



FORMAL OPINION

On the State aid measures enclosed in the Closing Plan of the un-competitive coal mines belonging to the National Company of Coal Petrosani S.A.

By analyzing the following:

Draft of Government Emergency Ordinance on the approval of a State aid to facilitate the close down of the un-competitive mines within the National Company of Coal Petrosani SA for the period 2011- 2018

and

The standard notification form for the State aid measures enclosed in the Closing Plan of the un-competitive coal mines belonging to the National Company of Coal Petrosani S.A. (CNH Petrosani) which were submitted by the Ministry of Economy, Trade and Business Environment by the address no. 3366/16.08.2011, registered at the Competition Council with no. RG 11800/18.08.2011, in order to receive a formal opinion

and

ascertaining that:

1. At present, CNH Petrosani has in function 7 underground mining excavations with technical and economical results presenting significant differences from one unit to another, an exploitation for preparing the coal and a main station for mining rescue. At the level of CNH Petrosani it was made an analysis in order to rank the mining excavations, in order to limit those production units to be closed down for good.
2. Thus, based on this analysis it was decided to maintain in activity 4 mining excavations having a viability potential (EM Livezeni, EM Vulcan, EM Lonea, EM Lupeni) following that other 3 mining excavations (EM Paroseni, EM Petrila, EM Uricani) to be considered in a final closing down programme that will also benefit from State aid.
3. The closing Plan for these three mining excavations encloses two different categories of State aid, namely:
 - a) closing aid – amounting a total of 784,094 thousand RON;
 - b) aid for exceptional costs – amounting 421,650 thousand RON.The financing source for the support measures is the state budget.

4. The closing Plan was elaborated with the fulfillment of the criteria stipulated in the Council's Decision from December the 10th 2010 on the State aid for facilitating the close down of un-competitive mining excavations (2010/787/EU).

Specific conditions for the close down aid:

- Are covered the losses related to the current production of the coal production units;
- Are aimed only the coal production units active on 31.12.2009 which shall be definitely closed down by 31.12.2018;
- It wouldn't be exceeded the difference between the predictable production costs and the predictable income for a coal year;
- The aid shall not lead to a price of the coal inside the European Union lower than the price of coal of a similar quality form third countries;
- The aid is digressive and does not exceed, for any year subsequent to 2010 the amount granted to CNH Petrosani in 2010;
- A plan of measures was set up to diminish the impact of the coal produced by the units to be closed down on the environment.

Specific conditions for the aid for exceptional costs:

- Are covered only the costs resulted from the close down of the coal production units not related to the current production, namely:
 - Exceptional costs, including those related to the supply of a coal quantity, for free, for the workers losing their job;
 - The cost with the workers' professional reconversion;
 - Supplementary works to ensure the underground safety;
 - Costs related to the re-habilitation of the old mining excavations;
 - Costs for re-cultivating the surface soil.
5. CNH Petrosani shall keep exact and distinct accountability on types of activities for the units to benefit from State aid.
6. The notification is completed in accordance with the standard forms enclosed in Annex I to the Regulation (EC) no. 794/2004 implementing Council Regulation (EC) no. 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty, with the subsequent modifications and completions.

COMPETITION COUNCIL

Based on the *Competition Law no. 21/1996, republished* and on art. 8 recital (1) of the *Government Emergency Ordinance no. 117/2006 on the national procedures in the State aid field, approved with modifications and completions by the Law no. 137/2007*,

ISSUES FORMAL OPINION

For the State aid measures enclosed in the Closing Plan for the un-competitive mining excavations from CNH Petrosani to be notified to the European Commission.