Ref.: HT. 618 – Consultation on the draft R&D&I-Framework

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Contribution of voestalpine AG to the consultation on the draft Framework for State Aid for Research and Development and Innovation

In Section 2.2 the draft proposes criteria for identifying aid in the meaning of Article 107.1 TFEU with respect to collaborations with research organisations. The list of criteria should partly be reconsidered, because some aspects are rather difficult to comply with for practical purposes. This refers especially to Point 28(d) and its further elaboration in Points 29 and 30. The listed options for demonstrating IPR-compensation appear to be rather wieldy and would in effect erect an obstacle for collaborations, which in turn would directly contradict the very notion of innovation, which the Commission intends to foster. As an alternative it should be evaluated, if the more practicable option offered by Point 28(d) can be considered as sufficient.

In Section 5 the draft proposes to establish criteria for compliance-checking of individual aid against Article 107.3.(c) TFEU, notably Section 5.1.2, Section 5.2.2, Section 5.4.2, Section 5.5.2 and Section 5.6.3. This check covers a wide range range of criteria: common interest, need for intervention, appropriateness, incentive effect, proportionality and trade effects. Subjection of each single engagement of an undertaking, which qualifies as “individual aid”, to such obligations carries the risk that thereby entry barriers become too high for undertakings. This is especially relevant for participation in specific national programs and at least for these it should be clarified that not all undertakings participating in such programs have to demonstrate individual compliance. Rules for programmes should be defined which provide for administrability.

Section 1.3(y) contains a definition of the term ‘organisational innovation’ and Section 1.3.(bb) contains a definition of ‘process innovation’. Only by these definitions it becomes obvious that the term ‘process’ is not intended to refer to issues relation to the way an entity has structured its workflow. Thus the term ‘process’ is not meant to be similar to the term “organisational”. This has a consequence for the draft General Block Exemption Regulation (the GBER) on State Aid Measures. Article 28 of the draft General Block Exemption Regulation (the GBER) on State Aid Measures refers to “Aid for Process and Organizational Innovation”. This indicates that the terms ‘process’ and ‘organisational’ should be understood to cover similar aspects. This would also be in line with expectations concerning the content of Article 28.2 of the draft GBER, because it is beyond comprehension how innovation in production processes of large undertakings conceivably can be obligatorily linked to the collaboration of SMEs. A large scale process of a large undertaking very often can only be improved by collaboration with large equipment supplier enterprises, whose very existence...
depend on specific IPRs on which such activities are based and thus their collaboration might not be available under these conditions. This in turn would hamper innovation in large enterprises and thus counteract the innovation and reindustrialization agenda of the European Union. Consequently, it must be clarified that the term ‘process innovation’ in Article 28 of the draft GBER has a different definition than the same term in Point 1.3. (bb) of the draft Framework for State Aid for Research and Development and Innovation. Ideally, respective definitions will be placed both within the GBER and the Framework for State Aid for Research and Development and Innovation.