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**Subject: State aid No N 270/2007 (Austria).
R&D&I-scheme '*FFG Guidelines*'**

Dear Madam,

1. PROCEDURE

- (1) By letter dated 16 May 2007, registered at the Commission on the same date, the Austrian authorities notified, according to Article 88(3) of the EC Treaty, the planned aid scheme '*FFG Guidelines*'.
- (2) As the information received was not sufficient to assess the measure's compatibility with the common market, the Commission considered the notification to be incomplete. Hence, by letter' of 27 June 2007, the Commission asked Austria for supplementary information. The Austrian authorities responded by letter of 25 September 2007, registered on the same day.
- (3) By e-mail of 5 November 2007, the Commission asked for supplementary explanations concerning Austria's aforementioned response. Austria provided explanations by e-mail dated 19 November 2007, registered on the same day and subsequently by formal letter with the same content, dated 21 November 2007 and registered on that day.

Ihrer Exzellenz Frau Dr. Ursula PLASSNIK
Bundesminister für auswärtige Angelegenheiten
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- (4) By letter dated 6 February 2008, registered that very day, the Austrian authorities confirmed to implement certain proposals made in the previous letter dated 21 November 2007.

2. DESCRIPTION OF THE AID SCHEME – BASIC CHARACTERISTICS

2.1. Background

- (5) Austria informed the Commission that its economy's R&D-related expenses had amounted to EUR 6,323.9 million in 2006, and had thus been raised to a 2.47%-share of its GDP. The Austrian government considers a further increase in both the private and the public domain's R&D-spending necessary, in order to attain the goal of an R&D share of 3% of its GDP till 2010.
- (6) Austria informed the Commission of the allocation and competencies as regards R&D-related State funding. Funds at the disposal of the Federal Ministry of Transport, Innovation and Technology (BMVIT) and the Federal Ministry of Economy and Labour (BMWA) are being allocated in particular, firstly, to applied-research projects (*anwendungsorientierte Forschungsprojekte*) and, secondly, to promoting the collaboration between industry and science. *Forschungsförderungsgesellschaft* (FFG; Association for the Promotion of Research) is responsible for implementing corresponding aid schemes.
- (7) FFG was founded in 2004 and, on the one hand, is implementing aid schemes on behalf of the aforesaid Ministries, by virtue of a transfer of area of operations, based on Federal Guidelines¹. On the other hand, FFG is also implementing aid schemes on its own authority. According to Austria, such aid schemes are predominantly 'bottom-up'-aid, which is open for aid-applications on any subject (*thematisch offene Antragsförderung*). FFG-aid can also be granted as a result of competitive tenders (*Wettbewerbsverfahren*). The notified aid scheme, FFG-Guidelines, will form the legal base on which FFG will act when implementing aid schemes on its own responsibility. FFG-Guidelines will replace the existing FFF-Guidelines, FFG's previous base for its own activities. According to Austria, this legal base needed revision after FFG's foundation in 2004.
- (8) According to Austria, FFG-Guidelines are to be seen as an equivalent to FTE-Guidelines¹, which are governing aid schemes that are implemented on behalf of the aforesaid Ministries. Both FFG- and FTE-Guidelines are intended to build a comprehensive, simple and transparent legal base for aid in the areas of applied research, technological development and innovation.

2.2. Motivation and Objectives

- (9) The principal objective of FFG-Guidelines is Research and Development and Innovation (R&D&I). The motive for FFG-Guidelines is placing Austria in an advantageous position in international competition, as a science-, research- and business location. The projects co-financed under FFG-Richtlinien are

¹ FTE-Richtlinien; State aid N 486/2007; approved but not yet published.

intended to promote the structural change that is considered necessary to that end.

- (10) The Austrian authorities hope that FFG-Guidelines will foster the cooperation between different players in the innovation system, with projects ranging from fundamental research up to experimental development. Austria expects FFG-aid to bring about a technically and financially sustainable effect on sectors of the economy which strengthen competitiveness and the economy and contribute to social objectives.
- (11) Aid on the basis of FFG-Guidelines will be granted through specific schemes. FFG-Guidelines can therefore be considered as a framework scheme. The overall objective of these specific schemes is to stimulate increased R&D-activity of enterprises, also in collaboration with scientists, universities and other research organisations. Austria pointed out that these objectives are linked to economic- and social policy objectives.
- (12) The projects receiving aid under FFG-Guidelines are expected to contribute to intensifying industrial research and experimental development, to augmenting the innovative performance of the Austrian economy, to intensifying the use of the results from fundamental research activities, as well as to commercialising, disseminating and optimising R&D-results.

2.3. Legal basis

- (13) The legal base for the adoption of FFG-guidelines is the Federal Act on the Establishment of the Austrian Association for the Promotion of Research (*Bundesgesetz zur Errichtung der Forschungsförderungsgesellschaft mit beschränkter Haftung – FFG-G; BGBl. I Nr. 73/2004*).

2.4. Beneficiaries

- (14) Pursuant to the scheme's funding provisions, individuals, legal entities (*juristische Personen*) and private companies under the Austrian civil law and commercial law (*Personengesellschaften des Bürgerlichen Rechts und des Unternehmensrechts*) may apply for aid. The Austrian authorities expect to fund more than 1000 enterprises with the scheme. FFG-guidelines are not sector-specific.

2.4.1. Enterprises

- (15) Large enterprises, as well as SMEs falling within the Community SME-definition² are eligible for aid under the scheme. Undertakings in difficulty within the meaning of the Community Guidelines on State aid for rescue and restructuring undertakings in difficulty³ will be excluded from the scheme's ambit.

² OJ L 124, 20.05.2003, p.36.

³ OJ C 244, 1.10.2004, p.2.

2.4.2. Research Organisations

- (16) The FFG-Guidelines' funding provisions stipulate that 'research organisation' for the purposes of the scheme means an entity, such as university or research institute, irrespective of its legal status, (organised under public or private law) or way of financing, whose primary goal is to conduct fundamental research, industrial research or experimental development and to disseminate their results by way of teaching, publication or technology transfer; all profits are reinvested in these activities, the dissemination of their results or teaching.
- (17) As regards undertakings that possibly exert influence upon such an entity and could thus enjoy preferential access to the research capacities of such an entity or to the research results generated by it, the Austrian authorities declared that no such influence is currently present. They committed to closely monitor the research organisations' proximity to the industry and, should such influence be present, apply the State aid rules applicable to undertakings.
- (18) Austria declared that a research organisation which receives aid under the scheme will be obliged to either carry out its economic activities through a separate entity in its possession or, at least, to keep completely separate records that show the economic activities. FFG will in all such cases include in its inspection the records of the beneficiary's profit-oriented division, in order to prevent any possible spill-over of public funding into the potential economic activities.

2.5. Aid instruments

- (19) FFG-Guidelines provide for various aid-instruments:
 - Loans;
 - Aid for interest-, annuities, and other credit costs;
 - Guarantees;
 - Non-repayable direct grants;
 - Recovery-agreements (*Besserungsvereinbarungen*).

2.5.1. Loans

- (20) As a rule, FFG provides loans only together with grants as 'mixed funding' (*Mischfinanzierung*). The loan component of such mixed financing is up to 30% of the eligible project costs.
- (21) The Austrian authorities explained that the interest rate currently payable for loans under the scheme is between 2 percent and 4.5 percent. The rates for new loans depend on the market development to which they will be adapted.
- (22) The total amount of a loan will fall due three years after completion of a project. Loans will not be provided in the form of repayable advances, that is loans for projects which are paid in one or more instalments and where the

conditions for the reimbursement of which depend on the outcome of the R&D&I projects.

- (23) For the purposes of calculating the loans' gross grant equivalent, the Austrian authorities will refer to the reference and discount rate for Austria⁴ as a floor rate. In order to adapt the loan conditions to situations involving a particular risk, the Austrian authorities will scrutinise the financial feasibility as well as the applicant undertaking's management and organisation. Austria provided detailed information on the criteria applied in that process. In summary, the scrutiny will be based on the parameters hereunder.
- (24) 11 different criteria will be applied within 3 distinct valuation sets.
1. start-ups
 2. SMEs
 3. large enterprises
- (25) Each of these three sets will be evaluated under three different aspects, as enumerated hereunder. Merit points will be attributed accordingly, the maximum number of points contingent on which of the above sets an enterprise belongs:
1. technical feasibility
 2. financial feasibility
 3. management and organisation
- (26) As regards the financial feasibility-check, the following detailed criteria will be applied:
Turnover/potential for turnover (only for start-ups); evolution of turnover only SMEs and large enterprises); internal financing (cash flow), further capital injections, financing options of the FFG-project concerned, implementation of the entire innovation in question.
- (27) As to management and organisation, the following criteria will apply:
Practical experience and management qualifications (only start-ups and SMEs); competency to manage R&D-projects (only large enterprises); economic project management; business plans, strategic concepts and financial situation (only start-ups); controlling instruments (only SMEs and large enterprises); the development of the enterprise (only start-ups); strategy and organisation (only SMEs and large enterprises); stance towards cooperation
- (28) According to the Austrian authorities, the merit points attributed in that evaluation process will be translated in the rating classes described hereunder. Premiums to the floor interest rate will be added accordingly,

⁴ Published in accordance with Article 10 of Commission Regulation (EC) 794/2004 of 21 April 2004 (OJ L 140, 30.4.2004, p. 1) and the Commission notice on the method for setting the reference and discount rates (OJ C 273, 9.9.1997, p. 3); the current rate for Austria as from 1.10.2007 is 5.42 %.

except in cases where the beneficiary provides full risk coverage through a bank guarantee.

Rating class	Merit points	Floor rate = reference and discount rate for Austria	Risk premium (basis points)	
			No bank guarantee available	Collateral in the form of a bank guarantee can be provided
Very good	41-50		100	0
Above average	33-40		300	0
Average	25-32		500	0
Below average (only exceptional cases may be accepted for funding)	20-24		900	0
Unacceptably low	> 20	(Not eligible for loans, aid for interest-, annuities, and other credit costs; guarantees; recovery-agreements)		

- (29) The Austrian authorities informed the Commission that the scheme's implementing, evaluation and control system will be subject to annual audits by a chartered accountant (*Wirtschaftsprüfer*). The Austrian authorities further asserted that they will pay particular attention to loan defaults and that the implementing authority will have to provide additional documentation and explanations in such cases.
- (30) The gross grant equivalent of a loan under the notified scheme will thus be calculated in three steps:
1. Establishment of basis reference interest rate established with above described evaluation method,
 2. which will in turn be reduced by the interest rate asked by the implementing authority,
 3. and in a subsequent step will be discounted until the loans falls due. That period starts from the date of the loans decision, which is prior to the date of disbursement of the actual loan.

2.5.2. Aid for interest-, annuities, and other credit costs

- (31) Such aid will not be granted for existing loans, but only for new loans. FFG will charge an interest rate that is comparable to the rate applied for loans granted by FFG, as described above. According to Austria, that rate is presently 2% p.a. The base for calculating the gross grant equivalent of such aid is the same as for loans, as described above.

2.5.3. Guarantees

- (32) Guarantees will be provided for bank loans with a standard 5-year redemption schedule, with repayment commencing as of the second year. Guarantee coverage will only be provided for projects with costs above EUR 600,000.00, and only within a mixed-funding package, i.e. together with direct grants. According to the Austrian authorities, only enterprises that were

rated 'very good' and 'above average' after the above described ex-ante scrutiny will be eligible for guarantee coverage.

- (33) Since guarantees provided under the notified measure would in the case of avilment eventually debited to the Austrian Federal budget, the beneficiary enterprise's rating will undergo an additional scrutiny by the Ministry of Finance's State Commissioner (*Staatskommissär des Bundesministeriums für Finanzen*). The Austrian authorities confirmed that the system of selecting beneficiary enterprises for guarantees underwritten by FFG has been in place for ten years and that it has proven successful in minimising the default risk. Throughout the past four years, the default risk has thus stabilised at 1.01 percent.
- (34) The fixed standard gross grant equivalent of guarantees under the scheme will be constituted at 3 percent of the amount covered. The base for calculating the gross grant equivalent of such aid is the same as for loans, as described above. In order to assess whether this rate corresponds to market conditions, the Austrian authorities have carried out a survey in the Austrian banking sector.
- (35) According to the Austrian authorities, banks would rate enterprises comparable to those that are eligible for FFG-guarantee coverage as 'good' or 'very good'. Relating to the duration of loans eligible for FFG-guarantees, the banks questioned would grant rate cuts between 0.42 and 1.26 percent. As concerns enterprises with the lowest rating acceptable for non-collateralised loans, the banks would offer rate cuts up to 4.37 percent. The Austrian authorities assured that only undertakings that are rated 'good' or 'very good' will be eligible for guarantee coverage. The Austrian authorities declared that the actual advantage obtained through the guarantee, as translated in credit interest cuts, will in any case remain below the 3 percent gross grant equivalent applied by FFG.

2.5.4. *Recovery agreements (Besserungsvereinbarungen)*

- (36) This instrument consists of the conversion of a loan that had previously been provided under the scheme, into a conditional receivable. According to the Austrian authorities, recovery agreements will be used exclusively for young, innovative enterprises, with the aim to facilitate the accession of investors. The beneficiary undertaking may apply for conversion if it has demonstrated that an investor is ready to provide financing. The conditional receivable, to the amount of the previous loan including all interests, only becomes due when the beneficiary undertaking has exceeded a pre-defined threshold of operational profits (*Gebarungsüberschüsse*).
- (37) The interest rate for recovery agreements is 5.5%. In cases where the loan can not be reimbursed, the Austrian authorities expect based on previous funding experience that the beneficiary undertaking will be subject to insolvency proceedings. In such cases, the Austrian authorities expect to write off the loan completely. The base for calculating the gross grant equivalent of such aid is the same as for loans.
- (38) The gross grant equivalent will be established with the method described above. In cases where the recovery agreement was concluded on the basis of

a loan and where a risk premium was payable, the risk premium will not be reviewed. The Austrian authorities asserted that in such cases the risk will as a rule decrease, since the provision of additional equity by an investor is the precondition for conclusion of a recovery agreement.

2.6. Budget

- (39) The scheme will be funded from the Austrian Federal Budget. The estimated total budget is EUR 2 100 million for the scheme's duration until 31 December 2013. Estimated annual budget appropriations will amount to EUR 300 million.

2.7. Duration

- (40) The notified aid scheme will only be put into effect after the Commission has approved it. The scheme will expire on 31.12.2013. Austria informed the Commission that the planned duration matches the current European Structural Funds period.

2.8. Research on behalf of undertakings (Contract research or research services)

- (41) The Austrian authorities declared that the research organisation provides its service at market price. In cases where no market price can be determined, the research organisation will provide its service at a price which reflects its full costs plus a reasonable margin. The Austrian authorities informed the Commission that Austrian research organisations are legally obliged, by the University Act (*Universitätsgesetz*) of 2002, to implement a transparent cost- and activity accounting (*Kosten- und Leistungsrechnung*). Non-university research organisations will be obliged, on the base of individual agreements, to implement adequate accounting, with a separate accounting for contractual research.

2.9. Collaboration of undertakings and research organisations

- (42) In the case of collaboration projects carried out jointly by undertakings and research organisations, a collaboration agreement (*Konsortialvertrag*) will have to be submitted to the granting authority for control. Such agreement must ensure that no indirect State aid, in the sense of Point 3.2.2 of the Framework, is passed on to the participating undertakings. According to the Austrian authorities, the terms and conditions of collaboration agreements will provide for one of the options hereunder:

- the participating undertakings bear the full cost of the project;
- the results which do not give rise to intellectual property rights may be widely disseminated and any intellectual property rights to the R&D&I results which result from the activity of the research organisation are fully allocated to the research organisation;
- the research organisation receives from the participating undertakings compensation equivalent to the market price for the intellectual property rights which result from the activity of the research organisation carried out in the project and which are transferred to the participating undertakings. Any contribution of the

participating undertakings to the costs of the research organisation shall be deducted from such compensation.

- (43) As regards cases where none of the previous conditions are met, the Austrian authorities declared that the terms and conditions of collaborations will ensure that any intellectual property rights to the R&D&I results as well as access rights to the results are allocated to the different partners of the collaboration and adequately reflect their respective interests, work packages, and financial and other contributions to the project.

3. DESCRIPTION OF THE AID SCHEME - ELIGIBLE ACTIVITIES

- (44) FFG-Guidelines provide for aid for several R&D&I-activities, but support for certain other purposes may also be granted. An overview of the scheme's structure is presented in the table hereunder:

FFG-Guidelines	
Aid for R&D&I	Aid for other purposes
Aid for R&D-projects – fundamental research, industrial research and experimental development; Aid to SMEs for R&D	<i>De-minimis</i> -support
Aid for industrial property rights (IPR) costs for SMEs	Training aid
Aid for technical feasibility studies preparatory to industrial research and experimental development	
Aid for young innovative undertakings	
Aid for innovation advisory services and innovation support services	
Aid for process and organisational innovation in services	

3.1. Aid for R&D-projects, technical feasibility studies and industrial property rights costs for SMEs

3.1.1. Fundamental research-projects

- (45) Pursuant to the FFG-Guidelines' funding provisions, fundamental research activities will be defined as experimental or theoretical work undertaken primarily to acquire new fundamental knowledge, without any direct practical application or use in view.

3.1.2. Industrial research

- (46) The FFG-Guidelines' funding provisions define industrial research as the planned research or critical investigation aimed at the acquisition of new knowledge and skills for developing new products, processes or services or for bringing about a significant improvement in existing products, processes or services. It comprises the creation of components of complex systems, which is necessary for the industrial research, notably for generic technology validation, to the exclusion of prototypes. These will only be supported when falling under experimental development.

3.1.3. Experimental development

- (47) For the purposes of the scheme in question, this stage is defined as the acquiring, combining, shaping and using of existing scientific, technological, business and other relevant knowledge and skills for the purpose of producing plans and arrangements or designs for new, altered or improved products, processes or services. These may also include, for example, other activities aiming at the conceptual definition, planning and documentation of new products, processes and services. The activities may comprise producing drafts, drawings, plans and other documentation, provided that they are not intended for commercial use.
- (48) The development of commercially usable prototypes and pilot projects is also included where the prototype is necessarily the final commercial product and where it is too expensive to produce for it to be used only for demonstration and validation purposes. In case of a subsequent commercial use of demonstration or pilot projects, any revenue generated from such use must be deducted from the eligible costs.
- (49) The experimental production and testing of products, processes and services are also eligible, provided that these cannot be used or transformed to be used in industrial applications or commercially. Experimental development does not include the routine or periodic changes made to products, production lines, manufacturing processes, existing services and other operations in progress, even if such changes may represent improvements.

3.1.4. Eligible costs

- (50) Eligible costs incurred for the R&D-activities will be allocated to a specific category of R&D. Cost categories eligible for aid under FFG-Guidelines are:
- personnel costs (researchers, technicians and other supporting staff to the extent employed on the research project);

- costs of instruments and equipment to the extent and for the period used for the research project. If such instruments and equipment are not used for their full life for the research project, only the depreciation costs corresponding to the life of the research project, as calculated on the basis of good accounting practice, are considered as eligible;
 - costs for building and land, to the extent and for the duration used for the research project. With regard to buildings, only the depreciation costs corresponding to the life of the research project, as calculated on the basis of good accounting practice are considered as eligible. For land, costs of commercial transfer or actually incurred capital costs are eligible;
 - cost of contractual research, technical knowledge and patents bought or licensed from outside sources at market prices, where the transaction has been carried out at arm's length and there is no element of collusion involved, as well as costs of consultancy and equivalent services used exclusively for the research activity;
 - additional overheads incurred directly as a result of the research project;
 - other operating expenses, including costs of materials, supplies and similar products incurred directly as a result of the research activity.
- (51) Eligible costs incurred by SMEs directly associated with obtaining and validating patents and other industrial property rights:
- all costs preceding the grant of the right in the first legal jurisdiction, including costs relating to the preparation, filing and prosecution of the application as well as costs incurred in renewing the application before the right has been granted;
 - translation and other costs incurred in order to obtain the granting or validation of the right in other legal jurisdictions;
 - costs incurred in defending the validity of the right during the official prosecution of the application and possible opposition proceedings, even if such costs occur after the right is granted.

3.1.5. Aid intensities, in terms of a percentage of the eligible cost, and established for each beneficiary of aid, including in collaboration projects:

- (52) According to the Austrian authorities, eligible projects may encompass several tasks. The Austrian authorities will ensure the correct qualification of each task of a project as falling under the categories of fundamental research, industrial research or experimental development or as not falling under any of those categories at all. To that end, they will implement a monitoring system based on the set of criteria used for project appraisal. Each project will be subject to thematic control and cost control. As a rule, such controls will be carried out on-the-spot at the beneficiary.
- (53) Basic aid intensities
- Up to 100% for fundamental research;

- Up to 50% for industrial research;
 - Up to 25% for experimental development.
- (54) These aid intensities may be increased by the bonuses described hereunder:
- SME-bonus:
 - 20% for small enterprises;
 - 10% for medium-sized enterprises.
- (55) A 15%-bonus may be granted, up to maximum aid intensity of 80%,
- if the project involves effective collaboration between at least two undertakings which are independent of each other. No single undertaking must bear more than 70 % of the eligible costs of the collaboration project. As a further condition, the project must involve collaboration with at least one SME or be cross-border, that is to say, the research and development activities are carried out in at least two different Member States;
 - if the project involves effective collaboration between an undertaking and a research organisation, particularly in the context of co-ordination of Austrian R&D policies and the following conditions are met:
 - the research organisation bears at least 10 % of the eligible project costs;
 - the research organisation has the right to publish the results of the research projects insofar as they stem from research implemented by that organisation.
 - only in case of industrial research: if the results of the project are widely disseminated through technical and scientific conferences or published in scientific or technical journals or in open access repositories (databases where raw research data can be accessed by anyone), or through free or open source software.
 - For the purposes of the abovementioned collaboration projects, 1st and 2nd indent above, subcontracting will not be considered to be effective collaboration for the purposes of FFG-Guidelines. In case of collaboration between an undertaking and a research organisation, the maximum aid intensities and bonuses specified in the scheme will not apply to the research organisation.
- (56) Pursuant to FFG-Guidelines' funding provisions, the maximum aid intensities, all bonuses and top-ups included, will not exceed the percentages shown hereunder:

	Small enterprises	Medium sized enterprises	Large enterprises
Fundamental research	100%		

Industrial research (all top-ups included)	80%	75%	65%
Experimental development (all top-ups included)	60%	50%	40%

(57) Aid intensities - technical feasibility studies:

- The aid intensities for technical feasibility studies preparatory to industrial research will be up to 75% for SMEs and up to 65% for large enterprises.
- The aid intensities for technical feasibility studies preparatory to experimental development will be up to 50% for SMEs and up to 40% for large enterprises.

(58) Aid intensities for obtaining and validating patents and other IPR: Costs incurred by SMEs associated with obtaining and validating patents and other industrial property rights will be funded up to the same level of aid as would have qualified as R&D aid in respect of the research activities which first led to the industrial property rights concerned.

3.2. Aid for young innovative enterprises

(59) The Austrian authorities consider this aid to be a support for the commercial strategy of young innovative enterprises.

3.2.1. Beneficiaries

- (60) In order to be eligible for this category of aid, an enterprise, firstly, must be a small enterprise that has been of existence for less than 6 years at the time when the aid is granted. Secondly, such enterprises will only be considered innovative if
- an evaluation carried out by an external expert, notably on the basis of a business plan, demonstrates that the enterprise will in the foreseeable future develop products, services or processes which are technologically new or substantially improved compared to the state of the art in its industry in the Community, and which carry a risk of technological or industrial failure; or
 - the R&D expenses of the beneficiary represent at least 15 % of its total operating expenses in at least one of the three years preceding the granting of the aid or in the case of a start-up enterprise without any financial history, in the audit of its current fiscal period, as certified by an external auditor.

3.2.2. Aid amount

(61) FFG-Guidelines provide that:

- the aid is not higher than EUR 1 million;
- in regions eligible for the derogation in Article 87(3)(a) of the EC Treaty, this aid may not exceed EUR 1,5 million;

- in regions eligible for the derogation in Article 87(3) (c) of the EC Treaty, this aid may not exceed EUR 1.25 million.
- (62) FFG-Guidelines stipulate that the beneficiary may receive the aid only once during the period in which it qualifies as a young innovative enterprise. They further stipulate that this aid may be cumulated with other aid under the Community Framework for State aid for Research and Development and Innovation⁵ (hereinafter "the Framework"), with aid for research and development and innovation exempted by Regulation (EC) No 364/2004⁶ or any successor regulation and with aid approved by the Commission under the risk capital guidelines⁷.
- (63) The beneficiary may receive State aid other than R&D&I aid and risk capital aid only 3 years after the granting of the young innovative enterprise aid.

3.3. Aid for process and organisational innovation in services

3.3.1. Eligible activities

- (64) The scheme provides for aid for both SMEs and large enterprises for this category of innovation activity. Large enterprises, however, may only receive such aid if they collaborate with SMEs in the aided activity, whereby the collaborating SMEs must incur at least 30 % of the total eligible costs.
- (65) According to the FFG-Guidelines, projects must fulfil the following conditions, in order to qualify for aid for process and organisational innovation in services:
- organisational innovation must always be related to the use and exploitation of Information and Communication Technologies (ICT) to change the organisation;
 - the innovation must be formulated as a project with an identified and qualified project manager, as well as identified project costs;
 - the result of the aided project must be the development of a standard, of a business model, methodology or concept, which can be systematically reproduced, possibly certified, and possibly patented;
 - the process or organisational innovation must be new or substantially improved compared to the state of the art in its industry in the Community. According to the scheme's funding provisions, the novelty could be demonstrated, for instance, on the basis of a precise description of the innovation, comparing it with state of the art process or organisational techniques used by other undertakings in the same industry;

⁵ OJ C 323, 30.12.2006, p.1

⁶ OJ L 63, 28.2.2004, p.22.

⁷ OJ C 194, 18.8.2006, p.2.

- the process or organisational innovation project must entail a clear degree of risk. According to the scheme's funding provisions, this risk could be demonstrated for instance in terms of: project costs in relation to company turnover, time required to develop the new process, expected gains from the process innovation by comparison with the project costs, probability of failure.
- (66) For the purposes of the FFG-Guidelines, 'process innovation' will mean the implementation of a new or significantly improved production or delivery method (including significant changes in techniques, equipment and/or software). Minor changes or improvements, an increase in production or service capabilities through the addition of manufacturing or logistical systems which are very similar to those already in use, ceasing to use a process, simple capital replacement or extension, changes resulting purely from changes in factor prices, customisation, regular seasonal and other cyclical changes, trading of new or significantly improved products will not be considered innovations.
- (67) For the scheme's purposes, 'organisational innovation' will mean the implementation of a new organisational method in the undertaking's business practices, workplace organisation or external relations. Changes in business practices, workplace organisation or external relations that are based on organisational methods already in use in the undertaking, changes in management strategy, mergers and acquisitions, ceasing to use a process, simple capital replacement or extension, changes resulting purely from changes in factor prices, customisation, regular seasonal and other cyclical changes, trading of new or significantly improved products will not be considered innovations.
- (68) Pursuant to the FFG-Guidelines, routine or periodic changes made to products, production lines, manufacturing processes, existing services and other operations in progress, even if such changes may represent improvements, are excluded from the scheme's ambit.

3.3.2. *Eligible costs*

- (69) Eligible costs are the same as for aid to R&D projects. In case of organisational innovation, however, costs of instruments and equipment will cover costs of ICT instruments and equipment only.

3.3.3. *Aid intensities*

- (70) The aid permitted aid intensities will be up to up to
- 35% for small enterprises;
 - 25% for medium-sized enterprises;
 - 15% for large enterprises.

3.4. Aid for Innovation advisory services and innovation support services

3.4.1. Eligible activities

- (71) Under the FFG-Guidelines, only SMEs will receive such aid. These must use the State aid to buy the services at a market price. Should the service provider be a non-for-profit entity, the price will reflect its full costs plus a reasonable margin.

3.4.2. Eligible costs

- (72) Eligible costs incurred for the acquisition of innovation advisory services are: management consulting; technological assistance; technology transfer services; training; consultancy for acquisition, protection and trade in Intellectual Property Rights and for licensing agreements; consultancy on the use of standards.
- (73) Eligible costs incurred for the acquisition of innovation support services: office space; data banks; technical libraries; market research; use of laboratory; quality labelling, testing and certification.

3.4.3. Aid amount and aid intensity

- (74) As set out in the FFG-Guidelines, the aid will not exceed a maximum of EUR 200,000 per beneficiary within any three year period, without prejudice to any *de minimis*-support for other eligible costs.
- (75) In cases where the service provider benefits from a national or European certification, the aid intensity may exceed 75% of the eligible costs. The Austrian authorities informed the Commission that public or private undertakings, which are licensed on the basis of national legislation to provide advisory services, will be regarded as 'certified' for the purposes of the scheme. According to the Austrian authorities, this will apply in particular to Technology Transfer Centres (*Technologietransferzentren*) and external university research institutes, as well as to management consultancies licensed on the base of trade law (*gewerberechtlich zugelassene Unternehmensberatungen*). European certificates which correspond to Austrian national requirements will also be admitted.
- (76) If the service provider does not benefit from a national or European certification, the aid will not cover more than 75 % of the eligible costs.

3.5. Incentive effect of the aid

- (77) Aid will only be granted for projects that have not started prior to the application of aid. FFG-Guidelines provide for a 'deadline of acknowledgement' (*Anerkennungsstichtag*), according to which all eligible costs must be incurred after the aid application has been submitted.
- (78) The Austrian authorities committed to verify that an incentive effect of the aid to large enterprises is present and to submit annual reports on the implementation of the approved aid scheme. In said reports, the Austrian authorities will demonstrate how they have assessed the incentive effect ex-ante, through the use of the quantitative and qualitative indicators, namely

increase in project size, increase in scope, increase in speed, increase in total amount spent on R&D&I.

- (79) The Austrian authorities have evaluated similar projects that had received aid. According to the Austrian authorities, the evaluation showed that 1 EURO spent from public resources triggers 40 Cent of private expenditure.
- (80) Austria pointed out that the eligible projects will involve a high commercial and technical risk. In order to ensure the strongest possible incentive effect on large enterprises, the Austrian authorities will analyse the beneficiary's entire R&D-portfolio. Such ex-ante scrutiny of the aid's incentive effect will focus on the share and the development of the number researchers involved, the degree of cooperation and networking, as well as on the potential for additional research, also with more distant objectives.

3.6. Cumulation, monitoring and reporting

- (81) As regards cumulation, the Austrian authorities informed the Commission that the expenditure eligible for aid for R&D&I under FFG-Guidelines is in principle eligible in whole or in part for aid for other purposes.
- (82) According to the scheme's funding provisions, the aid ceilings fixed under the Framework shall apply regardless of whether the support for the aided project is financed entirely from State resources or is partly financed by the Community, except in the specific and limited context of the conditions established for Community funding under the RTD Framework Programmes, adopted respectively in accordance with Title XVIII of the EC Treaty or Title II of the Euratom Treaty.
- (83) Where the expenditure eligible for aid for R&D&I is eligible in whole or in part for aid for other purposes, the common portion will be subject to the most favourable ceiling under the applicable rules. Aid for R&D&I shall not be cumulated with de minimis support in respect of the same eligible expenses in order to circumvent the maximum aid intensities laid down in the Framework.
- (84) FFG-Guidelines provide for corresponding transparency, monitoring and reporting rules, as well as for rules on the coordination of granting authorities with each other. FFG-Guidelines oblige FFG to scrutinise compliance with the maximum aid intensities and cumulation rules and, in cases of transgression, proceed with proportionate retrenchments.

3.7. Individual notification

- (85) The Austrian authorities committed to notify aid amounts for projects under the scheme which exceed the thresholds hereunder (per undertaking, per project):
- predominantly fundamental research: EUR 20 million;
 - predominantly industrial research, EUR 10 million;
 - all other projects: EUR 7.5 million;

- process or organisational innovation in services-activities: EUR 5 million.

3.8. Publicity, Reporting, Information Sheets and Records

- (86) The notified measure will be published on the internet⁸.
- (87) Austria undertook, whenever aid for R&D&I is granted without falling under the duty for individual notification, and exceeds EUR 3 million, to provide the Commission with the information requested in the standard form laid down in the Annex to the Framework within 20 working days starting from the granting of the aid.
- (88) FFG-Guidelines stipulate that all ledgers, receipts and other documents, which will contain all information necessary to verify the aided activity, will be maintained for 10 years from the date on which the project has been closed.
- (89) Austria committed to submit annual reports on the scheme, which will contain the following information:
 - the name of the beneficiary;
 - the aid amount per beneficiary;
 - the aid intensity;
 - the sectors of activity where the aided projects are undertaken.

3.9. Aid to SMEs for R&D

- (90) Pursuant to the FFG-Guidelines, projects must in principle comply with the funding provisions set out in the Community Framework for State aid for Research and Development and Innovation. Nevertheless, the FFG-Guidelines provide that projects fulfilling all the conditions of Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises⁹, are also eligible for aid.
- (91) The reporting obligations laid down in said regulation will be complied with. The FFG-Guidelines contain a corresponding clause.

3.10. Training aid:

- (92) FFG-Guidelines further provide that projects fulfilling all the conditions of Commission Regulation (EC) No 68/2001 of 12 January 2001 on the

⁸ <http://www.ffg.at>

⁹ OJ L 10, 13.1.2001, p. 33; as amended by Commission Regulation (EC) No 364/2004 of 25 February 2004, as regards the extension of its scope to include aid for research and development; OJ L 63, 28.2.2004, p.22.

application of Articles 87 and 88 of the EC Treaty to training aid¹⁰ are also eligible for aid.

- (93) The Austrian authorities will grant aid based on aforesaid Regulation on Training aid however only if the aid granted to one enterprise for a single training project does not exceed EUR 1 million. Further, all reporting obligations laid down in said regulation will be complied with. FFG-Guidelines contain a corresponding clause.

3.11. De minimis-support

- (94) With reference to Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to de minimis aid¹¹, the scheme also allows for de minimis support.
- (95) The gross grant equivalent of de-minimis support under the scheme will be precisely calculated ex ante. As regards guarantees, the Austrian authorities will transpose the general de minimis ceiling of EUR 200,000 into a guarantee-specific ceiling based on the guaranteed amount of the individual loan underlying such guarantee. As described further above (2.5.3) the Austrian authorities will calculate this specific ceiling using a methodology assessing the State aid amount covering loans in favour of viable undertakings. FFG-Guidelines prohibit any cumulation of de minimis support with other aid in respect of the same eligible costs, if the aid intensity resulting from such cumulation would exceed the aid intensities fixed in the specific circumstances of each case by a block exemption Regulation or Decision adopted by the Commission.

4. ASSESSMENT

4.1. Existence of aid within the meaning of Article 87 (1) of the EC Treaty:

- (96) Insofar as grants are awarded to enterprises engaged in economic activity, the proposed scheme falls under Art.87 (1) EC. The notified scheme is funded through the Austrian Federal budget, and therefore through State resources. It favours a limited number of undertakings that are selected during the implementation of the scheme. Hence, the scheme is selective. In addition, the grants under the programme make it possible for the beneficiaries to improve their overall financial condition and to enhance their market position. The programme under scrutiny does not rule out the award of aid to firms engaged in economic sectors where intra-Community trade takes place. It must therefore be assumed that the grants under scrutiny are likely to distort competition and thereby affect trade between Member States. Hence, the Commission has come to the conclusion that the scheme constitutes State aid within the meaning of Article 87(1) EC.
- (97) On the base of information provided by Austria, the Commission considers that any possible spill-over of public funding into the potential economic activities of research organisations will be prevented under FFG-Guidelines.

¹⁰ OJ L 10, 13.1.2001, p. 20.

¹¹ OJ L 379, 28.12.2006, p. 5.

Hence, the Commission concludes that the support granted to research organisations under the scheme in question does not constitute State aid within the meaning of Article 87 (1) of the EC Treaty.

- (98) The Commission notes that the measure will encompass *de minimis*-support, which, according to Austria, will be granted in accordance with Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid. Consequently, the Commission finds that *de minimis*-support under FFG-Guidelines does not meet the criteria of Art. 87 (1) EC.

4.2. Lawfulness of the aid

- (99) The Commission notes that the Austrian authorities have complied with the requirement under Article 88(3) EC and have notified the aid scheme before it is implemented. The measure's entry into force is subject to the Commission's approval.

4.3. Applicable Community Rules

- (100) According to information provided by the Austrian authorities, the notified scheme will provide aid for R&D&I-related activities, namely for R&D-projects, technical feasibility studies, industrial property rights costs for SMEs, aid for young innovative enterprises, the acquisition of innovation advisory and innovation support services, and for process and organisational innovation in services. These activities are provided for in the Community Framework for State aid for Research and Development and Innovation¹² (hereinafter "the Framework").
- (101) The scheme further provides for aid which is exempt from the notification requirement of Article 88(3) of the Treaty, provided that the requirements set out in Commission Regulation (EC) No 70/2001 of 12 January 2001 respectively in Commission Regulation (EC) No 68/2001 of 12 January 2001 are met. Any aid that falls under aforesaid Regulations and that is granted under the scheme in question will therefore be outside this decision's ambit.
- (102) Pursuant to Section 2.1 of the Framework, the Framework does not apply to aid for undertakings in difficulty within the meaning of the Community Guidelines on State aid for rescue and restructuring undertakings in difficulty¹³. As was explained further above, such undertakings will be excluded from the scope of the notified measure.
- (103) Hence, the Commission based its assessment of that part of the scheme, which is subject to the notification requirement, on the Framework.

¹² OJ C 323, 30.12.2006, p. 1

¹³ OJ C 244, 1.10.2004, p. 2.

4.4. Indirect State aid

4.4.1. Research on behalf of undertakings

- (104) Point 3.2.1 of the Framework sets forth conditions applicable to situations where a research organisation, acting as an agent, renders a service to the undertaking acting as principal in situations where the agent receives payment of an adequate remuneration for its service and the principal specifies the terms and conditions of this service.
- (105) According to information provided by the Austrian authorities, research organisations in the sense of the definition set out in Point 2.2 (d) of the Framework provide services at market prices for undertakings that receive aid under the programme in question, respectively provide services at a price which reflects full costs plus a reasonable margin. Therefore, no State aid in the measure's framework will be passed to undertakings in cases where research organisations provide services on their behalf.

4.4.2. Collaboration of undertakings and research organisations

- (106) In the case of collaboration projects carried out jointly by undertakings and research organisations, the Commission considers that no indirect State aid is granted to the industrial partner through the research organisation if one of the conditions laid down in Point 3.2.2 of the Framework, is fulfilled.
- (107) As was described further above, these conditions are met. Hence, no State aid will be granted to the industrial partner through the research organisation due to the favourable conditions of the collaboration.

4.5. Calculation of the gross-grant equivalent and establishment of market interest rates for the purposes of the scheme

- (108) Apart from direct grants, FFG-Guidelines provide for several other aid instruments, namely loans, aid for interest-, annuities, and other credit costs; guarantees and recovery-agreements. As a common denominator, the gross-grant equivalent of these instruments will have to be established on the base of the market interest rate.
- (109) According to the Commission notice on the method for setting the reference and discount rates¹⁴ the Commission establishes reference rates which are supposed to reflect the average level of interest rates charged in the market on medium and long term loans backed by normal securities. The notice also points out that this reference rate is a floor rate which may be increased in situations involving a particular risk, for example an undertaking in difficulties or where the security normally required by banks is not provided. In such cases, the premium may amount to 400 basis points or more.
- (110) As was described further above (2.5.1), the interest rate charged for loans provided under the measure will consist of a floor rate, being the applicable reference rate for Austria. This floor rate will be increased in situations involving a particular risk as was described above (23). Such risk premium

¹⁴ OJ C 273 of 9.9.1997, p.3.

will be charged depending on the beneficiaries' economic situation and the provision of collateral. The Commission also notes that undertakings in difficulties will be excluded from any form of aid under the measure.

- (111) Hence, the Commission considers the measure's interest rate method to be in line with the indications contained in the Commission notice on the method for setting the reference and discount rates. Thus, the gross grant equivalent of above-said instruments (other than direct grants) will be calculated on the basis of the average level of interest rates charged in the market.

4.6. Compatibility criteria

- (112) Pursuant to Section 5 of the Framework, State aid is eligible for compatibility under Article 87(3) (c) of the EC Treaty, provided the conditions set out in that Section are fulfilled.

4.6.1. Aid for R&D-projects, technical feasibility studies and industrial property rights costs for SMEs

- (113) Section 5.1 of the Framework sets forth compatibility criteria applicable to aid for R&D-projects.
- (114) Pursuant to Point 5.1.1 of the Framework, the aided part of the research project must completely fall within one or more of the following research categories: fundamental research, industrial research, experimental development. For the purposes of the Framework, the definitions laid down in Section 2.2 *ibid.* apply.
- (115) Projects eligible for aid under the measure will fall within one or more of the aforementioned research categories. The definitions as provided for by the scheme's legal base are in line with those set forth in Section 2.2n lit. e), f) and g) of the Framework.
- (116) Point 5.1.1 of the Framework further requires that in cases where a project encompasses different tasks, each task must be qualified as falling under the categories of fundamental research, industrial research or experimental development or as not falling under any of those categories at all.
- (117) As was described further above, (52), the scheme will be in line with this requirement.
- (118) Point 5.1.2 of the Framework sets forth permitted basic aid intensities, as calculated on the basis of the eligible costs of the project, namely 100 % for fundamental research, 50 % for industrial research and 25 % for experimental development. The aid intensity must be established for each beneficiary of aid, including in a collaboration project.
- (119) As was presented above, (53), based on information submitted by Austria, the basic aid intensities allowed by the scheme are in compliance with the Framework. The aid intensities will be established for each beneficiary of aid.
- (120) Point 5.1.3 of the Framework allows increasing the basic aid intensities for industrial research and experimental development by bonuses, if specific conditions are fulfilled.

- (121) Pursuant to Point 5.1.3 a) of the Framework, the aid intensity may be increased by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises. The bonuses provided for by the scheme, above, (54), are in line with that provision.
- (122) Up to a maximum aid intensity of 80 %, a bonus of 15 percentage points may be added, if the conditions laid down in Point 5.1.3 b) i)-iii) of the Framework are met.
- (123) Based on information provided by the Austrian authorities, as presented further above, (55), the Commission finds that all conditions laid down in Point 5.1.3 b) i)-iii) of the Framework, are complied with.
- (124) Point 5.1.4 of the Framework provides for a list of eligible costs. Costs eligible for R&D-project aid under the scheme in question, as enumerated further above, (50), are in line with those set out in Point 5.1.4 the Framework.
- (125) Section 5.2 of the Framework provides for compatibility criteria applicable to technical feasibility studies. Firstly, technical feasibility studies must be preparatory to industrial research or experimental development activities. Secondly, pursuant to Section 5.2.a), the aid intensities for technical feasibility studies preparatory to industrial research must not exceed 75% for SMEs and 65% for large enterprises. Thirdly, pursuant to Section 5.2.b), the aid intensities for technical feasibility studies preparatory to experimental development must not exceed 50% for SMEs and up to 40% for large enterprises.
- (126) Feasibility studies covered by the scheme in question, as described above, (57), will be in line with Section 5.2 of the Framework.
- (127) Aid to SMEs for the costs associated with obtaining and validating patents and other industrial property rights will be deemed compatible with the common market if the requirements stipulated by Section 5.3 of the Framework are met. That provision permits the same level of aid as would have qualified as R&D aid in respect of the research activities which first led to the industrial property rights concerned. Further, Section 5.3 of the Framework provides for a list of eligible costs.
- (128) Based on information provided by the Austrian authorities, above, (51) and (58), the Commission considers the scheme's IPR-related eligible costs and aid intensities to be in line with Section 5.3 of the Framework.
- (129) In conclusion, aid for R&D-projects, technical feasibility studies and industrial property rights costs for SMEs under FFG-Guidelines will be granted in accordance with Section 5 of the Framework.

4.6.2. Aid for young innovative enterprises

- (130) Aid to young innovative enterprises shall be compatible with the common market within the meaning of Article 87(3)(c) of the EC Treaty if the conditions set out in Section 5.4 of the Framework are fulfilled.

- (131) Only SMEs conforming to Section 5.4 a) and b)i) will qualify for such aid. Further, the permissible aid ceiling will not exceed the thresholds laid down in c) *ibid.*
- (132) Further, as was shown above, 3.2.2, the conditions laid down in Section 5.4, penultimate and last sub-paragraph, will be met. Hence, aid for young innovative enterprises under the scheme is in line with Section 5.4 of the Framework.

4.6.3. Aid for process and organisational innovation in services

- (133) In order to be compatible with the common market, such aid must fulfil the criteria provided for in Section 5.5 of the Framework. Accordingly, the permitted aid intensity is up to 15 % for large enterprises, 25 % for medium enterprises and 35 % for small enterprises. Large enterprises are only eligible for such aid if they collaborate with SMEs in the aided activity, whereby the collaborating SMEs must incur at least 30 % of the total eligible costs. As was described further above, 3.3.3, the scheme will be in accordance with these conditions.
- (134) Furthermore, pursuant to Section 5.5, subparagraph 3 of the Framework, routine or periodic changes do not qualify for such aid. Based on information provided by the Austrian authorities (further above, (66) *et seq.*), the Commission finds that said routine or periodic changes will not be funded through aid under the scheme.
- (135) Section 5.5, subparagraph 4, a)-e) provides for a list of detailed compatibility criteria. Based on information provided by Austria, above, (65), the Commission deems FFG-Guidelines to be in accordance with these compatibility criteria.
- (136) Eligible costs permitted by Section 5.5, last subparagraph, are the same as for aid to R&D projects, however, in case of organisational innovation, costs of instruments and equipment cover costs of ICT instruments and equipment only. As described further above, 3.3.2, this requirement is also met.

4.6.4. Innovation advisory services and innovation support services

- (137) Section 5.6 of the Framework sets forth specific requirements as to the compatibility of aid for innovation advisory and innovation support services.
- (138) Pursuant to Section 5.6 of the Framework, beneficiaries of aid for innovation advisory services and for innovation support services must be SMEs. The scheme will fulfil this requirement.
- (139) A further compatibility criterion set out in Section 5.6 is that the aid must not exceed a maximum of EUR 200 000 per beneficiary within any three year period. Should the service provider not benefit from a national or European certification, the aid may not cover more than 75 % of the eligible costs. The scheme's funding conditions (above, 3.4.3) comply with these conditions.
- (140) Section 5.6 further stipulates that the beneficiary must use the State aid to buy the services at a market price. In cases where the service provider is a non-profit entity, the price paid must reflect the entity's full costs plus a

reasonable margin. As market prices respectively full costs plus a reasonable margin will be paid, above, (71), that condition is fulfilled.

(141) Section 5.6 of the Framework provides for a list of eligible costs for each, innovation advisory services as well as innovation support services. The eligible costs of both categories of innovation services in the proposed measure (above, 3.4.2) are in conformity with the corresponding categories laid down in Section 5.6 of the Framework.

(142) Hence, aid for innovation advisory services and innovation support services under FFG-Guidelines is in line with Section 5.6 of the Framework.

4.7. Incentive effect

(143) As required by Chapter 6 of the R&D&I Framework, State aid must have an incentive effect, i.e. result in the recipient changing its behaviour so that it increases its level of R&D&I activity.

(144) As regards aid schemes, Chapter 6 stipulates that the conditions relating to the incentive effect shall be deemed to be satisfied if the Member State has committed itself to grant individual aid under the approved aid scheme only after it has verified that an incentive effect is present and to submit annual reports on the implementation of the approved aid scheme. In the annual reports, the Member State must demonstrate how it has assessed the incentive effect of the aid before granting the aid through the use of quantitative and qualitative indicators, namely increase in project size, increase in scope, increase in speed, increase in total amount spent on R&D&I.

(145) Based on the Austrian authorities' commitment to verify the incentive effect and to submit corresponding annual reports, above, (77), Chapter 6 of the Framework is complied with.

4.8. Cumulation

(146) Section 8 of the Framework stipulates that, where the expenditure eligible for aid for R&D&I is eligible in whole or in part for aid for other purposes, the common portion will be subject to the most favourable ceiling under the applicable rules. This limitation does however not apply to aid granted in accordance with the Community guidelines on State aid to promote risk capital investments in SME¹⁵. Also, aid for R&D&I shall not be cumulated with de minimis support in respect of the same eligible expenses in order to circumvent the maximum aid intensities laid down in the Framework.

(147) Based on information provided by the Austrian authorities (further above, 3.6 and (95)), the Commission finds that the scheme in question is in line with the Framework's cumulation rules.

4.9. Individual notification

(148) Pursuant to Section 7.1 of the Framework, the Commission will carry out a more detailed assessment of certain aid measures, which accordingly have to

¹⁵ OJ C 194, 18.8.2006, p. 2.

be notified individually. Firstly, this concerns individual notification rules pursuant to the Block Exemption Regulations. Secondly, this concerns certain schemes governed by the Framework. Section 7.1 sets forth specific aid-intensity thresholds and categories of projects subject to this individual notification requirement.

- (149) The Commission notes Austria's commitment, mentioned above, point 3.7, to notify aid amounts under the scheme which exceed above said ceilings. Section 7.1 of the Framework is therefore complied with.

4.10. Reporting and monitoring

- (150) Pursuant to Point 10.1.1 of the Framework, Member States must submit annual reports to the Commission. Beyond the requirements set out in Regulation (EC) No 659/1999¹⁶ and Commission Regulation (EC) No 794/2004¹⁷, such reports must contain, for each measure, information as to:

- the name of the beneficiary;
- the aid amount per beneficiary;
- the aid intensity;
- the sectors of activity where the aided projects are undertaken.

- (151) As mentioned further above, (89), the Austrian authorities undertook to observe this reporting obligation and thus comply with the reporting obligations.

4.11. Access to the full text of the scheme

- (152) According to Point 10.1.2 of the Framework, the Commission considers it necessary to ensure that economic operators, interested parties and the Commission itself have easy access to the full text of all applicable R&D&I aid schemes. When examining R&D&I aid schemes, the Commission will systematically require the Member State concerned to publish the full text of all final aid schemes on the internet and to communicate the internet address of the publication to the Commission. The scheme must not be applied before the information is published on the internet. Based on information provided by the Austrian authorities, above, (86), that requirement will be met.

4.12. Detailed records

- (153) Point 10.1.3 of the Framework stipulates that Member States must ensure that detailed records regarding the granting of aid for all R&D&I measures are maintained. Such records, which must contain all information necessary to establish that the eligible costs and maximum allowable aid intensity have been observed, must be maintained for 10 years from the date on which the aid was granted. Based on information provided by the Austrian authorities,

¹⁶ OJ L 83, 27.3.1999, p. 1.

¹⁷ OJ L 140, 30.4.2004, p. 1.

as described further above, (88), Point 10.1.3 of the Framework can be considered as met.

4.13. Conclusion

(154) Based on the above reasoning, the Commission concludes that the State aid-scheme N 270/2007 'FFG Guidelines' is in line with the Community Framework for State aid for Research and Development and Innovation.

5. DECISION

(155) The Commission concludes that the notified State aid scheme N 270/2007 'FFG Guidelines' is compatible with the common market, pursuant to Article 87(3) (c) of the EC Treaty. It accordingly decided not to raise objections to the notified measure.

(156) The Commission reminds the Austrian Government that, in accordance with Article 88 (3) of the EC Treaty, all plans to refinance, alter or change this aid scheme have to be notified to the Commission.

(157) Prior to implementing the scheme, the Austrian authorities shall publish the full text of the notified aid scheme on the internet.

(158) The Commission further reminds the Austrian Government to submit annual reports on the implementation of the notified programme which comprise the information demonstrating the incentive effects of aid granted to large firms.

If this letter contains confidential information, which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site:

http://ec.europa.eu/community_law/state_aids/index.htm

Your request should be sent by registered letter or fax to:

European Commission
Directorate-General for Competition
Directorate for State Aid
State Aid Greffe
B – 1049 Brussels
Fax No.: +32 2 296 12 42

Yours faithfully,
For the Commission

Neelie Kroes
Member of the Commission