



EUROPEAN COMMISSION

Brussels 9.12.2021
C(2021) 9281 final

PUBLIC VERSION

This document is made available for
information purposes only.

**Subject: State Aid SA.64685 (2021/N) – Spain
RRF - Integrated aid measures to support the electric and connected
vehicle value chain (ECV PERTE)**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 5 November 2021, Spain notified parts of an aid scheme dedicated to the electric and connected vehicle value chain (*Línea de actuación integral sobre la cadena de valor industrial (PERTE Vehículo Eléctrico y Conectado)*) in accordance with Article 108(3) of the Treaty on the Functioning of the European Union (“TFEU”) for assessment under the Research, Development and Innovation Aid Framework (“RDIF”)¹ and the Environmental and Energy Aid Guidelines (“EEAG”)² (hereinafter “the measure” or “the notified measure”).³

¹ Framework for State aid for research and development and innovation, OJ C 198, 27.06.2014, p. 1.

² Guidelines on State aid for environmental protection and energy 2014-2022, OJ C 200, 28.6.2014, p.1.

³ As part of the notification, the Spanish authorities submitted an independent study, prepared by AFI and Gómez-Acebo & Pombo and dated November 2021, which analyses in detail the situation of the Spanish automotive sector, the state of development of e-mobility in Spain, and the compatibility of the notified measure with the internal market.

Excmo. Sr. José Manuel Albares Bueno
Ministro de Asuntos Exteriores y de Cooperación
Plaza de la Provincia, 1
28012 MADRID
ESPAÑA

The other parts of that aid scheme will be put into effect by Spain in application of the provisions of the General Block Exemption Regulation (“GBER”)⁴ on regional investment aid⁵ and training aid.⁶ On 15, 16, 17, 18 and 24 November 2021, and on 2 and 3 December 2021, Spain provided the Commission with further information.⁷

- (2) Spain exceptionally agrees to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958⁸, and to have this Decision adopted and notified in English.

2. DETAILED DESCRIPTION OF THE MEASURE

2.1. Scope of the notified measure and of this Decision

- (3) The present Decision is limited to the elements of the scheme that form part of the notified measure, namely research, development and innovation (“RDI”) aid and environmental protection (including energy efficiency) aid. The Decision does not assess the elements of the scheme that will be put into effect in application of the GBER, namely regional investment aid and training aid.⁹
- (4) Under the RDI sub-measure, the following types of aid can be granted:
- (a) Aid for industrial research,¹⁰

⁴ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1.

⁵ Article 14.

⁶ Article 31.

⁷ On 24 November 2021, the Spanish authorities submitted the final version of the scheme’s legal basis.

⁸ Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

⁹ The present Decision does not assess whether the regional and training aid elements of the scheme that are to be put into effect under the GBER will be in conformity with all applicable GBER provisions, which is for the Member State to ensure. The Decision therefore neither creates legitimate expectations, nor prejudices the Commission’s position regarding conformity of these elements with the GBER in the context of an eventual monitoring exercise or of complaints against individual aid granted under the measure.

¹⁰ Industrial research is defined under the measure 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 parts of complex systems, and may include the construction of prototypes in a laboratory environment or in an environment with simulated interfaces to existing systems as well as of pilot lines, when necessary for the industrial research and notably for generic technology validation.

- (b) Aid for experimental development,¹¹
 - (c) Aid for feasibility studies,¹²
 - (d) Aid for process innovation,¹³ and
 - (e) Aid for organisational innovation.¹⁴
- (5) Under the environmental protection sub-measure, the following types of aid can be granted:
- (a) Investment aid for going beyond Union standards¹⁵ or increasing the level of environmental protection¹⁶ in the absence of such standards, with respect to production processes, and
 - (b) Investment aid for increasing the energy efficiency¹⁷ of production processes.

¹¹ Experimental development is defined under the measure as acquiring, combining, shaping and using existing scientific, technological, business and other relevant knowledge and skills with the aim of developing new or improved products, processes or services. This may also include, for example, activities aiming at the conceptual definition, planning and documentation of new products, processes or services. Experimental development may comprise prototyping, demonstrating, piloting, testing and validation of new or improved products, processes or services in environments representative of real life operating conditions where the primary objective is to make further technical improvements on products, processes or services that are not substantially set. This may include the development of a commercially usable prototype or pilot which is necessarily the final commercial product and which is too expensive to produce for it to be used only for demonstration and validation purposes. Experimental development does not include routine or periodic changes made to existing products, production lines, manufacturing processes, services and other operations in progress, even if those changes may represent improvements.

¹² Feasibility study is defined under the measure as the evaluation and analysis of the potential of a project, which aims at supporting the process of decision making by objectively and rationally uncovering its strengths and weaknesses, opportunities and threats, as well as identifying the resources required to carry it through and ultimately its prospects for success.

¹³ Process innovation is defined under the measure as the implementation of a new or significantly improved production or delivery method (including significant changes in techniques, equipment or software), excluding minor changes or improvements, increases 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, localisation, regular, seasonal and other cyclical changes and trading of new or significantly improved products.

¹⁴ Organisational innovation is defined under the measure as the implementation of a new organisational method in an undertaking's business practices, workplace organisation or external relations, excluding changes 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, localisation, regular, seasonal and other cyclical changes and trading of new or significantly improved products.

¹⁵ Union standard is defined under the measure as a mandatory Union standard setting the levels to be attained in environmental terms by individual undertakings.

¹⁶ Environmental protection is defined under the measure as any action designed to remedy or prevent damage to physical surroundings or natural resources by a beneficiary's own activities, to reduce the risk of such damage or to lead to more efficient use of natural resources, including energy-saving measures and the use of renewable sources of energy.

2.2. Objective of the measure

- (6) The Spanish Recovery, Transformation and Resilience Plan¹⁸ envisages the implementation of projects aimed at *“promoting the modernisation and productivity of the Spanish industry-services ecosystem, by digitalising the value chain and boosting the productivity, competitiveness and energy efficiency of key strategic sectors for the green and digital transition”*.¹⁹
- (7) Those projects include the so-called Strategic Projects for the Economy Recovery and Transformation (*Proyectos Estratégicos para la Recuperación y Transformación Económica*) or PERTEs, i.e. projects aimed at enabling the transformation of strategic value chains in industrial sectors with a significant impact on the economy.²⁰
- (8) On 13 July 2021, the Spanish Council of Ministers decided that the development of an ecosystem for the manufacturing of electric and connected vehicles qualifies as a PERTE (“ECV PERTE”).²¹
- (9) The notified measure constitutes an aid scheme and aims to provide support for the implementation of the PERTE on electric and connected vehicles. Its primary objective is to facilitate and accelerate the structural transformation of the automotive value chain in line with the twin green and digital transition, and ultimately to develop a zero-emission and digitalised mobility. The measure aims to ensure the necessary interconnection of actors directly related to the automotive industry, e.g., motor vehicle and component manufacturers, with actors from other sectors, such as the digital and energy sectors, and with research organisations and infrastructures.
- (10) The measure envisages the implementation of several large, integrated projects covering the entire value chain for the electric and connected vehicle, denominated “tractor projects”. Those tractor projects will be carried out jointly by consortia of interested undertakings. Each tractor project will comprise several

¹⁷ Energy efficiency is defined under the measure as an amount of saved energy determined by measuring and/or estimating consumption before and after implementation of an energy-efficiency improvement measure, whilst ensuring normalisation of external conditions that affect energy consumption.

¹⁸ The Spanish Recovery, Transformation and Resilience Plan is accessible at: https://ec.europa.eu/info/business-economy-euro/recovery-coronavirus/recovery-and-resilience-facility/recovery-and-resilience-plan-spain_en.

¹⁹ See, in particular, Investment 2 *“Programa de impulso de la competitividad y sostenibilidad industrial”*, within Component 2 *“Política Industrial 2030”*.

²⁰ Royal Decree-Law No. 36/2020 of 30 December 2020, approving urgent measures for the modernisation of public administration and the implementation of the Spanish Recovery, Transformation and Resilience Plan.

²¹ Order PCM/756/2021 of 16 July 2021, publishing the agreement of the Spanish Council of Ministers of 13 July 2021. The automotive sector is of strategic importance to Spain, given its weight in the national GDP (8 % in 2020), its contribution to employment (9 % in 2020), its spillover effect on other industries, its contribution to national exports (12.1 % in 2020), the sector’s high level of RDI investments, and its contribution to territorial cohesion. Spain is the second automotive producer in Europe, and the eighth worldwide (ANFAC annual report 2020, available here: <https://anfac.com/publicaciones/informe-anual-2020/>). There are 17 production plants in Spain, however none of the manufacturers have their headquarters in Spain.

individual projects to be carried out by one or more of the consortium partners (“primary projects”).

2.3. National legal basis

- (11) The legal basis of the measure comprises the following instruments:
- (a) Royal Decree-Law No. 36/2020 of 30 December 2020, approving urgent measures for the modernisation of public administration and the implementation of the Spanish Recovery, Transformation and Resilience Plan (*Real Decreto-Ley 36/2020, de 30 de diciembre, por el que se aprueban medidas urgentes para la modernización de la Administración Pública y para la ejecución del Plan de Recuperación, Transformación y Resiliencia*),
 - (b) Order PCM/756/2021 of 16 July 2021, publishing the agreement of the Spanish Council of Ministers of 13 July 2021, which declares that the development of an ecosystem for the manufacturing of electric and connected vehicles qualifies as a Strategic Project for the Economic Recovery and Transformation (*Orden PCM/756/2021 de 16 de julio, por la que se publica el Acuerdo del Consejo de Ministros de 13 de julio de 2021, por el que se declara como Proyecto Estratégico para la Recuperación y Transformación Económica el desarrollo de un ecosistema para la fabricación del Vehículo Eléctrico y Conectado*),
 - (c) Draft order establishing the legal bases for the granting of aid to integrated projects in the value chain for electric and connected vehicles in the context of the Strategic Project for the Economic Recovery and Transformation in the electric and connected vehicle sector (*Proyecto de orden por la que se establecen las bases reguladoras para la concesión de ayudas a actuaciones integrales de la cadena industrial del vehículo eléctrico y conectado dentro del Proyecto Estratégico para la Recuperación y Transformación Económica en el sector del vehículo eléctrico y conectado (PERTE VEC), en el marco del plan de recuperación, transformación y resiliencia*), hereinafter “the implementing order”,²² and
 - (d) Draft order launching the 2021 call for applications for aid to integrated projects in the value chain for electric and connected vehicles in the context of the Strategic Project for the Economic Recovery and Transformation in the electric and connected vehicle sector (*Orden por la que se efectúa la convocatoria de concesión de ayuda a actuaciones integrales de la cadena industrial del vehículo eléctrico y conectado dentro del Proyecto Estratégico para la Recuperación y Transformación Económica en el sector del Vehículo Eléctrico y Conectado (PERTE VEC), en el marco del Plan de Recuperación, Transformación y Resiliencia en el año 2021*), hereinafter “the call for applications”.

²² The implementing order contains the requirement for aid granted under the measure to comply with all applicable requirements of the RDIF and EEAG.

- (12) The Spanish authorities provided copies of the abovementioned legal documents with the notification.

2.4. Form of aid

- (13) The measure provides aid in the form of direct grants and soft senior loans. Each beneficiary may receive aid in the form of a direct grant, a soft loan, or a combination thereof.²³ Interested entities will indicate in the aid application if they apply for aid in the form of a direct grant, a soft loan, or a combination thereof.
- (14) Support in the form of direct grants will be granted as a matter of priority for projects that effectively contribute to climate objectives. The implementing order sets out a minimum percentage of the overall eligible costs of each primary project that must be covered with a loan under the measure. That minimum percentage varies depending on the type of project and the beneficiary's size. For certain types of projects and beneficiaries, no minimum is set.²⁴
- (15) The loans will in all cases have a duration of 10 years and must be reimbursed in identical annual instalments over a period of seven years, following a grace period of three years. The applicable interest rate is 0 %. The aid element in each loan will be established in application of the Communication on the revision of the method for setting the reference rate and discount rates ("reference rate communication"),²⁵ i.e. taking into account the rating of the individual beneficiary of the loan and the collaterals offered.

2.5. Territorial scope

- (16) The measure applies to the entire national territory of Spain.

2.6. Budget and duration

- (17) The maximum estimated budget for interventions under the overall ECV PERTE scheme is EUR 2 975 million, of which a maximum of EUR 2 890 million correspond to the notified components.²⁶ Of those EUR 2 890 million, up to EUR 1 550 million may be awarded in the form of direct grants and up to EUR 1 340 million (in terms of nominal volume of loans) in the form of soft senior loans.²⁷

²³ Regional aid, which is outside the scope of the notified measure, will be granted exclusively in the form of soft senior loans.

²⁴ The applicable percentages are as follows: 10 % for experimental development projects carried out by large undertakings, 25 % and 10 % for process and organisational innovation projects carried out respectively by large and medium-sized undertakings, 10 % for environmental protection projects carried out by large undertakings, and 25 % and 10 % for energy efficiency projects carried out respectively by large and medium-sized undertakings.

²⁵ Communication from the Commission on the revision of the method for setting the reference and discount rates, OJ C 14, 19.1.2008, p. 6.

²⁶ The Spanish authorities estimate that the measure will trigger private investments for an amount of EUR 13.7 billion.

²⁷ The Spanish authorities are at this stage unable to provide the gross grant equivalent of this amount, which can only be calculated ex post, as it depends on the ratings of interested companies and the collaterals offered for the individual loans.

- (18) The direct grants will be financed with Recovery and Resilience Facility²⁸ resources and the loans will be made available exclusively from the Spanish national budget.
- (19) Aid may be granted under the measure as from the notification of the Commission's decision approving that measure until 31 December 2023, but the bulk or all of the granting decisions are planned to be issued in 2022, following a call for applications. The Spanish authorities reserve the possibility to launch a second call for applications (on the same conditions) in case part of the budget remains unused after the selection of successful applicants under the first call.
- (20) The aided projects must be completed within 30 months from the date of the granting decision on the tractor project or by 30 September 2025, whichever is earlier.

2.7. Beneficiaries

- (21) Eligible for aid under the measure are consortia of interested undertakings, research organisations and research infrastructures. The undertakings included in the consortium may be both SMEs²⁹ and large undertakings, provided they have a permanent establishment or a significant activity in Spain. Participants are not required to have their central seat, or to be predominantly established, in Spain.
- (22) The measure is open to consortia of interested undertakings active in all economic sectors, subject to the conditions described in recitals (23) to (30).
- (23) To be eligible for aid under the measure, interested undertakings must set up consortia and sign internal consortium agreements. As explained in recital (10), participating consortia have to design a tractor project comprising several primary projects to be carried out by the consortium partners. The consortium agreement must describe, inter alia, the tasks to be carried out by each consortium partner and the budget allocated to those tasks, the amount of aid requested (direct grant and/or loan) per consortium partner, the consortium's governance structure, and the modalities for the assignment, protection and dissemination of the projects' results.
- (24) Each consortium must comply with the following requirements to be eligible for aid:
 - (a) It must be composed of at least five different undertakings,³⁰

²⁸ Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility, OJ L 57, 18.2.2021, p. 17.

²⁹ As defined in point 15(hh) of the RDIF and point 19(17) of the EEAG.

³⁰ Undertaking is to be understood as referring to the overall corporate group, not to its constituent entities. The Spanish authorities confirmed that a tractor project may not comprise, as independent undertakings, entities that constitute joint ventures controlled on equal terms by any of the other participants.

- (b) At least one of the undertakings must be active in the manufacturing of motor vehicles³¹ and at least one of the undertakings must be active in the manufacturing of parts and accessories for motor vehicles,³²
 - (c) All other participating undertakings must have experience³³ in at least one of the economic activities listed in Annex I to the implementing order, i.e. manufacturing activities linked to the electric and connected vehicle and certain services provided to the electric and connected vehicle industry,
 - (d) At least 40 % of the consortium partners have to be SMEs,
 - (e) The consortium partners have to include at least one knowledge or technology provider,³⁴ with the ability to provide the knowledge and/or technology necessary to carry out the relevant parts of the tractor project,
 - (f) The knowledge or technology provider must have the proven capability to carry out³⁵ one or more of the activities listed in Annex I to the implementing order: these activities are computer programming, consultancy and related activities,³⁶ information services activities,³⁷ scientific research and development,³⁸ and valorisation activities³⁹ in the framework of the electric and connected vehicle industry,
 - (g) The envisaged activities of the consortium have to take place in at least two Spanish autonomous communities, and
 - (h) Each partner must be attributed one or several of three functional roles in the consortium, namely that of industrial promoter, of technology or knowledge provider, and of interlocutor with the administration.
- (25) The Spanish authorities explained that the knowledge or technology provider will in most cases be a research and knowledge dissemination organisation, in the meaning of paragraph 15(ee) of the RDIF, or a research infrastructure, in the meaning of recital 15(ff) of the RDIF. The Spanish authorities further explained that they will only support the non-economic activities⁴⁰ of research and knowledge dissemination organisations and of research infrastructures, and this only if they can demonstrate that the costs, revenues and funding of their

³¹ Code 291 in the Spanish Classification of Economic Activities.

³² Code 293 in the Spanish Classification of Economic Activities.

³³ This requirement will be considered to be met if the undertaking, its shareholders or its directors have acquired at least three years of experience in comparable industrial production activities, in a pilot plant or in production at experimental scale, before the deadline for aid applications.

³⁴ This category comprises universities, technology centres, research organisations, and public or private companies or entities.

³⁵ This requirement is met if the provider has been carrying out the relevant activity for at least two years before the deadline for aid applications.

³⁶ Code 62 of the Spanish Classification of Economic Activities.

³⁷ Code 63 of the Spanish Classification of Economic Activities.

³⁸ Code 72 of the Spanish Classification of Economic Activities.

³⁹ Codes 38.2 and 38.3 of the Spanish Classification of Economic Activities.

⁴⁰ Spain clarified that in line with the provisions of point 20 of the RDIF, those non-economic activities may include ancillary economic activities within the limits defined by the RDIF. The correct implementation will be ensured by a monitoring and claw-back mechanism.

economic and non-economic activities can be clearly separated, in order to exclude cross-subsidization of the economic activities.

- (26) In the case of collaboration between a research organisation - in the meaning of point 15(ee) of the RDIF - and an undertaking, the Spanish authorities confirmed that the undertaking and the research organization would always participate in the project on the basis of an effective collaboration agreement, ensuring that such collaboration fulfils requirements of points 27 and 28(c) of the RDIF. Therefore, the Spanish authorities will require that the terms and conditions of the collaboration agreement, in particular as regards contributions to costs, the sharing of risks and results, the dissemination of results, and access to and rules for the allocation of intellectual property rights, are stipulated prior to the start of the project. Also, any intellectual property rights resulting from the project, as well as the related access rights, shall be allocated to the different collaboration partners in a manner that adequately reflects their respective work packages, contributions and interests.
- (27) Finally, the Spanish authorities confirmed that any research and knowledge dissemination organisations or research infrastructures that receive public support under the measure will provide contract research services exclusively under market conditions.
- (28) The Spanish authorities submitted that the novel structure of the integrated projects, as just described, ensures a greater impact of the aid on the economy, facilitates compliance with the objectives of the Recovery and Resilience Facility and enhances the twin green and digital transition, allows SMEs to access public funding on equal terms with larger undertakings, enables effective collaboration with smaller and technologically more advanced undertakings, and contributes to territorial cohesion.
- (29) All consortium partners must be jointly responsible for all of the consortium's activities, in proportion to their participation. This joint responsibility will extend to the repayment of the loans granted under the measure and to the partners' responsibility for eventual infringements.
- (30) The following categories of undertakings are ineligible for aid under the measure:
- (a) Undertakings in difficulty, as defined in the Guidelines on State aid for rescuing and restructuring firms in difficulty,⁴¹ with the exception of undertakings that were not in difficulty on 31 December 2019 but became undertakings in difficulty in the period from 1 January 2020 to 30 June 2021,⁴²

⁴¹ Communication from the Commission — Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, OJ C 249, 31.7.2014, p. 1.

⁴² Communication from the Commission concerning the prolongation and the amendments of the Guidelines on Regional State Aid for 2014-2020, Guidelines on State Aid to Promote Risk Finance Investments, Guidelines on State Aid for Environmental Protection and Energy 2014-2020, Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, Communication on the Criteria for the Analysis of the Compatibility with the Internal Market of State Aid to Promote the Execution of Important Projects of Common European Interest, Communication from the Commission - Framework for State aid for research and development and innovation and Communication from the

- (b) Undertakings subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market,
 - (c) Undertakings that fail to respect reimbursement obligations with respect to other loans funded with the national budget, and
 - (d) Undertakings in the situations listed in Article 13(2) of Law 38/2003 on subsidies.⁴³
- (31) The Spanish authorities expect that between 50 and 100 undertakings will be selected for participation in the ECV PERTE.⁴⁴

2.8. Eligible projects

- (32) The proposal submitted by each consortium must be structured as an integrated tractor project comprising several primary projects to be carried out by one or more of the consortium partners. The tractor project must cover several parts of the automotive value chain. The Spanish authorities expect to select a maximum of ten tractor projects.
- (33) Each primary project must have concrete and specific objectives; it may be carried out by one consortium partner alone, or jointly by several partners. Each primary project must be eligible for one of the types of aid listed in recitals (4) and (5) or for regional investment aid or training aid – not part of the notification – and may only receive aid of one of those types.
- (34) To be eligible for aid under the measure, each tractor project must include:
- (a) at least one primary project related to each of three mandatory blocks, which are manufacturing of original equipment and assembly, manufacturing of batteries or hydrogen cells, and manufacturing of other essential components adapted to the electric vehicle,⁴⁵
 - (b) at least one primary project related to at least one of three additional blocks, which are manufacturing of components for the electric and connected vehicle, connectivity of the electric vehicle, and manufacturing of recharging systems, and
 - (c) at least one primary project related to each of three so-called transversal blocks, which are circular economy, digitalisation, and training and

Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance, C/2020/4355, OJ C 224, 8.7.2020, p. 2, points 11(a) and 15.

⁴³ This includes, e.g., undertakings subject to a final judicial decision barring the undertaking from obtaining public support or finding the undertaking liable of certain criminal activities, undertakings declared insolvent, and undertakings headquartered in a tax haven.

⁴⁴ Out of approximately 2,775 eligible undertakings.

⁴⁵ Essential components are defined under the measure as those strictly necessary for the development and production of electric and connected vehicles. Such components include, e.g., electric engines and tailored connectivity technologies.

professional upskilling.⁴⁶

- (35) Primary projects can be designed to cover several blocks.
- (36) The minimum content of primary projects under each block is detailed in Annex II to the implementing order.
- (37) For each primary project, a work plan established according to the PMBOK Guide⁴⁷ has to be submitted. That work plan must divide the project in work packages, activities and deliverables, and has to assign staff members and deadlines to the various tasks. The Spanish authorities will verify that all primary projects within a tractor project are coherent and pursue a common objective. The authorities will compare the various work packages of each primary project and note if they are interrelated in terms of calendar, tasks, team, and deliverables. The Spanish authorities will look closely at primary projects carried out by the same undertaking within the same thematic block, and at primary projects with successive start and end dates, in order to exclude the artificial splitting of primary projects.
- (38) For industrial research and experimental development projects, applicants will be required to submit a report by an accredited certification body of a Member State confirming the qualification of the projects as involving industrial research or experimental development, as defined in the RDIF. The reports of the certification bodies will be verified by the granting authority to ensure their consistency.
- (39) As regards process and organisational innovation projects, the Spanish authorities will verify the novelty of the innovation in accordance with the Oslo Manual.⁴⁸ The novelty test to qualify an innovation as process or organisational innovation is carried out at the level of the undertaking (group) and its activities in the sector concerned in the EEA.
- (40) Process and organisational innovation projects are eligible for aid under the measure where they are carried out by SMEs. Exceptionally, process and organisational innovation projects in which an SME engages in effective collaboration with a large undertaking are also eligible, provided that the SME bears at least 30 % of the total eligible costs.
- (41) The following investments are excluded from the environmental protection (including energy efficiency) sub-measure:
 - (a) Investments aimed at adapting to Union standards that have been adopted but are not yet in force,

⁴⁶ All consortium partners must participate in at least one transversal primary project.

⁴⁷ The PMBOK (“Project Management Body of Knowledge”) Guide is a publication of the Project Management Institute, which outlines knowledge areas, processes, and generally recognised good practices for project management.

⁴⁸ OECD/Eurostat (2018), Oslo Manual 2018: Guidelines for Collecting, Reporting and Using Data on Innovation, 4th Edition, The Measurement of Scientific, Technological and Innovation Activities, OECD Publishing, Paris/Eurostat, Luxembourg, accessible at: <https://doi.org/10.1787/9789264304604-en>.

- (b) Investments that infringe the Do No Significant Harm principle,⁴⁹ and
- (c) Investments that infringe national or European legislation on environmental protection.

2.9. Granting authority, aid applications and selection process

- (42) The aid granting authority is the Ministry of Industry, Trade and Tourism.
- (43) The granting authority will issue a call for aid applications in December 2021. A second call for applications may be issued, if part of the budget remains unused following the first call.
- (44) Each consortium must submit a joint aid application within the deadline set in the call for applications. Applications must include the name and size of all participant undertakings, a description of the tractor project, including its location and start and end dates, the amount of public support needed to carry out each of the primary projects included in the tractor project, and a list of eligible costs.
- (45) The following documents must be annexed to the application:
 - (a) The consortium agreement,
 - (b) A report describing the tractor project,
 - (c) A report describing the RDI primary projects included in the tractor project,
 - (d) A report describing the environmental protection (including energy efficiency) projects included in the tractor project; the report must include the identification of the alternative (counterfactual) investments that would be credibly carried out in the absence of aid as well as supporting evidence,⁵⁰
 - (e) For each primary project, a report demonstrating its compliance with the Do No Significant Harm principle,⁵¹
 - (f) A calendar for the implementation of the primary projects and the tractor project,
 - (g) Demonstration by each consortium partner that the requested aid amount is limited to the minimum necessary to induce the beneficiary to carry out the relevant primary projects, and that the aid will not lead to the creation of overcapacity or reinforce existing overcapacities in markets in absolute decline,
 - (h) Demonstration by each consortium partner of their compliance with their tax and social security obligations,

⁴⁹ As defined in the Commission Notice Technical guidance on the application of ‘do no significant harm’ under the Recovery and Resilience Facility Regulation, COM/2021/1054, OJ C 58, 18.2.2021, p. 1.

⁵⁰ Participating undertakings must justify in the aid application the cost of the reference investment and that of the alternatives available on the market. They must provide, if applicable, offers from entities not linked to the applicant, or studies from independent entities or bodies.

⁵¹ See footnote 48.

- (i) Annual financial results of each consortium partner,
 - (j) For each consortium partner, a declaration of any other State aid for the supported activities from other sources,⁵²
 - (k) For each consortium partner, a declaration that it is not subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market,
 - (l) For each consortium partner, a declaration that it will comply with all the applicable Spanish and European legislation, including on competition,⁵³
 - (m) For industrial research and experimental development projects, a report by an accredited certification body of a Member State confirming the qualification of the projects as involving industrial research or experimental development,
 - (n) For process or organisational innovation projects carried out as a cooperation between large undertakings and SMEs, a declaration that the project is carried out in effective collaboration and that the SME bears at least 30 % of the eligible costs of the cooperation project, and
 - (o) Other documents and declarations listed in Article 24 of the implementing order.
- (46) The granting authority will verify, for each tractor project receiving aid under the measure, whether any of the participants have started works on any of the primary projects included in the tractor project before the submission of the application.⁵⁴ The Spanish authorities confirmed that no aid will be granted if the works on any primary project have started before the submission of the application.
- (47) The aid to tractor projects will be granted through a competitive selection process.⁵⁵ The process is open, transparent and non-discriminatory. An independent evaluation commission will examine the aid applications submitted by interested consortia and rank them according to objective criteria that are set out in the implementing order and in the call for applications, as published in the Spanish Official Journal. The aid will be granted to the applications for tractor projects with the highest scores until the budget is exhausted. The budget represents a binding constraint, leading to a situation where not all applying consortia can receive aid.
- (48) While some of the selection criteria are absolute requirements, i.e. failure to meet them results in the tractor project being disqualified, others are assigned a minimum and/or a maximum score (and the different criteria are given predefined weights).

⁵² This includes both State aid already granted to the undertaking concerned and State aid for which the undertaking has applied or intends to apply.

⁵³ In particular the Block Exemption Regulations for specialisation agreements and R&D agreements, and the Guidelines on horizontal cooperation agreements.

⁵⁴ The Spanish authorities will follow the definition of start of works provided in point 19(44) of the EEAG.

⁵⁵ In line with the requirements of Article 22 of Law 38/2003 on subsidies.

- (49) The criteria considered in the evaluation of the application as a whole are set out in Table 1.⁵⁶

Table 1. Criteria for the evaluation of the application for the tractor project

Criterion	Maximum score	Minimum score
A/ Alignment of the consortium agreement with the applicable requirements	Absolute requirement	
B/ Alignment of the structure of the proposed tractor project with the required minimum content of tractor projects	Absolute requirement	
C/ Global economic viability of the consortium	30	15
D/ Representativeness of the tractor project with respect to the structure of the overall ECV PERTE ⁵⁷	10	0
E/ Weighted average score of the primary projects	30	15
F/ Impact on and contribution to the industrial transition	30	0
f.1/ Tractor effect on SMEs in the value chain for electric and connected vehicles	10	0
f.2/ Commitment to generate jobs in the value chain for electric and connected vehicles and in the economy overall	10	0
f.3/ Digital interconnection and integration between consortium partners and with third parties	10	N/A

- (50) In addition, primary projects are evaluated according to the criteria set out in Table 2. The score given to each primary project is used to calculate the weighted average score of the primary projects included in each tractor project (criterion E in Table 1).

⁵⁶ These criteria are laid down in Annex IV to the implementing order.

⁵⁷ The evaluation commission will consider the number of additional blocks, the number of primary projects per block, the number of consortium partners per block, and the number of primary projects in which several partners cooperate covered by the application.

Table 2. Criteria for the evaluation of primary projects

Criterion	Maximum score	Minimum score
A/ Alignment with the requirements regarding thematic blocks, eligible types of projects and eligible beneficiaries	Absolute requirement	
B/ Compliance with the Do No Significant Harm principle ⁵⁸	Absolute requirement	
C/ Incentive effect of the aid	Absolute requirement	
D/ Technical viability of the proposal	21	12
d.1/ Proven experience of the participants in the field of the project	6	0
d.2/ Quality of the work plan and technical viability of the proposal	9	0
d.3/ Adequate programming	6	0
E/ Impact and contribution to the industrial transition	9	0
e.1/ Collaboration with other participants ⁵⁹	3	0
e.2/ Contribution to the digital transition	3	0
e.3/ Contribution to the green transition	3	0

- (51) The Spanish authorities submit that this selection process ensures that the aid will be channelled to those tractor projects that are most beneficial to society, have the highest return on investment, and make the most efficient use of public resources.
- (52) The granting decision on the selected tractor project will list, for each of the participating partners and by primary project, the aid amounts awarded to each primary project and to each individual participant, as well as a payment calendar.

2.10. Payment of the aid

- (53) The aid will be paid out in two instalments, of varying amount.
- (54) In order to ensure the correct implementation of the aid, all consortium partners are required to deposit a guarantee for each primary project and each form of aid

⁵⁸ See footnote 48.

⁵⁹ The evaluation commission will consider positively the primary projects that entail collaboration between several undertakings, and especially cross-border projects.

(grant, loan) before the Spanish *Caja General de Depósitos*, before each of the two instalments is paid.⁶⁰

2.11. Control of implementation

- (55) The Directorate General of Industry and SMEs, with support from the General Intervention Board of the State Administration and the Spanish Court of Auditors, will monitor the correct implementation of the measure and, if necessary, require the repayment of (part of) the aid, or initiate infringement proceedings.⁶¹
- (56) Participating consortia will be required to submit documentation justifying the completion of the supported investments and the expenses incurred, as well as information on the evolution of the indicators that will be used for the ex post evaluation of the measure.

2.12. Eligible costs

- (57) The following costs, directly linked to each project, are eligible for industrial research, experimental development, process innovation, and organisational innovation aid:
- (a) Personnel costs, i.e. the cost of researchers, technicians and other supporting staff to the extent employed on the relevant project,
 - (b) Costs of instruments and equipment, to the extent and for the period used for the project. If such instruments and equipment are not used for their full life for the project, only the depreciation costs corresponding to the life of the project, as calculated on the basis of good accounting practice, are considered as eligible,⁶²
 - (c) Costs of contractual research, knowledge and patents bought or licensed from outside sources at arm's length conditions, and
 - (d) For industrial research and experimental development projects, costs of consultancy and equivalent services used exclusively for the project.⁶³
- (58) Aid for process innovation is strictly limited to the period necessary to implement the new production process, which ends when training/trial runs are ended. Aid for process innovation allows considering as eligible costs only pro-rata

⁶⁰ The amount of the first guarantee has to match the first instalment of the aid, if the aid is granted in the form of a direct grant, and 20 % of the first instalment, if the aid is granted in the form of a loan. The amount of the second guarantee will be set as a percentage of the second instalment, which varies depending on the form of the aid, the degree of completion of the project and the evaluation of the investments completed.

⁶¹ A working group, comprising representatives of the Directorate General and of the consortium, will be established to report any issues encountered in the implementation of the tractor project.

⁶² To be eligible, the eligible costs related to instruments and equipment must not be the only type of eligible costs included in the primary project, and must not exceed 60 % of the overall eligible costs for that project.

⁶³ The cost of consultancy and equivalent services with respect to the application for, and management of the aid, are excluded.

depreciations of assets during the relevant period needed for the implementation, but not the full investment costs of an initial investment project relying on a new production process.

- (59) The eligible costs for feasibility studies are the cost of the study.
- (60) The eligible costs for both environmental protection aid and energy efficiency aid are the extra investment costs in the following tangible and intangible assets, provided that they are directly linked to the increase in environmental protection or energy efficiency:
- (a) Equipment,⁶⁴ with the exclusion of certain transport equipment,⁶⁵
 - (b) Buildings and facilities: investments in adapting existing buildings and facilities,⁶⁶
 - (c) Immaterial assets: acquisition of patents, licenses, and patented or unpatented technical knowledge,⁶⁷ and
 - (d) Contractual services for adapting production processes, with the exception of consultancy services related to the application for and management of the aid.
- (61) The eligible costs listed in recital (60) are determined as follows:
- (a) where the costs of increasing environmental protection or energy efficiency can be identified in the total investment costs as a separate investment, the costs of the separate investment constitute the eligible costs,
 - (b) in all other cases, the eligible costs are the extra investment costs necessary to meet the environmental protection or energy efficiency objective, and will be determined by the difference between the costs of the investment and those of a technically comparable and less environmentally-friendly investment that would credibly be realised without aid.
- (62) The cost of merely meeting Union standards for environmental protection or for adapting to such standards before they enter into force is not eligible for environmental protection aid under the measure.
- (63) The implementing order sets out additional conditions that must be met for a given cost item to be considered eligible.

⁶⁴ Such equipment includes, e.g., carbon capture systems, and water treatment and filtering systems.

⁶⁵ Namely, vehicles that may be used for distribution purposes.

⁶⁶ These costs may not represent more than 20 % of the total eligible costs of a primary project.

⁶⁷ Subject to the conditions that the asset is a depreciable asset, is acquired under market conditions from a company that the buyer does not directly or indirectly control, and is kept by the buyer for at least five years, except if the asset becomes technically obsolete in the meantime. If the immaterial asset is sold during the first five years, the sale price is deducted from the eligible costs and the relevant part of the aid is reimbursed.

- (64) The call for applications lays down minimum amounts of eligible costs per undertaking and primary project, which vary depending on the block to which the project belongs, and namely:
- (a) Mandatory blocks: EUR 500 000 per undertaking and primary project,
 - (b) Additional blocks: EUR 100 000 per undertaking and primary project, and
 - (c) Transversal blocks: no minimum.
- (65) The minimum amount of eligible costs per tractor project is EUR 10 million.

2.13. Maximum aid intensities and aid amounts

- (66) The aid amounts are calculated and assigned per undertaking and primary project.
- (67) Where the aid is granted in the form of a loan, the aid amount shall be the gross grant equivalent of the aid, calculated in application of the reference rate communication.⁶⁸
- (68) The overall aid amount resulting from adding the direct grant and the gross grant equivalent of the loan, if applicable, is used for calculating the aid intensity.
- (69) The Spanish authorities will apply the maximum aid intensities set out in Table 3.

Table 3. Maximum aid intensities

Aid type	Small undertakings	Medium-sized undertakings	Large undertakings
Aid for industrial research	70 %	60 %	50 %
Aid for experimental development	45 %	35 %	25 %
Aid for process and organisational innovation	50 %	50 %	15 % (only if cooperation with a SME)
Aid for feasibility studies	70 %	60 %	50 %
Aid for going beyond Union standards or improving the level of environmental protection in the absence of Union standards	60 %	50 %	40 %
Aid for improving the energy efficiency of industrial processes	50 %	40 %	30 %

⁶⁸ See footnote 25.

- (70) The Spanish authorities confirmed that the aid amounts may not exceed the following limits:
- (a) Industrial research:⁶⁹ EUR 30 million per undertaking and primary project; if the project is a Eureka project or is implemented by a Joint Undertaking established on the basis of Article 185 or of Article 187 of the Treaty, EUR 40 million per undertaking and primary project,
 - (b) Experimental development:⁷⁰ EUR 22.5 million per undertaking and primary project, if the project is a Eureka project or is implemented by a Joint Undertaking established on the basis of Article 185 or of Article 187 of the Treaty, EUR 30 million per undertaking and primary project,
 - (c) Process and organisational innovation: EUR 11.25 million per undertaking and primary project,
 - (d) Feasibility studies: EUR 11.25 million per undertaking and primary project,
 - (e) Environmental protection: EUR 22.5 million per undertaking and primary project, and
 - (f) Energy efficiency: EUR 15 million per undertaking and primary project.
- (71) In addition, the overall amount of the direct grant plus the nominal amount of the loan, if applicable, granted under the measure for each primary project may not exceed 80 % of the eligible costs of that project. Furthermore, the maximum amount of aid for an individual primary project must not exceed 20 % of the overall aid budget of the ECV PERTE.

2.14. Cumulation with other aid

- (72) The Spanish authorities confirmed that they will respect the cumulation provisions of the RDIF⁷¹ and the EEAG⁷², namely:
- (a) The aid granted under the measure may be cumulated with other aid for the same eligible costs, provided that the total amount of aid does not exceed the limits fixed by the aid ceilings laid down in the RDIF or the EEAG, as applicable, and
 - (b) The aid granted under the measure may not be cumulated with *de minimis* aid in respect of the same eligible costs if such cumulation would result in an aid intensity exceeding those laid down in the RDIF or the EEAG, as applicable.

⁶⁹ The project predominantly involves industrial research.

⁷⁰ The project predominantly involves experimental development.

⁷¹ See points 83 to 85 of the RDIF.

⁷² See points 81 and 82 of the EEAG.

- (73) The projects financed with Recovery and Resilience Facility resources can receive aid from other Union programmes and instruments, provided that they do not cover the same eligible costs.
- (74) The above-mentioned cumulation rules apply also to the cumulation of aid granted under the RDI sub-measure with aid granted under the environmental protection (and energy efficiency) sub-measure.
- (75) In verifying that those rules are respected, all State aid, from whatever origin, will be taken into account.
- (76) Any other aid authority granting aid for the same eligible costs as those supported under the notified measure has to take into account, in its own control of cumulation, all other aid previously granted.

2.15. Monitoring and reporting

- (77) The Spanish authorities confirmed that they will respect the monitoring and reporting obligations laid down in section 6 of the RDIF and section 6 of the EEAG, and namely to:
 - (a) Submit to the Commission the annual reports required by Article 26 of Regulation (EU) 2015/1589,⁷³ and
 - (b) Ensure that detailed records regarding all measures involving the granting of aid are maintained. Such records must contain all information necessary to establish that the conditions regarding, where applicable, eligible costs and maximum allowable aid intensity have been observed. Those records must be maintained for 10 years from the date on which the aid was granted and be provided to the Commission upon request.

2.16. Transparency

- (78) The Spanish authorities confirm that they will respect the transparency obligations laid down in section 4.7 of the RDIF and section 3.2.7 of the EEAG.
- (79) In particular, Spain will publish on a comprehensive State aid website at least the following information on the notified measure: the full text of the aid scheme and its implementing provisions, or a link to it, the identity of the aid awarding authority; the identity of the individual beneficiaries, the form and amount of aid awarded to each beneficiary, the date of award, the type of beneficiary (SME or large enterprise), the region in which the beneficiary is located (at NUTS level II), and the principal economic sector in which the beneficiary has its activities (at NACE group level). Such information must be published within six months after the awarding decision has been taken, must be kept for at least 10 years and must be available to the general public without restrictions.

⁷³ Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, OJ L 248, 24.9.2015, p. 9.

2.17. Other commitments by the Member State

- (80) The Spanish authorities agreed to implement additional safeguards in order to limit the distortions of competition and trade that may result from the scheme.
- (81) Some of these additional safeguards are aimed at ensuring that the aid is not concentrated in a few large undertakings, in light of the requirements of point 107 of the RDIF:
- (a) A tractor project may not comprise two entities of the same undertaking, except if the tractor project comprises six or more undertakings,
 - (b) A tractor project may not comprise, as independent undertakings, entities that constitute joint ventures controlled on equal terms by any of the other participants,
 - (c) An undertaking may not receive more than 15 % of the scheme's overall aid budget,
 - (d) A primary project may not receive more than 20 % of the scheme's overall aid budget, and
 - (e) A minimum of 30 % of the total aid amount made available to each tractor project must benefit SMEs.
- (82) In addition, the Spanish authorities submitted the following commitments:
- (a) The cost of contractual research is eligible for RDI aid under the measure,
 - (b) Beneficiaries are required to ensure the broad and EEA-wide dissemination of non-IP-protected research results stemming from the aided projects,
 - (c) Applicants established in other EEA Member States will not be discriminated under the measure; in particular, the measure will not discriminate against the provision of contractual research and other research services by providers from other EEA Member States, even if such services are provided in intra-group trade,
 - (d) Participation in tractor and primary projects is not conditional on the relocation of activities of the participating undertakings to Spain,
 - (e) The granting of the aid is not conditional on the obligation for the beneficiary to use national products, equipment, or services,
 - (f) The measure does not restrict the possibility for beneficiaries to exploit the RDI results in other Member States, and
 - (g) The inclusion of cross-border projects will be positively considered in the evaluation of tractor projects.⁷⁴

⁷⁴ See Table 2.

- (83) The Spanish authorities also committed to ensure that the measure is brought in line with any appropriate measures that may be proposed by the Commission in the context of the adoption of the Climate, Energy and Environmental Aid Guidelines (CEEAG) that will enter into force in 2022.
- (84) The Spanish authorities confirm that they will respect (and require the beneficiaries to respect) all national and European obligations with respect to the Recovery and Resilience Facility, and in particular those set out in Regulation (EU) 2021/241.⁷⁵

2.18. Evaluation of the measure

- (85) The RDIF and the EEAG require the ex-post evaluation of notified aid schemes where the potential for distortions is particularly high, that is to say in particular for (1) large aid schemes that, because of their high budget, risk to significantly distort competition and trade, and (2) schemes with novel characteristics, for which it is appropriate to corroborate the positive balancing in the initial Commission decision authorising the scheme, by an ex-post evaluation. Any future prolongation of such aid schemes should be subject to a comprehensive evaluation of the scheme during its period of validity, and should take account of the results of the evaluation in the successor scheme (prolongation). To enable that ex-post evaluation, the submission of an evaluation plan as part of the notification may be required.
- (86) The notified measure requires an ex-post evaluation, as it fulfils the RDIF and the EEAG criteria of being (part of) an aid scheme with a large budget and of containing novel characteristics.⁷⁶
- (87) The Spanish authorities therefore notified, together with the measure, an evaluation plan, taking into account the best practices recalled in the Commission Staff Working Document on a Common methodology for State aid evaluation⁷⁷. The main elements of the evaluation plan are described below:
- (88) The evaluation plan describes the objectives of the scheme subject to evaluation, as outlined in section 2.2, and comprises evaluation questions that address the direct effects of the aid scheme, the proportionality and appropriateness of the aid, and a range of indirect effects.
- (89) The questions addressing the direct impact of the aid will investigate the scheme's contribution to the following elements: the transformation of the automotive value chain with a view to creating an ecosystem for the manufacturing of electric and connected vehicles, the improvement of energy efficiency, the modernisation and competitiveness of the Spanish automotive sector, employment levels and GDP.

⁷⁵ Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility, OJ L 57, 18.2.2021, p. 17.

⁷⁶ See points 120-123 of the RDIF and points 242-245 of the EEAG.

⁷⁷ Commission Staff Working Document on Common methodology for State aid evaluation, 28.5.2014, SWD(2014) 179 final.

- (90) Another set of questions will address the indirect effects of the aid, both positive (e.g. effects on companies' research efforts, the interconnection of different actors of the value chain, the dependency on foreign companies, etc.) and negative (e.g. CO₂ emissions of companies, volumes of waste, etc.), as well as the appropriateness and proportionality of the aid.
- (91) The evaluation plan identifies and describes the result indicators that will be used to measure the degree of achievement of the measure's objectives, and which are matched with the evaluation questions.⁷⁸
- (92) The direct effects of the aid scheme on the beneficiaries will be identified by employing econometric methods, in particular a regression analysis of the type "Matching – Difference-in-Differences" (M-DID)⁷⁹, as described in the abovementioned Commission Staff Working Document.
- (93) For the control group, non-aid recipients of the same industry are identified, which are as similar as possible to the beneficiaries in terms of essential characteristics,⁸⁰ to ensure that both aid recipients and non-aid recipients are affected to the same extent by external factors (e.g. economic development). In order to avoid a distortion of the causal effect, non-aid recipients who applied but did not receive aid, as they did not meet the necessary requirements, would, if possible, be included in the control group.
- (94) The Spanish authorities indicated that the choice of methodology is based on the current forecast concerning the implementation of the scheme. In light of the results of the call for applications, by the end of 2022, the evaluator will fine-tune the methodology for the evaluation in close coordination with the Commission.
- (95) The Spanish authorities confirmed that the evaluation will be conducted based on the data provided by the applicants in the aid applications as well as on additional data collected annually by the entity carrying out the evaluation (e.g. through requests for information, interviews, etc.). The evaluator will carry out quality checks on the data collected, e.g. by cross-checking it with the data available on the Spanish Company Register or by conducting interviews of a representative sample of the two groups.
- (96) The entity, or entities, that will be responsible for carrying out the evaluation, will be selected through an open, non-discriminatory and competitive selection process in accordance with national and EU public procurement rules.

⁷⁸ The list of indicators includes indicators aimed at measuring the measure's contribution to an increased level of environmental protection and energy efficiency, e.g., the share of energy-saving investments implemented by each participant undertaking out of the total investments in improving infrastructure and services implemented by that undertaking, and the number of kWh from renewable sources consumed by each participant undertaking out of the total kWh consumed by that undertaking.

⁷⁹ The Difference-in-Differences strategy is the one that, exploiting the longitudinal nature of the data available, is considered appropriately robust to the presence of unobservable differences between undertakings benefitting from aid under the evaluated aid scheme, and undertakings belonging to a control group, provided that these differences remain constant over time (parallel trend assumption).

⁸⁰ Such as, e.g., number of employees, annual turnover, locations, similar sales markets and specialization of manufactured products.

- (97) For ensuring the quality and reliability of the evaluation, the entity selected will be independent of the aid granting authority, namely the Ministry of Industry, Trade and Tourism.
- (98) The Spanish authorities committed to submit to the Commission a final evaluation report in the second quarter of 2023 and an additional report in the second quarter of 2026. The final evaluation report will focus on the results of the first phase of the implementation of the scheme (2022-2023), and the additional report will focus on the overall results of the scheme (2022-2026). The Spanish authorities also committed to revise and update the evaluation methodology for the measure and to submit an interim report with the revised methodology to the Commission by the end of 2022.
- (99) The Spanish authorities confirmed that the final evaluation report will be published on the website of the Ministry of Industry, Trade and Tourism. In addition, the results of the evaluation will be disseminated, e.g. by means of events, the publication of additional materials on the website of the Ministry, etc.
- (100) The Spanish authorities committed to inform the Commission of any difficulty identified during the evaluation process that could significantly affect the implementation of the agreed evaluation plan, in order to identify and agree on possible solutions.
- (101) Any subsequent aid measure with a similar objective must take into account the results of the evaluation.

3. ASSESSMENT

3.1. Existence of aid

- (102) Eligible for public support under this measure are consortia of interested undertakings, research organisations and research infrastructures (recital (21)). The Commission has analysed the presence of State aid in accordance with Article 107 (1) TFEU, taking into account the Commission Notice on the notion of State aid⁸¹ and, given the nature of the notified measure, the guidance set out in section 2 of the RDIF as to the situations where the public financing of research organisations and research infrastructures might involve State aid. The qualification of a measure as State aid requires the following conditions to be met cumulatively: (a) the measure must be financed through State resources and be imputable to the State; (b) the measure must grant a selective advantage liable to favour certain undertakings or the production of certain goods; (c) the measure must distort or threaten to distort competition; and (d) the measure must have the potential to affect trade between Member States.

⁸¹ Commission Notice on the notion of State aid as referred to in Article 107 (1) of the Treaty on the Functioning of the European Union, OJ C 262, 19.07.2016, p. 1.

1.1.1. Imputability and involvement of State resources

- (103) Since the measure is enacted through a national legal basis, the decision to provide the aid is imputable to the Spanish State.
- (104) The notified measure is co-financed with the Spanish national budget and with Recovery and Resilience Facility funds assigned to Spain. Recovery and Resilience Facility funds assigned to a Member State constitute State resources as they are subject to the Member State's control. Aid granted under the measure is therefore financed through State resources.

1.1.2. Existence of a selective advantage to an undertaking

- (105) Spain confirmed that research and knowledge dissemination organisations and research infrastructures participating in the measure might pursue only non-economic activities, or pursue both economic and non-economic activities. The Commission notes however that only their non-economic activities will be supported (recital (25)).
- (106) Where research organisations⁸² and research infrastructures⁸³ carry out exclusively non-economic activities, or where their economic and non-economic activities take place under separate accounts, which prevent any cross-subsidization, the Commission considers in accordance with point 18 of the RDIF, that the public financing of their non-economic activities does not constitute State aid. The public financing of economic activities of research organisations and research infrastructures, e.g. the provision of contract research and testing services, or the leasing of research equipment and facilities, qualifies as State aid⁸⁴. In addition, where research organisations and research infrastructures carry out both economic and non-economic activities, without a separation of accounts being in place, pursuant to point 18 of the RDIF, the whole public financing of the research organisation or research infrastructure organisation qualifies as State aid.

⁸² Research organisation is defined in point 15(ee) of the RDIF as “an entity (such as universities or research institutes, technology transfer agencies, innovation intermediaries, research-oriented physical or virtual collaborative entities), irrespective of its legal status (organised under public or private law) or way of financing, whose primary goal is to independently conduct fundamental research, industrial research or experimental development or to widely disseminate the results of such activities by way of teaching, publication or knowledge transfer. Where such entity also pursues economic activities, the financing, the costs and the revenues of those economic activities must be accounted for separately. Undertakings that can exert a decisive influence upon such an entity, for example in the quality of shareholders or members, may not enjoy a preferential access to the results generated by it.”

⁸³ Research infrastructure is defined in point 15(ff) of the RDIF as “facilities, resources and related services that are used by the scientific community to conduct research in their respective fields and covers scientific equipment or set of instruments, knowledge-based resources such as collections, archives or structured scientific information, enabling information and communication technology-based infrastructures such as grid, computing, software and communication, or any other entity of a unique nature essential to conduct research. Such infrastructures may be ‘single-sited’ or ‘distributed’ (an organised network of resources)”.

⁸⁴ See point 21 of the RDIF: “Without prejudice to point 20, where research organisations or research infrastructures are used to perform economic activities, such as renting out equipment or laboratories to undertakings, supplying services to undertakings or performing contract research, public funding of those economic activities will generally be considered State aid”.

- (107) An advantage, within the meaning of Article 107(1) TFEU, is any economic benefit, which an undertaking would not have obtained under normal market conditions, that is to say in the absence of State intervention. Article 107(1) TFEU also requires that a measure, in order to constitute State aid, is selective in the sense that it favours “certain undertakings or the production of certain goods”.
- (108) By reducing the cost of the relevant investments, the aid under the measure confers an advantage to the beneficiaries that they could not have obtained under market conditions.
- (109) The notified measure grants this advantage in a selective manner as individual aid beneficiaries are selected, in conformity with the provisions of the applicable measure, within the limits of the available budget.

1.1.3. Impact on competition and on trade between Member States

- (110) In accordance with settled case law, for a measure to impact competition and trade it is sufficient that the recipient of the aid competes with other undertakings on markets open to competition.
- (111) The measure in question is targeted towards undertakings engaged in economic sectors where intra-EU trade takes place. It must therefore be assumed that the aid under the measure is likely to distort competition and to affect trade between Member States.

1.1.4. Conclusion regarding existence of State aid

- (112) In light of the above, the Commission concludes that the notified measure constitutes State aid within the meaning of Article 107(1) TFEU.

1.1.5. Absence of indirect aid from research organisations and research infrastructures to undertakings

- (113) Section 2.2 of the RDIF acknowledges that the public financing of research organisations and research infrastructures might entail indirect aid to undertakings where those organisations or infrastructures provide services under conditions that are not market conform, or where a collaboration project does not meet the strict conditions of “effective collaboration” laid down in point 27 of the RDIF, and the undertakings involved in the cooperation project benefit disproportionately from it. The same section identifies the conditions that must be fulfilled to ensure that indirect aid to undertakings can be excluded.
- (114) The Commission notes the commitments provided by Spain in this context (recitals (25) to (27)) and acknowledges that the design of the measure ensures that no indirect aid can be transferred from research organisations or research infrastructures to undertakings, neither where they cooperate in the form of effective collaboration, as defined in point 27 of the RDIF, nor where they provide services (contract research, recital (27)).

The Commission notes in particular that research services will be provided, in line with section 2.2.1 of the RDIF, under market conditions, and that research collaboration between research organisations and undertakings will take place under the conditions laid down in section 2.2.2 of the RDIF, including point 27, which specifies the conditions of an effective collaboration project and in particular point 28(c) of the RDIF (recital (26)).

- (115) In light of the above, the Commission concludes that the notified measure will not result in indirect aid to undertakings resulting from either collaboration with research organisations and research infrastructures or contract research provided to undertakings.

3.2. Lawfulness of the aid

- (116) By notifying the measure before putting it into effect, the Spanish authorities respected their obligations under Article 108(3) TFEU. The Spanish authorities confirmed that the aid will be granted under the measure only after the notification of the Commission's decision approving that measure.

3.3. Compatibility

- (117) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.

3.3.1. Legal basis for the assessment

- (118) The RDI and environmental protection (including energy efficiency) sub-measures have been assessed, respectively, under the applicable relevant provisions of the RDIF and of the EEAG,⁸⁵ as they are aimed at facilitating the development of certain RDI-related and environmentally-friendly economic activities.
- (119) The environmental protection (including energy efficiency) sub-measure falls within the scope of the EEAG:

⁸⁵ Communication from the Commission concerning the prolongation and the amendments of the Guidelines on Regional State Aid for 2014-2020, Guidelines on State Aid to Promote Risk Finance Investments, Guidelines on State Aid for Environmental Protection and Energy 2014-2020, Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, Communication on the Criteria for the Analysis of the Compatibility with the Internal Market of State Aid to Promote the Execution of Important Projects of Common European Interest, Communication from the Commission - Framework for State aid for research and development and innovation and Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance, C/2020/4355, OJ C 224, 8.7.2020, p. 2.

- (a) It provides aid for going beyond Union standards or increasing the level of environmental protection in the absence of Union standards, and aid for energy efficiency measures, with respect to production processes (recital (5)),⁸⁶ and
 - (b) It complies with the EEAG definitions of “environmental protection”, “energy-efficiency” and “Union standard” (recital (5)).⁸⁷
- (120) The RDI sub-measure falls within the scope of the RDIF:
- (a) It provides aid for R&D projects falling within the categories of industrial research and experimental development, for feasibility studies related to R&D projects and for process and organisational innovation activities (recital (4)),⁸⁸ and
 - (b) It complies with the RDIF definitions of “industrial research”, “experimental development”, “feasibility study”, “process innovation”, and “organisational innovation” (recital (4)).⁸⁹

3.3.2. *Compatibility of the measure*

- (121) The notified measure is compatible with Article 107(3)(c) TFEU, as interpreted by the RDIF and the EEAG, and taking into account the case law of the Union Courts,⁹⁰ as the compatibility criteria assessed in the following sections are met.

3.3.2.1. Contribution to the development of certain economic activities

- (122) Article 107(3)(c) TFEU provides that the Commission may declare compatible “*aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest*”. Therefore, in order to be considered compatible with the internal market, the measure must facilitate the development of a well-identified economic activity.

⁸⁶ In line with points 18(a) and 18(f) of the EEAG.

⁸⁷ In line with points 19(1), 19(2) and 19(3) of the EEAG.

⁸⁸ In line with points 12(a), 12(b) and 12(d) of the RDIF.

⁸⁹ In line with points 15(j), 15(k), 15(q), 15(y) and 15(bb) of the RDIF.

⁹⁰ E.g. judgment of 22 September 2020, *Austria v Commission* (Hinkley judgment), C-594/18 P, EU:C:2020:742, paras. 20 and 24.

a. Identification of the targeted economic activity

- (123) The measure addresses the value chain for electric and connected vehicles⁹¹, with a view to ultimately generating the conditions for a successful transition to sustainable and connected road mobility (recital (9)).⁹² The measure aims to promote the integrated development of the value chain, by supporting coordinated projects of consortia of interested undertakings (recital (9)).
- (124) More precisely, the notified measure concerns the R&D and innovation activity, and investment efforts to protect the environment and to use energy efficiently, of consortia of undertakings active in that value chain (recitals (4), (5), (10) and (24)).
- (125) The Commission therefore considers that the measure will contribute to the development of certain economic activities as required by Article 107(3)(c) TFEU.

b. The aid facilitates the development of the economic activity

- (126) Under Article 107(3)(c) TFEU, the measure must contribute to the development of a certain economic activity. The aid must change the behaviour of undertakings concerned in such a way that they engage in additional activities, which they would not carry out, or would carry out in a restricted or different manner, or delayed, without the aid.⁹³ Furthermore, the Commission considers that the aid must not subsidise the costs of activities that undertakings would anyhow incur, and must not compensate for the normal business risks of an economic activity.⁹⁴ Finally, the Commission considers, as a general rule, that aid does not present an incentive effect if the works on the relevant project or activity have already started before the interested undertaking applied for aid.⁹⁵
- (127) The Commission notes that the scheme provides that aid can only be granted to the tractor project if no works have started prior to the aid application on any of the primary projects (recital (46)). Furthermore, the Commission notes that the environmental protection sub-measure excludes aid that would finance environmental protection investments that would allow undertakings merely to meet existing Union standards or to adapt early to new Union standards that were adopted, but did not yet enter into force (recitals (5) and (41)). The Commission considers that, by supporting investments that enable the beneficiaries to take measures that go beyond the applicable Union standards or to increase the level of

⁹¹ The Commission notes that the measure is not limited to the car manufacturing industry in a narrow sense, but addresses all economic activities that are necessary to enable the production and use of electric and connected vehicles.

⁹² Spain considers that the measure will incentivise the uptake of e-mobility in Spain as it will eventually lead to price reductions for electric vehicles, and reduce the cost of operating them, amongst others by making available more efficient EV batteries. Spain also identifies indirect positive effects on the rollout of charging stations and other related infrastructure.

⁹³ See point 62 of the RDIF and point 49 of the EEAG.

⁹⁴ See point 62 of the RDIF and point 49 of the EEAG.

⁹⁵ See point 63 of the RDIF and point 50 of the EEAG.

environmental protection in the absence of such standards (recital (5)), the environmental protection sub-measure contributes positively to the development of the economic activity, irrespective of the existence of mandatory national standards that are more stringent than the Union standards or of mandatory national standards in the absence of Union standards.⁹⁶

- (128) The Commission notes also that the scheme requires that the minimum information for aid applications, required by both the EEAG⁹⁷ and the RDIF,⁹⁸ namely the applicant's name and the size of the undertaking, a description of the project, including its location and start and end dates, the amount of aid needed to carry it out and the eligible costs, be provided (recitals (44) and (45)).
- (129) In this context, the Commission acknowledges that the applications by the consortia for the tractor projects have to provide not only the name and size of all undertakings included in the consortium, a description of the tractor project, including its location and start and end dates, the amount of public support needed to carry out each of the primary projects included in the tractor project, and a list of eligible costs, but also the relevant information for the individual participating undertakings (by primary project), including, for environmental protection (and energy efficiency) primary projects, information and evidence on the counterfactual situation (recitals (44)) and (45)).
- (130) The measure will facilitate and speed up investments into risky capital-intensive research and innovation activities, as well environmental protection and energy efficiency investments, and these investments will be integrated in cross-cutting tractor projects, involving the whole value chain for electric and connected vehicles (sections 2.1 and 2.2). The Commission acknowledges that in the absence of aid, these measures are unlikely to be implemented to the extent enabled by the aid, due to the existence of multiple, well documented issues of market failure (recitals (153) to (159)). This holds in particular where (1) the projects are to include SMEs (recital (21)), which are affected by particular problems in access to finance, (2) the projects address particularly risky R&D and innovation activities for which the chances of technical (and subsequently economic) success are difficult to establish ex-ante, (3) the projects' final success depends also on the success of the work carried out by the cooperation partners, (4) the social benefit of the activity accrues to other actors (e.g. environmental protection investments cannot be fully internalised by the investing undertaking), or (5) the projects address emerging markets that bear particular economic risks. The Commission therefore concludes⁹⁹ that the State intervention is necessary,

⁹⁶ See point 55 of the EEAG.

⁹⁷ See point 51 of the EEAG.

⁹⁸ See point 64 of the RDIF.

⁹⁹ In this conclusion, the Commission takes particular account of the arguments presented by Spain in the compatibility study that accompanies the notification, in which the specific constraints faced by undertakings in the connected and electric vehicle value chain, that need to be overcome, are identified:

- (a) The revenues of the relevant undertakings are markedly cyclical, which prevents them from setting long-term investment strategies,
- (b) The relevant undertakings are currently unable to assume the cost of the required investments, which are more significant and riskier than normal investments in the sector; this holds in

not only to help the undertakings concerned to bridge project-specific funding gaps, but also to incentivise the timely cooperation between the various players in the electric and connected vehicle value chain (i.e. facilitating interaction and cooperation across the whole value chain between large and small undertakings, as well as their cooperation with research and technology providers), as such cooperation would not take place without the incentives made available at overall consortia level for the tractor projects.

- (131) The Commission also notes the calculations made by the Spanish authorities, which suggest that the measure will trigger additional private investments for an amount of EUR 13.7 billion (recital (17)).
- (132) In light of the above, the Commission finds that the measure has an incentive effect, as the aid disbursed under the measure will help to incentivise companies' interest in investing in improving the environmental footprint and energy efficiency of their activities, as well as in costly and risky R&D and innovation. The aid disbursed under the measure will not subsidise the cost of an activity that the beneficiaries would undertake anyway.
- (133) Finally, the Commission notes that the contribution of the aid to an increased level of environmental protection and energy efficiency will be measured in the context of the ex-post evaluation of the measure by using a number of quantitative indicators (recital (91)), in line with the requirements of point 141 of the EEAG.
- (134) Therefore, the Commission concludes that the measure will facilitate the development of the economic activities related to the investment efforts undertaken by different groups of actors in the electric and connected vehicle supply chain.

3.3.2.2. Compliance with other provisions of Union Law

- (135) Based on the information submitted in the notification, the Commission has no reason to doubt that the measure complies with other provisions of Union law.
- (136) The Commission notes in particular that, as indicated in recital (45), to be eligible for aid under the measure, the beneficiaries must commit to respect the competition rules in the implementation of tractor projects, and in particular the Block Exemption Regulations for specialisation agreements¹⁰⁰ and R&D

particular given the undertakings' generally low profit margins, and the negative effect of the COVID-19 pandemic on their financial situation,

- (c) The relevant undertakings, and in particular the suppliers of components which are frequently SMEs, have difficulties in accessing finance, given their low credit ratings, and
- (d) The diversity of actors, often with diverging incentives, active in the automotive value chain makes it difficult to implement integrated projects such as the ones envisaged by the measure.

¹⁰⁰ Commission Regulation (EU) No 1218/2010 of 14 December 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of specialisation agreements Text with EEA relevance, OJ L 335, 18.12.2010, p. 43.

agreements,¹⁰¹ and the Guidelines on horizontal cooperation agreements.¹⁰² The Commission considers that this safeguard adequately addresses the risk of potential anti-competitive coordination between consortium partners.

(137) Furthermore, the Commission recalls that the award of aid is not subject to the use of national products, equipment and services (recital (82)), or to a condition restricting the subsequent exploitation of research results to Spain (recital (82)). Furthermore, the Commission notes that the costs of contractual research services provided by third parties located outside Spain, or provided intra-group, are eligible costs for R&D and innovation projects under the notified measure (recital (82)), and that Spain committed not to subject the award of aid to the relocation of activities from other EEA Member States to Spain (recital (82)). Finally, the Commission notes Spain's confirmation that access to the aid is not limited to firms that are predominantly established, or have their main economic activity or their headquarters in Spain (recital (21)).

3.3.2.3. Aid which does not adversely affect trading conditions to an extent contrary to the common interest

a. Positive effects of the aid measure

(138) As indicated in section 3.3.2.1, the measure can be expected to have a range of positive effects in facilitating the development of the value chain for electric and connected vehicles and climate-friendly road mobility.

(139) Furthermore, the measure's objective is consistent with the relevant EU policies and legislation, and notably:

(a) The European Green Deal¹⁰³ objective of promoting sustainable, safe and efficient mobility,

(b) The European Climate Law,¹⁰⁴ which requires that, by 2030, greenhouse gas emissions be reduced and removals enhanced, so that net greenhouse gas emissions, that is emissions after the deduction of removals, are reduced economy-wide and domestically by at least 55 % by 2030 compared to 1990 levels,

¹⁰¹ Commission Regulation (EU) No 1217/2010 of 14 December 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of research and development agreements Text with EEA relevance, OJ L 335, 18.12.2010, p. 36.

¹⁰² Communication from the Commission — 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, 14.1.2011, p. 1.

¹⁰³ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: 'The European Green Deal', 11.12. 2019, COM/2019/640 final, p. 11.

¹⁰⁴ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999, OJ L 243, 9.7.2021, p. 1.

- (c) The Commission’s Sustainable and Smart Mobility Strategy¹⁰⁵, which is aimed at the green and digital transformation of the EU transport system,
 - (d) The legislation relating to the type-approval of motor vehicles, which sets maximum emissions levels for the various types of vehicles¹⁰⁶,
 - (e) Regulation (EU) 2019/631, which sets out targets for the reduction of emission levels for 2025 and 2030 and which recognises that the successful transition to a zero-emission mobility must be based on integrated approach, including “*public and private investments in research and innovation, the increasing supply of zero- and low-emission vehicles, the roll-out of recharging and refuelling infrastructure, integration into the energy systems, as well as the supply of sustainable materials and sustainable production, re-use and recycling of batteries in Europe*”,¹⁰⁷
 - (f) The Communication “On the road to automated mobility: An EU strategy for mobility of the future”,¹⁰⁸ which refers to the goal of Europe leading the way in sustainable mobility through a substantial change that allows to reduce the level of emissions, and
 - (g) The “Fit for 55” Communication,¹⁰⁹ which proposes a further reduction of the emission targets currently set out in Regulation (EU) 2019/631 for new passenger cars and light commercial vehicles, and the phasing out of the production of vehicles based on internal combustion engines.
- (140) Overall, the Commission recognises that the notified measure will have positive effects in terms of environmental protection, including higher energy efficiency, and climate change mitigation, and will contribute to the reduction of CO2 emissions and other pollution, in accordance with the carbon-neutrality objectives

¹⁰⁵ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Sustainable and Smart Mobility Strategy – putting European transport on track for the future, COM/2020/789 final.

¹⁰⁶ Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information, OJ L 171, 29.6.2007, p. 1; and Regulation (EC) No 595/2009 of the European Parliament and of the Council of 18 June 2009 on type-approval of motor vehicles and engines with respect to emissions from heavy duty vehicles (Euro VI) and on access to vehicle repair and maintenance information and amending Regulation (EC) No 715/2007 and Directive 2007/46/EC and repealing Directives 80/1269/EEC, 2005/55/EC and 2005/78/EC, OJ L 188, 18.7.2009, p. 1.

¹⁰⁷ Regulation (EU) 2019/631 of the European Parliament and of the Council of 17 April 2019 setting CO2 emission performance standards for new passenger cars and for new light commercial vehicles, and repealing Regulations (EC) No 443/2009 and (EU) No 510/2011, OJ L 111, 25.4.2019, p. 13, recital 13.

¹⁰⁸ Communication from the Commission “On the road to automated mobility: An EU strategy for mobility of the future”, 17.5.2018, COM/2018/283 final.

¹⁰⁹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'Fit for 55': delivering the EU's 2030 Climate Target on the way to climate neutrality, COM/2021/550 final.

set out in the European Green Deal¹¹⁰. Furthermore, the Commission acknowledges that the incentives to stimulate R&D and process and organisational innovation provided under the notified measure are instrumental to facilitate the green and digital transition of the targeted overall value chain. As a result of the measure, stand-alone and collaborative RDI efforts will be undertaken to develop with various actors across the supply-chain, innovative tools, systems and technologies with increased eco-efficiency and energy-efficiency, that would not take place without the aid, or would be delayed, or carried out at smaller scale. The Commission notes that aid for RDI activities will be crucial for the accelerated development of new, innovative products over the whole value chain, and will contribute to developing the required sustainable, carbon-friendly, energy- and raw-material-efficient, cost-optimized production processes, and will help enhancing the overall competitiveness of the Spanish and EU industry. The Commission also notes that the measure will contribute to the attainment of a circular economy, in particular as all tractor projects will contain at least one primary project dedicated to the circular economy, which may take the form of a R&D or process/organisational innovation project. The Commission acknowledges in this context that the measure's positive effects are not limited to one narrowly defined economic sector, but rather extend to all levels of the value chain (recitals (10) and (32)). Thus, the measure will enable the development and production of cheaper and greener final products and services across the broadly defined value chain of electric and connected vehicles in Europe.

- (141) Moreover, the Commission notes that the notified measure will have positive spillover effects on economic activities in other Member States. As many of the participating undertakings are likely to be active in several Member States, the notified measure, by admitting the provision of intra-group R&D services as eligible costs, and by not restricting the economic exploitation of results from the supported R&D efforts to Spain (recital (82)), will contribute to reinforcing the integrity of the internal market and of the European Research Area for the value chain. Spain's commitment to ensure the EU-wide dissemination of research results that do not give rise to intellectual property rights (recital (82)) will reinforce this positive cross-border spillover effect. In particular, the Commission welcomes the fact that the tractor projects are explicitly open to cross-border cooperation (recital (21)), and that the presence of cross-border projects in the tractor projects proposed by the consortia is taken into account as a positive element in the scoring rules laid down for the selection of successful proposals (recital (82)).
- (142) The Commission recognises in particular that, by contributing to improving the characteristics of electric vehicles and to decreasing their production costs and sale prices, and by incentivising the development and production of equipment for charging stations and other road infrastructure (recital (123)), the notified measure will encourage more users to change from internal combustion engine vehicles to electric vehicles. As a result, it will enhance the roll-out and uptake of e-mobility, thus contributing to lower greenhouse gas and pollutant emissions caused by road transport in Spain.

¹¹⁰ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: 'The European Green Deal', 11.12. 2019, COM/2019/640 final, p. 11.

- (143) Furthermore, the Commission acknowledges that the notified measure, by requiring that at least 40 % of the participants in tractor projects be SMEs (recital (24)), and that at least 30 % of all aid awarded under the individual tractor projects be awarded to SMEs (recital (81)), contributes to maintaining and developing the participation of SMEs in this important part of the Spanish industry, and will, by providing support for collaboration in RDI activities, create new business opportunities for start-ups and SMEs. By explicitly including in its scope aid for process and organizational innovation (recital (4)), which is under the RDIF normally reserved for SMEs¹¹¹, the notified measure will in particular enhance the competitiveness and innovativeness of SMEs.
- (144) The Commission acknowledges that the measure is also likely to contribute to geographic and social cohesion. First, each tractor project has to include projects located in at least two Spanish autonomous communities (recital (24)), and the overall program includes – outside the scope of the notification – a regional aid component that will be available to incentivise and support initial investments¹¹² in the regions eligible for regional investment aid pursuant to the provisions of the Spanish regional aid map that will be in force at the moment of granting the aid (recital (3)). Second, the overall effort under the ECV PERTE will allow creating additional jobs, which will mitigate the social effects of job losses that will arise with the gradual phasing out of the production of internal combustion engines and linked power trains.
- (145) Finally, the Commission notes that the measure is to contribute to the recovery and resilience of the Spanish economy in the aftermath of the COVID-19 pandemic. As explained in Section 2.2, the measure is one of a number of measures designed by the Spanish authorities to implement the Spanish Recovery, Transformation and Resilience Plan. In addition, the measure’s focus on R&D is likely to reinforce the long-term resilience of the Spanish economy, in particular given the relatively low levels of R&D expenditure in the Spanish automotive sector compared to that of other Member States. The positive effects on the Spanish economy are likely to be considerable, given the significant weight of the automotive sector on Spanish exports and GDP (recital (8)).
- (146) The Commission therefore concludes that the notified measure has multiple positive effects, ranging from the facilitation of the development of the economic activities at issue and an increased level of environmental protection, to encouraging the roll-out and uptake of e-mobility in Spain, increased geographic and social cohesion, and enhancing the recovery and resilience of the Spanish economy.

¹¹¹ Large undertakings are eligible only where they cooperate with SMEs achieving their innovation objectives.

¹¹² In the meaning of Article 2 GBER.

b. Negative effects of the aid measure

- (147) When assessing the negative effects of an aid measure, the Commission focuses on the impact on competition between undertakings in the product markets affected and on the location of economic activity, and on ensuring that the notified measure, by its design, minimises these effects.¹¹³
- (148) The Commission considers that the notified measure distorts competition between undertakings as the implementation of the measure will lead to a situation where some undertakings will receive aid, namely those that apply and are selected, and some will not, namely those that are not eligible, that do not apply, or that are not selected. This may strengthen the competitive position of the undertakings benefitting from aid for their R&D and innovation efforts, and their investments into environmental protection and energy efficiency, compared to the situation of those undertakings that will have to bear these efforts at their own cost. In addition, the measure is likely to have a negative effect on trade between Member States, in particular as the support provided by the measure may attract R&D activities that would otherwise have been conducted in other Member States, as many of the participating undertakings are active in several Member States.
- (149) Against this background, the Commission needs to assess whether and how the notified measure minimises the potential distortions of competition and trade, by excluding aid where it is not necessary to contribute to the facilitation of the development of certain economic activities, by designing the form of intervention of the measure in the least distortive way, and by ensuring that individual aid is limited to the minimum amount needed to change the behaviour of participating undertakings. In this regard, the Commission considers in a first step, in the following subsections, the need for State intervention, the appropriateness of the aid measure, and the proportionality of the aid.
- (150) In a second step, the Commission considers, in section 3.3.2.4, whether the negative effects of the measure in terms of distortions of competition and trade are limited and outweighed by the positive effects in terms of contribution to the development of certain economic activities.

i. Need for State intervention

- (151) State aid measures must be targeted towards a situation where aid can bring about a material improvement that the market cannot deliver itself, for example by remedying a market failure or addressing an equity or cohesion concern.
- (152) In order to demonstrate the necessity of the measure, it has to be established that the measure enables the development of an economic activity, which would not have taken place absent the measure, or at least would not have taken place on the same terms, or at and within the same time.

¹¹³ See points 97 to 99 of the EEAG and points 95 and 107 of the RDIF.

- (153) The Commission considers that the Spanish authorities successfully demonstrated the need for State intervention to support investments to enable the rapid and sustainable transformation of the automotive value chain. In this context, the Spanish authorities pointed to several market failures that, in the absence of aid, would prevent the required transformation of the automotive value chain.
- (154) In particular, the Spanish authorities, on the basis of the compatibility study submitted as part of the notification, explained that undertakings in Spain are not carrying out sufficient and timely investments into research, development and innovation across the electric and connected vehicle value chain. This is due to problems in accessing external finance, as well as to the lack of coordination across the value chain to minimize the financial, technical and commercial risks of capital-intensive development programmes, which have so far been very delayed.
- (155) The Commission acknowledges that significant and risky RDI investments need to be undertaken to advance the development of electric and connected vehicles. The required R&D efforts are characterized by significant and costly trial and error activities. The compatibility study submitted by the Spanish authorities demonstrated in particular that the Spanish automotive (including suppliers) sector, which has so far focused on the production of parts and assembly operations, but possesses so far rather limited R&D capacities to create high value added, is characterized by narrow (and decreasing) profit margins. Therefore, undertakings in the electric and connected vehicle value chain could not ensure the necessary volume of investments without public support. In this regard, the Spanish authorities explained that the automotive sector needs a continuous and high level of investment, which is put at risk in the current economic context, which creates additional challenges. Notably, the level of investments required in order to achieve (or maintain) a competitive position in the electric and connected vehicle sector is higher than it used to be in the past: as they have to meet the Union's decarbonisation objectives, the implicit risk of these investments is significantly higher than that of traditional investments, and the sector is in the midst of a deep economic transition.
- (156) Furthermore, undertakings in the automotive value chain have insufficient incentives to invest in environmental protection measures. This is due, first, to the fact that those undertakings do not have to bear the full social cost of the pollution generated by the manufacturing and use of internal combustion engine vehicles, in particular since the manufacturers are not required to pay an environmental tax on the sale of such vehicles. In addition, the taxes paid by the owners of internal combustion engine vehicles are insufficient to induce a switch in demand towards more sustainable vehicles, which would in turn induce the undertakings to invest in developing and producing such vehicles.
- (157) Another reason leading undertakings in the automotive value chain to underinvest in environmental protection is the fact that part of the benefits of a more sustainable mobility, e.g., in terms of reduced pollution levels, and the corresponding benefits for public health, would accrue to society in general.

- (158) In addition, the diversity of actors involved in the automotive value chain, with diverging interests and incentives, and the uncertainty as to the outcome of a coordinated RDI or environmental protection effort, makes it difficult to implement integrated and collaborative projects. This applies especially to the projects envisaged by the notified measure, which involve collaborations across the automotive value chain, involving various sectors such as the digital and energy sectors, and various partners (large and small undertakings, universities, research organisations, research infrastructures) (recitals (9), (10) and (21)).
- (159) Finally, providers of external finance do not have sufficient incentives to invest in such integrated and risky projects in the automotive value chain, given the risk and uncertainty generated by the constant changes in the regulatory framework and the low credit ratings of automotive companies.¹¹⁴
- (160) According to the Spanish authorities, the penetration rate of electric vehicles in Spain remains extremely limited, as they suffer, in comparison to internal combustion engine vehicles, from their high sale prices and their low autonomy (maximum distance with one full battery charge/tank fill), and are further affected by the very limited deployment of charging stations in Spain. Public support is therefore necessary to increase the attractiveness and cost-efficiency of electric vehicles, and to provide the necessary charging infrastructure in an appropriate density for the whole territory of Spain.
- (161) Given the current state of the transformation process of the automotive value chain, and the market failures described in recitals (153) to (159), the Commission acknowledges that it is not realistic to expect market operators to take on the entire risk inherent in the RDI and environmental protection (and energy efficiency) investments required to complete that transformation. There is currently a need for State intervention, limited to the minimum amount necessary to overcome the identified market failures, to incentivise and crowd-in private co-investment and to accelerate the development of the automated and electric vehicle market.
- (162) The Commission acknowledges that the market failures that the environmental sub-measure aims to address are residual within the meaning of point 36 of the EEAG, as the existing measures implemented by Spain to facilitate the development and production of electric and connected vehicles, such as sectoral regulation and fiscal and other incentives for the acquisition of environmentally-friendly vehicles, have not proven sufficiently effective in incentivising investments into the development and production of electric and connected vehicles and ultimately in inducing a meaningful uptake of such vehicles.¹¹⁵

¹¹⁴ According to the Spanish authorities, such low credit ratings are explained by the automotive sector's limited profit margins and the volatility of the revenues.

¹¹⁵ According to the data provided by Spain, electric vehicles represented only a fourth of the overall vehicle sales in Spain in 2020.

- (163) The Commission notes that State intervention in the form of public support under the measure is in particular necessary to mitigate the particular risks incurred by undertakings when investing into collaborative research projects, and to provide incentives for investing into environmental protection and demonstration measures, with knowledge benefits that are transferable to other undertakings.
- (164) In light of the above, the Commission finds that state intervention is necessary to facilitate the development of the electric and connected vehicle value chain and of e-mobility, as the market, on its own, would fail to deliver an efficient outcome.

ii. Appropriateness of the aid measure

- (165) Member States can make different choices with regard to policy instruments, and State aid control does not impose a single way to intervene in the economy. However, State aid under Article 107(1) TFEU can only be justified if the proposed form of State intervention is appropriate to contribute to the development of the targeted economic activities.
- (166) The Commission normally considers that State interventions in the form of State aid are an appropriate instrument where the Member State can demonstrate that alternative policy options, such as regulation and market-based instruments, e.g. emissions trading systems, would (alone) not be equally suitable to contribute to the development of economic activities. Furthermore, the Commission considers that certain forms of intervention by State aid can only be considered appropriate where alternative aid instruments, generating less distortions of competition and trade, would not deliver equally efficient outcomes.
- (167) The Spanish authorities submitted in the compatibility study that the existing EU and national¹¹⁶ policies aimed at reducing the emissions of motor vehicles¹¹⁷ must be coupled with State aid to ensure the deep and rapid transformation of the automotive industry. Those policies impose demanding requirements on the industry. However, for the reasons explained in recitals (130) and (154) to (159), the industry currently lacks the necessary incentives and resources to carry out the necessary coordinated investments and cannot easily obtain funding from external private investors.
- (168) The Spanish authorities also explained that, while the Spanish and European automotive industries have taken some steps towards the alignment of strategies and incentives, such as the creation of the Spanish Automotive and Mobility Technology Platform and of the European Battery Alliance, they are insufficient to trigger the projects envisaged by the notified measure.
- (169) In light of this, the Commission considers that non-State-aid policy instruments alone, such as regulation and market-based instruments would not be sufficient, in the current situation of the transformation process and state of regulation, to facilitate the development of the economic activities concerned by the measure.

¹¹⁶ See, e.g., Law 7/2021 of 20 May 2021 of climate change and energy transition, Spanish OJ 121 of 21 May 2021.

¹¹⁷ The Spanish authorities refer in particular to carbon pricing, the polluter pays principle, the incentives for the replacement of the existing fleet with low-or zero-emission vehicles, and the rules regarding the use of renewable or low-carbon fuels.

- (170) Finally, the Commission acknowledges that the measure is consistent with the other measures implemented by Spain to remedy the market failures described in recitals (153) to (158), such as fiscal incentives for process innovation activities in the automotive sector, subsidies to consumers for the acquisition of hybrid and electric vehicles, and regulatory measures setting CO₂ emissions targets. Those measures aim, like the measure at hand, to facilitate the transition to a more sustainable and connected mobility and ultimately to reduce CO₂ emission levels. The Commission notes the Spanish authorities' submission that the notified measure was conceived to complement existing measures, as fiscal incentives are unlikely to provide sufficient incentives to all actors (e.g. SMEs), and subsidies for the acquisition of electric vehicles focus only on the demand side of the market.
- (171) As regards the form of the aid, the Commission considers that direct grants and soft senior loans (recital (13)) are both appropriate instruments to contribute to the development of the electric vehicle value chain in Spain.
- (172) First, the Commission generally considers that State aid may be an appropriate instrument to finance energy-efficiency measures, independently of the form in which it is granted.¹¹⁸
- (173) Second, the Commission acknowledges that direct grants are more easily and directly accessible than other aid instruments and that they allow supporting operators in a simple and straightforward manner without significant delays.
- (174) Third, other potentially less distortive forms of aid such as loans (where granted alone, and not in combination with grants), repayable advances, or fiscal incentives would most likely be insufficient to provide the aid equivalents and levels of stimulation needed to induce many of the actors in the automotive value chain to carry out the relevant RDI and environmental protection projects, or to bridge financing gaps. In addition, most suppliers of components and spare parts are SMEs, characterised by volatile revenues and reduced profit margins, which are often in need of major investments for structural transformation away from standard combustion engines and linked power trains, to ensure their economic survival. Such undertakings do not have the necessary financial reserves to finance major projects against the promise of access to tax exemptions that can be invoked at a later stage, and would have difficulties to find the external finance necessary to cover the part of the costs that will eventually be compensated by tax advantages.
- (175) Fourth, the Commission acknowledges that direct grants will be awarded as a matter of priority to projects that effectively contribute to climate objectives (recital (14)), for which, under section 3.2.5.1 of the EEAG, only part of the net extra costs of the environmentally-friendly investment can be covered.¹¹⁹

¹¹⁸ See point 145 of the EEAG.

¹¹⁹ Except if the project is selected with a competitive bidding procedure for the type of environmental projects concerned.

- (176) Fifth, the Commission notes that the notified measure provides for the combined use of grants and loans in many situations (recital (14)). Moreover, the Commission notes that the overall amount of intervention (direct grant plus nominal amount of loan, if applicable) is capped at 80 % of the eligible costs (recital (71)). This design of the measure is appropriate as it imposes a sufficient level of risk exposure on the participating undertakings that ensures that their decisions are based on sound reasoning, and not affected entirely by “moral hazard”.
- (177) Finally, the Commission notes that the requirement for beneficiaries to provide a guarantee before receiving the payment of the aid (recital (54)) ensures that the loans will be repaid to the Spanish State regardless of the success or failure of the tractor projects. The requirement to deposit such guarantees also contributes to ensuring that the participating undertakings and their business projects (“primary projects”) financed by the loans are likely to undergo an independent “health check” by the providers of these guarantees. This “health check” compensates to some extent for the fact that under the envisaged competitive selection procedure, the score of individual primary projects enters into the composite score of the tractor projects - which are selected based on their composite score -, but is not used to exclude individual primary projects.¹²⁰ A certain quality control is also likely to be exercised by the other consortium partners, since they are jointly responsible for the project and the reimbursement of loans.
- (178) In light of the above, the Commission considers that the use of State aid, the design of the notified aid measure, in particular the forms of aid chosen, and the conditions of their combination, are appropriate.

iii. Proportionality of the aid measure and cumulation

- (179) Under the RDIF and the EEAG, the amount and intensity of the aid must be limited to the minimum needed to induce the additional investment or activity by the undertaking(s) concerned.
- (180) The Commission considers aid for not individually notifiable cases of application of notified aid schemes falling under an assessment based on the RDIF or the EEAG to be compatible with the internal market if: (i) the eligible projects are correctly defined in line with the definitions provided by the RDIF and the EEAG for industrial research, experimental development, feasibility study, process and organisational innovation, environmental protection, and energy efficiency; (ii) the relevant eligible costs are correctly calculated, limited to the eligible costs defined for the different types of interventions in the RDIF, respectively the EEAG; (iii) the maximum aid intensities set out in Annex 1 to the EEAG and Annex II to the RDIF are complied with; and (iv) the cumulation rules of the RDIF and EEAG are respected.

¹²⁰ If an individual primary project fails to meet the minimum requirements, the whole tractor project, and not only the primary project concerned, is disqualified.

(181) The Commission confirms that the notified measure defines the eligible projects in line with the definitions provided by the RDIF and the EEAG for industrial research,¹²¹ experimental development,¹²² feasibility study,¹²³ process innovation,¹²⁴ organisational innovation,¹²⁵ environmental protection,¹²⁶ and energy efficiency (recitals (4) and (5)).¹²⁷

¹²¹ According to point 15(q) of the RDIF, ‘industrial research’ means 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 parts of complex systems, and may include the construction of prototypes in a laboratory environment or in an environment with simulated interfaces to existing systems as well as of pilot lines, when necessary for the industrial research and notably for generic technology validation.

¹²² According to point 15(j) of the RDIF, ‘experimental development’ means acquiring, combining, shaping and using existing scientific, technological, business and other relevant knowledge and skills with the aim of developing new or improved products, processes or services. This may also include, for example, activities aiming at the conceptual definition, planning and documentation of new products, processes or services. Experimental development may comprise prototyping, demonstrating, piloting, testing and validation of new or improved products, processes or services in environments representative of real life operating conditions where the primary objective is to make further technical improvements on products, processes or services that are not substantially set. This may include the development of a commercially usable prototype or pilot which is necessarily the final commercial product and which is too expensive to produce for it to be used only for demonstration and validation purposes. Experimental development does not include routine or periodic changes made to existing products, production lines, manufacturing processes, services and other operations in progress, even if those changes may represent improvements.

¹²³ According to point 15(k) of the RDIF, ‘feasibility study’ means the evaluation and analysis of the potential of a project, which aims at supporting the process of decision making by objectively and rationally uncovering its strengths and weaknesses, opportunities and threats, as well as identifying the resources required to carry it through and ultimately its prospects for success.

¹²⁴ According to point 15(bb) of the RDIF, ‘process innovation’ means the implementation of a new or significantly improved production or delivery method (including significant changes in techniques, equipment or software), excluding minor changes or improvements, increases 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, localisation, regular, seasonal and other cyclical changes and trading of new or significantly improved products. The Commission notes in this context that in line with the provisions of the Oslo Manual, as embedded in the RDIF, the novelty test to qualify as process or organisational innovation is carried out at the level of the undertaking (group) and its activities in the sector concerned in the EEA.

¹²⁵ According to point 15(y) of the RDIF, ‘organisational innovation’ means the implementation of a new organisational method in an undertaking’s business practices, workplace organisation or external relations, excluding changes 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, localisation, regular, seasonal and other cyclical changes and trading of new or significantly improved products.

¹²⁶ According to point 19(1) of the EEAG, ‘environmental protection’ means any action designed to remedy or prevent damage to physical surroundings or natural resources by a beneficiary’s own activities, to reduce the risk of such damage or to lead to more efficient use of natural resources, including energy-saving measures and the use of renewable sources of energy.

¹²⁷ According to point 19(2) of the EEAG, ‘energy-efficiency’ means an amount of saved energy determined by measuring and/or estimating consumption before and after implementation of an energy-efficiency improvement measure, whilst ensuring normalisation for external conditions that affect energy consumption.

- (182) As a general principle, aid for environmental protection, including energy efficiency, will be considered to be limited to the minimum necessary if the aid is calculated with respect to the net extra cost of the investment project necessary to meet the environmental objective, compared to the costs of a counterfactual investment that would be carried out in the absence of aid.¹²⁸
- (183) The Commission acknowledges that the eligible costs supported under the environmental protection (including energy efficiency) sub-measure are defined as the extra investment costs in certain tangible and intangible assets which are directly linked to the increase of environmental protection or energy efficiency (recital (60)), as required by the EEAG.¹²⁹
- (184) The Commission notes in addition that the methodology for the determination of the eligible costs (recital (61)) is also in line with the requirements of point 73 and Annex 2 to the EEAG:
- (a) where the costs of increasing environmental protection or energy efficiency can be identified in the total investment costs as a separate investment, the costs of the separate investment constitute the eligible costs,
 - (b) in all other cases, the eligible costs are the extra investment costs necessary to meet the environmental protection or energy efficiency objective, established by comparing the costs of the aided investment and those of a technically comparable and less environmentally-friendly investment that would credibly be realised without aid.¹³⁰
- (185) Furthermore, the Commission confirms that the maximum aid intensities applicable to the environmental protection and energy efficiency aid granted under the measure (recital (69)) are in line with the maximum aid intensities set out in Annex 1 to the EEAG.¹³¹ The aid intensities are modulated based on the size of the beneficiary, i.e. higher aid intensities are applied to SMEs than to large undertakings.

¹²⁸ See point 70 of the EEAG.

¹²⁹ See point 72 of the EEAG.

¹³⁰ As regards aid for going beyond Union standards, the extra investment costs consist of the additional investment costs necessary to go beyond the level of environmental protection required by the Union standards. As regards aid for increasing the level of environmental protection in the absence of Union standards, the extra investment costs consist of the investment costs necessary to achieve a higher level of environmental protection than that which the undertaking or undertakings in question would achieve in the absence of any environmental aid.

¹³¹ Namely, basic aid intensities of 40 % for aid enabling undertakings to go beyond Union standards or to increase the level of environmental protection in the absence of Union standards and of 30 % for aid for energy efficiency, plus bonuses of 10 % for medium-sized undertakings and 20 % for small undertakings.

- (186) Aid for research, development, feasibility studies and process/organisational innovation provided under the measure will be considered as limited to the minimum necessary if the eligible costs incurred for supported projects are defined in line with Annex I to the RDIF and the maximum aid intensities do not exceed those defined in Annex II to the RDIF¹³².
- (187) The Commission acknowledges that the Spanish authorities defined the eligible costs for R&D projects and process and organisational innovation projects in line with Annex I to the RDIF (see recitals (57) to (59)). The Commission notes that the costs of assets are eligible only proportionally to their direct use for a R&D or innovation project, and only in form of depreciation costs during the relevant period, for the duration of the relevant project (recital (57)). The Commission acknowledges in particular that the duration of the implementation of innovation projects ends before the start of an operational manufacturing phase, with the conclusion of trial and training runs (recital (58)).
- (188) In addition, the Commission confirms that the maximum aid intensities under the notified measure for industrial research, experimental development, feasibility studies, and process and organisational innovation (as described in recital (69)) do not exceed the maximum aid intensities set out in Annex II to the RDIF, i.e. the aid intensities applicable to the notified measure do not exceed the basic aid intensity of 50 % for feasibility studies eligible costs, of 50 % for industrial research, and of 25 % for experimental development, where appropriate increased by the SME bonuses described in Annex II to the RDIF.¹³³ For process and organisational innovation, the aid is capped at 50 % for stand-alone projects by SMEs, and for cooperation projects between SMEs and large undertakings, in which the SME incurs at least 30 % of project's eligible costs, at 15 % for large undertakings, and 50 % for SMEs (recital (69)). The Commission notes that, as prescribed by the RDIF, stand-alone projects by large undertakings to implement process and organisational innovations are not eligible for aid under the RDIF (recital (40)), as large undertakings are unlikely to encounter market failures that would affect the optimal implementation of these innovations.
- (189) The Commission further notes that Spain confirmed that the cumulation rules of the RDIF¹³⁴ and EEAG¹³⁵ will be complied with, and in particular, that the aid intensity ceilings applicable under the measure will be respected also in case of cumulation with aid from other sources (recital (72)).

¹³² See points 75 and 76 of the RDIF.

¹³³ Namely, the basic aid intensities may be increased by 10 % for medium-size undertakings and by 20 % for small undertakings, except in the case of process and organisational innovation, where the basic aid intensity may be increased by 35 % for both medium-sized and small undertakings.

¹³⁴ See points 83 to 85 of the RDIF.

¹³⁵ See points 81 and 82 of the EEAG.

(190) Finally, the Commission finds that the provisions of the scheme are designed in a way that no indirect aid can be transferred from research organisations or research infrastructures to undertakings, neither where they cooperate in the form of effective collaboration, as defined in point 27 of the RDIF, nor where they provide services (contract research). The Commission notes in particular that research services will be provided, in line with section 2.2.1 of the RDIF, under market conditions, and that research collaboration between research organisations and undertakings will take place under the conditions laid down in section 2.2.2 of the RDIF, including point 27, the latter specifying the conditions of an effective collaboration project.

(191) In view of the above, the Commission concludes that the notified measure is proportionate, as eligible projects, eligible costs, and aid intensity ceilings are defined in line with the definitions, rules on eligible costs, and maximum aid intensities defined in the RDIF and the EEAG.

c. Conclusion on the assessment if the aid affects trading conditions to an extent contrary to the common interest.

(192) The Commission considers that the aid under the measure does not affect trading conditions to an extent contrary to the common interest, as the potential negative effects on competition and trade are limited by the safeguards in place.

3.3.2.4. Avoidance of undue negative effects on competition and trade and balancing test

(193) For the aid under the notified measure¹³⁶ to be compatible with the internal market, the negative effects of the measure in terms of distortions of competition and trade between Member States must be limited and outweighed by the positive effects in terms of contribution to the development of certain economic activities.¹³⁷

¹³⁶ The Commission notes that no individual case of application under this aid scheme is subject to notification, as the aid amounts per primary project and undertaking (see recital (70)) do not exceed the applicable thresholds laid down in point 41 of the RDIF, respectively point 20 of the EEAG, as temporarily increased by recital 97 of the Temporary Framework (Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 91I, 20.3.2020, p. 1), as amended by Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1), C(2021) 564 (OJ C 34, 1.2.2021, p. 6), and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1). The Commission notes that the conditions to apply this temporary increase are met, as: (1) the measure forms part of the Spanish Recovery, Transformation and Resilience Plan and is thus aimed at supporting the sustainable recovery of the economy (Section 2.2); (2) the maximum individual aid amounts provided by the measure (recital (70)) do not exceed the notification thresholds applicable to aid assessed under the RDIF and the EEAG by more than 50 %; (3) all other requirements of the RDIF and the EEAG are met; (4) the Commission decision authorising the measure is adopted before 1 January 2023; and (5) aid under the notified measure will be granted before 1 January 2024 (recital (19)).

¹³⁷ See point 94 of the RDIF and point 88 of the EEAG.

In points 95 and 96, the RDIF identifies - in general terms - two main areas of potential distortions caused by RDI aid, namely, first, distortions in the innovation process and in the product markets where the R&D results are to be exploited and, second, distortions linked to location effects. Section 4.6.1.1 identifies three theories of harm by which the innovation process and product markets could be distorted, namely distortions of the competitive entry and exit processes, distortions of dynamic incentives, and the creation and maintenance of market power. Section 4.6.1.2 sets out the theory of harm regarding location effects, while section 4.6.1.3 identifies situations where no aid can be approved since it would lead to manifest negative effects. These general provisions, operationally directly applicable for the assessment of individually notifiable aid, are summarised, for aid schemes, such as the notified measure, in section 4.6.2, which identifies the requirements that have to be fulfilled by aid schemes (and their individual cases of application) in order to ensure that the negative effects on competition and trade remain limited, in particular where schemes focus on certain sectors.

(194) The EEAG lays down similar principles: point 89 identifies two types of potential distortions caused by environmental protection aid, namely product market distortions and location effects. Points 91 and 92 identify ways in which aid may distort product markets, namely by interfering with the competitive entry and exit process or by strengthening or maintaining substantial market power of the beneficiary. Point 93 describes the aid's potential effects on trade and location choice. Finally, points 94 to 96 identify manifest negative effects that would prevent the approval of the aid. Those provisions are summarised in section 3.2.6.2.

a. Limitation of undue negative effects in case of aid schemes

(195) Section 4.6.2 of the RDIF specifies the requirements under which the negative effects of RDI aid schemes can be considered as being sufficiently limited for the aid scheme to be found compatible with the internal market.

(196) According to point 106 of the RDIF, notifiable aid schemes must not lead to significant distortions of competition and trade. The Commission notes that the notified measure has an incentive effect, and is designed in a way that ensures that the intervention is proportionate, for the individual projects to be supported. However, point 106 of the RDIF specifies that, "*on a cumulative basis, aid schemes might still lead to high levels of distortions*" (in particular, if focusing on certain sectors), even where distortions are considered limited at individual level. Therefore, as set out in point 107 of the RDIF, Member States must demonstrate that any negative effects will be limited to the minimum taking into account, for example, the size of the projects concerned, the individual and cumulative aid amounts, the number of expected beneficiaries as well as the characteristics of the targeted sectors.

- (197) The Commission notes in this context that the notified aid scheme, by virtue of the broad definition of its value chain approach (recitals (10) and (28)), does not qualify as a sectoral aid scheme *stricto sensu*. The benefits of the notified measure - under which only projects are eligible, which require extensive collaboration across the value chain - are not limited to a particular undertaking, or even a specific sector of activity, but are to have positive effects at multiple levels of the electric and connected vehicle value chain generating spillover effects to other sectors of the economy. The Commission notes that Spain expects some 50 to 100 undertakings to participate in the scheme, some of them in several primary projects (recital (31)).¹³⁸
- (198) Section 3.2.6.2 of the EEAG clarifies that the risk that environmental aid will unduly distort competition is more limited where the measure at hand is well targeted to the market failure it aims to address,¹³⁹ the aid is proportionate and limited to the extra investment costs,¹⁴⁰ and the beneficiaries are selected in a non-discriminatory, transparent and open manner.¹⁴¹ This is true for the environmental (and energy efficiency) sub-measure, as explained in recitals (47), (156) to (164), (183) to (185) and (189).
- (199) In addition, the Commission acknowledges that Spain introduced a series of provisions into its scheme, and undertook to respect a series of commitments, that are aimed at avoiding undue distortions of competition and trade (section 2.17).
- (200) The Commission welcomes in this context a first group of safeguards implemented by the Spanish authorities to avoid that the aid granted under the measure is concentrated on few undertakings and tractor projects (recital (81)). Namely:
- (a) A tractor project must involve at least five undertakings (groups) that are independent of each other; the tractor project may not comprise two entities of the same undertaking, except if the tractor project comprises six or more undertakings,
 - (b) A tractor project may not comprise, as independent undertakings, entities that constitute joint ventures controlled on equal terms by any of the other participants,
 - (c) No undertaking may receive more than 15 % of the scheme's overall aid budget, and
 - (d) No primary project may receive more than 20 % of the scheme's overall aid budget.

¹³⁸ The Spanish authorities estimate that approximately 2,775 undertakings are eligible to apply for aid under the measure.

¹³⁹ See point 97 of the EEAG.

¹⁴⁰ See point 98 of the EEAG.

¹⁴¹ See point 99 of the EEAG.

- (201) In the light of these provisions, the Commission considers that the measure is designed in a way that minimises the risk of a beneficiary achieving a dominant market position as a result of the aid.
- (202) The Commission also welcomes a second group of provisions, which guarantees the appropriate participation of SMEs in the scheme. At least 40 % of the undertakings participating in individual tractor projects have to be SMEs (recital (24)), and at least 30 % of the aid volume per tractor project has to be awarded to SMEs (recital (81)), thus providing also opportunities for new-entrants.
- (203) Moreover, the minimum percentages of the eligible costs that must be covered with aid in the form of a loan (recital (14)) are designed so that loans must represent a larger share of the aid granted under the measure to large undertakings than of the aid granted to SMEs.
- (204) Furthermore, the Commission welcomes a third group of provisions, under which participating undertakings have to demonstrate that the aid amounts requested are limited to the minimum necessary to prompt their participation in the primary and tractor projects concerned (recital (45)). Participating undertakings have to indicate, for environmental protection (and energy efficiency) projects, the counterfactual situation that would arise without aid, and have to corroborate their argumentation by relevant evidence (recital (45)). By these provisions, Spain will ensure that the ceilings of proportionate aid intensities defined for the scheme, referred to above, will be further reviewed to exclude excessive amounts of aid at the level of individual projects.
- (205) The Commission also notes that all participating undertakings have to demonstrate that their project will not create, or reinforce, overcapacities in a declining market (recital (45)).¹⁴² In any event, in view of the expected growth of the automotive value chain, the measure is very unlikely to have such negative effects.
- (206) Finally, the Spanish authorities will evaluate the effectiveness of the measure in the course of its duration (Section 2.18).

b. Effects on trade and location choice

- (207) The Commission acknowledges specific provisions that avoid undue effects of the measure on trade and location choice. The Commission notes in particular that Spain has opened the measure to cross-border projects (recitals (21) and (82)), and commits not to require the relocation of existing activities of participating undertakings to Spain (recital (82)). Furthermore, the Commission notes that Spain will ensure the EU-wide dissemination of research results that do not give rise to intellectual property rights (recital (82)).

¹⁴² In line with point 115 of the RDIF.

c. Manifest negative effects

- (208) The Commission notes that the RDI sub-measure does not impose on the beneficiaries the requirement to have their central seat in Spain or to be predominantly established there (recital (21)) or to use national products, equipment or services (recital (82)), and it does not restrict the possibility for the beneficiary to exploit the RDI results in other Member States (recital (82)). The RDI sub-measure is therefore in line with point 104 of the RDIF.
- (209) The Commission acknowledges that the environmental protection sub-measure does not merely lead to a change in location of the economic activity without improving the existing level of environmental protection in the Member States (e.g. recital (140)), and is therefore consistent with point 96 of the EEAG.

d. Balancing test

- (210) In light of the above, the Commission considers that the measure's multiple positive effects, identified in section 3.3.2.3 a), clearly outweigh its limited negative effects, as described in section 3.3.2.3 b).

e. Conclusion

- (211) The Commission finds that the negative effects of the measure on competition and trade are limited by the eligibility and compatibility conditions of the measure, including the rules on maximum aid intensities and proportionality. The Commission therefore concludes that the notified measure is designed in a way that avoids undue distortions of competition and trade.

3.3.2.5. Transparency, monitoring and reporting

- (212) The Commission acknowledges that the Spanish authorities comply with their transparency, monitoring and reporting obligations with respect to the notified measure (Sections 2.15 and 2.16).

3.3.3. *The evaluation plan as part of the compatibility assessment*

- (213) The notified aid measure represents a very large aid scheme, with an average annual budget of more than EUR 1 billion during its two years of operation (aid may be granted in 2022 and 2023) (recitals (17) and (19)). Due to its integrated value chain approach (recital (10)), the design of the scheme is highly novel. As is explained in recitals (85) to (86), the Commission can require that aid schemes with large budgets or novel characteristics undergo an ex-post evaluation. In this context, the Commission required the submission of an evaluation plan, which the Spanish authorities submitted in the context of the notification (recital (87)).
- (214) The Commission considers that the notified evaluation plan contains all the necessary elements: the objectives of the aid scheme to be evaluated, the evaluation questions, the result indicators, the envisaged methodology to conduct the evaluation, the data collection requirements, the proposed timing of the evaluation including the date of submission of the final evaluation report, the description of the independent body conducting the evaluation and the criteria that will be used for its selection and the modalities for ensuring the publicity of the evaluation (recitals (88) to (99)).

- (215) The Commission notes that the scope of the evaluation is defined in an appropriate way. It comprises a list of evaluation questions with matched result indicators (recitals (88) to (91)). Moreover, the evaluation plan sets out and explains the main methods that will be used in order to identify the impacts of the scheme (recitals (92) to (94)).
- (216) The Commission acknowledges the commitments made by the Spanish authorities, pursuant to the Commission requirements, that the evaluation will be conducted according to the notified evaluation plan by an independent evaluation body (recital (97)). The procedures envisaged for selecting such evaluation body are appropriate in terms of independence and skills (recital (96)). Moreover, the proposed modalities for the publication of the evaluation results are adequate to ensure transparency (recital (99)).
- (217) The Commission notes the commitment made by Spain to submit to the Commission an interim report by the end of 2022, a final evaluation report in the second quarter of 2023 and an additional report in the second quarter of 2026 (recital (98)). The Commission notes that the evaluation method might be further fine-tuned in common accord between the Spanish authorities and the Commission, also taking account of the reasoned views of the independent evaluator (recital (98)).
- (218) The Commission notes the commitment made by Spain to communicate to the Commission any difficulty that could significantly affect the agreed evaluation in order to work out possible solutions (recital (100)).
- (219) The Commission reminds that the application of the notified measure has to be suspended if the final evaluation report is not submitted in good time and sufficient quality.

3.3.4. Conclusion

- (220) In light of the above, the Commission considers that the notified measure contributes to the development of certain economic activities; its multiple positive effects, identified in section 3.3.2.3 (a), clearly outweigh its limited negative effects; overall, the measure does not adversely affect trading conditions to an extent contrary to the common interest and is therefore compatible with the internal market on the basis of Article 107(3)(c) TFEU.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(c) TFEU.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President