# Doing Business in ROMANIA: 2012 Country Commercial Guide for U.S. Companies

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# Chapter 1: Doing Business in Romania



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Romania is a market with tremendous potential, a strategic location, and a business environment that offers opportunities amidst some risks. To successfully seize the business opportunities while reducing those risks requires a careful evaluation of the market, patience and commitment. It is extremely difficult for U.S. exporters to accomplish this without an effective and qualified local partner.

After several years of strong growth, Romania slumped into a deep recession in 2009 with GDP contracting by more than 7%. Since that time the country has seen a return to weak positive growth, with recent forecasts at 1.7% GDP growth in 2012. While it is difficult to predict Forecasts for succeeding years are more encouraging, as most predict the rate of economic growth to accelerate further.

Stabilization of the economy has been due largely to a €20 billion ($27.4 billion) rescue package led by the International Monetary Fund (IMF). Romania has shown commitment to meeting the terms of the agreement with IMF, implementing a tough austerity program to reduce its budget deficit to 4.4% of GDP in 2011 and to 3% of GDP in 2012.

Several of these measures, including an increase from 19% to 24% in the value added tax (VAT), and a cut of 25% in public sector salaries, depressed consumer demand and spending predictably. This increase in VAT also contributed to inflation of about 8%in 2010, the highest rate in the EU, with a notable jump in food and energy prices. However, inflation is widely expected to decrease in 2011, even as economic conditions improve led by relatively strong export performance and a gradual rebound in demand.

Despite the weak economic conditions, there are opportunities for American business in areas such as energy, agricultural equipment, environmental technologies, infrastructure, and ICT. As the economy recovers, additional opportunities will emerge in areas such as franchising, hotel and restaurant equipment, automotive parts, packaging, and other industrial equipment. The pace of implementation of infrastructure projects has quickened as Romania races to absorb EU structural funds before they expire, and the Romanian Government, encouraged by private management of its largest pension fund, have shown new openness to partial or complete privatization of some industrial assets.

Successful entry into the Romanian market requires solid preparation, and market research is an important part of any business strategy. The balance of this report is intended to aid American companies in developing and executing new and increased sales to this important and promising – yet still transitional – EU member state.

## Market Challenges

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Romania removed its communist dictator more than twenty years ago, and yet the Romanian government still plays an outsized role in the economy in terms of employment, ownership of assets, and influence on the business environment.

The public sector includes thousands of entities authorized to spend public funds, and consequently most sizable businesses rely on public sector demand. This means that as a practical consideration, U.S. exporters cannot escape this aspect of the economy. State-Owned Enterprises shape many industries as dominant customers, suppliers, or in some cases competitors. The deployment of private sector management principles is incomplete or unknown in some cases, and political influence, opaque decision-making, conflicts of interest, questionable procurement practices, and problems of payment – even under contract -- are not infrequent issues when selling to the public sector.

The public sector is administered by a deep and inefficient bureaucracy, where few decisions can be made without several layers of approval. Even when fully authorized by their mandates, many Romanian government agencies seek a higher level of political approval, even informally, before making decisions. When such intervention is necessary to overcome this inertia, it creates an environment in which fraud and corruption can occur. The Romanian government has sought to reduce these opportunities by moving some government processes to on-line platforms, replacing the human interaction with "e-Government" in areas such as healthcare and government services. However, to the extent these reforms threaten existing arrangements, they encounter internal resistance in some places.

Regulations and government decisions that affect business are often made with very little, if any, consultation of stakeholders. As a result, regulation and government directives sometimes appear internally contradictory, or produce unintended negative consequences. A lack of stability and bureaucracy prevent some of the measures meant to encourage business, such as a Public-Private Partnerships law and a program of investment incentives or "state aid," from working as they should. The legal system does not provide the same predictable recourse nor enforceable sanctions against corruption as are found among older EU members.

The oversight of the IMF has brought greater accountability and discipline to public spending. This discipline includes some settling of arrears owed by the Romanian Government, which has demonstrated commitment to meeting the conditions of the IMF. The poor condition of Romania's physical infrastructure -- including roads, rail, airports, and water and wastewater systems – affects business costs, productivity, public safety, and the country's success in attracting foreign investment. In many cases the national government owns the infrastructure (rail, some airports), and in other cases (water utilities) county councils own the assets. The country's connections to the rest of the EU's transportation infrastructure are underdeveloped, keeping Romania from realizing its full potential for new investment, trade and tourism.

In the current economic environment, American exporters should be attuned to heightened commercial risks and consider their terms of trade carefully. Selecting the proper partner – whether as a distributor, licensee, or franchisee – is extremely important. Adequate due diligence can make the difference between a successful investment or distribution agreement, and a costly mistake.

Romania has not yet entered the "Euro zone," and so most income is paid in the local currency, the *leu*. At the same time, many companies and consumers have debt denominated in euro, and most big-ticket consumer items (real estate, cars, major appliances) are priced in euro. In the last four years most Romanian borrowers have been on the losing side of this exchange rate risk, with direct effects on their purchases and debt service.

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Despite these challenges, several underlying attributes of the economy allow it to keep forward momentum. These attributes also produce the medium term business opportunities for American companies who have experience and expertise in the areas in demand.

Romania's membership in the European Union is one of its most persuasive advantages. As a relatively new (2007) member, Romania offers a sizable domestic market and a comparatively low-cost foothold for accessing the EU market. Much of the foreign investment in retail and some manufacturing has been based on these two elements. In addition to this larger market, Romania's membership makes it eligible for billions of euro in EU grant funding. The set of financial supports known as Structural Funds are available to support investment in physical infrastructure and many other types of projects, and require a co-financing component from the recipient, in addition to the national government.

In addition, Romania's location in Southeast Europe shortens the distance for export sales to Turkey, the Balkans, the Middle East and markets such as Ukraine and Russia. Several foreign manufacturers have moved into Romania, despite its economic recession, for this reason. Romania's powerful concentration of high-end software development and services is almost entirely export driven, serving regional or global markets.

Romania's stage of development and its requirement to conform to the standards of the EU drive many of the business opportunities for U.S. firms. Whether in response to directives from Brussels, to simply "catch up" to the rest of Europe, or to meet market potential, the U.S. Commercial Service sees the best prospects for sales in the following sectors, each of which is developed in greater detail later in this report.

- Agricultural Machinery and Equipment
- Energy
- Environmental Technologies
- Healthcare
- Information Technology
- Packaging Equipment and Waste Recycling

The European Union and EU Funding

The EU has allocated approximately 27.5 billion euro to Romania for projects in areas ranging from transport and rural development, to energy and environment. However, Romania has a dismal record of availing itself of these funds. The rate at which it has been able to apply for, receive and contract for the use of these funds – or the "absorption rate" – is the lowest of all the 10 newest EU members, four years after Romania attained membership. Access to these funds expires in 2015.

The problem is a combination of money and administrative capacity. Romanian authorities must improve their ability to design worthwhile projects meeting stringent EU guidelines as well as provide required co-financing. On some infrastructure projects, for example, expenses ineligible for EU funds (such as land acquisition) may equal up to half of the total project cost. The continuing challenge has been a lack of adequate administrative capacity and project management skills to plan, budget, obligate and spend these funds in an efficient, transparent and effective manner. Internal project review and approval procedures implemented by Romanian authorities are also multi-layered and cumbersome. This has produced a business opportunity for specialized consultants.

There are always more needs and projects than available funding in Romania. American companies should examine the reliability of a buyer's financing arrangements. One method for identifying business opportunities is to find where one of the best prospect sectors (e.g. environment) intersects with the buyer's ability to access EU funding and arrange co-financing.

U.S. exporters should monitor other recent developments in the European Union:

- Enlargement of the EU continues with Croatia having signed its accession treaty. It is scheduled to become a full member as of July 1, 2013, once all 27 members have ratified the treaty. This will add an estimated 4.5 million individuals to the already existing 500 million individuals in the single market. The EU is currently close to bringing Iceland into the fold and is in discussions with several other Balkan states as well as Turkey.

- An increase in the size of the euro area, adding Estonia in January 2011, brought the total to 17 countries. Businesses face lower business transaction costs and more transparent pricing throughout the euro area compared to the challenges and costs of dealing in multiple currencies prior to the euro's introduction. The EU's handling of the current euro area crisis and how quickly it will emerge from the financial crisis may impact U.S. firms doing business here.

- The border free EU Schengen area now covers 25 countries, including some non-EU members, and greatly eases the movement of goods and people across air, land, and sea borders. Romania's membership in the Schengen area has not yet been approved by all of the existing 25 members.

Discussions on a range of existing and proposed trade issues are ongoing, including current and proposed EU restrictions on genetically-modified organisms, biotechnology and nanotechnology; different approaches to transparency in regulatory procedures; and different approaches to the role of standards and their development. To ensure that U.S. companies get the full benefits of the trade agreements the United States has negotiated, the U.S. Government has developed a trade compliance initiative. U.S. trade agencies work closely and diligently with the business community to ensure that the EU and its member states comply with their bilateral and multilateral trade obligations, and to minimize market access problems affecting U.S. firms.

## Market Entry Strategy

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A local business presence is essential to success in the Romanian market, and this can take the form of a distributor agreement, subsidiary, joint venture or acquisition. Regardless of the form of investment or entry strategy, American businesses considering the Romanian market should research their specific prospects thoroughly, perform due diligence, and be prepared to adapt their business models as necessary. Retaining legal counsel with solid knowledge of Romanian law is extremely important, and relationships with other service providers such as banks and accountants can provide excellent value as well. Selling through a local Romanian partner is a standard element of most entry strategies. Therefore, a U.S. company's success can hinge on identifying, qualifying and selecting a partner with the resources and expertise to help accomplish its objectives.

The European Union market is a differentiated one, with specific supply and demand needs varying from member state to member state. While a pan-European business strategy is critical, exact market entry strategies must be considered on a country-by-country basis. For details of these tactics, please consult the Commerce Department's Country Commercial Guides of the 27 EU member states found at the following website: EU Member States' Country Commercial Guides

To conduct a more thorough search for market research reports on specific industries and sectors within EU member states please consult the Commerce Department's Market Research Library: http://www.export.gov/mrktresearch/index.asp

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## Chapter 2: Political and Economic Environment

For background information on the political and economic environment of the country, please click on the link below to the U.S. Department of State Background Notes.

http://www.state.gov/r/pa/ei/bgn/35722.htm

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# Chapter 3: Selling U.S. Products and Services



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Local agents, distributors and joint venture partners can contribute significantly to the success of an American company by bringing knowledge of the market, industry experience, access to key contacts, and other resources. Selecting a distributor is a serious strategic decision, with long-term business and legal implications. When establishing a contract with a distributor or joint venture partner, American companies are advised to seek legal advice to draft a distribution agreement that is compliant with local regulations and standard business practices.

U.S. Commercial Service Romania advises against relying on internet searches, association lists, or other passive methods for finding a partner. Through its International Partner Search and Gold Key Service, CS Romania helps U.S. companies find and qualify prospective agents, distributors or representatives, and can perform background checks on Romanian companies through the International Company Profile.

Key links: International Partner Search, Gold Key Matching Services, Single Company Promotion or International Company Profile.

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Opening a local office in Romania involves several steps:

*1.* Choose the type of company

*General Partnership (SNC):* A general partnership can involve two or more partners. The partnership relationship is based upon a contract, and any person who is able to enter into a binding contract may enter into a partnership. The parties must register their partnership with the National Trade Registry Office in the Ministry of Justice.

*Limited Partnership (SCS):* As with other jurisdictions, a limited partnership consists of one or more general partners, who manage the business of the partnership, and one or more limited partners who contribute capital (money or other property) to the partnership, but do not participate in its management. Generally, limited partners are not liable for the debts and obligations of the partnership beyond their contributions to the registered capital.

*Joint-Stock Company (SA):* A joint stock company is a limited liability corporation with registered capital of at least $960 and at least five shareholders. Shares can be nominative shares or bearer shares, and can be freely traded or pledged. A joint stock company may be set up privately or by public subscription. A privately held company is required to have a Memorandum of Association. At the time of the company's registration, each shareholder must pay at least 30% of his/her portion of the registered share capital, with the remaining 70% paid within a maximum of 12 months.

*Limited Partnership by Share (SCA):* The capital is divided into shares and the obligations are guaranteed by the capital and by the unlimited and joint liability of the general partners. The limited partners are liable only for the payment of their shares.

*Limited Liability Company (SRL):* A limited liability company is a company formed by a limited number of partners (no more than 50). The registered share capital of an SRL is normally divided into shares with a registered value of not less than 10 RON each. Shares cannot be freely traded, making limited liability companies similar to what are known as private companies in other legal systems. Shares of these companies cannot be pledged as collateral for loans.

*Representative Offices:* Foreign companies may open representative offices in Romania following registration with the Department of Foreign Trade in the Ministry of Economy. Representative offices cannot carry out commercial activities on their own behalf, but are entitled to promote and supervise the business of their parent organizations.

*Branches:* Foreign companies may establish branches in Romania. They must be registered with the appropriate trade registry, relative to the location of their office.

2. <u>Determine location of headquarters</u>

Foreign companies are required to have as a headquarters a physical location (not a postal address as in the United States) that is the property of or in use by one or more partners or shareholders.

3. <u>Register the name of the company</u>

The company's name is registered with the Trade Registry in the jurisdiction where the company is to be located.

4. <u>Authenticate constitutive documents</u>

General partnerships and limited liability partnerships are set up through a contract of company. Joint-stock companies, limited partnerships with shares and limited liability companies are set up through a contract of company and articles of incorporation. The signatories to the articles of incorporation are considered founders. The company must have a "Constitutive Document," (Articles of incorporation) which sets the rights and obligations of the shareholders, the object of activity of the company, the quorum required for the adoption of different resolutions, the dissolution procedure, and so forth.

5. Company's account

A company account is opened in the registered name of the company in order to deposit the share capital. The amounts depend on the form of business organization, but as an example, a limited liability company has a minimum starting capital of RON 200 (approximately $60).

6. Other required legal documents

Other documents are required, such as fiscal records.

7. Submission of the complete dossier to the One Stop Office

Once the application, or *dossier*, is complete, it is submitted to the One Stop Office in the proper jurisdiction. The One Stop Office falls under the National Trade Register Office of the Ministry of Justice.

The forms of business most commonly used by foreign investors are limited liability company (SRL), the joint stock company (SA) and the branch of a foreign parent company. Representative offices are often used as a market entry tactic, allowing a company to assess opportunities before making a more substantial investment.

Companies who plan to use distribution, franchising and agency arrangements need to ensure that the agreements they put into place are in accordance with European Union EU) and Member State national laws. Council Directive 86/653/EEC establishes certain minimum standards of protection for self-employed commercial agents who sell or purchase goods on behalf of their principals. The Directive establishes the rights and obligations of the principal and its agents, the agent's remuneration, and the conclusion and termination of an agency contract, including the notice to be given and indemnity or compensation to be paid to the agent. U.S. companies should be particularly aware that the Directive states that parties may not derogate certain requirements. Accordingly, the inclusion of a clause specifying an alternate body of law to be applied in the event of a dispute will likely be ruled invalid by European courts.

Key Link:
http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31986L0653:EN:HTML

The European Commission's Directorate General for Competition enforces legislation concerned with the effects on competition in the internal market of such "vertical agreements." Most U.S. exporters are small- and medium-sized companies (SMEs) and are exempt from the regulations because their agreements likely would qualify as "agreements of minor importance," meaning they are considered incapable of affecting competition at the EU level. Generally speaking, companies with fewer than 250 employees and an annual turnover of less than €50 million are considered small- and medium-sized. The EU has indicated that agreements that affect less than 10% of a particular market are generally exempted as well (Commission Notice 2001/C 368/07).

Key Link:
http://eurlex.europa.eu/LexUriServ/site/en/oj/2001/c_368/c_36820011222en00130015.pdf

The EU addresses the problem of payment delays with Directive 2000/35/EC. This covers all commercial transactions within the EU, whether in the public or private sector, primarily dealing with the consequences of late payment. Transactions with consumers, however, do not fall within the scope of this Directive. The Directive entitles a seller who does not receive payment for goods/services within 30-60 days of the payment deadline to collect interest (at a rate of 7 % above the European Central Bank rate) as compensation. The seller may also retain the title to goods until payment is completed and may claim full compensation for all recovery costs.

Key Link:
http://ec.europa.eu/enterprise/policies/single-market-goods/fighting-late-payments/

Companies' agents and distributors can take advantage of the European Ombudsman if they are the victims of inefficient management by an EU institution or body. Complaints can be made to the European Ombudsman only by businesses and other bodies with registered offices in the EU. The Ombudsman can act upon these complaints by investigating cases in which EU institutions fail to act in accordance with the law, fail to respect the principles of good administration, or violate fundamental rights.

Key Link: http://www.ombudsman.europa.eu

## Franchising Return to top

Franchising regulations in Romania are much the same as in other countries, basically granting the franchisee the right to operate or develop a business, product, technology or service. The contract, generally called a Franchising Agreement, reflects the interests of the members of the franchise network, and protects the franchiser's industrial or intellectual property rights by maintaining the common identity and reputation of the franchise network. The franchising agreement must define, free of any ambiguity, the obligations and liabilities of all of the parties, and must contain the following elements: object of the contract, rights and obligations of the parties involved, financial clauses, contract duration, clauses related to modification, extension, and cancellation of the agreement. The dramatic growth of franchises between 2000 and 2007 reflected the pent-up consumer demand, while the severe retrenchment between 2009 and 2010 in the face of a recession shows the importance of choosing the right franchise partner.

The Romanian Franchise Association believe that Romanian investors have become more cautious in deciding how to spend money, in the context of a generalized lack of liquidity. On the other hand, franchisors themselves have become more conciliatory and more willing to negotiate certain clauses in franchise contracts.

### American Franchises in Romania

At present, American franchises still represent a large number of brands and strong market share. At the end of 2008, the American franchises accounted for 22% of all the international brands on the Romanian market, with European brands growing swiftly. European concepts prevailed in retail franchises, while American brands were most evident in fast food concepts, such as: Quiznos and Burger King, or Starbucks.

Important U.S. companies like Subway, McDonald's, Pizza Hut, and KFC (Kentucky Fried Chicken) currently have franchisees in Romania. Other American franchises present in the Romanian market include:

- Curves (as FitCurves)
- The GAP (clothing retail)
- Hertz
- Budget
- Pizza Hut
- American Life Insurance Company
- Howard Johnson Grand Hotel Plaza
- Four Star Pizza
- Daylight Donuts
- Ruby Tuesday's
- Pizza Inn
- Subway
- Computer Troubleshooters
- Fastrackids
- Ramada
- Quiznos
- Starbucks

The U.S. Commercial Service remains positive on the long term prospects for American franchises in Romania, especially in areas outside of food concepts. However, realizing success in the Romanian market usually requires the American franchise to modify its "standard" franchise agreement to reflect local market conditions. Timetables, minimum numbers of units, and fees and royalties should all be evaluated against local market data. Even more important is finding the right local partner who understands the business concept and can execute it well. Finding local entrepreneurs with the capital to pay a franchisee fee is not as difficult as identifying those with the expertise and acumen to introduce and grow a new franchise successfully. Competition for the attention of this latter group is keen, and American franchises are evaluated against European rivals.

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The Romanian Direct Marketing Association (ARMAD) is a member of the Federation of European Direct Marketing (FEDMA) and the European E-commerce and Mail Order Trade Association (EMOTA).

There are more than 30 direct marketing companies who are also members of ARMAD. The direct marketing industry is just developing, but has been growing among Romanian companies for whom the methods offer a business marketing solution. Romania does not have a national "do-not-call list", but in 2007 a “do not mail” list was implemented by the Romanian Direct Marketing Association.

There is a wide range of EU legislation relevant to the direct marketing sector. Compliance requirements are most rigorous for marketing and sales to private consumers, and place an emphasis on the clarity and completeness of the information marketers provide consumers prior to purchase, and on their collection and use of customer data. The following gives a brief overview of the most important provisions of EU-wide rules on distance selling and on-line commerce. We recommend American companies consult the information available via the hyperlinks, and contact the U.S. Commercial Service at the U.S. Mission to the European Union for more specific guidance.

Processing Customer Data

The EU has strict laws governing the protection of personal data, including the use of such data in the context of direct marketing activities. For more information on these rules, please see the privacy section above.

Distance Selling Rules

- Distance and Door-to-Door Sales

  The EU’s Directive on distance selling to consumers (97/7/EC) sets out a number of obligations for companies doing business at a distance with consumers. Before concluding a contract, direct marketers must identify themselves clearly, provide information about their supplier, full details of price and delivery, and the period for which an offer remains valid. Customers generally have the right to return goods without any required explanation within seven days, and retain the right to compensation for faulty goods thereafter. Similar in nature is the Doorstep Directive (85/577/EEC) which is designed to protect consumers from sales occurring outside of a normal business premises (e.g., door-to-door sales).

  Key Link: http://ec.europa.eu/consumers/cons_int/safe_shop/index_en.htm

- Distance Selling of Financial Services

  Financial services are the subject of a separate Directive that came into force in June 2002 (2002/65/EC). This piece of legislation ensures that consumers are appropriately protected in respect to financial transactions taking place where the consumer and the provider are not face-to-face. In addition to prohibiting certain abusive marketing practices, the Directive establishes criteria for the presentation of contract information. Given the special nature of financial markets, specifics are also laid out for contractual withdrawal.

  Key Link: http://ec.europa.eu/consumers/cons_int/fina_serv/index_en.htm

Direct Marketing over the Internet

The e-commerce Directive (2000/31/EC) imposes certain specific requirements connected to the direct marketing business. Promotional offers must not mislead customers and the terms that must be met to qualify for them have to be easily accessible and clear. The Directive stipulates that marketing e-mails must be identified as such to the recipient and requires that companies targeting customers on-line must regularly consult national opt-out registers where they exist. When an order is placed, the service provider must acknowledge receipt quickly and by electronic means, although the Directive does not attribute any legal effect to the placing of an order or its acknowledgment. This is a matter for national law. Vendors of electronically supplied services (such as software) must also collect value added tax (see the Electronic Commerce section that follows).

Key Link: http://ec.europa.eu/internal_market/e-commerce/index_en.htm

## Joint Ventures/Licensing Return to top

U.S. companies may enter the Romanian market as partners with Romanian counterparts or may operate 100% foreign-owned companies. Many foreign companies involved in local manufacturing do so under joint-venture agreements. The main advantages offered by joint ventures include quick market access through the knowledge, relationships, and existing capacities of the local partner. The potential disadvantages of joint ventures include the loss of complete control, the failure of anticipated synergies, and the costs and difficulties of integration.

## Selling to the Government Return to top

The Romanian Government adopted public procurement law, Emergency Ordinance 34/2006, in order to align its legislation with EU standards. This ordinance was amended in March 2009. The most recent update shortened the deadlines for contesting procurement procedures. The Government maintains an electronic system for public acquisitions in an effort to provide a fully transparent procurement process. A government decision passed in March 2010 requires public authorities to use the e-procurement system for at least 40% of their procurements.

The EU public procurement market, including EU institutions and Member States, is regulated by two Directives:

- Directive 2004/18 on Coordination of procedures for the award of public works, services and supplies contracts, and

- Directive 2004/17 on Coordination of procedures of entities operating in the Utilities sector, which covers the following sectors: water, energy, transport and postal services.

Remedies directives cover legal means for companies who face discriminatory public procurement practices. These directives are implemented in the national procurement legislation of the 27 EU Member States.

The U.S. and the EU are signatories of the World Trade Organization's (WTO) Government Procurement Agreement (GPA), which grants access to most public supplies and some services and works contracts published by national procuring authorities of the countries that are parties to the Agreement. In practice, this means that U.S.-based companies are eligible to bid on contracts from European public contracting authorities above the agreed thresholds.

However, there are restrictions for U.S. suppliers in the EU utilities sector both in the EU Utilities Directive and in the EU coverage of the Government Procurement Agreement (GPA). The Utilities Directive allows EU contracting authorities in these sectors to either reject non-EU bids where 50% of the total value of the goods constituting the tender originates in non-EU countries, or to apply a 3% price difference to non-EU bids in order to give preference to the EU bid. These restrictions are applied when no reciprocal access for EU companies in the U.S. market is offered. Those restrictions however were waived for the electricity sector.

For more information, please visit the website of the U.S. Commercial Service at the U.S. Mission to the European Union, and the section dedicated to EU public procurement. This site also has a database of all European public procurement tenders that are open to U.S.-based firms by virtue of the Government Procurement Agreement.

Key Links:
http://www.e-licitatie.ro
http://www.buyusa.gov/europeanunion/eu_tenders.html

## Distribution and Sales Channels Return to top

Distribution of goods and services in Romania is similar to other European countries. Wholesale and retail tiers, and support services such as packaging, warehousing and merchandising, are fully developed in Romania. Retail outlets, franchisees, and value-added resellers serve as channels for the provision of services ranging from mobile phone service, consulting or software and IT.

Romania's range of retail outlets is likewise European and includes specialty shops, supermarkets, hypermarkets, cash and carry, department stores, gas station convenience stores, and do-it yourself shops, kiosks, street vendors, open-air markets and wholesale centers. Despite the rapid growth of shopping malls and hypermarkets, many urban consumers still rely on small shops and markets for daily shopping.

Romania is one of the top targets in Eastern Europe for retailers like Metro, Carrefour and Selgros, whose local large-format stores provide the biggest sales increases for their chains. For several years the local market has been dominated by Carrefour and Cora on the hypermarket (or Big Box) segment, while Metro and Selgros have competed on the cash and carry market. Several of these have plans to continue their expansion, but on a scale tempered by the economic downturn.

Foreign supermarkets also have a share of the Romanian market. The first foreign company to enter the market was the Metro Cash & Carry chain in 1996, followed by Billa, Gima, Carrefour, XXL, Auchan, Kaufland, Mega Image (Delhaize Group), and Artima. Growth plans for the Romania market have been affected by the condition of these companies in their home markets.

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Price, payment conditions, value and quality are critical factors for success in Romania's business and consumer markets. In almost any business domain, European competitors exist and enjoy the advantages of tariff free status within the EU. American firms may not always compete on price but need to demonstrate a clear value proposition. Proven products or services with benefits that emphasize cost-savings, efficiencies or – for distributors – profitability and reliability, will stand the best chances of market success.

Romania has seen income growth in recent years, and an expansion in consumer credit, but average incomes remain relatively low. Comparing Romania to other nations on the basis of GDP per capita adjusted for purchasing power parity ranks the nation alongside Turkey and Bulgaria, trailing neighboring Hungary, but ahead of Ukraine. However, the small but relatively affluent segment of the population has driven retail development, real estate, and the sale of luxury or “premium brand” goods. The current economic conditions recommend prudence to the U.S. companies pursuing this segment of the market. Market entry plans should be informed by specific and timely intelligence, as well as a careful evaluation of a prospective partner’s financial condition.

## Electronic Commerce Return to top

Statistics from Romanian integrator GECAD ePayment indicate that the main industries processing online transactions are telecom, tourism, utilities, services, retail and entertainment.

As in other countries, e-commerce solutions that rely on existing payment relationships have been successful in Romania. The country’s large number of mobile phone subscribers provides a ready base of shoppers for telecom providers such as Orange, Vodafone, and Cosmote. Each provide the ability to check bank balances, pay bills and purchase calling credit online.

The use of online auction sites, even when not located in Romania, is growing. Online auctioneer eBay does a steady business among Romanians through its other European sites. In 2011, Apple opened it’s iBookstore to the Romanian Market.

The EU applies Value Added Tax (VAT) to sales by non-EU based companies of Electronically Supplied Services (ESS) to EU based non-business customers. American companies that are covered by the rule, such as those based in the U.S. and selling ESS to EU-based, non-business customers must collect and submit VAT to EU tax authorities. There are a number of compliance options for businesses. The Directive created a special scheme that simplifies registering with each member state, and allows companies to register with a single VAT authority of their choice. Companies have to charge different rates of VAT according to where their customers are based, but VAT reports and returns are submitted to just one authority. The VAT authority responsible for providing the single point of registration service is then responsible for reallocating the collected revenue among the other EU VAT authorities.

Despite the enthusiasm these studies revealed, two obstacles continue to retard the growth of e-commerce infrastructure and deployment: a relatively low rate of credit card ownership, and the prevalence of online fraud and cybercrime.

In March 2011, the Ministry of Communications and Information Society launched the National Electronic System for Online Payment of Taxes (www.ghiseul.ro). This is a platform that allows the citizens of Romania to pay their taxes online, no matter where they are in the world, eliminating as a result the lines at the tax offices. The system was supported by such companies such as VISA, MasterCard, the major banks in Romania, IBM. Until today, over 1,5 million RON in taxes have been transacted through Ghiseul.ro. The number will increase dramatically as more institutions join the system. Ghiseul.ro is a system delivered for free to the public institutions of Romania and operated by the Ministry of Communications and Information Society.

In January 2012, the Ministry of Communications and Information Society launched a call for projects, funded through European Funds, for e-commerce platforms, meant to promote the e-commerce business in Romania. The total budget of the call is over 50 million USD; the maximum amount per project is 750,000 USD.

Key Links:
http:// www.ghiseul.ro
http://fonduri.mcsi.ro/?q=node/232

## Trade Promotion and Advertising Return to top

The variety and quality of Romanian advertising is similar to that of other European countries. As in the rest of Europe, the industry has suffered from decreased spending in the recent recession. Multinational companies represent a large share of spending. New media and combinations of media continue to develop to respond to audience segmentation using several forms: internet and social networking, digital TV, mobile telephony, radio, and print, digital OOH etc.

### Television

The TV market in 2011 was structured as follows (urban audience, provided by GfK Romania/ARMA):

| Station | Owner | Rating (% of viewers) | Viewers in thousands |
|---|---|---|---|
| Pro TV | CME/Adrian Sarbu | 2.9 | 330 |
| Antena 1 | Intact/Voiculescu Family | 2.1 | 243 |
| Antena 3 | Intact/Voiculescu Family | 1.1 | 131 |
| Realitatea TV | Realitatea/Elan Schwartzenberg | 1.1 | 130 |
| Kanal D | Dogan Media | 1.1 | 130 |
| TVR 1 | Public | 0.9 | 107 |

| | | | |
|---|---|---|---|
| Acasa | CME/Adrian Sarbu | 0.9 | 101 |
| Prima TV | SBS Broadcasting | 0.8 | 90 |
| National TV | Micula Brothers | 0.5 | 61 |
| Disney | Disney-ABC | 0.5 | 58 |

Both TV channels owned by Intact Group (Antena 1 and Antena 3) increased their number of viewers in 2011, with Antena 3 climbing to the third place, above Realitatea TV. Pro TV remains the largest TV channel in terms of urban audience, but with a marginal decrease of 9,000 viewers in 2011. The main public station (TVR 1) fell onto sixth place, being surpassed by Kanal D, the station with the highest urban audience increase (plus 21,000 individuals).

As of January 2012, the new provider for TV data audience measurement is Kantar Media. This is expected to result in fluctuations in audience figures resulting from the changes in the measurement panel structure.

**Press**

The best-known English-language business publications are:

- *Quarterly Bulletin* (economic, financing, monetary and credit trend information and statistics), published by the National Bank;
- *Statistic Bulletins* (on various topics), published by the National Institute of Statistics;
- *Romanian Insights* (monthly), published by the Romanian Chamber of Commerce and Industry;
- *Romanian Business Digest* (quarterly), published by International Business Promotion
- *The Diplomat* (monthly), published by Diplomat Media Group
- *Business Review* (weekly), published by Business Media Group SRL;
- *Nine O'Clock* (daily), published by Nine O'Clock Publications;

The three leading newspapers accounted for 43% of total sales in the 3rd quarter of 2011. Except for *Puterea,* all newspapers decreased in circulation. Of them, *Adevarul* quality newspaper registered the most dramatic decrease. Three of the five top-selling newspapers in Romania are tabloids, the other two being one quality newspaper (*Romania Libera*) and a sports newspaper (*Gazeta Sporturilor*).

Magazine sales to men are strongly-oriented to TV guides and automotive themes; while Romanian females consume weekly mass-market magazines targeting women (many of them brand extensions of already established newspapers).

A number of international glossy magazines are present in Romanian both for women (*Elle, Cosmopolitan, Harper's Bazaar, Marie Claire, Glamour*) and men (*FHM, Men's Health, GQ, Esquire*).

Clients consolidated their advertising expenditures in established titles with nationwide distribution. This produced market share increases for those publishers with a large and integrated portfolio.

The Romanian media market also contains some local daily “free sheets” (free newspapers) among which the most important *Ring*, distributed in Bucharest. The decrease in advertising spending is likely to limit the launch or breadth of circulation of free newspapers. Several free magazines are distributed, both free city-guides (*24-FUN, Sapte Seri, Zile si Nopti* ) offering localized content, as well as those of pharmacy chains and major real-estate comp

The system of procurement for outdoor advertising is somewhat opaque, but forms include billboards, backlit and dynamic models (such a street-TV). The future of large mesh format advertising is uncertain, as these have been the subject of restrictive ordinances by the City of Bucharest and the national government. Advertising inside public transportation (subway, tram and buses) and its stations is common, if not consistent, and similarly an area of questionable tendering practices.

**Radio**

The Radio Market (audience share, urban 11+) in Romania was structured - according to radio audience survey conducted by ARA and IMAS from May to August 2011 – as follows:

| Radio Station | Market Share % |
|---|---:|
| Kiss FM | 16.7 |
| Radio Romania Actualitati | 12.1 |
| Europa FM | 9.9 |
| Radio ZU | 8.5 |
| ProFM | 7.5 |
| Magic FM | 4.8 |
| Radio 21 | 3.2 |
| All other | 37.3 |

Most major multinational advertising and public relations agencies are represented in Romania, including Ogilvy & Mather, McCann-Erickson, Lowe & Partners (IPG member), Graffiti/BBDO, Saatchi and Saatchi, Young and Rubicam, Leo Burnett and Publicis.

Specialized market research and testing are available from independent suppliers, both Romanian and international, as well as from established Romanian institutes and organizations such as BRAT, the Institute of World Economy, and the Romanian Chamber of Commerce and Industry (http://www.ccir.ro).

**General Legislation**

Misleading advertising is defined as any "advertising which in any way, including its presentation, deceives or is likely to deceive the persons to whom it is addressed or whom it reaches and which, by reason of its deceptive nature, is likely to affect their economic behavior or which for those reasons, injures or is likely to injure a competitor."

The EU’s Television without Frontiers Directive specifies legislation on broadcasting activities allowed within the EU. Since 2009 the rules have allowed for US-style product placement on television as well as the split-screen format, and lifted the three-hour per day maximum advertising time. However, a 12-minute/hour maximum limit remains. Children's programming is subject to a code of conduct that includes certain restrictions on advertising to children.

Product specifications given in advertising are considered as legally binding on the seller. (For additional information on Council Directive 1999/44/EC on the Sale of Consumer Goods and Associated Guarantees, see the legal warranties and after-sales service section below.)

Key Link:
http://ec.europa.eu/comm/consumers/cons_int/safe_shop/fair_bus_pract/index_en.htm

## Pricing Return to top

Pricing structures in Romania are similar to those used in most other countries: prices are increased by wholesale and retail markups as well as by taxes, especially the Value Added Tax (VAT) that climbed from 19% to 24% as of July 2010. Product pricing is influenced primarily by existing competition in the Romanian market, as well as by the liquidity of the market. Common consumer goods are price-sensitive, and competition can be fierce, as local producers compete with products from China, Southeast Asia and Turkey. In the case of higher quality goods, the reputation of a brand -- as well as technical specifications or length of warranties – can command a price premium in the market. However, U.S. companies should not take awareness of their brands for granted.

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The concepts of after sales customer service and support are still developing among Romanian businesses, but large multinationals are providing leadership in this area. As a consequence, Romanian consumers are increasingly sensitive to the quality of after-sales services in making their buying decisions. American firms generally hold an advantage in this area, but local partners may prove the weak link that damages brand perception. U.S. companies should be prepared to work closely with local partners (distributors, value-added resellers) to help them develop their service and support capabilities.

Legal provisions regarding sales, service and customer support are currently in line with European Union provisions. There have been discrepancies among EU member states in product labeling, language use, legal guarantees, and liability. The relevant EU institutions continue to pursue harmonization of national legislation, and this is an area that U.S. suppliers should monitor closely.

*Product Liability*

Under a 1985 directive on liability of defective products, amended in 1999, the producer is liable for damage caused by a defect in his product. The victim must prove the existence of the defect and a causal link between defect and injury (bodily as well as material). A reduction of liability of the manufacturer is granted in cases of negligence on the part of the victim.

Key link: http://ec.europa.eu/enterprise/policies/single-market-goods/documents/liability/index_en.htm

*Product Safety*

The 1992 General Product Safety Directive was revised in 2001 to include an obligation on the producer and distributor to notify the Commission in case of a problem with a given product and provisions for its recall.

Key link: http://ec.europa.eu/consumers/safety/prod_legis/index_en.htm#gpsd

*Legal Warranties and After-sales Service*

Under the EU Directive on the Sale of Consumer Goods and Associated Guarantees, companies are required to provide a minimum two-year warranty on all goods sold to consumers. The remedies available to consumers in case of non-compliance are:

- repair of the good(s);
- replacement of the good(s);
- a price reduction; or
- rescission of the sales contract.

Key link:
http://ec.europa.eu/comm/consumers/cons_int/safe_shop/guarantees/index_en.htm

## Protecting Your Intellectual Property

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Several general principles are important for effective management of intellectual property ("IP") rights in Romania. First, it is important to have an overall strategy to protect your IP. Second, IP is protected differently in Romania than in the U.S. Third, rights must be registered and enforced in Romania, under either European or local laws. Your U.S. trademark and patent registrations will not protect you in Romania. There is no such thing as an "international copyright" that will automatically protect an author's writings throughout the entire world. Protection against unauthorized use in a particular country depends, basically, on the national laws of that country. However, most countries do offer copyright protection to foreign works under certain conditions, and these conditions have been greatly simplified by international copyright treaties and conventions.

Registration of patents and trademarks is on a first-in-time, first-in-right basis, so you should consider applying for trademark and patent protection even before selling your products or services in the Romania market. It is vital that companies understand that intellectual property is primarily a private right and that the US government generally cannot enforce rights for private individuals in Romania. It is the responsibility of the rights' holders to register, protect, and enforce their rights where relevant, retaining their own counsel and advisors. Companies may wish to seek advice from local attorneys or IP consultants who are experts in Romania law. The U.S. Commercial Service can

provide a list of local lawyers upon request or go to
http://romania.usembassy.gov/root/pdfs/attorney_list_2009.pdf .

While the U.S. Government stands ready to assist, there is little we can do if the rights holders have not taken these fundamental steps necessary to securing and enforcing their IP in a timely fashion. Moreover, in many countries, rights holders who delay enforcing their rights on a mistaken belief that the USG can provide a political resolution to a legal problem may find that their rights have been eroded or abrogated due to legal doctrines such as statutes of limitations, leaches, estoppels, or unreasonable delay in prosecuting a law suit. In no instance should U.S. Government advice be seen as a substitute for the obligation of a rights holder to promptly pursue its case.

It is always advisable to conduct due diligence on potential partners. Negotiate from the position of your partner and give your partner clear incentives to honor the contract. A good partner is an important ally in protecting IP rights. Consider carefully, however, whether to permit your partner to register your IP rights on your behalf. Doing so may create a risk that your partner will list itself as the IP owner and fail to transfer the rights should the partnership end. Keep an eye on your cost structure and reduce the margins (and the incentive) of would-be bad actors. Projects and sales in Romania require constant attention. Work with legal counsel familiar with Romania laws to create a solid contract that includes non-compete clauses, and confidentiality/non-disclosure provisions.

It is also recommended that small and medium-size companies understand the importance of working together with trade associations and organizations to support efforts to protect IP and stop counterfeiting. There are a number of these organizations, both Romania or U.S.-based. These include:

- The U.S. Chamber and local American Chambers of Commerce
- National Association of Manufacturers (NAM)
- International Intellectual Property Alliance (IIPA)
- International Trademark Association (INTA)
- The Coalition Against Counterfeiting and Piracy
- International Anti-Counterfeiting Coalition (IACC)
- Pharmaceutical Research and Manufacturers of America (PhRMA)
- Biotechnology Industry Organization (BIO)

**IP Resources**

A wealth of information on protecting IP is freely available to U.S. rights holders. Some excellent resources for companies regarding intellectual property include the following:

- For information about patent, trademark, or copyright issues -- including enforcement issues in the US and other countries -- call the STOP! Hotline: **1-866-999-HALT** or register at www.StopFakes.gov.

- For more information about registering trademarks and patents (both in the U.S. as well as in foreign countries), contact the US Patent and Trademark Office (USPTO) at: **1-800-786-9199**.

- For more information about registering for copyright protection in the US, contact the US Copyright Office at: **1-202-707-5959**.

- For more information about how to evaluate, protect, and enforce intellectual property rights and how these rights may be important for businesses, a free online training program is available at www.stopfakes.gov.

- For US small and medium-size companies, the Department of Commerce offers a "SME IP Advisory Program" available through the American Bar Association that provides one hour of free IP legal advice for companies with concerns in Brazil, China, Egypt, India, Russia, and . For details and to register, visit: http://www.abanet.org/intlaw/intlproj/iprprogram_consultation.html

- For information on obtaining and enforcing intellectual property rights and market-specific IP Toolkits visit: www.StopFakes.gov This site is linked to the USPTO website for registering trademarks and patents (both in the U.S. as well as in foreign countries), the U.S. Customs & Border Protection website to record registered trademarks and copyrighted works (to assist customs in blocking imports of IP-infringing products) and allows you to register for Webinars on protecting IP.

## Due Diligence

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Romania offers attractive opportunities for investment, acquisition, and business partnerships ranging from joint ventures and licensing agreements to distributorships and franchises. However, with these new opportunities come new risks. There are few activities more important in Romania than conducting due diligence on potential investments or business partners.

The U.S. Commercial Service advises American firms to engage reputable legal counsel, and maintains contact with such firms, both international and Romanian. Legal advisers are retained for the usual work of incorporation, obtaining permits, IPR registration, contract preparation, collection and commercial disputes, but are also an excellent resource for identifying potential problems based on their experience in the market.

Comprehensive due diligence should be performed whenever specific circumstances relating to a planned transaction clearly reflect a legal risk which could harm the parties.

The Romanian justice system continues to be slow and bureaucratic, and despite some progress the best strategy is to avoid commercial litigation if at all possible. When possible, contracts should provide for international arbitration.

Romanian bankruptcy legislation provides creditors the ability to force insolvent companies into either reorganization or liquidation. If a company is able to overcome its inability to pay its debts by reorganization, it may not have to go into liquidation. Nevertheless, if the reorganization is not successful, the judge will order the start of liquidation procedures. Unfortunately, the lack of specialization of judges and lawyers in the bankruptcy field makes it difficult to bring such cases to court, and to obtain consistent outcomes.  This procedure has been reformed by a law passed in December 2009, which provides for a debt settlement mechanism- Company Voluntary Agreements- which may be used to establish debt servicing schedules without resorting to bankruptcy.

Even though due diligence is substantially based on the analysis of documents provided by the investor's counterpart, information from public sources should not be underestimated. There is a wide range of public sources such as the Trade Registry, the Land Book, the Electronic Archive for Pledge Agreements, State Office for Inventions and Trademarks and the Credit Bureau.

Perhaps the most complicated part of a legal due diligence is the review of information regarding assets, especially real estate. Apart from the fact that it takes time and skill to identify and collect the relevant documents, it is essential to fully comprehend their legal effects, in particular when it comes to the historical transfer of ownership, by spotting the deficiencies that might lead to legal hazards, and finally to advise the investor on the most effective approach of such data in negotiating the transaction.

The most complex legal due diligence operations have been in real estate transactions, banking transactions, mergers and acquisitions, and privatizations. As a consequence, Romanian law firms have acquired a considerable expertise, and a better understanding of U.S. companies their business culture and specific needs in complex transactions.

Finally, any due diligence process requires knowledge of applicable regulations, both primary and secondary Romanian legislation, as well as European Union law. Over the last twenty years, Romania's legal framework has evolved into a web of regulatory branches, many of them interlaced and ambiguous. Romanian lawyers have considerable experience in dealing with such matters, and are able to offer a clear view and creative solutions on the way regulations apply to specific legal issues.

It is very important for American firms to know with whom they are doing business, whether selecting a consultant, distributor or deciding to extend credit terms. In addition to introductions to local legal counsel, the U.S. Commercial Service offers a service for investigating the background, financial status and references of Romanian firms. The International Company Profile includes findings from interviews with the target company, supplier and customer references, and a recommendation regarding the subject's reliability as a business partner.
(http://www.buyusa.gov/romania/en/international_company_profile.html).

## Local Professional Services

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A directory of local business service providers offering clear value to U.S. firms is available on the website of the U.S. Commercial Service in Bucharest, Romania:

http://www.buyusa.gov/romania/en/business_service_providers.html.

For information on professional services located within each of the EU member states, please see EU Member State Country Commercial Guides which can be found at the following website: http://www.export.gov/mrktresearch/index.asp under the Market Research Library.

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Ministry of Justice's Trade Registry
http://www.onrc.ro/english/services.php
Ministry of Economy, Trade and Business Climate
http://www.minind.ro
Ministry of Finance
http://www.mfinante.ro/
National Agency of Fiscal Administration
http://www.anaf.rp
Chamber of Fiscal Consultants
http://www.ccfiscali.ro
European Union legislation database
http://eur-lex.europa.eu/
European Ombudsman
http://www.ombudsman.europa.eu
European Commission, DG Health and Consumer Protection, Consumer Affairs
http://ec.europa.eu/consumers/index_en.htm
European Committee for Electro-technical Standardization
http://www.cenelec.org
European Telecommunications Standards Institute
http://www.etsi.org
European Committee for Standardization
http://www.cenorm.be
American National Standards Institute
http://www.ansi.org
New Approach Standardization in Europe
http://www.newapproach.org
ETSI Collaborative Portal
http://portal.etsi.org/Portal_Common/home.asp
The CEN Information Society Standardization System
http://www.cenorm.be/cenorm/workarea/sectorfora/isss(ict)/index.asp
European Commission, Enterprise, Single Market, NANDO INFORMATION SYSTEM
http://ec.europa.eu/enterprise/newapproach/nando/
Government-to-Government Mutual Recognition Agreement Information
http://ts.nist.gov/standards/conformity/mra/mra.cfm
European Cooperation for Accreditation
http://www.european-accreditation.org
New Approach Standardization in the Internal Market
http://www.newapproach.org/Directives/DirectiveList.asp
European Commission, Enterprise, Technical Regulations Information Systems
http://ec.europa.eu/enterprise/tris/index_en.htm

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# Chapter 4: Leading Sectors for U.S. Export and Investment

**Commercial Sectors**



**Agricultural Sectors**

## Agricultural Machinery and Equipment

### Overview

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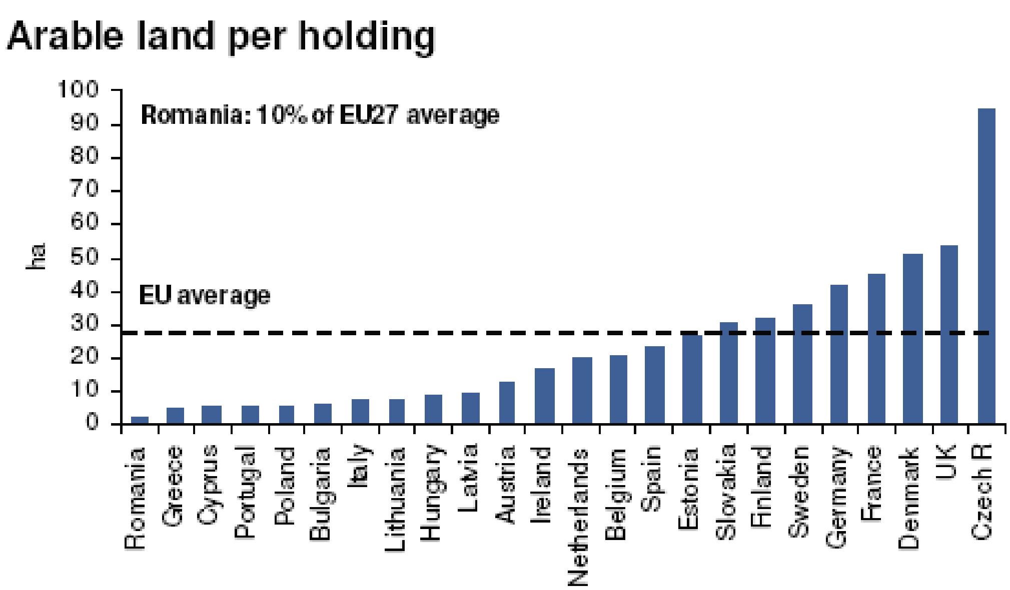
U.S. manufacturers and exporters of agricultural equipment have good prospects in Romania, in both the short and long term. However, there are several structural issues that affect demand for this equipment.

Romania's highly fragmented agricultural land ownership prevents the accumulation of income and profits on a scale that enables the investments necessary to increase productivity.

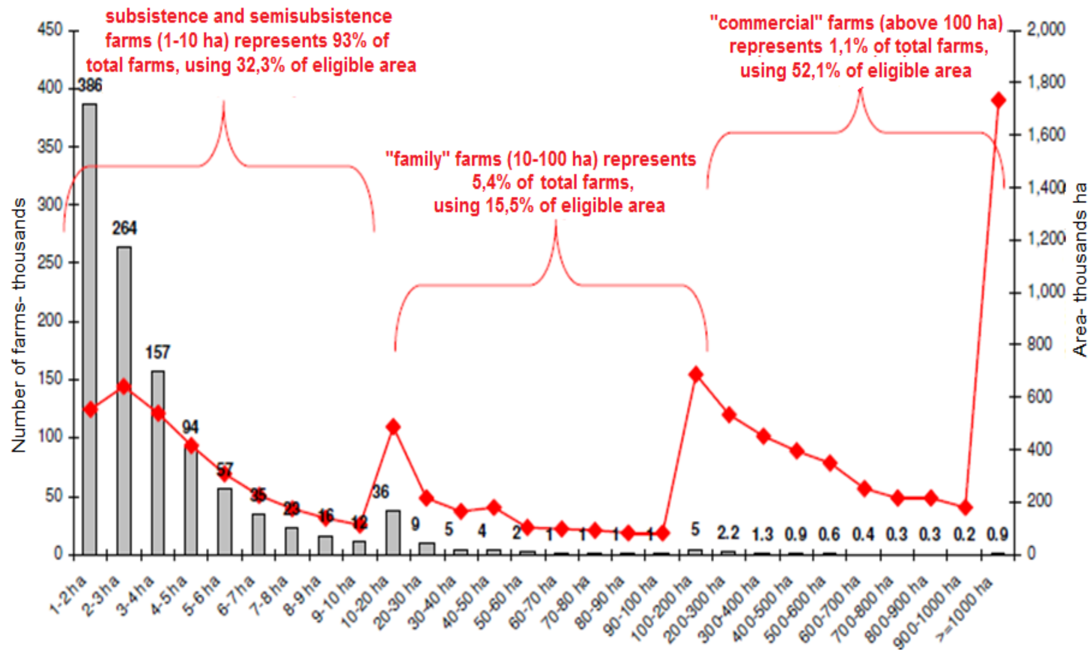



Source: Eurostat, BCR Research

While Romania has an abundance of rich soil, the predominance of subsistence farms means that the country has the lowest amount of arable land per holding. BCR Research reports that the top 50 agricultural producers account for only 4.5% of the arable land, or 430,000 hectares (1.06 million acres).

Some small commercial farms are realizing that their mutual self interest can be advanced through voluntarily forming associations or co-ops in order to aggregate production and marketing.  However, the memory of enforced collectives and rampant cheating by co-ops in the communist days still presents an obstacle for many.

This imbalance means that a relatively few large farms coexist with many small ones, and this fact influences the competitiveness of Romanian agriculture as shown in the next chart by the Ministry of Agriculture and Rural Development.




U.S. manufacturers of agricultural equipment and machinery will find strong demand in the Romanian market, but a limited, if growing, number of buyers. As the chart above shows, farms with more than 100 hectares or 250 acres make up a very small proportion of Romania's farms. However, this relatively small group of commercial farmers (at the far right of the chart) are investing in order to increase productivity, and have become more adept at using the various financing programs of the EU and U.S. EXIM Bank's financing, insurance and guarantee tools.

Productivity gains in agriculture have been erratic. To be economically viable in Romania, a farm must be considerably larger than in many European countries. A representative of an Austrian trading company active in Romania's farm machinery and equipment market noted that in Austria, a 40-acre farm is viable and has a tractor; whereas in Romania, a 250-acre farm is at the lower end of the commercially viable scale. This observation does not describe poor quality soils, but lagging productivity of the land due to a lack of modern farming equipment, technologies and practices.

Discounted land prices, good quality soil, low labor costs, and the potential for large productivity gains through the application of more intensive methods form an interesting opportunity for well-capitalized foreign investors.

**U.S. Agricultural Machinery and Equipment Supply on the Romanian Market**

Romania's EU membership has given it access to European equipment free of import duties. Under communism, Romania had several state-owned companies that manufactured tractors and farm implements. Some were privatized more or less successfully, but most have not survived exposure to EU competition. In comparison to other markets, this lack of local competition leaves an open flank for U.S. suppliers of tractors and harvesting equipment, especially those companies that are already present in the Romanian market and have spare parts and service centers. Examples of these include AGCO, Titan Machinery, CNH, and John Deere.

Romania’s principal crops -- corn, wheat, and sunflowers -- account for about 15 million acres of farmland. In addition, the country's fertile soils and varied topography support forestry, pasture and rangeland, orchards, vegetables, and vineyards. These offer opportunities for silos, irrigation equipment, greenhouses, and agricultural inputs such as fertilizers and feed supplements.

The Romanian demand for grain storage silos is higher year by year as a result of the persistent lack of adequate storage, and recent strong harvests due to favorable conditions and marginal increases in productivity.

In its communist period, Romania had a large, national network of irrigation canals. However, this infrastructure has long since fallen victim to neglect, pilferage, and deterioration. Almost none of the network has been modernized, a small amount of it is in use, and dramatically changed patterns of land ownership make some portions irrelevant. However, demand for irrigation remains large and a key to enhanced land productivity.

At least two U.S. suppliers of irrigation systems are active in the market. Valmont sells through a local, authorized dealer, and in 2011 the Toro Company began construction of a factory in Romania to manufacture micro-irrigation systems. Toro expects production from its Romanian plant to serve the Central and East European region. Many of the applications for Toro’s equipment, including vineyards, fruit orchards, and vegetable growing are prevalent across the region and poised for growth in Romania.

The livestock equipment market has also seen U.S. investment from companies Hog Slat and Smithfield. These two companies’ efforts in Romania are concentrated in swine industry. Smithfield Ferme, a wholly-owned subsidiary of Smithfield Foods, has operated integrated pig production in Romania since 2004.

**Sub-Sector Best Prospects** Return to top

CS Romania believes that agricultural machinery including tractors and harvesting equipment such as combines have excellent prospects for growth. There are additional opportunities in silos, grain handling equipment, agricultural inputs such as fertilizers, and livestock equipment for poultry, swine and cattle.

American companies specialized in equipment and systems for viticulture (vineyards) are nearly absent from the market, but have a good opportunity if they move quickly. The year 2012 and 2013 will see a new round of investment and expansion by Romania’s wine industry. Romania’s vegetable production is also drawing the attention of foreign investors and American companies that can contribute to greater yields and quality should establish a presence in this market aggressively. Dutch and Israeli companies maintain a strong presence in greenhouse technology.

More than 70% of this equipment has exceeded its normal functioning period and is fully depreciated. Equipment is used longer and with less attention to preventative maintenance. One tractor normally works 55 hectares of farming land, and a combine some 100 hectares. In the EU, the average is 13 hectares for a tractor and 79 hectares for a combine.

For the reasons mentioned earlier, the Romanian market has a ratio of tractors per hectare that is only one-third of the EU average (one tractor per 17 hectares). According to the Romanian association APIMAR (Romanian Association of Producers and Importers of Agricultural Machinery), in order to reach the European average concentration of tractors, the Romanian market would need to put into operation 30,000 tractors per year for more than a decade. Based on the Romanian "National Strategy for Sustainable Development of Agriculture and the Food Industry" and to industry experts, if the country's farmlands were exploited with the intensity of the rest of the EU, Romania would need approximately 300,000 tractors, producing a bill of demand worth approximately $14 billion.

## Opportunities Return to top

### Importance of Available Financing Tools for the Rural Development of Romania

Romania joined the European Union in January 2007, and all regulations of standards, safety, etc. are aligned with the EU norms. The European Union and Romania's Ministry of Agriculture are important sources of finance or grant assistance for Romanian farmers, to the extent that sometimes investment decisions are based on what financial support is available rather than what equipment and investments are needed.

The European Union has provided million of dollars in grants annually to rural businesses, including farms, for investment in agricultural machinery and equipment, manufacturing facilities, and other agricultural purposes. This has been an important source of financing and an important driver of sales for equipment dealers. Between 2007 and 2013, a total of around USD 40 billion from the EU will be allocated to Romania in structural and cohesion funds and American companies can participate directly in projects funded by the EU or in partnership with a company from an EU member country. A substantial percentage of this money (more than USD 11 billion) is destined for agriculture within the European Agricultural Fund for Rural Development. Farmers access this money by submitting eligible projects to the Ministry of Agriculture and Rural Development's Agency for Payments and Interventions in Agriculture, in accordance with the National Program for Rural Development. Between 2007 and 2011 Romanian farmers absorbed only USD 4.2 billion for investments in modernizing local farms with high-level agricultural equipments for the rural development of Romania. For 2012 the Ministry of Agriculture and Rural Development estimated that Romania should absorb around USD 3 billion creating new opportunities for U.S. exports of agricultural machinery to Romania.

The U.S. Export-Import Bank is also an important tool available to American exporters of agricultural machinery and equipment. Eximbank offers its credit insurance, loan guarantees and financing on the Romanian market and has good working relationships with several local Romanian and European banks.

**Events**

The U.S. Commercial Service in Romania invites any American company involved in agribusiness, machinery or equipment to contact us for more information about the following Romanian agricultural trade shows in 2012:

May 24 – 28, 2012: ROMAGROTEC – International Exhibition of Agriculture & Agricultural Equipment, 9th Edition, Bucharest – Urziceni DN2 National Road, Ilfov County, http://www.romagrotec.ro

June 7 – 10, 2012: EXPO AGRIPLANTA – Everything from Seed to Harvest, Open-Air Exhibition, Trial Plots & Machinery Demonstration, 2nd Edition, Fundulea, Calarasi County, http://www.agriplanta.ro

October 31 – November 4, 2012: INDAGRA - International Fair for Agriculture, Horticulture, Viticulture & Animal Husbandry, 17th Edition, ROMEXPO Exhibition Center, Bucharest, http://www.indagra.ro

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Gabriel Popescu, U.S. Commercial Service Bucharest
E-mail: Gabriel.Popescu@trade.gov

Ministry of Agriculture and Rural Development
http://www.madr.ro

U.S. Export Import Bank
http://www.exim.gov

Romanian Association of Producers and Importers of Agricultural Machinery – APIMAR
http://www.apimar.eu

Romanian Association of Tractors and Agricultural Machinery – PACTMAR
http://www.inma.ro/pactmar

## Energy

### Overview
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Romania ranks as one of the biggest Central and Eastern European oil producers, after Russia and the Caspian states. Romania's oil and natural gas reserves make the country to be less dependent (29%) than the European Union which is almost 50% dependent on imports for its energy consumption.

According to Europe's Energy Portal statistics, Romania has the following proven reserves:

- Oil: 0.5 billions of barrels
- Natural Gas: 0.6 trillion cubic meters
- Coal: 398 million tones

The country dominates south-eastern Europe's downstream petroleum industry with a refining capacity that exceeds its domestic consumption, ensuring potential export capability.

Romania also benefits from the largest power sector in south-eastern Europe. According to BMI estimates, Romania's overall power generation is expected to increase by an annual average of 2.50%, reaching 65.6 terawatt hours (TWh) in the next five years. The generation of electricity is primarily based on coal, large-scale hydro generation and nuclear power. The power sector is currently unbundled into generation, transmission, distribution and supply.

Priorities for the Romanian power sector are partial privatization of the state-controlled nuclear and hydro generators, coupled with expansion of nuclear generation capacity and rapid growth in renewable. Unfortunately, nuclear power development seems to have lost its momentum due to international context.

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**Oil and Gas**

In 2010, Romania awarded 20 oil exploration licenses out of 30 offered in its 10th bidding round. The award of two offshore blocks to Russia's Lukoil and a partnership inked by ExxonMobil and the largest company in Romania, Petrom to explore deep water parts of the Neptun Block started the Black Gold Rush on Black Sea. Aside of that, the award of three coastal blocks to Chevron opened the appetite for shale gas.

**Renewable**

Like other industrialized countries, Romania is seeking to derive more of its energy needs from renewable sources. Entry into the EU brought Romania the obligation to comply with EU directives on renewable energy. In addition, Romania's desire to increase its energy security and exploit its physical attributes favorable to solar and wind development has coincided with private investor interest in alternatives to property products. These factors led the Romanian Government to introduce incentives for alternative energy.

In 2005, Romania has opted for an incentive mechanism for renewable energy based on the green certificates trading and mandatory purchase quotas. In 2011, the incentive mechanism was amended and vetted by the European Commission and represents the main driver for renewable development.

Romania is seen as the fastest growing market for wind energy in the region, with installed wind generation capacity skyrocketing from as little as 7MW in 2007 to 462MW in 2010 (source: the Romanian Wind Association). In a recent report released by Ernst & Young, Romania is the highest climber (5 positions) ranking 16th in the Renewable Energy Countries Attractiveness Top.

In addition to wind, it is expected that 2012 will witness rapid solar growth for three main reasons: downsizing technology costs, production predictability and lavish aid scheme (6 green certificates for solar compared to 2 for wind).

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Last year, the Government released a draft of its national energy strategy. According to this paper, Romania intends to invest up to EUR30-40bn in 14.8GW of new power generating capacity, while at the same time closing a third of its obsolete power capacity by 2020, rising to over 50% by 2035. In addition, the transmission operator estimates it would take a total of EUR8bn in investment to maximize the potential of a wind sector and plans EUR 500 million investments in its grid.

In light of these priorities, the best prospects for American companies will be found in electrical power systems, and products and services related to the construction of new power generation capacity, particularly hydro, wind and solar. These opportunities include design and construction, installation, upgrading, maintenance and repair.

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Ministry of Economy, Trade and the Business Environment
http://www.minind.ro

TERMOELECTRICA
http://www.termoelectrica.ro

CRAIOVA
http://www.cencraiova.ro/

ROVINARI
http://www.cerovinari.ro/

TURCENI
http://www.eturceni.ro/

HIDROELECTRICA SA
http://www.hidroelectrica.ro/index_en.html

NUCLEARELECTRICA SA
http://www.nuclearelectrica.ro

TRANSELECTRICA SA
http://www.transelectrica.ro/en.php

ELECTRICA SA
http://www.electrica.ro/default.asp?lang=en

OPCOM
http://www.opcom.ro/pp/home.php

Romanian Government
http://www.gov.ro/main/index/l/2/

## Environmental Technologies

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As a member of the European Union, Romania is required to implement the environmental protection standards by 2018, when all transitional periods negotiated with the European Commission will expire. The highest costs will fall under the "heavy environment investments" related to water and wastewater, solid and hazardous waste management, and large combustion plant air quality control.

*Water and Wastewater*

The water and wastewater services in Romania are under a reengineering process, aiming to establish efficient regional water and wastewater operators. Regionalization is considered a key element in improving the quality and cost efficiency of local water infrastructure and services in order to fulfill the country's environmental targets, but also to assure the sustainability of investments.

Only 43% of Romania's population of is connected both to running water and sewage services. Population benefiting of the water supply system but not of the sewage system is about 12%. Population benefiting neither of water supply nor sewage system is about 45%.

Waste management

In urban areas, municipal waste management is carried out through specialized services, covering about 90% of the population, while none are existent in rural areas. There are 252 municipal landfills, out of which 234 are not compliant with environmental standards; there are approx. 2,686 small dumping sites in rural areas. From the total amount of production waste, excluding mining, only 30% is recovered, the rest being disposed of by land filling or incineration. There are only seven incinerators for hazardous waste in Romania and seven cement kilns are authorized for the co-incineration of waste. The total number of industrial landfills in Romania is 169 out of which only 15 are in accordance with EU standards. The rest will be gradually closed.

Air quality control

Particulate matters are the main pollutants in Romania and the level of exceeding the maximum admissible concentration is significant. The main sources of pollution with particulate matter are the thermal power plants using solid fuels, metallurgic and steel industries, cement factories, road transport, waste dumps and waste storage. The Large Combustion Plants (LCP)**,** which produce power and heat represent the main source of air pollution in many municipalities. In 26 of the largest municipalities in Romania, LCPs are the most important source of thermal energy and household hot water. The main pollution source from the LCP's are the fossil fuels (coal, fuel oil) used by these installations. They emit high concentration of particulates, nitrogen and sulphur oxides, which cause acid rain and pose a significant health risk.

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The main environmental sectors that will benefit of most investments are water and wastewater, waste management, followed by integrated pollution control and risk assessment.

The Ministry of Environment and Forests prepared an extensive portfolio of projects aimed at accessing the Structural and Cohesion Funds. This portfolio includes some 80 major projects for investment in infrastructure, water / waste water, waste, heat and floods, with a value of over 4 billion Euros, representing about 70% of funding available for the environmental sector in 2007-2013.

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- Technical assistance contracts (project management, site supervision)
- Works contracts, both Yellow FIDIC and Red FIDIC, aiming to rehabilitate and extend the water and wastewater systems (sewerage networks, water/wastewater treatment plants)
- Supply contracts for SCADA systems, meters, operational vehicles, laboratory equipments etc.

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Ministry of Environment and Forests:
http://www.mmediu.ro

The Romanian Water Association:
http://www.ara.ro

## Healthcare

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Health care in Romania is dominated by the public sector, which owns most of the hospitals and provides national health insurance to all Romanian citizens. Despite this access, the standard of healthcare in Romania is well below that found in other EU countries, due to a combination of systemic failures and chronic under-funding.

The public healthcare system includes national health insurance, covering all Romanian citizens, as well as a growing and parallel network of private healthcare. The National Health Insurance Fund (NHIF) is funded by a combination of employer (5.2% of gross wages) and employee (5.5%) contributions, and allocations from the national budget.

Driven by underfunding in public healthcare provision, Romania's private health system is expected to expand aggressively over the next five years. Private substitution is a critical component of the sector's development as restricted access to publicly funded medical services drives patients towards private insurance and hospitals.

The concept of public-private partnerships to support the provision of public medical services in the long term is frequently discussed but a working model has not been demonstrated. Likewise the system of requiring greater copayments by patients will support publicly funded healthcare in the long term, but may also encourage patients to opt out of the public system altogether, if the private medical services appear more attractive. In its latest plans, not implemented, the Ministry of Health estimates 8.6mn people – nearly half the country – will be exempted from copayment requirements by virtue of age or other protected group.

The growth of private healthcare facilities has been rapid, catering to higher-income strata of the population who can afford to pay for these services. Private health insurance is often offered by private companies as an employment benefit. The development of private hospitals is closely linked to private insurance.

There are a few hurdles to the continued growth of private healthcare. The top 10 private clinics account for 35% of the private market, with the remainder served by smaller clinics and laboratories, and individual medical practices. The Romanian Government has not defined the "basic package" of healthcare to which all citizens are entitled, and thereby left unspecified the services not covered by national health insurance. Without this signal, private providers and investors do not know which market gap to fill. Even as poor public health services reinforce demand for private healthcare, this sector's prospects must rely on rising incomes and the ability of consumers to pay out of pocket until such time as the Government defines a "basic package" and extends national health insurance coverage for these services to private providers.

Overall spending on healthcare is insufficient for the needs of the population, and the quality and access to care varies between urban centers such as Bucharest and the countryside. Romania's healthcare spending is difficult to measure. Statistics on public expenditure include the NHIF and Ministry of Health purchase of medicines, health services, preventive services, medical equipment and capital investments. However, there are no reliable figures for private spending, including the “informal” payments made by patients and their families to healthcare workers within the public health system.

Despite these limitations, it is clear that Romania spends far less on healthcare, as a percent of GDP, than other OECD and EU countries. Problems with public finances have been passed through to healthcare spending, and led to questionable policy decisions in areas such as pharmaceutical pricing and preventive medicine. Payment delays by the Government of Romania have led to extreme pressures on cash flow and the insolvency of some pharmaceutical distributors.

Despite this dire funding situation, American companies have secured healthy market share in areas such as medical devices, disposables, and pharmaceutical products. Healthcare informatics and hospital management are two areas poised for growth, as Romania pursues “e-Health” solutions to improve the standard of care and cost controls.

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The Romanian Ministry of Communications and Information Society (MCSI) announced in May 2009 that it had approved its first financing agreement in the field of e-Health worth a total of RON 88mn ($28 million).

In the sector of e-Health the most important projects are developed at National Health Insurance House (NHIH). There are two projects financed from European Union Founds, E-Prescription and Electronic Health Record, and one self found which is E-Card.All of these systems are integrated in the existing centralized SIUI (Sole Integrated Information System) that is implemented at NHIH and CHIH (County Health Insurance House) level. The National Electronic Prescription System is aimed at improving the quality of medical services and optimizing the costs of medical services through a national electronic prescription system. The system will monitor (in real time) the prescription and consumption of medicines in Romania, in order to eliminate errors and fraud in the prescription system. Through electronic transfer of the prescription to the pharmacist from the prescribing doctor, the system will create a national database whereby the drugs that are prescribed and liberated to the patient will be electronically registered.

The project participants will be Romania’s 44 health insurance houses, along with approximately 30,000 doctors and 5,350 pharmacies which have signed agreements with these health insurance houses. Approximately 12 million Romanian citizens registered with Romania’s health insurance system will benefit from the program. Although funded by the MCSI, the project will be administered by the National Health Insurance House.

The Electronic Health Record System is aimed at improving the workflow of medical documents between medical service providers. Right now medical documents are transfer on hard copy between medical service providers or not at all. The system will allow a doctor to access the medical history of the patient, having at his disposal all the medical information that he needs in order to provide the best medical service reducing the costs of medical investigations and unnecessary medical procedures.
The E-Card system is aimed at implementing the electronic card system in Romania’s health sector. The system will allow every insured person to access healthcare

packages from medical service providers with the health card, improving the quality of the medical services in compliance with E-Prescription and Electronic Health Record solutions. The project participant will be Romania's 44 health insurance houses, along with all medical service providers and insured people. The project is being done with the help of the State Printing House for issuing the health cards.

All these systems must be perceived as modules in SIIS, the system already implemented at NHIH. As mentioned before the functionalities of SIIS system will be complemented and enhanced with the implementation of these solutions, SIIS being a proven solution for healthcare management at government level.

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### Medical Device Market Forecast

The **Romanian market for medical equipment and supplies** is estimated at US$373 million, and is expected to grow by an average 8.9% in the 2011-16 periods. This will bring the total to around US$571 million (US$27 per capita) by 2016.

Healthcare funding in Romania is largely through the National Health Insurance Fund. Healthcare provision is predominantly managed by the state, although the private health sector is starting to grow. Government health expenditure is very low, even by Eastern European standards. Romania spends around 5.6% of GDP on healthcare.

Around 90% of the medical device market is supplied by imports. These have risen sharply in recent years, as the general level of health spending increases and new diagnostic equipment has been purchased for hospital refurbishments.

Procurement of medical devices has traditionally been performed centrally from the state budget, though greater hospital autonomy is expected to reverse this trend as a program of decentralization is implemented. Hospitals gained greater autonomy in managing finances at the start of 2010, and as a result can arrange their own tender procedures for equipment. In addition the Ministry of Health has also pledged funding to provide better equipment in the primary care setting. The growth of the private hospital market over the next five years is also likely to boost spending, as demand for private healthcare grows with improvements in economic growth and income. Demand for medical equipment in Romania is almost entirely met by imports, with a number of smaller domestic manufacturers holding a market share of less than 10%. GE Healthcare, Siemens and Philips hold the majority market share in the country.

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## Information Technology Market

### Overview

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| Software and IT Services Market, 2009-2012 | | | | |
|---|---|---|---|---|
| **Million USD** | 2009 | 2010 | 2011 (estimated) | 2012 (estimated) |
| | | | | |
| **Total Market Size** | 1,200 | 1,165 | 1,230 | 1,330 |
| **Total Local Production** | 732 | 711 | 750 | 811 |
| **Total Exports** | 362 | 351 | 370 | 401 |
| **Total Imports** | 830 | 805 | 850 | 920 |
| **Imports from the U.S.** | 498 | 483 | 510 | 552 |

Data Sources: Ministry of Communications and Information Society

After the 58% decline in the past three years, the Romanian IT market will start with a modest growth driven by the public spending and by the end of 2012 is expected to reach Euro 950 million. Romania has no background to repeat the previous boom of IT consumption and investments. The economic crisis in the country impacted private consumers and companies, which reduced IT budgets. Public IT spending also declined although the possibility to attract EU structural funds became a factor that was able to rescue part of the IT projects of Romanian authorities.

In 2010-2011, there were some growing niches and product groups in Romania, including portable computers, servers, BI and CRM solutions, IT security software, but these growing segments were not improving the entire market.

**Market Structure**

The Romanian IT market had a late start, caused by the difficult economic situation in the last decade. Therefore, the structure of IT expenditure in the country is more relevant for the emerging markets, where hardware dominates on IT spending of the private users and companies. Customers are buying mainly hardware and spending almost nothing on software and services. The high piracy rate, which was approximately 65% in 2010, is one more reason explaining the modest share of software in the structure of the market.

Finally, the relatively modest share of IT services is explained by the fact that in Romania IT maintenance and operations are usually done by in-house IT divisions. Companies have just started to look at externalization and outsourcing of the maintenance and support, in an effort to optimize costs.

The public sector and private companies managed to buy the hardware they needed before the crisis in 2009 and in 2010-2011 were investing their limited IT budgets in the optimization of their IT infrastructure and getting maximum value from the Information technologies.  The shares of IT services and software in Romania were almost equal in 2011, being 27% and 23% respectively.

**Key Features and Market Trends**

The key characteristics of the Romanian IT market in 2010 and 2011 include:

- The decline in computer hardware sales in 2010 - 2011 damaged the business of IT distributors and retailers. Several of them, including eMag, Tornado Systems, Flanco and Scop Computers were acquired by competitors or partners.
- The crisis caused both retailers and customers to cut expenses and as a result the number of computer outlets was reduced by many of retail chains while the sales via the Internet in Romania were quickly taking over the share of the off-line retail.
- The decline of the demand on the segments of computer hardware caused prices to drop. The average notebook price, price of servers and monitors in 2010 was as much as 25-30% lower than in 2008.
- Romanian companies started to look again at the possibility of offering software development outsourcing services, which help them to survive.
- Many Romanian system integrators, including Scop Computers, Siveco, Assesoft, S&T and Ness started to explore the nearby export markets of Macedonia, Bulgaria, Republic of Moldova, Serbia and Hungary. Therefore, the sales growth they often reported includes exports and is inflated.
- Public spending and EU structural funds saved the market; however, mainly big companies were able to offer the needed competence to win the tenders. As a result, there was a wave of insolvencies and closures in small Romanian IT businesses.
- The crisis caused the vendors of ERP solutions to lose sales while there was growing demand for CRM and BI solutions.
- Finally, Romania is a very centralized country, with most of its economic, political and administrative power located in Bucharest; there is a rather limited range of business, which is completely autonomous, in other cities or regions, especially taking into consideration the opportunities for IT projects. The crisis made the importance of Bucharest market even greater because of the growing role of central government in IT spending.

Among other characteristics of the Romanian IT market, it is important to emphasize the country is known for its strong computing and language skills coupled with a relatively cheap IT labor force.  In 2010 - 2011, the wage of IT professionals in the country dropped by 20-40%. Business has no skills shortages and companies mention they have a huge number of applications for each open position.

About 90% of the 1,000 IT companies in Romania are foreign –owned.  Foreign companies backed up the big investors in the Romanian automotive and energy sectors, providing support and a broad range of different IT services.  Many companies, such as HP, Siemens or IBM have development and support centers in Romania, which are designed to serve the entire region of CEE or global operations.  There is still a growing interest of global IT names including Google and Intel to launch R&D and support activities in Romania to serve their business needs.  Romania remains an attractive place for IT investments due to the skills of the labor force and affordable wages.  On the other hand, the relatively low level of use of IT systems by Romanian business makes the IT market in the country one of the most attractive in the region.

## IT Expenditure

The Romanian IT market was corporate oriented before the economic crisis in 2009. The corporate sector accounted for approximately two-thirds of total market spending, while 17% represented investments financed by the public administration bodies and state-owned enterprises. In the business segment, the vast majority of IT spending was originated with the largest Romanian enterprises employing more than 250 people. The SME sector still had a relatively small share of IT spending in Romania.

In 2010 and 2011, the situation changed. Almost 80% of the demand for computer hardware in the country came from private users who bought PCs and peripherals in retail outlets. On the software and services segments, the public sector as well as state-owned monopolies like the Romanian Post and railways saved the market from an even bigger decline.

In regards to the corporate spending, telecommunication companies and banks that were important players on the Romanian IT market reduced their IT budgets and most of corporate IT spending was shaped by utilities and transport.

In 2009-2013, the EU allocated Euro 190.5 million for the implementation of IT systems in the Romanian public authorities. Romanian government decided to facilitate the IT spending and allocated Euro 500 million for eRomania projects, which will be financed from EU funds (40-50%), central budget (20%) and public private partnerships (30-40%).

In 2010-2011, the Romanian Ministry of Communications and Information Society also approved Euro 147 million for financing of several IT projects in the SME sector, 70% being covered by EU funds. This budget makes government an important player on the Romanian IT market, which will shape the demand for products and services in the next three years.

## Forecasts for the IT market

The market structure will develop toward a higher significance of IT services and software and decline in the share of hardware in the overall IT market value. This should cause the Romanian IT market to begin to follow the path of more matured IT markets (both in other CEE countries and Western Europe). Both software and IT services sectors over the long term, will grow significantly faster than the hardware segment.

The decline of hardware contribution to the Romanian IT market in favor of services and software will reflect the demand structure for IT products and services in Romania over the next several years.

In the public and corporate sector, which will play a more important role in IT spending in the country during the next few years, the budgets will be balanced and more money will be spent on software solutions, development and maintenance services than on purchases of new computers and servers. Despite a decrease in the hardware market share in the whole IT market, demand for computers will keep hardware at the center of the Romanian IT market even over the long term. The growing access to broadband connections and development of 3G networks is positively influencing the volume of computers sold. A growing base of computers being in used forces companies and individuals to replace them in the future, which will also have a positive impact on the market

## Best Prospects

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The perspectives for the IT industry in 2012 and the next few years remain uncertain. The IT vendors are relating the recovery of the demand for IT products and services to the overall economic improvement. The public authorities and the eRomania program will remain the most important sources of demand for IT in the next years.

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The software and IT services market depends on corporate and public sector customers. The biggest purchasers of software and IT services are in production, telecommunication, banking, and public industries. Spending takes the form of licenses, consultancy, system integration, specific applications development, training, and external services. Demand from verticals like utilities, government, retail, manufacturing and telecommunications will continue to grow significantly as the economic conditions improve.

National scale projects to be supported in 2012 and the next years by the Romanian Government, have a total budget of Euro 75 million. These projects include:

- Implementation of the health eCard project. The Romanian government plans to allocate Euro 40.8 million for the creation of IT infrastructure for serving individual health cards
- Internet access support for SMEs. The project will be managed by the MCIS, which will allocate Euro 15,2 million for co-financing of Internet connection and network infrastructure development projects of SMEs.
- Upgrading of the IT equipment of Romanian customs. The project will assume delivery of hardware and software solution for Euro 10.6 million
- The Administration of National Reserve of the Danube River plans to spend Euro 4.4 million on the development of its information system.
- Development of the IT system in the Romanian Police, which assumes Euro 3.5 million investments for the acquisition of computer hardware.

Other investments are expected to come from state-owned companies and agencies including the Romanian Post, Radiocom, ANCOM and others.

- Radiocom announced a tender for procurement of billing solutions, with a total budget of Euro 2.2 million
- ANCOM plans to buy software licenses for the total amount of Euro 1.8 million
- The Romanian Post continues its Euro 113 million investment project, which includes spending of Euro 22.5 million on the implementation of an ERP system and procurement of computer and printing hardware
- There are many smaller projects announced by the central and regional authorities.

In the private sector, the greatest hopes for new investments are connected to agriculture, energy sector and with the development of private health services. IT vendors mentioned a growing interest in business efficiency of Romanian business and a clear focus on cost reduction or efficiency growth. These will dominate Romania in the next several years.

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- Ministry of Communications and Information Society - http://www.mcsi.ro
- National Regulatory Authority for Communications and Information Technology - http://www.anrc.ro/index.aspx
- National Association of Software and IT Services (ANIS) - www.anis.ro
- Association for ICT Industry in Romania (ATIC) - www.atic.org.ro
- National Association of Internet Service Providers in Romania (ANISP) - www.anisp.ro
- National Association of the Public Administration IT providers (ANIAP) – www.aniap.ro

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## Packaging and Packaging Waste Market

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Packaging consumption in Romania is recovering from the effects of the economic downturn in 2009 and 2010.

According to the preliminary data presented by the National Agency for Environmental Protection, from a quantity of 1,170.700 tons in 2008, the quantity of packaging used for placing packaged goods on the market decreased by 17% in 2010 reaching an estimated 970,000 tons (51kg/capita), which is still below the average consumption in Europe.

The structure per material suffered only insignificant changes:

| Type o material | % |
|---|---|
| Glass | 15.8 |
| Plastics | 27.5 |
| Paper /cardboard | 28 |
| Metal | 5.7 |
| Wood | 23 |

Composite packaging means packaging made of different materials, which cannot be separated by hand, none exceeding a given percentage by weight. Usually either paper or plastics have the highest percentage. Other materials are marginal.

According to the Romanian Association for Packaging and Environment (ARAM)'s estimates based on the 2009 official reporting and the preliminary data for 2010, the quantity of packaging in 2011 amounted to 990,000 tons, These quantities do not include small cross border shoppers and free rides across the border that fail to report and meet the obligations packaging waste related, estimated to 10-15%.

The projections for the coming years indicate that the packaging consumption will be 1–2% higher than the GDP, mainly due to changes in the consumers' behavior.

Producers and importers of packaged goods or packaging material have the legal responsibility for reaching packaging waste recovery and recycling targets. The responsible industry has set up separate organizations in order to accomplish their obligations using the model of the "Green Dot" system used in most of Europe, Turkey and Canada. These organizations do not collect packaging waste, but have contracts with collectors and waste operators. There are 7 licensed companies, ECOROM AMBALAJE S.A. being the largest one and holding the "Green Dot" rights in Romania, with a market share of more than 60%.

The amendments to Environmental  Fund Law which were adopted in 2010, set higher packaging waste recovery and recycling targets for producers and covered more types of materials than those provided by Romania's Accession Treaty to the European Union. Starting with 2012 these targets are:

| Recycling targets/type of material (%) | | | | | | | Overall recycling target (%) | Overall recovery or incineration in incinerating facilities with energy recovery (%) |
|---|---|---|---|---|---|---|---|---|
| Paper and cardboard | Plastics | | Glass | Metals | | Wood | | |
| | Total | Out of which for PET | | Total | Out of which for Al | | | |
| 60 | 22.5 | 55 | 60 | 50 | 21 | 15 | 55 | 60 |

Until now, targets have been met mainly in terms of recovery and recycling of packaging waste resulting from industrial and commercial streams (C&I) and, to a lesser extent, from household waste.

The separate waste collection system, including the collection of packaging waste from the population at collection points is driven mainly by the waste possessor potential for making a profit.

Scavenging of landfills is also present and contributes to certain extend to the collected quantities of packaging waste.

In order to meet the increased targets, industry has to focus to a greater extent on household packaging waste and collaborate with municipalities and solid waste management companies to improve sorting and separate waste collection.

The major part of the waste that is collected separately, packaging waste included, is undergoing recycling processes in various facilities existing in the country.

The existing recycling capacities in Romania:

| Type of waste | Capacity [tones/year] |
|---|---|
| Paper & cardboard | 315,000 |
| Glass | 62,000 |
| Plastics | 110,000 |

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European Funding is granted for the implementing of integrated waste management systems at county level. The projects are financed through the Sectoral Operational Plan for Environment and average 30 million Euros (40 million USD) per county.
The projects for integrated municipal solid waste management systems have in general the following components;

- Service providing:
    - Supply of goods – the majority of the counties need containers for selective collection of recyclables – packaging and waste non-packaging plastic, individual composting units waste transport trucks to transfer stations, treatment facilities and landfills;

- Technical assistance to support the Project Implementation Units, supervision of construction works, public information and awareness campaigns;

- Construction contracts:
  - Construction of landfills (1-2 landfill/county);
  - Construction of transfer stations;
  - Construction sorting stations;
  - Construction of composting and mechanic-biological treatment stations;
  - Closure of existing non-compliant landfills.

The counties that have an application approved and have signed or are in the process of signing the financing contracts and are expected to complete the project by 2015 are: Arad,  Arges, Bacau, Botosani, Calarasi, Cluj, Covasna, Giurgiu, Mures, Bistrița-Năsăud, Neamt Olt, Salaj, Sibiu, Suceava, Timis, Vaslui and Vrancea. Some counties are more advanced in the process of implementing the projects, while others are still in the process of signing the financing contracts.

After finalizing the investments, each county will delegate the municipal waste management to service providers (public open tenders):

- Waste collection and transport (3-5 collecting zones /county);
- Operation of the waste management installations (1- 2 operators/ county).

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The pressure for complying with the EU requirements no later than 2013, put both on local industries - which need to meet the annual packaging waste recovery and recycling targets - and on local authorities, who are compelled to reduce by 15% the amount of waste that is land filled has lead to the decision to set up integrated municipal waste management systems.

Failure to meet this targets lead to consistent penalties both for the responsible industry and for local authorities.

Additional recycling capacities are needed especially for glass and wood.

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## Agricultural Sectors

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The economy grew by 2.5 percent in 2011 after two years of economic decline, 7.1 percent in 2009 and 1.3 percent in 2010. Agriculture had a major contribution to the GDP increase, the share of agriculture in the GDP being estimated at over 7 percent in 2011, which is higher than last year and certainly higher than the EU average (1.7 percent).

Romania's arable land for agricultural purposes is 39.5 percent of its total area, which places Romania sixth in the world in terms of potential arable land. In terms of employment, about a third of Romanian population is employed in agricultural activities, compared to the EU average where the percentage is 5.4 percent.

The value of agricultural sector in 2010 reached RON 64.4 billion (USD 19.6 billion), an increase of 1 percent compared to 2009 in comparable prices. The share of crop value in total agriculture grew from 60 percent in 2009 to 67 percent in 2010, mainly as a result of higher yields and acreage. About 32 percent of the agriculture value originated from animal and animal-derived production, a drop from 39 percent the previous year.

Romanian farmers enjoyed in 2011 excellent weather conditions for crop development, yields rising beyond expectations, especially for spring crops, corn and sunflower seeds. Wheat and rapeseeds had a slow start due to severe drought or heavy rains which prevented sowing in the fall of 2010, but weather conditions during the winter and spring allowed the crops to develop very well.

The total number of agricultural operations declined over the last 8 years (2002-2010) by 14 percent which may reflect a consolidation trend. Despite the reduction the average agricultural area per holding remains low, 3.45 HA/holding (3.11 HA in 2002). On the other hand, the total number of commercial holdings grew by 34 percent, but the total area owned by this type of operators declined, leading to a reduction in the average area per company, 190 HA/company compared to 274 HA/company in 2002. Commercial farm size varies from 5-10 HA and may go up to 40-50,000 HA.
In terms of financial support, Romanian farmers as part of the EU farmers are entitled to direct payments, although in a smaller value. They also receive partial compensation for the fuel price, while poultry and swine sectors receive compensations for investing in bio-security measures at farm level.

In terms of EU funding for agricultural sector, absorption continues under the National Plan for Rural Development (NPRD) 2007-2013. European Commission approved for Romania in 2008 an overall budget of Euro 10 billion, of which Euro 8 billion funded by the European Union through the European Agricultural Fund for Rural Development, the balance being covered from the national budget. The total payments made so far reached 3.4 billion Euro, meaning a rate of absorption of 33% during the 2007-2013 period. A target of 43 percent has been set to be reached before October 2012.

The agricultural trade deficit continued to decline further by 24 percent, mainly as a result of boosting exports by 36 percent. According to the trade data available for the first 10 months of 2011, the imports grew by 23 percent. Meat, sugars, grains, seeds and protein meals were the top five commodities which entered Romania, while grains and seeds account for nearly half of Romanian exports (please see Table 1).

The major trading partners for agricultural goods continue to be the European Union member states, about 80 percent of imports originating from the European Union, mainly from Hungary, Germany and Bulgaria. In terms of exports, about two thirds of exports go to the European Union, mainly to Italy, Hungary and Bulgaria.

**Table 1 - Agricultural trade in Romania (2009-2011)**

| | 2009 *Jan- October* | 2010 *Jan- October* | 2011 *Jan- October* |
|---|---|---|---|
| Imports ($) | 4,353,266,180 | 4,215,815,475 | 5,167,242,077 |
| Exports ($) | 2,606,782,468 | 3,262,338,049 | 4,442,066,873 |
| **Agricultural Trade Deficit ($)** | **1,746,483,712** | **953,477,426** | **725,175,204** |

*Source: GTA*

In 2011, U.S. food exports to Romania resumed the upward trend, expanding by 13 percent during the first 10 months of 2011, and reaching $61.6 million compared to $54.7 million last year. Imports mainly consisted of grains and seeds ($15.3 million), food preparations ($13 million), rice ($12.8 million), beverages ($6.1 million).

## Soybeans and Products Return to top

Since the access to biotech soybeans seeds was denied in 2007, only farmers located in areas with favorable climatic conditions and covered with solid contracts continue to keep soybeans in their crop farm structure. The soybean acreage with conventional soybeans remains very similar to the previous years, around 64,000 hectares, producing about 135,000 MT, which is far from the volume needed to cover the livestock industry needs, therefore imports play an important role.

Soybean meal is one of the top five imported commodities, Brazil and Argentina being the major suppliers. In 2011, United States has not been a soybean meal supplier for Romania, but the soybeans quantity exports almost doubled. Soybean meal imports are projected to remain stable in 2012 (Table 2).

**Table 2 - Soybeans and products imports, Romania, 2009-2011**

| **Imports into Romania (10 months)** | **2009** | | **2010** | | **2011** | |
|---|---|---|---|---|---|---|
| | *Quantity (MT)* | *Value (USD)* | *Quantity (MT)* | *Value (USD)* | *Quantity (MT)* | *Value (USD)* |
| Soybeans | 18,526 | 9,928,304 | 15,739 | 8,122,504 | 32,617 | 16,793,148 |
| Of which US | 2,625 | 1,607,145 | 1,103 | 1,214,307 | 1,921 | 2,573,821 |
| Soybean meal | 407,102 | 173,524,457 | 374,046 | 149,234,032 | 357,656 | 157,012,120 |

*Source: GTA*

## Dried Vegetables

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Increasing level of convenience and the fluctuating local production created opportunities for US exporters of dried vegetables in general, but especially for lentils, chickpeas and peas. After a drop in 2010, total exports resumed the growth trend in 2011, US exports growing from $578 to $21,493 in 2011.

**Table 2 – Dried vegetables imports, Romania, 2009-2011**

| Imports into Romania (10 months) | 2009 | | 2010 | | 2011 | |
|---|---|---|---|---|---|---|
| | *Quantity (MT)* | *Value (USD)* | *Quantity (MT)* | *Value (USD)* | *Quantity (MT)* | *Value (USD)* |
| Dried vegetables | 33,679 | 17,465,294 | 24,480 | 15,151,879 | 24,705 | 16,628,123 |
| -Of which from the US | 0 | 0 | 0 | 578 | 59 | 21,493 |

*Source: GTA*

## Distilled Spirits: Whiskey

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After two years of decline, distilled spirits imports grew by 9 percent during January-October 2011, indicating a recovery in the consumer demand. We estimate the distilled spirits will slightly grow in 2012. As shown in Table 3, the United States continues to be a significant whiskey supplier on the Romanian market, being the leading provider of Bourbon whiskey.

**Table 3 – Distilled spirits imports, Romania, 2009-2011**

| Imports into Romania (10 months) | 2009 | | 2010 | | 2011 | |
|---|---|---|---|---|---|---|
| | *Quantity (liters)* | *Value (USD)* | *Quantity (liters)* | *Value (USD)* | *Quantity (liters)* | *Value (USD)* |
| Distilled Spirits | 2,481,695 | 45,873,074 | 2,394,898 | 43,571,017 | 2,627,216 | 54,287,406 |
| -Of which Whiskey | 1,380,333 | 28,724,314 | 1,351,665 | 25,957,223 | 1,526,748 | 32,093,078 |
| - Of which Whiskey from US | 279,869 | 7,589,010 | 260,946 | 6,321,928 | 225,609 | 6,089,435 |

*Source: GTA*

## Edible Fruits and Nuts

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Snack industry and retail sector have been able to generate import demand for most of edible fruits and nuts in 2011. United States is the leading supplier for almonds with a share of 57% in total imports. Pistachios imports declined in total, US exports following the same trend. US Walnuts exports however grew significantly in 2011, mainly driven by the retail sector. Other products, like dried plumes and pecans from United States, are not imported directly on the Romanian market, but through other European countries.

**Table 4 – Edible fruits and nuts imports, Romania, 2009-2011**

| **Imports into Romania (10 months)** | | **2009** | | **2010** | | **2011** | |
|---|---|---|---|---|---|---|---|
| | | *Quantity (MT)* | *Value (USD)* | *Quantity (MT)* | *Value (USD)* | *Quantity (MT)* | *Value (USD)* |
| **Almonds** | Total | 455 | 1,856,774 | 475 | 2,531,458 | 656 | 3,108,634 |
| | Of which US | 192 | 930,875 | 196 | 994,961 | 375 | 1,627,113 |
| **Pistachios** | Total | 651 | 4,798,227 | 652 | 5,533,944 | 465 | 2,371,669 |
| | Of which US | 220 | 1,476,755 | 97 | 780,569 | 39 | 189,935 |
| **Walnuts** | Total | 63 | 138,019 | 395 | 1,063,347 | 1,146 | 4,462,473 |
| | Of which US | 0 | 0 | 10 | 10,134 | 79 | 266,830 |

*Source: GTA*

## Other Opportunities

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- Fish and seafood demand in different forms (frozen, dry, smoked)
- Fruit and vegetables juices
- Wines
- Beef

## Resources

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# Chapter 5: Trade Regulations, Customs and Standards



## Import Tariffs Return to top

Since January 1st, 2007, Romania has applied the common EU tariff system. Tariffs are particularly high for certain items, such as cigarettes and alcohol.

The primary basis for determining customs value set out in Articles 29 of the Customs Code is: "... the transaction value, that is, the price actually paid or payable for the goods when sold for export to the customs territory of the Community..." Article 29 lists the following conditions, which must be met in determining customs value:

- There are no restrictions as to the disposal or use of the goods by the buyer, other than restrictions which are imposed or required by a law or by the public authorities in the community, limit the geographical area in which the goods may be resold, or do not substantially affect the value of the goods;
- The sale or price is not subject to some conditional consideration for which a value cannot be determined with respect to the goods being valued;
- No part of the proceeds of any subsequent resale disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with Article 32; and
- The buyer and seller are not related, or, where the buyer and seller are related, that the transaction value is acceptable for customs purposes.

The "price actually paid or payable" in Article 29 refers to the price for the imported goods. Thus the flow of dividends or other payments from the buyer to the seller that do not relate to the imported goods are not part of the customs value.

Articles 32 and 33 provide for adjustments to the value for customs purposes. Article 32 lists charges that are added to the customs value, such as, commissions and brokerage, costs of containers, packing, royalties and license fees, and the value of goods and services supplied directly or indirectly by the buyer in connection with the production and sale for export of the imported goods. Article 33 lists charges that are not included in the customs value, such as, charges for transport, charges incurred after importation, charges for interest under a financing arrangement for the purchase of the goods, charges for the right to reproduce imported goods in the Community, and buying commissions.

Article 147(1) of the Implementing provisions, as amended, affects valuation in the case of successive sales. This amendment "defaults" valuation to the last sale, but allows the value of an earlier sale if it can be demonstrated that such a sale took place for export to the EU. The evidentiary requirements to support the bona fides of any earlier sales will be based upon commercial documents such as purchase orders, sales contracts, commercial invoices, and shipping documents.

Also, according to Article 181a of the Implementing Provisions and Article 57 of the Romanian Customs Code, when the customs office has reason to doubt the accuracy of the information supplied or documents presented for the purpose of customs valuation, it can require the importer to submit additional documents or evidence.

If such documents fail to prove the declared value, the Customs Authority may decline to apply the transaction value method, providing the importer with a written decision upon request. In such cases, provisional customs clearance may be granted on condition that the importer submits a guarantee for the maximum amount that the customs debt could be. If, within 30 days of such provisional clearance, the importer fails to present the requested documents to Customs, the clearance is deemed final.

Key Link: http://ec.europa.eu/taxation_customs/customs/index_en.htm

For contact information at national customs authorities, please visit:
http://ec.europa.eu/taxation_customs/common/links/customs/index_en.htm

Regulation 648/2005 is the “Security Amendment” to the Customs Code (Regulation 2913/92) and outlines the implementing provisions for Authorized Economic Operators, risk management procedures, pre-departure declarations, and improved export controls.

<u>Entry Summary Declaration - Obligation to lodge an ENS</u>

Without prejudice to the exceptions, EU legislation requires that an ENS must be lodged before the arrival of goods in the customs territory of the Community or before loading containerized cargo in deep sea traffic (cases referred to in Article 184a (1) (a) CCIP) at the first point of entry into the customs territory of the Community. The customs office of entry may waive the lodging of an entry summary declaration in respect of goods for which an electronic customs declaration is lodged within the deadlines for an ENS, provided the customs declaration contains the particulars of an ENS. A practical example would be the lodging of a transit declaration (Article 36c (1) CC) at the eastern land border under NCTS or NCTS-TIR.

In accordance with Article 183 (1) CCIP the ENS shall be lodged electronically. It shall contain the particulars laid down for such declaration in Annex 30A CCIP and shall be completed in accordance with the explanatory notes in that Annex.
The ENS shall be authenticated by the person making it.

<u>Exit Summary declaration - Obligation to lodge an EXS</u>

EU legislation requires, as a general principle, that all goods brought out of the customs territory of the Community, regardless of their final destination, shall be risk assessed and subject to customs control before departure or – in the case of deep sea containerized maritime shipments – before commencement of vessel loading. All such goods must therefore be covered by a declaration of some kind either by a customs declaration, e.g. for export, re-export, transit etc. or, wherever any of the former is not required, by an EXS. This in principle means that an EXS is required in cases where goods are brought out of the Community without a customs declaration (Art. 842a CCIP).

All normal, incomplete or simplified export declarations (as well as declarations for outward processing and re-export after a customs procedure with economic impact) must contain the safety and security data defined in Annex 30A CCIP for the exit summary declaration.

The standard rate of value-added tax (VAT) is 24% and applies to the base of taxation for any taxable operation that is not exempt or that is not subject to the reduced rate of value-added tax. A reduced rate of 9% applies for services and goods such as prostheses of any type and accessories to them, with the exception of dental prostheses, deliveries of orthopedic products, medicines for human use and veterinarian use, accommodations within the hotel sector or with a similar function, such as campgrounds. A reduced rate of 9% applies to books, newspapers and tabloids, including textbooks, except for those used for advertising.

Romania has signed a significant number of bilateral Double Tax Agreements (DTAs). Most of these agreements follow the OECD model. The Double Tax Agreements prevail over domestic legislation, provided that a certificate confirming the foreign fiscal residency of the taxpayer is presented to the Romanian tax authorities. The DTAs also contain provisions related to withholding taxes. Companies based in countries with which Romania has signed DTAs benefit from a reduced level of withholding taxes. The revision made for the harmonization of the Fiscal Code with the VAT Directive no. 112/2006 by Law no. 343/2006 applicable from 01.01.2007 (since 01.01.2007 the Fiscal Code was revised several times the last revision being made by Law no. 188/2010) and a Fiscal Procedure Code entered into force in January 2004. The Fiscal Code provides for a significant simplification of taxation procedures as well as for harmonization with European Union fiscal practices.

## Trade Barriers Return to top

For information on existing trade barriers, please see the National Trade Estimate Report on Foreign Trade Barriers, published by USTR and available through the following website: http://www.ustr.gov/about-us/press-office/reports-and-publications/archives/2007/2007-national-trade-estimate-report-fo-0?ht.

Information on agricultural trade barriers can be found at the following website: http://www.ers.usda.gov/Publications/TB1876/.

To report existing or new trade barriers and get assistance in removing them, contact either the Trade Compliance Center at http://tcc.export.gov/ or the U.S. Mission to the European Union at http://www.buyusa.gov/europeanunion.

**Import Requirements and Documentation** Return to top

Beginning with July 1, 2009 customs or other authorities designated by the member states will provide businesses with a unique registration and identification number (the EORI number) to be used for all customs activities they undertake within the European Union.

If a business (or “economic operator”) is not established within the EU customs territory and does not have an EORI number, it will have to be registered by the designated authority of the member state where it conducts one of the following activities for the first time:

- Submits, within the Community territory, a short customs declaration, other than:
  - A customs declaration done in accordance with Articles 225 - 238 from the Community Customs Regulation (Commission Regulation no. 2454/93)
  - A customs declaration solicited within the temporary admission regime.
- Submits, within the Community territory, a short statement of entry or exit.
- Manages a warehouse for temporary deposit based on Article 185, 1st paragraph, from the Community Customs Regulation.
- Submits an authorization request based on the Articles 324a or 372 from the Community Customs Regulation.
- Requests an economic operator certificate, authorized according to Article 14a from the Community Customs Regulation.

For more information see the web page: http://www.customs.ro/ro/e-customs/eori.aspx

The Customs Office requires standard documents for release for free circulation. The import SAD (Single Administrative Document) which also applies to exports, must be submitted for acceptance and registration to the Customs Authority, supported by the following documents: According to Article 218 of Regulation (CE) No 2454/93 and its last amendments:

1. The following documents shall accompany the customs declaration for release for free circulation:

a) the invoice on the basis of which the customs value of the goods is declared, as required under Article 181;

b) where it is required under Article 178, the declaration of particulars for the assessment of the customs value of the goods declared, drawn up in accordance with the conditions laid down in the said Article;

c) the documents required for the application of preferential tariff arrangements or other measures derogating from the legal rules applicable to the goods declared;

d) all other documents required for the application of the provisions governing the release for free circulation of the goods declared.

2. The customs authorities may require transport documents or documents relating to the previous customs procedure, as appropriate, to be produced when the declaration is lodged. Where a single item is presented in two or more packages, they may also require the production of a packing list or equivalent document indicating the contents of each package.

3. However, where goods qualify for duties under Article 81 of the Code, the documents referred to in paragraph 1 (b) and (c) need not be required. In addition, where goods qualify for relief from import duty, the documents referred to in paragraph 1 (a), (b) and (c) need not be required unless the customs authorities consider it necessary for the purposes of applying the provisions governing the release of the goods in question for free circulation.

Goods under duty suspension require the authorization of the Customs Authority, and relevant contracts should also be presented for clearance purposes.

At the re-export, the Customs Authority may require documents relating to the previous customs procedure, as appropriate, to be produced when the declaration is lodged. The Integrated Tariff of the Community, referred to as TARIC (Tarif Intégré de la Communauté), is designed to show various rules applying to specific products being imported into the customs territory of the EU or, in some cases, when exported from it. To determine if a license is required for a particular product, check the TARIC.

The TARIC can be searched by country of origin, Harmonized System (HS) Code, and product description on the interactive website of the Directorate-General for Taxation and the Customs Union. The online TARIC is updated daily.

Many EU Member States maintain their own list of goods subject to import licensing.

For example, Germany's "Import List" (Einfuhrliste) includes goods for which licenses are required, their code numbers, any applicable restrictions, and the agency that will issue the relevant license. The Import List also indicates whether the license is required under German or EU law. For information relevant to Member State import licenses, please consult the relevant Member State Country Commercial Guide.

Key Link: http://ec.europa.eu/taxation_customs/common/databases/taric/index_en.htm

*Import Documentation*

*Non-agricultural Documentation*

The official model for written declarations to customs is the Single Administrative Document (SAD). European Free Trade Association (EFTA) countries including Norway, Iceland, Switzerland, and Liechtenstein also use the SAD. However, other forms may be used for this purpose. Information on import/export forms is contained in Title VII, of Council Regulation (EEC) No. 2454/93, which lays down provisions for the implementation of Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code (Articles 205 through 221). Articles 222 through 224 provide for computerized customs declarations and Articles 225 through 229 provide for oral declarations.

Additional information on import/export documentation can be found in Title III, of Council Regulation (EEC) No. 2913/92 of October 12, 1992, establishing the Community Customs Code (Articles 37 through 57). Goods brought into the customs territory of the Community are, from the time of their entry, subject to customs supervision until customs formalities are completed.

Goods presented to customs are covered by a summary declaration, which is lodged once the goods have been presented to customs. The customs authorities may, however, allow a period for lodging the declaration, which cannot be extended beyond the first working day following the day on which the goods are presented to customs. The summary declaration can be made on a form corresponding to the model prescribed by the customs authorities. However, the customs authorities may permit the use, as a summary declaration, of any commercial or official document that contains the particulars necessary for identification of the goods. It is encouraged that the summary declaration be made in computerized form.

The summary declaration is to be lodged by:

- the person who brought the goods into the customs territory of the Community or by any person who assumes responsibility for carriage of the goods following such entry; or
- the person in whose name the person referred to above acted.

Non-EU goods presented to customs must be assigned a customs-approved treatment or use authorized for such non-Community goods. Where goods are covered by a s declaration, the formalities for them to be assigned a customs-approved treatment or use must be carried out:

- 45 days from the date on which the summary declaration is lodged in the case of goods carried by sea;
- 20 days from the date on which the summary declaration is lodged in the case of goods carried other than by sea.

Where circumstances so warrant, the customs authorities may set a shorter period or authorize an extension of the period.

The Modernized Customs Code (MCC) of the European Union entered into force in June of 2008. The MCC will replace the existing Regulation 2913/92 and simplify various procedures such as introducing a paperless environment, centralized clearance, and more. Check the EU's Customs website periodically for updates: http://ec.europa.eu/taxation_customs/customs/procedural_aspects/general/community_code/index_en.htm.

*Batteries*

EU battery rules changed in September 2006 following the publication of the Directive on batteries and accumulators and waste batteries and accumulators (Directive 2006/66). The updated Directive applies to all batteries and accumulators put on the EU market including automotive, industrial and portable batteries. It aims to protect the environment by restricting the sale of batteries and accumulators that contain mercury or cadmium (with an exemption for emergency and alarm systems, medical equipment and cordless power tools) and by promoting a high level of collection and recycling. It places the responsibility on producers to finance the costs associated with the collection, treatment, and recycling of used batteries and accumulators. The Directive also includes provisions on the labeling of batteries and their removability from equipment. EU Member States must implement the EU Directive into their national law by September 26, 2008. For more information, see our market research report: http://www.buyusainfo.net/docs/x_8086174.pdf

Imports of residues from the manufacture of starch from maize from the USA

According to Reg. 1375/2007 imports of residues from the manufacture of starch from maize from the USA into the Community are subject to laboratory analysis to verify their conformity with the tariff definition. The Federal Grain Inspection Service (FGIS) of the United States Department of Agriculture and the USA wet milling industry, under the regular review of the USA authorities, will certify that imports of these products from the USA into the Community are in conformity with the agreed definition.
A laboratory analysis shall be carried out to verify the conformity of residues from the manufacture of starch from maize imported into the Community from the USA under CN code 2309 90 20 with the definition of this code for all shipments not accompanied by a certificate issued by the Federal Grain Inspection Service (FGIS) and a certificate issued by the USA wet milling industry.
Shipments from the USA which are accompanied by the two certificates are subject to the customary measures for checking imports.

*REACH*

REACH is a major reform of EU chemicals policy that was adopted in December 2006 and became national law in the 27 EU Member States in June 2007. Virtually every industrial sector, from automobiles to textiles, could be affected by the new policy. REACH stands for the "Registration, Evaluation and Authorization of Chemicals." REACH requires all chemicals produced or imported into the EU in volumes above 1 ton per year to be registered with a central European Chemicals Agency (ECHA), including information on their properties, uses and safe ways of handling them. The full registration period for chemicals which are pre-registered ranges from three to eleven years depending on the volume of the substance and its hazard properties. Substances not pre-registered must be registered to stay on the market. Chemicals of very high concern, like carcinogens, will need an authorization for use in the EU. U.S. exporters to Europe should carefully consider this piece of EU environmental legislation. For more information, see the CSEU REACH webpage at: http://www.buyusa.gov/europeanunion/reach.html.

**U.S. Export Controls** Return to top

Exports of goods and services are currently not subject to customs duties or VAT, and for the majority of goods, no export license is required. Authorizations are, however, required for exports of unfinished wood products, exports of dual-use items and technology, export refunds for agricultural products or carrying out operations with precious metals and stones.

Temporary Entry Manufacturers should be mindful that in addition to the EU's mandatory and voluntary schemes, national voluntary labeling schemes might still apply. These schemes may be highly appreciated by consumers, and thus, become

unavoidable for marketing purposes. Manufacturers are advised to take note that all labels require metric units. The European Commission has encouraged the use of multilingual information on labels, while allowing member states to require the use of the local language.
The EU has mandated that certain products be sold in standardized quantities. Council Directive 80/232/EC provides permissible ranges of nominal quantities, container capacities and volumes of a variety of products: http://europa.eu.int/eur lex/en/consleg/main/1980/en_1980L0232_index.html.

The EU adopted legislation in 1992, revised in 2000, to distinguish environmentally friendly production through a labeling scheme called the Eco-label. The symbol, a green flower, is a voluntary mark. The Eco-label is awarded to producers who can show that their product is less harmful to the environment than similar such products. This "green label" also aims to encourage consumers to buy green products. However, the scheme does not establish ecological standards that all manufacturers are required to meet to place product on the market. Products without the EU Eco-label can still enter the EU as long as they meet the existing health, safety, and environmental standards and regulations.

There are concerns in the United States that the EU Eco-labeling program may become a de facto trade barrier; may not enhance environmental protection in a transparent, scientifically sound manner; may not be open to meaningful participation by U.S. firms; and may discriminate unfairly against U.S. businesses. The EU Eco-label is a costly scheme (up to EUR 1,300 for registration and up to EUR 25,000/ year for the use of the label, with a reduction of 25 percent for SMEs) and has therefore not been widely used so far. However, the Eco-label can be a good marketing tool and, given the growing demand for green products in Europe, it is likely that the Eco-label will become more and more a reference for green consumers.

An overview of EU mandatory and voluntary labeling and marking requirements has been compiled in a market research report that is available at: http://www.buyusainfo.net/docs/x_4171929.pdf.

The subject has also been covered in the section about standards (see below).

## Customs Procedures with Economic Impact Return to top

The term "customs procedure with economic impact" is used for the following arrangements:

- customs warehousing;
- inward processing;
- processing under customs control;
- temporary importation;
- outward processing.

According to Article 85 from Community Customs Code, the use of any customs procedure with economic impact shall be conditional upon authorization being issued by the customs authorities.

Customs warehousing, inward processing, processing within customs, temporary importation, and outward processing are all considered customs procedures with an economic impact, requiring importers to post a bond, per local regulations.

**The customs warehousing** procedure shall allow the storage in a customs warehouse of:

a) Non-Community goods, without such goods being subject to import duties or commercial policy measures;
b) Community goods, where Community legislation governing specific fields provides that their being placed in a customs warehouse shall attract the application of measures normally attaching to the export of such goods

**The inward processing procedure** shall allow the following goods to be used in the customs territory of the Community in one or more processing operations:

a) non-Community goods intended for re-export from the customs territory of the Community in the form of compensating products, without such goods being subject to import duties or commercial policy measures (suspension system);
b) goods released for free circulation with repayment or remission of the import duties chargeable on such goods if they are exported from the customs territory of the Community in the form of compensating products (drawback system).

**The procedure for processing under customs control** shall allow non-Community goods to be used in the customs territory of the Community in operations which alter their nature or state, without their being subject to import duties or commercial policy measures, and shall allow the products resulting from such operations to be released for free circulation at the rate of import duty appropriate to them. Such products shall be termed processed products.

According to art 137 from Community Customs Code, **the temporary importation procedure** shall allow the use in the customs territory of the Community, with total or partial relief from import duties and without their being subject to commercial policy measures, of non-Community goods intended for re-export without having undergone any change except normal depreciation, due to making use of them.

In cases qualifying for partial exemption of customs duties, the duties are levied at 3% of the amount due, had the goods been imported. The duty is calculated for every month or partial month in which the goods are under temporary admission but the amount cannot exceed the total due had the goods been imported. In cases qualifying for total exemption of import duties, but which are subsequently imported, the taxation rate will be the one in force at the registration date of the import customs declaration.

According to art.145 from Community Customs Code, outward processing procedure shall allow Community goods to be exported temporarily from the customs territory of the Community in order to undergo processing operations and the products resulting from those operations to be released for free circulation with total or partial relief from import duties.

## Labeling and Marking Requirements Return to top

Manufacturers should be mindful that in addition to the EU's mandatory and voluntary schemes, national voluntary labeling schemes might still apply. These schemes may be

highly appreciated by consumers, and thus, become unavoidable for marketing purposes. Manufacturers are advised to take note that all labels require metric units. The European Commission has encouraged the use of multilingual information on labels, while allowing member states to require the use of the local language.
The EU has mandated that certain products be sold in standardized quantities. Council Directive 80/232/EC provides permissible ranges of nominal quantities, container capacities and volumes of a variety of products: http://europa.eu.int/eur lex/en/consleg/main/1980/en_1980L0232_index.html.

The EU adopted legislation in 1992, revised in 2000, to distinguish environmentally friendly production through a labeling scheme called the Eco-label. The symbol, a green flower, is a voluntary mark. The Eco-label is awarded to producers who can show that their product is less harmful to the environment than similar such products. This "green label" also aims to encourage consumers to buy green products. However, the scheme does not establish ecological standards that all manufacturers are required to meet to place product on the market. Products without the EU Eco-label can still enter the EU as long as they meet the existing health, safety, and environmental standards and regulations.

There are concerns in the United States that the EU Eco-labeling program may become a de facto trade barrier; may not enhance environmental protection in a transparent, scientifically sound manner; may not be open to meaningful participation by U.S. firms; and may discriminate unfairly against U.S. businesses. The EU Eco-label is a costly scheme (up to EUR 1,300 for registration and up to EUR 25,000/ year for the use of the label, with a reduction of 25 percent for SMEs) and has therefore not been widely used so far. However, the Eco-label can be a good marketing tool and, given the growing demand for green products in Europe, it is likely that the Eco-label will become more and more a reference for green consumers.

An overview of EU mandatory and voluntary labeling and marking requirements has been compiled in a market research report that is available at: http://www.buyusainfo.net/docs/x_4171929.pdf.

The subject has also been covered in the section about standards (see below).

## Prohibited and Restricted Imports

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Prohibited imports include products such as firearms, ammunition, illegal drugs and other similar items that can affect national security, public health or "good morals."

The EU's online customs tariff database, also called the TARIC, is a multilingual database in which are integrated all measures relating to tariff, commercial and agricultural legislation. The TARIC is designed to show various rules applying to specific products being imported into the customs territory of the EU or, in some cases, when exported from it. To determine if a product is prohibited or subject to restriction, check the TARIC for that product for the following codes:

| | |
|---|---|
| CITES | Convention on International Trade of Endangered Species |
| PROHI | Import Suspension |
| RSTR | Import Restriction |

For information on how to access the TARIC, see the Import Requirements and Documentation Section above.

Key Link: http://ec.europa.eu/taxation_customs/common/databases/taric/index_en.htm

Waste electrical and electronic equipment are included in the Regulation (CE) no. 1013/2006 by the European Parliament and the Council on the transfers of waste. Importing waste electrical and electronic equipment in Romania is subject to the notification *form for circulation / shipments of waste* (Annex no. 1A to the Regulation (CE) no. 1013/2006) and to the *form of circulation for transportation / shipments of waste* (Annex 1B to the Regulation (CE) no. 1013/2006). The *form for circulation / shipments of waste* will be completed, submitted and stamped by the National Agency for Environmental Protection.

RoHS products are discussed in Directive 2002/95/CE of the European Parliament and Council (dated March 27 2003), concerning restrictions on the use of certain hazardous substances in electronic and electric equipment. Directive 2002/95/EC was transposed into national legislation by Government Decision no. 992/2005 on limiting the use of certain hazardous substances in electrical and electronic equipment.

Under Romanian law, lead, mercury, cadmium, hexavalent chromium, PBB, and PBDE's are not allowed.

U.S. exporters seeking more information on WEEE and RoHS regulations should visit: http://www.buyusa.gov/europeanunion/weee.html.

## Customs Regulations and Contact Information

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An important objective of the European Community is the protection of the Member States companies from imported goods being dumped or subsidized. Accordingly, the EU has introduced anti-dumping duties for goods imported at very low or dumping prices and countervailing duties for goods that have received subsidies. Safeguard measures can also be implemented to assist domestic producers adversely affected by imports, and may consist of additional customs duties or quantitative restrictions (quotas).

## Standards

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## Overview

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EU standards development is a process based on consensus initiated by industry or mandated by the European Commission and carried out by independent standards bodies, acting at the national, European or international level. Non-governmental organizations, such as environmental and consumer groups, are actively encouraged to participate in the process of European standardization.

## Standards Organizations

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Many standards in the EU are adopted from international standards bodies such as the International Standards Organization (ISO). The drafting of specific EU standards is handled by three European standards organizations:

- CENELEC, European Committee for Electrotechnical Standardization (http://www.cenelec.org/Cenelec/Homepage.htm)
- ETSI, European Telecommunications Standards Institute (http://www.etsi.org/)
- CEN, European Committee for Standardization, handling all other standards (http://www.cen.eu/cen/pages/default.aspx)

Standards are developed or amended by experts in Technical Committees or Working Groups. The members of CEN and CENELEC are the national standards bodies of the Member States, which have "mirror committees" that monitor and participate in ongoing European standardization. CEN and CENELEC standards are sold by the individual Member States standards bodies. ETSI is different in that it allows direct participation in its technical committees from non-EU companies that have interests in Europe and gives away its individual standards at no charge on its website.

In addition to the three standards developing organizations, the European Commission plays an important role in standardization through its funding of the participation in the standardization process of small- and medium-sized companies and non-governmental organizations, such as environmental and consumer groups. The Commission also funds standards bodies when it mandates standards development to the European Standards Organization for harmonized standards that will be linked to EU technical Regulations. In the last year, the Commission began listing their mandates on line and they can be seen at http://ec.europa.eu/enterprise/policies/european-standards/index_en.htm .

All the EU harmonized standards, which provide the basis for CE marking, can be found on http://www.newapproach.org/.

CEN's National Members are the National Standards Bodies (NSBs) of the 27 European Union countries, Croatia and Turkey plus three countries of the

European Free Trade Association (Iceland, Norway and Switzerland). There is one member per country.

The standardization system in Europe is based on the national pillars, which are the National Standardization Bodies or the members of CEN. A National Standards Body is the one stop shop for all stakeholders and is the main focal point of access to the concerted system, which comprises regional (European) and international (ISO) standardization.

It is the responsibility of the CEN National Members to implement European Standards as national standards, which is unique in the world. The National Standards Bodies distribute and sell the implemented European Standard and have to withdraw any conflicting national standards.

Due to the EU's vigorous promotion of its regulatory and standards system as well as its generous funding for its business development, the EU's standards regime is wide and deep - extending well beyond the EU's political borders to include affiliate members such as Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Egypt, FYR of Macedonia, Georgia, Israel, Jordan, Lebanon, Libya, Republic of Moldova, Montenegro, Serbia, Tunisia, Ukraine, Morocco. Another category, called "partner standardization bodies" includes (in CEN) the standards organizations of Australia, Mongolia, which has an interest in participating in specific CEN technical committees. Partners agree to pay a fee for full participation in certain technical committees and agree to implement the committee's adopted standards as national standards. Many other countries are targets of the EU's extensive technical assistance program, which is aimed at exporting EU standards and technical Regulations to developing countries, especially in the Mediterranean and Balkan countries, Africa, as well as programs for China and Latin America.

To know what CEN and CENELEC have in the pipeline for future standardization, it is best to visit their websites. CEN's "business domain" page provides an overview by sector and/or technical committee whereas CENELEC offers the possibility to search its database. ETSI's portal (http://portal.etsi.org/Portal_Common/home.asp) leads to ongoing activities.

European standards organizations have been looking for "new deliverables" which are standard-like products delivered in a shorter timeframe in order to respond and grow their market share. While few of these "new deliverables" have been linked to EU Regulations, expectations are that they will eventually serve as the basis for EU-wide standards.

Key Link: http://www.cenorm.be/cenorm/workarea/sectorfora/index.asp.

New website offers easy access to information on European Standards

The European Committee for Standardization (CEN) and the European Committee for Electrotechnical Standardization (CENELEC) have joined forces to launch a new website - cencenelec.eu – which went online on January 18, 2012.

This new joint website complements the existing websites of CEN and CENELEC by providing easy access to general information about European Standards. It is intended to serve as a starting point for anyone who wants to learn about or participate in the European standardization system.

* ETSI is the European Telecommunications Standards Institute (www.etsi.org)

The full press release can be found on the new CEN CENELEC website:
http://www.cencenelec.eu/news/press_releases/Pages/PR-2012-01.aspx

Video message from the Director General of CEN and CENELEC:
http://www.cencenelec.eu/news/videos/Pages/vo-2012-001.aspx

**NIST Notify U.S. Service**
Member countries of the World Trade Organization (WTO) are required under the Agreement on Technical Barriers to Trade (TBT Agreement) to report to the WTO all proposed technical regulations that could affect trade with other Member countries. **Notify U.S.** is a free, web-based e-mail subscription service that offers an opportunity to review and comment on proposed foreign technical regulations that can affect your access to international markets. Register online at Internet URL: http://www.nist.gov/notifyus/

## Conformity Assessment

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Conformity assessment is a mandatory step for a manufacturer to comply with specific EU legislation. The purpose of conformity assessment is to ensure consistent compliance during all stages of the production process. A positive assessment facilitates acceptance of the final product. EU product legislation gives manufacturers some choice in conformity assessment, depending on the level of risk involved in the use of their product. These choices range from self-certification, type examination and production quality control system, to a full quality assurance system. A list of conformity assessment bodies by country are listed at this link:

Key Link: http://ec.europa.eu/enterprise/newapproach/nando/

To promote market acceptance of the final product, there are a number of voluntary conformity assessment programs. CEN's certification systems are the Keymark, the CENCER mark, and the European Standard Agreement Group. CENELEC has its own initiative. ETSI does not offer conformity assessment services.

## Product Certification

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In order to sell products on the EU market, as well as Norway, Liechtenstein and Iceland, U.S. exporters are required to apply CE marking whenever their product is covered by specific product legislation. CE mark legislation offers manufacturers some choices but also some decision trees to determine which safety/health concerns must be addressed, which conformity assessment module is best suited to the manufacturing process, and whether or not to use EU-wide harmonized standards. Obtaining a CE mark is a complex process and the following is offered as general guidance.

Products manufactured to standards adopted by CEN, CENELEC and ETSI, and published in the Official Journal as harmonized standards, are presumed to conform to the requirements of EU Directives. The manufacturer then applies the CE mark and issues a declaration of conformity. With these, the product will be allowed to circulate freely within the EU. A manufacturer can choose not to use the harmonized EU standards, but then must demonstrate that the product meets the essential safety and performance requirements. Trade barriers occur when design, rather than performance, standards are developed by the relevant European standardization organization, and when U.S. companies do not have access to the standardization process through a European presence. The U.S. Commercial Service mission to the EU watch for such situations.

The CE mark addresses the requirements of national control authorities of EU Member States, and simplifies the task of market surveillance of regulated products. Although CE marking is intended primarily for inspection purposes by Member State inspectors, the consumer may perceive it as a quality mark.

The CE mark is not intended to include detailed technical information on the product, but there must be enough information to enable the inspector to trace the product back to the manufacturer or the authorized representative established in the EU. This detailed information should not appear next to the CE mark, but rather on the declaration of conformity, the certificate of conformity, or the documents accompanying the product.

## Accreditation

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Independent certification bodies, known as notified bodies, have been officially accredited by competent authorities to test and certify to EU requirements. However, under U.S.-EU Mutual Recognition Agreements (MRAs), notified bodies based in the United States and referred to as conformity assessment bodies, are allowed to test in the United States to EU specifications, and vice versa. The costs for assessments in the U.S. are often significantly lower. At this time, the U.S.-EU MRAs cover the following sectors: EMC (in force), RTTE (in force), medical devices (in transition), pharmaceutical (on hold), recreational craft (in force) and marine equipment (in force). The U.S. Department of Commerce, National Institute of Standards and Technology (NIST), has a link on its website to American and European Conformity Assessment bodies operating under a mutual recognition agreement.

Accreditation is handled at Member State level. "European Accreditation" (http://www.european-accreditation.org/default_flash.htm) is an organization representing nationally recognized accreditation bodies. Membership is open to nationally recognized accreditation bodies in countries in the European geographical area that can demonstrate that they operate an accreditation system compatible with EN ISO/IEC ***17011***.

Key Link: http://ts.nist.gov/Standards/Global/mra.cfm

## Publication of Technical Regulations

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The *Official Journal* is the official gazette of the European Union. It is published daily on the internet and consists of two series covering draft and adopted legislation as well as case law, questions from the European Parliament, studies by committees, and related content (http://publications.europa.eu/official/chapter_en.htm). It lists the standards reference numbers linked to legislation: http://www.newapproach.org/Directives/DirectiveList.asp.

National technical Regulations are published on the Commission's website http://ec.europa.eu/comm/enterprise/tris/ to allow interested parties to comment.

Member countries of the World Trade Organization (WTO) are required under the Agreement on Technical Barriers to Trade (TBT) Agreement to report to the WTO all proposed technical Regulations that could affect trade with other member countries. **Notify U.S.** is a free, web-based e-mail subscription service that offers an opportunity to review and comment on proposed foreign technical Regulations that can affect your access to international markets. Register online at Internet URL: http://tsapps.nist.gov/notifyus/data/index/index.cfm

## Labeling and Marking

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In addition to the EU's mandatory and voluntary schemes, national voluntary labeling schemes might still apply. These schemes may be highly valued by consumers, and thus, become unavoidable for marketing purposes.

Manufacturers are advised to take note that all labels require metric. The EU encourages multilingual labeling information, but preserves the right of Member States to require the use of local language in the country of consumption.

The EU has mandated that certain products be sold in standardized quantities. Council Directive 2007/45/EC, to replace 80/232/EC in April 2009, harmonizes packaging of wine and spirits throughout the EU. Existing national sizes will be abolished with a few exceptions for domestic producers.

Key Link: http://ec.europa.eu/enterprise/prepack/packsize/packsiz_en.htm

*The Eco-label*

EU legislation distinguishes environmentally friendly products and services through a voluntary labeling scheme called the Eco-label. Currently, the scheme applies to seven product groups: cleaning products, appliances, paper products, clothing, lubricants, home and garden products and tourism services. The symbol, a green flower, is a voluntary mark to encourage consumers to buy "eco friendly products". The Eco-label is awarded to producers who can show that their product is less harmful to the environment than similar products. However, the scheme does not establish ecological standards that all manufacturers are required to meet to place product on the market. Products without the EU Eco-label can still enter the EU as long as they meet the existing health, safety, and environmental standards and Regulations.

Key Links: http://buyusainfo.net/docs/x_4284752.pdf
http://ec.europa.eu/comm/environment/ecolabel/index_en.htm
http://www.eco-label.com/

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http://www.cenelec.org/Cenelec/Homepage.htm
http://www.etsi.org/
http://www.cen.eu/cen/pages/default.aspx
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http://www.newapproach.org/
http://www.cenorm.be/
http://www.european-accreditation.org/default_flash.htm
http://ts.nist.gov/Standards/Global/mra.cfm
http://publications.europa.eu/official/chapter_en.htm
http://tsapps.nist.gov/notifyus/data/index/index.cfm
http://buyusainfo.net/docs/x_4284752.pdf
http://www.eco-label.com/

## Trade Agreements

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Romania has signed a significant number of bilateral Double Tax Agreements (DTAs). Most of these agreements follow the OECD model. The Double Tax Agreements prevail over domestic legislation, provided that a certificate confirming the foreign fiscal residency of the taxpayer is presented to the Romanian tax authorities. The DTAs also contain provisions related to withholding taxes. Companies based in countries with which Romania has signed DTAs benefit from a reduced level of withholding taxes.

The revision made for the harmonization of the Fiscal Code with the VAT Directive no. 112/2006 by Law no. 343/2006 applicable from 01.01.2007 (since 01.01.2007 the Fiscal Code was revised several times the last revision being made by Law no. 188/2010) and a Fiscal Procedure Code entered into force in January 2004. The Fiscal Code provides for a significant simplification of taxation procedures as well as for harmonization with European Union fiscal practices.

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# Chapter 6: Investment Climate



## Openness to Foreign Investment

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### *Encouraging Investment*

Romania actively seeks direct foreign investment. Romania's marketplace offers 21.5 million consumers, a well-educated workforce at competitive cost, a strategic location, and abundant natural resources, making it an attractive destination for investment. To date, favored areas for U.S. investment include IT and telecommunications, energy, services, manufacturing, and consumer products.

Romania has taken steps to strengthen tax administration, enhance transparency, and create legal means to resolve contract disputes expeditiously. Mergers and acquisitions are subject to review by the Competition Council. Romania's accession to the European Union (EU) on January 1, 2007 has helped solidify institutional reform. However, judicial, legislative, and regulatory unpredictability continue to negatively affect the investment climate.

The new Civil Code came into effect in October 2011, abrogating the Commercial Code and consolidating the provisions applicable to companies and contracts into a single piece of legislation. The Civil Procedure Code is scheduled to come into effect in 2012. Romania has also passed a judicial reform law with the objective of improving the speed and efficiency of judicial processes, including a plea bargaining procedure to shorten trials and provisions to reduce delays between hearings.

Prospective U.S. investors should exercise careful due diligence, including consultation with competent legal counsel, when considering any investment. The Government of Romania (GOR) has, on occasion, allowed political interests to supersede accepted Western business practices in ways harmful to investor interests. Struggling to reduce its budget deficit, the GOR in 2010 instructed state-owned energy companies, including those with private shareholder interests, to transfer a portion of their cash reserves to the state budget as a “donation,” without consulting private shareholders in advance. However, approval in December 2011 of an emergency ordinance establishing corporate governance standards for state-controlled enterprises (SOEs) should increase the transparency and accountability of SOE operations. This new legislation will also open the door for the introduction of private management in SOEs.

U.S. companies establish a local presence in the Romanian market in several ways. Many sign distribution agreements with local Romanian firms, which bring experience, expertise and access to the partnerships. Other firms cover Romania through a regional distributor or sales representative. Still other American companies choose Romania as a base for manufacturing or distribution, and establish a subsidiary directly in the country. The choice of strategy depends on the industry, the nature of the customer (government buyer or retail trade), and the business case. Companies relying on regular access to government authorities, or which have a significant service component, generally seek to establish a subsidiary, sometimes through acquisitions.

Investments involving the public authorities (central government ministries, county governments, or city administrations) are generally more complicated than investments or joint ventures with private Romanian companies. Large deals involving the government – particularly public-private partnerships and privatizations of key SOEs – can become stymied by vested political and economic interests, or bogged down due to a lack of coordination between government ministries. Although the Public-Private Partnership (PPP) Law was revised in 2011 to remove anticompetitive provisions, the law still lacks clear terms on risk sharing, PPP project management, and investment recovery. As a result, investor interest in PPPs has been weak. How the new PPP law is eventually implemented will be of considerable interest to investors over the next few years.

***EU Accession***

Romania became a member of the European Union on January 1, 2007. The country has worked assiduously to create a legal framework consistent with a market economy and investment promotion, and has largely concluded its efforts to enact EU-compatible legislation. At the same time, implementation of these laws and regulations frequently lags or is inconsistent.

***Legal Framework***

Romania's legal framework for foreign investment is encompassed within a substantial body of law, largely enacted in the late 1990s, and subject to frequent revision. Major changes to the Civil Code were enacted in October 2011, replacing the Commercial Code and harmonizing Romanian legislation with international practices. Among other things, the new Code introduces the principle of good faith and stipulates that negotiating a contract without intent to conclude is bad faith. Under the hardship provisions, if the parties fail to agree on an amicable renegotiation of a contract, the court can mandate changes or even terminate the contract if it is deemed detrimental to one of the parties. The Civil Procedure Code, which will provide detailed procedural guidance for implementing the new Civil Code, is scheduled to come into force in 2012. In the meantime, Romanian authorities and legal professionals are in the process of exploring how best to implement the Civil Code. Given the state of flux of these legal developments, investors are strongly encouraged to engage local counsel to navigate the various laws, decrees, and regulations, as several pieces of investor-relevant legislation were challenged in both local courts and the Constitutional Court in 2010 and 2011.

This body of legislation and regulation provides national treatment for foreign investors, guarantees free access to domestic markets, and allows foreign investors to participate in privatizations. There is no limit on foreign participation in commercial enterprises. Foreign investors are entitled to establish wholly foreign-owned enterprises in Romania (although joint ventures are more typical), and to convert and repatriate 100% of after-tax profits. Foreign firms are allowed to participate in the management and administration of the investment, as well as to assign their contractual obligations and rights to other Romanian or foreign investors.

Foreign investors may engage in business activities in Romania by any of the following methods:

- Setting up new commercial companies, subsidiaries or branches, either wholly-owned or in partnership with Romanian natural or legal persons;
- Participating in the increase of capital of an existing company or the acquisition of shares, bonds, or other securities of such companies;
- Acquiring concessions, leases or agreements to manage economic activities, public services, or the production of subsidiaries belonging to commercial companies or state-owned public corporations;
- Acquiring ownership rights over non-residential real estate improvements, including land, via establishment of a Romanian company;
- Acquiring industrial or other intellectual property rights;
- Concluding exploration and production-sharing agreements related to the development of natural resources.

Foreign investor participation can take the form of: foreign capital, equipment, means of transport, spare parts and other goods, services, intellectual property rights, technical know-how and management expertise, or proceeds and profits from other businesses carried out in Romania. Foreign investment must comply with environmental protection, national security, defense, public order, and public health interests and regulations.

There have been few hostile take-over attempts reported in Romania, and as a result Romanian law has not focused on limiting potential mergers or acquisitions. There are no Romanian laws prohibiting or restricting private firms' free association with foreign investors.

In 2010, Romania extensively revised its competition legislation, bringing it closer to the EU *acquis communautaire* and best corporate practices. Companies with a market share below 40% are no longer considered to have a dominant market position, thus avoiding a full investigation by the Romanian Competition Council (RCC) of new agreements, saving considerable time and money for all parties involved.  Resale price maintenance and market and client sharing are still prohibited, regardless of the size of either party's market share.  In a positive move, the authorization fee for mergers or takeovers has been capped at 25,000 euros.  Under previous legislation, the fee was 0.04% of total turnover in Romania for all entities involved in the action, not exceeding 100,000 euros.  The law now also requires companies to front a deposit equal to 30% of the fine while awaiting a court decision on the merits of the complaint.

To increase the absorption of EU funds, revisions to the public procurement law in December 2010 raised the open tender threshold for public projects to 4.485 million euro from 1 million euro.  Government projects falling under the 4.485 million euro threshold have the option of being tendered through a "call for bids" to at least three companies.  Additionally, the amendments stipulate that public procurement awards can only be challenged with the National Complaint Council (NCC).  The NCC's decision is binding, even if the contracting authority or a bidder challenges the decision in court.  If the complaint against an award decision is determined to be unfounded, the contracting authority can withhold a percentage of the challenger's bid participation fee as a penalty.  To prevent competition distortions, the National Agency for Monitoring and Regulating Public Procurements now has the authority to review tender documents before they are posted on the public e-procurement website.

***Privatization***

The State Asset Resolution Authority (AVAS) is responsible for privatizing state-owned industrial assets and managing them during the privatization process.  The Ministry of Economy, Trade and the Business Environment oversees energy assets.  Romania's privatization law permits the responsible authority to hire an agent to handle the entire privatization process, though ultimate decision-making authority remains with the Government.

Major energy sector privatizations remain stalled.  The GOR has canceled plans to consolidate its remaining energy assets into two fully integrated, state-owned companies, which would have deterred competition in the energy sector, to instead consolidate lignite-fired power plants with lignite mines, and hard coal-fired power plants with hard coal mines.  This new "bundling" action is being reviewed by the Competition Council.

Joint ventures between state-owned energy companies and private investors for electric power production have been stalled due to the absence of a liberalized energy market and unattractive conditions offered by the Government.  The government's attempt to sell a 9.84% minority stake in OMV/Petrom, Romania's largest oil company in 2011 was unsuccessful but the GOR intends to try again in 2012.  In 2011, the GOR approved agreements for onshore and offshore oil and gas exploration for both domestic and international companies that won tenders issued in 2010.

As agreed with the IMF, the GOR plans to sell minority interests in several energy companies through initial public offerings (IPOs) and secondary public offerings (SPOs) in 2012.  A 15% IPO is planned for natural gas producer Romgaz, and 10% each for hydropower producer Hidroelectrica and nuclear power producer Nuclearelectrica.  SPOs are planned for energy carrier Transelectrica and natural gas carrier Transgaz, both with 15% offerings. The GOR has also announced it intends to privatize chemical manufacturer Oltchim to a strategic investor. Spurred by the IMF and private investors, the government has also agreed to introduce private management in a select number of SOEs, many of them in the energy sector. The Ministry of Economy is in the process of selecting consulting firms to oversee the public offerings and head hunters to facilitate the selection of private management.

Romania is still in the process of implementing the EU's Third Energy Package, which requires market liberalization for electric energy and natural gas. On December 14, the parliament passed a bill restricting natural gas exports, directly contravening an EU directive on creating an internal market for natural gas.

Prospective investors are strongly advised to conduct thorough due diligence before any acquisition, particularly of state-owned assets. Some firms have found it advantageous to purchase industrial assets through AVAS's budget arrears recovery process rather than through direct privatization. Through this method, AVAS uses the proceeds from the sale of state assets to cover any outstanding arrears of the company. By acquiring the assets and not the company itself, buyers may avoid assuming historical debt or encumbering labor agreements.

As a member of the EU, Romania is required to notify the European Commission's General Directorate for Competition regarding significant privatizations and related state aid. Prospective investors should seek assistance from legal counsel to ensure compliance by relevant government entities. GOR failure to consult with, and then formally notify, the European Commission properly has resulted in delays and complications in some previous privatizations. Some investors have also experienced problems due to the occasional failure of GOR entities to fully honor contractual obligations following conclusion of privatization agreements. Investors receiving state aid, whose investments have been affected by the global economic crisis, have found renegotiation of their state aid agreements to be cumbersome, in part due to local authorities' failure to acknowledge that market conditions have changed.

Romanian law allows for the inclusion of confidentiality clauses in privatization and public-private partnership contracts to protect business proprietary and other information. However, in certain high-profile privatizations, parliamentary action has compelled the public disclosure of such provisions.

***Property and Contractual Rights***

Romania recognizes property and contractual rights but enforcement through the judicial process can be lengthy, costly, and difficult. Foreign companies engaged in trade or investment in Romania often express concern about the Romanian courts' lack of expertise in commercial issues. Judges generally have limited experience in the functioning of a market economy, international business methods, intellectual property rights, or the application of Romanian commercial and competition laws. Even when court judgments are favorable, enforcement of judgments is inconsistent and can lead to lengthy appeals.

According to the Heritage Foundation's Economic Freedom Report, Romania lags behind other countries in the region in the areas of labor freedom, property rights, and freedom from corruption, and the judiciary remains vulnerable to corruption and inefficiency. Romania regressed on Transparency International's Corruption Perception Index in 2011 to levels not seen since EU accession in 2007. Romania's ranking in the World Bank's Doing Business report also deteriorated. Starting a business became more difficult due to an additional requirement that new companies obtain a tax clearance certificate before the company can be registered. Romania continues to rank below world average in paying taxes, dealing with construction permits, and setting up utility services.

| **Measure** | **Year** | **Index/Ranking** |
|---|---|---|
| Transparency International Corruption Perception Index | 2011<br>2010<br>2009<br>2008<br>2007<br>2006<br>2005 | 75<br>69<br>71<br>70<br>69<br>84<br>85 |
| Heritage Foundation Index of Economic Freedom score | 2011<br>2010<br>2009<br>2008<br>2007<br>2006 | 63<br>63<br>71<br>70<br>69<br>84 |
| World Bank Doing Business ranking | 2012<br>2011<br>2010<br>2009 | 72<br>65<br>55<br>45 |

## Conversion and Transfer Policies Return to top

Romanian legislation does not restrict the conversion or transfer of funds associated with direct investment. All profits made by foreign investors in Romania may be converted into another currency and transferred abroad at the market exchange rate after payment of taxes.

Romania's national currency, the Leu, is freely convertible in current account transactions, in accordance with the International Monetary Fund's (IMF) Article VII. Proceeds from the sale of shares, bonds, or other securities, as well as from the conclusion of an investment, can also be repatriated. There is no limitation on the inflow or outflow of funds for remittances of profits, debt service, capital gains, returns on intellectual property, or imported inputs.

In 1997, the GOR implemented new regulations liberalizing foreign exchange markets. The inter-bank electronic settlement system became fully operational in 2006, eliminating past procedural delays in processing capital outflows. Commission fees for real-time electronic banking settlements have gradually been reduced.

Capital inflows are also free from restraint. Romania concluded capital account liberalization in September 2006, with the decision to permit non-residents and residents abroad to purchase derivatives, treasury bills, and other monetary instruments.

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The law on direct investment includes a guarantee against nationalization and expropriation or other equivalent actions. The law allows investors to select the court or arbitration body of their choice to settle disputes. Four cases against Romania are pending with the International Center for Settlement of Investment Disputes (ICSID). Several cases involving investment property nationalized during the Communist era also remain unresolved.

## Dispute Settlement Return to top

### *Arbitration*

Romania increasingly recognizes the importance of arbitration in the settlement of commercial disputes. Many agreements involving international companies and Romanian counterparts provide for the resolution of disputes through third-party arbitration. Romania is a signatory to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Romania is also a party to the European Convention on International Commercial Arbitration concluded in Geneva in 1961 and is a member of ICSID.

Romanian law and practice recognize applications to other internationally-known arbitration institutions, such as the ICC Paris Court of Arbitration and the Vienna United Nations Commission on International Trade Law (UNCITRAL). Romania also has an International Commerce Arbitration Court administered by the Chamber of Commerce and Industry of Romania. Arbitration awards are enforceable through Romanian courts under circumstances similar to those in other Western countries, although legal proceedings can be protracted.

### *Mediation*

Mediation as a tool to resolve disputes is gradually becoming more common in Romania. Mediation became a legal profession in 2006 when the Romanian Parliament passed legislation recognizing it and establishing a certifying body, the Mediation Council, to set standards and practices. The professional association, The Union of Mediation Centers in Romania, is the umbrella organization for mediators throughout the county. There are recognized mediation centers in every county seat where court-sanctioned and private mediation is available.

There is no legal mechanism for court-ordered mediation in Romania but judges can encourage litigants to use mediation to resolve their cases. If litigants opt for mediation, then upon completion of the mediation process they must present their proposed resolution to the judge who must approve the agreement. The Union of Mediation Centers is a member of the European Mediation Network Initiative and is recognized by the European Union and other regional bodies.

### *Bankruptcy*

Romania's bankruptcy law contains provisions for liquidation and reorganization that are generally consistent with Western legal standards. These laws usually emphasize enterprise restructuring and job preservation. Legal and economic education and the training of judges and lawyers lag behind law-making, which often results in inconsistent outcomes. To mitigate the time and financial costs of bankruptcies, Romanian legislation provides for administrative liquidation as an alternative to bankruptcy. However, investors and creditors have complained that the liquidators sometimes lack the incentive to expedite liquidation proceedings, and that, in some cases, their decisions have served vested outside interests. Both state-owned and private companies tend to opt for judicial reorganization to avoid bankruptcy.

In December 2009, the debt settlement mechanism Company Voluntary Agreements (CVAs) was introduced as a means for creditors and debtors to establish partial debt service schedules without resorting to bankruptcy proceedings. The global economic crisis did, however, prompt Romania to shorten insolvency proceedings in the past year.

## Performance Requirements and Incentives Return to top

***Incentives***

Currently, customs and tax incentives are available to investors in six free trade zones. State aid is available for investments in free trade zones under EU regional development assistance rules. Large companies may receive aid up to 50% of their eligible costs (limited to 40% in Bucharest and surrounding Ilfov County), while small- and medium-sized enterprises (SMEs) may receive assistance of up to 65% of their eligible costs. Prospective investors are advised to thoroughly investigate and verify the current status of state incentives.

In 2007, Romania adopted EU regulations on regional investment aid, and instituted state aid schemes for large investments and SMEs. Both Romanian and EU state aid regulations aim to limit state aid in any form, such as direct state subsidies, debt rescheduling schemes, debt for equity swaps, or discounted land prices. The EC must be notified of, and approve, GOR state aid that exceeds the pre-approved monetary threshold for the corresponding category of aid. To benefit from the remaining state aid schemes, the applicant must secure financing that is separate from any public support for at least 25% of the eligible costs, either through his own resources or through external financing. The applicant must document this financing in strict accordance with Ministry of Finance guidelines. Amendments made in 2010 to the state aid scheme for regional projects score applications based not only on the economics of the project, but also on the GDP per capita and unemployment rate for the country of intended investment.

In practice, GOR budget constraints and a less-than-fully transparent application process have limited access to these forms of state aid. Different ministries and government entities manage the various state aid schemes, and the rules and procedures are complex. Companies interested in state aid are encouraged to seek competent counsel and when developing a business plan, to set aside a generous amount time for moving through all the bureaucratic stages required for state aid scheme approvals.

To reduce initial startup costs, a system of industrial and technological parks is being created. Tax incentives are available for the park operator, while companies establishing themselves in the park benefit from access to utility hookups and infrastructure, as well as from potential local tax rebates under regional development aid schemes. There are 62 such parks throughout Romania.

In July 2011, the European Commission approved the GOR's revised Green Certificate System, part of the Renewable Energy Law, which provides incentives for certain types of renewable energy. The Green Certificates are traded in parallel with the energy produced, providing an additional source of revenue for renewable energy producers. The revised system includes provisions to prevent overcompensation. Renewable energy projects that are eligible for other types of aid, such as EU structural funds, receive a smaller number of green certificates. Any renewable energy investment with an installed capacity over 125 megawatts must notify the European Commission. In order to ensure that the national energy grid remains balanced, renewable energy no longer enjoys priority access to the grid under the revised law.

As a member of the EU, Romania must receive European Commission (EC) approval for any state aid it grants that is not covered by the EU's block exemption regulations. The Romanian Competition Council acts as a clearinghouse for the exchange of information between the Romanian authorities and the EC. Specifically, the Council screens state aid notifications and provides an initial opinion to state aid grantors as to whether the request is consistent with EU directives, allowing for an opportunity to revise or withdraw a request before it is submitted to the Commission. Even after submission, the Council retains jurisdiction over competition and antitrust matters. The failure of state aid grantors to notify the EC properly of aid associated with privatizations has resulted in the Commission launching formal investigations into several privatizations. Investors should ensure that the government entities with which they work fully understand and fulfill their duty to notify competition authorities. Investors may wish to consult with EU and Romanian competition authorities in advance, to ensure a proper understanding of notification requirements.

Companies operating in Romania can also apply for aid under EU-funded programs that are co-financed by Romania. When planning the project, prospective applicants must bear in mind that the project cannot start before the financing agreement is finalized; the application, selection and negotiation process can be lengthy. Applicants also must secure financing for non-eligible expenses and for their co-financing of the eligible expenses. Finally, reimbursement of eligible expenses – which must be financed up front by the investor – is often very slow. Procurements financed by EU-funded programs above a certain monetary threshold must comply with the public procurement legislation. In an effort to increase the rate of EU funds absorption, Romania has amended the regulations to allow applicants to use the assets financed under EU-funded programs as collateral. However, understaffing and a lack of expertise on the part of GOR management entities, cumbersome procedures, and applicants' difficulty obtaining private financing still remain as significant obstacles to improved EU funds absorption by Romania.

***Tax System***

Since 1999, Romania has revised its tax system to bring it closer both to EU models and to the recommendations of the World Bank and IMF. In 2004, Romania adopted a flat tax of 16% on both personal income and corporate profit taxes, and simplified the tax code. The GOR reduced employers' payroll taxes by 2% in 2007 and by an additional 6%, in three stages, in 2008. In 2009, the newly-elected Government rolled back some of these reductions. For employment taking place in normal working conditions, payroll taxes are now 31.3%, with 10.5% payable by the employee and 20.8% by the employer (up from 27.5%, 9.5%, and 18%, respectively). For jobs with high mortality or disease rates, total payroll taxes are 36.3%, with employees paying 10.5% and employers 25.8% (compared to 32.5%, 9.5%, and 23% previously). For certain professions such as mining and aviation, where workers may be exposed to high levels of radiation, the current rate is 41.3%, with 10.5% paid by the employee and 30.8% by the employer (an increase from 37.5%, 9.5%, and 28% respectively). Accident and risk fund contributions range from 0.15% to 0.85%, depending on the company risk class (previously 0.4% to 2%). Rates for medical and unemployment insurance have remained unchanged; 5.5% medical and 0.5% unemployment for employees, and 5.2% medical and 0.5% unemployment for employers.

In July 2010, Romania increased the standard value added tax (VAT) rate from 19% to 24%. Investors should be aware that, due to budget constraints, the GOR has regularly delayed VAT reimbursements owed to foreign companies for extended periods of time, especially if the amount to be reimbursed is large. The country is fully integrated with EU customs, excise tax, and VAT transfer systems.

***Tariff Preferences***

Upon EU accession, Romania implemented the EU Common Customs Tariff, the Generalized Preference Scheme, EU commercial safeguards, preference agreements and cooperation agreements concluded by the EU with third countries, as well as other EU commercial commitments vis-à-vis the World Trade Organization (WTO).

## Right to Private Ownership and Establishment

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The Romanian Constitution, adopted in December 1991 and revised in 2003, guarantees the right to ownership of private property. Mineral and airspace rights, and similar rights, are excluded from private ownership. Under the revised Constitution, foreign citizens can gain land ownership through inheritance. With EU accession, citizens of EU member states can now own land in Romania, subject to reciprocity in their home country.

Companies owning foreign capital may acquire land or property needed to fulfill or develop company goals. If the company is dissolved or liquidated, the land must be sold within one year of closure, and may only be sold to a buyer(s) with the legal right to purchase such assets. For a period of seven years after Romania's accession to the EU, foreign investors may not purchase agricultural land, forests, or forestry land (except for farmers acting as commercial entities). Investors can purchase shares in agricultural companies that lease land in the public domain from the State Land Agency.

***Mortgages***

In early 2006, the Parliament passed legislation that regulates the establishment of specialized mortgage banks, including the possibility of transforming existing non-banking mortgage credit institutions into specialized mortgage banks.  The law also makes possible a secondary mortgage market, by regulating mortgage bond issuance mechanisms.  Mortgage loans are offered by commercial banks, specialized mortgage banks, and non-bank mortgage credit institutions.  Romania's mortgage market is now almost entirely private (although the state-owned National Savings Bank, or CEC, also offers mortgage loans).

The primary mortgage market demonstrated robust growth until the third quarter of 2008.  Since then, credit has tightened in response to the international financial crisis and the implementation of much stricter national regulations on borrower qualifications.  For loans denominated in Romanian lei (RON), standard banks charge three-month ROBOR (currently 6.4%), plus a spread of interest and commission fees, for up to 30 years.  For euro-denominated loans, banks currently charge three-month EURIBOR, plus a spread of interest and commission fees, for up to 30 years.  In response to the international financial crisis, many banks have cut back on mortgage lending and tightened qualifying conditions for prospective borrowers.

## Protection of Property Rights

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Romania is a signatory to international conventions concerning intellectual property rights (IPR), including TRIPS, and has enacted legislation protecting patents, trademarks, and copyrights.  Romania has signed the Internet Convention to protect online authorship.  While the IPR legal framework is generally good, enforcement remains weak and ineffectual, especially in the area of Internet piracy.  The once-flagrant trade of retail pirated goods has largely been eliminated, but unlicensed use of software and personal use of pirated audio-video products remains high.  The recording and film industries have expressed concern over increasing levels of Internet-based piracy.  Romania has passed broad IPR protection enforcement provisions, as required by the WTO, yet judicial enforcement remains lax.

### *Patents*

Romania is a party to the Paris Convention for the Protection of Industrial Property, and subscribes to all of its amendments.  Romanian patent legislation generally meets international standards, with foreign investors accorded equal treatment with Romanian citizens under the law.  Patents are valid for 20 years.  Romania has been a party to the European Patent Protection Convention since 2002.

### *Trademarks*

In 1998, Romania passed a trademark and geographic indications law, which was amended in 2010 to make it fully consistent with equivalent EU legislation.  Romania is a signatory to the Madrid Agreement relating to the international registration of trademarks and the Geneva Treaty on Trademarks.  Trademark registrations are valid for ten years from the date of application and renewable for similar periods.  In 2007, Romania ratified the Singapore Treaty on the Law of Trademarks.

### *Copyrights*

Romania is a member of the Bern Convention on Copyrights. The Romanian Parliament has ratified the latest versions of the Bern and Rome Conventions. The Romanian Copyright Office (ORDA) was established in 1996, and promotes and monitors copyright legislation. The General Prosecutor's Office (GPO) provides national coordination of IPR enforcement, but copyright law enforcement remains a low priority for Romanian prosecutors and judges. Many magistrates still tend to view copyright piracy as a "victimless crime" and this attitude has resulted in weak enforcement of copyright law. Due to increasing online piracy, copyright infringement of music and film is widespread throughout Romania.

***Semiconductor Chip Layout Design***

Romanian law protects semiconductor chip layout design. In order to benefit, designs must be registered with the Romanian Inventions and Trademark Office. Romania is a signatory to the Washington Treaty.

## Transparency of Regulatory System

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Cumbersome and non-transparent bureaucratic procedures are a major problem in Romania. Foreign investors point to the excessive time it takes to secure necessary zoning permits, environmental approvals, property titles, licenses, and utility hook-ups. National and local officials often cannot provide potential investors with clear and comprehensive information on what permits or approvals are needed, or how they are to be obtained. Set fees for certain services, such as utilities, may not exist or may be subject to “negotiation” with local authorities or utility providers. Romania enacted a "Silent Approval" Law in 2003 to reduce bureaucratic delays, but it has yet to be universally enforced or recognized. Additionally, regulations change frequently, often without advance notice, and may be vaguely worded and poorly explained. These changes add to the costs of doing business, and can change the business prospects for an investor overnight.

Romanian law requires consultations with the private sector and a 30-day comment period on legislation or regulation affecting the business environment (the "Sunshine Law"). Unfortunately, not all government entities adhere to this requirement consistently. In many cases, even when the comment period is respected, public input does not appear to be considered seriously or incorporated into the final version. There have also been cases of authorities posting one version for public comment, but adopting a different version in the final instance.

## Efficient Capital Markets and Portfolio Investment

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***Capital Markets***

Romania seeks to develop efficient capital markets. The National Securities Commission (CNVM) is responsible for regulating the securities market. In order to protect investors, the CNVM implements the registration and licensing of brokers and financial intermediaries, the filing and approval of prospectuses, and the approval of market mechanisms.

The Bucharest Stock Exchange (BVB) resumed operations in 1995, after a hiatus of 50 years. The BVB operates a three-tier system that, at present, lists a total of 78 companies, with 25 companies in the highest tier. The official index, BET, is based on a basket of the 10 most active stocks listed, while the BET-C index follows the trend of all stocks listed on the BVB. The BVB also has a RASDAQ (OTC) market segment that currently lists 1,193 different stocks. The BVB allows trade in corporate, municipal, and international bonds, and in 2007, the BVB opened derivatives trading.

Despite lower trading fees and a diversified securities listing, the situation on the international capital and financial markets has adversely affected the Romanian capital market. Country funds, hedge funds and venture capital funds continue to participate in the capital markets. Minority shareholders have the right to participate in any capital increase. Romanian capital market regulation is now EU-consistent, with accounting regulations incorporating EC Directives IV and VII.

***Banking Sector***

There are 42 banks and credit cooperative unions currently operating in Romania. The largest, Romanian Commercial Bank (BCR), was privatized in 2006 by sale to Erste Bank of Austria and has a 19.8% market share. The second-largest is French-owned Romanian Bank for Development (BRD-Société Générale) with 13.8% market share, followed by Austrian-owned Raiffeisen (6.4%) and state-owned CEC Bank (6.3%). Other large banks include the privately-owned Banca Transilvania (6.3%), Greek-owned Alpha Bank (6.2%), and Italy's UniCredit Tiriac Bank (6.0%).

According to the National Bank of Romania, overdue and doubtful loans now account for 14.2% of total bank loans and interest, and 1.64% of total banking assets.

The GOR has encouraged foreign investment in the banking sector, and there are no restrictions on mergers and acquisitions. The only remaining state-owned banks are the National Savings Bank (CEC Bank) and EximBank, comprising 7.3% of the market combined.

While the National Bank of Romania must approve all new non-EU banking entities, banks and non-banking financial institutions already approved in other EU countries need only notify the National Bank of plans to provide local services.

## Competition from State Owned Enterprises Return to top

Private enterprises compete with public enterprises under the same terms and conditions with respect to market access and credit. Energy production, transportation, and mining are majority state-owned sectors, while the government retains a monopoly on electricity and natural gas transmission.

While state-owned oil and gas companies received exploration and extraction licenses through direct allocation before 1989, they are now required to compete in transparent tenders organized by the National Agency for Mineral Resources. The most recent tender was held in May 2010, and foreign companies successfully competed for awards against consortia including Romanian state companies.

SOEs are required by law to publish an annual report. Majority state-owned companies that are publicly listed, as well as state-owned banks, are required to be independently audited. If properly implemented, the recently enacted legislation on corporate governance of SOEs should ensure the professional selection of board members and managers, and bring more transparency and accountability to the management and oversight of SOEs.

## Corporate Social Responsibility

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Corporate social responsibility (CSR), as a concept, is slowly becoming more common in Romanian business, driven primarily by multinational companies infusing their corporate culture into the local market. Virtually all foreign enterprises in Romania have some kind of CSR program, and most follow generally accepted CSR principles, such as the OECD Guidelines for Multinational Enterprises. Romanian legislation allows companies to allocate part of their corporate income tax (a maximum of 0.3% of turnover and 20% of total corporate income tax due) for CSR under the sponsorship law.

## Political Violence

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There have been no reported incidents of politically-motivated damage to foreign investments (projects and/or installations) in Romania. Major civil disturbances are not expected to occur in the country in the near future.

## Corruption

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Despite some improvement, corruption remains a serious problem. Romania was the third-lowest ranked among EU member states in Transparency International's (TI) 2011 Corruption Perception Index. According to the EC's 2011 Report on Progress under the Cooperation and Verification Mechanism in Romania, corruption is still an issue that must be addressed more vigorously. The report recommends urgent measures to improve the recovery of proceeds from crimes, more active measures against money laundering, and improved measures to prevent conflicts of interest in the management of public funds. International organizations such as TI and local non-governmental "watchdog" organizations are present in the country.

U.S. investors have complained of both government and business corruption in Romania, with the customs service, municipal officials, and local financial authorities most frequently named. In some cases, demands for payoffs by low- to mid-level officials reach the point of harassment.

Romanian law and regulations contain provisions intended to prevent corruption, but enforcement is generally weak. Corruption is currently punishable under a variety of statutes in the penal code. Prison sentences are sometimes imposed, but powerful and influential individuals have often evaded prosecution or conviction. Under pressure from the EU, the GOR is attempting to prosecute several high-level political officials from previous governments, including a former Prime Minister.

The Ministry of Justice published in late 2011 a national anti-corruption strategy for 2012-2014, focusing on strengthening administrative review and transparency within public agencies, preventing corruption, and implementing anti-corruption legislation. The objectives include increased and improved financial disclosure and conflict-of-interest oversight, more aggressive investigation of money laundering cases, and passage of legislation to allow for more effective asset recovery.

In December 2002, Romania passed an anti-money laundering and terrorism financing law, which was amended in April 2008. With U.S. assistance, in September 2002 the GOR established the National Anti-Corruption Prosecutors' Office (PNA) under the Prosecutor General, staffed by prosecutors and police; the PNA was upgraded to the National Anti-Corruption Directorate (DNA) in 2005 and given significant autonomy, though it still formally reports to the Prosecutor General. A new Criminal Code was passed in 2003 and the revised Civil Code came into effect in October 2011. Romania is in the process of training its prosecutors, judges, and attorneys to ensure they are completely familiar with the new legislation.

In 2007 Romania also established the National Integrity Agency (ANI), which is tasked with collecting, managing and auditing compulsory comprehensive financial disclosure statements submitted annually by some 100,000 politicians and public sector employees at all levels. ANI has administrative powers only to identify conflicts of interest and questionable increases in personal assets. It must then forward such cases to prosecutorial authorities for further legal action. In 2010 a Constitutional Court ruling brought into question ANI's legal status, but after a contentious battle involving all three branches of government the GOR succeeded in passing legislation that allowed ANI to retain its jurisdiction and authority.

Bucharest hosts the 13-member Southeast European Law Enforcement Center (SELEC), and Romania is one of the three members of the SELEC Joint Cooperation Committee. Romania has signed and ratified the Agreement on Cooperation to Prevent and Combat Trans-border Crime of May 1999.

In March 2002, to reduce corrupt practices in public procurement, the GOR inaugurated a web-based e-procurement system (http://www.e-licitatie.ro/). Initiated with seed money from the U.S. Agency for International Development (USAID), the system provides a transparent listing of both ongoing and closed solicitations, with the names of the winners and the closing prices made available to the public. The use of "e-licitatie" has increased government efficiency, reduced vulnerability to corruption, and improved fiscal responsibility in government procurement. Initially the system was used solely for basic, straightforward procurements but now more complex projects are included, such as EU-funded programs. State entities, as well as public and private beneficiaries of EU funds, are required by law to follow public procurement legislation and use the e-procurement system. However, their compliance with these requirements is not complete.

Romania's public procurement law, passed in 2006 and amended several times, establishes ex-ante controls on public procurement processes, stricter rules on eligible participants, and an appeals mechanism for complaints against the process. The

National Agency for Public Procurement has general oversight over procurements and can draft legislation, but procurement decisions remain with the procuring entities. Procurements for projects receiving EU funding above a certain monetary threshold must comply with the public procurement law.

***Court System***

The Romanian judicial system suffers from corruption, inefficiency, lack of expertise, and excessive workloads. Divergent and often contradictory rulings are not uncommon, complicating normal commercial activities. Companies routinely complain that commercial disputes take too long to resolve through the court system and, once a verdict is reached, court orders may not be enforced. Errors in court procedures, whether peripheral to the outcome or not, may result in complete retrials, further delaying verdicts. Courts are overburdened and the number of magistrates and judges is small. Litigants in virtually all cases have a right to two appeals, contributing to clogs in court dockets throughout the system and lengthy delays. Final judgments are not binding until all appeals are exhausted. Clerks, attorneys and judges reportedly remain susceptible to bribes or other "extra-judicial" payments, most commonly to "speed up" litigation, to assure a particular judge is assigned to a case, or to create intentional procedural errors leading to retrial. In December 2011, the World Bank published an Analysis and Assessment Report as part of its 18-month court optimization program, intended to address many of the shortcomings listed here.

***Cyber Crime***

Romania has one of the world's highest occurrences of Internet fraud. The problem is illustrated by a growing stream of complaints, some of which involve U.S. companies and their customers being defrauded of millions of dollars. The most common problems result from the use of stolen credit card numbers for the purchase of goods online, fraudulent use of online auction platforms, and sophisticated phishing schemes to defraud customers of legitimate e-commerce companies.

Romanian hackers also have gained notoriety for hacking into U.S. companies' servers and stealing proprietary information, including customer credit card data. There have been cases where Romanian hackers have offered to sell the method by which they hacked into a U.S. company's server back to the victim. On other occasions, hackers have attempted blackmail by threatening to release sensitive data or the means to hack the system, unless a specific amount of money is paid.

An e-commerce law that defines and punishes cyber crime came into force in July 2002. Law enforcement efforts are still not commensurate with the scale of the problem, but enforcement activities have increased notably, thanks in part to substantial assistance U.S. law enforcement agencies are providing their Romanian counterparts.

Corruption, including bribery, raises the costs and risks of doing business. Corruption has a corrosive impact on both market opportunities overseas for U.S. companies and the broader business climate. It also deters international investment, stifles economic growth and development, distorts prices, and undermines the rule of law.

It is important for U.S. companies, irrespective of their size, to assess the business climate in the relevant market in which they will be operating or investing, and to have an effective compliance program or measures to prevent and detect corruption, including foreign bribery. U.S. individuals and firms operating or investing in foreign markets should take the time to become familiar with the relevant anticorruption laws of both the foreign country and the United States in order to properly comply with them, and where appropriate, they should seek the advice of legal counsel.

The U.S. Government seeks to level the global playing field for U.S. businesses by encouraging other countries to take steps to criminalize their own companies' acts of corruption, including bribery of foreign public officials, by requiring them to uphold their obligations under relevant international conventions. A U. S. firm that believes a competitor is seeking to use bribery of a foreign public official to secure a contract should bring this to the attention of appropriate U.S. agencies, as noted below.

**U.S. Foreign Corrupt Practices Act:** In 1977, the United States enacted the Foreign Corrupt Practices Act (FCPA), which makes it unlawful for a U.S. person, and certain foreign issuers of securities, to make a corrupt payment to foreign public officials for the purpose of obtaining or retaining business for or with, or directing business to, any person. The FCPA also applies to foreign firms and persons who take any act in furtherance of such a corrupt payment while in the United States. For more detailed information on the FCPA, see the FCPA Lay-Person's Guide at: http://www.justice.gov/criminal/fraud/

**Other Instruments:** It is U.S. Government policy to promote good governance, including host country implementation and enforcement of anti-corruption laws and policies pursuant to their obligations under international agreements. Since enactment of the FCPA, the United States has been instrumental to the expansion of the international framework to fight corruption. Several significant components of this framework are the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Antibribery Convention), the United Nations Convention against Corruption (UN Convention), the Inter-American Convention against Corruption (OAS Convention), the Council of Europe Criminal and Civil Law Conventions, and a growing list of U.S. free trade agreements. This country is party to [add instrument to which this country is party], but generally all countries prohibit the bribery and solicitation of their public officials.

**OECD Antibribery Convention:** The OECD Antibribery Convention entered into force in February 1999. As of December 2009, there are 38 parties to the Convention including the United States (see http://www.oecd.org/dataoecd/59/13/40272933.pdf). Major exporters China, India, and Russia are not parties, although the U.S. Government strongly endorses their eventual accession to the Convention. The Convention obligates the Parties to criminalize bribery of foreign public officials in the conduct of international business. The United States meets its international obligations under the OECD Antibribery Convention through the U.S. FCPA. [Insert information as to whether your country is a party to the OECD Convention.]

**UN Convention:** The UN Anticorruption Convention entered into force on December 14, 2005, and there are 143 parties to it as of December 2009 (see http://www.unodc.org/unodc/en/treaties/CAC/signatories.html). The UN Convention is the first global comprehensive international anticorruption agreement. The UN Convention requires countries to establish criminal and other offences to cover a wide range of acts of corruption. The UN Convention goes beyond previous anticorruption instruments, covering a broad range of issues ranging from basic forms of corruption such as bribery and solicitation, embezzlement, trading in influence to the concealment and laundering of the proceeds of corruption. The Convention contains transnational business bribery provisions that are functionally similar to those in the OECD Antibribery Convention and contains provisions on private sector auditing and books and records requirements. Other provisions address matters such as prevention, international cooperation, and asset recovery. [Insert information as to whether your country is a party to the UN Convention.]

**OAS Convention:** In 1996, the Member States of the Organization of American States (OAS) adopted the first international anticorruption legal instrument, the Inter-American Convention against Corruption (OAS Convention), which entered into force in March 1997. The OAS Convention, among other things, establishes a set of preventive measures against corruption, provides for the criminalization of certain acts of corruption, including transnational bribery and illicit enrichment, and contains a series of provisions to strengthen the cooperation between its States Parties in areas such as mutual legal assistance and technical cooperation. As of December 2009, the OAS Convention has 33 parties (see http://www.oas.org/juridico/english/Sigs/b-58.html) [Insert information as to whether your country is a party to the OAS Convention.]

**Council of Europe Criminal Law and Civil Law Conventions:** Many European countries are parties to either the Council of Europe (CoE) Criminal Law Convention on Corruption, the Civil Law Convention, or both. The Criminal Law Convention requires criminalization of a wide range of national and transnational conduct, including bribery, money-laundering, and account offenses. It also incorporates provisions on liability of legal persons and witness protection. The Civil Law Convention includes provisions on compensation for damage relating to corrupt acts, whistleblower protection, and validity of contracts, inter alia. The Group of States against Corruption (GRECO) was established in 1999 by the CoE to monitor compliance with these and related anti-corruption standards. Currently, GRECO comprises 46 member States (45 European countries and the United States). As of December 2009, the Criminal Law Convention has 42 parties and the Civil Law Convention has 34 (see www.coe.int/greco.) [Insert information as to whether your country is a party to the Council of Europe Conventions.]

**Free Trade Agreements:** While it is U.S. Government policy to include anticorruption provisions in free trade agreements (FTAs) that it negotiates with its trading partners, the anticorruption provisions have evolved over time. The most recent FTAs negotiated now require trading partners to criminalize “active bribery” of public officials (offering bribes to any public official must be made a criminal offense, both domestically and trans-nationally) as well as domestic “passive bribery” (solicitation of a bribe by a domestic official). All U.S. FTAs may be found at the U.S. Trade Representative Website: http://www.ustr.gov/trade-agreements/free-trade-agreements. [Insert information as to whether your country has an FTA with the United States: Country [X] has a free trade agreement (FTA) in place with the United States, the [name of FTA], which came into force. Consult USTR Website for date: http://www.ustr.gov/trade-agreements/free-trade-agreements.]

**Local Laws:** U.S. firms should familiarize themselves with local anticorruption laws, and, where appropriate, seek legal counsel. While the U.S. Department of Commerce cannot provide legal advice on local laws, the Department’s U.S. and Foreign Commercial

Service can provide assistance with navigating the host country's legal system and obtaining a list of local legal counsel.

**Assistance for U.S. Businesses:** The U.S. Department of Commerce offers several services to aid U.S. businesses seeking to address business-related corruption issues. For example, the U.S. and Foreign Commercial Service can provide services that may assist U.S. companies in conducting their due diligence as part of the company's overarching compliance program when choosing business partners or agents overseas. The U.S. Foreign and Commercial Service can be reached directly through its offices in every major U.S. and foreign city, or through its Website at www.trade.gov/cs.

The Departments of Commerce and State provide worldwide support for qualified U.S. companies bidding on foreign government contracts through the Commerce Department's Advocacy Center and State's Office of Commercial and Business Affairs. Problems, including alleged corruption by foreign governments or competitors, encountered by U.S. companies in seeking such foreign business opportunities can be brought to the attention of appropriate U.S. government officials, including local embassy personnel and through the Department of Commerce Trade Compliance Center "Report A Trade Barrier" Website at tcc.export.gov/Report_a_Barrier/index.asp.

**Guidance on the U.S. FCPA:** The Department of Justice's (DOJ) FCPA Opinion Procedure enables U.S. firms and individuals to request a statement of the Justice Department's present enforcement intentions under the anti-bribery provisions of the FCPA regarding any proposed business conduct. The details of the opinion procedure are available on DOJ's Fraud Section Website at www.justice.gov/criminal/fraud/fcpa. Although the Department of Commerce has no enforcement role with respect to the FCPA, it supplies general guidance to U.S. exporters who have questions about the FCPA and about international developments concerning the FCPA. For further information, see the Office of the Chief Counsel for International Counsel, U.S. Department of Commerce, Website, at http://www.ogc.doc.gov/trans_anti_bribery.html. More general information on the FCPA is available at the Websites listed below.

Exporters and investors should be aware that generally all countries prohibit the bribery of their public officials, and prohibit their officials from soliciting bribes under domestic laws. Most countries are required to criminalize such bribery and other acts of corruption by virtue of being parties to various international conventions discussed above.

*POST INPUT: Public sector corruption, including bribery of public officials, [remains a major/minor challenge for U.S. firms operating in xxx xxx. Insert country specific corruption climate, enforcement, commitment and information about relevant anticorruption legislation.*

**Anti-Corruption Resources**

Some useful resources for individuals and companies regarding combating corruption in global markets include the following:

- Information about the U.S. Foreign Corrupt Practices Act (FCPA), including a "Lay-Person's Guide to the FCPA" is available at the U.S. Department of Justice's Website at: http://www.justice.gov/criminal/fraud/fcpa.

- Information about the OECD Antibribery Convention including links to national implementing legislation and country monitoring reports is available at: http://www.oecd.org/department/0,3355,en_2649_34859_1_1_1_1_1,00.html. See also new Antibribery Recommendation and Good Practice Guidance Annex for companies: http://www.oecd.org/dataoecd/11/40/44176910.pdf

- General information about anticorruption initiatives, such as the OECD Convention and the FCPA, including translations of the statute into several languages, is available at the Department of Commerce Office of the Chief Counsel for International Commerce Website: http://www.ogc.doc.gov/trans_anti_bribery.html.

- Transparency International (TI) publishes an annual Corruption Perceptions Index (CPI). The CPI measures the perceived level of public-sector corruption in 180 countries and territories around the world. The CPI is available at: http://www.transparency.org/policy_research/surveys_indices/cpi/2009. TI also publishes an annual *Global Corruption Report* which provides a systematic evaluation of the state of corruption around the world. It includes an in-depth analysis of a focal theme, a series of country reports that document major corruption related events and developments from all continents and an overview of the latest research findings on anti-corruption diagnostics and tools. See http://www.transparency.org/publications/gcr.

- The World Bank Institute publishes Worldwide Governance Indicators (WGI). These indicators assess six dimensions of governance in 212 countries, including Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law and Control of Corruption. See http://info.worldbank.org/governance/wgi/sc_country.asp. The World Bank Business Environment and Enterprise Performance Surveys may also be of interest and are available at: http://go.worldbank.org/RQQXYJ6210.

- The World Economic Forum publishes the *Global Enabling Trade Report*, which presents the rankings of the Enabling Trade Index, and includes an assessment of the transparency of border administration (focused on bribe payments and corruption) and a separate segment on corruption and the regulatory environment. See http://www.weforum.org/en/initiatives/gcp/GlobalEnablingTradeReport/index.htm.

- Additional country information related to corruption can be found in the U.S. State Department's annual *Human Rights Report* available at http://www.state.gov/g/drl/rls/hrrpt/.

- Global Integrity, a nonprofit organization, publishes its annual *Global Integrity Report*, which provides indicators for 92 countries with respect to governance and anti-corruption. The report highlights the strengths and weaknesses of national level anti-corruption systems. The report is available at: http://report.globalintegrity.org/.

## Bilateral Investment Agreements

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The U.S.-Romanian Bilateral Investment Treaty (BIT) on the Reciprocal Encouragement and Protection of Investment (signed in May 1992 and ratified by the U.S. in 1994) guarantees national treatment for U.S. and Romanian investors. The agreement provides a dispute resolution mechanism, liberal capital transfer, prompt and adequate compensation in the event of an expropriation, and the avoidance of trade-distorting performance requirements. The U.S. Government negotiated an agreement with the EU and eight accession countries, including Romania, to cover any possible inconsistencies between pre-existing BITs and the countries' future EU obligations. This revised BIT was ratified by the U.S. Senate and the Romanian Parliament in 2004, and went into effect on February 9, 2007. Other bilateral trade agreements with third countries were terminated upon Romania's EU accession.

## OPIC and Other Investment Insurance Programs

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The Overseas Private Investment Corporation (OPIC) began operations in Romania in late 1992, and continues to actively finance projects in the country. Romania has been a member of the Multilateral Investment Guarantee Agency (MIGA) since 1992.

## Labor

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Romania has traditionally offered a large, skilled labor force at comparatively low wage rates in most sectors. The labor pool has tightened in highly skilled professions, despite growing unemployment overall. The university system is generally regarded as good, particularly in technical fields, though foreign and Romanian business leaders have urged reform of outdated higher education curricula to better meet the needs of a modern, innovation-driven market.

The quality of work of Romanian craftsmen, engineers, and software designers is well regarded by foreign managers. With appropriate on-the-job training, local labor performs well with new technologies and more exacting quality requirements. However, labor shortages have appeared in certain sectors, resulting in strong upward pressure on wages in recent years. Outward labor migration and the number of students graduating without the practical skills needed for the modern workplace are considered the main causes for this trend. Slowing growth and recession in Western Europe were expected to alleviate domestic labor market shortages somewhat, as some Romanian workers returned from abroad. Although Romanians have not returned in large numbers, the country has experienced a marked increase in unemployment as the recession has deepened. Unemployment officially stood at 7.5% in September 2011, representing 727,000 people, slightly higher than the 7.35% reported in September 2010. Underemployment is also a significant problem.

Since Romania’s revolution in December 1989, labor-management relations have occasionally been tense, the result of economic restructuring and personnel layoffs. Trade unions, much better organized than employers' associations, are vocal defenders of their rights and benefits. In January 2011, after extensive negotiations between unions, employers associations, and the government, the national minimum wage was set at 670 RON (about USD 201) for full-time employment of 170 hours per month, or approximately 3.94 RON (USD 1.18) per hour. In 2012, this amount is expected to increase to 700 RON a month (around USD 210), or approximately 4.11 RON (USD 1.24) per hour. The GOR adheres to the International Labor Organization (ILO) convention on protecting workers' rights. According to Eurostat, Romania's minimum wage of 232 points (adjusted for purchasing power parity) is next to last among the 27 EU member states, ahead only of Bulgaria.

In May 2010 a new Labor Code came was passed, giving employers more flexibility to evaluate employees based on performance, and significantly relaxing hiring and firing procedures. The revised Labor Code eliminated national collective labor contracts, extended the maximum duration of temporary contracts from 24 to 36 months, and introduced new collective layoff regulations.

Payroll taxes remain steep, resulting in an estimated 25-30% of the labor force working in the underground economy as "independent contractors," where their salaries are neither recorded nor taxed. Even for registered workers, under-reporting of actual salaries is common.

Current law makes it very costly to engage non-EU citizen staff in Romania. Foreign companies often resort to expensive staff rotations, special consulting contracts, and non-cash benefits. Work permits are issued for a maximum of one year for a fee of 200 euro (payable in the RON equivalent of that day’s exchange rate), except for students and seasonal workers, who pay 50 euro. These permits are automatically renewable with a valid individual work contract. There are 41 Romanian Immigration Authority offices – one in each county – to issue work permits for foreign citizens. Since Romania acceded to the EU, citizens of other EU countries can work in Romania without work permits if their own country does not impose restrictions on Romanian citizens. Although several companies hire non-EU citizen employees, mainly from Turkey, China, India, Pakistan or Moldova, most Romanian businesses are still reluctant to bring in large numbers of foreign employees. In 2011, Romania issued 5,500 work permits, out of which 4,000 were for permanent workers. Overall, 2,500 fewer permits were issued in 2011 than in 2010.

## Foreign-Trade Zones/Free Ports

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Free Trade Zones (FTZs) received legal authority in Romania in 1992. General provisions include unrestricted entry and re-export of goods, and exemption from customs duties. The law further permits the leasing or transfer of buildings or lands for terms of up to 50 years to corporations or natural persons, regardless of nationality. Foreign-owned firms have the same investment opportunities as Romanian entities in FTZs.

Currently there are six FTZs, primarily located on the Danube River or close to the Black Sea: Sulina, Constanta-Sud Agigea, Galati, Braila, Curtici-Arad, and Giurgiu. The administrator of each FTZ is responsible for all commercial activities performed within the zone. FTZs are under the authority of the Ministry of Transportation.

## Foreign Direct Investment Statistics

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Romania did not attract significant foreign direct investment (FDI) until after the 1990s, due to delays in post-Communist economic reforms. According to data provided by the National Office of the Trade Registry, the cumulative net stock of FDI from January 1990 to September 2011 totaled USD 42.47 billion, about 21.2% of Romania's GDP. Romanian direct investments abroad from January to September 2011 totaled USD 246.4 million.

Major sectors for foreign investment include:

- Automobile and automotive components (Renault, Daimler Benz, Ford, Siemens, Continental, Alcoa, Delphi Packard, Johnson Controls, Honeywell Garrett, Michelin, Pirelli);
- Banking and finance (Citibank, Société Générale, AIG, ING, Generali, Volksbank, Raiffeisen, Erste Bank, Unicredit, Alpha Bank, National Bank of Greece, Intesa Sanpaolo, Millenium Bank, Garanti Bank);
- Information Technology (Hewlett Packard, Intel, Microsoft, Oracle, Cisco Systems, IBM);
- Telecommunications (Orange, OTE, Telesystem International Wireless Services, Vodafone, Liberty Media/UPC);
- Hotels (Hilton, Marriott, Best Western, Howard Johnson, Sofitel, Crowne Plaza, Accor, Ramada, Radisson);
- Manufacturing (Timken, General Electric, Cameron, LNM, Marco, Flextronics, Holcim, Lafarge, Heidelberg, Plexus, Lufkin, Toro);
- Consumer products (Procter and Gamble, Unilever, Henkel, Coca-Cola, Parmalat, Danone, Smithfield Foods);
- Retail chains (Metro, Delhaize, Dm Drogerie, Carrefour, Cora, Billa, Selgros, Auchan, Kaufland).

Officially, the value of U.S. direct investment in Romania as of September 2011 was USD 901.3 million. The U.S. is the 13th-ranked foreign investor nation, after the Netherlands, Austria, Germany, France, Cyprus, Greece, Italy, Panama, Spain, Switzerland, the UK, and Luxemburg. U.S.-source investment represented 2.1% of Romania's total FDI. However, because official statistics do not fully account for the tendency of U.S. firms to invest through their foreign, especially European-based, subsidiaries, the actual amount of U.S. FDI is higher. Romanian statistics also over-emphasize physical, capital-intensive investments, while overlooking the impact of foreign investment in services and technology. Significant U.S. direct investors (including investments made through branches or representative offices) include:

- Advent Central and Eastern Europe - investment fund;
- AECOM - engineering and design;
- Chartis - general insurance;
- Alico (Met Life) - life insurance;
- Alcoa - automotive, aluminum processing;
- Bunge - grain trading;
- Cargill - grain export and food processing;
- Citibank - banking;
- Coca-Cola - beverage, food;
- Cooper Cameron - gas field equipment manufacturer;
- Delphi - automotive parts;

- EuroTire - mining and heavy equipment tires;
- Flextronics – medical, telecom, automotive;
- Ford - automotive assembly;
- General Electric - diversified industrial products;
- Hewlett Packard - IT equipment, services;
- Hoeganaes - iron powder for automotive;
- Honeywell Garrett - automotive;
- IBM - IT equipment;
- Johnson Controls - automotive;
- Kodak - film processing;
- McDonald's - food;
- Microsoft - software services;
- New Century Holding - investment fund;
- Office Depot - office and business supplies;
- Oracle - IT services, consulting;
- Pepsico - beverage;
- Philip Morris - tobacco products;
- Procter and Gamble - consumer products;
- Qualcomm - telecommunications;
- Sigma Bleyzer - investment fund;
- Smithfield Foods - food production and distribution;
- Timken - industrial bearings;
- Liberty Media UPC - cable television operator;
- Visa - financial services;
- URS - engineering.

In addition to these companies, the European Bank for Reconstruction and Development (EBRD) remains the single largest investor (debt plus equity) in Romania, with some USD 7.2 billion invested. The U.S. is a 10% shareholder in the EBRD.

The largest amounts of investment in Romania come from the following countries:

- The Netherlands - USD 8.23 billion (19.4 % of total FDI): IT, banking, insurance, consumer products, food;
- Austria - USD 5.94 billion (14.0%): banking, insurance, construction materials;
- Germany - USD 5.52 billion (13.0%): insurance, food, machine construction, chemicals, cement, banking;
- France - USD 2.80 billion (6.61%%): food, IT, automotive, manufacturing, cement, agriculture, banking, hypermarkets;
- Cyprus - USD 2.55 billion (6.0%): banking, retail, services;
- Greece - USD 2.40 billion (5.65%): banking, food, consumer products, retail;
- Italy - USD 1.78 billion (4.2%): footwear, textiles, food, banking, insurance;
- Panama - USD 1.36 billion (3.20%): services;
- Spain - USD 1.33 billion (3.13%): manufacturing, consumer products, banking;
- Switzerland - USD 1.25 billion (2.97%): food, manufacturing, consumer products;
- U.K. – USD 1.03 billion (2.44%): tobacco, banking, insurance;
- Luxemburg – USD 1.02 billion (2.41%): retail, constructions, food;

- U.S. - USD 901.33 million (2.12%): IT, automotive, banking, insurance, hospitality, manufacturing, consumer products.

## Web Resources Return to top

Romanian Government
http://www.guv.ro

The Authority for State Assets Recovery
http://www.avas.gov.ro

Ministry of Public Finance
http://www.mfinante.ro

Ministry of Economy, Trade and Business Climate
http://www.minind.ro

International Centre for Settlement of Investment Disputes
http://www.worldbank.org/icsid

Romanian Copyright Office
http://www.orda.ro

Ministry of Communications and Information Technology
http://www.mcti.ro

National Securities Commission
http://www.cnvmr.ro

Bucharest Stock Exchange
http://www.bvb.ro

National Bank of Romania
http://www.bnro.ro

National Anti-Corruption Prosecutors' Office
http://www.pna.ro

Romanian Government's Web-Based e-Procurement System
http://www.e-licitatie.ro

Overseas Private Investment Corporation
http://www.opic.gov

Ministry of Labor, Social Solidarity and Family
http://www.mmuncii.ro

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# Chapter 7: Trade and Project Financing



## How Do I Get Paid (Methods of Payment) Return to top

The least risky for the American exporter and most widely accepted method of payment is by confirmed, irrevocable letter of credit. However, this method is not necessarily the most competitive for winning sales in Romania. An L/C represents a credit obligation for the Romanian buyer, who may not be willing (or able) to borrow at a cost-effective rate. Cash-against-documents or open-account terms entail more risk for the exporter, but may be preferable for the buyer. Each exporter has to weigh the element of risk in a transaction against the relationship with the buyer and degree of competition.

Commercial banks offering international trade services can describe the risks and merits of each payment method, but American exporters are well advised to establish payment policies for international sales based in business strategy. In addition to the due diligence tools discussed in Chapter 3, there are other forms of U.S. Government support for managing risk. The U.S. Export-Import Bank (Eximbank) offers a program of export credit insurance to enable U.S. exporters to extend credit terms with protection against the risk of non-payment.

Key link: http://www.exim.gov/

## How Does the Banking System Operate Return to top

The number of foreign banks in Romania has increased from 5 in 1990 to more than 40 in 2011, and all are authorized to engage in a full range of traditional banking functions.

Romania's membership in the EU and greater integration into world financial markets exposed its economy to the international financial crisis starting from 2008.  The dominant role of foreign banks in the market has brought benefits, but also made Romania a captive to the decisions of these banks' home offices, especially in the Euro zone, and their shareholders. However, Romania has proven a profitable market for these banks, and none have expressed plans to exit the market. There are only a few Greek banks operating in Romania that are affected by the debt crisis in their home country. They are interested in mergers plans, but not to exit Romania.

## Foreign-Exchange Controls Return to top

Romania has no foreign exchange restrictions. The local currency, the **RO**manian **N**ew LEU, (abbreviated **RON**) is fully convertible for business (current account) purposes, with a fully liberalized capital account, and a central bank applying a managed float to reduce currency fluctuations. Foreign investors may freely repatriate profits and dividends in hard currency.

## U.S. Banks and Local Correspondent Banks Return to top

All commercial banks now operating in Romania have international correspondent relationships, and all are members of the domestic inter-bank payment-settlement system.

Citibank is the most well known U.S. bank in Romania, represented by Citibank Romania S.A. since 1996. Citibank Romania S.A. has 8 corporate banking branches in the following major cities: Brasov, Bucharest, Cluj – Napoca, Constanta, Iasi, Ploiesti, Sibiu and Timisoara, as well as 39 CitiFinancial agencies, dedicated to individual clients.

The Romanian financial landscape includes a substantial number of European bank subsidiaries, and several major Romanian banks. Most of these have parent corporations in Austria (Erste Bank, Raiffeisen Bank), France (BRD – Societe Generale), Italy (Unicredit Tiriac Bank and Intesa Sanpaolo Bank), Greece (Alpha Bank, Bancpost – EFG Eurobank, Piraeus Bank, ATE Bank and Emporiki Bank) or United Kingdom (Royal Bank of Scotland), Cyprus (Marfin and Bank of Cyprus), Israel (Leumi Bank), The Netherlands (ING Bank), Portugal (Millennium Bank), etc.

## Project Financing Return to top

Project financing from public and quasi-public institutions is an important source of investment capital for infrastructure projects in Romania and other countries in the region. Especially as the tide of private investment ebbs, or at least becomes more selective, the roles of international financial institutions such as the International Monetary Fund – IMF and the European Union – EU in cooperation with the World Bank Group (International Bank for Reconstruction and Development - IBRD, International Finance Corporation – IFC and Multilateral Investment Guarantee Agency – MIGA), the European Bank for Reconstruction and Development – EBRD and the European Investment Bank – EIB become even more important. This section outlines the major international financial institutions, their mechanisms, and their priority areas for Romania. American companies seeking to participate in these projects should become familiar with these organizations and their operations.

<u>International Monetary Fund – IMF</u>

From May 2009 to March 2011, Romania successfully completed a 24-month IMF Stand-By Arrangement – SBA of USD 17.4 billion (of which the authorities decided to treat the last tranche as precautionary). The total financial support program was USD 26.8 billion and included a USD 6.7 billion EU balance of payment support program, a USD 1.3 billion World Bank loan (three Development Policy Lending (DPL) loans) and a commitment from the EBRD to invest over USD 1.3 billion in Romania over the two-year period (the actual amount committed by the Bank was USD 1.7 billion).

In March 2011, a new 24-month, USD 4.7 billion, precautionary SBA was approved by the IMF in conjunction with a new USD 1.9 billion EU program (also on a precautionary basis) and the third World Bank DPL loan of USD 0.5 billion, which was not disbursed during the first program period and is still pending some prior actions. Under the new arrangement, in addition to maintaining macroeconomic and financial stability by, among other things, ensuring the necessary fiscal adjustment, sustainable growth will also be promoted by better absorption of EU structural funds and reforming the state-owned enterprises to becoming a driver of growth. Continued reforms include improved tax collection, better control over public expenditure (particularly in the health sector) facilitated by advice from functional reviews prepared by the World Bank and financed by the European Commission, and reducing arrears at both the national and local levels, including in state owned enterprises.

European Union - EU

The EU provides cohesion funds to member states and sub-state regions whose level of development is below the EU average. Now that Romania is a member of the EU it will benefit from approximately USD 26.3 billion in structural and cohesion funds from 2007 to 2013.

The EU Structural and Cohesion funds are provided through Sectoral Operational Programs (SOPs) managed by Romanian authorities and overseen by the European Commission. The SOPs include Transport, Environment, Regional Development, Economic Competitiveness, Human Resources, Technical Assistance and Administration Development. According to the Romanian Authority for Coordinating Structural Instruments (ACIS), as at the end of July 2011, financing agreements with beneficiaries have been signed with an amount of USD 14.2 billion (55.5 per cent). American companies can participate directly in projects funded by the EU or in partnership with a company from an EU member country.

The Romanian Ministry of European Affairs specified that payments made by the European authorities in 2011, amounted to USD 1.6 billion, representing a 6.3 % absorption rate of structural and cohesion funds in 2011. Romania's ambitious plan in 2012 is to draw in cohesion funds of USD 4.7 billion, plus USD 3.3 billion for agriculture and rural development. The Romanian authorities are now discussing with the EC the 2014 to 2020 grant funding program.

Over the 2007 to 2013 period, the EU has also allocated USD 10.7 billion to Romania from the European Agriculture Fund for Rural Development (EAFRD). This amount is provided through the National Rural Development Program managed by the Romanian Authorities (Ministry of Agriculture and Rural Development). As of end November 2011, USD 3.7 billion (of EAFRD contribution) has been paid to Romania, meaning that 34.1% of the EAFRD has been absorbed.

In November 2011, a request was made by the European Commission and Government of Romania to the International Financial Institutions – IFIs to support the Managing Authorities and beneficiaries through various Technical Assistance projects financed through Structural Funds to improve the strategic and management capacity and increase absorption of Structural and Cohesion Funds and to prepare the 2014-2020 programming period. This is currently under evaluation and discussions are being held between Directorate General REGIO, the Ministry of European Affairs and the IFIs on the best ways of responding to this request.

One of the central issues facing the country is its very poor record of developing projects, obtaining EU funds, and administering projects successfully. Romania's public sector is still developing its capacity for these tasks, the potential beneficiaries do not know how to apply, and the majority of applications are unsuccessful. This low EU fund "absorption rate" has become a frequent political criticism, and an industry of consultants has grown up around this problem.

The main sources of information for applicants, consultancy firms, and journalists are the websites of the EU programs and the guides for beneficiaries. Consultants specialized in obtaining EU funds cite the complexity of the guides and their language as problems that lead to either mistranslations or poorly prepared applications. At the same time, those Romanian authorities launching new projects have no dedicated distribution channel, and mainly use press releases.

Romania will have to take immediate action in addressing these problems, since 2012 will certainly bring new challenges to the economy. Improving the administrative capacity of public authorities, the clarity of communication between public and private sectors, increasing transparency, and accelerating the entire decision process will have be top priorities for the government, in order to ensure a higher absorption rate of EU funds. These funds, translated into effective infrastructure projects, will be an important support for GDP growth.

Financing packages for Romanian projects generally include one or more multilateral lenders – the World Bank (or its International Finance Corporation), EBRD, the European Investment Bank – plus foreign and Romanian commercial banks. Priority projects supported by multilateral institutions are usually related to infrastructure modernization in transportation, power generation, telecommunications, and environmental protection.

The World Bank Group (IBRD, IFC & MIGA)

Between 1991 and 2010, the World Bank / IBRD have supported a total of 55 Bank projects in Romania, with a total commitment of about US$6 billion. The World Bank commitments reflected continued strategic support to sustainable private sector growth, poverty reduction and human development, and improvements in governance and institutional capacity building.

The dual objective of the Bank is to support Romania in dealing with the economic and financial crisis, and to broaden and deepen the reform program for sustainable and equitable growth. A new Country Partnership Strategy (CPS) with Romania sets the rationale and framework guiding the program of the World Bank Group in Romania for 2009-2013.

As the global financial crisis exerts a significant strain on the Romanian economy and society, the Strategy sets out how the World Bank Group will support Romania's efforts to restore sources of sustainable and equitable growth in order to emerge from the crisis on a stronger foothold, while reducing the immediate impact of the crisis on the poor.

In the first few years of the new CPS, the Bank program will center on Advisory and Analytical Activities (AAAs) and a programmatic series of Development Policy Loans (DPLs) which will seek to support the government's goals of further EU convergence. Broadly, the CPS puts emphasis on reforming the public sector, encouraging growth and competitiveness, and promoting social inclusion.

The CPS recognizes the leading role of the EU as main partner of Romania, and the lead of the IMF in putting together the crisis-support package. At the same time, the CPS builds on the significant value-added which the Bank can bring to Romania's policy agenda, especially in the design and implementation of structural reforms.

The Bank will work in areas not or insufficiently covered by EU cooperation (e.g. health, education, social protection, pensions, public administration), and can help the Government assess and design implementation of plans to achieve the acquis. The Bank will also support cross-sector integrated solutions; and can provide a global perspective on experiences with reform.

As part of the multilateral financial support agreed on with Romania to address the effects of the global economic and financial crisis and promote the reform agenda of the government, the World Bank is prepared to provide support in a proposed 3-part Development Policy Loan (DPL) program amounting to one billion Euros. The World Bank support would focus on longer-term structural issues in three key areas:

1) public sector reforms, notably in fiscal/public financial management to improve the transparency and predictability of public spending and the quality of public services;

2) strengthening social protection (social assistance and pensions) to cushion the impact of the crisis on the vulnerable and to improve the efficiency and viability of these programs; and

3) financial sector reforms to enhance the resilience and functioning of the sector.

These measures would support the country's longer-term stabilization and economic restructuring agenda. The cornerstone of the CPS has been a USD 1.3 billion Development Policy Loan (DPL) program consisting of three projects, complemented by the existing Portfolio.

The DPL program is part of the USD 26.83 billion international package supported by the IMF, the EU, EBRD, EIB and the World Bank (including IFC) that was requested by the Government of Romania (GoR) in the wake of the financial crisis.

Romania's pipeline for FY2011/12 (about US$1.48 billion) consists of three operations – DPL3 (US$520 million) and two Results Based Investment Loans targeting the Social Assistance (US$628 million) and Health (US$336 million) sectors.

## European Bank for Reconstruction and Development

EBRD's latest strategy for Romania was approved in April 2008. The main goal of the strategy is to help Romania meet its post accession challenges. The strategy focuses on the following key priorities:

1) Enterprise Sector:

The Bank will provide support to the local private sector, with a special focus on competitiveness and expansion throughout Romania and across its borders. The Bank will pay particular attention to the development of businesses in less advanced regions of Romania in order to promote regional integration. The single EU market and competition from Asia are challenges to the Romanian private sector which the Bank will help address through finance and expertise. Investment requirements will be addressed in a range of areas including services, manufacturing, technology and skills training. Funding requirements will be considered in close collaboration with local banks and private equity funds.

EBRD will diversify its range of financing products to include more high-risk instruments (such as equity, quasi equity, and structured debt) to support the restructuring, consolidation and expansion of local companies on the Romanian market and to attract further FDI.

The Bank will enhance its efforts to lend in local currency to those borrowers which generate local currency revenue streams. Local currency loans are critical to mitigate potential foreign exchange exposure which may arise for borrowers whose revenues are denominated in RON but which do not have matching RON liabilities. Financial tools, such as dedicated credit lines utilizing EU post accession funds, will be tailored to help local businesses.

2) Energy Sector:

The EBRD will continue to invest with both the public and private sectors in energy generation, transmission and distribution, including policy dialogue to promote appropriate regulatory and institutional reform in line with the EU Directives and the Government’s recently approved energy strategy. In addition there is a particular need to invest in the upgrade and rehabilitation of electricity assets, especially power stations. Energy efficiency and renewable energy projects will be promoted as part of the Bank’s Sustainable Energy Initiative. The Bank will work to help address Romania’s high energy intensity challenge (which is negatively affecting the economy’s competitiveness) by promoting energy efficiency projects, for municipalities, industries and households.

3) Infrastructure:

The Bank plans to assist Romania improve its infrastructure, including the transport sector, to ensure enhanced regional cooperation, improved trade and the utilization of Single Market benefits. This includes improving the administrative capacity for structuring PPPs and supporting private sector capital in key transport infrastructure projects that will enhance economic development. In addition, the Bank will continue its activities in the municipal sector throughout the country, especially in view of the opportunities arising from the EU post-accession structural and cohesion funds. This will include a focus on the smaller municipalities. The Bank will continue to pursue lending on a commercial basis directly to regional water and waste water companies to upgrade and expand their assets and to municipalities for urban transport and roads, energy efficiency and solid waste transactions.

4) Agribusiness:

The Bank will promote consolidation and competition in the sector (especially in the regions) and is particularly focused on food processing, logistics and retail to stimulate demand for local products. The banking sector will be used as the intermediary to tackle challenges in the agriculture sector, by providing dedicated credit lines to rural areas and piloting more sophisticated agri-lending products. Banking products to foster the energy savings sector in Romania are also being introduced. The Bank will continue to provide financing for Micro Small and Medium Enterprises (MSMEs) and non-bank microfinance institutions and support the general development of the non-banking financial sector.

5) Finance:

The Bank will continue to provide financial support to both foreign owned and local banks to assist them to further develop. From 2009 the EBRD has increased its lending and equity investments in Romania. In response to the economic downturn and the decline of funds available from the private sector, the EBRD is focusing on providing financial support to:

- banks, to ensure credit is available for Small and Medium Enterprises,
- the corporate sector, including new equity investments, working capital loans and balance sheet restructuring,
- the energy sector, including green-field projects, rehabilitations and energy efficiency projects, and
- infrastructure (roads and municipal projects).

In 2010 the EBRD signed 31 projects in Romania worth a total of USD 796 million. More than 90 per cent of this funding went to the private sector and almost 10 per cent to energy efficiency projects. The Bank delivered four fast-track small and medium-sized enterprises (SME)/corporate debt packages to the subsidiaries of Greek banks (Bancpost EFG Eurobank, Alpha Bank Romania, Piraeus Bank Romania and Banca Romaneasca NBG Group) totaling USD 582 million (of which 50 per cent was committed for 2010). In addition, the EBRD provided a USD 26.7 million SME loan to the local subsidiary of Millennium and a USD 66.9 million SME/corporate loan to BRD-Societe Generale.

To finance energy efficiency and climate change projects for private companies the EBRD made loans totaling USD 53.5 million under the EBRD-EU Energy Efficiency Finance Facility to BCR-Erste, BRD-Societe Generale, OTP Romania and Raiffeisen Romania. In 2010 the EBRD also increased its capital in ProCredit (micro credit) and Banca Transilvania and continued to assist the non-banking financial institutions by granting a USD 6.9 million loan to Patria Credit, a micro credit institution, and a USD 9.4 million loan to Impuls Leasing.

In the corporate sector, the EBRD signed a US$ 180 million syndicated loan to ALRO and three agribusiness loans including a syndicated financing package to Expur (an oilseed processor to support its expansion in Romania), to Schwarz–Lidl (to support the further expansion of Lidl's operations in Romania) and a grain trading finance facility to CHS to finance grain exports.

In 2010 the EBRD signed eight municipality projects and put in place a framework to provide up to USD 267.6 million of co-financing for projects in Romania's water and wastewater sector, alongside EU Cohesion Funds.

The EBRD's first Cohesion Fund co-financing project was in Constanta (USD 44.1 million). In addition, a framework of up to USD 401.4 million was developed for urban transport infrastructure projects. Other municipal projects were carried out in Oradea, Timisoara, Bacau, Sibiu, Sfantu Gheorghe and Iasi to finance street improvements, public transport, public lighting, water and wastewater.

## At a glance

Number of projects

289

Net business volume

€5,041.5 million

Total project value

€13,427.3 million

Current portfolio

€2,615.2 million

Gross disbursements

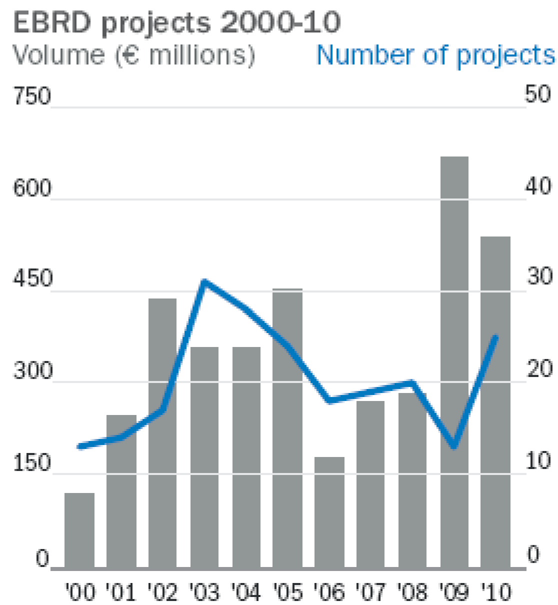
€4,256.9 million

Portfolio share in private sector

77%

Cumulative, as at March 2011

Includes regional projects




European Investment Bank – EIB

From 2008 to the end of 2010, the EIB signed about 30 projects in Romania with a total value of roughly USD 4 billion. The EIB financing was in a range of sectors including banking, energy, transport and municipal infrastructure and industry. EU funds absorption is also supported by advisory services from "Joint Assistance for Preparing Projects in European Region" (JASPERS), which is jointly implemented by the EIB and the EBRD.

In Romania, the Bank is also co-financing individual projects with the EIB, such as the Petrom power plant whereby the Bank and the EIB each provided a USD 267.5 million loan to co-finance a gas fired 860 MW plant. The two institutions worked closely together sharing due diligence and analysis. The Bank plans to continue to work with the EIB in sectors such as transport, including road concessions or PPPs.

Export-Import Bank of the United States

U.S. Ex-Im Bank provides guarantees and direct loans for U.S. exports to Romania. Although most of the credit has been for exports to the Romanian government, private sector and sub-sovereign financing is available as well.

**Insurance - Ex-Im Bank** issues short-term (180 days) coverage for exports to Romania. Medium- and long-term coverage is only available for public sector transactions. Ex-Im Bank provides insurance through its affiliated agent, the Foreign Credit Insurance Association.

**U.S. Overseas Private Investment Corporation (OPIC)** - OPIC offers U.S. project financing and insurance through direct loans, loan guarantees, and political risk insurance, as well as equity financing through OPIC-supported investment funds. OPIC can co-finance with other bilateral and multilateral development finance institutions, such as the EBRD and IFC.

**U.S. Trade and Development Agency (USTDA)** - USTDA provides non-reimbursable funds for feasibility studies, pilot projects and orientation visits covering many sectors of the Romanian economy. The agency is very active in Romania.

**United Nations Development Program (UNDP)** - Established in 1971, the UNDP Country Office in Bucharest was the first UNDP field office in a former Warsaw Pact member state.

**The Ministry of Public Finance** issues Romanian government guarantees for projects up to USD 66.7 million. The Ministry must submit guarantees for larger projects to an inter-ministry committee and the cabinet for approval. Government guarantees are approved on the basis of feasibility studies, which must contain a clear description of the financial package for the project. The government and IFIs may jointly support viable private sector projects.

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Export-Import Bank of the United States: http://www.exim.gov

Country Limitation Schedule: http://www.exim.gov/tools/country/country_limits.html

U.S. Overseas Private Investment Corporation: http://www.opic.gov

Trade and Development Agency: http://www.tda.gov/

SBA's Office of International Trade: http://www.sba.gov/oit/

USDA Commodity Credit Corporation: http://www.fsa.usda.gov/ccc/default.htm

U.S. Agency for International Development: http://www.usaid.gov

World Bank, Multilateral Development Bank: http://www.worldbank.org

International Financial Corporation: http://www.ifc.org

European Bank for Reconstruction and Development: http://www.ebrd.com

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# Chapter 8: Business Travel



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Special customs do not figure significantly in business dealings in Romania; Western business standards apply. Romanians generally have positive attitudes toward America, but also draw on their own and other European cultural references.

Romanian nationals are friendly, and foreigners are usually made very welcome. Shaking hands is the normal form of greeting (sometimes a man, usually from older generation, may kiss the hand of a woman in greeting); normal courtesies are observed when visiting a person's home. It is important to take business cards to meetings and to give a card to each person present.

Flowers are very popular in Romanian culture, and are given for almost every occasion, including name day celebrations, weddings, and visits to Romanian homes. Always buy an odd number of flowers (even numbers are used at funerals). Casual wear is the most suitable form of dress for most social occasions, but attire may be more formal when specified for entertaining in the evening or in a restaurant or theater. The Romanians use the formal addresses of "domnul" (sir) and "doamna" (madam) when addressing one another, although first names are used among younger people and in business with English-speaking partners. It is customary to say "pofta buna" (bon appétit) before eating, and "noroc" (cheers) before drinking.

## Travel Advisory Return to top

General and country-specific travel information can be found on the U.S. Department of State's web site: http://travel.state.gov/travel/travel_1744.html

## Visa Requirements Return to top

U.S. citizen visitors are granted 90 days of stay without a visa within a given six-month period.  For stays longer than 90 days, you must obtain an extension of stay from the Romanian Office for Immigration in the area of your residence.  If you stay too long you will need an exit visa.  We do not recommend the practice of attempting to “extend” the 90-day period by traveling to another country for a short period and then returning to Romania.  More people are being denied re-entry to Romania because the Romanian Government is enforcing visa regulations more vigorously than in the past.  Visit the Embassy of Romania website for the most current visa information or contact the Romanian Embassy at 1607 23rd St. NW, Washington, D.C. 20008, telephone number (202) 232-4747, or the Romanian Consulates in Los Angeles, Chicago, or New York.

Foreigners are required to carry identification documents at all times. Americans who obtained a temporary or permanent stay permit must be able to present the document upon the request of any “competent authorities.”  Foreigners who do not have a stay permit should present their passports.  The Embassy recommends carrying a copy of the relevant document.

U.S. Companies that require travel of foreign businesspersons to the United States should be advised that security evaluations are handled via an interagency process. Visa applicants should go to the following links.

State Department Visa Website: http://travel.state.gov/visa/

US Embassy in Romania: http://romania.usembassy.gov/visas/index.html

## Telecommunications Return to top

Local wired-telephony service is reliable. There are several mobile telephone operators, all of which have extensive coverage of the country and also offer roaming services in a large number of countries, the United States included. International telephone connections via fixed or mobile telephony are generally good. Romania is seven time zones ahead of U.S.-Eastern standard time. Internet service is widely available in hotels and Internet cafes.  Broadband Internet access is expanding in Romania but still represents a minority of available Internet service.

## Transportation Return to top

TAROM, the Romanian national airline, serves major points in Romania and Europe. The airline has joined the Sky Team Alliance for the purposes of marketing, code share, and group communication. Other international carriers currently serving Romania include Aeroflot (Russia), Air France, Alitalia, Austrian Airlines, Bulgaria Air (Bulgaria), British Airways, CSA (Czech Republic), , El Al (Israel), KLM (The Netherlands), LOT (Poland), Lufthansa (Germany), Olympic (Greek), Swiss and Turkish Airlines. Qatar Airways has recently entered the Romanian market with a new route.

Most major cities of Romania have airline service which connects to Bucharest. In addition to Henri Coanda, Bucharest’s main international airport, Timisoara, Constanta-Kogalniceanu, Cluj-Napoca, Sibiu, and Targu Mures airports are also ports of entry.

In Bucharest, hotel chains such as Radisson, Marriott, Hilton, and Crowne Plaza provide scheduled shuttle bus service to and from the Henri Coanda Airport; rental car service is also available. All taxis are required to have meters.

Romania is well served by an international and domestic rail system, though the country's rail infrastructure is in need of update. The domestic motorway network is extensive, but the road quality is poor. Roads in Bucharest are in a near-constant state of construction. Winter driving in Romania often requires navigating sometimes-hazardous mountain passes. Driving after dark at any time of year requires care because of pedestrians, animals, or slow-moving vehicles often encountered on the roadway.

Romanian traffic laws are very strict. Any form of driver's license or permit can be confiscated by the Traffic Police for 1-3 months and payment of fines may be requested at the time of many infractions. Some examples are: failure to yield the right of way, failure to yield to pedestrians at crossroads, or not stopping at a red light or stop sign. Romanian traffic law provides for retention of licenses and possible imprisonment from 1 to 5 years for driving under the influence (alcohol level over 0.1% limit) or for causing an accident resulting in injury or death. In spite of these strict rules, however, many drivers in Romania often do not follow traffic laws or yield the right of way. Therefore it is strongly recommended that defensive driving be the rule of thumb while driving throughout Romania.

U.S. driver's licenses are only valid in Romania for up to 90 days. Before the 90-day period has expired, U.S. citizens must either obtain an international driving permit in addition to their U.S. driver's license or a Romanian driver's license.

## Language

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The official language of Romania is Romanian. This language, which uses the Latin alphabet and is a Romance language, evolved from the Latin used in the Roman colony of Dacia. English, French and German are also widely spoken.

## Health

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Medical care in Romania is generally not up to Western standards, and basic medical supplies are limited, especially outside major cities. Some medical providers that meet Western quality standards are available in Bucharest and other cities but can be difficult to identify and locate. Travelers seeking medical treatment should therefore choose their provider carefully. A list of hospitals and physicians is available on the website of the U.S. Embassy in Bucharest.

http://romania.usembassy.gov/acs/health4.html

Information regarding health threats or other medical issues affecting visitors to Romania can also be found at this site. The U.S. Department of State is unaware of any HIV/AIDS entry restrictions for visitors to or foreign residents of Romania.

The Department of State strongly urges Americans to consult with their medical insurance company prior to traveling abroad to confirm whether their policy applies overseas and whether it will cover emergency expenses such as a medical evacuation. Please see our information on medical insurance overseas.

Americans who wish to extend their stay in Romania must present proof of health insurance that applies overseas for the duration of their intended stay in Romania. Useful information on medical emergencies abroad, including overseas insurance programs, is provided on the Department of State's web page, Medical Information for Americans Traveling Abroad.

For more details, please consult this web link:

http://romania.usembassy.gov/acs/health4.html

## Local Time, Business Hours, and Holidays Return to top

Local time is Standard GTM + 2 hours.

Business hours are usually between 9 a.m. and 5 p.m.

Holidays:

| Date | Day | Holiday |
|---|---|---|
| Jan. 1 | Saturday | New Year's Day |
| Jan. 2 | Sunday | Day After New Year's Day |
| Apr. 24 | Sunday | Orthodox Easter Sunday |
| Apr. 25 | Monday | Easter Monday |
| May 1 | Sunday | Romanian Labor Day |
| Jun. 12 | Sunday | Pentecost |
| Jun. 13 | Monday | Pentecost Monday |
| Aug. 15 | Monday | St. Mary's Assumption |
| Dec. 1 | Thursday | Romanian National Day |

| | | |
|---|---|---|
| Dec. 25 | Sunday | Christmas Day |
| Dec. 26 | Monday | Day After Christmas |

## Temporary Entry of Materials and Personal Belongings Return to top

Romania's customs authorities may enforce strict regulations concerning temporary importation into or export from Romania of items such as firearms, antiquities, and medications. Romanian law allows travelers to bring cash into or out of Romania. However, sums larger than 10,000 Euros or the equivalent must be declared. It is advisable to contact the Embassy of Romania in Washington or one of Romania's consulates in the United States for specific information regarding customs requirements.

**Embassy of Romania in Washington DC**

Address: 23rd Street NW, Washington DC 20008
Phone: (01 - 202) 232.36.94; (01 - 202) 332.48.46; (01 - 202) 332.48.48;(01-202) 332.48.29; (01-202) 232 6634; (01-202) 387.69.01
http://www.roembus.org/

Romania customs authorities accept the use of an ATA (Admission Temporaire/Temporary Admission) Carnet for the temporary admission of professional equipment, commercial samples, and/or goods for exhibitions and fair purposes. ATA Carnet Headquarters located at the U.S. Council for International Business, 1212 Avenue of the Americas, New York, NY 10036, issues and guarantees the ATA Carnet in the United States. For additional information call (212) 354-4480, send an e-mail to atacarnet@uscib.org, or visit http://www.uscib.org for details.

## Web Resources Return to top

U.S. Department of State http://travel.state.gov/travel/travel_1744.html

Embassy of Romania in Washington DC http://www.roembus.org/

U.S. Embassy in Bucharest http://bucharest.usembassy.gov/main.html

Ministry of Communication and Information Society http://www.mcti.ro

Ministry of Transportation and Infrastructure http://www.mt.ro

Ministry of Public Health http://www.ms.ro

National Customs Authority http://www.customs.ro/en.aspx

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# Chapter 9: Contacts, Market Research and Trade Events



## Contacts Return to top

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http://export.gov/romania/

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*Industries: Advertising Services, Air Conditioning/Refrigeration Eq., Apparel, Architectural/Constr./Engineering SVC, Audio/Visual Eq., Building Products, Commercial Fishing Eq., Composite Materials, Construction Eq., Consumer Electronics, Dental Eq., Drugs/Pharmaceuticals, Education/Training Services, Films/Videos, Footwear, General Consumer Goods, Giftware, Health Care Services, Hotel/Restaurant Eq., Lawn/Garden Eq., Leather/Fur Products, Medical Eq., Pleasure Boats/Accessories, Railroad Eq., Sporting Goods/Recreational Eq., Textile Fabrics, Textile Machinery/Eq., Toys/Games, Travel/Tourism Services*

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## Market Research

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To view market research reports produced by the U.S. Commercial Service please go to the following website: http://www.export.gov/mrktresearch/index.asp and click on Country and Industry Market Reports.

Please note that these reports are only available to U.S. citizens and U.S. companies. Registration to the site is required, and is free.

## `Trade Events

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Please click on the link below for information on upcoming trade events.

http://www.export.gov/tradeevents/index.asp

(Add link to trade events section of local buyusa.gov website here or just delete this text.)

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# Chapter 10: Guide to Our Services

The President's National Export Initiative aims to double exports over five years by marshaling Federal agencies to **prepare U.S. companies to export successfully**, **connect them with trade opportunities** and **support them once they do have exporting opportunities**.

The U.S. Commercial Service offers customized solutions to help U.S. exporters, particularly small and medium sized businesses, successfully expand exports to new markets. Our global network of trade specialists will work one-on-one with you through every step of the exporting process, helping you to:

- Target the best markets with our world-class research
- Promote your products and services to qualified buyers
- Meet the best distributors and agents for your products and services
- Overcome potential challenges or trade barriers
- Gain access to the full range of U.S. government trade promotion agencies and their services, including export training and potential trade financing sources

To learn more about the Federal Government's trade promotion resources for new and experienced exporters, please click on the following link: www.export.gov

For more information on the services the U.S. Commercial Service offers to U.S. exporters, please click on the following link: (Insert link to Products and Services section of local buyusa.gov website here.)

U.S. exporters seeking general export information/assistance or country-specific commercial information can also contact the **U.S. Department of Commerce's Trade Information Center** at **(800) USA-TRAD(E).**

**We value your feedback on the format and contents of this report. Please send your comments and recommendations to:** Market_Research_Feedback@trade.gov



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