MEMORANDUM OF UNDERSTANDING

BETWEEN

THE EUROPEAN COMMISSION

AND

ROMANIA

The present supplemental memorandum of understanding updates the specific Economic Policy Criteria contained in the original memorandum of understanding signed in June 2011 as amended by the first supplemental memorandum of understanding signed on 27 December 2011.

The memorandum of understanding may be amended upon mutual agreement of the parties in the form of an Update. The Update will become effective after the completion of the internal procedures required under the Laws of Romania.

Done in Bucharest on June 22, 2012 and in Brussels on June 29, 2012 in five originals in the English language.

ROMANIA
Represented by

EUROPEAN UNION
Represented by
EUROPEAN COMMISSION

Olli Rehn
Vice-President of the European Commission

Victor Ponta
Prime Minister

Florin Georgescu
Deputy Prime Minister and Minister of
Public Finance

Mugur Isărescu
Governor of the National Bank of Romania

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F.G. M.I.

ANNEX

ROMANIA

MEMORANDUM OF UNDERSTANDING
ON
SPECIFIC ECONOMIC POLICY CONDITIONALITY
(SECOND SUPPLEMENTAL MEMORANDUM)

June 2012

With regard to Council Decision (EU) n° 2011/289/EU of 12 May 2011 granting mutual assistance for Romania, this second update of the Memorandum of Understanding on Specific Economic Policy Conditionality (MoU) details the general economic policy conditions as embedded in the Implementing Council Decision (EU) n° 2011/288/EU of 12 May 2011 providing precautionary EU medium-term financial assistance for Romania.

This second supplemental Memorandum of Understanding updates the specific economic policy criteria contained in annex 1 to the original Memorandum of Understanding[1] as amended by the first supplemental Memorandum of 27 December 2011.

For the duration of the EU/IMF financial assistance programme the Romanian authorities will take all the necessary measures to ensure a successful implementation of the programme. In particular, they commit to:

- Consult with the European Commission and the IMF on the adoption of policies that are not included in this Memorandum but that could have a material impact on the achievement of programme objectives.

To facilitate programme monitoring, the authorities will provide the European Commission and the IMF with:

- All information required to monitor progress during programme implementation and to track the economic and financial situation.

[1] The signatures on the "Memorandum of Understanding between the European Union and Romania" were completed on 29 June 2011.

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Annex 1: Specific Economic Policy Criteria

A: Fiscal consolidation

No.	Measures
1	Progress in terms of fiscal consolidation with a view to reaching a deficit below 3% of GDP for 2012 in ESA terms.
2	In the 2012-2015 update of the Medium Term Fiscal Strategy, provide the financing necessary to gradually reduce the payment delays in the health sector from 210 days to 60 days as required by Article 4 (4) of the EU late payments directive (Directive 2011/7/EU).
3	Further progress with the reduction in government payment arrears both at central government and local government levels, as specified by the quantitative targets of the joint program.
4	Introduction of an enhanced reporting system for the State Owned Enterprises which are part of the ESA definition of the general government. The system should require these companies to report all necessary data for the calculation of the likely impact on the general government deficit. The data should be reported monthly and on a cash basis; and should include, inter alia, a monthly monitoring of arrears, subsidies and transfers, and losses.
5	Prevent the further accumulation of arrears and losses for the companies which have been reclassified by Eurostat into the general government sector.
6	Continued monitoring of the public sector wage bill, and necessary action taken in a timely fashion if the wage bill is projected by the Ministry Of Public Finances (MOPF) or by the Commission staff to exceed the relevant limits set in the Medium-Term Fiscal Strategy. The public sector wage bill should remain sustainable over the 2012-2014 period.
7	Approval of legislation by mid-June 2012 to modify the co-payment system for medical services in cooperation with the World Bank.
8	In case the Nabucco project starts, which would make it necessary to issue a state guarantee on the part of Romania, the ceiling for the state guarantees defined in the Medium-Term Fiscal Strategy will be temporarily adjusted accordingly. In case these or any other guarantees are called, compensatory measures - to the extent the ESA treatment of the called guarantees requires - will be taken to keep the fiscal deficit within the (ESA) targets defined.

B: Fiscal governance and structural fiscal reform

No.	Measures
9	The MOPF should receive the information on hospital budgets at central government level from the Health Ministry in a timely fashion. Once the new

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No. Measures

Health Law is approved, the MOPF should also receive the information on hospital budgets at local government level from the Health Ministry. The MOPF should check that the aggregate figures for hospital budgets are consistent with the expenditure programmed in the general government budget, and if the need arises take the necessary action in cooperation with the Ministry of Health, in order to avoid a re-accumulation of payment arrears as a result of expenditure commitments based on over-estimated revenue.

10 Improvement in capital investment budgeting by establishing a list of priority investment projects for which financing will be available over the next 3-5 years. The list of priority projects should be based on detailed feasibility studies, and take account of criteria such as cost benefit analysis, estimated share of completion, how well the project implementation has been managed to date by the ministry, their matching to the strategic priorities of the government, as well as on the analysis produced by the capital monitoring unit of the MOPF. Improve the monitoring and evaluation of investment projects at the central government level in particular by improving the database relative to capital investment managed by the MOPF which would also contain information on the status of the projects such as project delays or cost overruns. The development of the database should follow the same timeline as the IMF assisted IT project of integrating the accounting reporting system with the Treasury payment system of the MOPF. Continue to improve the expertise in the public investment monitoring unit in the MOPF. Going forward, the public investment monitoring unit of the MOPF will produce quarterly reports to the government on the status of ongoing and planned investment projects. The government will discuss this report and, if necessary, take timely action to eliminate potential fiscal slippages or any other problems related to budget execution.

11 Reorient public capital spending so as to obtain a gradual shift from entirely domestically financed investment to EU co-financed investment; ensure that the share (% of GDP) of capital spending on EU co-financed investment including from external loans in 2012 will be around 4.0% of GDP and remains thereafter higher than the share of non-co-financed investment in line with the medium-term fiscal strategy; and ensure congruence with EU priorities.

12 Reinforcement of the statistical capacities and expertise at the Romanian National Statistical Institute (INSSE) in the field of Government Finance Statistics (GFS). INSSE will submit semi-annual reports on progress made.

13 Delivery to the Commission Services of the second report on the implementation of conventional measures to tackle VAT fraud by June 2012 and the third report by December 2012.

__Debt management__

14 Review (and in this context discuss it with Commission staff), update and publish the debt management strategy on an annual basis, i.e. under this programme by the second quarter of 2012 and by end-December 2012.

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C: Financial sector regulation and supervision

No.	Measures
15	Based on the Memorandum of Understanding between the NBR and the Deposit Guarantee Fund (DGF), the two institutions will agree by end-May 2012 the set of relevant financial information as well as the necessary internal arrangements to provide this information to the DGF.
16	To foster the development of the market for impaired assets and mitigate the risks associated with the still on-going deterioration in asset quality, authorities will ensure by end-June 2012 that the tax treatment of bank receivables sold by banks to asset recovery companies incorporated in Romania is neutral.
17	Make the necessary legislative amendments to Law 503/2004 on the bankruptcy of insurance undertakings to ensure, inter alia: *i)* the correlation with the Law 32/2000 on the insurance business and insurance supervision with subsequent amendments and with the general law on insolvency; *ii)* the expansion of the scope of application of this law to re-insurance companies; *iii)* the introduction of provisions on voluntary dissolution and liquidation. The authorities will ensure that the law amending the Law 503/2004 will be enacted by end-October 2012.
18	To continue preserving financial stability, the NBR will ensure that any future consolidation process in the banking sector will lead to the emergence of well-capitalized credit institutions backed by a strong private shareholder base.
19	Based on available data, the NBR will prepare an assessment of the experience with the application of the prudential filters on loan-loss provisions, solvency and reserves as well as proposals for the permanent arrangements (including possible adjustments) that will apply in 2013. These will be shared with the EC and IMF staff and subsequently released for consultation with the banking community no later than end-July 2012.To strengthen its capacity to effectively supervise the banking sector, the NBR will continue to upgrade its expertise in IFRS, including *via* consultation with international experts.
20	To avoid the ever-greening of loan portfolios while allowing banks some flexibility in loan restructurings, the NBR will continue to closely oversee bank practices to ensure that loan-loss provisioning and the assessment of credit risk of restructured loans continue to remain prudent and in line with good international practices.
21	Authorities will amend, by end-October 2012, Government Ordinance 10/2004 on the winding up of credit institutions to ensure that the treatment of subordinated debt in the table of creditors is determined by contractual terms and not by thresholds related to the participation to the capital of credit institutions.
22	Once sufficient data becomes available, the NBR will assess, by end-October 2012 at the latest, the impact of the recently introduced measures on foreign-exchange lending to households, and share its observations with the EC and IMF staff.
23	As preserving credit discipline and avoiding moral hazard among debtors contributes significantly towards enhancing financial stability, we will continue refraining from adopting legislative initiatives (for instance the personal insolvency

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No. Measures

law, proposals for the debt collecting law), which would undermine credit discipline.

D: Structural reforms

No. Measures

24 Implementation of the Action Plans adopted in response to the findings of the functional reviews. Report on progress on a quarterly basis.

25 Modernise and streamline the relations between different levels of government and between the government and citizens and businesses by greater reliance on electronic data exchange and online interfaces.

Product markets

26 Notification of the laws relevant for the transposition of EU Directives 2009/72/EC and 2009/73/EC (part of the 3rd Energy Package) on electricity and gas markets as soon as possible. The laws should ensure a full and correct transposition of Directive 2009/72/EC and 2009/73/EC and should reflect, among other things, the commitments of Romania under the MoU. The laws should include the final timeline of price deregulation in electricity and gas, which should be achieved as soon as possible, but for electricity not later than by end-2013 (non-domestic consumers) and end-2017 (domestic consumers), and for gas as soon as the price for domestically produced gas converges with the average European market price for gas, but not later than by 2014, unless a large gap remains between the average European price and the import price (which could endanger market stability), in which case adjustment would continue until end-2015 (non-domestic consumers). For households, regulated gas prices will be increased starting in July 2013 and converge to international gas prices no later than December 2018.

27 Phase out regulated prices in electricity: According to the electricity road map, adopted in March 2012 by government memorandum, implement the actions by the agreed deadlines and provide quarterly progress reports starting from 1 October 2012. Publish the adopted electricity roadmap before 30 June 2012.

Phase out regulated prices in gas: Adopt a detailed roadmap for phasing out regulated prices in gas for non-domestic and domestic customers through a government memorandum by mid-June 2012. The draft roadmap will be agreed between ANRE, the Romanian government, the European Commission and the IMF, before its adoption by the Romanian government. The roadmap will specify: *i)* the final timeline of deregulation which should start on 1 December 2012 for non-domestic consumers and on 1 July 2013 for domestic consumers and which should be achieved by the deadlines referred to in paragraph 26; *ii)* the main intermediary steps of deregulation, which should be based on a clear and transparent method for gradually increasing the tariffs, in a broadly linear fashion in order to ensure that during the phasing-out period market prices and regulated tariffs will not diverge significantly, the methods to avoid

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No.	Measures
	cross-subsidisation between consumer segments, as well as clear and transparent criteria for the customers to be gradually phased-out; and *iii)* an appropriate regulatory framework that contains mechanisms to ensure competition in the gas market, by involving the Competition Council and ensuring the development of a trade exchange platform, in particular for gas contracts which currently does not exist. Publish the adopted gas road map by 30 June 2012.
28	Explicitly define the vulnerable consumers in the electricity and gas laws, and develop mechanisms to protect them in conjunction with the MOPF and the Ministry of Labour.
29	Eliminate legal, regulatory and physical barriers to cross-border trade of electricity and gas: *i)* removal of legal and regulatory barriers to the export of gas as soon as possible; *ii)* presentation of a roadmap towards bi-directional flows of gas at the border with Hungary by end-June 2012; *iii)* improving coordinated auctions at the borders with Hungary and Bulgaria and establishing an intraday market in electricity by end-August 2012; and *iv)* take all the necessary actions on the part of the government to ensure that a bi-directional flow of gas at the border with Hungary is established before the end of 2012.
30	Ensure an effective unbundling of electricity and gas transmission networks and their operation in a transparent and non-discriminatory manner; *i)* finalise negotiations with the Russian Federation to review historical Intergovernmental agreements concerning the "gas transit" pipelines through Romania as soon as possible; and *ii)* ensure fully certified unbundling of transmission networks in electricity and gas as soon as possible, but no later than end-2012.
31	Put in place the legal framework through the correct transposition of EU Directives 2009/72/EC and 2009/73/EC with a view to ensuring that the energy regulator operates independently and efficiently and is equipped with adequate means to fulfil its tasks and responsibilities as defined in the third energy package.
32	Railway reform - Infrastructure: *i)* identify and close or lease lowest cost recovery segments of the railway lines; *ii)* Ensure that the law, in particular the Government Decision on the multi-annual contract: *(a)* leaves it to the infrastructure manager to determine or approve infrastructure charges and that the regulator has the necessary powers to request data and to take independent decisions on infrastructure charges; *(b)* sets out the sources of finance on an annual basis for the entire duration of the contract and is consistent with CFR's business plan; and *(c)* ensure that the contract provides sufficient incentives to the infrastructure manager to reduce unit costs and charges. If necessary, amend the Decision to this effect. *iii)* CFR Infrastructura to complete the present business plan with marketing oriented information (including market segments and charging policies) and ensure the consistency of the funding sources between the business plan and the multiannual contract.
33	Railway reform – Passenger traffic: *i)* submit by December 2012 a government

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No.	Measures
	commissioned study on the promotion of competitive tendering of public service obligation contracts; and *ii)* encourage CFR Calatori to implement performance schemes in cooperation with CFR Infrastructura in accordance with EU legislation, i.e. modify charging schemes according to responsibility for disrupting services.
34	Railway reform – Freight traffic: encourage CFR Marfa (the cargo rail company) to implement performance schemes in accordance with EU legislation.
35	Public Private Partnerships: The authorities involved in overseeing PPPs (ANRMAP and UCPPP) commit to jointly report by December 2012 on the functioning of the arrangements (including on the information flow and acces to relevant documents by both authorities).
36	Establish an operational Point of Single Contact (PSC), provided for in the Services Directive, to help businesses with all administrative procedures involved for the establishment in Romania or for the cross-border service provision. The PSC should provide all information about the conditions and requirements applicable in all services sectors covered by the Services directive, both for establishment and for temporary cross-border service provision as well as the online completion of any relevant administrative procedures (for example obtaining authorisations, making declarations, etc.). By end-June 2012, the following actions should be taken: *i)* appoint an authority in charge of coordinating the setting up of the PSC, monitoring of the functioning of the PSC and reporting the progress made to the Commission; *ii)* grant to this authority the necessary powers, competences and resources and set complementary obligations on all the competent authorities in order to ensure their cooperation in the completion of this project. By end-August 2012, the appointed authority should: *i)* provide the European Commission with a working plan and calendar for the implementation of the PSC; and *ii)* provide a list of priority sectors and horizontal procedures to be covered at the first stage by the procedures under the PSC. By end-October 2012, the PSC should: *i)* make information available online in respect of administrative procedures covered by the Services Directive; and *ii)* make online completion of relevant procedures available for the priority sectors and horizontal issues identified previously. By end-December 2012, the PSC should be fully operational and the electronic completion of procedures should be possible in all the services sectors covered by the Services Directive.
	<u>Labour markets</u>
37	Implement reforms to the wage setting system allowing wages to better reflect productivity developments in the medium term, while respecting the autonomy of social partners, national traditions and practices.
38	Widen the set of cases for use of fixed-term labour contracts (by end-October 2012), while ensuring that this does not increase labour market segmentation. In

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No.	Measures
	parallel, improve the adequacy of the employment protection legislation and adapt to the flexicurity principles.
39	Extend the period over which overtime can be compensated with paid hours off to 3 months (by end-October 2012).
	Pensions
40	Safeguard the long-term sustainability of the pension system.
	Absorption of EU Funds
41	The EU funds contribution to the total eligible expenditure that is certified to the Commission by the indicated dates is at least equal to 8000 million euro at 31 December 2012. The advance payments are not considered part of the certified expenditure. The targeted amounts are based on a cumulative basis starting from 2007.

Throughout the implementation of the financial assistance programme, performance in the following area will be monitored:

Price stability and reserve management

No.	Measures
42	Monetary policy should remain geared towards price stability and the achievement of the NBR's inflation targets (3.0% ± 1 percentage point end-2012).
43	Commission staff will be promptly informed if reserve losses exceed EUR 2 billion in any 30-day period during the program period.

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