

ROMANIA

TRADE SUMMARY

The U.S. goods trade deficit with Romania was \$576 million in 2005, an increase of \$248 million from \$328 million in 2004. U.S. goods exports in 2005 were \$632 million, up 20.3 percent from the previous year. Corresponding U.S. imports from Romania were \$1.2 billion, up 41.6 percent. Romania is currently the 73rd largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Romania in 2004 was \$542 million, up from \$401 million in 2003.

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 a preferential trade agreement with the EU (the "Europe Agreement"), and free trade agreements with its Central European neighbors and the European Free Trade Area (EFTA) countries. Romania provides duty-free access to its market for nearly all products imported from the EU but maintains higher levels for non-EU trading partners, including the United States. The free trade arrangements with the EU and EFTA, and the CEFTA, result in customs duty differentials for many U.S. products, often of as much as 30 percent. U.S. exporters have voiced concerns about these tariff differentials, including exporters of distilled spirits, pharmaceuticals, wheat, animal feed supplements, wine, rubber tires, upholstery, lightning arresters, switching gear for telephone lines, and commercial washers and dryers. Romania has bound most of its tariff rates in the WTO for both agricultural products (average rate of 109 percent) and non-agricultural products (average rate of 34.4 percent). Lower applied rates are generally used, resulting in average applied rates of 30 percent in the case of agricultural products and 16.2 percent in the case of non-agricultural products. Romania is a party to the WTO Information Technology Agreement and eliminated tariffs on products covered by the agreement effective January 1, 2000. High most-favored-nation (MFN) rates on distilled spirits (60 percent *ad valorem*, except for bourbon whisky, taxed at 35 percent), wine (60 percent), and textiles (12 percent to 32 percent) provide limited access to the Romanian market for these U.S. products.

FOREIGN TRADE BARRIERS

As a result of petitions filed by the Pharmaceutical Research and Manufacturers of America and the Distilled Spirits Council of the United States and concerns expressed by agricultural producers, the U.S. Government is reviewing Romania's continued eligibility for the U.S. Generalized System of Preferences (GSP) program in view of the preferential treatment it affords to the EU. The United States has urged the Romanian government to lower MFN tariffs on a range of items to reduce the tariff differential and its negative effect on U.S. exports.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Romania has begun to harmonize sanitary and phytosanitary measures with those of the EU. Adoption and implementation of EU measures will have a negative impact on U.S. exports of pork, poultry, beef and biotechnology products to Romania. The U.S. Government has been working closely with Romanian officials to ensure that U.S. products continue to have market access for these key products.

GOVERNMENT PROCUREMENT

Romania is an observer in the WTO Committee on Government Procurement and would become subject to the WTO Government Procurement Agreement (GPA) upon its accession to the EU, which is a GPA Party. With the exception of the procurement of armaments and public works, Romania's government procurement law covers purchases by central government bodies, the parliament, the presidency, the ministries, institutions of higher learning, the judiciary, as well as state-owned enterprises. According to Romanian law, foreign suppliers are accorded the same treatment that Romanian suppliers enjoy in the foreign supplier's home country.

The Romanian government's web-based public procurement project, which has been in operation since 2002, has improved government efficiency and helped curb institutional corruption. Romania's tender announcements, bid processing, and offer appraisals are entirely computer-based; the list of ongoing and closed auctions, names of adjudicators, and closing prices are available to the public. The e-procurement system has grown to include complex projects (e.g., state-financed sports halls for public schools and road transportation licenses) and has saved the budget over €100 million.

EXPORT SUBSIDIES

The Romanian government provides export subsidies for certain wines. Only wines of controlled origin exported to destinations other than EU are eligible for the program.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Romania's criminal enforcement with respect to copyright piracy and trademark counterfeiting remains inadequate. Although Romania's legislation is fairly modern and comprehensive, enforcement remains quite weak.

FOREIGN TRADE BARRIERS

Due to inadequate enforcement against copyright piracy, Romania remained on the Special 301 “Watch List” in 2005. Although the authorities have made gradual, limited improvements, the rates of copyright piracy are high. Industry reports that levels of DVD piracy have risen to 80 percent, while levels of videocassette piracy are down to 20 percent and the most blatant retail piracy has been eliminated.

While legislative improvements allow for greater criminal prosecution, very few IPR cases are prosecuted and many law enforcement officials refuse to recognize IP crime as an important issue. Despite some seizures, infringement is increasing as pirated DVDs continue being smuggled into Romania. Furthermore, police acknowledge that sources in Romania may be building capacity to start domestic production of pirated CDs.

The appointment in 2003 of a special IPR prosecutor in the General Prosecutor's Office (GPO) has helped efforts to combat IPR piracy as has the establishment of a small IPR office in the GPO in 2005. The government recently approved an action plan which designates the GPO as the national coordinator for IPR enforcement. Information sharing is increasing in the law enforcement community. Specially appointed IPR prosecutors have been designated for all Romanian counties, and specialized judges have been designated to serve on the Bucharest Tribunal. IPR training sessions in 2004 and 2005 specifically focused on training prosecutors, judges, local and border police officers, and customs officials to better understand and recognize violations of intellectual property rights.

Another area of concern is the illegal sale of counterfeit decoder devices. The stealing of video signals is hindering cable companies’ efforts to upgrade networks and keep subscription rates as low as possible. Currently, Romanian law stipulates fines for the trading of counterfeit decoders but the law is not enforced. One video provider estimates that for each legitimate subscriber, five others are fraudulently watching transmissions through counterfeit devices.

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 is also covered by a provision of the Directive that gives the government flexibility in implementing this rule. Specifically, Law 119 of 1999, which amended the Audio-Visual Law 48/1992, provides that television stations must gradually devote at least 51 percent of total broadcast time to European productions, minus news and sport shows, games, advertising, and teletext services. The result is that at least 40 percent of total broadcasting must be Romanian. Many Romanian Parliamentarians regard the amendment of Romanian legislation to reflect EU requirements impractical, because Romanian stations that comply with the requirement would dramatically lose market share and revenues.

FOREIGN TRADE BARRIERS

Foreign lawyers not licensed in the practice of Romanian law can only provide legal advice on foreign or international law. They can, however, provide legal advice on Romanian legislation after passing an examination on Romanian legislation given by the Romanian Lawyers Union Exam. A law passed in 2004 increased flexibility for EU lawyers, enabling them to practice in Romania after a three-year probationary period as an alternative to taking the exam in Romanian legislation. Foreign lawyers may work in Romania as individuals in law offices associated with Romanian firms or international law firms.

Romanian law previously required that doctors and health care professionals be Romanian citizens. A law passed in 2004 makes it possible for doctors and healthcare professionals from EU member states to practice in Romania, but maintains the restriction for non-EU citizens. This effectively hinders the provision of medical services by non-EU medical professionals.

Foreign insurance companies must establish a partnership venture with a Romanian partner to enter the Romanian market. Romania has made limited GATS commitments for cross-border provision of insurance services.

During 2003, Romania phased-in many of its GATS telecommunications commitments, which included the pro-competitive regulatory principles contained in the WTO Reference Paper. Nonetheless, concerns remain regarding a lack of transparency and the existence of discriminatory treatment in the licensing system.

However, Romania's telecommunications regulator – the National Regulatory Authority for Communications (ANRC) – has simplified the authorization procedure for private communications licenses. Additionally, in October 2005, the ANRC imposed the obligation on Romtelecom – Romania's dominant provider – to charge cost-oriented interconnection rates, which will result in a significant reduction in price (from 11.3 percent to 69.8 percent, depending on the segment). The ANRC has also announced that it will impose this same obligation on mobile operators that it deems to have significant market power.

INVESTMENT BARRIERS

In 2003, to address potential incompatibilities between Bilateral Investment Treaty (BIT) obligations and EU law, the United States and eight prospective EU members agreed to make several narrow amendments to the texts of the relevant BITs. Both the United States and Romania have ratified the BIT amendments, but the amendments will not enter into force until Romania joins the EU. A law on securities that was passed in 2004 entitles majority shareholders owning 95 percent of the total stock in a firm to buy residual shares. This law is considered to be a compromise to provide very limited minority shareholder protection.

A continued impediment to foreign investment is Romania's inconsistent legal and regulatory system. Tax laws change frequently and are unevenly enforced. Tort cases often require lengthy, expensive procedures, and judges' rulings are often not enforced.

FOREIGN TRADE BARRIERS

ELECTRONIC COMMERCE

Romania has one of the highest incidences of Internet credit card fraud in Europe, which has discouraged international vendors from making electronic payments to Romania. The most common problems result from the use of stolen credit card numbers for the purchase of goods on the Internet. Romanian hackers have also attacked U.S. companies' servers and stolen proprietary information. Since 2002, Romania has had a law on electronic commerce that defines and punishes cyber crime and includes criminal sanctions for falsifying cyber-pay instruments, carrying out fraudulent financial transactions, accepting fraudulent financial transactions, or performing unlicensed cyber transactions.

OTHER BARRIERS

Though more than two-thirds of Romanian gross domestic product is created by private entities, large state-owned enterprises and government-subsidized enterprises are major impediments to free and fair market competition in certain sectors. Preferential debt rescheduling and total or partial cancellation of debts (including taxes) by the Romanian government, as well as granting of state aid to state-owned enterprises and the firms of well-connected Romanians, continued up to 2004. While the Competition Council has brought new state aid under control and in compliance with EU requirements, it still has not dealt with improperly granted state aid from 2004 and before.

The most common complaints of American companies operating in Romania are the frequency with which the government changes its laws, unfair public procurement, weak enforcement of existing laws, concerns about judicial competence, lack of court impartiality, limited consultation with businesses in the passage of economic legislation, and corruption.

FOREIGN TRADE BARRIERS