

**Commission communication amending the Community framework for State aid for research and development**

(98/C 48/02)

(Text with EEA relevance)

1. Article 130(1) of the EC Treaty states that the Community and the Member States are to take action aimed at 'fostering better exploitation of the industrial potential of policies of innovation, research and technological development'.
2. It follows from the principle laid down in Article 3(g) of the EC Treaty that such actions taken by Member States have to be compatible with the common market and the rules governing State aid, which are based on Articles 92 and 93 of the EC Treaty.
3. One aim of competition policy is to improve the international competitiveness of Community industry and thereby contribute to the achievement of the objectives set out in Article 130(1) of the EC Treaty. The competition rules must therefore be applied constructively to encourage cooperation which helps new technology to be developed and disseminated in the Member States, while observing the rules on intellectual property rights. In the control of State aid, regard must be paid to the need for resources to be made available to those sectors which will contribute to improving the competitiveness of Community industry.
4. The Commission has expressed its favourable view on State aid for R & D in its Community framework for research and development<sup>(1)</sup>. According to point 9 of this framework the Commission may at any time, in cooperation with the Member States, decide to amend it, should that prove necessary for reasons connected with competition policy or to take account of other Community policies and international commitments.
5. The Commission has recently reviewed this framework in cooperation with the Member States as regards certain research and development aids in the agricultural sector. It has concluded that it would be advisable for policy in this area not to be subject to the maximum limit of 75 % applicable in all instances (except for fundamental research) where the aid fulfils the conditions of Article 92(1) of the Treaty but to allow rates of up to 100 % in defined circumstances, consistent with EC obligations under the WTO. It is recalled that the Agreement on agriculture provides for derogations from the Agreement on subsidies where aid involves research in agriculture of a general nature.
6. In order to achieve this policy objective, the following point is inserted in the framework:  
  
'5.14  
  
As regards R & D aid concerning products listed in Annex II to the EC Treaty, and by way of derogation from aid intensity limitations or supplements specified elsewhere in this framework, the Commission will, as was the case prior to 1997, allow gross aid intensities of up to 100 % even in cases where the R & D is carried out by firms, subject to fulfilment in each case of the four following conditions:  
  
— it is of general interest to the particular sector (or subsector) concerned, without unduly distorting competition in other sectors (or subsectors),  
  
— information is published in appropriate journals, with at least national distribution and not limited to members of any particular organisation, to ensure that any operator potentially interested in the work can readily be aware that it is or has been carried out, and that the results are or will be made available, on request, to any interested party. This information shall be published no later than any which may be given to members of any particular organisation,  
  
— the results of the work are made available for exploitation by all interested parties, including the beneficiary of the aid, on an equal basis in terms both of cost and of time,  
  
— the aid fulfils the conditions laid down in Annex II, "Domestic support: the basis for exemption from the reduction commitments", to the Agreement on agriculture concluded during the Uruguay Round of multilateral trade negotiations<sup>(2)</sup>.  
  
Cases of R & D aid for Annex II products not fulfilling the above conditions are to be examined under the normal rules of the present framework.  
  
When examining aid schemes notified by Member States, the Commission, reserves the right to request notification of significant individual cases implementing the scheme'.

<sup>(1)</sup> OJ C 45, 17.2.1996, p. 5.

<sup>(2)</sup> OJ L 336, 23.12.1994, p. 31.