



FOCUS ON HYDROGEN: HYDROGEN PROJECTS AND THE REVISED EU IPCEI STATE AID RULES IN THE EU'S ENERGY AND CLIMATE FUTURE

On 1 January 2022, revised State aid rules on Important Projects of Common European Interest (IPCEIs) entered into force in the EU. The new rules set out the criteria for eligible support to cross-border IPCEIs that overcome market failures and enable breakthrough innovation in key sectors and technologies and infrastructure investments, with positive spill-over effects for the EU economy at large. Several EU Member States have decided to provide aid to hydrogen projects under an IPCEI manifesto launched during the German presidency of the EU Council in 2020.

ALIGNING THE 2014 RULES WITH THE CURRENT EU PRIORITIES

In 2014, in the context of the EU State aid modernisation initiative the European Commission (the **Commission**) adopted rules to support transnational projects of strategic significance for the EU, introducing for the first time the concept of IPCEIs. Eight years later, the EU and global energy and climate policy landscape has significantly changed. In 2019, the Commission presented the European Green Deal, while in December 2020, EU leaders endorsed a binding EU target of a net domestic reduction of at least 55% in greenhouse gas emissions (**GHG**) by 2030 compared to 1990.

The revised IPCEI Communication includes a number of targeted adjustments to reflect experience gained from the application of the 2014 IPCEI Communication and to align the relevant rules to the current EU priorities. Under the 2014 Communication, the Commission issued three decisions approving the aid for IPCEIs enabling breakthrough innovation in microelectronics (December 2018); in the battery value chain (December 2019 and January 2021); as well as for an infrastructure IPCEI, the Fehmarn Belt fixed rail-road link connecting Germany to Denmark (March 2020).

IPCEI ELIGIBILITY CRITERIA

Project definition

The rules under the 2022 Guidelines apply to either single projects or to an "integrated project", which means a group of single projects falling within a common structure, roadmap or programme aiming at the same objective and based on a coherent systemic approach. The Guidelines further clarify that

Key issues

- Candidate projects must represent a **concrete, clear and identifiable important contribution** to EU objectives and have a **significant impact on sustainable growth**.
- **Three distinct project categories:** (i) Research & Development & Innovation projects; (ii) first industrial deployment projects; (iii) significant infrastructure projects in the environmental, energy, transport, health or digital sectors.
- Enhancing the European and open character of IPCEIs: projects must ordinarily involve **at least four Member States** and must be designed in a transparent and inclusive manner.
- **Facilitating the participation of SMEs** and encouraging collaboration with larger companies.

"the individual components of the integrated project may relate to separate levels of the supply chain but must be complementary and significantly add value in their contribution towards the achievement of the European objective."

Common European interest

To qualify as an IPCEI, a project must:

- represent a concrete, clear and identifiable important contribution to the EU objectives or strategies and must have a significant impact on sustainable growth;
- demonstrate that it is designed to overcome important market or systemic failures;
- yield not only benefits to the undertakings or to the sector concerned but must be also of wider relevance and application to the economy or society through positive spill-over effects which are clearly defined in a concrete and identifiable manner;
- ordinarily involve at least four Member States and the benefits must not be confined to the financing Member States, but extend to a wider part of the Union; and
- involve important co-financing by the beneficiary.

At the same time, the revised Communication enhances the European and open character of IPCEIs, by requiring that IPCEIs are designed in a transparent and inclusive manner ensuring that all Member States are informed about any IPCEI initiative so that they can participate if interested.

General positive indicators

In addition to the cumulative criteria listed above, aid will be more likely to be cleared if the design of the project involves the Commission or any legal body to which the Commission has delegated its powers, such as the European Investment Bank or the European Investment Fund or if the project involves co-financing from an EU funding programme. The Commission, in its assessment, will also take into consideration whether the project involves the participation of small and medium-sized enterprises (**SMEs**), encouraging collaboration with larger companies.

Specific criteria

The revised Communication essentially introduces three different groups of eligible projects: (i) Research & Development & Innovation (**R&D&I**) projects; (ii) first industrial deployment projects; and (iii) infrastructure projects not covered by the other two project categories. Each type of project has to meet certain specific criteria.

More specifically, R&D&I projects must be of a major innovative nature or constitute an important added value in terms of R&D&I. Projects in the first industrial deployment category must involve the development of a new product or service with high research and innovation content or the deployment of a fundamentally innovative production process. Finally, infrastructure projects must be of great importance for the EU environmental, climate, energy (including security of energy supply), transport, health, industrial or digital strategies or contribute significantly to the internal market.

Project importance

In order to qualify as an IPCEI, a project must be important quantitatively or qualitatively. This means that it should be particularly important in size or scope or imply a very considerable level of technological or financial risk, or both. The importance of a project will be assessed based on the criteria set out above.

COMPATIBILITY CRITERIA

When assessing the compatibility of aid to promote the execution of an IPCEI with the internal market, the Commission will carry out a balancing test approving an aid measure only where the positive effects outweigh the negative effects. When assessing the positive and negative conditions, the Commission will pay particular attention to the 'do no significant harm' principle provided for in the Taxonomy Regulation 2020/852. The positive and negative conditions will be assessed based on similar criteria to those set out in the recently [revised Guidelines on State aid for climate, environmental protection and energy \(CEEAG\)](#). The Commission will take into consideration the impact of the aid measure and its incentive effect, while the Member States will have to identify and adequately describe the market failures that the project will address and the relevant funding gap.

HYDROGEN IPCEI

The revised IPCEI Communication in conjunction with the CEEAG supports the development of large, trans-European projects that contribute to the EU climate and environmental objectives and that could not be implemented without public support. Low-carbon and renewable hydrogen is rather expensive to produce, but project promoters could benefit from financial aid provided by the relevant Member States as long as the aid is in line with the applicable EU State aid rules.

In December 2020, 22 EU Member States and Norway signed a manifesto paving the way for a cleaner hydrogen value chain and committing to launch IPCEIs in the hydrogen sector. Most of the participating countries have already selected projects that could receive State aid, which will first have to be cleared by the Commission. In order to obtain clearance, countries will have to submit a notification to the Commission with details of integrated IPCEI projects which have a common structure, roadmap and programme, to be assessed under the revised IPCEI Communication. If a project does not meet the IPCEI criteria, the compatibility of the aid will be assessed under the CEEAG.

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

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Clifford Chance, Avenue Louise 65, 1050
Brussels

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London, E14 5JJ

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AUTHORS



Anastasios Tomtsis
Partner,
Brussels

T +32 2 533 5933
E anastasios.tomtsis
@cliffordchance.com



Georgios Yannouchos
Senior Associate,
Brussels

T +32 2 533 5054
E georgios.yannouchos
@cliffordchance.com



**Epistimi
Oikonomopoulou**
Associate, Brussels

T +32 2 533 5019
E epistimi.oikonomopoulou
@cliffordchance.com



Zaid Mansour
Senior Associate,
Düsseldorf

T +49 211 4355 5772
E zaid.mansour
@cliffordchance.com

HYDROGEN LEADS



Anthony Giustini
Partner,
Paris

T +33 1 44 05 59 26
E anthony.giustini
@cliffordchance.com



Eleanor Hooper
Knowledge Development
Lawyer, London

T +44 20 7006 2464
E eleanor.hooper
@cliffordchance.com



Liesbeth Buitter
Partner,
Amsterdam

T +31 20 711 9326
E liesbeth.buitter
@cliffordchance.com



Patrice Viaene
Senior Associate,
Brussels

T +32 2 533 5925
E patrice.viaene
@cliffordchance.com



Ouns Lemseffer
Partner,
Casablanca

T +212 5 2000 8615
E ouns.lemseffer
@cliffordchance.com



**Mohamed Hamra-
Krouha**
Partner, Dubai

T +971 2 613 2370
E mohamed.hamra-krouha
@cliffordchance.com



Björn Heinlein
Partner,
Düsseldorf

T +49 211 4355 5099
E bjoern.heinlein
@cliffordchance.com



Vicky Ma
Partner,
Hong Kong

T +852 2825 8955
E vicky.ma
@cliffordchance.com

CONTACTS

GLOBAL (CONTINUED)



Clare Burgess
Partner,
London

T +44 20 7006 1727
E clare.burgess@cliffordchance.com



Clara Alcaraz
Senior Associate,
Madrid

T +34 91 590 9498
E clara.alcaraz@cliffordchance.com



Umberto Penco Salvi
Partner,
Milan

T +39 02 8063 4241
E umberto.pencosalvi@cliffordchance.com



Gauthier Martin
Partner,
Paris

T +33 1 4405 5181
E gauthier.martin@cliffordchance.com



Phil Sealey
Partner,
Perth

T +61 8 9262 5542
E philip.sealey@cliffordchance.com



Mel Chan
Senior Associate,
Singapore

T +65 6506 2771
E mel.chan@cliffordchance.com



Nadia Kalic
Partner,
Sydney

T +61 2 8922 8095
E nadia.kalic@cliffordchance.com



Hans Menski
Partner,
Tokyo

T +81 3 6632 6669
E hans.menski@cliffordchance.com



David Evans
Senior Counsel,
Washington, D.C.

T +1 202 912 5062
E david.evans@cliffordchance.com



Peter Hughes
Counsel,
Washington, D.C. (*US coverage*)

T +1 202 912 5135
E peterc.hughes@cliffordchance.com



Jessica Springsteen
Partner,
Washington, D.C. (*LatAm coverage*)

T +1 202 912 5008
E jessica.springsteen@cliffordchance.com