



**R O M A N I A**

**CONSILIUL CONCURENTEI**

[www.consiliulconcurentei.ro](http://www.consiliulconcurentei.ro)

**Piata Presei Libere  
nr.1, sector 1  
Bucuresti**

**λ**

**Cabinet Presedinte**

**Tel: 021.223.11.99; Fax: 021. 222.26.14  
[mihai.berinde@consiliulconcurentei.ro](mailto:mihai.berinde@consiliulconcurentei.ro)**

**DECISION OF THE COMPETITION COUNCIL**

**no. 120 as of 07.07.2005**

**regarding the state aid notified by the  
Authority for State Assets Recovery granted to  
S.C. Comefin S.A. Costesti**

**THE 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, amended and completed by Emergency Government Ordinance no. 121/2003 approved by the Law no. 184/2004,

Based on the provisions of Law no. 143/1999 on state aid with the subsequent modifications and completions,

Based on 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 the Regulation regarding state aid for the rescue and restructuring of companies in difficulty, published in the Official Gazette of Romania, Part I, no. 1215 of 17 December 2004,

**On the following grounds,**

## **1. DESCRIPTION OF THE LEGAL FRAMEWORK**

### **1.1. NOTIFICATION PROCEDURE**

(1) By address no. VP<sub>4</sub>/1252/27.05.2005, filed with the Competition Council no. RS-AS no. 19/27.05.2005, Authority for State Assets Recovery (hereafter AVAS) has notified, on behalf of the state aid grantors, based on art. 6 of Law no. 143/1999 on state aid, with the subsequent modifications and completions, the individual state aid for the restructuring of S.C. COMEFIN S.A. Costesti, in the context of its privatization. In this case, the state aid grantors are AVAS and the Ministry of Public Finance.

(2) By address DAAS/493/30.05.2005 supplementary information has been requested from AVAS regarding: demonstration of the existing link between future market trends included in the Market study and the measures contained in the restructuring plan, the way in which the measures contained in the restructuring plan will contribute to the relieving of the negative circumstances which have led to the appearance of the company's difficulties, presentation in detail of the real own sources of the beneficiary, demonstration of the fact that difficulties the company is confronted with are of its own and are too serious to be dealt with within the group, as well as other information related to the restructuring program of S.C. COMEFIN S.A. Costesti. The notification became effective at the date when the supplementary information were exact and complete, namely on 09.06.2005.

### **1.2. LEGAL BASIS FOR GRANTING THE STATE AID**

- Law no. 137/2002 art. 18, regarding some measures for the speeding up of the privatization, with the subsequent modifications and completions;
- GD no. 577/2002 art. 281, regarding the approval of the Methodological Norms for the application of the GEO no. 88/1997 regarding the privatization of commercial companies, with the subsequent modifications and completions;
- GD no. 147/2004 regarding the approval of the extension of payment facilities provided at art.18 from Law no. 137/2002 regarding some measures for the speeding up of the privatization for some commercial companies from the portfolio of the Authority for State Assets Recovery; in the list annexed to the government decision, at position 2 is to be found the commercial company COMEFIN S.A. Costești;
- Law no. 609/2003 for the approval of GO no. 86/2003 regarding the settlement of some financial and fiscal measures;
- Law no. 442/2004 for the approval of the Government of Romania Emergency Ordinance no. 26/19.04.2004 regarding some measures for the finalizing of the privatization of commercial companies in the portofolio of A.P.A.P.S. and the consolidation of some privatizations;
- Law no. 191/2004 regarding the approval of GO no. 36/2002 for the modification and completion of Law no. 137/2002.

## **2. PRESENTATION S.C. COMEFIN S.A. COSTESTI**

## 2.1. Preamble

(3) S.C. COMEFIN S.A. Costesti was established according to Romanian law as a joint stock company headquartered in Costești, Argeș county, registered with the Registry of Commerce under no. J 03/958/1991 and Unique Registration Code no. R161880.

(4) The company originates from the transformation of the Enterprise of Tools, Devices and Testers for Automobiles (I.S.D.V.A.) Costești, established on 01.03.1979, based on the Decree of the State Council no. 108. Subsequently, based on Law no. 15/1990 and the Government Decision no. 1224/1990 S.C. COMEFIN S.A. Costești was established (large firm).

(5) On 27.08.2003, the commercial company had registered with the Registry of Commerce a shareholders equity of ROL 21,188,9 mill., face value of ROL 25,000/share, with the following ownership structure:

**Table no. 1** – Ownership structure for S.C. COMEFIN S.A. as of 27.08.2003

SHAREHOLDERS	EQUITY HOLDINGS	
	Shares held	Weight in the shareholders equity (%)
APAPS	822,480	97.041
Persoane fizice	25,077	2.959
<b>Total</b>	<b>847,557</b>	<b>100.000</b>

Source: AVAS

## 2.2. Description of the privatization process

(6) The company privatization process started by publication of the announcement for the sale of 822,480 shares on 11.08.2003 in the daily newspapers ‘Adevărul’ and ‘Argeșul Liber’.

(7) Following the sale announcement, one tender book was purchased by S.C. SUBANSAMBLE AUTO S.A. Pitesti together with S.C. INDUSTRIE ȘI COMERȚ 2000 S.R.L. Pitești and an offer was submitted for purchasing the shares sold by APAPS.

(8) Following the opening of the offer and its compliance with the privatization conditions the share sale-purchase agreement no. 52/28.10.2003 has been signed, the buyer of the majority stake being S.C. SUBANSAMBLE AUTO S.A. Pitești and S.C. INDUSTRIE ȘI COMERȚ 2000 S.R.L. Pitești, together called hereafter *The Buyer*. In accordance with the contractual provisions the date of the share ownership transfer is 24.12.2003.

(9) Following the achievement of the share ownership transfer (24.12.2003), the shareholders structure of S.C. COMEFIN S.A. on 02.02.2004 is presented in the following table:

**Table no. 2** – Shareholders structure at S.C. COMEFIN S.A. after privatization

	EQUITY HOLDINGS
--	-----------------

SHREHOLDERS	Shares held	Weight in the shareholders equity (%)
S.C.SUBANSAMBLE AUTO S.A.	740,232	87.337
S.C. INDUSTRIE ȘI COMERT 2000 S.R.L.	82,248	9.704
Individuals	25,077	2.959
<b>Total</b>	<b>847,557</b>	<b>100.000</b>

Source: AVAS

(10) The economic concentration realized by acquiring the control over S.C. COMEFIN S.A. Costești by S.C. SUBANSAMBLE AUTO S.A. Pitești and S.C. INDUSTRIE ȘI COMERT 2000 S.R.L. Pitești has been notified to the Competition Council and authorized by Decision no. 100/24.03.2004.

(11) According to the *Regulation of the Competition Council on the authorization of the economic concentrations*, the group comprising an undertaking includes:

- a) all the undertakings controlled by that undertaking,
- b) all the undertakings and/or natural persons controlling that specific undertaking,
- c) all the undertakings controlled by the undertakings and/or natural persons provisioned at letter. b).

(12) According to the information enclosed in the notification form, S.C. Comefin S.A. Pitesti doesn't control any other undertaking.

(13) As previously mentioned, after the privatization S.C. Comefin S.A. Pitesti's shares are owned as follows:

- 87.3% by S.C. SUBANSAMBLE AUTO S.A. – this way controlling the company, and
- 9.7% by S.C. INDUSTRIE ȘI COMERT 2000 S.R.L.

(14) [...] <sup>1</sup>

(15) [...] <sup>2</sup>

### 2.3. The company's activity and its economic- financial evolution

(16) The core business of S.C. COMEFIN S.A is represented by the manufacturing and sale of parts and accesories for vehicles and vehicles engines, design, manufacturing and sale of tools, devices and testers and spare parts needed in the vehicle construction industry and other sectors, of items specific to braking equipments for vehicles. The undertaking produces especially for the domestic market, approx. 90% from the turnover being representd by the domestic deliveries.

(17) Besides the core business, the company provides transport services on request and design services for manufacturing preparation, thermal treatment operations, metallic coatings and painting, but the weight of these in turnover is non-significant.

---

<sup>1</sup> Confidential data

<sup>2</sup> Confidential data

(18) During 2000-2003 the company's activity entered in a decline due to the incapacity to meet the estimated volume of production and the structure of the ordered production - which in turn did not allow an uniform load of the production capacities in function or their efficient operation – resulting in high costs per unit.

(19) The poor economic - financial situation of S.C. COMEFIN S.A. Costești is proved by the evolution of the following indicators<sup>3</sup>:

**Table no. 4** The evolution of the main economic- financial indicators of S.C. COMEFIN S.A.

Indicator	2000	2001	2002	2003
Turnover (ROL mill.)	94,847.2	118,888.1	142,079.9	155,822.7
Turnover in prices comparable with 2000 (ROL mill.)	94,847.2	88,392.6	86,233.1	82,030.2
Gross result (ROL mill.)	674.9	1,963.6	1,436.9	-1,293.4
Real result when the majorities and delay penalties would have been registered in balancesheet accounts (ROL mill.)	-4,632.7	-2,616.7	-725.6	-12,846.1
Equity (ROL mill.)	21,780.5	21,780.5	21,780.5	21,188.9
Total debts –balance sheet and extra-balance sheet accounts- (ROL mill.)	25,810.7	38,558.3	46,893.2	48,158.2
Indebtness degree	1.67	1.44	1.60	2.67
Receivables (ROL mill.)	10,046.2	16,067.0	19,225.9	11,547.8
Duration for collecting the receivables (days)	38.13	48.65	48.71	26.68
Stocks (ROL mill.)	15,345.9	22,938.0	29,830.9	24,477.1
Stocks of half- finished, finished, residual products (ROL mill.)	4,375.2	8,049.2	10,796.7	11,434.9
The proportion of the half finished, finished and residual products'stocks in total stocks (%)	28.51 %	35 %	36 %	47 %

*Source: Notification form and supplementary information*

(20) From the analysis of the data presented in the above table, it results the following:

- the turnover in nominal values has a slow ascending dynamic, determined especially by the prices' evolution; but an analysis in comparable prices shows its decreasing trend, so that in 2003 it was accomplished 86.5% from the volume of the turnover related to the year 2000;
- a first analysis of the company's financial situation related to the period 2000-2003, could show the fact that during the years before the privatization, S.C. COMEFIN S.A. registers a positiv result; but including in the balance sheet the majorities and delay penalties, the company would have registered losses in each year of the assessed period;

<sup>3</sup> Taking into account the fact that the transfer of the ownership right for the shares was made in 2003, the assessment of the eligibility was based on the economic-financial results for the last 3 years before the privatization and the year of privatization.

- the loss cumulated during 2000-2003, amounting ROL 20,821.1 mill., represents 98.26% from the equity;
- the company's total debts are increasing every year, getting double in the assessed period and being in the end of 2.27 times bigger than the equity;
- the successive increase of the company's indebtedness degree, representing 267% in 2003, which shows the difficult financial situation at the privatization's moment;
- the receivables had an increasing trend during 2000-2002, in 2003 registering a light improvement; although, their collecting period is much higher than the duration of the manufacturing cycle for the whole assessed period, which shows difficulties in re-starting the manufacturing cycle, and the need to use other financing sources then those generated by the productive activity;
- the stocks' volume increased until 2002; the company tried to stop this evolution in 2003 through measures for optimizing the stocks' volume and selling the surplus; it is also noticed the high percentage of finished and half - finished products' stocks within the total stocks;
- any other economic-financial indicator including in its calculation the gross profit, cannot be determined due to its negative value during the whole assessed period.

(21) The comparative assessment of all these indicators shows that the company's economic and financial situation was deteriorated from one year to another in comparison with the beginning of the assessed period, namely the year 2000.

### **3. FINANCIAL SUPPORT MEASURES GRANTED BY THE STATE AT S.C. COMEFIN S.A. COSTESTI'S PRIVATIZATION**

(22) At privatization S.C. COMEFIN S.A. Costesti benefited from financial support measures consisting in:

a) payment deferrals in view of exemption of:

- 97% of the past due budgetary obligations as of 31.12.2002, representing tax, fees, contributions and other budgetary revenues, in amount of ROL 6,778,327,379;
- interest and delay penalties calculated for past due budgetary obligations as of 31.12.2002, representing tax, fees, contributions and other budgetary revenues, in amount of ROL 13,298,136,876;
- a quota from interest and penalties related to past due budgetary obligations as of 31.12.2003 representing contribution to the social insurance due by the employer, in amount of ROL 67,330,661;
- a quota of 97% from the AVAS own receivables, in amount of ROL 719,053,629;
- increases and penalties of any kind related to obligations to the National Unique Fund of Health Social Insurance, in amount of ROL 9,247,587,517;

b) rescheduling for the payment of:

- 3% of the past due budgetary as of 31.12.2002, representing tax, fees, contributions and other budgetary revenues, in amount of ROL 209,638,992;

- pastdue budgetary obligations as of 31.12.2003 representing employer's contribution to social insurance and a quota from interest and penalties related, in amount of ROL 6,442,666,206;
- pastdue obligations as of 31.12.2002 to the National Unique Fund of Health Social Insurance, in amount of ROL 6,770,547,480;
- 3% from the total of AVAS own receivables, in amount of ROL 22,238,772.

(23) Thus, S.C. COMEFIN S.A. Costesti benefited at privatization from payment facilities in total amount of ROL 43,555,527,512, of which:

- exemption of debts, interest and delay penalties, in amount of ROL 30,110,436,062;
- payment rescheduling in amount of ROL 13,445,091,450.

#### **4. THE RESTRUCTURING PLAN**

(24) Starting from the company's situation on the privatization moment, the buyer of the main shares' package, together with the company, elaborated a restructuring plan for the period 2004-2009, based on a market Study (elaborated by SC Olimp Grup – Appraisal Office S.R.L.) presented in detail at sub-chapter 4.1. and on the SWOT analysis (see sub-chapter 4.2.).

##### **4.1. The market study which was the base for the Restructuring Plan**

(25) The machines and equipments industry, which has the highest diversity of technological and productive profiles, as well as fabrication cycles, had a decreasing trend in 2003 versus 2002, with a dynamic of 95.7%, after in 2002 witnessed an increase of 7.3% compared to the previous year. The 2003 trend was given to the fact that not all of the companies adapted their fabrication structure to the market requirements and were confronted with some difficulties in the production process - given the effects of the financial blockage - as well as with an important competition from import products, preferred by investors, the price/quality ratio being more attractive.

(26) The products of this sector are competitive and there are development opportunities through a better organization of activity and by supporting companies in the field by ensuring equipments required by the modernization and revamping of production capacities. The export of the sector had an increase of 9.5% in 2003 compared to the previous year, and the import sector of 20.7%.

(27) Within the sector, the sub-sector of vehicles spare parts has posted a decrease of the domestic production, following the appearance of foreign vehicle brands. The revamping of the companies - which allows the production of new items - involves allocation of important financial resources, efforts which were practically impossible for the majority of the Romanian companies, especially those with the majority of the equity held by the state.

(28) Initially projected for the manufacturing of tools, devices and testers required in the vehicle industry, S.C. COMEFIN S.A. adapted easily to the market economy, diversifying the

product range, being able - through organizing new technological lines – to ensure tools, devices and testers and vehicle spare parts according to internal and external market demand.

**(29)** The context for S.C. COMEFIN S.A. Costești and its operations is a very complex one:

- its core business is in the vehicles sector – where competition on the market is one of the most fierce;
- the products specific to the vehicle industry have the highest shares regarding the price/quality ratio;
- the beneficiaries of the main products are private – which allows them to impose restrictive terms to their suppliers;
- the dynamics of the vehicle components market is determined by the dynamics of models changes; the fact that the market is adapting in real time to the consumers' requirements (a new model comes on the market every two months), makes very difficult the adaptation of the spare parts manufacturers' to the constantly changing conditions imposed by the vehicles manufacturers;
- the structure of the workforce, highly technical (for the manufacturing of tools, devices and testers), is not satisfactory in order to keep the pace with the new requirements of the components manufacturing;
- the liaison with the final product manufacturer is essential also for the improvement of the workforce as well as for compliance with the required delivery system.

**(30)** The company produces components for the market, for first assembly, axles for compacting equipment, holes punchers, moulds, various devices, standardized or custom tailored tools, assembly items for the petrochemical industry and of general use, metallic packaging barrel type. The main products are:

- components of the braking system;
- components of the exhaust system for burnt gas;
- components of the engine-gearbox ensemble;
- components for the oiling-cooling system;
- miscellaneous: starter protecting screen, carburator protecting screen, tie rods etc.

**(31)** Thus, the relevant market of the products is represented by the vehicle spare parts market. The beneficiaries of the products are vehicles manufacturers and dealers for spare parts derived from the vehicle industry.

**(32)** The domestic market on which S.C. COMEFIN S.A. activates had the following characteristics:

- an increase in volume and value until 2002, which was followed by a decline affecting all domestic suppliers;
- a slight increase in value but a decreasing profitability, the profit trend turning to negative from 2003 and continuing to go down in 2004; this phenomenon is a normal one, while the main domestic vehicle manufacturer changed the entire product not just the model.

**(33)** The main clients for the COMEFIN products in 2003 were:



**Table no. 4 –** Clients of S.C. COMEFIN S.A. Costesti  
[...] <sup>4</sup>

(34) The main competitors of the company and the market shares held by them and COMEFIN are presented below, as follows:

**Table no. 5 –** Competitors of S.C. COMEFIN S.A. Costesti  
[...] <sup>5</sup>

(35) It can be seen that, although the company has significant market shares, S.C. COMEFIN S.A. does not own a majority position on the representative domestic market for any product.

(36) The specific markets of S.C. COMEFIN S.A. are increasing – both the vehicle components market as well as for items for compacting equipment are expanding. The main problem of the company is the accessibility to these markets, which mainly depends on the flexibility of COMEFIN to adapt to its new requirements. The adaptation capacity requires financial efforts need both for investments as well as for restructuring /reorganization of activity. The efficiency of the activity in order to reach a new qualitative level can not be reached without appropriate endowments which involve significant investments.

(37) The growth of the vehicle component market is accelerate and it is mainly based on sales of Dacia Logan; therefore a change in the product range made by S.C. COMEFIN S.A. will be imposed through assimilation of new items. In the same time, the large number of Dacia vehicles (approximately 2.2 million) existing in Romania, will allow for spare parts demand for at least 8 – 10 years.

(38) Regarding the future evolution of the relevant market the company is acting on, it was estimated within three scenarios:

- pesimistic - the market of auto components expressed in value units will be maintained until 2009 at the level of 2003;
- intermediary - the market of auto components will increase with approx. 30% in units (pieces) and with approx. 50% in value units, within the next 5 years,
- optimistic - the market of auto components will increase with approx. 50% in units (pieces) and with approx. 70% in value units, within the next 5 years.

(39) In all the three forecasting scenarios, the Market study attached to the notification form envisages the maintenance and even an increase of vehicle spare parts demand, a trend which has to be covered by organizing production capacities efficiently. Besides that, efforts have to be made in order to increase the competitiveness of the products.

#### **4.2. The SWOT analysis**

(40) The SWOT analysis made at the moment when the company was privatised identified the following:

---

<sup>4</sup> Confidential data

<sup>5</sup> Confidential data

a) company's strong points:

- company's good name as a result of its products' quality and quick responses time to the clients' demand;
- good relations with the customers;
- existence of alternative suppliers for almost all the purchased goods;
- high flexibility and adaptability to the clients' demands;
- flexibility in assimilating new products;
- certificate S.C. Automobile Dacia S.A. for C.T.C. laboratories;
- the undertaking is autonomous from the utilities' point of view, having their own power plant for supplying the heat, a high depth well for drinking water and a hydrophore well for industrial water;
- reducing the time for assimilating new products;
- orientation towards tool- machinery with NCC numbering command;
- the personnel has an average age of approx. 40 year, having experience in the processing industry;

b) the company's weak points:

- high risk in cashing in the bills;
- the lack of their own distribution network and therefore, the dependence on the auto spare parts' suppliers;
- high supplying expenses due to the large range of parts;
- security stock with high value;
- old traditional technologies;
- endowment with tool-machineries with low productivity;
- high usage degree of the technical park;
- the company's production capacities aren't totally covered by firm annual contracts;
- the important percentage of the imported raw materials in the production process;
- the high number of indirectly productive personnel.

c) opportunities:

- diversifying the production, reaching on new market segments;
- sustaining the activity through a restructuring program insuring the increase of the competitiveness degree on the domestic market as well as on the external one and making the activity efficient.

d) threats:

- the restraining of Dacia spare parts' market, due to the modification in the structure of the auto park (increase of the foreign autovehicles' number);
- reduction in the activity of the domestic autovehicles, electro-technic and chemical industry, beneficiaries of certain products of COMEFIN.

#### **4.3. The presentation of the measures enclosed in the Restructuring Plan**

(41) As it resulted from the above presented SWOT analysis, the main causes leading to the company's difficulties were the following:

- improper sizing the number of productive personnel, fact leading to expenses which could not be covered by the productions' incomes;
- technical and technological endowment outrun from the quality's point of view, leading to low rentability conditions;

- the lack of financial resources which generated some difficulties in carrying out the production processes, concomitant with the unadaptability of the manufacturing structure to the market's demands;
- the investors' preference for imported products with a more appealing quality/price proportion;
- low usage degree for the production capacities, when the maintenance and repairing costs are mainly still the same as for a maximum capacity utilization;
- modifying the manufacturing process for Automobile Dacia, one of the company's main clients, by replacing the models Dacia 1310 with SuperNova, Solenza and Logan, the participation percentage of the Romanian firms at the manufacturing process of this new model being much lower;
- increase of the prices for the imported raw materials, fact leading to significant losses in the field of exported production;
- decrease of the domestic clients' demand for spare parts, due to the complex re-organizational process they were involved in.

(42) The company's Restructuring Plan was elaborated in order to remove the causes leading the company's difficulties, by taking into account the present situation of the demand and the offer from the product's relevant market as well as its future evolution in the three scenarios: pessimistic, intermediary, optimistic. The restructuring plan, elaborated as described, encloses: organizational restructuring measures, technological and environmental restructuring and financial restructuring, all amounting ROL 94,960 mil.

#### **4.3.1. The organizational restructuring**

(43) The company's organizational restructuring refers, in the first place, to the correlation of the personnel number with the production program – forecasted to be realised by the company and assimilated by the market- by employees' dismissals. This measure will be finalised at the end of 2006, by dismissing 275 persons, reaching this way from 625 employees to 350; the cost of this measure amounts ROL 2,260 mil. from the company's own sources. The economic effect of this measure is a reduction of the costs with wages of ROL 11,845 mil. in the first year after its implementing.

(44) Another restructuring measure is represented by the re-organizing of the production workshops as profit centers. In this way, the economic-financial activity of each workshop is considered separately, assessing its efficiency and the rentability of each manufactured product. In this manner the actual manufacturing conditions can be determined and measures for decreasing the costs can be taken, and implicitly for making the manufacturing process efficient. The measure, with an implementing cost of ROL 120 mil. is beared by the state aid's beneficiary and has as effect an extra-profit of ROL 200 mil. and a reduction of losses of ROL 150 mil. in the first year after its implementing.

(45) In order to increase the quality of the management, the company will implement an integrated informatic management system of the company, which will allow it to know in time the company's general situation in order to take the necessary decisions. The cost for implementing the measure is ROL 2,500 mil., beared from the investor's own sources and has

as effect an extra-profit of ROL 150 mil. and a reduction of losses of ROL 300 mil. in the first year after its implementing.

(46) In the same time, the company shall also proceed to the sale of assets and tool-machineries in order to obtain the sources necessary for completing the financial restructuring effort. The measure's implementing cost is of ROL 50 mil. beared for the beneficiary's own sources.

(47) The organizational restructuring measures are presented in the following table:

**Table no. 7 – Organizational restructuring measures for S.C. COMEFIN S.A. Costesti**

Nr.crt	Measure	Dead line	Assessment of the implementing effort (mil. ROL)	Financing (mil. ROL)		
				Own sources	Investor's sources	State aid
1.	Re-organizing the production workshops as profit centers	2005	120	120	-	-
2.	Personnel reduction	2006	2,260	2,260	-	-
3.	Assets' sale	2006	50	50	-	-
4.	Implementing an informatic system for the unit's integrated management	2005	2,500	500	2,000	-
	<b>TOTAL</b>		<b>4,930</b>	<b>2,930</b>	<b>2,000</b>	<b>-</b>

*Source: Comefin's restructuring program*

#### **4.3.2. Technological and environmental restructuring**

(48) By the technical and technological investments enclosed in the restructuring program, by re-sizing and re-allocating the capacities and the endowment with specific modern equipments, it is aimed to achieve the objectives for improving the phisical-mecanic and functional characteristics of the products, for increasing the manufacturing's output and the labor productivity, for reducing the energetical consumption, all these having as effect the reduction of the losses and the increase of profits from the exploiting activity.

(49) Therefore, in order to make the activity viable, the company plans to impement certain technological restructuring measures, to fulfil the quality criteria for manufacturing and first assembly.

(50) As far as the environmental obligations is concerned, those were based on the "The analysis of the impact on the environment as a result of the performed activity", elaborated by the Research and Environmental Engineering Institute Bucharest – the Urban Engineering and Ecology Laboratory. As a result, the following environmental objectives were established:

- soil decontamination within the area of the CLU collector;
- building up a concrete platform for the scrapings' room;
- modernizing the galvanization installation;
- building the pre-cleaning station for the waist waters;
- neutralizing and expelling the slurry from the concrete tank;
- making the installations for evicting the polluting agents and purifying the evicted air in the welding working points.

These investments were already made by the company.

(51) The technological and environmental restructuring measures are sintetically presented in the following table:

**Table no. 8 – Retechnologizing measures and the related costs**

Nr. crt	Measure	Dead line	Assessment of the implementing effort (mil. ROL)	Financing (mil. ROL)		
				Own sources	Investor's sources	State aid
1.	Line for manufacturing segments –renewing the manufacturing range by assimilating new products for the first assembling	2007	6,250	120	6,130	-
2.	Modernizing the tool-machines' park by acquiring tool-machines with numerical command or newer generations of tool-machinery	2006	16,170	14,500	1,670	-
3.	Re-analyzing the technologies in order to increase the manufacturing's efficiency	2006	60	60	-	-
4.	Environmental investments	2004	1,590	390	1,200	-
	<b>TOTAL</b>		<b>24,070</b>	<b>15,070</b>	<b>9,000</b>	<b>-</b>

*Source: Comefin's restructuring program*

#### 4.3.3. Financial restructuring

(52) At the moment of its privatization, the company have needed a financial restructuring to function within the normal parameters of the production activity, this besides the investments assumed by the buyer, in the contract.

(53) One of the financial restructuring measures is represented by the state support granted to the company, namely the budgetary creditors giving up to certain sure incomes and granting them facilities to the payment of the obligations towards them (debts annulments and echelonings) amounting ROL 43,556 mil., as detailed at paragraphs (22) and (23). The facilities are granted within the purpose of making the company viable.

(54) On the other hand, the state aid's beneficiary will contribute to the financial restructuring by increasing the company's working capital with ROL 17,404 mil.

(55) The financial restructuring measures are presented in the following table:

**Table no. 9 – Financial restructuring measures and the related costs**

Nr. crt	Measure	Dead line	Assessment of the implementing effort (mil. ROL)	Financing (mil. ROL)		
				Own sources	Investor's sources	State aid
1.	Exemptions and echelonings for the unpaid obligations	2009	43,556	-	-	43,556
2.	Increasing the working capital by investor's contribution and bank loan	2005	17,404	17,000	404	-

3.	The payment of the interests related to the bank loan	2009	5,000	5,000	-	-
	<b>TOTAL</b>		<b>65,960</b>	<b>22,000</b>	<b>404</b>	<b>43,556</b>

Source: Comefin's restructuring program

(56) With regard to the above-presented facts, the total cost for the company's restructuring measures is as follows:

**Table no. 10 – The cost of S.C. COMEFIN S.A.'s restructuring measures**

Nr. crt.	Measures	Assessment of the implementing costs [milioane lei]			
		Company's own sources	Investor's contribution	State aid	Total measure
1.	Organizational restructuring	2,930	2,000	-	4,930
2.	Technological and environmental restructuring	15,070	9,000	-	24,070
3.	Financial restructuring	22,000	404	43,556	65,960
<b>TOTAL</b>		<b>40,000</b>	<b>11,404</b>	<b>43,556</b>	<b>94,960</b>

Source: Comefin's restructuring program

(57) By the elaborated restructuring plan, the company realistically sized its financing sources for the restructuring, based, on one hand, on its own sources and on the other hand on the engagements assumed by the buyer when signing the Shares sale-purchase contract related to the working capital, technological investments absolutely necessary for the activity as well as those for environment.

(58) By the financial restructuring component, the restructuring program gives the possibility to increase the cash-flow, to insure a stable cash-flow stabil, fact relieving and aliviating the company's financial activity. This way, the company will be able to pay its current debts to the State and to allocate the necessary liquidities in order to make the necessary and planned investments for developing and sustaining the production program in the future.

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

(59) The financial support measures are granted in order to restructure S.C. COMEFIN S.A. Costesti because given the poor economic and financial position of the company at privatization, the company needed financial restructuring to continue operating within normal conditions.

(60) Facilities consist in the foregoing of the budgetary creditors (Ministry of Public Finance and AVAS) of some future revenues, by granting facilities from payment of obligations to them (exemptions and debt reschedulings) and are granted in order to increase attractiveness at privatization by relieving the company from historical debts.

(61) Analyzing the measures of financial support, the Competition Council has noted that there is no doubt that these are financed from state resources and do not confer an advantage to S.C. COMEFIN S.A. Costesti. Also, there is no doubt that the financial measures taken affect trade with the member states of the European Union since the products obtained by the company are sold on the external market, and on the domestic market they compete with similar imported products including from some European countries.

(62) In conclusion, the measures of financial support granted are considered state aids and fall under the Law no. 143/1999 regarding state aid, with the subsequent modifications and completions.

## **6. ASSESSMENT OF THE STATE AID MEASURES GRANTED TO S.C. COMEFIN S.A. COSTESTI**

(63) The state aid granted to the commercial company S.C. COMEFIN S.A. is considered individual aid for restructuring and is granted based on restructuring program prepared by the company and the buyer and having as main objective the restoration of the company's viability at the end of the restructuring period.

(64) Thus, the Competition Council assess the state aid granted to S.C. COMEFIN SA Costesti according to criteria provided in the Regulation regarding state aid for rescue and restructuring of companies in difficulty (hereafter called the Regulation) having in view:

- the analysis of company eligibility for granting state aid for restructuring;
- the company's belonging to a group;
- the restoration of the company's long term viability;
- the prevention of excessive distortion of competition;
- aid limited to minimum necessary;
- the "first time last time" principle.

### **6.1. The company's eligibility**

(65) According to the provisions of the Regulation on the state aid for rescuing and restructuring firms in difficulty, a company is eligible to receive restructuring state aid if is considered to be in difficulty.

(66) As described in sub-chapter 2.3., paragraphs (18) –(21), at the time when the state aid was granted the company has the standard characteristics of a firm in difficulty, namely: increase of

the total debts from one year to another, ending up in 2003 to be 2.27 times higher than the equity, losses annually registered, decrease of the turnover as real value, a high volume of the stocks, the time period for collecting the receivables much higher than the duration of the manufacturing cycle, accentuated increase of the indebtedness degree and implicitly of the company's financial burdens.

(67) With regard to the above-presented facts, the Competition Council considers that S.C. Comefin S.A. Costesti is a firm in difficulty according to the provisions from the Regulation on the state aid for rescuing and restructuring firms in difficulty, being therefore eligible to receive restructuring state aid.

## **6.2. Group affiliation**

(68) According to the provisions of art 2(5) of the Regulation, a company affiliated to a group, normally, is not eligible to be granted state aid for rescuing and restructuring, except the case when it is possible to demonstrate that the company's difficulties are its own and are not the result of a arbitrary cost allocations inside the group, and that the difficulties are too serious to be worked out by the group.

(69) The facilities granted at S.C. COMEFIN S.A.'s privatization refer to the hystorical debts – effect of the economic results obtained in the years previous to the sale of the main shares' package – so they belong to the company.

(70) From the analysis of the data enclosed in the financial balance sheet accounts of the companies which are part of the group controlled by S.C. COMEFIN S.A.'s main shareholder - namely S.C. Subansamble S.A. Pitesti - it can be seen that the financial resources owned by these companies are limited, being designated for their current activity. Therefore, as showed at para.(15) in the present decision, the cumulated profit of all these companies amounts ROL 14,629 mil., from which only ROL 5,758.3 mill. represents S.C. Subansamble S.A. Pitesti's profit, dividend income from participations held in companies within the group.

(71) In the same time, the Competition Council also assessed the financial situation of S.C. INDUSTRIE ȘI COMERT 2000 S.R.L. Pitești, though this company isn't part of the group and owns only 9.7% from S.C. COMEFIN S.A.'s equity. It was found that at the end of 2003 it registered a profit of ROL 1,634.2 mill., much to small to cover S.C. COMEFIN S.A.'s debts and to help it to recover.

(72) From the above-presented facts, Consiliul Concurentei concludes that no company which is part of the group also enclosing S.C. COMEFIN S.A., nor its other shareholders (which aren't part of this group) don't have the financial possibility to solve the difficulties the company deals with, namely to cover its debts to the State amounting ROL 43,556 mil. Furthermore, taking into account that the investor assumed a contribution to the restructuring program's financing of ROL 11,404 mil. it can be said that it used all the financial means in hand to support S.C. COMEFIN S.A.'s economic recovery.

## **6.4. Restoring the company's viability**



(73) According to art.13 of the Regulation the granting of the restructuring state aid is conditioned by the implementing of the restructuring plan which is the base of the assessments made by the Competition Council regarding the state aid. The Restructuring Plan, with a duration as short as possible, has to include the abandonment of loss generating activities and it has to offer the company its long term viability, by allowing it to function on its own resources. The Restructuring Plan must be based on a realistic estimation of the market conditions, the return to viability has to result mainly from internal measures enclosed by it, as well as from the consideration of the external factors such as the prices and demand's fluctuation, factors upon which the company has no significant influence.

(74) The beneficiary of the state aid elaborated a restructuring plan – based on the market study presented at sub-chapter 4.1 and on the SWOT analysis presented at sub-chapter 4.2. - enclosing organizational restructuring measures, technological restructuring, environmental restructuring, as well as financial restructuring measures, detailed at sub-chapter 4.3. in the present Decision.

(75) The company's future Strategy was elaborated starting from the company's weak and strong points and taking into account the opportunities and threatens it can be confronted with; this way were established a number of decisions regarding the company's development strategy, decisions that made possible the return to viability after the implementation of the restructuring plan, namely:

- reaching an operational balance, in view of making profit;
- cost reduction leading to an efficient activity;
- increase of the labor productivity by reaching profitability and reorganizing activity;
- externalizing of non-profitable activities;
- assimilation of new products and diversification of company's markets;
- improving the commercial and marketing strategy;
- improving the working environment for all staff;
- increasing the capacity utilization ratio;
- intensifying the collection of receivables while reducing the arrears amount;
- fulfilling the international standards of environmental protection and full elimination of the pollution factors produced by the company.

(76) The fact that implementing the measures enclosed in the restructuring plan leads to the company's viability, is also proved by the forecast of the profit and loss account – elaborated by taking into account the hypothesis of the intermediary scenario - for the period of restructuring, which is presented in the following table:

**Table no. 13 – Profit and loss account for the period 2004-2009**

- ROL mill -

	Indicators' name	2004	2005	2006	2007	2008	2009
1	Equity	21,189	30,592	30,592	30,592	30,592	30,592
2.	Net turnover	194,005	189,700	199,600	209,600	219,600	229,500
3.	Total revenues, from which:	194,197	190,000	200,000	210,000	220,000	230,000
	- operating revenues	194,005	189,700	199,600	209,600	219,600	229,500
	- financial revenues	192	300	400	400	400	500

	- extraordinarily revenues		-	-	-	-	-
<b>4.</b>	<b>Total costs, from which:</b>	199,365	188,000	195,000	204,000	213,000	222,000
	a) from exploiting	196,280	184,900	191,900	200,900	210,000	219,000
	b) financial	3,085	3,100	3,100	3,000	3,000	3,000
	c) extraordinarily	-	-	-	-	-	-
<b>5.</b>	<b>Gross profit (+) / Loss (-)</b>	-5,168	2,000	5,000	6,000	7,000	8,000
<b>6.</b>	<b>Net profit (+) / Loss (-)</b>	-5,168	-	450	5,000	5,900	6,700
<b>7.</b>	<b>Floating assets- total, from which:</b>	40,710	37,000	37,600	39,100	39,200	38,400
	a) Stocks	18,045	18,500	17,800	18,000	17,000	16,000
	b) Receivables	22,300	17,800	19,000	20,200	21,150	21,200
	c) liquidities and investments	365	700	800	900	1050	1200
<b>8.</b>	<b>Debts - total</b>	52,776	35,474	34,429	33,029	30,720	29,500
<b>9.</b>	<b>Unpaid payments - total</b>	21,524	5,760	5,260	5,170	4,670	3,500

Source: The notification form

(77) From the analysis of the data enclosed in the above table it can be seen the following:

- the subscribed capital increases in 2005 as a result of the capital injection from the Buyer;
- the total turnover registers an increase of approx. 5% per year during the restructuring period;
- the operating and financial incomes will have an increasing trend;
- the exploiting costs, forecasted in the restructuring program proposed for the period 2004-2009, follows a slightly increasing trend, with a forecasted increase of approx. 4%/year;
- during 2005-2009, the company aims to obtain an increasing trend of the gross profit.

(78) After accomplishing the measures, at the end of the restructuring plan's implementing period it is aimed to achieve the viability materialized in the following target indicators:

**Table no. 14 – Target economic- financial indicators**

1. Gross profit	mil.ROL	8,000
2. Turnover	mil.ROL	229,500
3. Employees' number	pers.	350
4.Own capital	mil.ROL	48,353
5. Duration for recovering the claims	days	33.25
6. Economic rentability	%	8.6
7. Financial rentability	%	13.86
8. Cash-flow	mil. ROL	6,922
9. Stocks' rotation speed	days	25.10
10. Indebtness degree	%	61

Source: SC SUBANSAMBLE SA's restructuring plan

(79) With a view to the presented facts, the Competition Council concludes that the proposed restructuring plan will lead to the return of S.C. COMEFIN S.A. Costesti' long term viability.

#### **6.4. Avoiding a significant distortion of the competitive environment**

(80) The application of the restructuring program will allow the return to viability as far as S.C. COMEFIN S.A.'s activity is concerned, at production levels accepted by the market, by

reducing the costs, increasing the outputs and eliminating the hystorical debts' burden (financial restructuring).

(81) By granting the state aid and applying the restructuring program of S.C. COMEFIN S.A. the structure of the relevant market isn't changed so that it would appear anti-competitive effects, this operation having as purpose the increase of the company's economic efficiency by reducing the production costs and doesn't lead to a liquidity excedent to be used in aggressive activities for distorting the competition on the market, without any relation to the restructuring proces.

(82) According to the provisions in the Regulation on the state aid for rescuing and restructuring firms in difficulty, in order to minimize as much as possible the negative effects on the competition from the relevant markets, so that the positive effects aimed by granting the state aid will counteract the negative effects, compensatory measures must be taken.

(83) According to the information enclosed in the notification form, in order to insure the viability until the end of the restructuring period, the company will naturally reduce production capacities on all market segments it is where active, as follows:

**Table no. 13 – Capacities naturally reduced at COMEFIN**

<b>Product</b>	<b>COMEFIN'S CAPACITY 2004</b>	<b>COMEFIN's capacity naturally reduced until the end of the restructuring period</b>	<b>Capacity remained after the natural reduction</b>
Brake pump	60,000 pieces	14,000 pieces	46,000 pieces
Master Vac	100,000 pieces	70,000 pieces	30,000 pieces
Dacia cylinder	75,000 pieces	18,000 pieces	57,000 pieces
Water pump	15,000 pieces	5,000 pieces	10,000 pieces
Brake sheave	45,000 pieces	9,000 pieces	36,000 pieces
Clutch plate	60,000 pieces	35,000 pieces	25,000 pieces
Exhausts sets	85,000 sets	51,000 sets	34,000 sets

*Source: Supplementary information*

(84) These capacity reductions are not considered as compensatory measures within the scope of the Regulation as they contribute to eliminating the activities generating losses, being absolutely necessary for the company's return to viability.

(85) According to the same Regulation, the compensatory measures must be proportionally to the distorting effects caused by the state aid and especially to the size and the company's importance on its relevant markets. For this, the state aid grantor imposed the reduction of production capacities, taking into account the significant market shares on the relevant markets and the important weight held by certain products in the turnover, as follows:

**Table no. 14 – Compensatory measures imposed by the state aid grantor**

<b>Product</b>	<b>Capacity left after the natural reduction</b>	<b>The imposed capacity reduction (compensatory measure)</b>	<b>Capacity reduction following compensatory measures (%)</b>	<b>Capacity left after the implementing of the compensatory measures</b>
Brake pump	46,000 buc	10,000 buc	21.74%	36,000 buc
Master Vac	30,000 buc	-	-	30,000 buc

Dacia cylinder	57,000 buc	9,000 buc	15.80%	48,000 buc
Water pump	10,000 buc	2,000 buc	20.00%	8,000 buc
Brake sheave	36,000 buc	4,000 buc	11.11%	32,000 buc
Clutch plate	25,000 buc	-	-	25,000 buc
Exhausts sets	34,000 seturi	-	-	34,000 seturi

*Source: Supplementary information*

The installations and equipments related to those capacities will be disjointed and sold by bidding and the recovered value will become source for the restructuring program.

## 6.5. Aid limited to the minimum

(86) The assessment of the difficult economic – financial situation the company was confronted with before the privatization, underlined the fact that in order to keep acting in the economic field and to become viable, it was necessary to privatize it as well as to grant it a restructuring state aid by granting it facilities.

(87) According to the provisions of art.15 of the Regulation on the state aid for rescuing and restructuring of firms in difficulty, the amount and the intensity of the state aid must be limited to the minimum required to allow restructuring according to the company's and the shareholders' existing financial resources. The state aid's beneficiary must have a significant contribution from its own sources to the restructuring plan's financing, including from the sale of assets unimportant for the company's survival or from external financing taken under market conditions.

(88) The total cost of S.C. COMEFIN S.A.'s restructuring, amounting ROL 94,960 mil. is formed from the following:

- the organizational restructuring cost ROL 4,930 mil.
- the technological and environmental restructuring cost ROL 24,070 mil.
- the financial restructuring cost ROL 65,960 mil.

(89) The restructuring program is financed from the company's own resources, capital infusion from the main shareholder and the requested state aid, amounting ROL 43,556 mill, which shows that the state aid's value is reduced at the strictly necessary minimum so that the proposed program to be finalized under the operational conditions proposed by the company.

(90) Therefore, from the restructuring cost amounting ROL 94,960 mil, 42.12% will be financed from the company's own sources, 12.01% from the sources owned by the buyer of the main share- package and 45.87% from the financial support granted by the State.

(91) Art. 15(2) in the Regulation provisions that, usually, a contribution of at least 50% for large undertakings can be considered as proper. In this case, the beneficiary's contribution amounts ROL 51,404 mill. and represents 54.13% from the restructuring costs, being insured from the following:

- the investor's contribution as assumed at privatization – ROL 11,404 mill.
- company's own sources – ROL 40,000 mill., from which:
  - recovery of receivables - ROL 5,000 mil.;
  - bank loan - ROL 17,000 mil.;

- company's sources from contracts - ROL 9,830 mil;
- sale of technological equipments, installations and assets - ROL 8,170 mill.

(92) According to the provisions of art.15 of the Regulation regarding the state aid for rescuing and restructuring of firms in difficulty, the amount and the intensity of the state aid must be limited to the minimum required to allow restructuring according to the existing financial resources of the company, of its shareholders or the group it is part of. For S.C. COMEFIN S.A., the state aid's intensity, calculated as proportion between the state aid's value and the restructuring's total cost, has a value of 45.87%.

(93) Under these circumstances, the Competition Council estimates as significant the beneficiary's contribution of 54.13% to the restructuring plan.

#### **6.7. Fulfilment of the “first time, last time” principle**

(94) S.C. COMEFIN S.A. Costesti did not received any other restructuring aid, fulfilling this way the provisions of art.18 from the Regulation, which stipulates that a restructuring state aid must be granted only once.

#### **6.8. Monitoring and annual reporting**

(95) Under Art. 18 of the Regulation on the state aid for rescuing and restructuring of firms in difficulty, the Competition Council monitors on a constant basis the implementation of the restructuring program, seeking that it does observe the objectives and provisions that were set in the present Decision.

(96) The Competition Council shall monitor the implementation of the restructuring program until the end of the restructuring period in order to make sure that there will be no increases of the production capacity, major deviations from achieving the restructuring measures, and that the aid shall not lead to additional liquidities which may be used for activities other than those in the restructuring program.

### **7. CONCLUSION**

(97) Taking into account the above mentioned reasons, the Competition Council ascertains that the state aid granted to S.C. COMEFIN S.A. is compatible with the normal competitive environment and doesn't significantly affect the trade with the Member States of the European Union .

**DECIDES**

**Art. 1.** The measure notified by the Authority for State Assets Recovery for S.C. COMEFIN S.A. Costesti constitutes state aid for the purposes of Article 2 align. (1) in Law 143/1999, amended and completed by Law 603/2003.

**Art. 2.** Under Article 12 align. 2 letter. (c), corroborated with Article 14 align. 1 letter. (e) of Law 143/1999, with subsequent amendments and completions, we authorize the state aid for restructuring to be granted to S.C. COMEFIN S.A. Costesti, provided that the conditions under Articles 3 and 4 of this decision are met.

**Art. 3.** The company is bound to implement in whole the restructuring program to which it has committed.

**Art. 4.** The company has to fulfil the capacity reductions imposed by the present Decision.

**Art. 5.** If the conditions imposed by the present decision are not met, the provisions of art. 13 in the Law no. 143/1999 on the state aid, with the subsequent modifications and completions shall be applied.

**Art. 6.** The value of the state aid which is to be granted is of ROL 43,555,527,512.

**Art. 7.** This Decision is applicable as of the date when communicated.

**Art. 8.** Under Article 24 of Law 143/1999, with subsequent modifications and completions, the state aid granting authorities shall submit to the Competition Council information on the state aid granted, in order to inventory and to monitor it. The Authority for Capitalizing the State Asset shall submit to the Competition Council annual reports regarding the implementation of the restructuring program. The first report shall be submitted within 6 months as of the issuing of the decision. The following reports will have to show that the undertaking fulfilled the compensatory measures regarding the production capacity reduction imposed by the present decision.

**Art. 9.** According to the provisions of art. 29 of the Law no. 143/1999 on state aid, with subsequent amendments and completions, the present Decision may be appealed by concerned persons before the Bucharest Court of Appeal, the Contencious Administrative Section, in 30 days from its communication.

**Art. 10.** The present Decision shall be communicated by the Secretariat-General of the Competition Council to:

- the Authority for Capitalizing the State Asset, st. Cpt. Av. Alexandru Serbanescu, no. 50, sector 1, Bucharest;
- S.C. COMEFIN S.A., str. Industriiei, nr. 36, Costesti, Arges County.

**Art. 11.** The General Secretariat and the Directorate for State Aid Authorization of the Competition Council shall pursue the fulfillment of the present Decision.

**PRESEDINTE**

**MIHAI BERINDE**