

Commission Regulation (EC) No 70/2001 of 12 January  
2001 on the application of Articles 87 and 88 of the EC  
Treaty to State aid to small and medium-sized enterprises

*Article 2*

**Definitions**

For the purpose of this Regulation:

- (a) 'aid' shall mean any measure fulfilling all the criteria laid down in Article 87(1) of the Treaty;
- (b) 'small and medium-sized enterprises' shall mean enterprises as defined in Annex I;
- (c) 'investment in tangible assets' shall mean an investment in fixed physical assets relating to the creation of a new establishment, the extension of an existing establishment, or the engagement in an activity involving a fundamental change in the product or production process of an existing establishment (in particular through rationalisation, diversification or modernisation). An investment in fixed assets undertaken in the form of the takeover of an establishment which has closed or which would have closed had it not been purchased shall also be regarded as tangible investment;
- (d) 'investment in intangible assets' shall mean investment in transfer of technology by the acquisition of patent rights, licences, know-how or unpatented technical knowledge;
- (e) 'gross aid intensity' shall mean the aid amount expressed as a percentage of the project's eligible costs. All figures used shall be taken before any deduction for direct taxation. Where aid is awarded in a form other than a grant, the aid amount shall be the grant equivalent of the aid. Aid payable in several instalments shall be discounted to its value at the moment of granting. The interest rate to be used for discounting purposes and for calculating the aid amount in a soft loan shall be the reference rate applicable at the time of grant<sup>[F1.]</sup>  
  
<sup>[F2]</sup>For aid for research and development (R&D), the gross aid intensity for an R&D project being carried out in collaboration between public research establishments and enterprises shall be calculated on the basis of the combined aid deriving from direct government support for a specific research project and, where they constitute aid, contributions from public non-profit-making higher education or research establishments to the project;]
- (f) 'net aid intensity' shall mean the aid amount net of tax expressed as a percentage of the project's eligible costs;
- (g) 'number of employees' shall mean the number of annual labour units (ALU), namely the number of persons employed full time in one year, part-time and seasonal work being ALU fractions<sup>[F1.]</sup>;
- (h) <sup>[F2]</sup>'fundamental research' shall mean an activity designed to broaden scientific and technical knowledge not linked to industrial or commercial objectives;

---

*Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 70/2001, Article 2. (See end of Document for details)*

---

- (i) ‘industrial research’ shall mean planned research or critical investigation aimed at the acquisition of new knowledge, the objective being that such knowledge may be useful in developing new products, processes or services or in bringing about a significant improvement in existing products, processes or services;
- (j) ‘pre-competitive development’ shall mean the shaping of the results of industrial research into a plan, arrangement or design for new, altered or improved products, processes or services, whether they are intended to be sold or used, including the creation of an initial prototype which could not be used commercially. This may also include the conceptual formulation and design of other products, processes or services and initial demonstration projects or pilot projects, provided that such projects cannot be converted or used for industrial applications or commercial exploitation. It does not include the routine or periodic changes made to products, production lines, manufacturing processes, existing services and other operations in progress, even if such changes may represent improvements;]
- (k) [<sup>F3</sup>‘agricultural product’ means:
  - (i) the products listed in Annex I of the Treaty, except fishery and aquaculture products covered by Regulation (EC) No 104/2000;
  - (ii) products falling under CN codes 4502, 4503 and 4505 (cork products);
  - (iii) products intended to imitate or substitute milk and milk products, as referred to in Article 3(2) of Council Regulation (EEC) No 1898/87<sup>(1)</sup>;
- (l) ‘products intended to imitate or substitute milk and milk products’ means products which could be confused with milk and/or milk products but whose composition differs from such products in that they contain fat and/or protein of non-milk origin with or without protein derived from milk (‘products other than milk products’ as referred to in Article 3(2) of Regulation (EEC) No 1898/87);
- (m) ‘processing of agricultural products’ means any operation on an agricultural product resulting in a product which is also an agricultural product, except on farm activities necessary for preparing an animal or plant product for the first sale;
- (n) ‘marketing of agricultural products’ means holding or display with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the first sale by a primary producer to resellers or processors and any activity preparing a product for such first sale; a sale by a primary producer to final consumers shall be considered as marketing if it takes place in separate premises reserved for that purpose.]

---

#### **Textual Amendments**

- F1** Substituted by Commission Regulation (EC) No 364/2004 of 25 February 2004 amending Regulation (EC) No 70/2001 as regards the extension of its scope to include aid for research and development.
- F2** Inserted by Commission Regulation (EC) No 364/2004 of 25 February 2004 amending Regulation (EC) No 70/2001 as regards the extension of its scope to include aid for research and development.
- F3** Inserted by Commission Regulation (EC) No 1857/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001.

---

**Changes to legislation:** There are currently no known outstanding effects for the  
Commission Regulation (EC) No 70/2001, Article 2. (See end of Document for details)

---

(1) [<sup>F3</sup>OJ L 182, 3.7.1987, p. 36.]

**Textual Amendments**

**F3** Inserted by Commission Regulation (EC) No 1857/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001.

**Changes to legislation:**

There are currently no known outstanding effects for the Commission Regulation (EC) No 70/2001, Article 2.