BULGARIA

TRADE SUMMARY

The United States registered a trade deficit of $123 million with Bulgaria in 2000, which was a decline of $25 million from 1999. Bulgaria was the United States' 105th largest export market in 2000. In 2000, U.S. exports to Bulgaria were $113 million, a 10 percent increase from 1999. U.S. imports from Bulgaria were $235 million in 2000, an increase of $36 million (17.9 percent) from 1999.

The stock of U.S. foreign direct investment in 1999 was $22 million, a 4.8 percent increase from 1998.

IMPORT POLICIES

Tariffs

Bulgaria's trade policies are shaped primarily by its World Trade Organization (WTO) commitments and by its efforts to join the European Union (EU). Bulgaria has concluded a preferential trade agreement with the EU (Europe Agreement) and free trade agreements with the European Free Trade Area (EFTA) countries, its Central European neighbors (CEFTA), Turkey and the Former Yugoslav Republic of Macedonia. Since 1998, average Bulgarian import tariffs have been reduced at the beginning of each year. Following the latest series of reductions in January 2001, the average tariffs were reduced to 12.42 percent. Average levels for industrial and agricultural goods are 10 and 22 percent, respectively. Applying 2001 tariffs to the structure of Bulgarian imports for 2000, the weighted averages for industrial and agricultural tariffs are 6.15 percent and 18.82 percent, respectively. U.S. exporters, especially of poultry and other agricultural goods and distilled spirits, report that high tariff rates on their products significantly impede their access to the Bulgarian market.

Pursuant to its Europe Agreement, Bulgaria is phasing out tariffs on products originating within the EU while U.S.-origin exports face frequently high most-favored nation (MFN) duties. These tariff differentials have placed some U.S.-origin exports at a significant competitive disadvantage, such as animal feed supplements and distilled spirits. In 2000, Bulgaria and the EU reached agreement on further liberalization of trade in agricultural products. The so-called "zero-for-zero agreement" will end EU agricultural subsidies on goods exported to Bulgaria in return for the elimination of Bulgaria's tariffs on most EU agricultural products. Under this arrangement, each party will have greater access to each other's market for agricultural commodities. As a result, U.S. agricultural products will be put at a further disadvantage relative to products originating in EU member states.

Non-Tariffs

U.S. exports to Bulgaria are hampered by the Pan-European Cumulation system, particularly the removal of the availability of customs duty drawback on products originating in the U.S. and other non-participants in the "cumulation system.." Under this recently introduced system, customs duties on U.S.-origin inputs used in the production of goods subsequently exported under preferential trade agreements involving the EU, Bulgaria and other countries are no longer refunded. In addition, under the pan-European cumulation system, content from any participant in the system can accumulate to qualify for preferential treatment under Bulgaria's Europe Agreement, even though other participants in the "cumulation system" are not party to this Europe Agreement.

Customs regulations and policies are sometimes reported to be cumbersome, arbitrary and inconsistent. Problems cited by U.S. companies include excessive documentation requirements, slow processing of shipments and corruption. Bulgaria uses the single customs administrative document used by EU members.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Bulgaria is making an effort to harmonize its national standards with international standards. Bulgaria is a participant in the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC). Bulgaria is harmonizing its standards with those of the EU. However, the Ministry of Environment and Waters has recently enacted regulations that prohibit the use of U.S. made space heaters designed to burn used oil, despite the fact that these products are widely approved for sale and use in the United States and the EU.

In February 2001, the EU announced that it had concluded Protocols to the Europe Agreement on Conformity Assessment and Acceptance of Industrial Products (PECA) with Hungary and the Czech Republic and would soon begin negotiations with Bulgaria and other EU candidate countries. Under the PECA, the EU and the EU candidate country agree to recognize the results of one another's designated conformity assessment bodies/notified bodies, thereby eliminating the need for further product testing of EU products upon importation into the candidate country. It appears that among the products being exported to the candidate countries, only those which are: (i) of EU country origin; and (ii) certified by an EU notified body with the CE mark illustrating compliance with EU standards, will benefit from the provisions of the PECA, thereby eliminating the need for further product testing. Under the agreement, it appears that products originating in the United States would not benefit from the PECA regardless of whether they are tested and certified with the CE mark in the EU or tested and certified with the CE mark by their own national testing bodies. The U.S. will monitor closely how the PECAs are implemented and also has begun consultations with the candidate countries and the EU on this issue in multilateral and bilateral settings.

All imports of goods of plant or animal origin to Bulgaria are subject to EU phytosanitary and veterinary control standards, and relevant certificates should accompany such goods. However, Bulgarian authorities have modified their national regulations to accept U.S. Department of Agriculture certificates.

GOVERNMENT PROCUREMENT

Bulgaria is not a signatory to the WTO Agreement on Government Procurement (GPA), but has observer status. In the WTO accession process, Bulgaria committed to submitting an entity offer by June 1997; it declared its intention of completing negotiations by December 1997. Bulgaria still has not submitted an offer. The U.S. has been pressing Bulgaria to do so, and in 2000 Bulgaria expressed renewed interest in acceding to the GPA. It would have to join the GPA in order to become a member of the EU.

In 1999, Parliament adopted new procurement legislation. This legislation defines terms and conditions for public orders and aims for increased transparency and efficiency in public procurement. Bidders still complain that tendering processes are frequently unclear and/or subject to irregularities, fueling speculation of corruption in government tenders. U.S. companies have also found that, in general, neither remaining state enterprises nor private firms are accustomed to competitive bidding procedures to supply goods and services. However, tenders organized under projects financed by international donors have tended to be open and transparent.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Bulgarian intellectual property rights (IPR) legislation is generally adequate, with modern patent and copyright laws and criminal penalties for copyright infringement. Bulgarian legislation in this area is considered to be among the most modern in Central and Eastern Europe. In March 2000, amendments to the Law on Copyright and Neighboring Rights extended copyright protection to 70 years, and introduced a new neighboring right for film producers, provisional measures to preserve evidence of IPR infringement and special border measures. In 1999, Parliament passed a series of laws on trademarks and geographical indications, industrial designs and integrated circuits.

Until 1998, Bulgaria was the largest source of compact-disk and CD-ROM piracy in Europe and was one of the world's leading exporters of pirated goods. For this reason, Bulgaria was placed on the U.S. Trade Representative's Special 301 Priority Watch List in 1998. Enforcement improved considerably with the introduction of a CD-production licensing system in 1998. In recognition of the significant progress made by the Bulgarian Government in this area, the U.S. Trade Representative removed Bulgaria from the Watch List in April 1999.

Pharmaceuticals manufacturers note that Bulgaria has not introduced protection for confidential pharmaceutical test data in line with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and its Europe Agreement. The industry further claims that drug pricing and reimbursement procedures are not transparent. These U.S. companies also report that enforcement of patent rights for their products is ineffective. The Bulgarian Government has proposed legislation which would strengthen protection for pharmaceutical test data.

Software piracy continues to be a serious problem, although an industry legalization campaign which began in 1999 has made noticeable gains against unauthorized software. Local software industry representatives report that, with good cooperation from Bulgarian law enforcement authorities, the campaign has brought down the piracy rate to approximately 80 percent of the products in the market. The Bulgarian Government has signed agreements with major software companies committing the state administration to license all company products.

Due to improvements in enforcement and the legal regime, audiovisual piracy has decreased since 1998, but still remains a significant problem. Industry sources estimate the piracy rates for videotapes, optical discs, satellite television programs and the Internet in Bulgaria at 15 to 25 percent.

U.S. industries report that lack of effective judicial remedies for infringement of intellectual property rights is a barrier to investment. U.S. companies have also cited illegal use of trademarks as a barrier to the Bulgarian market.

SERVICES BARRIERS

As in other countries aspiring to membership in the EU, Bulgaria’s 1998 radio and television law requires a “predominant portion” of certain programming to be drawn from European-produced works and sets quotas for Bulgarian works within that portion. However, this requirement will only be applied to the extent “practicable.” Foreign broadcasters transmitting into Bulgaria must have a local representative, and broadcasters are prohibited from entering into barter agreements with television program suppliers.

INVESTMENT BARRIERS

A Bilateral Investment Treaty (BIT) with the United States took effect in 1994. The BIT includes guarantees for U.S. investors of the better of national and MFN treatment, the right to make financial transfers freely and without delay, international law standards for expropriation and compensation, and access to international arbitration.

Foreign persons cannot own land in Bulgaria because of a constitutional prohibition, but foreign-owned companies registered in Bulgaria are considered to be Bulgarian persons. Foreign persons may acquire ownership of buildings and limited property rights, and may lease land. Local companies where foreign partners have controlling interests must obtain prior approval (licenses) to engage in certain activities: production and export of arms/ammunition; banking and insurance; exploration, development and exploitation of natural resources; and acquisition of property in certain geographic areas. There are neither specific export-performance requirements nor specific restrictions on hiring of expatriate personnel, but residence permits are often difficult to obtain. Bulgaria’s Commercial Code has provisions which do not adequately protect minority shareholders.

ELECTRONIC COMMERCE

The Bulgarian Government has signed the WIPO “Internet” treaties - the Copyright Treaty and the Performance and Phonograms Treaty. Further, it has submitted the two treaties to Parliament for ratification.

OTHER SIGNIFICANT BARRIERS

Foreign investors complain that tax evasion by private domestic firms combined with the failure of the authorities to enforce collection from large, often financially precarious, state-owned enterprises, places the foreign investor at a real disadvantage. Many business representatives contend that unnecessary licensing and administrative inefficiency continue to hinder private business development and market entry. Although the Bulgarian Government has achieved some successes in the fight against organized crime and corruption, many observers believe that corruption and political influence in business decision making and in the judicial system continue to be significant problems in Bulgaria’s investment climate. The problems range from the demand for petty bribes for government licenses and permits to nontransparent privatizations of major state enterprises.

In recent years, the government has implemented legal reforms designed to strengthen the country’s business climate, including legislation on foreign investment and privatization. In 2000, the Bulgarian Government began implementing a program aimed at abolishing or simplifying a number of licenses and other administrative procedures.