

**THE DECISION OF THE COMPETITION COUNCIL
NO. 246 ON 06.08.2004
REGARDING THE STATE AID GRANTED TO
S.C. I.U.G. S.A. CRAIOVA,
NOTIFIED BY THE AUTHORITY FOR PRIVATIZATION AND
MANAGEMENT OF STATE OWNERSHIP**

THE COMPETITION COUNCIL,

Having regard to the provisions of the Decree no. 57/2004 on the appointment of the Competition Council members,

Having regard to the provisions of the Competition Law no. 21/1996, published in the Romanian Official Journal, Part I, no. 88 on April 30, 1996, as modified and completed by the Governmental Emergency Ordinance no. 121/2003, approved by the Law no. 184/2004,

Having regard to the provisions of the Law no. 143/1999 on the State aid, as published in the Romanian Official Journal, Part I, no. 370 on August 3, 1999, as modified and completed by the Law no. 603/2003,

Having regard to the provisions of the European Agreement establishing an association between Romania, on the one hand, and the European Communities and its Member States, on the other hand, as ratified by the Law no. 20/1993, published in the Romanian Official Journal, Part I, no. 73 on April 12, 1993,

Having regard to the provisions of the Regulation on the state aid for failing company defense and restructuring, as published in the Romanian Official Journal, Part I, no. 470 on July 2, 2002,

Having regard to the provisions of the Regulation on the modification and completion of the Regulation regarding the State aid for failing company defense and restructuring, as published in the Romanian Official Journal, Part I, no. 521 on June 9, 2004,

On the grounds of:

1. LEGAL FRAMEWORK DESCRIPTION

1.1. LEGAL BASIS FOR GRANTING THE STATE AID

(1) The individual state aid is granted to S.C. I.U.G. S.A. Craiova on the grounds of the Law no.137/2002 regarding certain measures for accelerating the privatization process, on the grounds of the Decision no. 577/2002 regarding the approval of the Methodological Norms

for the application of the Government Emergency Ordinance no. 88/1997 on the privatization of the commercial companies, on the grounds of the Privatization Strategy as approved by Government Decision no. 789/14 in September 2000 on the strategy for the restructuring / privatization / winding up of Utilaj Greu SA Craiova company, included within the PSAL component of „Restructuring / Winding up of 5 large commercial companies having major state-owned capital, with the assistance of consulting companies”, on the grounds of the Law no. 609/2003 regarding the approval of the Government Ordinance no. 86/2003 on regulating certain measures in terms of financial-fiscal aspect.

1.2. NOTIFICATION PROCEDURE

(2) By the letter no. VP₃/458/29.04.2004, registered with the Competition Council under no. RS-AS 51/30.04.2004, the Authority for Privatization and Management of State Ownership – APAPS (later on turned into the Authority Assets Recovery - AVAS) has **notified** the intention of granting individual state aid for the restructuring of S.C. I.U.G. S.A. Craiova based on the provisions of art. 6 and art. 14 letter (e) of the Law no. 143/1999 on the State aid, as modified and completed by the Law no. 603/2003, hereinafter called the Law.

(3) By the letter no. DAAS/349/18.05.2004 additional information has been requested on the relevant market the state aid beneficiary acts on, the market share of its competitors, as well as other information on the restructuring program of S.C. I.U.G. S.A. Craiova. AVAS has transmitted the required information by the letter no. DCS/385/07.06.2004, registered with the Competition Council under no. RG/3058/08.06.2004.

(4) The notification has become effective on the date when the information got accurate and complete, namely on 08.06.2004.

1.3. DESCRIPTION OF THE PRIVATIZATION PROCESS

(5) In accordance with the Privatization Strategy as approved by the Government Decision no. 789/14 in September 2000 on the strategy for restructuring / privatization / winding up of Utilaj Greu SA Craiova commercial company, included within the PSAL component of „Restructuring / Winding up of 5 large commercial companies having major state-owned capital, with the assistance of consulting companies”, APAPS had been authorized to sell the major stock, representing 98,87% from the registered share capital, to an strategic investor, based on final offer negotiation procedure.

(6) The privatization process has been achieved as follows:

- advertising announcement published on 10.07.2002;
- date of submitting the purchase offers on 12.08.2002;
- sale of shares – purchase contract signed on 15.10.2002;
- transfer of ownership right over the shares - achieved on 22.10.2002.

2. BENEFICIARY OF THE STATE AID FACILITIES

(7) The beneficiary of the financial aid granted by the state is S.C. I.U.G. S.A. Craiova.

(8) The Craiova Heavy Duty Equipment Company was established in 1975, in order to put into operation two undertakings, relevant for the Romanian industry at that time, that is to produce 12,500 tons / year heavy-duty machine tools and to produce 20,000 tons / year technological equipment for mining, metallurgical, wood and paper industries. In 1991 I.U.G. Craiova has turned into a stock company. After privatization – the transfer of the ownership right over the stocks had been achieved on 22.10.2002 – the company has changed its name into S.C. POPECI UTILAJ GREU S.A., in accordance with the Registration Certificate, series B no. 0015261 on 03.02.2003 issued by the Trade Register Office. Within this document, the company will be referred to as S.C. I.U.G. S.A. Craiova.

(9) The economic concentration has been notified to the Competition Council and authorized as far as its effects upon competition are concerned by the Decision no. 450/03.12.2002.

(10) On the signing date of the Stock Sale – Purchase Contract, the share capital of S.C. I.U.G. S.A. Craiova registered with the Trade Register Office was of ROL 170, 529,500 thousands, divided into 6,821,180 shares, of ROL 25.000 nominal value each.

(11) As a result of the share ownership right transfer on 22.10.2002, the structure of the shareholding of SC I.U.G. S.A. Craiova was as follows:

Table no. 1

SHAREHOLDERS	OWNED CAPITAL	
	Number of shares	Share capital quota (%)
POPECI CALIN IOAN	6,744,318	98,8732
Other shareholders	76,862	1,1268
Total	6,821,180	100,0000

Source: AVAS

(12) On 31.12.2003, the share capital was of ROL 178,529,500 thousands, along with the following shareholding structure:

Table no. 2

SHAREHOLDERS	OWNED CAPITAL	
	Number of shares	Share capital quota (%)
POPECI CALIN IOAN	7,064,318	98,92368
Other shareholders	76,862	1,07632
Total	7,141,180	100,0000

Source: AVAS

The increase of the share capital with 320,000 shares has been accomplished as a result of the partial fulfillment of the commitments assumed by the Buyer under the Stock Sale – Purchase Contract.

(13) The main object of activity of this company consists in producing and marketing the following groups of products, manufactured either based on its own or on its beneficiaries' documentation:

- heavy duty machine tools, special machine tools or 'theme' designed machine;
- complex technological equipment for the energetic, mining, chemical, wood, paper and pulp processing industries;
- welded constructions;

- spare parts for machine tools and technological equipment.

In the servicing sector, the company can provide general assembling and commissioning works for the machine tools and equipment delivered to its beneficiaries, regular and capital repairs for machine tools and equipment.

(14) The company carries out the following secondary activities: dyeing, stress relieving by vibration, non-destructive testing, mechanical balancing, determination of the physical and mechanical characteristics.

(15) The economic – financial results, as revealed from its accounting balance sheets for the last 5 years are as follows:

Table no. 3

Turnover (ROL thousands)				
1999	2000	2001	2002	2003
50,543,507	44,324,571	75,601,265	99,882,431	205,829,554
Domestic market turnover (ROL thousands)				
1999	2000	2001	2002	2003
12,643,657	18,276,617	31,943,786	38,055,607	147,443,405

Source: AVAS

The domestic market turnover has increased every year, so that in 2003 it reached 71,65 % from the company's total turnover.

(16) By privatizing S.C. I.U.G. S.A. the turnover for the year 2003 has increased at almost twice compared to the previous year turnover.

In term of prices, as compared to the year 2000, the evolution of the turnover is as follows:

Table no. 4

- ROL thousands -

2000	2001	2002	2003
44.324.571	58.020.225	65.072.785	117.525.574

Source: AVAS

(17) The ascendant evolution of the turnover is due to the followings:

- renewing the technology of its production sectors (by purchasing new equipment, as well by modernizing the existing one), the Buyer investing about EUR 130,000 from its own funds, which led to a significant increase in the labor productivity;
- improvement of the working environment by investments made from Buyer's own funds and from the resources of the company, which led to a better work efficiency;
- expansion of the delivery market by promoting, in a joint effort with other relevant companies, its products both on the domestic and external market, resulting in an increased number of contracts and, consequently, in positive effects upon its turnover;

- development of its IT system through an about EUR 30,000 investment, leading to a shorter time for producing the required documents and a higher efficiency of the activity;
- modernization of the vehicle park, leading to a faster and more efficient supply with raw materials.

(18) The profit / loss on the Romanian market for the last five years are as presented in the below table:

Table no. 5

Profit (+) / loss (-) (ROL thousands)				
1999	2000	2001	2002	2003
+8,432,091	-12,187,616	-18,938,292	-54,570,942	592,161
Profit (+) / loss (-) from its operating activities (ROL thousands)				
1999	2000	2001	2002	2003
-7,989,356	-18,352,089	-19,219,252	-56,517.550	+1,380,670

Source: AVAS

It comes out from the above table that starting with the year 1999, when S.C. I.U.G. S.A. had a profit due to selling its assets, the company has showed an ascendant loss curve being in 2002, about 3 times more as compared to 2001 and about 4.5 times more as compared to 2000. In 2003 the profit is not big and it mainly results from the profit achieved from the operating activities, still burdened by the loss large volume as related to the financial activity (ROL 788,508,000). Nevertheless, starting with this year, an activity restoring can be mentioned, especially of the running / operating activity and in its actions meant to stop the losses.

(19) The markets for technological equipment, metal works, machine tools and spare parts for machine tools and technological equipment represent the relevant markets.

(20) S.C. I.U.G. S.A. Craiova acts as a manufacturer for the following market segments:

- metal works;
- technological equipment (mining equipment, metallurgical equipment, energetic equipment, chemical equipment, equipment for wood processing industry);
- heavy duty machine tools for metal processing (lathes, milling machines, cutting machines);
- spare parts (components) for technological equipment and machine tools produced by S.C. I.U.G. S.A. Craiova or by other companies.

(21) The market shares for the last 5 years concerning the major products are as shown in the below table:

Table no. 6

Product denomination	Domestic market share %				
	1999	2000	2001	2002	2003

Metal works	7.5	9	10.8	14.4	28.9
Technological equipment	10	8.4	8.1	6.5	23.8
Machine tools + spare parts	5	6.3	7	5.9	9.9
Average market share	8.33	7.9	8.1	7.6	21.2

Source: AVAS

(22) The main competitors of S.C. I.U.G. S.A Craiova are : UPETROLAM Bucharest, CUG Cluj, IMG Bucharest, RENK Resita, WORLD MACHINES Bacau.

(23) As related to the total of its production capacities, the machines and equipment specific for heavy-duty equipment production represent 65 %. The main machines are manufactured in the western countries, while the rest are Romanian or ex-CAER origin products. In accordance with the activity object of SC I.U.G. Craiova, the production capacities currently in operation allow serving the main national economy sectors (energetic industry, metallurgical industry, cement industry, mining sector, wood, pulp and paper processing industry, manufacturing of machine tools and spare parts). The equipment used in these production capacities is specific for small, average and heavy duty mechanical works, assembling, welding, thermal treatments, dyeing, etc.

(24) As concerns the analysis of the demand for products specific for the company's production and its total production capacity, here are the following findings:

a) Within the metal works sector, the production capacity of SC IUG Craiova is about 3000 tons/year. Based on the current data it is estimated that, especially on the domestic market, the demand will have a significant increase especially due to the building of industrial halls (investments), gyms, naval constructions, car / vehicle production, telecommunications, energetic facilities, etc.

b) Within the technological equipment sector, the potential production capacity is estimated at about 3500 tons / year. The demand in this sector is rather diffused mainly because it is not yet possible to identify a tendency of the national economy in this sector and because the current technical level of the company's products is relatively non-competitive. The market segments where the products manufactured by SC IUG Craiova might be competitive are as follows:

- pressing processing equipment (vehicle industry, wood industry, metallurgical industry);
- equipment for waste processing industry;
- equipment for mining industry (reducers, conveying belts, driving drums, etc.
- equipment for energetic industry (including nuclear energy);

It is estimated that the demand for such equipment is to be higher for the external markets, the domestic market still being not enough valued in this respect.

c) As concerns the machine tools and spare parts, the market is quite exigent while SC I.U.G. Craiova is not very competitive. In order to produce competitive products, the designing activity needs to be improved, especially that the external products are of a high quality level.

(25) After the privatization process of S.C. IUG S.A., keeping the traditional customers and manufacturing high quality standard products have constantly been considered. The structure of its domestic customers is as follows:

- CNLO Tg. – Jiu - 24.35% ;
- Artrom Slatina – 6.88% ;
- Nuclear Electrica Bucuresti – 4.09% ;
- DTS Dolj – 3.84% etc.

(26) The company manufactures export products for: Germany (34%), Italy (11%), France, Holland, England, Switzerland, etc.

3. FINANCIAL AID FACILITIES GRANTED BY THE STATE FOR RESTRUCTURING S.C. I.U.G. S.A. CRAIOVA

(27) At the time of its privatization the company needed a financial restructuring in order to ensure its operation at normal parameters, in addition to the commitments undertaken by the Buyer under the contract.

(28) The aid from the state, amounting at ROL 39,269,584,328, consists in a 97% exemption of the company's outstanding debts to the state budget, unemployment insurance budget, to the local budget of Craiova, interests (penalties for overdue payments) and any other penalties related to due and outstanding debts existing on 31.12.2001, calculated up to the date of the transfer of the ownership right over the shares. (22.10.2002).

4. THE RESTRUCTURING PROGRAM

(29) The state aid is granted for the restructuring and restoring the viability of S.C. I.U.G. S.A. Craiova.

(30) S.C. I.U.G. S.A. has substantiated a comprehensive restructuring program for the 2003-2007 period, which includes measures concerning the technical and technological restructuring, organizational restructuring, environmental investments and financial restructuring, measures requiring a financial effort amounting at ROL [...] ¹

(31) [...] ²

(32) [...] ³

(33) [...] ⁴

(34) [...] ⁵

¹ Confidential data

² Confidential data

³ Confidential data

⁴ Confidential data

⁵ Confidential data

(35) The restructuring program includes sets of measures for the technical and technological restructuring, organizational restructuring, environmental investments and financial restructuring, measures requiring a financial effort amounting at ROL [...] ⁶

(36) [...] ⁷

(37) The restructuring program, through its financial restructuring component, provides opportunities for cash flow increase, stability of the cash-flow which will remove the burden and smooth the financial activity of the company. Thus, the company will be able to pay its current debts to the state budgets and to allot the necessary cash amounts for carrying out the scheduled investments, as well as for developing and sustaining the production program in the future.

5. THE STATE AID CHARACTER OF THE FINANCIAL SUPPORT GRANTED TO THE COMPANY

(38) The financial support is granted for the restructuring of S.C. I.U.G. S.A. Craiova, when privatized, since the company needs a financial restructuring in order to ensure production operation within normal parameters.

(39) These facilities shall mean that the budgetary creditors (i.e. Ministry of Public Finance, Ministry of Labor, Social Solidarity and Family, Health Insurance National House, Local Council of Craiova City) and APAPS shall waive certain future incomes, by granting certain facilities for the due payments (writing off debts). Such facilities shall be granted for this company viability purposes.

(40) By analyzing the financial support measures, the Competition Council has found that there is no doubt that such measures are funded from state resources and shall represent an advantage for S.C. I.U.G. S.A. Craiova. Also, there is no doubt that the taken financial measures shall affect the trade with the EU member states, since the products manufactured by S.C. I.U.G. S.A. are sold on the external market as well.

(41) As a conclusion, the financial support measures are considered state aid and shall be subject to the Law no. 143/1999 on the state aid, as modified and completed by the Law no. 603/2003.

(42) The purpose of this aid aims at the restructuring of S.C. I.U.G. S.A. Craiova for the rehabilitation of its viability at the end of the restructuring period. In conclusion, the state aid shall be subject to the analysis complying with the criteria in the Regulation for the state aid for failing company defense and restructuring.

(43) S.C. I.U.G. S.A. Craiova has benefited from no other state aids for failing and / or restructuring purposes.

⁶ Confidential data

⁷ Confidential data

6. EVALUATION OF THE STATE AIDS INTENDED FOR S.C. I.U.G. S.A. CRAIOVA

(44) In the period 2000-2002, as a result of failing to ensure the order portfolio and, consequently failing to achieve its commodity output as estimated, as well as due to the structure of the effective contracted production, which did not allow a consistent working volume of the operational production capacities, nor an efficient operation of the same, bigger and bigger losses have started to occur, amounting at a ROL 56,517,550 (thousands) loss at the end of the year 2002.

(45) As a consequence of the company's fail to achieve the commodity output, unit prices were very high, considering that the constant conventional expenditure represents an important quota in the structure of the costs.

(46) One of the difficulties the company faced with was the fact that the company failed to ensure works for each job, both in terms of commodity output structure and of the specifics as determined in the technical-economic study, based on which this company profile has been designed for, namely heavy duty machine tools, complex technological equipment for wood processing industry, metallurgical industry, energetic industry, mining industry, etc., products for which the domestic market has considerably narrowed, existing no demand for the heavy duty machine tools this company manufactures.

(47) It needs to be underlined that the technical endowment of S.C. I.U.G. S.A. Craiova is specific for heavy duty equipment output (about 65% of its capacities) while an efficient operation of such equipment requires manufacturing of adequate products.

(48) Another reason of the losses associated to the running / operating activities is the personnel structure, inappropriate to the potentially achievable output volume and structure. (the "indirect – direct productive" ratio being of about 1.2). Such a personnel structure generated high expenditure with the labor as reported to the effective achieved production.

(49) The decrease of the order portfolio for the domestic market throughout 2000 and 2001 has the following causes:

- lack of investments in the siderurgical, energetic, mining, etc. industries, the sectors SC IUG Craiova has the necessary technical endowments and capabilities for;
- the restructuring programs including the major commercial companies of the Romanian economy sectors severely reduced the maintenance and repair volume, as well as the modernization of equipment and installations SC IUG Craiova could not participate in.

(50) The evolution of the external markets started to show a decrease tendency ever since the IVth quarter of 1999, mainly due to the fact that this company was included in list of companies proposed for restructuring / winding up in accordance with the Government Ordinance no. 88/1997, which, in its turn, generated a diminished confidence of the national and external business partners who started to approach other suppliers, which led to a decrease in orders.

(51) Before 1999, the company had its own export partners with whom it had collaborated for over 3 years, the turnover with such partners showing an yearly basis increase so that in 1999 the export represented 74% from the total output. In 2000 there were advanced negotiations for about DM 2,200,000 contracts, yet only 20% of these contracts become real. The decreasing tendency of its export order portfolio was rather sudden and abrupt, while reorientation to new partners was impossible in the 1999-2000 period.

(52) Having the analysis of the performed activities as a baseline, the following objectives have been suggested for the rehabilitation of this undertaking:

- reorganization of the production flow;
- equipping the factory with new and modern technologies and equipment;
- training and effective use of the local human resources for the production;
- optimization of the personnel structure by balancing the ration between the productive and non-productive personnel to maximum 15%;
- achievement of an adequate removal, collection and sedimentation of the waste waters in order to avoid pollution of the neighboring waters, including the underground water;
- finalizing a manufacturing profile of its own products (brand products);
- increase of the output volume, improvement of the labor productivity and the quality of the manufactured products;
- entering on the sale markets with competitive products.

(53) The analysis of the notified measures has been performed in accordance with the criteria for granting state aids as stated in the Regulation on the state aid for failing company defense and restructuring:

6.1. ELIGIBILITY OF S.C. I.U.G. S.A. CRAIOVA – FAILING COMPANY

(54) Considering the evolution of the main economic – financial indicators as recorded until 2002, the year this company was subject to privatization, the difficult economic and financial situation of the company can be noticed, compared to the same indicators as recorded at the level of the year 2003, the first year when the company operated with major private capital.

a) turnover evolution

Table no. 8

	- ROL thousands -			
	2000	2001	2002	2003
Turnover	44,324,571	75,601,265	99,882,431	205,829,554
Turnover in comparable prices in 2000	44,324,571	58,020,225	65,072,785	117,525,574

Source: AVAS

(55) By analyzing the turnover, expressed in comparable prices in 2000, an insignificant evolution is found, up to the date the company was subject to privatization, in 2001, S.C. I.U.G. S.A. achieving a commodity output close to the output level of 2000 and 1999.

b) evolution of stocks

Table no. 9**- ROL thousands -**

	2000	2001	2002	2003
Stocks	29,176,408	38,963,744	28,248,849	52,562,910
Stocks / Total assets	16.04%	22.46%	17.04%	23.96%

Source: AVAS

(56) As results from the above table, the evolution of stock was sinusoidal, with a minimum in 2000 and a maximum in 2003 (the privatization year). At the same time, it is to notice that during the 2000-2003 period, the stock volume increases by 1.8 times, despite the slight rehabilitation of the company.

(57) By analyzing the evolution of the stock quota related to the total assets, it comes out that in 2002 the stocks represented only 17,04% from the assets. In 2003, the volume of the stocks shows an 186,07% increase, as compared to 2002. Within the period under analysis, as far as the structure is concerned, the stocks of finished products show a 152,21% increase, the raw materials and materials stocks show a 245,12% increase (from ROL 9,744 billion to ROL 21,558 billion), while as far as the production under execution is concerned a 228,44% increase is shown (from ROL 9,437 billion to ROL 21,558 billion).

c) evolution of the running / operating results
Table no. 10

- Rol Thousands -

	2000	2001	2002	2003
Operating / running incomes	53,771,575	90,288,760	104,050,015	224,360,490
Operating / running expenditure	72,123.664	109,508.012	160,567,565	222,979,820
Operating / running results	- 18,352,089	- 19,219,252	- 56,517,550	+ 1,380,670

Source: AVAS

(58) By analyzing the production and sales operations before privatization, it is found that despite the increase in output, the expenditure increase rate is much higher, so that in 2002 the loss increased 3 times. In 2003, following the efforts of the company, a slight rehabilitation is shown, the running / operating result being positive.

*d) net output evolution***Table no. 11****- ROL thousands -**

	2000	2001	2002	2003
Net output	- 12,187,616	- 18,938,292	- 54,570,942	+ 592,161

Source: AVAS

(59) The involution of this indicator shows that the loss of the company was bigger and bigger every year, with its climax in 2002 when the losses had tripled as compared to 2000, while the loss cumulated up to 2002 (included) represent 63% from the social capital. Even if in 2003 the profit is not high, it can be said that the loss process had been stopped.

d) evolution of the debts

Table no. 12

- ROL thousands -

	2000	2001	2002	2003
Debts Total	27,610,322	54,069,637	100,922,643	139,980,782
Own capitals	152,231,205	119,372,726	64,801,784	73,393,945
Liability (leverage) rate (%)	18.00	45.29	155.74	190.72

Source: AVAS

(60) It is found that the debts of the company increase with every year, a situation obvious in the constant increasing of the liability (leverage) rate, thus showing a deterioration of the future situation of the company. Starting with 2002, an over 100% liability (leverage) rate is shown and, implicitly, a difficult financial situation due to cash shortage.

f) Gross operating margin

Table no. 13

- ROL thousands -

	2000	2001	2002	2003
Operating result	- 18,352,089	- 19,219,252	- 56,517,550	+ 1,380,670
Turnover	44,324,571	75,601,265	99,882,431	205,829,554
Gross operating margin	- 41.40	- 25.42	- 56.58	0.67

Source: AVAS

(61) By analyzing the gross operating margin indicator, a severe decrease is noticed which indicates that the company was not able to control its prices, failing to recover at least the made expenditure, this indicator having negative values until 2002. The positive value of this indicator (rather small) in 2003 resulted from the profit obtained from the operating / running activity during the respective year.

g) evolution of its own capitals

Table no. 14

- ROL thousands -

	2000	2001	2002	2003
Gross outcome	-12,187,616	-18,938,292	-54,570,942	+592,161
Own capitals	152,231,205	119,372,726	64,801,784	73,393,945
Gross outcome / own capitals (%)	-8	-15.86	-84.21	0.8

Source: AVAS

(62) The negative evolution has been at a high rate between 2000 – 2002. After the privatization in 2003, a positive value has been attained which, although rather small, indicate the efforts for making the company more efficient, the intended purpose being to improve the economic – financial situation of S.C. I.U.G. S.A. Craiova.

h) intermediate liquidity

Table no. 15

- ROL thousands -

	2000	2001	2002	2003
1. working assets (capital)	47,190,965	61,312,116	52,848,520	98,771,069
2. Stocks	29,176,408	38,963,744	28,248,849	52,562,910
3. Difference 1-2	18,014,557	22,348,372	24,599,671	46,208,159
4. Currents debts e	27,610,322	54,069,637	100,922.643	139,980,782
Intermediate liquidity	0,65	0,41	0,24	0,33

Source: AVAS

(63) The analysis of the intermediate liquidity indicator determines the possibilities of the company to ensure its available funds required to constantly make the payments as scheduled. Between 2000 – 2002 a slight diminish is found, while in 2003 a slight increase, yet still under the limit of financial stability.

6.2. REHABILITATION OF THE COMPANY'S VIABILITY

(64) Granting of the state aid, corroborated with the planned actions in the restructuring program, namely, investments, severe reduction and monitoring of costs, improvement of operating efficiency, reorganization of its compartments and improvement of the marketing activities, investments related to the production and environment protection projects, shall determine the increase of S.C. I.U.G. S.A. economic efficiency.

(65) The fact that the new major shareholder desired to purchase S.C. I.U.G. S.A. and to use a considerable amount from its own resources for investments and working capital represents a strong argument in supporting the perspective that this company is to become viable as a result of implementing the restructuring measures.

(66) At the end of the restructuring program and at the end of the economic and financial rehabilitation application period it is foreseen that the following economic and financial indicators will be attained, as related to a ROL 649,500 million turnover in 2007, as compared to ROL 99,882 million in the year 2002.

		- ROL thousands -
Operating activity	- incomes	657,500
	- expenses	625,000
	- profit	32,500
Financial activity	- incomes	2,500
	- expenses	2,000
	- profit	500

(67) By implementing the restructuring program, the long term rehabilitation of the company shall be ensured. Thus, the analysis of the prospective indicators show that in the year 2007, as compared to 2004, a 2.8 times increase of the turnover and a 4.125 times increase of the gross profit, which confirms that the prognosis of the restructuring program shall not mean a significant increase in terms of production or prices, but a more efficient production process by improving the technological efficiencies, as well as by significant reductions in consumption and costs. At the same time, the economic profitability will attain 10,71% and the financial profitability will attain 15,08 %, despite the fact that in 2002 very high losses have been recorded (ROL 54,571 million), still the economic profitability being out of

question. Also, it is to notice the improvement of indicators like: immediate liquidity, inventory turnover, time for debt recovery and payment, liability (leverage) rate, quota of arrears, etc.

6.3. GROUP AFFILIATION

(68) In accordance with the provisions of art. 2 paragraph (5) of the Regulation on the state aid for failing company defense and restructuring, a company affiliated to a group is not regularly eligible for granting the defense and restructuring aid, except for the case when it is likely to demonstrate that the difficulties the respective company faces with are its own and do not result from any arbitrary allocation of the costs within the group and that such difficulties are too serious to be solved by the respective group.

(69) SC IUG SA Craiova, currently S.C. Popeci Utilaj Greu S.A., belongs to the Popeci group of companies. The economic concentration has been notified to the Competition Council and authorized in terms of its effects upon competition by the Decision no. 450/03.12.2002.

(70) In the case of S.C. I.U.G. S.A. the difficulties of the company do not come from arbitrary allocations of costs within the group but they are generated by the economic performances obtained during the years previous to selling its major stock.

6.4. AVOIDANCE OF THE SIGNIFICANT MISREPRESENTATION OF THE COMPETITIVE ENVIRONMENT

(71) The company benefiting from the state aid is the only company with the stated object of activity in Oltenia, holds still performing production capacities and is able to cover 7,5% from the domestic market demand. Out of its existing capacities (fixed assets and assets), 50% represents operating capacities, while the remaining 50% represents production capacities under conservation, in accordance with the legal provisions.

(72) The application of the restructuring program shall allow the rehabilitation of S.C. I.U.G. S.A profitability at production levels accepted by the market, increases in efficiency and removal of its historical debts (financial restructuring).

(73) By granting the state aid and applying the restructuring program of S.C. I.U.G. S.A. the structure of the relevant market shall not suffer any modification incurring anti-competition effects, such process being intended to increase the economic efficiency of the company by reducing the production costs, and shall not generate extra liquidity likely to be used in aggressive misrepresentation actions for the competitors on the market.

(74) The state aid shall be used exclusively for the purpose of rehabilitating the viability of the company and the beneficiary of the aid shall not be allowed to extend its production capacity throughout the application of the restructuring plan.

6.5. MINIMUM - LIMITED AID

(75) Until 2002, the privatization year for S.C. I.U.G. S.A. Craiova, the analysis of difficult economic-financial situation the company was facing with, revealed the fact that, in order to remain in the economic circuit and to become viable, privatization was necessary, as well as a state aid for restructuring needed to be granted by writing off its debts to the state budget. By being granted a state aid, the company will be released from its historical debts, which makes it eligible for credits.

(76) The restructuring program is funded from the company's own resources, capital infusion of the major shareholder and the state aid applied for and amounting at ROL 39.269.584.328, which indicates the fact that the value of the applied for state aid is reduced to the minimum, as necessary to complete the intended program under the operational conditions suggested by the company in its position of beneficiary of the state aid.

(77) The contribution of S.C. I.U.G. S.A. in the implementation of the measures described in the restructuring program represent 50,2% from the total financial effort, which makes restructuring possible depending on the existing resources of S.C. I.U.G. S.A. and of its major shareholder.

6.6. INTENSITY OF THE STATE AID AND RESTRUCTURING COST

(78) In accordance with the provision of the Regulation on the state aid for failing company defense and restructuring, the quantum and the intensity of the state aid shall have to be limited at minimum until the fulfillment of the restructuring program objectives (i.e. attaining viability).

(79) The restructuring cost of S.C. I.U.G. S.A. amounts at ROL 78,864,6 million, covered as follows:

- S.C. I.U.G. S.A. own resources	ROL 6,605.0 million
- major shareholder capital infusion	ROL 32,990.0 million
- state aid	ROL 39,269.6 million

(80) The intensity of the state aid, calculated as a ratio between to the value of the state aid and the restructuring cost results in a 49.8% value.

6.7. OBSERVING THE 'LAST AND FIRST TIME' PRINCIPLE

(81) S.C. I.U.G. S.A. Craiova has benefited from no other restructuring aid, thus observing the provisions of art. 18 in the Regulation on the state aid for failing company defense and restructuring stating that the restructuring aid shall be granted only once.

6.8. ANNUAL MONITORING AND REPORTING

(82) In accordance with the provisions of art. 17 in the Regulation on the state aid for failing company defense and restructuring, the Competition Council shall permanently monitor the

implementation of the restructuring program so that no deviations from fulfilling the objectives of the restructuring plan occur.

(83) The Competition Council shall continue to monitor the restructuring plan implementation until the end of the restructuring period in order to make sure that no extension of the production capacity will exist, or major deviations from achieving the restructuring measures, as well as to make sure that the state aid shall not generate extra-liquidity to be used for activities other than those included in the restructuring program.

7. CONCLUSIONS

(84) The information presented in the notification submitted to the Competition Council leads to the conclusion that the individual state aid intended for S.C. I.U.G. S.A. Craiova shall not be in the position to significantly affect the normal competitive environment and does not infringe the appropriate application of the international agreements Romania is part of.

(85) Following the carried out analysis it was found that the state aid amounting at ROL 39,269,584,328 consisting in payment facilities granted on the grounds of the Law no.137/2002 on certain measures for accelerating the privatization process, of the Decision no. 577/2002 on the approval of the Methodological Norms for the application of the Government Emergency Ordinance no. 88/1997 on the privatization of the commercial companies, of the Privatization Strategy approved by Government Decision no. 789/14 in September 2000 on the restructuring / privatization / winding up strategy for SC Utilaj Greu SA Craiova company, included within the PSAL component of „Restructuring / Winding up of 5 large commercial companies having major state-owned capital, with the assistance of consulting companies”, of the Law no. 609/2003 for the approval of the Government Ordinance no. 86/2003 on the regulation of certain financial – fiscal measures, meets the granting criteria in accordance with the Regulation on the state aid for failing company defense and restructuring issued by the Order no. 92/10.05.2002 of the President of the Competition Council, enforced on 02.01.2003, modified and completed by Order no. 128/26.05.2004 issued by the President of the Competition

HAS DECIDED

Art. 1. The measure notified to the Authority for Assets Recovery to be granted to S.C. I.U.G. S.A. Craiova shall represent state aid in the meaning of the statements at art. 2 paragraph (1) of the Law no.143/1999, as modified and completed by the Law no. 603/2003.

Art. 2. On the grounds of art.12 paragraph (2) letter c) corroborated with art.14 paragraph (1) letter e) of the Law no.143/1999, as later on modified and completed, the state aid for restructuring which is to be granted S.C. I.U.G. S.A. Craiova, under the observance of the provisions at art. 3 and art. 4 in this Decision, it is hereby authorized.

Art. 3. The company shall not have to increase its production capacity over the level existing in the year 2003.

Art. 4. The company is bound to totally / completely implement the assumed restructuring plan.

Art. 5. The value of the state aid to be granted amounts at ROL 39,269,584,328.

Art. 6. This Decision comes into force on the date of its communication.

Art. 7. In accordance with the dispositions in art. 24 of the Law no.143/1999, as later on modified and completed, the authorities providing the state aid shall submit to the Competition Council information on the granted state aids in order to keep their proper inventory and monitoring. Annual reports regarding the implementation of the restructuring plan AVAS shall be submitted to the Competition Council. The first Report is to be submitted within 6 months from the decision issuance date.

Art. 8. According to the provisions in art. 29 of the Law no. 143/1999 on the state aid, as later on modified and completed, this Decision can be contested by the concerned entities at the Bucharest Court of Appeal, Administrative Claim Department, within 30 days from its communication date.

Art. 9. The General Secretariat of the Competition Council shall communicate this decision to:

- AVAS, str. 50 Cpt. Av. Alexandru Serbanescu St., sector 1, Bucharest ;
- S.C. I.U.G. S.A., 1 Tehnicii St., postal code 1100, Craiova, Dolj County .

Art. 10. The General Secretariat and the State aid Authorization Department of the Competition Council shall act in pursuance of this Decision.

PRESIDENT

MIHAI BERINDE

VICE-PRESIDENT