

DECISION No. 336

Of 31.12.2004

**Concerning state aid granted to S.C. INDUSTRIA SARMEI S.A. CAMPIA TURZII
(ISCT)**

**According to the conditions laid down in Protocol 2 on the European Coal and Steel
Community, Annex to the European Agreement
Establishing an association between the European Communities and their Member States,
on one hand, and the Republic of Romania, on the other hand**

THE COMPETITION COUNCIL,

Having in regard the provisions of the Competition Law no.21/1996, published in the Official Gazette, Part I, no. 88 of April 30, 1996, amended and completed by GEO no. 121/2003 approved by Law no. 184/2004,

Having in regard the provisions of the Law on State Aid no. 143/1999, published in the Official Gazette, Part I, no. 370 of 03.08.1999, amended and completed by Law no. 603/2003,

Having in regard the provisions of the Europe Agreement establishing an association between Romania, on one hand, and the European Communities and their Member States, on the other hand, ratified by Law no. 20/1993, published in the in Official Gazette, Part I, no. 73 of 12.04.1993,

Based on the following:

I. PROCEDURE OF NOTIFICATION

(1) Under Note no. 17226/28.12.2004, registered at the Competition Council as no. RS-AS/114/29.12.2004, the Authority for State Assets Recovery (AVAS) notified, on the basis of article 6 of the Law no. 143/1999 on State aid with subsequent amendments and completions, the modification of the restructuring plan and of the existing aid, authorized by the Competition Council by Decision no. 103/26.03.2004, granted to S.C. Industria Sarmei S.A. Campia Turzii. The notification became effective at 29.12.2004.

II. The Legal basis for granting the aid

- Law no. 137/2002, regarding certain measures for accelerating the privatization, with the subsequent amendments and completions;
- GEO. no. 8/2003 regarding the stimulation of the restructuring, reorganization and privatization process of certain national undertakings, national companies and

- undertakings with mainly State owned capital, with the subsequent amendments and completions;
- GO no. 13/1995 regarding certain measures for accelerating the restructuring process of the autonomously administrations and of the undertakings with mainly state owned capital, of strenghtening the financial discipline and improving the clearings in economy;
 - GD. no. 1103/2000 regarding the privatization strategy for S.C. ,Industria Sarmei' S.A. Campia Turzii, included in the component ,Privatizing 50 undertakings with mainly state owned capital, grouped in packages', within PSAL;
 - Government Decision no. 528/1998, amended by the Decision No. 801/1998, regarding the granting of certain interest-free loans;
 - GEO no. 26/2004 regarding some measures for finalizing the privatization of commercial companies, which are in APAPS's

III. Description of the Measure

III.1 SC Industria Sarmei SA Campia Turzii. Description of the activity and financial situation. Information about the relevant market.

(2) The undertaking was established in 1920 as Anonymous Company, manufacturer of wire and neels. Beginning with 1923 till 1940 there was a continous developemnt of the entreprise, by integrating new technologies (steel plant with electrical avon, non-ferrous metals drawing mill, wending eletrods factory) as well as new products (concrete steel, thin wires, galvanised wire, electrods etc.). Nationalised in 1948, the new State entreprise passed, until 1989, through a number of investment steps, becoming the biggest manufacturer of wire and wire products in the country, with an integrated production flow. In 1991 it was reorganized as a stock company, under the name of Industria Sarmei S.A. Campia Turzii. The undertaking was privatized in 2003 by closing the Share Selling-Purchase Contract no. 5/14,03,2003, the buyer being CONARES TRADING A.G. Swiss. After the privatization, the name of the buyer turned into MECHEL TRADING A.G.

(3) Before signing the Share Selling-Purchase Contract, the shareholders' structure of ISCT was:

Table 1

SHAREHOLDERS	CAPITAL OWNING	
	Million ROL	Percentage in the registered capital (%)
APAPS + AVAB	822,596	73.41
SIF BANAT - CRISANA	266,887	23.82
Other shareholders (PPM)	31,079	2.77
Total	1,120,562	100

Source: AVAS Notification

(4) At present the ISCT shareholders' structure is the following:

Table 2

SHAREHOLDERS	Capital owings	
	Million ROL	Percentage in the registered capital (%)

Mechel Trading A.G.	1,177,168	79.8
SIF Banat – Crisana	266,887	18.1
Other shareholders (PPM)	31,079	2.1
Total	1,475,134	100

Source: AVAS Notification

(5) The **main activity** of ISCT consists in manufacture and marketing of steel and steel products: wires, electrodes, traction cables, tubes, bars, galvanised wires, rolled profiles, concrete steel, blooming.

(6) Campia Turzii is the only steel mill in Romania selling products under its own name (nails, barb wire, traction cables) the final consumer, and one of the few European manufacturers of long steel products with the capacity of drawing wire.

Short description of the main activity carried out by the Company:

(7) The Company has the activity organised in 3 specialised factories, the company depending on the products from the actual profile of the unit, namely:

- FACTORY I is composed of 6 sections: Electrical Steel Mill, Flux Founding, Rolled Mill 1, Rolled Mill 2, Rolled Mill 3, Rolled Mill 4, Apahida Section;
- FACTORY II is composed of 5 sections: Long bars, Hard steel Drawing 2, Hard steel Drawing 3, Special Steel Drawing, traction cables;
- FACTORY III is composed of 6 sections: Electrical 2, Soft steel Drawing, Nails, Galvanizer, electrical Cables, Subsidiaries;

(8) ISCT is an integrated enterprise and disposes of the following groups of products:

- Lump Steel;
- Re-rolled Billets;
- Rolled finished products;
- Calibrated steel;
- Coald long wire;
- Traction cables;
- Weldion electrodes;
- Nails;
- Galvanised wires;
- Other products.

(9) The structure of the products on manufacturing sections is as it follows:

Table 3

No.crt	Section name	Specific Activity - products
1	Electric steel mill nr.1	Steel elaboration- lump

2	Rolling mill 4	Lump rolling in billets
3	Rolling mill 1	Rolling billets in barb wire dimension type 6-14 mm(70 kg bundle)
4	Rolling mill 2	Rolling billets in rolled profiles
5	Rolling mill 3	Rolling billets in barb wire dimension type 6-12mm (500kg bundle)
6	TOT 2	Drawing steel wire with high carbon content
7	TOT 3	Drawing steel wire with high carbon content
8	TOS	Drawing special steel
9	Traction cables	Production of traction cables
10	Long bars	Calibrating bars
11	TOM	Drawing steel wire with low carbon content
12	Galvanizer	Manufacturing galvanised wire
13	Nails	Manufacturing nails
14	Electricl cables	Manufacturing electrical conductors
15	Electrods	Manufacturing covered electrods for welding
16	Auger die	Manufacturing and processing auger dies

Source: AVAS Notification

(10) Among secondary activities carried out by ISCT there are:

- old iron processing (Section APAHIDA);
- factory rail transportation;
- social activities (quantine, auto transport).

(11) The turnover and the profit made by the Company in the last three years before signing the Privatization Contract are:

Table 4	mil. ROL		
	2000	2001	2002
Total turnover of which :			
- made on Romanian market	1,287,439	1,850,102	2,133,772
	979,300	1,405,300	1,639,700
Profit/loss	19,196	-290,767	-54,100

Source: AVAS Notification

III.2 ISCT Privatization. Short description of the privatization process

(12) By the G.D. no. 1103/2000, the Romanian Government approved the privatization strategy for S.C. Industria Sarmei S.A. On 30,03,2002 was published the first advertising for sale by the negotiation method based on final, improved and irrevocable offers, of ISCT shares by which it was established that the ceiling for submitting the purchase offers is the 31st of May 2002. The time limit for submitting the offers was successively prolonged, until 24,12,2002; at this final date, at APAPS business headquarters two purchase offers were submitted, one, from CONARES TRADING AG (presently MECHTEL TRADING AG).

(13) [...] ¹

The Privatization Contract

(14) Object of the contract – AVAS (APAPS) has sold 20,313,504 shares, representing 79.8007% of the share capital of the undertaking;

(15) Special provisions :

- the total or partial transformation of the utility suppliers' claims related to the undertaking representing the equivalent of the owed and unpaid bills until the 30th of November 2002;
- the annulations of the delay increases and of the respective penalties calculated and not paid to the utilities' suppliers;
- the scheduling of debts over 5 years of the sums owed by the Undertaking to the utility suppliers, which are not fully converted;

(16) [...] ¹

(17) Obligations assumed by the buyer in the Share Purchase Contract:

- to provide for free the know-how which is the exclusive property of the buyer in the field of production, of technological methods, marketing data, the access to the sales market, projection and qualification methodologies;
- to pay from its own resources of debts to the budgetary obligations of the Undertaking which, according to art. 2 of L. no.137/2002, amended and completed, are spreaded for pay, to the amount of EURO 1,100,000;
- to determine the Undertaking to attain a turnover out of which a minimum of 70% to be gained from the main field of activity of the undertaking, for a period of 5 years from the concluding date of the Contract;
- to perform, from its own resources or other resources collected in its own name, for 4 years, beginning with the transfer date of stock property rights, an environment protection investment in amount of EURO 3,357,993;
- to ensure to the undertaking, from its own resources, a capital of EURO 3,700,000 euro, which must be subscribed as cash contribution to the registered capital and to be transferred in the first 4 months since the date of the transfer of stock propriety rights;
- to make, from its own resources or other resources collected in its own name, for 5 years, beginning with the day of the transfer of shares property rights, development investment in amount of EURO 16,500,000;

¹ Confidential data

- is obliged to secure all the environment protection and development investments by the establishment of securities, the value of which must fully cover the value of the investments assumed for each of the investment periods. In the same time with the conclusion of the Contract, a movable security contract over the shares had to be signed, and, for the rest, the buyer was to submit a Letter of Guarantee.

III.4 The Company's affiliation to a group

(18) The majority shareholder of ISCT, namely MECHEL (CONARES), is directly controlled by CONARES HOLDING AG. In Romania, MECHEL also owns shares to S.C. COST S.A. Targoviste. CONARES HOLDING, with the business headquarters in Zug 24 Poststrasse Swiss, is a totally private capital company, established in 1995 based on the Swiss legislation, having as activity object the steel, obtaining alloy and superior alloy steel, extracting ferrous minerals and coal. CONARES HOLDING has in its administration 6 big metallurgical steel mills and companies extracting coal. At the end of 2000, CONARES HOLDING's turnover exceeded USD 1 billion. Along the years, CONARES HOLDING became an important supplier of raw materials for many Romanian enterprises activating in this field. CONARES HOLDING's specialists adapted the technical norms from their origin country, to the corresponding Romanian technical standards for basic goods, for alloyed steel for motor vehicle construction industry and other branches of the Romanian industry. In the same time, CONARES HOLDING supplies from Romania, to Russia metallurgical electrodes from ELECTROCARBON Slatina, heavy ball bearings from TIMKEN Romania's mills, heavy cylinders for mills from KWERNER Romania, roller former, ball bearings boxes, rolling mill thimble/flare/bell mouths and other metallurgical equipment from the Romanian steel mills CUG Iasi, CUG Targoviste, FAUR, aluminium wire for de-oxydating liquid steel from ALRO Slatina etc.

(19) The involvement of CONARES HOLDING in Romania made that, at the end of 2001, its turnover in our country exceeded USD 100 mil.

(20) MECHEL (CONARES) TRADING acts on the international steel market together with the other members of the group CONARES, from which, a special place is held by Celiabinsk Metallurgical Mill.

(21) MECHEL (CONARES) TRADING represents one of the main business partners of the steel mills, the Swiss Company taking over a part of the steel mills' production for marketing through its commercial offices, opened all over the world.

(22) Acquiring the majority share package of ISCT, MECHEL TRADING allows the Romanian Company to integrate itself in CONARES Group, facilitating in this way the access to the favorable supplying and trading markets, as well as the reorganization based on modern and efficient principles, under a performing management.

IV. Measures Granted to the Restructure of ISCT

(23) ISCT benefited from the following measures in the context of its restructuring and return to viability:

Table 5

	Type of incentive	1993-1994	1995	1996	1997-2001	2002	2003	2004	TOTAL STATE AID
1	Free interest credits for revamping and restructuring	0	1,174	6,000	0	0	0	0	7,174
2	Credits free of interest for electric power and gas payment	0	8,262	4,450	0	0	0	0	12,712
3	Swap into shares of a credit from BANCOREX taken over by AVAB	0	0	0	0	309,326	0	0	309,326
4	Swap into shares of some obligations toward ELECTRICA and DISTRIGAZ	0	0	0	0	0	368,351	0	368,351
5	Swap into shares of company's debts toward the Sole National Health Insurance Fund	0	0	0	0	0	0	12,143	12,143
6	Exemption of the company's debts toward the Social Insurance Fund	0	0	0	0		242,961	35,282	278,243
7	Exemption of the company's debts toward the Unemployment Fund	0	0	0	0		47,068	0	47,068

8	Exemption of the company's debts toward the Fund for tuition	0	0	0	0		9,305	0	9,305
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	supporting								
9	Exemption of the company's debt toward the Solidarity Fund	0	0	0	0		22,919	0	22,919
10	Exemption of the company's debt come out from VAT	0	0	0	0	0	2,679	0	2,679
11	Exemption from increases and delay penalties payment	0	0	0	0	0	893,507	88,499	982,006
12	Exemption form payment of some debts owed to AVAS, from which:	0	0	0	0	0	69,737	173	69,910
	<i>increases and delay penalties</i>	0	0	0	0	0	48,998	173	<i>49,171</i>
13	Exemptions from increases and delay penalties payment granted by the Local Council	0	0	0	0	0	413	0	413
14	Fiscal debt written off, from which:	0	0	0	0	0	0	112,148	112,148
	<i>increases and delay penalties</i>	0	0	0	0	0	0	81,225	<i>81,225</i>
	TOTAL per annum (ROL mil.)	0	9,436	10,450	0	309,326	1,656,940	248,245	2,234,397
	TOTAL per annum (thous. USD)	0	4,641	3,389	0	9,357	49,907	7,488	74,781

Source: AVAS Notification

V. The Relevant Market Description

V.1 Analysis of the relevant product and geographical market

(24) The *relevant market of the product* is that of the long steel products, from which the rolled wires and wires made at cold have the biggest proportion.

(25) *The internal geographical market* is all the Romanian territory.

(26) The domestic deliveries continuously increased since 1999. Therefore, the deliveries of the steel mill from Campia Turzii reached a total of 141,000 tones last year and of 92,000 tones in 1999. The main delivered product on the domestic market was the concrete steel, followed by drawn wire and calibrated steel, of rerolling billet and of middle and light profiles.

(27) The non ECSC products mainly based on long wire contributed with more thousands tones each to the total domestic deliveries of ISCT.

(28) The Company strongly depends on the construction industry, where its products sale either directly, either by those who process them. This way, by the boom occurred in the Romanian construction industry beginning with 1999, the increase of the domestic sale of ISCT can be explained.

(29) The concrete steel is delivered directly by the construction industry, while the products as rerolling billet and rolling wire are sold mainly for processing. The calibrated steel is sold directly to the auto and electronical and electro- domestical products' industry, while the products like billet for rerolling and rolled wire are sold mainly to the producers. Middle and light profiles are absorbed, mainly, by the cars manufacturing industry.

(30) Approx. 2/3 from the deliveries of long wire and of secondary products are also used by the construction industry, directly or by its processors. The traction cables are sold almost totally to the chemical, petro-chemical, car and manufacturing shipbuilding industries. The car and manufacturing shipbuilding industries are, in the same time, the main consumer for the largest part of the electrodes and welding flux' sales.

(31) *The external market* specific for the metalurgical products is characterised by a high competition owed to the over-offer of products as well as to the numerous rescuing actions imposed by the manufacturers from EU and USA countries, in order to counterbalance the effects of this crisis by limiting certain imports during a shorter or longer period of time, or imposing certain supplementary custom duties to protect the local manufacturers.

(32) The export sales fluctuated during 1998 – 2002, registering quantities between 30 and 40 thousand tones/year. ISCT managed to impose itself more as a supplier of high added value, for the segment of draw wire products rather than as exporter of ECSC long steel products. Therefore, the proportion of draw wires doubled between 1999 and 2002, representing more than 2/3 from the external deliveries in the last year.

(33) Last year, the following categories of draw wire were designated for export: draw wire with resistance > 50 Kgf/mm, galvanised wire and traction cables. The main destinations for exports were: Germany (more than a third from the export sales' volume), ex- Yugoslavia, Hungary, Italy and Israel.

(34) The sellings situation between 1998 - 2002 was:

Table 6

Products	2000	2001	2002
Billets re-rolling	13	13	10
Medium and light sections	11	13	10
Reinforcing bars	55	65	69
Wire rod	7	11	11
Drawn bars	12	14	13
Drawn wire (tensile strength<50 N/sqmm)	13	12	15
Drawn wire (tensile strength>50 N/sqmm)	22	23	18
Wire rope	8	10	8
Nails	4	4	4
Galvanized wire	7	8	10
Barbed wire	0	0	0
Welding electrodes	2	3	3
Welding flux	1	0	0
Others	0	0	0
Total	156	177	171

Source: AVAS Notification

(35) The main domestic competitors for each type of product are:

Table 7

Product	Competitor
1. billets for pipes	SIDEX Galati SIDERURGICA Hunedoara CSR Resita
2. middle and light profiles	SIDERURGICA Hunedoara COST Targoviste GAVAZZI STEEL Otelul Rosu OTEL INOX Targoviste DUCTIL STEEL Buzau Laminorul Braila Laminate Bucuresti, Pascani Branch GRIVITA Bucuresti
3. concrete steel	SIDERURGICA Hunedoara COST Targoviste GAVAZZI STEEL Otelul Rosu DUCTIL STEEL Buzau Laminorul Braila Laminate Bucuresti, Pascani Branch PROMET Beclean LAMDRO Tr. Severin
4. calibrated steel	COST Targoviste GAVAZZI STEEL Otelul Rosu GRANTMETAL Bucuresti DUCTIL STEEL Buzau Laminorul Braila TREFO Galati
5. cold drawn steel wires	GRANTMETAL Bucuresti DUCTIL STEEL Buzau PROMET Beclean

	Laminorul Braila TREFO Galati CORD Buzau SARME SI CABLURI Harsova GRIVITA Bucuresti DUCTIL Buzau
6. galvanised steel wire drawn on cold	DUCTIL STEEL Buzau PROMET Beclean TREFO Galati SARME SI CABLURI Harsova
7. welding electrodes	DUCTIL Buzau
8. steel cables	CORD Buzau SARME SI CABLURI Harsova CABLUL ROMANESC Ploiesti
9. nails	DUCTIL STEEL Buzau PROMET Beclean Laminorul Braila TREFO Galati SARME SI CABLURI Harsova GRIVITA Bucuresti
10. rough steel	SIDEX Galati SIDERURGICA Hunedoara COST Targoviste GAVAZZI STEEL Otelul Rosu METALURGICA Aiud

Source: AVAS Notification

V.2 Market share

(36) **For the steel drawn wires segment**, in the manufacturing field, ISCT owned 27.19% from the total production in 2002 and respectively 25.2% in 2003. In the total export of steel drawn wires of Romania, ISCT owned a quota 11.36% in 2002 and respectively 15.38% in 2003.

(37) **For the steel cables segment**, in the manufacturing field ISCT owned a quota of 59.15% from the total production in 2002 and respectively 53.62% in 2003. In the total steel cables export of Romania, ISCT owned a quota of 43.48% from the total production in 2002 and respectively 41.10% in 2003.

(38) For the main competitors the market shares are the following:

Table 8

market segments	Competitors	Market quota (%)	
		2002	2003
Steel drawn wires	DUCTIL STEEL Buzau	42.61	43.78
	Promet Beclean	12.07	13.78
	Other manufacturers (Trefo Galati, Ductil Buzau, Laminorul Braila, Sarne Harsova si Grivita Bucuresti)	18.13	17.16
Steel cables	CABLUL Romanesc	21.10	19.60
	CORD Buzau	9.90	9.40
	Sarne Harsova	9.85	17.38

Source: MEC Information

V.3 Business strategy

V.3.1 Production and future position on the market

(39) [...]²

(40) [...]²

(41) [...]²

(42) [...]²

V.3.2 Sales programme for 2003-2008:

Table 9 Output program²

Thousand. Tones

Groups of products	2003	2004	2005	2006	2007	2008
billets	[...]	[...]	[...]	[...]	[...]	[...]
Middle and light profiles	[...]	[...]	[...]	[...]	[...]	[...]
Concrete steel	[...]	[...]	[...]	[...]	[...]	[...]
Rolled wire	[...]	[...]	[...]	[...]	[...]	[...]
Calibrated steel	[...]	[...]	[...]	[...]	[...]	[...]
Wire with resistance < 50 daN/mmp	[...]	[...]	[...]	[...]	[...]	[...]
Wire with resistance > 50 daN/mmp	[...]	[...]	[...]	[...]	[...]	[...]
Traction cables	[...]	[...]	[...]	[...]	[...]	[...]
Nail	[...]	[...]	[...]	[...]	[...]	[...]
Galvanized wire	[...]	[...]	[...]	[...]	[...]	[...]
Barb wire	[...]	[...]	[...]	[...]	[...]	[...]
Welding electrodos	[...]	[...]	[...]	[...]	[...]	[...]
Welding flux	[...]	[...]	[...]	[...]	[...]	[...]
Other	[...]	[...]	[...]	[...]	[...]	[...]
Total	[...]	[...]	[...]	[...]	[...]	[...]

Source: Viability plan

Table 10 Domestic market

thousands. Tones

Groups of products	2003	2004	2005	2006	2007	2008
Billets	10	9	12	13	13	13
Middle and light profiles	14	15	17	19	20	18
Concrete steel	58	75	50	50	50	50
Rolled wire	21	24	25	30	40	42
Calibrated steel	13	13	14	14	18	20
Wire with resistance < 50 daN/mmp	10	11	11	12	12	12
Wire with resistance > 50 daN/mmp	14	12	12	14	16	14
Traction cables	5	5	10	10	10	10
Nail	2	2	3	3	4	5

² Confidential data

Galvanized wire	6	7	8	9	12	15
Barb wire	0	1	0	1	1	1
Welding electrodes	2	2	2	4	6	6
Welding flux	0	1	1	2	2	3
Other	0	0	0	0	0	0
Total	155	177	165	181	204	209

Source: Viability plan

VI. Restructuring Plan

VI.1 Introduction

(43) Following the negotiations with the Romanian State on the Sale-Purchase of the majority share-package, MECHEL TRADING has committed to achieve a Business Plan including a restructuring plan of the Company, consisting of the achievement of technical and technological investments, as well as the financial and social restructuring. Actually, the restructuring process of ISCT begun since 1996-1998 when at the electrical steel mill no. 1 the first production capacities were closed and the modernization operations started.

VI.2 Organisation and management restructuring

(44) Radical changes in the Company's management occurred when the Company was undertaken by the foreign investor. The whole Company's strategy was re-planned.

(45) Acquiring the majority share package of ISCT, MECHEL TRADING allows the Romanian Company to integrate within CONARES GROUP's activities, facilitating it the access to the favourable supplying and trading markets as well as a re-organisation made upon modern, efficient principles, under a performing management. Owing COS Targoviste since August 2002, the new owner started to integrate certain functions of the two companies, with the purpose of exploiting the potential synergies as far as the sales and costs are concerned, taking advantage of its increased power of negotiating with the suppliers. For example, as far as the supplying market is concerned, towards the traditional suppliers, the buyer will ensure new raw material sources, with competitive prices, available to the Russian Federation. In the same time, ISCT will benefitate of the international distribution network of Conares Group, extended to world level by its offices in Belgium, China, Filipines, Russia, Spain, Switzerland, Taiwan, Thailand, United Emirates, USA and Canada.

8.2. Industrial restructuring

(46) Taking into consideration the technological flux, the performances of the equipment and machineries in endowment, as well as the necessity to make the economical activity viable, the following technological and environment investments will be made:

Table 11

mil. USD

Area	Tehnological investments
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Non-ECSC products	16.3
Others	4.5
Total	20.8

Source: Viability plan of ISCT

(47) The submitted technological and technical investments programme aims to costs reduction, efficiency and quality increase. Thus:

(48) The investments in non ECSC products sector- drawing wire, etc.- are indispensable for standing on to the ISCT plans to remain a supplier for high added value products on long-term.

(49) The investment programme encloses all the measures necessary for meeting the environment criteria imposed by the National Environment Agency, in the amount of USD 4.185 million. The main projects for environment improvements required are the re-vamping of the transportation, storage and distribution systems for H₂SO₄ and HCl at the central deposit and at the bar drawing shop, monitoring and continuous survey of the mud-setting pond, re-vamping of the waste water drainage and purifying system, re-building of acid-resistant sewage and pavements in the bar drawing shops, ecologic renewal of the slag dump perimeter and re-vamping of the suction hoods and flues for ventilation and exhausting equipment.

VI.4 Financial Restructuring

(50) Due to the improper activity (determined by the unfavorable domestic and external market's aspects, of the low technological level and of the large number of personnel, of the vicious management), the majority of the enterprises from this sector, and among them ISCT, register important debts. The financial restructuring implies a number of precise measures regarding the historical debts of the companies carrying on their activity in the steel sector.

(51) ISCT accumulated these debts along the years, the biggest proportion being held by those for the consolidated State budget and for the utility suppliers. Not paying the above mentioned debts is also caused by the fact that during 1993-2003 there were capacities closures at ISCT, closures that involved high costs, which the Company covered in the disadvantage of paying the State and utility suppliers' obligations. The Romanian authorities didn't start an immediate financial restructuring, thing that lead to the difficult economic-financial situation at the end of 2002. Delay majorities and penalties were applied to the Company, and those, in time, increased the total value of the Company's debts.

(52) At ISCT, the financial restructuring began even since 1995- 1998, when the production capacities were closed and dismembered and the first phase of modernization of the electrical Steel mill no. 1 was made in order to increase the products' competitiveness and decrease the manufacturing costs, as well as to solve certain problems related to environment pollution. Due to the generated costs, the Company applied to loans without interest, in amount of ROL 35 billion, for sustaining the investments and the payment of the utilities' suppliers; ISCT doesn't reinburced this loan which was registered as debt at privatization and annuled, being assessed by the Competition Council in 2004 and included in the restructuring State aid from the period 1998-2004.

(53) During 2003-2008, the financial restructuring is focussed on the State aid measures to be granted during this period, in total amount of ROL 2,214.511 billion, equivalent of USD 66.800 mil and are the following:

I. Exemptions from the payment of the budgetary obligations and of AVAS'own debts, granted at the moment of privatizing the undertaking, based on the Law no. 137/2002, consisting in:

II. Conversion into shares of the obligations for payment for the Unique National Fund for the Health Social Insurance, for the utility suppliers (ELECTRICA and DISTRIGAZ) and for AVAB.

VI.5 Social Restructuring

(54) The social restructuring takes into consideration the correlation of the employees' number with the technological progresses and involves, in the end, the job number's reduction in the manufacturing sector. The personnel number in the steel sector was reduced from aprox. 90,000 in 1993 to 48,000 in 2002. The personnel reductions were owed to the changes intervened in technology and/or to the general decrease of the activity volume. It is expected that the total number of employees in the steel industry to be reduced until 2010 at less than 29,000 persons.

(55) According to the Restructuring Strategy of the Steel Industry in Romania, at ISCT, the employees' evolution is the following:

Table 12

Year	1990	2001	2002	2003	2004	2005	2006	2007	2008
No. Of employees	10.059	5.951	5.801	5.543	5.300	4.800	4.800	4.800	4.700

Source: AVAS Information

(56) The reduction of the number of personnel during 1990-2003 was determined by natural causes (retirements, deceases, transfers, resignations) and by the Company's restructuring. According to the assessments from the above written table, the employees number will diminish from 5,610 in 2003 to 4,700 at the end of the restructuring period.

VI.6 Reduction of capacities

(57) In 1989 the steel production capacities were around 18 mil. tonnes/year. Beginning with 1990, the steel production registered the strong decline, due to the decrease of domestic demand of metal. In 1993, the Romanian iron and steel industry had a capacity of around 17.4 mil. tonnes of steel per year, which in 2003 reached about 9.4 tonnes of steel per year.

(58) Between 1993-2003 there have been important shut-downs of rolling capacities, their level varying from 26,497 thousand tonnes to 15,406 thousand tonnes.

(59) At the end of the restructuring period, Romania's steel operating capability will be of about 9.0 mil. tonnes/year. The level of hot rolling of finished products capacity will drop from 11,432 thousand tonnes in 2003 to 9,200 thousand tonnes in 2008. After the development of the restructuring programmes it is expected that the Romanian steel industry will reach the level of the European technical- economic performances.

(60) At ISCT the level of production capacities of steel and rolled products is presented as follows:

Table 13

Thousand tonnes						
No.		1993 projected capacity	1993-2003 Changes	2003 projected capacity	2003-2008 Changes	2008 projected capacity
1.	Steel	385	Shut-down (1996) and disassembly (1998) of old ovens and replacement with a new one	385	-	385
2.	Semi-finished products rolling mill (billets and blooms)	375	-	375	-	375
3.	Rolling mill for soft profiles	30	-	30	-	30
4.	Wire rolling mills	360	Shut-down (1995) and disassembly (1998) of a 80 thousand tonnes productive capacity (wire rod no. 1)	280	-	280

Source: Strategy of restructuring of steel sector – MEC 2004

(61) It can be noticed that throughout 2003-2008, the steel production capacity remains unchanged. The restructuring programme proposes a rational use of the functioning production capacities, focused on the costs reduction and production accountability.

VI.7 Restructuring costs, financing sources and the envisaged financial situation

VI.7.1 Financial Restructuring Costs (in USD million)

(62) The financial restructuring cost is in value of USD 68 mil. and it is consisting in:

- The facilities granted in the period 1998-2008 in the amount of USD 66.80 mil., as it follows:

Table 14

mil. USD

Financial Measures	1998	1999	2000	2001	2002	2003	2004	2005 2008	Total	Financing Source
Conversion into shares	-	-	-	-	9.35	11.46	-	-	20.81	State aid
Debts write-off	-	-	-	-	-	38.5	7.49		45.99	State aid
TOTAL	-	-	-	-	9.35	49.96	7.49		66.80	State aid

Source: AVAS Notification and MFP Conventions

- An amount assumed through the Privatisation Contract by the investor destined to pay certain budgetary debts: EURO 1.1 mil., respectively USD 1.244 mil. (at the exchange rate of 14,07,2004).

VI.7.2 Technological Restructuring Costs

(63) In order to become viable, ISCT proposes to make in the restructuring period technological investment objectives in value of USD 73.6 mil.

(64) The financing sources: The contribution of Mechel Trading A.G. investor- **USD 20.8 million**. The buyer committed to make a technological investment in the Company in value of EURO 16.5 mil. which represent **USD 20.8 mil.** after being consolidated at the exchange rate of 14,07,2004.

(65) In order to guarantee the performance of this investment, the Buyer signed a real warranty tangible Contract which includingly covers the investment programme for environment presented hereinafter. The first investment year (I) begins since the date of transfer of the property right, respectively since 20,06,2003.

VI.7.3 Environment restructuring cost

(66) The buyer committed to make a technological investment in the Company in value of **USD 4.4 mil.** after being consolidated at the exchange rate 14,07,2004.

VI.7.4 The working capital submitted by the buyer

(67) The buyer obliged itself through contract to bring in the company a working capital of EURO 3.700 mil., the equivalent of **USD 4.185 mil.** (the amount consolidated at the exchange rate of 14,07,2004). The working capital was transferred in 2003.

VI.7.5 The total restructuring cost

(68) Accordingly, the total restructuring cost in the period 1998-2008 is of USD 97.8 million , out of which:

- the financial restructuring cost: USD 68.0.mil.;
- the technological restructuring cost: USD 20.8 mil.;
- the environmental restructuring cost: USD 4,8 mil.;
- the working capital: USD 4.19 mil.

VII Assessment of the Measures

(69) Romania and the EU entered into the European Agreement under which Romania has undertaken to respect certain rules as regards the granting of State Aid for undertakings operating in Romania. In particular, the new State aid granted in Romania must be notified to an independent national competition authority (the Competition Council) for prior approval by such authority. The Authority will have to determine whether the State aid complies not only with national law, but also with the European Agreement, including the whole State aid law (see above).

VII.1 The State aid within the meaning of Article 4(c) ECSC Treaty

(70) According to Article 2 of the State aid law no. 143/1999, with the subsequent amendments and completions any measure of support granted by the state or the local administrative authorities, from state resources or local administrative authorities' resources, regardless of its form, that distorts or threatens to distort competition, by favoring certain undertakings, the production of certain goods, the provision of some services or affects the commerce between Romania and the EU Member States, being considered incompatible with a normal competitive environment.

(71) The measures taken by the Romanian State for ISCT in 1998-2005 in form of exemption from the payment of obligations and conversion of the debts into shares must be assessed in the light of these elements:

- They are granted from State resources (from State budget and local budget);
- They are measures supporting a specific undertaking, namely ISCT, conferring it an advantage compared to other undertakings;
- They can affect the trade between Romania and the Member States of the European Union as those products manufactured by ISCT are marketed in the country as well as outside the country, especially drawn wire and products from drawn wire, the Company competing with the European undertakings that act on the same relevant market.

VII.2. Compatibility assessment

(72) In assessing the compatibility of the aid granted, the Competition Council must evaluate whether the measures are compatible 'with a normal competition environment' in accordance with the provisions of Article 2 paragraphs (2) and (3) of the Law and with the applicable Acquis as agreed in the European Agreement. It must therefore assess whether the measures are covered by one of the exemptions to the general prohibition of State aid.

(73) The criteria applicable to the State aid for the steel sector are laid down in Protocol 2 on ECSC products, annex to the European Agreement establishing an association between the European Communities and the Member States on one hand, and Romania on the other hand.

(74) The state aid granted in 1998-2003 aims to facilitate the Restructuring of ISCT. According to Article 9 of Protocol 2, the Restructuring aid may be approved if it strictly fulfils the criteria and if it is certain that the advantages that result from the survival of the undertaking will compensate for any distortion of competition, especially if the net effect of collective redundancies, as a consequence of the companies' bankruptcy, combined with the effects it can have on the suppliers, would exacerbate the unemployment problems at national level.

(75) In accordance with the provisions of Article 9 (4) Protocol 2 on ECSC the products, Romania can grant Restructuring aid to Steel companies if :

- a. the firm is in economic difficulty;
- b. the implementation of the restructuring plan leads to the viability of the company under normal market conditions at the end of the restructuring period;
- c. the value and the intensity of the State aid is strictly limited to the minimum necessary to restore the viability; and
- d. the aid is progressively reduced.

(76) Moreover, the restructuring programme must be linked to a rational globalization and reduction of the production capacity in Romania.

VII.2.1 Firm in Difficulty

(77) According to the Regulation on State aid for rescuing and restructuring aid, a firm is in difficulty where it is unable to stem losses which, without outside intervention by the public authorities, will almost certainly condemn it to go out of business in the short or medium term. The usual signs of a firm being in difficulty are increasing losses, diminishing turnover, growing stock inventories, excess capacity, declining cash flow, mounting debt, rising interest charges and falling or nil net asset value. In acute cases the company may already have become insolvent or may be the subject of collective insolvency proceedings brought under its domestic law.

(78) The difficult problems faced by S.C. „Industria Sarmei” S.A. Campia Turzii at the time of privatization must be analyzed within the context of the crisis the Romanian steel sector has been going through. Its decline has begun in 1990. The difficult economic situation originates, on one hand, from both the decrease if the demand on the domestic market and the costs due to the significant technological delay compared to competitors on the foreign market, and on the other, in the difficulties to comply with rules of the free, globalized market. In the same time, the financial and economic situation of ISCT has been negatively affected by the increase in the purchase price of the raw materials (scrap iron), utilities (methane gas, energy) over the inflation rate and the rate of increase in the sale price set on the market for steel products.

(79) Taking into account the evolution of the main economic and financial indicators, registered in the Company's balance sheets for 2000-2002, it can be noticed:

- a) Increase of losses

	- Thousand ROL-		
	2000	2001	2002
Gross result	19,195,666	-290,767,064	-54,100,166

Source: AVAS Information and ISCT Balance sheet

b) Worsening of the ratio between non-covered loss and own assets

- Thousand ROL-

	2000	2001	2002
Share capital	349,972,425	811,236,081	1,120,562,402
Own assets	471,906,025	532,386,535	753,544,185
Reported result (non-covered losses)	-39,123,287	-108,407,581	-418,957,340
Loss/own assets (%)	8.3	20.3	55.5

Source: AVAS Information and ISCT Balance sheet

c) Degree of indebtment calculated as : Total debts / total fixed assets

- Thousand ROL-

	2000	2001	2002
Total debts	887,474,519	1,405,469,939	1,287,829,004
Total fixed assets	1,361,486,353	1,928,856,474	2,041,373,189
Total debts/total fixed assets (%)	65.17	72.83	63.05

Source: AVAS Information and ISCT Balance sheet

d) Total debts/own assets

- Thousand ROL

	2000	2001	2002
Total debts	887,474,519	1,405,469,939	1,287,829,004
Own assets	471,906,025	532,386,535	753,544,185
Total debts/own assets (%)	187.92	264.09	171.05

Source: AVAS Information and ISCT Balance sheet

e) Solvability of assets calculated as the ratio between own assets and total fixed assets:

- Thousand ROL-

	2000	2001	2002
Own assets	471,906,025	532,386,535	753,544,185
Total fixed assets	1,361,486,353	1,928,856,474	2,041,373,189
Solvability (%)	34.68	27.58	36.89

Source: AVAS Information and ISCT Balance sheet

f) Accountability calculated as revenue from operational activities/turnover

- Thousand ROL-

	2000	2001	2002
Revenue from operational activities	57,453,773	-268,775,904	-27,370,910
Turnover	1,287,439,464	1,850,101,858	2,133,771,608
Accountability (%)	4.42	-14.54	-1.27

Source: AVAS Information and ISCT Balance sheet

g) The evolution of turnover

(80) During 2000-2002, the turnover expressed as the current prices did not decrease yet went up 65%. Taking up-to-date prices into account, turnover in 2002 increased with only 8.9% compared to 2000 and with 2.6% compared to 2001.

(81) As a matter of fact, the increase of the turnover in 2002 compared to 2001 is only the result of some retail prices, whereas the volume of sales for various brands decreased in 2002 from 2001 as follows:

h) Increased volume of stocks of finished goods and merchandise

(82) The analysis of the balance sheets for 2001-2002 indicates that the increase index for stocks of finite goods and merchandise exceeded the increase index for turnover:

	Increase 2002 / 2001
Turnover	15.29 %
Stocks of finished goods and merchandise	20.98 %

Source: AVAS Information and ISCT Balance sheet

(83) This indicates problems in retail activities because of either the lack of adjustment to market demands or the difference between the market price and production costs of the Company.

(84) From the balance sheet results that the stocks of finished goods and merchandise (ROL 195,742,245 thousand) represent 37.32% of the total stocks (ROL 524,451,945 thousand) in 2002; this proves that a large part of the Company's financial resources are blocked up.

i) Increase of claims

	Increase 2002 / 2001
Turnover	15.29%
Claims	32.28%

Source: AVAS Information and ISCT Balance sheet

j) Decrease of cash flow

- Thousand ROL-

	2000	2001	2002
Cash flow	1,133,916	18,085,007	- 13,525,970

Source: AVAS Information and ISCT Balance sheet

(85) The loss in liquidities by the end of 2002 confirmed the financial difficulties facing ISCT and problems to restart production in 2003 without the introduction of external working capital.

k) Increase in Company's debts

(86) Balance sheets for 2000-2002 attest that the Company's debts increased with 26.93% in 2002 compared to 2001, and with 45.21% compared to 2000.

(87) We can therefore come to the conclusion that, in the beginning of 2003, ISCT was a company in difficulty, incapable to recover from own or foreign resources, due to the following reasons: the company had very large losses, the volume of stocks of finished goods and

merchandise increased, the commercial debts and claims increased, and cash flows decreased to negative values in 2002.

(88) ISCT was faced with difficulties which are not a result of random allocation of expenses within the parent group, because they came from financial operations previous to the takeover of the Company by MECHEL TRADING, in 2003.

VII.2.2 Restoration of viability

(89) The grant of Restructuring aid must be conditioned on the implementation of a restructuring plan, the duration of which must be as short as possible, and which must restore the long-term viability of the Company within a reasonable timescale and on the basis of realistic assumptions as to future operating conditions. The restructuring aid must therefore be linked to a viable restructuring plan. The plan should provide for a turnaround that will enable the Company, after completing its restructure, to cover all its costs including the depreciation and financial charges. The expected return on capital should be enough to enable the restructured firm to compete in the market place on its own merits.

(90) By the Privatisation Agreement, the investor MECHEL TRADING assumes technical, technological, environmental investments and working assets in the total amount of USD 26.6 mil. In same time, the Romanian State grants Restructuring aid – mainly in the form of debts writing offs - to the amount of ROL 2,234 billion [USD 74,8 mil.]. The fact that a Private Investor has contributed with a considerable amount of its funds to the restructuring, is a clear demonstration of the market's trust in the restoration of the Company's viability.

(91) However, considering that the steel sector represents a sensitive sector within the European economy and taking into account the experience of the EU in restructuring the steel sector, the European Commission has provided as Annex B to its Guidance of February 2004 for making a Steel restructuring Programme (the 'Guidance') specific viability criteria to be fulfilled by the restructured steel companies. The Competition Council has based the viability test on this Guidance:

(92) The main viability indicators (criteria) are the following:

V_1 – gross operating margin;

V_2 – gross profit ratio.

(93) At the end of the restructuring period, the viability indicators for ISCT must reach the following values:

V_1 must represent 10% times more the revenue obtained from selling steel products;

V_2 must be 1.5% times more the revenue obtained from selling steel products.

(94) In order to apply this test, the Company made a 5-year forecast of the evolution of the income Statement, the balance sheet and the cash flow, based on current prices, i.e.:

- Forecast of revenues based on the selling price and the production volume estimated in the context of potential development of the steel international market;
- Estimation of operational costs by applying different inflation rates for materials, energy and fixed costs.

(95) In the first set of financial forecasts, the application of the viability test is based on the revenues and costs of the undertaking. The costs and revenues taken into account are those afferent to the metallurgic production. The turnover is the one resulted from the revenues cashed from steel product sale.

Table 15 Forecast of Income Statement for a 5 year period based on current prices³

USD	2004	2005	2006	2007	2008
Turnover	[...]	[...]	[...]	[...]	[...]
Incomes from steel products sales	[...]	[...]	[...]	[...]	[...]
Other incomes	[...]	[...]	[...]	[...]	[...]
Variable expenditures	[...]	[...]	[...]	[...]	[...]
Fix expenditures	[...]	[...]	[...]	[...]	[...]
Operational margin (EBITDA)	[...]	[...]	[...]	[...]	[...]
Depreciation	[...]	[...]	[...]	[...]	[...]
Profit/loss from exploitation	[...]	[...]	[...]	[...]	[...]
expenditures/incomes from the foreign exchange difference	[...]	[...]	[...]	[...]	[...]
EBIT	[...]	[...]	[...]	[...]	[...]
Financial expenditures	[...]	[...]	[...]	[...]	[...]
EBT	[...]	[...]	[...]	[...]	[...]
Tax on profit	[...]	[...]	[...]	[...]	[...]
Net Profit	[...]	[...]	[...]	[...]	[...]

Source: Viability plan of ISCT

(96) The application of the viability test of the European Commission implies the assessment of the following indicators:

- the level of depreciation/amortization (which has to represent a minimum of 5% of the steel sales revenue);
- the level of financial charges (which has to represent a minimum of 3.5% of the steel sales revenue).

³ Confidential data

(97) On the basis of the data presented in table 25, the following figures will be reached for depreciation and financial charges:

Table 16 Depreciation/amortization level⁴

Millions USD	2004	2005	2006	2007	2008
Turnover	[...]	[...]	[...]	[...]	[...]
Depreciation	[...]	[...]	[...]	[...]	[...]
% from the turnover before adjustment	[...]	[...]	[...]	[...]	[...]
% from the turnover (minimum necessary)	[...]	[...]	[...]	[...]	[...]

Source: Viability plan

Table 17 Level of financial charges⁴

Millions USD	2004	2005	2006	2007	2008
Turnover	[...]	[...]	[...]	[...]	[...]
Prospected financial expenditures	[...]	[...]	[...]	[...]	[...]
% from the turnover before adjustment	[...]	[...]	[...]	[...]	[...]
% from the turnover (minimum necessary)	[...]	[...]	[...]	[...]	[...]

Source: Viability plan

(98) The figures presented in the above table, after accomplishing the prospects for the restructuring period, lead to the conclusion that the undertaking does not meet the two criteria absolutely necessary for applying the viability test. Therefore, it is necessary a ,second set' for financial appraisal by applying the special accounting conditions and ,first set' of financial projections.

Table no. 18 The forecasted situation of profit and loss for a 5 year period reported to the current prices after operating adjustments regarding the depreciation, financial charges, costs and incomes

USD	2004	2005	2006	2007	2008
Turnover	101,260,148	118,158,025	127,412,346	133,252,346	137,366,914
Incomes from steel products sales	101,260,148	118,158,025	127,412,346	133,252,346	137,366,914
Other incomes	-	-	-	-	-
Variable	90,920,176	100,321,203	110,186,552	110,421,271	112,438,371

⁴ Confidential data

expenditures					
Fix expenditures	8,195,476	8,170,333	8,939,731	10,005,355	11,054,627
Operational margin (EBITDA)	(2,918,511)	3,758,588	1,915,446	6,163,102	7,005,570
Depreciation	(5,063,007)	(5,907,901)	(6,370,617)	(6,662,617)	(6,868,346)
Profit/loss from exploitation	(2,918,511)	3,758,588	1,915,446	6,163,102	7,005,570
expenditures/incomes from the foreign exchange difference	(101,260)	(118,158)	(127,412)	(133,252)	(137,367)
EBIT	(3,019,771)	3,640,430	1,788,033	6,029,850	6,868,203
Financial expenditures	(3,544,105)	(4,135,531)	(4,459,432)	(4,663,832)	(4,807,842)
EBT	(6,563,877)	(495,101)	(2,671,399)	1,366,018	2,060,361
Tax on profit	0	0	0	0	0
Net Profit	(6,563,877)	(495,101)	(2,671,399)	1,366,018	2,060,361

Source: Viability plan

(99) Are determined the two viability indexes there:

V_1 (gross operating margin) = operational margin / incomes from the sale of steel products

V_2 (profit rate) = EBIT(Profit before taxing + financial expenditures)/incomes from steel products' sale

Table 19 The viability criteria

%	2004	2005	2006	2007	2008	Target
V_1 (gross operating margin)	2.1%	8.2%	6.5%	9.6%	10.1%	10%
V_2 (profit rate)	-6.5%	-0.4%	-2.1%	1.0%	1.5%	1.5%

Source: Viability plan

(100) The Competition Council observed that at the end of the restructuring period the undertaking fulfils the European Commission's viability criteria.

VI.2.3.Value and intensity of the Aid limited to the minimum necessary

Minimum value of the aid

(101) According to Article 9 of Protocol 2, the Restructuring aid must be limited to the minimum necessary to enable restructuring to be undertaken in the light of the existing financial resources of the company.

(102) At the time of its privatization, ISCT was in a difficult social- economic situation, accumulating substantial debts. To these, added high amounts are representing delay penalties and majorities related to the debts owed to the State budget and utility suppliers. The indebtment degree shows that the company is in impossibility to cover its debts from its own resources or

attracted sources. In order for ISCT to become solvable and remain in the economic cycle it was necessary its privatization. In order to be attractive for privatization, is necessary a substantial financial restructuring process consisting in erasing the debts owed to the State budget. This way, in March 2003, the majority package of ISCT was bought by Mechel Trading, under the condition that the Company received restructuring State aid, consisting in erasing the debts, penalties and increases and conversion of debts into shares.

(103) The investor commits itself, in the Privatization Contract, to partially pay, from its own resources, the budgetary debts of the Company echealoned for payment, until meeting the sum of USD 1.244 mil. In the same time, the investor commits itself to technological, working capital and environmental investments amounting USD 28.8 mil.

(104) The state aid granted to ISCT is limited to the minimum necessary. The minimum necessary aid for making ISCT viable represent the smallest sum of public aid efficient for the Company to pass the Commission's viability test at the end of the restructuring period.

Intensity of the aid

(105) The amount of the aid has to be strictly limited until the level of accomplishing the restructuring programme's objectives (accomplishment of viability).

(106) The gross intensity of the restructuring aid is of 71% (USD 74.8 million/ USD 105 million). The Competition Council takes the view that in the special circumstances of this restructuring case, this is an appropriate level of State aid intensity.

VI.2.4 No undue distortion of the Competition – compensatory measures

(107) The compulsory limitation or reduction of the Company's presence on the relevant market represents a compensatory factor in favour of its competitors. It should be in proportion with the distortive effects of the aid and, in particular, to the relative importance of the firm on its market or markets.

(108) The Competition Council assesed the evolution of the production capacities for the period during 1993-2008 and reached the conclusion that the steel operating capacity remains unchanged, whereas the rolling capacity is reduced by 80 thousand tonnes. The Restructuring Programme leads to the rationalization and reduction of the capacities of ISCT, the effect of distortion of competition being compensated in this way.

VI.2.5 Progressive reduction of the aid (gross value)

Table 20

USD million

Year	1993 1994	1995	1996	1998	1999	2000	2001	2002	2003	2004	2005 2008
Granted State aid	-	4.6	3.4	-	-	-	-	9.4	49.9	7.5	-

(109) As shown in the table, the State aid will be progressively reduced in 2003-2008 period. The big amount of State aid in 2003 is due to the delayed privatization and financial restructuring. In the following year the aid will be dramatically reduced at a very low level compared with 2003.

VII. Monitoring and annual reports

(110) The Competition Council permanently monitors the implementation of the Restructuring Plan, so that it should not deviate from the fulfillment of the objectives contained in the Restructuring Plan. Any change of the Restructuring Plan or of the amount of State aid should be notified so that the conditions for granting the State aid can be re-assessed..

(111) In the case of ISCT, the implementation modalities of the Restructuring Plan will be closely monitored by the Competition Council in order to ensure that there will be no increases of the production capacities, major deviations from the restructuring measures and the State aid would not lead to the creation of supplementary liquidities that could be used for other activities than those provided by the Restructuring Programme.

VIII. Conclusions

(112) Having before it the above, the Competition Council concludes:

(113) The facilities granted upon privatization are aids which are subject to the Law 143/1999 on State aid, with the subsequent amendments and completions. The information submitted in the notification to the Competition Council led to the conclusion that the restructuring aid which will be granted to S.C. „Industria Sarmei” S.A. Campia Turzii is not able to significantly distort competition and does not infringe the appropriate enforcement of the application of international treaties Romania is part of.

(114) The State aids meet the criteria for authorisation under Protocol 2 on ECSC products, attached to the European Agreement setting the association with Romania, on one hand, and the European Communities and the Member States, on the other hand, and they are compatible with a normal competitive environment.

DECIDES

Art. 1. According to paragraph (1) and (2) of Article 12 of Law No. 143/1999 on the State Aid, with the subsequent modifications and completions, authorizes the modification of the State aid authorized by the Competition Council by Decision no. 103/26.03.2004, granted to SC Industria Sarmei SA Campia Turzii. Also, by this decision it is authorized the State aid granted to SC Industria Sarmei SA Campia Turzii during the period 1993-1997, in amount of ROL 19,886 million (USD 8 million).

Art. 2. The total amount of State aid authorized by this decision in benefit of SC Industria Sarmei SA Campia Turzii is of ROL 2,234 billion (USD 74.8 million).

Art. 3. This Decision shall be applicable as of the date it is communicated.

Art. 4. According to the provisions of Article 29 of Law No. 143/1999 on the State aid, as amended, this Decision may be challenged by the interested parties at the Court of Appeal Bucharest, Administrative Litigation Section, within thirty days of the date of its communication.

Art. 5. This Decision shall be notified by the Secretariat General of the Competition Council to:

- Authority for State Assets Recovery, str. Cpt. Av. Alexandru Serbanescu, nr. 50 sector 1;
- SC Industria Sarmei SA Campia Turzii, strada Laminoristilor, nr. 145, Jud Cluj, cod postal 3351.

Art. 6. The General Secretariate and the Direction for State aid Authorization will follow the enforcement of this decision.

PRESIDENT

MIHAI BERINDE