**Steel**

Wirtschaftsvereinigung Stahl ,

Situation: 28.05.2021

Comments from WF Stahl

**on the consultation on the draft revised framework for State aid for research and development and innovation (“R & D & I Framework”)**

**Generally**

The R & D & I Framework sets out the conditions under which State aid for relevant activities can be considered compatible with the internal market.

The R & D & I Framework shall support research, development and innovation activities that would not be carried out without public support due to market failures. It allows Member States, under certain conditions, to create incentives for undertakings and the research community to carry out these important activities and investments.

Some targeted adjustments are needed to take account of recent political, legal, economic and technological developments.

The Steel Economic Association welcomes the adaptation of the R & D & I Framework to the new strategic priorities of the European Union, such as the European Green Deal and the EU Digital Strategy.

However, this adaptation should also take account of the fact that, in addition to the European Commission’s efforts to regulate State aid within Europe, it is also committed to State aid control in third countries. European industry is placed at a disadvantage in global competition by often unrestricted public support in third countries, as it itself is subject to strict State aid control rules.

The draft unfortunately lacks the introduction of real laboratories. Support for R & D & I projects requires targeted regulation so that support for innovative projects is not prevented by a general State aid framework. Against this background, a State aid framework in the model of real laboratories, including regulatory sandboxes, seems appropriate. Real laboratories can test innovative technologies, products, services or approaches in a real environment. The purpose of real laboratories is to learn about the opportunities and risks of a given innovation and to develop the right regulatory environment for them.

Real laboratories do not aim at deregulating or reducing safety and protection standards, but in areas where there is legal uncertainty.

Member of the

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| Wirtschaftsvereinigung Stahl  PO Box 105464 | Tel: | + 49 (0) 211 6707-0 | President: |
| 40045 Düsseldorf | Fax | + 49 (0) 211 6707-310 | Hans Jürgen Kerkhoff |
| Sohnstrasse 65 | E-mail | [info@vwstahl.de](mailto:info@vwstahl.de) | Directors: |
| 40237 Düsseldorf | Web | [www.stahl-online.de](http://www.stahl-online.de) | Dr Martin Theuringer |

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and for which meaningful legislation would still have to be put in place to develop it. They also allow existing rules to be tested in the age of digital transformation. Real laboratories can help to develop an appropriate legal framework without neglecting meaningful and necessary standards. In its conclusions of 16.11.2020, the Council concluded that real laboratories are appropriate tools for an innovation-friendly, future-proof and resilient regulatory framework.

Similarly, for an efficient and modern regulatory framework and in order to incentivise innovation, it is necessary to raise the thresholds of the General Block Exemption Regulation (GBER) under which support is exempted. This should be increased to at least EUR 50 million for basic research, to at least EUR 25 million for industrial research and to at least EUR 20 million for experimental development. In addition, a complementary increase should be introduced for the development of new climate-neutral technologies.

The draft provides for significant changes in the definitions of technologies and innovations. Before introducing a new legal framework, it must be ensured that this is consistent with other State aid rules and support programmes and that there is legal clarity in the areas of application. In particular, this must be taken into account where cooperation schemes are also revised, such as the Communication from the Commission — Guidelines on the applicability of [Article](https://beck-online.beck.de/?typ=reference&y=100&a=101&g=AEUV) 101 of the Treaty on the Functioning of the European Union to horizontal cooperation agreements or R & E BER.

In addition, in the light of the requirements of the European climate objectives of the Green Deal, State aid procedures relating to the achievement of these objectives must be carried out swiftly and with priority. By speeding up the approval process, legal certainty on the definitive nature of aid would incentivise the market uptake of research and innovation projects and would directly speed up the implementation of climate objectives. The draft lacks such an acceleration.

**Drafting/adaptation suggestions**

In particular, Wirtschaftsvereinigung Stahl wishes to propose the following adjustments (highlighted in italics and yellow) to the draft:

1. Introduction/Introduction

(a) In the introduction (‘Introduction’) under point 6, page 3, we propose to replace the term ‘hydrogen’ by ‘technologies for low-carbon industries’.This is necessary to include in particular SCU (Smart Carbon Usage), CDA (Carbon Direct Avoidance)/CE (Circular Economy) and CCS (Carbon Capture and Storage).

**Introduction, point 6, page 3:**

“(...) The Communication aims at increasing the efficiency, excellence and impact of Europe’s R & I system and supports innovation-based competitiveness. Focusing technological sovereignty in key strategic areas 8 (e.g. Artificial Intelligence and data, Microelectronics, quantum computing, 5G, batteries, renewable energy, technologies for low-carbon industries, zero-emission and smart mobility, etc.) is (...).’

(b) In principle, the steel industry is for competition and open markets. At the same time, we are firmly opposed to any form of protectionism. The EU should also promote free and fair global steel trade in the present draft, under the auspices of the WTO.Against this background, we propose the following additions to:

**Introduction, point 9, page 3:**

“The New Industrial Strategy for Europe sets out that Europe needs industrial policy based on fair competition, open and rule-based markets, world-leading research and technologies and a strong single market which brings down barriers and cuts red tape. Europe "must keep the simplistic Temptations that come with protectionism or market distortions, why not being naive in the face of unfair competition and applying WTO compatible trade defence instruments.It acknowledges that, stepping up investment in research, innovation, deployment and up-to-date infrastructure will help develop new production processes and thus to support a carbon-neutral economy and create jobs in the process.’

1. Definitions

In order to achieve carbon-neutral production, experimental development requires a much broader framework than hitherto. Against this background, we propose:

**1.3. Definitions, point 17, point (k), page 7,** the following amendment:

‘Experimental development means acquiring, combining, shaping and using existing scientific, technological, business and other relevant knowledge and skills with the aim of developing new or improved products, processes or services, including new or improved digital products, processes or services, in any area, industry or sector17. This may therefore include, for examination, activities preparing at the conceptual definition, planning and documentation of new products, processes or services. Expert development may duplicate prototyping, demonstrating pilots, testing and validation of new or improved products, processes or services that are not substantively set. This may include the development of a commercially usable prototype or pilot which is necessary for the final commercial product and which is too ambitious to produce for it to be used only for demonstration and validation purposes. Experimental development (demonstration projects) dos not allow inclusion routine or periodic changes made to existing products, production lines, manufacturing processes, services and other operations in progress, in particular if those changes may occur; ’

1. Additional conditions for individual aid

(a) In order to enable the transformationinto CO 2— poor production processes, it is necessary to ensure that a legally secure combination of different livers of the programmes­, such as the Emissions Trading Scheme Innovation Fund (‘EU Innovation Fund’), with which the IPCEI is implemented, is possible. Against this background, we propose:

**3.2.3.2 Additional conditions for individual aid, point 93, page 27**, the following addition:

“As a general rule, and in order to establish whether the aid is proportional, the Commission will verify that its amount does not exceed the minimum necessary for the aided project to be sufficiently profitable, for example by making it possible to achieve an IRR response to the sector or firm specific benchmark or hurdle rate. Normal rates of return required by the beneficiary in other R & D & I projects, its cost as a whole or renewed commonly observed in the industry concerned may therefore be used for this purpose. All relevant expected costs and benefits must be considered over the lifetime of the project, including the costs and revenue stopping from the results of R & D & I activities. Inthis context it intends to confirm that the special framework for IPCEI plays an important role in reaching a carbon-neutral industry. All companies using IPCEI are allowed to combine unrestricted IPCEI together with all other funding instruments as for examination of the Innovation Fund.“

(b) Basic research does not sufficiently support the transition to a carbon-neutral economy, and therefore application research also requires an aid intensity of 100 %.Against this background, we propose:

**3.2.3.2 Additional conditions for individual aid, point 95, page 28**, the following amendment:

‘Where aid is awarded for R & D projects or for the construction or upgrade of research infrastructures or for the construction or upgrade of technology infrastructure and the Commission can establish, on the basis of the methodology down in points 94 or 95, that the aid intensity has been adapted to the following percentage rates in the above table: “

|  |  |  |  |
| --- | --- | --- | --- |
|  | Small  enterprise | Medium-sized  enterprise | Large enterprise |
| Aid for R & D projects |  |  |  |
| Fundamental research | 100 % | 100 % | 100 % |
| Applied research | 100 % | 100 % | 100 % |

1. Annex 2/Annex II

In order to achieve the climate line of the Green Deal, it is necessary to support projects implementing the transformation of energy-intensive industries. Annex 2 sets out aid intensities for R & E projects. This should be complemented by a maximum aid intensity of 100 % for industrial research and experimental development “Transition to a CO2— low or CO2— neutral production of energy-intensive businesses”, irrespective of the size of the undertaking. We therefore propose to supplement the

**Annex 2/Annex II** as follows:

State aid for Industrial Research and Experimental Development (demonstration projects) for the conversion to low carbon or carbon-neutral production. In the context of industrial research

and experimental development (demonstration projects) should CAPEX and OPEX considered as eligible costs and considered in the calculation of the aid intense.

“ with a maximum aid intensity of 100 % regardless of the size of the company.