7. CONCLUSIONS

7.1. CAUSES OF THE FINANCIAL DISTRESS

Astaldi's crisis follows that of other well-known names amongst the major operators in the construction industry in Italy: there is no need to linger on the legal events of the top groups of the sector (many of which have recently submitted proposals for compositions with creditors (*concordato*) while operating as a going concern or debt restructuring agreements) to notice the signs of structural difficulties, as an overall picture suffices to reveal that the top five companies account for more than half the business volume of the whole market, and foreign turnover(which is worth more than 13 billion) accounts for 56.7% of the total amount (slightly increased on the previous period); this is, without doubt, a very concerning warning sign for the whole of the Italy system. For Astaldi, 76% of its total turnover comes from international business.

The weakness of the Italian leaders in the industry is highlighted by the income position: against a slight increase in EBITDA - due to a careful cost limitation policy -, the EBIT drops and the net result takes a clear dive (also impacted by the negative results of the many companies that have entered insolvency proceedings). Moreover, hundreds of thousands of people have lost their jobs and more than 40 billion works already contracted risk having to be re-awarded, thereby clearly delaying their start.

As explained by the ANCE report "Observatory for the outlook of the construction industry"(*"Osservatorio congiunturale sull'industria delle costruzioni"*) dated January 2019 (available on the website *ance.it*), not even on a financial-equity level does performance shine, due to the clamp-down on granting credit: figures from the Bank of Italy, in fact, show that if in 2007, loans for investments in construction accounted for 12% of all loans granted, in 2017 they came to just 4% of the total, thereby leading to a natural reflection on the causes of this negative phenomenon and, ultimately, the efficiency of the internal public tender system.

The public works sector crisis also continued into 2018. Estimates by ANCE suggest a reduction of 3.2% in actual terms on the previous year; with this latter reduction, the industry's production levels thus dropped by more than 50% in 10 years, bringing about a period of infrastructural deficit of €84 billion. This is the result of the continued major difficulties in starting the development of public works in Italy, which have wiped out any positive effect as may have been achieved by investment support measures. A comparison of the forecasts and results achieved allows us to estimate an amount of lacking investments, in the three-year period 2016-2018, of more than €10 billion, a significant indicator of the inefficiency of the spending processes (2019 ANCE report, page 113 ss.)[1]. This inefficiency is also well represented by information on the time taken to implement public works in Italy, supplied by the verification and control unit (NUVEC) at the Presidency of the Council of Ministers, which reports an average development time as being from 3 years for smaller tenders (less than €100 thousand), up to 15.7 years for major works (in excess of €100 million). It is particularly significant to note that more than half the development process (54.3%) relates to pure red tape and administration (or "bureaucracy") necessary to make the move from one phase to the next[2].

Bureaucracy and an excessively complex and uncertain regulatory context continue to be the main causes of difficulty in spending the resources envisaged. We need merely consider that, according to ANCE's estimates, at the end of 2018 only 4% of the €140 billion made available since 2016 for infrastructural development over the following 15 years had actually been used (see ANCE Report, page 114).

As had already been noted by the National Social Prevention Centre back in 1995, "*public funding of works to be developed is often undersized with respect to the duration of the activity*": it is expected that the project should last for a certain number of years, but the related public financing is very often allocated for a lesser period of time and, equally frequently, not all the authorisations and administrative procedures have been properly completed when sites are started; this, then, forces the contractor to stop the works and incur costs that, by contract, will in any case be borne by the general public. Clearly, the productivity and

[1] The confirmed inefficiency, also as regards strategic works, is what led to the abrogation of the "Objective Law" system dating back to 2001. This latter, which had been conceived to guarantee that financial resources would be concentrated on works considered as a priority, speeding up development through a centralised management and the overcoming of territorial specificities, had instead ended up by sparking a proliferation of infrastructures included in planning, with a consequent insufficiency of the financing available (out of 196 strategic works for €125 billion, as per the first list submitted, according to monitoring through to 2015, a total of 418 interventions had been carried out for €362 billion).

[2] The model of awarding both the design and execution jointly (known as an "integrated tender"), not only clearly simplifies that management of two major phases through a single procedure and reduces the related bureaucratic time required, but would also allow for a transfer of the risks of design errors and shortcomings directly to the company awarded execution, thereby achieving clear benefits in terms of their early disclosure and correction.

efficiency of the investments are compromised (*Il sistema degli appalti*, by G. Colombo, Giuffré, 1995, 88 ss.). Said *modus operandi* continues today[3], as has just been described, and would also appear to be adopted - for various different reasons - in certain countries in which Astaldi has been awarded major works (Venezuela, Chile and Turkey *in primis*).

On the other hand, we must not ignore that the construction industry has now reached a real crisis of its system (from Condotte to Astaldi, CMC, Trevi, Mantovani, Grandi Lavori Fincosit, etc.), involving all the major Italian banks that are exposed for billions of euros; and as the logic of tenders demands a financial cycle that goes in the opposite direction to that generally seen in commercial businesses (where collection precedes investment, except during a start-up phase), the impression is that indebtedness with the banking system is an inescapable necessity for general contractors if they are to be awarded major infrastructural project orders (consider, for example, the guarantees demanded by clients and the site start-up costs: bid bonds, payment bonds, performance bonds, etc.). Since it is necessary to advance expenses to get the works started, if the first revenue is then only obtained with a delay of 5-6 months, the companies inevitably suffer huge financial and liquidity stress, which becomes unmanageable if other factors are also present.

Hence the idea of a project that involves the country-system, by creating a national sample that is suitably capitalised in order to support the main tenders worldwide and manage that financial misalignment discussed.

*

In light of these general considerations, we must agree with the initial declaration made by the asseverating party in regard to the causes of Astaldi's crisis (page 67 of the certification of 19.6.2019), according to whom the "*competitive dynamics based purely on discounts (...) significantly reduce the margins of orders right from the tender stage. The new procedure for the award and conduct of public works, moreover, in envisaging that the completion of each phase and the start of the next shall be conditional on obtaining authorisations and administrative rulings, has led to a lengthening of the time necessary to complete the works, which translates into an increase in the fixed costs incurred by the contractors and a high rate of reservations/claims accrued in regard to the contractors*". And this increase

[3] As at 2015, the rate of financial coverage of strategic works came to just 50.2% (Source: Chamber of Deputies, 2016, X Report Strategic infrastructures. From the "objective law" to priority works).

in fixed costs generates a new need for finance, in a situation of growing financial tension. In turning our focus to the profit margins on the main orders continued by the business, we note a situation that is best summarised in the table below (see the declaration of 19.6.2019, page 154 ss), which takes no account of subsequent events and/or updates and critical issues linked to disputes with the various clients in regard to the delivery times, variants and claims not yet recognised, risks of rescission, *etc.*:

DESCRIPTION (amounts in €)	**FULL-LIFE EBIT**	**EBIT TO FINISH**	**CERTIFIER'S NOTES**
High-speed/high-capacity railway line Verona-Padua (Italy)	Revenues: whole life 762 mln Costs: whole life 722 mln EBIT: whole life 39 mln (5%)	Revenues: to finish 729 mln Costs: to finish 691 mln EBIT: to finish 38 mln (5%)	In 2019, guarantees are requested for 64 mln
Jonica Mega lot 3 (Italy)	Revenues: whole life 588 mln Costs: whole life 550 mln EBIT: whole life 38 mln (6%)	Revenues: to finish 578 mln Costs: to finish 542 mln EBIT: to finish 36 mln (6%)	Negative cash for 2 mln through to 2024
Hydroelectric system La Punilla (Chile)	Revenues: whole life 522 mln Costs: whole life 430 mln EBIT: whole life 93 mln (18%)	Revenues: to finish 506 mln Costs: to finish 416 mln EBIT: to finish 90 mln (18%)	Emergency loan for 35 mln in 2019
Basic Tunnel of the Brenner (Italy)	Revenues: whole life 457 mln Costs: whole life 456 mln EBIT: whole life 1 mln (0%)	Revenues: to finish 377 mln Costs: to finish 376 mln EBIT: to finish 1 mln (0%)	Negative cash for 36 mln through to 2021
Milan Metro System Line 4 (Italy)	Revenues: whole life 596 mln Costs: whole life 555 mln EBIT: whole life 41 mln (7%)	Revenues: to finish 362 mln Costs: to finish 339 mln EBIT: to finish 23 mln (6%)	
Road Umbria-Marche (Italy)	Revenues: whole life 612 mln Costs: whole life 619 mln EBIT: whole life - 7 mln (-1%)	Revenues: to finish 323 mln Costs: to finish 303 mln EBIT: to finish 19 mln (6%)	Negative comprehensive margin but significant final cash

Curtici-Simeria Railway - Lots 2A and 2B (Hungary)	Revenues: whole life 297 mln Costs: whole life 262 mln EBIT: whole life 35 mln (12%)	Revenues: to finish 272 mln Costs: to finish 241 mln EBIT: to finish 30 mln (11%)	Financial need of 8 mln in 2019 and positive cash in 2021 despite the 15% deposit already received
Barros Luco Trudeau Hospital (Chile)	Revenues: whole life 266 mln Costs: whole life 231 mln EBIT: whole life 35 mln (13%)	Revenues: to finish 259 mln Costs: to finish 226 mln EBIT: to finish 33 mln (13%)	In 2019, guarantees requested for 26 mln
Braila Bridge (Romania)	Revenues: whole life 260 mln Costs: whole life 227 mln EBIT: whole life 32 mln (12%)	Revenues: to finish 254 mln Costs: to finish 223 mln EBIT: to finish 32 mln (12%)	By February 2019, guarantees are required for 45.3 mln
Railway route of Goteborg Station, Haga (Sweden)	Revenues: whole life 269 mln Costs: whole life 248 mln EBIT: whole life 22 mln (8%)	Revenues: to finish 254 mln Costs: to finish 233 mln EBIT: to finish 21 mln (8%)	
Etlik Integrated Health Campus of Ankara (Turkey)	Revenues: whole life 443 mln Costs: whole life 401 mln EBIT: whole life 42 mln (9%)	Revenues: to finish 254 mln Costs: to finish 232 mln EBIT: to finish 23 mln (9%)	Financial need of 8 mln in 2019 and 23 in 2020 with final cash in 2020 negative for 32 mln
Chuquicamata Underground Mine (Chile)	Revenues: whole life 552 mln Costs: whole life 521 mln EBIT: whole life 31 mln (6%)	Revenues: to finish 249 mln Costs: to finish 239 mln EBIT: to finish 10 mln (4%)	
Curtici-Simeria Railway - Lot 3 (Romania)	Revenues: whole life 254 mln Costs: whole life 228 mln EBIT: whole life 26 mln (10%)	Revenues: to finish 247 mln Costs: to finish 222 mln EBIT: to finish 25 mln (10%)	In 2019, guarantees are required for 6.4 mln
Versova Bandra Sea Link (India)	Revenues: whole life 234 mln Costs: whole life 197 mln EBIT: whole life 37 mln (16%)		In 2019, guarantees are expected for 70 mln
Santiago Airport (Chile)	Revenues: whole life 420 mln Costs: whole life 361 mln EBIT: whole life 59 mln (14%)	Revenues: to finish 203 mln Costs: to finish 174 mln EBIT: to finish 29 mln (14%)	In 2019, guarantees are required for 4.5 mln

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Monte Sant'Angelo e Infraflegrea (Italy)	Revenues: whole life 352 mln Costs: whole life 298 mln EBIT: whole life 55 mln (15%)	Revenues: to finish 197 mln Costs: to finish 168 mln EBIT: to finish 30 mln (15%)	In 2019, guarantees are expected for 5.2 mln
South ring road of Warsaw (Poland)	Revenues: whole life 229 mln Costs: whole life 207 mln EBIT: whole life 22 mln (10%)	Revenues: to finish 161 mln Costs: to finish 144 mln EBIT: to finish 16 mln (10%)	
High-speed/high-capacity railway line Naples Bari	Revenues: whole life 159 mln Costs: whole life 152 mln	Revenues: to finish 158 mln Costs: to finish to finish 151 mln	By February 2019, guarantees are expected for 32 mln
Rome Metro System Line C (Italy)	Revenues: whole life 905 mln Costs: whole life 871 mln EBIT: whole life 34 mln (4%)	Revenues: to finish 140 mln Costs: to finish 133 mln EBIT: to finish 7 mln (5%)	It is not possible to assess the sustainability of the project due to a lack of
Linares Basic Hospital (Chile)	Revenues: whole life 137 mln Costs: whole life 120 mln EBIT: whole life 17 mln (12%)	Revenues: to finish 132 mln Costs: to finish 116 mln EBIT: to finish 16 mln (12%)	In 2019, guarantees are expected for 25 mln
Road S7 Naprawa-Skomielna Biala (Poland)	Revenues: whole life 181 mln Costs: whole life 167 mln EBIT: whole life 14 mln (8%)	Revenues: to finish 131 mln Costs: to finish 121 mln EBIT: to finish 9 mln (7%)	
Goteborg Kvarnberget railway route (Sweden)	Revenues: whole life 88 mln Costs: whole life 78 mln EBIT: whole life 10 mln (11%)	Revenues: to finish 88 mln Costs: to finish to finish 78 mln EBIT: to finish 10 mln (11%)	In 2019, guarantees are required for 2 mln
Road S7 Omar Torrijos (Panama)	Revenues: whole life 73 mln Costs: whole life 68 mln EBIT: whole life 5 mln (7%)	Revenues: to finish 71 mln Costs: to finish 67 mln EBIT: to finish 4 mln (6%)	The order has very negative cash in 2019, also due to the lack of
El Teniente (Chile)	Revenues: whole life 71 mln Costs: whole life 63 mln EBIT: whole life 8 mln (11%)	Revenues: to finish 66 mln Costs: to finish 58 mln EBIT: to finish 7 mln (11%)	Cash is negative in 2019 and in 2020

Bicocca-Catenanuova segment of railway line	Revenues: whole life 64 mln Costs: whole life 63 mln EBIT: whole life 1 mln (2%)	Revenues: to finish 63 mln Costs: to finish 61 mln EBIT: to finish 1 mln (2%)	By February 2019, guarantees are expected for €13 mln
Saida – Tiaret railway line (Algeria)	Revenues: whole life 360 mln Costs: whole life 279 mln EBIT: whole life 81 mln (22%)	Revenues: to finish 60 mln Costs: to finish to finish 46 mln EBIT: to finish 15 mln (25%)	
Sigonella NATO base (Italy)	Revenues: whole life 59 mln Costs: whole life 54 mln EBIT: whole life 5 mln (8%)	Revenues: to finish 58 mln Costs: to finish 54 mln EBIT: to finish 5 mln (8%)	Unavailability of cash for 2 mln in 2020 despite the 6 mln deposit received
Cumana railway (Italy)	Revenues: whole life 56 mln Costs: whole life 55 mln EBIT: whole life 1 mln (2%)	Revenues: to finish 55 mln Costs: to finish 55 mln EBIT: to finish 1 mln (1%)	By February 2019, guarantees are expected for 2.7 mln
Danzica waste-to-energy plant (Poland)	Revenues: whole life 53 mln Costs: whole life 48 mln EBIT: whole life 6 mln (11%)	Revenues: to finish 53 mln Costs: to finish 48 mln EBIT: to finish 6 mln (11%)	In May 2019, guarantees are expected for approximately 4 mln
Monopoli Hospital Fasano (Italy)	Revenues: whole life 51 mln Costs: whole life 47 mln EBIT: whole life 4 mln (8%)	Revenues: to finish 51 mln Costs: to finish 47 mln EBIT: to finish 4 mln (8%)	In February 2019, guarantees are expected for 11.5 mln
Metro Mumbai Line 4 (India)	Revenues: whole life 44 mln Costs: whole life 39 mln EBIT: whole life 5 mln (11%)	Revenues: to finish 44 mln Costs: to finish 39 mln EBIT: to finish 5 mln (11%)	In February 2019, guarantees are expected for 5.4 mln
Rzeszow waste-to-energy plant (Poland)	Revenues: whole life 33 mln Costs: whole life 38 mln EBIT: whole life -5 mln (-15%)	Revenues: to finish 1 mln Costs: to finish 0 EBIT: to finish 0	Company's losses for 5 mln
New S.S. 554 Cagliaritana (Italy)	Revenues: whole life 57 mln Costs: whole life 49 mln EBIT: whole life 4 mln (7%)	Revenues: to finish 57 mln Costs: to finish 49 mln EBIT: to finish 4 mln (7%)	In 2019, costs need to be incurred for approx. 1 mln

Naturally, the international dimension of the company's projects has given rise to further, more incisive causes of the crisis, with which it is difficult to disagree, and which are identified as:

(i) a delay in the sale of certain assets in the Concessions sector (to mention just one example, the Third Bridge over the Bosphorus);

(ii) the impossibility of collection on, and impairment of, credits accrued in Venezuela for the works carried out in the railway sector;

(iii) failure to execute the comprehensive strengthening of equity (in terms of both failure to complete the share capital increase and failure to have the credit and lines of credit granted to take part in new tenders and pursue those in progress);

(iv) growing difficulties in paying the financial expenses incurred for interests on bank debt;

(v) partial delay in collections on works, also following a slowdown to the execution of activities.

These factors all clearly emerge from a reading of the minutes of the meetings of the board of directors and board of statutory auditors, starting from the fourth quarter of 2017, notably from November of that year. Until then, the minutes do not record any warning signs of an imminent crisis; the tests performed by the control body, together with the independent auditing firm and supervisory body, would appear to be constantly dedicated to examining the implementation of the organisational, administrative and accounting structures (and the risk management functions, also in accordance with Italian Legislative Decree no. 231/2001), also for the subsidiaries NBI and AS.CON (Astaldi Concessioni), structures that are objectively complex in a company of the size of Astaldi, and to the information on the ordinary management and state of disposals as per the 2016/2020 strategic plan (objectives achieved for 2016 with the sale of some equity investments held by As.Con in Chile).

The 2016 draft financial statements report results that are in line with the scheduled growth: an increase in revenues, a limitation of production costs, but an increase in financial expenses for three specific reasons: *i)* unfavourable exchange rate for certain foreign currencies, *ii)* extension of debt and *iii)* commission on the personal guarantee given. As regards the Venezuelan credit, which will prove to be the main joint factor in the instability, it is reported that the local government and client IFE have recognised Astaldi's credits and are awaiting the 2018 presidential elections to reactivate payment flows (see the minutes of the board of statutory auditors meeting held on 14.3.2017). These minutes therefore show that no counter-measures are being taken in regard to the Venezuelan orders, instead preferring to defer any decision to the following year.

During the BoD meeting held on 13.6.2017 and that of the board of statutory auditors held on 20.6.2017, with no particular emphasis, the new convertible bond loan was approved for €140 million with a maturity of 7 years, reserved to qualified investors, and the buy-back of equity-linked bonds (for €130 million), maturing in 2019.

In the minutes of 2.8.2017, the board of statutory auditors examines the positive results of the 1st half (as compared with 2016; net profit of €557 million), thanks to the Italy infrastructures segment and the American business.

On 21 September 2017, the board of directors approved the share capital and convened the shareholders' meeting; at the same time, the problems were discussed in regard to collections on works in Romania and Algeria.

It was only starting from the meeting of the control body held on 10.11.2017 that the first signs of non self-sufficiency began to appear: discussions were held on the potential €200 million share capital increase as a way to strengthen the financial position and the matter was deferred to the BoD meeting scheduled for four days later, in order to verify whether or not the pool of banks would be willing to assist.

However, the real alarm bell came in the meeting of the BoD and the joint meeting of the Supervisory Body and the Board of statutory auditors held on 14.11.2017; what gave rise to concerns was the "leak of news" as to the need for said share capital increase, in the meantime taken to €400 million, to cover credits in Venezuela, and the events are reconstructed below:

- a press release by Astaldi given on 06 November 2017 had informed the market that "*organisational needs had caused the meeting of the Board of Directors called to approve the consolidated results as at 30 September 2017, previously scheduled for 8 November, to be postponed to 14 November 2017*";

- on 8 November, Astaldi was informed that some press organisations, the next day, had published news about the share capital increase being discussed by the company; from 6 to 9 November, the market value of the shares "*dropped significantly*";

- at the opening of the stock market on 9 November, the company gave a press release in reference to the news published in the major newspapers and for the first time announced that it was "*considering a share capital increase in the amount of approximately €200 million (...) aimed at strengthening the Group's equity structure and consequently putting the Company in the best possible position in terms of the comprehensive process of refinancing its long-term debt through an extension of due dates to beyond 2022 and, subject to market conditions, a reduction in the cost of debt*";

- at the same time, an ANSA communication reported on possible investigations by CONSOB on the dive taken by the Astaldi notes on the stock exchange the day before, without "the market knowing about the 200 million share capital increase";

- before the control and supervisory bodies, Astaldi's managers explained that the transaction had been launched by the company's senior management in a confidential manner and it was "*tracked, from 25 September 2017, in a specific register within which both in-house and external staff were registered, involved in the transaction*" (upon completion of the internal investigation, it was discovered that at least 150 people had access to this register, a large proportion of whom were external to the company);

- yet the internal procedures system, relative to the processing of inside information "according to MAR and Consob regulations on the matter", was correct and had been properly implemented, following a similar news leak reported on 10.11.2015;

- a new audit was arranged to ascertain compliance with company procedures and current legislation.

During its internal meeting held immediately thereafter (again on 14.11.2017), the board of statutory auditors examined the summary economic information as at 30.9.2017, comparing it with the corresponding information of 2016 and the Chief Financial Officer pointed out that the results included the effects of the impairment of the receivable due from Venezuela "*made necessary following significant events that had taken place during the 2nd half of 2017, which saw the country's political, social and economic situation worsen yet further, until reaching, this November, a situation of a high risk of default by the Venezuelan State (...) the impairment applied brought about a net loss for the Group of €88 million, although the period result in terms of EBITDA shows growth in excess of 6%*" with respect to 30.9.2016. As regards the Venezuelan credits, the contractual situation was clarified, along with the works portfolio and the credit exposure of the Astaldi Group in that country: it was first noted that the Venezuelan Government, through the Istituto Ferroviario dello Stato (IFE), had formally recognised the nominal amount of the past-due receivables, as well as the extension of contractual times on works for two lines; it was then considered that, following the recent severe developments of the country's economic conditions, this "*was no longer a guarantee that payment of dues would be made in the near future*".

Having requested an opinion from specialists of particularly high standing, the Astaldi management team decided, on the basis of multiple application criteria in use in standard practice (market benchmark, analyses on the CDF model, macroeconomic and political analyses of the EY network) that the value in use of its receivables, worth a nominal €433 million, should be considered as totalling €203 million - approx. 53% -, thereby noting impairment of around €230 million.

In this regard, it can be declared that the opinion on this matter given by Prof. Enrico Laghi in May 2019, updated as at February 2020, would appear to be suitably grounded, although the Commissioners have decided, for reasons of prudence, to fully impair the "Venezuela" credit.

Finally, comments were made on the general operating performance, which confirmed the action taken to limit the risks of the business, in line with the BP, so as to reposition the order book on EPC (Engineering, Procurement & Construction) contracts and on O&M (Operation & Maintenance) activities.

In financial terms, it was reported that the company continued to dispose of the assets under concession - the whole of the Third Bridge over the Bosphorus (3BB), for which there were various investors interested, and the management "*believed it highly likely that the transaction would be completed during the first half of 2018*" -, as well as with the medium-long term debt refinancing programme, in particular through the June 2017 placement of equity linked bonds[4] maturing in 2024 and the simultaneous buy-back of those in issue, maturing in 2019 (see minutes of the BoA meeting of 20.6.2017) and with the share capital increase for the purpose of issuing the convertible bond loan (for a nominal €140 million), which had obtained a report by the independent auditing firm on the issue price of the relevant shares.

On this point, Consob had just sent Astaldi a communication of clarifications on 7.11.2017 in relation to the above two bond loans, to which the company undertook to reply "within ten days", with the support of the Chiomenti law firm.

In regard to the equity and financial strengthening programme, the management explained the key pillars and quantified the total amount as €400 million, comprising:

a) a €200 million share capital increase;

b) the issue of "*additional financial instruments for approximately €200 million, the features of which were currently being defined with the main banks used by the Group*".

The share capital increase would aim to restore equity following the effects of the impairment on Venezuela and the financial instruments would instead support the strategic plan, to consolidate the Group's competitive position (see minutes of the BoA meeting of 14.11.2017, p. 199). This came in addition to the willingness of a pool of banks to grant, at certain conditions of use, a back-up facility of €120 million, i.e. a credit facility to support the security issue.

[4] From the glossary of borsaitaliana.it: "Equity-linked bonds are part of the category of structured bonds; indeed, they consist of a combination of an ordinary bond with a call option (written on a share certificate) implicitly sold by the issuer to the subscriber. The bond component guarantees the reimbursement of the nominal value at maturity, plus any coupons during the life of the security. The option component instead determines the amount of the premium that the bondholder collects at maturity together with the capital invested. This premium is calculated according to an interest rate that ranges from a maximum of the fixed rate established by the information prospectus (guaranteed minimum return) and the return of the underlying share booked during the life of the bond. Often, the guaranteed minimum return is zero, therefore if the underlying share should decline during the discovery period, the bondholder will not receive any interest".

It should be noted that several BoD meetings covered the matter of "derivatives", which have a negative fair value (as at 14.11.2017 for €24.6 million).

Finally, the board of statutory auditors discussed the problem of the "*request to the banks to revise the financial covenants envisaged by the loan contracts*" with the management, and the management declared that they were "confident" of obtaining approval by the year end.

On 20.11.2017, the website of Repubblica "Affari&Finanza" published an article by A. Bonafede entitled "*Astaldi under pressure due to the Venezuela affair*", with the following opening words: "*Ten days of living dangerously, that is what Astaldi has been experiencing as it saw its share take a dive from €5.9 to €2.2, booking a record loss of around 65 percent. The Venezuela affair was partly responsible, having driven the construction company to devalue its exposure towards the country for 230 million. However the third quarter's accounts are also partly to blame, showing a weak "cash flow generation", which falls below expectations, as S&P writes, taking the opportunity to lower the rating from "B-" to "CCC+". The company has been put under pressure by a series of negative events. It all began the other week with news of a postponement of the presentation of the third quarter information from 8 to 14 November. Then an article broke out, anticipating the company's announcement of a share capital increase, which, in fact, Astaldi will need to implement, for 200 million. Over the following few days, the company clarified various aspects in connection with the impairment of the receivable due from Venezuela and the next steps to recapitalise and renegotiate debt, already in progress with a pool of banks* (...)"

The downgrade by the world's most important ratings agency constitutes, as is a well-known fact, the basis for an increase in interest rates on subsequent loans, issues, bonds or credit facilities and, above all, market diffidence, which, in fact, had more than halved the stock market value of the shares in just ten days (and indeed there has been no subsequent recovery, with today's value recorded as €0.60 per share).

During the first meeting of the board of statutory auditors held in 2018, discussions were held on testing impairment on the values of certain assets, such as the Venezuela credits, the Ankara Etlik equity investments and those held in the SPV of Line M4, Milan, the Quadrilatero Marche-Umbria (internal road running between these regions) and the Infraflegrea (railway route and structural interventions in the Flegrea area).

Until 15 March 2018, when the 2017 draft financial statements were examined, nothing significant took place, according to the control body. At that point, however, the first concerns were raised over the basis for continuing to operate as a going concern: in short, it was pointed out that the period results, without the impairment of the Venezuelan credits, would have been in line with those of 2016, thanks to a repositioning on EPC and O&M contracts in new, more secure areas (Sweden, Georgia and Romania) and the closure of contracts in the Middle East. And it was acknowledged that activities were continuing with a view to disposing of non-strategic equity investments (3BB, Bulnes Hospital, SCMS, Pacific Chacayes, SAT, etc.). However, the need and urgency to proceed with "*the important programme to strengthen equity and finances, as launched in November 2017 for solidity and competitiveness*" (meeting with Lazard) was stressed.

After discussions with the SB, the share capital increase was no longer limited to €200 million, rising instead to €300 million.

The independent auditing firm KPMG reported to the board of statutory auditors on the matter of continuing to operate as a going concern and, although declaring that further documentary evidence was being acquired (i.e. the 18-month liquidity plan, evidence of non-binding offers for the Turkish assets, impairment testing, etc.), for the first time it raised some doubt as to the matter, even if to a limited extent. Indeed, during the subsequent meetings of the control body, it was mentioned that the independent auditing firm would be issuing a report on the 2017 financial statements without findings, with emphasis given, however, to the information described by the directors in the paragraph entitled "Main risks and uncertainties" of the report on operations, and in the paragraph on "Basis of presentation" of the notes to the financial statements regarding of events and circumstances, that would suggest the existence of a significant uncertainty as to the ability of the company and group to operate as a going concern (see page 241 of the minutes of the board of statutory auditors meeting).

Consequently, in its report on the 2017 financial statements, the board of statutory auditors also expressed such doubts on operation as a going concern (see page 273 of the BoA book of minutes).

The BoD meeting held on 30 March 2018 decided that a press release needed to be issued on the matter.

The new Chairman of the control body, Prof. Giovanni Fiori (who took over on 5.6.2018) requested clarifications on both the Consob letter that had been received in the meantime, which, in turn, referred to the audit report on the financial statements, and on the financial strengthening manoeuvre approved by the BoD on 15 May 2018, as part of the 2018-2022 Business Plan. In these circumstances, there was mention of an industrial strategic agreement and investment with the Japanese Group IHI Corporation, which would be taking part in the share capital increase (for 18%), to be completed during the third quarter of the year, subject to certain conditions being met (including a binding offer for a price of at least €185 million for the equity investment in the concession-holder of the Third Bridge over the Bosphorus in Turkey, to be collected by 31.12.2018), and that JP Morgan had been chosen as the bank to act as "sole global coordinator". However, the activities necessary to complete the strengthening manoeuvre included satisfying certain conditions specifically summarised in the Abridged Interim Consolidated Financial Statements closed as at 31.3.2018 and presented to the board on 15 May 2018. To this end, Mario Civetta was appointed to draft a report on the sustainability of the Astaldi Group financial plan.

However, the minutes of the meeting of the board of statutory auditors held on 04 July 2018 describe "the *concern over increasing tension with the banking system and on the security, which now offers a capitalisation of around €190 million, far below the book value. In particular, as regards relations with the banking system, the Board wishes to understand if, and how, it can finalise the disbursement of the credit facility for liquidity of €60 million to assist the company over the next few months. Finally, the Board asks what progress has been made on the sale of the third bridge".*

The Chief Executive Officer, who was present at the meeting, confirmed the Company's difficulties, reviewing the key events that had taken place over the last few days and the activities in progress "*in order to achieve the share capital increase*" approved by the shareholders' meeting on 28 June 2018, considering - together with the new business plan, that this was "*the only way by which to restore the financial balance necessary to the company's development*". In order to meet temporary cash needs, whilst awaiting completion of said share capital increase, on 17 May 2018 FINAST granted Astaldi a shareholder loan of €20 million, which could be converted into the share capital increase.

In particular, the CEO reported that the banks BPM, UniCredit, Intesa and BNP had informed Astaldi that they were willing to grant the bridge loan of €60 million and to grant new guarantee lines for a total of €179 million, as long as certain conditions were met (again the sale of 3BB and a binding offer for the sale of Veneta Sanitaria Finanza di Progetto).

A detailed (but not binding) offer for the acquisition of a controlling share (75%) of the company which held the concession for the Third Bridge over the Bosphorus was effectively received by Astaldi on 15.6.2018 from a consortium of Chinese investors, through the advisors Morgan Stanley and CITI, indicating a price that was in line with expectations, but naturally subject to completion of due diligence. Additionally, on 27.6.2018, the French company Mirova submitted a binding offer for the acquisition of the company Veneta Sanitaria Finanza di Progetto, the concession-holder of the Mestre Hospital.

These offers were immediately sent to the banks, asking for the prompt activation of the cash and lines of credit already discussed. Thus, insofar as declared by the CEO, "*to date, we can see that without the cash injection by the banks with the €60 million facility, the company is unable to satisfy its commitments until the new date envisaged for the share capital increase. Indeed, considering the new situation that has arisen in regard to the offer for the Third Bridge, the timing for the capital increase will consequently be postponed by a couple of months compared to what originally planned (...) The situation of financial tension is also having an impact on the business operation, resulting into delays in the progress of the works (in fact the subcontractors are also in distress) and on new tenders, because of the difficulty in providing the necessary guarantees to enter into the contracts and cash in the down payments*".

The board of statutory auditors asked for the updated liquidity plan in order to monitor the short-term financial position, which was then presented and delivered in the next meeting of the BoA held on 16.7.2018, with forecasts for July to October 2018 based on the concession of two credit facilities worth €30 million each, as discussed for several weeks. Without this disbursement, the company's management pointed out that "*the situation of the lack of liquidity, with consequences on the ability to make timely payments as expected, would be experienced through to late August. And, in addition to this situation of financial tension, we would also be experiencing the lack of the credit lines (linee di credito per firma) that, in the hypothesis discussed with the banks, would total approximately 170 million to pay for the performance bonds to be issued to the Genoa Tunnel, Poland, the orders in India and Mexico and, finally, the project in Canada. Failure to grant the guarantees would cause the company to forfeit the contracts and, consequently, not collect on the contractual deposits*". In light of the information received, the Chairman of the board of statutory auditors asked that "*all alternative scenarios [be assessed] also with a view to verifying the best initiatives by which to protect the company's assets and those of its creditors*". The Chief Executive Officer stressed that in any case, the Company was respecting all the deadlines envisaged for salaries, contributions and tax, whilst the financial tension was instead impacting the activities of the sites and new tenders.

The BoD met on 10 and 19 July, on 1 August and on 13 August 2018 to assess the Group's overall situation, now showing a clear situation of financial distress, and to update on the expected binding Chinese offer for 3BB; however, during the meeting of the control body held on 30 August 2018, the Company's Chairman informed the board that "*unfortunately, despite the discussions held by the advisors with the banks, the situation has not yet been cleared. Two letters were sent by the company, one last 10 August, as read out during the last meeting of the Board of Directors, and the other last 28 August, of a more decisive tone. The banks have not yet replied to these letters. Instead, as regards to the sale of the Third Bridge, negotiations are ongoing, but we have not yet managed to obtain the hoped-for MoU. This is due to the sudden crisis of the Turkish economy, which has exploded over the last month, and consequent international tension*".

The Company's Chief Executive Officer acknowledged that at this point "*there was no longer sufficient margin to cope with future deadlines without the support promised and negotiated with the banks in view of the share capital increase*".

At that point, the board believed that an analysis of the impacts and, potentially, the initiatives as per art. 160 of the Italian Bankruptcy Law, could no longer be delayed, to avoid worsening the company's situation, given the lack of banking support. The company's chairman declared that he was fully in agreement. On 28 September 2018, the preliminary application for a compositions with creditors was submitted, moreover preceded, a few days earlier, by the presentation of a bankruptcy application.

In the meantime, on 07 September 2018 the agency *Fitch Ratings Inc.* had downgraded the Issuer Default Rating (IDR) of Astaldi S.p.A. to "CCC-" from "B" - preceded, on 3 September, by an identical decision of S&P and followed, on the 10th, by Moody's ("Caa2") - due to the further postponement by Astaldi of the sale of the assets relative to the Concession of the Third Bridge over the Bosphorus in Turkey, which brought into question the timing for the proposed share capital increase, a key step in order to overcome the inadequate liquidity in respect of the considerable debt repayments scheduled for the coming months.

*

7.2. COMPANY CONDUCT

As a result of what explained in paragraph **7.1.**, it is important to analyse whether or not it is possible to identify any wilful misconduct by the executive board, the board of directors (BoD) and the board of statutory auditors, as well as the independent auditors, in promptly intercepting and, therefore, suitably dealing with the Astaldi crisis.

Although the new regulations governing organisational, administrative and accounting structures (and the related liability) set forth in articles 375 and 378 of Italian Legislative Decree No. 14/2019 (the "**Insolvency Code**") came into force on 16.3.2019 and, in any event, the practical implications of the provisions pursuant to article 2381 of the Italian Civil Code were already extensively incorporated into the joint stock company's operating practice, with respect to the situation reviewed, the system of monitoring and processing corporate events should be deemed to be adequate to the nature and (macroscopic) dimension of the company.

A key element is to assure the continuous flow of information from the "peripheral areas" (the various continents in which Astaldi operates) to the centre, from production to administration, and to the controlling bodies.

In short, it is possible to assume that each form of governance must at least own the organisational chart of duties and the budget for the current year (art. 2381, paragraph 3, Italian Civil Code)[5]; in the event that revenues increases, it will become necessary to prepare also the forecast for subsequent years (this is not required to smaller businesses).

[5] The term "organisational structure" is used to mean both the model for structuring the business governance activities, which is hinged on the effective planning of business (the business plan), also as regards the expected impact of decisions on financial balance and debt sustainability and - to a more limited extent - the organisation of work: the organisational chart must be able to allow for the easy identification of the distribution of duties and related responsibilities, to then guide towards the operative systems that lead the conduct of the individual employees (it must be clear who produces the data, who processes it and who draws the conclusions that will be included in the business plan). The Rules of conduct of the board of statutory auditors confirm the assumption, given that they see the "Corporate organisational chart", setting out the roles and duties of the various subjects, as the first, inevitable element that constitutes the structures

At the same time, it is necessary to monitor company performance, trough constant management control, to make sure that the crisis indicators - *i.e* the imbalances in the income, equity or finances - do not reach a point where debt becomes unbearable for at least the following six months and/or where there is not prospective for the business to operate as a going concern for the current year or the following six months (as it is today expressly required under art. 13 of the Insolvency Code. To this extent, the (un)sustainability of indebtedness charges trough the cash flows and/or the (in)adequacy of own funds in respect of third party funding are significant indicators, as also reiterated delays in payments.

The administrative and accounting system must properly satisfy the needs of the corporate structure and must be able to provide all information in a relatively short span of time, by means of a specific software (i) enabling both the reclassification of accounting data and the analysis of the financial statements by indices, as well as - additionally - a reporting on the results (on a provisional basis) at least once a month; and (ii) processing budgets and forecasts referring to both the company's ordinary business and possible outcomes of investments[6].

On these aforementioned matters, insofar, as it has been possible to ascertain, there would appear to be no significant shortcomings, particularly with reference to the period running from the 2nd half of 2017 to the 2nd half of 2018, considering that - as can be read in the minutes of the meetings of the board of statutory auditors - all organisational, administrative and security structures and those relative to the various types of risks indicated by the applicable regulations, were systematically monitored. The accounting positions were up-to-date as at the previous month and the debt position was held to be sustainable, at least up to the month of July 2018. Possibly, what did not appear to be suitably implemented in Astaldi, from September 2017 to July 2018, is the organisational and managerial aspects aimed (not at the perception, but) at achieving a timely reaction to the commencement of a business crisis.

[6] Particularly for tenders, it is essential that software programs, which are now highly sophisticated, are able to accompany the progress made on the order, so as to intervene promptly in the event of anomalies, quickly offering useful information about the continued existence of profit margins on the order so as to avoid any unpleasant surprises emerging only at the end of an activity that has potentially run on for several years.

In substance, we note that the first symptoms of the company's financial and equity crisis had effectively been noted by the appointed bodies back in September/November 2017, with the explosion of the Venezuelan crisis and the leaked news over the hypothesised €200 million share capital increase (symptoms that were then specifically discussed in March 2018, in the report on the 2017 financial statements).

After this first reporting, however, the executive body's actions - thereby meaning "*the adoption and implementation of one of the instruments envisaged by the system for overcoming the crisis and recovering a situation of operation as a going concern*", pursuant to article 2086, second paragraph, Italian Civil Code (in force starting March 2019, but which could already be adapted by virtue of art. 2381) - were limited to continuing with the disposal of assets programme envisaged in the 2017/2021 strategic plan, still without obtaining the financing that had been long-ago planned and which was essential to maintaining the productive efficiency of all sites worldwide that continued operating.

In other words, if the financial support from the banks was subject to certain objectives or events, there is no way that the executive body could not acknowledge that the failure to achieve such objectives/events would have lead to an approach that, if not more conservative - no new risky or demanding operation was decided, was at least aimed at launching a recovery plan or, alternatively, more incisive measures.

Clearly, at the time of the events examined (until autumn 2018), the above legislation had not come into force yet, but the principle of correct administration pursuant to art. 2381 (in particular under the fifth paragraph) of the Italian Civil Code had been applicable since 2003 and the unanimous doctrine and case law agree on such extension.

Certainly, the great practical difficulty in proceeding with a rapid disposal of assets with an international reach and of extremely great value is understandable, as well as in attempting settlements upon procurements in financial debt.

However, it stays that the application for the composition procedure (*concordato*) was submitted only after: 1) the submission of an application for bankruptcy; 2) the failure to obtain a binding offer for the Third Bridge over the Bosphorus, which resulted in a freeze of the bridge loan requested to the banks; and 3) the solicitation of the board of statutory auditors on 30 August 2018.

Substantially, Astaldi was only able to remain on the market thanks to the granting of very burdensome bank loans - which under the scope of the composition procedure (*concordato*) were disbursed by virtue of the super senior qualification and the high interest rate negotiated - and not to the autonomous capacity of the business to continue operating as a going concern. The minutes of the board of statutory auditors report that this condition was clearly perceived, at least from November 2017 and, more clearly indeed, as from March 2018.

A complaint could hypothetically be made against the directors on the basis of their failure to apply for a loan under the scope or on the basis of a suitable procedure for a negotiated solution of the crisis: if a suitable recovery plan had been prepared and negotiated with the credit institutes, the feasibility of such plan would have needed to be certified pursuant to art. 67 of the Italian Bankruptcy Law, the loans necessary to the going concern (only granted under the current composition procedure (*concordato*) but not at the time, precisely because they were facilitated by the advantages of super senior qualification, non-revocability and depenalisation) would have been granted on more reasonable terms.

However, any liability for not having promptly verified the existence of criteria for the application for a procedure for a negotiated solution of the crisis and for not having launched, equally promptly, any of these procedures within the terms and with the contents necessary to avoid any worsening of the situation, should call for a precise identification of the prejudice hypothetically caused to the business, the company or third parties. This assumption appears to be not applicable to this case because no risky operation was implemented and the worsening of the economic conditions would, very probably, have occurred in any case, given the need to instruct and prepare the launch of a procedure (as was then effectively done late September 2018).

Similarly, the impact with an insolvency proceeding for all tender contracts in progress, would doubtlessly have been as complex, as under the composition procedure (*concordato*). Indeed, this is precisely what justified the wait for the results from the negotiations with the Chinese consortium for the sale of the equity investment held in 3BB in Turkey.

If, therefore, from the moment when Astaldi irremediably lost its share capital (*recte* shareholders' equity) - which can be identified as July 2018 - to the moment when it contacted the Court to make its situation public (28.9.2018), the value of the company's equity was not seriously affected, in accordance with art. 2486 of the Italian Civil Code, and if the management bodies tried until the end to enter into agreements with its major creditors (the banks), also identifying an international industrial partner (the Japanese IHI) in order to launch the €300 million share capital increase and thereby restore a financial position that would allow to resume the activities in the various works in progress, but which the objective uncertainty that surrounded the sale of high value assets (*i.e.* the economic crisis in Turkey and, before then, in Venezuela) did not allow; therefore no claim of liability against the company and the creditors could be brought forward against the directors, executive and non-executive, as well as against the control body and independent auditing firm.

The issuance of the €140 million convertible bond loan, with a 7 years term, resolved in June 2017, was also one of the operations envisaged in the 2016/2020 strategic plan, and constitutes one of the ways by which the directors could potentially obtain new sources of financing for the business - clearly, in a fincial position that was not compromised yet. More specifically, that bond was intended for the simultaneous buy-back ("reverse bookbuilding") of the equity-linked bonds outstanding worth €130 million, due in 2019.

The duties imposed on directors by the Italian Civil Code, and indeed by the By-laws, particularly in situations of financial difficulty, consist precisely of the three alternatives: recapitalisation, reorganisation or liquidation. And in the situation in which Astaldi found itself in spring 2017, liquidation was certainly an option to be excluded, given the multiple tender contracts pending (with penalty clauses). Moreover, it is important to note that, as Astaldi is a listed company, it was (and is) subject to strict commitments to control, transparency and market disclosures and, therefore, a request for liquidity would have been an important focus for market analysts.

Moreover, the 2017 bond issue was reserved to qualified investors and had a rate (4.87%) that was almost four times higher than the government securities issued at that time (1.3%); indeed, Astaldi's rating at that time was category B (speculative, high-risk and defined by S&P as "*non investment grade*").

As we read in the explanatory report of the BoD prepared in accordance with art. 2441, paragraph 6 of the Italian Civil Code and art. 72 of Consob Regulation No. 11971/99, published on the Company's website at the time the abovementioned bond loan was issued (still available today on the internet), "*the reasons why the offer of Bonds was reserved to qualified investors only lie not only in the desire to guarantee the immediate success of the transaction, but also in the complex financial characteristics of "Equity Linked" bonds, which, due to their specific nature, are not intended for non-qualified investors and, in particular, retail investors*".

A further argument backing these statements comes from the unwillingness of the market, a year later, to support the 300 million share capital increase proposed by Astaldi.

Instead, the situation seen in December 2013, when the €500 million bond loan was issued, placed with a solid group of institutional investors from across the globe, with a fixed annual coupon of 7.125%, was very different. These securities, which are defined as "high-yield bonds" because they are high risk (available for trading in minimum tranches of €100,000 each) had a "B+" rating assigned them by Standard & Poor's and Fitch and a "B1" from Moody's, with a stable outlook and for years were able to guarantee that return to holders (on the last occasion, reaching up to 18%).

Instead, there could be a query raised as to the manner in which the company intended to refinance said €500 million bond (thereafter extended to 750 million) at the 2020 maturity, given that in 2017 and 2018, conditions were not in place to reimburse, that entire amount, two years later, or refinance it for a further five years. Probably, however, the disposal programme of the concessions in Turkey, Chile and other countries and the recovery of the core business in line with the BP of the time, would have been able to cover the expected outlay, at least partially.

These considerations make it possible, in conclusion, to stress that although it was possible to assume a certain delay in adopting the most suitable instrument envisaged by the law to remedy the crisis of such a large company (from March/April 2018) that there was no actual damage caused to the creditors as a whole and the equity of Astaldi, given that:

i) no significant prejudicial or anomalous transaction had been implemented (*e.g.* disposals not at a fair price, impairment of equity investments or other assets, significant worsening of debt or assumption of risky initiatives) since the crisis became of evident effect and dimension;

ii) the increase of the aggregate indebtedness would have occurred even if the procedure had started earlier, given the direct continuity required (necessarily) under the composition procedure (*concordato*) and, consequently, the same legal effects would have occurred on the continuation or termination of the pending contracts.

During the composition procedure (*concordato*), several contracts were dismissed, through sales or settlements, as well as new works acquired (following a detailed demonstration of the positive margins and regular capacity to finance the relevant costs), thereby confirming the fact that continuing to operate as a going concern did not damage the equity nor indeed the previous creditors.

*

For the sake of completeness, with regards to the Company's conduct after the presentation of the petition pursuant to art. 161, paragraph 6 of the Italian Bankruptcy Law, the undersigned judicial commissioners note that, insofar as can be seen from the documentation relating to the procedure, during the phase with reservation, the Company fulfilled all requirements laid down by the decree, issued on 17 October 2018, granting the term. Indeed, on a monthly basis, Astaldi filed: (*i*) an updated financial situation regarding the business and (*ii*) an explanatory report on the status of the Composition Proposal and the related Composition Plan, as well as information regarding Astaldi's management of operations and financial management, together with a list of the most significant transactions carried out by Astaldi that are of a value higher than €500,000.00 and that are of a contractual, management, industrial, financial or settlement nature and details of the cash holdings and the most significant changes. More specifically, in accordance with and pursuant to art. 161, paragraph 8 of the Italian Bankruptcy Law, the Company filed:

i) on 16 November 2018, the first periodical report and the report on the Company's financial position, relating to the period 28 September 2018 - 31 October 2018;

ii) on 17 December 2018, the second periodical report and the report on the Company's financial position, relating to the period 01 November 2018 - 30 November 2018;

iii) on 16 January 2019, the third periodical report and the report on the Company's financial position, relating to the period 01 December 2018– 31 December 2018;

iv) on 15 February 2019, the fourth periodical report and the report on the Company's financial position, relating to the period 01 January 2019– 31 January 2019;

v) on 18 March 2019, the fifth periodical report and the report on the Company's financial position, relating to the period 15 February 2019– 15 March 2019;

vi) on 14 April 2019, the sixth periodical report and the report on the Company's financial position, relating to the period 16 March 2019– 14 April 2019;

viii) on 16 May 2019, the seventh periodical report and the report on the Company's financial position, relating to the period 15 April 2019– 15 May 2019;

ix) on 17 June 2019, the eighth periodical report and the report on the Company's financial position, relating to the period 16 May 2019– 14 June 2019;

x) on 18 July 2019, the ninth periodical report and the report on the Company's financial position, relating to the period 15 June 2019– 15 July 2019;

xi) on 19 September 2019, Astaldi filed the tenth periodical report and the report on the Company's financial position, relating to the period 16 July 2019– 31 July 2019.

A positive, collaborative approach towards the commissioners is also noted, as shown by both the Company and its consultants. The requests made were always satisfied and also with respect to the activities aimed at preparing the inventory, as has been carried out by the commissioners, the Company provided its assistance as and when necessary also.

7.3. Assessed Assets

The Composition Proposal and the Composition Plan, as extensively illustrated, are substantially based on two operations: (*i*) first, the definition of a Business Plan in order for the Company to continue as a going concern and (*ii*) second, the identification and establishment of dedicated assets pursuant to art. 2447-*bis* of the Italian Civil Code aiming at the liquidation such dedicated assets in order to satisfy unsecured creditors.

Based on the analysis that the judicial commissioners conducted on the assets in Astaldi S.p.A.'s and their overall assessments, you may find below a brief summary of the findings and the amounts assessed for each financial statements item, with separate indication of the portion allocated for the Company to continue as a going concern and the portion included in the dedicated assets pursuant to art. 2447-*bis* of the Italian Civil Code.

Currency: € 000	***Assessed amounts (Jud. Comm.)***		
		of which	
Items	***Total***	***Going***	***Dedicate***
Property, plant and equipment	118,048	95,114	22,934
Property investments	137	137	-
Intangible assets	45,946	45,946	-
Equity investments	621,829	180,846	440,983
Non-current financial assets	62,482	57,075	5,407
Other non-current assets	29,357	29,357	-
Deferred tax assets	139,268	139,268	-
Total non-current assets	**1,017,067**	**547,743**	**469,324**
Inventories	29,151	29,151	-
Contract assets	730,697	730,697	-
Capitalised costs to fulfil contracts	1,915	1,915	-
Trade receivables	163,800	163,800	-
Current financial assets	175,294	175,294	-
Tax assets	48,155	48,155	-
Other current assets	176,674	176,674	-
Cash and cash equivalents	33,007	33,007	-
Total current assets	**1,358,693**	**1,358,693**	**-**
Non-current assets held for sale	282,744	1,444	281,300
Total Assets	**2,658,504**	**1,907,880**	**750,624**

+ Property, plant and equipment

"Property, plant and equipment" are stated in Astaldi S.p.A.'s statement of financial position as at 28.09.2018 for a total of €118,048 thousand.

The Company has not made any adjustments or offsets pursuant to art. 56 of the Italian Bankruptcy Law to the book value for the purposes of the Composition Plan. Therefore, the value is confirmed to be €118,048 thousand, including:

- €95,114 thousand allocated for the Company to continue as a going concern;

- €22,934 thousand referring to the property in Rome, via Giulio Vincenzo Bona, 65 included in the dedicated assets pursuant to art. 2447-*bis* of the Italian Civil Code.

Based on the findings of the overall analysis of this item, the judicial commissioners confirmed the value of "Property, plant and equipment" indicated by the Company in the Composition Plan.

+ Property investments

"Property investments" is stated in Astaldi S.p.A.'s statement of financial position as at 28.09.2018 for a total of €137 thousand.

The Company has not made any adjustments or offsets pursuant to art. 56 of the Italian Bankruptcy Law to the book value for the purposes of the Composition Plan. Therefore, the value is confirmed to be €137 thousand, entirely allocated for the Company to continue as a going concern and consisting of the two properties in Rome, respectively at via Salaria, km 19,600 and via Cirillo, 15.

Based on the findings of the overall analysis of this item, the judicial commissioners confirmed the value of "Property investments" indicated by the Company in the Composition Plan.

+ Intangible assets

"Intangible assets" is stated in Astaldi S.p.A.'s statement of financial position as at 28.09.2018 for a total of €45,946 thousand.

The Company has not made any adjustments or offsets pursuant to art. 56 of the Italian Bankruptcy Law to the book value for the purposes of the Composition Plan. Therefore, the value is confirmed to be €45,946 thousand, entirely allocated for the Company to continue as a going concern and consisting of patents and intellectual property rights, non-competition agreements and other minor intangible assets.

Based on the findings of the overall analysis of this item, the judicial commissioners confirmed the value of "Intangible assets" indicated by the Company in the Composition Plan.

+ Equity investments

"Equity investments" is stated in Astaldi S.p.A.'s statement of financial position as at 28.09.2018 for a total of €789,273 thousand.

For the purposes of the Composition Plan, the Company adjusted/offset the book value of this item as follows:

- adjustments for an aggregate amount equal to €-124,915 thousand;

- offsets pursuant to art. 56 of the Italian Bankruptcy Law for an aggregate amount equal to €-12,936 thousand.

Therefore, equity investments were stated in the Composition Plan for a total of €651,423 thousand, including:

- €210,440 thousand referring to equity investments allocated for the Company to continue as a going concern;

- €440,983 thousand included in the dedicated assets pursuant to art. 2447-*bis* of the Italian Civil Code and consisting of:

    - o the equity investment in Astaldi Concessioni S.p.A.;

- Astaldi S.p.A.'s direct interest in the SPV that holds the concession for the "GOI Motorway" project;

- Astaldi S.p.A.'s direct interest in the SPV that holds the concession for the "Etlik Hospital" project.

Based on the findings of the overall analysis of this item, the judicial commissioners deemed necessary to instead consider a value of €621,829 thousand for "Equity investments", consisting of the following:

- €180,846 thousand referring to equity investments allocated for the Company to continue as a going concern;

- €440,983 thousand included in the dedicated assets pursuant to art. 2447-*bis* of the Italian Civil Code.

The adjustment to equity investments allocated for the Company to continue as a going concern is due to the lower estimated realisable value of equity investments in the subsidiaries Astaldi Canada Inc. and AR.GI. S.c.p.A.

+ Non-current financial assets

"Non-current financial assets" are stated in Astaldi S.p.A.'s statement of financial position as at 28.09.2018 for a total of €137,955 thousand.

For the purposes of the Composition Plan, the Company adjusted/offset the book value of this item as follows:

- adjustments for an aggregate amount equal to €-3,307 thousand;

- offsets pursuant to art. 56 of the Italian Bankruptcy Law for an aggregate amount equal to €-72,166 thousand.

Therefore, non-current financial assets were stated in the Composition Plan for a total of €62,482 thousand, including:

- €57,075 thousand referring to non-current financial assets allocated for the Company to continue as a going concern;

- €5,407 thousand included in the dedicated assets pursuant to art. 2447-*bis* of the Italian Civil Code and consisting of the subordinated loan to the SPV that holds the concession for the "Etlik Hospital" project.

Based on the findings of the overall analysis of this item, the judicial commissioners confirmed the value of the item "Non-current financial assets" indicated by the Company in the Composition Plan.

+ **Other non-current assets**

"Other non-current assets" are stated in Astaldi S.p.A.'s statement of financial position as at 28.09.2018 for a total of €234,017 thousand.

For the purposes of the Composition Plan, the Company adjusted/offset the book value of this item as follows:

- adjustments for an aggregate amount equal to €-83,606 thousand;

- offsets pursuant to art. 56 of the Italian Bankruptcy Law for an aggregate amount equal to €149 thousand.

Therefore, other non-current assets were stated in the Composition Plan for a total of €150,561 thousand, including:

- €29,357 thousand referring to non-current assets allocated for the Company to continue as a going concern;

- €121,204 thousand included in the dedicated assets pursuant to art. 2447-*bis* of the Italian Civil Code and consisting of "Venezuelan Receivables".

Based on the findings of the overall analysis of this item, the judicial commissioners deemed necessary to instead consider a value of €29,357 thousand for "Other non-current assets", entirely allocated for the Company to continue as a going concern.

The adjustment of other non-current assets included in the dedicated assets pursuant to art. 2447-*bis* of the Italian Civil Code is due to the impairment of the "Venezuelan Receivables" as the judicial commissioners prudently estimated its realisable value as zero, this being a valid alternative, for the purposes of the Composition Plan, to the estimate prepared and updated by Prof. Laghi, considering developments in the Venezuelan economy and politics.

+ **Deferred tax assets**

"Deferred tax assets" are stated in Astaldi S.p.A.'s statement of financial position as at 28.09.2018 for a total of €139,268 thousand.

The Company has not made any adjustments or offsets pursuant to art. 56 of the Italian Bankruptcy Law to the book value for the purposes of the Composition Plan. Therefore, the value is confirmed to be €139,268 thousand, entirely allocated for the Company to continue as a going concern and consisting of deferred tax assets calculated on costs taken to profit or loss that will be tax deductible in future years.

Based on the findings of the overall analysis of this item, the judicial commissioners confirmed the value of "Deferred tax assets" indicated by the Company in the Composition Plan.

+ **Inventories**

"Inventories" are stated in Astaldi S.p.A.'s statement of financial position as at 28.09.2018 for a total of €29,151 thousand.

The Company has not made any adjustments or offsets pursuant to art. 56 of the Italian Bankruptcy Law to the book value for the purposes of the Composition Plan. Therefore, the value is confirmed to be €29,151 thousand, entirely allocated for the Company to continue as a going concern and consisting of raw materials, consumables, supplies and goods, as well as materials in transit.

Based on the findings of the overall analysis of this item, the judicial commissioners confirmed the value of "Inventories" indicated by the Company in the Composition Plan.

+ **Contract assets**

"Contract assets" are stated in Astaldi S.p.A.'s statement of financial position as at 28.09.2018 for a total of €819,994 thousand.

For the purposes of the Composition Plan, the Company adjusted the book value by an aggregate amount of €-89,297 thousand: Therefore, contract assets were stated in the Composition Plan for a total of €730,697 thousand, entirely allocated for the Company to continue as a going concern and relating to ongoing contracts net of payments on account and advances from customers for operational and non-operational contracts.

Based on the findings of the overall analysis of this item, the judicial commissioners confirmed the value of "Contract assets" indicated by the Company in the Composition Plan.

+ **Capitalised costs to fulfil contracts**

"Capitalised costs to fulfil contracts" are stated in Astaldi S.p.A.'s statement of financial position as at 28.09.2018 for a total of €1,915 thousand.

The Company has not made any adjustments or offsets pursuant to art. 56 of the Italian Bankruptcy Law to the book value for the purposes of the Composition Plan. Therefore, the value of this item is confirmed to be €1,915 thousand, entirely allocated for the Company to continue as a going concern and consisting of the costs incurred by the Company to participate in and to acquire certain contracts, which will be taken to profit or loss on a percentage of completion basis.

Based on the findings of the overall analysis of this item, the judicial commissioners confirmed the value of "Capitalised costs to fulfil contracts" indicated by the Company in the Composition Plan.

+ **Trade receivables**

"Trade receivables" is stated in Astaldi S.p.A.'s statement of financial position as at 28.09.2018 for a total of €521,409 thousand.

For the purposes of the Composition Plan, the Company adjusted/offset the book value of this item as follows:

- adjustments for an aggregate amount equal to €-182,369 thousand;
- offsets pursuant to art. 56 of the Italian Bankruptcy Law for an aggregate amount equal to €-175,240 thousand.

Therefore, trade receivables were stated in the Composition Plan for a total of €163,800 thousand, entirely allocated for the Company to continue as a going concern.

Based on the findings of the overall analysis of this item, the judicial commissioners confirmed the value of "Trade receivables" indicated by the Company in the Composition Plan.

+ Current financial assets

"Current financial assets" are stated in Astaldi S.p.A.'s statement of financial position as at 28.09.2018 for a total of €245,948 thousand.

For the purposes of the Composition Plan, the Company adjusted/offset the book value of this item as follows:

- adjustments for an aggregate amount equal to €33,036 thousand;
- offsets pursuant to art. 56 of the Italian Bankruptcy Law for an aggregate amount equal to €-55.939 thousand.

Therefore, current financial assets were stated in the Composition Plan for a total of €223,045 thousand, entirely allocated for the Company to continue as a going concern and consisting of financial assets from subsidiaries and third parties.

Based on the findings of the overall analysis of this item, the judicial commissioners deemed necessary to instead consider a value of "Current financial assets" of €175,294 thousand.

The adjustment of current financial assets is due to the lower estimated realisable value of the financial asset for the loan granted to the subsidiary Astaldi Canada Inc.

+ Tax assets

"Tax assets" are stated in Astaldi S.p.A.'s statement of financial position as at 28.09.2018 S.p.A. for a total of €50,947 thousand.

For the purposes of the Composition Plan, the Company adjusted/offset the book value of this item as follows:

- adjustments for an aggregate amount equal to €504 thousand;

- offsets pursuant to art. 56 of the Italian Bankruptcy Law for an aggregate amount equal to €-3,296 thousand.

Therefore, tax assets were stated in the Composition Plan for a total of €48,155 thousand, entirely allocated for the Company to continue as a going concern and consisting of VAT, direct taxes and deferred taxes.

Based on the findings of the overall analysis of this item, the judicial commissioners confirmed the value of "Tax assets" indicated by the Company in the Composition Plan.

+ Other current assets

"Other current assets" are stated in Astaldi S.p.A.'s statement of financial position as at 28.09.2018 for a total of €318,144 thousand.

For the purposes of the Composition Plan, the Company adjusted/offset the book value of this item as follows:

- adjustments for an aggregate amount equal to €3,961 thousand;

- offsets pursuant to art. 56 of the Italian Bankruptcy Law for an aggregate amount equal to €-134,983 thousand.

Therefore, other current assets were stated in the Composition Plan for a total of €187,122 thousand, entirely allocated for the Company to continue as a going concern and consisting of other current assets from Group companies and third parties and accrued income and prepayments.

Based on the findings of the overall analysis of this item, the judicial commissioners deemed necessary to instead consider a value of €176,674 thousand for "Other current assets".

The adjustment of other current assets is due to the lower estimated realisable value of the amounts due from the subsidiary Astaldi Canada Inc. and the G&O consortium.

+ **Cash and cash equivalents**

"Cash and cash equivalents" are stated in Astaldi S.p.A.'s statement of financial position as at 28.09.2018 for a total of €33,967 thousand. For the purposes of the Composition Plan, the Company made an offset pursuant to art. 56 of the Italian Bankruptcy Law to the book value by a total of €-939 thousand.

Therefore, cash and cash equivalents were stated in the Composition Plan for a total of €33,028 thousand, entirely allocated for the Company to continue as a going concern and consisting of deposits in bank accounts and cash holdings.

Based on the findings of the overall analysis of this item, the judicial commissioners deemed necessary to instead consider a value of €33,007 thousand for "Cash and cash equivalents".

The adjustment to the value of cash and cash equivalents is due to an offset pursuant to art. 56 of the Italian Bankruptcy Law, applied directly by the creditor and, therefore not reflected in the Composition Plan at the date of the Composition Proposal. Based on the analysis of the value of assets in Astaldi S.p.A.'s statement of financial position, the judicial commissioners have assessed, for the purposes of the Composition Proposal, a total value of **€2,658,504 thousand**, including:

- €1,907,880 thousand allocated for the Company to continue as a going concern;

- €750,624 thousand included in the dedicated assets pursuant to art. 2447-*bis* of the Italian Civil Code.

*

7.4. ASSESSED LIABILITIES

The following table provides a summary of the results of the assessments with respect to the liabilities identified in the context of the composition procedure (*concordato*):

Type of creditor	**Assessed amount (judicial**
super senior	55,595,813.00

mortgage-backed	2,794,826.00
employees and freelancers	12,786,172.60
professionals	15,518,350.88
tradesmen	3,440,379.29
cooperatives	219,782.26
social security institutions	9,078,807.98
indirect taxes	6,554,916.93
vat recovery	1,408,434.33
direct government taxes	22,047,353.60
time-barred preferred	210,401.18
provision for preferred creditor risks	21,633,154.00
interest on preferred creditors	1,975,200.00
Italian suppliers	204,588,368.22
foreign suppliers	92,132,538.60
indirect factoring	36,933,255.56
other Italian debt	13,067,852.00
other foreign debt	1,210,108.29
banks and bondholders	2,125,047,481.13
banks - enforcement of security / guarantees	434,209,400.58
unsecured social security contributions	735,245.51
unsecured employees	249,726.89
group companies and JO	190,402,570.82
time-barred unsecured creditors	2,941,337.82
provision for unsecured creditors risks	467,770,507.00
TOTAL	**3,722,551,984.47**

In conclusion, we, the undersigned commissioners, note that:

- with respect to the enforcement of security / guarantees after 28 September 2018, for which certain creditors have filed a claim to be qualified as super senior, we do not believe that such claims should be considered super senior given that the related obligation arose before the filing of the application for composition procedure (*concordato*);
- nor do we believe that super senior status should be granted to the amounts due to sub-contractors for ongoing contracts and if such sub-contractors have not provided evidence of the effective usefulness of their activities with respect to all creditors.

7.5. COMPOSITION PROPOSAL, WARRANTIES GIVEN AND FEASIBILITY OF THE PLAN

The definitive Composition Proposal, as amended and supplemented, may be summarised as follows:

- the Company will continue its business activities with the sole exception of certain specifically identified assets, which will be included in the Dedicated Assets pursuant to art. 2447-*bis* of the Italian Civil Code, in order to be liquidated;
- a capital increase of €225,000,000 by Astaldi S.p.A., to be paid up in cash, reserved to Salini Impregilo S.p.A. which has made a binding offer to subscribe the share capital increase subject to the condition precedent of the final homologation (*omologa*) of the composition proposal, with the exclusion of option rights in favour of the former shareholders. The issue price per share is set at €0.23;
- a further capital increase of €98,653,846 to service the conversion of the Company's unsecured debts into shares (at a ratio of 12.493 shares for every €100 of unsecured credit recognised or claimed *vis-à-vis* Astaldi). The issue price per share is set at €0.23;
- the issuance of warrants in favour of the banks granting financing Astaldi, to be exercised upon payment, according to the terms and conditions of the regulation annexed to the New Salini Impregilo Binding Offer, so that the new ordinary shares issued at a subscription price

of €0.23 per share will be equal to a 5% stake in the Company's share capital as resulting immediately after the two share capital increases indicated above and the issue of the shares for the Premium Warrants;

- a potential third capital increase, divisible (*aumento di capitale scindibile*) with the exclusion of option rights in favour of the current shareholders, up to a maximum amount (to be subsequently determined) that is sufficient to satisfy further unsecured creditors, not included in the current plan, provided that the amounts claimed exceed the unsecured risk provisions indicated in the Composition Plan, at a ratio of 12.493 shares for every €100 of unsecured credit recognised or claimed *vis-à-vis* Astaldi;

- issuance of specific anti-dilutive warrants, which Salini Impregilo may exercise in order to maintain its stake in the share capital of Astaldi, even in the event that further unsecured creditors, not included in the current plan, arise. The Anti-Dilutive Warrants will not "compensate" for the dilution of any future Astaldi's shareholder resulting from the exercise of the Premium Warrants by the financial institutions that participate in the granting of new credit lines;

- Astaldi will issue Participating Financial Instruments (or PFIs) in order to grant to Astaldi's unsecured creditors the proceeds generated from the progressive sale of assets that will be separately liquidated; part of such assets is owned directly by Astaldi and part is owned by Astaldi Concessioni (which is wholly-owned by Astaldi).

As a result of the share capital increases of €225,000,000.00 and €98,653,846 respectively (assuming that the provisions indicated in the plan will fully translate into actual liabilities), Salini Impregilo will own a 65% of the share capital, the unsecured creditors will own 28.50% of the share capital and Astaldi's current shareholders will own 6.5% of the share capital. Nevertheless, if all the banks exercise the Premium Warrants upon payment, this will result into a dilution effect on all shareholders (including Salini Impregilo) and, accordingly, Salini Impregilo will own 61.7% of the share capital, the unsecured creditors will own 27.1% of the share capital, Astaldi's current shareholders will own 6.2% and the banks holding the warrants will own 5%.

In order for the Company to continue regularly as a going concern and, in particular, in order to continue the contracts already ongoing and to perform new contracts pending the composition procedure (*concordato*), the Company has identified specific financial resources necessary for its activities which present conditions and terms of use and repayment that are in line with the plan's actual requirements.

In this respect, the Proposal provides for:

- a super senior bond issuance for an amount equal to €75 million (the "First *Tranche*");
- another super senior bond issuance to be subscribed by Salini Impregilo, for an amount up to €125 million (the "Second *Tranche*");
- a bridge loan granted by Illimity Bank S.p.A. for €40,000,000.00 to fund the Company pending the utilisation of the Second *Tranche*;
- a credit facility of €200 million granted on the expected date of the homologation by the Court of the Astaldi's Composition Proposal (the "**RCF 200**") and the concurrent full repayment of any residual amounts of Super Senior Financing per the points above;
- a financial support from the banks that will grant the Company will have the credit lines necessary to Astaldi's business activities and properly implement the Composition Plan while continuing as a going concern, for a total expected amount of €384 million.

The availability period and repayment schedule and the specific economic terms of the super senior financing are described in detail in the Composition Plan presented by the Company and in the subsequent Supplements to the Plan.

On the liabilities side, the Composition Proposal provides for the following:

- full payment of the super senior debt using the liquidity generated by the capital increase by payment and the Company's going concern;
- full payment of preferred debt, including the provisions for risks and charges, using the liquidity generated by the capital increase by payment and the Company's going concern;

- partial payment of the unsecured debt, including the provisions for risks and charges, through the allocation of (*i*) the Participating Financial Instruments, according to a ratio of 1 PFI for each euro of unsecured credit, and (*ii*) the new shares (par value of each share equal to €0.23) resulting from the share capital increase of €98,653,846, according to a ratio of 12.493 shares for every €100 of unsecured credit. The Plan does not assess a specific value for the right arising from the Participating Financial Instruments, a specific value for the shares assigned to the unsecured creditors or even a minimum percentage of creditors' satisfaction.

Along with the filing of the Composition Proposal, the Company also presented a settlement request for taxes and social security contributions pursuant to art. 182-*ter* of the Italian Bankruptcy Law.

Based on our assessments, the creditors for the purposes of the Composition Proposal may be broken down as follows:

a)	Super Senior creditors	equal to	€ 55,595,813
b)	Preferred creditors	equal to	€127,202,688
	including €29 million due to SACE		
c)	Unsecured creditors	equal to	€ 3,569,288,392
d)	Subordinated creditors (net of amounts waived)		€6,000,000

In brief, we assessed the feasibility of the Proposal as follows:

❖ With respect to its legal feasibility, we found it necessary to address the following instances:

(i) the conversion of debt into equity by assignment of the shares and Participating Financial Instruments of the Dedicated Assets (*datio in solutum*);

(ii) the share capital increase and its impact on the current shareholders;

(iii) the Dedicated Assets pursuant to art. 2447-*bis* of the Italian Civil Code;

(iv) the full satisfaction of certain creditor and the amount due to SACE;

(v) the eligibility of competing proposals pursuant to art. 163 of the Italian Bankruptcy Law;

(vi) the fact that the Proposal cannot be considered a form of indirect "State aid".

Having completed our examination of the legal issues indicated above and noting that the Court, in its admission decree issued on 5 August 2019, examined and cleared many aspects relating to the legal feasibility of Astaldi's composition procedure (*concordato*), we, the undersigned judicial commissioners, believe we can express our positive opinion on the overall legal feasibility of the Proposal, because:

(i) there are no legal obstacles to satisfying the unsecured creditors partly with Astaldi shares, issued in execution of the reserved share capital increase, and partly with Participating Financial Instruments granting to their holders the right to receive a part of the proceeds arising from the liquidation of the Dedicated Assets;

(ii) a share capital increase is legally possible, notwithstanding the losses in excess of one-third of the share capital or the reduction to below the minimum established under art. 2327 of the Italian Civil Code, without first cancelling all share capital;

(iii) the resolution to set up the Dedicated Assets will be passed, as provided for in the Proposal and in the Plan, after the creditors' meeting. In any case, as of the date hereof, there are no elements in breach of art. 2477-*bis* of the Italian Civil Code. Furthermore, Astaldi's extraordinary shareholders meeting has already approved the plan for the partial demerger of Astaldi Concessioni S.p.A., and the assets included in the demerger will be transferred into the Dedicated Assets;

(iv) the full satisfaction of certain unsecured creditors seems adequate, as the Court already resolved, and the settlement with the SACE creditor appears to be compatible with the Plan and advantageous for the unsecured creditors;

(v) the eligibility of competing proposals, in accordance with the provisions of art. 163 of the Italian Bankruptcy Law, does not appear to be a material issue, as there are no reasons preventing their presentation;

(vi) the fact that the Cassa Depositi e Prestiti is participating in the share capital increase resolved by Salini Impregilo (We Build), for the purposes of Astaldi's share capital increase in accordance with the Proposal and the Plan, cannot be considered a form of "State aid".

❖ We believe that we can express a positive opinion on the economic feasibility of the Composition Proposal based on the following observations:

- the Business Plan for the Company to continue operating as a going concern is feasible considering the forecast performance of contracts for the period 2019-2023, of the expected results and of cash flows that can be generated in the same period of time;

- such Plan is feasible both from a quantitative perspective and in terms of development and performance over the period of time considered;

- the main critical aspects of the Business Plan with the Company operating on a going concern basis relate to whether it will effectively acquire the new contracts forecasted in the Plan (according to which the acquisition of contracts will increase in 2022 and 2023) and whether the forecast results will actually be achieved. In this respect, we noted that the Company has estimated a trend in production that is completely sustainable and prudently lower than its historical performance. Even the Company's estimated results show EBITDA and EBIT lower than in 2015 and 2016;

- another critical element is the need to restore the ordinary course in the execution of contracts as soon as possible. Indeed, this is a crucial condition for the achievement of most of the forecasted results;

- the assumption on financial resources included in the Plan to support continuity on a going concern basis appears to be adequate and consistent with the Business Plan. Currently, the financial operation provided for in the Plan has been substantially implemented and nearly all the *interim* financing has been disbursed. The last part of the *second tranche* of the bond should be disbursed by 11 February 2020 (€63.9 million);

- the assumption on cash flows included in the Plan on a going concern basis, taking into account the initial preliminary and non-definitive financial data and results for 2019, appear to be adequate and sufficient to pay super senior and preferred creditors;

- with respect to the Dedicated Assets, the Plan does not precisely quantify the proceeds to be generated by the liquidation of the assets included in the Dedicated Assets, although it does describe in detail the segregated assets and the procedures for liquidation and the assignment of the Participating Financial Instruments. In these respects, the liquidation of the Dedicated Assets as described in the Composition Plan appears feasible;

- the plan for the demerger of the subsidiary Astaldi Concessioni S.p.A. is effectively being implemented. Indeed, on 15 January 2020, the Board of Directors of Astaldi Concessioni S.p.A. approved the Demerger Plan and on 22 January 2020, the extraordinary shareholders' meeting approved the demerger. The date scheduled for the Demerger Deed is 24 March 2020, provided that the resolution is not challenged, and, therefore, before the creditors' meeting;

- the main critical aspects with respect to the liquidation of the Dedicated Assets, given that no predetermined percentage of satisfaction has been promised to the unsecured creditors, exclusively relate to the need to take all the most appropriate steps to achieve the fullest possible satisfaction of creditors in terms of the value of the Participating Financial Instruments assigned to the unsecured creditors;

- with respect to the estimated value of the resources that can be segregated to the benefit of the Participating Financial Instruments to be used to satisfy the unsecured creditors, we performed our assessments with respect to the Venezuelan Receivables, the provision for the amount due to SACE and the provision for preferred creditors exceeding the limits of each individual category as identified in the Salini Impregilo Binding Offer. Finally, we adjusted downwards the estimates of the actual value of the Participating Financial Instruments in order to give the creditors a more prudent assessment to consider for the purposes of voting on the

Composition Proposal. For the results of this adjustment, please refer to the previous description in this paragraph of the Report;

- the share capital increase by payment provided for in the Plan, with respect to both the portion reserved for Salini Impregilo (€225 million) and the potential capital increase reserved to the banks financing the transaction, has now been fully defined in all its aspects, and, therefore, does not give rise to any questions or uncertainties with respect to its implementation, provided that the conditions in the Plan are met (homologation of the composition procedure (*concordato*)), so that the provisions for the payment of the super senior and preferred creditors and the financial support for the Company to continue as a going concern basis are feasible;

- furthermore, we believe that the assignment of the newly issued shares to the unsecured creditors following the share capital increase provided in the Plan, as described in the Proposal, is also feasible, as it is consistent with Salini Impregilo Binding Offer;

- as for the PFIs, the Proposal does not precisely quantify the economic and/or book value that the aforesaid shares assigned to the unsecured creditors will have after the court approval of the composition procedure (*concordato*). The Company has estimated a post-homologation book value of €551.0 million. We have updated this estimate to consider the results of the independent assessments performed on assets and liabilities to €545.9 million (€522.3 million if the write-off of NBI's composition debt is waived). As mentioned, the purpose of our adjustment was to give the creditors a more prudent valuation for the purposes of voting on the Composition Proposal. For the results of this adjustment, please refer to the previous description in this paragraph of the Report;

- the timeframe to implement the Proposal appears adequate and consistent with the execution of the Plan. In particular, the Proposal provides for (*i*) payment of the preferred creditors within 1 year of the court approval of the composition procedure (*concordato*) and payment of the super senior creditors as they fall due - using the proceeds from the share capital increase upon payment – and (*ii*) payment of the unsecured creditors, partly through the assignment of newly issued shares when the composition procedure (*concordato*) receives court approval and partly through the assignment of the Participating Financial Instruments in accordance with the procedures and criteria set forth in the regulation;

- finally, we note that the Plan does not provide for specific warranties supporting the feasibility of the Proposal and we do not believe it necessary to present findings in this respect, since it is a Composition Proposal which, *de facto*, can be immediately implemented with the allocation, after the homologation, (i) of the newly issued shares to the unsecured creditors at a *ratio* of 12.493 share for every €100 of credit and (ii) the Participating Financial Instruments to the unsecured creditors at a *ratio* of 1 PFI for each euro of credit, without indicating a minimum percentage of creditor satisfaction to be guaranteed;

- since the Plan is subject to the condition precedent of the homologation of the Composition, all the forecasts are based on 31.03.2021 as the ultimate deadline for the final homologation. After such date, it is not possible to foresee whether the Plan will hold without additional changes, and herein lies its true uncertainty.

Acknowledging the above and in light of the information gathered, we, the judicial commissioners, believe we can express a positive opinion on the economic feasibility of Astaldi's Composition Proposal.

Specifically, based on our examination and the updates to the plan forecasts, we believe that the total percentage of satisfaction of the unsecured creditors will be approximately 33%.

7.6. WHETHER THE COMPOSITION PROCEDURE (*CONCORDATO*) IS MORE ADVANTAGEOUS THAN THE ALTERNATIVE OF EXTRAORDINARY ADMINISTRATION

A plausible alternative to composition procedure (*concordato*) in which the company continues to operate as a going concern is clearly the extraordinary administration procedure pursuant to Italian Decree Law 347/2003 (converted into Law 39/2004, known as the "**Marzano Decree**"), for which Astaldi is eligible as it meets the requirements of art. 1, namely: a) more than 500 workers, b) over €300 million of indebtedness.

Now, the general stalemate situation of the Company, produced by the uncertainty surrounding its future, a loss of confidence by part of certain foreign customers and the lack of financing, has caused tension with the (foreign and Italian) procuring entities and with its partners in the consortia set up to manage large contracts.

An extraordinary administration procedure would commence from the required review of the contract budgets, as they will possibly lack all the financing currently provided for in the Astaldi-Salini Impregilo financial operation.

Although it is true that, as occurred with the CONDOTTE homologation, for the purposes of the authorisation pursuant to European government assistance legislation [art. 107, paragraph 3, letter c) of the Treaty on the Functioning of the European Union], the Company may file a petition in order to obtain a government-backed bank loan (pursuant to art. 2-bis of Italian Decree Law 26/1979) in order to try to fix misalignments with operating requirements. However, the amounts would certainly not be comparable to those provided by the pool of banks in the composition procedure (*concordato*), and this could have easily imaginable detrimental effects on the Company's ability to continue on a going concern basis.

The comparison between amounts prospected to creditors in the Composition Proposal in which the company continues on a going concern basis and what creditors would receive in the alternative scenario, highlights how the composition is clearly the most advantageous solution, since, in alternative "compulsory" procedures, the assets distributable to creditors would depend on the price of the company as a whole – or the price of its separately sold assets (foreign, national, constructions, infrastructures and concessions) - and on the liquidity generated by the continuation of its activities until the date of sale. Nonetheless this liquidity would be needed to cover the substantial running costs, repay the super senior financing already disbursed and preserve contracts, especially where the Company would not have the financial support from the pool of banks pending the homologation of the composition procedure (*concordato*).

Taking into account the *status quo* of the sell-off plan that the Italian Ministry of Economic Development (MISE) authorised in April 2019 (the deadline for expressions of interest was July 2019, but the call for bids has yet to be announced) in the context of the procedure regarding Condotte, a company similar to Astaldi in terms of business logic, diversification of activities and asset value, is undergoing, we can assume that the process would be similar for Astaldi, with added costs to be taken into account with respect to each work site and material risks of withdrawal. The priority in the extraordinary administration procedure is to safeguard the assets of large companies by continuing operations or selling business units according to a plan governed by art. 54 *et seq*. of Italian Legislative Decree 270/99, which refers to the provisions of art. 4 of Decree Law 347/03. Nevertheless, it is general knowledge that the purpose of having companies continue their activities on a going concern basis during extraordinary administration procedures is not to achieve an improved satisfaction of the creditors, as in a composition procedure (*concordato*)s (art. 186-*bis* of the Italian Bankruptcy Law), but rather aims at considering all the many different interests (workers, strategic suppliers, creditors, etc.), with the valorisation of even "badwill" and a consequent departure from the pursuit of maximum profit achievable (see art. 5 of the "Marzano Decree").

It follows that the respective purposes of the two procedures under comparison differ from a substantial and ontological point of view. In conclusion, it does not appear that the alternative of extraordinary administration would be more advantageous for the unsecured creditors.

Moreover, this conclusion is further confirmed by the observation that acquired contracts could be ended, for a backlog value exceeding €5 billion, along with the consequent loss of guarantees currently amounting to €4.4 billion. Therefore, the composition procedure (*concordato*) is certainly the most advantageous for the unsecured creditors.

Ultimately, art. 172 of the Italian Bankruptcy Law requires commissioners to illustrate, in the event of bankruptcy (extraordinary administration), what elements could be used in claims for compensation or recovery, or claw-back action against third parties. In this respect, we note that, based on the *status quo* of our assessments, we have not defined any transactions that could be affected by such claims or actions.

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We, the undersigned judicial commissioners, reserve any right to supplement this report up to the date of the creditors' meeting in order to consider any material facts that should occur after this version of the report is filed.

We also reserve the right to provide, before 26 March 2020, a regulation governing participation in the creditors' meeting and the relative procedures.

Rome, 10 February 2020

The Judicial Commissioners

Vincenzo Mascolo

Enrico Proia

Piergiorgio Zampetti