

# GENERAL AGREEMENT ON

# TARIFFS AND TRADE

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UNDERSTANDING REGARDING NOTIFICATION, CONSULTATION,  
DISPUTE SETTLEMENT AND SURVEILLANCE<sup>1</sup>

Communication from Romania

Addendum

The following communication, dated 5 November 1991, has been received from the Permanent Mission of Romania, with the request that it be circulated to contracting parties.

RECENT LEGISLATIVE MEASURES UNDER THE PROGRAMME OF  
ECONOMIC REFORM FOR TRANSITION TO THE MARKET ECONOMY

The Government of Romania continues to be firmly embarked upon its programme of economic reform, aiming at a rapid formation of the country's market economy system. New laws and regulations were adopted, the legal framework for the transition to the market economy being further enlarged.<sup>2</sup>

I. Privatization and the expansion of the private sector

1. The principles and the general framework of the privatization process, originally defined in Law No. 15/1990, are improved and detailed in Law No. 58/1991 on the privatization of the commercial companies (published in Monitorul Oficial No. 169/16 August 1991).

The provisions of the Law cover the following essential aspects:

- the legal modalities for the privatization of the commercial companies;

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<sup>1</sup>BISD 26S/210

<sup>2</sup>This notification covers the period April-October 1991. The legislative measures adopted before April 1991 were presented in document L/6838 of 12 April 1991.

- the procedure for the free-of-charge distribution of Ownership Certificates to all entitled Romanian citizens for 30 per cent of the presently State-owned stock in the commercial companies;
- the purchase by Romanian and foreign, natural or legal, persons of shares and assets of the commercial companies.

2. For the transfer of 30 per cent of the State-owned stock of all commercial companies five Private Ownership Funds shall be established as stockholders. Each Fund shall issue an Ownership Certificate to every Romanian resident citizen aged 18 as of 31 December 1990. These certificates may be either used for the purchase of shares in commercial companies or sold out to Romanian persons, natural or legal.

The possibility of selling them out through a Stock Exchange - to be established in the near future - is also provided.

3. Two ways are established by the Law for selling out the rest of 70 per cent of the State-owned stock in the commercial companies:

- (a) The State Ownership Fund shall be established as a stockholder, which shall sell out the shares of commercial companies through offers, negotiations and auctions to Romanian and foreign, natural or legal, persons.

The employees of the commercial companies will enjoy certain preferential conditions and a pre-emption right in purchasing shares of the commercial companies they are working with.

The State Ownership Fund shall work out annual programmes on the basis of which at least 10 per cent of the shares it holds shall be sold out yearly, in order for the privatization process to come to an end in seven years' time. The selling out shall be sanctioned by the National Agency for Privatization.

- (b) The selling out of shares prior to the establishment of the Private Ownership and the State Ownership Funds is also possible, provided that it is sanctioned by the National Agency for Privatization. This possibility is limited to 0.5 per cent of the total number of the commercial companies to be privatized under this Law.

In order to create the necessary conditions for the privatization process, the revaluation of the assets of the commercial companies is under way.

4. The auctioning out of small units from such sectors as trade, tourism, services and industry to Romanian and foreign, natural or legal, persons represents another feature of the privatization process provided for in Law No. 58/1991.

The first stage of this privatization modality refers to the concession, lease or location of management of State-owned small units suitable to operate independently, in compliance with the provisions of Law No. 15/1990. A more efficient operation of the respective units is thereby envisaged, together with the encouragement of the formation of managers, marketing and financial experts.

The second stage shall consist in the possibility to auction out such units, on the basis of an annual list drawn up by the National Agency for Privatization, to Romanian and foreign, natural or legal, persons (with the exception of the public institutions, "regies autonomes", commercial companies having the State as the single shareholder, as well as of the members of the boards of directors of the companies to be sold). The employees of the respective companies shall enjoy preferential conditions and a pre-emption right in purchasing such units.

5. Going along the line of developing private property, the Government has passed a number of resolutions regarding the selling out of State-owned lodging houses, as well as the facilitation of building privately-owned houses.

## II. Foreign investments

Law No. 35/1991 on the foreign investment régime (published in Monitorul Oficial No. 73/10 April 1991) settles the main principles and rules for foreign capital participation in the Romanian economy, as follows:

- foreign investment shall not be nationalized, expropriated, requisitioned or submitted to other similar measures, except for public interest reasons; in such cases the payment of compensations in accordance with the market value of the respective investments is provided and the right to transfer abroad, in foreign currency, the proceedings herefrom obtained is granted;
- the right to transfer abroad all profits obtained in foreign currency and a quota of profits obtained in domestic currency;
- the right to transfer abroad the receipts from the total or partial selling out of shares, bonds and other drafts, as well as from the liquidation of investments;
- the exemption from custom duties of imports representing the foreign investors' investment contributions; the exemption from custom duties of imported working capital, for two years counted from the start of operation;
- the exemption of foreign investments from the profit tax, for two to five years (depending upon the field of activity) after beginning of operation;

- in addition to the exemptions provided for hereinabove, reductions of the profit tax are further granted after the expiration of the initial tax holiday period, as follows:
  - (a) a 50 per cent reduction of the tax due for the profits reinvested in enterprises set up in Romania, in order to widen and upgrade the technical and material basis, to improve the manufacturing technologies or expand the activity, with a view to obtaining additional profits, as well as for investments aiming at securing the protection of the environment;
  - (b) a 25 per cent reduction of the tax due, providing that one of the following conditions is met: at least 50 per cent of the necessary raw materials, energy and fuel are provided through importation; at least 50 per cent of the goods and services produced are exported; more than 10 per cent of the expenditures are made for research and development of new technologies in Romania and for professional training; at least 50 per cent of the machinery and other equipment necessary to develop the existing investments are obtained from domestic production; at least fifty new jobs are created through a new investment or expansions of existing investments.

The Law provides for up to 100 per cent foreign capital participation.

Foreign investors may take goods, land and companies under concession, rental, financial administration or lease.

### III. Price and wage liberalization

1. Prices have undergone a speedy, multi-stage, process of liberalization. Except for a very limited number of basic products, at present all other prices are free.

The relevant legal regulations providing for the price liberalization are: Government Resolution No. 1154/1990 (published in Monitorul Oficial No. 119/2 November 1990), Government Resolution No. 211/1991 (published in Monitorul Oficial No. 66/22 March 1991) and Government Resolution No. 464/1991 (published in Monitorul Oficial No. 158/26 July 1991).

2. The wage régime is established by Law No. 14/1991 (published in Monitorul Oficial No. 32/1991), stipulating that wages are subject to negotiations between companies and their employees. In order to avoid the fuelling of inflationary pressures, while introducing the minimum wage in the economy the Law sets, through fiscal levers, upper indicative levels to be taken into consideration by companies.

3. Price liberalization is accompanied by suitable social protection. Law No. 1/1991 (published in Monitorul Oficial No. 1/8 January 1991) provides for the social protection of the unemployed and their professional reintegration.

Government Resolution No. 288/1991 (published in Monitorul Oficial No. 104/15 May 1991) regulates, on the basis of Law No. 1/1991, the training and retraining of unemployed persons.

IV. Reform of public finance, fiscal, banking and credit systems

1. Public finance is dealt with in Law No. 10/1991 (published in Monitorul Oficial No. 23/30 January 1991).

Fiscal policy is based on Law No. 12/1991 on profit tax (published in Monitorul Oficial No. 25/1991), Law No. 55/1991 on the amendment of Law No. 12/1991 (published in Monitorul Oficial No. 167/14 August 1991), Government Resolution No. 1109/1990 (published in Monitorul Oficial No. 115/24 October 1990) containing provisions referring to the turnover tax and Law No. 32/1991 on the wage tax (published in Monitorul Oficial No. 70/3 April 1991).

In order to prevent and control the infringement and breach of the fiscal, customs and price régimes, Parliament issued Law No. 30/1991 on the organization and functioning of the financial control and the Financial Guard (published in Monitorul Oficial No. 64/27 March 1991).

2. Banking activity is based on Law No. 33/1991 (published in Monitorul Oficial No. 70/3 April 1991), containing the following main principles:

- as the sole bank of issue, the National Bank of Romania is authorized to regulate money supply and credits, as well as to supervise banking activities;
- commercial banks enjoy full autonomy with respect to banking operations;
- inter-bank compensation funds are created, with a view to globally compensating and settling mutual credits among the commercial banks.

Law No. 34/1991 on the Statute of the National Bank of Romania (published in Monitorul Oficial No. 70/3 April 1991) provides that this bank is a central bank, being entitled to elaborate and apply the monetary, credit and currency policy of the country. In this respect, the National Bank has the following main prerogatives:

- to negotiate financial, monetary and payment matters;
- to negotiate and conclude short-term lending and swap agreements;
- to accede to international financial, monetary and banking organizations;
- to issue the national currency;

- to discount drafts and receipts of the commercial banks and credit institutions;
- to credit the commercial banks and the credit institutions;
- to hold the current accounts of the Romanian Treasury.

#### V. Protection of intellectual property rights

The Parliament recently adopted the new patent law (Law No. 64/1991). The main provisions of the Law are the following:

- patents are available according to the first-to-file principle;
- the patent's owner has, inter alia, the following exclusive rights: to prevent unlawful use by third parties; to assign or transfer by succession the patent; to conclude licence contracts;
- the term of protection is of twenty years.

The following draft laws in the intellectual property field are at present submitted for consideration in the relevant parliamentary bodies: the law for industrial designs; the law for layout-designs of integrated circuits; the copyright law; the patent agents law.

#### VI. Trade policy reform

In addition to the steps already undertaken and notified in document L/6838 of 12 April 1991 - aiming at building a new trade policy, in compliance with GATT rules and disciplines, as well as with international practice - new regulations in this field have recently been adopted.

1. A new customs tariff has been adopted by Government Resolution No. 673/25 September 1991 (published in Monitorul Oficial No. 221/2 November 1991). It will enter into force on 1 January 1992.

The new tariff is a Harmonized System-based one, at a six-digit level. It will be communicated shortly to the GATT secretariat.

2. In October this year a new import and export licensing régime was adopted (Government Resolution No. 726/14 October 1991). The new regulation was notified to GATT (see LIC/1/Add.51/28 October 1991).

The main features of the import licensing régime are the following:

- the import of goods is free, being subject to automatic import licences;
- in the event certain imports should be subjected to import quotas or to final destination control measures, they shall be administered through non-automatic import licences;

- the Ministry of Trade and Tourism may establish temporary import quotas and control measures in the following circumstances:
  - i) upon request of the National Bank of Romania, when there is an imminent risk of balance-of-payments deficit or in order to achieve normal foreign exchange reserves;
  - ii) upon well-funded request of the interested national economic operators or associations of economic operators, when certain imports are of such increased quantities and are made under such conditions that they cause or threaten to cause serious injury to domestic producers of like or directly competitive products.

Exports of goods are, as a rule, free, being subject to automatic licences. Non-automatic licences may apply for certain goods subjected to temporary export quotas or control measures established by the Ministry of Trade and Tourism in case of shortages in the domestic market.

The establishment of import and export quotas, as well as the quantities or, as the case may be, the value of the quotas shall be published.

Import and export licences are issued within a maximum of ten days from the date when the applications are filed with the Ministry of Trade and Tourism - Department of Foreign Trade.

3. In the field of foreign exchange, as previously announced, Government Resolution No. 9/1991 (published in Monitorul Oficial No. 7/15 January 1991) provides for the organization of the inter-bank currency market on a supply-and-demand basis (as a transitory measure preparing the convertibility of the national currency).

Recently, the establishment of foreign currency exchange offices opened by commercial banks and commercial companies, whether private or State-owned, with the prior authorization of the National Bank, has been legally permitted.

Preparations are under way for the elimination of the current system of dual rates of exchange of the national currency and for the introduction of internal convertibility.