

DECISION
of the Competition Council
no 153 on 12.08.2005
regarding the State aid notified by the Authority for State Assets Recovery to be
granted to S.C. CAHIRO S.A. Boldesti Scaieni

The Competition Council

Taking into consideration the dispositions of the European Agreement establishing an association between Romania, on one hand, and the European Communities and their Member States on the other hand, ratified by the Law no.20/1993, published in the Official Gazette, Part I, no. 73 on April the 12th, 1993;

Taking into consideration the provisions of the Competition Law no. 21/1996, published in the Romania's Official Gazette no 88, I Part on 30.04.1996, amended and completed by the EGO no.121/2003, approved by the Law no.184/2004;

Taking into consideration the provision of the Law no 143/1999 on State aid, published in the Official Gazette no 370/03.08.1999, Part I, amended and completed by the Law no.603/2003 and by the GO no.94/2004 regarding the regulation of some financial measures;

Taking into consideration the dispositions of the Regulation regarding the state aid for the rescue and restructuring of the firms in difficulty, published in the Official Gazette Part I, no. 1.215 of December 17, 2004;

Taking into consideration the Decree no. 57/2004 regarding the appointment of the Competition Council;

Based on the following,

1. PROCEDURE

(1) By the address no. P/7684/01.04.2005, registered at the Competition Council with the no. RS-AS 13/01.04.2005, the Authority for State Assets Recovery (A.V.A.S.) notified, in the basis of art. 6 of *the Law no. 143/1999 on the state aid, with the subsequent amendments and completions*, the intention to grant the individual state aid for restructuring S.C. CAHIRO S.A. Boldesti Scaieni.

(2) By note no. CC-559/18.04.2005 and the reminding note no. CC-696/12.05.2005, followed by notes no. DAAS/673/05.07.2005 and no. DAAS/770/15.07.2005 supplementary information was requested for completing the notification form. The Authority for State Assets Recovery replied to the requested supplementary information by note no. VP4/641/18.05.2005, VP4/1544/14.06.2005, no. VP4/1883/30.06.2005, no. DCS/3676/20.07.2005 registered at the Competition Council with the no. RG 3456/19.05.2005, no. RG 4194/14.06.2005, RG 4579/30.06.2005 respectively DAAS/793/20.07.2005. Also, on 08.08.2005 AVAS has submitted the notarized statement no. 3252/08.08.2005.

(3) The notification became effective when information was accurate and complete, respectively on 08.08.2005.

2. DESCRIPTION OF THE STATE AID MEASURE

2.1. The legal base for granting the state aid

The individual state aid is granted to S.C. CAHIRO S.A. Boldesti Scaieni based on the following:

- Law no. 137/2002 on certain measures for accelerating the privatization, with the subsequent amendments and completions;
- GD no. 577/2002 on the approval of the Methodology for applying the EGO no. 88/1997 regarding the privatization of the undertakings, with the subsequent amendments and completions and of the Law no. 137-2002 on certain measures for accelerating the privatization;

2.2. The concrete modality for granting the state aid

(4) By the state aid proposed by the Authority for State Assets Recovery, in total amount of ROL 47,700,637,627 it is desired to grant certain facilities consisting of:

[...] ¹

2.3. PRESENTATION OF THE BENEFICIARY S.C. CAHIRO S.A. Boldesti Scaieni

(5) The state aid beneficiary is the company S.C. CAHIRO S.A. Boldesti Scaieni from the Prahova County, established on August the 24th, 1889. In 1899, the factory was brought to sale by its creditors, by public bidding, to the Ilfov County Court and was purchased by engineer Zahareanu, who owned the wood paste factory from Cheia. In 1990, once with the modification of the legal frame and the adoption of the market economy, the factory from Scaieni was re-organised according to the provisions of the

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Law no. 15/1990, becoming a stock company in the basis of the GD no. 1176/1990, and changing its name into S.C. CAHIRO S.A. Boldesti Scaieni.

(6) [...] ²

(7) [...] ³

(8) The undertaking activates in the industry field. S.C. CAHIRO S.A. has as main activity object the manufacturing of toilet paper, carton and napkins.

(9) S.C. CAHIRO S.A. activates only on the domestic market, its accomplished turnovers and financial results based on the balance sheets from the last 4 years being presented in the table no. 2.

Table no. 2 **Turnover and profit for SC CAHIRO SA**
[...] ⁴

(10) S.C. CAHIRO S.A. Boldesti Scaieni produced until 2003 the following products:

- toilet paper;
- bindery carton;
- weldable autovehicles carton;
- bead carton for auto;
- white carton for automobiles;
- pasteboard;
- packaging paper.

Starting with 2003, the company produced only toilet paper, due to its re-orienting on the market and of the lack in the demand for certain products, products that were on stock anyway.

(11) S.C. CAHIRO S.A.' production capacities at the end of 2002, before the date when the company's restructuring started, are presented in table no. 3. The average number of employees working with these production capacities on 31.12.2002 was of 338.

Table no. 3 Production capacities at SC CAHIRO SA
[...] ⁵

2.4. Description of the markets S.C. CAHIRO S.A. Boldesti Scaieni activates on

(12) Until 2003, the undertaking produced and commercialised toilet paper, bindery carton, weldable autovehicles carton, bead carton for auto, white carton for automobiles,

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pasteboard and packaging paper, the production manufactured during 2001-2003 being presented in the table no. 4.

Table no.4 Production figures for 2000-2003

No crt	Sorts	Measure Units	2000	2001	2002	2003
1	toilet paper	Tons	2,781.5	4,041.4	3,372.5	6,479.1
2	bindery carton	Tons	1,539.4	1,331.4	209.4	-
3	weldable autovehicles carton	Tons	132.7	153.9	113.2	-
4	bead carton for auto	Tons	152.6	100.4	115.3	-
5	white carton for automobiles	Tons	20.8	22.8	27.0	-
6	pasteboard	Tons	-	358,0	630.8	-
7	packaging paper	Tons	46.0	83.7	71.1	-

Source: AVAS notification

The data from the table no. 4 show that the gradually carton production decreases, for technical carton as well as for bindery carton, due to the stoppage in the pasteboard production, but also that the toilet paper production volume increases. These evolutions of the production volume relate to the market re-orientation and in the same time confirm the lack of demand for certain products for which existed over- stocks anyway.

(13) The relevant markets where the company was acting before 2003 were the market of cartons, with two sub-markets (the sub-market of the binding carton and the technical cartons sub-market), the market of pasteboard and the toilet paper market. S.C. CAHIRO S.A. Boldesti Scaieni was the only producer of technical cartons and binding cartons in the country. On the pasteboard market the company competed with S.C. MUNCART S.A. Cluj, the market shares owned on this market being the following:

Table no. 5 Sales and market shares between 2000-2002

Company	Evolution of the sold production (tons)			Market shares (%)		
	2000	2001	2002	2000	2001	2002
SC CAHIRO SA SCAIENI	165	358	630,8	7.61	14.91	100.00
SC MUNCART SA CLUJ	2,002	2,043	0	92.39	85.09	0.00
TOTAL	2,167	2,401	0	100.00	100.00	100.00

Source: Supplementary information from AVAS

(14) Taking into account that starting with 2003 the carton and pasteboard production was abandoned, it can be said that the company's relevant market is the market of toilet paper. We mention that the company does not export, so the geographical relevant market is represented by the Romanian territory.

(15) S.C. CAHIRO S.A. annexed to the restructuring plan a market study for the toilet paper, study elaborated by the consultancy firm S.C. Antorob Consultanta si Administrare S.R.L. Within it there were mainly analyzed the following aspects:

- the world market evolution in order to stabilize the market trends;
- the market evolution from 1989 till 2000 in Hungary and Poland, comparative with Romania;
- size the domestic market during 2000-2003;
- forecasting the world market evolution until 2010, in accordance with the PPI and FAO data;
- estimating the offer (toilet paper production) on the domestic market for the period 2005-2010.

(16) [...]⁶

(17) [...]⁷

(18) [...]⁸

(19) [...]⁹

(20) [...]¹⁰

2.5. Description of the privatization process

[...]¹¹

3. DESCRIPTION OF THE RESTRUCTURING PLAN

(28) Starting from the situation the company was in at the moment when the privatization contract was signed, the buyer of the main share package, together with the company, drafted a restructuring plan for the period 2003-2007, including measures of organizational, technological restructuring, environmental investments and financial

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restructuring, all those amounting ROL 96,700 mil. The restructuring plan is based on a study of the toilet paper market, study elaborated by the consultancy firm S.C. Antorob Consultanta si Administrare S.R.L.

3.1. STRUCTURAL/ ORGANIZATIONAL RESTRUCTURING

(29) The company's organizational restructuring refers to the correlation between the personnel number and the production program, by successive dismissals until meeting the necessary of personnel provisioned in the approved diagram. The implementing costs for this measure which will be finished in 2005 amounts ROL 1,200 mil, funds to be insured from the company's own sources. The measure shall have as economic effect the reduction of the losses with approx. ROL 14,000 mil. in the first year after its application.

3.2. Technological restructuring

(30) In order to viabilise its activity, the company aims to accomplish some technological restructuring measures synthetically presented in table no. 9. These measures will have as effect the reduction of the losses and obtaining of an increased profit from the operating activity.

Table no. 9 Technological restructuring measures at SC CAHIRO SA
[...]¹²

3.3. Environmental restructuring

(31) With the purpose to meet the environmental requests, the new investor assumed, in the Shares sale- purchase contract, to make some environmental investments amounting USD 179,280 from its own sources, within a 3 years period. In the restructuring plan, the investor supplemented this amount and the company finances from its own sources part of the proposed technical environmental investments. These measures synthetically presented in the table no. 10 will have, along the benefic economical effects at the company's level, effects on the preservation of the environmental agents by reducing the pollution of the waste waters and soil rehabilitation.

Table no. 10 Environmental restructuring measures at SC CAHIRO SA
[...]¹³

3.4. Financial restructuring

[...]¹⁴

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¹⁴ Confidential data

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

(36) In order to be considered state aid within the meaning of Law no. 143/1999 on state aid, with the subsequent modifications and completions, the financial support has to meet cumulatively four requirements provided at art. 2:

- is granted by the state or from state resources,
- the measure is selective,
- provides an advantage to the undertaking,
- distorts or threatens to distort competition and affects the trade of Romania with the Member States of the European Union.

(37) The financial support granted to S.C. CAHIRO S.A. Boldesti Scaieni and notified by A.V.A.S. consists in foregoing by the state of some revenues, therefore there are state resources involved.

(38) The financial support measures granted in the basis of the Law no.137/2002 on some measures for speeding up the privatization were intended only for companies to be privatized, among which S.C. CAHIRO S.A. Boldesti Scaieni. The measures granted S.C. CAHIRO S.A. Boldesti Scaieni have therefore a selective character.

(39) By the financial support measures granted under the form of fiscal facilities an economic advantage is created for S.C. CAHIRO S.A. Boldesti Scaieni, the company being exempted from payment of past due obligations to the state budget, as well as from payment of interest and related delay penalties. As a result of granting these fiscal facilities the company does not have to pay its debts to the state budget, which has a favorable effects on the economic and financial indicators and cash-flow. Therefore, the company is created an advantage, being favorized compared to its competitors.

(40) Granting financial support to S.C. CAHIRO S.A. Boldesti Scaieni creates the premises for a possible distortion of competition on the relevant market because it allows the company to maintain or even to consolidate its position on this market.

(41) Also, there is no doubt that the financial measures taken affect trade with the European Union Member States since the products of the company can be sold in the future on the external market.

(42) In consequence, the Competition Council notes that the measures of financial support granted to S.C. CAHIRO S.A. Boldesti Scaieni are considered state aid and fall under Law no. 143/1999 on state aid, with subsequent modifications and completions.

5. ASSESSING THE STATE AID

(43) Article 2 from Law no. 143/1999 on state aid, with subsequent modifications and completions, provides that the aids granted by the state or from state resources which distort or threaten competition and affect trade with the members states of the European Union are incompatible with the normal competitive environment.

(44) The Competition Council assess the state aid granted to S.C. CAHIRO S.A. Boldesti Scaieni according to the criteria provided in the Regulation on state aid for rescue and restructuring of companies in difficulty. In order to be considered compatible with the normal competitive environment, the state aid has to meet all criteria from the above mentioned Regulation.

C

5.1. Eligibility S.C. CAHIRO S.A. – company in difficulty

(45) The considerations on the basis of which establishing whether S.C. CAHIRO S.A. Boldesti Scaieni is eligible or not to receive state aid for restructuring being a company in difficulty, are the following:

a) Reduction of the equity

Table no. 11	Evolution of equity		-ROL thousand-
	1999	2000	2001
Equity	15,988,307	11,097,020	-5,628,277
Profit/Loss	-3,502,196	-4,891,287	-16,725,298
Loss/Equity (%)	-21.9	-44.07	-

Source: Notification AVAS

It can be noticed a progressive diminishing of the equity, reaching in 2001 negative levels.

b) Indebtness ratio

Table no. 12	Evolution of indebtedness ratio		- ROL thousand -
	1999	2000	2001
Total debts	14,977,626	22,153,113	55,105,777
Total assets	30,965,933	33,255,641	49,477,500
Total debts/Total assets (%)	48.36	66.61	111.37

Sursa: Notification AVAS

The indebtness ratio shows the percentage the company is financed through bank loans. A too small ratio can indicate the fact that the company does not use to the maximum available financial sources, and a too high ratio can lead default risks. In the case of S.C.

CAHIRO S.A., the indebttness ratio had an ascending trend which can lead to the conclusion that if the company wished to contract a loan, no bank would have granted it.

c) Solvability calculated as Equity /Total liabilities

Table no. 13	Solvency ratio at SC CAHIRO SA		-ROL thousand -
	1999	2000	2001
Equity	15,988,307	11,097,020	-5,628,277
Total liabilities	30,965,933	33,255,641	49,477,500
Solvability (%)	51.63	33.36	-11.37

Source: Notification of AVAS

Solvability shows a descending trend, the company becoming insolvent in 2001.

d) Operating return as Operating profit/ Turnover

Table no. 14	Evolution of profitability		- ROL thousand -
	1999	2000	2001
Operating profit	-3,502,196	-4,891,287	-16,725,298
Turnover	25,457,299	40,587,037	59,315,816
Operating return (%)	-	-	-

Source: Notification of AVAS

In the analyzed period, the profit registered negative values due to losses in operating activity, loss increased from one year to another, this being in 2001 of approximately 5 times higher than that of 1999. As a reference, it is mentioned that in the case of a normal activity, financially balanced, this indicator has values between 6% and 9%. The negative values of this indicator show the difficult situation of the company and the fact that the company is not able to generate profit from operating activity.

e) Increase of losses

From the balance sheets presented by the company it results that in the three years analyzed, the company had a cumulated loss of ROL 25,118,781 thousand, which represents 1.3 times the shareholders' equity. The losses are doubled by the diminishing of the equity.

f) Evolution of the inventory

Table no. 15	Evolution of inventories		- ROL thousand -
	1999	2000	2001
Inventory volume	10,749,219	12,284,922	22,041,669
Half-finished products, finished			

products, residual products	7,924,993	8,503,557	15,137,057
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Source: Notification of AVAS

As it can be noticed in Table no. 15, inventories grow year by year, inventories of half finished goods, finished goods and residual products representing more than half of them. The alarming increase results from a weak supply with raw materials, materials and spare parts, as well as the weak demand for carton products, products manufactured on stock, without taking into account the market trends.

g) Evolution of receivables

Table no. 16	Evolution of receivables SC CAHIRO SA		- ROL thousand -
	1999	2000	2001
Receivables	2,782,672	4,014,825	9,556,240

Source: Notification of AVAS

The company's receivables grow year by year, reaching to the situation where receivables in 2001 are 3.4 times higher than those of 1999.

h) Increase of company's debts

In 1999, the total of the company's debts was of ROL 14,977,626 thousand, of which 78% represent debts to be paid under one year. In 2000, these grow considerably reaching to ROL 22,153,113 thousand, of which 67% represent debts to be paid under one year, and in 2001, the debts volume reaches ROL 55,105,777 thousand, 3.7 times more than the value of 1999. Out of these, 71% represent debts to be paid under one year.

(46) Given the above mentioned, the Competition Council notes that S.C. CAHIRO S.A. Boldesti Scaieni is a company in difficulty within the meaning of the Regulation regarding state aid for rescue and restructuring of companies in difficulty.

5.2. Belonging to a group of companies

[...] ¹⁵

5. 3. Restoring the viability of the company

(55) According to art. 13 from the Regulation regarding state aid for rescue and restructuring of companies in difficulty, granting of the state aid for restructuring is conditioned by implementing the restructuring plan which is the base for the assessment made by the Competition Council regarding the state aid. The restructuring plan, whose timing has to be as short as possible, must contain abandonment of loss generating activities in order to offer the company long term viability, allowing it to operate with own resources. The restructuring plan must be based on a realistic estimate of the market

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conditions, the restoration of the viability resulting mainly from internal measures contained by it, as well as from considering external factors such as price and demand variations, factors the company can not influence significantly.

(56) S.C. CAHIRO S.A. together with the buyer and with AVAS drafted a restructuring plan containing measures of organizational, technological, environment restructuring as well as financial restructuring measures. The measures contained in the restructuring plan were presented at point 3 of the current decision.

(57) AVAS and the company have submitted to the Competition Council the restructuring plan of S.C. CAHIRO S.A., stating that this has been drafted following a diagnostic analysis showing the strong and the weak points of the company and describes the circumstances leading to the appearance of the difficulties being confronted with. Thus, it is stated that the production activity has been negatively influenced by the following factors:

- overrunning costs due to stopping production activity of the entire company in 2000 following the impossibility to pay electricity and natural gas, the supply of utilities being ceased by suppliers for non payment;
- foreign exchange losses related to imported materials;
- obsolete and worn out equipments which need frequent and expensive repairs and contribute to a low quality of the products;
- the financial blockage from the Romanian economy which contributed to accumulating debts due to the lack of liquidities of the company's clients;
- the lack of demand for the domestic technical cartons due to the low quality of these in comparison with the imported ones.

(58) The restructuring plan is based on a market analysis for the toilet paper elaborated by the S.C. Antorob Consultancy and Administration S.R.L. having regard of the present market situation and its provisioned evolution, the restructuring plan comprises a series of measures which could lead to the viability of the company on long term in a reasonable period of time, respectively 5 years.

(59) The strategy of S.C. CAHIRO S.A. Boldesti Scaieni focuses on the conservation of strengths, respectively the existence of traditional commercial relations with certain clients, the existence of qualified personnel and with experience in the field and of a production tradition of over 114 years. It also focuses on limiting the weaknesses, respectively the advanced depreciation of some installations and worn out equipments and insufficient involvement in promoting the products.

(60) The future strategy has been elaborated based on the strengths and the weaknesses of the company and having regard the opportunities and threatens which the company can confront with. Thus, there have resulted a series of decisions regarding the development strategy of the company, which could make possible reaching the viability as a consequence of implementing the restructuring plan, respectively:

- production reorientation towards the production of toilet paper and toilet-sanitary paper, giving up those products for which there is no demand anymore;
- minimizing as much as possible the production costs;
- improving the delivering and supplying conditions by setting up its own network able to cover the entire area of Romania, through selling agents;
- implementing technical solutions for the reduction of the cellulose fiber from the waste waters which are drained in the Teleajen river;
- modernizing and upgrading the existing fixed assets;
- modernizing technological processes and reorganizing the production flows;
- modernizing the production installations for the toilet paper;
- investments for purchasing new assets as follows: heating station fully equipped, installations for conditioning the toilet paper, automatic napkins machine;
- quality improvement and increasing the products range;
- giving up the production of some products (bindery carton, technical cartons, pasteboard) for which there is no demand anymore.

(61) Implementing the restructuring plan has as main objective firstly the reduction of losses and gaining an operating equilibrium, in the perspective of gaining profits, especially from operating activity and afterwards from the overall activity. The first signs regarding the compliance of the company to the new conditions have started to appear at the end of 2004, year in which the company has managed to make a profit.

(62) Following the implementation of the restructuring plan it is envisaged reaching the viability through the following:

- abandoning the production of some products for which there is no demand anymore (bindery carton, technical cartons, pasteboard) and concentrating on the production of the toilet paper and sanitary-toilet paper;
- improving the economical and financial indexes and the quality of products, reducing the specific consumption;
- the possibility of gaining a production rhythmic cycle with no interruption, essential for reaching the viability, continuously functioning for producing toilet paper;
- increasing the degree of using the production capacities, rational use of labor force, increasing the work productivity;
- complying with the environment conditions and reducing the pollution.

(63) The fact that implementing the measures from the restructuring plan lead to the viability of the company is demonstrated by the prognosis of the balance sheet during the restructuring, which is presented in table no. 17.

Table no. 17 Forecast of the profit and loss account during the restructuring period

[...] ¹⁶

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(64) Following the implementation of the measures, at the end of the restructuring period, it is aimed reaching the target indexes, as follows:

Table no. 18 **Target indicators for SC CAHIRO SA**
[...]¹⁷

(65) From the above mentioned facts, the Competition Council considers that the proposed restructuring plan will lead the restoration of viability of S.C. CAHIRO S.A. Boldesti Scaieni on long term.

5.4. Preventing any excessive distortion of the competition

(66) According to the provisions of Regulation on State aid for rescue and restructuring firms in difficulty, in view of minimizing as much as possible the negative effects on the competition on the relevant markets so as the positive effects envisaged by granting of the State aid to overcome the negative effects, compensatory measures must be taken.

(67) By granting State aid and implementing the restructuring plan of S.C. CAHIRO S.A, the structure of the relevant market is not affected by anticompetitive effects. This operation is taking place with the purpose of increasing the economic efficiency of the company by reducing the production costs and does not lead to over-liquidity which could be used in aggressive actions of distorting the competition on the market with no connection whatsoever with the restructuring process.

(68) According to the proposed restructuring plan, S .C. CAHIRO S.A. Boldesti Scaieni has abandoned the production of products that are not requested by the market anymore (bindery carton, technical cartons, pasteboard) and shall produce only toilet and sanitary-toilet paper. On the toilet paper market, the company has a market share of 10.48% in 2003 (without considering the imports), the first year in which have been abandoned the activities which led to losses, respectively the production of products that are not requested anymore. This market is a competitive one, on which there is a large number of domestic producers and imports covers over 7% of demand.

(69) The old installation for toilet paper with a 4,800 to/year capacity was made of a wet part and a dry part and a high energy consumption. Taking into consideration that this installation was having at the wet part a cylindric strainer, leading to flawed processing of the paper, and therefore, to an inferior quality of the toilet paper, this part of the installation was given up counting for a capacity of 2,000 to/year which was sold as scrap iron. As a result, the capacity of the toilet paper installation was reduced by 2,000 to/year. The new toilet paper installation derived from the dry part of the old machine with cylindric strainer (having a capacity of 2,800 to/year) and from the wet part of the binding carton machine (capacity of 2,000 to/year). Thus, the capacity of the new toilet

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paper installation was of 4,800 to/year, resulted from re-using the dry part of the old toilet paper machine and the wet part of the carton binding machine.

(70) To conclude, in order to mitigate as much as possible the negative effects of granting the state aid on the competition, S.C. CAHIRO S.A. reduced the following production capacities:

- 5,000 to/year - capacity of duplex-triplex carton installation;
- 2,800 to/year – capacity of dry part from carton enreaching installation;
- 2,000 to/year – capacity of the wet part from the old toilet paper installation.

Synthetically, these measures are presented in table no. 19.

Table no. 19 **Reduction of production capacities**
[...]¹⁸

5.5. Aid limited to the minimum necessary

(71) In accordance with the provisions of art. 15 in the Regulation on the State aid for rescuing and restructuring firms in difficulty, the state aid amount and intensity must be limited to the minimum necessary, to allow the restructuring according to the company and the shareholders' existing financial resources. The State aid beneficiary must have a significant contribution from its own resources to the restructuring plan, including from the sale of assets unessential for the company's survival or from external financing contracted under market conditions. According to the provisions of art. 15 (2), for large companies a proper contribution is considered if it is of at least 50%.

(72) [...]¹⁹

(73) [...]²⁰

(74) The company's own contribution of 50.7% for covering the restructuring costs is insured by:

- capital infusion from the main shareholder – S.C. Alexandrion Grup Enterprises S.R.L.;
- capitalization of the scrap iron resulted from breaking down the fixed assets taken out of use;
- revenues from closing the unused spaces within the company.

(75) The State aid intensity, calculated as a proportion between the State aid and the total cost of the restructuring is of 49.3%.

(76) Regarding the above presented facts, the Competition Council considers as significant an own contribution representing 50.7% for sustaining the restructuring costs, this proving the trust in the practical value of the restructuring and the fact that the

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²⁰ Confidential data

amount and the intensity of the State aid were strictly limited to allow the restructuring according to the company's and the main shareholder's existing financial resources. This way is avoided that the company would receive over –liquidities to be used in aggressive activities, distorting the market.

5.6. Fulfilling the “first time- last time principle”

(77) S.C. CAHIRO S.A. Boldesti Scaieni has not received any other restructuring State aid, fulfilling this way the provisions of art. 24 in the Regulation on the State aid for rescue and restructuring firms in difficulty which stipulates that the restructuring State aid must be granted only once.

5.7. Monitoring and annual reporting

(78) In accordance with the provisions of art. 18 in the Regulation on the State aid for rescue and restructuring firms in difficulty, the Competition Council continuously monitors the implementing manner of the restructuring plan so that it would not divert from the fulfillment of the established objectives.

(79) The Competition Council shall monitor the implementation of the restructuring plan until the end of the period, to make sure that there will be no increases of the production capacities, major diversions from the accomplishment of the restructuring measures as well as of the fact that the state aid will not result in creation of supplementary liquidities to be used for activities other than those enclosed in the restructuring plan.

6. CONCLUSIONS

(80) Taking into account the above mentioned reasons, the Competition Council notes that the individual State aid to be granted to S.C. CAHIRO S.A. Boldesti Scaieni is compatible with the normal competitive environment and does not significantly affect the trade with the Member States of the European Union.

DECIDE

Art. 1. The measure notified by the Authority for State Assets Recovery for S.C. CAHIRO S.A. Boldesti Scaieni constitutes state aid for the purposes of Article 2 (1) of Law 143/1999 on State aid with the subsequent modifications and completions.

Art. 2. Under Article 12 para. 2 letter. (c), corroborated with Article 14 par. 1 letter. (e) of Law 143/1999 on State aid with subsequent amendments and completions the State

aid for restructuring which to be granted to S.C. CAHIRO S.A. Boldesti Scaieni is authorized 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 will reduce its production capacities according to paragraph (69) and (70) of the present decision.

Art. 5. If the conditions imposed by the present conditions are not observed, the provisions of art. 13 from the Law no. 143/1999 on State aid, with subsequent amendments and completions shall be applied.

Art. 6. The value of the state aid which is to be granted is of ROL 47,700,637,627 (RON 4,770,064).

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 Authority for State Assets Recovery shall submit to the Competition Council information on the state aid granted, in order to inventory and monitor it. The Authority for State Assets Recovery shall submit to the Competition Council annual reports regarding the implementation of the restructuring plan. 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 capacities 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 Administrative Litigation 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 State Assets Recovery, st. Cpt. Av. Alexandru Serbanescu, no. 50, sector 1, Bucharest;
- S.C. CAHIRO S.A. Boldesti Scaieni, Sos. Ploiesti-Valenii de Munte nr. 53 km 9, Cod 2085, Boldesti-Scaieni, judetul Prahova.

PRESIDENT

MIHAI BERINDE