

THE ASSIMILATION AND INTEGRAL APPLICATION BY ROMANIA OF THE COMMON COMMERCIAL POLITICS OF THE EUROPEAN UNION

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Abstract: Starting with the 1st of January 2007, when Romania adhered to the European Union, the national competences of elaboration and application of the external commercial politics of Romania have been transferred to the level of the European Union, who exercises jointly with the other states of the European Union these competences, it has respectively, how we saw, a commercial politic common with the relations with tertiary extra-communitarian countries.

By the Treaty of adhesion of Romania to the European Union, the constitutive treaties of EU become integrant part of the Romanian legislation. Thus, in the conditions of Romania's adhesion to the EU, the principle of supremacy of the communitarian law over the internal law it is applied in our country too. Romania had the obligation to modify, according the Treaty of adhesion, until the adhesion date, the treaties finalized with tertiary states that are incompatible with the communitarian law. On the contrary, these treaties have been denounced.

Starting with the 1st of January 2007, when Romania adhered to the European Union, the national competences of elaboration and application of the external commercial politics of Romania have been transferred to the level of the European Union, who exercises jointly with the other states of the European Union these competences, it has respectively, how we saw, a commercial politic common with the relations with tertiary extra-communitarian countries.

The communitarian institution that fulfils this attribution within the European Union is the European Commission. It develops its activity according the mandate received from the Council of Ministers of the Community and strongly related with the member states of the European Union.

According the Treaty of adhesion of Romania to the European Union, Chapter 26- External relations, within the negotiations, Romania has thoroughly accepted the communitarian legislation regarding the external relations.

Within this context, once with the adhesion on January 1st, 2007 to the European Union, Romania applies the commercial politics of EU, respectively:

- the common custom rate, towards tertiary extra-communitarian markets;
- the scheme of generalized preferences (SGP) of EU;
- the measures of commercial application of the EU;
- the commercial preferential agreements and of cooperation finalized by the EU with the tertiary states;
- the commercial agreements taken by the EU within the International Commerce Organization.

Regarding the statistic of the external commerce of the European Union, this

reflects the fluxes of export and import of goods of the member states of EU, on the whole, that they develop with the tertiary states from all continents in the world. The data is collected by the duty authorities with the occasion of processing of the duty declarations of export and import. These constitute the basis for the establishment of the commercial extra-communitarian commerce statistics of EU, that is called EXTRASTAT.

The application of the regime for export and import from the European Union.

After January 1st, 2007, *the exporters* from Romania apply the principle of freedom for exporting to tertiary states (outside the EU). Although, in justified cases, the EU regulations allow a member state to maintain and to introduce quantitative restrictions or even interdictions for some exports. Such measures of protection aim especially the basic products, being adopted by the EU Council (with the qualified majority), at the EU' s proposal. The export of cultural goods must not comprise the category of goods that are part of the national treasuries from the EU member states. For the export of products and technologies with double usage, the competent authority of Romania that observes the respect of the communitarian juridical board is the National Agency of Exports' Control (ANCEX), within the subordination of the Ministry of External Affairs.

The main instrument of the common commercial politics of EU regarding the import is the duty common rate, that comprises the duty rates applied to the imports from tertiary extra-communitarian countries, by all the member states of the EU, according the provision of the most favored nation.

From January 1st, 2007 since Romania has the status of a state member of the EU, the placation of the common duty rate is realized without the need of adopting a specific national legislation.

So, Romania, once it has adhered to the EU, applies the commercial regime of import common to the EU. This means the use (by duty declaration to import) of the imported products from tertiary states and the application of duty taxes foreseen in the common duty rate of the EU (published in the 'Official Journal' anr. 301/31.10.2006).

The importers from Romania must know the fact that the level of duty taxes applicable will be, on the whole, more reduced than the level of the duty taxes of import applied within our country until December 31, 2006. it is important to emphasize that the application of the common duty rate leads to the obtaining, by the importers from Romania, of some access conditions to the import merchandise from the tertiary extra-communitarian markets, similar to all states of the EU.

The economic operators from Romania who want detailed information about the Combined Nomenclature (goods classified, encoding etc.) may address directly the National Duty Authority.

At the same time, for the establishment of the plan of affairs by our economic operators, in the data base of the Integrated Rate of the European Communities (TARIC). Thus it can be obtained detailed information regarding the duty tax and other elements of the import regime (SGP, preferential regime, antidumping taxes and so on) per product (according the Combined Nomenclature) according the imports' country of origin.

It is also important the knowledge of the economic operators from Romania about the common general rules of import of the EU elaborated according the principle of

freedom of import, but also the procedures that allow the EU to apply, if necessary, observance measures and of safeguardation that are imposed to protect its interests. Such general rules of import aim the regime of imports in the EU from some tertiary states with state monopole over external commerce (example: original products from CSI, People's Republic of China and other countries with the same regime especially from Asia). Also, it is compulsory for the economic operators from Romania to learn the procedure regarding the administration of quantitative quotas (contingents) according special license requests of the Community.

Romania, donor of preferences (duty) within the Generalized System of Preferences (SGP) of the EU

Since January 1st, 2007, when Romania became member of the EU, our country is part of the Generalized System of Preferences of the EU as donor of preferences (duty).

This situation differs radically from the previous period until December 31, 2006, when Romania was on the lists of SGP beneficiaries, respectively, it enjoys a more favoring treatment from the developed countries regarding the level of duty taxes for import applicable to the exports from Romania.

The new position of Romania as donor country within the SGP of the EU for 113 beneficiary states is leading to the following advantages for our economic operators:

- the effectuation of imports of staples and materials from the countries in course of development that are beneficiaries of SGP, to which it is applied a smaller level of duty taxes, including the exemption of duty tax for the products that are not produced in the country and that are at the basis of the export production and its efficiency by more reduced costs for the respective products;
- the obtaining of more advantageous conditions of staples and materials necessary for the internal production;
- the completion of the internal resources by import of staples and materials with smaller prices, as consequence of the elimination or reduction of import duty taxes.

In conclusion, from January 1st, 2007 Romania became a donor of preferences as member state of the EU and applies the in law communitarian scheme during the period 2006-2008, without being a SGP beneficiary. Within this scheme SGP comprises three agreements for which the duty preferences differ according the regime applied by the beneficiary state, respectively: 1. the general SGP regime; 2. the special SGP regime (SGP+) for the encouragement of long term development and of well government; 3. the special regime for less developed countries.

At the same time, Romania, as member of the EU since January 1st, 2007, has withdrawn from two arrangements closed between the countries in course of development, from which it was a member, respectively, the Protocol of the 16 (P16) and the Global System of Commercial Preferences (SGPC).

The measures of commercial protection are: antidumping measures, anti-subvention measures and measures of safeguardation.

The Romanian operators must know that, starting with January 1st, 2007, the in law measures of commercial protection regarding Romania will no longer be applicable and the vice versa, because the communitarian member states form an unique market, and within the European Union there is not possible to take measures of commercial protection between the member states.

Since January 1st, 2007, also, the imports from tertiary states from the European Union, extended to 27 states, thus including Romania too, are subjected to the in law

measures of commercial protection within the EU, being automatically applicable. In what regards the measures of commercial protection adopted by Romania against tertiary countries, these will cease to apply.

At the same time, after January 1st, 2007 the in course investigations for commercial protection in the European Union will continue, except for those that regard the products proceeding from Romania.

Also, starting with January 1st, 2007, the measures of commercial protection adopted by tertiary states against the EU on the whole are extended over Romania too, as member state of the EU, by the respective countries, according the legislation of the latter.

The economic operators from Romania must also know that, according the communitarian regulations, the European Commission initiates and realizes investigations of commercial protection for all the member states of the European Union.

Preferential and non-preferential commercial agreements finalized by the EU with tertiary states

The whole of *preferential commercial agreements* finalized by the EU with tertiary states presents a wide range of types: preferential commercial agreement (also called agreement for free trade), agreement of economic and commercial cooperation (according the provision of the most favored nation), including in the form of an partnership and cooperation agreement, association agreement, agreement of stabilization and association. The System of Commercial Autonomous Preferences (having as beneficiaries the countries from the West Balkans), the EU Partnership with the non-Mediterranean countries, the preferential agreements with the countries in course of development APC (Africa, Pacific, Caribbean), the Agreement Regarding the Commerce, Development and Cooperation with South Africa. Preferential agreements with countries from Latin America (Mexico and Chile).

Romania, from the moment of adhesion to the EU, has withdrawn from all the agreements that it has finalized previously to the adhesion to the EU (for example the agreements of free trade finalized bilaterally with Albania, Bosnia and Herzegovina, Serbia and Montenegro and Macedonia), as well as the Central European Agreement for Free Trade (CEFTA). At the same date, Romania has also withdraw from the Agreements for Free Trade finalized with Israel and Turkey, countries from the Euro-Mediterranean area.

Since January 1st, 2007 Romania, as member of the EU, applies all the provisions from the preferential commercial agreements finalized by the EU with extra-communitarian tertiary countries.

The European Union finalized *non-preferential commercial agreements* with countries from all continents and from some important areas in the world (CSI and Middle East), including with countries from Central America.

In the context in which, from the date of January 1st, 2007 Romania adhered to the EU and applies the common commercial politics towards tertiary countries, happened the following changes towards its ex-commercial external politics:

a. it ceased the validity of the Agreement for Free Trade between Romania and the Republic of Moldova;

b. Romania no longer beneficiates of the Generalized System of Duty Preferences (SGP), by part of some states from CSI (example, the Russian Federation),

that applied reduction for duty taxes for the import of some Romanian products;

c. Romania has withdrawn from within the Global System of Commercial Preferences (SGPC), by which our country gives to some states in course of development from the Middle East reduction of duty taxes;

d. In the reports with the People's Republic of China, Romania will take the common commercial policy of the EU regarding the access on the communitarian market for Chinese textile products, respectively, it will apply the system of double surveillance, with the objective of preventing eventual disturbances of the field market caused by the increased level of these imports. At the same time, Romania will come up to the efforts of the EU meant to ensure the opening of the Chinese field markets, especially regarding the poise of the foreign capital in sectors as constructions, banking-finances, insurances, telecommunications or automobile constructions and the facilitation of the access to the staples of the People's Republic of China;

e. In what regards the commercial relations with India, Romania will join the actions of the EU in order to simplify the import procedures applied at present by India, as well as the elimination of a series of non-rated barriers in commerce, especially regarding the regulations in field of standardization, of the sanitary-veterinary certificates and phito-sanitary.

Since January 1st, 2007 Romania modified the juridical background, applying the common commercial policy of the EU, with the countries from outside the EU area, as following:

- countries from the Non-communitarian Europe (Albania, Azerbaijan, Croatia, the Russian Federation, Georgia, Kazakhstan, Macedonia, the Republic of Moldova, Serbia, Turkmenistan, Turkey, Ukraine);

- countries from Africa and Middle East (Algeria, Angola, Saudi Arabia, Benin, Botswana, Burundi, Cameroon, Egypt, Ghana, Jordan, Iran, Iraq, Israel, Kenya, Kuwait, Lesotho, Madagascar, Morocco, Mauritius, Mozambique, Namibia, Nigeria, Qatar, the Republic of South Africa, Rwanda, the Arabic United Emirates, Ethiopia, Lebanon, Seychelles, Syria, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda);

- countries from America (Argentina, Brazil, Canada, Chile, Colombia, Cuba, Mexico, Peru, USA, Uruguay, Venezuela);

- countries from Ocean-Asia (Australia, the People's Republic of China, South Korea, Filipinas, India, Indonesia, Japan, Malaysia, Pakistan, Singapore, Sri Lanka, Thailand, Vietnam).

The application of the sectoral politics of the EU

In the Treaty of adhesion it is foreseen the fact that the EU will adopt *the quantitative restrictions for steel and coal* in the relation with tertiary countries, according the imports of Romania and Bulgaria. Also, the quantitative restrictions applied by the EU to the imports of textile products and clothing will be adopted in order to take into consideration the adhesion of Romania and Bulgaria to the EU. Regarding the bilateral agreements about fishing finalized by Romania and Bulgaria before the adhesion, these will be administered subsequently by the EU.

If, until the end of the three years period from the adhesion, there will appear serious and persistent difficulties in a certain economic sector or that could deteriorate the economic situation in a certain field, Romania can require the European Commission the authorization to take measures for protection, using the provision of general safeguardation (economic), in order to improve the created situation and to

adjust the respective economic sector of the Common Market. In the same circumstances, any actual member state can require the authorization to take measures for protection.

If, after the first three years from adhesion, Romania does not comply with the assumed obligations within the negotiations, thus jeopardizing the functioning of the Internal Market, the European Commission, by its own initiative or at the request of a member state, can take the necessary measures using the safeguardation provision regarding the Internal Market, in order to remediate this situation.

After the adhesion to the EU, Romania will give a special attention to the promotion of its own interests within the Textile Committee of the European Commission (COMTEXT) and within the Committee 133-Textile of the Council. The guide regarding the textile import regime in the EU is applied starting with the date of January 1st, 2006. this guide presents the table of concordance between the system of categories of textiles and the rate codes from the Combined Nomenclature of the European Union.

On the date of Romania's adhesion to the EU, it expired the Agreement of double safeguardation that was finalized between Romania and the EU. As for the bilateral agreements between the EU and the Russian Federation, Ukraine and Kazakhstan, if the respective countries have not adhered to the OMC in the year 2006, these agreements are going to be adapted in the context of extension of the EU. The negotiations of adaptation will be realized by the European Commission, Romania having the obligation to supply the statistic data regarding the commerce with *siderurgical products* with these countries. From January 1st, 2007 Romania applies, as well as the other member states of the EU, the Guide regarding the import regime for siderurgical products in the EU.

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