



EU rules for Important Projects Of Common European Interest (IPCEI)

Directorate General Competition
Unit H2 – R&D&I, IPCEI and Environment
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Background

- The notion of "Important Project of Common European Interest" is laid down in Art. 107(3)(b) TFEU as part of the State aid rules
- It is a specific possibility to find aid compatible with the internal market, but was in the past rarely used (e.g. some collaborative R&D programmes, some infrastructure projects)
- In 2014, the Commission revived this clause by adopting a dedicated Communication laying out the conditions for its application. Until now, was used for 1 infrastructure project decision (Fehmarn Belt fixed rail-road link between Denmark and Germany) and for R&D project (Microelectronics - Germany, UK, France and Italy)



Advantages of an IPCEI (compared to other State aid rules)

- The existence of the **market failure** affecting the project can be presumed
 - Under normal R&D&I aid rules, this needs to be clearly demonstrated for larger projects
- The project can be aided up to 100% of the funding gap on the basis of a large set of **eligible costs** (detailed in Annex)
 - Under normal regional aid and R&D&I aid rules, there are upper limits and the closer to the markets, the lower the caps
- Costs of **first industrial deployment** (i.e. between pilot/demo line and before start of mass production) are considered eligible
 - Under normal R&D&I aid rules, this is not possible. Under regional aid rules, aid is only allowed for investment in assisted regions



What are IPCEI projects about?

- **Contribution to Union objective(s)** and significant impact on economic growth, sustainability, or value creation across the EU
- Project involving **more than one Member State**
- **Positive spillover effects** on internal market/Union society; benefits not limited to participating Member States & companies
- **Co-financing** by the beneficiary
- In case of R&D&I, projects must be of a **major innovative nature** or of important added value in the light of the state of the art in the sector
- First industrial deployment covered where it allows for the **development of a new product** with high R&D&I content or of a **fundamentally innovative production process**



Assessment under IPCEI Communication

A. Eligibility criteria

1. Definition of a project (single or integrated project)
2. Common European interest
3. Importance of the project

B. Compatibility criteria

1. Necessity and proportionality of the aid
2. Prevention of undue distortions of competition & balancing test
3. Transparency



A. Eligibility criteria

1) Single project or integrated project

'Integrated project' = a group of single projects, inserted in a common structure/roadmap or programme, aiming at the same objective and based on a coherent systemic approach

The **individual components** may relate to separate levels of the supply chain, but must be **complementary & necessary** for the achievement of the important European objective



A. Eligibility criteria

2) Common European interest

General cumulative criteria:

- 1) Clear, identifiable and important contribution to one or more Union objectives (e.g. KETs, etc.) and significant impact on competitiveness of the Union, sustainable growth, addressing societal challenges or value creation across the Union
- 2) More than 1 Member State (*preferably several*)
- 3) Benefits must not be confined to the financing Member States, undertakings or sector(s) concerned, but must be of application to the European economy or society through **positive spillover effects** which are clearly defined in a concrete and identifiable manner
- 4) Co-financing by the beneficiaries

+ Positive indicators (e.g. open to all MS, involvement EC, co-financing by Union funds)



A. Eligibility criteria

2) Common European interest

Specific criteria:

- i. **R&D&I projects** must be of **major innovative nature** or constitute an **important value added** in terms of R&D&I in the light of the **state of the art** in the sector concerned
- ii. **Projects comprising of industrial deployment** must allow for the development of a new product or service with **high research and innovation content** and/or the deployment of a **fundamentally innovative** production process. Regular updates without an innovative dimension of existing facilities and the development of newer versions of existing products do not qualify as IPCEI

3) Importance of the project

Project must be quantitatively or qualitatively important; either particularly large in size or scope and/or imply a very considerable level of technological or financial risk



B. Compatibility criteria

1) Necessity and proportionality

Necessity

Incentive effect and counterfactual

Proportionality

Maximum aid = funding gap and up to 100% of eligible costs

- **Funding gap analysis**
- **Eligible R&D&I costs**
- **Eligible FID costs**
 - Upscaling of pilot facilities or first-in-kind equipment and facilities, which covers the steps subsequent to the pilot line including the testing phase, but neither mass production nor commercial activities
 - As long as FID follows on from an R&D&I activity and itself contains a very important R&D&I component which constitutes an integral and necessary element for the success of project



B. Compatibility criteria

2) Prevention of undue distortions of competition & balancing test

3) Transparency



Good practices

- ✓ Openness for all Member States to be able to participate
- ✓ Involvement of the Commission in designing the IPCEI
- ✓ Intense (and early) cooperation/joint work streams between Member States; Member States build up the overall project **together**
- ✓ Certain coordination of timing and decision-making of Member States (e.g. budget commitments)
- ✓ Selection of participating companies via open calls
- ✓ Thorough preparation of all documents by the Member States
- ✓ Member States accurate screening of all company documents
- ✓ High Level Meetings to set the timing and keep the pace
- ✓ If many participants: template documents are useful
- ✓ The approach in every IPCEI is case specific – different technologies



Messages for IPCEIs

IPCEIs are NOT about

- Support for mere building of production capacity, factories and mass production lines
- Boosting the competitiveness of the aid beneficiaries

Vigilance, especially on FID, needed due i.a. to potential anti-cohesion aspects, high distortive potential, and WTO risks

IPCEIs are about

- ✓ Disruptive and ambitious research and innovation, beyond the state of the art in the sector
- ✓ Followed by first industrial deployment, which is the short period where very important R&D&I is still necessary, e.g. to scale up a pilot line
- ✓ Actions by the beneficiaries to generate positive spillover effects, throughout the EU, on the knowledge & results they generate in the IPCEI beyond their business as usual (quantitatively & qualitatively)



Some practical issues – Procedure

- Preliminary informal contacts with DG COMP team possible to receive early feedback on the structure of the documents
 - Multiple rounds of feedback and improvements possible
- Don't submit a new version before receiving feedback!
- Pre-Notification:
 - By each MS, but at the same time (within a few days)
 - When all MSs are assured that joint documents and all their companies' documents have reached satisfactory level of maturity and quality
 - For each MS includes:
 - Joint document a.k.a. "Chapeau" – drafted jointly by participating MSs
 - All company documents (project portfolios and funding gaps, and evidence for different statements)
 - Further rounds of questions and amendments to the documents can be expected
- Notification
 - Later on – by each MS, but at the same time (within a few days)
 - SANI notification, Chapeau, companies documents



Some practical issues - Joint Notification a.k.a. “Chapeau” - 1

- Drafted jointly by all notifying MSs in common agreement
- Balance: justify all eligibility and compatibility conditions vs. sufficient details vs. non-confidential information
- Language of the case: **EN please!** (for fast and efficient process from informal contacts to decision)
- Aid beneficiaries shall be named and their activities described
 - Their business/research/contract partners and activities could be named and described, but not obligatory
- **Aid beneficiaries under this IPCEI ARE NOT prevented from working/selling/buying/cooperation/ ... with other companies not benefitting from public support!**
- **Not obligatory to duplicate IPCEI Micro. exact structure of documents – some (might) not be needed**
- **Cooperation and exchange of information MUST NOT amount to anti-trust and cartel rules violations! Guidance available**



Some practical issues - Joint Notification a.k.a. "Chapeau" - 2

- Experience showed most difficult for MS and companies:
 - True integration of the IPCEI
 - Major innovative nature: R&D&I of major innovative nature or going beyond state-of-the art, demonstrated both at IPCEI level and at each company level
 - Genuine positive spillovers to benefit undertakings beyond the participants and beyond the MSs concerned: to be demonstrated at both IPCEI and each company's level



Some practical issues **Companies' Project Portfolio (PP) and Funding Gap (FG)**

- Language of the documents: **EN please!** (for fast and efficient process and assessment from informal contacts to decision)
- PP and FG contain all company's confidential information – will be seen by your MS and DG COMP only
- Template of the PP as used by FR, BE has a good structure: will accelerate and make the assessment easier
- FG – NO template, your own calculations as used to make the decision to participate, describe in details all assumptions
- FID:
 - Criteria for eligibility of the individual FID under IPCEI rules – R&D&I-related and,
 - if eligible, FID duration (in particular details on eligible costs related to FID, high R&D&I content, exclusion of mass production and commercial activities)
- Sufficient details on the R&D&I content, state of the art, spillovers, eligible costs