AREVA response to Commission Consultation on the draft Union Framework for State aid for Research, Development and Innovation

AREVA welcomes DG COMP’s initiative to modernize state aid control through three objectives announced in its Communication on state aid modernisation:\(^1\):

“(a) fostering sustainable, smart and inclusive growth in a competitive internal market;

(b) focusing ex ante scrutiny on cases with the biggest impact on the internal market while strengthening the cooperation with Member States in state aid enforcement;

(c) streamlining the rules and providing for faster decisions.”

However AREVA would like to underline that research and development is both complex and key for the competitiveness of EU companies not only within the internal market but at global level as well. Many non EU companies receive state aid for their R&D projects without being subject to specific rules and this situation creates unfair playing field for EU companies when competing against non EU companies whether within or outside the EU.

Consequently AREVA would like to call the Commission’s attention to the following main points and issues. These points are of greatest concerns to AREVA but AREVA reserves the right to comment on other issues in due course where appropriate.

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1. General Block Exemption Regulation (GBER): new thresholds and exemption for innovation aid

1.1 Limited increase of the new exemption thresholds

AREVA welcomes the proposed significant increase of exemption thresholds as this will allow EU companies to be supported in a more timely and efficient manner for many of their RDI projects.

Furthermore the increase of exemption thresholds will have a knock-on effect on EU companies’ competitiveness at global level as it will increase their flexibility to launch RDI projects supported by EU Member states.

However, it is submitted that proposed thresholds should be further increased to support EU companies in their RDI efforts and permit them to market more innovative products in a timelier manner, in line with the Europe 2020 growth Strategy.

In this respect it would appear adequate to further increase the proposed thresholds by:

- 10 MEUR for fundamental research. Though the resulting amount may seem high *prima facie* it is important to underline that fundamental research is far away from the day a new product or service will be put to the market. The risk of a potential distortion of competition is therefore inconsequential against the need to encourage efficiently innovation throughout the EU.

- 5 MEUR for industrial research and experimental development. Though increased, resulting amounts will remain in line with the cost of existing projects and therefore of Commission’s policy to focus “on cases with the biggest impact on the internal market”.

1.2 Extending the exemption for innovation aids to large companies

Exemption for innovation aids described in article 27 of the draft GBER is limited to small and medium enterprises (SME). However “supporting initiatives for more innovative [...] technologies while facilitating access to public [...] funding for research and development” is one of the objective of Europe 2020² and is key to stimulate growth.

Large companies can contribute to this objective to the same extent as smaller companies and submitting them to a burdensome, timely and costly notification is nowhere justifiable: innovation carries similar risks profile whether carried out by a small or large enterprise. It is not realistic in practice to believe that large companies can systematically self fund such projects, and it constitutes a brake on large companies to engage in innovation activities.

As a result, innovation is carried out more and more by smaller companies which are ultimately bought up by larger companies when they have managed to call sufficient attention to their works. Conversely

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many innovative projects never come to the market or abandoned before being fully carried through, failing sufficient support.

It is therefore essential to encourage innovation at all corporate levels. In this respect extending the exemption for innovation aids to large companies would stimulate innovation by avoiding a notification process for innovation aid received by large companies.

2 Improving clearance deadlines

2.1 A maximum of 6 months to obtain a decision from the Commission

RDI projects are key for companies to adapt to the market and to the needs of their customers. Launching such project may require quick investments decisions but when supported by non exempted public funding the notification process is extremely long and complex. In this case the investment may lose interest or not be allowed anymore given companies’ budgetary constraints at the time.

In order to avoid that situation EU clearance process should be more in line with budgetary mechanisms of EU companies: such process should not reasonably last more than 6 months. Between 6 months and 2 years to obtain clearance from the Commission brings uncertainty to RDI projects and is a clear competitive disadvantage for EU companies competing against non EU companies. In this respect pre-notification, though most useful and welcomed, should not be used as a de facto means of dragging on an examination process.

2.2 Better involvement of EU companies in discussions with the Commission

New article 6a of Regulation (EC) No 659/1999 provides that “the Commission may, if the information provided by a Member State concerned during the course of the preliminary investigation is not sufficient, request […] an undertaking to provide all market information necessary to enable the Commission to complete its assessment”. That possibility was welcomed.

In addition to the possibility to formally request information from companies, a way to speed up the process could be to automatically involve, together with the Member states, beneficiaries of state aid for RDI during discussions with the Commission. RDI projects are always complex and may require to be explained in details directly to the Commission, either from a technological point of view or from a competitive standpoint.

3See for instance European court of auditors, Special report n° 15/2011 – Do the Commission’s procedures ensure effective management of State Aid control.
3 Removing of the net present value comparison method

Streamlining rules for state aids for RDI in order to shorten its clearance process is one of the objectives of the Commission⁴. In this respect, making rules more complex will have a negative effect.

This is particularly true regarding the introduction of a new cap to State aid for RDI amounting to the difference between the net present value of the project and the one of the counterfactual project.

Today the Commission’s assessment is based on the profitability of the project compared to the counterfactual scenario, using therefore the Internal Rate of Return (IRR). This method is already complex but is now known and understood.

This new net present value comparison method would not only reduce the amount of aids that can be received by EU companies for their RDI projects but would also fundamentally modify the existing rules and thus add complexity and legal uncertainties while decreasing predictability.

Therefore AREVA suggest carrying on using the existing IRR methodology to cap State Aid for RDI Projects.

4 Definition of R&D project

The draft framework for state aid for RDI provides a definition for “R&D project” that sets out the elements that define it.

In order to avoid the division of one project into two or more separate projects so that each individual element does not require a notification and therefore the project as a whole would not be assessed, this definition specifies the way R&D projects should be assessed together.

This clarification is welcome; however, basing the assessment on the probability of technological success does not seem necessarily relevant, especially for R&D projects.

By definition the probability of technological success of R&D projects is uncertain at the beginning of the project so it would be relevant to remove the following piece of sentence from the definition of “R&D project”:

“and in particular when they do not have independent probabilities of technological success”.

Removing this piece of sentence would still allow the Commission to determine whether or not projects should be assessed together or separately but would not focus the assessment to one single element.