

DECISION OF THE COMPETITION COUNCIL
No.249 dated 16.08.2004
REGARDING THE STATE AID GRANTED TO
S.C. C.N.H. S.A. PETROSANI,
NOTIFIED TO THE MINISTRY OF PUBLIC FINANCES

THE COMPETITION COUNCIL,

Taking into account the Decree no. 57/2004 regarding the appointment of the members of the Competition Council Plenum,

Taking into account the dispositions of the Competition Law no. 21/1996, published in the Official Gazette no. 88/April 30, 1996, Part I, amended and extended by the Law no. 121/2003, approved by the Law 184/2004,

Taking into account the dispositions of the Law no. 143/1999 regarding the state aid, published in the Official Gazette no. 370/August 3, 1999, Part I, amended and extended by the Law 603/2003,

Taking into account the dispositions of the European Agreement setting up an association between Romania, on one side and European Communities and their state members, on the other side, ratified by the Law no. 20/1993, published in the Official Gazette no. 73/April 12, 1993, Part I,

Taking into account the dispositions of the European Agreement no. 1407/2002 regarding the state aid from coal industry, published in the Official Journal L no. 205/August 2, 2002

Based on the following grounds:

1. DESCRIPTION OF THE LEGAL BACKGROUND

1.1. LEGAL BASIS OF GRANTING THE STATE AID

- (1) The individual state aid is granted to S.C. Compania Nationala a Huilei S.A. Petrosani based on:
- ? The Law of Public Debt no. 81/1999;
 - ? Governmental Decision no. 1192/29.11.2000 regarding some measures for the execution of the rehabilitation works at the Group no. 4 of 150 MW from the Electrical Station of District Heating Paroseni, of modernization and re-technologization of the mining exploitations Vulcan and Paroseni and of the Preparation Factory Coroiesti;
 - ? Decision of the Inter-ministerial Committee of Guarantees and Credits of External Trade no. 10999/08.10.2001.

1.2. NOTIFICATION PROCEDURE

- (2) With the address no. 107454/26.02.2004, registered at the Competition Council under no. RS-AS/18/26.02.2004, the Ministry of Public Finances **notified**, based on art. 6 from the Law no. 143/1999 regarding the state aid, amended and extended by the Law no. 603/2003, hereinafter called *law*, the individual state aid that is granted to S.C. Compania Nationala a Huilei S.A. Petrosani.
- (3) With the addresses no. DAAS/119/10.03.2004, DAAS/218/08.04.2004 and DAAS/283/28.04.2004 supplementary information was requested, both from the supplier ministry and from the beneficiary of the state aid, regarding the relevant market where the beneficiary of the state aid acts, its market share and its competitors, the effects this project will have, the actual stage of works, the contribution of the beneficiary at the investment, as well as other data regarding the impact the investment might have on the price of the delivered coal. The Ministry of Public Finances and the beneficiary of the state aid sent the information requested by the addresses registered at the Competition Council under no. RG/1277/08.04.2004 and DAAS/432/21.06.2004.
- (4) The notification became effective on the date when the information was exact and complete, respectively on June 21, 2004.

2. BENEFICIARY OF THE STATE'S AID

- (5) The beneficiary of the financial measures granted by the state is S.C. Compania Nationala a Huilei S.A. Petrosani.
- (6) In 1956 the Coal Combined Works Valea Jiului is founded, functioning until 1969, when the mining exploitations from Valea Jiului became mining companies. On April 1, 1969 the Coal Combined Works Valea Jiului turned into the Coal Central Petrosani, functioning under this name until August 1977, when it turned into the Mining Combined Works Valea Jiului.

- (7) In 1998, based on the Governmental Decision no. 806/20.11.1998, Administratia Autonoma a Huilei (The Autonomous Administration of Pit Coal) Romania turned into stock company, S.C. Compania Nationala a Huilei S.A. Petrosani. The value of the share capital of S.C. C.N.H. S.A. Petrosani is of 672,322,000,000 ROL, being integrally held by the state.
- (8) The beneficiary of state aid has as main object of activity the development, exploitation, preparation and processing of coal and accompanying gas, slime, ballast and sand in the perimeters where the license is obtained (pit coal from the coal field Valea Jiului and brown coal from the mining perimeter Tebea).
- (9) Also, S.C. C.N.H. S.A. Petrosani carries on a series of auxiliary activities represented by:
- ? acts of internal and external trade for own activity;
 - ? activity of design, constructions-assembly, spare parts manufacturing and repairing, transport, information technology, protection of the environment and any other activities and services necessary to achieving its main object of activity;
 - ? ensuring health services to own employees, remaking their capacity in case of labor accident or related to work, professional disease or profession;
 - ? execution of works and services or making acts of trade, necessary to the accomplishment of the obligations to own employees, foreseen in the legislation in force or in the labor collective agreement.
- (10) The economic – financial results, based on the balance sheet data from the latest 4 years, are the following:

Table no. 1

- thousand ROL -

INDICATORS	2000	2001	2002	11 months 2003
Total rate of turnover	1.737.597.514	2.233.178.245	2.923.100.523	2.801.902.535
Rate of turnover on the Romanian market	1.737.597.514	2.233.178.245	2.923.100.523	2.801.902.535
PROFIT	-	-	-	-
LOSS	-5.941.308.935	-3.033.730.920	-4.351.914.117	-3.606.025.598

Source: MFP

- (11) The company produces and sells various assortments of pit coal (sorted pit coal, washed pit coal for coke, prepared energetic pit coal, mixed pit coal, de-slimes pit coal, filtered coal schist, concentrate I Coroiesti, concentrate II Coroiesti) and sorted crude coal, having a production capacity of about 4,3 million tons/year.

- (12) The geological reserve, on January 1, 2004, was of 343 million tons coal, with average contents of ash of 24,2% and 46,0% in the layer. This reserve allows the continuation of exploitation, at a level of production of 5 million tons/year, for other 85 years. The open and prepared reserves, on January 1, 2004, were of 14,9 million tons – open reserves and 5,9 million tons – prepared reserves. The degrees of insurance of 3,7 years at open reserves and 18 months at prepared reserves, fit within the levels established by technical documents.
- (13) In present, the layers 3, 5, 13 are exploited, which are placed at depths of 300-1000 m. The thickness of the layers varies between 3-40 m, and the inclination of the layers is between 5-70°. A main characteristic of the coal ore from Valea Jiului is that it presents a high degree of tectonic character, which hinders the utilization of the mechanized technologies in certain areas.
- (14) The caloric power of coal at the geological reserve is of 5,450 kcal/kg, and at industrial reserve is of 3,837 kcal/kg.
- (15) The relevant market affected by granting this state aid is the market of energetic coal, and the geographical market is represented by the whole territory of Romania.
- (16) The market share of the beneficiary of state aid notified is of about 92-95%, the only company from the country that still extracts energetic coal – pit coal-type, being S.M. Banat, with a restraint range of energetic assortments with a smaller caloric power, between 2.500-3.500 kcal/kg compared to the assortments from Valea Jiului, these being used at the thermal & power stations designed for pit coal with a smaller caloric power. In the future, taking into account the ecological and environmental reasons, the coal from import (with a small contents of sulfur, under 1%) could gain the Romanian market.
- (17) The products offered by S.C. C.N.H. S.A. Petrosani are intended exclusively to the internal market, the quantities requested by the beneficiaries being of about 4,300,000 tons. The biggest part of the products offered represents energetic coal for the thermal & power stations from the county, belonging to S.C. TERMoeLECTRICA S.A. (Mintia and Paroseni). Also, this coal is delivered to other branches of TERMoeLECTRICA (Branch Electrocentrale Gura Barza and Branch Electrocentrale Oradea). Another part of the energetic coal is used for producing thermal power for population and institutions from Valea Jiului, as well as for the own consumption of the mining exploitations belonging to S.C. C.N.H. S.A. Petrosani.
- (18) Another market segment is represented by various beneficiaries from the country, as follows: SNTFM-CFR Marfa S.A., S.C. Acumulatorul Pantelimon S.A. Bucuresti, Supply Base Chitila, ROVA Rosiorii de Vede, MACOFIL Tg. Jiu, SOCERAM Tandarei, DUNAV COM 96 Lugoj, Ceramica Satu Mare, CRISMOB Brad, ROMUPS Suceava.

3. MEASURE OF FINANCIAL SUPPORT GRANTED BY THE STATE TO S.C. C.N.H. S.A. PETROSANI

- (19) The state aid consists in a 100% guaranteeing of the external loan, in value of 24,060,432.00 US\$ and of the interests, insurance premiums, fees and other afferent costs. Thus, the total amount of the state aid, granted to S.C. C.N.H. S.A. Petrosani is in value of 29,739,046 US\$, respectively 1,010,532,783,080 ROL¹.
- (20) The credit agreements were contracted by S.C. C.N.H. S.A. Petrosani on June 6, 2002 from ABN AMRO BANK N.V. Amsterdam, being guaranteed by the Ministry of Public Finances on July 1, 2002.
- (21) The credits are intended to the achievement of the project *“Modernization and re-technologization of the Mining Exploitations Vulcan and Paroseni and the Preparation Works Coroiesti”* and finance 100% the value of the commercial agreements concluded on April 26, 2000 by and between S.C. COMPANIA NATIONALA A HUILEI S.A. Petrosani and Consortium Itochu-Kopex Japan.
- (22) The external bank loans are in total value of 24,060,432.00 US\$, respectively:
- ? buying credit in value of 20,451,367.20 US\$ with insurance KUKE (Poland), whose last installment will be paid on June 6, 2008, and
 - ? commercial credit in value of 3,609,064.80 US\$, without insurance.
- (23) The loans were contracted under these conditions:
- a) Buying credit:
 - ? maturity 6 years;
 - ? withdrawal period 12 months since the date of signing the loan agreement;
 - ? grace period 18 months;
 - ? reimbursement 10 equal semi-yearly installments;
 - ? interest LIBOR US\$ at 6 months + 0,8%/year;
 - ? penalizing interest 1,5%/year over the normal interest of the loan
 - ? engagement fee 0,4%/year, payable quarterly;
 - ? management fee 0,8% flat.
 - b) Commercial credit:
 - ? maturity 2 years;
 - ? withdrawal period 60 days since the date of signing the loan agreement;
 - ? grace period 12 months;

¹ The value in ROL was calculated at the exchange rate ROL/US\$ of BNR valid on August 02, 2004: 1 US\$= 33. 980 ROL.

? reimbursement	3 equal semi-yearly installments;
? interest	LIBOR US\$ at 6 months+4,25%/year;
? penalizing interest	1,5%/year payable quarterly;
? engagement fee	1,5%/ year payable quarterly;
? management fee	80.000 US\$.

(24) The General Department of the External Public Finances /the Service of State Guarantees for Strategic Sectors and Power from the Ministry of Public Finances is in permanent touch with the financing bank and with the guaranteed economic agent and, by the monthly information this has to send, keeps the operative records of the withdrawals and reimbursements from the loan. Also, the risk fee (premium) is pursued and cashed in due term. In case of the failure to pay it in due time, the Ministry of Public Finances is entitled to call for and cash in interests and delay penalties at the level of those established for the failure to pay in due time the taxes to the state budget. If S.C. COMPANIA NATIONALA A HUILEI S.A. Petrosani does not fulfil in due time the obligations coming from the loan agreement and from the convention concluded and the partial or total execution of the guarantee is made, this will bear all the expenses that the Ministry of Public Finances will do as a guarantor. The amounts paid by the Ministry of Public Finances as guarantor, representing capital installments, interests and other adjacent costs, will be recovered through the General Department of Agreements, Cooperation and External Settlements from the Ministry of Public Finances, according to the legislation in force.

4. CHARACTER OF STATE AID OF THE MEASURES OF FINANCIAL SUPPORT GRANTED TO THE COMPANY

(25) This facility represents the guarantee given by the state to the external bank loans contracted by S.C. Compania Nationala a Huilei S.A. Petrosani, from ABN AMRO BANK N.V. Amsterdam, in total value of 24,060,432.00 US\$, as well as to the interests, insurance premiums, fees and other afferent costs.

(26) Analyzing the financial support, the Competition Council has noticed that there is no doubt for these are financed from state resources and confer an advantage to S.C. Compania Nationala a Huilei S.A. Petrosani.

(27) In conclusion, the measure of financial support granted is considered state aid and falls under the incidence of the Law no. 143/1999 regarding the state aid, amended and extended by the Law no. 603/2003.

5. EVALUATION OF THE MEASURES OF STATE AID THAT ARE INTENDED TO BE GRANTED TO S.C. C.N.H. S.A. PETROSANI

- (28) The objective of the state aid is to fulfil the project "*Modernization and re-technologization of the Mining Exploitations Vulcan and Paroseni and the Preparation Works Coroiesti*".
- (29) Out of the experience obtained during the exploitation of the coal layers, some problems have appeared as regards the limited reliability of the equipment and machines used in the transportation and in the stopes. These causes generate discontinuity affecting negatively the working technology in the stope and, implicitly, the labor productivity.
- (30) Also, in the domain of preparation, it is necessary to change the assortment policy, in conformity with the market's demands, noticing the almost total decrease of the demand of washed coal for coke and cake of sterile slime.
- (31) The beneficiary thermal & power stations Mintia and Paroseni have launched demands related to some qualitative changes of the energetic coal, mainly dimensions of granules and calorific power, being necessary the proper adaptation of the technology.
- (32) Subsequently, after the studies and analysis performed, it was proven the opportunity of re-technologization, in a first stage, of the mining exploitations Paroseni and Vulcan, respectively of the Preparation Works Coroiesti. This investment represents a mining component within the integrated project Paroseni, which contains in plus the re-technologization of the block 4 of the Thermal Station Paroseni, which is treated separately.
- (33) After consulting Romanian and foreign specialists, a solution appeared: to use mining equipment and machines with superior technical parameters. The investment taken into account refers to purchasing from abroad some equipment absolutely necessary, as there are no similar types in the country.
- (34) The production capacity was established depending on the demand of coal and in correlation with the technical potential of the equipment foreseen for re-technologization, so that to obtain maximum results that would lead to the certainty of obtaining the economic efficiency.
- (35) The mentioned investment objective is fulfilled in conformity with the contracts concluded on April 26, 2000 by and between S.C. C.N.H. S.A. Petrosani and the consortium made up of the companies Kopex and Itochu Corporation, as follows:
- ? Contract no. PL/271981166/49/3403, in value of 8.300.000,00 US\$ - having as object the delivery of mining equipment and machines, in view to modernize the Mining Exploitations Vulcan and Paroseni;

- ? Contract no. PL/271981166/49/3404, in value of 15.760.432,00 US\$ - having as object the purchase of machines and equipment in view to modernize the Preparation Works Coroiesti.

- (36) The analysis of the notified measure was done according to the criteria for granting state aids, contained in the secondary legislation relevant in the domain in force, within the European Union, represented by the *Regulation of the European Union Council no. 1407/2002 regarding the state aid in coal industry*, regarding: the existence of a plan of access at the coal reserves, the analysis of the impact that the state aid might have on the price of coal, the measure in which the grant of state aid affects the normal competitive environment and the analysis of the way in which the best economic perspectives are ensured.
- (37) The state aid is granted in relation to the *access at coal reserves*, having as objective the covering of losses afferent to the current production. In the meaning of art. 2 of the *Regulation of the European Union Council no. 1407/2002 regarding the state aid in coal industry*, the production costs represent the costs related to the current production, respectively those related to mining operations, coal preparation operations, mainly sorting and washing, as well as the transport to the delivery points.

5.1. PLAN OF ACCESS AT THE RESERVES OF COAL

- (38) The objective of the project "Modernization and re-technologization of the Mining Exploitations Vulcan and Paroseni and the Preparation Works Coroiesti" consists in purchasing equipment from import for the re-technologization of the units mentioned, foreseen to be done thus:
- ? Mining Exploitation Paroseni – by ensuring the equipment and machines for putting into operation a frontal stope of big capacity in pan. 1 str. 3 bl. V, horizontal 250 and afferent transport flow;
 - ? Mining Exploitation Vulcan – rigging up with big efficiency equipment for the modernization of the extraction process, respectively of the perforation long holes of pre-grinding at the applied exploitation methods, as well as for ensuring a modern transport with monorail installation;
 - ? Processing Works Coroiesti – rigging up with a new and modern preparation line, which will improve the qualitative parameters of the prepared coal.

5.1.1. TECHNOLOGICAL PROCESS

- (39) The technological process taken as a whole consists mainly in extraction and preparation of coal (pit coal of Valea Jiului).
- (40) The coal extracted from stopes is transported in the underground on the main transport flow, and taken out on the holes with skip and on the railways, at the Preparation Works Coroiesti, where it is subject to the preparation process.

- (41) The re-technologization of the extraction and preparation process leads to the obtaining of a productivity superior to the one obtained in present.
- (42) According to the feasibility study attached to the notification form, the technological process, afferent to the re-technologization of the extraction and preparation as a whole, is presented as follows:

✍ Mining Exploitation Paroseni:

- (43) In this case, it is taken into account the re-technologization of the stope and afferent transport flow, with the proper means.
- (44) The exploitation method proposed to be applied in str. 3, bl. V, is the method of exploiting the thick layers in slices, on dip – with frontal stopes.
- (45) The production forecast at the level of slice I, from the frontal stopes P is of 426.000 t, possibly to be extracted in a period of about 1,2 years.
- (46) After the exhaust of the reserves afferent to the Panel 1 str. 3, bl. V, the equipment that compose the re-technologization of the frontal stope will be moved to another exploitation panel that has already been prepared, so that to ensure a continuity in using the machines and a normal rhythm at the achievement of the daily production.

✍ Mining Exploitation Vulcan:

- (47) The re-technologization takes into account the improvement of the applied exploitation methods and assembly of a transport line with monorail at horizontal 310, for the stopes of str. 3, bl. III. This leads to the increase of the quality and quantity of the extracted production.
- (48) The value of the equipment and machines for the *re-technologization of the Mining Exploitation Paroseni and the Mining Exploitation Vulcan*, according to the contract, is of 8,300,000 US\$ and it is made up of:
- ? 7,801,126 US\$ – value of the equipment and machines of the Mining Exploitation Paroseni;
 - ? 498,874 US\$ - value of the equipment and machines of the Mining Exploitation Vulcan.

✍ Preparation Works Coroiesti:

- (49) The washing line will be modernized, being endowed with a new and modern preparation line, which will improve the qualitative parameters of the prepared coal.
- (50) The total value, according to the contract, for the *modernization of the Preparation Works Coroiesti* is of 15,760,432 US\$ and it is made up of:
- ? 11,258,784 US\$ - value of the machines and equipment;

- ? 3,700,448 US\$ – value of the works of mounting, dismounting, constructions, installations;
- ? 801,200 US\$ – value of the technical documentation and execution documentation.

- (51) By summing up the values of the two contracts, it results a total of 24,060,432 US\$, respectively 817,573,479,360 ROL.
- (52) In the address received from S.C. C.N.H. S.A. Petrosani, as answer to the requests of supplementary information, it is mentioned the fact that, for the good functioning of the project ITOCHU-KOPEX, the company – beneficiary of the state aid, also made other investments, from own resources, in total value of 134,981,400,000 ROL, remaining investment works to be executed in the future, having the same purpose, in total amount of 214,107,100,000 ROL.
- (53) Thus, the total value of the investment, inclusively the works to be executed, for the good functioning of the project, is of 1,166,661,979,360 ROL.

5.1.2. INTEGRATED PROJECT PAROSENİ

- (54) The integrated project Paroseni is included in the national program of modernization of the energetic sector from Romania and is due to the physical and moral wear and tear of the actual equipment and technologies used within the above-mentioned industrial entities.
- (55) The re-technologization of the preparation line and of the cleaning station from Preparation Works Coroiesti is a measure for protecting the environment, imposed both by the process of Romania's integration in the European Union, and by the environmental programs and agreements and the staging programs for water management imposed by the Romanian environment authority.
- (56) The main effect of achieving this project consists in improving the qualitative level of the coal delivered for producing electric and thermal power, as well as the significant improvement of the environmental parameters.
- (57) The Preparation Works Coroiesti is placed within the premises of the town Vulcan, close to the inhabited districts. Comparing the data regarding the concentrations of coal suspensions before and after putting into operation the new preparation line, there is noticed significant decreases that would lead to the remaking of the natural biotope that was destroyed. If, in 2002, the Preparation Works paid 200,000,000 ROL as penalties for having exceeded the maximum admitted value of the suspension, in 2003, by totally decreasing the overflows, the expenses were just for crude water. The wastes resulted from the new installation can be used in the industry of bricks and ceramic. A degree of 97% of water recirculation will be obtained.

(58) Beside the obvious advantages regarding the quality of coal produced by this new line, which reflect in the improvement of the output of thermal stations that use it, the security in exploitation, other benefits may be mentioned, brought both to the environment and to the community:

- ? decrease of the consumption of water and electric power;
- ? decrease of noise and minimum decrease of discomfort produced to the citizens living in the area;
- ? decrease of the emissions in the atmosphere of the fine powders that affected the neighbor areas;
- ? improvement of the aspect of town Vulcan.

(59) For the Preparation Works Coroiesti, the effects obtained will be:

- ? increase of the degree of recovery of the fuel from the crude coal, from 60% to 74,4%;
- ? increase of the processing capacity, from 320 tons/hour to 470 tons/hour;
- ? producing some finite assortments of superior quality coal;
- ? optimization of the circuit of technological water;
- ? achieving an organic output of superior processing;
- ? increase of the cleaning efficiency of the used industrial waters;
- ? better conditions of work for the staff;
- ? decrease of the power consumption;
- ? elimination of the pollution in the Jiul de Vest, by integral recirculation of the used industrial waters in the technological flow.

(60) The level of the capacity designed per production unit is the following:

- ? Mining Exploitation Paroseni – 770.000 tons/year of pit coal extracted, with a degree of using the capacity of 90,78%;
- ? Mining Exploitation Vulcan – 448.300 tons/year of pit coal extracted, with a degree of using the capacity of 96,70%;
- ? Preparation Works Coroiesti – 1.754.400 tons/year subject to washing – taken over from mining exploitations thus: from the Mining Exploitation Vulcan 433.500 t/year, from the Mining Exploitation Paroseni 699.000 t/year, from the Mining Exploitation Aninoasa and the Mining Exploitation Livezeni 621.900 t/year – with a degree of using the capacity of 74,7%.

(61) The net production obtained after the re-technologization, according to the balance sheet of the preparation at a degree of global recovery of 74,7%, will be of 1.309.680 t/year, representing:

- ? concentrate I: 505.920 tons, at a caloric power of 6,671 kcal/kg;
- ? concentrate II: 546.720 tons, at a caloric power of 4,035 kcal/kg;
- ? waste II: 257.040 tons, at a caloric power of 1,439 kcal/kg.

The waste I, which is not used, is in quantity of 444,720 tons and has a caloric power of 843 kcal/kg.

5.1.3. STAGE OF WORKS

- (62) Within the Preparation Works Coroiesti, the sorting installation, washing installation and water cleaning installation have been modernized. The actual capacity of the works, on the modernized line, is of 470 tons/hours, with a recovery degree of over 70%.
- (63) At the Mining Exploitation Vulcan, 6 drills VDO-2EA and a monorail type KSP-32 have been purchased.
- (64) In the Mining Exploitation Paroseni, on February 24, 2004, the frontal stope panel 1, str. 3, bl. V, horiz. 250 was put into commissioning. In this period, a production of 20,000 tons has been extracted from the stope, with a daily average of 1,015 tons/day. For putting into commissioning the stope, the following mining works have been necessary:
- ? basic directional gallery panel 1, str. 3, bl. V, with a length of 643 m;
 - ? attack raises panel 1, str. 3, bl. V, with a length of 118 m;
 - ? head gallery panel 1, str. 3, bl. V, with a length of 657 m;
 - ? link gallery between the northern transversal gallery and head gallery panel 1, with a length of 95 m.
- (65) After having finished the digging of the mining works, the mechanized complex type SMA-5H and the afferent transport equipment from the transport flow were installed in the stope, as follows:
- ? mechanized support SMA-5H, made up of 77 sections;
 - ? combined works KGS-460;
 - ? stope transporters RYBNIK with a length of 120 m;
 - ? scraper transporters TR 5 no. 1, TR 7 and GROT from the basic gallery;
 - ? flow of band transport (bands GWAREK no. 1,2,3,4,5);
 - ? station of high pressure pump AZ-2SM;
 - ? two installations of monorail type KSP-32 mounted in the basic gallery and head.
- (66) Also, the providing with electrical appliances of the fret station TD-ITOCHU-1 horiz. 250 and intercom installation in the stope and transport flow has been finalized. In the same time, 5 drills type VDO-2H have been received.

5.1.4. WORKS NECESSARY TO BE EXECUTED

- (67) In the end, to finalize the project, in view to pass the main flow of transport on horizontal 260, there are still necessary the following works:
- ? fixing up the main well with skip up to 230 (58 m have been done, remaining other 72 m);
 - ? mounting horizontal dosimeters bands 260;

- ? inverting the horizontal flow 300 (TMB no. 63) – this presupposes the inverting of the direction of the band no. 63, by moving the driving station instead of the turning head and vice-versa;
- ? changing the extraction from 425 to 260 (changing the cables of extraction and compensation, that have been purchased). These works are executed in view to pass the production on horizontal 260.

5.2. ANALYSIS OF THE IMPACT OF THE STATE AID ON THE PRICE OF THE COAL PRODUCED BY S.C. C.N.H. S.A. PETROSANI

- (68) Granting state aid does not call for the change of the price of coal, because this is modified by the Ministry of Public Finances, upon the request of the producer and with the approval of the Ministry of Economy and Trade, if the change parameter is modified with +/- 5% compared to the previous level. In reality, the negotiations for fixing the prices are done at big intervals, so that this always remains behind the inflation rate.
- (69) On the other side, a comparative analysis of the price of energetic coal, produced by S.C. C.N.H. S.A. Petrosani and the price practiced on the European Community market reveals the fact that, on the background of the unitary cost (in present, 1,615,000 ROL/ton, respectively 47.5 US\$/ton) the delivery price of the coal to beneficiaries is kept (in present 1,027,250 ROL/ton, respectively 30.2 US\$/ton), price that is bigger than those from other counties (Bulletin of international prices and quotations no. 196/25.08.2003 – energetic coal – 6,400 kcal/kg, s 1%, ash 16%, price 23.4 US\$/ton) taking into account the characteristics of the coal produced (power 3,500-4,000 kcal/kg, ash 42%).

5.3. ANALYSIS OF THE MANNER IN WHICH, BY GRANTING THE STATE AID, THE NORMAL COMPETITIVE ENVIRONMENT IS AFFECTED

- (70) As, by achieving the investment object, the re-technologization and replacement of the preparation capacities are taken into account, having as objective strictly the improvement of the qualitative parameters of the company's products, subsequent to the demands launched by the beneficiaries, the internal market will not be affected qualitatively or quantitatively and the result will not be the *distortion of the coal market, competition between the coal buyers and its users*.
- (71) The coal produced, being an energetic pit coal (power 3,500 – 4,000 kcal/kg, ash 42 – 48%), also *cannot affect the market of coke and steel*.

5.4. ENSURING THE BEST ECONOMIC PERSPECTIVES

- (72) In the documents for the substantiation of the investment, the technical and economic indicators of the project are also presented, being mentioned the expense at 1,000 ROL production of merchandise, which is forecast at the level of 984 ROL. Thus, the exploitation will be profitable for the company.

6. CONCLUSIONS

(73) The information presented in the notification submitted at the Competition Council leads to the conclusion that the notified individual state aid will not affect significantly the normal competition environment and does not encroach upon the proper application of the international treaties Romania is part of.

(74) Subsequent to the analysis done, it is noticed that the state aid in form of a state guarantee of the external bank loans contracted by S.C. Compania Nationala a Huilei S.A. Petrosani, from ABN AMRO BANK N.V. Amsterdam, in total value of 24,060,432.00 US\$, as well as of the interests, insurance premiums and other afferent costs, accomplishes the granting criteria, according to the Regulation of the European Union no. 1407/2002 regarding the state aid in the coal industry. Granting the state aid will allow the fulfillment of the investment objective *"Modernization and re-technologization of the Mining Exploitations Vulcan and Paroseni and the Preparation Works Coroiesti"*.

DECIDES

Art. 1. The measure notified by the Ministry of Public Finances granted to S.C. Compania Nationala a Huilei S.A. Petrosani represents state aid, according to art. 2 par. (1) from the Law no. 143/1999, amended and extended by the Law no. 603/2003.

Art. 2. Based on art. 12, par. (12), letter b) corroborated with art. 14, par. (1) letter j) from the Law no. 143/1999, regarding the state aid, with further amendments and extensions, and noticing that the state aid's objective is access at the coal reserves, the individual state aid, granted to S.C. Compania Nationala a Huilei S.A. Petrosani, is hereby authorized.

Art. 3. The value of the state aid that will be granted is of 1,010,532,783,080 ROL.

Art. 4. This Decision becomes applicable on the date of its communication.

Art. 5. According to the provisions of art. 24 from the Law no. 143/1999, with further amendments and extensions, the authority supplying state aid will send to the Competition Council information regarding the state aids granted, in view to be inventoried and monitored.

Art. 6. According to the provisions of art. 29 from the Law no. 143/1999 regarding the state aid, with further amendments and extensions, this Decision may be attached by the interested persons at the Court of Appeal from Bucharest, Administrative Contentious department, in 30 days since its communication.

Art. 7. This Decision will be communicated by the General Secretariat from within the Competition Board:

- to the Ministry of Economy and Commerce, Calea Victoriei no. 152, Bucharest
- to S.C. COMPANIA NATIONALA A HUILEI S.A., Str. Timisoara no. 2, Petrosani, county of Hunedoara

Art. 8. The General Secretariat and the Department of State Aid Authorization from within the Competition Board will pursue the accomplishment of this Decision.

PRESIDENT

MIHAI BERINDE