

**No. 13072**

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**UNITED STATES OF AMERICA  
and  
ROMANIA**

**Exchange of notes constituting an agreement relating to  
investment guaranties. Bucharest, 28 April 1973**

*Authentic texts: English and Romanian.*

*Registered by the United States of America on 12 February 1974.*

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**ÉTATS-UNIS D'AMÉRIQUE  
et  
ROUMANIE**

**Échange de notes constituant un accord relatif à la garantie  
des investissements. Bucarest, 28 avril 1973**

*Textes authentiques : anglais et roumain.*

*Enregistré par les États-Unis d'Amérique le 12 février 1974.*

# EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT<sup>1</sup> BETWEEN THE UNITED STATES OF AMERICA AND ROMANIA RELATING TO INVESTMENT GUARANTIES

## I

*The American Ambassador to the Romanian Minister Secretary of State,  
Ministry of Foreign Trade*

EMBASSY OF THE UNITED STATES OF AMERICA  
BUCHAREST

April 28, 1973

Excellency:

I have the honor to refer to conversations which have recently taken place between representatives of the Government of the United States of America and the Government of the Socialist Republic of Romania relating to investments in the Socialist Republic of Romania designed to promote the development of the economic resources and productive capacities in the Socialist Republic of Romania and to insurance and guaranties of such investments issued as an incentive through the Overseas Private Investment Corporation or a successor agency of the Government of the United States of America conducting programs having the same functions and objectives as those of the Overseas Private Investment Corporation. I also have the honor to confirm on instructions from the Government of the United States of America the following understandings reached as a result of those conversations:

1. When an investor proposes to invest in an economic organization within the Socialist Republic of Romania with the assistance of insurance or guaranties (hereinafter referred to as "coverage") issued pursuant to this Agreement by the Government of the United States of America, the Government of the United States of America (the Issuing Government) and the Government of the Socialist Republic of Romania (the Host Government) shall, when considered necessary by either, consult respecting the proposed investment.

2. The Host Government agrees that coverage under this Agreement may be issued with respect to investment in a joint venture that has been approved in accordance with the applicable laws and regulations of the Host Government.

The issuance of coverage under this Agreement with respect to other forms of investment shall require the express approval of the Host Government.

3. If the Issuing Government makes payment to any investor under coverage issued pursuant to this Agreement, the Host Government shall recognize the transfer to the Issuing Government of the rights and obligations of the covered investor, with respect to the claim for which payment is made, derived from the contract of association, the statutes of the joint venture or any applicable laws of the Host Government. The Issuing Government shall with respect to any rights transferred or succeeded to under this paragraph assert no greater rights

<sup>1</sup> Came into force on 28 April 1973, the date of confirmation of its approval by the two Governments, in accordance with paragraph 7 of the said notes.

than those of the covered investor derived from the approved investment and shall acquire such rights subject to the payment of legal taxes and the fulfillment of other obligations ensuing from the contract of association. The Issuing Government does, however, reserve its rights to assert a claim in its sovereign capacity under international law.

4. To the extent that the laws of the Host Government partially or wholly invalidate or prohibit the acquisition from a covered investor of any interests in any property within its national territory by the Issuing Government, the Host Government shall permit the Issuing Government to make appropriate arrangements pursuant to which such interests are transferred to an entity permitted to own such interests under the laws of the Host Government.

5. (a) Differences between the two Governments concerning the interpretation and application of the provisions of this Agreement or involving the assertion by either Government of a claim under public international law with respect to any investment covered under this Agreement shall be resolved, insofar as possible, through negotiations between the two Governments. If such a difference cannot be resolved within a period of six months following the request for such negotiations the difference, including whether a question of international law is presented, shall be submitted at the request of either Government to an arbitral tribunal for resolution in accordance with paragraph 5(b).

(b) The arbitral tribunal for resolution of disputes pursuant to paragraph 5(a) shall be established and function as follows:

- (i) Each Government shall appoint one arbitrator; these two arbitrators shall propose a President by common agreement who shall be a citizen of a third State and be appointed by the two Governments. The arbitrators shall be appointed within four months and the President within six months of the date of receipt of either Government's request for arbitration. If the arbitrators are not appointed within the foregoing time limit, the Government which has failed to appoint its arbitrator agrees that this arbitrator is to be appointed by the Secretary-General of the United Nations. Also, if the two Governments do not come to an agreement within the foregoing time limit regarding the appointment of the President, they agree that the President is to be appointed by the Secretary-General of the United Nations.
- (ii) The arbitral tribunal shall base its decision on the applicable principles and rules of public international law. The arbitral tribunal shall decide by majority vote. Its decision shall be final and binding. Only the two Governments may request the arbitral procedure and participate in it.
- (iii) Each of the Governments shall pay the expense of its arbitrator and of its representation in the proceedings before the arbitral tribunal. The expenses of the President and the other costs shall be paid in equal parts by the two Governments. The arbitral tribunal may adopt regulations concerning the costs, consistent with the foregoing.
- (iv) In all other matters, the arbitral tribunal shall regulate its own procedures.

6. The two Governments, desiring reciprocity, agree that, in the event the Government of the Socialist Republic of Romania is authorized under its laws to issue coverage for investments in any project or activity within the United States of America under a program similar to the investment incentive program to which this Agreement relates, there shall be, upon the request of either Government, an exchange of notes to make applicable, with respect to such investments made in the United States of America, provisions equivalent to those of this Agreement.

7. This Agreement shall enter into force on the date of confirmation of its approval by the Government of the United States of America and the Government of the Socialist Republic of Romania.

This Agreement shall continue in force until six months from the date of receipt of a note by which one Government informs the other of its intent no longer to be a party to the Agreement. In such event, the provisions of the Agreement with respect to coverage issued while the Agreement was in force shall remain in force for the duration of such coverage, but in no case longer than twenty years after the denunciation of the Agreement.

At the same time, I have the honor to confirm that the Government of the United States has approved this Agreement.

Accept, Excellency, the renewed assurances of my highest consideration.

LEONARD C. MEEKER

His Excellency Nicolae M. Nicolae  
Minister Secretary of State  
Ministry of Foreign Trade  
Bucharest

## II

### [ROMANIAN TEXT — TEXTE ROUMAIN]

Am onoarea să confirm primirea scrisorii dv. din 28 aprilie 1973, cu următorul conținut:

«Am onoarea de a mă referi la convorbirile care au avut loc recent între reprezentanții Guvernului Statelor Unite ale Americii și ai Guvernului Republicii Socialiste România, referitoare la investiții în Republica Socialistă România, destinate să promoveze dezvoltarea resurselor economice și potențialul productiv în Republica Socialistă România și la asigurarea și garantarea unor astfel de investiții inițiate în scop stimulat, prin Corporația pentru Investiții Particulare în Străinătate sau o altă agenție succesoare a Guvernului Statelor Unite ale Americii, al cărei program de activitate să aibe aceleași funcții și obiective ca cele ale Corporației pentru Investiții Particulare în Străinătate. Am, de asemenea, onoarea de a confirma, din însărcinarea Guvernului Statelor Unite ale Americii următoarele puncte la care am ajuns de acord în cursul acestor convorbiri:

1. Cînd autorul unei investiții își propune să investească într-o organizație economică din cadrul Republicii Socialiste România prin asigurare sau garanții (de aici înainte denumite “acoperire”) emise de Guvernul Statelor Unite ale Americii în urma acestui acord, Guvernul Statelor Unite ale Americii (Guvernul Emițător) și Guvernul Republicii Socialiste România (Guvernul Gazdă) se vor consulta privitor la investiția propusă, cînd oricare din părți consideră necesar.

2. Guvernul gazdă este de acord că acoperirea, conform acestui Acord, poate fi emisă cu privire la investiția într-o societate mixtă, care a fost aprobată conform legilor și regulilor în vigoare ale Guvernului Gazdă.

Emiterea acoperirii conform acestui Acord cu privire la alte forme de investiții va necesita o aprobare expresă a Guvernului Gazdă.

al Americii în cadrul unui program asemănător cu programul de stimulare de investiții la care acest Acord se referă, se va proceda, la cererea oricăruia dintre cele două Guverne, la un schimb de note care să facă posibilă aplicarea unor prevederi echivalente acelorora din acest Acord, în legătură cu astfel de investiții făcute în S.U.A.

.7. Prezentul Acord va intra în vigoare la data confirmării aprobării lui de către Guvernul Statelor Unite ale Americii și Guvernul Republicii Socialiste România.

Acest Acord va continua să rămână în vigoare șase luni de la data de la care se va primi o notă prin care unul dintre Guverne îl informează pe celălalt de intenția sa de a nu mai participa la acest Acord. Intr-un asemenea caz, prevederile Acordului cu privire la acoperirile emise în timpul valabilității acestuia, vor rămâne în vigoare pe perioada unei astfel de acoperiri, dar în nici un caz nu va depăși 20 de ani de la denunțarea Acordului.

Totodată, am onoarea, să confirm că Guvernul Statelor Unite ale Americii a aprobat Acordul de mai sus.»

Totodată, Excelență, am onoarea să confirm că Guvernul Republicii Socialiste România a aprobat Acordul de mai sus.

Primiți, Excelență, asigurarea considerației mele celei mai înalte.

[Signed — Signé]

NICOLAE M. NICOLAE

ministru secretar de stat

la Ministerul Comerțului Exterior

București, 28 aprilie 1973.

Excelenței sale Domnului Leonard C. Meeker  
ambasadorul Statelor Unite ale Americii  
în Republica Socialistă România

[TRANSLATION<sup>1</sup> — TRADUCTION<sup>2</sup>]

*The Romanian Minister Secretary of State in the Ministry of Foreign Trade  
to the American Ambassador*

I have the honor to confirm the receipt of your note of April 28, 1973, which reads as follows:

[See note I]

<sup>1</sup> Translation supplied by the Government of the United States of America.

<sup>2</sup> Traduction fournie par le Gouvernement des États-Unis d'Amérique.

At the same time, Excellency, I have the honor to confirm that the Government of the Socialist Republic of Romania has approved the above Agreement.

Accept, Excellency, the assurance of my highest consideration.

[Signed]

NICOLAE M. NICOLAE  
Minister Secretary of State  
in the Ministry of Foreign Trade

Bucharest, April 28, 1973.

To His Excellency Leonard C. Meeker  
Ambassador of the United States of America  
to the Socialist Republic of Romania