

**Trade Policy Review Body**

**TRADE POLICY REVIEW**

**ROMANIA**

**Report by the Secretariat**

This report, prepared for the second Trade Policy Review of Romania, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from the Government of Romania on its trade policies and practices.

Document WT/TPR/G/60 contains the policy statement submitted by the Government of Romania.

---

Note: This report is subject to restricted circulation and press embargo until the end of the meeting of the Trade Policy Review Body on Romania.



## CONTENTS

	<i>Page</i>
SUMMARY OBSERVATIONS	
(1) OVERVIEW	vii
(2) MAIN ECONOMIC DEVELOPMENTS AND OUTLOOK, 1993-99	vii
(3) INSTITUTIONAL DEVELOPMENTS: 1993-99	viii
(4) DEVELOPMENTS IN TRADE AGREEMENTS	viii
(5) TRADE AND TRADE-RELATED POLICY DEVELOPMENTS	ix
(6) SECTORAL DEVELOPMENTS	xi
I. ECONOMIC ENVIRONMENT	1
(1) BACKGROUND	1
(2) RECENT ECONOMIC DEVELOPMENTS	2
(i) Macroeconomic indicators	2
(ii) Monetary and exchange rate policy	4
(iii) Fiscal policy	5
(3) MAIN STRUCTURAL DEVELOPMENTS	6
(i) Trade liberalization	6
(ii) Price liberalization	7
(iii) Foreign investment	7
(iv) Privatization	8
(4) OUTPUT AND TRADE TRENDS	8
(i) Sectoral composition of output	8
(ii) Composition of trade	9
(iii) Direction of trade	11
(5) OUTLOOK	11
II. INSTITUTIONAL FRAMEWORK FOR THE TRADE POLICY REGIME	13
(1) OVERVIEW	13
(2) GENERAL CONSTITUTIONAL AND LEGAL FRAMEWORK	13
(i) Parliament	13
(ii) The President	14
(iii) Government	15
(iv) Judiciary	18
(3) GOVERNANCE	19
(i) Overview	19
(ii) Transparency	19
(iii) Consultation of the public on policies	19
(iv) Civil service reform	20
(v) Stability of the framework for economic operators	21
(4) INTERNATIONAL AGREEMENTS, CONVENTIONS AND TREATIES	22
(i) Negotiation, elaboration and ratification of agreements in Romania	22
(ii) WTO	22
(iii) European Union	26
(iv) Regional trade agreements and arrangements	28
(v) Black Sea Economic Cooperation (BSEC)	31
(vi) Bilateral trade and economic cooperation agreements	31

	<i>Page</i>
III. TRADE POLICIES AND PRACTICES BY MEASURE	32
(1) OVERVIEW	32
(i) Trade in goods	32
(ii) Internal measures	33
(2) MEASURES DIRECTLY AFFECTING IMPORTS	33
(i) Registration and customs	33
(ii) Customs clearance procedures	35
(iii) Customs duties	38
(iv) Taxes on products assessed at the border	42
(v) Exemptions or reductions from customs duties and taxes	44
(vi) Customs commission	46
(vii) Import surcharge	46
(viii) Tax avoidance and tax evasion	47
(ix) Rules of origin	48
(x) Prohibitions and products subject to licensing	49
(xi) Sanitary and phytosanitary measures	50
(xii) Contingency measures	51
(xiii) State trading	51
(3) MEASURES DIRECTLY AFFECTING EXPORTS	51
(i) Duties and taxes	51
(ii) Drawback	51
(iii) Prohibitions and products subject to licensing	52
(iv) Export promotion	53
(v) Export subsidies	53
(4) INTERNAL MEASURES	54
(i) Business framework	54
(ii) Investment regime	58
(iii) Protection of intellectual property rights	62
(iv) Technical standards and regulations	69
(v) Competition policy	71
(vi) Government procurement	77
IV. TRADE POLICIES BY SECTOR	79
(1) OVERVIEW	79
(2) PRIVATIZATION AND ENTERPRISE RESTRUCTURING	80
(3) AGRICULTURE, INDUSTRY AND SERVICES	83
(i) Agriculture	83
(ii) Industry	87
(iii) Services	92
REFERENCES	99
APPENDIX TABLES	103

CHARTS

	<i>Page</i>
I. ECONOMIC ENVIRONMENT	
I.1 Real effective exchange rate index and quarterly changes, 1992-98	5
III. TRADE POLICIES AND PRACTICES BY MEASURE	
III.1 Patent Grant Procedure	66

TABLES

I. ECONOMIC ENVIRONMENT	
I.1 Selected macroeconomic indicators, 1992-98	3
I.2 GDP by origin, 1992, 1997 and 1998	9
I.3 Private sector ownership in GDP sectors and selected activities, 1992-98	9
I.4 Composition of exports, 1992-98	10
I.5 Composition of imports, 1992-98	10
I.6 Direction of trade, 1992, 1997 and 1998	12
II. INSTITUTIONAL FRAMEWORK FOR THE TRADE POLICY REGIME	
II.1 Government ordinances by type, 1992-98	16
II.2 Selected WTO documents of Romania, 1995 to June 1999	25
III. TRADE POLICIES AND PRACTICES BY MEASURE	
III.1 MFN and preferential tariffs, simple averages, 1999	40
III.2 Tariff rate quotas on agricultural products from WTO Members, 1999	42
III.3 Temporary customs duty exemptions subject to quotas, 1998	42
III.4 Combined rates of customs duties, import surcharge, customs commission, excise taxes and VAT on selected products, 1999	47
III.5 Revenues collected at the border, 1992-98	48
III.6 Number of tariff lines (HS 8-digit) subject to export prohibition, quantitative restriction or automatic licensing, 1996-99	52
III.7 Incorporations by form of business organization, 1991-98	55
III.8 Granted patents, 1992-98	67
III.9 New Romanian standards, 1995-98	70
III.10 Cases registered at the Competition Council, 1998	75
IV. TRADE POLICIES BY SECTOR	
IV.1 Market privatizations of state-owned commercial companies, 1992-96	81
IV.2 Bankruptcy proceedings for commercial companies under the management of the State Ownership Fund (SOF), 1994-98	83
IV.3 Structure of agricultural production, 1998	84
IV.4 Crop distribution on arable land, 1989-98	86

APPENDIX TABLES

	<i>Page</i>
III. TRADE POLICIES AND PRACTICES BY MEASURE	
AIII.1 Statutory and MFN tariffs, 1999	105
AIII.2 Simple average tariffs applied under preferential arrangements, by HS Chapter and source of imports, 1999	108
AIII.3 Tariffs on imports of selected non-agricultural products from the European Union, 1999	110
AIII.4 Tariff rate quotas on imports from preferential origins, 1999	113
AIII.5 Excise taxes on imported products, by tariff item, 1999	116
AIII.6 Reduced VAT rate categories for products, by tariff item, 30 March 1999	120
AIII.7 List of raw materials subject to VAT suspension, 1999	121
AIII.8 Membership of multilateral environmental agreements with trade provisions	123
AIII.9 Bilateral investment and tax treaties concluded by Romania, June 1999	124
AIII.10 Developments in the investment incentive, 1991 to June 1999	126
AIII.11 Membership of international conventions in the field of intellectual property	129
IV. TRADE POLICIES BY SECTOR	
AIV.1 Comparison of industrial branches, 1997	130

---

---

**SUMMARY OBSERVATIONS****(I) OVERVIEW**

1. Romania's transformation to a market economy began in December 1989 in a very difficult economic, social and political context, with little history of market-based economic reform. The regime in power throughout the post-war period nationalized land and industry, and instituted strict central control of economic decisions. By the time of its first Trade Policy Review in December 1992, Romania was in a severe recession, facing an incipient balance-of-payments crisis, provoked in part by the collapse of trade within the Council for Mutual Economic Assistance (CMEA). The shift to the private sector had begun, however, with Romania liberalizing trade, prices and the exchange rate. Romania had also established the regulatory foundations for a market economy, provided open and liberal access to foreign investors, and had begun restructuring state-owned enterprises.

2. Almost ten years into the transition, Romania's second Trade Policy Review provides an opportunity to assess the progress to date. Romania has maintained its liberal investment regime and completed the regulatory framework for private sector development. The initial progress on trade liberalization has been anchored in binding commitments under the WTO and regional trade agreements. Price and exchange rate liberalization is complete. Unfortunately, Romania has had more difficulty in completing the shift to the private sector of state-owned enterprises, still dominant in industry and financial services. Privatization remains the preferred option, rather than closure, and policy is consequently geared mainly to the objective of keeping enterprises open and rescuing failing banks. This priority has made it difficult to finance worker adjustment programmes to ease closure, and also complicated other goals of government policy, such as maintaining social services, renewing the infrastructure or reducing the tax burden on small and medium-sized enterprises.

3. In 1999, Romania is experiencing its third consecutive year of recession. Industrial production continues to drop and real net exports are down. The persistent and growing current account deficit of recent years has been financed mainly by an accumulation of short-term external debt; foreign direct investment inflows have been disappointing, although on an improving trend since 1996. A difficult debt-management situation in 1999 is compounded by the repercussions of the Russian debt crisis and the conflict in Kosovo. Romania is discussing financial support for its adjustment programme with multilateral financial institutions.

**(2) MAIN ECONOMIC DEVELOPMENTS AND OUTLOOK, 1993-99**

4. In spite of the more difficult external environment resulting from the collapse of CMEA trade and payments arrangements, Romania's merchandise exports recovered early, in mid-1992, supporting industrial production and real income. Growth occurred mainly in state-owned enterprises. Substantial real wage growth undercut the competitiveness of Romania's exports and fuelled an import boom. The current account deficit increased from 1.7% of GDP in 1994 to 6.6% in 1996. The deficit was financed mainly by accumulating external debt, up 50% in 1994-96, as foreign direct investment remained low.

5. After the 1996 change of Government, Romania renewed its efforts at structural reform and macroeconomic stabilization, supported by multilateral financial institutions. Fiscal and monetary policies were tightened and real GDP fell 6.9% in 1997. Net exports rose and the current account deficit fell slightly. The political resolve to sustain the reform programme weakened in the autumn 1997, and looser monetary and fiscal policies then prevailed. The rate of inflation was 155%, partly reflecting price measures due to the final stage of price de-controls in early 1997.

---

6. In 1998, policy priority shifted to curbing inflation. To give credibility to this effort, the exchange rate was used as an external anchor for price stability. Tight monetary policy, in combination with an unexpectedly expansionary fiscal policy, led to sharply higher real interest rates, contributing to a drop of 7.3% in GDP. Inflation declined to about 40%. At the same time, the real appreciation of the currency contributed to a decline of 34.4% in real net exports, and the current account deficit rose to 7.2% of GDP. As an emergency measure, Romania introduced an import surcharge of 6% in October 1998, reduced to 4% for 1999; it is scheduled to be eliminated in 2000. Following consultations, the WTO Committee on Balance-of-Payments Restrictions concluded that Romania's imposition of the surcharge was in conformity with its WTO obligations.

7. In 1999, Romania has exercised fiscal constraint and accelerated privatization, both to raise revenue and foster structural reform. A reduced budget deficit of 2.5% is targeted for 1999, two-thirds of the level of 1998; the elections in 2000 however constrain the scope for difficult economic policy decisions, should they become necessary. GDP is expected to decline by some 4% in 1999, inflation is expected to remain modest, and the current account deficit to drop to 5.5% of GDP.

**(3) INSTITUTIONAL DEVELOPMENTS:  
1993-99**

8. The transition to a democratic system was consolidated during the period under review. The first elections were held under the new Constitution in 1992, followed by the change-over of Government after the 1996 elections; elections for Parliament and the Presidency are scheduled for the autumn 2000. The Government, which is chosen from a coalition of political parties, proposes legislative initiatives to Parliament and implements the resulting laws. In Romania, no law or government decision can be enforced without publication. Romania intends to respond to the challenge of more effective governance by increasing public access to

information, passing an anti-corruption law, and reforming the civil service.

9. A challenge for the authorities is the need to establish a more stable and less complex policy regime. In recent years, the Government has invoked the economic crisis to implement, through the instrument of the "emergency ordinance", virtually all reform-related initiatives in advance of legislative approval. Subsequently, Parliament has often turned such initiatives into quite different laws, sometimes modified again by the Government through an emergency ordinance. The resulting to-and-fro between Romania's political bodies indicates the difficulty of establishing consensus on reform. For economic operators, a succession of measures on key business-related areas – taxation, investment, privatization – creates a volatile and uncertain environment, increasing the risk of doing business and discouraging investment. Greater stability of Romania's policies in these key areas could moderate the risk of adverse developments for economic operators, provide a more favourable regime for investment and an anchor for further structural reform.

**(4) DEVELOPMENTS IN TRADE  
AGREEMENTS**

10. Romania was a founding member of the WTO in 1995. All tariffs are bound at ceiling rates, and Romania is eliminating tariffs on products covered by the information technology agreement (ITA). Adding to its Uruguay Round commitments on services, Romania is a party to the WTO Agreements on Financial Services and Basic Telecommunication Services. Romania actively participates in the WTO, regularly notifying Members of policy developments. In particular, standards for intellectual property protection and their enforcement were notified in advance of 2000, when Romania's transitional arrangements end, and reviewed by the WTO Council for the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

---

11. Romania also concluded free-trade agreements with the European Communities, EFTA, CEFTA, Moldova and Turkey. For the future, Romania's paramount national goal is to join the European Union (EU), its most important trading partner. Accession negotiations have not begun, the European Commission having urged Romania to make more progress towards satisfying the conditions of membership. Romania intends to accelerate the pace of political and economic reform, as well as the transposition of the *acquis* into domestic law. The Commission is supporting these efforts through an "Accession Partnership", which identifies priority areas for further work and eligible for financial assistance from the EU.

**(5) TRADE AND TRADE-RELATED POLICY DEVELOPMENTS**

12. The basic reform of the trade regime was in place at the time of Romania's first Review in December 1992: the end of the State's monopoly on trade, and the use of the customs tariff as the main instrument of commercial policy. During 1997-98, Romania ended the practice, which had intensified in 1995-96, of temporary tariff exemptions subject to quotas; this practice had been queried at the first Review. All remaining quantitative restrictions on exports were eliminated, replaced with automatic licensing for statistical purposes. No anti-dumping, countervailing or safeguard measures have been taken under the WTO Agreements during the period under review.

13. At the border, Romania levies customs duties, an import surcharge (4% in 1999), a customs commission (0.5%), specific or *ad valorem* excise taxes on certain products (including tobacco products, alcoholic beverages, coffee, and automobiles), on top of which a basic VAT rate of 22% applies. Due to the growing importance of indirect taxes in government revenue (38% in 1998), priority is given to the collection of taxes at the border. On excisable products, in particular, relatively high levels of duties and taxes have contributed to smuggling, customs fraud and

allegations of improper conduct by customs personnel. In response, border controls have been strengthened, although importers may find the resulting customs procedures complex, cumbersome or time-consuming.

14. The new Customs Code of 1997 unified the regime for importers and exporters in a single framework, and approximated the EU's Customs Code. The principles of customs valuation are largely the same. Comparison values were used until 1998 for products subject to excise taxes, but were replaced in 1999 with a database of prices. Other features of the Code are the availability of duty-suspension regimes (with the authorization of Customs) to facilitate inward and outward processing activities; Romania also has five "free zones".

15. Tariff policy on industrial products has been stable. Average applied MFN rates have remained steady at 16%, well below the bound level of some 35%. Their scope of application is narrowed by the free-trade agreements with partners in the region, as well as by GSTP preferences for developing countries. Romania's free-trade agreements with the EU and EFTA require the elimination of remaining tariffs on non-agricultural imports from these origins by 2002; this is likely to lead to more intense competition on the domestic market for sensitive products such as footwear, textile and clothing products, where tariff elimination was back-loaded. On agricultural products, Romania applied in mid-1995 the levels of MFN tariff rates bound in its WTO Schedule. Reductions have been made on a temporary basis starting in 1997, and largely maintained in 1998 and 1999. These reductions brought the simple average applied MFN tariff on agricultural products down to 33.9%, compared with an average bound rate of 134.1%; if the authorities find it necessary, this gap leaves ample room for tariff increases within bindings, and may impart a certain degree of uncertainty to the tariff system.

16. In spite of the importance of tax collection to government revenue, a large

number of laws provide local enterprises with exemptions from the payment of customs duties and taxes collected at the border. In 1999, exemptions were available under various regimes for investment (notably for in-kind contributions of equipment and vehicles), for products imported under leasing contracts and for "complex" exports (notably plants and ships). Excise tax reductions apply to tobacco products and motor vehicles produced with local content. The authorities have also periodically used a tax incentive in an effort to stimulate domestic production for export; the latest such measure, a reduction of 50% on the tax on profits from exports of goods and services, was in force in 1997, suspended in 1998, reintroduced on 1 January 1999, but suspended once again in March 1999 for budgetary reasons.

17. The investment regime has been open and liberal during the period under review, containing guarantees against nationalization or expropriation without sufficient compensation. Key improvements in the investment regime are external current account convertibility and the principle of equality between foreign and domestic investors, thus establishing a uniform business framework for all companies established in Romania. Foreign direct investment played only a minor role in Romania's transition between 1989 and 1996, with levels becoming more significant only in 1997 and 1998. The relatively low level of foreign direct investment to date is an obstacle to economic development, in terms of the modernization of the capital base and creation of jobs in the private sector.

18. Romanian companies are subject to a profit tax (basic rate of 38%), local taxes and withholding taxes, as well as employee taxes on wages (on average 23%), the latter in lieu of a personal income tax. At the same time, profit tax holidays are available, in 1999, for investment in disadvantaged regions, oil and gas exploration or designated investments of at least \$50 million with a major impact on economic activity. Small and medium-sized enterprises thus carry a relatively heavier

burden of taxation than large companies; reducing their tax burden and simplifying the regime would seem a priority to foster their development. Although the practice of granting investment incentives is very widespread among WTO Members, their cost-effectiveness in encouraging investment is open to question.

19. Transposition of the *acquis* to approximate the EU laws has been the driving force of Romania's recent legislative efforts for private sector development. The EU approach was used for the new framework on regulations and standards. Romania's competition policy is also modelled on the EU approach, although no corresponding law on state aids exists. A draft law is under consideration by the Romanian Parliament, however; once in effect, it will facilitate an inventory of state aids, on which comprehensive information is not yet available. On government procurement, foreign suppliers may participate in auctions provided Romanian suppliers are granted reciprocity or if no domestic supplier is available. Within this framework, Romania introduced a national preference of 20% in 1995, which was dropped in 1998, to more fully realize the benefits of competition and achieve a better fiscal balance.

20. Under the Europe Agreement, Romania made the commitment to provide by 2000 a level of protection of intellectual property rights, and a means of enforcement, similar to that in the EU, and the process is almost complete. Romania has added to its 1991 Patents Law by, *inter alia*, new standards for the protection of copyright, trade marks, industrial designs, topographies of integrated circuits and new plant varieties; a number of major international conventions on the protection of intellectual property rights have also been ratified. Romania intends to close the remaining gaps between the domestic legislative framework and the TRIPS Agreement by passing a law to enforce intellectual property rights at the border. More effective enforcement remains an outstanding challenge, mainly due to the lack

---

of resources necessary to investigate infringements, and the diminished deterrent effect of fines eroded by high levels of inflation.

#### (6) **SECTORAL DEVELOPMENTS**

21. In spite of the considerable progress made by Romania in laying the foundations for the market economy, state-owned enterprises still account for the major share of recorded economic activity (estimates of the size of the informal sector range from 25% to 60%). The continuing importance of state-owned enterprises is a legacy of Romania's late start on privatization, and also the relatively low level of foreign direct investment. Privatization effectively began only in 1995, and proceeded at a slower pace than anticipated. The trend improved in 1998 and 1999, also attracting higher levels of foreign direct investment in Romania.

22. Agriculture has been important in absorbing workers displaced in the course of the transition. The sector accounts for 42.3% of the active labour force – 3.8 million of a total 9 million – but agriculture's share in GDP is just 19%, reflecting low labour productivity. The sector has potential due to the quality of the soil and the climate, both considered to be the most favourable in south-eastern Europe. Productivity is affected by the fragmented pattern of land tenure, with millions of family farms on small plots, cultivating mainly for subsistence. The efficiency of measures to support and protect agricultural producers has improved during the period under review due to the reduction in MFN tariffs starting in 1997 and the use of domestic support measures. Privatizing state farms and more competition in the provision of inputs and in food processing will contribute to the development of agriculture. Romania also has difficulty competing with products heavily subsidized by trading partners, either domestically or on world markets.

23. State-owned enterprises accounted for about 55% of industrial production in 1998, compared to 75% of industrial employment;

privately held enterprises accounted for about 45% of production and 25% of employment in industry. The large difference in labour productivity indicates the dichotomy between the traditional basis for industrial activity in state-owned enterprises and the dynamism of the emerging private sector. The typically large, energy-intensive state-owned enterprise, employing thousands of workers, contrasts with the typically small and medium-sized private enterprise (SME), using state-of-the-art technology. Whereas the large state-owned enterprises have difficulty in maintaining and expanding export markets for its product, the SMEs dominate the production of garments, the most dynamic sector in Romania's exports and imports. In addition to private sector ownership, the development of textile and clothing exports has benefited from link-ups between Romanian production units and companies in France, Germany and Italy. The external environment also became more favourable due to the elimination of long-standing import restrictions by the European Union and Norway; Canada and the United States are two potentially large markets, but still restrict imports from Romania.

24. The financial condition of state-owned enterprises has deteriorated sharply in the absence of market discipline. Arrears to suppliers and of wage taxes have built up, and the volume of non-performing loans in the banking system is significant. The difficulties in the banking sector have, in turn, limited the access of the emerging private sector to affordable credit, undermining its development and capacity to create alternative employment for workers shed by state-owned enterprises. Fiscal policy is burdened by the provision of assistance to agriculture, industry, and banks, compromising the financing of infrastructure, education, and basic social services, as well as a reduction in the tax burden on enterprises. In this context, Romania has made privatization of viable enterprises a priority. The main stumbling-block to more rapid and decisive action on large loss-makers is concern over the social implications of unemployment, given the difficulties in

*designing, financing and implementing programmes of worker adjustment and social safety nets.*

25. *A vital component of private sector development is the more efficient provision of business-related services, a sector stifled under central planning. The authorities have given the priority to regulatory change, privatization and appropriate competition policies in services, so as to ensure that essential services are provided as efficiently as possible and that this efficiency is reflected in lower prices. To this end, Romania assumed substantial market-opening commitments under the GATS. On financial services, in particular, Romania has a policy of open non-*

*discriminatory access for the establishment of banks, subject to prudential regulations. As of 2003, Romania's market for basic telecommunication services will be open to competition, and Romania has already opened the market for digital cellular mobile telephony. Privatization of state-owned service providers began in 1998, and Romania's programme for 1999 includes privatizing stakes in important state-owned banks, transportation and utilities. Decisive action on privatization in services, as well as agriculture and industry, or the closure of unsalvageable enterprises, will, combined with an improved macroeconomic balance, help Romania complete the transition to the market economy.*