

SHEARMAN & STERLING LLP

599 LEXINGTON AVENUE | NEW YORK | NY | 10022-6069

WWW.SHEARMAN.COM | T +1.212.848.4000 | F +1.212.848.7179

dnewcomb@shearman.com
212.848.4184

March 2, 2016

BY ECF

Honorable Lorna G. Schofield
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *Ioan Micula, et al. v. The Government of Romania*, 15-mc-00107-P1

Dear Judge Schofield:

We represent Petitioners Ioan Micula, S.C. European Food S.A., S.C. Starmill S.R.L. and S.C. Multipack S.R.L. and Intervenor Viorel Micula (collectively, "Claimants") in the above-captioned matter, and write on behalf of Claimants in response to the letter submitted by Romania on March 1, 2016 (ECF No. 125) ("Romania's Letter"). Claimants request that the Court take note, under Rule 106 of the Federal Rules of Evidence, of the entire context of paragraph 307 of the Decision on Annulment, which Romania selectively quotes in its letter:

In addition to the above, Romania contends that the decision regarding the allocation of damages in the Award results in contradictory consequences in its execution. In this respect, the Committee notes that: it is within Romania's power to avoid the contradictory consequences it considers the Award enables. In the first place, the Award places Romania with both the obligation and the right to pay the compensation awarded to the Claimants and to decide how to discharge such obligation. In fact, Romania could exercise such right by paying any of the five Claimants to discharge its obligation and to compensate such payment with the Corporate Claimants' fiscal obligations (those which Romania claims that the Claimants are trying to avoid). *Romania has already benefitted from this right and has compensated part of the amount of the Award against the tax obligations of some of the Corporate Claimants.* This fact alone disavows Romania's reiterated arguments that the Award is contradictory because it allows a result that runs afoul of the reasoning of the Tribunal. It is, as has been seen, within Romania's power, as well as a right protected by the Award, to avoid contradictory consequences in the application of the Award. This argument, in itself, is not a matter to be dealt with as a ground for annulment.

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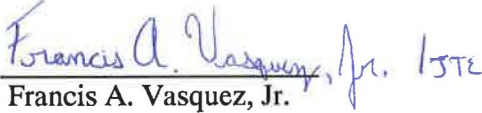
Decision on Annulment, Ioan Micula, Viorel Micula and Others v. Romania, ICSID Case No. ARB/05/20, at ¶ 307 (Feb. 26, 2016) (italics indicate portion quoted in Romania's Letter).

Thus, contrary to the implication in Romania's Letter, the *ad hoc* Committee did not confirm the validity of Romania's purported tax setoff as a mechanism to satisfy its obligations under the Award. Rather, the *ad hoc* Committee merely used Romania's attempt to satisfy the Award through a purported tax setoff against some of Claimants as an example to reject Romania's argument in the annulment proceedings that the Award should be vacated because it failed to allocate damages among the Claimants. Claimants respectfully refer the Court to their opposition papers, which explain in detail why the purported tax setoff was subsequently found to be invalid by a court of appeal in Romania.

Respectfully submitted,

By: 
Paula H. Anderson
Danforth Newcomb
SHEARMAN & STERLING LLP
599 Lexington Avenue
New York, NY 10022
Telephone: (212) 848-4184
Facsimile: (646) 848-4184
paula.anderson@shearman.com
dnewcomb@shearman.com

Counsel for Intervenor Viorel Micula

By: 
Francis A. Vasquez, Jr.
WHITE & CASE LLP
701 Thirteenth Street, N.W.
Washington, DC 20005
Telephone: (202) 626 3600
Facsimile: (202) 639 9355
fvasquez@whitecase.com

Jacqueline L. Chung
Anna K. Diehn
WHITE & CASE LLP
1155 Avenue of the Americas
New York, NY 10036
Telephone: (212) 819 8200
Facsimile: (212) 354 8113
jacqueline.chung@whitecase.com
anna.diehn@whitecase.com

*Counsel for Petitioners Ioan Micula,
S.C. European Food S.A., S.C.
Starmill S.R.L. and S.C. Multipack
S.R.L.*

cc: All Other Counsel of Record (by ECF)