

OECD Investment Policy Reviews

ROMANIA



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Roumanie

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Foreword

*I*n December 2004, Romania became eligible for adherence to the OECD Declaration on International Investment and Multinational Enterprises after a full examination of its foreign direct investment policies. The Declaration promotes national treatment of foreign direct investment, proposes voluntary standards of behaviour by multinational enterprises and encourages moderation and restraint in the use of investment incentives and conflicting regulatory requirements.

The OECD has invited Romania to join the Declaration in view of its general openness and non-discriminatory treatment of foreign investment and the authorities' firm determination to carry forward the country's reform agenda.

The Romanian government's efforts to increase the attractiveness of the investment environment in Romania and enhance the benefits to society profited from their active participation in the Investment Compact for South East Europe. Association with the OECD standards embodied in the Declaration will reinforce these efforts. Particular attention will need to be given to privatisation of the remaining major state-owned enterprises and to the continued strengthening of the government's implementation capacity, notably in the fields of corruption, intellectual property protection, government procurement and administrative barriers.

Adherence to the OECD Declaration represents an important step towards expanding Romania's co-operation with the Organisation and its members. Romania will be entitled to participate in the work related to the Declaration implemented by the OECD Investment Committee representing the OECD community of investment policy makers.

The study is the result of a collective effort by Romanian officials and experts, the 38 government adherents to the Declaration, the Investment Compact for South-East Europe and the OECD Secretariat. We would like to thank each one of them for their respective contributions.

We look forward to building on the results of the Romanian Investment Policy Review and witnessing Romania's economic accomplishments.



Mr. Manfred Schekulin
Chairman
OECD Investment Committee



Mr. Cosmin Dobran
Undersecretary of State
Ministry of Foreign Affairs of Romania

Note by the Editor

This report was prepared as a background to an Investment Policy Examination of Romania by the OECD's Investment Committee held in Paris on 22 September 2004. The Romanian Delegation was led by Mr. Alexandru Popa, President of the Romanian Investment Promotion Agency (ARIS), accompanied by Mr. Paul Ichim, Secretary of State in the Ministry of Public Finance, Mr. Cosmin Dobran, Undersecretary of State in the Ministry of Foreign Affairs, Mrs Roxana Bichel, Vice-President of the Agency for Privatisation and high-level officials from other ministries.

The material for this report was assembled by Ms. Marie-France Houde, from the Investment Division of the OECD Directorate for Financial and Enterprise Affairs, with input from Ms. Ayse Bertrand, Ms. Yesim Sisik, and Mr. YU Dong-Ju from the Investment Division and Mr. Lennart Gorranson from the Competition Division of the same Directorate, as well as a from early study by the Investment Compact for South East Europe.

The preparation of the report and the examination are the result of active co-operation and close consultations with the Ministry of Foreign Affairs, the Ministry of Public Finance, the Agency for Privatisation, the Ministry for the Economy and Trade (including the Directorate for Foreign Trade), the Competition Council, the National Bank of Romania, the Ministry of Justice, the National Agency for SMEs, the Ministry of Transport, the Ministry of Labour, the Ministry of Agriculture, the Ministry of National Defence as well as the Romanian Embassy in Paris. They also benefited from comments by delegates to the OECD's Investment Committee and representatives of business and academic circles in Romania, notably the Foreign Investors Council of Romania, the American Chamber of Commerce and the Romanian Centre for Economic Policies.

The cut-off date for information in this report is 1 October 2004.

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Overview

Despite valuable assets and strong growth potential, the Romanian economy has yet to catch up with the transition economies of Central and Eastern Europe

Romania covers an area comparable to that of the United Kingdom. It is a lower middle income country with GNP per capita of USD1 850 (at end-2002). With 22 million individuals, it is the second most populated country in Central and Eastern Europe (after Poland) and larger in population terms than 19 of the 25 current members of the European Union (EU). It benefits from a strategic geographic situation, an educated low-cost labour pool, a dynamic S&M enterprise sector and good energy and agricultural resources. It has, however, lagged behind the advanced transition economies and remains one of the poorest countries in Europe.

Since the end of 2000, the government has been determined to reverse forty years of command economy and a poorly designed first decade of transition

In the last four years, the government has vowed to engage in a more consistent macroeconomic stabilisation policy and a firmer programme of reforms than its predecessors and to anchor these efforts in its process of accession to the EU. It also decided to actively seek the advice and financial assistance of international organisations, notably the IMF, the World Bank, the European Development Bank and the OECD. Romania has been one of the three co-chairs of the Investment Compact for South-East Europe programme sponsored by the Organisation.

Much remains to be done. Effective implementation will be key

Despite recent progress, the general wisdom remains that Romania still faces considerable challenges in completing its structural and institutional

governance reforms. Top priority must be given to the continuing downsizing of the public sector and enterprise restructuring, as well as to the removal of impediments to investment. Major obstacles that need to be overcome are administrative barriers, the inflexibility of the labour market, burdensome tax administration, a weak judiciary and widespread corruption.

Romania accounts for 36 per cent of the accumulated FDI stock in South East Europe and is the fourth largest recipient of FDI in Central Europe. FDI has proven to be a trustworthy ally of Romanian reforms

After a slow start as a location for foreign direct investment (FDI) and a sharp increase in 1997, Romania has experienced a noticeable comeback, with inflows rising by over 60 per cent between 2002 and 2003 and with a record level of \$1.84 billion in that year. Romania is the largest recipient of FDI in South-East Europe with an accumulated FDI stock of \$15 billion forecast for the end of this year. The IMF projects annual inflows to average out at \$2.4 billion until 2008, which will make Romania a large destination for foreign equity in Central Europe. This is to be welcomed as Romania is in great need of foreign capital for its economic development.

Europe and the United States are the main investors in Romania. Their presence is largely concentrated in industry

Mirroring trade patterns, European (80 per cent) and US investors (20 per cent) account for the bulk of FDI in Romania. The interest of foreign companies mainly focuses on industry, construction, agriculture, tourism and other services. FDI also dominates mobile telecommunications, banking and insurance and oil and gas. Spread among some 100 000 firms, FDI is considered to be integrated into the local economy.

The attraction of manufacturing reflects Romania's comparative advantages

The 60 per cent concentration of FDI in manufacturing is a reflection of Romania's comparative advantages. Foreign firms invest in capital-intensive steel and chemical industries as well as in the labour-intensive clothing and footwear trades. Several automotive and electrical machinery manufacturers have chosen Romania for their location. As these firms sell over 50 per cent of their production abroad, Romania has become a significant export platform.

Privatisation of major state-owned companies is likely to dominate FDI figures in the coming years. Brownfield and Greenfield investment would be desirable as well

The recent sale of the largest commercial bank, four major energy distributors and the giant oil company Petrom plus large state-owned transport and mining companies, is likely to dominate FDI figures for the years to come. The completion of these privatisations is needed for Romania to become a fully functioning market economy. The next challenge will be to channel new investments in brownfield and greenfield investments. There are hopeful signs that this will happen. Newly subscribed capital by established foreign companies is six times as great as the capital invested in new firms. Reinvested earnings constitute a larger proportion of Romanian FDI than in other SEE countries.

The business environment has improved

The government has taken several other steps to improve the business environment. A tacit approval procedure and a new registration system have been adopted. Prior consultation and procedural transparency have been made mandatory features of the regulatory process. New channels of communication have been opened with the business community and society at large. The new bankruptcy law and judicial reorganisation law are designed to facilitate the demise of unprofitable businesses and improve creditors' rights. A comprehensive Fiscal Code and a medium-term fiscal strategy have been adopted to ensure greater stability and predictability in business decisions. A new competition law sanctions anti-competitive practices. The rule of law has been strengthened with the reform of the judiciary and a new action plan has been elaborated to combat corruption. Romania has ratified the Criminal Law Convention on Corruption of the Council of Europe and plans to ratify the United Nations Convention against Corruption.

The breadth of the reform agenda is putting the government's capacity to the test

The performance and competitiveness of Romania can nevertheless still be improved. Amendments to the Tax Code and less zealous tax collection as well as revisions to the new Labour Code are being recommended by various stakeholders. It is also recognised that the reform of the judiciary and civil administration will not be completed for some time, while dealing with corruption remains an uphill battle.

Romania believes in non-discriminatory treatment of foreign investment

Romania has an open and liberal regime towards FDI. Except for the government agency ARIS which has been created for the purpose of informing and assisting foreign investors, there are no specific laws on foreign investment. National treatment is generally enshrined in domestic legislation, the granting of investment incentives and privatisation. This means foreign investors are generally allowed to invest in any field or in any juridical form. They are not confronted with screening, equity or performance requirements and can benefit from any available incentives. They can convert and transfer abroad lawful income derived from their investment.

However some investment incentives will need to be revisited

The question arises as to whether and how Romania will be able to compete in the Union under EU competition rules. Along with other transition economies, Romania has made use of investment incentives such as free trade zones or industrial parks to attract foreign investment. Such state aids will need to be aligned on EU disciplines and in some cases, dismantled. This undoubtedly increases the urgency of completing other structural and institutional reforms.

Domestic policy has been underpinned by active international economic diplomacy, resulting in participation in numerous bilateral, regional and multilateral agreements

Romania is party to several bilateral, regional and international agreements which commit the economy to open trade in goods and services and open capital accounts. Adherence to these instruments serves to anchor domestic reforms in long-term, legally binding undertakings and to integrate the country better into the global economy. Romania has entered into 84 Bilateral Agreements on the Promotion and Reciprocal Protection of Investment and some 74 Agreements on the Avoidance of Double Taxation, largely based on OECD models. Parties to these agreements have included a wide range of non-OECD countries in addition to Romania's traditional economic partners.

The OECD Investment Committee concluded in September 2004 that Romania is willing and able to adhere to the OECD Declaration on International Investment and Multinational Enterprises

The OECD Investment Committee reviewed Romania's legal regime in September 2004 and concluded that the country is willing and able to adhere to the *Declaration on International Investment and Multinational Enterprises* and its related Decisions and Recommendations. The Committee encouraged Romania to pursue its reforms actively, to complete the privatisation of major state enterprises and to pay particular attention to implementation problems, particularly in the fields of corruption, the reinforcement of the judiciary, the protection of intellectual property, government procurement and administrative barriers. Solving these problems will require that particular attention be paid to Romania's capacity for policy execution and transparency. The Committee encouraged the authorities to address these problems firmly and to report back to the Committee in one year's time on the progress achieved in the implementation of its institutional and structural reforms.

As an adherent to the Declaration, Romania will become an equal partner in the OECD Investment Committee's related work

As an adherent to the Declaration, Romania will be entitled to participate in work related to the Declaration and Related Acts conducted by the Investment Committee of the OECD. It will benefit from efforts deployed to improve the business environment and the promotion of good corporate behaviour. It will also be able to share its own experience with other key investment players who are signatories to the Declaration, to the mutual benefit of all concerned.

Chapter 1

The Patterns of Romania's FDI Flows

1.1. FDI inflows are rising – at last

Romania has been the major recipient of FDI in SEE-8 countries,¹ accounting for close to 36 per cent of the total USD36 billion invested in the region since 1989 (see Table 1.1). Romanian FDI inward stock at the end of 2003 also represented 7.6 per cent of total inward FDI stock in the Central European transition countries (CEC-5).² As compared with both groups of countries, however, Romania has been less successful in attracting FDI on a per capita basis or as a percentage of GDP, suggesting significant untapped growth potential. Cumulative FDI per head in Romania was estimated at USD600 at the end of 2003 (as compared with USD657 for SEE countries and USD2611 for CEC-5 countries) and 23 per cent of GDP (25 per cent for SEE countries and 39 per cent of CEC-5).³ FDI outflows have been negligible (USD16 million in 2002, USD39 million in 2003)⁴ limited to a few investments in the energy sector, notably by oil conglomerate Petrom.

The FDI inward stock in Romania was estimated at USD12.8 at the end of 2003, with a total incremental inflow of USD1 844 million in that year.

As shown in Figure 1.1, Romanian FDI inflows have experienced large fluctuations. They were almost non-existent before 1993, remained relatively modest until 1996, increased 4.6 times in 1997, jumped by 67 per cent in 1998 and averaged out at USD1.4 billion annually between 1997 and 2003. The 2003 record of USD1.844 billion is expected to be surpassed in 2004, at USD2 billion or more. The fluctuations can largely be attributed to major privatisation deals. Moreover, the BOP figures do not take into account reinvested earnings, short term loans between affiliates or in-kind contributions (see Methodology Box) which, according to the Bank of Romania, could add 30 to 40 per cent to the published amounts over recent years. There are indications that FDI inflows have been fairly evenly distributed between greenfield investments and acquisitions.

Looking ahead, the BOP figures for the first sixth months of 2004 show a net FDI inflow of Euro 1.164 million, representing an increase of 44 per cent against the same period in 2003.⁵ Recent data published by the National Office of Trade Register⁶ put the subscribed capital in companies with foreign participation at USD11.2 billion at the end of June 2004. The year's performance should be dominated by the sale of 25 per cent plus 2 shares of the Banca Commerciale Romana – the largest Romanian commercial bank⁷ – to the European Bank for Reconstruction and Development (EBRD) and the International Finance Corporation (IFC) and the newly announced privatisation deals in the electricity and oil sectors (see Chapter 2).

Table 1.1. **FDI inward stock in Central and Eastern Europe**

USD million

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Albania	–	–	20	88	141	211	301	349	394	435	578	786	929	1 107
Bosnia and Herzegovina	–	–	–	–	–	–	–	–	67	244	390	509	774	1 155
Bulgaria	4	60	101	141	247	337	446	951	1 597	2 403	2 257	2 758	3 662	5 000 ³
Croatia	–	–	13	120	238	359	874	1 443	1 903	2 578	3 560	4 706	6 711	11 351
Macedonia	–	–	–	–	24	33	45	75	203	235	410	851	929	1 024
Moldova	–	–	–	14	29	94	117	196	258	323	459	600	727	789
Romania	–	45	122	216	402	821	1 097	2 352	4 418	5 469	6 480	7 638	9 369	13 051
Serbia and Montenegro ¹	–	–	–	–	–	–	–	740	853	965	1 015	1 180	1 655	2 915
SEEC-8²	4	105	256	579	1 081	1 856	2 881	6 105	9 691	12 652	15 149	19 028	24 409	36 105
Czech Republic	72	595	2 889	3 423	4 547	7 350	8 572	9 234	14 375	17 552	21 644	27 092	38 669	47 527
Hungary	569	2 107	3 424	5 585	7 095	11 304	13 282	17 981	20 746	23 381	23 015	27 698	38 028	47 809
Poland	109	425	1 370	2 307	3 789	7 843	11 463	14 587	22 479	26 075	34 227	41 247	47 900	60 500
Slovakia	–	–	–	–	897	1 297	2 046	2 083	2 890	3 188	4 746	5 582	8 530	11 250 ³
Slovenia	–	–	–	954	1 326	1 763	1 998	2 207	2 777	2 682	2 893	2 605	4 081	5 000 ³
CEC-5²	750	3 127	7 683	12 270	17 654	29 557	37 361	46 092	63 267	72 879	86 525	104 224	137 208	172 086

Notes: 1. From 2003 Serbia only. 2. Sum of available data. 3. Estimate.

Remarks:

Albania: equity capital.

Bosnia and Herzegovina: equity capital.

Bulgaria: equity capital + reinvested earnings from 1997 + loans from 1997.

Croatia: equity capital + reinvested earnings from 1997 + loans from 1997.

Macedonia: equity capital.

Moldova: equity capital + reinvested earnings from 1997 + loans from 1995.

Romania: equity capital + loans from 1994.

Serbia and Montenegro: FDI net.

Czech Republic: equity capital + reinvested earnings from 1997 + loans from 1997.

Hungary: equity capital + reinvested earnings from 1995 + loans from 1995.

Poland: equity capital + reinvested earnings + loans.

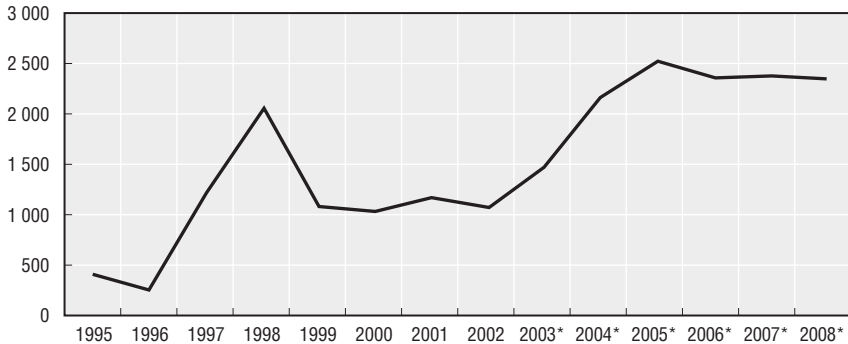
Slovak Republic: equity capital + reinvested earnings + loans.

Slovenia: equity capital + reinvested earnings + loans.

Sources: Gabor Hunya, "FDI in South East Europe in 2003-2004". www.investmentcompact.org/pdf/Min2004FDIinSEE.pdf. National banks of respective countries according to international investment position (IIP). Cumulated US dollar inflows for Albania, Bosnia and Herzegovina, Bulgaria (till 1997), Croatia (till 1997), Macedonia, Serbia and Montenegro.

Figure 1.1. **Foreign direct investment inflows to Romania**

USD million



* Projected FDI.

Source: Central Bank of Romania, OECD and IMF (forecasts).

Romania also set itself apart from other transition economies by its large number of commercial companies with foreign participation. At the end of June 2004, the number of these companies was estimated at 101 941.⁸ Most of these companies operate in the Bucharest and Galati regions.⁹

The rise of FDI in the last four years reflects a strong economic recovery which has propelled Romania to the top rank of SEE and CEC countries in terms of GDP and export growth.¹⁰ This is perceived by the Romanian government as a vote of confidence in Romania's economic future and an acknowledgment of the efforts deployed by the government to reform the economy and improve the business environment. Romania is in great need of foreign capital in order to catch up with most advanced transition economies. In the energy sector alone, it is estimated that USD1 billion of foreign capital a year will be required over the next ten years to complete the privatisation of this crucial economic sector.¹¹ FDI inflows will also help finance the current account deficit, currently estimated at 5.3 per cent of GDP¹² (FDI net inflows represented 3.2 per cent of GDP in 2003).¹³

1.2. Main sources of FDI: Europe and the United States

As shown in Table 1.3, European (80 per cent) and US investors (7.5 per cent) account for the bulk of FDI in Romania. Leading investors are the Netherlands,¹⁴ Germany, the United States, France, Austria and Italy. This pattern closely follows that observed for trade, which suggests that trade and investment activities are closely intertwined in exploiting Romania's comparative economic advantages. A recent study by the World Bank¹⁵ also found that Romania's strong trade integration with EU and global markets seems to result from the dispersion of FDI across a relatively large number of firms, including small and medium-sized enterprises.

Methodology of FDI data compilation in Romania

The National Bank of Romania (NBR) compiles FDI data within the balance of payments statistics framework. The NBR collects and compiles data for both flows and stocks of foreign direct investment. The FDI methodology generally follows existing internationally agreed standards, namely the methodological guidelines included in the IMF Balance of Payments Manual, fifth edition, and in the OECD Benchmark Definition of Foreign Direct Investment, third edition and is in line with the Regulation of the European Parliament and of the Council on Community statistics concerning balance of payments, international trade in services and foreign direct investment. The flows data are disseminated monthly, on a cumulated basis and the stocks data are disseminated quarterly, at the moment with no geographic or economic activity classification.

The data for equity capital and income on equity (dividends and distributed branch profits) are compiled primarily from an international transactions reporting system (ITRS) which covers only cash transactions made through the domestic banking system. Customs data are used as a secondary data source for estimates of non-cash acquisitions of equity capital. The data for other capital (inter-company loans) and income on debt (interest) are compiled from information obtained from a debt register. The data do not include reinvested earnings and undistributed branch profits.

With effect from January 2005, Romania will introduce a new BOP data collection. According to the new system (which will remain basically an International Transactions Reporting System – ITRS), the banks will report individual, instead of aggregated transactions which will be coded by the NBR itself. The ITRS will be complemented by an annual survey on direct investment stocks and flows. With this in mind, the NBR has negotiated a protocol of cooperation with the National Institute of Statistics which selected the population (companies) to be surveyed and is in charge of collecting the data.

Regarding FDI abroad, entirely liberalised in 2003, the NBR has also introduced a new notification form to be filled in by outward investors. The NBR also gathers information from the press.

The new data collection system will reduce the methodological deviations from international standards. More concrete, after its implementation, the FDI data will include reinvested earnings (obtained from the annual survey and used as a source of estimates for monthly data) and non-cash acquisition of capital. The data on “other capital” will also include bonds and money market instruments. The FDI data will be available in the required geographic and economic activity breakdowns.

Source: The National Bank of Romania.

Table 1.2. Number of companies by foreign direct investment and the amount of the subscribed capital balance account at 30 June, 2004

Balance account by end of period	Number of companies		Amount of subscribed capital					
			Total in ROL		Total in currency		Total in currency	
	No.	%	Million ROL	%	Thousand USD	%	Thousand EURO	%
0	1	2	3	4				
30 June 2004	101 941	104.7	197 845 010.7	111.3	11 182 410.3	107.7	9 225 855.0	107.8
<i>of which:</i>								
At 31 December 2003	97 372	100.0	177 815 256.6	100.0	10 383 691.5	100.0	8 557 757.1	100.0

Note: Column No. 1 shows the number of companies incorporated in the period in question. The data concerning the amount of subscribed capital include the records on issued capital in companies incorporated in the relevant period plus the records of the increase in capital and minus the subscribed capital in companies being struck off the trade register in the same period. The percentage inserted in columns 1, 2, 3 and 4 shows the trends compared to the records for December 2003.

Source: The National Trade Register Office of Romania.

1.3. Sectoral composition: manufacturing and services

The sectoral breakdown of FDI in Romania shows a large concentration in industry, but FDI is also present in several other sectors. At the end of June 2004 (Figure 1.2), companies with foreign capital were spread as follows in terms of capital invested: industry (64.3 per cent), the largest percentage among SEE countries, banking and professional services (2.0 per cent), wholesale trade and retail trade (1.1 per cent), transport (1.5 per cent), tourism (5.6 per cent), construction (13.5 per cent), and agriculture (12.1 per cent) and others.

The large concentration in industry, which is the major source of Romanian exports, confirms Romania's greater integration in Europe and the world economy than other countries of the region. FDI involvement has been particularly important in the capital intensive steel and chemicals industries and the labour-intensive clothing and leather industries. Some new investors have also recently chosen Romania for car component and electrical machinery manufacturing activities.¹⁶

The FDI concentration in the Romanian manufacturing industry has also been translated into increased levels of foreign penetration as compared with other industries. Foreign-controlled enterprises accounted in 2001 for almost one-third of the turnover and more than one-third of the share capital of that sector, as compared to less than five per cent share capital and turnover in 1995. Above average penetration can be observed in the food industry (32.1 per cent), non-metallic mineral products (38.2 per cent), metallurgy (38.3 per cent), machines and equipment (30.6 per cent), electrical and optical equipment (49.6 per cent) and means of transportation (49 per cent). Not coincidentally, these were precisely the activities to record the highest relative productivity gains

Table 1.3. Classification of companies by foreign direct investment by the investor's country of origin, balance account at 30 June, 2004

No. crt.	Countries	Companies by foreign investment		Amount of subscribed capital					
				Total in local currency		Total in equivalent of currency		Total in equivalent of currency	
				No.	%	Million ROL	%	Thousand USD	%	Thousand EURO	%
0	1	2		3		4		5	
	Total Romania	101 941	100	197 845 010.7	100	11 182 410.3	100	9 216 024.1	100
1	Netherlands	1 863	1.83	36 012 946.2	18.2	1 900 937.4	17	1 566 664.5	17
2	France	3 371	3.31	27 854 881.8	14.08	1 337 959.9	11.96	1 102 684.6	11.96
3	Germany	11 500	11.28	15 431 807.8	7.8	947 465.1	8.47	780 856.8	8.47
4	United States	3 994	3.92	8 700 269.1	4.4	834 824.6	7.47	688 023.7	7.47
5	Italy	15 515	15.22	9 307 879.1	4.7	634 604.8	5.76	530 429.2	5.76
6	Austria	3 006	2.95	14 752 984.8	7.46	631 492.1	5.65	520 446.5	5.65
7	Dutch Antilles	9	-	20 136 299.9	10.18	629 972.2	5.63	519 193.9	5.63
8	Cyprus	1 232	1.21	8 210 826.4	4.15	520 153.7	4.65	428 686.6	4.65
9	Turkey	8 941	8.77	4 464 973.7	2.26	438 722.7	3.92	361 574.9	3.92
10	Great Britain	1 786	1.75	7 974 480.7	4.03	423 556.8	3.79	349 075.9	3.79
11	Greece	2 734	2.68	5 670 331.8	2.87	324 591.4	2.9	267 513.2	2.9
12	Switzerland	1 316	1.29	6 029 937.5	3.05	303 610	2.72	250 221.3	2.72
13	Hungary	4 678	4.59	5 321 729	2.69	273 375.7	2.44	225 303.6	2.44
14	South Korea	83	0.08	481 570.3	0.24	218 325.2	1.95	179 933.5	1.95
15	Luxembourg	240	0.24	3 281 329.4	1.66	207 838.7	1.86	171 291.1	1.86
16	Spain	722	0.71	1 219 534.2	0.62	168 439.2	1.51	138 819.7	1.51
17	British Virgin Islands	198	0.19	3 641 632.1	1.84	135 022.2	1.21	111 279	1.21
18	China	8 306	8.15	2 855 499.5	1.44	133 815.3	1.2	110 284.4	1.2
19	Sweden	803	0.79	2 540 958.9	1.28	110 425.7	0.99	91 007.7	0.99
20	Belgium	1 245	1.22	1 342 920.1	0.68	82 885.4	0.74	68 310.3	0.74
21	Without Citizenship	21	0.22	7 635.2	-	75 691	0.68	62 381	0.68
22	Japan	148	0.15	1 850 499.5	0.94	70 925.5	0.63	58 453.5	0.63
23	A.R. of Syria	5 331	5.23	598 194.3	0.3	65 420.5	0.59	53 916.5	0.59
24	Liechtenstein	154	0.15	752 983.8	0.38	64 286.2	0.57	52 981.7	0.57
25	Canada	961	0.94	489 811.1	0.25	60 783	0.54	50 094.5	0.54
26	Portugal	103	0.10	1 750 079.1	0.88	54 426.4	0.49	44 855.7	0.49
27	Iraq	5 798	5.69	597 598.7	0.3	53 874.8	0.48	44 401.1	0.48
28	Lebanon	3 362	3.30	595 583.9	0.3	47 382.6	0.42	39 050.5	0.42
29	Marshall Islands	7	-	964 056	0.49	30 116.9	0.27	24 821	0.27
30	Israel	2 725	2.67	262 934.7	0.13	29 320.8	0.26	24 164.9	0.26
31	Gibraltar	28	0.03	434 034.2	0.22	24 851.6	0.22	20 481.6	0.22
32	Former Yugoslavia	741	0.73	91 876.1	0.05	22 758.1	0.2	18 756.1	0.2
33	Iran	2 620	2.57	215 854.2	0.11	21 977.4	0.2	18 112.8	0.2
34	Panama	119	0.12	135 356	0.07	17 856.3	0.16	14 716.3	0.16
35	Denmark	276	0.27	422 439.2	0.21	17 800.2	0.16	14 670.1	0.16
36	Ireland	227	0.22	124 062.8	0.06	16 453.1	0.15	13 559.9	0.15

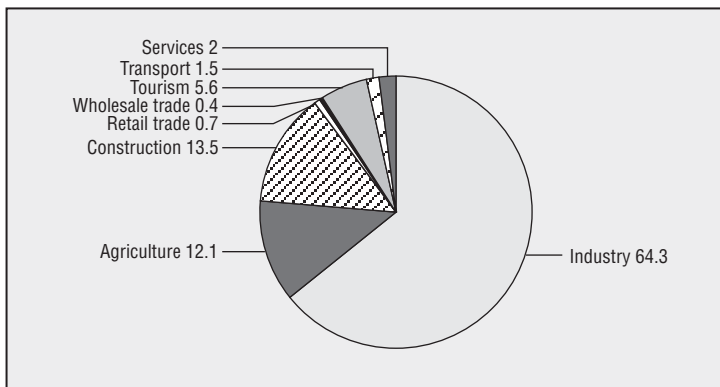
Source: The National Trade Register Office of Romania.

Table 1.3. Classification of companies by foreign direct investment by the investor's country of origin, balance account at 30 June, 2004 (cont.)

No. crt.	Countries	Companies by foreign investment		Amount of subscribed capital					
				Total in local currency		Total in equivalent of currency		Total in equivalent of currency	
				No.	%	million ROL	%	thousand USD	%	thousand EURO	%
0	1	2		3		4		5	
37	Jordan	3 078	3.02	153 527.8	0.08	16 007	0.14	13 192.3	0.14
38	Iceland	12	0.01	123 129.1	0.06	14 402.4	0.13	11 869.8	0.13
39	Moldavia	1 735	1.70	132 160.3	0.07	13 670.8	0.12	11 266.9	0.12
40	Kuwait	147	0.14	28 063.2	0.01	12 062.1	0.11	9 941	0.11
41	Poland	232	0.23	234 995.5	0.12	11 421.5	0.1	9 413.1	0.1
42	Egypt	1 283	1.26	121 148.1	0.06	11 347.8	0.1	9 352.4	0.1
43	New Zealand	10	–	352 119.8	0.18	11 072	0.1	9 125	0.1
44	Bulgaria	538	0.53	88 544.4	0.04	10 418.3	0.09	8 586.3	0.09
45	Czech republic	214	0.21	66 208.9		9 601.7	0.09	7 913.3	0.09
46	Australia	415	0.41	38 313	0.02	9 416.2	0.08	7 760.4	0.08
47	Cameroon	13	0.01	31 918.4	0.02	9 046.2	0.08	7 455.5	0.08
48	American Virgin Islands	34	0.03	82 630.5	0.04	7 886.4	0.07	6 499.6	0.07
49	Cayman Islands	8	–	52 718.4	0.03	6 461.2	0.06	5 325	0.06
50	North Korea	20	0.02	205 247.7	0.1	6 235.1	0.06	5 138.7	0.06

Source: The National Trade Register Office of Romania.

Figure 1.2. The structure upon sector of activity in the amount of subscribed capital in companies by foreign direct investment during the period 1991 to 30 June, 2004



Source: The National Trade Register Office of Romania.

in the period 1995-2001.¹⁷ Recent data suggests that the output share of companies with foreign capital has surpassed 50 per cent and these companies employ one third of the manufacturing workforce.

Notes

1. Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Macedonia, Moldova, Romania and Serbia and Montenegro.
2. Czech Republic, Hungary, Poland, Slovakia and Slovenia.
3. Gabor Hunya, "FDI in South East Europe in 2003-2004", page 16, www.investmentcompact.org/pdf/Min2004FDIinSEE.pdf.
4. Balance of payments figures, National Bank of Romania, www.bnro.ro.
5. National Bank of Romania, Monthly Bulletin, www.bnro.ro/def_en.htm.
6. National Office of Trade Register, Bulletin No. 74 – June 2004.
7. This represents a combined investment of USD222 million (June 2004). See www.ebrd.com/nex/stories/2004/040817.htm.
8. See footnote 7.
9. Galati county is the most important recipient of FDI after Bucharest in terms of foreign capital investment. By number, however, most foreign companies are based in the West and North-West parts of the country.
10. See footnote 3, page 16.
11. Estimate provided by the Romanian American Enterprise Fund (RAEF).
12. The Economist Intelligence Unit, Country Report, August 2004, page 9.
13. Footnote 3, page 19.
14. Netherlands' importance is overstated because of the financing of the purchase of SIDEX, the largest steel producer in Romania which originated from an LMN subsidiary based in the Dutch Antilles. Otherwise, Germany is the largest source of FDI in Romania.
15. World Bank, *Romania, Restructuring for EU Integration – The Policy Agenda*, Country Economic Agenda, Volume II, June 2004, Chapter 4, Section D.
16. In recent months, the Japanese company Yazaki opened two car parts manufacturing plants within the industrial park of Ploiesti, German Draxlmaier opened a motor cables and plastics plant and German car electronics supplier Ruwel announced an investment project in the industrial park of Cluij. See Gabor Hunya, "FDI in South East Europe in 2003-2004", page 10. *Op. cit.* in footnote 3.
17. Gabor Hunya, WIIW, "Restructuring through FDI in Romanian Manufacturing", 2002.

Chapter 2

The Reform Agenda and Business Environment

2.1. A formidable challenge

Romania is a lower middle income country with GNI per capita of USD1 850 (at end-2002). With 22 million individuals, it is the second most populated country in Central and Eastern Europe (after Poland) and larger in population terms than 19 of the 25 current members of the European Union (EU). It benefits from a strategic geographic situation, an educated low-cost labour pool and good energy and agricultural resources.

Despite these valuable assets, it is one of the poorest countries in Europe, with a purchasing power per head of 70 per cent below that of the EU25 average.¹ Its real GDP is still 13 per cent below the pre-transition level of 1989. The economies of the accession countries, on the other hand, have grown by almost one-third in the last 12 years.²

The heritage of forty years of rigid central planning, together with a poorly designed first decade of transition, are largely to blame for this outcome. The new government elected in November 2000 vowed, however, to engage in a more consistent macro-economic stabilisation policy and a firmer programme of reforms than its predecessors and to anchor these efforts in a process of accession to the EU which formally started in February 2001.³ The Romanian government has actively sought the advice and financial assistance of international organisations in its reform effort.⁴ It completed its first stand-by arrangement with the IMF in October 2003 and entered into a new “precautionary” arrangement for the next 24 months. The World Bank has been particularly active in Romanian privatisation. Romania has been one of the three co-chairs of the Investment Compact for South East Europe programme serviced by the OECD.

These policies were successful in producing robust GDP growth for the last three years of one percentage point above the average growth rate of the Central European and Baltic countries, with an even better performance projected for 2004. They also led to some noticeable improvement in the general business environment. According to the most recent AT Kearny FDI Confidence Index, Romania has jumped from below the top 25 most attractive destinations for European investors to the 17th most attractive market.⁵ Romania’s long term credit rating has also been raised to BB+ by Standard&Poor’s.

Despite the recent progress, however, the general wisdom remains that Romania still faces considerable challenges in completing the structural and institutional governance reforms necessary to the sustainability of a viable and pro-growth market economy over the longer term. When the Council of the European Union at its Summit in June 2004 “reiterated the Union’s common objective to welcome Romania (and Bulgaria) as members of the Union in January 2007 ... and confirmed its determination to bring the accession negotiations to a successful conclusion in 2004...”, this was done on the condition that “real and effective progress in reforms and preparations on the ground for accession is maintained” ... The Union also urged the two applicants “to further intensify their efforts in order to be ready for membership in January 2007”.⁶

Quite a large number of studies have been published recently on what Romania should do, notably to improve its business environment and address outstanding barriers to investment. While not ignoring other issues, studies recently released by the IMF and the World Bank give top priority to the downsizing of the public sector and enterprise restructuring because of its broad implications for both the performance macroeconomic aggregates and the viability of the private sector.⁷ At the end of 2003, Romania held the record for the largest number of enterprises to be privatised or liquidated of all the CEEC countries and one of the lowest private sector/GDP ratios (currently estimated at 69.1 per cent).⁸ Other studies, such as those carried out by the EBRD and FIAS,⁹ focus on the impediments that result from the mal-functioning of the state and public administration in their interface with the private sector. The most frequent obstacles to doing business in Romania that they have identified in this connection are administrative barriers, the inflexibility of the labour market, taxes, the judiciary and corruption.

While the problems cannot be expected to be resolved overnight, the Romanian government is committed to moving energetically on practically all these fronts. Major privatisation operations are unfolding in the energy and banking sectors. A Fiscal Tax Code has been adopted for the first time. New steps have been taken to simplify licensing procedures and make them more transparent, as well as to reform the judiciary and combat corruption. This chapter will provide a snapshot of Romania’s experience with privatisation, as well as other efforts to improve the general business environment. The section will also offer some suggestions on where Romania should next concentrate its efforts on its quest to catch up with the best performing transition economies and succeed in its economic integration in the EU.

2.2. Privatisation

The 1990s

Compared with privatisations in the most successful transition countries, privatisation in Romania has unfolded slowly and is far from finished. This has deprived the country of much-needed fresh new capital and technology to carry out its economic transformation and boost productivity. The lack of progress has also had the pervasive effect of perpetuating the non-competitive practices of arrears and non-payment of debt and tax bills by public and private operators to the detriment of good public finances and the expansion of an otherwise dynamic emerging private sector.

By end-2003, Romania had privatised only about 40 per cent of its large enterprises and about two-thirds of its medium-sized enterprises. There were still some 1 300 state-owned enterprises, including those in manufacturing and services, and another 600 enterprises effectively under state control.¹⁰

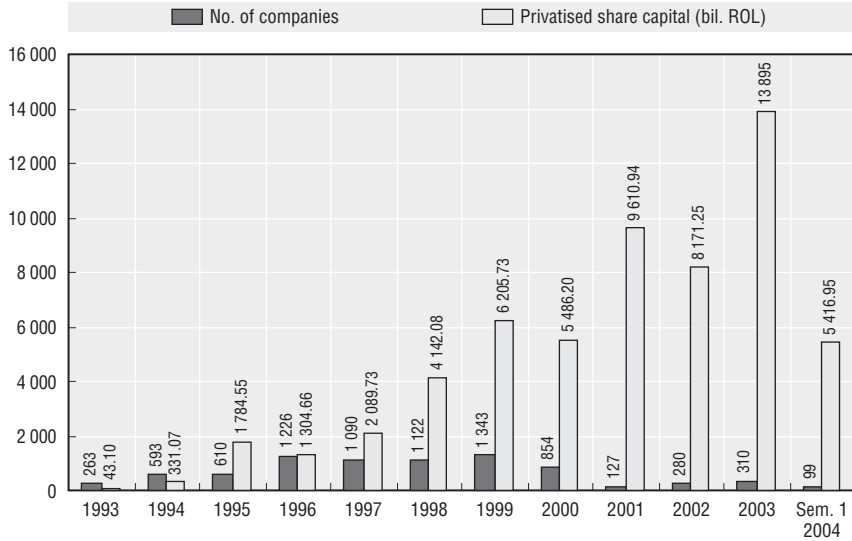
Romania's choice of privatisation methods has largely been responsible for the postponement of restructuring the economy and is a source of bad governance. The *mass privatisation* funds – which were mainly operational in 1995-1996 – remained largely state-managed, leaving the 18 million Romanian beneficiaries no control over their shares. *Management and employee buy-outs* (MEBO) during the 1993-1997 period allowed for a very large share (65 per cent on average) of inside owners, mostly employees with little corporate governance experience. *Direct sales* or *sales for cash* (mostly modest sales) predominated during the 1996-1998 period¹¹, when the country experienced a severe foreign exchange crisis. They were also reflected in a jump in FDI inflows (see Chapter 1, Figure 1.1). Sales to *strategic investors* gained momentum after 1998 but only started to involve large state companies after 2001. The objective then became not the number of companies sold but whether the share capital transferred to the private sector had led to a significant reduction in state involvement in the economy.

The Romania authorities have provided the following information on the breakdown of the number of companies formed by the Privatisation Agency by privatisation method, for the period 1993 to mid-2004:

- MEBO – 2 618;
- public sale – 3 037;
- negotiation – 1 692 (in two of these cases – Roman Braov and Roman and Combinatul Siderurgic Reşita – the method used was that of sale for 1 symbolic Euro because of economic and social considerations);
- capital market – 219.

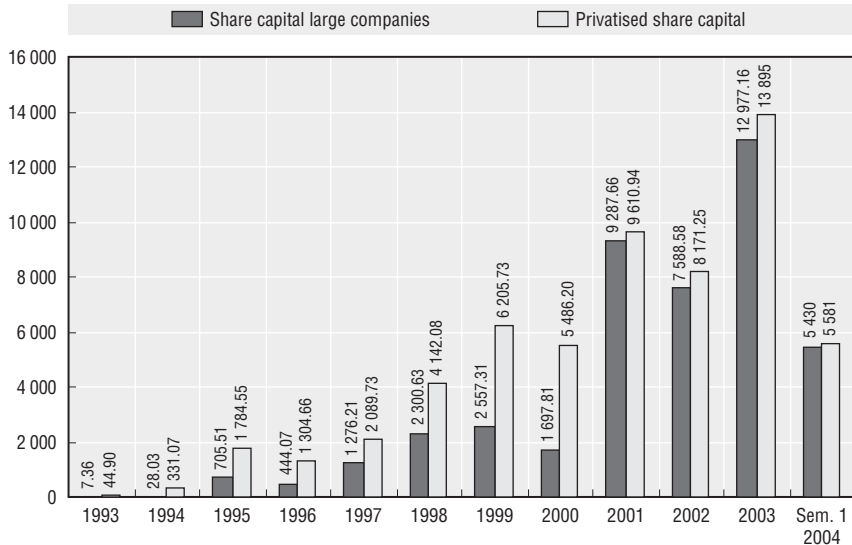
The total of 7 566 represents the privatised companies with valid sale contracts, excluding the companies with cancelled contracts. For the companies

Figure 2.1. **Trend in the number of companies and annual privatised share capital**



Source: Romanian Authority for State Assets Recovery (AVAS).

Figure 2.2. **Evolution, by year, of privatised share capital, of which the one corresponding to the large companies**



Source: Romanian Authority for State Assets Recovery (AVAS).

where several share packages were sold, the method used was that of the sale of the largest share package.

While there were some success stories – such as the privatisation of the largest steelmaker and loss-making company SIDEX to the Indian-British LNM Group in 2001 – the government came to realise in late 2001 that without bold changes in the privatisation process, the government would not be able to meet its privatisation objectives or fulfil its commitments to the IMF and World Bank. Law 137/2002 on Measures to Accelerate the Privatisation Process was introduced in 2002 to spell out privatisation principles and introduce greater flexibility in privatisation methods, including the possibility of sales for a symbolic price of one Euro.

Since 2001

As shown by the information provided by the Romanian authorities below,¹² there has been a substantial increase in the capital sold during the last three and a half years as compared to earlier periods. For instance, the total amount of share capital sold between 2001 and June 2004 represents over half of the total amount sold since the start of privatisation. The figures also show a sharp increase in foreign investors' participation in the process. The total amount of share capital sold with foreign investors' involvement in the 2001-June 2004 period is 5.4 times more than the amount sold during the 1997-2000 period. It also represents 84 per cent of the total amount of share capital sold to foreign investors since the beginning of the process.

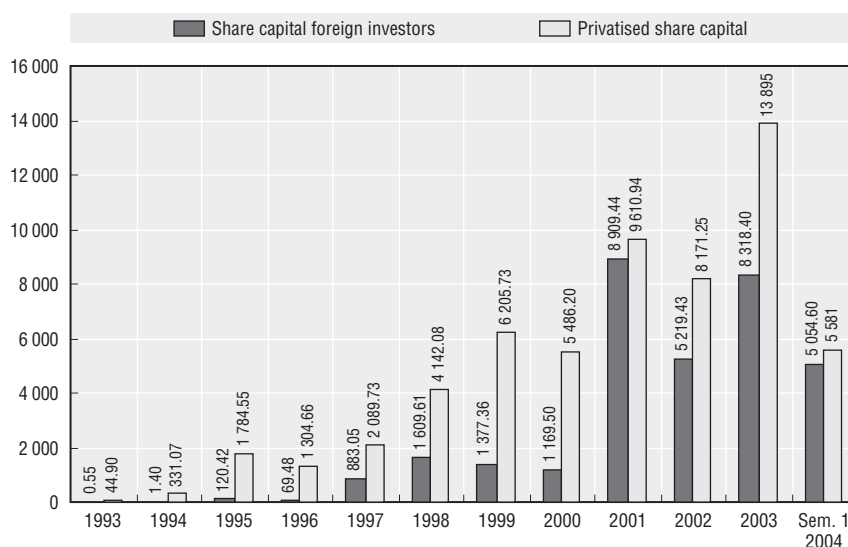
2004 is likely to be remembered as a major turning point in the history of Romanian privatisation and FDI-related inflows. In the first seven months of this year alone, the government announced the sale of two “jewels in the

Table 2.1. **Privatisation during various periods**

Indicator	Total (139 months)	Period of time			5/2 (%)	5/4 (%)	
		December 1992-1996 (49 months)	1997-2000 (48 months)	2001- June 2004 (42 months)			
0	1	2	3	4	5	6	7
1 Share capital sold (billion ROL), of which:	58 647.11	3 465.18	17 923.74	37 258.19	63.5	207.9	
2 – corresponding to large companies (billion ROL)	44 300.33	1 184.97	7 831.96	35 283.40	79.6	450.5	
3 Share capital sold to foreign investors (billion ROL)	32 733.24	191.85	5 039.52	27 501.87	84.0	545.7	
4 Share capital sold/month (billion ROL / month)	421.9	70.7	373.4	887.09	210.2	237.5	

Source: Romanian Authority for State Assets Recovery (AVAS).

Figure 2.3. **Evolution, by year, of privatised share capital, of which the one corresponding to the companies privatised with foreign investors**



Source: Romanian Authority for State Assets Recovery (AVAS).

crown” and of major energy-related state-owned companies. The sale of 25 per cent plus two shares of Romania’s largest commercial bank, Banca Comerciala Romana (BCR), to the EBRD and IFC for the sum of USD222 million came into effect in June 2004.¹³ The sale of majority stakes in the two electricity distributors Electrica Banat and Electrica Dobrogea to Italian utility Enel for Euro 112 million (USD135 million) was concluded in early July.¹⁴ These two companies service approximately 1.4 million consumers and cover some 20 per cent of the Romanian electricity market. Two more electricity companies, Electrica Oltenia and Electrica Moldeva, have also been prepared for privatisation with the aim of putting them on the market by the end of 2004 or early 2005.¹⁵ The sale of Petrom, the largest Romanian state-owned company, and the largest oil extractor, refiner and distributor in the country, to the Austrian Group OMV, in a transaction worth USD1.6 billion, was concluded on 23 July 2004.¹⁶ In addition, the final bids for the acquisition of 30 per cent of the two main Romanian natural gas distributors, Distrigaz Sud and Distrigaz Nord, were closed in mid-July and a final announcement on the new owners is expected in early autumn.

These developments, long encouraged by the IMF, World Bank, EBRD and the EU Roadmap for accession, are likely to have a positive effect on FDI inflows over a number of years. Some 204 large companies have not yet been

privatised (including companies returned to the portfolio of the Romanian Authority for State Assets Recovery (AVAS) following the cancellation of the sale-purchase contracts). Of these only 141 are privatisable¹⁷ companies, 38 of which are majority owned by AVAS. The others fall under responsible ministries (notably the Ministry for the Economy and Commerce and the Ministry of Transport, Construction and Tourism).

With regard to transport, the following progress has been made in the first eight months of 2004, in accordance with the legal framework developed in 2002:¹⁸

- nineteen of the 37 commercial transport companies were included in the privatisation programme;
- the following 11 commercial companies were privatised: Societatea Întreținere și Reparații Drumuri Timișoara – SIRD (The Company for Road Maintenance and Repairs) Timișoara, RESALV Galați, AGERTRANS Agiegea, DRUMSERV Targu Mureș, REPEC Ovidiu, CONS CANAL Basarabi, DRUM TRANS MIXT Iași, CONAS Brașov, Întreprinderea de Reparații și construcții Hidrotehnice – IRCH (The Enterprise for Hydrotechnical Repairs and Construction) Tulcea, The Company for Roads and Bridges – ADP Constana and The Company for Roads and Bridges – ADP Timioara.
- negotiations have moved forward in the case of the privatisation of the Company for Repairs and Works – ARL Cluj;
- two new companies have been selected for privatisation: MECDRU Cluj and Road Transport Maintenance – TID Oltenia Craiova; and
- the investor SC KIMYTEX SA Nehoiu won the tender organised by the Romanian Commodity Exchange in Bucharest on 2 August 2004 for the sale of the shares of SC TRANSAUTO. A government decision is expected soon to approve the main terms of the contract.

The legal framework¹⁹

The privatisation of Romanian companies has mainly been regulated by the following pieces of legislation: *Law No. 15/1990* which reorganised the former state-owned enterprises as commercial companies and autonomous entities (*regies autonome*); *Privatisation Law 58/1991* which led to the creation of the State Ownership Fund (SOF) and Private Property Funds, respectively responsible for the privatisation of commercial companies and the free distribution of property certifications. The law also transferred the portfolio of some autonomous entities to the Ministry for the Economy and Commerce (MEC); *Law No. 99/1999* which divided the institutional system for privatisation into “responsible public institutions”, namely the State Ownership Fund, Romanian ministries and local public administration institutions. Part of the SOF portfolio was also transferred to the portfolio of some ministries; *Emergency*

Ordinance No. 296/2000 and Law 225/2001 which gave the attributions and competencies of the former SOF to the Authority for Privatisation and Administration of State Ownership (APAPS); and Law 137/2002 on Measures to Accelerate Privatisation.

APAPS ceased its operations in May 2004 after largely completing the sale of the companies in its portfolio. A new government agency, AVAS, has since taken over APAPS' remaining responsibilities (see the section on post-privatisation below). As a result, the public authorities currently in charge of a given privatisation are i) the government – which approves the essential elements of a privatisation agreement and grants exemptions from taxes, debts or other obligations; ii) the relevant ministries which define the privatisation strategy of individual sales and carry the privatisation of the companies in their portfolios, and iii) the Privatisation Authority AVAS which administers the State's stockholdings and executes any given privatisation on behalf of the government. AVAS is also responsible for monitoring the implementation of the privatised company's commitments as stipulated in the privatisation agreements (see below).

The following four privatisation methods can be used: i) share sales; ii) increases in share capital by contributions from private investors; iii) transfers of assets which are social in nature and iv) any combination of the above. A company to be privatised is placed under "special administration" during which the company is managed by a special administrator who is responsible for making the company more attractive for privatisation, including through the use of available government programmes (wiping out outstanding debts related to taxes or duties, rescheduling debts relating to social insurance/security...). The employees of privatised companies benefit from a number of social protection measures (severance pay, training ...).

This evolving legislation has been guided by the basic principles of transparency and equal treatment of all potential purchasers, including foreigners.

Golden shares

The Privatisation Law allows the government to retain a controlling "golden share" to ensure, for instance, the implementation of the privatised company's undertakings vis-à-vis the government. This practice has sometimes been used in the case of direct sales but is to be dropped since it is contrary to EC Directive C220/1997. All golden shares will be transformed into normal shares.

At the end of 2002, there were some 110 companies in which the state held golden shares. The government has decided upon the following three steps to meet EU obligations:

- *Stage 1*: ensure an adequate legal framework – achieved by adopting G.O. 31/January 30, 2003, as a result of the legislative initiative of APAPS;

- *Stage 2*: give up these nominative control shares – already achieved in December 2002 when the Board of APAPS approved a Note in which it was proposed that these nominative control shares be transformed into ordinary shares for 110 companies and the proceeds of their sale accrued to the signatories of the privatisation contract or to their legal successors;
- *Stage 3*: identify the signatories to the privatisation contracts or their legal successors for the 110 companies and notify them with a view to applying the provisions of G.O. 31/2003. Thus beginning the final stage of effective transformation of the nominative control shares into ordinary shares involves appending concluding addenda to the shares sale-purchase contract. These addenda also provide for the sale of the resulting ordinary shares, with the sale price equal to the nominal value.

The first two stages have now been completed. The finalisation of Stage 3 is conditional, however, on the will and availability of the majority shareholders of these companies to come and sign these addenda through which the nominative control share is transformed and sold. As of 20 May, 2004, the situation was as follows: out of the 110 companies in which the state initially held nominative control shares, 99 were transformed into ordinary shares and sold to the majority shareholder of the company (including Prospectiuni Bucuresti and Minexfor Deva declared by G.D. 362/1998 as companies of strategic interest, and Romtelecom).

With regard to the remaining 11 companies, for which the transformation of the golden share into an ordinary share has not been completed, the situation was as follows:

- for 6 companies, the signatories of the privatisation contracts or their legal successors have expressed their agreement to concluding the addendum, some of them being already under finalisation;
- the other 5 companies have been re-notified (one company being privatised in 1998, 3 companies in 1999 and one company in 2000) since the signatories to the privatisation contracts or their legal successors have not yet answered the invitation from AVAS. The re-notification represents the sole modality at the disposal of AVAS, in order to determine the private majority shareholder to conclude addenda for these companies. Out of the 5 re-notified companies, only one is a large-sized company, the rest being small companies.

Post-privatisation

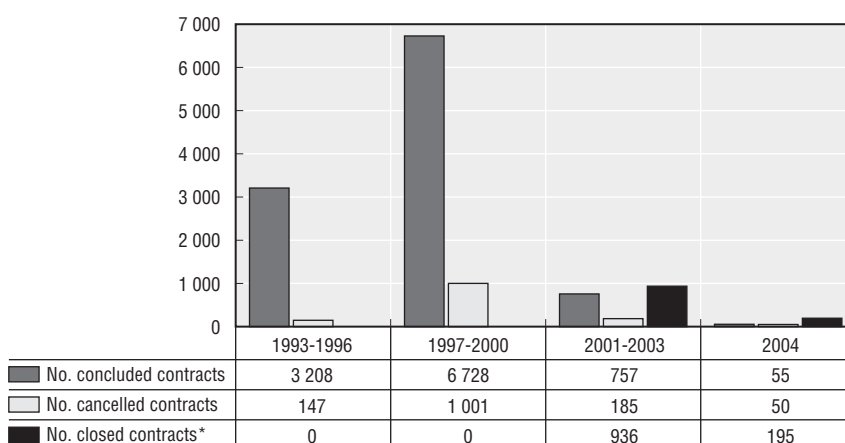
AVAS is responsible for monitoring the way the commitments are respected by the buyers and the way in which share sale-purchase contracts are implemented. The main contract clauses are:

- *clauses regarding the implementation of technological investment commitments;*

- clauses regarding the implementation of environmental protection investment commitments;
- clauses regarding the guaranteeing of the implementation of investment commitments made by the buyers;
- clauses regarding the obligation of increasing the share capital in favour of AVAS, following receipt of the land ownership certificate;
- clauses of compliance with the obligations regarding the restricted sale of the company's assets and land;
- clauses regarding the pledge of shares purchased from APAPS-AVAS in favour of the seller, until the closure of contract obligations by the buyers;
- clauses of compliance with the obligation to preserve the golden share (until completion of addenda to the sale-purchase contracts, for the divestiture of the golden share, following its conversion into an ordinary share), according to GO No. 31/30.03.2003;
- specific clauses regarding social protection, preservation of the main object of activity, achievement of the minimum taxable turnover, preservation of the number of employees, of the archives, of the company symbol, etc.

Between 1993 and 30 June 2004, 10,748 share sale-purchase contracts corresponding to a number of 7610 companies entered the post privatisation monitoring process, of which 1383 contracts were “cancelled from now on”

Figure 2.4. **Trend in the number of contracts between 1993 and June 2004 (10 748 contracts)**



Note: By closed contracts is meant those contracts for which the buyers complied with all the stipulated obligations. In such cases, a final analysis is prepared per contract, and the contract is archived from the point of view of post-privatisation monitoring.

or “cancelled since then”. Below is given the evolution of the monitoring process of these 10 748 privatisation contracts concluded between 1993 and 30 June 2004, shown for the three periods taking into consideration contracts which had been cancelled, those which had been closed, and those archived in these periods.

At 30 June 2004, within the Post Privatisation Department, 8 234 share sale-purchase contracts were under the monitoring process, corresponding to 6 337 companies; 1 131 contracts were closed and archived. The structure on the fields of activity for the privatised companies which are under the post-privatisation monitoring process at 30 June 2004 is the following:

	Trade	Construction	Transport	Services	Agriculture	Industry	Others	Total
1993-1996	652	213	84	57	303	551	151	2 011
1997-2000	1 179	307	473	221	1 636	1 221	419	5 456
2001-2004	171	58	44	135	52	231	76	767
Total	2 002	578	601	413	1 991	2 003	646	8 234

Source: Romanian Authority for State Assets Recovery (AVAS).

The following table shows the figures for the contracts monitored taking into consideration the type of share capital (foreign, domestic or mixed) owned by the buyers, given for 30 June 2004 and distributed between the privatisation periods analysed.

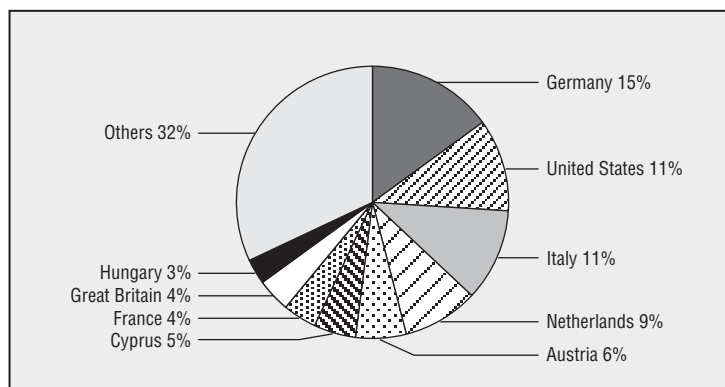
Table 2.2. **Monitored contracts (by type of share capital)**

Structure taking into account the type of share capital	1993-1996	1997-2000	2001-2003	1st semester 2004	Total
Romanian share capital	2 002	5 266	673	55	7 996
Romanian and foreign share capital	1	4	9	3	17
Foreign share capital	8	172	38	3	221

Source: Romanian Authority for State Assets Recovery (AVAS).

The overall structure for the monitored contracts taking into consideration the origin of the foreign share capital of the buyers, at 30 June 2004, may be found in the figure below.

Figure 2.5. **The structure of the contracts, taking into account the origin of the foreign share capital**



Source: Romanian Authority for State Assets Recovery (AVAS).

Between 1993 and 30 June 2004, 1400 privatisation contracts were concluded with investment clauses. The investment volume committed through the privatisation contracts concluded between 1993 and 2004 was as follows.

Table 2.3. **Investment volume committed through privatisation contracts**

Indicator of the time of the contracts' conclusion	No. of contracts concluded with investment clauses	The volume committed					Year of the last term
		Mil. ROL	Mil. USD	Mil. DM	Mil. FF	Mil. EURO	
Technological investment 1993-2004	1 400	4 702 597.451	2 613.450	76.754	49.185	186.733	2 014
Environmental investment 1993-2004		322 514.109	285.611	2.056	8.375	30.860	

Source: Romanian Authority for State Assets Recovery (AVAS).

Bearing in mind the large number of cases where buyers do not implement the clauses stipulated in the share sale-purchase contracts, at this time a number of 1599 suits derived from the inadequate fulfilling or the cancellation of the share sale-purchase contracts are under settlement, depending on their object. Also a number of 423 requests by AVAS have been submitted for re-registration as shareholder in the privatised companies for which the share sale-purchase contracts had been cancelled through judicial procedure, or in line with Art. 41(2) of Law No. 137/2002 with its further amendments and supplements and, in particular, by *lex comisoria*.

2.3. Administrative and non-discriminatory regulatory barriers

In common with other transition economies, Romania has been confronted with the task of undertaking a major overhaul of its laws and regulations and reforming its administrative apparatus in order to create a favourable business environment for domestic and foreign investment. In this area too, the reforms have taken a long time to materialise. However, in the last two or three years, the Romanian government has taken more decisive steps to improve the situation. The present section reports on some of the recent initiatives that have been taken and identifies some more immediate challenges. The section reflects, *inter alia*, consultations with the Business Environment Unit in the Romanian Ministry for the Economy and Commerce, the Foreign Investors Council²⁰ and the American Chamber of Commerce in Romania during the OECD Secretariat's preparatory mission to Bucharest in July 2004.

Administrative barriers

A large part of Romania's efforts since 2001 to foster private entrepreneurship have focused on the identification and reduction of the administrative barriers to starting up and operating a business, increasing the transparency of the investment policy framework and improving communications channels between the government and the business community, notably foreign investors.

These efforts have been carried out in close co-operation with the Foreign Investment Advisory Council Service of the World Bank and the OECD South-East Europe Compact for Reform, Investment, Integrity and Growth (the "Investment Compact"). A special co-ordinating unit in the Ministry for the Economy and Commerce – the Business Environment Unit (BEU) – has been created to conduct business surveys, develop action plans for regulatory reform and monitor their implementation. The BEU's third action plan for the consolidation of the business environment in Romania will be released in the fourth quarter of 2004.²¹ It should draw on the results of a new business survey carried out in the spring and on feedback from the business community.

The most important outcomes so far are:

- Legislation on the Tacit Silent Approval Procedure of 18 November 2003 (Law No. 486/2003 approving G.E.O. No. 27/2003) which allows companies to undertake activities if the relevant government authority has not responded within 30 days. This measure has had a direct impact on some 480 licenses. It is expected to reduce significantly the cost and time spent on starting a business – which was estimated last year by the World Bank to involve 5 steps and require 28 days, at a cost equal to 7.7 per cent of gross national income (GNI).²² A new draft Law on Company Registration, currently before Parliament, proposes that the tacit approval procedure should apply to the *ex ante* authorisation process in order to limit the duration of the registration.

- G.D. No. 396/2002 concerning draft legislation having an impact on the investment environment. This decision makes it compulsory that any new legislation be accompanied by a regulatory impact assessment, in line with OECD standards. Such assessment must involve all concerned parties.
- Law on Transparency in Public Administration No. 52/2003 (the so-called “Sunshine Law”) which requires that public institutions conduct prior consultations on draft legislation with interested parties. The parties concerned have 30 days to express their views about the proposed legislation.
- Bankruptcy Law and Judicial Reorganisation Law No. 149/11.05.2004 (Official Journal 424/12.06.2004) that facilitates the exit of unprofitable business and improves creditors’ rights.
- Law No. 637/2002 harmonising Romanian legislation with UNCITRAL and EC regulations in the field of international law practices in the insolvency area.
- Law No. 390/2002 (O.J. No. 443/2002) on the creation of a Romanian Agency for Foreign Investment (ARIS) as the government legal body for providing advisory services to foreign investors.
- The introduction of clear, fair and easily applicable rules to calculate the value of minority shares which allow minority shareholders to benefit quickly from the opportunity to realise their investments and which allows strategic investors to continue their investments, thus reducing uncertainty in the business environment.
- Amendments to the Law regarding the post privatisation regime and specifically the relaxation of the definition of “sources of investments” to include debt financing.
- Various normative acts to improve the legislative and administrative frame for small and medium-sized enterprises.²³
- The establishment of a direct communication link between the Foreign Investors Council and the Prime Minister to enhance the Foreign Investors Council’s advisory role on foreign investment.

The adoption of the following measures, while not directly aimed at the business sector, should also, over the course of time, contribute to a better investment climate. In particular:

- Government Decision No. 699/05.05.2004; O.J. No. 542/17.05.2004 sets out a new strategy for civil service reform, policy co-ordination and formulation at the central and sub-national level.
- Governmental Emergency Ordinance (G.E.O.) No. 11/2004 which clarifies the respective competences of the Chancellery of the Prime Minister, the General Secretariat and the Ministry for Administration and the Interior.

- Training for civil servants to ensure the effective enforcement of the provisions of the new Law on free access to public information.

All these measures are going in the right direction, but need to be effectively implemented. The Romanian government is to be particularly commended for the adoption of the Tacit Approval Procedure and the Sunshine Law, which follow the OECD Framework for Investment Policy Transparency adopted by the OECD Investment Committee in October 2003. The new tacit approval procedure does not appear to have been widely used however. This is attributed by some to a lack of clarity as to how this procedure should be applied by various government agencies and a deep attachment on the part of regulators, but also market operators, to the paper culture.²⁴

Looking ahead, as has been recommended by various sources, the Romanian authorities could consider consolidating business information into a single Internet site and continue to reduce the scale and complexity of the documents required to establish new businesses. In this context, the recent government decisions towards the simplification of the formalities for registering a company and separating them from any necessary authorisations are to be welcomed.²⁵ More generally, the government should continue to work on building greater institutional capacity for implementation. A new study with FIAS is already planned for next year to compare Romania's experience with that of other countries in the region.

Labour relations

The new Labour Code which has been in effect since 1 March 2003, is viewed by the business community as containing in some respects more restrictive provisions than the previous legislation. For instance, the requirement to provide a "wage guarantee fund" is considered excessive. The limitation to a 48-hour working week does not seem to take into account the specificities of individual sectors (such as construction). The paperwork involved in hiring new personnel or dismissing personnel on probation is particularly cumbersome and bureaucratic. The requirement to pay a premium to employees who agree not to work for competitors is considered to be incompatible with free market rules, as is the requirement that employers agree "work quotas" for blue collar and white collar employees with their unions.

The new legislation was perhaps drafted with insufficient involvement from business, and this may lie at the root of the problem. The government has been listening to business concerns, but is not likely to be able to act before the general elections on 28 November 2004. By that time, the government could draw on its undertakings regarding the implementation of the *acquis communautaire* to introduce greater flexibility in the Romanian labour market.

Taxes

The introduction of a new Fiscal Code on 1 January 2004, which has brought together in a single document all the existing tax laws and regulations, has been welcomed as one of the most important steps the government has taken to improve the Romanian business environment. There are recurrent reports of problems however. Profitable enterprises, notably foreign companies, are complaining about overzealous tax controls, while the tax authorities are more inclined to tolerate tax arrears on the part of firms undergoing hardships and state-owned companies. A Code of Conduct clarifying the rights and obligations of both taxpayers and tax inspectors could go a long way to resolving this problem. VAT refunds also take too long, creating cash flow problems, notably for exporters. More broadly, predictability and consistency could also be improved if the government were to issue a Tax strategy stating its intentions for the next three to five years. The government has also been encouraged to implement OECD standards in the taxation field, notably as regards the implementation of the OECD Transfer Pricing Guidelines.

The Foreign Investors Council (FIC) is seeking two amendments to the Fiscal Code. One relates to Article 29(2)(c) of the Code which limits the deductibility of management, technical and administrative services' consulting fees performed outside Romania to 10 per cent of a permanent establishment's scale of salaries paid by the permanent establishment in Romania. The FIC is in favour of its removal because the provision does not follow OECD principles²⁶ and is overridden by most double tax conventions concluded by Romania. The other involves a clarification of the Methodological Norms of the Fiscal Code concerning the amounts of tax "paid on behalf of foreign persons" under Article 21(4) of the Code.²⁷

The Judiciary

The rule of law is indispensable to the functioning of a market economy and the enforcement of investors' rights. It implies the existence of an independent judiciary, effective and accessible means of legal recourse, a legal system guaranteeing equality before the law and, above all, effective enforcement of the law.

There is evidence that deficiencies in the Romanian judiciary system are significant.²⁸ Judicial reform has thus been high on the agenda in Romania's process towards EU accession. The negotiations on the chapter on Justice and Home Affairs still remain to be closed.

Recognising these deficiencies, the government has recently adopted the following reform package, which, once implemented, will drastically transform the judiciary:

- A comprehensive Judicial Reform Strategy for 2003-2004 approved in September 2003, on the implementation of fundamental principles of justice and the functioning of judicial institutions and magistrates.

- Constitutional amendments guaranteeing the independence of the judiciary, due process and the role of the Courts.
- A legislative package comprised of Law No. 303/28/06.2004 on the Organisation of the Judiciary,²⁹ Law No. 304/28.06.2004,³⁰ and Law No. 317/01.07.2004 on the Organisation and Functioning of the Superior Council of the Magistracy.

These initiatives have been taken after a wide public debate involving the magistrates' professional associations and the civil society. An implementation plan has also been adopted with a separate budget for the S.C.M. to enable its efficient operation as soon as possible.

Most of the legislative changes are expected to come into force at the end of September 2004. Implementation of more structural changes (such as the creation of specialised courts) could be spread over three to four years. A first commercial tribunal was inaugurated in Pitești, Argeș county, on 30 July 2004 and the creation of two other tribunals is envisaged before the close of the year in Cluj and Dolj counties. These much-needed reforms should facilitate the enforcement of contracts and the resolution of investment disputes and provide a greater assurance to investors that the laws are enforced in a uniform and predictable manner. Their implementation will remain, however, a formidable challenge for some time to come and will require close monitoring on the part of the government.

Corruption

Corruption has also been an endemic problem in Romania and continues to represent both a serious impediment to FDI, in particular from OECD countries, and a major challenge for the authorities. New measures have also been taken in recent months to enhance the credibility of the National Programme for the Prevention of Corruption and the related Action Plan. In particular:

- Law No. 301/28.06.2004 on a new Criminal Code.
- Increasing by 50 per cent the staff and financial resources of the National Anti-Corruption Prosecutor's Office (NAPO).
- Executive Order EOG No. 24/2004 adding new categories of active subjects falling under NAPO's areas of competence.
- Establishment of a "special hotline" on bribery in the Prime Minister's Chancellery, creating a direct link between citizens and the Prime Minister.
- Launching a public awareness campaign on petty corruption and publication of a Handbook on Administrative Transparency.

Other steps are in the pipeline. Romania ratified the Council of Europe-Criminal Law Convention on Corruption in May 2004 and will submit new

legislation to Parliament in the autumn on the ratification of the United Nations Convention against Corruption. A new legislative package elaborated by the Ministry of Justice in co-operation with Transparency International has been announced in June 2004 for the purpose of increasing transparency in the business environment and preventing corruption offences. This package focuses on the corruption of public officials and dignitaries, the protection of persons reporting corruption infringements and the strengthening of criminal procedures.

Notes

1. Europa Press Release of 3 June 2004.
2. World Bank Report, *Restructuring for EU Integration – The Policy Agenda*, Country Economic Memorandum, Volume 2, Main Report and Annexes, p. 14.
3. http://europa.eu.int/pol/enlarg/index_en.htm.
4. See www.bnro.ro/def_en.htm for a description of Romania's relations with these institutions.
5. A.T. Kearny's 2004 Offshore Location Attractiveness Index www.atkearney.com/shared_res/pdf/Making_Offshore_S.pdf.
6. Brussels European Council, 17-18 June 2004, Presidency Conclusions, Document 10679/04, pages 4-5.
7. See in particular IMF Article IV Consultation with Romania – Staff Report, July 2004 <http://www.imf.org/external/pubs/ft/scr/2004/cr04221.pdf> and World Bank, *Romania, Restructuring for EU Integration – The Policy Agenda*, Volumes I-II, June 2004. www.worldbank.org.ro/. Romania's Profile and Romania Economic Report, Economist Intelligence Unit, published in July and August 2004. Emerging Romania, 2003, Oxford Business Group.
8. This is the latest estimate by the National Institute of Statistics. This figure does not take into account the privatisation of Petrom.
9. See in particular EBRD, *Spotlight on South-Eastern Europe, 2004* and IBRD, *Building Market Institutions in South-Eastern Europe, May 2004*.
10. World Bank, *op. cit.*, footnote 7, page 62.
11. Sales for cash amounted to 68.7 per cent of all privatisation deals in 1996 and 81.6 per cent in 1997, and for 65.8 of large privatisation deals in 1998.
12. The data provided mainly reflect AVAS operations.
13. In addition, respectively 30 per cent and 8 per cent of the bank's share capital is held by private funds and the BCR Employees Association.
14. Figures provided in this paragraph are taken from the Economist Intelligence Unit, *Country Report*, August 2004, pages 3-4.
15. Five firms have already signed letters of intent for the sale: AES (US), Public Power Corporation (Greece), CEZ (Czech Republic), EON (Germany) and Union Fenosa (Spain).

16. OMV will pay Euro 669 million for a 33.3 per cent stake in Petrom and will raise 51 per cent for an additional Euro 723-860 million.
17. The term “privatisable” is to be understood as referring only to companies in which AVAS holds stakes – minority shares or majority shares – and which do not pose problems as regards the selling process.
18. Privatisation actually started in 2003, when 3 commercial companies and 19 branches under the Romanian Railways National Company (CFR) and national freight and passenger railway companies were privatised.
19. Taken from *Emerging Romania*, 2003, Oxford Business Group, pp 182-183.
20. The Foreign Investors Council of Romania is an association of leading foreign investors in Romania. The FIC has 85 members, who account for approximately two-thirds of Romania’s foreign investment. The present section draws on the White Book Supplement on “*Short Term Measures to Attract Foreign Direct Investment to Romania*”, September 2003.
21. The first *Action Plan for the Removal of the Administrative Barriers of the Business Environment in Romania* was developed in 2002 (Government Decision G.D. No. 1189/2001). It was followed by the *Action Plan for the development of the business environment in Romania* adopted in 2003 (G.D. No. 586/2003). The third Action Plan is awaiting a general impact assessment by FIAS of current administrative and regulatory procedures, as well as suggestions and recommendations from the local business community. This new Action Plan will also be approved by a Government Decision.
22. <http://rru.worldbank.org/DoingBusiness/>.
23. The government has recently approved a “Strategy for the Development of SMEs for the period 2004-2008” as part of its efforts to facilitate foreign investment.
24. A round-table discussion with business and government representatives organised last year by the American Chamber of Commerce in Romania suggested that most companies were not aware of this provision, while the authorities did not know how to apply it. It now seems that a majority of companies are aware of this development, but only a few companies have tried to use it.
25. A new law on the simplification of the formalities for registering a new business with the Trade Register and separating the registration from the authorisation of the functioning of businesses is going through the final stages of Parliamentary approval. Government Decisions No. 913/2004 (O.J. No. 589/01.07.2004) and Government Decision No. 991/2004 (O.J. No. 590/01.07.2004) also recently introduced more user-friendly forms and means (on-line) for filing applications with the Trade Register.
26. According to Article 9 of the OECD Model Tax Convention, a permanent establishment should be viewed for profit tax purposes as a separate economic unit from its Head Office, and the transactions between the permanent establishment and the Head Office should be justified as being set at arm’s length terms.
27. The FIC specifically recommends that the Fiscal Code (or Methodological Norms thereto) be amended so as to clarify that the amounts of tax “paid on behalf of the foreign person”, as referred to under article 21(4) a), should not include amounts of withholding taxes or any other taxes paid on behalf of suppliers (or employee/licensor/lender etc.), merely as a result of contractual arrangements providing for net-of-tax payments (and thus necessitating a “gross-up” calculation basis).

28. *Romania: A Public Expenditure Review*, 2002, The World Bank and Regular Reports on Romania by the EC, 2002 and 2003.
29. Law No. 303 on the Statute of Magistrates which provides, *inter alia*, for the strengthening of the statute of magistrates and the role of the Superior Council of Magistracy, notably as regards the appointment of judges and prosecutors.
30. Law No. 304/2004 on the Organisation of the Judiciary provides for, *inter alia*, the establishment of specialised courts on commercial law; labour and social security, administrative litigation and fiscal law.

Chapter 3

The Legal and Regulatory Framework for FDI¹

3.1. General measures

Basic laws

There are no specific laws on foreign investment in Romania. The legal framework for business activity is shaped by the following basic laws: the Commercial Register Law (1990, as revised), the Commercial Company Law (1990, as revised), the Free Trade Zones Law (1992), the Petroleum Law (1995, as revised), the Copyrights and Neighbouring Rights Law (1996, as revised), the Competition Law (1996, as revised), the Government Ordinance on leasing (1997, as revised), the Bank Privatization Law (1997, as revised); the Government Ordinance on Privatization (1997, as revised), the Stimulation of Direct Investment (1997, as revised), the Mines Law (2003), the Stimulation of Private SMEs (2004), the Value Added Tax Law (2002), the Privatization of Tourism Companies (2001), the Law concerning the Promotion of Direct Investment with Significant Impact on the Economy (2001), the Law on Establishment and Operation of Industrial Parks (2002), the Law on Public Procurement (2001 as revised), the Law on Public/Private Partnerships (2002), the Labour Code (2003), the Regulations Regarding State Aid (2004), and the Fiscal Code (2004).

These laws provide the following fundamental rights and guarantees for all investors:

- Freedom as to the investment form and method of investment;
- The possibility of investing in any field and in any juridical form provided for by the law;
- Fair, equal and non-discriminatory treatment – for Romanian or foreign investors, resident or non-resident in Romania;
- Guarantees against nationalization, expropriation or any other measures with similar effect;
- The right to benefit from customs and tax incentives contained in the legislation;
- The right to obtain assistance in dealing with administrative formalities
- The right to own movable and immovable assets, excepting land which may be acquired by Romanian natural or legal persons.

Romania law also extends the following benefits to foreign investors:

- The right to transfer abroad without any restriction, after paying the appropriate legal rates and taxes, the following income in hard currency:
 - the dividends or profits obtained by a company, a Romanian legal person, if they are shareholders or partners;

- the income obtained by a partnership type of association, as well as the income from selling the shares or partner's shares;
- the amounts derived from company liquidation, under the Company Law No. 31/1990 and its amendments, or from company liquidation under the Bankruptcy Law No. 64/1995 and its amendments;
- the amounts obtained as compensation against expropriation or any other equivalent measure; other incomes, depending on the investment type.

National treatment (understood as treatment no less favourable than that accorded to domestic enterprises, as defined by the OECD National Treatment Instrument) is the fundamental principle governing the operations of foreign-controlled enterprises established in Romania. This treatment generally extends to the establishment rights of foreign investors. In practical terms, this means that foreign investors are generally allowed to invest in any field or in any legal form that the law allows for domestic enterprises. There are no screening requirements, equity restrictions or performance requirements and investors can benefit from any available investment incentives. They can convert and transfer abroad, after payment of taxes and statutory fees, the income derived from their investment.

Approval/Licenses

Approval/licenses must be obtained in some areas (*e.g.* energy, oil, mining, banks, fisheries) from the regulatory/supervisory body, but this applies in the same way to local firms and foreign-controlled enterprises.

Corporate organisation

According to Romanian company law, foreign investors can organize their businesses in Romania in the form of general and limited partnerships, limited liability companies and joint stock companies. They can establish branches and open representative offices. Branches are working units with no legal personality, while representative offices cannot carry out commercial activities on their own behalf.

After EU accession, joint stock companies, irrespective of the structure of their ownership, will be required to increase their share capital to a minimum of EUR 25,000 in order to comply with Article 6 of EC Directive 77/91.

Employment of foreign personnel

Foreign citizens may carry out economic, social, cultural, sport and commercial activities in Romania on their own or in partnership and they may be employed by Romanian or foreign legal entities or individuals (Government Emergency Ordinance No. 194/2002 approved and amended by Law No. 357/2003 regarding Foreigners' Status in Romania).

Foreigners can work in Romania with work permits issued by the Office of Labour Immigration, a public institution subordinated to the Ministry of Labour and Social Solidarity. The work permit gives foreign citizens the right to be employed under an individual employment contract with legal and natural Romanian persons, or with authorised branch offices in Romania of legal persons based abroad. Starting 1 January 2007, EU and EEA citizens and their family members may be employed without needing to obtain a work permit.

With a view to restricting immigration from low-income countries, foreigners wishing to obtain a residence permit must prove that they possess a minimum of USD50 000. This threshold is for residence permits only and not for investment purposes.

Romania has unilaterally abolished visa requirements for 21 OECD states. Five other OECD states' bilateral agreements are under negotiation and there are proposals to abolish visas for the remaining 3 OECD states (Mexico, Australia, and New Zealand). An agreement with Turkey on mutual visa requirements has also recently come into force.

Romania is committed to all adherent countries to the OECD Declaration on International Investment and Multinational Enterprises to ensure that it will truly maintain an investment regime that is equally open to any foreign investor. It will apply its legislation and in particular G.O. 194/2002 in a manner that does not discriminate against investors from countries adherent to the Declaration.

Real estate

At the present time, foreign natural and legal persons not incorporated in Romania may not own land in Romania. They may, however, acquire other real rights over land, such as the right of use, obtained by way of concession (Romanian Constitution, Government Emergency Ordinance 92/1997, as amended by Law 241/1998). However, by establishing a company in Romania and acquiring the status of a Romanian legal person, irrespective of the foreign equity share in the company, foreign investors can acquire ownership rights over real estate, including land.

The new Constitution, adopted by referendum on 19 October 2003, stipulates that "private property shall be guaranteed and protected equally under the law regardless of the owner". It also provides that foreign and stateless persons may acquire the right to own land under the terms resulting from Romania's accession to the European Union and other international treaties to which Romania is a party, on a mutual basis, on the terms stipulated by an organic law, as well as through lawful inheritance. According to the terms recently agreed with the European Commission as a result of the temporary

closing of the Free Movement of Capital chapter, non-resident EU enterprises will be able to buy land as from Romanian accession, while physical persons will acquire this right seven years after accession.

Government purchasing

According to Law 212/2002, government purchasing in Romania is governed by the principles of free competition, efficient use of public funds, transparent procedures, equal treatment, and confidentiality. Contracting authorities have the right to request the main contractor to allocate 30 per cent of all contracts entered into to designated third parties. Foreign companies (be they suppliers, subcontractors or main contractors) are treated no less favourably than domestic enterprises, provided that there is reciprocity. This requirement does not apply, however, to already-established foreign-controlled enterprises. Romania is not a party to the WTO Plurilateral Agreement on Government Procurement.

While the public procurement legislation appears to be rather liberal on paper, there are concerns that the spirit of the law is not always followed in practice. The process is not fully transparent. There have been interferences, such as those created by the public/private partnership legislation, which seem to go against the liberal principles of public procurement. Derogations have been granted at political level. The Romanian authorities need to pay close attention to these concerns and show a more solid implementation record.

Sectoral measures

Romania maintains minor sectoral restrictions on foreign investment. These restrictions relate to maritime transport, fisheries and legal services. They are not uncommon in other countries and are based on similar considerations. Their scope may also be modified as part of the EU accession process; the Freedom to provide services Chapter has recently been closed. All international investment treaties will have to be brought into conformity with the *acquis communautaire*, as was done through the Additional Protocol between the Government of Romania and the Government of the United States of America to the Treaty concerning the Reciprocal Encouragement and Protection of Investment of 28 May 1992, which was concluded on 22 September 2003.

Banking²

The Romanian financial system is dominated by the banking sector, which accounts for 95 per cent of the sector's assets.

Bank privatization and restructuring got under way in December 1998. The number of commercial banks has been reduced to 39, non-performing loans have fallen dramatically and more stringent financial standards have been put in place. Thirty of the 39 commercial banks are foreign owned (including 8 foreign branches). The latter accounted for 59.2 per cent of total assets and 67.1 per cent of lending to the non-governmental sector at end June 2004. In June 2004, the government sold a stake of 25 per cent of the paid-up capital, plus two shares of Banca Comerciala Romana, to the European Bank for Reconstruction and Development (EBRD) and the International Finance Corporation (IFC). The other shares are owned by AVAS (36.88 per cent), the Investment Companies (SIF) (30.12 per cent) and BCR employees (8 per cent). This ownership distribution will not change this year, but finding a strategic investor for the majority of shares is envisaged for 2005. There are two other major state banks, the State Savings Bank (CEC) (fully state-owned) and Eximbank (majority-owned). According to a recent agreement signed by Romania with international financial institutions, the CEC will be privatized in 2005 or 2006.

The system is financially sounder than it has ever been before. However, at 32 per cent of GDP, the size of the banking sector remains small in relation to other CEB countries. Banking concentration in Romania is also high: the five biggest banks held about 61.2 per cent of total assets, 58.2 per cent of loans and 58.4 per cent of the T-Bills portfolio (as at June 2004). After concentrating on the corporate sector, foreign-owned banks are starting to play a significant role in retail banking, including the development of pensions and mortgages.

The establishment of a credit institution as a Romanian legal entity or a branch of a foreign credit institution requires the approval of the National Bank of Romania. The required minimum initial capital of a bank is approximately EUR 9 million. Ownership in excess of 10 per cent of the bank's capital must be notified to the central bank and obtain a "no objection" and the managers, members of the board and external auditor must also be approved by the supervisory authority. At least one of the bank's managers must prove knowledge of the Romanian language. These requirements apply to both domestic and foreign investors. Law 485/2003 amending and supplementing the Banking Law No. 58/1998 has also abolished the discriminatory provision which provided that at least one of the managers of the bank must be a Romanian citizen.

Starting with EU accession, credit institutions authorized and supervised by the competent authority of an EU Member state shall be allowed to perform all the activities listed in Annex I of Directive 2000/12/EC, either by means of cross-border provision of services or by establishing a branch without any prior authorization requirements, provided that such activities are covered by the authorization granted by the home EU Member state.

Securities

The capital market in Romania is one of the smallest in Eastern Europe, with an estimated market capitalization in 2002 of around 11 per cent of GDP, half of the EU area average. It consists of two stock exchanges, the Bucharest Stock Exchange (BSE) which reopened in 1995, and RASDAQ, an electronic network for registering over-the-counter (OTC) share sales, launched in 1996.

Stock market activity is highly concentrated. The top 10 listed companies account for over 85 per cent of market specialization. Five privatization investment funds (SFIs) are responsible for 90 per cent of the trading on the BSE. AVAS holds shares in 9 per cent of the companies traded in the BSE and RASDAQ. Exploratory discussions have begun on a possible merger between the two stock exchanges to improve their viability.

A number of reforms have been initiated to strengthen the regulatory and supervisory environment and to strengthen the transparency of the capital market: Law No. 514/2002 on the structure of CNVM; Law 525/2002 on securities, financial investment services and regulated markets and Law 512/2002 on commodities markets and derivatives. A “code of conduct” for listed companies, which is in line with OECD principles, was introduced to improve transparency and corporate governance. Further efforts are being pursued to comply with EU Directives.

Securities and other non-banking financial companies operating on the capital market must be authorized by the National Securities Commission (NSC), an independent body reporting to Parliament. No distinction is made between local and foreign entities. Prior authorization by the NSC is also required for public issues.

Insurance

The insurance market is underdeveloped, representing 1.3 per cent of GDP. It did, however, experience rapid growth of about 40 per cent in 2002 and 29 per cent in 2003 (taking account of the gross premium income from direct contracts).

The Insurance Supervisory Commission (CSA), an autonomous authority, was created in July 2001 for the purpose of protecting insurance policy holders' interests. This mandate can be effectively fulfilled in a credible, ordered and stable market. The National Union of Romanian Insurance Companies is a professional organisation with no regulatory power.

There are at present 45 insurance undertakings and 210 insurance brokers servicing the market and employing some 26 000 persons, 25,300 of whom are employed by insurance undertakings and 700 employed by insurance brokers.

The operations of the Insurance Supervisory Commission are governed by the following laws and regulations:

- Law No. 32/2002 regarding insurance undertakings and insurance supervision.
- Law No. 76/2003 regarding the amendments and additions to Law No. 32/2000.
- Law No. 136/1995 regarding insurance and reinsurance in Romania.
- Law No. 172/2004 regarding the amendments and additions to Law No. 136/1995.
- Regulations issued by the Insurance Supervisory Commission, issued for applying Law No. 32/2000, according to the provisions of Art. 5a and Art. 47.

No distinction is made between domestic and foreign enterprises. Law No. 172/2004 (OJ No. 473/26.05.2004) amending Law No. 136/1995 on insurance and reinsurance in Romania recently eliminated the restriction requiring that Romanian natural and legal persons conclude insurance contracts with companies established in Romania (except if the required insurance service was not available locally).

While important progress has been made in modernizing the regulatory framework for the insurance sector, the Romanian authorities have been encouraged to further strengthen corporate governance, internal controls, reinsurance and prudential rules in this field. During 2004, the Insurance Supervisory Commission continued its efforts to develop the secondary legislation regulating insurance undertakings and insurance intermediaries. Starting in July 2004, it elaborated and published in the Romanian Official Journal 44 regulations transposing the *acquis communautaire* for the insurance field. In order to fulfil the assumed commitments in respect of EU negotiations on Chapter 3 – “Freedom to provide services”, – the Insurance Supervisory Commission has also drafted the following normative acts which will practically complete the full transposition of EU requirements:

- Draft law regarding the amendments and additions to Law No. 32/2000 regarding insurance undertakings and insurance supervision, which is presently before the Romanian Parliament
- Draft Regulations for applying the Law No. 32/2000 regarding insurance undertakings and insurance supervision, with subsequent amendments and additions to be published after the above draft law enters into force.
- *Draft law regarding the re organisation and winding-up of insurance undertakings*, which was elaborated in accordance with the EU Directive 2001/17, also taking into account compliance with national legislation, meaning Law No. 64/1995 regarding the winding-up of companies, as concerns the general provisions.

Telecommunications

Romtelecom, the country's national telecommunication company, was sold to a strategic Greek investor in 2002. Earlier this year, the government renounced the golden share it initially held in the privatized company and suspended the freeze decided at the time of the Romtelecom privatization. The sector is now free for other operators needing to obtain licenses from a designated governmental body.

Air transport

The domestic air transport market is open and its access is free for all Romanian air carriers.

International scheduled air services to/from Romania can be performed by Romanian or foreign air carriers only in accordance with the provisions of the bilateral Air Services Agreements (ASA) concluded between Romania and other countries (about 90 bilateral ASAs in force). Non-scheduled air services to/from Romania and cabotage may be performed by foreign air carriers on the basis of an approval granted by the Romanian Civil Aeronautical Authority. There is no difference in the treatment applied to foreign air carriers performing such services. Provided there is reciprocity, there is also no difference in the treatment applied to foreign and Romanian air carriers as regards traffic rights.

Romanian air carriers have to have an air operating license granted by the Ministry of Transport, Construction and Tourism (MTCT). The basic conditions for obtaining the operating license are that the company be established in Romania and be controlled by Romanian nationals or the State. After Romania's accession to the EU, companies established in Romania and controlled by EU nationals or by EU Member States will also have the right to receive an operating license from the MTCT (see EC Regulation No. 2407/92). Accordingly, Romania has proposed the following exception to national treatment:

Air Transport

Air carrier operating licenses may be granted only to companies established in Romania and controlled by Romanian nationals or the State.

Authority: Government Ordinance No. 19/1997 on Air Code, approved by the Law No. 130/2000 (published in M.O. No. 45/26.01.2001) and Ministerial Order No. 578/1998 approving the Regulation on the Granting of Air Operating Licences (published in M.O. No. 257/4.06.1999).

Maritime Transport

According to Law 412/2002 on civil maritime transport, free and non-discriminating access for the international maritime and fluvial transport of

goods and/or persons is permitted in Romanian harbours, irrespective of the nationality of the ship's registration.

When in Romanian territorial waters, however, ships under any flag must comply with the provisions of the applicable international conventions and follow the instruction of the Romanian Maritime Authority – a public agency in charge of Flag State Control, Port State Control and the supervision and control of navigation safety. Within these territorial waters, the following activities can be undertaken solely by ships flying the Romanian flag: carriage to Romanian harbours; cabotage from one local harbour to another; assistance and rescue operations; removal of wrecks; fishing (see also below); works for the accomplishment and continuation of hydro-technical construction; and resources exploration and exploitation (see below). Under certain conditions mentioned in the law, the Ministry of Transport, Constructions and Tourism can approve to these activities being performed by ships flying a foreign flag.

Provided that the required technical standards are fulfilled, the right to fly the Romanian flag is given to: a) ships owned by Romanian physical or legal persons; b) ships owned by foreign physical or legal persons, who, respectively, have their residence, or their affiliated company registered in Romania; and c) ships owned by foreign physical or legal persons, leased or rented under the bare-boat regime to Romanian physical or legal persons. A foreign-controlled firm established in Romania may own a ship with a Romanian flag and thus engage in the same activities as domestic companies flying the Romanian flag are authorized to undertake, including carriage to Romanian harbours, cabotage, assistance and rescue operations and removal of wrecks. It is understood that shipping licenses in respect of international waterways may be granted to foreign-controlled enterprises established in Romania.

Ships registered under foreign flags can engage in fishing, and in resources exploration and exploitation, provided that the competent authorities issue their approval. For the other types of operation mentioned above, ships registered under foreign flags may be used, provided that Romanian ships are not available, or are not technically fit for such operations.

Fisheries and other activities in Romanian territorial waters

According to Order MAFRD No. 218/5.04.2004 and MTCT No. 712/13.04.2004 on organizing and operating the Fishing Vessels Register and fishing vessels marking (O.J. No. 403/6.05.2004), the Fishing Vessels Register is organised as a compartment within the Fisheries and Aquaculture Directorate of the Ministry of Agriculture, Forests and Rural Development.

Art. 4 of this Order stipulates that, for commercial or auxiliary fishing activities, all fishing vessels have to fulfil the following conditions:

1. fly the Romanian flag and be registered in compliance with the relevant regulations in force;
2. be recorded in the Fishing Vessels Register;
3. have a fishing license or license for auxiliary fishing activities;
4. have authorisation to fish commercially.

Law No. 192/2001 on fishery resources, fisheries and aquaculture (O.J. No. 200/20.04.01) contains provisions regarding the exploration and exploitation of living aquatic resources aimed at insuring the conservation and sustainable exploitation of fisheries resources.

Agriculture, fisheries and forestry quotas

Quotas are applied in forestry and fisheries, but there is no discrimination between local and foreign entities. Granting of subsidies for agriculture also does not discriminate between foreign and local investors.

Energy

Approval procedures and restrictions do exist in the energy sector, but do not discriminate between local and foreign entities. The current degree of market openness is, depending on the type of energy, between 15 and 33 per cent. The National Energy Strategy envisages full privatization of the production and distribution of thermal energy by the end of 2004, and gradual privatization of the distribution and production of electric energy.

Mining and quarrying

Government approval is needed to engage in mining and quarrying. Prior to the adoption the new Mining Law, exploration licenses were subject to specific taxes. This is no longer the case. The principles of transparency and competition are applicable, irrespective of the origin of capital.

Radio, TV, publishing

To engage in radio, TV or publishing, a license is required from the National Audiovisual Council, but there is no discrimination between local and foreign entities. Two of the largest private stations are majority owned by foreign-controlled enterprises, namely CME Romania BV (Netherlands) – for Pro TV (80 per cent), and Bluelink Comunicazioni (Switzerland) – for Realitatea TV (55 per cent). Crescent Comercial and Maritime (Cyprus) owns 46.59 per cent of Corporation for Culture and Arts Intact, which holds the licence for the TV station Antena 1. Another major enterprise (in terms of number of licences), Global Video Media, is majority-owned by Radoway Limited (Cyprus) (65 per cent).

Legal services

Prior to the adoption of Law No. 489/2002, foreign lawyers/law firms were not allowed to operate independently, i.e. they could operate only in a joint venture with Romanian lawyers/law firms. Under the present legislation, foreign lawyers can organise themselves in any of the forms available to Romanian lawyers. However, they can still not submit oral or written conclusions before the courts and other jurisdictional or judicial authorities, except in the case of international arbitrations. Foreign accountants/accounting firms are not subject to any discriminatory measure – Law No. 255/2004 regarding the amendments and additions to Law No. 51/1995.

According to the new Law No. 201/2004 on the alignment of Romanian legislation on EU Directives, lawyers who have obtained a professional qualification from one of the member states of the European Economic Area will be allowed, when Romania joins the EU, to practice in Romania under the same conditions as lawyers practicing with a professional qualification obtained in Romania.

Health services

One of the main features of the National Strategy Regarding Health Services is to increase the participation of the private sector in financing and providing health services. The Health Authorities intend to work closely with the Ministry of Public Finance to find the necessary opportunities and stimulus in the coming years.

Gaming, lotteries, lotto and casinos

Investment in gaming, lotteries, lotto and casinos requires approval from the Ministry of Finance and a certification of compliance with the standards. There is no discrimination between foreign and local investors.

National security and public order

There is no different treatment of foreign and local investors in the field of national security. In fact, the modernization of military aircraft was performed jointly with a foreign firm (Elbit Systems), in co-operation with companies from Romania, the United States, France, Italy, Israel and South Africa. As Romania was invited to join NATO on 2 April 2004, compliance with the alliance's military standards will further enhance cooperation with foreign companies.

Monopolies and Concessions

Monopolies. There are no longer any statutory monopolies in Romania. State monopolies such as those that existed in the banking and fixed telecommunication sectors have been disbanded. Natural monopolies are

closely monitored by the Competition Council for compliance with Competition Law 21/1996, as subsequently amended, which penalises the abuse of dominant positions, including monopolistic ones and economic concentrations. Accordingly, economic concentrations which may be authorised are those with an aggregate turnover in excess of the ROL equivalent of 10 million Euros, involving at least two undertakings with turnover in Romania exceeding the equivalent in ROL of 4 million Euros, each provided that they do not have the effect of creating or strengthening a dominant position in a certain market or in several markets, as the case may be.

Competition law treats all monopolies in a non-discriminatory manner, with no distinction between public and private ones. The activities of deregulated or liberalised monopolies are closely monitored by the sectoral regulatory authorities concerned with the aim of fulfilling the objective of competitive markets. The Competition Council is currently working with the sectoral regulatory authorities responsible for electric power, natural gas, electronic communications and rail transport towards the effective opening up of these sectors to competition (see also the section on privatization).

The cement industry is a typical example of a natural monopoly since transportation costs outside a certain limit are prohibitive. The industry is presently one hundred per cent foreign-controlled.

Concessions. Law No. 219/1998 represents the legal framework for concessions. The following areas may be subject to concessions: assets, activities and public services in the fields of postal services, public transportation infrastructure; facilities and infrastructure related to water and energy resources, public lands, exploitation of mineral resources and substances solid and fluid; exploitation of thermal resources; natural resources of the economic zone of the maritime and continental plateau; sports grounds, places of entertainment, specialized show establishments; medical units, sections and laboratories of those units, as well as auxiliary medical services; economic activities relating to capitalizing historical monuments and sites; gathering, storage and valuation of waste; any other goods, activities or public services that are not prohibited by special laws.

Any Romanian or foreign individual or legal entity is eligible to be a concession holder. The concession procedure can be initiated by an interested investor or the conceding authority. The concession is granted by public auction (open or open with pre-selection) or by direct negotiation. The concession contract shall be concluded in accordance with Romanian law, for no more than 49 years, as of the date of its signature. It may be extended for a period equal to no more than half of its initial duration, by a simple deliberate agreement between the parties.

Notes

1. This section updates and expands the information contained in the *Review of Romania's National Measures Providing Exceptions to National Treatment* prepared for the Investment Compact for South East Europe in 2003.
2. Information as of June 2004.

Chapter 4

Investment Incentives and Competition Policy

Like other transition economies, Romania has made use of special incentives to attract foreign capital to further its economic transformation. The Romanian Law on Stimulation of Direct Investment (G.O Emergency Ordinance No. 92/1997, as amended and approved by Law No. 241/1998) and Law No. 332/2001 regarding the Promotion of Direct Investment with a Significant Impact on the Economy, have been the main instruments for offering incentives to foreign investors. The Legislation introduced in 2002 was designed to increase the tax base and level the playing field in the area of taxation, thus establishing some control over their use. While VAT and profit tax incentives granted by prior legislation are still tolerated in certain cases, at least for the duration of the programmes in question (for example until the cessation of a disadvantaged zone, or five years in case of free zones), the trend is to end positive discrimination in favour of foreigners. Moreover, Romania will need to harmonize its state aides with *acquis* norms. This has been a major issue in the access negotiations. Existing programmes do not discriminate between foreign and domestic enterprises.

4.1. Fiscal measures

The general Romanian tax system makes no discrimination as to the origin of capital; it applies equally to foreign and local investors.

- a) *Corporate income tax.* All legal entities doing business in Romania are liable to corporate income tax on their taxable profits. The current profit tax rate is 25 per cent, applicable to both Romanian incorporated companies and foreign legal persons operating through a “permanent establishment” in Romania. The Fiscal Code allows for a transition from the preferential profit tax regime of previous laws and regulations (a five year loss carry forward period is allowed)

Romanian and foreign legal persons who derive gains from the sale-assignment of immovable property located in Romania and from equity shares in a Romanian legal entity which exceed the losses resulting from such sale-assignment shall apply a 10 per cent rate of tax to the resulting difference. Any losses resulting from the sale-assignment of immovable property located in Romania and from equity shares in a Romanian legal entity are to be recovered from the taxable profits resulting from operations of the same nature during the following 5 consecutive fiscal years. The gain resulting from the sale-assignment of immovable property or equity shares is the positive difference between the value realised from the sale-assignment of such immovable property or equity

shares and the fiscal value of such immovable property or equity shares. The loss resulting from the sale-assignment of immovable property or equity shares is the negative difference between the value realised from the sale-assignment of such immovable property or equity shares and the fiscal value of such immovable property or equity shares. The value realised from a sale-assignment is to be reduced by any commissions, fees or other amounts paid in connection with the sale-assignment. For immovable property or equity shares, fiscal value is to be determined as follows:

- in the case of immovable property, the fiscal value is the cost of acquisition, construction or improvement of the property, less the fiscal depreciation related to such property;
 - in the case of equity shares, the fiscal value is the cost of acquisition of the said shares, including any commissions, fees or other amounts paid in connection with the acquisition of such shares.
- b) *Personal income tax* is levied on the gross salary as well as on other salary-related rights. Foreign citizens working under foreign employment agreements are required to calculate and pay income tax and file monthly income tax statements with the Romanian tax authorities.
- c) *Social contributions*. The following contributions must be paid by employers and employees: health insurance – 7 per cent by the employer and 6.5 per cent by the employee; pension – 22 per cent by the employer and 9.5 per cent by the employee; unemployment insurance – 3 per cent by the employer and 9.5 per cent by the employee. These social contributions are all calculated as a percentage of the gross salary. Foreign citizens working in Romania with a work permit and labour contract registered with the Labour Office are required to pay Romanian social contributions.
- d) *VAT*. A 19 per cent VAT rate is applicable. The new Fiscal Code allows for the following exemptions: (i) VAT exemption for in-kind contributions to the share capital of companies, (ii) exemption from paying VAT on exports.
- e) *Withholding taxes*. Non-resident legal and natural persons obtaining income from Romania are subject to the following main withholding taxes, if not otherwise stipulated by international treaties: i) 5 per cent on interest from term deposits, certificates of deposit or other savings instruments at banks and other authorized credit institutions located in Romania, ii) 20 per cent on income from gambling; iii) 15 per cent on income received by non-residents in Romania (dividends, royalties, commissions, other kinds of interest than those taxed at 5%, such as: interest on intra-group loans, interest on financial leasing, interest on banking loans; income from sporting or entertainment activities carried out in Romania, regardless whether the incomes are received by the persons who actually participate in the activity or by other persons; income from services performed in Romania; income

from international air, water, railway or road transport that is carried out between Romania and a foreign state; income from prizes awarded at contests organised in Romania.

4.2. “Promotion of direct investments with significant impact on the economy”

In June 2001, Romania adopted the Law No. 332/2001 for the *promotion of direct investments with a significant impact on the economy*. Direct investments with a significant impact on economy are defined as: investments with a value exceeding the equivalent of USD1 million; made in the form and manner laid down by the law; which contribute to the development and modernization of the Romanian economic infrastructure, and give rise to a positive spin-off effect in the economy and create new jobs.

The following additional cumulative conditions must be met for a project to qualify as an investment with significant impact: i) it must be initiated after the Law 332/2001 entered into force; ii) it must be performed in local or foreign currency; iii) it must be completed within 30 months of its registration with the corresponding Regional Development Agency; and iv) it must not breach environmental protection legislation, endanger national security, violate public order, health or good morals. Such investments can be made in all economic sectors, except the financial, banking, insurance and re-insurance sectors, as well as the sectors regulated by special laws. Investors are required to maintain their investment for at least 10 years, failing which retroactive taxes will apply.

Investments made in accordance with the Law No. 332/2001 qualify for the following incentives, in addition to those found in the Fiscal Code:

- Exemption from the payment of custom duties for the technological machinery, installations, equipment, measuring and control apparatus, automation equipment and software products purchased in Romania or abroad, necessary for achieving the investment, which are in compliance with the list approved by joint Order of the Minister of Development and Prognosis and Minister of Public Finances, provided that the goods are new, were produced one year at the most prior to their entry into Romania, and have never been utilised. On January 1, 2002, Romania also abolished custom duties on industrial goods imported from the EU on the basis of the European Agreement ratified by Law No. 20/1993.
- Deduction of 20 per cent of the value of the new investments, calculated for tax purposes in the month the investment is completed. If these deductions generate tax losses, then these are carried forward during the following 5 years in respect of taxable profits.

- The use of accelerated depreciation with no obligation for prior approval from the local tax authorities, exempting building investment.
- Exemption/reduction from/on the payment of the land tax for up to three years.

The second and the fourth incentives mentioned above are allowed in respect of investments up until 31 December 2006. The tax deductions allowed for the computation of taxable profits are permitted without any special approval.

The Law provides, however, that in the event of investors being eligible to benefit from different incentive schemes, they must choose just one regime of incentives (*e.g.* the incentives provided for investments with a significant impact on the economy, or those envisaged for industrial parks or free zones, etc.)

Law No. 332/2001 on the promotion of direct investment having a significant impact on the economy is aimed at local and also foreign investors. They are the main beneficiaries of the provisions of this law and there is no discrimination between them. The Romanian Agency for Foreign Investments will, on request, provide investors with such specialised technical assistance within the provisions of the Law No. 332/2001. In order to benefit from the provisions of this Law, investors must, for statistical purposes, register their investment with the Regional Development Agency and the investment must be completed within 30 months of the registration date.

4.3. Incentives for disadvantaged zones

A beneficiary disadvantaged zone must meet the following criteria: the local unemployment level must have been at least three times higher than the national level for the previous three months before it can be declared disadvantaged; the region must be isolated, lacking means of communication and appropriate infrastructure; it must be strictly delineated in geographical terms; it must have been established for a period of between 3 and 10 years.

The incentives for investing in disadvantaged zones essentially involve a) an exemption from payment of custom duties for raw materials and components imported for investing in the area; and b) an exemption from payment of taxes for modifying the purpose of or withdrawing from agricultural use the land which is the object of the investment: There is no discrimination between foreign and local investors.

Romania has agreed to terminate regional schemes upon accession to the EU.

4.4. Free zones

The activities carried out in free zones benefit from the following incentives: a) regional development aid of 50 per cent of the eligible costs of investment by large companies and 65 per cent of the eligible cost of investment made by small and medium-size companies in the free zones; the modalities of granting state aid shall be included in the legislation in force concerning state aid; b) the customs regime applicable to Romanian and foreign goods entering, leaving, remaining, being used or consumed within the free zones is laid down in Law No. 141/1997 of the Romanian Customs Code, subsequently amended and supplemented, together with the Regulation on enforcing the Romanian Customs Code; c) exemption from the payment of custom duties for conveying goods from one free zone to another. All financial transactions relating to activities in the free zones are carried out in hard currency. Investors within a free zone whose initial investment in manufacturing was in excess of USD1 million before 1 July, 2002, will benefit by being exempt from paying tax on profits until 30 June 2007. There is no discrimination between foreign and local investors.

The following operations carried out in a free zone shall be exempt from value added tax (VAT):

- the introduction of goods imported directly from abroad in a free zone solely to be stored, without customs authorization formalities;
- commercial operations such as buying/selling foreign goods between operators in the free zone, or between themselves and persons outside the free zone;
- conveyance of foreign goods out of a free zone and outside the country, without completing customs formalities. The goods must be in the same condition they were in when they were brought in the free zone.

These exemptions shall not apply to goods which are delivered for use and consumption in Romania.

Romania has agreed to abolish these incentives when it accedes to the EU.

4.5. Industrial parks

According to Law 490/2002, industrial parks are limited zones within which economic, scientific research and/or technological development activities are performed by using the human and material potential available in the region. Industrial park licenses may be granted only to companies acting solely in the industrial parks management business, referred to as managing companies. Specific conditions must be met by the land on which the park is built.

The incentives for operating in industrial parks are:

- exemption from payment of taxes for changing the use made of the land or withdrawing the land from agricultural use;

- deduction of 20 per cent of the value of new investment in the industrial park in construction, transportation and distribution of electric and thermal power, natural gas and water;
- the carrying forward of the tax loss from taxable profits over the following 5 years;
- the possibility of using accelerated depreciation;
- Other incentives offered by local authorities;

There is no discrimination between foreign and local investors.

4.6. Competition policy

Irrespective of the particular attraction that investment incentives may exert, a forceful competition policy capable of sanctioning the anti-competitive public and private practices with the most significant impact on the market is one of the pre-requisites for a functioning market economy and a level-playing field – business environment. It is with this general goal in mind that the Competition Law No. 21/1996 was introduced in 1996 and improved since through various pieces of legislation or government ordinances (such as Government Emergency Ordinance No. 121/2003 approved by Law No. 184/2004 and Law No. 603/2003, and Government Emergency Ordinance No. 94/2004, both amending the Law on State Aid No. 143/1999) which have also had the effect of raising Romanian regulatory standards to those of the community legislation. Romanian competition law is applied on a non-discriminatory basis to all acts and deeds which distort the competitive environment.

An autonomous authority, the Competition Council, has real power to ensure the efficient and effective enforcement of competition and state aid laws. It also acts in a preventive manner by issuing compulsory advisory opinions to ensure that any new draft normative acts do not contain provisions with an anti-competitive impact. In addition, the Competition Council is actively engaged in the promotion of a competition culture through its relations with sectoral regulatory authorities and its frequent contacts with undertakings and the general public. Likewise, the establishment of a regional network of competition authorities is perceived to be a good means of addressing competition problems with a regional dimension.

Chapter 5

International Commitments

Romania's international commitments are an important yardstick of the willingness and ability of the Romanian government to translate domestic undertakings into international obligations. "Being one of the club" also constitutes a recognition of the value of Romania's reforms.

5.1. Trade agreements

Romania is a member of the WTO. It has also concluded an Association Agreement with the EU, a Free Trade Agreement with EFTA countries, a Free Trade Agreement with CEFTA countries and free trade agreements with Israel, Turkey and a number of South-East European countries [Albania, Bosnia and Herzegovina, Moldova, Montenegro, the Republic of Macedonia (FYROM) and Serbia].

5.2. Multilateral and regional instruments

Romania is a party to quite numerous multilateral and regional instruments which contain enabling provisions for investment, including:

- the Paris Convention for the Protection of Industrial Property of 20 March 1883, as amended and revised;
- the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 10 June 1958;
- the Convention on the Settlement of Investment Disputes between States and Nationals of Other States of 18 March 1965, signed on 24 March 1975, effective 1 June 1991;
- the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, adopted on 16 November 1977;
- the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, adopted on 5 December 1980 by the General Assembly of the United Nations (resolution 35/63);
- the Convention Establishing the Multilateral Investment Guarantee Agency of 11 October 1985, signed on 30 September 1996;
- the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights, signed on 15 April 1994; in force on 1 January 1995;
- the WTO Agreement on Trade-Related Investment Measures;
- the WTO General Agreement on Trade in Services, signed on 15 April 1994; in force on 1 January 1995 (including the Fourth Protocol to the General Agreement on Trade in Services of 15 February 1997); and

- the Fifth Protocol to the General Agreement on Trade in Services of 12 December 1997 and the Energy Charter Treaty of 17 December 1994, effective since 16 April 1998.

5.3. Bilateral investment agreements

Romania has concluded Bilateral Agreements on the Promotion and Reciprocal Protection of Investments with 83 States. These agreements are subject to ratification by the Romanian Parliament and are published in the Official Gazette. 80 of these agreements have entered into force. Their main purpose is to create and maintain a stable and predictable legal framework with a view to attracting foreign investors and stimulating private entrepreneurship.

Thirty-four agreements have been concluded with European countries, 22 of them with EU Member states (except for Estonia, Ireland and Malta). The agreement with Malta is under negotiation and the agreement with Estonia is ready to be signed.

The structure of the Bilateral Investment Agreements, the definitions of the terms used in the text and the fundamental principles were based on the OECD model. The most important provisions include investment promotion, protection and treatment, free transfer of funds, measures for the payment of prompt and adequate compensation for expropriation and losses, settlement of disputes, entry into force, duration and termination.

Romania has to ensure the compliance of its national laws and regulations regarding the *acquis communautaire*. This implies that all its international Agreements concluded by acceding and candidate countries have to be brought into conformity with EU membership obligations.

The European Commission has initiated negotiations with acceding and candidate countries with a view to eliminating, before the accession date, any incompatibilities between the Community Law and their Bilateral Investment Agreements. The negotiations with the United States have been concluded and resulted in the signature of an Additional Protocol and Interpretative letters signed by all the representatives of the Parties involved. Romania signed the Protocol in Brussels on 22 September 2003 and subsequently ratified it.

The main issues in dispute were the right of EU members to impose exceptions to and/or limitations on capital movements/free transfer, performance requirements, national treatment¹ and MFN treatment² in sensitive sectors or to protect essential security interests. A global solution was found and horizontally applied to all candidates and acceding countries. Negotiations are presently being conducted with Canada and Japan.

Table 5.1. **Romania's Bilateral Investment Treaties (BITs)**

Partner	Year concluded	Partner	Year concluded
Sudan	1978	Philippines	1994
Gabon	1979	Poland	1994
Cameroon	1980	Slovakia	1994
Senegal	1980	Turkmenistan	1994
Sri Lanka	1981	Vietnam	1994
Bangladesh	1987	Albania	1995
Mauritania	1988	Belarus	1995
Ghana	1989	Bolivia	1995
Italy	1990	Chile	1995
Korea, Republic of	1990	France	1995
Uruguay	1990	Mongolia	1995
Cyprus	1991	Pakistan	1995
Kuwait	1991	Spain	1995
Norway	1991	Tunisia	1995
Turkey	1991	Ukraine	1995
Finland	1992	United Kingdom	1995
Jordan	1992	Serbia and Montenegro	1995
Moldova, Republic of	1992	Austria	1996
United States	1992	Canada	1996
Argentina	1932	Cuba	1996
Australia	1993	Ecuador	1996
Czech Republic	1993	Germany	1996
Hungary	1993	Kazakhstan	1996
Portugal	1993	Malaysia	1996
Russian Federation	1993	Qatar	1996
Switzerland	1993	Slovenia	1996
Thailand	1993	Belgium/Luxembourg	1996
United Arab Emirates	1993	Uzbekistan	1996
Algeria	1994	Georgia	1997
Armenia	1994	Greece	1997
Bulgaria	1994	India	1997
China	1994	Indonesia	1997
Croatia	1994	Israel	1998
Denmark	1994	Korea, Democratic People's Republic	1998
Egypt	1994	Nigeria	1998
Lebanon	1994	Macedonia, former Yugoslav Republic of	2000
Lithuania	1994	Mauritius	2000
Morocco	1994	Bosnia and Herzegovina	2001
Netherlands	1994	Latvia	2001
Paraguay	1994	Sweden	2002
Peru	1994	Azerbaijan	2002
		Iran	2003

Table 5.2. **Romanian bilateral treaties for the avoidance of double taxation**

Partner	Year concluded	Partner	Year concluded
United States	1973	Algeria	1994
France	1974	Poland	1994
United Kingdom	1975	Slovakia	1994
Austria	1976	Malta	1995
Denmark	1976	Armenia	1996
Japan	1976	Bulgaria	1996
Sweden	1976	Russia	1996
Italy	1977	Uzbekistan	1996
Canada	1978	Serbia and Montenegro	1996
Egypt	1979	Belarus	1997
Netherlands	1979	Georgia	1997
Spain	1979	Moldova	1997
Norway	1980	Viet Nam	1997
Cyprus	1981	Lebanon	1998
Morocco	1981	North Korea	1998
Malaysia	1982	Philippines	1998
Jordan	1983	Belgium	1999
Sri Lanka	1984	Israel	1999
Turkey	1986	Qatar	1999
Bangladesh	1987	Australia	2000
India	1987	Macedonia	2000
Tunisia	1987	Germany	2001
China	1991	Indonesia	2001
Greece	1991	Ireland	2001
Ecuador	1992	Finland	2000
Kuwait	1992	Portugal	2000
Nigeria	1992	Pakistan	2001
Syria	1992	Kazakhstan	2001
United Arab Emirates	1993	Lithuania	2001
Czech Republic	1993	Namibia	2001
Hungary	1993	Thailand	1998
Luxembourg	1993	Ukraine	1998
South Korea	1993	Latvia	2002
South Africa	1993	Mexico	2002
Switzerland	1993	Singapore	2002
Zambia	1993	Slovenia	2002
Albania	1994	Azerbaijan	2003

Notes

1. The sectors or matters in question are: agriculture, audio-visual, securities, investment services and other financial services, fisheries, hydrocarbons, subsidies, transport (air carriers), transport (inland waterways), and transport (maritime).
2. These are fisheries and subsidies.

ANNEX A

Summary of the Main Provisions of the OECD Declaration on International Investment and Multinational Enterprises

Adherence to the OECD Declaration on International Investment and Multinational Enterprises implies acceptance of all its components as well as the related Decisions and Recommendations. The OECD Declaration on International Investment and Multinational Enterprises is a political agreement among Adherent countries for co-operation on a wide range of investment issues. The Declaration contains four related elements: the National Treatment instrument, the Guidelines for Multinational Enterprises, an instrument on incentives and disincentives to international investment, and an instrument on conflicting requirements. It is supplemented by legally binding Council Decisions on implementation procedures and by Recommendations to Adherents to encourage pursuit of its objectives, notably with regard to National Treatment.

National Treatment

The National Treatment Instrument provides that Adherents should, consistent with their needs to maintain public order, to protect their essential security interests and to fulfil commitments relating to international peace and security, accord to enterprises operating in their territories and owned or controlled by nationals of another member country treatment under their laws, regulations and administrative practices consistent with international law and no less favourable than that accorded in like situations to domestic enterprises.

Under the Third Revised Decision of the Council on National Treatment, Adherents to the Declaration must notify the Organisation of all measures constituting exceptions to the National Treatment principle within 60 days of their adoption and of any other measures which have a bearing on this

principle (the so-called “transparency measures”). These measures are periodically reviewed by the Investment Committee, the goal being the gradual removal of measures that do not conform to this principle.

Exceptions to National Treatment fall into five categories: investments by established foreign-controlled companies, official aids and subsidies, tax obligations, access to local bank credit and the capital market, and government procurement.

Transparency measures include measures based on public order and national security interests, restrictions on activities in areas covered by monopolies, public aids and subsidies granted to government-owned enterprises by the state as a share.

The National Treatment instrument is solely concerned with discriminatory measures that apply to established foreign-controlled enterprises.

Areas of existing public, private or mixed monopolies are to be recorded for the purpose of transparency since foreign-controlled and domestic private enterprises are subject to the same restrictions. The undertaking to apply National Treatment comes into force as and when areas previously under monopoly are opened up. In such cases, access to these areas should be provided on a non-discriminatory basis. If restrictions prohibit or impede in any way the participation of foreign-controlled enterprises *vis-à-vis* their domestic counterparts, then these restrictions are to be reported as exceptions to National Treatment. The objective is to ensure access to formerly closed sectors on an equal basis.

The 1991 Review confirmed the understanding reached in 1988 by the Committee on a standstill on National Treatment measures. This understanding provides that Adherents should avoid the introduction of new measures and practices, which constitute exceptions to the present National Treatment instrument. Particular attention is to be given to this question in the Committee’s work.

A number of Recommendations of the Council have also been addressed to Adherents in the context of earlier horizontal examinations. Most of these recommendations were made to individual countries, but a number of them were of a general character. Concerning investment by established foreign-controlled enterprises, Adherents should give priority to removing exceptions where most Adherents do not find it necessary to maintain restrictions. In introducing new regulations in the services sectors, Adherents should ensure that these measures do not result in the introduction of new exceptions to National Treatment. Adherents should also give particular attention to ensuring that moves towards privatisation result in increasing the investment

opportunities of both domestic and foreign-controlled enterprises so as to extend the application of the National Treatment instrument.

In the area of official aids and subsidies, Adherents should give priority attention to limiting the scope and application of measures which may have important distorting effects or which may significantly jeopardise the ability of foreign-controlled enterprises to compete on an equal footing with their domestic counterparts.

Finally, with regard to measures motivated by or based on public order and essential security interests, Adherents are encouraged to practice restraint and to circumscribe them to the areas where public order and essential considerations are predominant. Where motivations are mixed (e.g. partly commercial, partly national security), the measures concerned should be covered by exceptions rather than merely recorded for transparency purposes.

Guidelines for Multinational Enterprises

The Guidelines for Multinational Enterprises are recommendations jointly addressed by Adherent governments to multinational enterprises operating in their territories. While their observance is voluntary and not legally enforceable, they represent the collective expectations of these governments concerning the behaviour and activities of multinational enterprises.

They also provide standards by which multinational enterprises can ensure that their operations are in harmony with the national policies of their host countries. The areas covered include disclosure, employment and industrial relations, environment, combating bribery, consumer interests, science and technology, competition, and taxation.

Adherent governments must set up national contact points (NCPs) to deal with the implementation of the Guidelines. The purpose of NCPs is to undertake promotional activities, handle inquiries and for discussions with the parties concerned on all matters covered by the Guidelines so that they can contribute to the solution of problems which may arise in this connection, taking due account of the Procedural Guidance.

NCPs in different countries shall co-operate if such need arises, on any matter covered by the Guidelines relevant to their activities. NCPs shall also meet annually to share experiences and report to the Investment Committee.

The Investment Committee is responsible for periodically or at the request of an adhering country holding an exchange of views on matters covered by the Guidelines and periodically inviting Business and Industry Advisory Committee to the OECD (BIAC), the Trade Union Advisory Committee

to the OECD (TUAC) (“the advisory bodies”) and other non-governmental organisations to express their views, as well as representatives of non-adhering countries, on matters covered by the Guidelines.

The Committee shall also be responsible for clarifications of the Guidelines and for exchanging views on the activities of National Contact Points and shall periodically report to the Council on matters related to the Guidelines.

Incentives and Disincentives

The instrument on Investment Incentives and Disincentives recognises that Adherents may be affected by this type of measure and stresses the need to strengthen international co-operation in this area. It first encourages them to make such measures as transparent as possible so that their scale and purpose can be easily determined. The instrument also provides for consultations and review procedures to make co-operation between Adherents more effective. A considerable part of the work undertaken in this area is analytical, two studies being undertaken in the 1980s. Adherents may therefore be called upon to participate in studies on trends in and effects of incentives and disincentives on FDI and to provide information on their policies.

Conflicting Requirements

The instrument on Conflicting Requirements provides that Adherents should co-operate with a view to avoiding or minimising the imposition of conflicting requirements on multinational enterprises. In so doing, they shall take into account the general considerations and practical approaches recently annexed to the Declaration. This co-operative approach includes consultations on potential problems and giving due consideration to other country’s interests in regulating their own economic affairs.

ANNEX B

Romania's Position under the OECD Declaration on International Investment and Multinational Enterprises

A. Exceptions under the National Treatment Instrument

Adherents to the Declaration have the obligation to notify their exceptions to National Treatment. The exceptions notified by Romania are as follows:

I. Investment by established foreign-controlled enterprises

Air Transport

An operating air carrier license may be granted only to companies established in Romania and controlled by Romanian nationals or the State.

Authority: Government Ordinance No. 19/1997 on the Air Code, approved by Law No. 130/2000 (published in M.O. No. 45/26.01.2001) and Ministerial Order No. 578/1998 approving the Regulation on the Granting of Air Operating Licences (published in M.O. No. 257/4.06.1999).

II. Official aids and subsidies

None.

III. Tax obligations

None.

IV. Government purchasing

None.

V. Access to local finance

None.

B. Measures reported for transparency under the National Treatment Instrument

I. Measures based on public order and essential security considerations

None.

II. Monopolies and concessions

1. Public monopolies

None.

2. Private monopolies

Competition Law No. 21/1996, with subsequent amendments and additions, administered by the Competition Council, penalizes abuses of dominant positions, which include monopolistic positions and economic concentrations.

3. Concessions

The following areas may be subject to concessions: assets, activities and public services in the fields of public transportation infrastructure; facilities and infrastructure related to water and energy resources, public land, exploitation of mineral resources and substances, both solid and fluid; exploitation of thermal resources; natural resources of the economic zone of the maritime and continental shelf; sports grounds, entertainment places, specialised show establishments; medical units, sections and laboratories of those units, as well as auxiliary medical services; economic activities related to capitalising on historic monuments and sites; gathering, storage and valuation of waste; any other goods, activities or public services that are not prohibited by special laws.

Any Romanian or foreign individual or legal entity is eligible to be a concession-holder. The concession procedure can be initiated by an interested investor or the conceding authority. The concession is granted by public auction (open or open with pre-selection) or by direct negotiation. The concession agreement shall be concluded under Romanian law, for no more than 49 years, as of the date of its signature. It may be extended for a period equal to no more than half of its initial duration, by the simple consent of the parties.

C. Implementation of the OECD Guidelines for Multinational Enterprises

According to the Decision of the OECD Council of 27 June 2000 (and the attached Procedural Guidance) Romania, as an adherent, will be under the obligation to set up National Contact Points for undertaking promotional activities and handling inquiries on all matters covered by the Guidelines. Romania also needs to inform the business community, employee organisations and other interested parties of the availability of such facilities.

The Romanian authorities informed the Organisation that they consider that the Guidelines are an important element in the promotion of corporate responsibilities at home and abroad. In accordance with the Decision of the OECD Council of June 2000, the Romanian government will establish a National Contact Point (NCP) to help implement and promote the Guidelines and make them better known to businesses, labour representatives and other interested parties. In setting-up a National Contact Point, Romania intends to follow the Procedural Guidance for institutional arrangements attached to the above-mentioned Decision, as well as its guidance on any issues related to implementation matters. The Romanian government is committed to the implementation of the Guidelines.

The Romanian NCP will be located at the Romanian Agency for Foreign Investment (ARIS). It will fulfil its duties in co-operation with the Ministry of Foreign Affairs and with the assistance of an inter-ministerial committee composed of representatives from other ministries, institutions, NGOs and civil society interested in the OECD Guidelines.

The Romanian NCP will be available for consultations with businesses, labour representatives, NGOs and all other parties interested in the OECD Guidelines.

The Government of Romania will take the necessary steps to ensure the NCPs' visibility, accessibility, transparency and accountability.

In order to ensure wide dissemination and promotion of the Guidelines, the Romanian government intends to translate the Guidelines for Multinational Enterprises (as well as the related Procedures and Comments), into the Romanian language. The Guidelines will be made publicly available on the website of the Ministry of Economic Affairs and ARIS.

ANNEX C

*Foreign Direct Investment Statistics
in Adherent Countries
to the OECD Declaration on International
Investment and Multinational Enterprises*

Table C.1. **FDI inflows in adherents to OECD Declaration on international investment and multinational enterprises**

Million US dollars

	Cumulative flows		1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002p	2003e
	1981-1991	1992-2003												
OECD	976 305.3	5 453 590.8	116 206.5	147 986.6	162 699.9	225 267.7	246 296.4	301 525.8	528 357.4	892 847.2	1 288 013.6	624 946.0	535 019.5	384 424.2
Australia	40 387.7	92 187.1	5 719.8	4 281.7	5 024.6	11 963.2	6 111.0	7 633.4	6 002.6	3 268.4	13 198.7	4 678.7	16 456.9	7 848.2
Austria	3 638.2	43 746.5	1 432.7	1 136.5	2 102.9	1 904.2	4 428.6	2 655.6	4 534.1	2 974.6	8 841.7	5 920.5	953.3	6 861.7
Belgium- Luxembourg	36 458.3	549 431.6	10 957.3	10 467.8	8 313.2	10 894.2	13 924.4	16 510.1	30 146.9	142 512.3	220 987.8	84 717.6	..	..
Belgium	..	44 428.5	..	..	..	..	..	..	..	..	..	..	13 083.1	31 345.5
Luxembourg	..	190 279.6	..	..	..	..	..	..	..	..	..	..	117 088.2	73 191.4
Canada	36 270.1	217 519.6	4 721.6	4 730.3	8 204.1	9 255.4	9 632.6	11 522.0	22 802.8	24 747.2	66 795.5	27 487.1	21 035.7	6 585.3
Czech Republic	..	38 555.5	..	653.4	868.3	2 561.9	1 428.2	1 301.1	3 716.4	6 326.2	4 980.2	5 644.6	8 483.5	2 591.6
Denmark	5 002.3	94 375.5	1 014.7	1 669.0	4 897.6	4 179.8	768.0	2 798.6	7 725.7	16 741.4	33 797.5	11 527.6	6 646.1	2 609.4
Finland	1 803.9	47 149.1	406.2	864.4	1 577.7	1 062.9	1 109.0	2 115.8	12 140.7	4 610.2	8 835.6	3 732.2	7 926.7	2 767.7
France	69 848.0	385 925.2	17 849.2	16 442.7	15 574.0	23 679.1	21 959.5	23 171.5	30 984.5	46 545.9	43 258.4	50 485.1	48 949.7	47 025.5
Germany	22 366.0	385 310.0	-2 088.9	368.3	7 133.9	12 025.4	6 572.8	12 243.4	24 596.7	56 077.3	198 313.0	21 142.2	36 047.9	12 878.0
Greece	2 724.1	11 526.4	1 588.6	1 243.6	1 166.1	1 197.7	1 196.4	1 088.6	73.9	561.5	1 108.6	1 589.5	50.1	661.8
Hungary	1 474.4	36 303.9	1 477.2	2 446.2	1 143.5	5 101.9	3 300.4	4 170.9	3 337.1	3 313.1	2 763.0	3 936.0	2 844.6	2 470.0
Iceland	93.0	989.9	-12.7	0.4	-1.5	9.2	83.1	147.9	147.8	66.6	170.5	172.6	121.6	84.4
Ireland	3 222.0	122 507.7	1 458.1	1 068.5	856.2	1 441.5	2 615.7	2 709.6	8 856.5	18 210.1	25 783.3	9 652.7	24 392.4	25 463.2
Italy	27 474.3	93 490.6	3 210.8	3 751.4	2 235.6	4 816.2	3 534.9	4 962.5	4 279.8	6 911.4	13 377.3	14 873.4	14 558.2	16 979.2
Japan	16 740.2	53 413.5	2 755.2	206.9	890.1	42.5	229.7	3 223.1	3 193.5	12 740.4	8 318.6	6 247.9	9 243.2	6 322.2
Korea	5 120.1	42 241.9	728.3	588.1	809.0	1 775.8	2 325.4	2 844.2	5 412.3	9 333.4	9 283.4	3 527.7	2 392.3	3 222.0
Mexico	38 880.2	147 025.4	4 393.0	4 389.0	10 973.0	9 647.0	9 943.0	14 160.0	12 170.0	13 165.7	16 448.7	26 569.3	14 435.3	10 731.5
Netherlands	33 594.9	299 093.8	6 169.4	6 443.1	7 158.4	12 306.8	16 660.1	11 136.5	36 924.9	41 206.1	63 865.6	51 936.8	25 593.4	19 692.7
New Zealand	4 931.9	23 193.7	1 089.2	2 211.6	2 615.7	2 849.7	3 922.0	1 917.2	1 825.5	940.4	1 344.4	4 198.0	-556.0	835.9
Norway	4 131.8	37 772.5	810.4	1 460.7	2 777.6	2 408.0	3 168.5	3 946.4	4 353.7	7 061.7	6 907.7	2 009.3	679.0	2 189.6
Poland	359.0	54 377.7	678.0	1 715.0	1 875.0	3 659.0	4 498.0	4 908.2	6 364.9	7 269.6	9 341.0	5 713.0	4 131.0	4 225.0
Portugal	7 927.6	29 170.0	1 903.8	1 516.2	1 254.6	660.1	1 488.5	2 478.8	3 143.5	1 233.5	6 788.6	5 893.7	1 846.3	962.5
Slovak Republic	..	11 142.6	..	179.1	272.9	241.4	395.7	230.6	706.8	428.5	2 383.1	1 584.1	4 126.5	593.8

Table C.1. **FDI inflows in adherents to OECD Declaration on international investment and multinational enterprises (cont.)**

Million US dollars

	Cumulative flows		1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002p	2003e
	1981-1991	1992-2003												
Spain	59 737.3	206 378.1	13 350.7	9 571.6	9 275.8	6 285.1	6 820.6	6 387.8	11 798.4	15 758.8	37 530.2	28 010.1	35 939.8	25 649.3
Sweden	15 224.1	172 083.4	41.0	3 845.1	6 349.7	14 446.9	5 436.6	10 967.4	19 842.7	60 929.1	23 245.5	11 900.1	11 643.6	3 435.8
Switzerland	16 710.8	82 238.4	411.2	-83.3	3 368.4	2 223.2	3 078.2	6 641.8	8 941.9	11 714.0	19 266.0	8 858.9	5 655.8	12 162.3
Turkey	2 711.0	12 084.0	844.0	636.0	608.0	885.0	722.0	805.0	940.0	783.0	982.0	3 266.0	1 038.0	575.0
United Kingdom	127 856.1	493 377.1	15 474.8	14 821.3	9 254.6	19 968.4	24 441.3	33 244.9	74 348.9	87 972.8	118 823.8	52 650.2	27 802.3	14 573.8
United States	391 618.0	1 436 272.0	19 823.0	51 362.0	46 121.0	57 776.0	86 502.0	105 603.0	179 045.0	289 444.0	321 274.0	167 021.0	72 411.0	39 890.0
Non-OECD	34 885.3	358 756.4	8 315.3	6 168.4	10 649.5	15 799.7	25 481.5	38 407.2	49 677.7	66 723.7	55 418.1	35 183.3	25 503.6	21 428.4
Argentina	9 441.0	78 553.5	4 431.0	2 793.1	3 634.9	5 609.4	6 948.5	9 160.3	7 290.7	23 987.7	10 418.3	2 166.1	1 093.0	1 020.4
Brazil	17 615.0	184 593.3	2 061.0	1 292.0	3 072.0	4 859.0	11 200.0	19 650.0	31 913.0	28 576.0	32 779.2	22 457.4	16 590.2	10 143.5
Chile	6 081.6	44 914.2	935.1	1 034.3	2 583.1	2 957.0	4 814.6	5 271.4	4 627.8	8 761.0	4 860.0	4 199.8	1 888.0	2 982.1
Estonia	..	4 067.7	82.3	162.2	214.4	201.5	150.2	266.2	580.5	305.2	387.3	542.5	284.5	890.8
Israel	1 707.7	24 821.3	588.5	604.9	441.6	1 351.1	1 397.5	1 634.5	1 736.8	3 112.2	5 011.5	3 547.5	1 723.1	3 672.1
Latvia	..	3 391.4	29.4	45.1	214.5	179.6	381.7	521.1	356.9	347.6	410.0	163.9	382.3	359.3
Lithuania	..	3 769.3	..	30.2	31.3	72.6	152.4	354.5	925.5	486.5	378.9	445.8	712.5	179.2
Romania	40.0	10 663.0	77.0	94.0	341.0	419.0	263.0	1 215.0	2 031.0	1 041.0	1 037.0	1 157.0	1 144.0	1 844.0
Slovenia	..	3 982.9	111.0	112.6	116.7	150.5	173.5	334.3	215.5	106.5	135.9	503.3	1 686.1	337.0
Total	1 011 190.6	5 812 347.2	124 521.8	154 155.0	173 349.5	241 067.4	271 777.8	339 933.0	578 035.1	959 570.9	1 343 431.8	660 129.3	560 523.1	405 852.6

Notes: Data are converted using the yearly average exchange rates.

p. Preliminary data.

e. Estimated data.

Source: OECD International Direct Investment Database; IMF (for non-OECD Adherents).

Table C.2. **FDI outflows from adherents to OECD Declaration on international investment and multinational enterprises**

Million US dollars

	Cumulative flows		1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002p	2003e
	1981-1991	1992-2003												
OECD	1 308 752.4	6 469 219.7	185 521.7	208 175.1	248 464.9	315 423.1	343 228.6	410 130.3	651 531.3	1 043 706.9	1 235 795.2	684 258.2	566 671.0	576 313.5
Australia	26 490.4	64 549.6	5 266.9	1 947.0	2 816.5	3 281.8	7 087.6	6 427.9	3 344.8	-420.7	655.1	12 218.8	7 632.7	14 291.3
Austria	5 313.0	36 469.7	1 697.5	1 190.5	1 257.2	1 130.6	1 935.0	1 988.2	2 745.2	3 300.7	5 740.9	3 137.9	5 256.2	7 089.9
Belgium-Luxembourg	26 853.4	523 858.6	10 955.9	3 850.5	1 205.4	11 728.4	7 811.3	7 884.5	29 107.8	132 325.8	218 364.4	100 624.7	..	..
Belgium	..	49 911.9	..	..	..	..	..	..	..	..	..	..	10 952.3	38 959.6
Luxembourg	..	208 041.7	..	..	..	..	..	..	..	..	..	..	126 228.5	81 813.1
Canada	48 185.0	246 563.7	3 589.2	5 699.9	9 293.5	11 462.3	13 094.3	23 059.2	34 349.2	17 250.1	44 678.5	36 113.4	26 415.3	21 558.8
Czech Republic	..	1 288.9	..	90.2	119.6	36.6	152.9	25.2	127.1	89.8	42.8	165.4	206.5	232.7
Denmark	8 737.7	85 477.4	2 236.0	1 260.5	3 955.1	3 063.5	2 519.1	4 206.6	4 476.6	16 988.4	26 542.2	13 376.8	5 694.0	1 158.7
Finland	11 354.1	73 250.0	-751.7	1 407.1	4 297.8	1 497.3	3 596.5	5 291.7	18 641.5	6 615.5	24 034.7	8 372.0	7 629.1	-7 381.4
France	126 563.9	702 821.7	30 407.1	19 736.1	24 372.3	15 758.1	30 419.5	35 580.9	48 612.7	126 859.2	177 481.6	86 783.3	49 478.1	57 332.8
Germany	114 329.8	488 450.5	18 595.1	17 196.1	18 857.8	39 051.6	50 806.3	41 794.1	88 837.2	108 691.6	56 567.5	36 861.4	8 629.9	2 561.9
Greece	..	3 724.1	..	..	..	..	..	..	-283.9	551.9	2 136.9	616.7	655.9	46.7
Hungary	..	3 948.9	..	10.6	48.3	59.1	-3.6	461.9	278.3	250.1	620.2	368.1	275.0	1 581.1
Iceland	43.8	1 500.2	6.3	14.3	23.7	24.8	63.4	56.0	74.1	123.1	392.6	341.8	214.9	165.1
Ireland	192.6	27 131.7	214.4	217.8	436.3	819.8	727.9	1 013.7	3 902.1	6 109.1	4 629.6	4 066.1	3 086.9	1 908.0
Italy	35 380.4	125 588.8	5 948.5	7 230.6	5 108.8	5 731.4	6 464.9	12 244.7	16 077.6	6 721.7	12 318.5	21 475.9	17 138.3	9 127.9
Japan	305 977.7	299 256.6	17 304.8	13 914.4	18 116.0	22 632.1	23 414.8	25 991.7	24 157.7	22 750.0	31 540.4	38 352.0	32 283.3	28 799.4
Korea	3 952.0	40 036.1	1 161.5	1 340.0	2 461.1	3 552.0	4 670.1	4 449.4	4 739.5	4 197.8	4 998.9	2 420.1	2 616.5	3 429.2
Mexico	..	5 373.0	..	..	..	..	..	..	..	..	..	4 404.0	969.0	..
Netherlands	64 230.7	405 533.3	12 697.1	10 063.3	17 553.8	20 175.5	32 098.1	24 522.1	36 475.1	57 611.3	75 648.7	47 977.3	34 584.6	36 126.3
New Zealand	5 429.0	1 878.7	391.4	-1 388.7	2 008.2	1 783.5	-1 239.7	-1 565.5	401.4	1 072.5	608.7	911.9	-1 038.8	-66.2
Norway	8 133.6	39 024.8	394.2	933.0	2 172.5	2 856.2	5 892.5	5 015.3	3 200.7	5 503.6	7 613.8	-1 322.7	4 200.7	2 565.2
Poland	..	1 091.5	13.0	18.0	29.0	42.0	53.0	45.0	316.0	31.3	17.2	-89.0	230.0	386.0
Portugal	902.6	29 951.2	684.2	107.3	282.5	684.6	785.4	1 926.2	3 845.9	3 168.4	7 513.8	7 565.6	3 291.3	96.0
Slovak Republic	..	118.6	..	12.8	17.7	43.0	62.9	95.1	146.6	-377.2	28.7	64.5	11.2	13.3

Table C.2. **FDI outflows from adherents to OECD Declaration on international investment and multinational enterprises (cont.)**

Million US dollars

	Cumulative flows		1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002p	2003e
	1981-1991	1992-2003												
Spain	15 223.7	235 491.7	2 171.0	3 173.6	4 110.8	4 157.8	5 590.1	12 546.8	18 937.7	42 084.5	54 684.6	33 099.5	31 540.2	23 395.0
Sweden	55 655.7	151 971.8	408.7	1 357.7	6 701.1	11 214.3	5 024.8	12 647.5	24 379.4	21 928.6	40 667.3	6 374.9	10 679.9	10 587.5
Switzerland	40 097.7	205 220.2	6 058.5	8 765.4	10 798.0	12 213.9	16 150.8	17 747.9	18 768.8	33 264.3	44 698.1	18 246.6	7 586.7	10 921.1
Turkey	27.0	3 655.0	65.0	14.0	49.0	113.0	110.0	251.0	367.0	645.0	870.0	497.0	175.0	499.0
United Kingdom	192 880.6	922 445.8	17 740.9	26 063.1	32 205.7	43 560.0	34 055.9	61 620.0	122 861.2	201 436.7	233 487.7	58 885.2	35 213.0	55 316.4
United States	212 798.0	1 485 594.0	48 266.0	83 950.0	80 167.0	98 750.0	91 885.0	104 803.0	142 644.0	224 934.0	159 212.0	142 349.0	134 835.0	173 799.0
Non-OECD	5 217.4	57 520.4	2 286.4	2 255.6	3 627.2	4 383.8	3 132.6	7 272.0	7 705.0	7 109.6	10 765.1	478.5	3 591.4	4 913.2
Argentina	-135.0	14 898.9	1 165.9	705.1	1 012.8	1 497.2	1 600.8	3 652.8	2 325.5	1 730.3	901.0	160.9	-627.1	773.8
Brazil	3 551.0	10 790.4	137.0	491.0	1 037.0	1 384.0	-467.0	1 042.0	2 721.0	1 690.0	2 281.6	-2 257.6	2 482.1	249.3
Chile	175.9	16 417.4	397.8	434.2	910.7	752.0	1 133.5	1 462.7	1 483.5	2 557.9	3 986.7	1 609.7	293.7	1 395.1
Estonia	..	822.3	1.9	6.2	2.4	2.5	40.0	136.6	6.3	82.9	63.4	200.1	132.0	148.2
Israel	1 604.5	13 563.0	579.5	615.4	741.6	820.2	815.2	922.9	1 125.0	959.3	3 465.0	630.1	1 115.8	1 773.0
Latvia	..	9.7	2.1	-4.5	-64.6	-65.0	3.0	6.1	54.0	17.0	9.4	12.4	8.1	31.7
Lithuania	..	106.5	..	..	..	1.0	0.1	26.9	4.2	8.6	3.7	7.1	17.7	37.2
Romania	21.0	38.0	4.0	7.0	..	2.0	..	-9.0	-9.0	16.0	-11.0	-17.0	16.0	39.0
Slovenia	..	874.1	-1.8	1.3	-12.7	-10.0	7.0	31.0	-5.5	47.6	65.3	132.8	153.2	466.0
Total	1 313 969.8	6 526 740.1	187 808.1	210 430.7	252 092.0	319 806.9	346 361.2	417 402.2	659 236.3	1 050 816.5	1 246 560.3	684 736.6	570 262.5	581 226.7

Notes: Data are converted using the yearly average exchange rates.

p. Preliminary data.

e. Estimated data.

Source: OECD International Direct Investment Database; IMF (for non-OECD Adherents).

Table C.3. Foreign direct investment in adherents to the OECD Declaration on international investment and multinational enterprises : inflows

As a per cent of GDP

	1994	1995	1996	1997	1998	1999	2000	2001	2002
OECD									
Australia	1.46	3.21	1.47	1.83	1.61	0.81	3.39	1.27	4.02
Austria	1.06	0.81	1.91	1.29	2.14	1.42	4.64	3.11	0.46
Belgium-Luxembourg	3.32	3.69	4.83	6.28	11.17	52.68	89.23	34.08	..
Belgium	..	..	..	..	..	..	..	..	5.35
Luxembourg	..	..	..	..	..	..	..	..	555.53
Canada	1.48	1.59	1.59	1.84	3.76	3.80	9.36	3.90	2.90
Czech Republic	2.11	4.92	2.47	2.46	6.52	11.50	9.68	9.87	12.20
Denmark	3.23	2.32	0.42	1.66	4.48	9.67	21.36	7.24	3.86
Finland	1.58	0.82	0.87	1.73	9.38	3.61	7.37	3.08	6.02
France	1.15	1.52	1.41	1.65	2.13	3.22	3.31	3.82	3.42
Germany	0.34	0.49	0.28	0.58	1.15	2.66	10.60	1.14	1.81
Greece	1.16	1.02	0.96	0.90	0.06	0.45	0.98	1.36	0.04
Hungary	2.73	11.42	7.31	9.12	7.09	6.90	5.92	7.59	4.38
Iceland	-0.02	0.13	1.16	2.04	1.84	0.79	2.02	2.26	1.43
Ireland	1.56	2.17	3.57	3.38	10.18	19.07	27.21	9.40	20.04
Italy	0.22	0.44	0.29	0.43	0.36	0.59	1.24	1.36	1.23
Japan	0.02	0.00	0.00	0.07	0.08	0.29	0.18	0.15	0.23
Korea	0.20	0.36	0.45	0.60	1.71	2.30	2.01	0.83	0.50
Mexico	2.61	3.37	2.99	3.53	2.89	2.74	2.83	4.26	2.27
Netherlands	2.06	2.97	4.05	2.95	9.38	10.34	17.23	13.53	6.12
New Zealand	5.05	4.69	5.87	2.88	3.34	1.66	2.60	8.17	-0.95
Norway	2.24	1.63	1.99	2.51	2.90	4.47	4.14	1.18	0.36
Poland	1.77	2.69	2.93	3.19	3.75	4.42	5.61	3.08	2.16
Portugal	1.39	0.62	1.33	2.33	2.80	1.07	6.38	5.36	1.51
Slovak Republic	1.76	1.24	1.90	1.09	3.19	2.10	11.74	7.59	17.06
Spain	1.84	1.08	1.12	1.14	2.01	2.62	6.68	4.79	5.49
Sweden	2.98	5.82	2.01	4.43	8.00	24.24	9.70	5.42	4.83
Switzerland	1.25	0.71	1.02	2.53	3.32	4.42	7.82	3.54	2.06
Turkey	0.47	0.52	0.40	0.42	0.47	0.42	0.49	2.24	0.57
United Kingdom	0.89	1.76	2.05	2.50	5.22	6.02	8.26	3.68	1.78
United States	0.66	0.79	1.12	1.28	2.05	3.14	3.29	1.67	0.70
Non-OECD									
Argentina	1.41	2.17	2.55	3.13	2.44	8.46	3.66	0.81	1.07
Brazil	0.56	0.69	1.45	2.43	4.05	5.33	5.45	4.42	3.60
Chile	4.58	4.14	6.35	6.37	5.83	12.00	6.46	6.14	2.80
Estonia	8.88	5.36	3.23	5.41	10.43	5.49	7.09	9.09	4.04
Israel	0.57	1.51	1.41	1.58	1.67	3.00	4.34	3.12	1.65
Latvia	5.88	3.67	6.83	8.50	5.39	4.82	5.31	1.99	4.15
Lithuania	0.74	1.14	1.89	3.60	8.34	4.49	3.33	3.69	5.07
Romania	1.13	1.18	0.74	3.44	4.82	2.92	2.80	2.88	2.50
Slovenia	0.81	0.75	0.86	1.72	1.03	0.50	0.71	2.57	8.43

Notes: Data are converted using the yearly average exchange rates.

p. Preliminary data. e. Estimated data.

Source: OECD International Direct Investment database; IMF (for non-OECD Adherents).

Figure C.1. Foreign direct investment in adherents to the OECD Declaration on international investment and multinational enterprises : inflows

As a percentage of GDP: 2002



Source: OECD International Direct Investment Database; IMF (for non-OECD Adherents).

Table C.4. Foreign direct investment outflows from adherents to the OECD Declaration on international investment and multinational enterprises

As a per cent of GDP

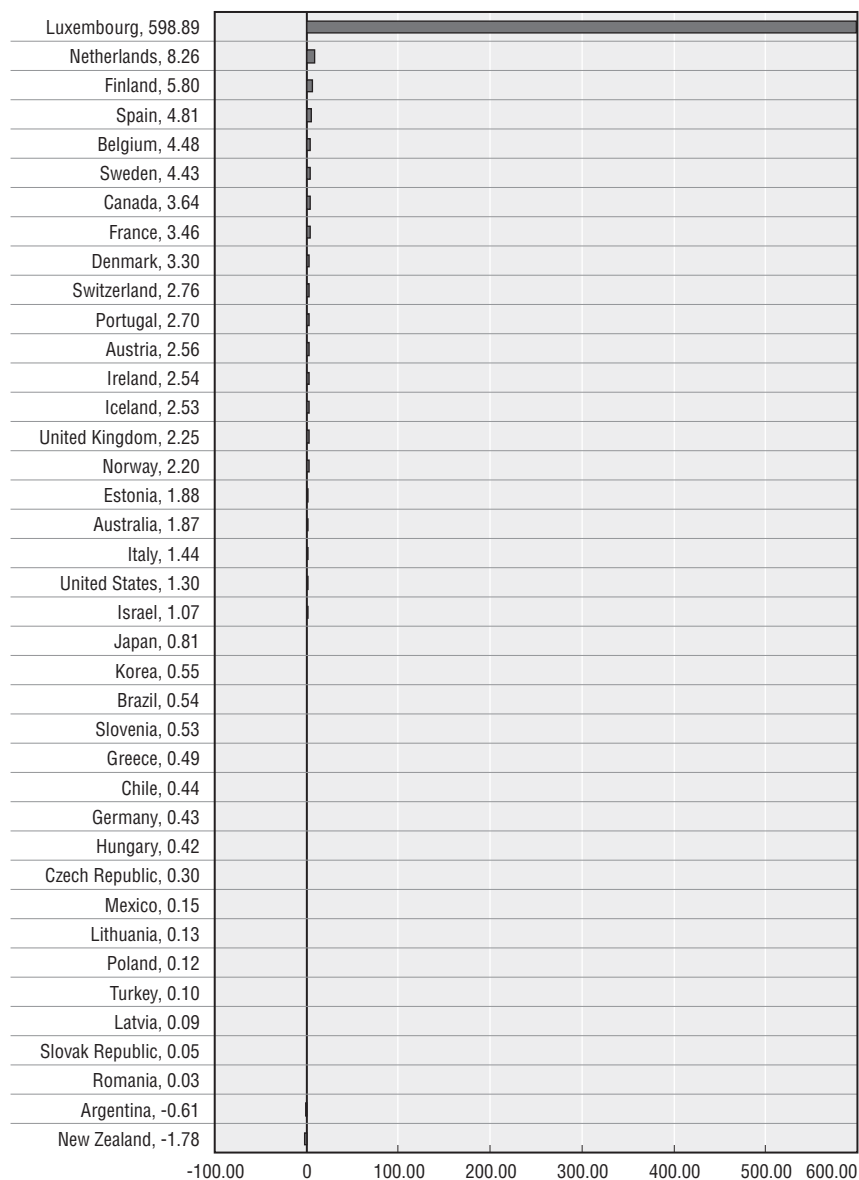
	1994	1995	1996	1997	1998	1999	2000	2001	2002
OECD									
Australia	0.82	0.88	1.71	1.54	0.90	-0.10	0.17	3.31	1.87
Austria	0.63	0.48	0.84	0.97	1.30	1.57	3.02	1.65	2.56
Belgium-Luxembourg	0.48	3.98	2.71	3.00	10.79	48.91	88.17	40.48	..
Belgium	..	..	..	..	..	..	..	..	4.48
Luxembourg	..	..	..	..	..	..	..	..	598.89
Canada	1.67	1.97	2.17	3.67	5.66	2.65	6.26	5.12	3.64
Czech Republic	0.29	0.07	0.26	0.05	0.22	0.16	0.08	0.29	0.30
Denmark	2.60	1.70	1.38	2.49	2.60	9.81	16.77	8.40	3.30
Finland	4.30	1.15	2.82	4.32	14.41	5.18	20.04	6.91	5.80
France	1.80	1.01	1.96	2.53	3.35	8.79	13.56	6.57	3.46
Germany	0.90	1.59	2.13	1.98	4.14	5.16	3.02	1.99	0.43
Greece	..	..	..	..	-0.23	0.44	1.88	0.53	0.49
Hungary	0.12	0.13	-0.01	1.01	0.59	0.52	1.33	0.71	0.42
Iceland	0.39	0.36	0.89	0.77	0.92	1.46	4.66	4.47	2.53
Ireland	0.80	1.23	0.99	1.26	4.49	6.40	4.89	3.96	2.54
Italy	0.50	0.52	0.52	1.05	1.34	0.57	1.15	1.97	1.44
Japan	0.38	0.43	0.50	0.60	0.61	0.51	0.66	0.92	0.81
Korea	0.61	0.73	0.90	0.93	1.49	1.03	1.08	0.57	0.55
Mexico	..	..	..	..	..	..	..	0.71	0.15
Netherlands	5.04	4.86	7.79	6.51	9.27	14.46	20.41	12.49	8.26
New Zealand	3.88	2.93	-1.85	-2.35	0.74	1.89	1.18	1.77	-1.78
Norway	1.76	1.93	3.70	3.19	2.13	3.48	4.56	-0.78	2.20
Poland	0.03	0.03	0.03	0.03	0.19	0.02	0.01	-0.05	0.12
Portugal	0.31	0.64	0.70	1.81	3.42	2.75	7.06	6.88	2.70
Slovak Republic	0.11	0.22	0.30	0.45	0.66	-1.85	0.14	0.31	0.05
Spain	0.82	0.71	0.92	2.23	3.22	6.99	9.73	5.66	4.81
Sweden	3.14	4.52	1.86	5.11	9.83	8.73	16.98	2.91	4.43
Switzerland	4.02	3.88	5.34	6.77	6.97	12.56	18.15	7.28	2.76
Turkey	0.04	0.07	0.06	0.13	0.18	0.35	0.44	0.34	0.10
United Kingdom	3.09	3.84	2.86	4.64	8.63	13.77	16.22	4.12	2.25
Non-OECD									
United States	1.15	1.35	1.19	1.27	1.64	2.44	1.63	1.42	1.30
Argentina	0.39	0.58	0.59	1.25	0.78	0.61	0.32	0.06	-0.61
Brazil	0.19	0.20	-0.06	0.13	0.35	0.31	0.38	-0.44	0.54
Chile	1.61	1.05	1.50	1.77	1.87	3.50	5.30	2.35	0.44
Estonia	0.10	0.07	0.86	2.77	0.11	1.49	1.16	3.35	1.88
Israel	0.97	0.92	0.82	0.89	1.08	0.92	3.00	0.55	1.07
Latvia	-1.77	-1.33	0.05	0.10	0.82	0.24	0.12	0.15	0.09
Lithuania	..	0.02	0.00	0.27	0.04	0.08	0.03	0.06	0.13
Romania	..	0.01	..	-0.03	-0.02	0.04	-0.03	-0.04	0.03
Slovenia	-0.09	-0.05	0.03	0.16	-0.03	0.22	0.34	0.68	0.53

Notes : Data are converted using the yearly average exchange rates.

Source: OECD International Direct Investment Database; IMF (for non-OECD Adherents).

Figure C.2. Foreign direct investment outflows from adherents to the OECD Declaration on international investment and multinational enterprises

As a percentage of GDP: 2002



Source: OECD International Direct Investment Database; IMF (for non-OECD Adherents).

Table C.5. **Foreign direct investment to and from OECD countries: inward and outward positions at year-end**

Million US dollars

	Inward							Outward						
	1997	1998	1999	2000	2001	2002p	2003e	1997	1998	1999	2000	2001	2002p	2003e
OECD	2 373 097	2 915 713	3 351 243	4 191 178	4 536 876	5 179 517	..	3 195 126	3 766 649	4 424 095	5 200 002	5 490 455	6 126 041	..
Australia	101 089	105 962	120 626	109 288	107 218	131 607	179 481	71 968	78 648	89 584	83 442	90 717	91 380	125 778
Austria	19 522	23 565	23 472	30 431	34 328	41 946	58 098	14 011	17 468	19 127	24 820	28 511	39 744	55 825
Belgium	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Canada	135 936	143 349	175 001	212 723	214 121	220 899	276 671	152 959	171 785	201 447	237 647	250 441	272 001	308 850
Czech Republic	9 233	14 377	17 550	21 647	27 093	38 672	47 527	548	804	698	738	1 136	1 473	1 912
Denmark	22 268	31 176	42 053	66 712	67 409	73 587	..	28 128	34 857	45 575	66 228	70 133	75 914	..
Finland	9 530	16 455	18 320	24 272	24 070	34 006	46 400	20 297	29 406	33 850	52 109	52 224	63 921	68 702
France	195 913	246 216	244 672	259 773	295 308	386 525	..	237 249	288 036	334 103	445 087	508 842	586 096	..
Germany	188 874	250 320	288 562	460 632	404 497	510 209	..	296 275	365 196	411 952	484 854	545 169	654 928	..
Greece	..	13 088	15 533	12 479	13 639	15 560	..	..	2 792	3 218	5 852	7 020	9 001	..
Hungary	17 954	20 753	23 260	22 856	27 378	35 879	42 919	647	785	924	1 279	1 554	2 161	3 921
Iceland	332	469	478	491	676	763	770	275	361	452	663	840	1 112	1 421
Ireland	..	62 453	72 817	118 549	143 950	184 694	..	..	20 314	25 232	27 925	34 337	34 769	..
Italy	85 402	108 835	108 641	113 046	108 006	126 474	..	139 437	176 985	181 856	180 274	182 373	194 488	..
Japan	27 077	26 065	46 115	50 323	50 320	78 143	89 728	271 906	270 037	248 778	278 444	300 116	304 234	335 503
Korea	..	..	..	..	53 208	62 658	..	..	..	..	..	19 967	22 578	..
Luxembourg	17 280	20 766	20 362	23 492	25 632	..	..	5 022	7 983	8 468	7 927	8 593	..	..
Mexico	55 810	63 610	78 060	97 170	140 376	154 344	..	..	..	..	..	..	13 187	14 156
Netherlands	120 587	160 479	187 822	238 938	276 409	344 130	..	194 247	220 707	253 813	296 672	322 209	374 191	..
New Zealand	31 365	33 170	32 861	28 070	22 103	27 545	34 176	5 646	5 491	7 006	6 065	7 609	7 759	8 418
Norway	20 704	26 081	29 433	30 261	32 590	42 649	..	27 494	31 578	31 871	33 651	..	..	..
Poland	14 587	22 479	26 075	34 227	41 247	47 900	..	678	1 165	1 024	1 018	1 156	1 453	..
Portugal	19 306	24 466	24 148	29 040	34 573	43 195	53 527	5 414	9 622	10 331	17 170	23 490	31 870	38 543
Slovak Republic	2 103	2 920	3 228	4 679	5 730	8 531	11 284	236	408	346	379	507	486	633

Table C.5. **Foreign direct investment to and from OECD countries: inward and outward positions at year-end (cont.)**

Million US dollars

	Inward							Outward						
	1997	1998	1999	2000	2001	2002p	2003e	1997	1998	1999	2000	2001	2002p	2003e
Spain	100 102	118 248	115 986	144 932	165 255	236 257	312 637	50 272	70 056	112 793	159 902	184 712	225 191	281 687
Sweden	41 513	50 985	73 313	93 972	92 240	117 956	143 329	78 201	93 534	106 274	123 234	122 893	144 357	189 409
Switzerland	59 515	71 997	76 000	86 810	88 766	125 079	153 726	165 354	184 237	194 599	233 385	253 552	295 403	344 116
Turkey	..	..	..	19 209	19 677	17 621	..	..	..	..	3 668	4 581	5 047	..
United Kingdom	252 959	337 386	385 146	438 631	506 686	568 259	672 015	360 796	488 372	686 420	897 845	869 700	921 445	1 128 584
United States	824 136	920 044	1 101 709	1 418 523	1 514 374	1 504 428	..	1 068 063	1 196 021	1 414 355	1 529 725	1 598 072	1 751 852	..
Non-OECD	93 941	108 234	140 648	154 277	279 316	225 386	285 615	27 405	31 700	36 815	43 082	93 996	100 591	103 362
Argentina	42 084	47 898	62 088	67 769	69 169	32 394	38 323	16 034	18 335	20 118	21 141	21 283	20 618	21 500
Brazil	..	..	..	..	121 948	100 847	132 799	..	..	..	..	49 689	54 423	54 462
Chile	34 523	37 630	43 498	45 753	44 685	42 928	54 900	5 110	6 735	9 000	11 154	11 905	12 508	13 812
Estonia	1 148	1 822	2 467	2 645	3 160	4 226	6 510	215	198	281	259	442	676	1 021
Israel	9 315	10 507	20 586	24 319	25 115	24 807	31 752	5 223	5 376	6 417	9 353	9 461	10 622	12 132
Latvia	1 272	1 558	1 794	2 084	2 331	2 751	3 320	222	281	244	242	47	66	105
Lithuania	1 041	1 625	2 063	2 334	2 666	3 981	4 960	26	16	26	29	48	60	120
Romania	2 352	4 418	5 469	6 480	7 638	9 369	13 051	114	123	103	136	117	144	211
Slovenia	2 207	2 777	2 682	2 893	2 605	4 081	..	459	636	626	768	1 005	1 476	..
Total	2 467 038	3 023 947	3 491 891	4 345 455	4 816 192	5 404 903	..	3 222 531	3 798 349	4 460 910	5 243 084	5 584 451	6 226 633	..

Notes: Data are converted to US dollars using average exchange rates.

p. Preliminary data.

e. Estimated data.

Source: OECD International Direct Investment Database; IMF (for non-OECD Adherents).

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Ministry of European Integration	http://www.mie.ro
Ministry of Public Finance	http://www.mfinante.ro
Ministry of Justice	http://www.just.ro
Ministry of National Defense	http://www.mapn.ro
Ministry of Administration and Interior	http://www.mai.gov.ro/
Ministry of Labor, Social Solidarity and Family	http://www.mmssf.ro/
Ministry of Economy and Commerce	http://www.minind.ro/
Ministry of Agriculture, Forests and Rural Development	http://www.mapam.ro/
Ministry of Transport, Constructions and Tourism	http://www.mt.ro/
Ministry of Education and Research	http://www.edu.ro/
Ministry of Culture and Religious Affairs	http://www.ministerulculturii.ro
Ministry of Health	http://www.ms.ro/
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