

DECISION 296
No. 28.10.2004

Regarding the state aid notified by the Authority for State Assets Valuation
granted to S.C. ROFEP S.A. Urziceni

COMPETITION COUNCIL,

Based on the provisions of the Decree no. 57/2004 for the appointment of the Competition Council members,

Based on the provisions of Competition Law no. 21/1996, published in Official Journal of Romania, Part I, no. 88 on 30 April 1996, modified and completed through Emergency Ordinance no. 121/2003 approved by the Law no. 184/2004;

Based on the provisions of Law no. 143/1999 regarding the state aid published in the Official Journal of Romania, Part I, no. 370 on 3rd August 1999, modified and completed through Law no. 603/2003;

Taking into account the provisions of European Agreement establishing an association between Romania, and European Communities on one side and the member states of those, on the other side, approved by Law no. 20/1993, published in Official Journal of Romania, Part I, no. 73 on 12 April 1993;

Based on the provisions of State Aid Regulation regarding the save and rescue of the undertakings in economic difficulties, published in Official Journal of Romania, Part I, no. 470 on 2nd July 2002;

Taking into account the provisions of Regulation for modifying and completing the Regulation regarding the save and rescue of undertakings in economic difficulties published in the Official Journal of Romania, Part I, no. 521 on 9th June 2004,

Based on the following considerations,

I. PROCEDURE

(1) Through the letter no. 3086/21.06.2004, Authority for Banking Assets Resolution (AVAS) was notified based on art. 6 of Law no. 143/1999 regarding the state aid modified and completed through Law no. 603/2003, the intention of granting individual state aid for restructuring to S.C. ROFEP S.A. Urziceni.

(2) Through the letters issued by Directorate for Authorizing State Aid (DAAS) no. 527/12.07.2004 and DAAS no. 688/17.09.2004 was demanded supplementary information regarding the market quotas of the undertaking, the amounts referring to the measures contained in the Restructuring Plan shared by years, the State aid detailed. Authority for Banking Assets Resolution has transmitted the answer to the supplementary information asked through letters no. 7881/26.08.2004, 8398/14.09.2004 and 704/24.09.2004.

(3) The notification became effective at the date when the information were exact and complete, respectively 24.09.2004

II. DESCRIPTION OF THE STATE AID MEASURE

2.1. Legal base for granting the state aid

- Emergency Ordinance no. 40/2002, for budgetary arrears recovery;
- Law no. 137/2002 art. 18, regarding some measures for privatization accelerating, with the further modifications and completions;
- Government Decision no. 577/2002 art. 281, regarding the approval of Methodological Norms for EGO no. 88/1997 application, concerning the privatization of undertakings, with the further modifications and completions.

2.2. The concrete way for granting the state aid

(4) Through the state aid proposed by the AVAS, it is foreseen the granting of some facilities for paying budgetary obligations, as follows:

A. According to Law no. 137/2002 the amount of 64,590,903,157 ROL, consisting in:

- Exceptions, in amount of 58,886,345,265 ROL representing:
 - Unpaid debts on 31.12.2001 for the state budget, representing VAT, risk fund and accidents, special fund for social solidarity for persons with handicap, special fund for education sustaining: 4,459,122,698 ROL;
 - Interests and penalties for unpaid debts to the state budget, calculated until the date of the right of property transferring over shares 7,870,049,761 ROL;
 - Interests and penalties related to the unpaid budgetary obligations to the state budget representing stopping at source, calculated until the date of the right of property transferring over shares: 1,399,875,813 ROL;
 - Unpaid obligations on 31.12.2001 to the social securities budget and to the unemployment securities budget, representing the contribution to the social

securities of the employer, unemployment contribution of the employer: 11,253,286,873 ROL ;

- Interest and penalties for delay, referring to the unpaid obligations to the social securities budget and to the employment securities budget representing stopping at source, calculated until the date of the right of property transferring over shares: 25,221,433,516 ROL ;
 - Interest and penalties for delay, referring to the unpaid obligations to the national unique fond for health insurance, calculated until the date of the right of property transferring over shares: 6,406,868,403 ROL;
 - Unpaid debts on 31.12.2001 to the local budget of the Urziceni city representing the on buildings and land taxes: 763,010,403 ROL;
 - Interest and penalties for delay, referring to the unpaid obligations to the local budget, calculated until the date of the right of property transferring over shares: 1,512,697,798 ROL.
- Rescheduling to the payment in amount of 5,704,557,892 ROL, representing unpaid debts on 31.12.2001 to the state budget, to the social securities budget, to the unemployment securities budget, to the national unique health fond and to the local budget of the Urziceni city.

B. According to EGO no. 40/2002 the amount of 10,980,006,499 ROL, consisting of:

- Exemptions granted in amount of 1,072,422,851 ROL representing interests and penalties for delay referring to the social securities contribution, during the period 01.01.2002-15.10.2002, owned and unpaid to the social securities budget.
- Scheduling to the payment in amount of 9,907,583,648 ROL representing unpaid obligations on 31.12.2001 and interests and penalties for delay freeing of those to the state budget, to the social securities budget, to the unemployment securities budget and to the budget of the national unique health fond.

(5) The total amount of payment facilities granted based on Law no. 137/2002 and EGO no. 40/2002 is 75,570,909,656 ROL.

2.3. The presentation of the beneficiary S.C. ROFEP S.A. Urziceni

(6) The State aid beneficiary is a private company, S.C. ROFEP S.A. Urziceni, established in 1968 and registered at the Commerce Register with no. J 21/105/1991. The S.C. ADRAS COM IMPEX S.R.L. Bucuresti holds the shares majority since 2002 – the year of privatization. In 2003 the average number of employees was 315.

(7) The company privatization was done based on Law no. 137/2002 regarding the acceleration of the privatization process, within the process being granted facilities to the payment of historical debts in accordance to the art. 18 align. (1) provisions of Law and of the methodological Norms issued in for implementation. Further the sale announcement of the majority shares held by the APAPS at S.C. ROFEP S.A. Urziceni, in August 2002, was offered for sale through negotiations based on final offers, improved and irrevocable, a number of 925,438 shares, representing 78.835% of the social capital of the undertaking.

S.C. ADRAS COM IMPEX S.R.L Bucuresti has bought the shares package of S.C. ROFEP S.A. Urziceni by signing the sales contract no. 28/15.10.2003.

(8) By the Competition Council Decision no. 477/2002 it has been authorized the economic concentration realized by acquisition by the S.C. ADRAS COM IMPEX S.R.L. Bucuresti of the majority shares package from S.C. ROFEP S.A. Urziceni.

(9) The company had registered at the Commerce Register Office at the date of signing the sale contract a social capital of 29,347,350 thou ROL, divided in 1,173,894 shares, with a nominal value of 25,000 ROL. Further to the transfer of property right over shares, at the date of 15.10.2002 the ownership structure of S.C. ROFEP S.A. Urziceni is the following:

Table no. 1

SHAREHOLDERS	CAPITAL OWNING	
	Number of Shares	Weight in social capital (%)
SC ADRAS COM IMPEX SRL	925,438	78.835
SIF OLTENIA	157,424	13.410
Other shareholders	91,032	7.755
TOTAL	1,173,894	100

Source: AVAS

(10) The company works in the field of industry. S.C. ROFEP S.A has as main objective of activity the producing and trading soft and hard ferrite, including magneto plastics, collecting brushes for electrical engines and other carbon products, spare parts for cars. Also, the company produces devices for verifying in the field, export-import activities, research and designing, activities that hold a very small weight in the turnover.

(11) S.C. ROFEP S.A. produces mainly for internal market, the turn over on this market being 96% from the total turnover, comparing with 71% in 2001 and 63% in 2000, as it is shown in table no 2:

Table no. 2

- Mill ROL -

	2000	2001	2002	2003
Total turnover	32,869	46,055	48,728	67,182
Turnover on the Romanian market	20,649	32,687	40,068	64,257
Turnover on the Romanian market/ Total turnover	63%	71%	82%	96%

Source: AVAS

(12) S.C. ROFEP S.A produces and trades the following products:

1. *hard ferrites*

- circular magnets for speakers,
- magnets segment type for electric engines,

- parallelepiped magnets,
- magnetic stripe for tightening refrigerators, diverse didactical and therapeutically applications.

2. *soft ferrites*

- cores type pot – for transformers and elements for automatization,
- cores type EE – for transformers of impulse, of high frequency electricity current,
- cores type tori – for induction bobbin, sock bobbin (antiparasitic filter), transformers for telecommunication,
- cylindrical and bar type cores – for filters for eliminating perturbations (radio-electrical), radio antenna, lighter for gas stoves, etc.

3. *carbon products*

- collecting brushes for electrical engines (auto, electro domestic apparata, portable electrical machines),
- converters for soldering,
- collecting brushes for compressors of air and rolling bridges,
- elements for tightening (blades) for vacuum pumps,
- graphite rings for bearings.

4. *magnetic circuits:*

- magnetic locks for furniture,
- devices for magnetic treatment of water,
- magnetic separators,
- magneto therapy.

(13) The company products have a large spectrum of utility in all branches of national economy i.e.: electronically and electro-technical industry, telecommunications, light industry, metallurgy, chemical, energy, cars, furniture, transport, agriculture.

(14) The economic-finance results based on the data from balance sheet from the last years are the following:

Table no. 4

- Mill ROL -

Indicators	2000	2001	2002
Turnover	32,869	46,055	48,728
Result of annual financial exercise	-19,126	-29,154	-15,391

Source: AVAS

3. MARKET DESCRIPTION

(15) - (25) [...] ¹

¹ Confidential data

4. DESCRIPTION OF THE RESTRUCTURING PLAN

(26) The production technologies of the company are old, some equipments being made in 1952-1954 (rectify machine DW- Ø 900) and the main majority between 1975-1977 (for instance furnace Riedhammer HPA 100 DORST). After the year 1986 no important sum was invested for modernizing and retechnologising the production. Through the nature of the technology, some equipments which could not be stopped (synthesis furnace) have worked unloaded at full capacity fact which lead to unjustified big losses, together with reducing the efficiency of production. Under these conditions, it was necessary to retechnologise the company.

(27) S.C. ROFEP S.A. Urziceni, together with the new majority share holder SC ADRAS COM IMPEX SRL, has established a restructuring program, step by step, for the period 2003-2010, which contains measures for structural reorganization of the company, technological restructuring, environment protection and financial restructuring, all these rising to the sum of 107,211 Mill ROL.

4.1. Structural restructuring of the company

(28) Taking into account the economic difficulties which the company has confronted in 2002 and the expectation of 2003 (with a very low level of orders and firm contracts, with the inexistence of a stable and sure market for sales which to ensure the use of the existing labor force), in March 2003 the new major share holder together with the company management and the two representative unions have concluded a collective dismissal for a number of 80 employees, following that the dismissed employees to receive two base salaries. During the process of application of the collective dismissal Protocol, the parts have also analyzed some social-professional cases and have identified solutions for reallocation of them. Finally, were dismissed a number of 61 employees in June 2003 for which has granted compensatory payments in value of 394 Mill ROL from its own resources of the company.

(29) Further to the process of retechnologising of the production line for carbon and metal-carbon powders, through redimensioning and reallocation of capacities and endowing with specific modern equipment, the production flux is simplified through the elimination of the raw materials storing-measuring installation and selling it as scrap iron.

(30) The measures of structural restructuring are synthetically shown in table no. 5.

Table no. 5

-Mill ROL-

Measure	Cost of implementing	Financing	
		Company own resources	Major share holder contribution

Collective dismissing of 61 employees	394	394	-
Selling scrap iron	100	100	-
Total	494	494	-

Source: AVAS, Program of restructuring of SC Rofep SA Urziceni

4.2. Technological restructuration

(31) The precarious actual endowment and production technology of segments for microengines allow the production of goods with low quality performances, low production efficiency, high consumptions for materials and energy, facts which make the products uncompetitive. By retechnologising the production line for segments it will be obtained magnetic performances of the material clear superior comparing with the one used by the company in present and a much better processing of the surfaces.

(32) The continuos developing of the electric engines industry which use collecting brushes, as well as the fact that this products are consumable impose the necessity expanding the range and series of products made by SC Rofep SA, specially for parts designated for cars industry. Through retechnologisation of the production line for collecting brushes it is foreseen to realize the following objectives:

- improving the physical, mechanical and functional characteristics of the collecting brushes;
- mechanization/automatisation of the operations which are done in present manually (rectifying, fixing the led wire in the brush body, brush marking);
- eliminating the polluting factors through introduction of new technologies;
- increasing the production efficiency and labor productivity.

(33) At the same time, producing competitive goods both for equipping some motorcars (Dacia Renault, Daewoo) and ensuring the spare parts market for domestic and imported cars of different brands has imposed the necessity of retechnologising the sets line.

(34) The costs of measures for technological restructuring and the necessary financial resources are presented in table no. 6.

Table no. 6 [...] ²

4.3. Environment restructuring

(35) Through the sale contract of shares, the Buyer has assumed an investment for environment in total value of [...] ³

² Confidential data

³ Confidential data

Table no. 7 [...]⁴

4.4. Financial restructuring

(36) At the date of privatization, the company needed a financial restructuring for functioning in normal parameters of the production activities, beside the investments assumed by the buyer through the contract.

(37) In case of S.C. ROFEP S.A. Urziceni the measure of financial restructuring consists of the renouncing from the budgetary creditors (Ministry of Public Finances, Ministry of Labor, Social Solidarity and Family, National House for Health Ensurance, Local Council of Urziceni City) to some certain incomes, through granting facilities to the duties payment to them (annulling and scheduling of debts). These facilities are granted with the aim of making the company viable.

(38) Through the program of restructuring, the company dimensioned in a realistic mode the financing sources for restructuring for the next period, on one hand based on its own sources and on the other hand, based on the engagements assumed by the buyer, through singning the sales contract of shares, on technological investments absolutely necessary for carrying out the activity and for the environment.

(39) The restructuring program, through its financial component, gives the possibility of increasing the cash flow and assuring a stable one, fact that will make easier the financial activity of the company. In this way, the company will be able to pay the current debts and to allocate the necessary cash for making the programmed necessary investments in order to develop and sustain the production program in future.

(40) Further to the implementation of the restructuring program, it is foreseen the consolidation of the existing capacity in function and increasing the quality of the products by eliminating the tight places from the rectification and mechanical processing flux, endowment of the powder, thermal treatment and mechanical processing sectors with AMC and consuming materials, reducing the consumption for raw materials, materials and electric energy and reducing the pollution in area.

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

(41) Financial support measures are granted in order to restructure S.C. ROFEP S.A. Urziceni, for its privatisation, because the company needs for a financial restructuring in order to functioning in normal parameters of the production. Granting state aid corroborate

⁴ Confidential data

with the actions took into account for the restructuring program, will determine the growth of the economical efficiency of the company activity.

(42) These facilities consist in scheduling and exemption for the unpaid budgetary duties representing taxes, contributions and others budgetary incomes as well as the interests and delaying penalties indebted and unpaid to the state budgetary, state social securities budget, unemployment securities budget, health social securities unique fund budget and local budget, calculated until the transfer date of the property right on the shares, and it is granted in order to make the company viable.

(43) Analysing the financial support measures, the Competition Council has found that there is no doubt that these measures are financed from state resources and confer an advantage to S.C. ROFEP S.A. Urziceni. Also, there is no doubt that these financial measures affect the commerce with Member States of the European Union as the products of the company are commercialised also on the external market and on the domestic market, they compete with similar products imported even from some European countries.

(44) As a conclusion, financial support measures granted are considered state aids and fall under the Law no.143/1999 on state aid, and amended and completed by the Law nr.603/2003.

6. EVALUATION OF STATE AID MESURES THAT ARE INTENDET TO BE GRANTED TO S.C. ROFEP S.A. URZICENI

(45) The objective of the state aid is restructuring of S.C. ROFEP S.A. Urziceni in order to restore the viability of the company at the end of the restructuring period. The state aid must be analyzed according to the criteria provided by the Regulation on state aid for saving and restructuring the companies in difficulty (named from now on *Regulation*).

(46) S.C. ROFEP SA Urziceni has not benefited up to now state aid for saving and/or restructuring.

(47) Due to the great degree of physical and moral wear (average wear being of 80 – 95%) of the existent machines and equipments in technological process it is registered a high level of the electric energy, natural gas and raw materials consumption, aspect that asks a big investments volume for modernization, automation, and improvement of the technology and environment investments.

(48) The big volume of debts and losses registered by the company at the privatization moment was generate particularly by:

- low efficiency of the technological energetic-intensive equipment due to the physical and moral wear and great exploitation costs generated by the improper functioning of the equipments as well as often interruptions and restarts of the products process; the company has registered great exploitation losses and it was found some problems with the quality of the products;

- the strong competition of the Chinese companies for the magnets on the external market, has limited the market for sale and has determined a quick decreasing of the ROFEP products prices;

- imposing (by some Italian customers) a deadline for payment of 90 days from the products delivery which has generated financial disfunctionings;

- the continuous diminishing of the demand on the internal market especially from electronics and electrotechnics industry which after 1990 was practically abolished (traditional customers as TEHNOTON Iasi, ELECTRONICA Pipera, RADIOTEHNICA Constanta either they changed the activity or stopped completely the activity);

- the lack of financial resources which has generated an irregularity in the supplying with basic raw materials (Fe_2O_3 , BaCO_3 , SrCO_3 , CuO , a.s.o. majority imported with payment in advance) which has generated disturbances of the technological process.

- the company was unable to pay the debts to the state budget, local budget, social securities budget, also the company was unable to reimburse to BRD the credit together with the interests and the penalties, the buildings of the company which constituted mortgage for the credit from BRD, have been sold by auction.

(49) The functioning capacity is much more reduced in comparison with the production capacity (for example: from the tower building for processing powders it is used only a very little part of equipments, the building and the equipments from the production hall for brushes are used only partially), as it is represented in the table no.8:

Table no.8

-to-

The product	Projected capacity	2000			2001			2002		
		Function. capacity	Realized production	Using ratio	Function capacity	Realized production	Using ratio	Function. capacity	Realised production	Using ratio
Ferrite	1,800	800	362	20.1	800	425	23.6	800	570	31.7
Brushes	115	100	24	20.9	100	29.5	25.7	100	29	25.2

Source: AVAS

(50) The low using ratio of the production capacity was due mainly to following causes:

- great diminishing of the products volume demanded on internal market;
- appearance on the internal market of the European producers, competition on the segment of the superior processing and properties products;
- diminishing the export volume of the hard and soft ferrites due to the greater competition of the Asiatic companies, mainly from the point of prices.

(51) The analyse of the notification was done according to the criteria on granting state aids covered in the Regulation on saving and restructuring the company in difficulty.

6.1. Eligibility of the S.C. ROFEP S.A – company in difficulty

(52) At the moment of realising the property right transfer (15.10.2002) to S.C. ADRAS COM IMPEX SRL, SC ROFEP SA was in a very grave situation being financial blocked, it was not credible for obtaining a credit in order to continue the production and to deliver the on going orders, existing a great risk to lose the confirmed orders and even the customers.

(53) The grounds on which it was established that S.C. ROFEP S.A is eligible for benefit restructuring aid being a company in difficulty, are the following:

a) decreasing of the turnover

Table no. 9

- Thou.ROL -

	2000	2001	2002
Turnover	32,458,140	46,054,600	48,727,864
Turnover in comparable prices 2000	32,458,140	35,426,615	31,765,312

Source: AVAS

Analysing the evolution of the turnover in comparable prices 2000, it is found a sinuous evolution with a minimum in 2002 year.

b) increasing of the losses ratio in comperison with the social capital (loss/social capital)

Table no. 10

-Thou. ROL-

	2000	2001	2002
Loss of the financial exercise	19,126,359	29,154,180	15,391,245
Uncovered loss	9,106,958	28,233,317	57,387,497
Total loss	28,233,317	57,387,497	72,778,742
Social Capital	29,347,350	29,347,350	29,347,350
Losses Ratio (%)	96	196	248

Year by year the company registers losses, losses that exceed the social capital about 2.5 times in 2002 year. The losses are registered on the one side thanks to the exceptional activity, which means the great expenses for interests and penalties of the debts to the budgetary creditors, and on the other side thanks to the inefficient production activity.

c) Increasing of the stock volume

Table no. 11

- Thou. ROL -

	2000	2001	2002
Stocks	12,266,055	11,896,340	13,851,511
Stocks / Total Assets	31.09%	31.08%	34.32%

Source: AVAS

*d) Stocks rotation (total stocks/turnover)*365 days*

Table no. 12

	2000	2001	2002
Stocks (thou. ROL)	12,266,055	11,896,340	13,851,511
Turnover(thou. ROL)	32,868,647	46,054,600	48,727,864
Stocks rotation (days)	136	94	104

Source: AVAS

Stocks rotation registers slowness from 94 days in 2001 to 104 days in 2002, which means a irregular activity due to the lack of liquidity.

*e) Increasing of the debts and of their payment duration (debts/turnover)*365 days*

Table no. 13

-Thou. ROL-

	2000	2001	2002
Debts	37,994,229	65,870,490	83,602,050
Turnover	32,868,647	46,054,600	48,727,864
Period of payment (days)	422	522	626

Source: AVAS

In 2002 year the debts volume has grown of 2.2 times in comparison with 2000 year. Due to the lack of liquidity, the company registered almost constantly increasing of the payment duration from year to year, in 2002 year the company has reimbursed the current debts after more than one year and a half.

f) Debt ratio (total debts/own capitals)

Table no. 14

- Thou. ROL-

	2000	2001	2002
Total debts	37,994,229	65,870,490	83,602,050
Own capitals	1,309,659	(28,001,630)	(43,392,875)
Total debts/own capitals	29	-2,35	-1,93

Analysing the indicators shown above, results an increasing volume of the debts that are represented by those which must be paid within a period of one year and by a negative level of the own capitals which can not support the current activity due to high losses and great debt ratio.

g) The weight of the arrears in the total amount of duties (unpaid debts/duties)

Table no. 15

-Thou. ROL-

	2000	2001	2002
Unpaid debts	32,196,426	60,223,843	74,946,097
Duties	37,994,229	65,870,490	83,602,050
WeightPondere arierate (%)	85	91	90

Source: AVAS

In the mean time of increasing duties, the company registered an ascending trend of the unpaid debts especially to the budgetary creditors, debts that represented 91% in 2002.

h) Partial liquidity ratio (current assets-stocks/duties)

Table no. 16

-Thou. ROL-

	2000	2001	2002
Current assets-stocks	2,633,703	3,796,497	5,604,460

Duties	37,944,229	65,870,490	83,602,050
Partial liquidity ratio (%)	7	6	7

Source: AVAS

Partial liquidity ratio from the last 3 years, shows the company incapacity to assume the short terms obligations.

(54) Taking into account the annual loss of the each financial exercise, the annual increasing of the duties especially of those to the budgetary creditors, increasing of the debt ratio, the high value of the stocks, all these on a background of high level equipments wear which needs great expenses, it can conclude that S.C. ROFEP S.A. Urziceni is a company in difficulty.

6.2. Belonging to a group

(55) According to the provisions article 2 (5) of the Regulation, a company which belongs to a group is not normally eligible for granting the saving and restructuring state aid, except the case when it is possible to demonstrate that the difficulties are specific to the company and do not result from an arbitrary allocation of the costs within the group and that the difficulties are too seriously to be solved by the group.

(56) SC ROFEP SA owned to S.C. ADRAS COM IMPEX S.R.L. Bucuresti, in a proportion of 78.835%.

(57) The new majority shareholder, S.C. ADRAS COM IMPEX S.R.L. Bucuresti, has as activity commerce with cars and car spare parts, provides services, electric components production, spare parts and accessories for cars and for car motors production.

(58) The compared situation of the two companies, S.C. ADRAS COM IMPEX and SC Rofep SA is presented in the table below:

Table no. 17

- mill ROL -

	SC ADRAS COM IMPEX	SC ROFEP SA
Turnover		
Year 2002	46, 989	48,728
Anul 2003	67,379	67,728
Net profit/Losses		
Year 2002	1,675	-15,391
Year 2003	4,510	36,870 ⁵
Total Debts		
Year 2002	25,585	83,602

⁵ In 2003, SC ROFEP SA registered accountable gross profit which was determined by operating in the accountability of a part of the facilities granted at privatization, facilities that are object of the present decision. This profit isn't taxable and wasn't distributed as dividends, but used for covering the losses from the previous years.

Year 2003	34,199	40,436
Debts which must be paid within one year period		
Year 2002	24,940	83,602
Year 2003	32,016	10,639

(59) As it can be seen in the table no. 17 the undertakings have comparable turnovers, but the profit obtained by SC ADRAS COM is insufficient for covering the debts and losses registered by SC ROFEP. SC ADRAS COM financial situation doesn't allow it to make available for SC ROFEP SA more money than it assumed by the privatization contract.

(60) The difficulties of the company does not arise from the arbitrary allocation of the costs within the group, being the effect of the economic results obtained in the previous years to selling the majority of shares.

6. 3. Restoring the viability of the company

(61) According to the art.12 in the Regulation regarding the state aid for rescuing and restructuring firms in difficulty, the restructuring plan must enclose the giving up to the activities producing losses and to offer to the company the long term viability, allowing it to function with its own resources.

(62) Immediately after taking the company, the new shareholder made efforts for buying urgently raw materials and materials necessary for the production process as well as for liquidations of the debts to the third parts (SC TOTAL PROTECT, SORCETI, Primaria Urziceni, Terma Urziceni, BRD Urziceni, APAPS) that exceeded for a long time the payment deadline and it was the possibility to become obstacles in normal activity process.

(63) In the same time, the company's management was in contact with the specialty design work and research institutes (respectively with ICPE Bucharest) and with representatives of speciality departments from higher educational establishments, in order to find solutions for modernizing the equipments, production fluxes and for enhancing the quality of the relised products.

(64) In order to assure the continuing of the activity and stopping the growth of the losses it was taken the following measures:

- Substantiation of some programs for reducing the costs; programs for increasing the productivity; programs for increasing the labour productivity by organizing, technical and technological measures to ensure the elimination of the exploitation losses;
- Substantiation of the contracting and obtaining of a 6 billion ROL credit line in order to financing the production and achieve the existent orders;
- Renegotiation of the contracts for the products which are selling on the Italian market, renouncing for those which were selling under the processing cost;

- Stopping the equipments that were functioning under their capacity (Reidhammer furnace).

(65) The Implementation of the restructuring program had and has as main objective severe reducing of the losses and reaching an operational balance for obtaining profit especially from the exploitation activity, and than from the whole activity. The first signals concerning the adaptation of the company to the new demands have begun to appear at the end of 2003 year when the company got profit from the exploitation activity.

(66) As a result of implementing the restructuring plan it is foreseen the realising of the company viability by:

- Improvement the products quality and diversity of products;
- Realising the investments in performing equipments and modernisation of the process technology for the ferrites and collecting brushes production necessary for electric motors;
- The intensification of the market prospecting actions in order to find new customers and suppliers, diversification of the distribution channels;
- Initiating the measures for introducing an integrated informatics system;
- Finding the suitable solutions for the participation to the international fairs and exhibitions.

(67) The influences of the measures from the restructuring plan, both the Buyer's contributions and the facilities for the payment of the budgetary obligations, are found in the level of the indexes for the next years, as it follows:

Table no. 17

- ROL mill. -

Name of the indexes		2003	2004	2005	2006	2007	2008	2009	2010
1	Total revenues, from which:	112,295	81,555	96,700	106,850	110,100	130,728	118,236	125,210
	- Exploitation revenues	112,186	81,455	96,700	106,850	110,100	130,728	118,236	125,210
	- Net turnover	67,182	79,855	96,700	106,850	110,100	115,200	118,236	125,210
	- Financiar revenues	109	100	-	-	-	-	-	-
2	Total expenses, from which:	75,425	80,768	95,460	104,550	106,300	111,300	114,256	120,490
	a) exploitation	67,909	79,168	92,032	102,300	103,700	108,600	111,506	117,690
	b) financial	7,516	1,600	3,428	2,250	2,600	2,700	2,750	2,800
3	Gross profit (+) / Loss (-)	36,870	787	1,240	2,300	3,800	19,428	3,980	4,720

(68) Following the realisation of the measures, at the end of the implementation restructuring plan period it is aimed the reaching of the goal indicators as follows:

Table no. 18

1. Gross profit	Mill.ROL	4,720
2. Turnover	Mill.ROL	125,210
3. Number of employees	Persons	315
4. Own capital	Mill.ROL	63,159
5. Duration of outstanding debts recovering	Days	20.8

7. Debt Ratio	%	42.65
8. Liquidity	%	279
9. Stock rotation	Days	21.6
10. Commercial Profitability	%	5.59
11. Financial Profitability	%	6.05
12. Cash flow	Mill.ROL	+2,280

6.4. The avoiding of significant disturbing of the competition environment

(69) The application of the restructuring program will permit the restoring of S.C. ROFEP S.A. activity efficiency at market accepted production levels, by reducing the costs, increasing the efficiencies and eliminating the weight of the historical debts (financial restructuring).

(70) Granting state aid and implementing the restructuring program to the S.C. ROFEP S.A. the relevant market structure does not register modifies with anticompetitive effects, the aim of this operation is to increase the economical efficiency of the company by reducing the production costs and does not lead to a liquidity surplus that may be used for aggressive activities to disturb the competition on the market, without any connection to the restructuring process.

(71) By restructuring program S.C. ROFEP S.A. Urziceni does not strengthen significant internal share market, the company will recover some remains by improvement of using degree of the capacities. In the activity sector of the company there is a significant difference between the designed capacity and functioned one, based on an estimation of the future demand closed to the designed capacity.

(72) Pursuant the provisions of art. 13 in the Regulation, the Competition Council must take measures to reduce as much as possible the adverse effects of state aid on the competition otherwise the state aid shall not be authorized.

(73) Taking into consideration that SC ROFEP SA owns significant market shares on the relevant markets where it acts, even though they have a decreasing trend, the Competition Council imposes the reduction of the production capacity projected for ferrite with 25%, respectively with 450 tones/year.

6.5. Aid limited to the minimum

(74) The analyze of the difficult economic-financing situation with which the company was confronted in 2002, it was pointed out the fact that, for remaining in the economic circuit and for becoming viable, it was necessary both its privatization and the granting of the state aid

for restructuring by granting of facilities. Granting the state aid, the company will be relieved from the payment of historical debts allowing its to become eligible for credits.

(75) The restructuring program is financed from company own resources, capital contribution of the major shareholder and the requested state aid, amounting of ROL 75,571 mill., which means that the state aid value is reduced to the minimum necessary in order to the proposed program to be finalized operational conditions proposed by the company in its capacity of beneficiary of the state aid.

(76) The contribution of S.C. ROFEP S.A. and the new majority shareholder to the implementing of the measures from the restructuring program represents 29.51% of the total financial effort. The State aid requested, amounting ROL 75,571 mill, relieves the company from the payment of debts, allowing it to become eligible for credits, thus being limited to the minimum necessary.

6.6. State aid intensity and restructuring costs

(77) The amount and intensity of State aid must be strictly limited to the level of fulfilling the restructuring program objectives (reaching the viability).

(78) The total cost of restructuring the company amounting at ROL 107,211 mill consists of:

No. Crt.	Measures	Evaluation implementing costs [million ROL]	
		Own resources	State aid
1.	Cost of structural restructuring	494	-
2.	Cost of technological restructuring	28,856	-
3.	Environment investments	2,290	-
TOTAL BENEFICIARY CONTRIBUTION		31,640	-
4.	Cost of financial restructuring of company, out of which: - exemption from payment - scheduling	-	75,571 59,959 15,612
TOTAL GENERAL		107,211	

And it is supported as bellow:

- own resources of S.C. Rofep S.A.
- investor's own resources

[...] ⁶ mill ROL
[...] ⁷ mill ROL

⁶ Confidential data

⁷ Confidential data

(79) The State aid intensity, calculated as ratio between the aid value and the restructuring cost amounts at 70.49%.

6.7. “First time last time principle”

(80) S.C. ROFEP S.A. Urziceni did not receive any other restructuring aid and thus provisions of Art. 18 of the Regulation are observed, what stipulates that restructuring aid must be granted only one time.

6.8. Monitoring and annual reporting

(81) In accordance with the provisions of Art. 17 of the Regulation, the Competition Council permanently monitors the implementation of the restructuring plan, seeking that it does observe the objectives established.

(82) The Competition Council shall monitor the implementation of the restructuring program until the end of the restructuring period in order to make sure that the production capacity will be reduced, there will not be major deviations from the achieving of the restructuring measures and that the State aid shall not lead to additional liquidities what may be used for other activities than the ones from the restructuring program. The date for closure of capacity will be the end of 2005 and the date for dismantling of capacities will be the end of 2006. The envisaged equipment projected for ferrite production which will be dismantled are:

- rolling mills 2000 litres - 2 pieces;
- Riedhammer revolving calcinatory – 1 piece;
- Hydraulic press – 3 pieces;
- Oven LEW – 1 piece;
- Oven SIM – 1 piece;
- Oven SFEAT – 1 piece;
- Rectifying machine DISKUS – WERKE – 1 piece;
- Rectifying machine CETERLEX – 1 piece;
- Magnetizer – 1 piece;
- Ventilation exhauster – 1 piece.

7. CONCLUSIONS

(83) Given the above arguments, the Competition Council ascertains that the individual State aid to be granted to S.C. ROFEP S.A is compatible with normal competitive environment and does not significantly affect trade with European Union member states.

DECIDES

Art. 1. The measure notified by the Authority for State Asset Valuation for S.C. ROFEP S.A. Urziceni constitutes State aid for the purposes of Art 2 of the Law no. 143/1999 regarding the State aid, amended and completed by Law 603/2003.

Art. 2. Based on Art. 12, align. (2), letter c), corroborated with Art. 14, align. (1), letter e) from the Law no. 143/1999 regarding the State aid, amended and completed, it is authorized the State aid for restructuring, what will be granted to the S.C. ROFEP S.A. Urziceni, with the condition of observing Art 3, 4 and 5 from this Decision.

Art. 3. The company is bound to fully implement the assumed restructuring plan.

Art. 4. The company must not increase the production capacity over the level of the year 2003.

Art. 5. The company has to reduce its production capacity planed for ferrite with 25%, respectively with 450 tones/year.

Art. 6. The value of the State aid what will be granted is 75,570,909,656 ROL.

Art. 7. The present Decision becomes applicable from the date of its communication.

Art. 8. Accordingly to the provisions of Art. 24 from the Law no. 143/1999 regarding the State aid, amended and completed, the Authority for State Asset Valuation will convey to the Competition Council information regarding the State aid granted in order to inventory and monitor it. Also, the Authority for State Asset Valuation will convey annual reports regarding the implementation of the restructuring plan. The first report will be conveyed in 6 months time from the date of the issuing the Decision. The next reports must show that the Company complied with the compensatory measures regarding the imposed reduction of the production capacities.

Art. 9. Accordingly to the provisions of Art. 29 from the Law no. 143/1999 regarding the State aid, amended and completed, the present Decision may be appealed by the concerned persons to the Court of Appeal Bucharest, Administrative Contentious section, within 30 days from the communication.

Art. 10. The present Decision will be communicated by the Secretariat General from the Competition Council to:

- The Authority for State Asset Valuation, str. Cpt. Av. Alexandru Serbanescu, no. 50, sector 1, Bucuresti;
- S.C. ROFEP S.A., sos. Bucuresti-Buzau, city Urziceni, cod postal 925300, jud. Ialomita.

Art. 11. The Secretariat General and the Directorate for Authorizing State Aid from the Competition Council will follow the fulfillment of the present Decision.

PRESIDENT

MIHAI BERINDE