

**ENHANCING MARKET OPENNESS,
INTELLECTUAL PROPERTY RIGHTS, AND COMPLIANCE
THROUGH REGULATORY REFORM IN**

SLOVENIA



ABSTRACT

This report presents an analysis of Slovenia's trade policy-related institutions and regulations taking into account their potential influence on market openness. The analysis covers the following dimensions: transparency, non-discrimination, trade restrictiveness of regulations, harmonisation towards international standards, streamlining of conformity assessment procedures, intellectual property rights and compliance. Where appropriate, the working paper puts forward recommendations for regulatory reform with a view to further enhancing market openness and thus Slovenia's capacity to leverage international trade and investment for economic growth.

Keywords: Slovenia, trade policy, market openness, investment, transparency, non-discrimination, trade restrictiveness, conformity assessment, intellectual property rights, standards, regulatory reform, trade reform, compliance.

Acknowledgements

This report has been prepared in consultation with the Government of Slovenia. It was drafted by Charles Tsai and Falou Samb (consultant to the Secretariat), Mattias Ganslandt (consultant to the Secretariat) and Douglas Lippoldt. Michel Lahittete and Clarisse Legendre provided statistical assistance.

The Working Party of the OECD Trade Committee discussed this report and agreed to make the findings more widely available through declassification under its responsibility. The study is available on the OECD website in English: www.oecd.org/trade.

Table of contents

Acronyms and abbreviations	4
Executive Summary	6
Introduction	9
1. The economic and policy environment.....	10
1.1 Trade policy developments.....	11
1.2 Trade openness	12
2. The policy framework for market openness: the efficient regulation principles	15
2.1. Transparency and openness of decision making	16
2.2 Measures to ensure non-discrimination.....	25
2.3 Measures to avoid unnecessary trade restrictiveness.....	29
2.4 Encouraging the use of internationally harmonised measures	35
2.5 Streamlining conformity assessment procedures.....	38
3. Intellectual property rights.....	40
3.1 Domestic innovation policy.....	40
3.2 Basic premises for the review of intellectual property rights	41
3.3 The intellectual property rights regime	42
3.4 Intellectual property rights challenges.....	45
4. Compliance.....	47
5. Conclusions and policy options	47
5.1 General assessment and main challenges	48
Bibliography	55

Tables

Table 1. Slovenia's simple and trade-weighted statutory tariffs prior to EU accession.....	11
Table 2. Doing Business, 2008.....	30
Table 3. Trading Across Borders, 2008.....	34
Table 4. An overview of Slovenia's IPR policies	43

Figures

Figure 1. Trade ratios in BRIICS countries and selected OECD countries, 2006	13
Figure 2. Slovenia's trend in foreign trade 1992-2006	13
Figure 3. Slovenia's top trading partners, 2006.....	14
Figure 4. Slovenia's foreign trade product structure, 2006	14
Figure 5. Slovenia's services trade composition, 2007	15
Figure 6. Growth in FDI Inflows, 2001-2008.....	26
Figure 7. Starting a Business, 2008	31

Acronyms and abbreviations

BIAC	Business and Industry Advisory Committee
BRIICS	Brazil, Russia, India, Indonesia, China and South Africa
BSA	Business Software Alliance
CCG	Country Commercial Guide
CEN	European Committee for Standardisation
CENELEC	European Committee for Electrotechnical Standards
CET	Common External Tariff
CRTA	Committee on Regional Trade Agreements (a WTO committee)
EA	European co-operation for Accreditation
EC	European Commission
EIU	Economist Intelligence Unit
EPPO	European Mediterranean Plant Protection Organisation
e-SJU	Electronic Services of Public Administration
ETSI	European Telecommunications Standards Institute
EU	European Union
e-Uprava	Catalogue of Public Information
EUR	Euro
FDI	Foreign direct investment
FIE	Foreign invested enterprise
G2B	Government to Business
G2C	Government to Citizen
G2G	Government to Government
GATT	General Agreement on Tariffs and Trade
GATS	General Agreement on Trade in Services (a WTO agreement)
GDP	Gross domestic product
GPA	Agreement on Government Procurement (a WTO agreement)
IAF	International Accreditation Forum
ICT	Information and communication technology
IEC	International Electrotechnical Commission
IFPI	International Federation of the Phonographic Industry
IIPA	International Intellectual Property Alliance
ILAC	International Laboratory Accreditation Cooperation
IPR	Intellectual property rights
ISO	International Organisation for Standardisation
ISA	International Strategic Analysis
ISPM	A standard of the EPPO
IT	Information Technology
JAPTI	Public Agency of the Republic of Slovenia for Entrepreneurship and Foreign Investments
MFN	Most Favoured Nation
MRA	Mutual recognition agreement
NSOs	National standardisation organisations

NT	National Treatment
OECD	Organisation for Economic Co-operation and Development
PCT	Patent Cooperation Treaty
PPN	Public Procurement Network
REACH	Registration, Evaluation, Authorisation of Chemicals (an EU regulation)
RIA	Regulatory impact assessment
RS	Republic of Slovenia
RTA	Regional trading arrangement
SA	Slovene Accreditation
SC SI	SOLVIT Centre Slovenia
SDoC	Suppliers' declaration of conformity assessment
SID	Slovene Export and Development Bank
SIMAP	System of Information on Public Procurement
SIPO	Slovenian Intellectual Property Office
SIST	Slovene Institute for Standardization
SME	Small and medium-sized enterprises
SOLVIT	An on-line problem solving network to support the EU Internal Market
SPS Agreement	Agreement on the Application of Sanitary and Phytosanitary Measures (a WTO agreement)
SPS measures	Sanitary and phytosanitary measures
TCB	Tax and Customs Board
TBT Agreement	Agreement on Technical Barriers to Trade (a WTO agreement)
TED	Tenders Electronic Daily
TRIS	Technical Regulations Information System
TRIPS	Trade-related intellectual property rights
TPRM	Trade Policy Review Mechanism
UNCTAD	United National Conference on Trade and Development
UPOV	Union for the Protection of New Varieties of Plant
USTR	United States Trade Representative
VAT	Value added tax
WCO	World Customs Organisation
WCT	WIPO Copyright Treaty
WIPO	World Intellectual Property Organization
WPPT	WIPO Performances and Phonograms Treaty
WPTC	Working Party of the Trade Committee
ZJN-2	Public procurement act
ZJNVETPS	Public procurement in water management, energy transport and postal services area act

Executive Summary

The economic situation of Slovenia is closely linked to its geographic location. Slovenia is the gateway to the Western Balkans and was on the European Union (EU) frontier of the former Yugoslavia before regaining independence in 1991. Well before 1991, Slovenia conducted a significant share of its trade with Western Europe and was home to enterprises operating on a profit basis. The most advanced new member of the European Union, Slovenia has also weathered the current financial crisis relatively well. Forecasts expect GDP to contract by about -4% in 2009. Slovenia's large and internationally competitive manufacturing sector remains a significant component of its domestic economy and its exports, but the sector is shifting from traditional towards higher value added products. The services sector is similarly growing due to developments in tourism, transport, financial services, construction and information technology (IT) related services. The trends are consonant with efforts by Slovenian policymakers to support growth in the high-valued added components of Slovenia's economic activities, and to maintain or improve the market openness of Slovenia's economy to international trade and investment.

Slovenia relies on its relationship with the European Union for the development of its trade policy. Its laws on transparency require publication of proposed and existing laws and regulations in multiple locations on the internet, and the conduct of public consultations. The principle of non-discrimination is implemented within Slovenia's regulatory regime through its international agreements, particularly with the EU. Slovenia has implemented many initiatives to reduce unnecessary trade restrictiveness including through use of information technology (IT), implementation of regulatory impact assessments (RIAs) and the conduct of training for government officials. As part of Slovenia's efforts to support the domestic introduction of international regulations and practices, an inter-ministerial working group meets at least twice a year to encourage harmonisation towards international standards. Slovenia adheres closely to the EU approach in streamlining conformity assessment procedures. In terms of intellectual property rights (IPRs), Slovenia's regulatory framework appears compliant with EU standards, but reflects deficiencies in enforcement akin to those in other countries in the region. Compliance related activities in Slovenia are closely intertwined with those of the European Union and the European Union's relationship with the WTO. The present review found no evidence of compliance related concerns.

Thematic synopses and policy options for consideration are presented below:

Slovenia's efforts to ensure **transparency** include a requirement that draft and existing laws and regulations appear in a number of locations and formats free of charge over the internet. The government appears to have a general culture of consultations despite the absence of horizontally applicable minimum standards for conducting them. The appeals system remains somewhat inefficient due to lengthy judicial processes, though recent progress has been made in addressing this issue. It is notable that Slovenian experience links publication of government procurement tenders at the EU level with lower procurement prices, including in cases where tenders fall below EU mandatory publication thresholds. At the same time, indications exist that overweighting of price as a factor in awarding government procurements may have led to counterproductive outcomes in that some suppliers may have developed questionable bidding strategies to game the system.

Policy options

- Some business community representatives have indicated that their inability to contribute to, and participate in, the initial drafting of recent labour legislation has led to an outcome with room for improvement. This may have resulted from uneven application of consultation procedures by some parts of the government. Consideration could be given to establishing minimum consultation standards applicable to all government bodies. Consideration could also be given to including interested members of the public within work to develop initial drafts of new laws and regulations.
- In the area of appeals, continued or enhanced reforms to shorten judicial processes will be important to allowing appeals outcomes to play an effective role in reducing uncertainty over the interpretation of domestic laws and regulations, thereby supporting regulatory transparency. Progress in this area would be important both to domestic and foreign enterprises.
- In light of experience pointing to lower procurement costs in earlier trials, consideration could be given to broadening the scope of government procurement tenders falling under European thresholds that are nevertheless posted on the EU government procurement website.
- Public procurement officials may wish to consider increasing the weight that procurement regulations accord to the reputation of suppliers and their quality of work, in comparison to the current emphasis on lower priced bids. Work to create an EU or international database of suppliers recording their reputations for reliability and quality should be supported where possible.
- Study the costs and benefits of opening procurement actions below international thresholds to foreign suppliers.

Slovenia's observance of **non-discrimination** principles in its development and application of domestic regulations appears to conform to international obligations. Slovenia's national interests have meshed nicely with increased openness in the EU trading regime. In some cases, Slovenia has demonstrated how relatively small EU members can make important contributions in support of a more liberal EU trading regime.

Policy options

- No recommendation.

The active and multi-pronged effort by the Ministry of Public Administration to promote the **use of least trade restrictive regulations** can be seen in steps to reduce administrative burdens *via* e-Government programmes and requirements that RIAs be conducted on all new regulations. Other efforts include the preparation of handbooks on how to assess administrative burdens caused by regulations and apply good practices in conducting public consultations. The primary weaknesses in the current programme appear to be:

- Uneven appreciation and application of RIAs by various parts of the government;
- The lack of a programme to systematically apply RIAs on existing stocks of regulations;
- The absence of a criterion in RIAs to assess the impact that regulations have on international trade and investment.

Policy options

- Continue to support amendments to the *Rules of Procedures of the Government* strengthening requirements on regulators to apply already existing regulatory instruments including the *Handbook for Conducting Impact Assessment*, methodologies that have been developed to assess administrative burdens and costs; and the *Methodology for fulfilling and monitoring the Statement on the reduction of administrative burdens and participation of interested publics*.
- Continue with plans to conduct training of public officials across the government on how to assess the administrative burdens resulting from regulations. If possible, monitor the progress of officials receiving training in terms of the RIAs they produce, and consider providing follow-up training where warranted.
- Consider applying RIAs to existing stocks of laws and regulations in a systematic manner. Evidence from this review suggests that existing regulations may be a source of unnecessary trade restrictiveness that is impeding inward foreign investment.
- Consider including criteria in the *Statement on the reduction of administrative burdens and participation of interested publics* requiring the assessment of the impacts that regulations have on international trade and investment. Include training on how to conduct such assessments along with existing programmes covering administrative burdens.

In establishing its domestic standards regime beginning in 1991, Slovenia has primarily adopted international standards and consequently set a high standard in terms of **international harmonisation of domestic standards**.

Policy options

- Review the few Slovene domestic standards and reconsider whether benefits could be gained by aligning them internationally.

Slovenia follows and closely applies EU rules relating to **streamlining conformity assessment**, and the system appears relatively efficient.

Policy options

- Based on experience provided in the examples of Slovenian participation in the development of trade regulations at the EU level, consider whether possibilities exist to contribute to improving the efficiency of the EU conformity assessment system.

Slovenia has a system of **intellectual property rights** that is well developed from a legal perspective. Significant amendments and modifications have been made in recent years to bring the system closer to the international norms of developed economies, particularly during the process of accession to the European Union. Slovenia may nevertheless consider actions to strengthen enforcement and refine policy in certain areas to improve IPR compliance. Moreover, policy scope exists to further capitalise on the economic opportunities afforded by a strong system of IPR protection.

Policy options

- Scope for progress remains with respect to administration and enforcement of intellectual property rights. Particularly important areas concern reducing the rate of piracy in copyrighted goods and trade in counterfeit goods. Experience suggests that linking international cooperation with domestic measures can enhance efficacy in this area.
- Consideration should also be directed towards enhancing the domestic economy's capacity both to produce and to employ intellectual property. Domestic innovative activity by the private sector would be an important priority in this respect.
- More extensive domestic use of intellectual property rights could stimulate private research and innovation; policy options might include a combination of training and economic incentives for the private sector. This can possibly facilitate and stimulate re-orientation from emphasis on application of technology to innovative leadership in some areas.

With respect to **compliance**, Slovenia is not directly participating in any consultations between the European Union and non-member economy regarding potential trade violations.

Policy options

- No recommendation.

The approach taken by this review draws on Market Openness Chapters of the well-established Country Reviews of Regulatory Reform programme carried out by the Governance Directorate in co-operation with the Trade and Agriculture Directorate.¹ However, unlike the Market Openness Chapters, the reviews of market openness prepared for the accession process are stand-alone documents. In terms of format, they are dissimilar from traditional reviews of market openness in that they omit treatment of what is traditionally the sixth principle of market openness (i.e. competition policy), while covering two new areas (i.e. intellectual property rights and compliance).

Examining market openness is important because it provides insights concerning a country's ability to reap the benefits of globalisation and international competition as a consequence of eliminating or minimising the trade distorting impact of border and behind-the-border measures. Improving a country's economic efficiency and competitiveness depends in part on its domestic capacity to integrate market-oriented trade and investment approaches into regulations and regulatory practices. From a market openness perspective, regulatory reform is in the interest of the domestic economy, but yields significant benefits for national and foreign stakeholders alike.

High quality regulation can be achieved without compromising market openness, and open market policies can be enhanced through strong regulatory underpinnings. This review of market openness prepared as part of the Trade Committee's accession process thus examines to what extent domestic regulations directly or indirectly distort or facilitate international competition, and suggests policy options to improve the domestic regulatory framework for international trade and investment liberalisation.

1. The economic and policy environment

Slovenia is the most advanced economy in Central and East Europe and the wealthiest new member of the European Union. It has a per capita GDP comparable to Greece and Portugal. Among the constituent nations of the former Yugoslavia, Slovenia managed to avoid becoming enmeshed in a prolonged armed conflict, though its transition to independence was accompanied by a ten-day war. Joining the European Union in 2004, the Euro zone in January 2007 and the *Schengen* zone in December 2007, Slovenia held the EU Presidency from January through June 2008 and has succeeded in re-orienting its economy more fully towards Western Europe. This transition has been facilitated by Slovenia's role as the former-communist country in the region with the closest ties to Western Europe during the period after the Second World War. More than half of Slovenia's communist-era trade was conducted with Western Europe. With historical economic ties to Austria and Italy, Slovenia has traditionally had a fairly liberal economy.

Despite its relatively high level of economic development, Slovenia's average rate of economic growth over the period since independence has been fairly robust. Its rate of GDP increase accelerated sharply in 2006 and 2007 driven by simultaneous increases in both exports and domestic demand. As export demand weakened with the onset of the financial crisis in 2008, growth slowed significantly. This slowdown brought Slovenia's GDP growth rate for 2008 as a whole down to 3.5%, the lowest figure since 2003. The real rate of GDP is forecast to fall further to -4% in 2009, before recovering to 1% in 2010.² Inflation stood at 1.1% year-on-year as of April 2009 marking a continued descent throughout the first half of 2009 due to falling food and energy prices.³

Industrial production growth has slowed sharply in recent years as the sector has undergone restructuring. Slovenia has significant chemical, rubber and machinery

industries of which some have become key exporters. Slovenia's manufacturing sector has been hard hit by weakness in key export markets. Some analysts consider that the economic performance by Slovenia since independence may have been constrained by insufficient privatization of key state assets.⁴ Progress has been made on this front over recent years.

1.1 Trade policy developments

Slovenia's trade stance as an exporter of value added goods was previously associated with a more pronounced policy of tariff escalation than at present; its tariff structure *prior* to EU accession included tariffs that tended to be higher on manufactured products and lower on raw materials (Table 1). Recession in its main export markets including Germany and Italy will negatively impact a Slovenian export sector dominated by industrial products such as construction, chemicals and manufactured goods. Its policy of export diversification including diversification of export markets will also face difficulties due to the global nature of the downturn. The government-owned Slovene Export and Development Bank (SID) has intensified activities to alleviate economic difficulties caused by the global crisis.

As a member of the European Union, Slovenia applies the Common External Tariff (CET) along with all EU members *vis-à-vis* goods imports. The process for notifying proposed changes in applied tariffs to affected economies thus occurs at the level of the European Commission. For Slovenia, external trade is governed by decisions adopted at the EU level under the EU *Common Commercial Policy*, which applies to Slovenia and other EU members. This allows the European Union to act as a single entity in trade including WTO matters, where the European Commission negotiates trade agreements and represents the collective interests of the EU members. The legal basis for the European Union's trade policy is Article 133 of the European Community Treaty. On this basis, the Commission negotiates on behalf of the Member States, in consultation with a special committee, "the Article 133 Committee."

Table 1. Slovenia's simple and trade-weighted statutory tariffs prior to EU accession

		1999	2001	2002	2003	1999	2001	2002	2003
Total Trade	Simple Average	9.83	9.64	9.59	9.59	7.91	6.48	6.8	6.2
	Weighted Average	11.38	10	10.02	10.03	4.55	4.18	4.67	4.05
Capital goods	Simple Average	10.04	8.83	8.74	8.74	4.76	3.43	4.29	3.26
	Weighted Average	10.53	8.41	8.42	8.56	3.16	2.82	3	2.73
Consumer goods	Simple Average	13.71	13.59	13.63	13.62	10.71	9.66	9.21	8.83
	Weighted Average	15.29	13.3	13.37	13.43	6.18	5.6	5.8	5.27
Intermediate goods	Simple Average	7.85	7.94	7.87	7.87	6.74	5.43	5.83	4.94
	Weighted Average	8.14	8.14	8.24	8	4.15	3.67	3.93	3.63
Raw materials	Simple Average	5.98	6.36	6.3	6.27	9.85	6.96	7.9	8.48
	Weighted Average	4.05	5.43	5.28	5.25	5.1	4.83	8.91	4.7

Source: UN Trains.

1.2 Trade openness

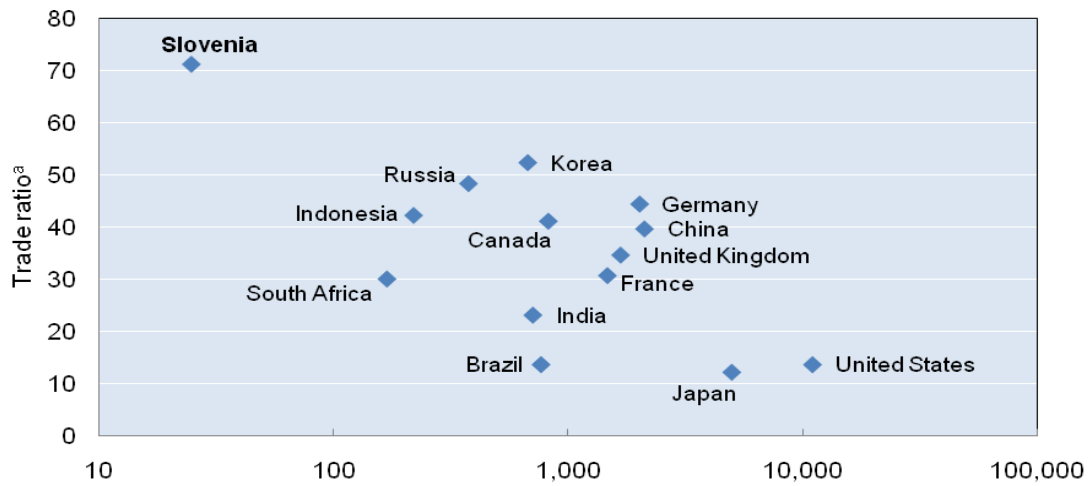
Trade openness can be measured by the ratio of total exports and imports to GDP. This ratio is often used as an indicator to measure a country's effective "openness" or "integration" in the world economy but is influenced by various endogenous factors, such as the size of the economy, distance from major or dynamic markets and variations in economic growth. As a small economy with policies tending to promote openness, it is not surprising that the trade turnover/GDP ratio of Slovenia is unrivalled *vis-à-vis* the BRIICS (Brazil, Russia, India, Indonesia, China and South Africa) and the OECD countries appearing in Figure 1. Slovenia's export growth from 1992 through 2006 was also impressive (Figure 2).

The expansion of Slovenia's international trade is a key element of its trade policy. The European Union is by far Slovenia's most important trade partner (Figure 3). Germany, Italy, Austria and Croatia were Slovenia's top four export destinations in 2006 while its top three sources of imports in the same year were Germany, Italy and Austria. Slovenia's policy of diversifying export destinations includes renewed attention to its neighbouring former Yugoslav republics, which absorbed 16% of its total exports during the first nine months of 2007.⁵

The relative lack of mineral resources in Slovenia has been a factor propelling continued development of its sizeable manufacturing sector and its growing services sector, both of which are internationally competitive. The product composition of merchandise trade, though still dominated by semi-finished and intermediate manufacturing goods is shifting. Shares of textiles and clothing and steel in merchandise exports are declining and diversification towards automotive products, electronics and pharmaceuticals has gained momentum (Figure 4).⁶

The services sector is also increasing in importance and has grown in terms of gross value added from 50% in 1991 to 57% in 2006.⁷ Factors contributing to growth in the services sector include a generalised shift away from manufacturing industries. The strategic situation of Slovenia as a "gateway" between western Balkans and the European Union has allowed it to develop and expand a number of transport related services sectors (Figure 5). The combination of Slovenia's location, recreational resource endowments and new investments to upgrade infrastructure and the quality of its facilities, has also supported growth in the tourism sector.

Figure 1. Trade ratios^{a, b} in BRIICS countries and selected OECD countries, 2006^c

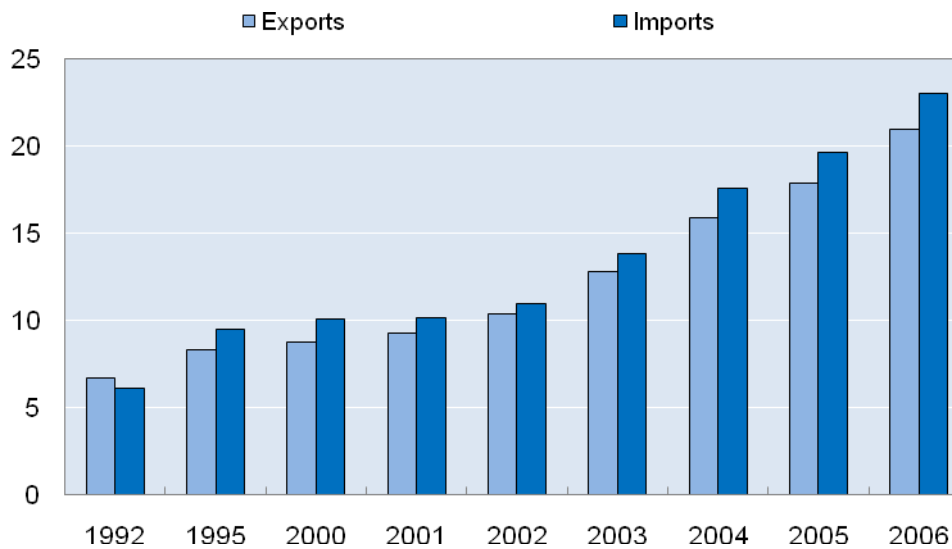


- a. Average of exports and imports of goods and services as a share of GDP constant 2000.
- b. Logarithmic scale on the horizontal axis.
- c. 2005 for Canada, Japan and the United States.

Source: WDI.

Figure 2. Slovenia's trend in foreign trade, 1992-2006

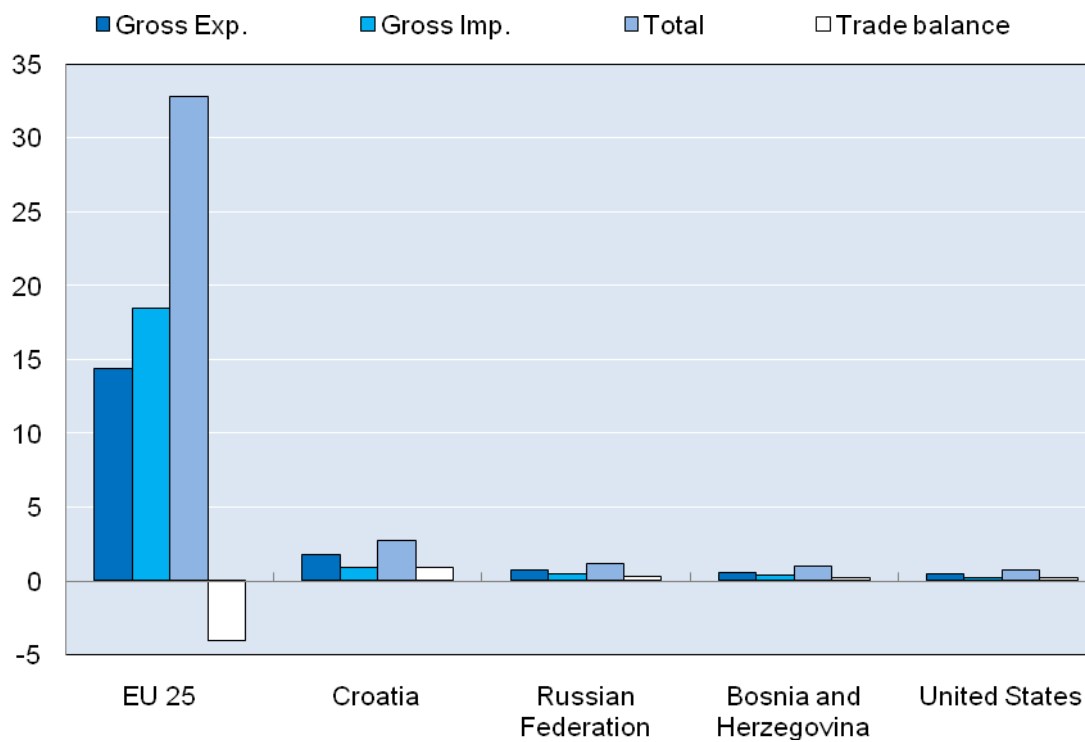
In billions USD



Source: UN ComTrade Database (2007).

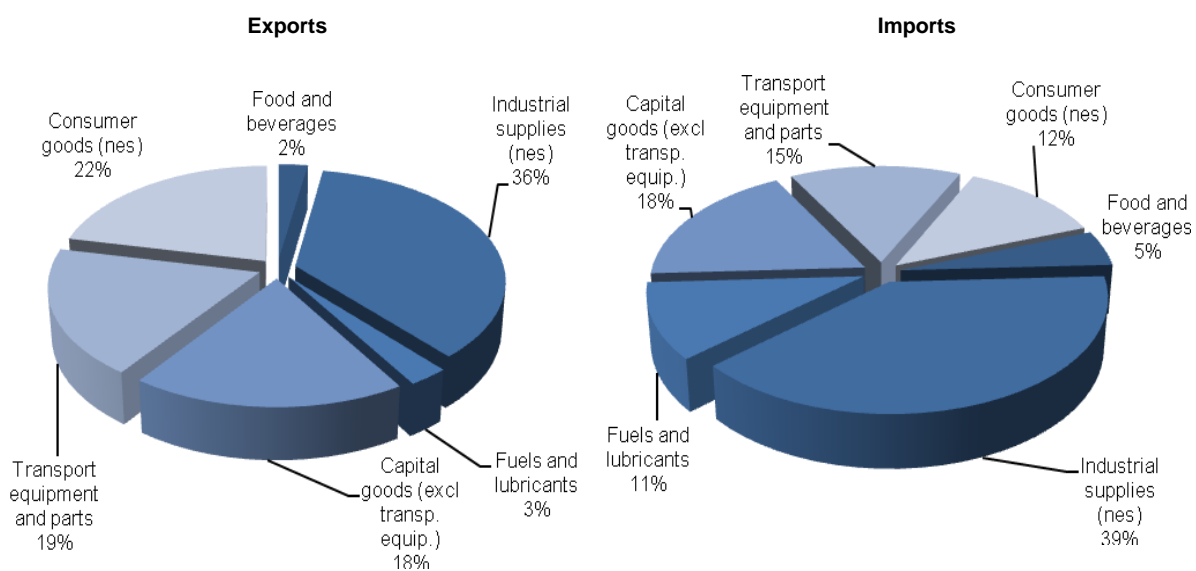
Figure 3. Slovenia's top trading partners, 2006

USD billions



Source: UN ComTrade Database.

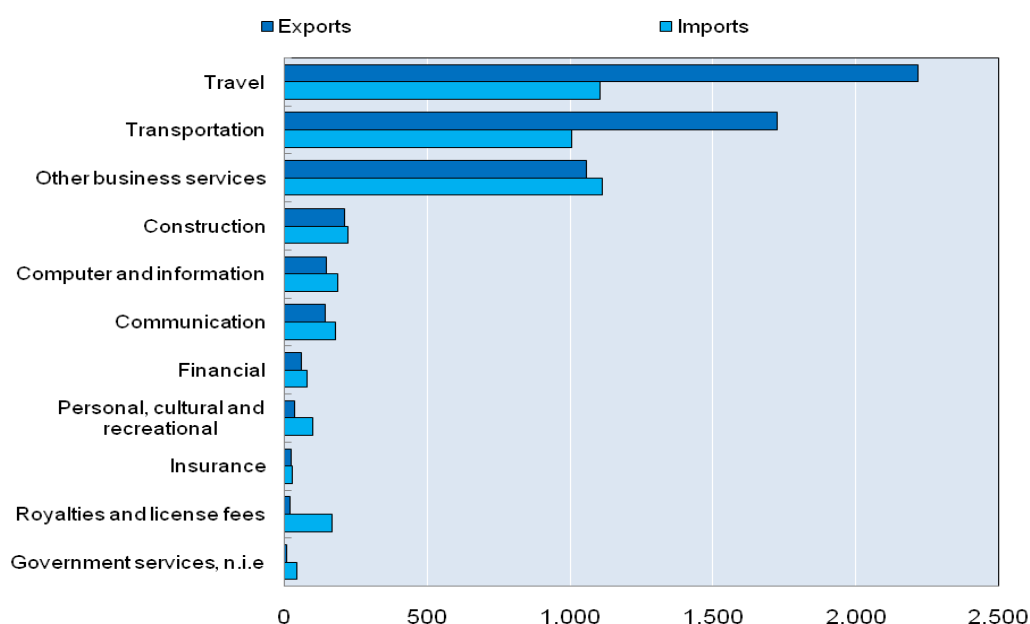
Figure 4. Slovenia's foreign trade product structure, 2006



Source: UN ComTrade Database.

Figure 5. Slovenia's services trade composition, 2007

In millions USD



Series shown on the chart are ordered by the value of exports in 2007.

Source: IMF Balance of Payments (2008).

2. The policy framework for market openness: The efficient regulation principles

With the expansion of economic globalisation and the fall of traditional barriers to trade, the complementarities of market openness and regulatory reform are increasingly important. Trade and investment liberalisation can be an important factor in successful regulatory reform, while regulatory reform can play a strong role in ensuring that liberalised conditions for trade and investment bring the expected benefits in terms of economic performance. When designed and implemented properly, regulatory reform establishes domestic regulatory environments that improve efficiency and increase the flow of international trade and investment. Good regulation encourages productivity gains, investment and innovation, job creation, and boosts growth and competitiveness. The prospect of these domestic benefits is the basic and indispensable rationale behind regulatory reform.

An important step to ensure that regulations do not unnecessarily reduce market openness is to build efficient regulation principles into domestic regulatory processes for social and economic regulations, as well as for administrative practices. Trade policy makers have identified six principles as key to market-oriented, trade and investment friendly regulation. They reflect the basic principles underpinning the multilateral trading system. The OECD's six efficient regulatory principles for market openness are: (i) transparency and openness of decision making processes; (ii) non-discrimination; (iii) avoidance of unnecessary trade restrictiveness; (iv) use of internationally harmonised measures; (v) streamlining conformity assessment procedures; and (vi) application of competition principles from a market openness perspective (Box 1). This paper looks at Slovenia's market openness from the perspective of its regulatory infrastructure, with

respect to the first five principles. Regulation with respect to competition is treated separately in the context of the OECD accession process (*i.e.* under the auspices of the Competition Committee).

Box 1. The OECD efficient regulation principles for market openness

To ensure that regulations do not contradict and reduce market openness, “efficient regulation” principles should be built into the domestic regulatory process and practices. Trade policy makers have identified these six principles as key to market-oriented trade and investment-friendly regulations. They reflect the basic principles underpinning the multilateral trading system.

Transparency and openness of decision making: Foreign firms, individuals and investors seeking access to a market must have adequate information on new and revised regulations so that they can base their decisions on accurate assessment of potential costs, risks and market opportunities.

Non-discrimination: Non-discrimination means equality of competitive opportunities between like products and services irrespective of country of origin.

Avoidance of unnecessary trade restrictiveness: Governments should use regulations that are not more trade restrictive than necessary to fulfil legitimate objectives.

Use of internationally harmonised measures: Compliance with different standards and regulations for like products can burden firms engaged in international trade with significant costs. When appropriate and feasible, internationally harmonised measures should be used as the basis of domestic regulations.

Streamlining conformity assessment procedures: When internationally harmonised measures are not possible, necessary or desirable, recognising the equivalence of trading partners’ regulatory measures or the results of conformity assessment performed in other countries can reduce the negative effects of cross-country disparities in regulations and duplicative conformity assessment systems.

Application of competition principles from a market openness perspective: Market access can be reduced by regulatory action ignoring anti-competitive conduct or by failure to correct anti-competitive practices, particularly by incumbent firms which are normally also domestic.

Source: OECD (2002), “Integrating Market Openness into the Regulatory Process: Emerging Patterns in OECD countries” [TD/TC/WP(2002)25/FINAL], 17 February 2003.

2.1. Transparency and openness of decision making

Transparency in domestic regulatory processes is a fundamental determinant of market openness for both domestic and foreign participants. It is important for market participants to fully understand the regulatory environment in which they are operating to have opportunities to contribute to regulatory decision-making processes, thus supporting the quality and effectiveness of market access.⁸ In order to ensure international market openness, the process of creating, enforcing, reviewing or reforming regulations needs to be transparent and open to foreign firms and individuals seeking access to a market, or expanding activities in that market.

From an economic point of view, transparency is essential for market participants in several respects. Transparency in the sense of information availability offers market participants a clear picture of the rules by which the market operates, enabling them to base their production and investment decisions on an accurate assessment of potential costs, risks and market opportunities. It is also a safeguard in favour of equality in competitive opportunities for market participants and thus enhances the security and predictability of the market. Such transparency can be achieved through a variety of means, including systematic publication of proposed rules prior to entry into force and use of electronic means to share information, such as *via* the internet. Transparency of

decision making further refers to dialogue between regulators and affected parties, which should offer well-timed opportunities for public comment, and rigorous mechanisms for ensuring that such comments are given due consideration prior to the adoption of a final regulation. Market participants wishing to voice concerns about the application of existing regulations should have appropriate access to appeal procedures. Such dialogue allows market forces to become part of the regulatory process thus facilitating the avoidance of trade frictions.

Regulatory transparency, that is equal access to information on the legal and regulatory framework, is a pre-requisite for effective competition. It is essential to all market participants, but particularly to foreign operators coping with additional obstacles such as language barriers and country specific business practices. Regulatory transparency has three main aspects: (i) access to information on existing regulations, (ii) openness to the rulemaking process through public consultation prior to the adoption of final regulations, and (iii) the possibility of market participants to access appropriate appeal procedures. In addition, transparency is essential for ensuring international competition in two specific areas: (iv) technical regulations and (v) government procurement.

Information dissemination

The first aspect of transparency is easy and open access to information. Every firm operating in the market should have information about regulations, procedures, and other measures that affect its interests and indicate the conditions, constraints and risks that firms will encounter in the market. Having all this information reduces uncertainties over applicable requirements, helps companies to better foresee the costs and returns of their trading activities and investments. Access to information is particularly relevant for foreign firms and new market entrants as they are often unfamiliar with the local regulatory environment, and at times the economic, political, social and cultural environments.

The Constitution of the Republic of Slovenia requires that all regulations must be published prior to coming into force. Regulations come into force on the fifteenth day after their publication unless otherwise indicated in the regulation itself. Although information on legislation and regulations is available through a variety of sources in Slovenia, the main reference of interest to foreign firms is the *Official Gazette* which is published both in paper and electronic versions and is freely available over the internet. The Gazette is managed by the *Government Office for Legislation* which also governs the *Regulations Register of Republic of Slovenia*. The Register is more comprehensive than the Gazette and contains all international treaties, primary and secondary legislation, and other governmental and ministerial acts, apart from administrative decisions. Like the Gazette, the Register is also accessible free of charge on the internet.

More broadly, transparency in Slovenia is governed by the *Access to Public Information Act* which articulates the organisations and individuals subject to transparency, the types of information subject to transparency and the manners in which information is to be disseminated. In terms of coverage, the Act provides that all public bodies and agencies as well as individuals holding public powers and public service contractors fall under its requirements. To ensure that government institutions as well as organisations and individuals carrying out public duties observe principles of transparency in their conduct, the Act elaborates in detail the types of information which

must be made publically available. Article 10 of the Act defines six categories of information as public and thus subject to active dissemination including:

- Consolidated texts of regulations relating to the field of work of the body, linked to the state register of regulations on the website;
- Programmes, strategies, views, opinions and instructions of a general nature, which are important for the interaction of the body with natural and legal persons and for deciding on their rights or obligations respectively, studies, and other similar documents relating to the field of work of the body;
- Proposals for regulations, programmes, strategies, and other similar documents relating to the field of work of the body;
- All publications and tendering documentation in accordance with regulations governing public procurement;
- Information on their activities and administrative, judicial and other services;
- All public information requested by the applicants on three, or more, occasions.⁹

The sixth category of information indicated for dissemination appears explicitly designed to encourage public bodies to actively identify and publish information of interest to the public. It also creates an implicit incentive for public bodies to consider – in advance of receiving requests for information – which types of information should be disseminated. The government notably assesses its efforts to make information dissemination more effective in terms of reductions both in the frequency of information requests and of complaints related to the Act.

In relation to the dissemination of information, the Access to Public Information Act establishes as a general principle that public information should be provided free of charge, and that each public body regularly update its website with information indicated above. To provide a single source for information on regulations, the Act provides that the Ministry of Public Administration is responsible for government portal titled “e-Uprava” and the *Catalogue of Public Information* (Box 2).¹⁰ To ensure that information in the Catalogue remains current, the Act also requires that public bodies administering the various functions of government update the sections of the Catalogue for which it is responsible.

In terms of the level of information available at differing stages of the legislative process, Article 10 of the Act requires that the full text of all legislative proposals be published on the website of the responsible ministry. Once the legislative proposal has been sent to Government’s General Secretariat as an official document, it appears on the website of the Government of Republic of Slovenia. Finally, the legislative proposal will appear on the website of the National Assembly at the time it is submitted for consideration and adoption.

Box 2. Disseminating government information over e-Uprava

The e-Government portal e-Uprava was launched in March 2001, re-launched in December 2003 and modernised in May 2006. The enhanced portal supports Government to Citizen (G2C), Government to Business (G2B) and Government to Government (G2G) interactions and offers various services to citizens, legal persons and public employees.

The portal provides access to the Electronic Administrative Affairs application (EAA or *Elektronske upravne zadeve* - EUZ), which supports the full electronic handling of administrative forms registered in a centrally maintained registry of procedures. The application can be used by all residents equipped with qualified digital certificates valid in Slovenia.

The 7th Measurement *The User Challenge - Benchmarking the Supply of Online Public Services* carried out by Capgemini for the European Commission (September 2007) noted that e-Uprava provides access to the majority of public services for citizens. The report also found that the Slovene portal offers a best practice case as a personalised, targeted gateway to public service delivery. Slovenia achieved a scoring of 93% for its national portal in comparison to the EU27+ average of 75%.

Source: Government of Slovenia.

Consultation mechanisms

A second fundamental aspect of transparency refers to the openness of the regulation-making process, in particular, providing an opportunity for all stakeholders to participate in formal or informal consultations. Consultations and the equality of access to them have important effects on the quality and enforceability of regulations in general, on the efficiency of economic activities, and on the level of market openness.

Slovenia has a tradition of public consultations for legislative and economic issues. The Ministry of Public Administration is responsible for monitoring the conduct of consultations from a national perspective and regulatory authorities will be under general official guidance to provide replies to comments received. The subject of public consultations is addressed in the *Methodology for fulfilling and monitoring the Statement on the reduction of administrative burdens and participation of interested publics*, which was adopted in November 2005. In April 2006, an explicit requirement for consultations to be conducted for all regulations was established in amendments to the *Rules of Procedure of Government*. Among the various government bodies, however, awareness of the importance of public comments and the manner in which they are conducted is uneven. Although no minimum standard for consultations is generally applicable in Slovenia, a number of sectors particularly those relating to EU competencies and WTO rules are subject to specific minimum consultation standards. No explicit restrictions exist against foreign invested enterprises (FIEs) joining consultation processes in Slovenia and they are free to initiate consultations on any issue with the competent authority.

At inter-ministerial level, the Directorate of Foreign Economic Relations of the Ministry of the Economy is regularly informed of proposed changes in domestic regulations which could affect inward and outward trade and investment or might depart from international trade obligations. Due the relatively small size of the country, officials from various ministries regularly attend informal inter-ministerial meetings at which current policy issues are discussed in a collegial manner. It is in this context that officials from the Directorate of Foreign Economic Relations are able to learn about and to request additional information on changes in domestic regulations that could affect trade, or to

relate information on how international trade obligations may interact with regulations under development.

Once draft regulations move beyond the stage of inter-ministerial coordination, ministries or government bodies regularly forward them to associations, chambers, unions and local communities likely to be impacted by the new regulations. Representatives of the private and public sectors are often included in consultations to enhance mutual understanding over issues and positions. Representatives of various public and private sector organisations are sometimes invited to join meetings of government working bodies established to address proposed legislation or regulations. Normally, government bodies handling consultations will collect and consolidate comments and proposals over 30 to 60 day periods, and then publically present the comments and accepted proposals together with explanations for decisions not to accept others.

Appeal procedures

A third important aspect of transparency is the openness of appeal procedures. Market participants having concerns about the application of existing regulations may find it important to have access to appeal procedures. Regulations are better accepted and work more efficiently if both domestic and foreign economic actors have access to remedies when they are confronted with overly burdensome or unclear regulatory requirements or unsatisfactory results. These remedies can be included in formal legislation, or they might be part of effective informal channels for lodging and advancing complaints that are open to domestic and foreign parties. In either case there should be clearly defined time limits for appeals processes, and adequate explanations, for example when requests are denied.

Foreign invested enterprises are treated under the legal system of Slovenia in the same manner as domestic ones. They are thus able to access appeals procedures under the domestic legal system in the same manner as domestic enterprises. FIEs may initiate proceedings in domestic courts of law with jurisdiction over the subject at issue. The rules of civil procedure, however, require both that a legal interest is demonstrated and a clear legal basis for the complaint is specified before the legal proceeding may be initiated.

The main shortcoming relating to appeals in Slovenia is the lengthiness of judicial proceedings. A law passed by the Slovenian Parliament in 1999 implemented measures to increase the efficiency of procedures for serving court documents and providing evidence. The absence of a substantial improvement in the efficiency of judicial proceedings following implementation of this law resulted in the application of further measures. In February 2006, the government introduced a program to cut backlogs by setting a target of reducing open cases by 50% and shortening the timeframes for courts to complete cases. Seeking to cut average times for cases from 18 to 6 months, the Ministry of Justice began improving the working environment in courts, funding additional staff, adjusting remuneration of judges and administrative staff and improving information technology (IT) facilities. The government also dismissed all misdemeanour cases filed prior to December 2005. These efforts reduced backlogs by 7.5% in 2005, an additional 4% in 2006 and a further 6% by June 2007.¹¹

In cases where FIEs have a relationship with an EU member, they may also access SOLVIT which is an online problem solving network allowing EU members to collaborate to resolve deficiencies in the application of Internal Market law by public authorities without resorting to legal proceedings. SOLVIT Centre Slovenia (SC SI) was established within the Ministry of the Economy based on a government decision in April 2004. Operating since Slovenia became an EU member, SOLVIT addresses a broad

number of fields including recognition of professional qualifications, market access for products and services, social security, motor vehicle registration, residence permits, employment rights and taxation. During the course of 2008, SC SI submitted to SOLVIT Centres in other EU members 18 cases relating to Slovene citizens and businesses. Of these, three were solved, one was still in process, nine were unresolved and five were found to be non-SOLVIT cases.

*Transparency in the field of technical regulations and standards*¹²

Transparency in the field of technical regulations and standards is essential for firms facing diverging national product regulations. Transparency reduces uncertainty over applicable requirements and thereby facilitates access to domestic markets. Best practice in transparent regulatory regimes entails not only access to information, but transparency in the standards setting process. In the area of standards development, a process that is open to all stakeholders, including foreign ones, can help to encourage adoption of standards that are both effective and efficient in attaining regulatory objectives.

Slovenian authorities approach transparency requirements in the field of technical regulations with attention to international obligations including those of the European Union (Box 3) and the WTO. They consider that standards should be developed through transparent and open decision making processes, avoid unnecessary trade restrictiveness, encourage participation by all interested parties at draft stage (non-discrimination), seek coherence in conformity assessment procedures and use international standards. In the field of technical regulations falling under the EU non-harmonized area, information on draft technical regulations and the regulations on information society services are disseminated according to notification obligations under Directive 98/34/EC.

Every draft regulation containing requirements on goods and services sold domestically must pass a number of consultative processes including those related to international obligations. These processes are initiated with discussions at the national level as indicated for regular laws and regulations (described above). Once draft regulations are prepared, they are notified in accordance with the WTO Agreement on Technical Barriers to Trade (TBT Agreement) and Directive 98/34/EC through a single national Enquiry and Contact Point on the Slovene Institute for Standardization (SIST) website (www.sist.si/eng/g1/g14.htm) where all information on a draft technical regulations are available.

The Enquiry and Contact Point operates in accordance with Slovenia's obligations under the TBT Agreement (RS Official Gazette, 36/95) by administrating a consultative procedure at the international level¹³. It also provides information to the domestic constituency on technical regulations, standards and conformity assessment procedures notified by other countries under the TBT Agreement and the 98/34/ES Directive. Notably, the Slovenian Enquiry and Contact Point provides a facility allowing interested parties complete a subscription to receive regular information on the newest notifications in a chosen field.

In addition to the Enquiry and Contact Point, all draft technical regulations must be published on the website of the responsible ministry. Rules on consultations include standstill periods to ensure that all interested and affected parties (domestic or foreign) can comment on the drafts. Interested and affected parties can participate in working groups addressing difficulties in the application and implementation of technical regulations. Working groups are also able to independently propose reviews of technical regulations. The Ministry of the Economy which is responsible for implementing the TBT

Agreement and Directive 98/34/EC, designates a responsible working group for every technical rule in which all interested parties can participate. The Ministry of the Economy relies on working groups to support transparent implementation of technical legislation. The working groups themselves normally include representatives of inspection bodies, other ministries, chamber of commerce, crafts and trade, consumers, different producers and often representatives from academia and different non-governmental organisations.

**Box 3. Provision of information in the field of technical regulations and standards:
Notification obligations in the European Union**

In order to avoid erecting new barriers to the free movement of goods which could arise from the adoption of technical regulations at the national level, European Union Member States are required by Directive 98/34 (which has codified Directive 83/189) to notify all draft technical regulations on products, to the extent that these are not a transposition of European harmonised directives. This notification obligation covers all regulations at the national or regional level, which introduce technical specifications, the observance of which is compulsory in the case of marketing or use; but also fiscal and financial measures to encourage compliance with such specifications, and voluntary agreements to which a public authority is a party. Directive 98/48/EC recently extended the scope of the notification obligation to rules on information-society services. Notified texts are further communicated by the Commission to the other Member States and are in principle not regarded as confidential, unless explicitly designated as such.

Following the notification, the concerned Member State must, except in case of urgency related to the protection of public health or safety, the protection of animals or the preservation of plants, refrain from adopting the draft regulations for a period of three months. During this period the effects of these regulations on the Single Market are vetted by the Commission and the other Member States. If the Commission or a Member State emit a detailed opinion arguing that the proposed regulation constitutes a barrier to trade, the standstill period is extended for another three months. Furthermore, if the preparation of new legislation in the same area is undertaken at the European Union level, the Commission can extend the standstill for another twelve months. An infringement procedure may be engaged in case of failure to notify or if the Member State concerned ignores a detailed opinion.

Although primarily directed at Member States, the procedure benefits private parties by enhancing the transparency of national regulatory activities. In order to bring draft national technical regulations to the attention of the European industry and consumers the Commission publishes regularly a list of notifications received in the Official Journal of the European Communities, and since 1999 on the internet. Any firm or consumer association interested in a notified draft and wishing to obtain further information or the text may contact the Commission or the relevant contact point in any Member state. The value of the system for private operators has been enhanced with the initiative of the Commission in 1999 to publish notifications on the internet. A searchable database of notifications (Technical Regulations Information System -TRIS-) going back to 1997 gives access to the draft text and the notification itself, including the rationale of the regulation and the status of the proposal. The incentive of countries to notify, and thus the efficiency of the system, has been strongly reinforced by the 1996 *Securitel* decision of the European Court of Justice (Decision of 30 April 1996, CIA Security International SA versus Signalson SA and Securitel SPRL). The decision established the principle that failure to comply with the notification obligation results in the technical regulations concerned being inapplicable, so that they are unenforceable against individuals.

As far as standards are concerned Directive 98/34 provides for an exchange of information concerning the initiatives of the national standardisation organisations (NSOs) and, upon request, the working programmes, thus enhancing transparency and promoting co-operation among NSOs. The direct beneficiaries of the notification obligation of draft standards are the European Union Member States, their NSOs and the European Standardisation Bodies (CEN, CENELEC and ETSI). Private parties can indirectly become part of the standardisation procedures in countries other than their own, through their country's NSOs, which are ensured the possibility of taking an active or passive role in the standardisation work of other NSOs.

Similar rules, principles and practices apply in the case of standards as in the case of technical regulations, i.e. those set forth in the TBT Agreement and Directive 98/34/ES. The SIST is a full member of the International Standards Organisation (ISO), International Electrotechnical Commission (IEC), European Centre for Standardisation (CEN), CLC and European Telecommunications Standards Institute (ETSI), and carries out its work in accordance with the Law on Standardisation (Official Gazette RS, No. 59/99). Membership in SIST is open to FIEs and the development of standards is open and consultative. The process of standards development is conducted through technical committees open to all interested parties including foreign ones. Information relating to standards setting process can be found on the SIST website (www.sist.si) which includes an English section.

Transparency in government procurement

Transparency of procedures and practices relating to government procurement is another critical determinant of market openness. Government procurement is covered by rules under the WTO Government Procurement Agreement (GPA), which is a plurilateral agreement. WTO members joining the agreement are bound to provide enterprises from other members of the GPA non-discriminatory access if they bid on government contracts above pre-specified thresholds.¹⁴ Possibly more important than opening domestic procurement markets to foreign bidders are the transparency provisions that must be applied once a WTO member becomes party to the GPA.¹⁵ The benefits of transparent government procurement procedures can be substantial given that government procurement can account for 15 to 20% of GDP in most countries.

Slovenia's domestic procurement market was roughly 10.5% of its GDP in 2006. The total value of contracts awarded to non-nationals amounted to some EUR 60 million in 2006 or 8% of the total annual value of public procurement. As with many economies, Slovenia does not gather data on government procurement allowing for meaningful estimates of participation by domestic affiliates of foreign suppliers. Officials indicate that international penetration in public procurement is sizable in a number of areas where the value of contracts rises above EU thresholds such as pharmaceuticals (Box 4).

Government procurement in Slovenia is governed by the *Public procurement act* (ZJN-2) and *Public procurement in water management, energy transport and postal services area act* (ZJNVETPS), which establish procedures for disseminating information and holding consultations on government procurement regulations, tenders and awards. As an EU member and a party of the GPA, Slovenia must abide by a number of international obligations applying to public procurements above the international thresholds established in them. Below the international thresholds, the Public procurement act also establishes national thresholds for mandatory publication of government procurement contracts starting at EUR 40 000 for goods and services, and EUR 80 000 for public works. National thresholds for mandatory publication of government procurement under the Public procurement in water management, energy transport and postal services area act are EUR 80 000 for goods and services, and EUR 160 000 for public works. Where procurements rise above these thresholds, covered government bodies are required to publish all procurement procedures (open tendering, selective tendering, limited tendering, tenders, awards and contracts) over the internet. Covered public procurements must be advertised on the domestic procurement portal www.enarocanje.si. Suppliers including international ones are also able request consultations with procuring entities through these websites before submitting a tender.

Box 4. EU rules on public procurement

EU rules

Government procurement includes purchase of goods and services and the commissioning of works by public authorities such as national governments, local authorities or their dependent bodies. Opening such contracts to foreign suppliers has fostered increased competition among suppliers in the European Union, reduced prices and improved the quality of services for citizens. Over the years, the European Union has introduced legislative provisions to modernise and facilitate the contract award process. These improvements have increased transparency, fairness and interoperability through such facilities as the TED (Tenders Electronic Daily) database, the single classification system establishing common vocabulary for the public contracts and the System of Information on Public Procurement (SIMAP).

Public procurement contracts in the European Union constitute a significant 16% of the EU's gross domestic product or roughly some EUR 1 600 billion (PPN, 2006). Its economic importance has made it one of the cornerstones of the Single Market thus leading to the adoption comprehensive rules promoting a climate of transparency and non-discrimination and securing enhanced competition in the area of public works, supplies and services. A separate regime is applied to utilities (energy, water, telecommunications and transport). Some of the major requirements of EU rules on public procurement are the following:

Information: Contracting authorities must prepare an annual indicative notice of total procurement by product area, that they envisage awarding during the subsequent 12 months, if they take the option of shortening the established time limits for the receipt of tenders. Annual indicative lists and any contract whose estimated value exceeds specific thresholds are published in the Official Journal of the European Communities. Tenders must indicate which of the permitted award procedures is chosen (open, restricted or negotiated) and specify objective selection and award criteria. Contracting authorities must also make known the result of the tender procedure through a notice in the Official Journal of the European Communities. Provisions setting minimum periods for the bidding process ensure effective opportunity of interested parties to participate in the tender.

Remedies: Member States must provide appropriate judicial review procedures of decisions taken by contracting authorities. In particular, they must provide for the possibility of interim measures, including the suspension of procedures for the award of public contracts, for setting aside decisions taken unlawfully and for awarding damages to parties affected by the infringement. The EU Directives require that these procedures be effectively and quickly enforced. Effectiveness and speed may however be difficult to judge in practice, given the diversity of judicial systems across EU member states.

Non-discrimination: This principle, applicable among EU member states, is set by the Treaty of Rome which prohibits any discrimination or restrictions in awarding contracts on the grounds of nationality and prohibits the use of quantitative restrictions on imports or measures with equivalent effect.

Use of international standards: EU rules require the use of recognised technical standards in defining specifications, with European standards taking precedence over national standards. Progress on this front can be found in the single classification system for public procurement established to standardise the terminology contracting authorities and entities employ in their contracts.

In May 2000 the European Commission introduced proposals aimed at consolidating and modernising the regulatory framework on public procurement. Their main features are the consolidation of the directives on public works, supplies and services into a single text; incentives for a wider use of information technologies in public procurement; and an improved and more transparent dialogue between awarding authorities and tenderers in determining contract conditions.

Source: Useful comments on current developments in EU rules on government procurement were provided by the Government of Slovenia. Public Procurement Network (PPN) (2006), EU Rules, PPN.

Public procurement actions rising above international thresholds are posted to the European Union public procurement website. These thresholds have been transposed into national public procurement legislation from the Directive 2004/18/EC and Directive 2004/17/EC, which foresees that the Commission may adjust them in accordance with the GPA, and publish updated thresholds in the Official Journal of the European Union (Communication Regulation No. 1422/2007). For central government bodies subject to the GPA, the current applicable thresholds are EUR 133 000 for supplies and services and EUR 5 150 000 for works. In case of public sector contracting authorities, the thresholds are EUR 206 000 for supplies and services and EUR 5 150 000 for works. Utilities contracts are subject to publication threshold values of EUR 412 000 for supplies and services and EUR 5 150 000 for works.

Slovenian public procurement authorities indicate that Slovenia is among the countries allowing foreign suppliers to join bidding on public procurement even when they are below international thresholds. Slovenian authorities also go beyond international obligations by publishing tenders for some government procurements in the EU government procurement system, despite their being below international thresholds. According to public procurement officials in Slovenia, this practice does seem to reduce the cost of procurements to which it is applied. A general difficulty experienced in the Slovenian government procurement market is that rules applied in bidding processes are strongly weighted to price comparisons as opposed to assessing the reputation of suppliers and the quality of their work. A number of public works procurements have been awarded to companies that have submitted what some consider “low ball” bids (i.e. bids that are too low to be economically viable), only to renegotiate the value of their contracts upwards once work has progressed to a point where changing suppliers would be difficult.

2.2 Measures to ensure non-discrimination

The application of the non-discrimination principles, Most Favoured Nation (MFN) and National Treatment (NT), in drafting and implementing regulations aims at providing equality of competitive opportunities between like goods and services irrespective of country of origin and thus at maximising efficient competition in the market. In theory, the application of the MFN principle would mean that all foreign producers and service providers seeking entry to the national market be given equal opportunities. The national treatment principle would mean that foreign producers and service providers are treated no less favourably than domestic producers and service providers. The extent to which these two core principles of the multilateral trading system are actively promoted when developing and applying regulations is a helpful gauge of a country’s overall efforts to promote a trade and investment-friendly regulatory system.

To derive maximum benefit from market openness, OECD best practice supports applying these principles to all trade partners independent of WTO membership. Yet, integration of these two basic principles into relevant legislative acts is often insufficient. For the regulatory principle of non-discrimination to provide equal competitive opportunities for like-goods and services from all sources, both domestic and foreign, the regulators themselves must consistently support them.

In the area of trade, Slovenia has acted in accordance with the principle of MFN particularly during the early period after its independence following 1991. Prior to its memberships in the European Union, the Law on Customs Tariff applied the same tariff on identical goods from all countries, even in cases where such countries maintained

discriminatory trade practices *vis-à-vis* Slovenia. Upon accession to the WTO, Slovenia's goods schedule included bound tariffs on an MFN basis for all products and all countries. Ratification of the Uruguay Round agreements in 1995 made the MFN principle a part of the domestic legal system. Following accession to the European Union, Slovenia implemented non-discrimination principles in accordance with WTO as well as EU approaches.

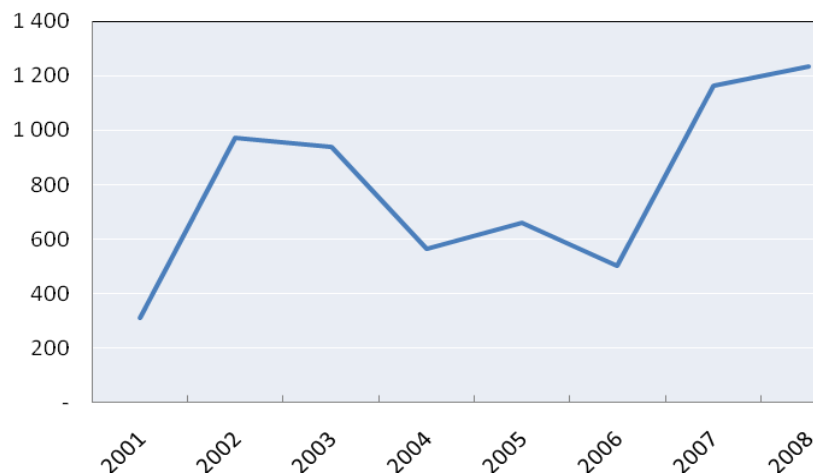
The following sections review progress in non-discrimination by examining two further areas of the regulatory system. The first looks at investment and restrictions on entry and operations of foreign firms and the second reviews preferential trading agreements.

Restrictions on entry and operations of foreign firms

Slovenia's substantial trade with Western Europe and operation of parts of the economy on a for profit basis well before 1991 meant that adjustment to a more open trade and investment policy regime was less difficult than in many of its neighbouring economies. It also has a number of advantages as an investment destination including excellent infrastructure, a major port on the Adriatic Sea and a highly educated work force.

Figure 6. Growth in FDI Inflows, 2001-2008

In millions of USD



Source: OECD (2009a), p 7.

Fiscal incentives apply to domestic and foreign investors alike. Other financial incentives to foreign investors are granted pursuant to the *Act on Attracting Foreign Direct Investment and Internationalisation of Companies* of 2004 and the *Decree on Fiscal Incentives for Foreign Direct Investments 2007* (as amended in 2009). Incentives are provided through the *Foreign Direct Investment Cost Sharing Grant Scheme* which has been in place since 2000 and seeks to encourage foreign direct investment. Inward FDI doubled during 2001-03, rising to nearly 4% of GDP in 2003. A substantial increase in inward FDI flows was recorded for 2007 which at EUR 1064.9 million represented the largest annual inward flow since 2002.

Relatively few formal sectoral restrictions apply to foreign investment in Slovenia. There are some formal restrictions on foreign investment in sectors considered strategic or of special significance (e.g. the military supply industry, gaming, and budget-financed pension and health insurance).¹⁶ A consistent priority of Slovene governments has been to increase inward FDI. Important steps in achieving this aim included the adoption of the *Programme of the Government of the Republic of Slovenia for attracting Foreign Direct Investment for the Period 2005 – 2009* and the establishment of the *Public Agency of the Republic of Slovenia for Entrepreneurship and Foreign Investments* (JAPTI). The implementing agency of the Ministry of the Economy for policies in the area of foreign investment, JAPTI is a one stop agency for foreign investors (www.investslovenia.org).

Slovenian authorities consider non-discrimination a fundamental regulatory principle. They pursue this principle *via* efforts to maintain a regulatory framework treating domestic and foreign legal entities equally. The Programme, indicated above, includes specific commitments to provide a level playing field in the areas of privatisation, public procurement and public-private partnership.

Foreign investors conducting business in Slovenia have the same rights, obligations, and responsibilities as domestic companies. The *Company Act* establishes the principle that once a company is registered, it becomes a Slovene legal entity regardless of the origin of its capital “unless otherwise provided by applicable legislation”. In the legislation, departures from this principle are largely limited to the banking and insurance sectors in relation to capital account and branching requirements,¹⁷ and particularly in relation to exploitation of natural resources.¹⁸

Preferential agreements

Regional trading arrangements (RTAs)¹⁹ are necessarily discriminatory as they normally involve trade and investment liberalisation with respect to parties joining the agreements and the market opening is not equally applied to non-parties. Thus, RTAs represent a departure from the principles of MFN and NT. Growth in the numbers of RTAs over recent years has reached a level where economies such as Switzerland no longer view negotiating RTAs as strategy to gain preferential access to the markets. Negotiating RTAs is now considered an approach to removing discrimination against domestic firms competing in foreign markets.²⁰

As a member of the European Union, Slovenia’s RTAs are defined by that relationship. Slovenia is part of the EU internal market that effectively removes barriers to trade among its members. It is also part of all the trade agreements that the European Union has negotiated with non-EU members. Information on these agreements is made available at the international level in a number of ways. Firstly, information on all RTAs entered into by the European Union can be found on the Bilateral Trade Relations website of the European Commission.²¹ The full text of the agreements is also available online through the Treaties Office Database of the European Commission.²² A variety of publications and fact sheets relating to preferential trade agreements are prepared by the European Commission for dissemination on the Bulletin of the European Union website.²³ The European Community notifies all preferential trade agreements to the WTO Committee on Regional Trade Agreements under Article XXIV of the GATT or Article V of the GATS. The CRTA then conducts reviews during which third countries are able to comment and to submit questions on them.

Box 5. Individual EU members can impact EU trade policy

The EU trade negotiations are prepared and conducted by the European Commission within the scope of the mandate that is given to the Commission by the Council of the European Union which represents the EU members. EU members are nevertheless able to individually pursue their interests within the processes of EU trade negotiations. Individual EU members are able to present official positions to the Commission and the EU membership as a whole by circulating working documents and taking the floor during the weekly trade policy co-ordination meetings of the competent Committee of the Council (the Article 133 Committee).

EU members are also able to forward positions at expert meetings related to EU trade negotiations. These *ad hoc* meetings are convened in Brussels to discuss specialised topics, for example ongoing trade negotiations with an EU trade partner or on a specific topic relating to several negotiations presently under way. They allow experts from the capitals of EU members to introduce their positions in detail before the Commission and other EU members.

EU members may also directly contact European Commission officials responsible for the trade negotiations of specific interest. As the conduct of trade negotiations falls under the competence of the Commission within the limits of the mandate given by the Council, individual EU members are normally unable to participate in actual negotiations with EU trade partners. Nevertheless, in some cases, particularly where negotiations cover subject matter falling under the competence of EU members, representatives of the EU members may join such meetings as observers. In this case, the conduct of the negotiations fall under the competence of the Presidency within the limits of the position agreed by the Member States.

Source: Developed with inputs from the Governments of Estonia and Slovenia.

Slovenia's relatively small size does not prevent it from engaging in trade policymaking at the EU level (Box 6), and supporting outcomes in favour of a national trade policy objective for a more open EU trading regime. In one example, Slovenia, together with eleven EU members, sought to curtail the extension of anti-dumping measures against imports of integrated electronic compact fluorescent lamps from China, Vietnam, Pakistan and the Philippines. In this instance, substantial efforts by twelve EU member states together with a strong Community interest in broadening the use energy efficient fluorescent lamps resulted in a one year cap placed on the extension of the measure.²⁴ In another case, Slovenia made significant efforts to support a reduction in the EU tariff on imports of un-alloyed aluminium needed by its small- and medium-sized enterprises (Box 6).²⁵ In both cases, Slovenian efforts supported greater liberalness in the EU trading regime.

Before EU accession, Slovenian goods had preferential access to the market of Bosnia and Herzegovina. After EU accession, Slovenia's market access deteriorated as its exports faced full MFN duties on exports to the Bosnian market. To ameliorate this situation, Slovenia strived within the European Union for a *Stabilisation and Association Agreement with Bosnia and Herzegovina*. Once the negotiations were under way, Slovenia was able to introduce its priority liberalisation list of industrial, agricultural, processed agricultural and fishery products within negotiations between the European Union and Bosnia and Herzegovina. This list was informed by the tariff reduction schedule and trade flows recorded under the original FTA between Slovenia and Bosnia and Herzegovina. This contributed to an EU proposal for liberalisation that was greater than otherwise would have been the case, albeit within a regional context.

Box 6. Aluminium tariffs

Enlargement of the European Union in 2004 increased the market potential for small- and medium-sized enterprises (SMEs) using unwrought (non-alloyed) aluminium for the production of semi-finished and finished industrial goods. Many such SMEs are based in Slovenia. The majority of non-alloyed aluminium producers existing within the Community and in countries benefitting from preferential tariffs from the European Union belong to major industrial holdings outside the European Union. The aluminium produced in these plants is primarily used for further transformation within companies linked to these holdings and other large customers. Thus, the market for non-alloyed aluminium is very constrained for SMEs at a time when high energy prices and a shortage of raw aluminium make increasing EU production uneconomic. These factors significantly increase the prices SMEs must pay for aluminium. Customs duties of 6% for this raw material reduce the competitiveness of SMEs, in some cases even putting at risk their ability to survive. Such a situation could reduce competition for semi-finished aluminium products on this market and negatively impact employment in the Community, including in some rural areas of the new EU members. Efforts by Slovenian officials to reduce the non-alloyed aluminium tariff contributed to the EU decision to temporarily reduce the customs duty to 3%, thus allowing SMEs to reduce their costs and to increase competitiveness.

A review to decide whether to extend this temporary duty reduction is scheduled to take place in 2009.

Source: Government of Slovenia.

2.3 Measures to avoid unnecessary trade restrictiveness

Even when regulations are applied in a non-discriminatory manner, market openness can still deviate from its optimal level if regulatory measures are more restrictive *vis-à-vis* trade and investment than is necessary to achieve their intended policy goals. In these cases the objectives, design or implementation of regulations may be set in a way that creates unnecessary impediments to the free flow of goods, services or investment. Such negative effects can originate from poor regulatory quality and the absence of regulatory mechanisms to assess the impact that regulations have on market openness. Unnecessary restrictions on trade may be reduced if regulators examine the trade effects of proposed and existing regulations and give preference to regulatory measures and solutions that lead to the achievement of economic and societal objectives, but at the same time minimise disturbances on the flow of trade and investment.

OECD governments most commonly employ several tools and mechanisms to ensure that regulations effectively avoid unnecessary trade restrictiveness. Examples include the use of management- or performance-based regulation rather than design standards regulations. Enterprises generally find it easier and less costly to comply with regulations that specify product requirements in terms of performance rather than design or descriptive characteristics. Another tool is to conduct regulatory impact assessments (RIAs). At a conceptual level, an RIA requires regulators to ask whether regulation is the most appropriate means to achieve the desired policy outcome. An RIA also involves a systematic process of identification and quantification of important benefits and costs likely to flow from the adoption of a proposed regulation or a non-regulatory policy option under consideration. It may be based on benefit/cost analysis, cost effectiveness analysis, or business impact analysis. A third tool is administrative simplification. The simplification initiatives that aim to reduce administrative burdens on enterprises are also important ways for governments to minimise the trade restrictiveness of regulations.

Assessing the impact of regulations on trade

Unnecessarily burdensome regulations disproportionately impact market openness. Although such regulations and administrative practices or “red tape” may affect domestic and foreign enterprises without distinction when viewed from the perspective of the regulator, they normally impact foreign trade and investment more significantly. This is because local enterprises generally have an advantage due to their knowledge of local customs and circumstances. While large foreign firms are often able to overcome unnecessarily restrictive rules and regulations due to their more substantial resource base, small and medium-sized enterprises (SMEs) are particularly disadvantaged due to limited resources and administrative capacities. The impact of red tape on foreign SMEs is compounded not only by size, but also by lack of familiarity with local business and regulatory culture. For this reason, the input of foreign SMEs should, to the extent possible, be elicited to support the development of domestic rules and regulations.

The regulatory environment Slovenia provides for business compares favourably against norms for countries in its region and the BRIICS, but remains behind that of the OECD based on the World Bank’s Doing Business index (Table 2). Regulatory reform to improve the business environment in Slovenia is multifaceted; it includes a strong eGovernment component and a requirement for RIAs to be conducted for all new regulations. The implementation of RIAs by differing government bodies has been uneven and the Ministry of Public Administration has undertaken a number of initiatives to enhance the overall quality of RIAs. Efforts by Slovenian regulators to reduce administrative burdens include notable achievements at the EU level. As part of continued efforts to improve the quality of the regulatory environment for business, the Slovenian authorities may wish to consider inclusion of trade and investment impact assessment as a routine element in Slovenia’s RIAs and launching a review of existing regulations.

Table 2. Doing Business, 2008

Ranking of 181 countries¹

Countries	Slovenia	Eastern Europe	BRIICS	OECD
Ranking	54	76.2	101.8	27.3

The region “Eastern Europe and Central Asia” is defined as including: Albania; Armenia; Azerbaijan; Belarus; Bosnia and Herzegovina; Bulgaria; Croatia; Estonia; Georgia; Kazakhstan; Kyrgyz; Republic; Latvia; Lithuania; Macedonia, FYR; Moldova; Montenegro; Poland; Romania; Russian Federation; Serbia; Slovenia; Tajikistan; Turkey; Ukraine; and Uzbekistan

Source: World Bank (2009), *Doing Business*.

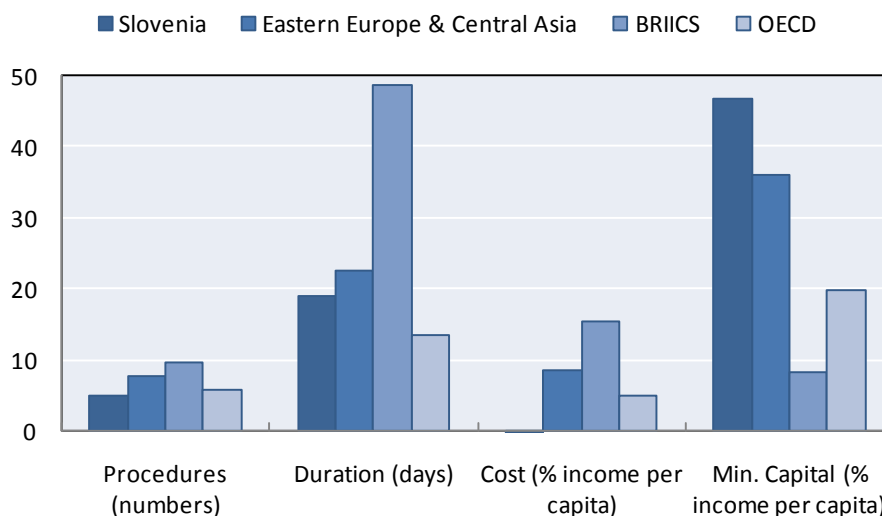
IT is employed by Slovenia’s programme of reducing administrative burdens in two ways. The first is through a special team at the Ministry of Public Administration working to create IT based solutions to streamline administrative procedures. It is responsible for reviewing all new proposed secondary regulations and reducing unnecessary administrative burdens where possible. The second is as part of an ongoing process in which stakeholders from the private sector and civil society are welcomed to submit proposals for reducing administrative burdens. The best proposals gathered are integrated within the programme for the removal of administrative burdens, which includes clearly defined measures, activity leaders and deadlines. This programme has yielded reforms including the abolition of vehicle registration labels and a number of unnecessary

procedures and application forms. It also led to the introduction of “one-stop-shops” allowing small companies to complete registrations in a few hours free of charge (Figure 7).

Similarly, a website titled “[e-SJU](#)” or *Electronic Services of Public Administration* was established in the first half of 2006 with the objective of creating a one-stop shop for all government forms and documents. The e-SJU portal is part of the renewed state portal [e-Uprava](#) described in Box 2. The objective of e-SJU is to provide all government forms on the internet through a single portal. Forms currently published on e-SJU appear in various formats for the convenience of citizens, and the system includes descriptions of over 400 different services and 350 forms. The number of government bodies covered by e-SJU portal is expanding but remains under development.

Slovenian regulators in the field of reducing administrative burdens follow a principle that “what must travel from one institution to another should be data, not our citizens.” In pursuing this ideal, the major challenge to further progress is that of creating interoperability between the diverging IT infrastructures across domestic government bodies. The challenge of integrating varied IT infrastructures resulting from inconsistent IT strategies adopted for dissimilar fields of regulation is one that many national governments are currently facing. Slovenian authorities are developing a national interoperability framework to establish common standards and identify common solutions to provide for interoperability across the IT systems of government bodies.

Figure 7. Starting a Business, 2008



Source: World Bank (2009), Doing Business.

A differing facet of the domestic programme to reduce administrative burdens is that of requiring the conduct of RIAs for all new regulations and government acts including draft legislation for implementing EU directives. The Sector for Administrative Procedures and Reduction of Administrative Burdens within the Ministry of Public Administration is the central body responsible for overseeing the implementation of RIAs. The key regulatory instrument applied by the Slovenian RIA is the *Statement on*

the reduction of administrative burdens and participation of interested publics, that government bodies are required to apply to all draft regulations.²⁶ The Statement is a checklist of questions designed to enable consistent and systematic assessment of all draft legislation for quality, i.e. the extent to which they pursue a legitimate regulatory objective in the least burdensome manner *vis-à-vis* the public and businesses. The questions posed in the Statement require regulators to assess administrative burdens produced by regulations, and to consider whether regulatory alternatives are possible. In support of this effort, the Statement requires that the transparency measures applied in drafting new laws be recorded as part of the RIA; this includes time periods that draft regulations were available on the internet and the list of private and civil society organisation consulted. The Statement's requirement for regulators to explain why comments resulting from the consultation process were or were not taken into account in the final regulations is an example of best practice in design of RIAs.

The Government has adopted the "Resolution on Normative Activities" which is a strategic political document addressing Tools for Better Regulation (e.g. RIA, reduction of administrative burdens and participation of interested publics). Regulatory impact assessments will eventually be obligatory for all draft legislation. Currently under consideration are amendments to the *Rules of Procedures of the Government* to strengthen requirements for regulators to apply RIA processes. A *Handbook for Conducting Impact Assessments* is being prepared to provide regulators with a better understanding of the manner in which regulations create regulatory burdens on businesses and the public. While not explicitly covering trade and investment impacts, the Handbook will encourage assessment of the economy wide implications. It also specifically encourages regulators to consider the impact of proposed legislation on SMEs, reduction of administrative burdens and on competition. Systematic training of regulators – civil servants – across the government is scheduled to begin in 2009.

In the pursuit of national economic interests, Slovenian officials have helped to significantly reduce what would have been unnecessary trade restrictiveness in EU regulations on chemicals (Box 8). The RIA entailed by this exercise reflected OECD best practices in a number of ways. In this example, a team of officials from Slovenia and Malta introduced a proposal to improve an early draft of the EU REACH (Registration, Evaluation, Authorisation of Chemicals) regulation. This proposal reduced data reporting requirements for low volume chemicals allowing them to continue to be produced and consumed in the European Union, without compromising regulatory objectives concerning safety and environment.

Experts at the Ministry of Public Administration are aware of shortcomings in the use and application of RIAs and are actively developing and implementing measures to address this issue. Data evaluated as part of the present review suggests that existing regulations and incomplete regulatory frameworks in certain sectors remain an obstacle to greater foreign investment into Slovenia.²⁷ A useful means by which OECD countries have addressed such a situation is to administrate RIAs systematically on existing stocks of regulations, including by sector. When considering approaches to further improving the quality of Slovenia's regulatory environment, thought should be given to making assessment of international trade and investment impacts a standard part of RIAs. A regulation can attain a specified environmental objective and be administratively unburdensome, and yet significantly impact international trade and investment thereby potentially defeating other regulatory objectives including social ones.

When considering further means to improve the efficiency of the domestic regulatory framework, regulators in Slovenia may consider the significant body of OECD work on regulatory reform, endorsed in the *1995 Recommendations of the Council of the OECD on Improving the Quality of Government Regulation* and re-affirmed in the *2005 Guiding Principles for Regulatory Quality and Performance*. OECD experience with reviews of regulatory reform in OECD countries find that integrating assessments of the impact of proposed and existing regulations have on foreign trade and investment *via* co-ordination between trade and regulatory agencies, is an important way to improve an economy's entire regulatory framework *vis-à-vis* foreign trade and investment.

Box 4. Reducing unnecessary trade restrictiveness in the REACH regulation

Slovenia was actively involved in the conclusion of the REACH (Registration, Evaluation, Authorisation of Chemicals) regulation from the period of the Dutch EU Presidency in 2004 until its establishment in 2006. A Slovenian official participating in the REACH discussions at the Council in the capacity of expert also acted as a spokesperson within the process. The circumstances were fortuitous as the REACH dossier was a highly technical one. Collaboration between the Slovenian and a Maltese official began in part due to the relatively small size of the two countries, which allowed them to move rapidly within the negotiations. This important advantage contrasted with the situation of officials from larger countries facing ponderous domestic inter-ministerial processes necessary to develop national positions. Experts from both countries identified early on an imperfection within the Commission's proposed regulation, which was that of unbalanced data requirements for low volume chemicals. The proposed REACH regulation required the provision of considerable data on chemicals for use in the EU regardless of the volumes consumed. Linear application of data requirements would have made certain types of low volume chemicals uneconomic, i.e. their production would be abandoned. The two experts prepared an alternative proposal that after initial presentation to the European Commission developed support from other EU countries and subsequent EU Presidencies. Consultations were then initiated with stakeholders including civil society organisations and various national chambers of commerce. Known informally as the "Maltese-Slovene Proposal", influential members of the European Parliament came to support the proposal as a viable amendment to the draft REACH regulation. The proposal was eventually adopted within a UK compromise known as the "registration package" forming part of the final REACH regulation.

The proposal bridged the interest of industry and environment as it was scientifically sound and at the same time pragmatic. This was the first example of Slovenia playing such an active role within the process of adopting a new EU regulation. The proposal applied expert knowledge in accounting for comments received from all categories of stakeholders from environment, business and consumers within its final draft. The proposal was also informed by an economic impact assessment of the number of low volume chemicals that would disappear from the EU market under the proposed REACH regulation. The proposal addressed the regulatory objectives of safety and environment targeted by the original data requirements, in a manner that saved low volume chemicals from extinction.

Source: Government of Slovenia and Public Affairs News (2006), "Lessons from REACH", in Public Affairs News, January, London.

Example of customs procedures

More clearly than in other areas, declining tariffs worldwide have made arbitrary or excessively burdensome administrative requirements in the area of customs a focus of attention in international trade negotiations. Increased customs efficiency serves to reduce costs related to border fees and often, more importantly, reduces delays at borders that create inefficiencies, a concern that has grown in importance as product cycles have shortened. Slovenia performs well in this regard, but there may be a potential for further gains, especially in terms of consistency in the application of new rules.

By a clear but small margin, Slovenia leads its regional and BRIICS averages for every indicator in the World Bank's Trading Across Borders index (Table 3). It nonetheless remains behind the OECD averages. The Slovenian Customs Administration seeks to keep its domestic customs regime harmonised with EU legislation which saw in 2008 the introduction of a new revised Community Customs Code. The new Code provides for gradual implementation of IT solutions for all customs procedures and was complemented by a decision for all EU members to implement paperless customs procedures. Over time, the customs administrations of all EU members should also foster development of their IT systems in a manner to allow for all European customs administrations to be electronically interlinked.

Table 3. Trading across borders, 2008

	Slovenia	Eastern Europe & Central Asia	BRIICS	OECD
Documents for export (number)	6.0	7.1	7.0	4.5
Time for export (days)	20.0	29.7	21.5	10.7
Cost to export (USD per container)	1075.0	1649.1	1095.7	1069.1
Documents for import (number)	8.0	8.3	8.2	5.1
Time for import (days)	21.0	31.7	24.5	11.4
Cost to import (USD per container)	1130.0	1822.2	1120.0	1132.7

Source: World Bank (2009), *Doing Business*.

The Slovenian Customs Service considers its organisational objective as one of developing IT solutions to accelerate and automate customs procedures without compromising security in international trade or collection of national and international statistics on trade. Towards this end, it often consults with the public and private sectors when introducing new IT systems and regularly provides updates to its website on such changes. The Customs Service also consults with enterprises to foster the development of their IT systems in a manner compatible with that of the Customs Service.

This active and targeted IT based approach to improving customs results from the steady increases in goods trade with the neighbouring countries and that of goods transiting through Slovenia. These increasing flows of goods across Slovenian borders led to a decision by the Customs Administration in 2007 to accelerate customs procedures through use of IT solutions. The decision led to the establishment of fully paperless 24-hour facilities allowing for interconnection between the IT systems of the Customs Service and those of private enterprises. The large costs required for such a linkage means that smaller companies often continue to carry out their customs operations through customs representatives.

The IT based reforms implemented since 2007 have improved the customs process. Traders are now able to file customs declarations entirely online. The customs administration applies risk analysis to declarations upon receipt and informs traders directly through their IT systems if any customs measures are to be applied. These measures may include requests for the inspection of documentation and goods, additional document checks and others. In cases where companies dispatch goods from a location different from that of the filing, the customs branch office nearest to the loading location can perform goods inspections. At the border, exit formalities are performed by customs officers *via* bar-code scanner linked to the customs IT system. Following the exit of

goods from the customs clearance system, traders receive e-mails serving exit certificates that may be used to claim VAT exemptions.

Gains in the efficiency of customs procedures have been supported by implementation of a pan-European risk analysis system. The system selects up to one percent of goods shipments for physical examination, a figure vastly lower than under Slovenia's pre-risk analysis regime. The risk analysis system is reliant on exchanges of risk information among customs authorities of EU members. Customs officers enter risk-related information within the electronic system including descriptions of risk, risk indicators, and information on the nature of customs control that custom authorities apply at various levels of risk. The national risk analysis centre then uses this pool of information to evaluate the risk posed by individual shipments. All electronic customs declarations are assessed for risk and the results of the risk analysis are constantly monitored against feedback from the field. Every three months, a review risk system is performed to assess its effectiveness.

2.4 Encouraging the use of internationally harmonised measures

The application of different standards and regulations²⁸ for like products in different countries – often explained by natural and historical reasons relating to climate, geography, natural resources or production traditions – confronts firms wishing to engage in international trade with significant and sometimes prohibitive costs. There have been strong and persistent calls from the international business community for reform to reduce the costs created by regulatory divergence.²⁹ One way to achieve this is to rely on internationally harmonised measures, such as international standards, as the basis of domestic regulations, when they offer an appropriate answer to public concerns at the national level. The use of internationally harmonised standards has gained prominence in the world trading system with the entry into force of the WTO TBT and SPS Agreement, which encourages countries to base their technical requirements on international standards and to avoid conformity assessment procedures that are stricter than necessary to attain regulatory objectives.³⁰

Slovenia essentially adopts modern EU and other internationally harmonised standards directly or as the basis for domestic standards (Box 9). This policy is coherent with that of the former Yugoslavia which itself maintained a policy of adopting internationally harmonised standards. Within Slovenia, an *Inter-ministerial working group for notification and the non-harmonised area* exists which through regular meetings promotes the harmonisation of non-harmonised domestic standards towards international ones. The legal basis for its work is contained in the Standardization Act (O.J. RS, No. 59/99), which indicates that the development of standards in Slovenia will be based on the following principles:

- The right of voluntary participation and contribution by all interested parties in the preparation and adoption of the Slovenian national standards, and voluntary use of the Slovenian national standards;
- Consensus, meaning general consent of a significant part of interested parties to the contents of the Slovenian national standards;
- Preventing predomination of individual interests over common interest of the interested parties;

- Transparency of work and public availability of the Slovenian national standards;
- Coherence of the Slovenian national standards;
- Taking into account the state of the art and the rules of the International and European standardizations.”

In concrete terms, more than 99% of Slovenian industrial standards are aligned to international ones and all standards relied upon by Slovenia in the agricultural area are based on international ones. Of the 27 000 standards applied in Slovenia as of December 2008, only 50 having primarily to do with building safety were not internationally harmonised. In the area of agricultural standards, officials explain that Slovenia does not have its own sanitary and phytosanitary standards *per se*, but relies on the internationally harmonised standards of the European and Mediterranean Plant Protection Organisation (EPPO), and the ISPM standards of the International Plant Protection Convention. Authorities also indicate that all standards relating to submission and evaluation of data for registration of plant protection products are aligned towards international ones. A recent case of Slovenia adopting a standard that was not internationally harmonised was in the area of information technology in relation to the layout of characters for a Slovenian language keyboard for computers. After its notification and comment period under the TBT Agreement, the Slovenian Technical Committee adopted this standard.

Box 5. Harmonisation in the European Union:¹ the New Approach and the Global Approach

The need to harmonise technical regulations when diverging rules from Member States impair the operation of the common market was recognised by the Treaty of Rome in Articles 100 to 102 on the approximation of laws. By 1985 it had become clear that relying only on the traditional harmonisation approach would not allow the achievement of the Single Market. As a matter of fact, this approach was encumbered by very detailed specifications which were difficult and time consuming to adopt at the political level, burdensome to control at the implementation level and requiring frequent updates to adapt to technical progress. The adoption of a new policy towards technical harmonisation and standardisation was thus necessary to actually ensure the free movement of goods instituted by the Single Market. The way to achieve this was opened by the European Court of Justice, which in its celebrated ruling on *Cassis de Dijon*² interpreted Article 30 of the EC Treaty as requiring that goods lawfully marketed in one Member State be accepted in other Member States, unless their national rules required a higher level of protection on one or more of a short list of overriding objectives. This opened the door to a policy based on mutual recognition of required levels of protection and to harmonisation focusing only on those levels, not the technical solution for meeting the level of protection.

In 1985 the Council adopted the “**New Approach**”, according to which harmonisation would no longer result in detailed technical rules, but would be limited to defining the essential health, safety and other³ requirements which industrial products must meet before they can be marketed. This “**New Approach**” to harmonisation was supplemented in 1989 by the “**Global Approach**” which established conformity assessment procedures, criteria relating to the independence and quality of certification bodies, mutual recognition and accreditation. Since the **New Approach** calls for essential requirements to be harmonised and made mandatory by directives, this approach is appropriate only where it is genuinely possible to distinguish between essential requirements and technical specifications; where a wide range of products is sufficiently homogenous or a horizontal risk identifiable to allow common essential requirements; and where the product area or risk concerned is suitable for standardisation. Furthermore, the **New Approach** has not been applied to sectors where Community legislation was well advanced prior to 1985.

On the basis of the New Approach manufacturers are only bound by essential requirements, which are written with a view to being generic, not requiring updating and not implying a unique technical solution. They are free to use any technical specification they deem appropriate to meet these requirements. Products that conform are allowed free circulation in the European market.

For the New Approach, detailed harmonised standards are not obligatory. However, they do offer a privileged route for demonstrating compliance with the essential requirements. The elaboration at European level of technical specifications which meet those requirements is no longer the responsibility of the EU government bodies but has been entrusted to three European standardisation bodies mandated by the Commission on the basis of General Orientations agreed between them and the Commission. The CEN (European Committee for Standardisation), CENELEC (European Committee for Electrotechnical Standards) and ETSI (European Telecommunications Standards Institute) are all signatories to the WTO TBT Code of Good Practice. When harmonised standards produced by the CEN, CENELEC or ETSI are identified by the Commission as corresponding to a specific set of essential requirements, the references are published in the Official Journal. They become effective as soon as one standards body has transposed them at the national level and retracted any conflicting national standards. These standards are not mandatory. However conformity with them confers a presumption of conformity with the essential requirements set by the New Approach Directives in all Member States.

The manufacturer can always choose to demonstrate conformity with the essential requirements by other means. This is clearly necessary where harmonised European standards are not (or not yet) available. Each New Approach directive specifies the conformity assessment procedures to be used. These are chosen among the list of equivalent procedures established by the Global Approach (the so-called “modules”), and respond to different needs in specific situations. They range from the supplier’s declaration of conformity, through third party type examination, to full product quality assurance. National public authorities are responsible for identifying and notifying competent bodies, entitled to perform the conformity assessment, but do not themselves intervene in the conformity assessment. When third party intervention is required, suppliers may address any of the notified bodies within the European Union. Products that have successfully undergone appropriate assessment procedures are then affixed the CE marking, which grants free circulation in all Member States, but also implies that the producer accepts full liability for the product.⁴

The strength of the New Approach and the Global Approach lies in limiting legal requirements to what is essential while leaving to the producer the choice of the technical solution to meet this requirement. At the same time, by introducing EU-wide competition between notified bodies and by building confidence in their competence through accreditation, conformity assessment is distanced from national control. The standards system, rather than being a means of imposing government-decided requirements, is put at the service of industry to offer viable solutions to the need to meet essential requirements, which however are not in principle binding. The success of the New and Global Approaches in creating a more flexible and efficient harmonised standardisation process in the European Union depends heavily on the reliability of the European standardisation and certification bodies and on the actual efficiency of control by Member States. First, European standardisation and certification bodies need to have a high degree of technical competence, impartiality and independence from vested interests, as well as to be able to elaborate the standards necessary for giving concrete expression to the essential requirements in an expeditious manner. Second, each Member State has the responsibility to ensure that the CE marking is respected and that only products conforming to the essential requirements are sold on its market. If tests carried out by a notified body are cast in doubt, the supervisory authorities of the Member State concerned should follow this up.

Recent developments

Lessons learned from previous revisions of New and Global Approach and their implementation have been joined by new measures in 2008. These measures are known as the “New legal framework” or the New package for goods” consisting of three legal acts.

- Regulation (EC) No 764/2008 of the European Parliament and of the Council of 9 July 2008 laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State and repealing Decision No 3052/95/EC
- Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008

setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93

- Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC

This package establishes market surveillance structures designed to detect and remove unsafe products from the EU market, and supports actions against fraudulent goods. The testing, certification and inspection bodies are now subject to more stringent controls in the form of accreditation, in order to ensure a level playing field for manufacturers and the bodies themselves.

A new measure will clarify the definitions of commonly used terms such as “manufacturer, distributor and authorised representative” thereby identifying the responsibilities of each in relation to specific products. Decision 768/2008 will be integrated within the EU legal framework as sectoral specific directives are revised and updated. The new rules seek to enhance confidence and trust in the CE marking thus increasing transparency and strengthening the system.

It should be noted that not all goods fall under Community legislation and approximately one quarter of all intra-Community trade is not covered by harmonised rules. Many companies continue to encounter difficulties when selling their products in Member States other than their own, and are thus discouraged from venturing beyond their domestic market due to burdens relating to proving fulfilment of technical requirements in destination Member States. Regulation 764/2008 shifts the burden of proof that products do not conform to importing Member States. This facilitates trade in covered goods making it easier for manufacturers to access new markets, thereby promoting intra-community trade.

1. See Dennis Swann (1995), *The Economics of the Common Market*, Penguin Books; European Commission *Documents on the New Approach and the Global Approach*, III/2113/96-EN; European Commission, DGIII Industry, *Regulating Products. Practical experience with measures to eliminate barriers in the Single Market*; ETSI, *European standards, a win-win situation*; European Commission, *Guide to the implementation of Community harmonisation directives based on the new approach and the global approach* (first version), Luxembourg 1994.

2. Decision of 20 February 1979, Cassis de Dijon, Case 120/78, ECR, p. 649.

3. Energy-efficiency, labelling, environment and noise

4. See the Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the liability for defective products

Source: The “Recent Developments” section was provided by and the Government of Slovenia. Swann (1995), European Commission (1994, 1996a, b) and ETSI (1996).

2.5 Streamlining conformity assessment procedures

Conformity assessment refers to measures taken to assess the conformity of products, processes and services to specific requirements or standards. These procedures may have the effect of facilitating trade, or they may create a technical barrier to trade. Public policy objectives like health, safety and the environment often require rigorous and careful conformity assessment procedures. When designed in a manner that considers the costs and time burdens born by producers, these procedures facilitate market openness by increasing consumer confidence in imported products. Likewise, firms are likely to regain the invested costs, as their ability to demonstrate that their products and services meet these strict requirements can lead to high consumer confidence and increased sales.

Although reliance on internationally agreed standards has been increasing, many internationally traded goods continue to be subject to specific testing and certification procedures in importing countries. Reducing multiple assessment procedures can considerably cut down trade transaction costs. Different procedures and mechanisms have been developed in OECD countries to facilitate acceptance of conformity assessments

conducted by foreign conformity assessment bodies as equivalent as those conducted by domestic ones. Such mechanisms include mutual recognition agreements (MRAs) and suppliers' declaration of conformity (SDoCs). By concluding sectoral MRAs, trading partners agree to mutually accept conformity assessments carried out by accredited conformity assessment bodies located in partner countries for a sub-set of products or services.

SDoCs are a more flexible approach leaving the producers to choose the modalities of conformity assessment with technical requirements. These suppliers' declarations of conformity are usually based on in-house procedures or implemented by private organisations and are normally limited to low risk products. SDoC regimes are regularly supported by post-market surveillance and robust penalties for non-compliance. In general, SDoCs require a high level of mutual trust between all parties concerned, including the end-users. The European Union "Global Approach" is an example of mutual recognition and accreditation procedures enabling the products recognised in conformity to be freely marketed throughout the EU Single Market. It relies heavily on the SDoC approach for its efficacy.

OECD best practice strongly supports the recognition of results of conformity assessment based on accreditation. Doing so requires the existence of adequate domestic capacities for accreditation, in particular, the establishment of efficient accreditation mechanism and accreditation institutions. National accreditation bodies, which usually operate under the supervision of the public authorities, are responsible for inspecting and acknowledging the competence and reliability of conformity assessment and share inspection results through international networks, such as the International Accreditation Forum (IAF).

As a member of the European Union, Slovenia follows the principles of the New and Global Approach under which its domestic conformity assessment regime must provide for international conformity assessment standards. Slovenia applies conformity assessment criteria including those relating to the independence and quality of certification bodies, mutual recognition principles and accreditation according to international accreditation standards. Slovene Accreditation (SA) is a member of European co-operation for Accreditation (EA), International Laboratory Accreditation Cooperation (ILAC) and IAF. Slovenia's *Act on technical requirements for products and conformity assessment* (O.J. RS, No. 99/04) provides the legal basis for mutual recognition of regulatory measures and results of conformity assessment procedures performed in other countries (horizontal mutual recognition clause). Slovene technical regulations can also contain mutual recognition clauses. For measures in technical regulations which are not harmonized with the EU legal acts, the principle of mutual recognition applies. The Ministry of the Economy is responsible for co-ordination and proper enforcement of the mutual recognition principle. Implementation of the mutual recognition principle is monitored through the *Inter-ministerial working group on notifications and the non-harmonized area*, which meets at least twice per year.

In terms of streamlining conformity assessment procedures with non-EU members, Slovenia is able to accept SDoCs for products covered under the harmonised area only where MRAs exist between the EU and the exporting country. Slovenia is able to join MRAs that the EU has concluded with non-EU members such as those with Japan, Australia, New Zealand, the United States, Canada and Switzerland. In terms of private MRAs between conformity assessment bodies, one has been completed between conformity assessment bodies in Slovenia [SIQ (www.siq.si)] and the United States in the

field of low voltage products. Conformity assessments carried by partner conformity assessment bodies in the United States are thus accepted by Slovenia. Slovenia is not contemplating work with non-EU members in the area of SDoCs over the near future.

3. Intellectual property rights

The Global Competitiveness Report 2008-2009 indicates that Slovenia has reached a fairly high level of development in most areas.³¹ For example, the report ranks Slovenia 33 out of 134 countries in macroeconomic stability, and also 33 out of 134 countries in innovation. The distribution of Slovenia's scores in the various categories of the report is very much in line with the range for OECD countries, albeit most Slovenian scores are at a level slightly below the OECD average.

Innovation can play an important role in further boosting economic performance. In this regard, an appropriate regime for intellectual property rights is one important factor in the establishment of market incentives for innovators and other rights holders to create and bring new technology and products to market. This section provides a brief overview of domestic innovation policy in Slovenia and then reviews the intellectual property rights regime.

3.1 *Domestic innovation policy*

According to OECD (2009), Slovenia's gross expenditure on research and development was 1.45% of the gross domestic product in 2007.³² While this was below the OECD average of 2.26%, it was higher than in eleven OECD members and close to levels in countries such as Norway and the Netherlands.

In Slovenia, the bulk of financing for research comes from the public sector with business and enterprise spending amounting to only 0.85% of GDP in 2007.³³ Although considerably below the OECD average of 1.56%, the figure nonetheless places Slovenia ahead of eleven OECD members. International rankings place Slovenia similarly. For example, the Global Competitiveness Report 2008-09 ranks Slovenia at 27 out of 134 countries in terms of private sector spending on research and development, and the World Economic Forum (WEF) (2001) ranks Slovenia at 25 out of 75 countries. In both reports, Slovenia scored well above the average for included countries. Additionally, according to the Slovenian Intellectual Property Office (2009), companies in Slovenia have reached a stage where investments are made in the development of new or improved products rather than in process innovation.

One important factor for research and development intensity is the level of highly skilled human resources. In Slovenia, 21.4% of the population aged 25-64 held tertiary degrees in 2006.³⁴ This was lower than for most OECD members which recorded levels closer to 30%. The figure for Slovenia nonetheless qualifies Slovenia's human resources as highly educated, and its research output is in line with other OECD countries. Slovenia's level of scientific publications was 518.1 per million of the population in 2005 which was only half that for Switzerland and Sweden, but higher than fourteen OECD members and was slightly above the OECD average. The number of Slovenian triadic patent families, *i.e.* innovations protected by patents in the United States, EU and Japan, was 10.24 per million of the population in 2005, which was substantially lower than the OECD average.³⁵ One plausible explanation is that Slovenian companies still play the role of technology adopters rather than innovators, and therefore usually opt to rely on

trade secrets and know-how rather than patents for protection.³⁶ However, while the number of triadic patents per population was lower than one tenth that of Japan and Switzerland, it was also more than ten-fold higher than the OECD countries with the lowest levels. The Slovenian figure was higher than those for nine OECD members, and close to the levels in Italy and Ireland.

One interesting statistic is that only 13.4% of Slovenian patent applications at the European Patent Office involve foreign co-inventors.³⁷ This was considerably lower than in most OECD members, suggesting that innovations were driven by domestic demand rather than international collaboration. In contrast, countries in Central and Eastern Europe appear much more dependent on foreign collaboration with equivalent figures of 38.9% in the Czech Republic, 36.4% in Hungary, 36.0% in Poland and 56.0% in the Slovak Republic. Only five OECD countries, *i.e.* Japan, Korea, Italy, United States and Germany, had lower shares of foreign co-inventors than Slovenia. In these countries, however, large populations are a likely factor explaining low shares of foreign co-inventors.

When it comes to patent applications in Slovenia, WIPO (2008a) reports 228 patents granted in Slovenia during 2006, of which 215 applications (94%) had a first-named applicant resident in Slovenia. WIPO (2008b) reports that out of 400 industrial design registrations during 2006, 72 registrants (18%) had residence in Slovenia while 325 had registered through the Hague system and three were direct registrations by non-residents. Of the 5 573 trademarks registered during 2006, 1190 (21%) were registered to residents of Slovenia. Of the remaining trademarks, 3 967 were registered *via* the Madrid system and 416 directly by non-residents, according to WIPO (2008c).

Improving the innovative capacity of Slovenia is, as in any country, a multidimensional challenge. It is worth noting in this context that innovation policy was a priority during Slovenia's EU Presidency during the first half of 2008. During this period, attention was focused on issues including the rate of the progress in innovation, cooperation between the main players in innovation, the introduction of innovation within the educational system and the protection of intellectual property rights.

3.2 *Basic premises for the review of intellectual property rights*

Under the current framework for international trade, respect for intellectual property rights constitutes both an international commitment and a policy in favour of economic development. Respect for these rights is related to market openness in that it provides rights holders with the opportunity to enter markets – particularly for intellectual-property-intensive products and services – with the assurance that property conforming to the requirements of the system will be recognised and easily tradable. At the same time, it provides rights holders a means to defend such property from abuse. Moreover, an effective system of intellectual property rights can stimulate innovation by innovators and other stakeholders by allowing them to benefit from successful research initiatives. Such a system can promote dissemination of knowledge through required disclosure and facilitates access to intellectual property *via* technology markets and licensing. It can provide, in addition, a relatively general incentive system that is consistent with specialization in those sectors offering the greatest scope for productivity improvement relative to research cost.³⁸ Such factors, among others, suggest that enhancements to the system of intellectual property rights can be an important element of a national strategy for economic development.

The Secretariat employed a few key premises in conducting the present review. In the absence of an OECD instrument covering the full scope of trade-related intellectual property rights, the assessment makes reference to the accords that underpin the international framework for intellectual property rights, in particular the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and key treaties administered by the World Intellectual Property Organisation (WIPO) as well as illustrative regional, bilateral and unilateral institutions. Bilateral and regional trade agreements permit the signatory parties to adjust and extend the commitments made in multilateral treaties. The EU and United States both make extensive use of this option. Voluntary and unilateral adaptation to best practices constitutes remains a further option.

The international harmonisation of intellectual property rights has a number of benefits. For example, harmonisation of standards facilitates cross-border trade and investment by reducing the transaction costs associated with multinational business activities. At the same time, the review aims to account for an effective intellectual property policy based on institutions and political instruments, and various international and bilateral permitting a degree of institutional flexibility and adaptation to national interests. Experience from OECD countries shows that an effective policy should be balanced and leverage multiple instruments to foster innovation and knowledge accumulation. One advantage of this allowable institutional flexibility is that standards or practices can be adjusted within limits to meet local needs and interests. For example, countries with a comparative advantage in intellectual-property dependent sectors may wish to capitalise on this by extending a comparatively high level of protection.³⁹

3.3 *The intellectual property rights regime*

As a member of the European Union, Slovenia's regime of intellectual property rights is similar in terms of legal standards to most OECD countries (Table 4). WIPO (2008d) notes that it grants protection to copyrights and related rights, trademarks, geographical indications, patents, industrial designs, topographies of integrated circuits and undisclosed business secrets. The regulatory framework for intellectual property rights has, like most regulations in Slovenia, undergone several changes in the short period between its declaration of independence in 1991 and accession to the EU in 2004.

Historically part of the Socialist Federal Republic of Yugoslavia, Slovenia inherited membership to a number of international treaties, such as the WIPO Convention, the Berne Convention and the Paris Convention. After independence, Slovenia declared continued adherence to these treaties and also signed several further ones which entered into force over the following years. These included, for example, the Hague Agreement in 1995, the TRIPS Agreement in 1995 and the Rome Convention in 1996. During the process of accession to the EU, further treaties were signed. The Strasbourg Agreement and the Trademark Law Treaty entered into force in 2002, as did the so called WIPO Internet Treaties, the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, which a number of OECD members have yet to ratify. Slovenia also ratified the Patent Law Treaty, which entered into force in 2005 following EU accession.

Table 4. An overview of Slovenia's IPR policies

Are intellectual property rights (IPRs) included as an explicit element in the national economic strategy of your country?	Yes
Has your country taken any recent economic policy initiatives in relation to trade and IPRs?	In some cases
i) Unilateral initiatives to strengthen IPRs in order to attract high technology trade or foreign direct investment	--
ii) Participation in regional trade agreements with IPRs provisions that go beyond the requirements of the WTO TRIPS Agreement.	Yes
iii) Special public campaigns to ensure compliance with the WTO TRIPS Agreement or raise awareness of IPRs issues such as counterfeiting and piracy.	Yes
Are there policy objectives to ensure an adequate and effective enforcement of IPRs and to combat infringements thereof?	Yes
Does your country have a national, inter-ministerial strategy or plan for coordinating a response to piracy and counterfeiting through law enforcement and other public policy tools?	No
Has your country acceded to any international IPR related Agreements/Conventions, and particularly those administered by the World Intellectual Property Rights Organisation (WIPO)?	Yes
Has your country ratified the WIPO Internet Treaties?	Yes
Does your country have legally established limitations on patentable subject matter?	Yes

Please name these Agreements/Conventions and mention if their implementation by domestic regulations (if required) has been finalised.

The Republic of Slovenia is a party to following IPR related legal instruments:

- Agreement on Trade-Related Aspects of Intellectual Property Rights from 30 June 1995 (Official Gazette RS-MP, No 10/1995); no transitional period was needed
- Convention Establishing the World Intellectual Property Organization from 25 June 1991 (Official Gazette SFRJ-MP, Nos 31/1972, 4/1986, Official Gazette RS, No 24/1992, Official Gazette RS-MP, Nos 9/1992, 3/2001, 3/2007)
- Berne Convention for the Protection of Literary and Artistic Works from 25 June 1991 (Official Gazette SFRJ-MP, Nos 14/1975 and 4/1986, Official Gazette RS, No 24/1992, Official Gazette RS-MP, Nos 9/1992, 3/2007)
- Universal Copyright Convention from 25 June 1991 (Official Gazette SFRJ-MP, No 54/1973, Official Gazette RS-MP, No 15/1992)
- Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite from 25 June 1991 (Official Gazette SFRJ-MP, No 13/1977, Official Gazette RS-MP, No 15/1992)
- Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of Their Phonograms from 15 October 1996 (Official Gazette RS-MP, No 8/1996)
- International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations from 9 October 1996 (Official Gazette RS-MP, No 8/1996)
- World Intellectual Property Organisation Copyright Treaty from 6 March 2002 (Official Gazette RS-MP, No 25/1999)
- World Intellectual Property Organisation Performances and Phonograms Treaty from 20 May 2002 (Official Gazette RS-MP, No 25/1999)
- Paris Convention for the Protection of Industrial Property from 25 June 1991 (Official Gazette SFRJ-MP, Nos 5/1974, 7/1986, Official Gazette RS, No 24/1992, Official Gazette RS-MP, Nos 9/1992, 3/2007)
- Patent Cooperation Treaty from 1 March 1994 (Official Gazette RS-MP, Nos 19/1993, 3/2007)
- Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure from 12 March 1998 (Official Gazette RS-MP, Nos 21/1997, 3/2007)
- Strasbourg Agreement Concerning the International Patent Classification from 10 May 2002 (Official Gazette RS-MP, Nos 7/2001, 3/2007)
- Patent Law Treaty from 28 April 2005 (Official Gazette RS-MP, No 4/2002)
- Convention on the Grant of European Patents of 5 October 1973, as lastly amended on 29 November 2000, Protocol on the Interpretation of Article 69 of the Convention on the Grant of European Patents of 5 October 1973, Protocol on the Centralisation of the European Patent System and on its Introduction, Protocol on Jurisdiction and the Recognition of Decisions in respect of the Right to the Grant of a European Patent, Protocol on Privileges and Immunities of the European Patent Organisation, Agreement dated 17 October 2000 on the application of Article 65 of the Convention on the Grant of European Patents from 1 December 2002 (Official Gazette RS-MP, No 19/2002)
- Hague Agreement Concerning the International Deposit of Industrial Designs from 13 January 1995 (Official Gazette RS-MP, Nos 20/1994, 3/2007), Geneva Act of the Hague Agreement concerning the International Registration of Industrial Designs from 23 December 2003 (Official Gazette RS-MP, No 4/2002)

- Locarno Agreement Establishing an International Classification for Industrial Designs from 25 June 1991 (Official Gazette SFRJ-MP, No 51/1974, Official Gazette RS, No 24/1992, Official Gazette RS-MP, Nos 9/1992, 3/2007)
- Madrid Agreement Concerning the International Registration of Marks from 25 June 1991 (Official Gazette SFRJ-MP, No 2/1974, Official Gazette RS, No 24/1992, Official Gazette RS-MP, Nos 9/1992, 3/2007)
- Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks from 12 March 1998 (Official Gazette RS-MP, No 21/1997)
- Trademark Law Treaty from 26 May 2002 (Official Gazette RS-MP, No 28/2001)
- Nairobi Treaty on the Protection of the Olympic Symbol from 14 May 1998 (Official Gazette RS-MP, No 5/1998)
- Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks from 25 June 1991 (Official Gazette SFRJ-MP, No 51/1974, Official Gazette RS, No 24/1992, Official Gazette RS-MP, Nos 9/1992, 3/2007)
- Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks from 10 August 2001 (Official Gazette RS-MP, Nos 7/2001, 3/2007)
- International Convention for the Protection of New Varieties of Plants from 29 July 1999 (Official Gazette RS-MP, No 13/1999)

All necessary amendments to national legislation were done prior to ratification of international treaties.

What is the term of copyright protection in your country?

Slovenian national legislation is harmonised with the *acquis communautaire* in this area, namely the Directive 2006/116/EC of the European Parliament and of the Council of 12 December 2006 on the term of protection of copyright and certain related rights (codified version).

As a general rule the copyright shall run for the life of the author and for 70 years after his death. If the work was created by a number of authors, the term of protection shall be calculated from the death of the last surviving co-author (Articles 59 and others of the Copyright and Related Rights Act).

What is the average pendency period for patent and trademark applications in your country?

The average pendency period for patents is 18 months, due to specific proceeding for the grant of a patent. The Slovenian Intellectual Property (SIPO) is a "non-examining office". According to the Industrial Property Act (Official Gazette RS, Nos 45/2001, 96/2002, 37/2004, 20/2006) the national patent application is checked as to formal requirements and exceptions to patent protection. After 18 months from the receipt of application or, if priority has been claimed, from the date of priority, the application is published, and at the same time a (non-examined) patent is granted.

The scope of patent protection is determined by the contents of claims as published, until SIPO issues a second, declaratory decision, which declares whether the invention (for which unexamined Slovenian patent has been issued) meets the patentability requirements in full, in part or not at all (in this case a patent is declared null and void). The decision is issued on the basis of documents, which have to be provided by the patentee until the expiry of the 9th year of validity of the patent (Articles 91, 92, 93 of the Industrial Property Act).

In practice therefore SIPO relies on examination of a patent by the EPO or other International Preliminary Examining Authority under the Patent Cooperation Treaty (PCT), or another patent office (carrying out full examination), with which a relevant treaty is concluded. The average time needed for the issuance of declaratory decision under Article 93 of the Industrial Property Act is 3.5 months.

For European patents, entering the national phase in Slovenia, there is no such condition as they have already been examined. European patents enjoy full patent rights, provided that they enter successfully in the national phase. The same applies to international patent applications filed under the PCT because the national route is closed and the applicants must therefore complete a EURO-PCT process, with a designation of Slovenia on entry into the regional phase with EPO. Foreign applicants predominantly use international routes (EURO-PCT, EPO).

The average pendency time for trademarks in 2007 is approximately 7.4 months. SIPO examines applications for procedural completeness and grounds for refusal and then publishes them (publication occurs every two months; SIPO is examining possibilities for monthly publications and for shortening the average pendency time). Within three months from the date of publication, holders of previous marks may file an opposition against the registration of a published application. If no opposition has been filed, SIPO registers the mark immediately after the payment of registration fees. In this case, the average pendency is shorter (approximately 5 months). If an opposition has been filed, SIPO examines the grounds for opposition and either refuses the opposition (and registers the mark) or refuses the registration of mark in part or in its totality.

Source: Government of Slovenia (correspondence with OECD Secretariat).

The Industrial Property Act covers patents, trademarks, industrial designs and geographical indications for handicraft products. An amendment adopted in 2001 relating to trademarks and designs in accordance with the Trademark Law Treaty, brought this legislation almost fully in alignment with the *acquis*, i.e. current EU legislation. The only exception at the time was protection of biotechnical inventions. It was however agreed during accession negotiations that specific transitional rules would apply in relation to pharmaceutical products and regarding the granting of supplementary protection certificates. Regulations in these areas were adopted in 2003.

The Copyright and Related Rights Act was amended in 2001 to protect services based on conditional access and to protect databases. This legislation was further amended in accordance with European Commission (2003) to better account for copyright and related rights, and information society rules. Adopted in 2001, the Customs Measures Relating to Infringement of Intellectual and Industrial Property Rights Act brought border enforcement legislation into alignment with the EU *acquis*. In 2001, the European Commission (2001) reported that all necessary institutions for administrative capacity were in place and thus Slovenia was in full compliance with its obligations as an EU member.

Industrial property and copyright are administered by the *Slovenian Intellectual Property Office* (SIPO) which, under the jurisdiction of the Ministry of Economy, is responsible for the preparation of legal regulations in the IP field. In 2007, a Copyright Board was established at SIPO. Issues relating to plant varieties are handled by the *Phytosanitary Administration of the Republic of Slovenia* under the jurisdiction of the Ministry of Agriculture, Forestry and Food since 2002. The Ministry of Agriculture, Forestry and Food Issues is also directly responsible for issues relating to geographical indications (for products other than handicraft products). Enforcement of IP rights is handled by the *District Court of Ljubljana*, which holds competence over disputes concerning IPR. The District Court of Ljubljana is not a specialised court, but is *de facto* specialised due to its role as the exclusive court of first instance in all IPR related disputes.

This brief summary of intellectual property rights in Slovenia provides evidence that the framework of intellectual property rights is extensive and is being implemented with reference to international and particularly European standards. It is also clear that Slovenia has taken important steps to strengthen its system of intellectual property rights and to comply with its international obligations. Slovenia has even taken on leadership roles in this area including during the first half of 2008 when it stressed progress on the European patent system as a key issue under its EU Presidency. The Slovenian Intellectual Property Office (2008) reported that the fragmented Community market for patents threatened Europe's competitive edge. To address this, solutions were developed and presented in relation to the design of a uniform Community patent and the establishment of a judicial system for patents.

3.4 Intellectual property rights challenges

An indication of Slovenian IPR progress can be seen in its improving scores under the Global Competitiveness Report indicator for IPR protection. In 2001-02, Slovenia scored 4.2 (in comparison with the average of 4.1 for the 75 countries covered)⁴⁰ and in 2008-09 it scored 4.4 (in comparison to the 3.8 average for 134 countries covered).⁴¹

In a 2003 progress report, the European Commission (2003) commented that while alignment of the legislation was almost complete and administrative structures were in place, enforcement needed to be strengthened to combat piracy and counterfeiting. It was pointed out that the effectiveness and capacity of border controls, administration and judiciary had to be increased and better coordination between the various enforcement bodies was needed.

The International Property Rights Index rated Slovenia with a score of 5.9 and ranking it at 40 out of 115 countries,⁴² below most OECD members. This score is an average of three indexes; Legal and Political Environment where Slovenia scored 6.6 (rank 27), Physical Property Rights where Slovenia scored 5.6 (rank 65), and Intellectual Property Rights where Slovenia scored 5.5 (rank 40). Each of these three indexes considers a number of factors, utilizing data from different sources. With respect to the efficiency of the legal framework in general, the Global Competitiveness Report 2008-09 ranks Slovenia 53 out of 134 countries with a score reflecting deficiencies in the efficiency or neutrality of the legal system.^{43,44}

One significant area for progress concerns the level of certain types of piracy in Slovenia. For example, according to the Fifth Annual BSA and IDC Global Software Piracy Study, the piracy rate for business software in Slovenia was 48% in 2007. Although this score represents a 4% decline since 2003, it remains relatively high in comparison to North America (21%) and Western Europe (33%).⁴⁵ For current OECD members in the region, the comparable rates were 39% in the Czech Republic, 42% in Hungary, 45% in the Slovak Republic and 57% in Poland. (All the other countries from the former Socialist Federal Republic of Yugoslavia have higher rates than Slovenia.) In terms of music piracy, the Recording Industry 2005 Commercial Piracy Report stated that the music piracy level in Slovenia was between 10% and 24% in 2004.⁴⁶ Though significant, this figure was relatively low for a country in Central and Eastern Europe as most reflected piracy levels above 50%.

Slovenia is taking steps to strengthen border controls in relation to the trade in counterfeit and pirated products. Seizure rates have increased. Challenges remain, however, as those engaged in this illegal trade adapt by, for example, sending infringing goods in smaller packages. Further capacity building and adoption of international best practices could be practical avenues for authorities in Slovenia to explore.

Other steps underway include an initiative to improve co-ordination on IPR issues. In 2007, a National Action Plan was confirmed for cooperation between the Slovenian Intellectual Property Office (SIPO) and the European Patent Office. This action plan includes a number of activities, such as the development of SIPO's internal IT support system and diffusion of public information *via* additional channels, as well as raising public awareness of the importance of IPR through for example cooperation with universities and schools. Importantly, the plan also provides for the establishment of a national intellectual property forum to coordinate inter-sectoral enforcement of IPR. In June 2009, the Slovenian Government established the Inter-sectoral Working Group for Fighting against Piracy and Counterfeiting, to ensure more effective co-operation among state authorities to combat piracy and counterfeiting. Its members are representatives of the Office of the State Prosecutor General, General Police Directorate, General Customs Directorate, Market Inspectorate, the Ministry of the Economy – Foreign Economic Relations Directorate and the Slovenian Intellectual Property Office. The Group may also invite interested stakeholders to its meetings. The Group is presided by the Director of

Slovenian Intellectual Property Office and the Office performs for the Group all administrative tasks.

4. Compliance

As a field of policy common to all EU members, external trade policy is managed by the European Commission. Several pieces of legislation that may affect the EU trade regime are under consideration. An overview of the major proposals by the European Commission on external trade regime can be consulted over the internet in the PreLex database.⁴⁷ In terms of draft domestic legislation, which is connected with external trade policy and may affect the openness of the trading regime, consultations with the Directorate for Foreign Economic Relations of the Ministry of Economy as part of Slovenia's transparent process of coordinating draft legislation places a check on the possibility conflicts with international trade obligations.

Periodical review of EU trade obligations *vis-à-vis* non-EU members is provided in the WTO framework through the Trade Policy Review Mechanism (TPRM) and the Transparency Mechanism for Regional Trade Agreements conducted by the Committee on Regional Trade Agreements. Under the Trade Policy Review Mechanism, the trade policy of the EU is reviewed every two years and the WTO secretariat prepares a report as part of each review. Along with all other EU members, Slovenia is provided an opportunity to comment on the draft report before submission to the WTO.

The European Union has no mechanism for periodically reviewing the conformity of EU members with EU trade obligations. However, the European Commission is responsible for ensuring that Community law is correctly applied in EU members, including the observance of Community law relating to trade matters. In this respect the Commission has powers with respect to EU members failing to comply with Community law, including referral to the European Court of Justice.

Slovenia is not directly participating in any consultations between EU and non-member economy regarding potential trade violations.

5. Conclusions and policy options

Slovenia relies on its relationship with the European Union in the development of its trade policy. Its laws on transparency require publication of proposed and existing laws and regulations in multiple locations on the internet, and the conduct of public consultations. The principle of non-discrimination is implemented within Slovenia's regulatory regime through its international agreements, particularly with the European Union. Slovenia has implemented many initiatives to reduce unnecessary trade restrictiveness including through use of IT, implementation of RIAs and the conduct of training for government officials. As part of Slovenia's efforts to support the domestic introduction of international regulations and practices, an inter-ministerial working group meets at least twice a year to encourage harmonisation towards international standards. Slovenia adheres closely to the EU approach in streamlining conformity assessment procedures. In terms of IPRs, Slovenia's regulatory framework appears compliant with EU standards, but reflects deficiencies in enforcement akin to those in other countries in the region. Compliance related activities in Slovenia are closely intertwined with those of the European Union and the European Union's relationship with the WTO. The present review found no evidence of compliance-related concerns.

5.1 *General assessment and main challenges*

Slovenia's efforts to ensure **transparency** include a requirement that draft and existing laws and regulations appear in a number of locations and formats free of charge over the internet. The government appears to have a general culture of consultations despite the absence of horizontally applicable minimum standards for conducting them. The appeals system remains somewhat inefficient due to lengthy judicial processes, though recent progress has been made in addressing this issue. It is notable that Slovenian experience links publication of government procurement tenders at the EU level with lower procurement prices, including in cases where tenders fall below EU mandatory publication thresholds. At the same time, indications exist that overweighting of price as a factor in awarding government procurements may have led to counterproductive outcomes in that some suppliers may have developed questionable bidding strategies to game the system.

Policy options

- Some business community representatives have indicated that their inability to contribute to, and participate in, the initial drafting of recent labour legislation has led to an outcome with room for improvement. This may have resulted from uneven application of consultation procedures by some parts of the government. Consideration could be given to establishing minimum consultation standards applicable to all government bodies. Consideration could also be given to including interested members of the public within work to develop initial drafts of new laws and regulations.
- In the area of appeals, continued or enhanced reforms to shorten judicial processes will be important to allowing appeals outcomes to play an effective role in reducing uncertainty over the interpretation of domestic laws and regulations, thereby supporting regulatory transparency. Progress in this area would be important both to domestic and foreign enterprises.
- In light of experience pointing to lower procurement costs in earlier trials, consideration could be given to broadening the scope of government procurement tenders falling under European thresholds that are nevertheless posted on the EU government procurement website.
- Public procurement officials may wish to consider increasing the weight that procurement regulations accord to the reputation of suppliers and their quality of work, in comparison to the current emphasis on lower priced bids. Work to create an EU or international database of suppliers recording their reputations for reliability and quality should be supported where possible.
- Study the costs and benefits of opening procurement actions below international thresholds to foreign suppliers.

Slovenia's observance of **non-discrimination** principles in its development and application of domestic regulations appears to conform to international obligations. Slovenia's national interests have meshed nicely with increased openness in the EU trading regime. On a number of occasions, Slovenia has demonstrated how relatively small EU members can make important contributions in support of a more liberal EU trading regime.

Policy options

- No recommendation.

The active and multi-pronged effort by the Ministry of Public Administration to promote the **use of least trade restrictive regulations** can be seen in steps to reduce administrative burdens *via* e-Government programmes and requirements that RIAs be conducted on all new regulations. Other efforts include the preparation of handbooks on how to assess administrative burdens caused by regulations and apply good practices in conducting public consultations. The primary weaknesses in the current programme appear to be:

- Uneven appreciation and application of RIAs by various parts of the government;
- The lack of a programme to systematically apply RIAs on existing stocks of regulations;
- The absence of a criterion in RIAs to assess the impact that regulations have on international trade and investment.

Policy options

- Continue to support amendments to the *Rules of Procedures of the Government* strengthening requirements on regulators to apply already existing regulatory instruments including the *Handbook for Conducting Impact Assessment*, methodologies that have been developed to assess administrative burdens and costs; and the *Methodology for fulfilling and monitoring the Statement on the reduction of administrative burdens and participation of interested publics*.
- Continue with plans to conduct training of public officials across the government on how to assess the administrative burdens resulting from regulations. If possible, monitor the progress of officials receiving training in terms of the RIAs they produce, and consider providing follow-up training where warranted.
- Consider applying RIAs to existing stocks of laws and regulations in a systematic manner. Evidence from this review suggests that existing regulations may be a source of unnecessary trade restrictiveness that is impeding inward foreign investment.
- Consider including criteria in the *Statement on the reduction of administrative burdens and participation of interested publics* requiring the assessment of the impacts that regulations have on international trade and investment. Include training on how to conduct such assessments along with existing programmes covering administrative burdens.

In establishing its domestic standards regime beginning in 1991, Slovenia has primarily adopted international standards and consequently set a high standard in terms of **international harmonisation of domestic standards**.

Policy options

- Review the few Slovene domestic standards and reconsider whether benefits could be gained by aligning them internationally.

Slovenia follows and closely applies EU rules relating to **streamlining conformity assessment**, and the system appears relatively efficient.

Policy options

- Based on experience provided in the examples of Slovenian participation in the development of trade regulations at the EU level, consider whether possibilities exist to contribute to improving the efficiency of the EU conformity assessment system.

Slovenia has a system of **intellectual property rights** that is well developed from a legal perspective. Significant amendments and modifications have been made in recent years to bring the system closer to the international norms of developed economies, particularly during the process of accession to the European Union. Slovenia may nevertheless consider actions to strengthen enforcement and refine policy in certain areas to improve IPR compliance. Moreover, policy scope exists to further capitalise on the economic opportunities afforded by a strong system of IPR protection.

Policy options

- Scope for progress remains with respect to administration and enforcement of intellectual property rights. Particularly important areas concern reducing the rate of piracy in copyrighted goods and trade in counterfeit goods. Experience suggests that linking international cooperation with domestic measures can enhance efficacy in this area.
- Consideration should also be directed towards enhancing the domestic economy's capacity both to produce and to employ intellectual property. Domestic innovative activity by the private sector would be an important priority in this respect.
- More extensive domestic use of intellectual property rights could stimulate private research and innovation; policy options might include a combination of training and economic incentives for the private sector. This can possibly facilitate and stimulate re-orientation from emphasis on application of technology to innovative leadership in some areas.

With respect to **compliance**, Slovenia is not directly participating in any consultations between European Union and non-member economy regarding potential trade violations.

Policy options

- No recommendation.

Notes

1. Country reviews of regulatory reform normally contain chapters on regulatory quality, market openness and competition. Their objective is to assess domestic regulatory frameworks and suggest policy options for enhancing economic performance in countries under review. To date, the OECD has played a key role in promoting regulatory reform by carrying out assessments of the policies and practices of more than 20 member countries, Brazil, China and the Russian Federation.
2. IMAD (2009).
3. ISA (2009).
4. *Ibid.*
5. EIU (2008a), p. 32.
6. *Ibid*, p. 20.
7. *Ibid.*
8. For descriptions of OECD's six efficient regulation principles, this report draws from P. Czaga (2004).
9. Types of public information determined in Article 10 which should be published in the World Wide Web are further detailed by the Decree on the provision and re-use of public information (Articles 8 – 12), and revised with Act on revisions and additions to the Decree on the provision and re-use of public information.
10. A sample of the public information catalogue in English is available at:
www.mju.gov.si/en/freedom_of_public_information.
11. USFCS (2008).
12. In accordance with established terminology in the WTO TBT Agreement, technical regulations are documents with which compliance is mandatory, while standards provide rules and guidelines for common and repeated use but compliance with them is not mandatory.
13. Slovenia WTO Enquiry and Contact Point
Slovenian Institute for Standardisation
Šmartinska cesta 152
SI - 1000 Ljubljana, Slovenia
Phone: +386 1 478 3065
Fax: +386 1 478 3098
E-mail: info@sist.si.
Internet: www.sist.si
14. Currently, there are 39 members of the GPA:
www.wto.org/english/tratop_e/gproc_e/memobs_e.htm#memobs.
15. WTO (2006d), p. 94.
16. USFCS (2008).
17. See OECD (2009a), p. 8.

18. *Ibid*, p. 10.
19. The term RTA is used here as a generic term which includes free trade agreements (FTAs), customs unions (CUs) and preferential trading areas (PTAs) which are not necessarily limited to regional groupings.
20. OECD (2006b), p. 25.
21. European Commission (2009), Bilateral Trade Relations: ec.europa.eu/trade/issues/bilateral/index_en.htm, accessed 27 April 2009.
22. European Commission (2009), Treaties Office Database: ec.europa.eu/world/agreements/searchByCountryAndContinent.do?id=4&letter=A, accessed 27 April 2009.
23. European Commission (2009), Bulletin of the European Union: europa.eu/bulletin/en/welcome.htm, accessed 27 April 2009.
24. EC (2007), Council Regulation (EC) No 1205/2007: eur-lex.europa.eu/lexuriserv/lexuriserv.do?uri=oj:l:2007:272:0001:0020:en.pdf.
25. The Council Regulation (EC) No 501/2007 of 7 May 2007 amending Annex I to Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff partial suspends the autonomous rate of customs duty for unwrought, non-alloyed aluminium.
26. The Statement is available at: www.mju.gov.si/fileadmin/mju.gov.si/pageuploads/Boljsi_predpisi_OAO/OAO/Statement_-_SLO_-_Supplement_2.pdf.
27. See also the investment section of USFCS (2008).
28. In accordance with established terminology in the WTO TBT Agreement, mandatory technical specifications are referred to as “technical regulations”, while rules and guidelines provided for common and repeated use but with which compliance is not mandatory are referred to as “standards”.
29. This call has been made in particular by the European and American business communities in the context of the Transatlantic Business Dialogue (TABD). In its reports, the TABD has advocated that governments overcome diverging positions at an early stage of the policy-making process and to give more emphasis on international standards in the regulatory framework, with a view to promoting global competitiveness. See for example, TABD (2007), “Establishing the Barrier-Free Transatlantic Market”, March 2007, www.tabd.com/ceo_reports.
30. Although examples cited in this review focus on TBT related standards, the principle of harmonisation towards international standards applies equally to SPS as it does to TBT standards.
31. WEF (2008).
32. Statistical Office of the Republic of Slovenia (2009).
33. *Ibid*.
34. OECD (2009).
35. *Ibid*.
36. Slovenian Intellectual Property Office (2009).
37. OECD (2009).

38. Ibid.
39. From a systemic perspective, it can also be argued that some experimentation with local and national designs of intellectual property rights in combination with international trade and investment generate institutional competition and may lead to improved efficiency in the global system of intellectual property rights over the long run. Limited experimentation and competition, particularly in new sectors and in times of significant technological change, may contribute to evolving best practices and improving market institutions.
40. WEF (2001).
41. WEF (2008).
42. Property Rights Alliance (2008).
43. WEF (2008).
44. The 2008 Corruption Perception Index measuring perceived levels of public-sector corruption ranks Slovenia at 26 out of 180 countries. While behind many OECD countries, especially the Nordic ones, this rating is just below France, just ahead of Spain, and considerably above the world average. See Transparency International, 2008.
45. BSA (2007).
46. IFPI (2005).
47. See <http://ec.europa.eu/prelex/apcnet.cfm?CL=en>. The external trade related proposals can be separated by using the advanced search function to search for proposals that have Article 133 as their legal basis.

Bibliography

- Business Software Alliance (BSA) (2007), Fifth Annual BSA and IDC Global Software Piracy Study, Business Software Alliance:
global.bsa.org/idcglobalstudy2007/studies/2007_global_piracy_study.pdf.
- Czaga, Peter (2004), Regulatory reform and market openness: Understanding the links to enhanced economic performance, Trade Policy Working Paper No. 9, OECD, Paris.
- Economist Intelligence Unit (EIU) (2008a), Country Profile: Slovenia, EIU, London.
- EIU (2008b-9), Country Report: Slovenia, EIU, London.
- European Telecommunications Standards Institute (ETSI) (1996), European standards, a win-win situation, ETSI, Brussels.
- European Commission (1994), Guide for the application of European directives based on the New Approach and the Global Approach, Luxembourg.
- European Commission (1996), Documents on the New Approach and the Global Approach, Brussels.
- European Commission (1996), Regulating Products: Practical experience with measures to eliminate barriers in the Single Market, Brussels.
- European Commission (2001), Regular report on Slovenia's progress towards accession:
www.svez.gov.si/fileadmin/svez.gov.si/pageuploads/docs/regular_report_of_the_eu/Regular_Report_2001.pdf.
- European Commission (2003), Comprehensive monitoring report on Slovenia's preparations for membership:
www.svez.gov.si/fileadmin/svez.gov.si/pageuploads/docs/regular_report_of_the_eu/Comprehensive_Monitoring_Report_2003.pdf.
- European Commission (2009): Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Central Bank: "Five years of an Enlarged EU – Economic Achievements and Challenges", Brussels.
- IMAD (2009), Spring forecast of economic trends 2009:
www.umar.gov.si/fileadmin/user_upload/publikacije/analiza/spoml09/A-SFET_09.pdf,
 accessed 19 May 2009.
- International Federation of the Phonographic Industry (IFPI) (2005), The Recording Industry 2005 Commercial Piracy Report: www.ifpi.org/content/library/piracy2005.pdf.
- International Strategic Analysis (ISA) (2009), The ISA May 2009 Slovenia Country Report, ISA:
www.isa-world.com/isareports.
- OECD (1995), Recommendations of the Council of the OECD on Improving the Quality of Government Regulation, OECD, Paris.
- OECD (2002), Integrating Market Openness into the Regulatory Process: Emerging Patterns in OECD Countries, OECD, Paris.

- OECD (2003), OECD Reviews of Regulatory Reform – Regulatory Reform in France: Enhancing Market Openness through Regulatory Reform, OECD, Paris.
- OECD (2005), Guiding Principles for Regulatory Quality and Performance, OECD, Paris.
- OECD (2008a), Economic Outlook, Preliminary Edition: www.oecd.org/dataoecd/39/55/41712971.pdf.
- OECD (2008b), The OECD, Globalisation and innovation: responding to a changing global economy: www.oecd.org/document/62/0,3343,en_33873108_39418677_40059006_1_1_1_1,00.html.
- OECD (2009a), Accession Examination of Slovenia Under the OECD Investment Instruments, DAF/INV/ACS(2009)1, 4 March, OECD, Paris.
- OECD (2009b), OECD Stat, the complete statistics service, accessed 17 February 2009.
- Property Rights Alliance (2008), International Property Rights Index, 2008 Report: [www.internationalpropertyrightsindex.org/UserFiles/File/022508ot-report%20\(2\).pdf](http://www.internationalpropertyrightsindex.org/UserFiles/File/022508ot-report%20(2).pdf).
- Transparency International (2008), 2008 Corruption Perception Index: www.transparency.org/news_room/in_focus/2008/cpi2008/cpi_2008_table.
- Slovenian Intellectual Property Office (2008), Report on the patent dossier proceedings during the Slovenian Presidency of the EU: www.uil-sipo.si/uploads/media/sipo_eu-presidency-report.pdf.
- Slovenian Intellectual Property Office (2009), Situation regarding IP in Slovenian companies – Summary: www.uil-sipo.si/fileadmin/upload_folder/novice_dogodki/Situation-regarding-IP-in-SI-companies_Summary.pdf.
- Statistical Office of the Republic of Slovenia (2009), Research & development activity, Slovenia, 2007 – final data: www.stat.si/eng/novica_prikazi.aspx?id=2179, accessed 19 May 2009.
- Swann Dennis (1995). The Economics of the Common Market, Penguin books, London.
- United States Foreign Commercial Service (USFCS) (2008), Doing Business in Slovenia: 2008 Country Commercial Guide (CCG) for U.S. Companies, USFCS, Washington D.C.
- United States Trade Representative (USTR) (2008), National Trade Estimate (NTE), USTR, Washington D.C.
- World Bank (2007a), Doing Business website, World Bank, Washington D.C.
- World Bank (2007b), World Development Indicators database, World Bank, Washington D.C.
- World Economic Forum (2001), The Global Competitiveness Report 2001-2002, WEF, Davos.
- World Economic Forum (WEF) (2008), The Global Competitiveness Report 2008-2009: www.weforum.org/pdf/GCR08/GCR08.pdf.
- World Intellectual Property Organization (WIPO) (2008a), Patent grants by patent office (1883-2007) by resident and non-resident, World Intellectual Property Organization: www.wipo.int/export/sites/www/ipstats/en/statistics/patents/xls/wipo_pat_grant_from_1883_table.xls.
- WIPO (2008b), Industrial Design registrations by office (1883-2007) by direct resident, direct non-resident and Hague System, World Intellectual Property Organization: www.wipo.int/export/sites/www/ipstats/en/statistics/designs/xls/wipo_idesigns_regs_by_office_since_1883.xls.
- WIPO (2008c), Trademark registrations by office (1883-2007) by direct resident, direct non-resident and Madrid System, World Intellectual Property Organization: www.wipo.int/export/sites/www/ipstats/en/statistics/marks/xls/wipo_tmkg_regs_by_office_back_to_1883.xls.

- WIPO (2008d), Country Profile from WIPO Guide to Intellectual Property Worldwide: www.wipo.int/about-ip/en/ipworldwide/pdf/si.pdf.
- WTO (1991), Services Sectoral Classification List, MTN.GNS/W/120, 10 July, WTO, Geneva.
- WTO (1995a), Trade in Services - Communication from Slovenia - List of Article II (MFN) Exemptions, GATS/EL/99 30 August, WTO Geneva.
- WTO (1995b), Supplement 1, Communication from Slovenia - Schedule of Specific Commitments Supplement 1, GATS/SC/99/, WTO, Geneva.
- WTO (1998), Communication from Slovenia - Schedule of Specific Commitments, GATS/SC/99, 26 February, WTO, Geneva.
- WTO (2002a) Trade Policy Review Body, Slovenia - Report by the Government, WT/TPR/G/98, 15 April, WTO, Geneva.
- WTO (2002b) Trade Policy Review Body, Slovenia - Report by the Secretariat - Corrigendum, WT/TPR/S/98/Corr.1, 17 April, WTO, Geneva.
- WTO (2004) Trade Policy Review Body, European Communities - Report by the Government, WT/TPR/G/136, 1 October, WTO, Geneva.
- WTO (2007a), Trade Policy Review Body, European Communities - Report by the Government, WT/TPR/G/177/, 22 January, WTO, Geneva.
- WTO (2007b), Trade Policy Review Body, European Communities - Report by the Secretariat, WT/TPR/S/177/Rev.1, 1 May, WTO, Geneva.
- WTO (2008a), Enquiry and Contact points notified to the Council for Trade in Services, as required under Articles III:4 and IV:2 of the GATS, WTO, S/ENQ/78/Rev.10, 13 June, WTO, Geneva.
- WTO (2008b), List of the Enquiry points foreseen in Articles 10.1 and 10.3 of the TBT Agreement, G/TBT/ENQ/34, 30 October, WTO, Geneva.
- WTO (2009a), Trade Policy Review Body, European Communities - Report by the Secretariat, WT/TPR/S/214, 2 March, WTO, Geneva.
- WTO (2009b), Trade Policy Review Body, European Communities - Report by the European Communities, WT/TPR/G/214, 2 March, WTO Geneva.

A selection of useful websites

- American Chamber of Commerce Slovenia: www.amcham.si/, accessed 23 February 2009.
- BIAC (2008): www.biac.org/comms/newsletter/BIACNewsMar08.pdf, accessed 6 January 2009.
- Bank of Slovenia: www.bsi.si/en/, accessed 26 February 2009.
- Bilateral Trade Relations website of the European Commission: http://ec.europa.eu/trade/issues/bilateral/index_en.htm, accessed 13 March 2009.
- Bulletin of the European Union: <http://europa.eu/bulletin/en/welcome.htm>, accessed 13 March 2009.
- Catalogue of Public Information*: www.mju.gov.si/en/freedom_of_public_information/, accessed 23 February 2009.
- Chamber of Commerce and Industry of Slovenia (2009): <http://eng.gzs.si/slo/>, accessed 25 January 2009.
- Customs Administration of the Republic of Slovenia: www.carina.gov.si/en/contact_us/, accessed 25 January 2009.

Commission's Communication on trade policy: “Global Europe”, 2006: http://ec.europa.eu/trade/issues/sectoral/competitiveness/global_europe_en.htm, accessed 13 March 2009.

Electronic portal for a permanent collection of proposals for administrative burden reduction and simplification of legislations: oao.predlogi@gov.si, accessed 25 February 2009.

European Commission Bilateral Trade Relations: http://ec.europa.eu/trade/issues/bilateral/countries/index_en.htm, accessed 13 March 2009.

European Commission's WTO Dispute Settlement webpage: http://ec.europa.eu/trade/issues/respectrules/dispute/index_en.htm, accessed 13 March 2009.

European Commission, DG Trade (2009), Market Access Sectoral and Trade Barriers Database: <http://mkaccdb.eu.int>, accessed 8 December 2008.

European Commission - DG Enterprise – TBT: <http://ec.europa.eu/comm/enterprise/tbt/>, accessed 18 March 2009.

EU Council Regulation No 980/2005 of 27 June 2005 applying a scheme of generalised tariff preferences: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:169:0001:0043:EN:PDF>, accessed 13 March 2009.

European Commission's report on “Methods of referencing standards in legislation with an emphasis on European legislation”: http://ec.europa.eu/enterprise/library/enterprise-guides/doc/guide_standards_en.pdf, accessed 13 March 2009.

European Commission's Communication on trade policy: “Global Europe”, 2006: http://ec.europa.eu/trade/issues/sectoral/competitiveness/global_europe_en.htm, accessed 13 March 2009.

European Commission's WTO Dispute Settlement webpage: http://ec.europa.eu/trade/issues/respectrules/dispute/index_en.htm, accessed 13 March 2009.

European Commission Bilateral Trade Relations: http://ec.europa.eu/trade/issues/bilateral/countries/index_en.htm, accessed 13 March 2009.

Global Competitiveness Report (2009): www.weforum.org/en/initiatives/gcp/index.htm, accessed 30 January 2009.

Government of Slovenia: www.mf.gov.si; www.dkom.si, accessed 23 February 2009.

International Convention on the Simplification and Harmonisation of Customs Procedures (as amended) (2009): <http://202.121.31.31/cwco/english/files/reference/WCOKyotoFINALEN.pdf>, accessed 30 January 2009.

Ministry of Agriculture, Forestry and Food (2009): www.mkgp.gov.si/index.php?id=576&L=1, accessed 25 February 2009.

Ministry of the Economy (2009): www.mg.gov.si/en/, accessed 26 February 2009.

Ministry of Finance (2009): www.mf.gov.si/angl/index.htm, accessed 26 February 2009.

Slovenian Business Portal (2009): www.poslovnportal.si/, accessed 23 February 2009.

PreLex database on inter-institutional procedures: <http://ec.europa.eu/prelex/apcnet.cfm?CL=en>, accessed 23 March 2009.

Official Journal of the European Union: <http://eur-lex.europa.eu/>, accessed 13 March 2009.

PreLex database: <http://ec.europa.eu/prelex/apcnet.cfm?CL=en>, accessed 13 March 2009.

Public procurement act: www.uradni-list.si/pdf/1994/Ur/u1994022.pdf, accessed 25 February 2009.

Public procurement Web Portal: www.enarocanje.si, accessed 23 February 2009.

Regional Agreements notified to the WTO: www.wto.org/english/tratop_e/region_e/a_z_e.xls, accessed 13 March 2009.

Slovenian Export and Development Bank (SED): www.sid.si/sidang.nsf, accessed 26 February 2009.

Slovenian Industrial Property Office (SIPO): www.uil-sipo.si/sipo/, accessed on 25 January 2009.

Slovenian Institute for Standardization (2009): www.sist.si/index.htmhttp://, accessed 25 February 2009.

Public Agency of the Republic of Slovenia for Entrepreneurship and Foreign Investments (JAPTI): www.investslovenia.si/, accessed 23 January 2009.

Sustainability Impact Assessments: <http://ec.europa.eu/trade/issues/global/sia/studies.htm>, accessed 13 March 2009.

Technical Regulations Information System:
http://ec.europa.eu/enterprise/tris/pisa/app/search/index.cfm?fuseaction=pisa_notif_overview&iYear=2005&inum=571&lang=EN&sNLang=EN, accessed 13 March 2009.

Technical rules for drafts of legislative acts: www.legaltext.ee/text/en/X0151.htm, accessed 13 March 2009.

Technical Regulations Information Systems (TRIS) (2009):
http://ec.europa.eu/enterprise/tris/pisa/app/search/index.cfm?fuseaction=pisa_notif_overview&iYear=2005&inum=571&lang=EN&sNLang=EN, accessed 23 March 2009.

WTO (2008), International Trade Statistics 2008:
www.wto.org/english/res_e/statis_e/its2008_e/its2008_e.pdf, accessed 4 December 2008.