

Important Project of Common European Interest (IPCEI) on Microelectronics

Non-paper on "Integrated project"

Disclaimer: this non-paper has been drafted for the sole purpose of facilitating discussions within the Microelectronic IPCEI Working Group. Statements and opinions given in this paper are tentative and do not necessarily represent the only possible interpretation of current EU legislation. This non-paper does not bind the Commission services and does not prejudice any future Commission assessment.

IPCEI Communication

IPCEI Communication (relevant paragraph)

13. The Commission may also consider eligible an 'integrated project', that is to say, a group of single projects inserted in a **common structure, roadmap or programme** aiming at the same objective and based on a coherent systemic approach. The individual components of the integrated project may relate to separate levels of the supply chain but must be **complementary** and **necessary** for the achievement of the **important European objective**

Useful elements in practice

Individual components:

First, one has to identify the individual components of the integrated project. In principle, these individual components could be either projects between companies or individual company projects.

In the IPCEI Microelectronics, the individual components of the integrated project are mainly individual company projects [to be confirmed in the final version of the chapeau].

Objective of the IPCEI:

To assess whether the individual components are necessary to achieve the important European objective, this objective should be clearly identified.

For the IPCEI microelectronics:

- The objective cannot be to improve the competitive position of the companies involved, also in light of EU commitments within the World Trade Organisation (WTO) and the Governments and Authorities Meeting on Semiconductors¹ (GAMS).
- The project is of major importance for the European strategy for Key Enabling Technologies.

¹ The GAMS discuss and engage in cooperation concerning global issues related to semiconductors such as standardization, customs nomenclature, environment, health and safety at work, intellectual property rights, trade and investment liberalization, and worldwide market development.

- Subject to confirmation by all the Member States involved, it is understood that in the IPCEI Microelectronics state aid is given to specific component manufacturers and designers (the beneficiaries) in upstream key enabling technologies sectors for them to develop innovative technologies (carry out RDI) and strengthen the manufacturing capabilities in the EU (carry out first industrial deployment (FID)), in order to stimulate further R&D and enable downstream microelectronics applications in a large number of downstream markets within the EU (Automotive, Internet of Thing, and other key applications). Since RDI takes place via an iterative process between upstream and downstream, this requires proximity (within the EU).

Common structure, roadmap or programme:

In the IPCEI Microelectronics the project is organised along five Technology fields: Energy efficient chips, Power semiconductors, Sensors, Advanced optical equipment and Compound materials.

The integrated character of the project is presented in the Chapeau and in the five Technology Fields documents. According to the Chapeau document, the coherence of the project is evidenced by the inter-relations of these Five Technology Fields. *"The technology fields are not only complementary; they are mutually connected and depend on each other. Typically, markets do not demand for single component or chips, but for systems. Those systems are based on a combination of elements developed in and delivered by different fields."*

- A common structure, a roadmap or a programme are alternative ways to present the integrated character of the project.
- A common structure, roadmap or programme related to the integrated project would typically describe how the single projects (i.e. the "individual component") will aim at the main objective of the IPCEI. They would typically present and capture the strategic importance of each individual component of the "integrated project" and its synergies with the other individual components, in order to allow considering a group of complementary single projects as a whole (i.e. as a truly "integrated" project).
- An integrated project can be characterised by individual components relating to a given programme, roadmap or structure at several levels of the supply chain.
- A common structure, roadmap or programme would typically include a clear and effective means of monitoring progress of the integrated project and adjusting (where needed) the direction of focus during the implementation of the integrated project. Information on such monitoring and adjustment system would be useful to demonstrate the integrated nature of the IPCEI.
- Member States should consider whether any information about the governance of the IPCEI (e.g. for the future IPCEI facilitation group) could also help to demonstrate the integrated character of the IPCEI.
- Governance and antitrust concerns.

No commercially sensitive (future & strategic) information should be exchanged between competing undertakings. Also R&D data may in certain circumstances qualify as strategic information (not to be shared between undertakings). For reference, excerpt from the Article 101 Horizontal Guidelines²:

"86. The exchange between competitors of strategic data, that is to say, data that reduces strategic uncertainty in the market, is more likely to be caught by Article 101 than exchanges of other types of information. Sharing of strategic data can give rise to restrictive effects on competition because it reduces the parties' decision-making independence by decreasing their incentives to compete. Strategic information can be related to prices (for example, actual prices, discounts, increases, reductions or rebates), customer lists, production costs, quantities, turnovers, sales, capacities, qualities, marketing plans, risks, investments, technologies and R&D programmes and their results. Generally, information related to prices and quantities is the most strategic, followed by information about costs and demand. However, if companies compete with regard to R&D it is the technology data that may be the most strategic for competition. The strategic usefulness of data also depends on its aggregation and age, as well as the market context and frequency of the exchange."

(See further detail in the AT non paper).

Member states should consider whether reflecting all the activities of the companies within a Technological Field as work packages, together constituting the Technological Field, could help to demonstrate the integrated character of the IPCEI

Complementarity and necessity of the individual components of the integrated project :

In the IPCEI Microelectronics complementarity and necessity should be shown:

1. at the level of the individual components (projects between companies or individual company projects); and
2. at the level of and across the five Technology fields.

Some examples related to the application areas mentioned in the Chapeau document could be used to show how a single project allows for reaching meaningful innovation in these application areas, innovation which would be undermined in case of non-integration of the related single projects into an integrated project.

Complementarity:

- Member States should describe any link between the activities undertaken by the companies, within a Technology Field and across Technology Fields. There must be a description of the complementarity between the companies' activities.
- Where the links between companies' activities take the form of actual collaboration/cooperation (while safeguarding against antitrust concerns) between

² Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements, OJ C 11/1 of 14 January 2011.

companies, the subject thereof should be described as well as an explanation of the nature of the collaboration/cooperation.

- It could be helpful to substantiate the complementarity with evidence and concrete examples (where this information is non-confidential, this can be inserted in the five Technology fields documents; should there be any confidential information then it could be provided in the company level documents).
- The complementarity should also be shown at Technology Fields' level describing and explaining how each Technology Field is complementary with one or more Technology Fields.

Necessity:

- Member States should describe the reason why the final IPCEI objective can be achieved only through collaboration with the companies involved in the IPCEI in the same or other Technology Fields/in the same or other Member States.
- Member States should describe any link between the activities undertaken by the companies, within a technological field and across technological fields. There must be an explanation why each company's activities is necessary to achieve the important European objective.
- Member States should describe what would be the consequences on the whole IPCEI if a single project (individual component) were to collapse. In this context, it could be helpful to substantiate the riskiness level of the R&D&I activity involved in the relevant project. In this regard, it is conceivable that the collapse/ non-success of a single project due, for example, to the failure of the R&D&I activity would not undermine the overall integrated project.
- The demonstration of the necessity should also be shown at the Technology Fields' level describing and explaining how each Technology Field is necessary for the achievement of the important European objective.

Integrated character and possible future new participants:

In the IPCEI Microelectronics, Member States are arguing for the possibility that new participants could join the IPCEI project at a later stage, even after the relevant Commission Decision is adopted. Incorporating any new participant will require an amendment of the decision approving the IPCEI. In this regard, an IPCEI is not to be considered as a State aid scheme, where within an approved set of criteria all the companies respecting the eligibility conditions might later on be eligible to receive aid. In the IPCEI Microelectronic State aid is given to specific beneficiaries

In order to respect the IPCEI Communication with regard to its integrated character, Member States should demonstrate that the activities of a new participant add value to the IPCEI (modify or enhance the IPCEI objective positively), and the activities of this company are complementary and necessary for this enhanced objective.

If new participants wish to join the IPCEI in an uncoordinated fashion (without adequate prior coordination between the Member States), at a late stage before the relevant Commission Decision is adopted, then Member States should be aware that this will probably lead to delays in the adoption since all the relevant documentation / justification / data (e.g. on funding gap calculations, aid intensities, eligible costs etc.) will need to be modified to include the new entrants. This would be particularly so if the new entrants would originate from a Member State not previously participating in the IPCEI which would require an entire full notification from that new Member State.