

PROJECT FICHE FOR PHARE 2006

for

COMPETITION

PHARE 2006/018-147.03.05

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1. Basic Information

1.1. CRIS Number:

PHARE 2006/018-147.03.05

1.2. Title:

Effective application of the EU antitrust and State aid legislation

1.3. Sector:

Internal Market

1.4. Location:

Competition Council, Bucharest - Romania

1.5. Duration:

18 months

2. Objectives

2.1. Overall Objective

Effective, correct and proactive enforcement of the EU antitrust and State aid legislation.

2.2. Project purpose

Enhancing and consolidating the enforcement of the EC legislation on antitrust and State Aid and further advocacy of the relevant rules among interested actors;

Further developing the information infrastructure of the Competition Council as to ensure its functioning consistent with the European Union structures.

2.3. Accession Partnership (AP) and NPAA priority

In the *2005 Comprehensive Monitoring Report*, the European Commission states that “Romania is generally meeting the commitments and requirements arising from the accession negotiations in the **antitrust** area and is expected to be in a position to implement the *acquis* in this area as of accession. In completing preparations for membership, Romania must continue to develop a track record of enforcement of the anti-trust legislation.

Romania must increase efforts to meet the commitments and requirements arising from the accession negotiations in the **state aid** area. In order to complete preparations for membership, Romania must maintain continued efforts to develop the Competition Council’s enforcement record and to improve the quality of state aid decisions, notably with regard to the proper assessment of aid measures. In order to reach a satisfactory enforcement level, it is furthermore crucial that the Competition Council continues with the assessment of existing aid measures.

Finally, Romania has to ensure that all state aid projects become subject to a strict state aid control by the Competition Council. Major continued efforts are therefore required to ensure ex-ante notification of all new aid measures in relation to restructuring cases, payment deferrals and measures in connection with privatisation.”

In the Annex to the 2005 Comprehensive Monitoring Report, the EC further recommends:

- “To ensure effective control by the Competition Council (the Romanian Competition Authority) of any potential State aid, including in relation to State aid foreseen by means of deferrals of payments to the State budget of fiscal or social liabilities or deferrals of liabilities related to energy supply.
- To strengthen the State aid enforcement record without delay and to ensure a satisfactory enforcement record in the areas of both anti-trust and State aid thereafter.
- To fully respect the commitment not to grant or pay any State aid to the steel mills covered by the National Restructuring Strategy from 1 January 2005 to 31 December 2008 and to fully respect the State aid amounts and the conditions regarding capacity reductions to be decided in the context of Protocol 2 on ECSC products to the Europe Agreement.
- To continue devoting adequate financial means and sufficient and adequately qualified human resources to the Competition Council.”

2.4. Coherence with National Development Plan

Not applicable

2.5. Cross Border Impact

Not applicable

3. Description

3.1. Background and justification:

Taking over the actual reform in the EU State aid acquis

In December 2005, at the initiative of the Competition Council, the Government approved a Memorandum on the need to elaborate a National State Aid Policy Paper and established a high level working group responsible for the completion of this policy document.

In January 2006, the aforesaid Group organised its first meeting headed by the Competition Council President and the Deputy Prime minister responsible for the coordination of the economic activities. The Group has continued to meet each two weeks as it gathered the Competition Council experts and representatives of the State aid grantors (14 granting ministries/authorities).

The State Aid Policy Paper, submitted for recommendations to the European Commission at the beginning of March 2006 was welcomed as regards the initiative of the Competition Council and the remarks were already taken into account. This document indicates the **Competition Council as the most suitable authority to takeover the responsibility of the Commission's "contact point"**). The next step is the approval of the Policy Paper by the Romanian Government in the near future.

It is to be underlined that during the fact-finding mission of 21st of March at the Competition Council's premises, the National Policy on State Aid was presented to the experts from DG Competition.

The general State Aid Policy objectives are:

- increase the competitiveness of the undertakings;
- reduce development disparities between the Romanian and EU economy, as well as reduce socio-economic disparities between the Romania's regions;
 - efficient allocation of the resources by concentrating on achieving national development objectives;
- ground the State aid policy on a refined economic analysis of the State aid impact;
- efficient application of the *acquis communautaire*.

The State Aid Policy Paper shall cover at least the period 2007-2013 and could be periodically revised depending on the legislative and economic developments that take place in Romania and at EU level.

Upon accession, the responsibility for State aid authorization shall pass from the Competition Council to the European Commission. However, in the context of an enlarged Europe, the Member States are starting to play an increasing role in the enforcement of the State aid rules.

In June 2005, the EU Commission issued a State aid Action Plan as a Roadmap for State aid reform during 2005-2009. The State aid Action Plan provides that:

"In the context of enlargement, the screening of state aid measures was conducted by operationally independent monitoring authorities in the new Member States. This has been a valuable experience which should be taken into account when considering further cooperation between the Commission and all Member States. In this context, the Commission will examine whether independent authorities in Member States could play a role as regards facilitating the task of the Commission in terms of state aid enforcement (detection and provisional recovery of illegal aid, execution of recovery decisions)."

Furthermore, the State aid Action Plan indicated that the Commission is expected to consider establishing a network of State aid authorities or contact points in the Member States in order to facilitate the flow of information and exchange of best practices. The Commission also encouraged the EU countries to provide high quality State aid notifications.

In line with these elements, after accession, the Romanian Competition Council shall continue to have an active role in the State aid field by:

- Assisting the aid grantors in elaborating adequate State aid notifications;
- Closely cooperating with the Commission as Romania's contact point on State aid issues. This is to be put as a conditionality of the project as well, since the future attributions of the Council are not yet set up by a piece of legislation.

As concerns the future support to be provided to the grantors in elaborating high-quality notifications, the Competition Council is already assisting these institutions, offering them permanent technical expertise. The Competition Council case-handlers assist the aid grantors and the Romanian research institutes in elaborating complete and correct notifications. The purpose of this cooperation is to maintain an active network of communication between the competition authority and all aid grantors/initiators enabling an adequate flow of specific information on State aid – general information, as well as exact information regarding various cases finalised by the Competition Council.

Furthermore, the Competition Council continued to organise the monthly meetings of the Inter-ministerial working group on State aid, as a follow up of the previous Twinning projects. The main aim of the Group is to consolidate the dialogue between the competition authority and the line ministries and its debates are focused on the aspects such as:

- elaboration of notification;
- consistent enforcement of the State aid rules;
- particular cases analysed by the competition authority.

In the context of this intense dialog developed in the State aid area with the line ministries, the Competition Council put into practice a new initiative: the organization of specialized meetings between the competition inspectors and the grantors' representatives. Within the meetings organised at the grantors' headquarters, the Competition Council case-handlers present specific aspects on the connections between the State aid legislation and the particular nature of the activities performed by the line ministries.

Moreover, the Competition Council should assist the management authorities and intermediary bodies with attributions in implementing the EU structural funds in Romania after accession. This assistance aims at encouraging the management authorities to elaborate future operational programs in line with the State aid policy objectives.

Competition Council is to a large extent ready to cope with its State aid attributions after accession. Therefore, one could note that the national competition authority has been already developed into a contact point on State aid issues in the relation with the Commission and this position should be further consolidated with the support of all stakeholders.

Latest developments in the antitrust area at EU level

The new antitrust culture in the EU requests Romania to set in place all the necessary instruments in order to be able to take over and effectively apply the new legislation, by the enforcement authorities and companies. A special accent will fall on preparing the capacity of the Romanian legal experts and judiciary to work under these new conditions.

The Competition Council should be a mature institution at the date of accession, capable to be part to the European system and to operate according to some completely new attributions and procedures.

The Competition Council has to set up an adequate internal structure which should relate to the EU similar institutions and to the Member States' European Competition Network (network operational starting with mid 2004). The first step

in creating the IT network was achieved by 2002 Phare Programme. But it needs **links, activities and structures for ensuring the working relations** with the European Commission and the Member State's competition authorities within the European Competition Network.

At the accession date, the experts of the Competition Council, including the newly hired staff, both at central and territorial level, the experts of the state aid units within state aid granting institutions and judges must be **capable to efficiently apply the EU rules and legal procedures**. Thus, a clear definition of the procedural rules of competition and state aid areas in a flexible, clear and easy to apply way are needed, together with their enforcement. Continuing the training of the upper mentioned target groups to this regard will be a necessity.

Currently, the Romanian legislative framework on antitrust and state aid area is in line with the acquis, but, after the date of accession, it is obviously necessary to transpose the EU secondary legislation, which is not directly applicable for Member States.

Therefore the experts need to acquire further efficiency and competence in applying the new state aid and competition policy and rules, particularly those parts applicable after the date of accession (Regulation 1/2003, the leniency policy in case handling within the ECN, the State aid regulations amended according to the latest priorities of the European Commission settled in the State Aid Action Plan). Training in this respect should be mainly envisaged as up until present no such assistance was provided for the Romanian experts.

Competition and state aid advocacy is further required in order to increase the awareness of the business and legal community, public institutions, university environment, public at large about the discipline in these areas. Since there is a gap of experience in the application of the competition discipline, the **economic operators must be prepared for the self evaluation system under the Regulation 1/2003 – abolishment of notification**.

In 2006, the new institutional structure and the enforcement capacity have to be assessed and improved in order to be prepared to make the transition for the integration into the EU structures, in the context of new and substantial EU changes concerning these structures. The EU assistance is further needed both for increasing the new settled administrative capacity and for improving the enforcement record, in order to become a credible and active partner within the European Competition Network after accession.

Further promotion of competition principles and rules in certain economic sectors represents a complex process where a **qualified assistance** based on the **EU experience** is necessary for raising the awareness, especially with regard to the consequences of non-observing the discipline in the field.

Over the recent years, the improvement of the Competition Council activity towards becoming a credible and strong institution among European competition authorities helped Romania to achieve significant progress in this field enabling the closure of the accession negotiations on the competition policy chapter in December 2004 and avoiding the activation of the safeguard clause.

Though the accession negotiations have been concluded, the Romanian competition authority is determined to enhance its current efforts and fully reach EU standards upon the accession date.

3.2. Sequencing

No Project will be split up. The Twinning is depending on the conclusion of the 2004 Twinning Project (October 2007), as it is designed as a continuation.

3.3. Results

3.3.1 Twining

3.3.1.1 Purpose 1

- Enhancing and consolidating the professional skills of the antitrust and State aid experts, as to ensure the functioning of the Competition Council (CC) in the ECN and the enforcement of the EC legislative State Aid reform programme;
- Further enhancing the awareness and understanding of the competition and State aid principle and rules amongst the judiciary environment, professional and commercial associations, academic environment, media and public at large;

3.3.1.2 Results:

A. Competition Component

Training and assistance

- EU secondary legislation and new regulations adopted and proactively enforced;
- the Competition Council staff trained on the application of the new antitrust procedural rules (application of the EC Regulation no. 1/2003 and Regulation 139/2004 on mergers);
- Competition experts specialized on sector investigation according to art. 17 of EC Regulation no. 1/2003 ;
- Increase use of investigative tools (dawn raids and forensic evidence) by the Competition Council experts

Competition Advocacy

- judges from national courts (administrative and commercial sections) trained in EC practice and ECJ (European Court of Justice) case law in the application of Art, 81 and 82;
- Business environment and lawyers trained in the correct application of the antitrust rules;
- Media, academic communities and NGOs aware of the importance of the antitrust rules;
- Booklets on the Competition Council's activity published and disseminated amongst business, media, academic communities and NGOs;
- Relevant knowledge available for the competition experts through the electronic library up-dated with relevant electronic information (legislation, publications, cases studies).

B. State Aid Component

Training and assistance

- The Competition Council will act and proper function as the interface between the EC and the national State aid grantors, having attributions in:
 - Elaborating and sustaining Romania's position as regards the national State aid policy;
 - providing consultancy to the State aid grantors in elaborating notifications;
 - analysing notifications from the national State Aid grantors before their submission to the EC;
 - coordinating the submission of the notifications to the European Commission;
 - Elaborating Romania's contribution to the EU State Aid Scoreboard according to the EU requirements.
- The secondary legislation deriving from the EC legislative State Aid reform programme adopted and efficiently applied (SMEs, employment, training, R&D, regional and environment);
 - Improved investigation and control skills of the Competition Council staff as regards State aid recovery and monitoring the observance of the criteria settled in the State Aid decisions;
 - Improved the ability of the Competition Council staff to effectively prepare for negotiations (to better sustain Romania's National Policy on State aid within the EU Structures) and their capabilities to influence and networking at EU level.

State Aid Advocacy

- Latest developments in the State aid field disseminated amongst the interested parties;
- Judges trained in EU rules and practice on state aid cases;
- Media, public administration and academic communities informed about the importance of the State aid reform's principle: less aid better targeted;
- Booklets on the Competition Council's activity and policy published and disseminated to State aid grantors/initiators;
- Electronic library up-dated with relevant electronic information (legislation, publications, cases studies).

3.3.2. Investments

3.3.2.1 Purpose 2

Further development of the information infrastructure of the Competition Council as to ensure its functioning consistent with the latest changes in the European Union structures.

3.3.2.2. Results:

Information infrastructure (IT, non IT, database and software) completed and up-dated for functioning within the ECN and other EU links; end users and IT experts trained to efficient and correct administer and use the equipment and software; the competition experts and IT experts trained on how to collect electronic information during dawn raids.

3.4. Activities (including Means)

3.4.1. Twinning Project

A. Competition Component

Training and assistance

- Assistance for transposing the EU secondary legislation in the Romanian legislation, which is not directly applicable for Member States;
- Assistance and training for the CC staff on the procedural rules of the co-operation between Competition Authorities within the European Competition Network, established through EC Regulation no. 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty and Regulation no. 139/2004;
- Assistance and training for specialization of the Competition experts to survey the main economic sectors from the competition point of view (market inquiries/sector investigation), in order to prevent the most serious infringements of antitrust rules;
- Assistance and training for effective application of the leniency policy;
- Assistance for conducting dawn raids and collecting forensic evidence;
- Training for the Competition experts oriented towards improving the economic analysis of the mergers and antitrust cases.

Competition Advocacy

- Advising the National Courts on how to, cooperate with the MS counterpart, in the application of the EC competition legislation, and providing the Romanian judges concrete cases from the ECJ case law;
- Improving the private enforcement of antitrust rules (oriented towards lawyers, business environment);
- Increasing public awareness on competition issues of national and local journalists, academic communities and NGOs;
- Elaboration and publication of booklets – market surveys of the main economic sectors; latest developments on antitrust field in the EU; presentation of the Competition Council activity on antitrust and its involvement in the Romanian and EU economy;
- Up-dating the electronic library with relevant electronic information (legislation, publications, cases studies).

B. State Aid Component

Training and assistance

- Assistance for effective functioning of the Competition Council as an interface between the EC and the national State aid grantors, having attributions in analysing notifications from the national State Aid grantors, providing consultancy to the State aid grantors in elaborating the notifications and coordinating their submission to the European Commission.
- Training for the Competition Council experts and State aid grantors in order to apply the developments and the new criteria settled in the EU State Aid policy, further to the State Aid reform 2005 – 2009, namely:
 - strengthening the economic approach to state aid analysis by focusing and targeting certain state aids towards Lisbon Strategy objectives;

- ensuring a more transparent evaluation of the distortions to competition and trade associated with state aid measures, especially by analysis of market failure;
- applying a unitary and transparent system, applicable after accession, for keeping, at national level, an evidence of the observance of conditions mentioned in the State aid decisions, and of provisions in block exemption regulations.
- Assistance for the Competition Council to improve the National State aid policy and to sustain it at EU level as well as to elaborate Romania's contribution for the EU State Aid Scoreboard;
- Assistance and training on conducting investigations, control actions and State aid recovery in view of monitoring the observance of the criteria settled in the State Aid decisions;
- Assistance and training for the application of the new EU regulations on block exemptions (SMEs, employment, training, R&D, regional and environment);
- Assistance for the Competition Council staff.

State Aid Advocacy

- Further advocacy campaign for the administrative bodies, juridical, business and academic communities in order to observe/be aware of the latest developments in the State aid field
- Lectures for National Courts for the application of the EC State Aid legislation
- Increasing public awareness on State Aid issues for national and local journalists
- Elaboration and publication of booklets –latest developments on State Aid field in the EU; presentation of the Competition Council activity on State Aid.
- Up-dating the electronic library with relevant electronic information (legislation, publications, cases studies)

3.4.2. Investment

- Completion of the information infrastructure (IT, non IT, database and software) to:
 - Ensure the compatibility of the Competition Council IT network with the European Competition Network
 - Ensure the proper functioning of the Competition Council IT network, both at central and local level;
 - Secure the IT system, taking into account the data confidentiality
 - Ensure the transition from paper documents to electronic documents
 - Provide integrated communication services (audio and video conferences, Voice over IP) between HQ and local inspectorates, between HQ, ECA and ECN.
- Training of the end users and IT experts for administering and using the equipments and software
- Training of the competition experts and IT experts to collect electronic information during dawn raids

3.5. Linked Activities:

The Competition Council benefited of assistance granted through **Phare/REPEDE Programme 9303/10/03/03** oriented towards the Council's

regulatory activity and the completion of the basic secondary competition legislation, as well as the State Aid Law drafting.

It also benefited of assistance granted through **Phare Program no. RO99.06.02**. It included a Twinning component - “Effective enforcement of competition and State aid policy”, and an investment one. The project consisted in: revision of existing Romanian secondary legislation in the antitrust field and adoption of new regulations and guidelines particularly in the area of horizontal and vertical agreements which are aimed *inter alia* at streamlining the enforcement process, reducing notification requirements and increasing the focus of the enforcement action on the most harmful antitrust violations, scrutiny of the existing Romanian secondary legislation in the State Aid field and adaptation to the *acquis communautaire*; adoption of new regulations and guidelines in line with EC legislation, support to the accession negotiations between Romania and the European Union with regard to State Aid provisions.

Competition Council has benefited from assistance through **Phare Programme 2002/000-586.04.02**. The main activities implemented have been: completing the legislative framework, ensuring a proper enforcement through a solid training on the newly transposed and/or amended legislation for the competition and state aid experts of the Competition Council and for the staff of the state aid grantors and regulatory agencies), creation and improvement of the data base and internal network; finding solutions for the provisional closure of the Chapter 6 of negotiations in 2004; developing the competition and state aid culture and discipline; designing a simplified RIA mechanism. It aimed at setting up a form of cooperation in the form of national network (ministries, regulatory national agencies, universities, economic research institutions, national organizations and associations from the legal and business environment, the members of parliamentary commissions etc.) for the promotion of competition and state aid rules, legislation and discipline.

The project had also developed the internal network of the Council, IT equipment software and licenses have been purchased and a database has been created in order to ensure an efficient exchange of information and to improve the data recording and the reporting on different activities. In July 2005 the information system became operational.

The Competition Council benefited from German assistance on State aid field **during July 2005 – March 2006 within a TAIEX Project**, through monthly working missions of one week. The Project had as purpose the direct and permanent assistance for the specialized directorates of the Competition Council in elaborating the State aid draft decisions.

Within a cooperation with the Department of Trade and Industry from UK, daily assistance was delivered to the Competition Council experts during June 2005-April 2006. The assistance was related to the drafting of state aid decisions, assistance to the CC staff to advice the aid grantors and aid initiators on how to better observe the *acquis* in the field.

Starting with April 2006, a **new Twinning Project** will be implemented for 18 months with 2004 Phare funds. The Project represents a continuation of the last one,

aiming at fulfilling the following objectives: further legislative harmonisation in antitrust and State aid area, enhance the administrative capacity of the Competition Council and further promotion of the competition and State aid culture among the key actors.

3.6. Lessons learned

See Annex

4. Institutional Framework

Competition Council is the sole **autonomous body with regulatory competences and investigation powers in the field of competition and state aid policy.**

After 2007, the State aid authorization activity will be handed to the EC but, the Competition Council will function, as the national coordinator with attributions in analyzing notifications from the national State Aid grantors, providing consultancy to the State aid grantors in elaborating the notifications and coordinating their submission to the European Commission. The State Aid Law is under revision, aiming at amending the Competition Council attributions after accession and being focused on institutional framework, State aid recovering procedures, inventorying, reporting and monitoring procedures to be applied at national level.

Implementing Authority

Competition Council

Contact person Ms. Doina Ion Tudoran, director

Address Casa Presei Libere, P-ta Presei Libere no. 1, Bucharest, tel: 4021 317 11 58, fax: 4021 318 26 11, e-mail: competition@consiliulconcurentei.ro

5. Detailed Budget

Twinning contract

	Phare/Pre-Accession Instrument support	Co-financing			Total Cost
€M		National Public Funds (*)	Other Sources (**)	Total Co-financing of Project	
Year 2006 Institution Building support	1,00	0,25***		0,25	1,25
IB support	1,00	0,25		0,25	1,25

Investment Contract

	Phare/Pre-Accession Instrument support	Co-financing			Total Cost
€M		National Public Funds (*)	Other Sources (**)	Total Co-financing of Project	
Year 2006 - Investment support jointly co funded	0,50	0,20		0,20	0,70
Investment support – sub-total	0,50	0,20		0,20	0,70
% of total public funds	<i>max 75 %</i>	<i>min 25 %</i>			
Total project 2006	1,50	0,45		0,45	1,95

The Co-financing will be provided by the Romanian Competition Council.

(*) contributions from National, Regional, Local, Municipal authorities, FIs loans to public entities, funds from public enterprises

(**) private funds, FIs loans to private entities

(***) parallel co-financing

6. Implementation Arrangements

6.1. Implementing Agency

The Central Finance and Contracts Unit (CFCU) will be the implementing Agency and as such be responsible for all procedural aspects of the tendering process, contracting matters and financial management (including payments) of the project activities.

Contact: Central Finance and Contracts Unit (CFCU)

Director (PAO): Mrs Carmen ROSU

Mircea Voda Street, nr. 44

Bucharest, Romania

Phone: 0040 21 326 55 55

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6.2.Twinning

Implementing Authority:

Competition Council

Contact person Ms. Doina Ion Tudoran, director

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The Romanian partner will provide:

- Adequate human resources to implement the twinning project together with the twinning partner;
- All the facilities which are necessary for the smooth implementation of the twinning (office, computer, printer, telephone, access to internet, etc.);
- Funds to cover any travel costs of the Romanian authorities in the context of training or seminars or study visits, if any.

6.3. Non-standard aspects

The PRAG and Twinning Manual will be strictly followed.

6.4.Contracts

There will be 2 contracts, as follows:

Twinning contract, 18 months (January 2008- June 2009), 1,25 ME

Supply, 10 months (November 2007 – August 2008), 0,65 ME

7. Implementation Schedule

TWINNING

Designing: July – September 2006;

Contracting: September – November 2007;

Implementing: January 2008- June 2009

INVESTMENTS:

Designing: September – December 2006

Contracting: June – September 2007;

Implementing: November 2007 – August 2008

7.1. Start of tendering/call for proposals

Twinning – September 2007

Investment – June 2007

7.2. Start of project activity
Twinning - January 2008
Investments – November 2007

7.3. Project completion
June 2009

7. Equal Opportunity

The technical nature of the project makes possible equal participation of women and men provided that they show the relevant qualifications. It should be noticed that Competition Council female staff does not suffer from discrimination when considering their relative weight in upper or middle management.

8. Environment

Not Applicable

9. Rates of return

Not Applicable

10. Investment criteria

11.1. Catalytic effect

Without Phare assistance, the necessary steps for functioning at the EU standards would be jeopardized.

11.2. Co-financing

For both Contracts (Twinning Contract and Investment Contract), the Co-financing will be provided by the Romanian Competition Council.

For the Twinning Contract, the Romanian co-financing will be provided through parallel co-financing, as mentioned in the Twinning Manual.

For the Investment Contract, the Romanian co-financing will be joint.

The National Co-financing will cover the costs of the infrastructure necessary for MS experts to carry out their tasks (office space, provision of equipment: computer, telephone, fax etc.), the travel costs for the national experts and the running costs related to the implementation of the project, according to the twinning manual, as well the min. 25% for the Investment Contract.

11.3. Additionality

This project is complementary to the programmes listed under item “Linked activities”. PHARE grants shall not displace other financiers, especially from the private sector or IFIs.

11.4. Project readiness and size

The conditions for the project implementation are ready. The investment funds required by the project implementation comply with minimum project size requirements.

11.5. Sustainability

The beneficiary institution will take responsibility to include the running costs and related maintenance costs in its budget starting from 2007.

The investment will be sustainable in the long term, i.e. beyond the date of accession and will comply with EU norms and standards.

11.6. Compliance with state aids provisions

The foreseen equipments are provided to an administrative body and are not subsidizing any activity that might disrupt any market *equilibrium*.

11. Conditionality and sequencing

In order to ensure the appropriate implementation of the project, the Romanian authorities should be committed to:

- 1) Take all necessary measures so as to ensure that all financial or direct contributions in kind to the present assistance project are put at the disposal of the project at the appropriate moment
- 2) The legislative provisions will be amended until accession date in order to set up the status of CC as a National Competition Authority and National Contact Point on State aid issues.
- 3) Inform the EC Delegation without delay of any situation (structural, political, economical or social), which may interfere with the good implementation of the project
- 4) Adapt without delay national legislation and regulations to fulfil the project aims
- 5) The evaluation of the efficiency of the new structures should be made in 2006.

ANNEXES TO PROJECT FICHE

1. Log frame in standard format for each project
2. Detailed implementation chart
3. Contracting and disbursement schedule, by quarter, for full duration of project
4. For all projects: reference list of feasibility/pre-feasibility studies, in depth ex ante evaluations or other forms of preparatory work. For all investment projects, the executive summaries of economic and financial appraisals, environmental impact assessments, etc, should be attached
5. Reference list of relevant laws and regulations
6. Reference list of relevant strategic plans and studies
7. Lessons learnt

Annex 1 - Logframe

LOGFRAME PLANNING MATRIX FOR Project Fiche		Programme name and number Effective application of the EU antitrust and State aid legislation	PHARE 2006/018-147.03.05
Effective application of the EU antitrust and State aid legislation		Contracting period expires November 2008	Disbursement period expires November 2009
		Total budget: 1,950,000	Phare budget: 1,500,000
Overall objective	Relates to Copehagen criterion and acquis chapter	List of other projects with same objective	
<ul style="list-style-type: none"> • Effective and correct enforcement of the EU antitrust and State aid legislation 	<ul style="list-style-type: none"> • Functioning market economy, capacity to cope with competitive pressure and market forces within the European Union • Chapter 6 “Competition Policy” 	Phare/REPEDE Programme 9303/10/03/03 Phare Program no. RO99.06.02. “Effective enforcement of competition and State aid policy” Phare Programme 2002/000-586.04.02. Phare-2004-Twinning project	
Project purpose - Enhancing and consolidating the enforcement of the EC legislation on antitrust and State Aid and further advocacy of the relevant rules among interested actors; - Further developing the information infrastructure of the Competition	Objectively verifiable indicators a. Competition and state aid experts of the CC (c.a. 250) ready to enforce new EU antitrust and state aid rules by the end of the project b. judges from National Courts (c.a. 50) aware of the new EU antitrust and state	Sources of Verification - Annual Reports of the European Commission in the field - Annual Reports of the CC - Twinning Reports and Interim Evaluation Reports - Reports of the National	Assumptions Information on latest legislative developments spread out efficiently through interested actors;

<p>Council as to ensure its functioning consistent with the European Union structures</p> <p>To be achieved by the following tasks:</p> <p>1. Twinning Project</p> <p>“EU antitrust and State aid legislation”</p> <p>2. Investments</p>	<p>aid rules by the end of the project</p> <p>c. business and academic environment, public institutions, NGOs and media aware of the importance of antitrust and State aid rules for a functioning market economy</p> <ul style="list-style-type: none"> information flow between CC (headquarters and local inspectorates) and European Structures (EC, Competition Authorities within ECN) improved and accelerated in comparison with the status at the beginning of the Project <p>OVI Twinning</p> <ul style="list-style-type: none"> number of assistance and training sessions provided for the competition and State aid experts Campaign for competition and State aid advocacy towards the interested parties <p>OVI Investments</p> <ul style="list-style-type: none"> Terms of reference approved number of items (IT and non IT equipments, software) purchased 	<p>Courts</p> <ul style="list-style-type: none"> minutes of the inter-ministerial working groups on competition and State aid articles on antitrust and State aid issues published <p>CC reports</p> <p>CC website</p> <ul style="list-style-type: none"> Annual Reports of the European Commission in the field Annual Reports of the CC Twinning Reports and Interim Evaluation Reports articles on antitrust and State aid issues published
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	<ul style="list-style-type: none"> - integrated communication services functioning; - data confidentiality ensured; - number of end users and IT experts trained 	<ul style="list-style-type: none"> - Investment Contract; - Report of the Competition Council. 	
Results	Objectively verifiable indicators	Sources of Verification	Assumptions
<p>1. Twinning</p> <p>1. Competition Component</p> <p>1.1. Training and assistance EU secondary legislation and new regulations adopted and enforced; the Competition Council staff fully capable to apply the new antitrust procedural rules (application of the EC Regulation no. 1/2003); Competition experts specialized on antitrust issues of the main economic sectors; Dawn raids conducted by the Competition experts and forensic evidence collected; Improved economic analysis of the mergers and antitrust cases to be used in investigations.</p> <p>1.2. Competition Advocacy Judges trained in theoretical and practical way, resulting in assuring consistent application of the relevant EU competition rules; Business environment and lawyers aware of</p>	<p>OVI purpose</p> <ul style="list-style-type: none"> • Number of legal acts transposing the EU antitrust legislation, published in the Official Gazette; • Number of CC experts trained for applying the new antitrust legislation and procedures; • Number of dawn raids carried out; • Economic analysis elaborated for relevant sectors; <ul style="list-style-type: none"> • Number of training sessions on antitrust issues organized for judiciary; • Number of conferences, lectures and round tables organized for 	<ul style="list-style-type: none"> • Official Gazette • Internal administrative and legislative acts • Reports/evaluations of the twinning team • Monthly bulletins, Road Map on competition, White Paper on competition, Newsletter “Profile: Competition” • CC website 	<p>Access to relevant information from other ministries not restricted</p>

the correct application of the antitrust rules; Media, academic communities and NGOs aware of the importance of the antitrust rules; Booklets on the Competition Council's activity published and disseminated amongst business, media, academic communities and NGOs; Relevant knowledge available for the competition experts through the electronic library updated with relevant electronic information (legislation, publications, cases studies).

2. State Aid Component

2.1. Training and assistance

Specialised Unit within the Competition Council, having attributions in analysing notifications from the national State Aid grantors, providing consultancy to the State aid grantors in elaborating the notifications and coordinating their submission to the European Commission, established and proper functioning; Objectives of the State Aid reform 2005 – 2009 adopted by Competition Council and applied by Competition Council and State aid grantors; Romania's contribution for the EU State Aid Scoreboard

business and academic community, lawyers, media and NGOs;

- Number of booklets published by the Competition Council for disseminating the antitrust rules;
- Number of electronic documents available for internal and third parties use increased with 50%.

- Number of legal acts transposing the EU State Aid legislation, published in the Official Gazette;
- Number of analysed notifications from the national State Aid grantors, number of advises and clarification granted to the State aid grantors
- Number of State aid experts of the Competition Council and State aid grantors trained for applying the new State aid legislation and procedures;

elaborated according to the EU requirements; State Aid decisions observed by the State aid grantors and beneficiaries; New EU regulations on block exemptions adopted and applied.

2.2. State Aid Advocacy

Latest developments in the State aid field disseminated amongst the interested parties; Judges trained in theoretical and practical way for applying the EU State aid rules; Media, public administration and academic communities aware of the importance of the State aid rules; Booklets on the Competition Council's activity published and disseminated; Relevant knowledge available for the State aid experts through the electronic library updated with relevant electronic information (legislation, publications, cases studies).

2. Investments

Information infrastructure (IT, non IT, database and software) completed and up-dated; end users and IT experts trained to efficient

- Number of training sessions on State Aid issues organized for judiciary;
- Number of conferences, lectures and round tables organized for business and academic community, lawyers, media and NGOs;
- Number of booklets published by the Competition Council for disseminating the State Aid rules;
- Number of electronic documents available for internal and third parties use increased with 50%.

- Evaluation of information structure
- Tender documentation
- Investment Contract signed

and correct administer and use the equipments and software; the competition experts and IT experts trained on how to collect electronic information during dawn raids	<ul style="list-style-type: none"> • Number of equipment purchased • New software functions and options introduced in the specific application (for up-dating and improving the application created by Phare 2002 Investment Component) • number of training sessions for end-users and IT experts on how to use the equipments and application • number of training sessions for competition experts and IT experts on how to collect electronic information during dawn raids 		
Activities	Means		Assumptions
1. Twinning Project 1. Competition Component 1.1. Training and assistance a. Assistance for transposing in the Romanian legislation of the EU secondary legislation, which is not directly applicable for Member States. b. Assistance and training for the CC staff on the procedural rules of the co-operation between	<ul style="list-style-type: none"> • Twinning Covenant (RTA, 1 long/medium and 15 short term experts) • Number of draft legal acts elaborated for taking over the EU legislation not directly applicable to the MSs; • Number of Man-days of EU experts for training and assisting CC enforcing the antitrust legislation; 		<ul style="list-style-type: none"> •

<p>Competition Authorities within the European Competition Network, established through EC Regulation no. 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty.</p> <ul style="list-style-type: none"> c. Assistance and training for specialization of the Competition experts to survey the main economic sectors from the competition point of view (sectoral studies), in order to prevent the most serious infringements of antitrust rules d. Assistance and training for effective application of the leniency policy e. Assistance for conducting dawn raids and collecting forensic evidence f. Training for the Competition experts oriented towards improving the economic analysis of the mergers and antitrust cases <p>1.2. Competition Advocacy</p> <ul style="list-style-type: none"> a. Training the National Courts, in order to better cooperate with the MS counterpart, in the application of the EC competition legislation b. Improving the private enforcement of antitrust rules 	<ul style="list-style-type: none"> • Number of CC experts participating at training sessions (workshops, study visits, internships, informal seminars) on very specialized antitrust issues; • Number of relevant market studies elaborated by case handlers; • Number of dawn raids by the end of project; <ul style="list-style-type: none"> • Number of Man-days of EU short/medium term experts for providing lectures and workshops for judges; • Number of lawyers, academic, journalists, NGOs and business 	
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<p>(oriented towards lawyers, business environment)</p> <p>c. Increasing public awareness on competition issues of national and local journalists, academic communities and NGOs</p> <p>d. Elaboration and publication of booklets – market surveys of the main economic sectors; latest developments on antitrust field in the EU; presentation of the Competition Council activity on antitrust and its involvement in the Romanian and EU economy.</p> <p>e. Up-dating the electronic library with relevant electronic information (legislation, publications, cases studies)</p>	<p>environment participating in seminars and lectures;</p> <ul style="list-style-type: none"> • Number of booklets issued by CC on specific antitrust issues; • Number of electronic documents available for the competition experts. 	
<p>2. State Aid Component</p> <p>2.1. Training and assistance</p> <p>a. Assistance for establishing and effective functioning of a specialised Unit within the Competition Council, having attributions in analysing notifications from the national State Aid grantors, providing consultancy to the State aid grantors in elaborating the notifications and coordinating their submission to the European Commission.</p>	<ul style="list-style-type: none"> • Number of experts providing assistance to the State aid Unit in coordinating the submission of the notifications to the European Commission; • Number of draft legal acts elaborated for taking over the EU legislation not directly applicable to the MSs; • Number of Man-days of EU experts for training and assisting CC enforcing the State aid legislation; 	

<p>b. Training for the Competition Council experts in order to cope with the developments in the EU State Aid policy, further to the State Aid reform 2005 – 2009.</p> <p>c. Training and assistance for the State aid experts of the Competition Council and State aid grantors to apply the new criteria in the field according to the EU State Aid Action Plan, namely:</p> <ul style="list-style-type: none"> - strengthening the economic approach to state aid analysis by focusing and targeting certain state aids towards Lisbon Strategy objectives - ensuring a more transparent evaluation of the distortions to competition and trade associated with state aid measures, especially by analysis of market failure - applying a unitary and transparent system, applicable after accession, for keeping, at national level, an evidence of the observance of conditions mentioned in the State aid decisions, and of provisions in block exemption regulations <p>d. Assistance for the Competition Council to elaborate the Romania's contribution for the EU State Aid</p>	<ul style="list-style-type: none"> • Number of CC experts participating at training sessions (workshops, study visits, internships, informal seminars) on very specialized state aid issues (State aid reform); • Number of Man-days of EU short/medium term experts for supporting CC in monitoring the observance of the criteria settled in the State Aid decisions.; • Number of experts participating at workshops on very specialized issues for CC experts at central and territorial level; 		
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<p>Scoreboard</p> <p>e. Assistance and training on conducting investigations, control actions and State aid recovery in view of monitoring the observance of the criteria settled in the State Aid decisions.</p> <p>f. Assistance and training for the application of the new EU regulations on block exemptions (SMEs, employment, training, R&D, regional and environment).</p> <p>2.2. State Aid Advocacy</p> <p>a. Further training for the administrative bodies, juridical, business and academic communities in order to apply the latest developments in the State aid field</p> <p>b. Training sessions for National Courts for the application of the EC State Aid legislation</p> <p>c. increasing public awareness on State Aid issues for national and local journalists</p> <p>d. Elaboration and publication of booklets –latest developments on State Aid field in the EU; presentation of the Competition Council activity on State Aid.</p> <p>e. Up-dating the electronic library</p>	<ul style="list-style-type: none"> • materials elaborated for disseminating the state aid policy • number of judges, representatives of Regulatory Authorities, business community trained on EU state aid rules • Number of electronic documents available for internal and third parties use increased with 50%. 		
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with relevant electronic information (legislation, publications, cases studies)	- Investment Contract signed		
2. Investments			

- Investment Contract signed

Annex 2 - Detailed time implementation chart

	2006						2007												2008												2009													
calendar months	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D		
Activities																																												
TWINNING	D	D	D												C	C	C	C	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I								
INVESTMENT			D	D	D	D							C	C	C	C	C	I	I	I	I	I	I	I	I	I	I																	
	<div>D = Design</div> <div>C = Contracting</div> <div>I = Implementation</div>																																											

Annex 3 - Contracting and disbursement schedule

Project title “Effective application of the EU antitrust and State aid legislation”												
	31/03/ 07	30/06/0 7	31/12/0 7	31/03/0 8	30/06/0 8	30/09/0 8	31/12/0 8	31/03/0 9	30/06/0 9	30/09/0 9	31/12/0 9	
TWINNING						7						
CONTRACTED			1.000									
DISBURSEMENT			0.150	0.150	0.150	0.150	0.150	0.150	0.100			
INVESTMENT												
CONTRACTED			0.5									
DISBURSEMENT			0.3		0.1		0.1					
NB: 1. All contracting should normally be completed within 6-12 months and must be completed within 24 months of signature of the FM. 2. All disbursements must be completed within 36 months of signature of the FM.												

Annex 4 - Reference list of feasibility/pre-feasibility studies

N/A

Annex 5 - Reference list of relevant laws and regulations

ANTITRUST

Primary legislation

In order to fully align to relevant Community provisions, as well as to strengthen the administrative capacity necessary for implementing competition legislation, the Competition Law No. 21/1996 has been amended in two phases.

I. By the Law 184/17.05.2004 (OJ No. 461/24.05.2004) for approving EO 121/2003 *for amending and completing the Competition Law 21/1996*, the amendments refer mainly to:

- Eliminating the overlapping of competencies, generated by the existence of two institutions (the Competition Council, as an autonomous authority, and the Competition Office, as a governmental body), by merging them. The Government has granted the entire responsibility in this field to a single, strong and autonomous institution, non-subordinated politically;
- Removing the obligation to notify block exemptions to the Competition Council, notification that used to generate supplementary costs for the companies concerned, as well as an administrative overloading of the Competition Council;
- Assimilating the staff of the Competition Council, from a financial point of view, to staff in the judiciary field, namely judges and prosecutors. The substantial wage increases allow for strengthening the stability and independence of the competition authority;
- Opinions issued by the Competition Council on the draft normative acts with an impact on competition are mandatory. Thus, the prevailing of the competition legislation over any piece of legislation including anticompetitive provisions is ensured;
- The Competition Council is explicitly provided the possibility to establish, by guidelines, conditions and criteria for implementing a leniency policy, in order to encourage economic operators to cooperate with the Competition Council in view of identifying and sanctioning any severe infringements of the competition legislation;

- Substantially raising fines provided for the infringement of the provisions of the competition legislation. These will be calculated as a percentage of the offenders' turnover;
- Establishing clear prescription deadlines as concerns the right to civil action (extinctive prescription), in accordance with those provided by Community legislation;
- Raising the value ceilings provided under Article 15 of Law 21/1996 from ROL 100 billion to the equivalent of 10 MEURO, so that the Competition Council will only analyse those economic concentrations that, by their extent and effects, may seriously distort competition.
- Reduction the number of the Competition Council Plenum from 10 to 7, appointed based on strict professional criteria by the Romania' s President.

II. In order to transpose the observations of European Commission, DG Competition's experts, the Competition Law no. 21/1996 was amended by the Law no. 538/25.11.2004. The amendments consist in the abrogation of art. 6 e) and of art. 7 (4) that is cutting out an anticompetitive practice, respectively a differentiated regime for the *regies autonomes* and commercial companies with majority state capital as compared to other economic agents.

Secondary legislation

In order to fully transpose the *acquis communautaire*, new Regulations and Guidelines have been adopted, in various fields.

As concerns the application of competition rules in *the transport sector*, the following normative acts have been issued:

- Order No. 78/14.04.2004 (OJ No. 437/17.05.2004) for implementing the Regulation on *granting block exemption for certain categories of agreements, association decisions and concerted practices in the field of maritime transport*, from the prohibition stipulated under art. 5 (1) of the Competition Law, which transposes Regulation no. 823/2000/EEC on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia);

- Order No. 79/14.04.2004 (OJ No. 430/13.05.2004) for implementing the Regulation on *granting block exemption to certain categories of agreements, association decisions or concerted practices regarding the consultation on the tariffs for passengers transport within the air regular services and on the allotting of the slots in the airports*, from the prohibition stipulated under art. 5 (1) of the Competition Law no. 21/1996, as amended by EO No. 121/2003, which transposes Regulation (EEC) no. 1617/93 on the application of Article 85 (3) of the Treaty to certain categories of agreements and concerted practices concerning joint planning and coordination of schedules, joint operations, consultations on passenger and cargo tariffs on scheduled air services and slot allocation at airports.

As concerns the motor vehicle industry, the Competition Council has drafted the Regulation on the application of art. 5(2) of the Competition Law No. 21/1996, as amended and completed by GEO No 121/2003, to vertical agreements in the motor vehicle sector, approved by Order No. 63/29.03.2004 (OJ No. 280/31.03.2004), which transposes Commission Regulation (EC) no 1400/2002 on the application of Art. 81(3) of the Treaty to categories of vertical agreements and concerted practices in the motor vehicle sector.

In addition, the following regulations and guidelines have been adopted and published in the Official Gazette:

- *Regulation on the authorisation of economic concentrations*, approved by Order No. 63/29.03.2004 (OJ No. 280/31.03.2004), which transposes the Commission Notice on restrictions directly related and necessary to concentrations (OJ C 188/04.07.2001) and Commission notice on a simplified procedure for treatment of certain concentration under Council Regulation (EEC) no. 4064/89 (32000Y0729(01));
- *Guidelines on remedies acceptable in case of conditional authorisation of certain economic concentrations*, approved by Order No. 63/29.03.2004 (OJ No. 280/31.03.2004), which transpose the Commission Notice on remedies acceptable under Council Regulation 4064/1989 and Commission Regulation 447/1998;
- *Guidelines on defining the relevant market in order to establish the significant market share*, approved by Order No. 61/26.03.2004 (OJ No. 288/01.04.2004), which transposes the Commission Notice on the definition of relevant market for the purposes of Community competition law;
- *Guidelines in the application of art. 33 of Competition Law No. 2/1996, as amended and completed by EO No. 121/2003, concerning the calculation of the authorisation fee for economic concentrations*, approved by Order No. 61/26.03.2004 (OJ No. 288/01.04.2004);
- *Guidelines on the application of the competition rules to access agreements in the electronic communications sector – general framework, relevant markets and principles*, approved by Order No. 61/26.03.2004 (OJ No. 288/01.04.2004), which transposes the Commission Notice on the application of the competition rules to access agreements in the telecommunications sector –

framework, relevant markets and principles (OJ C 265, 22.08.1998), and of the Communication of the Commission concerning the review, under competition rules, of the joint supply of telecommunications and cable TV networks, by a single operator and the abolition of restrictions on the supply of cable TV service by telecommunication networks (OJ C 71, 07.03.1998);

- *Regulation on the application of tariffs for procedures and services stipulated by the Competition Law and the Regulations issued in its application*, approved by Order No. 61/26.03.2004 (OJ No. 288/01.04.2004);
- *Regulation on the organisation, functioning and procedures of the Competition Council*, approved by Order No. 61/26.03.2004 (OJ No. 288/01.04.2004);
- *Regulation on the application of art. 5 (2) of the Competition Law No. 21/1996 to vertical agreements*, approved by Order No. 68/5.04.2004 (OJ No. 374/29.04.04), which transposes the Commission Regulation 2790/1999 on the application of Article 81(3) of the Treaty to categories of vertical agreements and concerted practices, Council Regulation 1215/1999 amending Regulation 19/65/EEC on the application of art. 85 (3) to certain categories of agreements and concerted practices, Council Regulation 1216/1999 amending Regulation 17/1962 - first Regulation implementing Articles 81 and 82 of the Treaty;
- *Regulation on granting block exemption to specialisation agreements from the prohibition* stipulated in art. 5(1) of the Competition Law no 21/1996, approved by Order No. 68/5.04.2004 (OJ No. 374/29.04.04), which transposes the Commission Regulation No. 2658/2000/EC on the application of Article 81(3) of the Treaty to categories of specialisation agreements;
- *Regulation on the disciplinary regime of the Competition Council's staff*, approved by Order No. 68/5.04.2004 (OJ No. 374/29.04.04);
- *Regulation on finding the minor offences and application of sanctions* by the Competition Council, approved by Order No. 80/14.04.2004 (OJ No. 430/13.05.2004);
- *Regulation on the application of art. 5 and 6 of the Competition Law No. 21/1996, with further modifications and completions, to anticompetitive practices in case of complaints*, approved by Order No. 81/14.01.2004 (OJ No. 430/13.05.2004), which transposes the Draft Commission Regulation relating to proceedings by the Commission pursuant to art. 81 and 82 of the EC Treaty;
- *Regulation on granting block exemption to R&D agreements* from the prohibition stipulated in art. 5(1) of the Competition Law no 21/1996 with further modifications and completions, approved by Order No. 82/14.04.2004 (OJ No. 430/13.05.2004), which transposes the Commission Regulation 2659/2000/EC on the application of Article 81(3) of the Treaty to categories of research and development agreements;

- *Regulation on the application of art. 5 and 6 of the Competition Law No. 21/1996, with further modifications and completions, to anticompetitive practices*, approved by Order No 87/16.04.2004 (OJ No 430/13.05.2004), which transposes the Council Regulation 17/1962/EC - first regulation on the implementation of the rules on competition laid down in Articles 85 and 86 of the Treaty, as well as the Council Regulation 1/2003/EC on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty;
- *Guidelines on the application of the provisions of art. 56 a) of the Competition Law No 21/1996 concerning the immunity from fines and their reduction in cases of cartels*, approved by Order No 93/22.04.2004 (OJ No 430/13.05.2004), which transpose the Commission Notice on immunity from fines and reduction of fines in cartel cases;
- *Guidelines on the application of art. 5 of the Competition Law No 21/1996 with further modifications and completions, to horizontal cooperation agreements*, approved by Order No 76/14.04.2004 (OJ No 437/17.05.2004), which transpose the Guidelines on the application of Art. 81 of the EC Treaty to horizontal co-operation agreements;
- *Guidelines on the application of art. 5 of the Competition Law No 21/1996 with further modifications and completions, to vertical agreements*, approved by Order No 77/14.04.2004 (OJ No 437/17.05.2004), which transpose the Guidelines on vertical restraints (OJ C 291/01, 13.10.2000/ CC);
- *Guidelines on the individualisation of sanctions for minor offences* provided by art. 55 of the Competition Law No 21/1996, approved by Order No 106/10.05.2004 (OJ No 439/17.05.2004);
- *Guidelines on individualisation of sanctions for minor offences* provided by art. 56 of the Competition Law No 21/1996, approved by Order No 107/10.05.2004 (OJ No 439/17.05.2004), which transpose the Guidelines on the method of setting fines imposed pursuant to Article 15 (2) of Regulation No 17 and Article 65 (5) of the ECSC Treaty;
- *Guidelines on the calculation of turnover in case of anticompetitive behaviour* provided by art. 5(1) of the Competition Law No 21/1996 and in cases of economic concentrations, approved by Order No 101/29.04.2004 (OJ No 440/17.05.2004), which transpose the Commission Notice on calculation of turnover under the Council Regulation (EEC) No 4064/89 on the control of concentrations between undertakings;
- *Regulation on the form, content and other details regarding the applications and notifications* provided by the Regulation on the application of art. 5 and 6 of the Competition Law No 21/1996, with further modifications and completions, to anticompetitive practices, approved by Order No 88/16.04.2004 (OJ No 443/18.05.2004), which transposes the Commission Regulation 3385/94/EC on the form, content and other details of applications and notifications provided for in Council Regulation No 17;

- *Regulation on granting block exemption to agreements in the insurance field from the prohibition* stipulated in art. 5(1) of the Competition Law No 21/1996, approved by Order No 89/16.04.2004 (OJ No 443/18.05.2004), which transposes the Commission Regulation 358/2003/EC on the application of art. 81 (3) to certain categories of agreements, decisions and concerted practices in the insurance sector.
- Regulation modifying and completing the Regulation modifying the art. 11 (1) of the Regulation on the application of art. 5 (2) of the Competition Law no. 21/1996 in case of vertical agreements in the motor vehicles sector (O.J. no. 521/09.06.2004);
- Regulation modifying the annex to the Competition Council's Regulation on the authorization of economic concentration that is modifying the minimum notification threshold of economic concentrations (O.J. no. 601/15.07.2004);
- Regulation modifying and completing the Regulation on organization, functioning and procedures of the Competition Council (O.J. 822/07.09.2004).

STATE AID

Primary legislation

The adoption of Law No. 603/22.12.2003 (OJ No. 930/23.12.2003) for *amending and completing Law No. 143/1999 on State Aid* has been determined by the commitment to fully transpose the *acquis communautaire* in this field, by the need to implement the prerogatives referring to state aid reporting, inventorying and monitoring activities performed by the autonomous administrative authority in the field of competition, as well as by the need to regulate certain aspects, which have emerged in the law enforcement activity.

The amendments brought by Law No 603/2003 in the field of state aid refer to:

- As regards the *obligation to notify state aids*, this incurs both for the grantor and for the initiator of the act by which the state aid is granted, thus ensuring a better correlation between them, in view of ensuring the observance of the ex-ante notification obligation;
- *The state aids foreseen by draft normative or administrative acts* - laws, ordinances, emergency ordinances, government decisions etc. – *must be notified to the Competition Council and may be granted only after their authorisation by the Competition Council.* Thus, the law sets up the obligation for the grantor and the initiator of a state aid to submit to the control of the Competition

Council any intention to grant a state aid, conferring it a real power to oppose the legislation in force in cases of granting state aids;

- In case of *illegal state aids* instituted by a normative act having the judicial force of a law, the Competition Council intimates the issuing authority and while, at the same time, informing the state aid grantor and beneficiary of this intimation. Within 10 days from the intimation, the issuing authority is forced to make a decision regarding to the suspension of the act by which the state aid was granted. Within 30 days of the mentioned intimation, the grantor and initiator are required to notify the state aid measure to the Competition Council, in accordance with the legal provisions. Taking into account the decision of the Competition Council, the issuing authority will make a decision with regard to the amendment of the normative act, respectively with regard to the recovery or reimbursement of the state aids already granted.

II. Subsequently, through the Government Ordinance no. 94/2004 on some financial measures, the Law no. 603/2003 modifying and completing the Law no. 143/1999 on State aid was amended in accordance with the comments formulated by the European Commission's officials, in order to ensure the full alignment with the principles of the *acquis communautaire*. The GO no. 94/2004 on some financial measures was published in the Official Gazette no. 803/31.08.2004.

The modifications aim at:

- The introduction of the provision according to which the aids with social character granted to individual consumers, without any discrimination regarding the origin of products or services involved are subject to notification at the Competition Council, as well as the aids granted in order to eliminate the effects caused by exceptional events or natural disasters;
- Widening the definition of the authorities granting State aid measures; consequently, besides the State and the administrative territorial units the concept of "other bodies that administrate the sources of State or of the local communities" was added;
- Extending the area of exemplifying the State aid measures including the guarantees or capital participation of the State, granted not only by the State and by the public authorities, but also by "other bodies that administrate the sources of State or of the local communities";
- Replacing the notion of "county, town, village communities" with the notion of "local communities";
- Replacing the permissive disposition with imperative dispositions as regards the measures that Competition Council shall take as regards the recovery of the illegal and forbidden State aids.

The State aid Law no. 143/1999 with subsequent modifications and completions was republished in the Official Gazette of Romania, Part. I, no. 744/16.08.2005.

Secondary legislation

The Competition Council continued the transposition of the *acquis communautaire*, by adopting and publishing the following regulations:

- The Regulation regarding the State aid for cinema and TV production, published in Official Gazette no. 491/10.06.2005, transposing point 2.3 of the Commission Communication to the Council, European Parliament, the Economic and Social Committee and the Committee of the Regions on certain aspects relating to cinematographic and other audiovisual works, published in the Official Journal of the European Communities no. C 43 on 16.02.2002 and Part III.9. from the Annex no. 1 of *the Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC* published in the Official Journal of the European Union no. L 140 on 30 April 2004.
- The Regulation regarding the procedures of reporting and monitoring the State aids, published in the Official Gazette of Romania no. 564/01.07.2005, transposing the Commission Regulation no. 794/2004 *implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC* published in the Official Journal of the European Union no. L 140 on 30 April 2004.

Also, the Competition Council adopted the Regulation regarding the State aid Register, published in the Official Gazette of Romania no.564/01.07.2005.

Over the period September 2003 - June 2004, new Regulations and Guidelines in the State Aid field have been adopted, while part of those in place have been revised according to comments received from the European Commission.

The new Regulations adopted by the Competition Council are, as follows:

- *Regulation on state aid for employment*, approved by Order No 166/1.10.2003 (OJ No 738/22.10.2003), which entered into force upon publication and transposes the Commission Regulation EC/2204/2002 for the application of art. 87 and 88 of the Treaty in case of state aid for employment;

- *Guidelines on authorising state aids in the air transport sector*, approved by Order No 176/24.10.2003 (OJ No 806/17.11.2003), which entered into force upon publication and transposes the provisions in the Application of articles 92 and 93 of the Treaty and of article 61 of the EEA Agreement to state aids in the air transport sector;
- *Guidelines on authorising state aids granted in the field of maritime transport*, approved by Order No 176/24.10.2003 (OJ No 806/17.11.2003), which transpose the Community Guidelines on state aids granted in the field of maritime transport;
- *Guidelines on short-term export credits insurance*, approved by Order No 213/12.12.2003 (OJ No 42/19.01.2004), which transpose the Commission Communication to the Member States amending the Communication pursuant to Article 93(1) of the EC Treaty applying Articles 92 and 93 of the Treaty to short-term export-credit insurance (OJ C 217, 02/08/2001);
- *Regulation on state aid for SMEs and Regulation on regional state aid*, approved by Order No 55/23.03.2004 (OJ No 340/19.04.04) have been modified taking into account the comments provided by the European Commission;
- *Regulation on the reporting and monitoring procedures for state aids*, approved by Order No 94/22.04.2004 (OJ No 443/18.05.2004).

Following the remarks formulated in 2004 by the European Commission, the Competition Council continued the process of full conformity of the secondary legislation in the state aid field with the *acquis communautaire*. Thus, modifications were brought to the Regulations and Guidelines adopted and published during 2002 and 2003, these ones being published as follows:

- *Regulation on transparency of financial relations between public authorities and public undertakings, as well as the financial transparency within certain undertakings* (O.J. no. 525/10.06.2004);
- *Regulation modifying art. 4 (2) of the Regulation on state aid for environment protection* (O.J. no. 525/10.06.2004);
- *Regulation modifying the Regulation on state aid for staff training* (O.J. no. 525/10.06.2004);
- *Guidelines modifying the Guidelines on state aid in the field of guaranteeing short-term export credit* (O.J. no. 525/10.06.2004);
- *Regulation modifying the Regulation on state aid for research and development* (O.J. no. 521/09.06.2004);
- *Regulation modifying the Regulation on state aid for rescuing and restructuring firms in difficulty* (O.J. no. 521/09.06.2004).

Within the technical consultations that took place in the period 9-11 August, 2004, with the representatives of the European Commission, the current situation of the legislation in the state aid field was evaluated. The remarks and proposals of the EU officials had been taken over by the Competition Council. Thus, the following normative acts had been adopted and published:

- *Regulation amending and completing the Regulation on regional state aid* (O.J., Part I, no. 847 of 16/09/2004);

- *Regulation amending and completing the Regulation on state aid for SMEs* (O.J., Part I, no. 850 of 16/09/2004);
 - *Regulation amending and completing the Multisectoral Regulation on regional state aid for large investment projects* (O.J., Part I, no. 850 of 16/09/2004)
 - *Regulation amending and completing the Regulation on state aid for employment* (O.J., Part I, no. 847 of 16/09/2004);
 - *Regulation amending the Regulation on the form, content and other details of a state aid notification* (O.J., Part I, no. 847 of 16/09/2004);
 - *Regulation on state aid for research-development* (O.J., Part I, no. 850 of 16/09/2004);
 - *Guidelines modifying and completing the Guidelines on state and risk capital* (O.J., Part I, no. 850 of 16/09/2004);
 - *Guidelines modifying and completing the Guidelines on the authorization of state aids in air transport field* (O.J., Part I, no. 847 of 16/09/2004).
 - *Regulation on state aid in the field of coal industry, applicable to the pit coal sector* (O.J. no. 736/16.08.2004);
 - Regulation on the form, contents and other details of complaints concerning alleged unlawful State aid, which transposes the Regulation for the submission of complaints concerning alleged unlawful State aid (OJ C 116/16.05.2003) was published in the O.J. no. 897/01.10.2004;
 - Regulation on state aid granted to shipbuilding, which transposes the European Commission's Framework on State aid to shipbuilding (OJ C 317/30.12.2003). The comments received from the European Commission to the draft had been taken over. The Regulation was adopted by the Competition Council and published in the Official Journal no. 953/18.10.2004.
 - The new Guidelines on state aid in the field of maritime transport
 - *Regulation on state aid in the form of compensations granted to certain undertakings, to which the carrying out of services of general economic interest was entrusted;*
 - *Regulation on the form, content and other details of a state aid notification;*
 - *The new Regulation on State aid for rescuing and restructuring firms in difficulty, published in the Official Gazette no. 1215/17.12.2004.*
 - *Regulation on sanctions individualization for the contraventions provided by the State Aid Law no. 143/1999, with subsequent amendments and completions*
 - *New Regulation on state aid in coal industry, published in 07.01.2005*
- Regulation for amending the Regulation on State aid to SMEs, published in 01.02.2005*

Annex 6 – Reference list of relevant strategic plans and studies

N/A

Annex 7 - Lessons learnt

<i>Identified Gaps or Recommended courses of intervention*</i>	<i>Action for covering the Gap or implement the recommended intervention</i>	<i>Phare Programming (Project Reference)</i>		
		<i>2004</i>	<i>2005</i>	<i>2006</i>
Strengthening the Competition Council (CC) and State aid grantors administrative capacity	<p>- Beginning with the 1st of June 2004, by the amendment brought to the Competition Law no. 21/1996 through the Law 184/2004, the salaries of the specialized staff of the Competition Council were effectively increased.</p> <p>- Adequate and sufficient resources were allocated in the 2005 budget, over 30% more than in 2004.</p> <p>Since September 2004, 4 sessions for recruiting new personnel were organised. The recruitment process was completely transparent since the contest announcement and all the information necessary were available on the Competition Council's website and published in the Official Gazette, as provisioned by law. The new competition inspectors, required to fill in the vacant jobs of the Competition Council, were employed after a strict selection based on professional skills, IT knowledge and foreign languages proficiency.</p> <p>- CC is permanently focused on ensuring an adequate training for:</p> <ul style="list-style-type: none"> • its own staff 			

	<p>Starting with 2004, the competition and State aid staff actively participates at the weekly-organized intra and inter-departmental meetings. Other internal meetings that contribute to the consolidation of the administrative capacity:</p> <ul style="list-style-type: none"> ▪ Weekly meetings of the Competition Council directors for a professional exchange of views; ▪ Monthly meetings of the directors, chaired by the CC President, for sharing the relevant experience in the field. <p>At county level, since the beginning of 2005, 119 seminars, round tables, conferences and working missions were organised. Representatives of the local authorities, prefectures, city halls, business community and the judiciary participated at these events.</p> <ul style="list-style-type: none"> • State aid grantors <p>The following actions has been undertaken:</p> <ul style="list-style-type: none"> ▪ technical assistance to the State aid grantors in order to adequately drawn up the notifications. ▪ dissemination of the analysis criteria in case of R&D aids, training aids, employment aids, and environmental aids to the State aid grantors. ▪ presentation of the criteria to be observed when granting certain types of aids. ▪ A decision model on restructuring cases was submitted to the aid grantors to be used when complex notifications are drawn-up. 			
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	<ul style="list-style-type: none"> ▪ Elaboration of the “Manual on the State aid Law in Romania” in cooperation with the Twinning Team - represents an overview of the main aspects and concepts related to the State aid policy applied in Romania, outlining the entire legal basis in force in this field. • judges dealing with antitrust and State aid cases <p>Within the 2002 Twinning Project, numerous advocacy sessions were developed on antitrust and State aid issues, with judges from the Bucharest Court of Appeal and High Court of Justice and Cassation as target group.</p> <p>- One of the most important tools in further improving the professional skills of the Competition Council’s personnel is the 2002 Twinning Project developed with German and Italian partners.</p> <p>Furthermore, CC benefits of the support of various German and British experts:</p> <ul style="list-style-type: none"> ▪ 13 June-31 October 2005 – an expert from Department of Trade and Industry of Great Britain is providing assistance on State aid issues to the Competition Council experts. Intensive debates on the State aid decisions drafted by the CC experts are permanently held. ▪ During July – September 2005, an expert from the German Ministry of Labour is providing State aid assistance to the CC inspectors (the German experts will assist the CC inspectors one week per 			
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	<p>month within the aforesaid interval).</p> <ul style="list-style-type: none"> ▪ Based on a bilateral cooperation concluded with Germany, during September 19 – December 16, 2005, 3 State aid experts shall provide technical assistance to the Competition Council inspectors. 			
COMPETITION				
1.Strengthening the legal reasoning of the decisions being taken by the CC	<p>Within the legal argumentation, the references to the provisions of the relevant normative acts were made in an explicit manner for a better understanding.</p> <p>Also, a framework draft decision was elaborated based on which the decisions on specific cases are being issued.</p> <p>The new decision model elaborated by the Competition Council in order to strengthen the legal reasoning includes the Commission's comments and recommendations issued on the basis of the decisions analyzed so far within the consultation mechanism.</p>			
2.Further efforts to follow a more deterrent sanctioning policy	<p>The total amount of the fines imposed by the Competition Council since January 1, 2005 is of approx. EUR 40 millions.</p> <p>For preventing the most distorting anti-competitive practices and for having an overview on the movements and actions on the markets, the Competition Council daily monitors the press and the relevant articles are sent for an in-depth assessment to the specialized directorates.</p>			
3. Make better use of	The Note on how to detect anticompetitive practices and conduct unannounced inspections was elaborated in			

investigative tools, including “dawn raids” and substantive fines	<p>cooperation with the Italian partners and agreed by the European Commission. The Note was adopted and put into force and represents a confidential document.</p> <p>From the beginning of 2005, the Competition Council carried out 13 dawn raids and opened 10 ex-officio investigations, having as object the possible infringement of the provisions of Competition Law</p>			
4. More emphasis on preventing the most serious distortions of competition	<p>In order to concentrate the resources on the most important distortions of the competition, as well as for a pro-active approach by the Competition Council, the following working document have been elaborated together with the Italian partners from the Twinning Project. The European Commission also approved these documents and they entered into force by Order of the Competition Council’s President no. 36/22.02.2005:</p> <ul style="list-style-type: none"> ▪ Lists of sectors essential for the Romanian economy from the competition point of view; ▪ Guidelines for a most pro-active approach in the enforcement of the competition rules. <p>In cooperation with the competition component of the Twinning Team the Competition Council elaborated the Matrix on the basis of which priority cases, most likely to distort the competition, are selected.</p>			
Adoption of the leniency policy	The Guidelines regarding the conditions and application criteria of a leniency policy pursuant to the provisions of the art. 56(2) of the Competition Law no. 121/1996 with subsequent amendments and completions, transposing the Commission notice on Immunity from fines and			

	<p>reduction of fines in cartel cases were adopted and published in the OG no. 430/13.05.2004.</p> <p>An advocacy campaign concerning the concept and Guidelines on leniency policy was launched.</p>			
State Aid				
<p>Developing an effective control of any potential State aid, including of fiscal aids, social aids and the energy payment scheduling</p>	<p>A representative of the Competition Council permanently participates in preparing Government meetings for verifying the alignment of the drafts on normative acts with the acquis in the State aid field.</p> <p>CC is actively involved in the legislative process. Thus, representatives of the CC participate at the debates held within the parliamentary specialized committees when draft laws with State aid impact are discussed.</p> <ul style="list-style-type: none"> - The State aid experts of the State aid granting authorities are invited to take part in the monthly meetings of the Inter-ministerial Working Group on State aid; - The Competition Council verified the normative acts issued during January - June 2004, likely to contain State aid measures, controlled the potential State aid beneficiaries identified within this mechanism, and notified the State aid initiators and grantors on those aspects. <p>The Competition Council drew up the following monitoring reports:</p> <ul style="list-style-type: none"> - The Report on monitoring the State aids granted to the undertakings with investor certificate in the deprived areas was updated and sent to the European 			

	<p>Commission on February 28, 2005</p> <ul style="list-style-type: none"> - The Report on monitoring the regional State aids granted to the undertakings in the free trade areas was submitted to the European Commission on February 28, 2005; - The Report on monitoring the rescuing and restructuring State aids, worked out by the Competition Council, was sent to the European Commission on May, 18 2005; - The Report on monitoring the State aids granted to the industrial parks, worked out by the Competition Council, was sent to the European Commission on May, 18 2005. The Report outlined that 13 industrial parks received State aids, while 12 industrial parks did not benefit of aid; - The 2nd monitoring report on the State aids granted to undertakings with investor certificate in deprived areas, transmitted to the European Commission in July 19, 2005; - Monitoring report on the State aid granted under GEO no.40/2002 regarding the recovery of budgetary arrears - Monitoring report on State aids granted under GEO no.37/2004 on measures for diminishing the arrears in the economy - Monitoring report on State aids granted in the motor vehicles sector, sent to the European Commission in July 18, 2005; - Monitoring report on State aids granted under Law no.332/2001 on promoting direct investments with significant impact on economy, sent to the European 			
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	<p>Commission in July 12, 2005;</p> <p>-Report on the transparency of the financial relations between public authorities and public enterprises, and the financial transparency within certain enterprises, transmitted to the European Commission in July 5, 2005;</p> <p>- Report on the State aids for rescuing and restructuring, transmitted to the European Commission in September 6, 2005</p> <p>The Competition Council's monitored the State aid in the following fields:</p> <ul style="list-style-type: none"> - 421 controls were made on administrative acts issued by local public administrative bodies (local and county Councils) that were susceptible of containing non-notified State aids; - 310 controls were made regarding fiscal, social aids and energy deferrals; - A new control was started in August 2005 regarding companies in the free zones; a report will be elaborated at the end of September; - The monitoring activity for State aids in the steel sector, regarding the observance of Protocol 2 of the Europe Agreement continued. <p>An Inter-ministerial Committee on competition policy, at minister level, was set-up on 13 June 2005 and includes the representatives of the Competition Council, the Ministry of European Integration and the aid grantors (Ministry of Public Finances, Authority for State Assets Recovery, Ministry of Economy and Trade etc.). The</p>			
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	Committee set up according to GO no. 495/2005 meets on a weekly basis and debates the measures to be taken in order to ensure the fulfillment of the commitments undertaken in the framework of the negotiations on chapter 6.			
Ensuring the full respect of the ex-ante-notification obligation of all new aid measures to the CC and of the standstill obligation until the adoption of a decision by the CC	<p>1. Monitoring on a proactive basis the granting of State aid by the relevant Romanian authorities, in order to ensure the full respect of the ex-ante notification obligation of all new aid measures</p> <p>Based on the State aid analysis criteria, a permanent exchange of information is taking place between the Competition Council and the aid grantors. The documents elaborated by the CC on State aid issues and submitted to the central public authorities (e.g. Memorandum on the incentives that investors could benefit of, Memorandum on the State aid notification procedure, Memorandum on the Lisbon Strategy) were also forwarded to the local authorities in order to raise the awareness on the State aid rules.</p> <p>The Competition Council regularly provides technical assistance to the State aid grantors in order to adequately drawn up the notifications.</p> <p>In 2005, in order to avoid the adoption of normative acts providing for incompatible State aids, the Competition Council issued 26 opinions, 18 advisory opinions and 139 clarifications.</p> <p>In 2005 the CC issued 4 negative decisions.</p> <p>- The Government adopted the Decision no. 490/2005 on some measures for the acceleration of the State aid</p>			

	<p>legislation implementation (published in the Official Gazette no. 500/14.06.2005). The Decision was adopted in order to ensure a strict respect of the ex-ante notification obligation and provides for fines in case the aid grantors fail to observe the legal requirements in the State aid field.</p> <p>2. Since the beginning of 2005, 14 ex-officio investigations were opened.</p> <p>A daily monitoring of central and local press is carried out by gathering the relevant information. Following the information that appeared in the press, the Competition Council started to control potential State aid benefiting companies.</p>			
Strengthening the powers of the Competition Council to block the adoption or implementation of aid measures which it has not assessed and approved	<p>The Competition Council strengthened its power to block the adoption or implementation of State aid measures that were not assessed and approved, since any intention to grant State aids is debated in the State aid Inter-ministerial Working Group, in order to avoid incompatible measures.</p> <p>When authorizing State aids, the Competition Council strictly observes the <i>acquis communautaire</i>. All the authorization decisions issued by the Competition Council are analyzed within the pre-consultation mechanism with the European Commission, therefore no definitive decision was issued without previously being consulted and agreed upon with the Commission's experts.</p>			

	<p>A representative of the Competition Council permanently participates in preparing the Government meetings for verifying the alignment of the drafts on normative acts with the acquis in the State aid field.</p> <p>CC is actively involved in the legislative process. Thus, representatives of the CC participate at the debates held within the parliamentary specialised committees when draft laws with State aid impact are discussed.</p> <p>The meetings of Inter-ministerial Committee on competition policy, at minister level, set-up on 13 June 2005 (GD no. 495/2005), are weekly held.</p>			
Ensure that all deferrals fully comply with the State aid acquis and the Europe Agreement	<p>1. Ensure that the fiscal, social and energy deferrals, whether under legislation or individually agreed, fully comply with the State aid acquis and the Europe Agreement</p> <p>During January 1 – 31 August, 2005, 671 controls of the fiscal, social and energy payment deferrals were carried out, while 178 controls referred to State aids granted in accordance with GEO 37/2007 on reducing the arrears in the economy.</p> <p>No infringements of the State aid legal provisions were identified following the controls of the fiscal, social and energy payment deferrals.</p>			
Achieve full transparency by ensuring that the annual State aid	The Report on State Aid granted in Romania during 2001-03 was approved by the Government and published in the Official Gazette of 4.2.2005.			

reports and the State aid inventory cover all State aid measures in force, including fiscal aid granted at all administrative levels, and that the inventory is continuously updated.	<p>The Competition Council analysed the list of normative acts representing the basis of the 2001-03 Romanian State aids Report, in comparison with the list contained by the previous Report (2000-02).</p> <p>The inventory is periodically updated in line with the legal provisions.</p>			
Verification of the State aid measures related to restructuring, payment delay and privatization	<p>During 2005, the Romanian Competition Council has assessed 23 notifications for the State aids granted at privatisation.</p> <p>The assessment process is on-going. Currently, 9 cases concerning the granting of State aids for privatised companies are being analysed by the Competition Council.</p> <p>In addition, the Authority for State Assets Recovery (AVAS) collaborated by sending complementary information for the investigations opened in 2005 by the Competition Council to 13 companies, of which 4 cases have been finalised.</p> <p>In the first semester of 2006, AVAS will finalise the last privatisation cases.</p>			
State aid to	- The Report on the State aids granted to the shipbuilding			

sensitive sectors to be granted according to the <i>acquis</i> .	<p>industry for the period 2002-2003 was sent to the European Commission on September 2004. 14 shipbuilding yards located in the seaside area and the Danube ports were verified.</p> <p>- The Report on State aids granted in the motor vehicles sector was elaborated and submitted to the European Commission on July 2005.</p>			
All decisions have to be clearly based on the criteria laid down in 87(1) and (3) of EC treaty and, in particular, contain a clear description of the measure, with the identification of the beneficiary, aid amount and a proper, well-motivated assessment in line with the <i>acquis</i> (see for details annex to EUCP)	<p><i>I.</i> Keep making use of the pre-consultation mechanism in close cooperation with DG Competition</p> <p>Within the pre-consultation mechanism, since 2004 until 03.09.2005, 81 cases were sent to the European Commission. Out of the 81 drafts submitted by the CC, 80 cases were finalized, thus:</p> <ul style="list-style-type: none"> - 32 without any comments from the EC experts; - 19 after submitting various clarifications and additional information to the EC experts; - 29 after receiving comments from the EC experts. 			
Ensure "Protocol 2"	<i>I.</i> Adoption of a new steel restructuring plan comprising a NRP and Individual Business Plans for those steel			

commitments in the steel sector	<p>companies that have benefited or would benefit from restructuring aid</p> <p>The National Restructuring Programme and the Individual Business Plans were revised aiming to ensure compliance with the relevant criteria laid down in Protocol 2 of the Europe Agreement.</p> <p>Thus, the Romanian Government approved the NRP and the IBPs of the benefiting companies, revised for the period 2005-2008 (GD no. 55/2005).</p> <p>2 Overall maximum amount of gross restructuring aid: ROL 51,300 billion; this amount shall be the sum of the individual amounts thus approved.</p>			
Recovery of the State aids granted to Laminorul Braila, Terom Iasi and Aris Arad	<p>In order to ensure a proper recovery of the illegal or prohibited State aid, the Fiscal Procedure Code was amended by Government Emergency Ordinance no.129/2005. According to the modified Fiscal Procedure Code, the Competition Council State aid decisions are qualified as writs of execution and the effective recovery is performed by the Ministry of Public Finance (through the National Agency for Fiscal Administration) and the Authority for State Assets Recovery.</p> <p>Following its own analysis, CC issued 3 negative decisions in the following cases: Laminorul Braila, Terom Iasi and Aris Arad. CC requested the grantors to recover the incompatible aids granted. In this context, the actions of the CC need to be adequately continued by the involved State aid grantors.</p>			

Adoption by the CC, in the period to come, of a significant number of adequate decisions, in difficult cases, in order to outline the improvement of the State aid enforcement record	In June, July and August, the Competition Council issued 25 State aid decisions. All these decisions were assessed by the EC in the framework of the pre-consultation mechanism prior to their adoption by the CC. In 19 cases, CC issued its decisions without any comments from the Commission or after EC experts had requested various clarifications without altering the text of the decision or the State aid assessment.			
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*Gaps and recommendations according to the Action Plan of the EC for Chapter 6 “Competition Policy”, for observing the obligations settled in the specific safeguard clause and the EC Comprehensive Monitoring Report of October 2005 according to which the Enforcement of State aid rules represents a warning domain.

SPECIFIC SAFEGUARD CLAUSE FOR CHAPTER 6

- (1) To ensure effective control by the Competition Council of any potential State aid, including in relation to State aid foreseen by means of deferrals of payments to the State budget of fiscal or social liabilities or deferrals of liabilities related to energy supply.
- (2) To strengthen the State aid enforcement record without delay and to ensure a satisfactory enforcement record in the areas of both anti-trust and State aid thereafter.
- (3) To submit to the Commission by mid-December 2004 a revised steel restructuring plan (including the National Restructuring Programme and the Individual Business Plans) in line with the requirements set out in Protocol 2 on ECSC products to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part⁽¹⁾, as well as with the conditions set out in [reference to provisions on the restructuring of the Romanian steel industry in this Protocol/Act].

To fully respect the commitment not to grant or pay any State aid to the steel mills covered by the National Restructuring Strategy from 1 January 2005 to 31 December 2008 and to fully respect the State aid amounts and the conditions regarding capacity reductions to be decided in the context of Protocol 2 on ECSC products to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part.

- (4) To continue devoting adequate financial means and sufficient and adequately qualified human resources to the Competition Council.

Within the preparation process of Romania's accession to EU, the Competition Council shall benefit by a new Twinning Project starting in April 2006: *„Advancing the administrative capacity and application of the acquis in the competition and State aid area, coherent with the Member State status at the date of accession”*.

The Competition Council shall have as partners the Italian Competition Authority for the antitrust component and the Department of Industry and Trade of Great Britain for the State aid component as these two institutions expressed their availability to further extend a cooperation of more than 4 years and support the Competition Council in achieving its strategic objectives.

The new Twinning Project of 18 months shall cover the pre and post-accession periods. These are important moments for the functioning of the Competition Council at EU standards, as well as for the integration and active participation of the Romanian authority in the European Competition Network.

The main objectives of the new Project, representing a continuation of the last Twinning Project ended in September 2005, are the following:

- Continue to improve the enforcement record of the Competition Council by ensuring a high professional training of the case-handlers in order to further maintain the positive trend outlined by the EC in the October Comprehensive Monitoring Report;
- Advocate competition rules;
- Take over the community legislation applicable to the Member States: the reform in the State aid field and the transposition of relevant elements of the EU Council Regulation no.1/2003.