

Original: English

ROMANIA – MEASURES ON MINIMUM IMPORT PRICES

Notification of Mutually Agreed Solution

The following communication, dated 26 September 2001, from the Permanent Mission of the United States and the Permanent Mission of Romania to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 3.6 of the DSU.

The United States of America and Romania wish to notify the Dispute Settlement Body that they have reached a mutually satisfactory solution to the matter raised by the Government of the United States in WT/DS198/1, dated 8 June 2000, concerning the obligations of Romania under the WTO Agreement regarding procedures for determining the customs value of imported goods.

Please find attached the text of the exchange of letters dated 25 May 2001 and 26 July 2001 on this subject. We would ask you to circulate this notification and attachment to the relevant Councils and Committees, as well as to the Dispute Settlement Body.

(s) Ms. Linnet F. Deily
Ambassador and Permanent Representative
Permanent Mission of the United States
to the World Trade Organization

(s) Mrs. Anda Cristina Filip
Ambassador and Permanent Representative
Permanent Mission of Romania
to the World Trade Organization

Letter dated 25 May 2001 from Ms. Catherine Novelli,
Assistant United States Trade Representative for European and the Mediterranean
to Ms. Victoria Campeanu, Director for Multilateral Relations

I have the honour to refer to consultations held 13-14 July 2000 regarding *Romania – Measures on Minimum Import Prices* (WT/DS198) requested by the United States pursuant to Articles 1 and 4 of the World Trade Organization's *Understanding on Rules and Procedures Governing the Settlement of Disputes*. I would like to memorialize the discussions and conclusions regarding settlement of the matter reached during these meetings. We believe that these consultations were very productive and we are confident that the proposals to which we have agreed will be sufficient to reach a mutually satisfactory resolution to this dispute settlement matter.

We also thank you for sharing with us the draft legislation regarding customs valuation, and its unofficial English translation. However, the draft legislation is, in important respects, very similar to the existing legislation which allows customs officers to arbitrarily substitute the database prices for declared values when determining transaction value. While we understand that this legislation was drafted prior to our consultations, it is not acceptable. Therefore, in accordance with our discussions during the consultations and thereafter, in order to avoid further dispute settlement proceedings, our respective governments have agreed to undertake the following steps:

- (1) The Government of Romania reaffirms that it strictly uses the valuation methodology set forth in Articles 1 through 8 in the Customs Valuation Agreement, and accordingly, does not and will not use minimum reference prices in determining customs value. The strengthening of enforcement through regulations will further ensure a practice in accordance with the WTO. To this aim, the Government will seek to identify the most adequate form of promoting a special legal act reiterating and further re-enforcing the exclusive use of the methodology outlined in the Customs Valuation Agreement and in the Decision Regarding Cases where Customs Administrations Have Reasons to Doubt the Truth and Accuracy of the Declared Value.

Such a special legal act will provide for the use of a database system only as a tool in the risk assessment process and not for the purpose of the determination of the acceptability of a declared value, and will not give any legal authority to apply minimum values in the future.

On this basis, the special legal act concerning the reformation of Romania's laws, statutes, ordinances, decrees, regulations and administrative guidance regarding customs valuation can be accomplished not later than 15 December 2001.

- (2) The Government of the United States will provide the Government of Romania with materials presenting the benefits of a risk assessment approach to controlling customs fraud. The United States will identify the ways and means to provide Romania with technical assistance that is aimed at furthering Romania's progress in implementing an effective risk assessment system to ensure compliance with its laws pertaining to imported goods and the Customs Valuation Agreement.

Please confirm that this proposal reflects our mutual understanding so that we may inform the World Trade Organization that we have reached a mutually satisfactory solution to this matter.

Letter dated 26 July 2001 from Mr. Mircea Geoana,
Minister of Foreign Affairs to H.E. Mr. Robert B. Zoellick,
Chief of the Office of the United States Trade Representatives

I have the pleasure to confirm receipt of the letter sent on 25 May 2001 by Ms. Catherine Novelli, Assistant United States Trade Representative for Europe and the Mediterranean to Ms. Victoria Campeanu, Director for Multilateral Relations, now in the Ministry of Foreign Affairs, as follows:

"I have the honour to refer to consultations held 13-14 July 2000 regarding *Romania – Measures on Minimum Import Prices* (WT/DS198) requested by the United States pursuant to Articles 1 and 4 of the World Trade Organization's *Understanding on Rules and Procedures Governing the Settlement of Disputes*. I would like to memorialize the discussions and conclusions regarding settlement of the matter reached during these meetings. We believe that these consultations were very productive and we are confident that the proposals to which we have agreed will be sufficient to reach a mutually satisfactory resolution to this dispute settlement matter.

We also thank you for sharing with us the draft legislation regarding customs valuation, and its unofficial English translation. However, the draft legislation is, in important respects, very similar to the existing legislation which allows customs officers to arbitrarily substitute the database prices for declared values when determining transaction value. While we understand that this legislation was drafted prior to our consultations, it is not acceptable. Therefore, in accordance with our discussions during the consultations and thereafter, in order to avoid further dispute settlement proceedings, our respective governments have agreed to undertake the following steps:

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Such a special legal act will provide for the use of a database system only as a tool in the risk assessment process and not for the purpose of the determination of the acceptability of a declared value, and will not give any legal authority to apply minimum values in the future.

On this basis, the special legal act concerning the reformation of Romania's laws, statutes, ordinances, decrees, regulations

and administrative guidance regarding customs valuation can be accomplished not later than 15 December 2001.

- (2) The Government of the United States will provide the Government of Romania with materials presenting the benefits of a risk assessment approach to controlling customs fraud. The United States will identify the ways and means to provide Romania with technical assistance that is aimed at furthering Romania's progress in implementing an effective risk assessment system to ensure compliance with its laws pertaining to imported goods and the Customs Valuation Agreement.

Please confirm that this proposal reflects our mutual understanding so that we may inform the World Trade Organization that we have reached a mutually satisfactory solution to this matter."

I have the honour to confirm that the proposed settlement is acceptable to the Government of Romania, and that the above-mentioned letter and this reply constitute settlement of the dispute *Romania – Measures on Minimum Import Prices* (WT/DS198) brought by the United States pursuant to Articles 1 and 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*.
