VCI Statement - Consultation of the EU Commission on State Aid - Important Projects of Common European Interest ("IPCEI")

The German Chemical Industry Association (VCI) believes that Important projects of common European interest (IPCEI) can be, well-designed, a suitable instrument to overcome potential risks of innovation and investment projects that appear due to their large-scale, cross-border nature that is necessary to match the ambition. Thus, stimulating private investments for R&I and scale-up projects in Europe in full respect of the following overarching principles. IPCEIs are an important instrument to better align research and innovation initiatives at European level with the transition process of the EU Green Deal towards a more sustainable society and economy. It is important to promote and foster value creation and economic activity in Europe as a business location, industrial leadership and economic competitiveness in key technological areas and sectors to gain more and smart technological competence and sovereignty while staying open and compliant with state aid rules and international trade law.

To make IPCEIs more effective, there is a need to broaden the scope in line with the new Commission priorities and recent EU policy developments (e.g., the European Green Deal (EU-GD) and European Industrial Strategy and beyond the list presented in the Communication), simplify the rules, improve the governance, and further develop the instrument's flexibility. Furthermore, IPCEI and other Green Deal, industrial and innovation policy instruments should be coherent with each other, contradictions need to be omitted.

IPCEIs represent an excellent opportunity to further promote and contribute to achieving the strategic goals of the EU. Therefore, additional strategic technological fields and value chains identified by the European Commission could be considered. Further areas could include the development of IPCEIs in the field of zero carbon industries, health, new biotechnological advances like gene editing, renewable energy technologies, and communication technologies as well as European data and cloud infrastructures.

General Remarks:

The current procedure to initiate an IPCEI is perceived as complex and slow. Assigning clear roles and responsibilities, also for the Commission, during the initiation phase would be welcomed. It is necessary that prospective applicants can already engage in the shaping process. The start of the process must be transparently communicated and participation in the process must be possible for all actors. In addition, agility and speed are essential for IPCEI projects. While EU rules permit starting work on the project without jeopardizing eligibility once the proposal has been submitted, national rules (e.g., in Germany) often do not provide this possibility. Future IPCEI rules should therefore include regulation that the invitation to submit a project portfolio also serves as the permit to start first activities (on the own risk of the applicant) and such allow participants to gain valuable time in the implementation of the project.

VCI welcomes the initiative to involve Small and Medium-sized Enterprises (SME) more in IPCEI. To better integrate the expertise of SME in IPCEI, the bureaucratic effort for participation should be kept as low as possible. In addition, the Commission should increasingly draw the attention of SME to IPCEI and support them in drafting applications. However, the focus of IPCEIs should be projects which are considerably large in significance and investment. While addressing partners which can manage both.

Comments on individual regulations:

Integrated Project (Point 13 of the draft IPCEI Communication):

The definition of the integrated project specifies that "the individual components of the integrated project […] must be complementary and significantly add value in their contribution towards the achievement of the European objective". To effectively address European objectives, it is essential that the framework of rules for IPCEIs allows for a real umbrella IPCEI with a multiple projects approach that can support the development of a portfolio of different types of technology options - including technologies at different TRLs.

Common Interest (Point 17 of the draft IPCEI Communication):

The draft IPCEI Communication states that "Unless a smaller number is justified by the nature of the project, the project must involve at least four Member States (MSs) and its benefits must not be confined to the financing MS but extend to a wide part of the EU." In the view of VCI it should not be disregarded that a project financed by only one MS making a significant contribution to an EU objective may also have a positive spill-over effect on another MS or MSs and thus can also bring significant benefits to the entire Union. This may include, for example, large industrial programs covering the entire value chain located all over the internal market. Thus, VCI advocates to stay with the current text, i.e., allowing for the participation of one or more MSs, provided that the project serves and promotes a common European interest.

Furthermore, it should be clarified how MS could join an existing IPCEI. To speed up the implementation of IPCEIs, it would be recommended to allow for the launch of IPCEIs - open to all MS - by an initial core group of MS and propose a procedure for other MS to join an existing IPCEI.

Co-financing by the beneficiary (Point 20 of the draft IPCEI Communication):

The statement in the draft communication that a "project must involve significant co-financing by the beneficiary" needs to be further specified. Excessive demands in terms of the level of financial participation would strongly diminish the advantages of IPCEIs for the chemical and pharmaceutical industry to be able to overcome potential business risks of such projects, that appear due to their large-scale, cross-border nature that is necessary to match the ambition. Thus, the term significant co-financing should be defined and further circumstances state in which co-financing ca be regarded as significant. In addition, it should be clarified to what extent the concepts of significant co-financing in paragraph 20 and significant contribution in paragraph 42 are identical or whether they differ in content. It seems contradictory to require significant co-financing as a basic requirement on the one hand and then grant preferential treatment to applicants with significant own contributions in the context of an adequacy check.

Counterfactual scenario (Point 32 of the draft IPCEI Communication):

It should be clarified that confidential internal project-related documents shall/is not be made available to other MSs than the one granting the aid. Only common information and best practice data should be shared with other EU stakeholders (alliance, European Commission) and between the participants to build an ecosystem for the respective strategic value chain of the IPCEI. Trade secrets and sensitive data (project specific data, milestones, KPIs) are be protected in the best possible way. Thus, should be reported to the actual grantor MS only, based on the principle of proportionality and limited to what is absolutely necessary. It is also recommended to fully digitalize the project controlling and administration process e.g., with tools like "profi online" to simplify the process for all participants.

Funding Gap (Point 34 of the draft IPCEI Communication):

It is specified in the Communication that the "funding gap refers to the difference between the positive and negative cash flows over the lifetime of the investment, discounted to their current value on the basis of an appropriate discount factor reflecting the rate of return necessary for the beneficiary to carry out the project notably in view of the risks involved". The evaluation of the funding gap (especially the template) should be adapted and clarified, as it is not clear how the technological, financial, and regulatory risks involved can effectively be considered. The definition of the counterfactual scenario and the proposed definition for the funding gap can make the evaluation of the necessity and proportionality of the aid difficult.

Maximum Funding (Point 34 of the draft IPCEI Communication):

The maximum permissible grant amount is limited by the eligible cost and the funding gap. While grant amount and eligible cost are nominal values, the funding gap is a discounted value. The current procedure of simply defining the funding gap as the maximum grant amount possible, does not adequately reflect the fundamental difference between the nominal and discounted values, making the declared goal of closing the funding gap impossible to reach. A clear rule about how to discount the funding when comparing the grant to the funding gap is needed.

Cumulation (Point 36 of the draft IPCEI Communication):

IPCEI should aim at facilitating the combination of funding from different sources and better coordination with other R&D&I programs in Europe. Since, the EU and MSs are using different tools (funding programs) for R&I Funding. A structured approach to facilitate the combination of funding – from EU and MS programs – and make it manageable from submission to reporting should be addressed in the revision of the communication. In this respect, the following questions, among others, should be addressed: Which aid intensity applies if the funding rate in the EU programs is higher than the state aid provided? How is the cumulation check carried out, if there is a different approach to determining the eligible costs between the funding programs?

Claw-back Mechanism (Point 37 of the draft IPCEI Communication):

It is specified in the Communication that the "Commission may request the notifying MS to implement a claw-back mechanism". VCI understands that the aid needs to be proportionate and limited to what is necessary. However, it is also important that claw-back mechanisms are predictable and provide sufficient legal certainty to ensure the participation of companies. Furthermore, it is important to set common rules and mechanisms to prevent an unleveled playing field between different MS.

Matching Clause (Point 39 of the draft IPCEI Communication):

The matching clause should be revised once again. It is not possible for companies to meet the requirements of the current matching clause, as they cannot prove what aid a global competitor has received. Limiting the period of consideration of aid received by a competitor outside the Union to three years might not be sufficient in individual cases to avert distortions of competition in international trade. Such distortions of competition often occur only in a later period, which can easily exceed three years; in these cases, the period of consideration should be extended accordingly.

It should also be noted that a non-EU competitor may receive aid more than that granted within the EU at some point in the future after aid has been granted to IPCEI in the EU. The IPCEI Communication should provide for the possibility of increasing the aid already granted to mitigate disadvantages.

Contact: Dr. Denise Schütz, Department Science, Technical & Environmental Affairs, Section Science and Research
Phone: +49 (69) 2556-1482
E-Mail: schuetz@vci.de

Contact: Marcel Kouskoutis, LL.M., Department of Legal Affairs and Taxes, Sustainability
Section Legal Affairs and Taxes
Phone: +49 (69) 2556-1511
E-Mail: kouskoutis@vci.de

Internet: www.vci.de · Twitter · LinkedIn

German Chemical Industry Association - VCI
Mainzer Landstrasse 55, 60329 Frankfurt, Germany

- Identification no. in the EU Transparency Register: 15423437054-40
- The VCI is registered in the “public list on the registration of associations and their representatives” of German Parliament (Deutscher Bundestag).

The VCI represents the politico-economic interests of over 1,700 German chemical and pharmaceutical companies and German subsidiaries of foreign businesses. For this purpose, the VCI is in contact with politicians, public authorities, other industries, science and media. In 2020 the German chemical industry realized sales of over 186 billion euros and employed around 464,000 staff.