ROMANIA

TRADE SUMMARY

The United States registered a trade deficit of $145 million with Romania in 2001, a decline of $95 million from 2000. Romania was the United States' 72nd largest export market in 2001. In 2001, U.S. goods exports to Romania were $375 million, a 61.0 percent increase from 2000. U.S. imports from Romania were $520 million in 2001, an increase of $47 million (10.0 percent) from 2000. The stock of U.S. direct investment in 2000 was $106 million.

IMPORT POLICIES

Tariffs

Romania's trade policies are shaped primarily by its World Trade Organization (WTO) commitments and by its efforts to join the European Union (EU). Romania has concluded a preferential trade agreement with the EU (Europe Agreement), and free trade agreements with Central European neighbors (CEFTA) and European Free Trade Area (EFTA) countries. Romania generally maintains WTO bound rates for agricultural products (average rate of 98.6 percent) and non-agricultural products (average rate of 34.4 percent). It did, however, frequently use much lower applied rates, resulting in average applied rates of 33.9 percent in the case of agricultural products and 16.2 percent in the case of non-agricultural products.

Romania acceded to the WTO's Information Technology Agreement and so eliminated tariffs on those products covered by the agreement effective January 1, 2000. High MFN rates on distilled spirits (90 percent ad valorem within a modest quota and 247.5 percent outside the quota), wine (144 percent), durum wheat (242 percent), and textiles (12 percent to 32 percent) have severely limited access to the Romanian market for U.S. products. In 2001, Romania lifted the import surcharge it had imposed on all products in 1998.

Pursuant to its Europe Agreement, Romania is phasing out tariffs on products originating within the EU while U.S.-origin exports face frequently high MFN duties. Exporters of U.S.-origin products have voiced concerns about these tariff differentials vis-a-vis EU-origin products; their products include durum wheat, distilled spirits, animal feed supplements, wine, rubber tires, upholstery, lightning arresters, switching gear for telephone lines, as well as washers and dryers for laundromats. In 2000, Romania and the EU reached agreement on further trade liberalization in agricultural products. This agreement ends EU agricultural subsidies on goods exported to Romania in return for the elimination of Romania's tariffs on most EU agricultural products. As a result, U.S. agricultural products will be put at a further disadvantage compared to EU products. The United States has been consulting with Romania about the tariff differential problem and encouraging it to reduce its applied rates to the EU's CET rates for key products and sectors.

Non-tariff barriers

In 2001, the new Romanian Government restored the small and medium enterprises (SME) measures and incentives that had been repealed by the previous government in 2000. The most important measures restored were import duty- and VAT-free regimes for machines, equipment, technology and information imported for the development of SME activity. The new Romanian Government also restored the practice of granting priority to SMEs in government procurement of goods and services, the elimination of the tax on reinvested profits, and the duty-free regime for the import of raw materials for SMEs. In the second half of 2001, after a new stand-by agreement was concluded with the IMF, measures previously granted to SMEs that contributed to the worsening of the 2001 trade deficit were targeted for change. Some fiscal and customs measures have remained in specific areas, such as free trade areas and industrial parks. Beginning in 2002, any new VAT or customs duty holidays will be transparently stipulated and applied equally to all companies. However, the government's new VAT regulations intended to reduce taxation in construction, and tourism are opposed by the IMF. As of early February, 2002, there is no agreement between the IMF and the government on customs duties, VAT, and profit tax levels. In 2001, new rules were implemented for foreign direct investments exceeding the equivalent of $1 million. These include a customs duty holiday for imports needed to make the investment and tax deductions of 20 percent of the total investment value.

In 1997, Romania adopted a new customs code and the government established minimum and maximum prices for several products. The minimum price practice was officially stopped by the government of Romania in August 2001, after WTO dispute settlement consultations with the United States regarding this practice were successfully resolved. However, in January 2002 some businesses complained that Romanian Customs received discretionary authority to implement the minimum price practice and is doing so on an ad hoc basis.

U.S. exports to Romania are hampered by the Pan-European Cumulation system, particularly the removal of the availability of customs duty drawback on products originating in the United States 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, Romania 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 Romania's Europe Agreement, even though other participants in the "cumulation system" are not party to this agreement.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Romania has sought to bring its standards in line with international and/or EU standards. Romanian standards of quality and safety are under the jurisdiction of the Romanian Standards Institute. Nearly 90 percent of all new standards match ISO or EU standards. Romania adopted, for instance, international quality control standards such as ISO 8402, 9000-9004 and 9004-2 and incorporated them in its national standardization system.

Although the ISO standards are not compulsory by law for individual companies, buyers increasingly impose them on the suppliers to prove the quality of their products and services by the certification of the quality control system they practice. According to Romanian Decree No. 21/1992, an Office for Consumer Protection has been created. This office supervises product quality compliance with compulsory standards pertaining to life, health, work security and environmental protection.

GOVERNMENT PROCUREMENT

For a number of years the Government of Romania has expressed its intention to join the WTO Government Procurement Agreement (GPA) but has not done so. Romania already is an observer to the GPA and will have to accede to the GPA when it joins the EU.

Romania has supported discussions in Geneva regarding transparency in government procurement. Romania's government procurement law covers purchases by central government bodies – Parliament, the presidency, the government and ministries, institutions of higher learning, and the judiciary – as well as by state-owned enterprises, with the exception of the procurement of armaments or public works by the Ministry of Defense. State-owned companies with the status of commercial companies have their own internally elaborated purchasing policies based on commercial principles. Article 5 of Decree OG12/1993 establishes the two key conditions for the participation of foreign suppliers: (i) Romanian suppliers are granted similar treatment in the country of origin of the foreign supplier; and (ii) a Romanian supplier is either not available or cannot fulfill the conditions of the purchase.

EXPORT SUBSIDIES

In 2001 Romania did not provide export subsidies for agricultural products. In 2002, the government budgeted a subsidy for poultry meat (chicken) exports at $203 per metric ton up to 4,000 metric tons.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Romania's criminal enforcement against copyright piracy and trademark counterfeiting (especially of U.S. distilled spirits) has remained inadequate. Although Romania provides its border and other authorities sufficient legal authority, resources, and tools to combat piracy, enforcement of copyright-protected works has remained marginal. This inadequate enforcement against copyright piracy caused Romania to remain on the Special 301Watch List in 2001.

The rates of copyright piracy in Romania are high, though the authorities have made some improvements. Since the passage of a copyright law in 1996, the software piracy rate has dropped from 93 percent of total sales in Romania in 1996 to 73 percent in 2000, according to the U.S. copyright industries, which have estimated that the piracy rate in 2000 was equal to $153 million. The industry-estimated piracy rate for music dropped from 92 percent in 1996 to 75 percent in 2000, with an industry-estimated loss incurred of $35 million in 2000. Audio-video import market piracy rate dropped from 90 percent in 1996 to 55 percent in 2000, according to the U.S. copyright industries, which have estimated specific losses at $25 million in 2000. Currently, there are 300 criminal cases pending. However, most cases do not reach trial, partly due to pre-trial settlements.

With respect to pharmaceuticals, Romanian law does not provide protection for confidential test data, in apparent violation of its TRIPS Agreement commitments.

SERVICES BARRIERS

In accordance with its Association Agreement with the EU, Romania was required to implement the EU broadcast directive that provides for European content quotas. However, Romania also included the "where practicable" provision of that directive, which gives the government flexibility in implementing this rule. Specifically, Law 119 of 1999, which amended Audio-Visual Law 48/1992, provides that: "TV stations must gradually broadcast, as much as possible, and by appropriate means, at least 51 percent of the total broadcast time to European productions, minus news and sport shows, games, advertising and teletext services." In addition, out of the total, at least 40 percent must be Romanian made. However, administering Romanian legislation compatible with EU requirements is regarded by Romanian parliamentarians as impractical, as Romanian stations that comply with the requirement would dramatically lose market share and revenues.

The Ministry of Justice has submitted legislation to parliament requiring that foreign law firms be associated with Romanian ones. Foreign lawyers cannot provide legal advice on foreign or international law without being licensed in the practice of Romanian law.

Romania introduced a new banking law in 1998 that opened its banking sector to foreign investors as it implemented its commitments under the WTO Financial Services Agreement. Foreign insurance companies must establish a partnership venture with a Romanian partner to enter the Romanian market. Romania makes only minimal commitments for cross-border provision of insurance services.

The government sold a strategic stake in the telephone company (Romtelecom) to Hellenic Telecommunications Organization in 1998. The privatization of Romtelecom was completed in 2001. Tariffs are subject to governmental supervision. Romania has made commitments under the WTO Basic Telecommunications Agreement - many of which will be phased in in 2003 - and has adopted the pro-competitive regulatory principles contained in the WTO Reference Paper. Romania still needs to establish a transparent, non-discriminatory licensing system as specified in the WTO Reference Paper.

INVESTMENT BARRIERS

In November 2000, the previous government issued an emergency ordinance (number 229) for changing the Law 52/1994 concerning securities and stock exchanges. This ordinance granted for the first time in Romania rights to minority shareholders, and was severely criticized by most major foreign direct investors in Romania grouped under the umbrella of the Foreign Investors Council. Under their intense lobbying pressure, the current government took the extreme measure of canceling the ordinance of the former government on February 15, 2001. The government has not revisited this issue.

A significant impediment to foreign investment is Romania’s unpredictable legal and regulatory system. Tax laws change frequently and are unevenly enforced. Tort cases can require lengthy, expensive procedures and judges’ rulings face uncertain enforcement.

Romania has requested additional time to implement the WTO Agreement on Trade Related Investment Measures (TRIMS). Developing countries were required to come into compliance with this Agreement by January 1, 2000. In regard to a single shipbuilding facility, Romania has sought an extension until May 27, 2003. For a motor vehicle facility a request was made for an extension until November 16, 2001. Both firms entered into agreements with the Romanian Government that include performance requirements that expire on those dates. Romania has amended the law under which these contracts were negotiated in order to ensure that future arrangements will not contain provisions which violate the TRIMS Agreement. WTO members will have the opportunity to review this extension request. Government officials have indicated that they do not intend to seek further extensions.

ANTICOMPETITIVE PRACTICES

The Romanian government has taken no action against practices of state-owned and private firms that restrict the sale of U.S. products and services.

ELECTRONIC COMMERCE

The Romanian Government has signed the WIPO “Internet” treaties - the Copyright Treaty and the Performance and Phonograms Treaty and in November 2000 the Parliament ratified them. Nonetheless, as a result of millions of dollars worth of fraud on credit cards, many international electronic vendors no longer fill orders filed electronically from Romania. According to sources in Parliament, a draft law against computer fraud may be promulgated by the end of 2002.

OTHER SIGNIFICANT BARRIERS

To boost the collection of some important debts from state-owned suppliers, the Ministry of Finance renegotiated rescheduling deals with state and private domestic debtors. In certain cases, this hidden subsidy has disadvantaged U.S. competitors. For instance, the Finance Ministry agreed in 1998 to reschedule tax arrears amounting to about $200 million for the domestic firm "European Drinks," an important domestic beverage manufacturer. Although that tax relief stopped in 2000, no tax reimbursement was made to the affected competitors to address the situation.

Bribery and corruption are widespread throughout the Romanian economy and tax administration. This is believed to have stimulated growth in the informal economy, which currently amounts to about half of nominal gross domestic product. Factors contributing to the growth of the informal economy are well-known: over-regulation and bureaucracy; inconsistent and changing legislation with immediate effect and subjective interpretation of law; low wages of tax inspectors and other public service employees (prosecutors, judges, etc.); and high taxation and a high level of corruption in the employment and promotion systems in customs, police and border police.