

Framework for State aid for research and development and innovation

voestalpine proposals for a review

Point 30

1. Where collaboration projects are carried out jointly by undertakings and research organisations or research infrastructures, the Commission considers that no indirect State aid is awarded to the participating undertakings through those entities due to favourable conditions of the collaboration if one of the following conditions is fulfilled:

- (a) the participating undertakings bear the full cost of the project, or
- (b) the results of the collaboration which do not give rise to IPR may be widely disseminated and any IPR resulting from the activities of research organisations or research infrastructures are fully allocated to those entities, or
- (c) any IPR resulting from the project, as well as related access rights are allocated to the different collaboration partners in a manner which adequately reflects their work packages, contributions and respective interests.~~5-0f~~

2. *Whilst an arrangement as outlined under sub-point (c) of the first paragraph of Point 30 should be aimed for as a priority, in a situation where none of the agreements as described under point 30.1 can be struck,* the research organisations or research infrastructures receive compensation equivalent to the market price for the IPR which result from their activities and are assigned to the participating undertakings, or to which participating undertakings are allocated access rights. The absolute amount of the value of any contribution, both financial and non-financial, of the participating undertakings to the costs of the research organisations or research infrastructures' activities that resulted in the IPR concerned, may be deducted from that compensation.

Point 31

For the purpose of point ~~30(d)~~ **30.2**, the Commission will consider that the compensation received is equivalent to the market price if it enables the research organisations or research infrastructures concerned to enjoy the full economic benefit of those rights, where one of the following conditions is fulfilled:

- (a) the amount of the compensation has been established by means of an open, transparent and non-discriminatory competitive sale procedure, or
- (b) an independent expert valuation confirms that the amount of the compensation is at least equal to the market price, or

- (c) the research organisation or research infrastructure, as seller, can demonstrate that it effectively negotiated the compensation, at arm's length conditions, in order to obtain the maximum economic benefit at the moment when the contract is concluded, while considering its statutory objectives, or
- (d) in cases where the collaboration agreement provides the collaborating undertaking with a right of first refusal as regards IPR generated by the collaborating research organisations or research infrastructures, where those entities exercise a reciprocal right to solicit more economically advantageous offers from third parties so that the collaborating undertaking has to match its offer accordingly.

Point 81

The eligible costs shall be supported by the most recently available documentary evidence which shall be clear and specific. Indirect R&D project costs may also be calculated on the basis of a simplified cost approach in the form of a flat-rate of up to ~~15%~~ 25%, applied to total eligible direct R&D project costs. In the latter case, both categories of direct and indirect costs should be established on the basis of normal accounting practices, must comprise only eligible R&D project costs listed in Annex I, and must be duly justified.