import bans for phytosanitary reasons affect: potatoes from Mexico and countries of Central and South America for seed and consumption; specific plants from certain EU countries, Asia and North America; certain types of wood from non-EU countries; logs and timber from the United States and some EU countries; corn stalks and sorghum straw from African countries; and soil, compost and substratum mixed with soil or compost, with plants or without plants, from non-European countries.<sup>154</sup>

3.98. Since 2012, Montenegro has prohibited the importation of tubers of potatoes from Egypt (to prevent the introduction of the harmful organism *Ralstonia solanacearum*); certain plants originating in India; and certain plants from some regions in Italy and France (to prevent the introduction and spread of *Xylella fastidiosa*).<sup>155</sup> During the same period, Montenegro introduced more stringent import requirements for wooden packaging from China, citrus fruits from Brazil, and certain herbs and plants due to the threat of introduction and spread of harmful organisms.<sup>156</sup>

### Sanitary measures

3.99. Animal and animal products are subject to inspection and quarantine wherever applicable.<sup>157</sup> Veterinary inspectors supervise the safety of products of animal origin in production, international trade, wholesale and retail trade. They are also in charge of checking wild and aquaculture fish and their products including snails. Veterinary health checks are performed at the place of dispatch.<sup>158</sup> Importation of consignments of live animals and animal products must be accompanied by

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*Action Plan and a Specific Action Plan for Control and Eradication of Classical Swine Fever*, July. Viewed at: <https://www.eu.me/en/12>.

<sup>151</sup> Entry points are located at eight road border crossings, two at rail border crossings, one at the post office for border clearance, one at the airport and one at the Bar seaport.

<sup>152</sup> There are three specialized laboratories (phytosanitary laboratory, the laboratory for seeds and the one for seeds material) operating under the biotechnical faculty of the University of Montenegro. More information on the harmful organisms is available in the 2016 Regulation amending the Regulation on the phytosanitary measures to prevent the introduction, spread and suppression of organisms harmful to plants and the lists of harmful organisms, plant products and monitored facilities. Viewed at: <http://extwprlegs1.fao.org/docs/pdf/mne168449.pdf> (in Montenegrin). European Commission (2013), *Screening report Montenegro. Chapter 12 – Food safety, veterinary and phytosanitary policy*. Viewed at: [http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening\\_report\\_montenegro\\_ch12.pdf](http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening_report_montenegro_ch12.pdf).

<sup>153</sup> 2016 Programme of phytosanitary measures. Viewed at: <http://extwprlegs1.fao.org/docs/pdf/mne157204.pdf> (in Montenegrin).

<sup>154</sup> WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011; European Commission (2013), *Screening report Montenegro, Chapter 12 – Food safety, veterinary and phytosanitary policy*. Viewed at: [http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening\\_report\\_montenegro\\_ch12.pdf](http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening_report_montenegro_ch12.pdf).

<sup>155</sup> More information on these regulations is available (in Montenegrin) at: <http://extwprlegs1.fao.org/docs/pdf/mne139613.pdf> (for import bans from Egypt); <http://extwprlegs1.fao.org/docs/pdf/mne168317.pdf> (for import bans from India); and <http://extwprlegs1.fao.org/docs/pdf/mne157206.pdf> (for import bans from Italy and France).

<sup>156</sup> More information on import control procedures is available (in Montenegrin) at: <http://extwprlegs1.fao.org/docs/pdf/mne168318.pdf> (for China); <http://extwprlegs1.fao.org/docs/pdf/mne156858.pdf> (for Brazil). More detailed information on import control procedures and types of products is available at: <http://extwprlegs1.fao.org/docs/pdf/mne139562.pdf> (in Montenegrin); <http://extwprlegs1.fao.org/docs/pdf/mne139560.pdf> (in Montenegrin); <http://extwprlegs1.fao.org/docs/pdf/mne139561.pdf> (in Montenegrin); and <http://extwprlegs1.fao.org/docs/pdf/mne139564.pdf> (in Montenegrin).

<sup>157</sup> The list of animals and products of animal origin subject to veterinary inspections at border inspection points is available in the Annex of the 2015 Regulation on the list of animals and products of animal origin subject to veterinary inspections at border inspection posts. Viewed at: <http://extwprlegs1.fao.org/docs/pdf/mne168473.pdf> (in Montenegrin).

<sup>158</sup> Montenegro currently operates nine veterinary Border Inspection Posts (BIP) (seven BIPs at land borders, one BIP at the Bar port and one at the Podgorica airport). The national Diagnostic Veterinary Laboratory in Podgorica is the only accredited body for animal diseases. European Commission (2013), *Screening report Montenegro, Chapter 12 – Food safety, veterinary and phytosanitary policy*. Viewed at: [http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening\\_report\\_montenegro\\_ch12.pdf](http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening_report_montenegro_ch12.pdf).

international certificates of animal and public health.<sup>159</sup> If an animal or an animal product does not comply with the domestic requirements, an official veterinarian can order its quarantine or temporary storage.<sup>160</sup> Under the Veterinary Law and the Food Safety Act, Montenegro can introduce protective measures restricting or banning imports, exports or transit of animals, products of animal origin, food for animals and animal by-products in cases of risk of introduction of infectious diseases (Article 55 of the Veterinary Law).<sup>161</sup>

3.100. Since 2016, Montenegro has introduced measures prohibiting the importation of consignments of live animals and animal products originating in, or being transported through, Bulgaria, The former Yugoslav Republic of Macedonia, and Greece to prevent the spread of lumpy skin disease.<sup>162</sup> In the same year, it applied a ban on the importation and transit of poultry, birds and products of poultry and birds from Bulgaria and other countries to prevent the introduction of Newcastle disease (OG No. 74/16).<sup>163</sup> In 2016, Montenegro banned the import and transit of livestock, birds, and livestock and bird products from Hungary, Austria, Germany, France and other States with outbreaks of a highly pathogenic avian influenza virus (OG No. 74/16).<sup>164</sup>

3.101. During the same period, Montenegro introduced more stringent veterinary control and check measures to prevent the introduction and spread of blue tongue disease, foot and mouth disease, classical swine fever, and other animal contagious diseases. The 2017 annual budget for obligatory measures for the protection of animal health stood at €1.38 million.<sup>165</sup>

3.102. Regional cooperation agreements on the obligation to notify, report and take measures in case of disease exist with Serbia, and Bosnia and Herzegovina.<sup>166</sup>

3.103. According to the authorities, under the Instrument for Pre-accession Assistance (IPA) 2018 Programming, which is yet to be approved, Montenegrin facilities and premises have to be improved to be fully in line with the EU requirements.<sup>167</sup> Financial resources received from the European Union are directed at the building and equipment of Border Inspection Posts and phytosanitary border points; upgrading and developing laboratories; implementing measures for

<sup>159</sup> More information on the required documentation is available in the 2016 Regulation on amending the Regulation on the manner of carrying out veterinary checks on live animals imported into Montenegro (Article 1). Viewed at: <http://extwprlegs1.fao.org/docs/pdf/mne168460.pdf> (in Montenegrin).

<sup>160</sup> European Commission (2013), *Screening report Montenegro, Chapter 12 – Food safety, veterinary and phytosanitary policy*. Viewed at: [http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening\\_report\\_montenegro\\_ch12.pdf](http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening_report_montenegro_ch12.pdf).

<sup>161</sup> More information on the infectious animal diseases is available in the 2004 Veterinary Law: <http://extwprlegs1.fao.org/docs/pdf/mne153933.pdf>. This classification is based on the former lists of the World Organisation for Animal Health (OIE). The list from the 2004 Veterinary law is still applicable under the 2015 Veterinary Law. Article 55 of the Veterinary Law. Viewed at: <http://extwprlegs1.fao.org/docs/pdf/mne168305.pdf> and European Commission (2013), *Screening report Montenegro, Chapter 12 – Food safety, veterinary and phytosanitary policy*. Viewed at: [http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening\\_report\\_montenegro\\_ch12.pdf](http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening_report_montenegro_ch12.pdf).

<sup>162</sup> Prohibited products include, *inter alia*, live cattle and wild ruminants; seeds, eggs and embryos of cattle; fresh meat of cattle, meat products and products produced from fresh beef meat; milk, colostrum and colostrum products from cattle; skin of cattle and wild ruminants. Regulation prohibiting the import and transit of consignments of animals and products of animal origin in order to prevent the introduction of lumpy skin disease in Montenegro (OG No. 34/16). Viewed at: <http://extwprlegs1.fao.org/docs/pdf/mne168344.pdf> (in Montenegrin).

<sup>163</sup> More information on the regulation is available at: <http://extwprlegs1.fao.org/docs/pdf/mne168316.pdf> (in Montenegrin).

<sup>164</sup> More information on the regulation is available at: <http://extwprlegs1.fao.org/docs/pdf/mne168315.pdf> (in Montenegrin).

<sup>165</sup> Montenegro 2017 Programme of obligatory measures on protection of animal health. Viewed at: <http://extwprlegs1.fao.org/docs/pdf/mne168431.pdf> (in Montenegrin).

<sup>166</sup> European Commission (2013), *Screening report Montenegro, Chapter 12 – Food safety, veterinary and phytosanitary policy*. Viewed at: [http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening\\_report\\_montenegro\\_ch12.pdf](http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening_report_montenegro_ch12.pdf).

<sup>167</sup> European Commission (2013), *Screening report Montenegro, Chapter 12 – Food safety, veterinary and phytosanitary policy*. Viewed at: [http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening\\_report\\_montenegro\\_ch12.pdf](http://edz.bib.uni-mannheim.de/daten/edz-k/qde/13/screening_report_montenegro_ch12.pdf).



the control and eradication of animal diseases; and elaborating the system for safe disposal of animal by-products.<sup>168</sup>

### 3.3.2.2.3 Transparency

3.104. Since its WTO accession, Montenegro has not submitted any SPS notifications under the WTO Agreement on Sanitary and Phytosanitary Measures. According to the authorities, similarly to standards notification (Section 3.3.2.1.3), the reasons for non-submission are that, in addition to its very low administrative capacities, Montenegro has been in the process of intensive transpositions of the EU *acquis communautaire* into its national legislation; it plans to address the issue of notifications in this area in the course of 2018. So far no specific trade concerns (STCs) involving Montenegro were raised at the meetings of the WTO SPS Committee by other Members. In July and October 2017 (STC 426), Montenegro raised a specific trade concern over the Russian Federation's measures on imports of its wine products to this market since 26 April of the same year due to an allegedly increased content of pesticides (*Metaxyl*) and phthalate plasticizer particles despite no prior record of non-compliance of its wine products with the latter's standards. Despite bilateral meetings and the exchange of information, and Montenegro's request for a joint testing procedure of the confiscated wine, the restrictive measures remain in place. Montenegro's SPS enquiry point and notification authority is the AFSVPA.<sup>169</sup>

### 3.3.2.3 Marking and labelling

3.105. Marking and labelling of food products is regulated by the Law on Food Safety (OG No. 57/15), and specific implementing regulations.<sup>170</sup> The Law provides for mandatory labelling and marking to ensure the traceability of food and feed, raw materials, and substances incorporated in food and feed. Similar requirements apply to food for animal consumption and final products at all stages of production and trade. Controls are carried out by sanitary, veterinary and phytosanitary inspectors.<sup>171</sup> Specific implementing regulations include, *inter alia*, the Regulation on Consumer Information on Food (OG Nos. 12/16 and 83/16). Its provisions also apply to food intended for the final consumer and/or supplying facilities of collective nutrition, such as catering facilities, hospitals, schools, etc. providing food for the final consumer.<sup>172</sup>

3.106. To attain harmonization with the EU *acquis*, Montenegro has implemented and/or is in the process of implementing various product-specific regulations relating to labelling. These regulations include: the Regulation on the use of health and nutritional claims in the labelling, advertising and presentation of food (OG No. 6/17); the Regulation on the manner and conditions for placing on the market food for special nutritional uses (OG No. 10/17); the 2016 Regulation on conditions and rules for processing, packaging, transport and storage of organic products (OG No. 93/16); and the 2014 Regulation on the labelling of pesticides (OG No. 46/14).<sup>173</sup>

<sup>168</sup> Financial resources amount to: €7,000,000 for building and equipment for border inspection posts and phytosanitary border points; €1,350,000 for upgrading and development of laboratories; €1,200,000 in 2015 for measures for control and eradication of animal diseases, and an additional €3,000,000 per year; and €120,000 for measures for control and eradication of harmful organisms, and an additional €200,000 per year. Government of Montenegro (2015), *Montenegro's Strategy for Transposition and Implementation of the EU Acquis relevant for Chapter 12 – Food Safety, Veterinary and Phytosanitary policy including a General Action Plan and a Specific Action Plan for Control and Eradication of Classical Swine Fever*, July. Viewed at: <https://www.eu.me/en/12>.

<sup>169</sup> SPS information management system online information. Viewed at: <http://spsim.wto.org/en/EnquiryPointsNotificationAuthorities/Search?countryCode=C893&filter=Montenegro>.

<sup>170</sup> WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011 and European Commission (2013), *Screening report Montenegro, Chapter 12 – Food safety, veterinary and phytosanitary policy*. Viewed at: [http://edz.bib.uni-mannheim.de/daten/edz-k/gde/13/screening\\_report\\_montenegro\\_ch12.pdf](http://edz.bib.uni-mannheim.de/daten/edz-k/gde/13/screening_report_montenegro_ch12.pdf).

<sup>171</sup> Article 29 of the Law on Food Safety (OG Nos. 14/07 and 57/15) and European Commission (2013), *Screening report Montenegro, Chapter 12 – Food safety, veterinary and phytosanitary policy*. Viewed at: [http://edz.bib.uni-mannheim.de/daten/edz-k/gde/13/screening\\_report\\_montenegro\\_ch12.pdf](http://edz.bib.uni-mannheim.de/daten/edz-k/gde/13/screening_report_montenegro_ch12.pdf).

<sup>172</sup> Article 1 of the Rulebook (in Montenegrin); Government of Montenegro (2015), *Action Plan for acquis alignment, Chapter 11 – Agriculture and Rural Development*, June, Podgorica. Viewed at: <https://www.eu.me/en/11>.

<sup>173</sup> Government of Montenegro (2015), *Montenegro's Strategy for Transposition and Implementation of the EU Acquis relevant for Chapter 12 – Food Safety, Veterinary and Phytosanitary policy including a General Action Plan and a Specific Action Plan for Control and Eradication of Classical Swine Fever*, July. Viewed at: <https://www.eu.me/en/12>.



3.107. Labels must contain the following information: title of the product, full address of the producer or full address of the importer, net quantity/weight/volume, ingredients, manner of storage and pertinent consumer warnings.

3.108. All GMOs or products containing, consisting of or deriving from GMOs remain subject to mandatory GMO labelling. Products must be marked with the following: GMO; product contains GMO; product consists of GMO; or product derives from GMO; and a unique identification code. Moreover, suppliers of GMOs are obliged to maintain a database and put in place a monitoring and identification procedure, to record each placement on the market, and the name of the person who provided or obtained GMOs (except for the end consumers) for a period of five years.<sup>174</sup> In line with its EU accession process, Montenegro is to implement a Rulebook on traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from GMOs in 2018.<sup>175</sup>

### 3.3.3 Competition policy and price controls

#### 3.3.3.1 Competition policy

3.109. Montenegro considers that free market competition has a direct and significant impact on its overall economic development. During the review period, important regulatory and institutional reforms have been undertaken in line with commitments under Article 73 of the Stabilisation and Association Agreement (SAA) between Montenegro and the European Union for the implementation of EU standards in competition rules; they also involve the establishment of a clearer legal framework and an operationally independent institution, and improve the efficiency of implementation.

##### 3.3.3.1.1 Legislation

3.110. A new Law on Protection of Competition was adopted in 2012 and led, in early 2013, to the creation of the Montenegrin Agency for Protection of Competition (MAPC) (Section 3.3.3.1.2).<sup>176</sup> The 2012 Law applies to acts and practices which have as their object or effect the distortion of competition in the territory of Montenegro, irrespective of where they are committed.<sup>177</sup> In line with generally accepted principles of competition law, the 2012 Law prohibits: agreements preventing, restricting or distorting competition; abuses of dominant position; and concentrations preventing, restricting or distorting competition or free development of an open market economy.<sup>178</sup> Assessments are made case-by-case on the basis of the level and dynamics of changes in the structure of the relevant market, restrictions and possibility of equal access to the market by new competitors, changes restricting the possibilities for market supply based on the level of benefits to consumers, and other circumstances affecting impairment of competition.<sup>179</sup>

3.111. The scope of application of the 2012 Law includes a wide range of economic operators, including public bodies, state administration bodies, local administration bodies and local self-government bodies, when they engage in an economic activity directly or indirectly and participate in trade in goods and/or services.<sup>180</sup> It also applies to undertakings performing activities of public interest and to entities to whom the right to perform a particular activity was

<sup>174</sup> Articles 49, 48 and 45 of the Law on GMO (OG No. 22/08). Viewed at: [https://www.wto.org/english/thewto\\_e/acc\\_e/cgr\\_e/WTACCCGR27A3\\_LEG\\_5.pdf](https://www.wto.org/english/thewto_e/acc_e/cgr_e/WTACCCGR27A3_LEG_5.pdf).

<sup>175</sup> Government of Montenegro (2015), *Montenegro's Strategy for Transposition and Implementation of the EU Acquis relevant for Chapter 12 – Food Safety, Veterinary and Phytosanitary policy including a General Action Plan and a Specific Action Plan for Control and Eradication of Classical Swine Fever*, July. Viewed at: <https://www.eu.me/en/12>.

<sup>176</sup> Law on Protection of Competition (OG No. 44/12). Viewed at: <http://www.azsk.me/1/doc/Engleska%20verzija/zakon-eng/New%20Law%20on%20Protection%20of%20Competition.pdf>; and online information. Viewed at: <http://www.azsk.me/novi/joomlanovi/en/>.

<sup>177</sup> Law on Protection of Competition, Article 2.

<sup>178</sup> Law on Protection of Competition, Article 7, para. 1.

<sup>179</sup> Law on Protection of Competition, Article 7, para. 2.

<sup>180</sup> Law on Protection of Competition, Article 3.

conferred by an act of a competent public body insofar as the application of the Law would not considerably obstruct the performance of such activities.<sup>181</sup>

3.112. By-laws, adopted by the end of 2014 and in force, *inter alia*, set definitions and methodologies but they also exempt agreements relating to research and development, some vertical agreements, distribution of spare parts and servicing of motor vehicles, insurance, technology transfer, and road, rail and inland waterways and maritime traffic (Block Exemption Regulations).<sup>182</sup> Agreements with the object or effect of preventing, restricting or distorting competition not falling within one of the Block Exemption Regulations are prohibited and void unless of minor importance or individually exempted upon request on the basis of pro-competitive effects outweighing anti-competitive effects (with the exception of hard-core cartel agreements i.e. price fixing, output restrictions and division of markets or sources of supply that are not subject to exemption).<sup>183</sup>

3.113. Abuses of a dominant position are prohibited, with a presumption of a dominant position of undertakings with a market share exceeding 50% for a single undertaking or 60% for two or more undertakings without significant competition between them.<sup>184</sup>

3.114. Mergers and acquisitions as well as joint ventures are subject to *ex-ante* control, with the exception of financial transactions, bankruptcy or liquidation proceedings, and joint ventures between undertakings that remain independent and are considered pro-competitive.<sup>185</sup> They are prohibited if they create or strengthen a dominant position unless their pro-competitive effects outweigh negative effects.<sup>186</sup>

### 3.3.3.1.2 Institutional framework and procedures

3.115. The Ministry of Economy (MEK) remains responsible for designing and proposing legislation, policies and strategies, while the 17-staff MAPC, an independent authority, fulfils most law and relevant by-law enforcement functions.<sup>187</sup> Its Director is appointed by the Government upon MEK's proposal for a four-year term and can be dismissed on request and/or upon misconduct.<sup>188</sup> MAPC Departments with enforcement functions are focused on: communications, information technology and media; financial markets, health, liberal professions and other services; and, energy, construction, forestry, mining, tourism, transport, agriculture and chemical products.<sup>189</sup> Its budget is derived from the State Budget allocations, the sole regular source of funding, and fees paid by applicants.<sup>190</sup> Excess revenue, including the entire amount from fees, is

<sup>181</sup> Law on Protection of Competition, Article 5.

<sup>182</sup> All by-laws are available online in Montenegrin. Viewed at: <http://www.azk.me/novi/joomlanovi/en/legal-framework>. They include: the Rulebook on the method and criteria for determining the relevant market, (OG No. 18/13); the Rulebook on the content and manner of submitting request for individual exemption from the restrictive agreements, (OG No. 18/13); the Block Exemption Regulation of horizontal agreements on research and development, (OG No. 13/14); the Block Exemption Regulation of horizontal agreements on specialisation, (OG No. 13/14); the Block Exemption Regulation of agreements on the distribution of spare parts and servicing of motor vehicles, (OG No. 13/14); the Block Exemption Regulation for vertical agreements, (OG No. 13/14); the Block Exemption Regulation of agreements in insurance sector (OG No. 52/14); the Block Exemption Regulation restrictive agreements on the technology transfer (OG No. 59/14); the Block Exemption Regulation of agreements in Road, Rail and Inland Waterways and agreements on consortium in maritime traffic, (OG No. 59/14); and the Instructions on the content and manner of submitting merger notification, (OG No. 18/13).

<sup>183</sup> Law on Protection of Competition, Articles 7, 9, 12 and 13.

<sup>184</sup> Law on Protection of Competition, Articles 14 and 15.

<sup>185</sup> Law on Protection of Competition, Articles 16 and 17.

<sup>186</sup> Law on Protection of Competition, Article 18.

<sup>187</sup> Prior to the MAPC, the work on competition law and policy was first fully under the MEK and administered by a Directorate within the Ministry (2006-2008), and then under the Administration for Protection of Competition (2008-2013). Article 19 of the Law on Protection of Competition contains a full list of competencies, including monitoring and market analysis, competition advocacy, international cooperation and reporting.

<sup>188</sup> Law on Protection of Competition, Articles 21 and 23.

<sup>189</sup> Online information. Viewed at: <http://www.azk.me/novi/joomlanovi/en/contact> and Report on Work of the Agency on Protection of Competition for 2016, available in Montenegrin language. Viewed at: <http://www.azk.me/novi/joomlanovi/en/other-documents/reports>.

<sup>190</sup> The fees for the issue of decisions and acts are determined by the Tariff on fees adopted by the Agency with the approval of the Government. They are registered at the Agency's special account with the Central Bank of Montenegro. Revenues from fees are unpredictable. Other potential sources include donations,

returned to the overall government budget. In 2015 and 2016, government funding accounted for 37.9% and 44.1% of MAPC revenues, respectively.

3.116. Proceedings before the MAPC are governed by the 2012 Law as well as by several internal acts.<sup>191</sup> The MAPC has the investigative powers necessary to fulfil its mandate and may issue sectoral analyses.<sup>192</sup> However, its decision making power in case of anti-competitive agreements and abuses of dominance is limited to a prohibition of enforcement of the agreement in question, and the ordering of remedial measures, or the approval, annulment, revocation or amendment of a requested exemption with or without conditions.<sup>193</sup> Concerning the appraisal of concentrations, it decides upon their approval and can impose conditions or order remedial measures and behavioural and structural remedies, and set their time limits.<sup>194</sup> Non-observance of MAPC's procedural requests and orders can lead to a fine ranging from €500 to €5,000, and up to 3% of aggregate turnover achieved in the financial year preceding the year in which the proceedings have been initiated.<sup>195</sup> Although the Law on Protection of Competition does not provide for imprisonment; imprisonment is prescribed by Article 270 of the Criminal Code, providing such a sanction in the case of abuse of a monopolistic position.

3.117. A leniency programme has been in place since October 2012, when the new Law on Protection of Competition came into force (Article 69 of the Law); so far one request for determining measures of release from fining was received in 2013, and it was rejected due to non-fulfilment of the conditions under the initiated procedure.<sup>196</sup> Penal fines may range from 1% to 10% of aggregate turnover in the financial year preceding the year in which the anti-competitive behaviour (classified as misdemeanour) was committed, or from €4,000 to €40,000 for the lack of a request for *ex-ante* merger control. However, fines may only be imposed by the Court for Misdemeanours upon MAPC request.<sup>197</sup> Smaller fines can be imposed on individuals involved. The limitation period for initiating misdemeanour proceedings is two years from the day on which the misdemeanour was committed and prosecution of investigations may not be maintained beyond three or four years after the misdemeanour depending on the applying law.<sup>198</sup>

3.118. Currently, the 2012 Law on Competition is under revision to, *inter alia*: extend the jurisdiction of the MAPC by including state aid currently under the State Aid Control Commission under its competence, thus becoming a single body in the protection of competition and state aid; and establish a MAPC Council consisting of a president and two members. Additionally, the Director of the Agency would have two Deputies – one for competition and a second for state aid. The adoption of the amendments to the 2012 Law was scheduled for late 2017 but is still pending.<sup>199</sup>

3.119. Regarding international cooperation, the MAPC is, *inter alia*, a member of the International Competition Network (ICN), active in the Regional Centre for Competition, and a signatory to memoranda of understanding with relevant bodies from Austria, Bulgaria, Croatia, and Serbia.<sup>200</sup>

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which may not be made by undertakings subject to the application of the law. Law on Protection of Competition, Article 24.

<sup>191</sup> These include: The Statute of Agency; Tariff of Fees; Financial plan; Rules on Protection of Confidential Business Information; Rules on Internal Organization and Systematization; Rules on the Official ID Card, and other internal rules. They are available in Montenegrin, viewed at:

<http://www.azsk.me/novi/joomlanovi/en/internal-rules>. Law on Protection of Competition, Articles 26-39; the Report on Work of the Agency on Protection of Competition for 2016, available in Montenegrin. Viewed at: <http://www.azsk.me/novi/joomlanovi/en/other-documents/reports>.

<sup>192</sup> Law on Protection of Competition, Articles 26-39 and 40.

<sup>193</sup> Law on Protection of Competition, Articles 42 and 46-49.

<sup>194</sup> Law on Protection of Competition, Articles 50-59.

<sup>195</sup> Law on Protection of Competition, Article 60.

<sup>196</sup> Law on Protection of Competition, Article 69 and related by-laws.

<sup>197</sup> Law on Protection of Competition, Articles 67 and 68.

<sup>198</sup> According to the Law on Protection of Competition (Articles 67, 68 and 70) the limitation period for the initiation of proceedings is two years, or absolute for four years. Under the Law on Misdemeanours (Article 59), in the case of violations in the area of protection of competition, it is possible to prescribe a longer limitation period of the initiation and conduct of the misdemeanour proceedings, but not longer than three years. The statute of limitations of the offence/misdemeanour prosecution arises in any case when twice as long as the law requires for the statute of limitations of prosecution expires.

<sup>199</sup> Report on Work of the Agency on Protection of Competition for 2016, available in Montenegrin. Viewed at: <http://www.azsk.me/novi/joomlanovi/en/other-documents/reports>.

<sup>200</sup> Report on Work of the Agency on Protection of Competition for 2016, available in Montenegrin. Viewed at: <http://www.azsk.me/novi/joomlanovi/en/other-documents/reports>.

The first regional conference on "Improving cooperation between bodies for competition protection" was organized in October 2016 in Montenegro with the EU support. A Memorandum on Understanding with the Electronic Media Agency was signed on 12 December 2017.

### 3.3.3.1.3 Enforcement

3.120. MAPC's enforcement activity has been limited due to its relatively modest financial and human resources (Section 3.3.3.1.2 and below).<sup>201</sup> Between 2013 and 2017 (December), only four decisions relating to anti-competitive agreements were taken.<sup>202</sup> Only one case involving the existence of a price fixing cartel agreement (between the four largest participants in the market of printed daily newspapers) has led to the imposition of a fine (of less than €37,000 for the undertaking and €1,000 for an individual involved).<sup>203</sup> In other cases, the Court dismissed or suspended proceedings, often based on the statute of limitations, and a 2016 bid-rigging case on an agreed price under a contract on joint participation of two firms (Montemedicom Ltd and Union Ltd) offered at a public procurement bid of the Health Insurance Fund of Montenegro for X-ray films is still pending, as the MAPC appealed the Misdemeanour Court's decision acquitting these firms (Section 3.3.5). Regarding abuse of dominance, three cases were resolved in 2013 and only three cases were handled in the period 2014-16. In the area of merger control, the number of submitted requests and resolved cases increased (Table 3.8); the MAPC initiated its first in-depth investigation of a merger case in 2015.<sup>204</sup>

**Table 3.8 Enforcement, 2012-17**

#### (a) Merger control, 2013-17 (October)

	2013	2014	2015	2016	2017 (until Oct.)
Submitted requests	21	26	35	33	26
Resolved cases	15	19	35	29	30 <sup>a</sup>
Approved mergers	14	-	33	28	30
Suspension of proceedings	1	-	1	1	0
Rejected mergers	-	-	1	0	0
Cases transferred to the next year	6	7	7	11	6 <sup>b</sup>

a Ten decisions issued based on notifications from previous year (2016).

b In progress.

#### (b) Antitrust decisions, 2012-16

	2012	2013	2014	2015	2016
<b>Restrictive agreements</b>					
Decision	-	1	1	1	1
Suspension of proceedings	1	-	1	-	1
Rejection	-	-	-	-	-
<b>Abuse of dominant position</b>					
Decision	3	-	-	-	2
Suspension of proceedings	2	1	3	1	-
Rejection	-	1	-	-	-

Source: Report on Work of the Agency on Protection of Competition for 2016, available in Montenegrin. Viewed at: <http://www.azzk.me/novi/joomlanovi/en/other-documents/reports>; information provided by the authorities.

3.121. During the review period, the MAPC conducted studies on the state of competition in the markets of water supply in coastal municipalities, pilot services at Boka Bay, the retail market of distribution of audio-visual media content, purchase and sale of chewing gums and candies, and life insurance services. In addition, it undertook sector analyses on the energy, pharmaceutical

<sup>201</sup> European Commission (2016), *Montenegro 2016 Report*, Commission Staff Working Document SWD(2016) 360 final, 9 November, Brussels. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_strategy\\_paper\\_en.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_strategy_paper_en.pdf).

<sup>202</sup> Report on Work of the Agency on Protection of Competition for 2016, available in Montenegrin. Viewed at: <http://www.azzk.me/novi/joomlanovi/en/other-documents/reports>.

<sup>203</sup> Report on Work of the Agency on Protection of Competition for 2016, available in Montenegrin. Viewed at: <http://www.azzk.me/novi/joomlanovi/en/other-documents/reports>.

<sup>204</sup> European Commission (2016), *Montenegro 2016 Report*, Commission Staff Working Document SWD(2016) 360 final, 9 November, Brussels. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_strategy\\_paper\\_en.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_strategy_paper_en.pdf).

products trade, construction, retail trade, insurance and telecommunications markets.<sup>205</sup> EU support was provided to MAPC, under the project for Enhancing competition protection policy in Montenegro (January 2013-January 2014) to strengthen capacities of the newly set MAPC, specifically Completion of the Legal Framework, Capacity Development and Competition Advocacy and Awareness Raising as well as under the project Approximation of the legislation with EU Acquis on free movement of services and competition protection (Component I: Competition) (February 2014-August 2016).

3.122. According to the European Commission, overall the competition framework of Montenegro has been moderately in line with the EU *acquis*, with a good level of legislative rules on antitrust and mergers, but is subject to implementation and enforcement weaknesses.<sup>206</sup> Should the MAPC be empowered to impose fines directly, and to increase its staffing and expertise, enforcement would improve. Furthermore, the strict limitation period for initiating misdemeanour proceedings (Section 3.3.3.1.3) and the Court's limited capacity to handle complex competition cases are an issue.

### 3.3.3.2 Price controls

3.123. Price controls remain in place in specific areas to protect consumers' interests.<sup>207</sup> Under the Law on Medicines (OG Nos. 56/11 and 06/13), the Agency for Medicines and Medical Devices sets ceiling wholesale prices for medicines for human use that are prescribed and dispensed at the expense of the mandatory Health Insurance Fund in accordance with criteria set under the Decree for Setting Maximum Prices of Medicines (OG Nos. 44/15, 65/15 and 57/16). These ceiling prices are available online ([www.calims.me](http://www.calims.me)) and the list of medicines is updated annually; in 2017, it covered 1,100, mostly generic, medicines. The ceiling prices of oil derivatives are set by the State, as stipulated by the Decree on the Method of Setting Maximum Retail Prices of Petroleum Products (OG Nos. 52/02, 55/02, 23/03, 32/05, 35/05, 73/08, 73/10 and 63/15). Under this scheme, petrol and diesel (gas oil) prices are, *inter alia*, based on Platts oil price quotations and float within a 5% band (plus or minus); these prices are updated every two weeks and are available online at MEK's website. Electricity prices are regulated for grid services whereas prices for generation are determined in line with changes at the regional (HUPX, Hungarian Power Exchange) market prices. This mechanism and the regulation of the supplier of the last resort in cases where there are no new suppliers are aimed at protecting certain categories of consumers. Under Article 249 of the Energy Law, electricity tariff increases for households and small consumers cannot exceed the weighted average electricity price of the previous year and the price of traded futures/securities for the following year based on a reference energy exchange market nominated by the Agency (currently HUPX); maximum tariff rise levels are set at 7% in 2017 and 6% in 2018 and 2019 (Section 4.3.3.2).

### 3.3.3.3 Consumer protection policy

3.124. Consumer protection is guaranteed by the Constitution which prohibits any action that may harm health, safety and privacy of consumers.<sup>208</sup> Consumer policy has been set out in several national consumer protection programmes since 2008.<sup>209</sup> Under the SAA, Montenegro is required to harmonize its consumer protection standards with the EU standards, and stimulate and ensure:

<sup>205</sup> Report on Work of the Agency on Protection of Competition for 2016, available in Montenegrin. Viewed at: <http://www.azzk.me/novi/joomlanovi/en/other-documents/reports>.

<sup>206</sup> European Commission (2016), *Montenegro 2016 Report*, Commission Staff Working Document SWD(2016) 360 final, 9 November, Brussels. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_strategy\\_paper\\_en.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_strategy_paper_en.pdf).

<sup>207</sup> At the time of its WTO accession, Montenegro undertook to apply price control measures in a WTO-consistent manner, including by taking account of the interests of exporting WTO Members, and to publish regularly notices of the goods and services subject to state price controls. WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

<sup>208</sup> 2007 Constitution Article 70. Viewed at: [https://www.constituteproject.org/constitution/Montenegro\\_2007.pdf?lang=en](https://www.constituteproject.org/constitution/Montenegro_2007.pdf?lang=en).

<sup>209</sup> EU Commission (2012), *Screening Report – Montenegro – Consumer protection*. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening\\_reports/screening\\_report\\_montenegro\\_ch28.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch28.pdf); European Commission (2016), *Montenegro 2016 Report*, COM(2016) 715 final. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_strategy\\_paper\\_en.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_strategy_paper_en.pdf).



an active consumer protection policy; more information and development of NGO sectors; harmonization of consumer protection legislation; effective and legal consumer protection in order to improve the quality of goods and services intended for consumers and maintain appropriate safety standards; access to justice in case of consumer disputes; and exchange of information on dangerous products.<sup>210</sup>

3.125. The Law on Consumer Protection (OG Nos. 02/14 and 43/15) regulates the protection of consumers' rights in purchasing and other forms of marketing of products. In addition, several other laws contain relevant provisions in numerous areas.<sup>211</sup> The overall responsibility for general consumer protection policy lies with the Department of Consumer Protection within the MEK. The Consumer Protection Centre (CEZAP), an independent non-profit and self-financed organization, participates in all consumer protection activities (policy making, drafting of legislation, and raising awareness of consumers) of the Government, makes publicly available all relevant information and data in its possession, and informs consumers about their rights.<sup>212</sup>

3.126. The Administration for Inspection Affairs, an independent body of the state administration system established in 2012 by merging 26 inspectorates of various ministries and other State agencies, is responsible for market surveillance and protection of consumers' health, safety and economic interests. Between 2012 and 2016, a total of 15,192 inspections (safety and non-safety related) were performed by the Administration for Inspection Affairs which found 294,866 dangerous products (327 types of products in 2016) and imposed: a permanent traffic ban on 30,594 items (173 types of products in 2016); a temporary traffic ban on 264,272 items (154 types of products in 2016); and a recall in more than 40 cases and on 5,701 items (49 types of products in 2015, 67 types of products in 2016). In 2014, the Central Bank of Montenegro (CBCG) began its consumer credit oversight functions through the examination of compliance of licensed banks and micro-finance institutions, and the handling of complaints submitted by users of these services; some 34 consumer complaints of clients concerning the services provided by banks were considered and action was taken by the CBCG.<sup>213</sup> As from 2007, the Arbitration Board for Out-of-Court Settlement of Consumer Disputes, an independent body acting under the 2014 Law on Consumer Protection and the Rulebook on the Arbitration Committee, has resolved disputes between consumers and traders, offering consumers faster and cheaper protection of their rights by removing financial and administrative as well as procedural hurdles.<sup>214</sup> Since 2016, its operations have been suspended pending the settlement of concerns related to the financing of its operations, an issue to be settled in the course of 2018. Between 2009 and April 2014, 15 consumer complaints were resolved by the Arbitration Board. Since 2012, the majority of complaints have been related to the lack of conformity of products, services of public interest, i.e. those related to electricity, telephone, internet and cable operators, as well as the incorrect indication of prices and information on products.

3.127. According to the European Commission, whereas an overall solid legal and institutional framework exists, implementation difficulties relating to the fragmented nature of the existing

<sup>210</sup> SSA Article 78. Viewed at: <http://ec.europa.eu/world/agreements/downloadFile.do?fullText=yes&treatyTransId=12781>.

<sup>211</sup> They include: the Law on Consumer Credits (OG No. 35/13); the Law on Tourism (OG Nos. 61/10 and 53/11); the Law on Obligations (OG No. 4/11); the Law on General Product Safety (OG No. 48/08); the Law on Market Inspection (OG No. 53/11); the Law on Inspection Control (OG Nos. 39/03 and 76/09); the Law on Internal Trade (OG No. 49/08); the Law on Electronic Commerce (OG No. 56/13); the Law on Electronic Communications (OG Nos. 50/08, 70/09 and 49/10); the Law on Electronic Media (OG Nos. 46/10 and 6/13); the Law on Energy (OG No. 28/10); the Law on Technical Requirements for Products and Alignment Assessment (OG No. 53/11); the Law on Standardization (OG No. 13/08); the Law on Metrology (OG No. 79/08); the Law on Accreditation (OG No. 54/09); the Law on Food Safety (OG No. 14/07 and 40/11); the Law on Obligations and Basic Property-Legal Relations in Air Transport (OG No. 18/11); the Law on Contractual Relations in Railway Transport (OG No. 41/10); the Law on Local Self-Government (OG Nos. 88/09, 03/10 and 38/12) etc. Negotiating Position of Montenegro for the Intergovernmental Conference on Accession of Montenegro to the European Union, Chapter 28 – Consumer and Health Protection.

<sup>212</sup> Negotiating Position of Montenegro for the Intergovernmental Conference on Accession of Montenegro to the European Union, Chapter 28 – Consumer And Health Protection, p. 17.

<sup>213</sup> Central Bank of Montenegro (2016), *Annual Report 2015*, Podgorica.

<sup>214</sup> Negotiating Position of Montenegro for the Intergovernmental Conference on Accession of Montenegro to the European Union, Chapter 28 – Consumer And Health Protection.



legislation and regulations are noticeable.<sup>215</sup> Consumer protection shortcomings were identified in the areas of public health (in particular with regard to inequalities in access to health protection), tobacco control, and drug abuse prevention; some progress was made on non-communicable diseases, cancer screening, removal and transplantation of human tissues, and cross-border healthcare. Improvements in administrative and enforcement capacity would ensure better implementation of the regulations in place.

### 3.3.4 State trading, state-owned enterprises, and privatization

3.128. State involvement in the economy, including trade, appears to be limited as a result of the privatization process undertaken over the past decade (see below). The majority of the remaining state-owned enterprises (SOEs) are of strategic importance to the Montenegrin economy in such fields as energy, broadcasting, transport, and tourism. They include the Port of Bar, Montenegro Railways, Montenegro Airlines, airports, four merchant ships, Plantaze Vineyards, the postal services and some tourism companies (Sections 3.3.1.2, 4.4.2 and 4.4.4).<sup>216</sup> Furthermore, in healthcare a public health institution, the Pharmacy of Montenegro (Montefarm), is operational.<sup>217</sup> As of October 2017, there were 60 companies in which the State or state funds held shares. These entities are registered as joint-stock companies, with the Government appointing one or more representatives to each Board based on their ownership structure. All must provide an annual report to the Government and are subject to independent audits. As at end-December 2016, the internal debt of Montenegrin SOEs dropped to €1.86 million, compared to €2.27 million at end-December 2015.<sup>218</sup> No data from 2012 onwards on the share of the SOEs' output in GDP, total employment, production and trade (domestic and foreign) or budgetary outlays to support them were available from the authorities.

3.129. The Government is the main institution responsible for privatization, one of its long-term policies.<sup>219</sup> In accordance with the Law on Economic Privatization (OG Nos. 23/96, 6/99, 59/00 and 42/04), the Privatization Council (now Privatization and Capital Investment Council) has managed, controlled, and implemented the privatization process since 1999; it has also proposed and coordinated all activities for capital projects in Montenegro. The Prime Minister is the president of the Privatization and Capital Investment Council. Each year, the Council announces and publishes in the Official Gazette the plan for privatization that lays out the companies to be privatized, the methods of their privatization, and how foreign investors can participate in the process.<sup>220</sup> Under the 2017 Plan, the main privatization objective was increasing the competitiveness and efficiency of operations of SOEs, encouraging foreign investments and entrepreneurship in all sectors, increasing employment and improving living standards.<sup>221</sup>

<sup>215</sup> European Commission (2016), *Montenegro 2016 Report*, Commission Staff Working Document SWD(2016) 360 final, 9 November, Brussels. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_strategy\\_paper\\_en.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_strategy_paper_en.pdf).

<sup>216</sup> Wine is a relatively important agricultural export item for Montenegro (Sections 1.3.2, 3.3.2.2.3, and 4.1.1.2). Plantaze, with a production of 22 million kilograms of wine grapes and grapes for fresh consumption as well as sales of over 17 million bottled products annually (out of which 90% are wines) in 35 countries of the world, has a leading position in the region; it is also involved in fish ponding and peach production (<http://www.plantaze.com/company/activities/>). European Commission (2016), *Montenegro 2016 Report*, Commission Staff Working Document SWD(2016) 360 final, 9 November, Brussels. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf).

<sup>217</sup> Montefarm supplies the population and health care institutions with medicines and other means of treatment. They *inter alia* cover: the pharmaceutical healthcare sector through 45 pharmacies covering all municipalities; and wholesale through commercial services and warehouses. In the area of wholesale, Montefarm supplies public health institutions (i.e. its pharmacies, health centres, general and specialized hospitals, the Clinical Centre of Montenegro, and Institute for Health of Montenegro) *inter alia* with: medicines; medical supplies; disposable medical supplies; other consumables; dental materials; and, hemodialysis and peritoneal dialysis and pharmaceutical chemicals. It also supplies its pharmacies with a complete parapharmacy programme. Montefarm's supplies are acquired through tenders placed on its webpage. Online information. Viewed at: <http://www.montefarm.co.me/index.html>.

<sup>218</sup> Government of Montenegro (undated), Economic Reform Programme for Montenegro 2017–2019.

<sup>219</sup> U.S. Department of Commerce (2017), *Montenegro Country Commercial Guide 2016*. Viewed at: [https://me.usembassy.gov/wp-content/uploads/sites/250/2017/02/Montenegro\\_2016\\_CCG.pdf](https://me.usembassy.gov/wp-content/uploads/sites/250/2017/02/Montenegro_2016_CCG.pdf).

<sup>220</sup> More information about the Council and the actual privatization plan is available on the Council's website: [www.savjetzaprivatizaciju.me/en](http://www.savjetzaprivatizaciju.me/en).

<sup>221</sup> Decision on the Privatization Plan for 2017, 23 February 2017. Viewed at: <http://www.savjetzaprivatizaciju.me/en/privatization-plan/>.

3.130. Privatization methods include the sale of shares and property by public tenders, valorisation of tourism locations or companies through public-private partnership, sale of shares on the stock exchange, and sale of shares and property by public auction. Public tender is conducted in accordance with the Decree on Sale of Shares and Company Assets by Public Tender; an Auction Commission conducts the process in line with the Regulation on Sale of Shares and Assets through Public Auction, and an invitation is published, *inter alia*, on the webpage of the Privatization and Capital Investment Council ([www.savjetzaprivatizaciju.me/en](http://www.savjetzaprivatizaciju.me/en)), in at least one of the leading daily newspapers, and for large and public enterprises in the international press. Where the Government or government funds are majority owners, the decision to sell a property whose value exceeds €50,000 must be approved by the Privatization and Capital Investment Council. Privatization through stock exchange sale is conducted on the proposal of the Government and government funds owning the companies' shares. Shares whose nominal price has been reduced by 95% due to stock price fluctuations can be offered under different conditions upon consent of the Council and in accordance with the rules of the Montenegro Stock Exchange.<sup>222</sup>

3.131. The privatization process seems to be in its final phases.<sup>223</sup> Since the process began in 1999, nearly 90% of Montenegrin SOEs have been privatized, including all those involved in banking, telecommunications and oil distribution.<sup>224</sup> Between 2012 and 2017, five SOEs involved in dairy production, chemicals, cargo handling and hotel activities were privatized; the complex surrounding the privatized hotel was leased, while the assets of a lumber company (Gornji Ibar Rožaje) were tendered for lease, the assets of a tobacco firm (Novi duvanski kombinat, Podgorica JSC) were tendered for capital increase and the long-term lease of two tourist sites owned by the state was valued. It was planned that in 2017 eight SOEs would be privatized through public tenders and 8 companies through stock exchange sale, and that 26 tourism locations or companies would be valorised through public-private partnership (Table 3.9).<sup>225</sup> None of the seven largest SOEs listed at the time of WTO accession has been privatized yet; four of them were included in the 2017 privatization plan.<sup>226</sup>

**Table 3.9 Companies/property planned to be privatized in 2017**

Company	Activity	Nominal amount of the registered capital (€ million)	State's share (%)	% of capital <sup>a</sup> to be privatized
<b>Companies/property to be privatized through public tenders</b>				
Institute "Dr. Simo Milošević" JSC - Igalo (sale of shares and/or capital increase)	Institute for physical medicine, rehabilitation and rheumatology	52.2	19.20	56.48
HG "Budva Riviera" JSC Budva (sale of shares)	Hotel group	80.9	41.63	58.73

<sup>222</sup> Online information. Viewed at: <http://www.savjetzaprivatizaciju.me/en/privatization-plan/> and information provided by the authorities.

<sup>223</sup> EIU (2017), *Country Report – Montenegro*, 15 February; U.S. Department of Commerce (2017), *Montenegro Country Commercial Guide 2016*. Viewed at: [https://me.usembassy.gov/wp-content/uploads/sites/250/2017/02/Montenegro\\_2016\\_CCG.pdf](https://me.usembassy.gov/wp-content/uploads/sites/250/2017/02/Montenegro_2016_CCG.pdf).

<sup>224</sup> In the early 1990s, Montenegro's 386 companies with state ownership characteristics were transformed into joint-stock or limited liability companies (with private, mixed, state or cooperative ownership). Their employees were granted 10% of their shares free of charge, and were allowed to purchase additional shares (up to 30% of the outstanding shares), offered at a discount and to be paid in instalments. The remaining shares were transferred to three state-owned funds – the Investment and Development Fund, the Pension and Disability Fund, and the Employment Agency. Some 63 of these companies have subsequently been sold through public tenders. More than 200 companies were privatized through Mass Voucher Privatization (MVP), where the adult population received voucher points and was given the choice to invest their points in individual companies or in six privatization funds (HLT Fund, Eurofond, Trend, Atlas Mont, Moneta and MIG). WTO document WT/ACC/CGR/13, 30 May 2006. U.S. Department of Commerce (2017), *Montenegro Country Commercial Guide 2016*. Viewed at: [https://me.usembassy.gov/wp-content/uploads/sites/250/2017/02/Montenegro\\_2016\\_CCG.pdf](https://me.usembassy.gov/wp-content/uploads/sites/250/2017/02/Montenegro_2016_CCG.pdf); and online information viewed at: <https://www.forbes.com/places/montenegro/>.

<sup>225</sup> The 2016 Privatization Plan envisaged the privatization of nine companies through the sale of shares and assets via public bids. Government of Montenegro (2017), *Economic Reform Programme for Montenegro 2017–2019*, January.

<sup>226</sup> WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

Company	Activity	Nominal amount of the registered capital (€ million)	State's share (%)	% of capital <sup>a</sup> to be privatized
HTE "Ulcinj Riviera" JSC Ulcinj (sale of shares and/or capital increase and/or valorisation of a part of property)	Hotel corporation	60.2	10.14	63.52
"Institut of Ferrous Metallurgy" JSC, Nikšić (sale of shares and/or capital increase)	Technical testing and analyses	5.2	51.00	51.12
"Montecargo" JSC Podgorica	Railroad cargo transport	17.5	85.44	51.00
"Port of Bar" JSC - Bar (sale of shares and capital increase)	Handling of cargo	70.3	54.06	30.00
"Marina" JSC - Bar (sale of shares)	Marina	8.8	..	54.57
"Castello Montenegro" JSC - Pljevlja (sale of shares)	Manufacturing of work clothing	1.9	87.00	86.81
<b>Companies to be privatized through stock exchange sale<sup>b</sup></b>				
"Papir" JSC, Podgorica	Non-specialized wholesale	0.4	19.47	23.99
"Agrotransport" JSC, Podgorica	Road freight transport	1.9	86.81	52.41
HTP "Berane" JSC, Berane	Hotel	5.2	..	15.35
"Dekor" JSC, Rožaje	Production of other paper and cardboard products	4.6	..	22.59
"Metalprodukt" JSC, Podgorica	Repairing of household appliances and home and garden equipment	0.4	..	8.37
"Montenegroturist" JSC, Budva	Tour-operator	2.1	..	29.67
"Crnagoracoop" JSC, Danilovgrad	Tea and coffee producer	3.4	10.63	10.63

.. Not available.

a The "capital to be privatized" includes the capital owned by the State, the Employment Bureau of Montenegro, the Pension and Disability Insurance Fund of Montenegro and the Investment and Development Fund.

b On the basis of the proposal of the Pension and Disability Fund of Montenegro, Employment Agency of Montenegro and Investment and Development Fund of Montenegro, shares of the following companies will be offered for sale through the stock exchange.

Source: Privatization and Capital Investment Council.

3.132. In 2016, Montenegro notified to the WTO that it did not have any enterprises covered by the provisions of Article XVII of the GATT 1994 and the Understanding on the Interpretation of Article XVII: State Trading Enterprises as already stated at the time of its accession (Section 2.3.1); it considers that all SOEs operate under commercial principles.<sup>227</sup> No written questions were submitted by Members regarding this notification, and no questions were raised at the meetings of the Working Party on State Trading Enterprises held during the review period.

<sup>227</sup> In addition upon its WTO accession Montenegro, *inter alia*, undertook to provide annual reports on developments in its programme of privatization, including identification of recently privatized enterprises and enterprises expected to be privatized. WTO documents G/STR/N/16/MNE, 27 September 2016; and WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

### 3.3.5 Government procurement

3.133. Public procurement constitutes a significant part of economic activity in Montenegro, amounting to around 12% of GDP and around 20%-25% of government spending.<sup>228</sup> The public procurement spending increased progressively by about 62% over the period 2013-16 (Table 3.10).

**Table 3.10 Public procurement contracts and value, 2013-16**

Year	Total number of contracts	Total contracted value (€ million)	Share of GDP (%)
<b>2013</b>	5,325	277.0	8.3
<b>2014</b>	5,799	327.2	9.6
<b>2015</b>	6,505	428.9	11.9
<b>2016</b>	7,653	447.7	11.8

Source: Public Procurement Administration of Montenegro (2017), *Report on Public Procurement in Montenegro for 2016*.

3.134. Montenegro became a Member of the WTO Agreement on Government Procurement on 15 July 2015, thus fulfilling in a timely manner its WTO accession commitment to join the Agreement.<sup>229</sup> Its GPA market liberalization commitments foresee international tendering for procurements undertaken by listed central government, sub-central government and other procuring entities for tenders with a value above SDR 130,000, SDR 200,000 and SDR 400,000 for goods and services and above SDR 5 million for construction services.<sup>230</sup> Above-threshold procurements constituted about 55% of total procurement in 2015 and 47% in 2016, with a clear emphasis on procurement of goods.<sup>231</sup> The value of contracts awarded to foreign suppliers covering procurement both below and above GPA thresholds has increased significantly from €14 million in 2013 to above €60 million or around 14% of the total contracted value in 2016 (equivalent to roughly 6% of the total number of contracts) (Tables 3.10 and 3.11).<sup>232</sup> No further detailed statistical data on the participation of WTO GPA-covered entities in government procurement market operations were available from the authorities; in addition, neither GPA-related statistical notifications nor the threshold values in national currency have been submitted so far.<sup>233</sup> The authorities indicated that as the statistical data for each year are collected at the beginning of the following one, the final data for 2016, compiled in May 2017, were submitted for adoption to the Government and are to be forwarded to the WTO in the shortest possible time.

**Table 3.11 Public procurement above the GPA thresholds, 2013-16**

Year	Procurement subject	Number of contracts	Estimated value (€ million)	Contracted value (€ million)
<b>2013</b>	Goods	118	85.7	67.4
	Services	28	11.5	10.9
	Works	-	-	-
<b>2014</b>	Goods	140	164.3	153.4
	Services	43	10.7	10.4
	Works	-	-	-
<b>2015</b>	Goods	211	174.0	169.3
	Services	79	25.1	25.1

<sup>228</sup> Public Procurement Administration of Montenegro (2015), *Strategy for Development of the Public Procurement System in Montenegro for the Period 2016 – 2020*. Viewed at: <http://www.ujn.gov.me/en/strategija-razvoja-sistema-javni-nabavki-u-crnoj-gori-za-period-2016-2020-godine/>.

<sup>229</sup> WTO documents WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011; GPA/124, 3 November 2014; and WT/Let/1051, 7 August 2015. WTO online information. Viewed at: [https://www.wto.org/english/news\\_e/news15\\_e/gpro\\_15jun15\\_e.htm](https://www.wto.org/english/news_e/news15_e/gpro_15jun15_e.htm).

<sup>230</sup> Subject to exceptions as specified in Montenegro's Appendix I Annexes to the GPA. WTO documents WT/Let/1051, 7 August 2015, and WT/Let/1120, 13 January 2016. Online information viewed at: <https://e-gpa.wto.org/en/Appendix/Details?Agreement=GPA113&Party=Montenegro&AdvancedSearch=False>.

<sup>231</sup> Public Procurement Administration of Montenegro (2017), *Report on Public Procurement in Montenegro for 2016*.

<sup>232</sup> Public Procurement Administration of Montenegro (2017), *Report on Public Procurement in Montenegro for 2016*.

<sup>233</sup> WTO document GPA/1, 5 March 1996. Public Procurement Administration of Montenegro (2017), *Report on Public Procurement in Montenegro for 2016*.

Year	Procurement subject	Number of contracts	Estimated value (€ million)	Contracted value (€ million)
2016	Works	6	48.0	42.3
	Goods	186	150.8	148.8
	Services	75	22.0	21.9
	Works	3	44.1	41.1

#### Contracts awarded to companies outside Montenegro

2013 (€ million)	2014 (€ million)	2015 (€ million)	2016 (€ million)
14.7	52.6	67.4	60.7

Source: Public Procurement Administration of Montenegro (2017), *Report on Public Procurement in Montenegro for 2016*.

3.135. Under the Strategy for the Development of the Public Procurement System in Montenegro for the period 2016–2020 and its implementing Action Plan, current key public procurement policy objectives include: improvement of the procurement system through constant monitoring and implementation of necessary regulatory changes; strengthening access to public finance; increasing transparency, efficiency and information flows; following of current trends (green procurement, socially responsible procurement, innovative procurement, e-procurement, support for SMEs etc.); further development of human resources involved in public procurement; and further harmonization with the EU directives.<sup>234</sup>

3.136. Under the Strategy for Development of the Public Procurement System in Montenegro for the period 2011–15, the legal framework has undergone important reforms to ensure compliance with the GPA and its alignment with the European Union *acquis* on public procurement.<sup>235</sup> The Law on Public Procurement (PPL) (OG Nos. 42/11, 57/14, 28/15 and 42/17) sets out the main rules applicable to government procurement and its latest amended version entered into effect on 30 June 2017.<sup>236</sup> The PPL prescribes policies for all public procurement of goods and services; introduces greater transparency and integrity into the process; establishes entities to administer the system efficiently; and offers equitable access to government contracts for the private sector.<sup>237</sup> Under the PPL, the basic public procurement principles are transparency, competition, non-discrimination, equal treatment and cost-effectiveness and efficiency in the use of public funds. Non-discrimination against foreign bidders is ensured and foreign companies are allowed to participate in public competitions under the same conditions that apply to domestic companies.<sup>238</sup> The PPL applies to all investments financed by the budget, payments guaranteed by the Government, and funds secured by loans taken by the Government.<sup>239</sup>

3.137. The PPL encompasses procurement by a broad range of contracting agencies, including: state authorities, local self-government bodies, public services and other beneficiaries of funds under the State Budget, or the budget of local self-government units or other public revenues; and, business enterprises, legal persons, entrepreneurs and natural persons financed from funds

<sup>234</sup> Government of Montenegro (2017), *Economic Reform Programme for Montenegro 2017–2019*, January; *Strategy for Development of the Public Procurement System in Montenegro for the Period 2016 – 2020*, 21 December 2015.

<sup>235</sup> The European Union launched accession negotiations with Montenegro on the chapter concerning public procurement (Chapter 5) in December 2013. Online information viewed at: [https://ec.europa.eu/growth/single-market/public-procurement/international/european-neighborhood-policy\\_en](https://ec.europa.eu/growth/single-market/public-procurement/international/european-neighborhood-policy_en), [http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/EN/genaff/140154.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/genaff/140154.pdf), and <http://www.ujn.gov.me/wp-content/uploads/2013/10/StrategijaENG.pdf>.

<sup>236</sup> Along with the PPL, the following implementing regulations were also adopted: Rulebook on Forms in Public Procurement Procedures (OG Nos. 23/15 and 31/15); Rulebook on Methodology for Expressing the Sub-criteria for Selection of the Most Favourable Bid in a Public Procurement Procedure (OG Nos. 24/15 and 29/15); Rulebook on Detailed Criteria for Establishment of a Commission for Opening and Evaluation of Bids (OG No. 24/15); Rulebook on Method of Determination of a Calculation Error in a Bid in a Public Procurement Procedure (OG No. 24/15); and Rulebook on Amendments to the Rulebook on Method of Keeping and Contents of the Records on Violation of Anti-corruption Rules (OG No. 56/15).

<sup>237</sup> Online information. Viewed at: <https://www.export.gov/article?id=Montenegro-selling-to-the-government>.

<sup>238</sup> Public Procurement Administration (2015), *Strategy for Development of the Public Procurement System in Montenegro for the Period 2016 – 2020*, 21 December. Viewed at: <http://www.ujn.gov.me/wp-content/uploads/2015/12/Strategy2016-20.docx>.

<sup>239</sup> Online information. Viewed at: <https://www.export.gov/article?id=Montenegro-selling-to-the-government>.



under the Budget, the budget of local self-government units or other public revenue (e.g. grants, loans, funds from international programmes or projects, funds from financial plans adopted by independent regulatory bodies) by more than 50%, or operating in the sectors of water management, energy, transport and postal transport.<sup>240</sup> In the period 2015-16, around 75% of procuring entities consisted of state authorities, local governments and other public service providers (Table 3.12). Business organizations funded by the State Budget constitute the second largest group of buyers covered by the public procurement legislation. The Public Procurement Administration (PPA, see below) establishes the list of contracting agencies covered by the PPL and publishes it electronically.<sup>241</sup>

**Table 3.12 Type of procuring entities, 2015 and 2016**

Type of entity	Number of entities		Share of total number of procuring entities (%)	
	2015	2016	2015	2016
State authorities, local governments and public services	507	453	78.2	73.5
Companies that perform activities of public interest (joint stock companies)	20	15	3.1	2.4
Business organizations founded by state and local governments	106	135	16.4	21.9
Companies in the utility sector	15	13	2.3	2.1
<b>Total</b>	<b>648</b>	<b>616</b>	<b>100</b>	<b>100</b>

Source: Public Procurement Administration of Montenegro (2017), *Report on Public Procurement in Montenegro for 2016*.

3.138. Under the June 2017 PPL amendments, the main procurement methods are as follows: open procedure; restricted procedure; negotiated procedures with or without publication of contract notice; contest; conclusion of a framework agreement; and, low-value procurement. Pursuant to the 2017 PPL amendments, the low-value procurement method is based on an act issued by the contracting entity and placed on its website, and applies to goods and services of a value below €15,000 and works contracts under €30,000. Prior to June 2017, direct solicitation of tenders (shopping method) and direct agreement methods were also in place.<sup>242</sup> The standard method of procurement is the open procedure. The application of the negotiated procedure, with or without prior publication of a contract notice, requires prior approval from the PPA (see below).<sup>243</sup> Framework agreements have been used relatively infrequently. In 2015 and 2016, open procedure accounted for more than 83% of the total procurement contract value and over 45% of awarded contracts (Table 3.13). In addition, around 4% in value and number of contracts were awarded in the form of framework agreements, and around 5% in value were attributed to smaller value direct contracts (constituting almost 50% of contracts) through competitive "shopping" (until mid-2017).<sup>244</sup> Similar percentages are reported for the years 2011-14.<sup>245</sup> In 2016, Montenegro achieved procurement savings of €45.2 million (as measured by the difference between the estimated and the contracted value) ranging from 0.46% (restricted procedure) to 16.5% (small value-shopping method), and the highest savings (€38.8 million) were realized under the open

<sup>240</sup> Public Procurement Administration (2015), *Strategy for Development of the Public Procurement System in Montenegro for the Period 2016–2020*, 21 December. Viewed at: <http://www.ujn.gov.me/wp-content/uploads/2015/12/Strategy2016-20.docx>.

<sup>241</sup> Online information. Viewed at: <http://www.ujn.gov.me/wp-content/uploads/2017/07/Lista-2017.pdf> (available in Montenegrin only).

<sup>242</sup> The direct agreements method was only admissible for procurements below €5,000 and could only be used once a year for the same goods or services by the same contracting entity. The shopping method, used for contract values ranging from €5,000 to €25,000, preserved the essential transparency and competition features of the open procedure; the authorities indicated that it was a competitive procedure, which was characterized by a shorter time of its implementation and a lower value scale, so it could have been referred as an open procedure.

<sup>243</sup> SIGMA (2016), *Monitoring Report on the Principles of Public Administration – Public Financial Management*. Viewed at: <http://www.sigmaweb.org/publications/Monitoring-Report-2016-Montenegro.pdf>.

<sup>244</sup> Public Procurement Administration of Montenegro (2017), *Report on Public Procurement in Montenegro for 2016*, May. Viewed at: <http://www.ujn.gov.me/wp-content/uploads/2017/06/Public-Procurement-Report-for-2016.pdf>.

<sup>245</sup> Public Procurement Administration of Montenegro (2017), *Report on Public Procurement in Montenegro for 2016*, May. Viewed at: <http://www.ujn.gov.me/wp-content/uploads/2017/06/Public-Procurement-Report-for-2016.pdf>.



procedures; the selection criteria of the most advantageous bid remained the lowest price (93.02% in 2016, 70% in 2012) and the most economically advantageous tender (6.98% in 2016, 30% in 2012).

3.139. The legislation does not contain explicit measures encouraging the participation of domestic suppliers and/or SMEs in public procurement procedures. The authorities indicated that the contracting agencies are encouraged, through a functional training programme, to divide procurement subjects into lots in terms of technology, type, quantity, etc. At the same time, efforts are aimed at strengthening SMEs representatives' awareness of the contract award procedures. Montenegro responded to the Questionnaire pursuant to the Decision of the WTO Committee on Government Procurement on a Work Programme on SMEs and answered questions by Canada, the European Union, and the United States in this area.<sup>246</sup>

**Table 3.13 Procurement procedures utilization, 2015 and 2016**

Type of procedure	Year	Number of contracts	%	Contracted value (€)	%
Open procedure	2015	2,941	45.2	356,806,744	83.2
	2016	3,567	46.6	371,741,151	83.0
Restricted procedure	2015	13	0.2	494,309	0.1
	2016	10	0.1	325,604	0.1
Negotiated procedure with prior publication of a contract notice	2015	6	0.1	579,095	0.1
	2016	35	0.5	4,704,811	1.0
Negotiated procedure without prior publication of a contract notice	2015	131	2.0	7,992,327	1.9
	2016	125	1.6	4,753,230	1.1
Framework agreement	2015	258	4.0	19,994,669	4.7
	2016	354	4.6	18,860,671	4.2
Award of public procurement contract by contest	2015	6	0.1	47,613	0.0
	2016	6	0.1	421,575	0.1
Shopping	2015	3,144	48.3	19,533,018	4.5
	2016	3,556	46.5	23,547,961	5.3
Direct agreement	2015	79,303	-	22,822,055	5.3
	2016	84,967	-	23,384,217	5.2

Source: Public Procurement Administration of Montenegro (2017), *Report on Public Procurement in Montenegro for 2016*.

3.140. The Ministry of Finance is responsible for public procurement policy making and coordination, submitting draft legislation to the Government and implementing it when passed.<sup>247</sup> The main role of administering the public procurement system pertains to the Public Procurement Administration (PPA) of Montenegro, an autonomous body within the Ministry of Finance.<sup>248</sup> PPA's competences include monitoring of the public procurement system and its compliance with EU rules, drafting procurement regulations, issuing prior approvals for application of negotiated procedures with or without the publication of calls for competition, maintaining the lists of contracting authorities, conducting activities related to professionalization of procurement, electronic procurement, cooperating with international organizations and others.<sup>249</sup> The PPA supports the activities of contracting agencies by publishing opinions concerning the application of public procurement rules, instructions and procurement manuals on its website and offering online courses on public procurement.<sup>250</sup> The PPA also administers the public procurement portal.<sup>251</sup> A new portal, launched in May 2015, is used by procuring entities to publish their annual procurement plans, tender documents, announcements concerning negotiated procedures without publication, and contracts under framework agreements that were concluded prior to the latest amendment of the PPL; at present, the portal does not allow for the submission of e-bids.<sup>252</sup> In

<sup>246</sup> WTO documents GPA/WPS/SME/14, 16 December 2015; GPA/WPS/SME/46, 8 November 2016; GPA/WPS/SME/47, 8 November 2016; and GPA/WPS/SME/49, 18 November 2016.

<sup>247</sup> SIGMA (2016), *Monitoring Report on the Principles of Public Administration – Public Financial Management*. Viewed at: <http://www.sigmaweb.org/publications/Monitoring-Report-2016-Montenegro.pdf>.

<sup>248</sup> Online information. Viewed at: <http://www.ujn.gov.me/en/nadleznosti/>.

<sup>249</sup> SIGMA (2016), *Monitoring Report on the Principles of Public Administration – Public Financial Management*. Viewed at: <http://www.sigmaweb.org/publications/Monitoring-Report-2016-Montenegro.pdf>. See also Public Procurement Administration of Montenegro (2017), *Report on Public Procurement in Montenegro for 2016*.

<sup>250</sup> Online information. Viewed at: <http://www.ujn.gov.me/en/nadleznosti/>.

<sup>251</sup> Online information. Viewed at: <http://195.66.166.208/delta2015/login.jsp>.

<sup>252</sup> SIGMA (2016), *Monitoring Report on the Principles of Public Administration – Public Financial Management*. Viewed at: <http://www.sigmaweb.org/publications/Monitoring-Report-2016-Montenegro.pdf>.

2016, the PPA portal received 575,000 visits (540,000 in 2015).<sup>253</sup> The introduction of an e-procurement system, including the tools and techniques contained in the EU Directives, is under way; its project was published on 26 September 2017, and the contract award is expected to take place in the course of the first or second quarter of 2018.

3.141. The PPL contains provisions on anti-corruption and conflicts of interest.<sup>254</sup> The PPA (see below) has a preventive role in fighting bid-rigging and other corruptive actions, in cooperation with other state agencies. During 2016, there were six cases of corruptive actions reported through PPA's help-desk, while two cases were reported in written form. The first of those reports related to the abuse of a bank guarantee, while the second referred to the non-observance of technical specification requirements for tender documents (Section 3.3.3.1.3). The PPA forwarded the reports to the competent bodies for further action.

3.142. Challenges to the system, including complaints, are handled by the State Commission for the Control of Public Procurement of Montenegro (SC), which consists of a Chairman and six members, appointed by the Government for a four-year term.<sup>255</sup> Complaints may lead to the immediate suspension of a procurement procedure and are subject to appeal to the Administrative Court.<sup>256</sup> Audits are carried out by the State Audit Institution of Montenegro.<sup>257</sup> In 2016, the Administrative Court returned 44 cases to the State Commission for renewed proceedings. In 35 cases, the lawsuits against the State Commission's decisions were rejected by the Administrative Court, while in two cases the administrative dispute procedure was suspended due to the cease of the legal interest of the complainant (Directorate for Public Works Podgorica) and the withdrawal of the prosecutor (Ministry of Justice).

3.143. Notwithstanding the significant results achieved so far, according to the authorities, challenges still persist, as well as obstacles that may have an adverse impact on the overall competitiveness of the economy.<sup>258</sup> The achievement of greater efficiency, the shortening of the procedure and a reduction of the costs of public procurement are still not at the desired levels. In addition, adequate administrative and institutional capacities need to be established at all levels, and the enforcement of laws ensured prior to EU accession. Action is under way to improve the regulatory and institutional framework in the area of government procurement. It is aimed at increasing transparency, efficiency and information flows, as well as shortening procedures and lowering the cost of the public procurement process. Efforts are to be made to strengthen administrative capacities, develop and establish the e-procurement system, strengthen monitoring of the procurement system, raise public awareness through education and training, and better assess the success of the procurement process, the risks of irregularities, and factors that reduce the competitiveness and efficiency of procurement.<sup>259</sup> They include the preparation of further amendments to the PPL to bring it in line with the 2014 EU Procurement Directives and GPA WTO provisions, as well as new legislation applying to public-private partnerships (PPP) and concessions in line with the objectives of the Strategy for Development of the Public Procurement System in Montenegro for the period 2016–20.<sup>260</sup> Plans exist to, *inter alia*, strengthen the financial and administrative capacity of the PPA and the SC as well as to improve the implementation of

<sup>253</sup> Public Procurement Administration of Montenegro (2017), *Report on Public Procurement in Montenegro for 2016*, May. Viewed at: <http://www.ujn.gov.me/wp-content/uploads/2017/06/Public-Procurement-Report-for-2016.pdf>.

<sup>254</sup> PPL Articles 15–18 (OG No. 57/14).

<sup>255</sup> Online information. Viewed at: <http://www.kontrola-nabavki.me/1/index.php?lang=en>.

<sup>256</sup> SIGMA (2016), *Monitoring Report on the Principles of Public Administration – Public Financial Management*. Viewed at: <http://www.sigmaweb.org/publications/Monitoring-Report-2016-Montenegro.pdf>.

<sup>257</sup> Online information. Viewed at: <http://www.dri.co.me/1/>.

<sup>258</sup> Government of Montenegro (2017), *Economic Reform Programme for Montenegro 2017–2019*, January.

<sup>259</sup> Government of Montenegro (2017), *Economic Reform Programme for Montenegro 2017–2019*, January.

<sup>260</sup> Public Procurement Administration (2015), *Strategy for Development of the Public Procurement System in Montenegro for the Period 2016–2020*, 21 December. Viewed at: <http://www.ujn.gov.me/wp-content/uploads/2015/12/Strategy2016-20.docx>; SIGMA (2016), *Monitoring Report on the Principles of Public Administration – Public Financial Management*. Viewed at: <http://www.sigmaweb.org/publications/Monitoring-Report-2016-Montenegro.pdf>; World Bank (2017), *Preliminary Analysis – The Public Procurement Monitoring System of Montenegro*. Viewed at: <https://openknowledge.worldbank.org/handle/10986/28315>; and online information. Directive 2014/24/EU on public procurement, Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors; Directive 2014/23/EU on the award of concession contracts.

e-procurement tools allowing for better monitoring throughout all phases of the procurement process (see above).

3.144. According to a 2013 European Union benchmarking exercise, an important aspect of strengthening the implementation of open, fair and transparent procurement procedures depends on action to prevent and fight corruption and conflict of interest in the area of public procurement at both central and local level.<sup>261</sup> In addition to Montenegro's overall anti-corruption initiatives (Section 2.4.2), including the Action Plan for the implementation of the strategy for the fight against corruption and organized crime 2013–14, the Strategy for Development of the Public Procurement System in Montenegro for the period 2016–20 clearly identified the need to further strengthen and improve the existing legal and institutional framework and practice, in order to minimize corruption in this area.<sup>262</sup> The PPL contains relevant provisions (Articles 15–18), the Law on Prevention of Conflict of Interests was revised in 2011 (OG No. 47/11), and a Rulebook on the Manner of Keeping and Content of Records on Violation of Anti-Corruption Rules (OG No. 63/11) was adopted. The Agency for Corruption Prevention supports the PPA and the State Audit Institution in monitoring the procurement system and taking remedial measures.<sup>263</sup> Reports on the Implementation of the Integrity Plan of the Public Procurement Administration in 2014, 2015 and 2016 are available online.<sup>264</sup>

### 3.3.6 Intellectual property rights

3.145. Montenegro's policy stance has been focused on the implementation of the recently built legal framework and enforcement of intellectual property rights (IPRs). The National Intellectual Property Strategy 2012–2015 was aimed at, *inter alia*, improving cooperation and coordination between the various state institutions in the IPR field, enhancing enforcement of IPRs, increasing economic growth through effective use of IP, improving the methods of acquiring and managing IP, improving enterprises and the public's understanding of the use and value of intellectual property and IPRs, and improving and modernizing information and communications technology (ICT) in terms of IP issues. Comprehensive reports covering all action relating to the implementation of this wide-ranging strategy were issued in 2012, 2013, 2014 and 2015.<sup>265</sup> There have been no new strategies in this area since 2015.

3.146. Since 2010, Montenegro has taken numerous steps to align its laws and regulations with the WTO TRIPS Agreement and European Union standards required for its ongoing accession process.<sup>266</sup> The main updated or new IPR legislation covered patents, trademarks, geographical indications, industrial design, topographies of integrated circuits, copyright and related rights and customs treatment of counterfeit goods.<sup>267</sup> To align all Montenegrin laws with the rules set out in

<sup>261</sup> Online information. Viewed at:

[http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/EN/genaff/140154.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/genaff/140154.pdf); and Institute Alternative (2012), *Corruption and Public Procurement in Montenegro*. Viewed at: <http://balkantenderwatch.eu/btw/uploaded/MNE%20eng/institute-alternative-corruption-and-public-procurement-in-montenegro.pdf>.

<sup>262</sup> Public Procurement Administration (2015), *Strategy for Development of the Public Procurement System in Montenegro for the Period 2016–2020*, 21 December. Viewed at: <http://www.ujn.gov.me/wp-content/uploads/2015/12/Strategy2016-20.docx>; and online information. Viewed at: <http://www.ujn.gov.me/en/2013/06/akcioni-plan-za-sprovođenje-strategije-borbe-protiv-korupcije-i-organizovanog-kriminala-za-period-2013-2014-godine/>.

<sup>263</sup> Online information. Viewed at: <http://www.antikorupcija.me/en/>.

<sup>264</sup> Online information. Viewed at: <http://www.ujn.gov.me/wp-content/uploads/2016/02/IntegrityPlan.pdf>.

<sup>265</sup> European Commission (2012), *Screening Report of Montenegro. Chapter 7 – Intellectual Property Law*. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening\\_reports/screening\\_report\\_montenegro\\_ch07.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch07.pdf).

<sup>266</sup> Until 2010, the legislative framework in this area was composed of the Law on Copyright and Related Rights (SM OG No. 61/04), the Law on Patents (SM OG Nos. 32/04 and 35/04), the Law on Legal Protection of Designs (SM OG No. 61/04), the Law on Indications of Geographical Origin (SM OG No. 20/06), and the Law on Protection of Topographies of Integrated Circuits (SM OG No. 61/04). WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

<sup>267</sup> Since Montenegro's independence, new legislation covering IPRs has been developed, in particular, the Law on Optical Discs (OG No. 02/07), the Criminal code, the Customs law (OG Nos. 7/02, 38/02, 72/02, 21/03, 31/03, 29/05, 66/06, 21/08), the Law on Protection of Plant Varieties (OG Nos. 48/07 and 48/08), the Law on Protection of undisclosed information (OG No. 96/07). Regulation on the customs treatment of goods for which there is reasonable suspicion of infringing intellectual property rights (OG No. 48/16). WIPO

the new Law on Administrative Procedure, the Patent Law, the Law on Trademarks and the Law on Legal Protection of Industrial Design were amended in 2017 and their amendments became applicable as from 1 July 2017 when the new Law on Administrative Procedure entered in force (Sections 3.3.6.1.1, 3.3.6.1.2 and 3.3.6.1.5). Montenegro's IPR legislation was notified in a timely manner to the WTO; in addition to the review of its national implementing legislation involving questions from the United States in October 2013 and February 2014, the new and/or amended regulatory framework was presented at the meetings of the Council for Trade-Related Aspects of Intellectual Property Rights held in October 2014 and March 2017 (Section 2.3.1).<sup>268</sup>

3.147. Since 2012, Montenegro has expanded its international commitments by becoming a party to: the International Convention for the Protection of New Varieties of Plants (UPOV) as of August 2015; the Beijing Treaty on Audiovisual Performances, signed on 27 May 2013 (ratification pending); the Patent Law Treaty on harmonizing and streamlining formal procedures, in force as of 9 March 2012; the Strasbourg Agreement establishing the International Patent Classification (IPC), effective as of 6 January 2013; and the Vienna Agreement, in force as of 9 March 2012, establishing a classification (the Vienna Classification) for marks that consist of, or contain, figurative elements.<sup>269</sup> As of December 2017, Montenegro participated in 23 out of 26 treaties administered by the World Intellectual Property Organization (WIPO).<sup>270</sup> Additionally, in 2013 Montenegro ratified the Protocol amending the WTO TRIPS Agreement (OG No. 6/13) and plans to become a party of the European Patent Convention.<sup>271</sup>

3.148. Foreign natural and legal persons enjoy the same intellectual property rights as domestic natural and legal persons when so provided for under international agreements or under the principle of reciprocity.<sup>272</sup>

### 3.3.6.1 Industrial property

3.149. The Intellectual Property Office of Montenegro (IPOM), an administrative body established in 2008 and within the MEK since 23 March 2017, is responsible for registration of industrial property rights, namely trademarks, patents, industrial designs, geographical indications and designations of origin, and topographies of semiconductor products, as well as for matters related to professional segments on copyright and related rights (licences for collective management organizations and supervision). No separate agency is in charge of copyright. The Ministry of Agriculture and Rural Development (MARD) is responsible for agricultural geographical indications and plant varieties protection matters (Sections 3.3.6.1.3 and 3.3.6.1.4). The IPOM's decisions can be appealed before the MEK in the first instance and the Administrative Court of Montenegro in the second instance. As from 1 July 2017, IPOM decisions in the area of patents, trademarks and industrial designs can be appealed before the Administrative Court of Montenegro in the first instance, and the Supreme Court of Montenegro in the second instance. In 2016, the average length of appeal procedures was three months; while the average length of proceedings before the Administrative Court (from filing the case to judgement) was 6-12 months. The Commercial Court of Montenegro rules, *inter alia*, in the first instance in disputes between business entities, entrepreneurs and other legal entities performing economic activity (economic entities) (Section 3.3.6.3.3).

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Montenegro online information. Viewed at: <http://www.wipo.int/wipolex/en/profile.jsp?code=ME> and WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

<sup>268</sup> WTO documents IP/C/M/74, 24 October 2013; IP/C/M/75, 7 March 2014; IP/C/M/77, 26 November 2014; IP/C/M/77/Add.1, 19 February 2015; IP/C/M/85, 27 April 2017; and IP/C/M/85/Add.1, 7 June 2017.

<sup>269</sup> WIPO Montenegro online information. Viewed at: [http://www.wipo.int/treaties/en/ShowResults.jsp?country\\_id=237C](http://www.wipo.int/treaties/en/ShowResults.jsp?country_id=237C).

<sup>270</sup> WIPO Montenegro online information. Viewed at: [http://www.wipo.int/treaties/en/ShowResults.jsp?country\\_id=237C](http://www.wipo.int/treaties/en/ShowResults.jsp?country_id=237C); UPOV online information. Viewed at: <http://www.upov.int/upovlex/en/notifications.jsp>.

<sup>271</sup> WTO online information. Viewed at: [https://www.wto.org/english/tratop\\_e/trips\\_e/amendment\\_e.htm](https://www.wto.org/english/tratop_e/trips_e/amendment_e.htm) and [https://www.wto.org/english/news\\_e/pres03\\_e/pr350\\_e.htm](https://www.wto.org/english/news_e/pres03_e/pr350_e.htm).

<sup>272</sup> Article 106 of the Law on Copyright and Related Rights, Article 6 of the Law on Trademarks, Article 7 of the Law on Indications of Geographical Origin, Article 10.2 of the Law on Legal Protection of Design, Article 3 of the Law on Patents, and Article 7 of the Law on Protection of Topographies of Integrated Circuits. WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

3.150. Parallel imports are not forbidden; as long as the goods are original, they can enter the free market but sometimes are marketed in a way that the trademark owner might not consider favourable.<sup>273</sup> No data or other information on values of parallel imports is available from the authorities as the Customs Administration does not keep such records.

3.151. Penal provisions for IPR infringements of patents, trademarks, industrial designs, and copyright and related rights include fines (see below) or imprisonment for between one and eight years. Civil remedies comprise injunctions against further infringement, seizure and destruction of objects, and damage compensation (Section 3.3.6.3). Provisional measures for preventive infringements are provided in each industrial property act (see below). No data on the number and types of cases dealt with were available from the authorities.

### 3.3.6.1.1 Patents

3.152. Patent protection under the 2015 Law on Patents (OG No. 42/15) (last amended in 2017), which replaced the Patent Law (OG No. 66/08), is for 20 years from the filing date. Both product (e.g. device, substance, composition) and process patents may be granted. The grace period for filing an application is eighteen months. The owner may exploit the patent either individually or in cooperation with other natural or legal persons; rights may be transferred by assignment, licensing, or by testamentary succession.<sup>274</sup> Provision is made for granting compulsory licences, on the grounds of lack or insufficiency of exploitation of a patent, to any person filing a request, if the patent owner has not exploited the invention on the territory of Montenegro on reasonable terms, or has not made effective and serious preparations for its exploitation. A compulsory non-exclusive licence can be issued for: a patent necessary for the manufacture and sale of pharmaceutical products which are intended for export to countries in need of such products to address public health issues; and, plant breeders to obtain or exploit a right of protection of plant variety (Section 3.3.6.1.4).<sup>275</sup> No compulsory licences have been issued so far. As at 2017, Montenegro was not on the list of countries providing the option of utility model protection.<sup>276</sup> Under the present legislation, penalties for misdemeanours can reach up to €20,000 for legal entities, €6,000 for entrepreneurs and €2,000 for a natural person; there have been no such cases since 2012.<sup>277</sup>

3.153. The 2015 Law on Patents incorporates several novelties including the evidence of patentability which contributes to the legal strength of the patent system in Montenegro. Patent owners must, not later than the expiration of the ninth year of the patent, submit the proof of patentability and a certified copy of the substantive examination performed by a contracting national or international IP Office (Article 32 of the Patent Cooperation Treaty) or an IP office that has signed a cooperation agreement with IPOM (Article 47). The revalidation of national Serbia and Montenegro State Union patents within six months of entry into force of the new Patent Law is allowed (Article 161). In addition, the 2015 Law allows the revalidation of European Patents extended to Serbia prior to 1 March 2010 (when the agreement between Montenegro and the European Patent Office (EPO) was signed) (Article 162), clarifies the procedure for obtaining a Supplementary Protection Certificate (SPC) (Article 87) and elaborates provisions with respect to court action.<sup>278</sup>

3.154. During the period 2012-16, a total of 1,418 patents were registered: 59 were registered by Montenegrin citizens, 717 European patents were extended to Montenegro, and 642 patent rights

<sup>273</sup> Petosevic online article, "Montenegro IP Report: A Decade After", 20 October 2016. Viewed at: <https://www.petosevic.com/resources/articles/2017/02/3521>.

<sup>274</sup> Legal or natural persons not having a principal place of business, a domicile or a habitual residence in Montenegro may undertake certain formalities before SIPO by themselves, without a professional representative (e.g. file a patent application or other acts relating to the establishment of the filing date of a patent application, pay the administrative fees and procedural charges).

<sup>275</sup> Law on Patents (OG No. 42/15). Viewed at: <http://www.wipo.int/wipolex/en/details.jsp?id=15950>; ZMP online information. Viewed at: <http://zmpip.com/en/page/19/Montenegro>.

<sup>276</sup> WIPO online information. Viewed at: [http://www.wipo.int/sme/en/ip\\_business/utility\\_models/where.htm](http://www.wipo.int/sme/en/ip_business/utility_models/where.htm).

<sup>277</sup> Law on Patents (OG No. 42/15). Viewed at: <http://www.wipo.int/wipolex/en/details.jsp?id=15950>; ZMP online information. Viewed at: <http://zmpip.com/en/page/19/Montenegro>.

<sup>278</sup> The Supplementary Protection Certificate (SPC) is issued by the competent authority for a basic patent for a medicinal product intended for humans or animals, or for a plant protection product granted in Montenegro. Law on Patents (OG No. 42/15). Viewed at: <http://www.wipo.int/wipolex/en/details.jsp?id=15950>; ZMP online information. Viewed at: <http://zmpip.com/en/page/19/Montenegro>.



were transferred from the former State Union. Between January and September 2017, there were 240 patent applications submitted to IPOM, of which 13 were submitted by Montenegrin citizens and 227 related to European patents extended to Montenegro; 189 of these applications led to registered patents, of which 13 were registered by Montenegrin citizens and 176 were European patents extended to Montenegro. Most patents registered during the 2001-15 period are in civil engineering (15.22%); electrical machinery, apparatus, and energy (13.04%); engines, pumps and turbines (10.87%), other special machines (10.87%), and pharmaceuticals (6.52%).<sup>279</sup>

### 3.3.6.1.2 Trademarks

3.155. The 2010 Law on Trademarks (last amended in 2017) ensures ten-year protection of trademarks on goods and services and collective marks registered with IPOM or through a system of international registration (Madrid system) from the date of filing the application, renewable indefinitely for ten-year periods (Article 42) upon the payment of the appropriate fee.<sup>280</sup> The failure to use a trademark for an uninterrupted period of five years without justified reasons could lead to termination of the protection.<sup>281</sup> A trademark cannot be the subject of a compulsory licence (Article 39).

3.156. To ensure compliance with the EU standards, the 2010 Law was amended in 2012, 2014, 2016 and 2017.<sup>282</sup> The 2012 amendments: clarified the provisions on the filing and examination of applications for national and international trademark registration; established the procedure for transforming an internationally registered trademark into a national trademark application; and introduced new provisions on filing oppositions.<sup>283</sup> Civil protection in case of trademark infringement has been strengthened under the 2014 amendments. Additional provisions on the seizure and destruction of goods, compensation of damages, usual compensation, unjust enrichment, preliminary injunctions, securing evidence and the publication of court decisions were inserted into the Law. The Law stipulates monetary fines in cases of trademark infringement. A fine from €1,500 to €20,000 (US\$2,100-US\$28,000) may be imposed against a legal entity in the case of unauthorized use of a trademark; the 2016 amendments established fines of €500-€2,000 (US\$700-US\$2,800) for physical persons and the responsible person within a legal entity, and fines of €1,300-€6,000 (US\$1,800-US\$8,300) for entrepreneurs. Additionally, trademarks that have become generic as well as trademarks that are likely to cause confusion with existing marks can be cancelled.<sup>284</sup> Consequently, the 2016 amendments: provided more detailed regulations on the inspection supervision procedure in the case of infringement of rights; extended the validity of Community trademark applications and Community trademarks to the territory of Montenegro from the date of accession of Montenegro to the European Union; and introduced Community exhaustion of rights from the date of accession of Montenegro to the European Union.<sup>285</sup> Moreover, as a result of 2017 amendments, which abolished the previous two-instance decision procedure, the decision of the IPOM on administrative judicial proceedings became final.

3.157. Montenegro simplified the examination and registration procedure of a trademark; the *ex officio* examination is carried out only on the basis of absolute grounds for refusal of registration, while the relative grounds are examined by the opposition, which is in line with the practice of the European Union and all its member States. As in 2012, the time for registration is 6-9 months.<sup>286</sup> As of 2016, Montenegro had received 3,484 trademark applications (of which 2,916

<sup>279</sup> WIPO online information. Viewed at:

[http://www.wipo.int/ipstats/en/statistics/country\\_profile/profile.jsp?code=ME](http://www.wipo.int/ipstats/en/statistics/country_profile/profile.jsp?code=ME).

<sup>280</sup> A trademark could consist of words, slogans, letters, numbers, pictures, drawings, colour combinations, three-dimensional forms, or a combination of such elements, as well as musical phrases that could be shown graphically.

<sup>281</sup> WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011; Law on Trademarks (OG No. 72/10). Viewed at: <http://www.wipo.int/edocs/lexdocs/laws/en/me/me015en.pdf>.

<sup>282</sup> WIPO online information. Viewed at: <http://www.wipo.int/wipolex/en/profile.jsp?code=ME>.

<sup>283</sup> Law on Amendments to the Law on Trademarks (OG No. 44/12). Viewed at: <http://www.wipo.int/edocs/lexdocs/laws/en/me/me028en.pdf>.

<sup>284</sup> Petosevic online article, "Montenegro to Amend Trademark Law", March 2014. Viewed at: <https://www.petosevic.com/resources/news/2014/03/2878>; Law on Amendments to the Law on Trademarks (OG No. 18/14). Viewed at: <http://www.wipo.int/edocs/lexdocs/laws/en/me/me044en.pdf>.

<sup>285</sup> WIPO online information. Viewed at: <http://www.wipo.int/wipolex/en/details.jsp?id=16551>.

<sup>286</sup> An opposition to a trademark registration may be filed by the holder of earlier trademark or the holder of earlier rights within three months from the date of its publication in the *Gazette* of intellectual property rights, if they consider that the registration can infringe their rights. The Law on Trademarks (OG No. 72/10). Viewed at: <http://www.wipo.int/edocs/lexdocs/laws/en/me/me015en.pdf>.



were non-resident, 455 abroad and 113 resident), compared to 3,884 applications in 2011 (3,562 non-resident, 228 abroad and 94 resident).<sup>287</sup> In 2016, 3,398 trademarks were registered (3,043 non-resident, 279 abroad and 76 resident), compared to 6,826 (6,507 non-resident, 303 abroad and 16 resident) in 2011. No comprehensive data on the number and type of fines in cases involving trademark infringements since 2012 were available from the authorities. According to IPOM's data, the national trademark applications were as follows: 532 (87 resident, 445 non-resident) in 2012; 510 (91 resident, 419 non-resident) in 2013; 594 (125 resident, 516 non-resident) in 2014; 541 (105 resident, 436 non-resident) in 2015; 557 (135 resident, 422 non-resident) in 2016; and, 528 (124 resident, 403 non-resident) in 2017. Designations in international registrations and subsequent designations were 3,333 (2012); 3,121 (2013); 2,962 (2014); 3,003 (2015); 2,179 (2016); and 2,983 (2017).

### 3.3.6.1.3 Geographical indications

3.158. Since 2012, the geographical indications (GI) regulatory framework has remained relatively unchanged.<sup>288</sup> Authorized users of a GI have the exclusive right to mark their products with the indication "controlled appellation of origin". The right covers the usage of GI on packaging, invoices, business correspondence and other forms of business documents, and the import or export of goods bearing such GI. A GI is not subject to the contract on transfer of rights, licence agreements, pledge, franchise or the like.<sup>289</sup> The period of validity of a registered GI is unlimited.<sup>290</sup>

3.159. Indications of geographical origin are used to mark both products and services. Non-geographical names (e.g. traditional or historic names) can be registered as geographical indications. The institutional competence in this area is shared between the IPOM (for industrial products) and the MARD (for agriculture and fish products). Applications for the registration of geographical indications of origin and designations of source for agricultural and food products, wine and spirit drinks are submitted to the MARD.<sup>291</sup> So far, two domestic food products have been registered, both in 2017: the *Njeguška pršuta* (smoked ham from Njeguši) as a geographical indication; and, the *Pljevaljski sir* (white cheese from Pljevlja) as a designation of origin. Applications for other products are submitted to the IPOM.<sup>292</sup>

3.160. Under the Law on Quality Schemes (OG No. 22/17), a pecuniary fine ranging from €500 to €10,000 may be imposed on a legal person for misdemeanours if: it uses a registered designation of origin or geographical indication but the product does not comply with the conditions from the corresponding specification; it uses a registered designation of origin or a geographical indication after the cancellation of the decision on registration of the designation of origin or geographical indication; or, the label of an agricultural or food product produced or processed in accordance with the corresponding product specification does not contain, in addition to the registered name, a visible indication of Protected Designation of Origin (PDO) or Protected Geographical Indication

<sup>287</sup> A resident filing refers to an application filed in the country by its own resident; whereas a non-resident filing refers to the one filed by a foreign applicant. An abroad filing refers to an application filed by the country's resident at a foreign office. WIPO online information. Viewed at: [http://www.wipo.int/ipstats/en/statistics/country\\_profile/](http://www.wipo.int/ipstats/en/statistics/country_profile/); WIPO online information, *Statistical Country Profiles*, Montenegro. Viewed at: [http://www.wipo.int/ipstats/en/statistics/country\\_profile/profile.jsp?code=ME](http://www.wipo.int/ipstats/en/statistics/country_profile/profile.jsp?code=ME).

<sup>288</sup> It mainly consists of the Law on Geographical Indications (OG No. 48/08 and 40/11), the Act on Spirit Drinks (OG No. 83/09), and the Act on Wine (OG No. 41/16). WIPO online information. Viewed at: <http://www.wipo.int/wipolex/en/details.jsp?id=6922>.

<sup>289</sup> Law on Indications of Geographical Origin (OG No. 48/08). Viewed at: <http://www.wipo.int/edocs/lexdocs/laws/en/me/me006en.pdf>.

<sup>290</sup> Law on Indications of Geographical Origin (OG No. 48/08). Viewed at: <http://www.wipo.int/edocs/lexdocs/laws/en/me/me006en.pdf>.

<sup>291</sup> The Law on Quality Schemes (OG No. 22/2017) governs the identification and manner of registration for agricultural and food products using geographical indications. It identifies two forms of geographical indications: designation of origin (PDO) and geographical indication (PGI). The Law on Spirit Drinks (OG No. 53/16) governs the geographical identification of spirit drinks; it identifies one form of protection, the geographical indication. The Law on Wine (OG No. 41/16) governs geographical identification of wine. The procedure for registration of a designation of origin or geographical indication begins with submitting of a request for registration to the MARD. The request for registration of a designation of origin or geographical indication is submitted by a group of producers or processors of agricultural or food product it produces or processes.

<sup>292</sup> Law on Indications of Geographical Origin (OG No. 48/08). Viewed at: <http://www.wipo.int/edocs/lexdocs/laws/en/me/me006en.pdf>.

(PGI). In accordance with the Law on Spirit Drinks (OG No. 53/16), a pecuniary fine ranging from €500 to €5,000 may be imposed on a legal person for misdemeanours in the case of spirit drinks identified with a GI failing to comply with the conditions from the producer specification of a spirit drink. A fine of up to €20,000 is imposed on a legal entity if it is an unauthorized user of non-agricultural GI. A fine of up to €15,000 is imposed on the legal entity if it is engaged in illegal representation in the exercise rights.<sup>293</sup> There have been no GI infringement cases since 2012.

#### 3.3.6.1.4 Plant varieties protection

3.161. Montenegro joined the UPOV Convention in 2015 to promote an effective system of plant variety protection to encourage the development of new varieties of plants for the benefit of society. The Act on the Protection of Plant Varieties (OG Nos. 48/07, 48/08, 73/10 and 40/11) – aimed at harmonizing the national legislation with the UPOV Convention – continues to regulate the rights and obligations of holders of breeders' rights and the procedures for protection of plant varieties.<sup>294</sup> It is applicable to all new, distinct, uniform, and stable plant *genera* and species designated by an appropriate denomination. The protection period covers 25 years from the date the breeder's rights were granted for the cultivation period, and 35 years from the date of recognition of breeding rights for trees and wine plants.<sup>295</sup>

3.162. The protection of plant varieties is under the responsibility of the Directorate for Food Safety, Veterinary and Phytosanitary Affairs, MARD. A compulsory non-exclusive licence may be granted by MARD provided that the use is of public interest for development of plant production, for protection and development of the environment or for a specific economic branch. An application for a compulsory non-exclusive licence can be submitted to MARD, and delivered after the four-year period from the date of filing the application, or three years from the grant of the breeder's right. No compulsory licences have been granted so far. Penalties for infringements in this area may reach up to €20,000.<sup>296</sup>

#### 3.3.6.1.5 Industrial design and layout designs of integrated circuits (topographies)

3.163. Under the 2010 Law on the Protection of Industrial Design (last amended in 2017), protection is provided for five years from the application filing date, renewable for periods of five years up to a maximum of 25 years. The Law protects the appearance of the whole or a part of a product, resulting from its features, i.e. the lines, contours, colours, shape, texture and/or material the product is composed of and its ornamentations.<sup>297</sup> The registered owner has the exclusive right to use the registered industrial design commercially and industrially.<sup>298</sup> The industrial design rights holder may not prevent another person from using it for private, non-commercial or experimental purposes, or for reproduction for the purposes of making citations or teaching. Moreover, exclusive rights are not exercised with respect to ship and aircraft equipment.

3.164. The application examination procedure can be accelerated if: a procedure has been initiated before a court or an inspection authority, or a customs-related procedure has been initiated at the request of the court or the competent authority; and when the application for international registration of an industrial design has been filed.<sup>299</sup> The holder of the industrial design rights may grant the rights to a registered industrial design based on a licence agreement.

3.165. During the review period, the Law was amended in 2013 and 2016. Under the 2013 amendments, the time-period during which an infringement lawsuit can be filed increased from

<sup>293</sup> Law amending the Law on Geographical Indications (OG No. 40/11). Viewed at: <http://extwprlegs1.fao.org/docs/pdf/mne142347.pdf>.

<sup>294</sup> UPOV online information. Viewed at: [http://www.upov.int/edocs/pressdocs/en/upov\\_pr\\_101.pdf](http://www.upov.int/edocs/pressdocs/en/upov_pr_101.pdf).

<sup>295</sup> WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011; Law on Protection of Plant Varieties. Viewed at: [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=381963](http://www.wipo.int/wipolex/en/text.jsp?file_id=381963).

<sup>296</sup> WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011; Law on Protection of Plant Varieties. Viewed at: [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=381963](http://www.wipo.int/wipolex/en/text.jsp?file_id=381963).

<sup>297</sup> WTO document IP/N/1/MNE/D/1, 9 April 2013.

<sup>298</sup> The use includes making, offering, putting on the market, importing, exporting or using the product containing the design or a product to which the design has been applied or stocking such a product for those purposes.

<sup>299</sup> The application includes registration request, information about the applicant, industrial design depiction (appearance), indication of the product containing the design or to which the design is applied, information on authorized representative, information on joint authorized representative in case of joint applications.

5 years to the entire duration period of the design protection if it is proved that the person who made unauthorized use of the design has acted with intent. Moreover, the registered holder may in addition to damages, claim compensation in the amount evaluated under the licence agreement if applicable. If the owner proves that a violation has occurred during business activities in order to obtain commercial or economic benefits, the court may order confiscation of movable and immovable property and prohibition of disposable funds at financial institutions.<sup>300</sup> In 2016, the main amendments related to: detailed regulation of the inspection supervision procedure in the case of infringement of rights, extension of the validity of Community design applications and Community designs to the territory of Montenegro from the date of accession of Montenegro to the European Union, and the introduction of Community exhaustion of rights from the date of accession to the European Union.<sup>301</sup>

3.166. According to the authorities, the IPOM may during the entire design registration process submit the claim to the Court for the annulment of a design. IPOM does not examine *ex officio* novelty and individual character of the design in the process of registration.

3.167. As of 2016, Montenegro received 228 industrial design applications, of which 225 were non-resident and 3 resident; compared to 254 applications in 2011 (250 non-resident and 4 resident).<sup>302</sup> The same year, 235 industrial design applications (231 non-resident and 4 resident) were registered, while in 2011 there were 270 registrations, all of them from non-residents. According to data by the authorities, between 2012 and 2017, Montenegro received 67 national industrial designs applications; as of 2017, there were 45 national and 224 (258 in 2012) international industrial designs registered.

3.168. Layout designs of semi-conductor integrated circuits (topographies) are protected under the Law on the Protection of Topographies of Semiconductors, adopted in 2010 and last amended in 2016. The protection is provided on the basis of applications filed to IPOM and covers ten years from the day the application is filed. An application cannot be filed after the expiration of a period of two years from the date on which the first commercial exploitation of the topography began.<sup>303</sup> The holder of rights in a protected topography has an exclusive right to its commercial use. The right does not apply to reproduction of topography intended for a non-commercial use, or for analysis, evaluation or familiarization with the blueprint, process, system or techniques used in the manufacture of a topography or in the topography itself. Protection commences on the date of the topography's entry in the Register. Civil remedies as amended under Article 6 of the Law on Amendments to the Law in 2016 include "cease and desist" orders, seizure and destruction of objects, damage compensation and other provisional measures. Penal provisions also apply: a fine of up to €10,000 for reproduction of protected topography, commercial exploitation, or import for the purpose of commercial exploitation of a topography or semiconductor; a fine of up to €2,000 is imposed on a natural person and the natural person responsible for a legal person; and a fine of up to €6,000 is imposed on an entrepreneur.<sup>304</sup>

3.169. As of November 2017, the IPOM had not received any applications for this type of industrial property right.

### 3.3.6.1.6 Trade secrets

3.170. Under the Law on Protection of Undisclosed Information (OG Nos. 16/07 and 73/08) any person, whether domestic or foreign, natural or legal, is entitled to the protection of undisclosed information of any type.<sup>305</sup> Confidential data submitted to authorities for marketing approval of

<sup>300</sup> Law on Amendments to the Law on Legal Protection of Industrial Designs (OG No. 27/13). Viewed at: <http://www.wipo.int/edocs/lexdocs/laws/en/me/me041en.pdf>; WTO document IP/N/1/MNE/D/2, 10 July 2013.

<sup>301</sup> WTO documents IP/N/1/MNE/6, IP/N/1/MNE/D/3, 13 December 2016.

<sup>302</sup> WIPO online information. Statistical Country Profiles, Montenegro. Viewed at: [http://www.wipo.int/ipstats/en/statistics/country\\_profile/profile.jsp?code=ME](http://www.wipo.int/ipstats/en/statistics/country_profile/profile.jsp?code=ME).

<sup>303</sup> Application should contain the data identifying the topography and drawings or photographs of layouts or of individual layers of the semiconductor products.

<sup>304</sup> Law on Amendments to the Law on Protection of Topographies of Semiconductors (OG No. 40/16). Viewed at: <http://www.wipo.int/edocs/lexdocs/laws/en/me/me024en.pdf>.

<sup>305</sup> Under Article 3 of the Law undisclosed information can be financial, business, scientific, technical, economic or engineering including the whole or any portion or phase of any process, procedure, formula, improvement, pattern, plan, design, prototype, code, compilation, programme, method, technique, or listing of names, addresses or telephone numbers, whether tangible or intangible, stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing. Law on protection of Undisclosed

pharmaceuticals and agricultural chemicals are prohibited from public disclosure unless the authorities see a public interest need (i.e. health, safety, or environmental protection). The period of protection against unfair use for commercial purposes shall not be less than five years from the date of issuing of a licence. An injunction may be obtained from the court that defines future use of such undisclosed information upon payment of a relevant fee for a period that does not exceed the period of protection. Infringement of these rights is subject to a fine of up to 300 times the minimum wage in Montenegro (Section 1.2.4.4).<sup>306</sup> The court involved in determination of provisional measures related to patents, trademark infringement, and industrial design must maintain confidentiality of information and prohibit their misuse.<sup>307</sup>

### 3.3.6.2 Copyright and related rights

3.171. Montenegro's 2011 Law on Copyright and Related Rights (OG No. 37/11), incorporating the national treatment principle into domestic legislation, and in line with international conventions (Berne Convention) and the European Union's Directives, was amended in 2016 to bring greater clarity to certain requirements and procedures and eliminate terminology shortcomings.<sup>308</sup>

3.172. The current Law governs the rights of authors, performers, producers of phonograms, film producers, broadcasting organizations, and publishers; it also governs the copyright contract law, the collective management of copyright and related rights and *sui generis* rights of makers of databases, and the protection of copyright. The protection is provided for the lifetime of the author and 70 years after his/her death. The rights of phonograms producers are protected for 70 years (as from 2016), the rights of broadcasting organizations for 50 years from the date of the first broadcast, and the rights of database producers for 15 years from the date of creation of the database.<sup>309</sup>

3.173. Concerning collective management of rights, Montenegro's legislation foresees detailed provisions for the functioning of collective societies.<sup>310</sup> Additionally, the 2016 amendments related to collective management of rights define forms of collective management of rights and enable collective management to be authorized by tacit agreement.<sup>311</sup> As of May 2017, collective management authorizations were issued to the following entities: the Collective Management Organization for Music Authors' Rights – PAM CG; and, the Collective Management Organization for Film Producers' Rights – A-PRAVA Montenegro. Authors assign their rights to the organization on an exclusive basis, while users receive non-exclusive licences. Payments of royalties are made annually and 10% of royalties' revenues can be earmarked for cultural funds while their management fee is estimated at around 40%.<sup>312</sup>

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information (OG Nos. 16/07 and 73/08). Viewed at:

<http://www.wipo.int/edocs/lexdocs/laws/en/me/me034en.pdf>; WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

<sup>306</sup> The law on protection of undisclosed information (OG Nos. 16/07 and 73/08). Viewed at: <http://www.wipo.int/edocs/lexdocs/laws/en/me/me034en.pdf>.

<sup>307</sup> The Patent Law (OG No. 42/15). Viewed at: <http://www.wipo.int/edocs/lexdocs/laws/en/me/me046en.pdf>; Law on Amendments to the Law on Trademarks (OG No. 18/14). Viewed at: <http://www.wipo.int/edocs/lexdocs/laws/en/me/me044en.pdf>; Law on Amendments to the Law on Legal Protection of Industrial Design (OG No. 27/13). Viewed at: <http://www.wipo.int/edocs/lexdocs/laws/en/me/me041en.pdf>.

<sup>308</sup> Law on Copyright and Related Rights (OG No. 53/2016); WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

<sup>309</sup> In the case of significant modifications of the database contents, the term of protection could be extended for another 15 years. WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011; Law on Copyright and Related Rights (OG No. 37/11). Viewed at: <http://www.wipo.int/wipolex/en/details.jsp?id=11369>.

<sup>310</sup> European Commission (2012), Screening Report of Montenegro. Chapter 7 – Intellectual Property Law. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening\\_reports/screening\\_report\\_montenegro\\_ch07.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch07.pdf).

<sup>311</sup> A collective organization can act on behalf of rights holders without their explicit approval, if individual management is complex and impractical. Individual management of rights is also applicable and must be explicitly communicated to the organization. Under these amendments, a copyright collective represents not only rights holders from Montenegro, but also foreign rights holders by virtue of bilateral agreements with foreign organizations.

<sup>312</sup> Thus, PAM-CG has a good database of works, which also allows it to track the use of music by users and request payment of royalties, accordingly. The newly re-designed website is transparent and several internal documents are accessible to the public. PAM-CG is a full member of CISAC (the International

3.174. The 2016 amendments introduced, *inter alia*, provisions on orphan works such as books, journals, newspapers, magazines and films produced by right holders who are not identified or cannot be located or contacted to obtain copyright permissions. These works may be used by publicly accessible libraries, educational establishments and museums, archives, film and audio heritage institutions as well as by public-service broadcasting organizations established in Montenegro in order to carry out work of public interest.<sup>313</sup>

3.175. The 2016 amendments regulate in depth the legal protection of databases as a *sui generis* right seemingly in line with the EU directives.<sup>314</sup> They also include a new chapter on multi-territorial licensing of rights in musical works for online use. This chapter defines the responsibilities of a collective organization that manages online rights, with the main objective of bringing greater transparency in managing multi-territorial repertoires, sales reporting and invoicing, distribution of royalties, etc. These provisions are to apply as of 1 January 2019.

3.176. No agency is fully in charge of all copyright and related matters. IPOM is in charge of some copyright matters (Section 3.3.6.1).

3.177. Civil remedies against copyright infringements include compensation for material and non-material damages, royalties, and destruction of counterfeit copies.<sup>315</sup> Penal provisions include fines of up to €20,000 for a legal person that engages in collective management of copyright and related rights without authorization by the competent authority; up to €6,000 for entrepreneurs; and up to €2,000 for a natural person or an authorized person of a legal entity.<sup>316</sup> No data or information on the number of copyright infringement cases dealt with from 2012 onwards was available from the authorities.

3.178. IPOM's Department for Copyright and Related Rights has been responsible for the registration of copyright and related rights, the supervision of the collective rights management organizations and international cooperation.<sup>317</sup> It also issues and revokes licences and authorizations to collective management of copyright and related rights organizations in Montenegro for the period of five years, as well as supervises their activities. As of November 2017, the Department for Copyright and Related Rights appeared to have two employees. According to the 2012 European Commission Screening report, Montenegro's administrative capacity in the area of copyright could be further strengthened, especially with regard to the understanding and practical implications of the copyright law provisions; action to address this challenge was taken in 2014 under the Rules on Internal Organization and Systematic Job Plan by increasing human resources.<sup>318</sup>

3.179. Under the Law on Optical Disks (OG Nos. 2/07 and 53/11), the registration of business activity is required when reproducing optical disks for commercial purposes.<sup>319</sup> The relevant

Confederation of Authors and Composers Societies) as of June 2012. PAM-MG signed 33 reciprocal representation agreements with sister societies in other countries. European Commission (2012), *Screening Report of Montenegro*. Chapter 7 – Intellectual Property Law. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening\\_reports/screening\\_report\\_montenegro\\_ch07.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch07.pdf).

<sup>313</sup> Petosevic online article, "New Copyright Law Enters Into Force In Montenegro", September 2016. Viewed at: <https://www.petosevic.com/resources/news/2016/09/3519>; Law on Amendments to the Law on Copyright and Related Rights (OG No. 53/16). Viewed at: <http://www.wipo.int/edocs/lexdocs/laws/en/me/me020en.pdf>.

<sup>314</sup> Petosevic online article, "New Copyright Law Enters Into Force In Montenegro", September 2016. Viewed at: <https://www.petosevic.com/resources/news/2016/09/3519>; Law on Amendments to the Law on Copyright and Related Rights (OG No. 53/16). Viewed at: <http://www.wipo.int/edocs/lexdocs/laws/en/me/me020en.pdf>.

<sup>315</sup> Law on Copyright and Related Rights (OG No. 37/11). Viewed at: <http://www.wipo.int/wipolex/en/details.jsp?id=11369>.

<sup>316</sup> Law on Copyright and Related Rights (OG No. 37/11). Viewed at: <http://www.wipo.int/wipolex/en/details.jsp?id=11369>.

<sup>317</sup> European Commission (2012), *Screening Report of Montenegro*, Chapter 7 – Intellectual Property Law. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening\\_reports/screening\\_report\\_montenegro\\_ch07.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch07.pdf).

<sup>318</sup> European Commission (2012), *Screening Report of Montenegro*, Chapter 7 – Intellectual Property Law. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening\\_reports/screening\\_report\\_montenegro\\_ch07.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch07.pdf).

<sup>319</sup> Law on Optical Disks (OG No. 53/11). Viewed at: <http://www.wipo.int/wipolex/en/details.jsp?id=8705>; U.S. Embassy in Montenegro. *Montenegro Country*



provisions of the Law on Copyright and Related Rights (OG No. 37/11) apply to damages, which comprise actual loss and lost profits. If the infringement was committed intentionally or as a result of gross negligence, the plaintiff may claim up to triple the amount of the actual losses and lost profits.<sup>320</sup>

### 3.3.6.3 Enforcement

3.180. Despite progress in strengthening the regulatory framework for IPR protection, challenges appear to remain in IPR enforcement; in particular, further strengthening of the cooperation mechanisms of all IPRs-related bodies, and improvement of the track record on investigations, prosecutions and judicial treatment of violations, including reporting, are required.<sup>321</sup> In 2017, a Coordination Team for the Enforcement of Intellectual Property Rights was set up, consisting of representatives of the Police Administration, the Administration for Inspection Affairs, the Customs Administration and IPOM. It established special working groups to organize and implement joint actions preventing and suppressing IPR violation that are expected to raise criminal charges and convictions.<sup>322</sup> IPR enforcement is, *inter alia*, governed by the 2011 Law on Enforcement and Securing of Claims (OG No. 36/11) which sets the procedure for satisfying claims on the basis of domestic or foreign enforceable or authentic documents and securing claims.<sup>323</sup> The Law on Enforcement of the Legislation that Regulates Protection of Intellectual Property Rights (OG Nos. 25/05, 37/11, 40/11) defines, *inter alia*, the authorities in charge of IPRs enforcement and the relevant proceedings. Under this Law, the official inspector is authorized to act upon request of the rights holder or *ex officio*.<sup>324</sup>

#### 3.3.6.3.1 Domestic enforcement

3.181. The IPOM can take administrative action, *ex officio* or upon request of the rights holder, in cases of IPR infringement related to registration of intellectual property rights (Section 3.4.4.2.); no cases were initiated *ex officio* by the IPOM so far. In response, in 2016 the IPOM established a Working Group involving representatives of the Administration for Inspection Affairs, the Customs Administration, the Commercial Court, the Ministry of Interiors, the Supreme State Prosecution and the Statistical Bureau, for the development of methodology for collection and analyses of enforcement statistics; as a result, in 2016 a statistical report on enforcement of IP rights in Montenegro was prepared and submitted to the European Commission. Furthermore, in 2016 the IPOM established a new Patent data management system with EPO, and its website was made more user-friendly and accessible.<sup>325</sup> In cooperation with the EUIPO, in 2017 IPOM started the process for arranging and completing databases for trademarks and designs, for the purpose of their implementation and networking into EUIPO's tools TMView and DesignView. In light of the

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*Commercial Guide*, 2016. Viewed at: [https://me.usembassy.gov/wp-content/uploads/sites/250/2017/02/Montenegro\\_2016\\_CCG.pdf](https://me.usembassy.gov/wp-content/uploads/sites/250/2017/02/Montenegro_2016_CCG.pdf).

<sup>320</sup> IAM online information. Viewed at: <http://www.iam-media.com/Intelligence/Patents-in-Europe/2011/Articles/Montenegro>.

<sup>321</sup> European Commission (2016), *Montenegro 2016 Report*, Commission Staff Working Document SWD (2016) 360 final, 9 November, Brussels. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf). In 2016, Montenegro ranked 15<sup>th</sup> (out of 20 economies) in Eastern Europe and Central Asia and 94<sup>th</sup> (out of 128 economies) in the world on international property rights protection, which since 2007 has served as a barometer for the legal and political environment; physical property rights; and, intellectual property rights. Online information. Viewed at: <http://internationalpropertyrightsindex.org/country?c=MONTENEGRO> and [http://internationalpropertyrightsindex.org/ipri2016\\_comp](http://internationalpropertyrightsindex.org/ipri2016_comp).

<sup>322</sup> Its tasks comprise: improvement and strengthening of cooperation between the competent bodies for the protection and enforcement of IPRs; coordination of activities for the prevention and suppression of IPR breaches; monitoring and analysis of the activities of the IPR-competent bodies and proposing measures to improve the efficiency of their work; and, determining and monitoring work priorities, dynamics and deadlines for the attainment and evaluation of results.

<sup>323</sup> Law No. 23-1/11-4/5 of July 12, 2011, on Enforcement and Securing of Claims. Viewed at: <http://www.wipo.int/wipolex/en/details.jsp?id=13011>.

<sup>324</sup> The Law on Enforcement of the Legislation that Regulates Protection of Intellectual Property Rights. Viewed online: <http://www.wipo.int/edocs/lexdocs/laws/en/me/me042en.pdf>.

<sup>325</sup> The system is considered as the most developed and functional patent data management tool for small patent offices.



significant expansion of its duties and tasks, the IPOM's staffing levels seem to remain relatively low although some action has been taken to increase human resources.<sup>326</sup>

3.182. The Market Inspectorate was set up in 1991 and since 1 July 2012 has been a subdivision of the Department of the Protection of Market and Economy, Games of Chance and Public Procurement under the Administration for Inspection Affairs (a joint inspections authority). Under the Law on the Application of Regulations Governing the Protection of Intellectual Property Rights (OG Nos. 45/05, 73/10, 37/11, 40/11, 18/14, 42/15 and 42/16), the Market Inspectorate can undertake IPR investigations, *ex officio* or upon request of the rights holder; although there are no inspectors specialized in IPR issues, relevant training was organized for several of its inspectors. Between 2010 and 2012, it conducted 595 industrial property controls and detected eleven trademark infringements; it also undertook 388 copyright controls and found 138 irregularities. Between 2012 and September 2017, it conducted 484 controls on optical media and seized 3,975 units (CDs, DVDs) leading to four criminal charges; concerning software piracy, it undertook 497 controls, found 220 irregularities and that 23% of controlled computers were using illegal software leading to 2 criminal charges. During the same period, it undertook 1,400 industrial property controls (607 *ex officio*) involving chocolates, T-shirts, sneakers, women's boots, women's and men's vests, women's shirts, scarves, women's and men's shoes, women's and men's jackets, school bags, duvets sunglasses, baby shampoos, shaving products, hair care products, bags, etc. leading to the seizure of 795 items mainly infringing trademarks but to no sanctions. According to a 2016 European Commission report, despite the Market Inspectorate's numerous checks on software licences, the level of unlicensed software still remains high.<sup>327</sup> On the other hand, between 2009 and 2015, Montenegro's unlicensed software installation rates were estimated to have dropped from 81% (US\$11 million) to 76% (US\$6 million).<sup>328</sup>

### 3.3.6.3.2 Border enforcement

3.183. The Customs Administration can act upon application from the rights holders as well as, *ex officio*, on all IPR infringements concerning exports and imports. The Customs Administration deals with goods under suspicion of IPR infringement in accordance with the relevant provisions of the Customs Law (OG Nos. 07/02, 38/02, 72/02, 21/03, 31/03, 29/05, 66/06, 21/08 and 62/13) and the Regulation on the customs treatment of goods for which there is reasonable suspicion of infringing intellectual property rights (OG No. 48/16). Decisions on administrative action by the Customs Administration may be appealed before the Ministry of Finance.<sup>329</sup> Administrative procedures and remedies are regulated by Montenegro's Law on General Administrative Procedure (OG Nos. 56/14, 20/15, 40/16 and 37/17).

3.184. The Customs Administration has undertaken action in several areas to ensure protection of intellectual property rights; in 2016, 74 of a total of 241 number of procedures (customs suspension) were on an *ex officio* basis.<sup>330</sup> Between 2012 and October 2017, the Customs Administration suspended 193 customs procedures, and detained temporarily 169,890 pieces of suspicious goods involving alcoholic beverages, cosmetics, perfumes, clothes, clothing accessories (bags, scarves, belts, hats,), sports equipment, footwear, watches, toy parts and equipment for mobile phones, jewellery, etc.). Seized suspicious goods are mostly destroyed; between 2014 and mid-October 2017, a total of 43,161 pieces of counterfeit goods (e.g. clothing, footwear, and mobile phone batteries) were destroyed.<sup>331</sup> In 2015, Montenegro was the biggest source (i.e., the country where suspected IPR infringing goods were coming from at the moment of the detention) of counterfeit cigarettes in the EU market; it accounted for 17.65% (5,374,000 articles of

<sup>326</sup> European Commission (2016), *Montenegro 2016 Report*, Commission Staff Working Document SWD (2016) 360 final, 9 November, Brussels. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf).

<sup>327</sup> European Commission (2016), *Montenegro 2016 Report*, Commission Staff Working Document SWD (2016) 360 final, 9 November, Brussels. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf).

<sup>328</sup> BSA (2016), *Seizing Opportunity Through Licence Compliance. BSA Global Software Survey*, May 2016. Viewed at: [http://globalstudy.bsa.org/2016/downloads/studies/BSA\\_GSS\\_US.pdf](http://globalstudy.bsa.org/2016/downloads/studies/BSA_GSS_US.pdf).

<sup>329</sup> Similar to domestic enforcement, the average length of appeal procedures was three months; while the average length of proceedings before the Administrative Court (from filing the case to judgement) was 6-12 months, as of 2016 (Section 3.3.6.1).

<sup>330</sup> *Statistical Report on Enforcement of the Intellectual Property Rights in Montenegro for 2016*.

<sup>331</sup> *Report on the Implementation of the National IP Strategy for the period 2012-2015 and the Action Plan for its Implementation* covering the period 1 January 2015-31 December 2015.

counterfeit cigarettes) or 3.48% (by value) of all IPR infringing goods detained at the EU border.<sup>332</sup> In 2012 and 2013, the WCO reported three cases (total quantity of 30,280 kg) and four cases (total quantity of 6,585,120 kg) of cigarettes seizures (excluding counterfeits) on the EU border coming from Montenegro respectively.<sup>333</sup> To fight illegal trade of tobacco and tobacco products, the Customs Administration signed Memorandums of Understanding with the world's largest producers of cigarettes, i.e. Japan Tobacco International (21 September 2015), Philip Morris (26 January 2016), and British American Tobacco (22 March 2016). These MoUs involve exchange of information, identification of illegal products, and monitoring of movement of illegal tobacco products for the purposes of suppression of illegal trade of tobacco products. The signatory companies are the trademark protection rights holders. As a form of cooperation, the companies are to participate in training Montenegrin customs officers performing these tasks.

3.185. The Customs Administration cooperates with neighbouring countries on IPR enforcement and signed bilateral agreements for mutual assistance. Between 2010 and 2012, a technical group consisting of customs officers from Montenegro, Italy, Albania, Bosnia and Herzegovina and Serbia enhanced cooperation between customs services, enforcement authorities, and right holders. The group, *inter alia*, agreed to exchange information, select common criteria for customs control of goods, continue to improve the INES+ database, access the IPM (Interface Public Members) World Customs Organisation (WCO) web portal and promote awareness-raising campaigns (Venice Cooperation Initiative).<sup>334</sup> Montenegro has used the INES+ and the IPM WCO portal since October 2010 and July 2012, respectively. Furthermore, the Customs Administration participated in international operations organized by the WCO, Interpol, Europol, SELEC etc. during which goods with counterfeit trademarks were seized.

3.186. Since 2008, the IPOM concluded cooperation agreements with the Intellectual Property Offices of the European Union, Serbia, Slovenia, Croatia, Hungary, and Ukraine, involving training on specific IPR issues including enforcement. During the review period, the IPOM in cooperation with WIPO, EUIPO and EPO have concentrated on education and public awareness raising programmes on the importance of IPR protection. Since 2009, Montenegrin officials participated in numerous workshops, seminars and conferences at home and abroad (including at the WTO); as well as study visits to improve knowledge and skills.<sup>335</sup>

### 3.3.6.3.3 Judicial action

3.187. IPR infringements can also be liable to criminal prosecution under the provisions of a separate chapter of the Penal Code. Montenegro's Penal Code penalizes IPR violations, allows for *ex-officio* prosecution, and provides for stricter criminal penalties.<sup>336</sup> The violation might be subject

<sup>332</sup> European Commission (2015), *Report on EU customs enforcement of intellectual property rights. Results on the EU border 2015*. Viewed at: [https://ec.europa.eu/taxation\\_customs/sites/taxation/files/2016\\_ipr\\_statistics.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/2016_ipr_statistics.pdf); and online Eubusiness article titled *Counterfeit goods seized in EU up 15 pct in 2015*. Viewed at: <http://www.eubusiness.com/news-eu/counterfeit.25ew/>.

<sup>333</sup> WCO (2013), *Illicit trade report*. Viewed at: [http://www.wcoomd.org/~media/wco/public/global/pdf/topics/enforcement-and-compliance/activities-and-programmes/illicit-trade-report/illicit-2013--en\\_lr2.pdf?db=web](http://www.wcoomd.org/~media/wco/public/global/pdf/topics/enforcement-and-compliance/activities-and-programmes/illicit-trade-report/illicit-2013--en_lr2.pdf?db=web).

<sup>334</sup> INES is an intellectual property database, which compiles, *inter alia*, data on suspension of customs procedures. In 2008, the Montenegro customs administration installed the intellectual property database INES in the framework of a regional project on industrial and intellectual property for the Western Balkans and Turkey. Adopted in 2007, this project was carried out by the EPO. An improved version (INES+) was installed in 2010 by EPO experts. European Commission (2012), *Screening Report of Montenegro*, Chapter 7 – Intellectual Property Law. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening\\_reports/screening\\_report\\_montenegro\\_ch07.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch07.pdf).

<sup>335</sup> Since 2009, a Department of Intellectual Property and Administrative Procedures at the Customs Administration has been in place. Its responsibilities, *inter alia*, include participating in the drafting of IPR regulations, monitoring the implementation of these regulations, reviewing and processing applications for actions for IPR protection as well as cooperation at national and international level. European Commission (2012), *Screening Report of Montenegro*. Chapter 7 – Intellectual Property Law. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening\\_reports/screening\\_report\\_montenegro\\_ch07.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch07.pdf).

<sup>336</sup> U.S. Embassy in Montenegro. *Montenegro Country Commercial Guide, 2016*. Viewed at: [https://me.usembassy.gov/wp-content/uploads/sites/250/2017/02/Montenegro\\_2016\\_CCG.pdf](https://me.usembassy.gov/wp-content/uploads/sites/250/2017/02/Montenegro_2016_CCG.pdf).

to up to eight years of imprisonment; no information on cases where this sanction was implemented was available from the authorities.<sup>337</sup>

3.188. The civil judicial procedures and remedies related to IPRs are governed by the Law on Civil Procedures (OG Nos. 22/04, 28/05, 76/06, 47/15 and 48/15). Montenegrin basic civil courts have jurisdiction over civil proceedings, while the only Commercial Court of Montenegro in Podgorica handles cases arising from commercial activities including copyright and related rights, industrial property rights, and trademark protection, and other intellectual property rights (Law on Courts, OG No. 11/15, 12 March 2015).<sup>338</sup> Since 2012, there have been five IPR specialized judges operating within the Commercial Court. In 2012, the Commercial Court adopted 29 IPR-related decisions (66 in 2010). The average duration of IPR proceedings is six months.<sup>339</sup> Provisional measures can also be ordered by courts upon the request from a right holder and presentation of credible evidence.<sup>340</sup> By 2016, criminal prosecution appeared to be unsatisfactory.<sup>341</sup> Overall Montenegro's enforcement record in this area remained limited with no criminal court cases on trademark infringements, and only two cases on patents reported.<sup>342</sup>

<sup>337</sup> The Penal Code of the Republic of Montenegro. Viewed at: [https://www.wto.org/english/thewto\\_e/acc\\_e/cgr\\_e/WTACCCGR24A1\\_LEG\\_9.pdf](https://www.wto.org/english/thewto_e/acc_e/cgr_e/WTACCCGR24A1_LEG_9.pdf).

<sup>338</sup> Online information. Viewed at: <http://en.sudovi.me/vrhs/judicial-power/jurisdiction/>); European Commission (2012), Screening Report of Montenegro. Chapter 7 – Intellectual Property Law. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening\\_reports/screening\\_report\\_montenegro\\_ch07.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch07.pdf).

<sup>339</sup> As of 2012, average legal costs in the Commercial Court for right holders depend on the value of the case subject. The court fees range from €20 to €1,500 and lawyer expenses depend on the case subject and range from €75 for claims of up to €2,500 to €250 for claims above €50,000. European Commission (2012), Screening Report of Montenegro, Chapter 7 – Intellectual Property Law. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening\\_reports/screening\\_report\\_montenegro\\_ch07.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch07.pdf).

<sup>340</sup> WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011.

<sup>341</sup> European Commission (2016), *Montenegro 2016 Report*, Commission Staff Working Document SWD (2016) 360 final, 9 November, Brussels. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf).

<sup>342</sup> European Commission (2016), *Montenegro 2016 Report*, Commission Staff Working Document SWD (2016) 360 final, 9 November, Brussels. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf).

## 4 TRADE POLICIES BY SECTOR

### 4.1 Agriculture, Forestry, and Fisheries

4.1. Agriculture (excluding agro-processing), together with forestry and fishing accounted for 9% of GDP in 2016 (Table 1.2).

#### 4.1.1 Agriculture

4.2. While official statistics show a relatively small contribution of agriculture to employment (1.3% of the total number of employed persons in 2016), these do not capture agricultural activity within family agricultural holdings which is significant. In 2016, the most recent data, there were 43,791 agricultural holdings, of which 99.9% were family agricultural holdings<sup>1</sup>, and it is estimated that 8.3% of the total working age population in Montenegro is engaged in agriculture. In 2016, the total area of land used for agriculture was 255,845.8 ha (around 19.7% of the total Montenegrin territory); 94.3% of this was perennial meadows and pastures for livestock breeding; 2.8% arable land; 2.2% permanent crops and 0.7% kitchen gardens.

4.3. There is no precise information on state ownership of agricultural land. However, the authorities indicated that, by the end of 2017, 200 ha of this land was in the process of being rented. The Ministry of Agriculture and Rural Development (MARD) prepares tender documents for land rental, with final decisions being taken either by the Government or the Parliament, depending on the rental duration.<sup>2</sup> In 2017, the Government established a Commission for the Valorisation of Agricultural Land, which deals with requests to rent large areas of state-owned agricultural land; this brings together representatives from various government institutions. The State is the majority shareholder in one joint stock agricultural company, Plantaže, which is Montenegro's main wine producer, growing around 22 million kilos of wine grapes and grapes for fresh consumption, and selling around 12 million litres of wine annually (Section 3.3.4).<sup>3</sup> The authorities confirmed that Plantaže is not a beneficiary of any domestic support measures. As set out in the Law on Basic Property Relations (OG No. 19/09), foreigners may not own agricultural land in Montenegro but they can rent it.

4.4. According to the authorities, Montenegrin agricultural productivity is low, competitiveness being hindered by: fragmented parcels (the average farm size is 5.8 ha in 2016); insufficient qualified labour; an unfavourable age structure of farmers; obsolete mechanization; low modern technology inputs; unfavourable credit terms; unresolved property-rights issues; and an undeveloped rural infrastructure. Farmers also face difficulties in producing standardized products in large quantities for domestic and international markets.<sup>4</sup> Strengths include: high quality soil, a favourable climate for varied production, and a sufficient workforce. Opportunities which have been identified for the sector include: strengthening agriculture through tourism; increasing organic production; increasing exports of competitive products (lamb, wine and vegetables); and the use of EU and state support.

#### 4.1.1.1 Legal, institutional and policy framework

4.5. The MARD is responsible for the creation and implementation of agricultural policy (as well as fisheries, forestry, hunting and water management policies). It has several directorates and other bodies dealing with all aspects of agriculture.<sup>5</sup> The MARD's units for extension services in both

<sup>1</sup> Strategy for the Development of Agriculture and Rural Areas 2015-2020. Viewed at: [www.minpolj.gov.me](http://www.minpolj.gov.me), citing as its source the Census of Agriculture 2010, MONSTAT.

<sup>2</sup> The Government takes decisions on concession contracts for up to 30 years, and the Parliament takes decisions on concession contracts for more than 30 years.

<sup>3</sup> Plantaže online information, viewed at: <http://www.plantaze.com>, and information provided by the authorities. The State has 55.91% of the shares in Plantaže. One member of the Government is a member of its Board of Directors but the State/Government does not manage the work of the company or its business policy.

<sup>4</sup> Economic Reform Programme for Montenegro (2017-2019). Viewed at: <http://www.gov.me/en/News/145783/Montenegro-Economic-Reform-Programme-2015-2017.html>.

<sup>5</sup> These include: the Directorate for Agriculture and Fisheries; the Rural Development Directorate; the Directorate for IPARD Payments; the Department for Economic Analysis; the Veterinary Administration; the Phytosanitary Authority; the Tobacco Agency; the Livestock Selection Service; and the Extension Service in

plant and livestock production provide training, expert advice to farmers and control of direct payments to farmers in their respective areas of expertise. Most municipal governments have agricultural units, some of which provide support (such as technical support and extension services) to agricultural producers. In 2015, Montenegro established a Register of Agricultural Holdings which contains data on farmers using domestic support measures.

4.6. The Tobacco Agency, within the MARD, performs functions relating to, *inter alia*: the issuance of approvals for the production of tobacco and tobacco products and their placement on the market; the issuance of approvals for tobacco processing, export, import, wholesale and retail; keeping a registry of tobacco trademarks; maintaining a register of traders; monitoring performance and undertaking analysis; preparing reports on the implementation of regulations for the production and trading of tobacco and tobacco products; helping develop the legal framework for tobacco production and trading; and aligning regulations with the EU *acquis* (Sections 3.1.5 and 3.3.6).

4.7. Future anticipated institutional reforms include the further development of MARD's Directorate of Payments to become a fully functional payments agency to implement the EU's Common Agricultural Policy (CAP).

4.8. The Law on Agriculture and Rural Development (2009<sup>6</sup>, as amended in 2014 and 2017) is the main legal document governing agricultural policy. The 2014 changes to the Law allow for the establishment of a management structure to use EU pre-accession funds for rural development (IPARD funds). The Law regulates, *inter alia*: the planning and development of rural areas; agricultural policy measures; subsidies for agriculture and rural development, and associated conditions; incentives; the organization of producers; quality and labelling of agricultural products and food; agricultural products and food; activities of public interest; and registers. In addition, there are a number of sector-specific laws, namely: the Law on Wine; the Law on Tobacco; the Law on Olives and Olive Oil; the Law on Livestock; laws on geographic indications (Section 3.3.6.1.3); the Law on Quality Schemes for Agriculture and Food Products; and the Law on Spirit Drinks. Changes to laws and regulations are underway in the context of Montenegro's accession to the European Union.

4.9. Together with the tourism sector, agriculture has been identified by the Government as a developmental and economic priority.<sup>7</sup> As explained by the authorities, the objective of rural development is to improve living conditions in rural areas and the standard of living of farmers; to provide the necessary investments in infrastructure and improve production processes; to increase the competitiveness of domestic producers and improve processing facilities; and to provide support for the preservation of traditional products.

4.10. The key strategic document guiding the reform and development of the sector, including with respect to meeting the challenges of EU accession, is the Strategy for Development of Agriculture and Rural Areas 2015-2020 and its Action Plan; this follows on from an earlier strategy dating back to 2007. Recognizing Montenegro's inability to produce on a large scale, a key focus of the Strategy is to use traditional methods of production to develop agriculture and food products and thereby secure a niche in the high-quality segment; these products can be marketed through tourism. In this regard, efforts are being made to direct producers into quality assured schemes and provide support to farmers, mainly in the form of training, to meet minimum national standards. Other priorities are to meet the demand for agro-food products which can be locally-produced throughout the year, and increase the production of organic food. Efforts are to be focused on helping farmers to meet minimum national standards (a prerequisite for obtaining pre-EU accession funding for rural development (IPARD funding)). Long-term goals as articulated in the Strategy are to increase productivity, increase the amount of cultivated land and to comply with EU standards for food safety in the primary and processing sectors. The authorities indicated

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Plant Production. The responsibilities of each of these Directorates are delineated in the Strategy for the Development of Agriculture and Rural Areas 2015-2020.

<sup>6</sup> Law on Agriculture and Rural Development (OG No. 56/09). Viewed at: <http://seerural.org/1documents/Legal%20Documents/Montenegro/Law%20on%20Agriculture%20and%20Rural%20Development.pdf>.

<sup>7</sup> As set out in the Government's Directives for Montenegro Development 2013-2016, the key sectors for economic development in Montenegro are: tourism, agriculture, and energy. Viewed at: <http://www.mf.gov.me/en/organization/sector-for-economic-policy-and-development-128212/Montenegro-Development-Directions-2013-2016.html>.



that, in the first two years of implementation of the Strategy, several steps have been taken to meet its objectives, including improving infrastructure, modernizing production, implementing food safety standards, and improving environmental and quality of life conditions in rural areas.

#### 4.1.1.2 Production and trade

4.11. The main agricultural activity in Montenegro is livestock breeding, mainly cattle and sheep. Agricultural products grown in Montenegro include: certain fruits (including grapes predominantly used for wine-making), cereals and vegetables (Table 4.1). MFN tariff protection is significant for most of these items, except cereals (Table A4.1). Most agricultural production and livestock rearing takes place on family agricultural holdings.<sup>8</sup> The production of food, beverages and tobacco products are among Montenegro's main manufacturing activities (Table 4.7).

**Table 4.1 Main agricultural production, 2012-16**

Product	2012	2013	2014	2015	2016
<b>Livestock, milk and eggs</b>					
- cattle (head)	84,701	89,058	93,550	92,452 <sup>a</sup>	89,269
- sheep (head)	207,047	190,843	204,403	194,636	191,992
- goats (head)	23,273	29,675	32,997	29,678	31,458
- pigs (head)	18,451	20,572	22,053	24,951	55,841
- poultry (pcs)	732,091	620,354	595,675	606,225	835,705
- horses (head)	3,905	4,858	4,968	4,927	3,947
- milk ('000 litres)	159,240	181,876	191,801	183,086	180,550
- eggs ('000 pcs)	68,060	89,720	85,525	101,016	120,195
<b>Fruit (tonnes)</b>					
- Plums	7,454	11,737	5,743	7,035	13,128
- Apples	5,687	7,066	4,900	10,615	7,968
- Pears	1,522	1,845	915	2,649	2,613
- Peaches	1,591	1,550	1,356	1,585	885
- Tangerines	3,101	4,396	4,181	3,040	4,485
- Olives	810	325	796	554	767
<b>Cereals (tonnes)</b>					
- Wheat	1,444	2,301	2,159	2,111	2,354
- Rye	329	574	527	339	391
- Barley	953	1,182	1,147	952	1,068
- Oats	287	585	476	556	557
- Corn for grain	1,882	2,946	3,304	2,700	2,650
<b>Vegetables (tonnes)</b>					
- Onions	1,693	1,939	2,151	2,342	2,473
- Tomatoes	3,649	3,863	3,533	3,936	4,464
- Paprika	4,013	4,169	4,043	4,500	5,644
- Melons	1,357	1,381	1,280	1,370	1,745
- Watermelons	12,119	12,369	15,260	20,194	17,413
- Cucumbers	1,227	1,441	1,512	1,822	1,963
- Beans	691	966	838	856	932
- Cabbages	9,092	11,035	10,442	10,623	12,258
- Potatoes	21,895	28,867	31,096	35,445	39,504
<b>Grape production on plantations (tonnes)</b>					
- Grapes	25,079	24,148	17,129	23,086	28,925

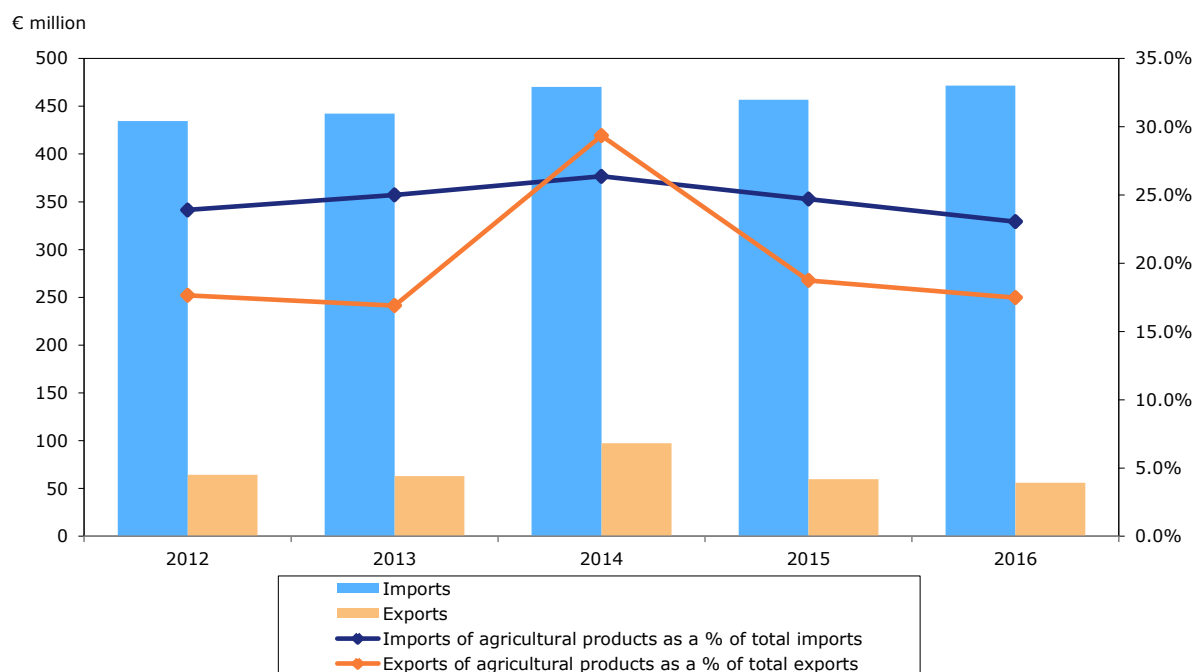
a Of the total 89,269 heads, 63,590 are breeding heads (cows and breeding heifers).

Source: Data provided by MONTSTAT.

4.12. Montenegro is a net importer of agricultural products. In 2016, the value of imports (WTO definition) was €471 million, while the value of exports was €56 million. Over the past five years, imports as a percentage of total imports remained relatively stable, while there was a peak in exports in 2014 (Chart 4.1)

<sup>8</sup> According to a 2016 livestock survey, 39.44% of poultry production was undertaken by business entities. There is negligible involvement by business entities in the production of other livestock categories. MONTSTAT, *Montenegro in Figures 2017*. Viewed at: <http://monstat.org/userfiles/file/publikacije/2017/CG%20u%20brojkama%20-%202017ENG%20-%20za%20sajt.pdf>.



**Chart 4.1 Trade in Agriculture, 2012-16**

Note: WTO agriculture definition.

Source: WTO Secretariat calculations, based on UNSD, Comtrade database.

4.13. In 2016, only a few export groups accounted for most of agricultural exports, namely wine; meat; bakery products; and beer. The top 15 products exported accounted for nearly 90% of the value of Montenegro's total agricultural exports (WTO definition<sup>9</sup>) (Table 4.2)

**Table 4.2 Main agricultural exports, 2016**

(€ million)

HS Code 4-digit	Products	Export value (€ million)
	<b>Agriculture (WTO definition)</b>	<b>56.0</b>
	<b>Main products (top 15)</b>	<b>48.8</b>
2204	- Wine of fresh grapes	14.8
0210	- Meat and edible meat offal	7.5
1905	- Bread, pastry, cakes, biscuits	5.6
2203	- Beer made from malt	4.1
4101	- Raw hides and skins of bovine or equine animals	2.9
0712	- Dried vegetables	2.3
1601	- Sausages and similar products, of meat, meat offal	2.1
3301	- Essential oils	2.0
1101	- Wheat or meslin flour	1.3
1806	- Chocolate and other food preparations containing cocoa	1.3
2403	- Other manufactured tobacco	1.1
0710	- Vegetables, frozen	1.0
0709	- Other vegetables, fresh or chilled	1.0
2208	- Undenatured ethyl alcohol	1.0
8011	- Fruit and nuts, uncooked or cooked by steaming or boiling	0.9

Source: WTO Secretariat calculations, based on UNSD, Comtrade database.

4.14. Main agricultural imports (WTO definition) in 2016 at the HS 4-digit level were pig meat, non-alcoholic beverages, bakery products, and chocolate and preparations containing cocoa. The

<sup>9</sup> For the purposes of this Section of the Trade Policy Review Report, the definition of agricultural products used is HS Chapters 01-24 less fish and fishery products (HS Chapter 3, 0508, 0511.91, 1504.10, 1504.20, 1603-1605 and 2301.20) plus some selected products (HS 2905.43, 2905.44, 2905.45, 3301, 3501-3505, 3809.10, 3823, 3824.60, 4101-4103, 4301, 5001-5003, 5101-5103, 5201-5203, 5301, and 5302).

top 15 most imported products accounted for nearly 56% of the value of total agricultural imports (Table 4.3).

**Table 4.3 Main agricultural imports, 2016**

(€ million)

HS Code 4-digit	Products	Import value (€ million)
	<b>Agriculture (WTO definition)</b>	471.5
	<b>Main products as a share of total agricultural imports</b>	263.4
0203	Meat of swine, fresh, chilled or frozen	46.3
2202	Waters, containing added sugar, and other non-alcoholic beverages	27.7
1905	Bread, pastry, cakes, biscuits	24.3
1806	Chocolate and other preparations containing cocoa	21.3
2106	Food preparations	18.3
0102	Live bovine animals	15.5
0406	Cheese and curd	14.9
0401	Milk and cream	13.0
0201	Meat of bovine animals, fresh or chilled	12.9
1601	Sausages and similar products, of meat, meat offal or blood	12.7
2309	Preparations of a kind used in animal feeding	12.2
0207	Meat and edible offal, of poultry	11.4
2402	Cigars, cheroots, cigarillos and cigarettes	11.2
1512	Sunflower-seed, safflower or cotton-seed oil	10.9
0403	Buttermilk, curdled milk and cream, yoghurt	10.6

Source: WTO Secretariat calculations, based on UNSD, Comtrade database.

4.15. Montenegro has bound all of its tariff lines for agricultural products (WTO definition); the simple average MFN applied rate in 2017 was 12.3%. MFN applied rates range from zero to 50%.

4.16. Montenegro does not apply MFN tariff quotas. However, it does under its preferential agreements with the European Union and Turkey (Table A3.3).

4.17. Agricultural products which are subject to SPS measures must enter the country through specific border posts where veterinary and phytosanitary inspections are organized.<sup>10</sup>

4.18. Montenegro does not levy export taxes on any agricultural products.

#### 4.1.1.3 Support mechanisms

4.19. Montenegro has notified to the WTO that it does not provide export subsidies to agriculture.<sup>11</sup>

4.20. Montenegro has not yet notified any domestic support measures to the WTO. However, in the context of this Review, the authorities indicated that it intends to make its first notification by the end of 2017. Montenegro is in the process of aligning domestic support measures with EU requirements, and in this context will be decoupling some payments from production.

4.21. Domestic support to agriculture is provided through the annual agro-budget which incorporates a range of measures and incentive schemes aligned with the priorities of agricultural policy as contained in the MARD's Strategy for Development of Agriculture and Rural Areas 2015-2020 (see above). Support is divided into four categories: (i) market price policy measures; (ii) rural development measures; (iii) support to general services in agriculture and social transfers; and (iv) measures for the development of fisheries. In 2017, the total agro-budget was €31,540,000. There has been a notable increase in support for rural development measures over the review period, while support for the other types of measures has fluctuated (Table 4.4).

<sup>10</sup> There are seven border inspection posts for veterinary checks (Dobrakovo-Serbia road border crossing; Bijelo Polje-Serbia rail border crossing; Ilino brdo-Bosnia and Herzegovina road border crossing; Kula-Kosovo road border crossing; Božaj-Albania road border crossing; Bar sea port; and Podgorica airport. The control of goods subject to phytosanitary checks is performed at the same points as aforementioned, as well as at the Main Post Office of Podgorica.

<sup>11</sup> Its most recent notification was in 2017 and covers the calendar years 2015 and 2016. WTO document G/AG/N/MNE/4, 13 February 2017.

According to the authorities, in recent years, the emphasis has been placed on improving the quality of products (especially milk); on investing in milk, olive and vegetable production; on introducing necessary standards and quality schemes; and on supporting organic production.

**Table 4.4 Budgetary allocations to agriculture and fisheries, 2011-17**

(€ '000)

Types of measures	2011	2012	2013	2014	2015	2016	2017
Market-price policy measures	5,710	6,520	6,183	5,448	6,130	5,700	5,721
Rural development measures	6,615	5,838	5,615	6,581	8,013	8,600	18,667
Support for general services and social transfers in agriculture and institutional development	6,951	6,708	6,760	6,728	7,143	6,533	5,109
Fisheries	171	171	214	250	300	348	443
Animal health protection measures and phytosanitary measures	1,670	1,337	1,540	1,422	1,390	1,401	1,600
<b>Total agro-budget</b>	<b>21,117</b>	<b>20,574</b>	<b>20,312</b>	<b>20,429</b>	<b>22,976</b>	<b>22,673</b>	<b>31,540</b>

Source: Strategy for the Development of Agriculture and Rural Areas, 2015-20; and information provided by the authorities.

4.22. Budgetary outlays under market price policy measures include direct payments, coupled to production, funds granted under the Beekeeping Improvement Program, and market stabilization measures. In the context of this Review, the authorities indicated that market price measures in Montenegro are subsidies to maintain farmers' incomes, and are not designed to raise prices. Under the direct payments, producers receive payments: per hectare of cultivated land for cereals, potatoes, forage crops, buckwheat and other crops and seed production; per head for livestock (cattle, sheep and goats); and per litre of milk produced. Minimum requirements apply in order to be eligible for support.<sup>12</sup> The main beneficiaries of direct payments are the beef and milk sectors. In the context of EU accession, efforts are underway to align direct payments with EU norms, which will include, *inter alia*, a gradual decoupling from production. Funds granted under the Beekeeping Improvement Program, another component of market price policy measures, are to support the breeding of certain types of queen bee; improve honey quality; support the healthy condition of bee communities; provide training to beekeepers; and provide support to young beekeepers. Market stabilization measures, another component of market price policy measures, fall into two categories: (a) a market intervention programme which allows for the purchase of surpluses in the event of serious market disturbance; and (b) risk management measures, which provide support for farmers for up to 50% of the total insured value of their production insurance policies, with the aim of encouraging farmers to take insurance. As noted by the authorities, market stabilization interventions have been used since 2002. The MARD, the Ministry of Social Affairs and Labour, and the Pension and Disability and Insurance Fund subsidize the purchase of lamb meat by pensioners. The aim of the measure is to support producers through guaranteed purchases, as well as ensure the consumption of lamb by the most vulnerable group of pensioners. The Government provides funding of around €300,000 for these measures annually. Rural development measures are largely directed towards strengthening the competitiveness of food producers through: support for primary production and processing; support for the introduction of international standards; and the establishment of producers' associations.<sup>13</sup> A second group of support measures are related to sustainable resource management (the sustainable use of mountain pastures; the preservation of genetic resources in agriculture; and the development of organic agriculture). A third group includes measures to support the diversification of economic

<sup>12</sup> These minimum requirements are: a minimum area of 1 ha for cereals; 0.5 ha for all other crops; a minimum plant density of 17,000 plants per ha for tobacco; more than 4 heads of cows and breeding heifers; more than 40 sheep; more than 30 goats; 5 heads of own production or 10 bought heads of young bulls, bulls and oxen sold to registered slaughter houses; and 400 litres of milk per month for primary milk producers which supply to registered dairy or cheese factories.

<sup>13</sup> Specifically, support is provided for: investment in agricultural holdings (EU's Instrument for Pre-accession Assistance (IPA); investment in agricultural holdings (World Bank's Montenegro Institutional Development and Agriculture Strengthening (MIDAS) grants); viticulture and wine growing; the establishment and modernization of fruit farms; the development of olive growing; vegetable production; the establishment of perennial medicinal and aromatic plants; investment in processing on family holdings; the improvement of quality standards; the promotion of agriculture and agricultural products; the improvement of the quality of raw milk; and the activities of cooperatives and national associations.

activities in rural areas and the renewal and development of rural infrastructure such as transport and water.

4.23. Support for general services in agriculture includes financial support for services which contribute to the production of safer food, improved skills for producers, the introduction of new technology, and higher living standards in rural areas.

4.24. Pre-accession funding for rural development by the European Union totalling €39 million for the period 2014-20 is available through its Instrument for Pre-Accession Rural Development (IPARD). This programme was adopted in 2015 and became operational in November 2017. Its objective is to provide assistance for the implementation of the *acquis communautaire* for the CAP, and to contribute to the sustainable adaptation of the agricultural sector and rural areas in the candidate country. The elements of support are financing for primary agriculture, agricultural processing and for the expansion of economic activities in rural areas. Under the first phase of implementation, support is focused on increasing the competitiveness of agricultural producers through investments in primary production and food processing. At a later stage, it will also be directed towards diversifying rural economic activity; supporting organic agriculture and using agro-environmental measures to maximize the exploitation of pastures.<sup>14</sup>

4.25. Credit to farmers is available through commercial banks, microfinance institutions and the Investment Development Fund (IDF) (Section 3.3.1). The IDF provides both direct credit and loans through the commercial banks. Loans are for up to €1,000,000; grace periods are for 4 years; and repayment periods thereafter are for up to 8 years. Interest rates range from 3.5% to 5% annually.<sup>15</sup> Apparently, commercial banks typically have high interest rates and unfavourable conditions.<sup>16</sup>

4.26. Reduced VAT rates (of 7%) are applied to veterinary medicine, fodder, fertilizer, devices for plant protection, reproduction seeds, planting material and breeding stock, as well as some food products to protect consumer interests (Table 3.5).

#### 4.1.2 Forestry

4.27. Nearly 60% of Montenegro's territory is covered by forests (some 826,782 ha), and a further 9.9% (137,480 ha) is covered by forest land.<sup>17</sup> The estimated total growing stock of forests is 133 million m<sup>3</sup>, of which 104 million m<sup>3</sup> is available for wood supply (i.e. they are non-protected). Approximately half of Montenegro's forests are state-owned and the other half are privately owned. While the area covered by forests has been increasing in recent decades, largely due to the abandonment of agricultural activities, illegal logging and an increased incidence of forest fires are of concern.<sup>18</sup> Other challenges facing the development of the sector include: poor forest quality in private forests; a lack of investment and use of outdated equipment; human resource deficiencies; a small domestic market and an insufficiently developed position in international markets; and a poor road network.<sup>19</sup> Sawmilling is the main economic activity in the wood processing industry.<sup>20</sup> Rural populations in Montenegro continue to depend on forests as a main source of energy for heating (Chapter 4.3.2). Opportunities that have been identified for the forestry sector in Montenegro include, *inter alia*: production of goods with a higher level of value-added/finalization; increased use of biomass (wood chips and pellets) as a renewable energy

<sup>14</sup> *Strategy for the Development of Agriculture and Rural Areas 2015-2020*.

<sup>15</sup> *Strategy for the Development of Agriculture and Rural Areas 2015-2020*.

<sup>16</sup> *Strategy for the Development of Agriculture and Rural Areas 2015-2020*.

<sup>17</sup> *Findings of the 2010 National Forest Inventory*. FAO definitions of "forests" and "forest land" are used by Montenegro. Forests and forest land are considered to be areas of land bigger than 50 acres; with forests being more densely covered than forest land.

<sup>18</sup> *Strategy for the Development of Agriculture and Rural Areas 2015-2020*. In the context of this Review, the authorities indicated that controls of illegal logging have been undertaken, and a working group for the monitoring of timber assortments (logs) has been set up. A 2009 National Action Plan for Combatting Illegal Activities in Forestry continues to be implemented but apparently innovations and improvements are required.

<sup>19</sup> National Forest Strategy (2013). Viewed at: [http://www.mek.gov.me/eu/wto/library/strategic\\_documents](http://www.mek.gov.me/eu/wto/library/strategic_documents).

<sup>20</sup> As noted in the National Forest Strategy (2013), there is some furniture manufacturing (largely particle board furniture using imported wood) as well as equipping of interiors and manufacture of wooden houses. However, wood processing and furniture making are stagnating.

source; and development of eco-tourism. Montenegro's MFN tariff on products falling within HS Chapter 44 (wood and articles of wood, wood charcoal) is 0%. Production of wood and wood products is a key manufacturing subsector (Table 4.7), and exports of sawn or chipped wood are among the country's main export groups (Table A1.1).

4.28. Responsibility for the forestry sector rests with the MARD through the Directorate for Forestry, Hunting and Wood Industry. State-owned forests are managed by the Forest Administration, and national parks are managed by the National Parks of Montenegro, a public company.

4.29. The Forest Law (of 2010, and amended in 2015) regulates, *inter alia*, silviculture, protection, conservation and improvement of forests, planning methods and conditions of forest utilization, construction and maintenance of forest roads, and monitoring of forests. It also applies to the protection, conservation and utilization of forest trees located outside forests and forest land. Other laws in the forest sector are the Law on Game and Hunting and the Law on Reproductive Material of Forest Trees. All laws have their respective by-laws.

4.30. The National Forest Strategy (2013) is the key policy document guiding the development of the sector. Its two general objectives are to increase the forest volume available for wood utilization to 115 million m<sup>3</sup> and to increase the output of the forestry sector, wood industries and other forest-dependent activities from 2% to 4% of total GDP. It foresees potential growth through: an increase in the degree of finalization of wood products; the generation of demand for biomass and fuelwood; and the use of green procurement methods to install wood products into public buildings. It sets out specific measures to be taken in order to: improve forests through sustainable management; develop the wood industry; enhance the role of forestry in rural development; protect biodiversity and other eco system forest services; and protect against fires. Annual plans are adopted to reach these goals. The authorities anticipate issuing a revised strategy in 2018.

4.31. Commercialization of state-owned forests is permitted through multi-year concession agreements, for which a royalty is paid.<sup>21</sup> Concessionaries have all the marked trees at their disposal for a single price, and must invest in forest communications (i.e. roads) and silviculture at their own cost. The quantity of wood to be marked and harvested is set out in a 10-year forest management programme, and the Forest Administration is responsible for marking trees. Concessions may only be given to companies registered in Montenegro; a foreign company registered in Montenegro that has processing facilities is eligible to obtain a concession. The Forest Administration proposes concession fees based on parameters set out in the Forest Law; these are ultimately decided by the Government. The current income gained from concession contracts is around €6 million.<sup>22</sup> The authorities indicated that consideration is being given to reviewing the system of concessions because of concerns about the inadequacy of revenue generated from this system. In mid-2017, Montenegro imposed a ban on exports of certain wood items from state forests (26 tariff lines in HS 44011100 and HS 44011200 (fuel wood) and HS 4403 (wood in the rough)) and imposed temporary export licensing on these items when exported from private forests (OG No. 23/2017, 7 April 2017). The rationale for this measure was to control exports in order to ensure adequate supply for the domestic market, since a prohibition on logging in Albania in 2016 had resulted in a surge of exports to that country.<sup>23</sup> The export licensing regime is in place until 1 May 2019, with licences being granted by the MARD upon request. They are valid for 30 days. Special arrangements are in place for cooperation between the MARD and Customs in order to monitor the situation (see Section 3.2.3).

<sup>21</sup> As noted in the 2013 National Forest Strategy, most of the contracts were entered into for 7 or 15 years, and there was one contract for 20 years. The Strategy also notes that concession contracts are not fully observed, and the concession system should be improved.

<sup>22</sup> National Forest Strategy (2013). This estimation is based upon the assumption that investments in various areas are made.

<sup>23</sup> Government of Montenegro online information. Viewed at: <http://www.gov.me/en/News/170380/Montenegro-s-Cabinet-Session.html?AccessibilityFontSize=150> and Balkans Insight online information. Viewed at: <http://www.balkaninsight.com/en/article/albania-bans-logging-to-protect-the-forests-11-30-2015>.

4.32. Wood cut from state-owned forests must be processed (to a primary level of production) before it is exported. This requirement is not applied to wood cut from privately-owned forests).<sup>24</sup>

4.33. An administrative fee is applied to exports to cover the costs of marking the trees and issuing origin certificates.

#### 4.1.3 Fisheries

4.34. Fisheries activities in Montenegro take place in the coastal region and the Skadar lake. The coastline stretches for 294 km and territorial waters cover 2,099 km<sup>2</sup>. While overall the Montenegrin fisheries sector is underdeveloped, under exploited and of an artisanal character, the authorities indicated that it has a strong social and cultural dimension. There are no figures on its contribution to GDP, which is aggregated with agriculture, forestry and hunting (see above). According to MONSTAT, 269 persons were employed in marine fisheries in 2013, mostly on a part-time basis (latest available data). In 2010, the most recent date for which data is available, it was estimated that between 120 and 170 people were engaged in aquaculture. There is no data collected on the contribution of fish processing to the economy and employment, nor on the type of fish processing that takes place in Montenegro. The authorities see the development of the sector as being linked with tourism and processing.

4.35. The MARD is in charge of the development and implementation of fisheries policy, including the drafting of legal texts and the preparation of the annual budget. In 2017, a Fisheries Directorate was established, and a fisheries inspection service falls within it. There are no producer organizations, and marketing channels are generally linked with direct sales to restaurants and, to a smaller extent, to the processing sector and retailers.

4.36. Montenegro is a member of the FAO's General Fisheries Commission for the Mediterranean (GFCM).<sup>25</sup> It has no fisheries partnership agreements with other countries.

4.37. The Law on Marine Fisheries and Mariculture (2009) (OG Nos. 56/09 and 47/15) governs the marine fisheries and marine aquaculture (mariculture) subsectors.<sup>26</sup> It requires that those engaging in commercial marine fishing are registered with the Central Register of the Commercial Court (CRCC) and the Register of Professional Fishermen. Vessels must be registered with the Register of Vessels, and a permit is issued for which a fee is levied.<sup>27</sup> With respect to the former, the Law distinguishes between "large-" and "small-"scale commercial fisheries based upon the length of the vessels and the fishing gear that may be used. Small-scale commercial fisheries vessels are limited to 12 m length overall and large-scale commercial fisheries vessels are limited to 34 m length overall. The Law allows foreign legal and natural persons to engage in marine fisheries in accordance with the Law.<sup>28</sup> Companies and persons undertaking mariculture activities must also be registered with the CRCC and hold a mariculture permit, for which a fee is levied. Mariculture projects must be approved by the authorities.

4.38. The Law on Freshwater Fisheries and Aquaculture (OG 11/07) governs fresh water fisheries and aquaculture, and regulates the areas of sport and recreational fishing and freshwater fish farming. There are no restrictions on foreign companies or natural persons.

4.39. Legal and regulatory reforms are underway to comply with the EU Common Fisheries Policy (CFP). In this regard, a strategy and an action plan for compliance were adopted in 2015. The strategy focuses on: continuing to build processes to meet EU quality and hygiene standards; sustainable fisheries and aquaculture; and administrative and institutional capacity-building. Key steps to be taken include: alignment with the CFP and the Mediterranean Regulation; strengthened

<sup>24</sup> National Forest Strategy (June 2013).

<sup>25</sup> The stated official objective of the GFCM is "to ensure the conservation and the sustainable use, at the biological, social, economic and environmental level, of living marine resources as well as the sustainable development of aquaculture in the Mediterranean and in the Black Sea". It is comprised of 24 members, including the European Union as one. FAO online information. Viewed at: <http://www.fao.org/gfcm/background/about/en/>.

<sup>26</sup> Law on Marine Fisheries and Mariculture. Viewed at: [http://www.faoadriamed.org/pdf/Legislation/Montenegro/Law\\_on\\_Marine\\_Fisheries\\_Mariculture\\_Aug\\_2009.pdf](http://www.faoadriamed.org/pdf/Legislation/Montenegro/Law_on_Marine_Fisheries_Mariculture_Aug_2009.pdf)

<sup>27</sup> The fee amount is based on the fishing capacity of the vessel and the significance of commercial fishing (Articles 46 and 47).

<sup>28</sup> Law on Marine Fisheries and Mariculture, Article 3.



data collection; alignment with the EU's Fleet Policy; fisheries control measures (related to traceability, data certification and catch certificates); strengthened administrative capacity; ratification of the UN Convention Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks; and alignment with the EU's position vis-à-vis other international and regional fisheries organizations.<sup>29</sup> It is expected that three new laws will be adopted in 2018 (a law on freshwater fisheries and aquaculture; one on marine fisheries and mariculture; and one on structural measures, market organization and state aid in fisheries and aquaculture<sup>30</sup>), as well as multiple regulations.

4.40. In 2016, the Montenegrin fleet consisted of 150 vessels, including 22 bottom trawlers; 17 purse seiners and 111 small commercial fisheries vessels. Most of the catch comes from the "small" commercial fisheries segment. Foreign fishing vessels operating in Montenegrin waters must be registered with, and licenced by, the Fisheries Directorate (this requirement is also applied to domestic vessels). In 2017, there were four such registered vessels, from Turkey (two vessels), Azerbaijan (one) and the Russian Federation (one); they obtain a licence for five years, for which they must pay a fee of approximately €5,000, depending on the fishing capacity of the vessel and the fishing gear used. Montenegro has adopted various tools to combat illegal fishing.<sup>31</sup>

4.41. Every year, Montenegro sets a maximum allowable catch; this is monitored through the daily logs which fishermen are required to submit. The maximum allowable catch per year for the period 2016-21 is 3,000 tonnes for pelagic species and 1,706 tonnes for demersal species. In 2015, Montenegro's total saltwater fish catch amounted to 832 tonnes, a slight increase compared to the two preceding years, and significantly below the annual quotas set for this period (Table 4.5).<sup>32</sup> On the basis of data collected by the Fisheries Directorate, in 2016, the total saltwater fish catch was only 18% of the maximum allowable catch.

**Table 4.5 Catch of saltwater fish, by species, 2012-15**

(Tonnes)

	2012	2013	2014	2015
Pelagic fish <sup>a</sup>	245	226	222	245
Other fish <sup>b</sup>	298	269	299	313
Cephalopods <sup>c</sup>	55	44	51	51
Shellfish	156	180	184	195
Crayfish	25	22	31	28
<b>Total</b>	<b>779</b>	<b>741</b>	<b>787</b>	<b>832</b>

a Main species are: sardelle; sprat; anchovy; mackerel; chub mackerel; scad and tuna.

b Main species are: hake; red mullet; dentex; grey mullet; eels; picarel; bogue; saupe; dogfish; catfish and skate.

c Main species are: squid; cuttlefish; octopus and musky octopus.

Source: Information provided by MONTSTAT.

4.42. Aquaculture is largely marine-based. Most recent figures from 2013 reported production of 550 tonnes of trout; 189 tonnes of mussels; 3.2 tonnes of oysters; 76 tonnes of sea bass; and 45 tonnes of sea bream. There are 33 freshwater and 19 mariculture farms.

4.43. Montenegro is a net importer of fish and fish products; tariff protection ranges from duty-free to 20% (Table A3.1). In 2016, the value of these imports was just over €16 million and the value of exports was just under €100,000. In the same year, the main sources of imports in descending order of importance were Spain, Croatia, Thailand, Italy, and Argentina. Licences are not required to import fish into Montenegro. Montenegro exports relatively small quantities of fish,

<sup>29</sup> MARD (June 2015) Fisheries Strategy of Montenegro 2015-20 with an Action Plan (for transposition, implementation and enforcement of EU aquis). Viewed at: <https://www.eu.me/en/13/13-documents?download=1581:fisheries>.

<sup>30</sup> The new law on freshwater fisheries and aquaculture will be aligned with the EU Services Directive, and the other two new laws will be aligned with the EU's Common Fisheries Policy.

<sup>31</sup> These tools include: satellite systems to follow vessels; the creation of a register of fishing vessels; and the automatic identification of fishing vessels. In 2016, three vessels were seized (two Albanian and one Italian). Sanctions were applied and the vessels were reported to the GFCM.

<sup>32</sup> The maximum allowable catch set for the period 2011-16 was 20,000 tonnes for pelagic species and 1,706 tonnes for demersal species.

mainly to Serbia and Bosnia Herzegovina. It applies tariff quotas on certain live and processed fish under its RTA with the European Union (Table A3.3). No export taxes are applied.

4.44. Budgetary spending on fisheries has accounted for a minimal, but slightly increasing, share of the agro-budget since 2012 (0.8% of the budget in 2012 (€171,000); 1% in 2013 (€213,220); 1% in 2014 (€250,050); and 2% in 2015 (€300,000).

4.45. Montenegro has notified its fisheries support to the WTO for the years 2013 and 2014.<sup>33</sup> In the context of this Review, the authorities supplied data for the years 2015 and 2016 which will shortly be notified to the WTO (Table 4.6). For all programmes, the MARD is responsible for granting the subsidy. The authorities indicated that support does not have trade effects.

**Table 4.6 Support to the fisheries sector, 2015-16**

Programme title	Objectives	Beneficiaries	Budget 2015 (€)	Budget 2016 (€)
Improvement of fishing fleet	Modernization and increase of fishing fleet and increased efficiency and competitiveness of catch	Professional fishermen	110,000	160,000
Improvement of mariculture sector	Improve competitiveness and efficiency (i.e. through construction of sites and facilities and purchase of equipment) and protect shellfish breeding sites from predators (purchase of protective nets)	Companies and persons holding mariculture licences	45,000	45,000
Improvement of the marine fisheries sector	Creation of conditions for the maintenance and preservation of fish/other marine organisms	Companies and persons registered in the CRCC	30,000	0
Sustainable management and preservation of resources of fish and other marine organisms	Funding to: assess fish resources in order to set catch quotas; create fishery sea safe zones; reduce illegal fishing; and maintain and improve the Fishery Information System and the Satellite Monitoring System for vessels	Institute of Marine Biology; IT experts and mobile service providers	61,000	64,000
Measures for improvement of freshwater fisheries	Support to estimate available fish resources in freshwater fishery waters; and develop sport fishing tourism and strengthen activities of sport fishing clubs	Faculty of Natural Science of the University of Montenegro and fishing stock beneficiaries	24,000	29,000
Measures for improvement of freshwater aquaculture sector	Support to improve competitiveness and efficiency through co-financing of breeders of fish for the reconstruction of breeding sites; construction of facilities; and purchase of equipment to automate the growing process and to improve hygiene	Companies/ persons registered for freshwater aquaculture activities	30,000	50,000

Source: Information provided by the authorities.

## 4.2 Manufacturing

4.46. In 2016, the GDP share of manufacturing (including agro-processing) in the economy was 4.6%, and accounted for 6.3% of the total number of employed persons (Table 1.2). The structure of the Montenegrin economy has changed significantly in the last 15 years. This change is reflected in the increasing share of services at the expense of a reduced share of industry and agriculture within overall economic activity. Within manufacturing, the most significant share of production is the subsector of production of pharmaceutical products and preparations, followed by production of basic metals and production of metal products, production of food products, beverages and tobacco products, production of other non-metallic mineral products, production of machines and equipment, and wood and cork products (Table 4.7)

<sup>33</sup> WTO document G/SCM/N/284/MNE, 22 May 2015.

4.47. The guiding strategy for the manufacturing sector is the "Industrial Policy of Montenegro Until 2020", adopted in 2016. This integrates measures and activities for the manufacturing sector which were incorporated into an earlier "Development Strategy of the Manufacturing Industry in Montenegro 2014-2018".<sup>34</sup>

**Table 4.7 Share of total industrial production, 2012-16**

(%)

	2012	2013	2014	2015	2016
Food products	11.9	13.7	15.2	9.8	12.1
Beverages	5.9	5.8	5.9	4.8	5
Tobacco products	1.8	4.3	4.8	3.5	1.9
Clothes	0.2	0.2	0.2	0.2	0.1
Leather and leather products	0	0.2	0.2	0.2	0.1
Wood and products of wood and cork	2.5	2.3	4.1	4.5	5.3
Paper and paper products	0.8	1.2	1.3	1.0	1.2
Printing and reproduction of recorded media	0.7	0.8	0.9	0.6	0.5
Chemicals and chemical products	0.3	0.4	0.4	0.3	0.1
Basic pharmaceutical products	16.8	19.1	16.3	25.5	25.8
Rubber and plastic products	0.2	0.2	0.2	0.5	0.5
Products from non-metal minerals	10.2	15	16.3	14.7	14.7
Basic metals	35.6	23.4	21.1	19.9	18.3
Metal products (except machines and equipment)	2.7	2.1	0.4	3	2.6
Other machines and equipment	9.4	9.8	11.7	10.8	10.9
Furniture	0.2	0.2	0.2	0.2	0.1
Repair and installation of machinery and equipment	0.8	1.2	0.7	0.3	0.1

Source: MONSTAT.

4.48. The Policy identifies manufacturing (specifically agro-food, wood processing, metal and pharmaceutical products) as a priority sector with potential for growth. Other priority subsectors are energy (Section 4.3.2) and tourism (Section 4.4.5).<sup>35</sup> The Policy notes that structural weaknesses of the economy include low labour productivity, an export structure concentrated on exports to a small number of traditional markets, and in relatively declining world markets, insufficient industrial growth within sectors characterized by technological intensity or the use of modern, advanced manufacturing methods. Reindustrialization is a key objective in strengthening and rebalancing the economy, which has become increasingly services-dominated.<sup>36</sup> In this regard, two key challenges that need to be addressed to improve industrial competitiveness have been identified. The first is a more efficient utilization of "input" factors and improvement of basic development preconditions.<sup>37</sup> The second is to provide better "output" performances at the enterprise level, including through trade integration, improved productivity, innovation, better exploitation of resources, the development of new high value-added products and support to SMEs. According to the authorities, in line with the action plan for implementation of the Policy, support programmes, especially ones aimed at modernizing the manufacturing industry through procurement of equipment and improvement of the innovative potential of SMEs in the manufacturing sector, have been implemented.

4.49. There are various programmes in place in order to support businesses in Montenegro. Those that are specific to the manufacturing sector are the Business Zone Programme; the Programme for Modernization of Manufacturing Industries; and the Programme for Improvement of Innovative Activities in SMEs in Manufacturing Industries (see below). Manufacturing businesses may also benefit from incentives and other support offered a range of other cross-sectoral programmes (see Sections 3.3.1 and 3.3.2).

<sup>34</sup> The Industrial Policy of Montenegro Until 2020 and the Development Strategy of the Manufacturing Industry in Montenegro were viewed at: [http://www.mek.gov.me/en/wto/library/strategic\\_documents](http://www.mek.gov.me/en/wto/library/strategic_documents).

<sup>35</sup> In the context of this policy document, industrial policy is viewed in broad terms, to encompass the non-financial business economy. *Industrial Policy of Montenegro Until 2020* (2016), p. 3.

<sup>36</sup> As noted in the policy document "the ongoing de-industrialization of the Montenegrin economy over the past few decades, towards an economy dominated by services, creates significant risks that the economy is becoming sectorally unbalanced, insufficiently diversified, and vulnerable to external economic shocks".

<sup>37</sup> These include the development of the road network; better use of natural resources; application of information and communication technologies; educational and vocational training; establishing a clear and predictable regulatory framework and online access to public services; improved access to finance; and improvements to the capital market.

4.50. The aim of the Business Zones Development Project is to attract investment and increase employment, particularly in less developed areas of the country, and to overcome regional disparities. The Decree on Business Zones (OG No. 77/16) adopted in 2016 (as amended in 2017) defines the model of establishing business zones, their classification according to their strategic importance, the model managing business zones, and incentives at the state level. Business zones of strategic importance are entities established and managed by the Government. Business zones of local importance are entities established and managed by a local self-government unit, alone or in cooperation with another founder, which may also be a business entity. Business zones are specific locations in the municipal territories where the investors can use administrative support and tax relief from state and local levels. Sometimes infrastructural facilities are also provided by the state or local administration. Incentives offered to enterprises engaged in non-polluting light industry within the zones are set out in Section 3.3.1.2, Table 3.7. As at mid-2017, there were business zones within nine municipalities. Data will be available in mid-2018 on the companies established within business zones.

4.51. The Industry Modernization Support Program is aimed at eliminating the key barriers to the development competitiveness of Montenegrin companies (outdated equipment; low flexibility and productivity in manufacturing; unsatisfactory quality of manufacturing systems), by co-financing part of the costs for investment in equipment purchases for processing industries (such as production equipment/machinery; used manufacturing equipment/machinery (not older than five years); and new parts and tools used to put unused machines into operation. Incentives provided and application procedures are set out in Section 3.3.1.2, Table 3.7.

4.52. The Program for Improvement of Innovative Activities of SMEs in Manufacturing is a grant scheme to support SMEs in the processing industry sector, with certain exclusions. Details of the value of incentives provided, and excluded sectors, are set out in Section 3.3.1.2, Table 3.7.

4.53. The average applied MFN tariff on non-agricultural products (WTO definition) in 2017 was 3.1%; tariffs range from 0% to 20%. According to the ISIC definition (excluding food processing), the average applied tariff on manufactured goods was 2.7%, with tariffs ranging from 0% to 20% (Table A3.1). Montenegro's main imports of manufactured products (SITC Rev. 3 definition) were machinery and transport equipment and semi-manufactured goods including structures and parts of structures; cement and ceramic bricks, tiles and pipes (Table A1.2). Its main exports of manufactured products (SITC Rev. 3 definition) were iron and steel bars and rods; medicines; and certain machinery and transport equipment (Table A1.1).

### 4.3 Mining and Energy

#### 4.3.1 Mining

4.54. Mining and quarrying accounted for 1.3% of GDP in 2016 and 0.9% of total employment (Table 1.2).

4.55. The legal framework governing the sector is the Law on Mining (OG No. 65/08 as amended by 74/10) and the Law on Geological Exploration (OG Nos. 28/93, 27/94, 42/94, 26/07, 28/11) and their various by-laws.<sup>38</sup> According to the authorities, the Law on Mining is completely harmonized with EU Directive 92/104/EEC of 3 December 1992, which lays down the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries and the Directive 85/337/EEC (amended by Council Directive 97/11/EC) on the assessment of effects of certain public and private projects on the environment.

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<sup>38</sup> These by-laws are: Regulation on the contents of the state plan for the exploitation of mineral raw materials (OG No. 44/11); Regulation on the funds needed to remedy and recultivate areas in which mining takes place, and on the manner of calculating, paying and using these funds (OG No. 55/11); Rulebook on closely defined conditions for the issuing of licences for mining and for the design of mining projects (OG No. 3/10); Rulebook on the programme and manner of taking professional exams in the mining industry (OG No. 66/10); Rulebook on mining measurements (OG No. 26/94); Rulebook on the content of mining projects (OG No. 74/09); Instructions on the development of the annual technical report and the annual financial report on the performance of concessioners with the right to exploit mineral raw materials (OG No. 10/96).

4.56. As set out in the Law on Mining, Montenegro's mineral wealth<sup>39</sup> is owned by the State. It may only be exploited by business companies (foreign and local) under conditions as set out in the Law, involving a concession contract and the payment of a fee. An exception applies to the mining of gravel, sand and stone used for the construction and maintenance of local infrastructural structures. In this case, only an approval is required, and the mining activity is supervised by the competent authority of the local administration. Companies exploiting mineral resources must simultaneously carry out additional geological explorations to update reserves in the field being exploited. Domestic and foreign companies are treated equally under mining legislation and regulations.

4.57. Responsibilities in the mining area are set out in the Law on Mining, and are divided between the Government and the Ministry of Economy.<sup>40</sup> The Government issues the State Plan for the Exploitation of Mineral Resources and rules for its implementation; stipulates requirements and the manner of granting the use of mineral resources; decides on mining-related concession awards; and sets out criteria for assessing funds to rehabilitate areas which have been mined. The Ministry of Economy, through its Directorate for Mining and Geological Research, regulates the sector, decides on certain appeals and carries out inspection supervision. It, *inter alia*, also assists the Government in developing its State Plan; has various administrative responsibilities with respect to concessionaires; provides background support in developing regulations; issues licences and approvals; organizes technical inspections; and calculates the cost of rehabilitation of mining sites.

4.58. The State has 31.11% of shares in the Pljevlja Coal Mine, a joint-stock company which produces brown coal.

4.59. There is a State Plan for the exploitation of mineral resources which contains a general plan, valid for up to 10 years. An exploitation plan is being developed. Mining production comprises quarrying products, bauxite, lead and zinc (Table 4.8). Data on foreign investment in the sector was not available.

**Table 4.8 Mining production 2012-2016**

	unit	2012	2013	2014	2015	2016
<b>Volume</b>						
Architectural or decorative building stone	m <sup>3</sup>	5,503	5,165	5,851	6,032	3,190
Technical construction stone	m <sup>3</sup>	336,033	309,229	653,507	517,639	299,818
Gravel and sand	m <sup>3</sup>	0	4,822	39,381	33,623	0
Bauxite	tonnes	0	0	0	0	497,779
White bauxite	tonnes	5,380	3,737	2,086	1,801	0
Lead and zinc	tonnes	960,420	949,573	968,428	1,080,020	1,569,184
<b>Value</b>						
Total value of mining production	€ '000	61,167	62,023	69,559	79,178	94,622

Source: Information provided by the authorities.

4.60. Tariff protection in the mining sector is low. The simple average applied tariff in 2017 (ISIC definition) was 1.2%, with tariffs ranging from 0% to 8%. In 2016, exports of mining products (excluding fuel) accounted for 31.9% of total exports, comprising mainly aluminium ores and concentrates, zinc ores and concentrates, other non-ferrous base metal waste and scrap, and unwrought aluminium and aluminium alloys (Table A1.1).

<sup>39</sup> As set out in Article 4 of the Law, mineral resources include: all types of coal and oil shale; hydrocarbons in liquid and gaseous state (oil and gas) and other natural gases; metallic mineral resources and usable compounds thereof; non-metallic mineral resources and raw materials used for the production of construction materials; radioactive mineral resources; all types of salts and saline waters; mineral and geothermic waters used to obtain useful mineral resources and geothermal energy, as well as groundwaters related to mining technology and gases present therein; and technogenic mineral resources created during the process of exploitation and processing of mineral waters.

<sup>40</sup> The Law on Mining stipulates that jurisdiction in the mining industry shall be shared between the Government, the Ministry of Economy and an Administration Authority. The Administration Authority has not yet been established and its tasks are being performed by the Directorate for Mining and Geological Research within the Ministry of Economy.

4.61. As set out in the Mining Law, revenues from concession contracts are divided between the central government (70%) and the municipality in which the mining activity takes place (30%). Since 2012, revenue collected from concession fees on an annual basis has ranged from €810,517 to €5,134,598.

### 4.3.2 Energy

#### 4.3.2.1 Overview

4.62. Montenegro's domestic production of energy comes from hydro-electricity, coal and fuelwoods (Table 4.9). To meet domestic demand, it imports around 10% to 15% of its electricity needs. All petroleum is imported, largely from Greece and, to a lesser extent, Croatia. In 2016, energy consumed by households accounted for 39% of all energy consumed; industry 21%; transport 0.6%; and services 23%. In the same year, losses in transmission were 4%, while losses in distribution were 15.62%. While the internal energy market has been fully opened to competition since 2015, the State has a significant ownership stake in the electricity market, in the areas of generation, transmission and distribution (see below).

**Table 4.9 Energy production, 2012-16**

Production	2012	2013	2014	2015	2016
Electricity (total) (GWh)	2,844	3,809	3,038	2,872	3,023
- solar	..	..	1.9	2.1	..
- hydro	1,477	2,498	1,716	1,460	1,807
Coal (total) (1,000 tonnes)	1,786	1,692	1,655	1,772.9	1,398
- brown coal	..	..	..	17.9	48
- lignite	1,786	1,692	1,655	1,755	1,350
Fuelwoods and other (total) (m <sup>3</sup> )					
- firewood (m <sup>3</sup> )	749,280	711,818	726,164	757,705	754,632
- wood residue (m <sup>3</sup> )	93,667	85,589	71,438	83,681	83,290
- wood chips (t)	10,240	10,419	14,882	15,393	15,585
- wood briquettes (t)	380	335	190	66	70
- wood pellets (t)	..	..	1,375	17,012	22,952

.. Not available.

Source: Statistical Office of Montenegro. Viewed at: <http://www.monstat.org/eng/page.php?id=39&pageid=39> and Energy Balance for 2016.

#### 4.3.2.2 Institutional and legislative framework

4.63. The Ministry of Economy, with its three Directorates, for Energy, Energy Efficiency and Mining and Geological Research, is the policy-making body for the energy sector. It prepares the national energy policy and the annual and long-term energy balance, and puts it to the Government for approval.<sup>41</sup> Various other ministries have energy-related responsibilities.<sup>42</sup>

4.64. The Energy Regulatory Agency (ERA) is responsible for policy implementation in the energy sector in the areas of electricity, oil, gas and petroleum. The Agency was established in 2004 as an autonomous legal entity, based on the Energy Law (see below). It is autonomous in its exercise of its functions, which include the authority to: issue tariff methodologies, fix tariffs upon the

<sup>41</sup> EU Screening Report Montenegro Chapter 15 – Energy, p. 15. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening\\_reports/screening\\_report\\_montenegro\\_ch\\_15.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch_15.pdf) and EBRD online information. Viewed at: [www.ebrd.com/documents/legal-reform/montenegro-energy-sector-assessment-2010.pdf](http://www.ebrd.com/documents/legal-reform/montenegro-energy-sector-assessment-2010.pdf).

<sup>42</sup> The Ministries of Finance, Agriculture and Rural Development, Sustainable Development and Tourism, Health, as well as the Administration for Hydrocarbons, Energy Regulatory Agency, Water Administration, Forest Administration, Environmental Protection Agency, Ministry of Foreign Affairs and European Integration, Statistical Office of Montenegro, Institute for Hydrometeorology and Seismology, Institute for Geological Research and local governments, are stakeholders in the energy sector and have specific responsibilities within their respective fields of activity. Ministry of Economy, *Energy Development Strategy of Montenegro by 2030 – Action Plan 2016–2020*, p. 27. Viewed at: [http://www.oie-res.me/uploads/Dokumenta%202016/Action\\_Plan\\_2016\\_-\\_2020\\_ENG.pdf](http://www.oie-res.me/uploads/Dokumenta%202016/Action_Plan_2016_-_2020_ENG.pdf).



proposal of energy sector undertakings; set connection costs; issue licensing rules and licences<sup>43</sup>; hear and resolve customer complaints; and approve the grid code and market rules upon submissions from the market operator.<sup>44</sup> The right to impose penalties rests with the competent court (the Administrative Court or the Basic Court). The ERA is obliged to present a financial report annually, as well as a report on the situation in the energy sector of Montenegro to parliament.<sup>45</sup>

4.65. The Hydrocarbon Administration, as established by the Law on Exploration and Production of Hydrocarbons (OG Nos. 41/10, 40/11, 62/13), performs management and expert tasks in the fields of research and production. These include, *inter alia*, assisting in the preparation of regulations and proposals to designate blocks for the exploration and production of hydrocarbons; various tasks relating to concession contracts; approving the research work programme and drilling work programme; various tasks related to drilling and the production and dismantling of plants; data collection on the exploration and production of hydrocarbons; and issuing approvals for the testing and production of hydrocarbons.

4.66. The main laws governing the sector are the Law on Energy (OG Nos. 5/16 and 51/17) and the Law on Cross Border Exchanges of Electricity and Natural Gas (OG No. 42/16).<sup>46</sup> The two laws transpose the main provisions from the EU Third Energy Package. The Law on Energy sets out the competencies of the bodies involved in policy making and regulation, and it has provisions on competition and unbundling, inspection and supervision, regulation of the electricity, petroleum and gas and coal subsectors, energy supply and security and penalties. The 2017 amendments were made to the Law on Energy in order to specify the powers of the ERA in the process of determining the regulated revenue of the transmission system operator and the electricity distribution system operator. Other key changes are intended to secure the independence of the electricity transmission operator and create the conditions for transmission system operators to obtain certification by the ERA. According to the authorities, work will be continued to harmonize all decisions adopted through the Energy Community Treaty; primarily EU Regulation 347/2013, which will involve amendments to the Law on Cross Border Exchanges of Electricity and Natural Gas.

4.67. In July 2014, the Government approved a new Energy Strategy until 2030, with the focus on exporting electricity. The cornerstones of the Strategy are the construction of three large new energy generation facilities – i) The Pljevlja II coal power plant (220-250 MW); ii) Moraca; and iii) Komarnica hydropower plants (238 MW and 168 MW respectively).

#### 4.3.2.3 Energy strategies and policy actions required by the accession to the European Union

4.68. As a candidate country for membership of the European Union, Montenegro indicated that it would implement the *acquis* regarding energy by accession.<sup>47</sup> Subsequently, the accession negotiations on energy were opened in December 2015<sup>48</sup>, when the EU Commission noted that Montenegro was moderately prepared in this area and that it was expected to adopt new

<sup>43</sup> As specified by the Law on Energy (OG Nos. 5/16 and 51/17), the ERA, i) grants licences to conduct energy activities, ii) issues guarantees of origin for electricity generated from renewable energy sources or high-efficient cogeneration, iii) designates the status of privileged generator of electricity from renewable energy sources, iv) approves or stipulates regulatory allowed revenue, prices and tariffs for energy undertakings, v) decides on appeals, vi) settles disputes, vii) acts within its competences and approves acts prepared by energy undertakings, and viii) supervises operations of energy undertakings. Online information viewed at: [http://www.studiobranko.me/regagen/site\\_en/public/index.php/index/artikli?id=59](http://www.studiobranko.me/regagen/site_en/public/index.php/index/artikli?id=59). The list of licensees is available at:

[http://www.regagen.co.me/cms/public/image/uploads/Naknade\\_za\\_izdavanje\\_licenci.pdf](http://www.regagen.co.me/cms/public/image/uploads/Naknade_za_izdavanje_licenci.pdf).

<sup>44</sup> EBRD online information. Viewed at: [www.ebrd.com/documents/legal-reform/montenegro-energy-sector-assessment-2010.pdf](http://www.ebrd.com/documents/legal-reform/montenegro-energy-sector-assessment-2010.pdf).

<sup>45</sup> Energy Community online information. Viewed at: <https://www.energy-community.org/implementation/Montenegro/REG.html>.

<sup>46</sup> Law on Energy. Viewed at: <http://www.gov.me/files/1069256659.pdf> (this does not include amendments from 2017).

<sup>47</sup> Screening Report Montenegro Chapter 15 - Energy, p. 3. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening\\_reports/screening\\_report\\_montenegro\\_ch\\_15.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch_15.pdf).

<sup>48</sup> EU online information. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-information/montenegro\\_en](https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-information/montenegro_en). Montenegro's latest implementation updates are available at: <https://www.energy-community.org/implementation/Montenegro.html>.

legislation to complete alignment with the third Energy Package<sup>49</sup> and move to the implementation stage<sup>50</sup>; this has now been done (see above). In addition to unbundling of actors in the power sector, the Commission said that careful attention should be paid to the timely build-up of oil stocks, developing the means to implement energy efficiency requirements and developing the programme to align with nuclear safety *acquis*.<sup>51</sup>

4.69. Concerning hydrocarbons, Montenegro needed to develop concrete plans for *acquis* alignment as regards the requirement to hold oil stocks equivalent to 90 days of net imports (or 61 days of average daily inland consumption, whichever is higher). Consequently, a legal framework including adoption of the Law on Security of Supply of Oil Derivatives is expected to be finalized in the first quarter of 2018.<sup>52</sup> Montenegro has prepared a Rulebook on the methodology for collection and systematization of data related to trade in oil products. A study on the status of storage capacities will be undertaken once the Rulebook has been adopted. It was estimated that, by 2030, Montenegro would need around 130,000 m<sup>3</sup> of oil, while the operational reserves would be around 30,000–40,000 m<sup>3</sup>.<sup>53</sup> Even though the Montenegrin oil sector has at its disposal around 205,000 m<sup>3</sup>,<sup>54</sup> the tanks are currently used for commercial purposes only (operating stocks), and therefore most of them need significant investment and maintenance. Total estimated oil stocks costs (investment and procurement) are €149.6 million.<sup>55</sup>

4.70. In the context of its accession process, work is being undertaken, *inter alia*, to: strengthen the ERA; fully open the internal energy market; put in place effective safeguards, given that the State maintains majority shareholdings in various entities (see above); transpose the *acquis* relating to gas and partially implement provisions on the *acquis* relating nuclear safety and radiation protection (even though Montenegro does not currently have a gas market or produce/use nuclear energy<sup>56</sup>); align its legislation with the Euratom Treaty; sign and ratify key international conventions, and address radioactive waste disposal. Montenegro is also harmonizing its laws and regulations with the EU legal framework on energy efficiency.

<sup>49</sup> In order to harmonize and liberalize the European Union's internal energy market, three consecutive legislative packages of measures were adopted between 1996 and 2009, addressing market access, transparency and regulation, consumer protection, supporting interconnection, and adequate levels of supply. The first liberalization directives (First Energy Package) were adopted in 1996 (electricity) and 1998 (gas), to be transposed into Member States' legal systems by 1998 (electricity) and 2000 (gas). The Second Energy Package was adopted in 2003, with its directives to be transposed into national law by Member States by 2004, with some provisions entering into force only in 2007. Industrial and domestic consumers were now free to choose their own gas and electricity suppliers from a wider range of competitors. In April 2009, a Third Energy Package, seeking to further liberalize the internal electricity and gas markets, was adopted, amending the Second Package and providing the cornerstone for the implementation of the internal energy market. European Parliament online information. Viewed at: [http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuId=FTU\\_5.7.2.html](http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuId=FTU_5.7.2.html).

<sup>50</sup> 2015 Progress Report on Montenegro, p. 41. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2015/20151110\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2015/20151110_report_montenegro.pdf).

<sup>51</sup> Screening Report Montenegro Chapter 15 - Energy, p. 15.

<sup>52</sup> One of the main purposes of the Law is to establish the Central Stockholding Entity to oversee the build-up, maintenance and reporting of emergency oil stocks. Screening Report Montenegro Chapter 15 - Energy, p. 15.

<sup>53</sup> Energy Development Strategy of Montenegro by 2030, p. 31. Viewed at: [http://www.energetska-efikasnost.me/uploads/file/Dokumenta/Strategija%20razvoja%20energetike%20CG%20do%202030.%20godine%20-%20Bijela%20knjiga\\_10072014.pdf](http://www.energetska-efikasnost.me/uploads/file/Dokumenta/Strategija%20razvoja%20energetike%20CG%20do%202030.%20godine%20-%20Bijela%20knjiga_10072014.pdf).

<sup>54</sup> Of 205,000 m<sup>3</sup> of total storage capacities, 129,000 m<sup>3</sup> belongs to Jugopetrol, 55,000 m<sup>3</sup> was used by Montenegro Bonus, and around 21,000 m<sup>3</sup> is located at other gas stations. Montenegro Bonus is a limited liability company, established by the Government of Montenegro. The primary activity of Montenegro Bonus is storage and trading of oil derivatives.

<sup>55</sup> Energy Development Strategy of Montenegro by 2030, p. 31.

<sup>56</sup> In January 2017, the Ministry of Economy announced a public debate on the Gasification Master Plan, with a report on the strategic assessment of the environmental impact. The aim of the public debate was to inform all interested parties on the current draft of the Gasification Master Plan, which was approved during the 10<sup>th</sup> session of the Western Balkans Investment Framework (WBIF), and to remind that the WBIF has approved a grant of €550,000 to Montenegro for its preparation. The Master Plan was adopted by the Government in June 2017. Online information viewed at: <https://serbia-energy.eu/montenegro-public-debate-gasification-master-plan/> and <https://serbia-energy.eu/montenegro-public-debate-gasification-master-plan/>.

#### 4.3.2.4 Electricity

4.71. Montenegro's electricity needs are currently almost satisfied by its own production. The 218.5 MW coal power plant at the town of Pljevlja accounts for around 40% of electricity generation in the country. There are two large hydropower plants (HPP Piva with an installed capacity of 342 MW and HPP Perucica with 307 MW). Additionally, there are a number of small hydropower plants and a windfarm with an installed capacity of 72 MW. Until 2009, Montenegro imported significant amounts of electricity. However, since 2010, this deficit has dropped significantly due to the reduced consumption of the KAP aluminium plant and the Tos Celik steel mill which, at times, accounted for 40% of the country's energy consumption.

4.72. The Montenegrin Electricity Market Operator (COTEE) was established in July 2011 as a fully state-owned company. Its responsibilities are set out in the Energy Law (Article 129) and include, *inter alia*: organizing and managing the electricity market; record keeping; regulating rules and procedures on electricity purchase and sale; and defining and signing standard contracts in various areas.

4.73. Electricity generation is dominated by Elektroprivreda Crne Gore (EPCG AD), which used to be a vertically integrated monopoly, carrying out generation, transmission, distribution and supply activities.<sup>57</sup> The State owns nearly 99% of the shares in this company. Zeta Energy DOO, an electric service company, was established in 2010 to generate renewable energy. It is owned by EPCG AD (51%) and the Norwegian energy utility company Nord-Trøndelag Elektrisitetsverk Holding AS (49%).<sup>58</sup> There are six other privately-owned electricity generating companies (five hydro and one wind). Solar producers and one new wind energy producer are about to enter the electricity generation market.

4.74. The sole entity involved in the transmission of energy is the Electric Transmission System of Montenegro (CGES AD)<sup>59</sup>, which, in 2009, was unbundled from the EPCG AD to comply with the EU requirements for electricity market liberalization, as well as taking into account a need for an increase in economic efficiency. The State holds 55% of the company's shares, while the strategic partner, Terna Rete Nazionale S.p.a., holds 22.1%.<sup>60</sup> CGES AD holds two licences: as the transmission system operator (TSO) and for the transmission of electricity.<sup>61</sup>

4.75. In 2016, the EPCG founded 'Crnogorski elektrodistributivni sistem Podgorica – CEDIS', a company for the distribution of electricity within the integral electric power system of Montenegro. This is the sole entity undertaking electricity distribution in the country. CEDIS is an independent company owned by the EPCG.<sup>62</sup> In May 2017, the EBRD approved a loan enabling CEDIS to buy another 60,000 smart electricity meters, which would elevate installation levels to 85% of consumers by 2019. The investment will make Montenegro the first EBRD country of operations to meet the EU target of smart meter coverage for at least 80% of the population by 2020.<sup>63</sup>

4.76. From 1 January 2015, households acquired the right to choose their electricity supplier. At end-2017, one company was supplying electricity, the EPCG. Four additional companies (three private and one state-owned (Montenegro Bonus) are licenced to supply but are not undertaking this activity in practice.

<sup>57</sup> Online information. Viewed at: [www.ebrd.com/documents/legal-reform/montenegro-energy-sector-assessment-2010.pdf](http://www.ebrd.com/documents/legal-reform/montenegro-energy-sector-assessment-2010.pdf).

<sup>58</sup> Montenegro Agency for the Protection of Competition online information. Viewed at: <http://www.azzk.me/1/doc/koncentracije/2010/EPCG%20Podgorica,%20NTE%20Montenegro%20AS%20Norve-ska-Zeta%20Energy%20DOO%20Danilovgrad.pdf>.

<sup>59</sup> Additionally, the CGES provides wholesale services of operator approach, i.e. it leases optical fibres and other infrastructure to telecommunication operators. If there is an interest from their side, the CGES can provide services of signal transmission through the NGSDH network as well. Moreover, the CGES may begin to provide services to other entities, i.e. non-telecommunication operators.

<sup>60</sup> As of 31 December 2016, natural persons owned 7.56% of the company's shares, joint venture funds owned 1.63%, custody accounts owned 12.38%, and legal persons owned 1.34%. CGES online information. Viewed at: <http://www.cges.me/en/about/ownership-structure>.

<sup>61</sup> Energy Development Strategy of Montenegro by 2030, p. 3.

<sup>62</sup> EPCG online information. Viewed at: <http://www.epcg.com/en/media-center/meeting-shareholders/crnogorski-elektrodistributivni-sistem-doo-cedis-has-been>.

<sup>63</sup> EBRD online information. Viewed at: <http://www.ebrd.com/news/2017/ebrd-finances-smart-metering-breakthrough-in-montenegro.html>.

4.77. In June 2017, the EPCG, the COTEE and the CGES signed an agreement on establishing Montenegro power exchange and the power exchange's statute.<sup>64</sup> The Power Exchange Company was registered in August 2017, and the next step will be to choose a strategic partner for the Day Ahead Market. Previously, at the Western Balkans summit in Vienna, held in August 2016, it was decided that the Western Balkans countries would establish a regional energy market through national energy exchanges, which will eventually be integrated into the European single market.<sup>65</sup>

4.78. Prices of electricity transmission and distribution are regulated.<sup>66</sup> In order to determine revenue and prices for the use of the electricity transmission and distribution system, a hybrid regulatory methodology is used, which aims to limit allowed revenue, to provide efficiency improvement incentives, and to allow risk-sharing between operators and users of the system. In Montenegro, tariffs do not differ by the type of subsector (residential, commercial, industry, etc.), but by voltage levels. Preferential electricity prices are only in place for vulnerable customers, namely households and small customers that do not belong to the household category (Section 3.3.3.2).<sup>67</sup>

4.79. The CGES AD, together with Terna, is currently laying undersea electricity transmission cable (with capacity of 1000 MW) linking Montenegro to Italy.<sup>68</sup> This undersea connection represents a HVDC link, and further connects Montenegro with Bosnia and Herzegovina, Serbia, and Romania over the 400 kV Trans-Balkan Electricity Corridor. The first phase of the project (500 MW) is expected to be finalized by the end of 2018. It is anticipated that the link will improve the operational reliability of the transmission system of Montenegro, eliminate possible bottlenecks in the development of the coastal areas, and enable Montenegro to become a significant power node in the region.

#### 4.3.2.5 Renewable energy

4.80. Although hydropower already provides two thirds of Montenegro's total energy production, only 17% of the theoretical hydropower potential has been exploited so far. According to the Energy Strategy, the theoretical potential of large-scale hydropower on Montenegro's main rivers amounts to 9,846 GWh, plus 800-1,000 GWh/year on smaller rivers. Montenegro has a wind potential of 100 MW in high wind speed areas, with wind speeds above 7 m/s. The average annual number of sunshine hours in Montenegro is more than 2,000 hours, with coastal regions enjoying more than 2,500 hours of sunshine a year. The potential for solar energy in Podgorica is approximately 1,600 kWh/m<sup>2</sup>.<sup>69</sup>

4.81. Electricity from renewable sources is supported through a feed-in tariff. The operators of plants that generate electricity from renewable energy sources can obtain the interim status of a privileged producer or the status of a privileged producer. Every year in January, a new unit fee for encouraging the production of energy from renewable sources is adopted. Every electricity customer pays a fee that will be used to encourage electricity generation from renewable sources in addition to the electricity price. Under the Energy Law and the Tariff System Decree, the feed-in-tariff varies, depending on the type of electricity produced in plants using renewable energy sources (€9.60/kWh for wind power plants; €13.71/kWh for power plants using solid biomass from forestry and agriculture; €12/kWh for power plants using solar energy on buildings and engineering constructions; €9/kWh for power plants using solid waste; €8/kWh for power

<sup>64</sup> The COTEE and the CGES hold two thirds of the stake in the new company. Balkan Green Energy News. Viewed at: <http://balkangreenenergynews.com/montenegro-gets-power-exchange-another-step-towards-regional-market/>.

<sup>65</sup> The latest Summit, the 2017 Western Balkan 6 Summit, took place on 12 July in Trieste, Italy, when the key issues under the connectivity agenda, including energy, were discussed. Energy Community online information. Viewed at: <https://www.energy-community.org/news/Energy-Community-News/2017/07/13.html>.

<sup>66</sup> Energy Law, Article 58.

<sup>67</sup> Serbia Energy online information. Viewed at: <https://serbia-energy.eu/montenegro-electricity-price-cut-4-7/>.

<sup>68</sup> CGES and Seenews online information. Viewed at: <http://www.cges.me/en/about> and <https://seenews.com/news/terna-completes-laying-of-montenegro-italy-undersea-power-cable-558899>.

<sup>69</sup> Currently, there is no complete data available on how much solar energy (photovoltaic PV) is used on the territory of Montenegro but it is clear that it plays only a very minor role in the Montenegrin electricity production sector. The strategic objective and future strategy of Montenegro is more supportive to the development of solar thermal heating and cooling than utilization of solar energy for electricity production. PV is also not exploited in Montenegro because of high investment costs.

plants using waste gas; and €15/kWh for power plants using biogas). Incentive prices for electricity generated in small hydropower plants are determined depending on the net power output of the power plant, with incentive prices ranging from €6.8/kWh to €10.44/kWh. The COTEE, which is legally obliged to buy the electric energy from privileged producers, pays the incentive for a period of 12 years, having concluded a formal agreement.

4.82. In May 2017, a wind power plant in Krnovo launched trial electricity production. On 1 December 2017, a contract for the purchase of electricity was signed with COTEE. Expected yearly generation of the company is 200 GWh.<sup>70</sup> The wind park, whose construction began in May 2016, is one of the largest facilities of that type in the region. The contract for this project was concluded between the Government and the Akuo-Ivicom consortium. For the first 12 years, the price of the electricity generated by the wind farm is guaranteed, and it will not be less than €95.99 per MW/h.<sup>71</sup> Additionally, 34 contracts on concessions for the construction of Small Hydro Power Plants<sup>72</sup> are being implemented, of which 12 have been completed.<sup>73</sup>

#### 4.3.2.6 Hydrocarbons and natural gas

4.83. Montenegro is totally dependent on imports of hydrocarbons – oil products and liquefied oil gas. All existing (LPG) oil and gas companies in Montenegro are private companies, except Montenegro Bonus, a state-owned company, which has a licence for wholesale trading, transport and storage of oil and gas, and has been designated by the Government as the transmission system operator for gas. Montenegro does not have domestic refining capability. There are no restrictions on the import of oil and gas. The regulatory agency has issued 35 licences for the sale of petroleum. So far, Montenegro has signed two concessions for the offshore production of hydrocarbons. A first concession agreement was signed between Eni Montenegro BV, a Dutch company, and Novatek Montenegro, BV on 14 September 2016. A second agreement was concluded on 15 March 2017 with Energean Montenegro Limited, Cyprus. Both concessions envisage a research phase of seven years.

4.84. The Master Plan on Gasification was adopted by the Government in June 2017<sup>74</sup>, following public debate in January 2017. The European Union, through the WBIF, has approved a €2.5 million grant support package to Montenegro and Albania for the conceptual design of the Ionian-Adriatic Pipeline through Montenegro and Albania.<sup>75</sup> The terms of reference for the technical assistance required for the development of the preliminary design of the Pipeline – Montenegro and Albania sections - has been adopted and the selected consultant has commenced work.

#### 4.4 Services

4.85. Montenegro has undertaken GATS commitments in all of the 12 sector groups listed in the Services Sectoral Classification List, and in over 80% of its subsectors.<sup>76</sup> Uncommitted sectors include audio-visual services; social services; libraries, archives, museums and other cultural services; internal waterways transport; space transport; and rail transport of passengers.

4.86. Horizontal limitations in its schedule of specific commitments under the GATS relate to public utilities, limitations on branches, agencies and representative offices, and subsidies.

<sup>70</sup> Online information. Viewed at: <http://www.bankar.me/2017/07/24/pocelo-testiranje-vjetrenjaca-na-krnovu/>.

<sup>71</sup> Montenegro concluded a contract on the lease of the public land in August 2010 for a period of 20 years, with a possibility of an extension for up to a maximum of five years. Balkan Green Energy News online information. Viewed at: <http://balkangreenenergynews.com/krnovo-wind-park-started-trial-electricity-production/>.

<sup>72</sup> In accordance with the law on energy power plants with installed capacity of up to 10 MW.

<sup>73</sup> MEK online information. Viewed at: <http://www.mek.gov.me/pretraga/170232/KLJUcNE-INVESTICIJE-U-CRNOJ-GORI.html>.

<sup>74</sup> Serbia Energy online information. Viewed at: <https://serbia-energy.eu/montenegro-public-debate-gasification-master-plan/>.

<sup>75</sup> MZD online information. Viewed at: <http://www.mzd.gov.me/en/search/169720/Minister-Sekuli-Southern-Gas-Corridor-is-of-strategic-importance-for-future-energy-security-of-EU.html>.

<sup>76</sup> WTO document MTN.GNS/W/120, 10 July 1991.



Regarding mode 4, it has taken commitments on intra-corporate transferees, business visitors, and contractual service suppliers.<sup>77</sup>

4.87. In most cases, Montenegro's schedule of specific commitments does not contain any sector-specific limitations on market access or national treatment under any of the four modes of supply.<sup>78</sup> Montenegro has taken partial commitments for legal services<sup>79</sup> and services incidental to agriculture, hunting and forestry, fishing, and energy distribution.<sup>80</sup>

4.88. Moreover, Montenegro has undertaken a number of "additional commitments" in its schedule. Under communication services, it incorporated the obligations of the reference paper on regulatory principles for basic telecommunications. It also undertook additional commitments in the form of a reference paper on postal and courier services, relating to such aspects as the prevention of anti-competitive practices, universal service and the independence of the regulatory body.

4.89. For maritime transport services, an additional commitment guarantees the supply of various port services on reasonable and non-discriminatory terms and conditions to suppliers of international maritime transport services.<sup>81</sup> Montenegro has also undertaken additional commitments with respect to pipeline transport services. While market access and national treatment are "unbound" in modes 1 through 3, it undertakes to provide full transparency in the formulation, adoption and application of measures affecting access to, and trade in, services of pipeline transportation. It also undertakes to adhere to the principles of non-discriminatory treatment in access to, and use of, pipeline networks under its jurisdiction.

4.90. MFN exemptions have been taken for legal services; audio visual services; road transport services; and selling, marketing and computer reservations systems of air transport services. Additionally, an MFN exemption for all sectors has been listed for measures based on bilateral agreements providing for the movement of all categories of natural persons supplying services.<sup>82</sup>

4.91. Montenegro also has services commitments in its RTAs with the European Union (the EU-Montenegro Stabilisation and Association Agreement) and the Ukraine. The services commitments contained in these agreements are described in detail in the WTO Committee on Regional Trade Agreements' factual presentations for these RTAs.<sup>83</sup>

#### 4.4.1 Financial services

4.92. In 2016, financial and insurance activities contributed 5.3% to GDP, and accounted for 2.5% of employment (Table 1.2). The financial system is dominated by banks. As noted by the

<sup>77</sup> Commitments on contractual service suppliers are limited to a list of services sectors specified in the horizontal section.

<sup>78</sup> Exceptions relate to: (a) services provided by midwives, nurses, physiotherapists and para-medical personnel; (b) building cleaning services; (c) photographic services; (d) packaging services; (e) certain courier services; (f) general construction work for buildings; (g) primary education services; (h) certain environmental services; (i) certain insurance services; (j) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services; (k) settlement and clearing services for financial assets, securities, derivative products, and other negotiable instruments; (l) hospital and other human health services; (m) cinema theatre operation services; and (n) certain transport services.

<sup>79</sup> For legal services, Montenegro has taken commitments on consultancy on foreign, international law and domestic law.

<sup>80</sup> Commitments on services incidental to agriculture, hunting and forestry; services incidental to fishing; and services incidental to energy distribution cover advisory and consulting services.

<sup>81</sup> These services are: pilotage; towing and tug assistance; provisioning, fuelling and watering; garbage collecting and ballast waste disposal; port captain's services; navigation aids; shore-based operational services essential to ship operations, including communications, and water and electrical supplies; emergency repair facilities; and anchorage, berth and berthing services.

<sup>82</sup> WTO documents WT/ACC/CGR/38/Add.2 and WT/MIN(11)/7/Add.2, 5 December 2011.

<sup>83</sup> CRTA Factual Presentation – Free Trade Agreement between the European Union and Montenegro (Goods and Services) – WTO document WT/REG236/1, 15 April 2011, and CRTA Factual Presentation – Free Trade Agreement between Ukraine and Montenegro (Goods and Services) – WTO document WT/REG338/1/Rev.1, 2 July 2014.



IMF, while the nascent stock exchange's market capitalization is significant, turnover is very low and the bond market is thin.<sup>84</sup>

4.93. There is no national strategy for the development of the financial services sector *per se*. However, Montenegrin financial regulators actively participate in the preparation and implementation of the Government's strategic document for EU accession (the Montenegro Accession Programme). This includes, *inter alia*, plans for the harmonization of national legislation with the EU *acquis*, including the financial services sector. In the insurance sector, the regulatory authority (the Insurance Supervision Authority of Montenegro) prepares annual plans which are submitted to Parliament for its consent which, *inter alia*, define strategic goals for the year.

4.94. There are no incentive schemes specifically designed to attract financial services companies to Montenegro. There are no taxes applied to banking services. Under the Law on Taxes on Insurance Premiums (OG No. 27/04 as amended<sup>85</sup>), a tax of 9% applies to all types of non-life insurance, except for: accident insurance, voluntary health insurance and agriculture insurance.

#### 4.4.1.1 Banking

4.95. As at November 2017, there were 15 banks operating in Montenegro. Total assets of banks reached €3,790 million by end-December 2016.<sup>86</sup> As noted by the IMF, banks account for around 90% of the financial system's assets – equivalent to about 100% of GDP. Foreign subsidiaries hold over three quarters of the sector's assets.<sup>87</sup> As at Q3 2017, the three largest banks (in terms of assets) accounted for 38.95% of total banking assets and 39.74% of total deposits. The five largest banks combined had a market share of 62.1% and accounted for 61.5% of total deposits.

4.96. In total, four new banks have been newly licensed since end-2012. Two of these have majority domestic private ownership, the other two have majority foreign ownership. As at end-September 2017, the State's share in the banking sector amounted to 2.19%. The State does not own, or have shares in, any bank directly. However, certain majority state-owned companies do own shares in some banks operating in the Montenegrin market. There has not been any privatization activity in this area since 2012.

4.97. The Central Bank of Montenegro is, *inter alia*, responsible for financial stability and the banking system functioning, and for issuing regulations and adopting measures in this area (Section 1). Under the Central Bank of Montenegro Law it is, *inter alia*, charged with supervising banks and financial institutions; issuing bank/financial institution licences; imposing measures (including fines) and other obligations on banks/financial institutions; and carrying out bankruptcy and liquidation proceedings against banks when required. It also prescribes bank reserve requirements.<sup>88</sup> In 2014, the Central Bank was vested with the responsibility to oversee consumer credit<sup>89</sup>, and, in 2017, under the law on financial leasing, factoring, purchase of claims, microcredit and credit-guarantee activities (see below), its supervisory responsibilities were extended to cover financial leasing, factoring and purchase of receivables activities.

4.98. The main laws governing the banking sector are the Central Bank of Montenegro Law (040/10, 046/10, 006/13 and 70/17); the Banking Law (017/08, 044/10 and 040/11); the Law on Bankruptcy and Liquidation (047/01, 062/08 and 044/10); and the Law on Prevention of Money Laundering and Terrorist Financing (33/14).

4.99. Chapter 9 on Financial Services under the EU accession process was opened in 2014, and Montenegro has been working to harmonize its legislation with Directive 2014/59/EU establishing a regulatory framework for the recovery and resolution of credit institutions and investment firms.

<sup>84</sup> IMF 2017 Article IV Consultation for Montenegro. Viewed at: <http://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>.

<sup>85</sup> Amendments are: OG Nos. 37/04, 73/10, 40/11, 61/13 and 06/14.

<sup>86</sup> Central Bank of Montenegro Annual Report 2016.

<sup>87</sup> IMF 2017 Article IV Consultation for Montenegro. Viewed at: <http://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>.

<sup>88</sup> Central Bank of Montenegro Law. Viewed at: [http://www.cb-cg.org/eng/slike\\_i\\_fajlovi/fajlovi/brzi\\_linkovi/propisi/laws/cbcg\\_law.pdf](http://www.cb-cg.org/eng/slike_i_fajlovi/fajlovi/brzi_linkovi/propisi/laws/cbcg_law.pdf) (Articles 14, 18 and 28-30).

<sup>89</sup> This authority was granted to the Central Bank by the Consumer Credit Law (OG No. 35/13).

This is being done through a package of legal regulations. This package consists of a Bank Resolution Law (which contains provisions related to initiation of the resolution process, resolution planning, resolution procedures, measures and instruments, a Resolution Fund, etc.). It also consists of amendments to the Law on Banks, which will transpose the Directive's articles regulating measures under the competence of the supervisory authorities of banks (including bank recovery planning, provisions regarding intra group financial support and supervisory measures of early intervention). As at end-2017, both of these laws were in the final phase of adoption by the Parliament. Additionally, the work on a new regulatory framework foresees full harmonization with Basel III (Montenegro's existing framework is fully aligned with Basel II). This harmonization is planned to be undertaken through the development of a new Law on Banks and its accompanying bylaws, within the framework of the European Commission Twinning Project.

4.100. A law on financial leasing, factoring, purchase of claims, microcredit and credit-guarantee activities was adopted by the Parliament of Montenegro in October 2017. It will enter into force in May 2018. In addition to financial services that are already regulated by the existing regulatory framework (microcredit and credit guarantee activities), this law regulates other financial services (leasing, factoring and purchase of receivables), as well as the establishment, operation and control of the business companies providing these financial services. It draws upon some existing provisions in the Law on Banks. As noted by the authorities, the regulation and supervision of these financial institutions will: create the conditions for the further development of this segment of financial services; provide for a more comprehensive database on the operations of financial services providers which will be used for statistical and other purposes; improve the Credit Registry maintained by the Central Bank; and improve consumer protection. Amendments have also been made to the Law on Consensual Financial Restructuring of Debts to Financial Institutions (see below).

4.101. The Law on Banks governs the foundation, management operations and supervision of banks, micro-credit financial institutions and credit unions, and governs the conditions and supervision of the operations of actors involved in credit and guarantee operations.<sup>90</sup> Under the law, all banks, foreign and domestic, must be licenced by the Central Bank, and they must be established as a joint stock company with a minimum founding capital of €5,000,000. Banks may be owned by domestic/foreign companies and/or persons, and all banks, regardless of capital, are treated equally under legislation and regulations. Central Bank approval is required for changes relating to the acquisition/increase of qualified participation in a bank; bank amalgamations, mergers and de-mergers. Foreign persons may be members of a bank's board of directors and elected as executive directors; however, at least one executive director of the bank must speak Montenegrin. Banking services (and non-banking financial services) in Montenegro may only be provided by banks established in Montenegro.

4.102. Representative offices of a foreign bank may be established with the approval of the Central Bank; these may only present the interests of the bank and not perform bank operations.

4.103. A bank deposit insurance scheme, run by the Deposit Protection Fund, is in operation in the country and covers all types of banks. Banks are required to pay a deposit protection premium and, in the event of a bank bankruptcy, the Fund guarantees the reimbursement of up to €50,000 per depositor.<sup>91</sup>

4.104. As reported by the IMF, conditions in the banking sector continue to strengthen, with high levels of liquidity, capital ratios which exceed regulatory minima, improving asset quality and recovering credit growth. However, the sector appears to be over-banked, with one bank per 40,000 residents, and this presents a challenge for profitability<sup>92</sup>; in this regard, the IMF has indicated that it sees merit in possible efforts to promote consolidation. Non-performing loans (NPLs) have continued to decline but remain high (7.1% of total loans at end-October 2017, less than one third of their earlier peak).<sup>93</sup> Measures already taken over the review period to tackle

<sup>90</sup> The Banking Law. Viewed at [http://www.cb-cg.org/eng/slike\\_i\\_fajlovi/fajlovi/fajlovi\\_brzi\\_linkovi/propisi/laws/banking\\_law\\_4410\\_con.pdf](http://www.cb-cg.org/eng/slike_i_fajlovi/fajlovi/fajlovi_brzi_linkovi/propisi/laws/banking_law_4410_con.pdf) (Article 1).

<sup>91</sup> Deposit Protection Fund online information. Viewed at: [www.fzdcg.org](http://www.fzdcg.org).

<sup>92</sup> Return on equity was 1.21% at end-2016 (0.16% on assets), but these figures improved in 2017.

<sup>93</sup> IMF 2017 Article IV Consultation for Montenegro. Viewed at: <http://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244> and information provided by the authorities.

NPLs have included the adoption, in 2013, of a Decision Amending the Decision on Minimum Standards for Credit Risk Management in Banks (OG No. 51/13), which was again amended in 2017 (OG No. 44/17). This obliges banks to apply special treatment to NPLs, which includes developing a comprehensive NPL strategy, establishing annual operating objectives for implementing the strategy, and quarterly reporting to the Central Bank on the implementation of these objectives. Additionally, a voluntary debt resolution law (the Law on Consensual Financial Restructuring of Debts to Financial Institutions) was adopted in May 2015 and amended in 2017. Under the 2015 Law, financial restructuring of debt could be carried out for certain types of loans; in order to encourage the application of these solutions, the Law provided certain tax incentives for creditors and debtors.<sup>94</sup> Amendments, *inter alia*: extended the deadline for the application of the Law for another year; extended the scope of loans that can be subject to consensual financial restructuring; simplified the restructuring process; and gave additional tax relief to debtors with the aim of creating favourable conditions for the promotion of debt restructuring. By end-November 2017, €12.6 million of loans had been restructured through implementation of the Law; and announcements have been made by banks that significant new restructuring processes will begin in the coming months. The IMF has recommended that Montenegro should seek further reductions in the stock of NPLs while strengthening the supervisory and regulatory frameworks. It has also suggested that an independent system-wide asset quality review would aid in the early identification of risks and strengthen the system.<sup>95</sup>

4.105. Following a long period of credit contraction, bank lending has picked up<sup>96</sup>, but has not fully responded to a rebound in economic growth and conditions of high liquidity. According to the IMF, banks remain risk averse, and have cited problems in securing and selling collateral, limited lending opportunities, and weak accounting and reporting practices that make it difficult to assess credit worthiness.<sup>97</sup> In order to encourage credit growth, the CBCG issued recommendations to banks with the aim of reducing lending rates and to provide more accessible funding to customers. Total loans at the end of the third quarter amounted to €2,594 million, representing an increase of 8.5% on an annual basis. At end of the third quarter of 2017, the average weighted effective interest rate on total loans reported by banks to the Credit Registry amounted to 6.98%. At the end of the third quarter of 2016, this rate amounted to 7.72%, which represents a decrease of 0.74 percentage points. The interest margin at the end of the third quarter of 2017 amounted to 4.35%, representing a decrease of 0.4 percentage points on an annual basis. The interest spread has fluctuated between a high of 5.1% and a low of 4.3%, whereas the difference between deposit and lending interest rates ranged between 7.6% and 6.2% (Chart 4.2). The main depositor groups are households (51.2% at Q3-2017) and corporates (34.9%). The main beneficiaries of loans are the corporate sector (34.6% of total loans at Q3 2017); the household sector (40.7%) and non-resident banks (15.8%).

#### 4.4.1.2 Micro-credit institutions and credit unions

4.106. As at November 2017, there were six micro-finance institutions (MFIs); and no credit unions operating in Montenegro. The total asset size of MFIs is less than 2% of GDP.<sup>98</sup> The State does not own, either fully or partially, any MFIs.

4.107. The Law on Banks sets out conditions for the establishment of micro-credit institutions and credit unions. Micro-credit financial institutions must be established as either a joint-stock or a limited liability company, with initial capital of €100,000. Their operations are limited to: granting

<sup>94</sup> Under the 2015 Law, financial restructuring of debt could be carried out only for loans classified under the categories "B" and "C" with banks, as well as loans with domestic MFIs and leasing companies, provided that they are not in arrears for more than 270 days; exceptions are loans under these categories which were sold and repurchased by banks.

<sup>95</sup> IMF 2017 Article IV Consultation for Montenegro. Viewed at: <http://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>.

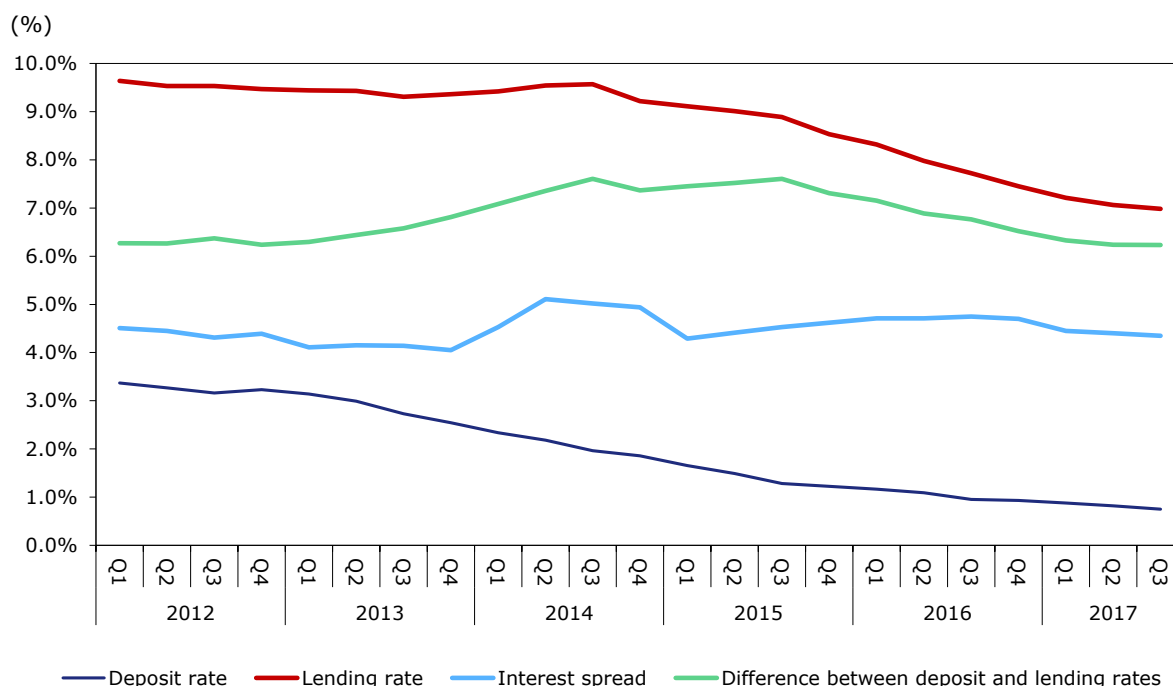
<sup>96</sup> As noted by the IMF (2017), credit growth has been positive since 2015: 6% in 2016, and projected at 8% in 2017.

<sup>97</sup> IMF (2016), *Staff Report for the 2015 Article IV Consultation*, February, p. 5. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2016/12/31/Montenegro-2015-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-43772>. These issues were echoed in the context of the 2017 Article IV Consultation.

<sup>98</sup> IMF 2017 Article IV Consultation for Montenegro. Viewed at: <http://www.imf.org/en/Publications/CR/Issues/2017/09/14/Montenegro-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45244>.

specific types of loans<sup>99</sup>; investing in short-term government securities or other high quality short-term instruments of the financial market; and offering financial leasing and consultancy services.<sup>100</sup> Foreign investment is permitted in micro-credit financial institutions. Credit unions may receive deposits from, and grant loans and other financial services (i.e. guarantees, inland payment operations, lease financing) to, their members. They must be founded by at least 30 natural persons with working capacity or entrepreneurs linked through the same profession. The minimum founding capital is €10,000. They may invest funds in short-term government securities and other high-quality short-term instruments of the money market.

**Chart 4.2 Interest rate spread, January 2012 to September 2017**



Note: At the end of each quarter.

Source: Information provided by the authorities.

#### 4.4.1.3 Insurance

4.108. At end of Q2 2017, there were 11 companies providing insurance services in Montenegro; 6 companies operated in the life insurance segment, and 5 in the non-life segment. Montenegro has no reinsurance companies established in the country. Analysis by the Insurance Supervision Agency of Montenegro (ISA) has indicated a reduction in market concentration in the insurance sector since 2008. Total share capital of Montenegro's insurance companies at end-June 2017 amounted to €39,985 million (83.23% of which was foreign capital). In the same year, the share of life insurance gross written premiums amounted to 0.39% of GDP; for non-life insurance it was 1.97%. The State has no equity share in any insurance company.

4.109. The main laws governing the insurance sector are the Insurance Law; the Law on Liquidation and Bankruptcy of Insurance Companies; and the Law on Compulsory Transportation Insurance.<sup>101</sup> The legislative framework was amended during the period 2015-16, through the adoption of the new Law on Liquidation and Bankruptcy of Insurance Companies and amendments

<sup>99</sup> They may grant loans for specified purposes for development projects to business organizations, for business improvement to entrepreneurs and specified purpose loans to natural persons, from their own funds and from the funds borrowed from the money market.

<sup>100</sup> The Banking Law, Article 153.

<sup>101</sup> The Insurance Law (78/06, 019/07, 053/09, 073/10, 040/11, 045/12, 006/13 and 055/16); the Liquidation and Bankruptcy of Insurance Companies (42/15) and the Law on Compulsory Transportation Insurance (44/12) were viewed at: <http://www.ano.me/en/index.php/component/phocadownload/category/7-laws>. According to the authorities, the Law on Liquidation and Bankruptcy of Insurance Companies and the Law on Compulsory Transportation Insurance are aligned with the relevant parts of the EU *acquis*.

to the Insurance Law. Key changes introduced by amendments to the Insurance Law in 2016 comprised: provisions regarding qualified holdings in insurance, including the obligation of previous information when acquiring a qualified holding in a foreign financial institution (with deferred application until EU accession); outsourcing provisions, based on the Solvency II regime; new provisions on protection of confidentiality, including data protection in insurance companies as well as at the level of regulator, where the confidentiality obligation is prolonged indefinitely; abolition of the restriction regarding disposal of insurer's capital (deposit and investment of assets is now fully at the owner's discretion); and clarification of conditions for internal auditors and extension of the deadline for acquiring the title of certified actuary. Further legislative reform is expected in order to comply with the EU *acquis*.

4.110. The ISA is responsible for the supervision and control of insurance companies and any other companies or persons providing activities within the insurance industry (insurance brokerage, insurance agency and ancillary insurance services). It, *inter alia*, supervises the conduct of insurance activities through the application of laws and regulations; adopts secondary legislation; issues licences for insurance and insurance-related activities; decides on appeals and complaints from policy holders; and undertakes monitoring and training activities.<sup>102</sup>

4.111. The Insurance Law, *inter alia*, sets out procedures relating to licensing of insurance providers and other insurance-related services; licences stipulate the types of insurance that may be provided. Life insurance companies are prohibited from offering non-life insurance, and vice versa<sup>103</sup>; a prohibition on cross-ownership is in place<sup>104</sup>; and persons acquiring a qualifying holding in a domestic insurance company or certain types of foreign financial institution<sup>105</sup> must obtain prior consent for acquisition of these shares from the ISA.<sup>106</sup> Obtaining prior consent for acquiring a qualified holding in certain types of foreign financial institution shall be mandatory for domestic insurance companies as of the day of accession to the European Union. Cross-border mergers are not allowed.

4.112. Insurance and reinsurance providers must be established either as a joint-stock company with a head office in Montenegro or as a branch of a foreign insurance company. Minimum capital requirements are either €2 million or €3 million for companies engaged in non-life insurance activities<sup>107</sup>; and €3 million for companies engaged in life insurance activities and companies engaged in reinsurance business.

4.113. Foreign insurance companies may pursue insurance activities via a branch; half of the aforementioned minimum share capital must be deposited with a bank with a registered office in Montenegro, and half of the guaranteed capital must be available at its disposal in the territory of Montenegro (one quarter of the guaranteed capital must be deposited in a bank).<sup>108</sup> Applications by foreign insurance companies from non-WTO member states may be accepted or rejected on the basis of reciprocal access for Montenegrin insurance companies.<sup>109</sup> A foreign-owned insurance company may also be established as a joint stock company within Montenegro; this has been the option chosen by a number of large insurance groups.<sup>110</sup> There are no citizenship requirements attached to employment within insurance companies. However, the Executive Director and Board Members must have the level of competence in the Montenegrin language needed in order to carry out their activities.

<sup>102</sup> ISA online information. Viewed at: <http://www.ano.me/en/index.php/about-isa/the-scope-of-jurisdiction>.

<sup>103</sup> Insurance Law, Article 19.

<sup>104</sup> Under Article 22 of the Insurance Law, cross ownership of capital or voting rights in insurance companies, reinsurance companies, insurance brokerage companies and insurance agency companies is prohibited.

<sup>105</sup> These types of foreign financial institution are: a foreign insurance company, a credit institution, an investment fund, or a management company of an open-end investment fund.

<sup>106</sup> Insurance Law.

<sup>107</sup> Minimum capital requirements are: €2,000,000 for companies engaged in non-life insurance activities (excluding classes of insurance referred to in Article 9, paragraph 1, items 10 to 15 of the Law) and €3,000,000 for companies engaged in non-life insurance activities (including classes of insurance referred to in Article 9, paragraph 1, items 10 to 15 of the Law).

<sup>108</sup> Insurance Law, Article 42a.

<sup>109</sup> Insurance Law, Article 43.

<sup>110</sup> As noted by the authorities, the large insurance groups, UNIQA, Generali, Grawe and VIG, have chosen to establish as joint stock companies. The Triglav and Sava groups from Slovenia have invested in already-existing domestic companies, and eventually became single shareholders of those insurance companies.



4.114. Only insurance companies established under the law may insure property and persons in Montenegro, with the following exceptions, which may be insured by a foreign insurance company: aircraft and maritime transportation above compulsory traffic insurance; and foreign natural persons with permanent or temporary residence in Montenegro and property thereof, except for compulsory insurance (this includes insurance brokerage activities, insurance agency activities and the provision of ancillary services for insurance). Insurance companies may be reinsured with domestic or foreign reinsurance companies.<sup>111</sup>

4.115. Transport accident insurance for passengers using public transport is compulsory. Insurance taken by owners or users of motor vehicles, aircraft and vessels against liability for damages caused to third parties is also compulsory. Up until August 2017, the ISA approved insurance terms and conditions for these types of compulsory transport insurance, and published them in the *Official Gazette*. As of August 2017, all insurance companies selling compulsory transport insurance individually set conditions and tariffs, which are previously submitted to the ISA for checking as to whether they are in line with the law and actuarial standards. Other than those in transport, there are various compulsory insurances in the Montenegrin legal system as defined by specific laws in different areas, such as: liability insurance in construction (designers, construction engineers and supervisory bodies, revision bodies, etc.); compulsory insurance in tourism for hotel guests; and professional liability insurance for auditors, notaries, and intermediaries in insurance. There are also compulsory insurance requirements imposed by certain associations (i.e. for attorneys at law, physicians and court experts).

4.116. At the end of Q2 2017, the value of all insurance premiums amounted to €39.9 million, of which, non-life insurance premiums accounted for just over 83% of gross premiums, and life insurance, just under 17%. The main classes of insurance taken are motor vehicle liability insurance (42.66% of gross premiums), followed by life insurance (14.72%) and accident insurance (11.94%) (Table 4.10).

**Table 4.10 Insurance premiums for the different categories and classes of insurance, Q2 2017**

Category	Class	Gross premium (€)	% of gross premium
<b>Non-life</b>	Accident insurance	4,775,745	11.94
	Health insurance	902,726	2.26
	Motor vehicle insurance	3,008,702	7.52
	Railway rolling stock insurance	11,539	0.03
	Aircraft insurance	73,735	0.18
	Vessel insurance	160,785	0.40
	Goods in transit insurance	315,095	0.79
	Insurance against fire and other threats to property	1,791,363	4.48
	Other property insurance	3,537,337	8.85
	Motor vehicle liability insurance	17,057,206	42.66
	Aircraft liability insurance	174,585	0.44
	Vessel liability insurance	110,408	0.28
	General liability insurance	683,150	1.71
	Credit insurance	171,917	0.43
	Suretyship insurance	10,512	0.03
	Financial loss insurance	85,468	0.21
	Legal expenses insurance	7,092	0.02
	Assistance insurance	485,688	1.21
	Other classes of non-life insurance	36,329	0.09
	<b>Total non-life</b>	<b>33,399,382</b>	<b>83.53</b>
<b>Life</b>	Life insurance	5,884,912	14.72
	Annuity insurance	14,550	0.04
	Supplemental insurance in addition to life insurance	683,153	1.71
	Other classes of life insurance	3,100	0.01
	<b>Total life</b>	<b>6,585,714</b>	<b>16.47</b>
	<b>Total non-life and life</b>	<b>39,985,096</b>	<b>100</b>

Note: Data for 2017 is preliminary.

Source: ISA online information. Viewed at: <http://www.ano.me/en/index.php/component/phocadownload/category/2-?Itemid=69>.

<sup>111</sup> Insurance Law, Article 6.



#### 4.4.2 Telecommunications

4.117. In 2016, information and communications services' contribution to GDP was 4.7%, and the sector accounted for 2.8% of total employment (Table 1.2). Montenegro ranks 62<sup>nd</sup> out of 175 economies in the ITU's 2016 ICT Development Index, moving up 11 places from 2012.<sup>112</sup> The authorities attribute these improvements to measures taken to stimulate investment in the existing network infrastructure, and innovations in access technology which have encouraged the development of electronic communications networks.<sup>113</sup> The telecommunications sector has witnessed an increasing take-up of fixed-broadband subscriptions, while fixed-telephone subscriptions started to gradually decline due to the affordability and convenience of mobile services. Mobile-telephone subscriptions were steadily rising until 2014, with a modest decline of 0.5% in 2015 (Table 4.11).

**Table 4.11 Selected telecommunications indicators, 2012-September 2017**

	2012	2013	2014	2015	2016	2017 <sup>a</sup>
Fixed-telephone subscriptions	169,803	169,032	164,671	154,448	150,160	147,365
Fixed-telephone subscriptions per 100 inhabitants	27.34	27.20	26.49	24.85	24.22	23.77
Mobile-cellular telephone subscriptions	990,869	993,902	1,013,296	1,007,890	1,020,768	1,140,709
Mobile-cellular telephone subscriptions per 100 inhabitants	159.54	159.95	163.03	162.16	165	184
Fixed-broadband subscriptions	87,768	95,721	103,863	112,394	114,917	134,597
Fixed-broadband subscriptions per 100 inhabitants	14.13	15.40	16.71	18.08	18.50	21.74

a Figures as at September 2017.

Source: ITU online information. Viewed at: <http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>.

4.118. There are currently three mobile service providers, with roughly a one-third market share each. In September 2017, out of the total number of 1,140,709 users of mobile telephony in Montenegro, Telenor had a market share of 37.19%; Crnogorski Telekom, 30.41%; and M:Tel, 32.40%. The fixed line market is dominated by a single provider, Crnogorski Telekom, which serviced 86.03% of the total 147,451 connections; M:Tel, 10.75%; Telemach, 2.26%; and Telenor, 0.96% (Chart 4.3). As noted by the authorities, there is little real competition in the field of fixed network infrastructure, except in very densely populated areas where the cable networks are already set up, or in the areas where the local authorities are active.<sup>114</sup>

4.119. In recent years, there have been price reductions for call terminations on both fixed and mobile networks: prices of national calls terminating on the fixed network of the incumbent operator Crnogorski Telekom dropped from 6.1 euro cents/minute in 2005 to 0.80 euro cents/minute in December 2016.<sup>115</sup> Similarly, the price of call termination on mobile networks fell from 10 euro cents/minute in 2007 to 1.06 euro cents/minute in January 2017. While prices for call termination on mobile networks are largely in line with the European average (which was 1.04 euro cents/minute in July 2016), call termination prices are significantly above the European average for fixed lines (where the average price was 0.43 euro cents/minute at January 2016).<sup>116</sup>

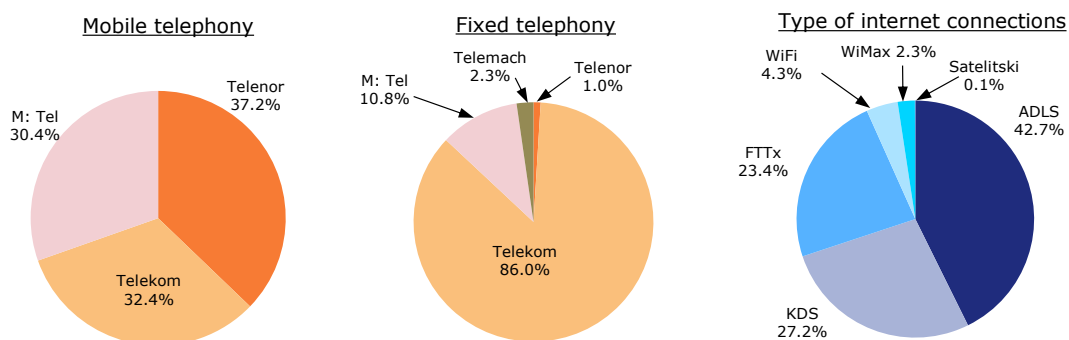
<sup>112</sup> ITU ICT Development Index 2016 online information. Viewed at: <http://www.itu.int/net4/ITU-D/idi/2016/>; and ITU (2013), *Measuring the Information Society*, p. 82. Viewed at: [http://www.itu.int/en/ITU-D/Statistics/Documents/publications/mis2013/MIS2013\\_without\\_Annex\\_4.pdf](http://www.itu.int/en/ITU-D/Statistics/Documents/publications/mis2013/MIS2013_without_Annex_4.pdf).

<sup>113</sup> These measures stemmed from guidelines for improving the development of electronic communications networks contained in the *Strategy of Information Society Development 2012-2016 – Montenegro Digital Society*.

<sup>114</sup> Ministry for Information Society and Telecommunications (2016), *Strategy for the Information Society Development 2020*, Podgorica, pp. 12-13. Viewed at: <http://www.mid.gov.me/en/library/strategije>.

<sup>115</sup> The price of call termination on the fixed networks of Mtel, Telenor and Telemach is 0.94 euro cents/minute

<sup>116</sup> This data was provided by the authorities; their source was the Digital Agenda Scoreboard 2011 – Electronic communications market indicators – May 2011; and the Body of European Regulators for Electronic Communications Report BoR (16) 90 Termination Rates at European Level – January 2016 – May 2016 and BoR (16) 218 Termination Rates at European Level – July 2016.

**Chart 4.3 Market share for selected telecommunications services, September 2017**

Source: Information provided by the authorities.

4.120. The telecommunications sector is 100% privately owned, with significant levels of foreign direct investment.<sup>117</sup>

4.121. Crnogorski Telekom remains the main player in the fixed telephony market, and the second largest in the mobile telephony market by number of users. Hrvatski Telekom, a Croatian company which is a member of the Deutsche Telekom Group<sup>118</sup>, owns 76.53% of its shares; other companies, 11.57%; and individuals, 11.9%. Crnogorski Telekom provides a complete range of fixed and mobile telecommunications services (voice services, messaging, Internet, television, leased lines, data networks and ICT solutions).

4.122. Telenor Montenegro has the largest share of the mobile telephony market in Montenegro. It is a subsidiary of Telenor, a Norwegian mostly government-owned multinational telecommunications company. It is followed by M:Tel; 51% of its shares are owned by Telekom Srbija, and 49% by Telecom of the Republic of Srpska. Telemach, the first cable operator in Montenegro, was created in 2006 as Broadband Montenegro (BBM). In 2014, the company was acquired by the United Group, and was renamed Telemach Montenegro shortly thereafter.<sup>119</sup>

4.123. The assignment of radio-frequencies is undertaken through a public tender process (either a sealed bid tender or auction), with procedures set out in the Law on Electronic Communications (Articles 106-112). Over the review period, there have been three such tenders. In 2012, a public tender through sealed bids generated revenues of €1.65 million; in 2016, a public tender through auction generated revenues of €50.65 million; and in 2017, a public tender through sealed bids raised €77,400.

4.124. Adopted in 2016, the Strategy for the Information Society Development 2020 aims to encourage the growth of the ICT sector, through the realization of various strategic development priorities. These priorities include, *inter alia*: increasing broadband access (fixed and mobile) availability to certain target levels by 2020 (Table 4.12); strengthening the capacities of the national Computer Incident Response Team (CIRT) to protect, prevent and combat against Internet incidents; helping to improve people's basic and advanced digital skills; increasing the share of ICT in GDP such that the share of e-commerce in total commerce reaches 1.5%; and

<sup>117</sup> Mobile telecommunications was one of the eight sectors where privatizations had been envisaged to be effected through the establishment of joint ventures. WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011, p. 7 and Export.gov online information. Viewed at: <https://www.export.gov/article?id=Montenegro-telecommunications>.

<sup>118</sup> In 2017, Hrvatski Telekom purchased all of the shares in Crnogorski Telekom from Magyar Telekom (a Hungarian telecommunications company, also part of the Deutsche Telekom Group). Magyar Telekom had owned 76.53% of Crnogorski Telekom a.d. shares since 2005. Crnogorski Telekom online information. Viewed at: <https://www.telekom.me/content/pdf/hrvatski-telekom-10012017-2.pdf>.

<sup>119</sup> United Group is a Netherlands-based holding company controlled by the investment firm Kohlberg Kravis Roberts (KKR) with headquarters in New York. Information provided by the authorities; TeleGeography online information. Viewed at: <https://www.telegeography.com/products/commsupdate/articles/2014/09/10/united-group-linked-with-eur23m-bid-for-sarajevo-based-mh-company/>; and United Group online information. Viewed at: <http://www.united.group/xhtml/about.php>.

reaching targets in the areas of e-education, e-health and e-government.<sup>120</sup> With respect to meeting the aforementioned broadband targets, there has been progress, but there remains some way to go (Table 4.12)

**Table 4.12 Broadband targets by 2020**

(%)

	State of strategy in 2016	Current state - 2017	Target for 2018	Target for 2020
Availability of next generation broadband access (% of households in the areas of availability of NGA (30Mbit/s))	26.5	50	60	100
Penetration of broadband connections (households) (share of households which use at least 2Mbit/s broadband)	53.3	71	80	100
Share of high speed broadband connections in total number of broadband connections	3.6	25	30	70
Penetration of ultra-fast (100 Mbit/s) broadband connections (households)	0	1	20	50

Source: Information provided by the authorities.

### ***Institutional and legal framework***

4.125. The Directorate for Electronic Communications, Postal Services and Radio-Spectrum within the Ministry of Economy is in charge of monitoring the implementation of the development policy, coordinating the activities that promote the development of electronic communications, and the work with the competent state administration bodies, and the Agency for Electronic Communications and Postal Services (EKIP) (see below). It also coordinates and implements the Government's decisions relating to the terms of use of electronic communications, represents Montenegro in European and international organizations and institutions in the area of electronic communications, and participates in the work of administrative and working bodies of international organizations.<sup>121</sup>

4.126. The EKIP, created in 2001, is the independent national regulatory agency (NRA) for the telecommunications sector. The agency is, *inter alia*, responsible for promoting competition and access to networks, issuing licences to operators, regulating interconnection rates and prices, and monitoring the quality of services.<sup>122</sup> The Parliament is responsible for appointing the President and the members of the Council, and may dismiss them under certain limited circumstances, such as if there is a conviction for a criminal offence, in the case of negligence or non-fulfilment of duties; the reasons for dismissal are subject to a special explanation, and the decision on dismissal must be published in the *Official Gazette*.<sup>123</sup> The EKIP must coordinate with the Montenegrin Agency for the Protection of Competition in certain areas, for example, it must seek the Competition Agency's opinion before issuing a decision that an operator has significant market power (see below).<sup>124</sup>

4.127. With respect to competences on competition issues (see also Section 3.3.3.1), the former Administration for the Protection of Competition and the EKIP signed an Agreement on Cooperation in the field of ensuring competition and preventing the harmful effects of lack of competition in the market for electronic communications services. The Agency for the Protection of Competition (Section 3.3.3.1), *inter alia*, issues opinions on the Draft Analysis of Relevant Markets, which are prepared by the EKIP.<sup>125</sup> It may also perform an analysis of the state of competition in a particular

<sup>120</sup> Ministry for Information Society and Telecommunications (2016), *Strategy for the Information Society Development 2020*, Podgorica, p. 13-14. Viewed at: <http://www.mid.gov.me/en/library/strategije>.

<sup>121</sup> Article 6 and 7 of the Law on Electronic Communications (OG MN No. 56/11, 40/13 and 02/17). Viewed at: [http://www.mek.gov.me/EN/WTOLIBRARY/ts\\_actual\\_legislation/Communication\\_services](http://www.mek.gov.me/EN/WTOLIBRARY/ts_actual_legislation/Communication_services).

<sup>122</sup> Export.gov online information. Viewed at: <https://www.export.gov/article?id=Montenegro-telecommunications>; ITU (2016), *2016 Montenegro profile* and WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011, p. 88.

<sup>123</sup> Law on Electronic Communications, Articles 15 and 19.

<sup>124</sup> Law on Electronic Communications, Article 69(2).

<sup>125</sup> The legal basis for issuing these opinions by the Agency for Protection of Competition is Article 19 of the Law on Protection of Competition and Article 65 of the Law on Electronic Communications, which stipulates that the EKIP, in cooperation with the competition authority, determines, monitors, and reviews the relevant services and relevant geographic markets in Montenegro in the electronic communications services sector, and

branch of the economy.<sup>126</sup> As part of projects financed by the European Union, the Agency for the Protection of Competition, together with experts, prepared the Analysis of Prices of Mobile Operators Prepaid Packages in Montenegro (2014) and the Analysis of Retail Prices of Roaming Services in Montenegro (2014); these are not publicly available. In procedures conducted before the Agency for the Protection of Competition in the relevant markets for electronic communications, there is a high level of cooperation with the Ekip in terms of providing opinions on the individual actions of participants in markets relevant to the Agency's responsibilities.

4.128. The Law on Electronic Communications of 2013, amended in 2017, regulates the manner of management and use of electronic communications networks, terms and manner of conducting the activities in the area of electronic communications, and other matters pertaining to electronic communications.<sup>127</sup> The new Law (replacing legislation from 2008), aims to harmonize the European Union's legal and regulatory framework for electronic communications from 2009<sup>128</sup>; it strengthens the Ekip's independence from the executive branch<sup>129</sup>; it introduces changes to the actions the Ekip may take in relation to operators with significant market power (SMP) (see below); it sets out new obligations for universal services providers (see below); it introduces various measures to protect users; and it incorporates more severe penalties.<sup>130</sup> The Law contains new provisions on the regulation of retail service prices; these prescribe that the Agency may, without a prior market analysis procedure, determine the maximum roaming prices for an operator of public electronic communication services, in accordance with the agreement on the reduction of roaming prices in public mobile communication networks, concluded between Montenegro and other countries. The maximum prices of services are established through an Agency regulation. There are also provisions referring to raising minimum broadband Internet; it may not be lower than 70% of maximum Internet access speed for operators of fixed electronic communications networks, and for the operators of mobile electronic communications networks, the conditions for offered broadband Internet speed should be specified. The Agency is no longer obliged to transfer any annual budget surpluses into the Montenegrin budget. The authorities indicated that they intend, in 2019, to transpose into domestic legislation Directive 2014/61/EU of the European Parliament and the Council on measures to reduce the cost of deploying high-speed electronic communications networks.

### ***Operators with significant market power***

4.129. Under the 2013 Law on Electronic Communications and the Rulebook on Access and Interconnection, the Ekip may impose certain obligations on operators deemed as having SMP.

that, pursuant to Article 66 of the Law on Electronic Communications, the Ekip carries out the process of determining the relevant market in accordance with the regulations governing the protection of competition.

<sup>126</sup> Law on the Protection of Competition, Article 40.

<sup>127</sup> OG No. 40/13 Viewed at:

[http://www.mek.gov.me/EN/WTOLIBRARY/ts\\_actual\\_legislation/Communication\\_services](http://www.mek.gov.me/EN/WTOLIBRARY/ts_actual_legislation/Communication_services) and OG No. 02/17. Viewed at:

[http://www.ekip2.me/download/regulativa/ENGZakon\\_izmjena\\_i\\_dopuna\\_Zakona\\_o\\_elektronskim\\_komunikacijama.PDF](http://www.ekip2.me/download/regulativa/ENGZakon_izmjena_i_dopuna_Zakona_o_elektronskim_komunikacijama.PDF).

<sup>128</sup> Presentation by the Ministry for Information Society and Telecommunications. Viewed at:

<http://www.cullen-international.com/asset/?location=/content/assets/training--conferences/conferences/2013/10/mid---new-law-on-electronic-communications.pdf/mid---new-law-on-electronic-communications.pdf>. The EU *acquis* transposed into the 2013 Law comprises: The Framework Directive (2002/21/EC); the Authorization Directive (2002/20/EC); the Access Directive (2002/19/EC); the Universal Service Directive (2002/22/EC); Directive on privacy and electronic communications (2002/58/EC); Directive 2002/77/EC on competition in the market of electronic networks and services (Directive on privacy); the Decision on radio spectrum (676/2002/EC); the Directive on Data Retention (2006/24/EC); the Better Regulation Directive (2009/140/EC); the Directive on the Rights of Citizens (2009/136/EC); and the Regulation on BEREC (Regulation (EC) No. 1211/2009).

<sup>129</sup> The new Law passes the power to appoint and dismiss the Ekip Council from the executive to the Parliament; it enables the Ekip to enact by-laws; the Ministry of Information Society and Telecommunications (the Ministry) no longer supervises the Ekip; and the Law eliminates the ability of Ekip's decisions to be appealed to the Ministry (the Ekip's decisions are final, and subject only to judicial review by the Administrative Court).

<sup>130</sup> Presentation by the Ministry for Information Society and Telecommunications. Viewed at:

<http://www.cullen-international.com/asset/?location=/content/assets/training--conferences/conferences/2013/10/mid---new-law-on-electronic-communications.pdf/mid---new-law-on-electronic-communications.pdf>; and Seelegal online information. Viewed at: [http://www.seelegal.org/upload/documents/Serbia%20montenegro/2014/Telecom%20and%20Technology%20Newsletter\\_Montenegro\\_September%202013.pdf](http://www.seelegal.org/upload/documents/Serbia%20montenegro/2014/Telecom%20and%20Technology%20Newsletter_Montenegro_September%202013.pdf).

SMP operators, either individually or jointly with others, are deemed to enjoy a position of economic strength, with the power to behave, to an appreciable extent, independently of their competitors and users.<sup>131</sup> The obligations on SMPs remain largely the same as under previous legislation, and may include requirements to: maintain accounting records; disclose information on access and/or interconnection services; undertake separate accounting; publish reference offers for the provision of access and/or interconnection services; provide access and/or interconnection services under equal conditions; implement measures relating to access to network elements and their use; and take measures relating to cost recovery and price control of certain services that are provided for access and/or interconnection and cost accounting purposes.<sup>132</sup> The EKIP may regulate retail price services by SMP operators if a market study by the EKIP determines that there is insufficient competition. Changes introduced by the 2013 Law include that the following: (a) the EKIP may no longer order an SMP operator to provide a minimum set of leased lines; (b) the EKIP now has the power to order the functional separation of a vertically integrated SMP operator's wholesale access operation if other measures are insufficient to ensure effective competition (the prior opinion of the Government must be sought); and (c) any spin-off of local access network into a separate entity with a change of control or creation of a separate business unit for the supply of access services to retailers has to be notified 90 days in advance to the EKIP to enable it to assess the transaction's effects and decide on the future access regime.<sup>133</sup> In all wholesale markets and in some retail markets in the fixed network, the operator with SMP is Crnogorski Telekom. On the wholesale termination call market in the individual network, MTEL has SMP (this status will also be designated to Telenor and Telemach). On wholesale markets in mobile networks (the call termination market in the individual mobile network and the market for access and call origination in mobile networks), Crnogorski Telekom, Telenor and Mtel have SMP.

### **Access and interconnection**

4.130. Rules on interconnection are contained in Articles 56-58 of the Law on Electronic Communications; they remain the same as under previous legislation. Operators are obliged to negotiate access to, and interconnection of, their networks when requested by another operator; they must respond to such requests within 15 days. The Law also contains transparency requirements, and set out the format and content of access and interconnection contracts. Copies of access and interconnection contracts must be sent to the EKIP, which assesses the contract's compliance with the Law. In cases where an operator refuses the access and interconnection request of another operator, or if no such negotiations take place within 45 days, an operator may request the EKIP to decide on the disputed issues. Prior to issuing any such decision, the EKIP must undertake public consultations. Following the EKIP's decision, operators must enter into a contract within 15 days, and establish access and/or interconnection within 45 days. More detailed rules on interconnection are set out in the Rulebook on Access and Interconnection.<sup>134</sup> There have been no access/interconnection disputes since 2012.

### **Number portability**

4.131. Number portability was first introduced in 2011. The Law on Electronic Communications and the Rulebook on Number Portability prescribe the procedures for number portability. A number can be ported from fixed to fixed network, and from mobile to mobile network. The 2014 Rulebook

<sup>131</sup> Law on Electronic Communications, Article 67. The criteria the EKIP may use for assessing significant market power are set out in Article 68 of the Law. They relate to: market share; barriers to entry; lack of potential competition; economies of scale and scope; technological advantages; sales and distribution network; level of vertical integration; level of product diversification; access to capital; barriers to expansion; and connection of provided services.

<sup>132</sup> Agency for Electronic Communication and Postal Services (2015), *Annual Report 2014*, Podgorica, April. Viewed at: <http://www.ekip2.me/download/izvjestaji/oradu/GI%202014%20-%2017%2009%20ENG%20VERZIJA%2022%2009.pdf>. As noted in the Annual Report, the Agency may request these measures if, based on a market analysis, it deems that an operator with SMP, due to lack of efficient competition or for the purpose of suppressing it, might keep either excessive prices or too small difference between wholesale and retail prices, to the detriment of end-users. The EKIP must take into account the risks and investments, and ensure an acceptable rate of return on investments of the operator.

<sup>133</sup> BDK press release No. 21/September 2013. Viewed at: <http://www.bdkadvokati.com/bdkknowledge/newsletter/information-communications-technologies-ict/159-new-electronic-communications-law-aligns-montenegrin-regulatory-framework-with-european-regulatory-framework>.

<sup>134</sup> The Rulebook on Access and Interconnection from 2014 replaces the pre-existing Rulebook on Operator Access to Interconnection. No new provisions have been added. The 2014 Rulebook is available in Montenegrin only at: <http://www.ekip.me/download/Pravilnik%20o%20pristu%20i%20interkonekcijiV.pdf>.



sets a shorter time limit for number porting than previously required: from a maximum of five working days, to a maximum of three. The Ekip has stipulated that the maximum fee that operators can charge to consumers for number portability is €3.50. For the time being, operators have decided not to collect this fee. In the event that they do start collection, the donor operator should receive 80% of the fee while the recipient should receive 20%.

### **Universal service obligations**

4.132. Universal service obligations are set out in Chapter VII of the Law on Electronic Communications. Under the Law, the Ekip may designate one or more operators to ensure universal service provision. This status is granted, following a public tender process, for a five-year period. New provisions, introduced in 2013, were that the universal service provider must be reimbursed for the costs of providing universal services by operators whose share in the total revenues generated in the electronic communications sector exceed 2%<sup>135</sup>; and that the universal service provider must submit quarterly reports to the Ekip, and notify it 60 days in advance of its intention to spin off and change control of its access network; in this case, the Ekip can withdraw the operator's status as universal service provider.<sup>136</sup> Key new provisions introduced in the 2017 amendment relate to the calculation of net costs of universal service operators; the appointment of a universal service operator in the event that designation of this responsibility is not fulfilled through a public tendering procedure; and a requirement for universal service operators to keep separate accounting records. Since 2015, Crnogorski Telekom has been the universal service operator for the entire territory of Montenegro; previously, it was Telenor. It provides the following services: meeting each reasonable user request for connection to the public telephone network at a fixed location; handling all kinds of telephone calls, data communication via telefax, and data communication at speeds suitable for functional Internet access; as well as providing benefits for disabled people and low income users.<sup>137</sup>

#### **4.4.3 Broadcasting and film production**

4.133. The main laws governing broadcasting include: the Law on Media (OG Nos. 51/02, 62/02, 46/10, 73/10 and 40/11), the Electronic Media Law (OG Nos. 46/10, 40/11, 53/11, 6/13 and 55/16), and the Law on National Public Broadcaster Radio and Television of Montenegro (OG Nos. 79/08, 45/12, 6/13, 54/16 and 92/17).<sup>138</sup> According to the authorities, foreign and domestic investors are treated equally under Montenegrin rules and regulations.

4.134. The Law on Media is a general law regulating basic principles of work and the operation of both print and broadcast media. The Law on Electronic Media regulates the establishment and operation of all broadcast media (public, commercial and non-profit), as well as the establishment and operation of the independent regulatory authority for audio-visual media services (the Agency for Electronic Media). It regulates the establishment and operation of public service broadcasters on local, regional and national levels. The Law on National Public Broadcaster Radio and Television regulates the work of the national public service broadcaster, Radio Television of Montenegro (RTCG), in terms of programme content, as well as management methods. It defines the RTCG's activities, responsibilities and accountability, funding, management bodies, as well as the RTCG statute. According to the Rulebook on the Conditions for Determining Program Contents

<sup>135</sup> Under previous legislation, in the event that net costs from universal service obligations exceeded 1% of revenue in the sector in that year, the Ministry was obliged to correct those requirements or provide for the payment of the excess amount from the budget of Montenegro,

<sup>136</sup> BDK press release No. 21/September 2013. Viewed at: <http://www.bdkadvokati.com/bdknowledge/newsletter/information-communications-technologies-ict/159-new-electronic-communications-law-aligns-montenegrin-regulatory-framework-with-european-regulatory-framework>.

<sup>137</sup> More detailed information on the conditions under which Crnogorski Telekom a.d. Podgorica provides universal services is available at Ekip online information. Viewed at: <http://www.ekip.me/eng/useservice/operatori-e.php> and the Agency for Electronic Communications and Postal Services (2015), *Annual Report 2014*, Podgorica, p. 89. Viewed at: <http://www.ekip2.me/download/izvjestaji/oradu/GI%202014%20-%202017%2009%20ENG%20VERZIJA%2022%2009.pdf>.

<sup>138</sup> Government of Montenegro (2013), *Presentation on Bilateral Screening Chapter 10: Presentation of Montenegro*. Brussels, 21-22 January. Viewed at: <https://www.eu.me/en/10/10-documents> (slide 5) and EC (2013), *Screening report Montenegro. Chapter 10 – Information society and media*, May, p. 5. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening\\_reports/screening\\_report\\_montenegro\\_ch10.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch10.pdf).



Considered In-House Production (OG No. 11/12), the general television broadcaster is obliged to ensure that contents considered as in-house production represent at least 10% of its monthly air time.

4.135. As of 2017, apart from the national public service broadcaster (with two television channels, two radio channels and one satellite channel), there are 18 television channels (3 local public service broadcasters and 15 commercial stations) and 52 radio stations (14 local public radio broadcasters, 36 commercial, and 2 non-profit radio broadcasters).

4.136. The Ministry of Culture of Montenegro is responsible for legislation in this area. The Agency for Electronic Media (AEM)<sup>139</sup>, founded in 2003, is the regulatory body for audiovisual media (AVM) services. It is functionally independent from any state authority and any legal or natural persons engaging in production and broadcasting of audiovisual media services. Since 2017, the AEM has no longer been required to transfer any budget surplus into the state budget. Some concerns have been expressed about the AEM's independence being undermined by unclear divisions of rights and duties in the course of control hearings before Parliament.<sup>140</sup> In this connection, the authorities noted that the AEM's as well as the Parliament's rights and obligations should be more clearly defined as regards usage of the parliamentary hearings to assess the role of the AEM in the overall media landscape. In this way, the AEM's independence could be better protected against undue interferences, notwithstanding its obligations related to accountability for, and transparency of, its operations.

4.137. The public service broadcaster, the RTCG, is in charge of production and broadcasting of radio and television programmes that meet democratic, social, educational, cultural and other needs of public interest of all segments of Montenegrin society.<sup>141</sup> The RTCG Council represents the public interest and is independent of any state authority or organization and persons involved in the production and broadcasting of AVM Services. The RTCG is financed through contributions from the state budget (0.3% of GDP), advertising revenues and other own revenues from sales of audiovisual works and sponsorship.<sup>142</sup>

4.138. The Broadcasting Center Ltd. is the operator of electronic communications services registered with the Agency for Electronic Communications and Postal Services.<sup>143</sup> It is 100%-owned by the State.<sup>144</sup> It is engaged in: transmission and broadcasting of radio and TV programmes for local and national public service broadcasting services, as well as most of the private television and radio broadcasting services; data transmission and maintenance of the entire transmission network in Montenegro; and renting electronic communications sites. It is financed from its own revenues and revenues based on signal transmission and broadcasting programmes of the local and national public service broadcaster, which is provided from the budget of Montenegro or local municipalities.

4.139. The same rights and obligations apply to domestic and foreign legal and natural persons with respect to advertising, teleshopping and sponsorship, as stipulated in the 2011 Rulebook on

<sup>139</sup> The former name of the Agency for Electronic Media was the Agency for Broadcasting. Brkić, D. (2015), Making the Media dependent on the State. *Monitoring EU Guidelines in Montenegro*, p. 5. Viewed at: <http://mediaobservatory.net/sites/default/files/Montenegro-Making%20the%20media%20dependent%20on%20the%20state.pdf>.

<sup>140</sup> EC (2016), Commission Staff Working Document, *Montenegro 2016 Report*, Brussels, November. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf).

<sup>141</sup> Brkić, D. (2015), Making the Media dependent on the State. *Monitoring EU Guidelines in Montenegro*, p. 10. Viewed at: <http://mediaobservatory.net/sites/default/files/Montenegro-Making%20the%20media%20dependent%20on%20the%20state.pdf>.

<sup>142</sup> EC (2013), *Screening report Montenegro. Chapter 10 – Information society and media*, May, pp. 5-6. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening\\_reports/screening\\_report\\_montenegro\\_ch10.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch10.pdf).

<sup>143</sup> The Broadcasting Center was established as part of the RTCG, under the name "Broadcasting Technology and Communications". However, as of 1995, it became part of the Public Enterprise for Postal, Telegraph and Telephone Services of Montenegro (JP PTT Montenegro), and, in 2005, the Broadcasting Center became an independent company. Ružić, N. (2017), *Public Service Broadcasting in Montenegro*, Working Paper 4/2017, p. 37, ANALITIKA Center for Social Research, Sarajevo. Viewed at: [http://www.analitika.ba/sites/default/files/publikacije/psb\\_montenegro.pdf](http://www.analitika.ba/sites/default/files/publikacije/psb_montenegro.pdf).

<sup>144</sup> Information provided by the authorities.

Audio-visual Commercial Communications (OG No. 36/11).<sup>145</sup> Montenegro does not impose any restrictions on foreign legal entities obtaining broadcasting licences, except for where the entities are registered in countries where it is not possible to determine the origin of the start-up capital.<sup>146</sup>

4.140. With respect to film production, the 2015 Law on Cinematography sets out the State's framework for the promotion and development of cinematography through the Film Centre of Montenegro. This Centre is a public institution which officially started operations in April 2017; it aims to create a stimulating environment for the Montenegrin film community and its promotion both regionally and globally. Its main activities are the management of the film fund (see below); support for new film productions; the promotion of Montenegrin cinema and its potential for international productions; training programmes for film professionals directed towards raising the level of their professional skills; and a series of activities around film festivals and film literacy. The Centre is funded from two sources: the state budget, and levies on companies which exploit cinematographic works.<sup>147</sup> It offers incentives for both foreign and domestic producers intending to film in Montenegro. After the wrap-up of a feature film, documentary, animation, television film or television series, the producer has the possibility to get a cash rebate of the investment funds for the film/television project. The refund can cover up to 20% of eligible expenditures spent in Montenegro for the making of the film, and the rebate is granted after meeting certain conditions. The procedure for reimbursement is initiated by a request for a refund, which the producer submits to the Centre no later than 30 days before the start of the recording of the cinematographic work in Montenegro. Funds are reimbursed by the Film Centre of Montenegro in accordance with provisions in the Law on Cinematography and the Decree on Incentives for Cinematographic Production in Montenegro. Funds for reimbursement are provided for in the budget of the state administration body responsible for finance.

#### 4.4.4 Transport services

4.141. In 2016, transport and storage services contributed 4.9% to current GDP at basic prices, and accounted for 5.8% of employment (Table 1.2).

4.142. The Ministry of Transport and Maritime Affairs (MTMA) has responsibility for transport policy and implementation in Montenegro. It has directorates with respective responsibilities for: state roads; road traffic; railway traffic; air traffic; maritime traffic; and international cooperation and IPA funds.<sup>148</sup> As in other areas, key legal and regulatory developments over the review period are largely related to Montenegro's accession to the European Union; in this regard, the most recent European Commission screening report on Montenegro's progress in adhering to the *acquis* in area of transport policy was in 2013. According to this update, Montenegro had reached a satisfactory level of alignment overall, but there is still work to be done in various areas.<sup>149</sup>

4.143. Montenegro's Transport Development Strategy 2008 to 2018 sets out the Government's vision for the sector and the framework for the adoption of strategic decisions. It is also hoped that this Strategy will help attract investment/financing from donors and through public private partnerships. The document touches upon certain key shortcomings, such as: the country's underdeveloped road network; improvements needed to modernize the rail infrastructure and rolling stock; the need for more efficient airport operations; and the low-capacity utilization of the

<sup>145</sup> Article 2 of the Rulebook on Audiovisual Commercial Communications. Viewed at: [http://www.ardcq.org/en/index.php?option=com\\_docman&task=cat\\_view&qid=44&Itemid=4](http://www.ardcq.org/en/index.php?option=com_docman&task=cat_view&qid=44&Itemid=4).

<sup>146</sup> Rulebook on the conditions and procedure for awarding broadcasting licences. Viewed at: [http://www.ardcq.org/en/index.php?option=com\\_docman&task=cat\\_view&qid=44&Itemid=4](http://www.ardcq.org/en/index.php?option=com_docman&task=cat_view&qid=44&Itemid=4).

<sup>147</sup> The levies on different types of companies are as follows: public broadcasting service, 5% of annual marketing income; commercial national broadcasters, 0.8% of annual income; cable, satellite and Internet audio-visual services distributors, 2% of annual income; cinemas, 3% of every ticket sold (of which 1.5% goes to cinemas and 1.5% goes to distributors); public communication network operators, including operators which offer access to Internet, 0.9% of annual income for Internet services, distribution of television programmes and rental of cinematographic works; and video-on-demand providers, 3% of annual income.

<sup>148</sup> MTMA online information. Viewed at: <http://www.msp.gov.me/en/organization>.

<sup>149</sup> The Screening Report Montenegro on Chapter 14 – Transport Policy was viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening\\_reports/screening\\_report\\_montenegro\\_ch14.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch14.pdf). The *acquis* under this Chapter covers: road transport; rail transport; inland waterways transport; combined transport; air transport; maritime transport; and satellite navigation.

main commercial port (at Bar). The Strategy's stated mission is to develop Montenegro's transport system to: provide safe and secure traffic; provide quality maintenance of the transport infrastructure; contribute to economic development; minimize harmful impacts to the environment; and be harmonized and support the integration process of Montenegro into the European Union. For each of these elements, the Strategy lists specific activities to be undertaken; these, *inter alia*, include plans to accelerate the privatization of transport companies in the country.<sup>150</sup> The improvement of Montenegro's transport infrastructure is also a key objective contained in the country's Tourism Development Strategy, in which emphasis is, *inter alia*, placed on improving accessibility through: improving cross-border roadways; creating a more efficient highway system; and internal flights.<sup>151</sup> In this connection, the authorities noted that the road and rail infrastructure has been, and is being, upgraded (see below), which is contributing to better regional connectivity and traffic safety, and efforts are ongoing to harmonize regulations with the EU *acquis* and to find optimal models to restructure transport companies with majority state ownership so as to increase the quality of transport services. Priority transport projects for the period 2017-25 are included in the Single Project Pipeline adopted by the Government in 2015 (and revised in 2017).<sup>152</sup> A new transport strategy is being prepared which will cover the period up to 2035.

#### 4.4.4.1 Maritime Transport

4.144. In recent years, there has been a decline in both the number of passengers travelling by ship and the volume of goods being transported by maritime transport (Table 4.13). The authorities indicated that this could be attributed to a reduced number of weekly transport services between Bar and Bari, and competition from goods and passenger services to Italy provided by Durres Port in Albania (most of the passengers travelling on this line were from Albania and Kosovo).

**Table 4.13 Transport of passengers and goods by maritime transport, 2010-16**

	2010	2011	2012	2013	2014	2015	2016
Goods (tonnes)	441,424	280,190	108,642	51,059	54,640	52,441	41,668
Passengers (number)	68,856	69,436	53,259	43,097	42,489	39,198	35,925

Source: MONSTAT online information. Viewed at: <http://www.monstat.org/eng/page.php?id=36&pageid=36>.

4.145. The MTMA's Maritime Safety Department has responsibility for various aspects of maritime safety and security. The Montenegro Port Authority operates within the competence of the MTMA, and has various responsibilities related to the country's ports of national importance. These include: construction, maintenance, improvement, management and protection of ports; maintenance and use of the state-owned port superstructure not under concession; application of domestic legislation, international agreements and standards that apply to the harbour; and various activities relating to concession agreements. The Port Authority is financed through the Montenegrin budget on the basis of concession fees and fees for the use of shore, boat and anchor stowage. Shipping formalities, inspections, vessel registrations and seafarers licences are dealt with by the Harbour Masters Offices in Bar and Kotor.<sup>153</sup>

4.146. The main laws governing the maritime transport sector are: the Law on Maritime and Inland Navigation, 19/78; the Law on Safety of Maritime Navigation (62/2013); the Law of the Sea, 17/07 (40/11); and the Law on Ports, 51/08 (27/13).

<sup>150</sup> Transport Development Strategy 2008 to 2018. Viewed at: [www.minsaob.gov.me](http://www.minsaob.gov.me).

<sup>151</sup> Montenegro Tourism Development Strategy. Viewed at: [http://www.mek.gov.me/EN/WTOLIBRARY/strategic\\_documents](http://www.mek.gov.me/EN/WTOLIBRARY/strategic_documents).

<sup>152</sup> The Single Project Pipeline contains 12 projects in the area of transport, with a total estimated cost of €3.39 billion. Priority is being given to construction of: certain areas of the Adriatic-Ionian highway; the Matesevo-Andrijevisa section of the Bar-Boljare highway; the border section of the Scepan Polje-Pluzine road; the modernization and reconstruction of Tivat airport; and the Vrbnica-Bar railway line.

<sup>153</sup> European Commission Screening Report Montenegro, Chapter 14 – Transport Policy. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening\\_reports/screening\\_report\\_montenegro\\_ch14.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch14.pdf).

4.147. The Law on Maritime and Inland Navigation contains provisions on the registration of ships. To be registered in Montenegro, ships must be: (a) entirely owned by a legal entity with headquarters in Montenegro; (b) owned by a Montenegrin citizen with permanent residence in Montenegro; or (c) wholly or partly owned by a foreign person or a citizen of Montenegro residing abroad; and the operator of the ship must be a legal entity with headquarters in Montenegro, or a Montenegrin citizen resident in the country. Maritime ships must be registered in the register of merchant ships, the fishing vessels register or the register of public maritime ships. Ships for inland navigation must be registered in either the register of ships for inland navigation or the register of public ships for inland navigation. There is a register of maritime ships under construction and an internal register of ships under construction for inland navigation. A ship registered in a foreign register cannot be entered in the Montenegrin register. A crew member on board under the Montenegrin flag must have a maritime book if he is a Montenegrin citizen or a permit for boarding if he is a foreign citizen. The shipmaster must be a Montenegrin citizen.

4.148. Under the Law of the Sea, the transportation of goods and passengers between domestic ports can only be performed by ships, yachts or boats flying the Montenegrin flag. In the context of this Review, the authorities indicated that this provision is necessary to protect domestic boat owners from unfavourable situations; they also noted that there is already an excess of supply over demand.

4.149. As at end-December 2017, Montenegro's maritime fleet was comprised of 35 vessels, with a total gross tonnage of GT 99,920. Of these, 4 were bulk carriers.

4.150. The State owns and controls the shipping owner/ship management company "Crnogorska Plovidba", which was established in 2004.<sup>154</sup> It currently owns two vessels for the carriage of dry bulk cargo, which have been in operation since 2012; their combined total capacity is 70,000 DWT. The authorities confirmed that these vessels do not benefit from any special treatment. The company's foundation act gives it the possibility to undertake services in a variety of areas, including domestic and foreign trade, agency business and representation works.

4.151. The State and certain government agencies together have a controlling share of "Barska Plovidba" otherwise known as "Montenegro Lines"<sup>155</sup>, which provides transportation of passengers (on a leased vessel) and cargo to and from the Port of Bar in Montenegro and the Port of Bari in Italy. The company owns two bulk carriers (36,000 DWT each). While no other companies provide cargo or passenger services on this route in practice, Montenegro Lines does not have the exclusive right to operate services on this line. The authorities noted that competition in these services is present from the ports in Albania and Croatia. The company is also registered to perform marina activities, and provides international freight forwarding, maritime agency and catering services.<sup>156</sup>

4.152. Montenegro has two merchant seaports (at Bar and Kotor) and three ports of nautical tourism (at Budva, Tivat-Porto Montenegro and Bar). The authorities indicated that there have been no studies on the efficiency of Montenegro's ports.

4.153. The port of Bar is Montenegro's main port, offering both cargo and passenger transport operations. It is fully government-owned, but concessions have been given for operation of various activities (Table 4.14). It is comprised of a yacht marina (AD Marina Bar), which has 738 berths at sea and 250 on land<sup>157</sup>, and a commercial port (the Port of Adria), which has terminals for container ships, general cargo ships, roll-on roll-off, and cruise vessels. The Port of Adria has an annual handling capacity of 750,000 TEU and 6 million tonnes of general cargo.<sup>158</sup> The whole port

<sup>154</sup> The Government owns 99.97% of the company's shares, and the Bureau of Employment owns the remaining 0.03%.

<sup>155</sup> The ownership structure of Basrska Plovidba is: the State, 18.63%; the Fund for Investment and Development of Montenegro, 16.15%; the Pension and Disability Insurance Fund, 12.83%; the Employment Agency of Montenegro, 4.27%; other legal entities, 3.35%; and individuals, 44.74%.

<sup>156</sup> Montenegro Lines online information. Viewed at: <http://montenegrolines.net/onama>.

<sup>157</sup> Guide to AD Marina Bar – Handbook. Viewed at: <http://www.marina-bar.me/wp-content/uploads/2017/05/Guide-to-AD-Marina-Bar-Handbook.pdf>. A concession for the operation of AD Marina Bar which had entered into force in December 2009 was cancelled at end-December 2013.

<sup>158</sup> Port of Adria online information. Viewed at: <https://www.portofadria.me/about-us>.

area is a free zone.<sup>159</sup> The State, together with other government bodies, has a controlling share in AD Marina Bar<sup>160</sup>, and also Luka Bar AD Bar whose main activity is the handling and storage of goods and the operation of the free zone.<sup>161</sup> In 2016, the turnover of merchandise goods at the Port of Bar was 1,654,163 tonnes.<sup>162</sup> The Port of Adria was fully privatized in 2013 (it was previously a fully state-owned); its major shareholder is Global Ports Holding.<sup>163</sup> A privately-owned company, Ocean Montenegro, provides pilotage, mooring and tug services.<sup>164</sup> Port fees are available online; they are applied equally to domestic and foreign flagged vessels.<sup>165</sup>

4.154. The Port of Kotor accepts passenger transport. It is a key cruise ship stop-over point and has a marina with the capacity to berth 80 yachts. It has a wharf length of 665 metres; the maximum length of a ship that can dock in the harbour is 300 metres. In 2015, the Port of Kotor received 441,927 passengers; 394 cruise ships; and 1,569 yacht visits. All port fees are available online; they are applied equally to domestic and foreign flagged vessels.<sup>166</sup> A concession granted to the Port of Kotor company to provide port services expired in 2015<sup>167</sup>; the company continues to provide these services under a temporary agreement with the Government, while a new concession contract is being prepared. The company AD Luka Kotor provides international maritime services relating to cruise ships and yachts; its major shareholders are the municipality of Kotor (56.97% of shares) and the Pension and Disability Insurance Fund of Montenegro (17.5%).<sup>168</sup>

**Table 4.14 Port of Bar concession contracts**

Concessionaire	Subject of concession agreement	Entry into force of contract	Contract duration / expiry
Ocean Montenegro	The pursuit of economic activities in the port	22.10.2010	30 years / 2040
AD "Jadransko brodogradilište" Bijela	The coast and piers, maritime zone and anchorages	19.11.2010	30 years / 30.06.2015 (in bankruptcy)
AD "LUKA BAR"	Assignment of port area	27.07.2011	2019 (there are contractual provisions that the concession may be extended for a further 18 years)
AD "Port of Adria"	Assignment of port area	27.12.2013	30 years / 2043

Source: Information provided by the authorities.

#### 4.4.4.2 Air Transport

4.155. Since 2010, passenger transport at Montenegro's airports has increased dramatically, but there is no concrete trend with respect to the transport of goods (Table 4.15).

<sup>159</sup> The advantages offered by the Free Zone may be viewed online at: <https://www.portofadria.me/copy-of-development-plans>.

<sup>160</sup> The ownership structure of share capital of the company AD Marina Bar is as follows: shares in the ownership of the State of Montenegro, 19.47%; IRF, 16.99%; Fond PIO, 13.40%; Employment Bureau, 4.46%; other legal entities, 3.10%; and natural persons, 42.55%.

<sup>161</sup> Shares of the company "Luka Bar" AD are quoted on Montenegro Stock Exchange ("B" list), as LUBA. The State of Montenegro is major shareholder with 54.05% of total shares; funds own 7.17%; legal entities own 4.13%; employees own 1.017%; and others own the remainder.

<sup>162</sup> Annual turnover in previous years was: 1,478,585 tonnes in 2015; 1,261,993 tonnes in 2014 and 1,161,221 tonnes in 2013.

<sup>163</sup> Global Ports Holding owns 54.05% of the shares in the Port of Adria. Other shares are, *inter alia*, held by funds and legal entities. Global Ports Holding PLC is 60.60% owned by Global Ports Holding B.V., which is a wholly owned subsidiary of Global Investment Holdings (GIH) – listed on Borsa Istanbul (BIST). The EBRD holds 5.03% of the total issued share capital of Global Ports Holding PLC. The remaining 34.37% of the total issued share capital represents free float. Global Ports Holding online information. Viewed at: <http://www.globalports.com.tr/about.php>.

<sup>164</sup> Ocean Montenegro online information. Viewed at: <http://www.ocean-montenegro.com/Profile.htm>. The company's ownership structure is comprised of Ocean srl Trieste, with 80% of shares, and Logicar Bar, with 20% of shares.

<sup>165</sup> Port tariffs were viewed at: <https://www.portofadria.me/connectivity>.

<sup>166</sup> Port tariffs were viewed at: <http://www.portofkotor.co.me>.

<sup>167</sup> Port services provided by the Port of Kotor AD are: passengers' acceptance; operative shore; border crossing area; terminal building; and power and water supply for yachts.

<sup>168</sup> Other shareholders are the Employment Bureau (5.87%), the custody account of the Crnogorska Komercijalna bank (8.04%), and employees and other people (11.61%).



4.156. The MTMA has responsibility for civil aviation policy and strategy, and it represents Montenegro in international fora. The Montenegro Civil Aviation Authority (CAA) is, *inter alia*, responsible for aviation safety and security and air navigation services; it is an independent legal entity but must submit its work report and financial statements annually to the Government.<sup>169</sup> Airports are managed by Airports of Montenegro (see below). The main law governing the air transport sector is the Law of Air Transport, 30/12 (amended by 30/17).<sup>170</sup>

**Table 4.15 Transport of passengers and goods at airports, 2010-16**

	2010	2011	2012	2013	2014	2015	2016
Goods (tonnes)	2,159	1,074	766	768	862	889	910
Passengers (number)	1,205,563	1,258,835	1,357,516	1,558,940	1,612,130	1,643,905	1,855,837

Source: MONSTAT online information. Viewed at: <http://www.monstat.org/eng/page.php?id=36&pageid=36>.

4.157. There are three airlines registered in Montenegro; one (Montenegro Airlines) is registered to perform regular domestic and international passenger traffic and charter traffic, and the two others are registered to provide charter traffic (Charter Traffic and Airways Montenegro, both of which are privately owned). Montenegro Airlines is a joint stock company, 99% of which is owned by the Government of Montenegro. It has a fleet of five aircraft, and is licensed to operate scheduled domestic and international passenger transport, charter flights and the carriage of cargo and mail. Its market share is around 35%; cargo transportation is negligible. As at October 2017, it offered direct scheduled flights to Austria (Vienna); Denmark (Copenhagen); France (Paris and Lyon); Germany (Dusseldorf and Frankfurt); Italy (Rome); Serbia (Belgrade); Slovenia (Ljubljana); the Russian Federation (Moscow); and Switzerland (Zurich). It also operates charter flights to various destinations in Europe, and Israel and the Russian Federation.<sup>171</sup> There is no obligation for government officials to use Montenegro Airlines.

4.158. Montenegro is also a signatory state of the European Common Aviation Area (ECAA)<sup>172</sup>, and has seven additional bilateral air services agreements in force (Table 4.16). All of these agreements score an Air Liberalization Index (ALI) of between 19 and 25 (out of a maximum of 50), and have liberal pricing, designation and cooperation provisions, in addition to fairly open capacity clauses. The ones concluded with the Gulf countries (Qatar and the United Arab Emirates) also provide for 5<sup>th</sup> freedom rights.

4.159. Montenegro has two international airports, one at Podgorica, the capital city, and the other at Tivat, near the Montenegrin coast. It has three additional aerodromes, of which one (Cemovsko Polje) is operational.<sup>173</sup> These airports are owned by the State, and are managed by the state-owned Airports of Montenegro. Airports of Montenegro used to be a public company but was reconstituted as a joint stock company in 2013 and operates under market conditions. The following services are provided under concession: duty-free shop; catering; and the car parking at Podgorica airport.

4.160. Rules on ground handling services are contained in the Regulation on ground handling services, as amended (OG Nos. 47/2012 and 14/2013); together with other laws, these transpose EU rules as set out in Directive 96/67/EC.<sup>174</sup> Currently, ground handling services are provided by Airports of Montenegro; as stipulated in regulations, the option of engaging a third company to provide ground handling services under a concession agreement can only be considered once the level of passenger traffic reaches 2 million; this has not yet been attained.

<sup>169</sup> Montenegro Civil Aviation Authority online information. Viewed at: <http://www.caa.me/onamaEN>.

<sup>170</sup> This law and its amendment are available in Montenegrin only. Viewed at: [http://www.caa.me/index.php?strana=fiksna&id=2&meni\\_top=2](http://www.caa.me/index.php?strana=fiksna&id=2&meni_top=2).

<sup>171</sup> Montenegro Airlines online information. Viewed at: [https://montenegroairlines.com/en/home/gornja\\_navigacija/o\\_nama.html](https://montenegroairlines.com/en/home/gornja_navigacija/o_nama.html).

<sup>172</sup> European Aviation Safety Agency online information. Viewed at: <https://www.easa.europa.eu/newsroom-and-events/news/entry-force-european-common-aviation-area-ecaa-agreement>.

<sup>173</sup> The non-operational aerodromes are: Nikšić and Berane.

<sup>174</sup> European Commission Screening Report Montenegro, Chapter 14 – Transport Policy. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening\\_reports/screening\\_report\\_montenegro\\_ch14.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch14.pdf). Directive 96/67/EC was viewed at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31996L0067>.



4.161. There are no restrictions on private companies (domestic or foreign) providing repair and maintenance companies. However, there are no such companies operating in practice. Montenegro Airlines undertakes its own repair and maintenance operations.

**Table 4.16 Montenegro's Air Services Agreements, 2017**

Partner	Date of entry into force	5 <sup>th</sup> a	7 <sup>th</sup> b	Cabotage <sup>c</sup>	Coop <sup>d</sup>	Designation <sup>e</sup>	Withholding <sup>f</sup>	Pricing <sup>g</sup>	Capacity <sup>h</sup>	Stat <sup>i</sup>	ALI
Russian Federation	10/06/2011	No	No	No	Yes	M	SOEC	FP	B1	Yes	19
Turkey	25/07/2012	No	No	No	Yes	M	SOEC	FP	B1	Yes	19
United States	02/03/2012	No	Yes	No	Yes	M	SOEC	FP	B1	Yes	19
Ukraine	08/05/2014	No	No	No	Yes	M	SOEC	FP	B1	Yes	19
United Arab Emirates	08/05/2014	Yes	No	No	Yes	M	SOEC	FP	B1	Yes	25
The Former Yugoslav Republic of Macedonia	12/09/2014	No	No	No	Yes	M	SOEC	FP	B1	Yes	19
Qatar	30/01/2017	Yes	No	No	Yes	M	SOEC	FP	B1	Yes	25

a Coverage of fifth freedom rights.

b Coverage of seventh freedom rights.

c Coverage of cabotage rights.

d Inclusion of clauses allowing cooperation between airlines, e.g. code-sharing.

e Multiple designation (M).

f Type of withholding clause: Substantial Ownership and Effective Control (SOEC).

g Type of pricing clause: Free Pricing (FP)

h Type of capacity clause: Bermuda I (B1)

i Inclusion of exchange of statistics in agreement.

Source: Information provided by the authorities.

#### 4.4.4.3 Road Transport

4.162. Montenegro's main laws on road transport are the Law on Roads 42/04, 54/09, 36/11, and 92/17, the Law on Bar-Boljare Highway 52/14 and the Law on Road Transport 71/2017.

4.163. In 2015, Montenegro had 8,614 km of roads, 1,900 km of which were primary and secondary roads. Its main road border posts for commerce with neighbouring countries are at Božaj (with Albania), Dobrakovo and Dračnovac (with Serbia), Illino Brdo (with Bosnia and Herzegovina) and Debeli brijeg (with Croatia).

4.164. The public transportation of passengers and cargo is done on the basis of a public transport licence; there are two types of licence for domestic and international transportation, respectively. Domestic transportation may only be undertaken by companies and persons registered in Montenegro. International transport is regulated on the basis of multilateral and bilateral agreements. For the international transport of passengers on a regular basis, a road traffic permit is required. The international transport of passengers on an occasional basis is regulated by the Interbus Agreement or bilateral agreements. The international transportation of cargo either requires a permit from the State in which the transport is performed or it is performed on the basis of a multilateral licence.

4.165. In 2015, work commenced on the first segment of a major highway project which will ultimately join the Montenegro's seaport at Bar with Boljare at the border with Serbia. The first section is 41 km long, and connects the suburbs of Podgorica with the northern municipality of Kolašin; the timeline for completion of this work is 2019. The project's cost is €809.6 million, 85% of which is being financed through a 20-year loan from the Exim Bank of China (the loan is dollar denominated, with a 2% interest rate and a six-year grace period); the remaining 15% is being financed from the state budget. Construction is being undertaken by the China Road and Bridge Corporation which has subcontracted certain activities to foreign companies; 30% of the

investment is required to be subcontracted to domestic companies.<sup>175</sup> The contract for this project was implemented on the basis of an international agreement (the Agreement between the Government of Montenegro and the Government of the People's Republic of China on Enhancing Cooperation in Infrastructure Construction), and hence is not subject to a tender process. However, the authorities indicated that basic principles of public procurement were respected. With respect to the other sections of the Bar-Boljare highway, the preparation of the preliminary designs and environmental and social impacts will be undertaken (to be started in 2018), financed by grants from the West Balkans Investment Framework (WBIF); a decision will be taken on the realization of the project and the modalities of funding thereafter. During the construction phase, economic benefits are expected to be reaped through the engagement of local construction operators, equipment, materials and workforce. Following completion, benefits are expected to accrue from better connectivity to the network of the Pan-European corridors; reduced traffic accidents; vehicle operating cost and time savings; increased investments and company competitiveness; and better exploitation of commercial ports and the economy's potential in the areas of agriculture, forestry and water management, and tourism.

#### 4.4.4.4 Rail Transport

4.166. Montenegro's rail network is 326 km long, connecting the north and south of the country and the east and west, with a crossing point in Podgorica. The most important railway line from an economic perspective is that which connects the Port of Bar with the Vrbnica border with Serbia (167 km), and thus provides a railway connection with Belgrade. A railway line connects Nikšić (Montenegro's second largest city, in the west of the country) with Podgorica (56 km), and another line continues in an easterly direction, connecting Podgorica with the Tuzi-border at Albania (24 km).<sup>176</sup> According to the authorities, there have been ongoing improvements to the rail infrastructure and rolling stock over the past decade. However, official and external sources highlight that further investment is needed. One concrete project which is being realized over the period 2017-19 is the reconstruction and modernization of the Vrbnic-Bar railway; this is expected to increase train speed, improve the competitiveness of the railway compared to other rail routes and other modes of transport, and to encourage exploitation of the Port of Bar.<sup>177</sup> The authorities indicated that financing for this project is in place, and implementation of the project will take place in the next years.<sup>178</sup>

4.167. Passenger transport by rail has steadily increased since 2011, while the volume of goods transported by rail has fluctuated over the period (Table 4.17). The authorities indicated that freight transport figures are likely to improve with the re-launching of aluminum production at the KAP aluminum plant, which is the largest freight transport customer.

**Table 4.17 Transport of passengers and goods by rail, 2010-16**

	2010	2011	2012	2013	2014	2015	2016
Goods (tonnes)	1,213	1,050	683	1,049	903	988	1,395
Passengers (number)	755	692	781	922	1,122	1,236	1,284

Source: MONSTAT online information. Viewed at: <http://www.monstat.org/eng/page.php?id=36&pageid=36>.

4.168. The main law governing the rail transport sector is the Law on Railways 27/13; this is partially aligned with the EU *acquis* on the single European railway area (Directive 34/2012/EU and Regulation (EEC) 2007/1370 on public service obligations in passenger transport by rail and

<sup>175</sup> IMF (2016), *Staff Report for the 2015 Article IV Consultation*, February. Viewed at: <http://www.imf.org/external/pubs/ft/scr/2016/cr1679.pdf>. Domestic companies in this context include those companies that have registered their headquarters in Montenegro before 2012.

<sup>176</sup> Online information. Viewed at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening\\_reports/screening\\_report\\_montenegro\\_ch14.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch14.pdf).

<sup>177</sup> *Economic Programme for Montenegro 2017-2019*.

<sup>178</sup> *Transport Development Strategy 2008 to 2018*. Viewed at: [www.minsaob.gov.me](http://www.minsaob.gov.me). World Bank online information. Viewed at: [http://siteresources.worldbank.org/ECAEXT/Resources/258598-1256842123621/6525333-1306937865933/annex1\\_montenegro.pdf](http://siteresources.worldbank.org/ECAEXT/Resources/258598-1256842123621/6525333-1306937865933/annex1_montenegro.pdf).

road).<sup>179</sup> Montenegro is in the process of amending this Law in order to meet EU requirements that the country must have a competent, independent and effective regulatory authority and rail safety authority; the amended law will be in force from 2018.<sup>180</sup>

4.169. The MTMA is the competent authority for contracting public service contracts. The MTMA's Railways Directorate is the regulatory authority for the sector, and, *inter alia*, is responsible for licensing and rail safety. In 2008, the railway infrastructure was separated from the rail operator. The railway infrastructure manager is "Railway Infrastructure of Montenegro JSC" (ŽICG). There are two railway operators, a passenger transport company (ŽPCG) and a freight transport company (Montecargo). A fourth company (OŽVS) is responsible for the maintenance of rolling stock. All are joint stock companies with majority state ownership.<sup>181</sup>

4.170. According to the programme for maintenance of infrastructure, compiled by the Railways Directorate in cooperation with the infrastructure manager, the State provides a yearly budget for the maintenance of infrastructure. Over the period 2012-17, this has ranged from €6.7 million to €7.2 million. Passenger transport is subsidized according to the Public Service Obligation contract which is signed with ŽPCG; over the review period, the subsidy has ranged from €2.3 million to €5.5 million.<sup>182</sup> Freight transport is not subsidized.

#### 4.4.5 Tourism services

4.171. Tourism remains one of Montenegro's main economic activities and sources of government revenue, as well as serving as a stimulus to other sectors, such as agriculture, fisheries and construction. In 2016, accommodation and food service activities accounted for 8.6% of current GDP at basic prices, and 8.3% of employment (Table 1.2). It has been estimated that its contribution to GDP when including related activities is 22.1%, and its contribution to employment is 14.6% including direct, indirect and induced jobs.<sup>183</sup> By 2027, tourism is predicted to support 40,000 jobs.<sup>184</sup> After Croatia, Montenegro is the South East European economy where tourism contributes the highest share to both GDP and employment.<sup>185</sup> Montenegro's main tourism products are currently related to coastal activities, but diversification efforts are ongoing.

4.172. In 2016, internal tourism consumption constituted €1,067.9 million; and this is estimated to reach €1,866.9 million by 2027.<sup>186</sup> The main source markets for tourist arrivals are the European Union (principally, Poland, France, the United Kingdom, and Germany), the Russian Federation, Serbia, and Bosnia and Herzegovina. In 2016, international tourist arrivals staying in collective accommodation (hotels, pensions, motels, tourist resorts, hostels, camps etc.<sup>187</sup>) rose to 707,750, a 11.26% increase compared to 2015, while domestic tourist arrivals reached 101,038, a 3.34% increase compared to 2015.<sup>188</sup> During the review period, the average

<sup>179</sup> European Commission Screening Report Montenegro, Chapter 14 – Transport Policy. Viewed at [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening\\_reports/screening\\_report\\_montenegro\\_ch14.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch14.pdf).

<sup>180</sup> Government of Montenegro, *Economic Reform Programme for Montenegro 2017-2019*, p. 61.

<sup>181</sup> European Commission Screening Report Montenegro, Chapter 14 – Transport Policy. Viewed at [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening\\_reports/screening\\_report\\_montenegro\\_ch14.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch14.pdf).

<sup>182</sup> On an annual basis, the subsidies, in euros, were: 2.4 million in 2012 and 2013; 2.3 million in 2014 and 2015; 5.5 million in 2016; and 2.8 million in 2017.

<sup>183</sup> In 2013, tourism contributed 9.8% to GDP (20% including related activities) and 8.8% to total employment (18.3% including direct, indirect and induced jobs). World Travel & Tourism Council online information. Viewed at: <https://www.wttc.org/-/media/files/reports/economic-impact-research/country-reports-2014/montenegro2014.pdf>.

<sup>184</sup> World Travel & Tourism Council online information. Viewed at: <https://www.wttc.org/-/media/files/reports/economic-impact-research/countries-2017/montenegro2017.pdf>.

<sup>185</sup> OECD. Viewed at: [https://www.oecd.org/investmentcompact/Fostering\\_Tourism\\_Competitiveness\\_South\\_East\\_Europe.pdf](https://www.oecd.org/investmentcompact/Fostering_Tourism_Competitiveness_South_East_Europe.pdf).

<sup>186</sup> Internal tourism consumption is the total revenue generated within a country by industries that deal directly with tourists, including visitor exports, domestic spending and government individual spending. This does not include spending abroad by residents. World Travel & Tourism Council online information. Viewed at: <https://www.wttc.org/-/media/files/reports/economic-impact-research/countries-2017/montenegro2017.pdf>.

<sup>187</sup> Collective accommodation does not include private accommodation such as accommodation in houses and rooms for rent and tourist apartments.

<sup>188</sup> Montenegro Statistical Office (2017), *Tourist arrivals and overnight stays in collective accommodation*, June, (Table 4, pp. 5-6 and Table 1, p. 2). Viewed at:

length of stay in collective accommodation has decreased from 4.5 days in 2015 to 4.4 days in 2016 for international tourists, and from 4.13 days in 2015 to 4.04 days in 2016 for domestic tourists. It is estimated that around 73% of the tourist accommodation offered in Montenegro is private accommodation (i.e. rooms, apartments, and houses).<sup>189</sup> The growth in importance of private tourist accommodation accounts for the slight decline in stays in collective accommodation.

4.173. Montenegro ranked 72<sup>nd</sup> out of 136 economies (five points lower than in 2016) in the World Economic Forum's Travel and Tourism Competitiveness Index 2017; its highest rankings were in the sub-categories of tourist service infrastructure (28<sup>th</sup> place) and environmental sustainability (49<sup>th</sup> place), and its lowest rankings were for natural resources (90<sup>th</sup> place) and cultural resources and business travel (132<sup>nd</sup> place).<sup>190</sup> With respect to improving rankings relating to natural and cultural resources, the authorities indicated that they are trying to develop some products in cooperation with the Ministry of Culture and through regional initiatives, but progress is slow.

4.174. During the review period, the number of tourist accommodation establishments increased from 332 in 2012 to 348 in 2016; however, the number of rooms decreased (from 69,953 rooms in 2012 to 68,558 rooms in 2016). Accommodation choices include, *inter alia*, hotels, boarding houses, motels, tourist resorts, camping sites, villas, apartments, and inns.<sup>191</sup> The Government of Montenegro owns two five-star hotels that have been leased for 42 years to the company Adriatic Properties (*Aman Sveti Stefan* and *Villa Milocer*), and it is a major shareholder of the hotel groups *Budvanska Rivijera* and *Ulcinjaska Rivijera*.<sup>192</sup> There are no foreign direct investment restrictions on any type of tourist accommodation in Montenegro. As of 2017, permits had been issued for 420 tourist agencies, and licences had been granted to 1,349 tour guides. No nationality requirements are applied to tourist service providers (including tour guides).

4.175. The Ministry of Sustainable Development and Tourism continues its responsibility for, *inter alia*, establishing overall tourist-related legislation, policy and strategy, and development and investment projects; developing and maintaining tourism standards and infrastructure; issuing/withdrawing licences required for Central Registry of Business Court; and registering tourist guides and representation contracts (for tourist representatives). At the local level, municipalities are in charge of, *inter alia*, developing and maintaining tourism services and issuing permits for establishing tourism services and tourism development.<sup>193</sup> The budget for the Ministry of Tourism and the National Tourism Organization for 2017 was around €3.5 million, and the budget in the same year for the improvement of the tourism offering was €12.5 million.

4.176. During the review period, several tourism-related policies have been in place and continue to be implemented by Montenegro Ministry of Sustainable Development and Tourism. Montenegro's Tourism Development Strategy to 2020, adopted in 2008, is focused on five strategic objectives, *inter alia*, involving: creation of required and accompanying tourism infrastructure; developing a specific unique selling point; becoming recognized as an all-year-round destination; creating the institutional and legal framework for successful and sustainable development; and engaging the local population in the tourism sector ("internal

<https://www.monstat.org/userfiles/file/turizam/dolasci%20i%20nocenja%202017/6/Release%20June%202017.pdf>.

<sup>189</sup> Private accommodation refers to the forms of hospitality facilities (rooms, apartments, houses) defined by law, and whose owners, pursuant to the Law on Tourism, have obtained the requisite work permit. Data on tourist stays in private accommodation is in the process of being collected and should be available in 2018.

<sup>190</sup> The index incorporates such indicators as business environment, safety and security, health and hygiene, human resources and labour markets, ICT readiness, prioritization of travel and tourism, international openness, price competitiveness, environmental sustainability, air transport infrastructure, ground and port infrastructure, tourist service infrastructure, natural resources, cultural resources and business travel. WEF (2017), *The Travel & Tourism Competitiveness Report 2017*, Geneva, (pp. 4, 5, 9 and 45). Viewed at: [http://www3.weforum.org/docs/WEF\\_ITCR\\_2017\\_web\\_0401.pdf](http://www3.weforum.org/docs/WEF_ITCR_2017_web_0401.pdf).

<sup>191</sup> Statistical Office of Montenegro. Viewed at: <https://www.monstat.org/eng/page.php?id=301&pageid=45>.

<sup>192</sup> *Budvanska Rivijera* controls *Palas, Aleksandar, Slovenska plaza, Mogren, Castellastva, Piva*; and *Ulcinjaska Rivijera* controls *Olympic, Bellevue* and *Ada Bojana*. In September 2017, the hotels Olympic and Bellevue were leased for 30 years to Karisma Hotels and Resorts. Information provided by the authorities.

<sup>193</sup> European Committee of the Regions online information. Viewed at: <https://portal.cor.europa.eu/divisionpowers/Pages/Montenegro-Tourism.aspx> and WTO document WT/ACC/CGR/38, WT/MIN(11)/7, 5 December 2011, p. 88.

marketing").<sup>194</sup> As noted by the authorities, many of these measures are in place; and implementation of other measures is ongoing, including in the areas of upgrading the quality of accommodation capacities; diversification of tourism products; improving the investment environment; improving accessibility to Montenegro; and tourism promotion activities. The 2007-2014 Montenegro Human Resources Development Strategy for the Tourism Sector was aimed at bringing new professionals into the sector, provide funding and improving coordination of the work of all institutions involved in developing the human capital required to support growth in travel and tourism.<sup>195</sup> As noted by the authorities, the quality level of the Montenegrin tourism product is being constantly upgraded, with new high category (four and five star) hotels being opened. Human resources have made an important contribution to the improved quality of tourism services, and hence the authorities consider that the Strategy has achieved positive results. A new Tourism Development Strategy and a new Human Resources Development Strategy for the Tourism Sector are foreseen for 2020.

4.177. Tourism sector development is also one of the overarching objectives of the 2015-2018 Montenegro Development Directions, aimed to achieve smart growth through investments in the development of high-quality hotel capacities; improvement of airline availability; creation of diversified and high-quality supply of tourist products; and diversification of the countries of origin of tourists.<sup>196</sup> To address the growing impact on climate change, the National Strategy for Sustainable Development to 2030 intends to develop sustainable tourism through (1) optimal use of natural resources by implementing strategies mitigating climate change effect on economic development, reducing greenhouse gas emissions and passing to a low-carbon economy; (2) respect for the socio-cultural authenticity of the community, and the preservation of cultural heritage and traditional values; and (3) ensuring sustainable, long-term economic business activities, with the aim of achieving socio-economic benefits for citizens.<sup>197</sup> In addition, according to the 2017-2018 Economic Reform Programme, the improvement of the tourist products in the north of Montenegro, through building infrastructure in ski resorts, is necessary to increase the competitiveness of the tourist sector and to become recognized as an all-year-round destination.<sup>198</sup>

4.178. The main legislation governing the tourist sector remains the Law on Tourism (OG No. 61/10), as amended in 2011 (OG Nos. 40/11 and 53/11) and 2014 (OG No. 31/14). The 2014 amendments aim to introduce new models of the hospitality and accommodation offer, and encourage new investments in high-quality facilities.<sup>199</sup> A new draft Law on Tourism and Hospitality focuses on sustainable development, harmonization with environmental protection and its resources, and the reduction of the impact of climate change and adherence to the principle of a low-carbon economy. It incorporates penalties for advertisers who permit the advertising of service providers who do not have the requisite work permit. It will also transpose the provisions of the EC Directive on services in the internal market.<sup>200</sup> The 2014 Amendments to the Law on Tourism Organisations (OG Nos. 45 11/04, 46/07, 40/11, and 45/14), *inter alia*, improved the regulation and operation of tourist organizations, modified the criteria for the categorization of tourist sites, introduced more efficient recording of tourist traffic, and overcame the inaccuracy of certain provisions of the existing Law.<sup>201</sup> According to this Law, the requirements related to

<sup>194</sup> Ministry of Tourism and Environment (2008), *Montenegro Tourism Development Strategy to 2020*, December, p. 31. Viewed at: <http://www.mrt.gov.me/en/library/strategije>.

<sup>195</sup> Ministry of Tourism and Environment (2007), *Human Resources Development Strategy for the Tourism Sector in Montenegro*, May, p. 5. Viewed at: <http://www.mrt.gov.me/en/library/strategije>.

<sup>196</sup> Ministry of Finance (2015), *Montenegro Development Directions 2015-2018*, June, p. 44.

<sup>197</sup> *National Strategy for Sustainable Development*, p. 113.

<sup>198</sup> Government of Montenegro (2017), *Economic Reform Programme for Montenegro 2017-2019*. Podgorica, January, p 70.

<sup>199</sup> Information provided by the authorities and Ministry of Sustainable Development and Tourism online information. Viewed at: <http://www.mrt.gov.me/biblioteka/zakoni>.

<sup>200</sup> In particular, the Draft Law on Tourism focuses on the establishment of a central tourist registry, unified electronic data records and its exchange; more detailed regulation of the terms of tourist zones, advertising and work guides and agencies; full harmonization of travel arrangements with the EU Directive; and regulation of such issues as noise in restaurants and quality of services. Montenegro Chamber of Economy online information. Viewed at: <http://www.privrednakomora.me/en/poslovni-ambijent-javne-rasprave/roundtable-draft-law-tourism>.

<sup>201</sup> Information provided by the authorities and Ministry of Sustainable Development and Tourism online information. Viewed at: <http://www.mrt.gov.me/biblioteka/zakoni>. Additionally, the Law on Tourism Tax (OG No. 48/15) defines, *inter alia*, the calculation and payment of tourist tax on nautical tourism vessels; and the Law on Rafting (OG Nos. 53/16 and 57/16) defines, *inter alia*, rafting services and creates conditions for



tourism activities remain unchanged. As stipulated in Article 13, business societies conducting tourist activities must be listed in the Central Registry of Business Court as a tourist agency services provider based on a licence issued by the ministry in charge of tourism.<sup>202</sup>

4.179. In addition to tax incentives available to all business activities (Section 3.3.1), Montenegro provides additional incentives in the tourism sector. Exemptions from public utility fees for the construction of four- and five-star category hotels are available until a general regulation plan of Montenegro comes into force (expected at the end of 2020).<sup>203</sup> In addition, a reduction of annual property tax of up to 30% on four-star hotels and 70% on five-star hotels located in priority tourist sites is permitted under the Law on Immovable Property Tax (OG Nos. 65/01, 75/10, and 09/15). To increase investment in high quality facilities, the progressive tax rate, introduced under this Law, puts a greater tax burden on three-star hotel facilities located in priority zones. Moreover, the Law on Value Added Tax (OG Nos. 65/01, 38/02, 72/02, 21/03, 76/05, 16/07, 29/13, 09/15, and 01/17) abolished the obligation to pay VAT on imports of products and services supplied for the construction of five- and more star hotels. As of January 2018, the Law also introduced VAT at the rate of 7% for the services of preparation and serving food and drinks in four- and five-star hotels in the north and in five-star hotels in the central and coastal regions.<sup>204</sup> According to World Travel and Tourism Council, in 2016, the investment in the tourism sector reached €263.6 million, 34% of the total investment. It is estimated to rise by 7.6% in 2017, and by 6.9% per year over the next 10 years, to €551.5 million in 2027, 51.5% of total investment.<sup>205</sup>

4.180. The Government of Montenegro realizes the major bottlenecks the sector is facing. As stipulated in the Montenegro Development Directions 2020 Strategy, the remaining challenges remain insufficient: high-quality accommodation, slow return on investment, unbalanced regional tourism products, and overemphasized seasonality.<sup>206</sup> According to the OECD, the main obstacles include issues around the limited use of ICT, lack of developed transport infrastructure, and insufficient quality of the labour force. To address them, it suggests, *inter alia*, supporting ICT programmes and training; fostering cooperation between the Government, academia, and the private sector; and conducting seminars and workshops to raise awareness on the tourism potential of the country.<sup>207</sup> The 2017 EBRD country report emphasizes Montenegro's constrained ability to leverage its comparative advantage as a tourism destination due to an underdeveloped transport and municipal infrastructure. Moreover, tourism remains vulnerable to external shocks, in particularly those regarding demand from the Russian Federation, the European Union, and the Western Balkans.<sup>208</sup>

business operations. Further legislative frameworks in the tourism sector include, *inter alia*: Amendments to the Regulation on the Standard Records of Tourist Traffic, and the Regulation on the Amount of Tourist Tax for Nautical Tourism Vessels.

<sup>202</sup> A licence is issued within 15 days for a period of five years (Article 14 of the Law on Tourism).

<sup>203</sup> These exemptions were originally set out in the 2013 Law on Spatial Development and Construction of Structures. This Law was replaced by the 2017 Law on Spatial Development and Construction and Structures which removes the exemptions, but a provision in the new Law allows exemptions to be claimed up until the general regulation plan of Montenegro is adopted.

<sup>204</sup> Information provided by the authorities.

<sup>205</sup> World Travel & Tourism Council online information. Viewed at <https://www.wttc.org/-/media/files/reports/economic-impact-research/countries-2017/montenegro2017.pdf> (p. 1).

<sup>206</sup> Ministry of Finance (2015), *Montenegro Development Directions 2015-2018*, June, (p. 45).

<sup>207</sup> OECD (2016), *Fostering Tourism Competitiveness in South East Europe*, February. Viewed at: [https://www.oecd.org/investmentcompact/Fostering\\_Tourism\\_Competitiveness\\_South\\_East\\_Europe.pdf](https://www.oecd.org/investmentcompact/Fostering_Tourism_Competitiveness_South_East_Europe.pdf). (p 73-74).

<sup>208</sup> EBRD (2017), *Strategy for Montenegro*. As approved by the Board of Directors at its meeting on 3 May, (pp. 3 and 12).



## 5 APPENDIX TABLES

Table A1.1 Merchandise exports by group of products, 2012-16

	2012	2013	2014	2015	2016
Total exports (€ million)	364.9	372.3	332.1	318.4	320.3
	% of total exports				
Total primary products	79.9	81.5	82.6	73.7	73.8
Agriculture	22.0	21.6	36.1	27.5	25.8
Food	15.5	15.0	27.4	17.0	15.7
1121 - Wine of fresh grapes (including fortified wine)	5.0	3.6	4.1	4.9	4.6
0161 - Bacon, ham and other salted, dried or smoked meat of swine	0.8	1.2	1.5	1.9	2.1
0484 - Bread, pastry, cakes, biscuits and other bakers' wares	0.9	0.6	0.5	1.0	1.7
1123 - Beer made from malt	1.0	1.0	1.2	1.4	1.3
Agricultural raw material	6.5	6.6	8.7	10.5	10.1
2482 - Wood of coniferous species, sawn or chipped lengthwise, sliced or peeled	2.2	2.1	3.0	4.0	3.8
2484 - Wood of non-coniferous species, sawn or chipped lengthwise, sliced or peeled	0.8	0.8	1.2	1.5	1.8
Mining	58.0	59.9	46.5	46.2	48.0
Ores and other minerals	8.9	9.4	10.4	9.5	12.3
2851 - Aluminium ores and concentrates	0.1	0.6	0.5	2.2	5.1
2875 - Zinc ores and concentrates	1.2	1.1	2.0	2.2	2.5
2882 - Other non-ferrous base metal waste and scrap, n.e.s.	3.1	2.6	2.8	2.1	2.5
Non-ferrous metals	35.3	21.5	21.6	21.9	19.6
6841 - Aluminium and aluminium alloys, unwrought	35.1	21.4	21.5	21.6	19.4
Fuels	13.8	29.0	14.5	14.8	16.1
3510 - Electric current	10.5	25.7	11.3	9.4	11.5
334 - Petroleum oils and oils obtained from bituminous minerals (other than crude)	2.6	3.0	2.7	4.8	3.9
Manufactures	19.5	17.5	16.6	24.9	25.6
Iron and steel	4.5	3.3	1.4	6.6	4.5
6764 - Other bars and rods of iron and steel	0.6	0.5	0.1	1.5	2.9
Chemicals	3.3	2.5	3.8	4.1	5.4
5429 - Medicaments, n.e.s.	1.3	1.0	0.5	0.9	2.9
Other semi-manufactures	2.4	2.5	1.9	1.9	2.8
Machinery and transport equipment	7.1	6.9	6.9	9.4	9.7
Power generating machines	0.0	0.1	0.0	0.1	0.0
Other non-electrical machinery	4.0	3.6	3.9	4.7	4.4
7482 - Bearing housings and plain shaft bearings	2.8	2.6	3.1	3.8	3.3
Agricultural machinery and tractors	0.0	0.0	0.0	0.0	0.0
Office machines & telecommunication equipment	0.5	0.4	0.6	0.6	0.8
Other electrical machines	0.7	0.8	0.9	1.1	1.5
Automotive products	0.8	1.0	0.9	1.2	2.4
Other transport equipment	1.1	1.1	0.5	1.8	0.7
Textiles	0.1	0.0	0.1	0.1	0.1
Clothing	0.3	0.2	0.4	0.3	0.3
Other consumer goods	1.8	2.0	2.2	2.6	2.8
Other	0.6	1.0	0.8	1.4	0.5

Source: UNSD, Comtrade database (SITC Rev.3).

**Table A1.2 Merchandise imports by group of products, 2012-16**

	2012	2013	2014	2015	2016
Total imports (€ million)	1,818.4	1,769.1	1,783.9	1,848.6	2,045.6
	% of total imports				
Total primary products	46.4	43.4	43.0	39.1	35.1
Agriculture	24.8	26.1	27.4	25.7	24.1
Food	24.1	25.3	26.6	25.0	23.5
0122 - Meat of swine, fresh, chilled or frozen	2.5	2.7	4.2	2.3	2.3
1110 - Non-alcoholic beverages, n.e.s.	2.1	2.0	1.9	1.8	1.8
0484 - Bread, pastry, cakes, biscuits and other bakers' wares	1.0	1.1	1.1	1.2	1.2
0989 - Food preparations, n.e.s.	0.9	1.0	1.1	1.2	1.1
Agricultural raw material	0.8	0.8	0.8	0.7	0.6
Mining	21.6	17.3	15.6	13.3	11.1
Ores and other minerals	2.5	1.9	1.6	1.7	1.2
Non-ferrous metals	0.7	0.8	0.7	0.8	0.7
Fuels	18.4	14.6	13.3	10.8	9.2
334 - Petroleum oils and oils obtained from bituminous minerals (other than crude)	10.7	10.2	9.8	7.6	6.1
3510 - Electric current	5.8	3.1	2.2	2.2	2.2
Manufactures	53.5	56.6	56.9	60.9	64.8
Iron and steel	2.0	2.3	2.4	2.2	2.4
Chemicals	9.3	10.1	10.1	10.5	9.8
5429 - Medicaments, n.e.s.	1.8	2.0	2.0	2.1	1.9
Other semi-manufactures	11.0	11.1	11.2	11.5	12.7
6911 - Structures and parts of structures	0.7	0.7	0.7	0.9	1.9
6612 - Portland cement, aluminous cement, slag cement, etc	1.2	1.3	1.3	1.3	1.3
6624 - Non-refractory ceramic bricks, tiles, pipes and similar products	1.1	1.1	1.2	1.1	1.1
Machinery and transport equipment	18.3	19.6	19.0	22.2	25.7
Power generating machines	0.4	0.2	0.4	0.5	2.1
7165 - Generating sets	0.1	0.1	0.1	0.2	1.5
Other non-electrical machinery	4.1	4.2	4.7	5.6	5.2
Agricultural machinery and tractors	0.3	0.2	0.3	0.2	0.2
Office machines & telecommunication equipment	3.1	3.8	4.3	4.8	4.6
7643 - Transmission apparatus for radio-telephony, radio-telegraphy, radio-broadcasting or television	0.5	0.7	1.0	1.2	1.1
Other electrical machines	3.7	3.8	3.7	4.6	6.2
7731 - Insulated wire, cable and other insulated electric conductors	0.6	0.7	0.6	0.7	1.9
Automotive products	5.2	5.0	5.3	6.1	6.3
7812 - Motor vehicles for the transport of persons, n.e.s.	3.5	3.5	3.5	3.7	3.8
7821 - Motor vehicles for the transport of goods	0.9	0.5	0.6	1.2	1.2
Other transport equipment	1.7	2.4	0.7	0.7	1.3
Textiles	0.7	0.7	0.9	0.8	0.9
Clothing	2.7	3.0	3.1	3.1	3.3
Other consumer goods	9.4	9.7	10.2	10.5	10.1
Other	0.1	0.0	0.1	0.1	0.1

Source: UNSD, Comtrade database (SITC Rev.3).

**Table A1.3 Merchandise exports by destination, 2012-16**

	2012	2013	2014	2015	2016
Total exports (€ million)	364.9	372.3	332.1	318.4	320.3
	% of total exports				
Americas	0.4	0.3	0.3	0.5	0.6
United States	0.3	0.2	0.2	0.4	0.4
Other America	0.1	0.1	0.1	0.1	0.3
Europe	88.3	89.1	77.8	80.6	79.3
EU-28	51.2	41.0	35.8	35.7	36.6
Hungary	4.9	0.3	0.2	0.9	10.9
Italy	3.4	4.2	10.5	12.6	5.4
Slovenia	7.9	9.7	4.0	3.8	4.7
Germany	3.4	3.0	1.8	4.7	4.1
Poland	1.2	1.2	2.3	2.8	3.6
Czech Republic	0.7	1.2	0.9	1.1	1.9
France	0.7	0.9	0.9	1.4	1.2
United Kingdom	1.2	0.9	1.6	1.7	1.0
Sweden	0.6	0.4	0.7	0.9	0.8
Croatia	22.9	16.0	9.9	1.0	0.7
EFTA	0.7	0.7	1.1	1.2	1.4
Switzerland	0.7	0.7	1.1	1.2	1.3
Other Europe	36.3	47.3	40.8	43.7	41.4
Serbia	22.8	35.8	24.0	22.1	25.6
Bosnia and Herzegovina	7.5	4.9	9.6	9.3	8.3
Albania	2.1	3.2	4.6	4.2	4.5
Turkey	3.2	2.6	1.7	6.7	1.6
The former Yugoslav Republic of Macedonia	0.6	0.7	1.0	1.4	1.4
Commonwealth of Independent States (CIS)	2.5	1.7	11.2	1.3	1.0
Russian Federation	2.0	1.6	1.2	0.8	0.7
Africa	0.6	1.7	1.8	2.2	0.9
Middle East	0.2	0.1	0.0	0.9	0.9
Asia	1.7	1.8	2.4	5.0	8.5
China	1.0	1.0	0.8	2.5	5.9
Japan	0.5	0.6	0.6	1.0	0.7
Other Asia	0.1	0.2	1.1	1.5	1.9
Bangladesh	0.0	0.0	0.5	1.0	0.9
Hong Kong, China	0.0	0.0	0.0	0.0	0.7
Other	6.4	5.3	6.4	9.5	8.9
<i>Memo:</i>					
CEFTA	32.4	44.0	38.1	35.6	38.4

Source: UNSD, Comtrade database.

**Table A1.4 Merchandise imports by origin, 2012-16**

	2012	2013	2014	2015	2016
Total imports (€ million)	1,818.4	1,769.1	1,783.9	1,848.6	2,045.6
	% of total imports				
Americas	2.3	2.2	2.2	2.4	2.5
United States	0.8	0.9	0.9	1.0	1.2
Other America	1.6	1.4	1.3	1.4	1.3
Europe	85.7	85.4	85.9	82.1	83.3
EU-28	44.5	44.1	45.8	41.3	48.1
Germany	6.3	6.4	6.4	6.3	10.5
Italy	6.2	6.6	6.5	6.4	7.4
Croatia	6.1	5.5	6.0	6.0	5.4
Greece	8.7	8.5	8.1	6.2	5.3
Slovenia	4.0	3.6	3.2	3.1	2.3
Spain	1.2	2.1	1.9	1.7	2.1
France	1.2	1.0	1.6	1.2	2.0
Austria	1.8	1.8	1.8	1.6	1.7
Netherlands	1.8	1.7	3.3	1.7	1.6
Poland	0.7	0.9	0.9	1.1	1.5
Czech Republic	1.0	0.7	0.7	0.9	1.3
Romania	1.4	1.1	1.3	1.2	1.2
Hungary	1.0	1.2	1.2	1.1	0.9
Sweden	0.2	0.4	0.2	0.3	0.9
EFTA	1.3	0.8	0.8	0.7	1.5
Norway	0.0	0.0	0.1	0.0	0.8
Other Europe	39.9	40.5	39.4	40.1	33.7
Serbia	29.3	28.6	26.9	28.1	22.3
Bosnia and Herzegovina	6.8	7.1	7.1	6.5	5.5
Turkey	1.6	1.9	2.0	2.3	3.3
Albania	0.8	1.4	1.8	1.6	1.4
The former Yugoslav Republic of Macedonia	1.5	1.4	1.5	1.5	1.3
Commonwealth of Independent States (CIS)	1.1	0.6	0.3	0.5	0.6
Africa	0.2	0.3	0.2	0.4	0.3
Middle East	0.1	0.1	0.1	0.1	0.2
Asia	10.2	11.2	11.0	14.5	12.9
China	7.2	8.1	7.4	10.3	9.0
Japan	0.9	0.9	1.0	0.9	0.9
Other Asia	2.2	2.2	2.5	3.3	3.0
Other	0.3	0.2	0.2	0.1	0.2
<i>Memo:</i>					
CEFTA	36.8	37.2	35.9	36.3	29.2

Source: UNSD, Comtrade database.

**Table A3.1 Tariff summary, 2017**

	Number of lines	Average (%)	Range (%)	Share of duty-free lines (%)	Share of non-ad valorem tariffs (%)	Coefficient of variation
<b>Total</b>	9,528	5.1	0-50	29.0	1.5	1.4
HS 01-24	2,506	12.0	0-50	13.1	5.8	0.8
HS 25-97	7,022	2.6	0-20	34.7	0.0	1.3
<b>By WTO category</b>						
WTO agricultural products	2,099	12.3	0-50	17.8	6.8	0.9
Animals and products thereof	351	14.6	0-38.7	9.4	10.3	0.7
Dairy products	151	24.3	0-50	0.7	19.9	0.4
Fruit, vegetables, and plants	509	11.8	0-40	10.4	2.2	0.5
Coffee and tea	47	11.8	0-20	6.4	0.0	0.6
Cereals and preparations	226	7.2	0-37.1	10.2	1.8	1.0
Oils seeds, fats, oil and their products	175	2.1	0-45	64.0	2.3	2.9
Sugars and confectionary	44	5.5	0-14.3	25.0	0.0	1.0
Beverages, spirits and tobacco	331	22.8	0-50	0.6	17.5	0.5
Cotton	6	0.0	0.0	100.0	0.0	0.0
Other agricultural products, n.e.s.	259	2.4	0-15	50.2	0.0	1.5
WTO non-agricultural products	7,429	3.1	0-20	32.1	0.0	1.2
Fish and fishery products	526	8.2	0-20	3.6	0.6	0.4
Minerals and metals	1,441	2.3	0-20	56.1	0.0	1.4
Chemicals and photographic supplies	1,305	1.7	0-6.5	16.7	0.0	1.1
Wood, pulp, paper and furniture	461	0.3	0-10	94.6	0.0	5.1
Textiles	838	3.8	0-12.5	2.7	0.0	0.9
Clothing	341	10.0	10.0	0.0	0.0	0.0
Leather, rubber, footwear and travel goods	259	4.9	0-15	16.6	0.0	0.8
Non-electric machinery	883	2.1	0-15	38.4	0.0	1.3
Electric machinery	462	1.2	0-7	38.1	0.0	1.3
Transport equipment	270	1.5	0-8	41.1	0.0	1.3
Non-agricultural products, n.e.s.	594	3.4	0-15	33.5	0.0	1.2
Petroleum	49	1.3	0-4.7	32.7	0.0	1.0
<b>By ISIC sector</b>						
ISIC 1 - Agriculture, hunting and fishing	653	7.8	0-50	31.7	3.1	1.1
ISIC 2 - Mining	115	1.2	0-8	71.3	0.0	1.7
ISIC 3 - Manufacturing	8,759	4.9	0-50	28.2	1.4	1.4
Manufacturing excluding food processing	6,842	2.7	0-20	33.5	0.0	1.3
Electrical energy	1	0.0	0.0	100.0	0.0	0.0
<b>By stage of processing</b>						
First stage of processing	1,222	6.0	0-50	35.7	1.6	1.2
Semi-processed products	2,816	1.8	0-20	34.6	0.1	1.5
Fully processed products	5,490	6.6	0-50	24.6	2.2	1.2
<b>By HS section</b>						
01 Live animals and products	956	12.7	0-50	6.6	7.0	0.7
02 Vegetable products	554	7.6	0-40	25.1	2.3	1.0
03 Fats and oils	129	2.6	0-45	62.8	3.1	2.8
04 Prepared food, beverages and tobacco	867	15.4	0-50	5.2	7.2	0.7
05 Mineral products	234	1.3	0-8	55.6	0.0	1.5
06 Chemicals and products thereof	1,220	1.6	0-6.5	15.8	0.0	1.0

	Number of lines	Average (%)	Range (%)	Share of duty-free lines (%)	Share of non- <i>ad valorem</i> tariffs (%)	Coefficient of variation
07 Plastics, rubber, and articles thereof	301	2.7	0-10	26.6	0.0	1.0
08 Raw hides and skins, leather, and its products	130	5.1	0-15	23.1	0.0	1.1
09 Wood and articles of wood	234	0.5	0-5	86.3	0.0	2.8
10 Pulp of wood, paper and paperboard	195	0.0	0-1	99.5	0.0	13.9
11 Textiles and textile articles	1,147	5.4	0-10	4.1	0.0	0.8
12 Footwear, headgear, etc.	106	5.6	0-12	1.9	0.0	0.4
13 Articles of stone, plaster, cement	234	4.6	0-10	4.7	0.0	0.6
14 Precious stones and metals, pearls	56	3.9	0-20	7.1	0.0	0.9
15 Base metals and articles thereof	953	1.9	0-10	71.5	0.0	1.8
16 Machinery, electrical equipment, etc.	1,370	1.8	0-15	38.7	0.0	1.3
17 Transport equipment	286	1.6	0-8	40.9	0.0	1.2
18 Precision equipment	313	1.4	0-10	45.4	0.0	1.4
19 Arms and ammunition	22	15.0	15.0	0.0	0.0	0.0
20 Miscellaneous manufactured articles	214	5.2	0-15	33.2	0.0	0.8
21 Works of art, etc.	7	5.0	5.0	0.0	0.0	0.0

Note: *Ad valorem* equivalents (AVEs) were estimated based on 2016 import data for 2017 tariff at the national tariff line level (8-digit). In cases of no trade flow of tariff lines subject to non-*ad valorem* rates, the *ad valorem* ceiling of the compound rate is used.

Source: WTO Secretariat calculations, based on WTO IDB.



**Table A3.2 Applied MFN tariffs exceeding bound rates, 2017**

<b>HS code at the 8-digit level and product description<sup>a</sup></b>	<b>2017 duty rate (%)</b>	<b>Current bound duty rate (%)</b>	<b>End of implementation period</b>
<b>HS 0207 Meat and edible offal, of the poultry of heading 01.05, fresh, chilled or frozen</b>			
02074120	11.7	11.5	2022
02074130	11.7	11.5	2022
02074180	11.7	11.5	2022
02074230	11.7	11.5	2022
02074280	11.7	11.5	2022
02075110	11.7	11.5	2022
02075190	11.7	11.5	2022
02075210	11.7	11.5	2022
02075290	11.7	11.5	2022
<b>HS 030273 Carp</b>			
03027300	10	8.0	
<b>HS 030368 Blue whittings (<i>Micromesistius poutassou</i>, <i>Micromesistius australis</i>)</b>			
03036810	10	7.5	
<b>HS 0304 Fish fillets and other fish meat, fresh, chilled or frozen</b>			
03043100	15	10.0	
03043200	15	10.0	
03043300	15	10.0	
03043900	15	10.0	
03045100	8.5	8.0	
03045200	8.5	8.0	
03046100	11.2	10.0	
03046200	11.2	10.0	
03046300	11.2	10.0	
03048100	8.4	2.0	
<b>HS 071310 Peas (<i>Pisum sativum</i>)</b>			
ex 07131090	3	0.0	
<b>HS 160417 Eels</b>			
16041700	15	10.0	
<b>HS 480550 Felt paper and paperboard</b>			
48055000	1	0.0	
<b>HS 710691 Silver - - Unwrought</b>			
71069100	5	3.0	
<b>HS 722410 Ingots and other primary forms</b>			
72241010	2.4	0.0	
72241090	2.4	0.0	
<b>HS 847210 Other office machines; duplicating machines</b>			
84721000	0.7	0.0	
<b>HS 850490 Electrical transformers, static converters and inductors; parts</b>			
85049011	0.7	0.0	
85049018	0.7	0.0	
85049099	0.7	0.0	
<b>HS 8517 Telephone sets, including telephones for cellular networks or for other wireless networks</b>			
ex 85176930	2	0.0	
ex 85177000	0.7	0.0	
<b>HS 852110 Video recording or reproducing apparatus; magnetic tape-type</b>			
ex 85211020	3.3	0 or 6	
ex 85211095	3.3	0 or 2.5	

HS code at the 8-digit level and product description <sup>a</sup>	2017 duty rate (%)	Current bound duty rate (%)	End of implementation period
<b>HS 8523 Discs, tapes, solid-state non-volatile storage devices</b>			
85232100	2.3	0.0	
ex 85232919	2.3	0.0	
85232990	2.3	0.0	
ex 85234990	2.3	0.0	
ex 85235190	2.3	0.0	
ex 85235990	2.3	0.0	
ex 85238090	2.3	0.0	
<b>HS 8527 Reception apparatus for radio-broadcasting; not combined with sound recording or reproducing apparatus but combined with a clock</b>			
85279210	2	1.5	2019
<b>HS 8536 Electrical apparatus for switching or protecting electrical circuits; other apparatus for protecting electrical circuits</b>			
85363010	0.7	0.0	
85363030	0.7	0.0	
85363090	0.7	0.0	
<b>HS 8538 Boards, panels, consoles, desks, cabinets, etc., not equipped with their apparatus</b>			
85381000	0.7	0.0	
<b>HS 900120 Sheets and plates of polarising material</b>			
90012000	0.7	0.0	
<b>HS 901420 Instruments and appliances for aeronautical or space navigation</b>			
ex 90142020	1	0 or 1.9	
ex 90142080	1	0 or 1.9	2019
<b>HS 901510 Rangefinders</b>			
90151090	0.7	0.0	
<b>HS 901520 Theodolites and tachymeters (tacheometers)</b>			
90152090	0.7	0.0	
<b>HS 901540 Photogrammetrical surveying instruments and appliances</b>			
90154090	1	0.0	
<b>HS 901590 Parts and accessories</b>			
90159000	0.7	0.0	
<b>HS 9022 Apparatus based on the use of X-rays or of alpha, beta or gamma radiations</b>			
90222900	0.7	0.0	
90223000	0.7	0.0	

a No product descriptions are available at the national tariff line level; thus the WCO product description at either 4- or 6-digit level are used.

Note: About 17% of tariff lines could not be compared due to HS changes in nomenclature as well as changes in the structure of the tariff schedule.

Source: WTO calculations, based on data provided by the authorities of Montenegro; and WTO CTS database.

**Table A3.3 Tariff rate quotas, 2013-16****(a) Allocations**

HS	Description	No. of tariff lines (8-digit level)
	<b>European Union</b>	149
0207	Meat and edible offal, of poultry	11
0301	Live fish	3
0302	Fish, fresh or chilled	5
0303	Fish, frozen	5
0304	Fish fillets and other fish meat	10
0305	Fish, dried, salted or in brine	8
0406	Cheese and curd	8
1602	Other prepared or preserved meat, meat offal or blood	10
1604	Prepared or preserved fish	17
2201	Waters, including natural or artificial mineral waters and aerated waters	4
2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages	8
2204	Wine of fresh grapes, including fortified wines	60
	<b>Turkey</b>	1
0813	Fruit, dried	1

**(b) Fill-in ratios, 2012-16**

Date - from	Date - until	Description	Trading partner	Initial state of the quota	Quota status on 31.12 (9 Oct. 2017 for 2017)	Fill-in ratio (%)	Unit of measure
<b>2012</b>							
1.1.2012	31.12.2012	Fruit, dried, apricot	Turkey	10,000	6,920.00	30.80	litre
<b>2013</b>							
1.1.2013	31.12.2013	Fish	EU	20,000	20,000.00	0.00	kg
1.1.2013	31.12.2013	Fish	EU	20,000	18,336.96	8.32	kg
1.1.2013	31.12.2013	Fish	EU	20,000	9.34	99.95	kg
1.1.2013	31.12.2013	Fish	EU	20,000	19,356.20	3.22	kg
1.1.2013	31.12.2013	Fish	EU	10,000	10,000.00	0.00	kg
1.1.2013	31.12.2013	Wine	EU	3,500,000	3,280,893.25	6.26	litre
1.1.2013	31.12.2013	Fruit, dried, apricot	Turkey	100,000	86,480.00	13.52	kg
1.7.2013	31.12.2013	Meat of poultry	EU	250,000	105.08	99.96	kg
1.7.2013	31.12.2013	Cheese and urda	EU	32,500	0.09	100.00	kg
1.7.2013	31.12.2013	Meat, prepared or preserved	EU	65,000	0.47	100.00	kg
1.7.2013	31.12.2013	Prepared fish, caviar	EU	37,500	25,426.35	32.20	kg
1.7.2013	31.12.2013	Prepared fish, caviar	EU	15,000	236.10	98.43	kg
1.7.2013	31.12.2013	Water, natural, carbonated	EU	120,000	0.00	100.00	litre
1.7.2013	31.12.2013	Water, natural, aerated, sugar free	EU	215,000	6,096.50	97.16	litre
1.7.2013	31.12.2013	Water, natural, aerated, sugar free	EU	405,000	0.00	100.00	litre
1.7.2013	31.12.2013	Prepared fish, caviar	EU	100,000	2,658.55	97.34	kg
<b>2014</b>							
1.1.2014	31.12.2014	Fish	EU	20,000	19,994.00	0.03	kg
1.1.2014	31.12.2014	Fish	EU	20,000	17,598.83	12.01	kg
1.1.2014	31.12.2014	Fish	EU	20,000	0.64	100.00	kg
1.1.2014	31.12.2014	Fish	EU	200,000	0.08	100.00	kg
1.1.2014	31.12.2014	Fish	EU	10,000	9,015.75	9.84	kg
1.1.2014	31.12.2014	Wine	EU	350,000	87,481.79	75.01	litre

Date - from	Date - until	Description	Trading partner	Initial state of the quota	Quota status on 31.12 (9 Oct. 2017 for 2017)	Fill-in ratio (%)	Unit of measure
1.1.2014	31.12.2014	Fruit, dried, apricot	Turkey	100,000	82,217.60	17.78	kg
1.1.2014	31.12.2014	Meat of poultry	EU	500,000	0.00	100.00	kg
1.1.2014	31.12.2014	Cheese and urda	EU	65,000	0.00	100.00	kg
1.1.2014	31.12.2014	Meat, prepared or preserved	EU	130,000	0.50	100.00	kg
1.1.2014	31.12.2014	Prepared fish, caviar	EU	75,000	2.01	100.00	kg
1.1.2014	31.12.2014	Prepared fish, caviar	EU	30,000	173.80	99.42	kg
1.1.2014	31.12.2014	Water, natural, carbonated	EU	240,000	0.00	100.00	litre
1.1.2014	31.12.2014	Water, natural, aerated, sugar free	EU	430,000	0.59	100.00	litre
1.1.2014	31.12.2014	Water, natural, aerated, sugar free	EU	810,000	2.72	100.00	litre
<b>2015</b>							
1.1.2015	31.12.2015	Fish	EU	20,000	20,000.00	0.00	kg
1.1.2015	31.12.2015	Fish	EU	20,000	18,817.35	5.91	kg
1.1.2015	31.12.2015	Fish	EU	20,000	1.43	99.99	kg
1.1.2015	31.12.2015	Fish	EU	200,000	4,063.11	97.97	kg
1.1.2015	31.12.2015	Fish	EU	10,000	9,187.50	8.13	kg
1.1.2015	31.12.2015	Wine	EU	350,000	257.91	99.93	litre
1.1.2015	31.12.2015	Fruit, dried, apricot	Turkey	100,000	89,215.00	10.79	kg
1.1.2015	31.12.2015	Meat of poultry	EU	500,000	0.00	100.00	kg
1.1.2015	31.12.2015	Cheese and urda	EU	65,000	0.00	100.00	kg
1.1.2015	31.12.2015	Meat, prepared or preserved	EU	130,000	0.00	100.00	kg
1.1.2015	31.12.2015	Prepared fish, caviar	EU	75,000	68.36	99.91	kg
1.1.2015	31.12.2015	Prepared fish, caviar	EU	30,000	170.65	99.43	kg
1.1.2015	31.12.2015	Water, natural, carbonated	EU	240,000	268.26	99.89	litre
1.1.2015	31.12.2015	Water, natural, aerated, sugar free	EU	430,000	0.46	100.00	litre
1.1.2015	31.12.2015	Water, natural, aerated, sugar free	EU	810,000	8.65	100.00	litre
<b>2016</b>							
1.1.2016	31.12.2016	Fish	EU	20,000	20,000.00	0.00	kg
1.1.2016	31.12.2016	Fish	EU	20,000	17,687.00	11.57	kg
1.1.2016	31.12.2016	Fish	EU	20,000	0.00	100.00	kg
1.1.2016	31.12.2016	Fish	EU	200,000	0.62	100.00	kg
1.1.2016	31.12.2016	Fish	EU	10,000	8,208.13	17.92	kg
1.1.2016	31.12.2016	Wine	EU	350,000	0.96	100.00	litre
1.1.2016	31.12.2016	Fruit, dried, apricot	Turkey	100,000	65,225.00	34.78	kg
1.1.2016	31.12.2016	Meat of poultry	EU	500,000	0.00	100.00	kg
1.1.2016	31.12.2016	Cheese and urda	EU	65,000	0.00	100.00	kg
1.1.2016	31.12.2016	Meat, prepared or preserved	EU	130,000	0.96	100.00	kg
1.1.2016	31.12.2016	Prepared fish, caviar	EU	75,000	0.13	100.00	kg
1.1.2016	31.12.2016	Prepared fish, caviar	EU	30,000	23.26	99.92	kg
1.1.2016	31.12.2016	Water, natural, carbonated	EU	240,000	9.36	100.00	litre
1.1.2016	31.12.2016	Water, natural, aerated, sugar free	EU	430,000	327,370.24	23.87	litre
1.1.2016	31.12.2016	Water, natural, aerated, sugar free	EU	810,000	0.20	100.00	litre

Date - from	Date - until	Description	Trading partner	Initial state of the quota	Quota status on 31.12 (9 Oct. 2017 for 2017)	Fill-in ratio (%)	Unit of measure
<b>2017</b>							
1.1.2017	31.12.2017	Fish	EU	20,000	20,000.00	0.00	kg
1.1.2017	31.12.2017	Fish	EU	20,000	20,000.00	0.00	kg
1.1.2017	31.12.2017	Fish	EU	20,000	1.01	99.99	kg
1.1.2017	31.12.2017	Fish	EU	200,000	1,358.08	99.32	kg
1.1.2017	31.12.2017	Fish	EU	10,000	8,550.15	14.50	kg
1.1.2017	31.12.2017	Wine	EU	350,000	0.35	100.00	litre
1.1.2017	31.12.2017	Fruit, dried, apricot	Turkey	100,000	87,175.00	12.83	kg
1.1.2017	31.12.2017	Meat of poultry	EU	500,000	71.03	99.99	kg
1.1.2017	31.12.2017	Cheese and urda	EU	65,000	0.00	100.00	kg
1.1.2017	31.12.2017	Meat, prepared or preserved	EU	130,000	0.89	100.00	kg
1.1.2017	31.12.2017	Prepared fish, caviar	EU	75,000	0.02	100.00	kg
1.1.2017	31.12.2017	Prepared fish, caviar	EU	30,000	18.24	99.94	kg
1.1.2017	31.12.2017	Water, natural, carbonated	EU	240,000	0.00	100.00	litre
1.1.2017	31.12.2017	Water, natural, aerated, sugar free	EU	430,000	389,176.00	9.49	litre
1.1.2017	31.12.2017	Water, natural, aerated, sugar free	EU	810,000	2.85	100.00	litre

Source: WTO Secretariat calculations, based on WTO IDB; and information provided by the authorities.

**Table A4.1 Selected agricultural products by simple tariff averages (tariff range)**

(%)

	Applied MFN	EU	EFTA-Iceland	EFTA-Norway	EFTA-CHE/LIE	Turkey	LDCs	Russia	Ukraine	CEFTA	Note (HS code)
<b>Livestock, milk and eggs</b>											
Cattle	20 (0-30)	0	20 (0-30)	20 (0-30)	9 (0-30)	20 (0-30)	0	0	0	0	010221, 010229
Sheep	22.9 (0-38.7)	11.4 (0-19.3)	22.9 (0-38.7)	22.9 (0-38.7)	11.4 (0-19.3)	22.9 (0-38.7)	0	0	0	0	010410
Goats	15 (0-30)	7.5 (0-15)	15 (0-30)	15 (0-30)	7.5 (0-15)	15 (0-30)	0	0	0	0	010420
Swine/Pigs	10.8 (0-15)	0	3.3 (0-10)	10.8 (0-15)	0	10.8 (0-15)	0	0	0	0	010310, 010391, 010392
Poultry	9.2 (0-15)	0	9.2 (0-15)	9.2 (0-15)	9.2 (0-15)	9.2 (0-15)	0	0	0	0	010511, 010512, 010513, 010514, 010515, 010594, 010599
Horses	1.7 (0-5)	0	0	1.7 (0-5)	0	1.7 (0-5)	0	0	0	0	010121, 010129
Milk	29.3 (20-50)	14.7 (10-25)	29.3 (20-50)	29.3 (20-50)	14.7 (10-25)	29.3 (20-50)	0	0	0	0	040110, 040120, 040140, 040150
Eggs	21.7 (5-30)	0	21.7 (5-30)	21.7 (5-30)	21.7 (5-30)	21.7 (5-30)	0	0	0	0	040711, 040719, 040721, 040729, 040790
<b>Fruit</b>											
Plums	20	10	20	20	20	20	0	0	0	0	08094005
Apples	10	5	10	10	5	10	0	0	0	0	080810
Pears	10	5	10	10	5	10	0	0	0	0	080830
Peaches	26.3 (20-32.5)	13.1 (10-16.3)	26.3 (20-32.5)	26.3 (20-32.5)	26.3 (20-32.5)	26.3 (20-32.5)	0	0	0	0	080930
Tangerines	32.5	16.25	32.5	32.5	32.5	32.5	32.5	0	0	0	08052190
Olives	20	0	20	20	10	20	0	0	0	0	070992
<b>Cereals</b>											
Wheat	0	0	0	0	0	0	0	0	0	0	100111, 100119, 100191, 100199
Rye	0	0	0	0	0	0	0	0	0	0	100210, 100290
Barley	0	0	0	0	0	0	0	0	0	0	100310, 100390
Oats	0	0	0	0	0	0	0	0	0	0	100410, 100490
Corn	0	0	0	0	0	0	0	0	0	0	100510, 100590



	Applied MFN	EU	EFTA-Iceland	EFTA-Norway	EFTA-CHE/LIE	Turkey	LDCs	Russia	Ukraine	CEFTA	Note (HS code)
<b>Vegetables</b>											
Onion	12.5 (10-15)	0	12.5 (10-15)	12.5 (10-15)	12.5 (10-15)	12.5 (10-15)	0	0	0	0	07031011, 07031019
Tomatoes	40	20	40	40	40	40	0	0	0	0	070200
Paprika	5	0	5	5	5	5	0	0	0	0	090421, 090422
Melon	15	0	15	15	15	15	0	0	0	0	080719
Watermelon	32.5	16.25	32.5	32.5	32.5	32.5	0	0	0	0	080711
Cucumber	20	10	20	20	20	20	0	0	0	0	07070005
Beans	20	0	20	20	20	20	0	0	0	0	070820
Cabbage	20	10	20	20	20	20	0	0	0	0	07049010
Potato	13.1 (7.5-15)	7.5	13.1 (7.5-15)	13.1 (7.5-15)	7.5	13.1 (7.5-15)	0	0	0	0	070110, 070190
<b>Grape production on plantations</b>											
Grape	32.5	16.25	32.5	32.5	32.5	32.5	32.5	0	0	0	080610

Source: WTO Secretariat calculations, based on WTO IDB.