

DECISION of the Competition Council

No. 165 on 31.08.2005

regarding the State aid to be granted to S.C. MAT S.A. Craiova

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, republished in the Romania's Official Gazette no 742, I Part on 16.08.2005;

Taking into consideration the provision of the Law no 143/1999 on State aid, republished in the Official Gazette no 744, Part I, on 16.08.2005;

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. 1215 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/7647/01.04.2005, registered at the Competition Council with the no. RS-AS 12/31.03.2005, the Authority for the Capitalization of the State's Assets (AVAS) notified, in the basis of art. 15 of the Law no. 143/1999 on the state aid, republished and by the GO no. 94/2004 on the regulation of certain financial measures, the individual state aid for restructuring SC MAT SA Craiova during the privatization.

(2) By notes no. DAAS 365/21.04.2005 and DAAS 470/25.05.2005, the Competition Council requested from AVAS supplementary information. The Authority for the Capitalization of the State's Assets submitted the answer to the supplementary

informations, by the notes registered to the Competition Council by no. 3457/19.05.2005, DAAS 512/02.06.2005 and DAAS 517/03.06.2005.

(3) The notification became effective when information was accurate and complete, respectively on 03.06.2005.

(4) Previous to the notification submitted by AVAS, the Ministry of Public Finance notified to the Competition Council, by the address no.107829/31.03.2004, registered at the Competition Council with no. RS-AS/44/19.04.2004, the facilities to be granted to SC MAT SA Craiova based on GEO no.40/2002. According to art. 281 from the Methodology issued for the application of EGO no.88/1997 and of the Law no.137/2002 on certain measures for accelerating the privatization, AVAS has the mandate to notify all the state aids in the name of all the suppliers. By the address sent by fax to the Competition Council, registered with no. DAAS/851/01.11.2004, AVAS requested to the Ministry of Public Finances to withdraw its notification, as during the privatization procedure, the company also benefits from other facilities, besides those granted based on GEO no.40/2002. By the address no. 10934/05.11.2004, registered at the Competition Council with no. 8123/15.11.2004, the Ministry of Public Finance announced the Competition Council that it can consider the notification withdrawn if AVAS, the one notifying on behalf of all state aid grantors, will also include the amounts provided for under the GEO no. 40/2002.

2. DESCRIPTION OF THE STATE AID MEASURE

2.1. The legal base for granting the state aid

(5) The Authority for the Capitalization of the State's Assets notified the financial support measures granted to SC MAT SA Craiova based on the following normative acts:

- Law no. 137/2002 on certain measures for accelerating the privatization;
- GD no. 577/2002 on the approval of the Methodology for applying the GEO 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;
- GEO no. 40/2002 on the recovery of certain budgetary arrears;
- The Regulation on the state aid for rescuing and restructuring firms in difficulty.

2.2. Financial support measures for SC MAT SA Craiova

(6) The financial support measures notified by AVAS are granted in the context of SC MAT SA Craiova's privatization. The company shall benefit from the facilities provisioned in the presentation dossier and in the shares sale-purchase contract, respectively facilities for the payment of certain obligations unpaid to the state's consolidated budget, the local budgets and towards AVAS.

(7) The level of the facilities for the payment of certain unpaid obligations granted based on the Law no.137/2002 and GEO no.40/2002 is the following:

Table no. 1 Facilities granted to SC MAT SA Craiova

No. Crt.	Facility	Granted sum (ROL) and the granting period	Legal basis	Facility's objective
1.	Exemption from the payment of the unpaid obligations towards the state budget	21,984,112,514 2004-2009	Law nr.137/2002	VAT, tax on profit, special funds
2.	Exemption from the payment of the interests and penalties related to the obligations owed to the state budget	47,178,544,727 2004-2009	Law nr.137/2002	VAT, tax on profit
3.	Exemption from the payment of the moratorium prejudices owed to AVAS	695,325,864 2003-2004	Law nr.137/2002	Interests and penalties related to the dividends unpaid in time
4.	Exemption from the payment of the majorities and penalties related to the local budget obligations	514,960,000 2004-2009	Law nr.137/2002	Fees and local taxes
5.	Exemption from the payment of the interests related to the rescheduling for the payment of the obligations unpaid towards Craiova Local Council	1,074,322,136 2004-2009	Law nr.137/2002	Fees and local taxes
6.	Postponement for a future exemption of the delay interests and penalties	2,885,765,000 2009	Law nr.137/2002	Interests and delay penalties
	Total	74,333,030,241		
7.	Annulment of the penalties and delay majorities for the social security budget	82,384,014,867	EGO nr.40/2002	CAS
8.	Annulment of the penalties and delay majorities for the unemployment security budget	7,059,888,618	EGO nr.40/2002	Contribution to the unemployment securities
	Total	89,443,903,485		
	General Total	163,776,933,726		

Source: The notification form and supplementary information

3. THE BENEFICIARY OF THE FINANCIAL SUPPORT MEASURES

(8) The beneficiary of the financial support measures granted by the state is SC MAT SA Craiova.

(9) SC MAT SA Craiova is a joint stock company, at the privatization date with shareholders equity of ROL 73,882,500 thousand, divided in 2,955,300 shares with a face value of ROL 25,000. The company was established by re-organizing the Factory of Tractors and Field machineries (ITMA) Craiova, according to the Law no.15/1990 and the GD no.1296/1990.

(10) This company's history starts in 1878 when it was established the first workshop for manufacturing and repairing field machineries, branch office of the firm Clayton-Shussliworth from England. The workshop develops in 1883 by the association with the Austro- Hungarian firm Richard-Graepel and, subsequently, in 1910, by building up new workshops, including an ironwork and a coke factory. By the nationalization, in 1949, of the workshops for manufacturing and repairing field machineries, the State Factory „7 Noiembrie” was established. By the Decree CS no.299/1976, which approves the establishment of a new location, the Factory of Tractors and Field machineries Craiova is established.

(11) The company was privatized in 2003, by signing the shares sale-purchase contract no.12/25.04.2003, concluded between APAPS (subsequently named AVAS) and SC AUTOCORA SRL Alexandria, the shareholders' structure after the privatization being presented in table no. 2.

Table no. 2 SC MAT SA Craiova's shareholders' structure after the privatization

SHAREHOLDERS	CAPITAL HOLDINGS	
	Number of shares	Percentage held in the equity (%)
SC AUTOCORA SRL Alexandria	1,941,873	65.71
SIF Oltenia	574,222	19.43
Other shareholders	439,205	14.86
Total	2,955,300	100.00

Source: The notification form

(12) SC MAT SA Craiova's main activity object consists in designing, producing and commercializing machines, installations, equipments and tool-machineries, tractors and their accessories, trailers, forged and molded parts, different constructions and workings, including services and technical assistance.

(13) The production process is 90% integrated for ploughs and field machines and approx. 45% for tractors (engines, electric and hydraulic equipment and rubber accessories are supplied by other companies).

(14) The geographical market is represented by the entire Romanian territory. The manufactured products are almost entirely designated for the domestic market.

(15) The main production capacities are carried out in two industrial halls: one industrial hall for manufacturing field machines and tractors' assembly, and the other one for converting, pressing, forging and casting activities. The company owns laminated storehouses, warehouses, interior and exterior areas for storing finished products and

spare parts, centre for selling finished products, bridges and cranes for loading products, a railway expedition line serving only the factory.

(16) SC MAT SA Craiova produces and commercialises the following products: plough harrow with disks, air seeding machines, seeding machines for strowy grains, growers, machines for spreading chemical fertilizers, field tractors of 45 bhp, field tractors of 195 bhp, industrial tractors with front charger of 45 bhp, tractors with front charger of tank trailers 195 bhp, tank trailers for fuel of 1.8 and 3.6 tons. Besides these products, the company also makes additional activities and services, the most representative being the following:

- forged and molded parts;
- different orders for third persons;
- spare parts for field machines and tractors;
- main repairing for tractors.

(17) SC MAT SA Craiova was designed according to the specific and the demands of the centralised agriculture existing before 1989 and taking into account the specialised collaboration within COMECON. The company's designed capacity mainly represents:

- 17,600 tractors, the equivalent of TIH 445 DH and
- 30,000 ploughs, the equivalent of PP3-30.

(18) The company is located within an industrial area (the East area of Craiova County), having access to the railway and all the facilities specific for an integrated industrial complex: thermo- and electrical power plant, warehouses for raw materials, workshops for production and assembly, research department, repairing and maintaining workshops, warehouses for finished products, personnel training and administrative group centre.

(19) The present number of employees of SC MAT SA is 523, from which 393 workers. During 2001 – 2003, the average number of employees decreased from 837 persons in 2001 to 651 persons in 2003, due to the decrease of the demand for field machineries and tractors. We mention that in 1989 the company had 5,409 employees.

(20) The economic- financial results registered by SC MAT SA Craiova, based on the data from the balance sheets in the last three years before the privatization are the following:

Table no. 3 The economic- financial results based on the data from the balance sheets

2001	2002	2003
Turnover (thousand ROL)		
180,479,140	168,982,986	130,903,778
Profit/Loss (thousand ROL)		
+5,076,484	-60,233,610	-11,728,216

Source: The notification form

As it results from the above data, SC MAT SA's turnover drops from one year to another and the result of the financial exercise shows losses.

4. DESCRIPTION OF THE PRIVATIZATION PROCEDURE

(21) In order to privatize SC MAT SA Craiova, APAPS brought to sale by negotiation based on improved and irrevocable final offers, the main shares package owned by the state at SC MAT SA, publishing in the media from Romania, on 22 March 2002, „The shares’ sale offer based on improved and irrevocable final offers”. For participating at privatization, 5 presentation dossiers were bought and 4 buying offers were submitted by SC CONFERO SRL Craiova, SC LEMAR INVESTMENT SRL Bucuresti, SC A1 IMPEX SRL Cluj Napoca, Mr. Abou Chama Ousama – natural person. As none of the investors submitted the participation documents in accordance with the Romanian legislation in force and with the demands from the presentation dossier, they were rejected from the negotiation, and the privatization procedures were re- started. The same 4 possible buyers answered at the second advertising. During the negotiation process APAPS noticed that SC MAT SA had not included in its equity the value of the investments made from the sums received from budgetary. When assessing the structure of the shareholders after the privatization, by including in the equity the investments made from budgetary allocations, it resulted that the investor would have become a small shareholder, due to this increase. Therefore, the negotiation procedure was stopped. Subsequently, by the decision of the Management Board of APAPS, it was decided to increase the capital of SC MAT SA and the privatization process was re-started.

(22) SC MAT SA Craiova was under the special administration by the Order no.5 of 08.04.2002.

(23) The next bidding at privatization stage started with the advertising made in the Romanian printed media (the newspaper „Bursa”, in a local newspaper), internet and by announcing at APAPS’ headquarters. Two presentation dossiers were bought by SC CONTACTOARE SA Buzau and SC AUTOCORA SRL Alexandria, a buying offer being submitted by SC A1 IMPEX SA Cluj Napoca, SC CONTACTOARE SA Buzau, SC FERMIT SA Ramnicu Sarat (submitting the offer together) and SC AUTOCORA SRL Alexandria.

The negotiation Commission gathered on 28.01.2003 at APAPS’ headquarters, to open and verify the participation documents, found out that the bidders met the legal conditions in force and those requested by APAPS in the presentation dossier and decided to admit both bidders to the negotiations, from now on the negotiations being carried out based on the technical and financial offer submitted.

(24) During the negotiation sessions carried out during 28.01.2002 – 24.04.2003, the negotiation Commission requested to the bidders to improve their initial offers, from the point of view of the price on share as well as of the volume of the investments assumed by the bidders and improving the submitted business plan.

(25) On 23.04.2003, the bidders SC A1 IMPEX SA Cluj-Napoca, SC CONTACTOARE SA Buzau and SC FERMIT SA Ramnicu Sarat, which have submitted together the

buying offer, have withdrawn from the negotiations, saying that they have changed the firm's investment strategy.

(26) The bidder SC AUTOCORA SRL Alexandria, presented the final, improved and irrevocable offer, registered in the protocol closed on 24.04.2003, as follows:

Table no.4 Final offer, improved and irrevocable, presented by SC AUTOCORA SRL

	The offer from SC AUTOCORA SRL
Participation guarantee	ROL 4,000,000,000
Price	
Per share	ROL 15,490
Per package	ROL 30,079,612,770
Investments	
Technological	Euro 1,100,000
Environmental	Euro 20,000
Working capital	Euro 10,000

Source: The notification form

(27) The shares sale-purchase contract was closed on 25.04.2003, and the transfer of the ownership right took place on 26.09.2003. The economic concentration made when SC AUTOCORA SRL Alexandria acquired the main share package from SC MAT SA Craiova was notified to the Competition Council and authorised by the Decision no. 301 from 01.07.2003.

5. THE RELEVANT MARKETS ON WHICH SC MAT CRAIOVA ACTS

(28) SC MAT SA Craiova is acting on the markets for producing and commercializing machinery, installations, equipments and agriculture tools, tractors and accessories for them, trails, forged and molded parts.

(29) SC MAT SA was designed, from the production capacities' point of view, according to the specific and demands of the centralised agriculture existing before 1989 and to the specialised cooperation within the COMECON bloc. In 1989 were produced 5,545 ploughs, 1,454 fertilizer machines, 947 tank trailers of 3.6 tons and 1,588 tractors. The market shares owned by the company in 1989 are the following:

Table no. 5 SC MAT SA Craiova's market shares before 1990

	Ploughs	Tractors of high power (180 bhp)	Tank trailers	Hydraulic tractors	Fertiliser machines
Market share	98	100	100	100	100

Source: The notification form

(30) After 1990, SC MAT SA's market shares seriously decreased, due to the disappearance of the COMECON market, as well as of the application of the provisions of the Law no.18/1991 on land.

(31) SC MAT SA Craiova annexed to the restructuring plan a market study made by the assessing company IPCMG SA. In it the following aspects were assessed:

- Functional production capacities existing on the domestic market;
- Domestic market's trends for the following 5 years;
- Evolution of the prices on the domestic and external market of field machines.

(32) At present, according to the market study, SC MAT SA's market shares are the following:

Table no.6 SC MAT SA's market shares during 2001 – 2003

Product's name	2001		2002		2003	
	Measure unit	Value (mil. ROL)	Measure unit	Value (mil. ROL)	Measure unit	Value (mil. ROL)
Tractors	58	41,286	84	60,445	137	43,157
% from the turnover	22.9		35.7		33	
Market share (%)	1.1		1.5		1.5	
Ploughs	1925	34,422	950	21,895	613	14,000
% from the turnover	19.1		12.9		10.7	
Market share (%)	65.6		51		55	
Harrows	758	29,316	486	26,376	378	18,512
% from the turnover	16.2		15.6		14.1	
Market share (%)	22		26		26	
Seeding machines	491	27,346	178	13,962	160	11,247
% from the turnover	15.2		8.3		8.6	
Market share (%)	11.4		16.0		16.5	
Cultivators	204	6,733	124	5,820	83	5,729
% from the turnover	3.7		3.4		4.4	
Market share (%)	18.1		21		22	
Fertilizing machines	464	7,901	251	12,573	164	7,242
% from the turnover	4.4		7.4		5.5	
Market share (%)	81		80		81	

Source: The notification form

(33) The market shares owned by SC MAT SA's main competitors are the following:

Table no.7 Market shares owned by SC MAT SA's main competitors

Nr. Crt.	Group of products	Competitor	- % -
			Market share
1	Ploughs	Mecanica Ceahlau Piatra Neamt	20
		SUMA Bailesti	4
		SEMBRAZ Sibiu	8
		IMUM Medgidia	2
		INSTIRIG Bals	2
2.	Harrow with disk	Mecanica Ceahlau Piatra Neamt	25
		SUMA Bailesti	10
		SEMBRAZ Sibiu	5

		MULTIM Timisoara	3
		INSTIRIG Bals	5
3.	Air Seeding machine	Mecanica Ceahlau Piatra Neamt	73
		SUMA Bailesti	5
		MULTIM Timisoara	4
4.	Seeding machine for strawy grains	Mecanica Ceahlau Piatra Neamt	73
		SUMA Bailesti	5
		MULTIM Timisoara	4
		INSTIRIG Bals	2
5.	Cultivators	Mecanica Ceahlau Piatra Neamt	50
		SEMBRAZ Sibiu	4
		SUMA Bailesti	5
		MULTIM Timisoara	4
		INSTIRIG Bals	2
6.	Machines for spreading chemical fertilizers	Mecanica Codlea	3
		Mecanica Ceahlau Piatra Neamt	4
		MULTIM Timisoara	2
		INSTIRIG Bals	4
7.	Field tractors of 45 bhp	Tractorul UTB Brasov	98
8.	Remorci cisterna pentru combustibili	UM Marsa	60

Source: The notification form

(34) SC MAT SA's main customers are:

Table no.8 SC MAT SA Craiova's clients

[...]*

Source: The notification form

(35) From the market study annexed to the restructuring program, it results that, during 2000 - 2002, the imports of tractors increased, based on the maintenance of an approximately constant level of the domestic production. The production, respectively Romania's imports of tractors are as follows:

Table no.9 The production and import of tractors during 2000 – 2002

- pieces -

	2000	2001	2002
Number of tractors produced in Romania	5,398	5,272	5,504
Number of imported tractors	2,624	4,669	5,223
Total	8,022	9,941	10,727

Source: The notification form

(36) From the analysis within the market study it results that in 2003 the export of tractors increased just with 3% compared with the year 2002, while the imports increased with 65.48%. The export - import balance is more balanced in 2003, when the imports of tractors are only 2 times higher than the exports, slightly with 2002 when they were 3 times higher.

* Confidential data

6. THE RESTRUCTURING PROGRAM

(37) The state aid is granted for SC MAT SA Craiova's restructuring and its return to viability.

(38) In order to overcome the company's difficult situation, a restructuring program was elaborated for the period 2004-2009, together with the Buyer and AVAS.

(39) SC MAT SA Craiova prepared a restructuring program enclosing organizational and management measures, technical and technological measures, environmental measures, social restructuring and financial measures, all measures requiring a total financial effort estimated at ROL 333,452.31 mil.

(40) In brief, the measures enclosed in the restructuring plan are as follows:

Table no. 10 Summary of the measures enclosed in SC MAT SA's restructuring plan
[...]*

Source: SC MAT SA Craiova's restructuring program

6.1. Organizational and management restructuring

(41) The organizational and management restructuring encloses the following measures:

Table no. 11 Organizational and management restructuring

- mil. ROL -

Measure	Time limit	Implementing effort	Financing		State aid
			SC MAT SA's own sources	Buyer's sources	
Re-locating and grouping of the areas for the manufacture of field machinery and tractors, tool engineering and maintenance. Re-designing and simplifying the technological manufacturing fluxes for the spare parts.	31.12.2006	2,400.00	2,400.00	-	-
Unused assets' loaning	15.03.2009	100.00	100.00	-	-
Selling land and fixed assets taken out of use or unused according to the provisions of the legislation in force	2004-2009	100.00	100.00	-	-
TOTAL		2,600.00	2,600.00	-	-

Source: SC MAT SA Craiova's restructuring program

(42) Re-organizing the technological lines as well as their grouping and separation offer the possibility for a better division of the management costs on groups of products, so that the costs would reflect the reality, with a direct impact on the selling price and the

* Confidential data

products' quality. After the re-organizing and grouping actions, a large part from SC MAT SA's assets is being taken out of use. The technological lines for commercial manufacturing are to be totally re-organised, this taking out of use over 200 tool-machines and installations which are to be sold. Their taking out of use aimed for two objectives: correlating the production volume with the sales volume, as well as the decrease of internal costs generated by their maintenance and repairing. The assets taken out of use by SC MAT SA, consisting in industrial halls, administrative buildings, storehouses, warehouses, platforms, barns, etc. will be leased or sold.

6.2. Technical and technological restructuring

(43) [...]*

(44) [...]*

6.3. Restructuring measures for environmental protection

(45) [...]*

6.4. Financial restructuring

(46) At privatization, the company needed financial restructuring to function within the normal parameters of the production activity, among the other restructuring measures assumed in the restructuring plan.

(47) For SC MAT SA Craiova, the financial restructuring encloses exemptions and the postponement of certain obligations due and not paid to the state budget, the local budgets, the budget of social security and the unemployment security budget, as well as exemptions from the payment of increases and delay penalties related to the non paid obligations, facilities granted based on the Law no.137/2002 and the GEO no. 40/2002, in total amount of ROL 163,776,933,726.

(48) By its restructuring plan, the company realistically sized its sources for financing the restructuring in the immediate future period, on one hand based on its own sources, and on the other hand based on the Buyer's funds insuring technological and environmental investments absolutely necessary for carrying out the activity.

(49) The restructuring plan, through its financial restructuring component, gives the possibility to increase the cash-flow, insuring a stable cash-flow, which will relieve and ease the company's financial activity. This way the company will be able to pay its current debts to the state and to allocate the liquidities necessary for making the necessary and planned investments, in order to develop and sustain the production program for the future.

* Confidential data

* Confidential data

* Confidential data

(50) The financial restructuring encloses the following measures:

Table no. 14 **Financial restructuring measures**
[...]*

Source: SC MAT SA Craiova's restructuring program

6.5. Social measures

(51) According to the provisions enclosed in the Collective employment contract, in case of collective dismissals, SC MAT SA will bear three net average salaries per company, for a three months period for each dismissed employee. The social measures enclosed in the restructuring program are presented in the following table:

Table no. 15 **Social measures** - mil. ROL -

Measure	Time limit	Implementing effort	Financing		State aid
			SC MAT SA's own sources	Buyer's sources	
Compensatory payments borne by the company for the dismissed personnel	2004	2,344.60	2,344.60	-	-
TOTAL		2,344.60	2,344.60		

Source: SC MAT SA Craiova's restructuring program

7. THE STATE AID CHARACTER OF THE NOTIFIED FINANCIAL SUPPORT MEASURES

(52) The criteria to assess whether a measure represents state aid are provided for under art. 2 (1) of Law 143/1999 on State aid, republished. According to the Law, "State Aid" represents any measure of support from the State or from the local administrative authorities, or from the resources of the State or of the local administrative authorities, regardless of its form, that distorts or threatens to distort competition, through favouring certain undertakings, the production of certain goods or the provision of certain services or affects the trade between Romania and the Member States of the European Union is considered incompatible with a normal competition environment.

(53) The financial support granted to SC MAT SA, notified by AVAS, consists in the State giving up to the obtaining of some revenues, therefore involves State resources.

(54) The financial support measures granted in the basis of the provisions of the Law no. 137/2002 on certain measures for accelerating the privatization, with the subsequent amendments and completions, address only to those undertakings to be privatised, and between them is also SC MAT SA. Therefore, the financial support granted to SC MAT SA has a selective character.

* Confidential data

(55) By the granted financial support measures an economic advantage is created for SC MAT SA, the company being exempted from the payment of certain debts towards its budgetary and commercial debtors, as well as from the payment of the interests and delay penalties related to the unpaid budgetary obligations. Granting these facilities has a favourable effect on the economic- financial indicators and on those of the cash-flow. This way, the company is conferred an advantage, as it is favoured in comparison with its competitors.

(56) Granting the financial support to SC MAT SA creates the premises for a possible distortion of the competition on the relevant markets, as the company is allowed to maintain these markets. At the same time, there is no doubt that the financial support granted to SC MAT SA may affect the trade with the Member States of the European Union, as the products manufactured by the company compete, mainly on the Romanian market, with similar products manufactured by firms from the European Union.

(57) In conclusion, the financial support measures are considered state aids and fall within the scope of the Law no. 143/1999 on the state aid, republished.

8. ASSESSMENT OF THE STATE AID

(58) Art. 2 in the Law no. 143/1999 on the state aid, republished, provides that the aids granted by the state or from state resources which distort or threaten to distort the competition and affect the trade with the Member States are incompatible with the normal competitive environment.

(59) The Competition Council assessed the state aid granted to SC MAT SA, according to the criteria provided in the *Regulation on the state aid for rescuing and restructuring firms in difficulty*, published in M.O. no.1215/17.12.2004, issued in the application of the Law no. 143/1999 on state aid, republished. In order to be considered as compatible with the normal competitive environment, the state aid must fulfil all the criteria from the above mentioned regulation.

8.1. SC MAT SA's eligibility – firm in difficulty

(60) In order to benefit from state aid under the regulation on aid for rescuing and restructuring, the firm must be in difficulty. The definition of a firm in difficulty is provided in Art. 2 of the Regulation on aid for rescuing and restructuring. 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.

a) Decrease of the turnover

Table no. 16

- thousand ROL -

Indicator	2001	2002	2003
Turnover	180,479,140	168,982,986	130,903,778
Consumer price index in the present year	100.0	122.5	141.2

compared to 2001			
Turnover in comparable prices	180,479,140	137,945,295	92,708,058

Source: The notification form

From the above presented data it can be seen that SC MAT SA's turnover, expressed in the current prices of each year, are continuously decreasing. Furthermore, analysing the turnover's evolution in comparable prices, it can be seen that it dropped by half compared to the level registered in 2000.

b) Company having losses

As showed at paragraph 20, from the analysis of the profit loss account it results that the company registered losses in 2002 and 2003. These losses amounted ROL 60.2 billion in 2002, when the losses were higher than the company's equity and ROL 11.7 billion in 2003. In 2001 SC MAT SA registers profit, but this profit is due to the fact that the accounting system from 2002 allowed that the majorities and delay penalties related to the debts unpaid to the state budget to be posted in off balance sheet accounts.

c) Stock increase

Table no. 17

- thousand ROL -

Indicator	2001	2002	2003
Stocks	47,096,248	76,648,385	129,139,512
Turnover	180,479,140	168,982,986	130,903,778
Stocks' rotation speed = Total stocks/turnover x 360 days	93.94	163.29	355.15

Source: The notification form

d) The indebtedness degree

The indebtedness ratio, calculated as a ratio between the total debts and own capital is the following:

Table no. 18

- thousand ROL -

Indicator	2001	2002	2003
Total debts	160,324,402	222,010,322	267,239,632
Equity	96,373,497	36,139,887	38,686,117
Indebtedness ratio (%)	166.36	614.31	690.79

Source: The notification form

The increase of the debts towards the budgetary creditors in term of debts, interests, penalties, as well as of other debts towards suppliers and banks, have led to the decrease of the company's own capital, as these are considered costs from operating activity and influenced in a negative manner the gross result of the company's activity generating losses.

(61) From the analysis of the indicators presented it can be concluded that, in the assessed period, the company was in difficulty, according to art. 2 in the Regulation on the state aid for rescuing and restructuring firms in difficulty.

8.2. The causes leading to the situation of “firm in difficulty”

(62) SC MAT SA Craiova was designed from the point of view of the production capacities according to the specific and the demands of the centralized agriculture existing before 1989, as well as according to the specialized cooperation that existed within the COMECON bloc.

(63) In 1989, SC MAT SA Craiova produced 5,545 ploughs, 1,454 fertilizer machines, 947 tank trailers of 3.6 tons and 1,588 tractors. On that date, SC MAT SA had 5,409 employees and produced over 98% of the ploughs used in Romania, 100% of the tractors of high power, tank trailers, hydraulic loader tractors and machines for administrating the chemical fertilizers requested by the domestic market. On the COMECON market it exported during 1975 – 1989 approx. 17,600 hydraulic loader tractors as well as other field machines.

(64) The changes incurred after 1989, the application of the Law no. 18/1991 on the land fund, based on which the agricultural lands were returned to their old owners, as well as the fall of the COMECON market rapidly diminished the company’s market. The great large agricultural exploitations were replaced, within a relatively short period of time, with a huge number of owners of small agricultural areas, excessively divided, structurally and unable to produce more than for their own needs. Over 80% of the land fund was atomized in approximately 40 million lots, leading to the dramatic decrease of the accumulation and investment capacity. The small owners of agricultural lands don’t have the financial means to purchase the equipments necessary for processing the returned land areas. Within this context the company’s traditional market changed its structure, SC MAT SA, as other companies, producers of field machines, needing a restructuring of the products’ offer and a re-orienting towards equipments specific for the agriculture on small areas.

(65) Under the impact of this context, the company’s financial situation allowed only its economic survival, the investments in new technologies and licenses being practically non-existent. This way, in 2001 SC MAT SA’s production represented only 14.4% from the production of 1989 and the personnel number represented 15% from that registered in 1989.

8.3. THE COMPANY’S RETURN TO LONG TERM VIABILITY

(66) The difficulties the company met after 1989 have led to the serious decrease of activity, as well as of the employee number, at the same time with the accumulation of certain debts towards the state budget to which, in time, were added majorities and delay penalties exceeding the value of the debts themselves.

(67) In 2003, SC MAT SA was privatized. A restructuring program was elaborated for the period 2004- 2009, together with the Buyer (SC AUTOCORA SRL Alexandria) and AVAS, in order to surpass the difficult situation the company is in. The synthesis of the measures enclosed in SC MAT SA Craiova' restructuring plan was presented in Chapter 6.

(68) The analysis of the restructuring plan and of the manner in which it will lead to the return to SC MAT SA's long term viability takes into account the provisions of art. 13 in the Regulation on the state aid for rescuing and restructuring firms in difficulty.

(69) According to art. 13 in the Regulation on the state aid for rescuing and restructuring firms in difficulty, granting a state aid for restructuring is conditioned by the implementing of the restructuring plan which is the base for the assessment made by the Competition Council regarding the state aid. The restructuring plan, whose duration is shortest possible, must enclose the giving up to the activities producing losses and to insure the company's return to long term viability, allowing it to function with its own resources. The restructuring plan must be based on a realistic assessment of the market conditions, the return to viability must result mainly from the internal measures it encloses, as well as from the taking into consideration of the external factors such as prices' and demand's fluctuation, factors upon which the company has no important influence.

(70) SC MAT SA's restructuring plan starts from the technical- economical data reflecting the company's activity in the period prior to privatization. The plan was prepared based on a diagnosis analysis showing the company's strong and weak points, the circumstances leading to the company's difficulties.

(71) SC MAT SA's strategy aims to preserve the strong points, namely: the recognised tradition and competence in designing and manufacturing field machines, good public image of the firm as well as of its products, well known and appreciated in Romania, the existence of their own department for constructive and technological designing assisted by computer, the existence of a national distribution network, the certificate of the quality management system ISO 9001, a good proportion quality- price for the manufactured products, well structured technological lines and flexible production capacities, advantage location in relation with the communication ways, insuring in an optimized regime of all utilities, appropriate storage spaces equipped according to the company's needs, well trained personnel. At the same time, SC MAT SA's strategy aims to limit and fight back with the appropriate measures the weak points, such as: the loss of traditional markets due to the disappearance of the COMECON market, small farmers confronted with the lack of financial means for acquiring field machines leading to the decrease of solvable demand on the market, large size and management insufficiently adapted to the demands of a market economy, lack of subsidies from the State for agriculture, competition from the importers of field machines of a higher quality.

(72) The main restructuring measures of SC MAT SA are the following:

- The reorganization of technological flows which could lead to reduction of non-productive surfaces from the interior of halls and selling by auction the disposable tangible assets. Following the reorganization and grouping a large part of SC MAT SA' assets are being disposed. The series production technological lines are to be completely reorganized, which will lead to shutting down of over 200 equipments and installations, which will be sold afterwards;
- Endowing with new equipments of the remaining production capacities, as follows: new generation electrical and electronically equipments, modern painting and welding accessories, 2D or 3D displays, modernizing the gear-cutting capacities, etc;
- Correlating the number of equipments and personnel with the production program;
- Re-adapting the production program to the market requirements by assimilating new products, e.g. tractors of 200 bhp MATRAC, long-line version, a new tractor generation of 45 bhp with several improvements and a modern ergonomic cabin, performing machines for soil preparation (reversible plough, high capacity seeder);
- Modernizing the series production lines, by purchasing new performing equipments for a superior productivity and high accuracy;
- Reorganizing the company on profit and administrative centres.

(73) Following the implementing of the restructuring plan, the company intends to reach the viability through:

- Carrying on the production activities according to the request on the market;
- Improving the products quality;
- Reducing the production costs and reaching competitive prices, and thus a more secure and diversified market;
- Intensifying the marketing activities in view to find new clients and suppliers, diversifying distribution channels.

(74) An improvement of the economic and financial data is envisaged by enforcing the restructuring measures to which the company and the buyer will contribute with own resources and the State with facilities granted for budgetary obligations payment, between 2004-2009, as follows:

Table no. 21 The forecasted evolution of the economic and financial data, following the implementation of the restructuring measures

[...]*

Source: Restructuring plan of SC MAT SA

(75) Following the implementing of the restructuring measures, at the end of the restructuring period the company forecasts reaching the following data:

Table no. 22 Economic and financial target indexes

1. Net profit	ROL mill.	42,050
2. Turnover	ROL mill.	370,000

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3. Employees	pers.	560
4. Equity	ROL mill.	453,088
5. Recovery period of receivables	days	59.35
6. Debt payment period	days	37.17
7. Debts level	%	8.43
8. Economic rentability	%	9.05
9. Financial rentability	%	9.28
10. Cash flow	ROL mill.	1,000

Source: Restructuring plan of SC MAT SA

(76) Considering the above presented data, the Competition Council considers that the proposed restructuring plan shall lead to reaching the viability on long term at SC MAT SA Craiova.

8.4. Belonging to a group

(77) According to the provisions of art. 2(5) of Regulation on State aid for rescue and restructuring firms in difficulty, a company belonging to a group is not eligible to receive State aid for rescue and restructuring, except for the case it can demonstrate that the difficulties are its own and do not result from an arbitrary allocation of costs within the group and that they are too difficult to be overcome by the group.

(78) The fiscal facilities intended to be granted to SC MAT SA refer to old debts – the effect of the economic results from the years previous to selling the majority stake; thus, they are related to the company.

(79) As a result of the privatization process and conclusion of sell-purchase contract, the new owner of SC MAT SA Craiova is SC AUTOCORA SRL Alexandria holding 65.71% of share capital.

(80) After privatization, the company has been integrated into a group of companies made out of the following companies:

- SC AUTOCORA SRL Alexandria – the buyer of shares, having as main activity the trade with parts and accessories for auto vehicles, tractors and agricultural machineries and equipments;
- SC AGROMECA SA Draganesti – company to which SC AUTOCORA SRL owns 52.059% of shares, having as main activity the trade with solid fuels;
- SC PULSOR SA – company to which SC AUTOCORA SRL owns 10.17% of shares, having as main activity the production of parts for vehicles and tractors;
- SC TRANSURBANA SA Rosiori – company to which SC AUTOCORA SRL owns 87.389% of shares, having as main activity the urban transport of persons;
- SC ISLAZ SA Alexandria – company to which SC AUTOCORA SRL owns 51% of shares, having as main activity the production of equipments used for the processing of food, beverages and cigarettes.

(81) Following the privatization, SC MAT SA Craiova has joined a group of firms connected to each other by their shareholders. There is no connection through the

consolidated balance sheet. As previous demonstrated, the difficulties of SC MAT SA are not a result of arbitrary allocation within the group, as these were accumulated before the privatization. Also, the payment facilities for the budgetary debts of SC MAT SA have been comprised in the privatization offer of the company; the privatization took into account these facilities. According to the privatisation offer made by APAPS, these facilities were to be granted to MAT SA regardless of the identity of the share package's Buyer, these being included in the Presentation Dossier made available for all the possible bidders.

(82) The economic-financial situation of the members of the group of which SC MAT SA became a part of after privatisation, is the following:

Table no. 23 **The economic-financial situation of the members of the group**
- mil ROL -

Group	Turnover in 2002	Net profit in 2002
AUTOCORA SRL	317,905.237	30,850.741
TELEORMANUL SA	13,036.546	537.607
PULSOR SA	188,784.061	3,024.253
TRANSURBANA SA	4,590.925	140.284
AGROMEC Draganesti	401.336	3.918
ISLAZ Alexandria	13,211.244	-1,301.977

Source: Supplementary Informations

(83) SC MAT SA debts during 30.09.2003 – 30.09.2004 period are presented as follows:

Table no. 24 **The situation of SC MAT SA's debts**
- mil. ROL -

	30.09.2003	31.03.2004	30.09.2004
Total debts	231,727.849	271,810.521	301,227.168

Source: Supplementary Informations

(84) According to the above presented facts, on the date of SC MAT SA's acquisition by SC AUTOCORA SRL Alexandria, the economic- financial results of the companies within the group, consisting in a net cumulated profit of ROL 33,854.826 million did not allow the coverage of SC MAT SA's debts amounting ROL 231,727.849 million. Contracting some loans to cover the company's debts towards the state budget would have led to a high indebtedness ratio unbearable for the group.

(85) The main shareholder - SC AUTOCORA SRL – allocates all resources to finance the technological and environment investment plan undertaken through the privatisation contract, as well as for its own contribution. Thus, the buyer shall allocate from its own resources ROL 75,727.55 million to revamp technology ROL 822.45 million for environment investments and ROL 4,100.00 million infusion in working capital, as compared to the debts towards the state budget at privatization which were of ROL 163,777.00 mil.

8.5. Preventing the excessive distortion of competition

(86) According to the provisions of the Regulation on State aid for rescue and restructuring firms in difficulty, in view of minimizing as much as possible the negative effects of granting State aid on competition on the relevant markets, compensatory measures must be taken. These measures shall be proportional to the distorting effects of the aid and, especially, to the size and importance of the company on the relevant markets. Reducing the presence on the market of the company shall be established based on the market study annexed to the notification, as well as on other relevant information and shall be integrated in the restructuring plan.

(87) SC MAT SA has substantially reduced its market shares, due to the serious change of the conditions on the relevant market. Thus, from a share market of 98% for the production of ploughs before 1990, at present the company has only 55%. Also, on the other markets where the company had a 100% market share before 1990, at present it has just 1.5% market share for the tractors, 16.5% for seeders and 26% for harrows. This market presence reduction is a result of the decrease of request for its traditional products, as well as of the increase of imports for agriculture equipments and machineries of high quality and does not constitute compensatory measures taken by the company in order to diminish the distorting effects of the state aid over competition. The reduction of functioning capacities as compared with the projected capacity carried out by the company prior to privatization is presented below:

Table no. 25

Functioning capacities in 2002

- pieces-

	Projected capacity	Functioning capacities in 2002
Tractors	17,500	195
Ploughs	30,000	2,000
Fertilisers	2,500	525
Disk harrows	730	525
Seeding machines	730	490

Source: Supplementary Informations

(88) The ratio of functioning capacities utilization between 2000-2002, is the following:

Table no. 26

Ratio of functioning production capacities utilization between 2000-2002

Product	Projected capacity (pieces)	2000			2001			2002		
		Cap. in funct.	Production	Usage degree (%)	Cap. in funct.	Production	Usage degree (%)	Cap. in funct.	Production	Usage degree (%)
Tractors	17,500	195	51	26.2	195	64	32.8	195	86	44.1
Ploughs	30,000	2,000	736	36.8	2,000	1,952	97.6	2,000	955	47.8
Fertilisation equipments	2,500	500	244	48.8	525	503	95.8	525	228	43.4
Combiners	730	400	215	53.8	525	509	97.0	525	202	38.5
Seeders	730	400	252	63.0	490	472	96.3	490	220	44.9

Source: Supplementary information

(89) In order to diminish the negative effects of the granting of the state aid on the competition, during the application of the restructuring plan, the company will reduce functioning production capacities, as follows:

[...]*

(90) After enforcing the restructuring measures, the production capacities and their usage degree, shall be as follows:

Table no. 27 **Usage degree of production capacities between 2004 – 2009**

[...]*

Source: Supplementary information

(91) The reductions of production capacities at SC MAT SA are irreversible. Out of these, parts were operated prior to privatization, and the others are integrated in the restructuring plan as compensatory measures.

(92) Through the restructuring plan, SC MAT SA Craiova envisages the improvement of the usage degree of production capacities. Thus, the usage degree of production capacities is to increase from approximately 45% in 2002, to approximately 95% in 2009.

(93) The measures undertaken by the company in order to reduce production capacities are the following:

- Closing down the production activity at Hall „Objective 40”;
- Activity reduction in Halls „Objective 2” and „Objective 3”;

(94) Closing down the activity at Hall „Objective 40”, whose total area is 54,587 sqm., shall lead to the disposal and sale of the built areas. At the same time, this shall lead to the disposal of an important number of equipments, component part of the whole asset. The situation of the equipments which are to be disposed following the closing down of „Objective 40”, presented by AVAS, indicates a number of 153 equipments with an accounting value of ROL 2.9 billion. The total accounting value for „Objective 40” is ROL 23.9 billion. These irreversible capacity reductions are integrated in the restructuring plan.

(95) As it can be observed from *Table no. 27*, the company did not set as target in the restructuring plan to reduce the production capacities for fertilizers, disk harrows and seeding machines. The company intends to maintain them during the entire period of the application of the restructuring plan at the level of 2004, in order to reach viability parameters. Having in view the market shares of SC MAT SA for these products and the estimated evolution of economic and financial indicators following the implementation of the restructuring measures presented in *Table no. 21*, coupled with the ratio of production capacities utilization, the Competition Council considers that the evolution of the economic - financial indicators proposed by the company following the application of the

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restructuring measures will not be affected by a 30% reduction of the fertilizing machines' production capacities, with 20% for the harrows with disks' production capacities and 15% for the seeders' production capacities.

(96) The Competition Council considers that due to the imposed compensatory measures, SC MAT SA will not increase its market share. At the same time, from the market study annexed to the notification it results that for the next 5 years SC MAT SA's competitors will be much better represented on the domestic market, having the necessary technological capacities and resources. According to the restructuring plan, SC MAT SA will own, at the end of the restructuring period, the following market shares:

Table no. 28 SC MAT SA's market shares at the end of the restructuring period

	Ploughs	Harrows	Seeders	Fertilizing machines	Tractors
Market shares	43	20	12	43	0.8

Source: SC MAT SA's restructuring plan

The decrease of the market share for the products manufactured by SC MAT SA can be explained by the forecasted increase of imports, which already started to be observed on the Romanian market. Now the potential demand of agricultural technique highly exceeds the solvent demand, due to the agricultural producers' lack of financial resources. For the future it is forecasted an increase of the market of tractors and agricultural machineries together with a strong increase of imports, motivated by the following factors: the intensification in financing the investments in agricultural technique from EU sources (SAPARD programs, Phare etc.), the approval of the Law on the rural credit for investments and the development of the credits market, the intensification of exchanges of agricultural land between owners, with the purpose to develop economical efficient agricultural exploiting etc. Therefore, the state aid's granting will not lead to the increase of SC MAT SA's market share.

(97) According to the above presented facts, the Competition Council considers that the State aid shall be used only with the purpose of restoring the viability, without being possible for the beneficiary to extend its production capacities, during the restructuring period.

8.6. AID LIMITED TO THE MINIMUM

(98) 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 company's and the shareholders' existing financial resources. The state aid's beneficiary must have a significant contribution to the restructuring plan, from its own resources, including from selling assets which are not essential for the company's survival, or from external financing taken under market conditions. According to the provisions of art.15(2) of the Regulation, for large undertakings, a contribution of at least 50% is considered as appropriate.

(99) The total cost of SC MAT SA Craiova's restructuring is ROL 333,452.31 million including the following:

- organizational restructuring cost	ROL 2,600.00 mil.
- technological restructuring cost	ROL 92,477.55 mil.
- environmental restructuring cost	ROL 822.45 mil.
- financial restructuring cost	ROL 235,207.71 mil.
- social restructuring cost	ROL 2,344.60 mil.

(100) [...]*

(101) [...]*

(102) SC MAT SA's own contribution, amounting ROL 89,025.31 million for covering the restructuring costs is insured from the following:

- assets' sale, amounting ROL 29,430.71 mil.;
- contracting a loan to provide working capital. The loan is not guaranteed by the state being contracted under market conditions, with the Buyer's guarantee. The loan's amount is ROL 38,000.00 million;
- revenues from lease of available premises within the company, amounting ROL 2,500.00 million;
- recovering receivables and sale of inventories, in amount of ROL 2,344.60 million;
- depreciation amounting ROL 16,750.00 million.

(103) The state aid's intensity, calculated as ratio between the state aid's value and the total cost of restructuring is of 49.1%.

(104) With regard to the presented facts, the Competition Council considers as significant the contribution of SC MAT SA, i.e. 50.9%, to sustain the restructuring costs, this showing the commitment in the restructuring's practical value and the fact that the state aid's value and the intensity were limited strictly to allow the restructuring according to the company's and the main shareholder's existing financial resources. This way it is avoided that the company would receive an excess of liquidities to be used for aggressive activities, distorting the market.

8.7. FULFILMENT OF THE "ONE TIME, LAST TIME" PRINCIPLE

(105) [...]*

(106) The budgetary allocations having as beneficiary SC MAT SA Craiova were not notified to the Competition Council and therefore, according to the art.4 in the Law no. 143/1999 on the state aid, republished, represent illegal state aid.

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(107) According to the data from the company's balance sheets, SC MAT SA registered losses during the period in which it benefited from the previously mentioned investments budgetary allocations. As a result, in accordance with the provisions from the art.1 para.(4) and art. 5 para.(2) letter.b) in the Regulation on the regional state aid, a firm in difficulty cannot benefit from investment aid. The investment aid granted to a firm in difficulty shall be assessed according to the provisions of the Regulation on the state aid for rescue and restructuring firms in difficulty.

(108) Taking into account that these budgetary allocations are not related to the implementation of a restructuring plan to insure the SC MAT SA's return to viability, which must be based on a market study enclosing complete and documented information on the situation on the relevant markets, as well as the evolution of these markets, the Competition Council considers that the conditions for the authorization of the restructuring state aid, provisioned in Chapter II in the Regulation on the state aid for rescue and restructuring firms in difficulty are not fulfilled, the aid being incompatible with a normal environment, according to art. 2 para. (3) in the Law no. 143/1999 on the state aid, republished.

(109) [...]*

(110) [...]*

(111) [...]*

8.8. Monitoring and annual reporting

(112) Under art. 17 of the Regulation on the 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 that were set.

(113) 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.

9. CONCLUSIONS

(114) Taking into account the above presented facts, the Competition Council ascertains that the state aid intended to be granted to SC MAT SA Craiova is compatible with the normal competitive environment and does not significantly affect the trade with the Member States of the European Union.

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DECIDES

Art. 1. The measure notified by the Authority for Capitalizing the State Asset for SC MAT SA Craiova constitutes state aid for the purposes of Article 2 align. (1) in Law 143/1999, republished.

Art. 2. Under Article 21 align. 2 letter. (c), corroborated with Article 23 align. 1 letter. (e) of Law 143/1999, republished, we authorize the state aid for restructuring to be granted to SC MAT SA Craiova, provided that the conditions under Articles 3, 4 and 5 of this decision is met.

Art. 3. The restructuring state aid shall be granted after the company repays the state aid received during 2000-2003, amounting ROL [...]*, together with the related interests.

Art. 4. The company is bound to implement in whole the restructuring program to which it has committed.

Art. 5. The company will reduce its production capacities until 2009 according to the assumed Restructuring Plan, respectively by [...]* for tractors and [...]* for ploughs. Also, the company will reduce production capacities by [...]* for fertilizers, [...]* for disk harrows and [...]* for seeding machines until 2009.

Art. 6. If the conditions imposed by the present decision are not met, the provisions of art. 22 in the Law no. 143/1999 on the state aid, with the subsequent modifications and completions shall be applied.

Art. 7. The value of the state aid which is to be granted is of ROL 163,776,933,726.

Art. 8. This Decision is applicable as of the date when communicated.

Art. 9. Under Article 32 of Law 143/1999, republished, 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

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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. 10. According to the provisions of art. 46 of the Law no. 143/1999 on state aid, republished, the present Decision may be appealed by concerned persons before the Bucharest Court of Appeals, the Administrative Litigation Section, in 30 days from its communication.

Art. 11. 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;
- SC MAT SA Craiova, Str. Decebal, nr. 7, Craiova, Dolj County, post code 200746.