EUROPEAN
COMMISSION

Brussels, 10.7.2023
C(2023) 4622 final

ANNEX 2

ANNEX

to the

COMMISSION IMPLEMENTING REGULATION (EU) .../...

on detailed arrangements for the conduct of proceedings by the Commission pursuant to Regulation (EU) 2022/2560 of the European Parliament and of the Council on foreign subsidies distorting the internal market

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ANNEX II
FORM FS-PP RELATING TO THE NOTIFICATION OF FINANCIAL CONTRIBUTIONS IN THE CONTEXT OF PUBLIC PROCUREMENT PROCEDURES PURSUANT TO REGULATION 2022/2560

INTRODUCTION

1. THE PURPOSE OF THE FORM FS-PP

(1) This Form FS-PP specifies the information that must be provided by the notifying party(ies) when submitting a notification or declaration to the Commission of foreign financial contributions in the context of a public procurement procedure covered by the foreign subsidies control system of the Union. The foreign subsidies control system of the Union is laid down in Regulation (EU) 2022/2560 of the European Parliament and of the Council[1] and in Commission Implementing Regulation (EU) [OP: please insert number of regulation] on detailed arrangements for the conduct of proceedings by the Commission pursuant to Regulation (EU) 2022/2560 of the European Parliament and of the Council on foreign subsidies distorting the internal market (the 'Implementing Regulation')[2], to which this Form FS-PP is annexed.

2. DEFINITIONS AND INSTRUCTIONS FOR THE PURPOSES OF THIS FORM FS-PP

(2) For the purposes of this Annex, the following definitions apply:

(a) 'Notifying party(ies)' mean(s), in accordance with Article 29(5) of Regulation (EU) 2022/2560, all the economic operators, groups of economic operators, main subcontractors and main suppliers covered by the notification obligation in line with Article 29(1) of Regulation (EU) 2022/2560;

(b) 'Main contractor', within the meaning of Directives 2014/24/EU and 2014/25/EU, or 'main concessionaire', within the meaning of Directive 2014/23/EU, is the economic operator ensuring the submission of the notification or declaration on behalf of all notifying parties;

(3) Unless otherwise specified, the term 'notifying party(ies)' includes all its subsidiary companies without commercial autonomy and all its holding companies within the meaning of Article 28(1)(b) of Regulation (EU) 2022/2560.

(4) Any financial data requested must be provided in euro at the average exchange rates prevailing for the years or other periods in question.

3. TYPES OF INFORMATION REQUIRED BY THE FORM FS-PP

(5) Where at least one of the notifying parties has received a notifiable foreign financial contribution in line with Articles 28(1) and (2) and Article 29(1) of

[1] OJ L 330, 23.12.2022, p. 1.

[2] [OP: please insert number of regulation].

Regulation (EU) 2022/2560, the notifying party(ies) shall, and shall only, submit a notification. The notification is submitted in one form, based on the elements outlined below.

(6) Conversely, where none of the notifying parties have received a notifiable foreign financial contribution in line with Articles 28(1) and (2) and Article 29(1) of Regulation (EU) 2022/2560, the notifying party(ies) shall, and shall only, submit a declaration. The declaration is submitted in one form, based on the elements outlined below.

(7) The Commission may, on a case-by-case basis, request more detailed information on any of the types of financial contributions included in response to the questions in Section 3 and in Table 1, or on any other foreign financial contributions received by the notifying party(ies). In any case, all foreign financial contribution granted to the notifying party(ies) in the three years prior to the notification must be taken into account for the purposes of determining whether the notification threshold under Article 28(1)(b) of Regulation (EU) 2022/2560 is met, regardless of whether any information is requested about them under Section 3.

(8) The Form FS-PP requires the following information:

(a) NOTIFICATIONS OF FOREIGN FINANCIAL CONTRIBUTIONS

i. In the case of a notification of foreign financial contributions under Chapter 4 of Regulation (EU) 2022/2560, all sections and their respective fields normally need to be filled in, with the exception of Section 7 (Declaration).

ii. Section 1 must contain a summary description of the public procurement procedure.

iii. Section 2 must contain information about the notifying party(ies).

iv. Section 3 must contain detailed information on the foreign financial contribution(s). In particular, pursuant to Section 3, detailed information is requested on each of the foreign financial contributions equal to or in excess of EUR 1 million granted to the notifying parties in the three years prior to the notification that may fall into <u>any of the categories of Article 5(1), points (a) to (c) and (e)</u> of Regulation (EU) 2022/2560. In relation to other foreign financial contributions, the Form FS-PP requires the notifying party(ies) to provide an overview of the various types of financial contributions granted to the notifying party(ies) in accordance with the instructions provided in Table 1.

v. Section 4 may contain an explanation of how the tender is not unduly advantageous.

vi. Section 5 may, if applicable, list and substantiate any possible positive effects of the subsidies on the development of the relevant subsidised economic activity as well as other positive effects in relation to the relevant policy objectives.

vii. Section 6 lists the included supporting documents.

viii. Section 8 must contain a signed attestation that the provided information is true, correct, and complete, and that the notifying party(ies) is/are aware of the provisions on fines.

(b) DECLARATION OF NO NOTIFIABLE FOREIGN FINANCIAL CONTRIBUTIONS:

i. If no notifiable foreign financial contributions have been granted to the notifying party(ies) in the last three years, only Sections 1, 2, and 8 of the Form FS-PP must be filled in, as well as the specific Section 7, while the remaining sections must be left blank.

ii. All of the information requested in the Form FS-PP is without prejudice of the possibility for the Commission to ask for further information in a request for information.

4. INFORMATION THAT IS NOT REASONABLY AVAILABLE

(9) Where specific pieces of information required by this Form FS-PP are not reasonably available to the notifying party(ies) in part or in whole, the notifying party(ies) may request that the Commission dispenses with the obligation to provide the relevant information or with any other requirement in the Form FS-PP related to that information. The request should be submitted in accordance with the instructions in recitals (13)-(15) of this Introduction.

5. INFORMATION THAT IS NOT NECESSARY FOR THE COMMISSION'S EXAMINATION OF THE CASE

(10) Pursuant to Article 5(5) of the Implementing Regulation, the Commission may dispense with the obligation to provide particular information in the notification, including documents, or with any other requirements in the Form FS-PP related to this information, where the Commission considers that compliance with those obligations or requirements is not necessary for its examination of the case.

(11) The notifying party(ies) may request that the Commission dispenses with the obligation to provide the relevant information or with any other requirement in the Form FS-PP related to this information. This request should be submitted in accordance with the instructions for waiver requests laid down under recitals (13)-(15) of the Introduction of this Form FS-PP.

6. PRE-NOTIFICATION CONTACTS AND WAIVER REQUESTS

(12) The notifying party(ies) is/are encouraged to engage in pre-notification discussions in sufficient time prior to the notification, preferably on the basis of a draft Form FS-PP. The possibility to engage in pre-notification contacts is a service offered by the Commission to the notifying party(ies) on a voluntary basis, in order to prepare the preliminary review of foreign subsidies in the context of a published public procurement. As such, while not mandatory, pre-notification contacts can be valuable to both the notifying party(ies) and the Commission in determining, among other things, the precise amount of information required in a notification, in particular as regards the information to be provided under Section 3 and in Table 1, and to ensure that the notification is complete. Moreover, pre-notification contacts may result in a significant reduction of the information required. Where there is more than one notifying party (as a single economic operator) or group of notifying parties (as members of the same consortium), with each notifying party or group aiming to submit a different tender in the same

public procurement procedure, the pre-notification discussions must be held with each notifying party or groups thereof separately and in full confidentiality, to ensure fair competition in the public procurement procedure at stake.

(13) In the course of pre-notification contacts, the notifying party(ies) may request waivers to submit certain information required by this form. The Commission will consider waiver requests, provided that one of the following conditions is fulfilled:

(a) The notifying party(ies) give(s) adequate reasons why the relevant information is not reasonably available. Where appropriate and to the extent possible, the notifying party(ies) should provide best estimates for the missing data, identifying the sources for these estimates or indicate where any of the requested information that is unavailable to the notifying party(ies) could be obtained from by the Commission.

(b) The notifying party(ies) give(s) adequate reasons why the relevant information is not necessary for the examination of the case.

(14) Waiver requests should be made during pre-notification in writing, preferably in the draft Notification itself (at the beginning of the relevant section or sub-section). The Commission will deal with waiver requests during pre-notification in the context of the review of the draft notification.

(15) The fact that the Commission may have accepted that any particular information requested by this Form FS-PP may be omitted from a notification, does not in any way prevent the Commission from requesting that information at any time during the proceedings, in particular through a request for information pursuant to Article 13 of Regulation (EU) 2022/2560.

7. THE REQUIREMENT FOR A CORRECT AND COMPLETE NOTIFICATION OR DECLARATION

(16) The information requested in Sections 1-3, 6 and 8 must be provided in the case of a notification of foreign financial contributions and is therefore a requirement for a complete notification. All the required information must be supplied in the appropriate sections of the Form FS-PP and it must be correct and complete.

(17) In the case of a declaration that no notifiable foreign financial contributions were received, the information requested in Sections 1, 2, 7 and 8 must be provided, and is therefore a requirement for a complete declaration. All the required information must be supplied in the appropriate section of the Form FS-PP and it must be correct and complete.

(18) In particular it should be noted that:

(a) The time period of 20 working days laid down in Article 30, paragraphs (2) and (6) of Regulation (EU) 2022/2560 shall begin on the working day following that of the receipt of the complete notification. This is to ensure that the Commission is able to assess the notified foreign financial contributions within the strict time limits laid down in Regulation (EU) 2022/2560.

(b) The notifying party(ies) must verify, in the course of preparing their notification, that contact names and numbers, and in particular e-mail

addresses, provided to the Commission are accurate, relevant and up-to-date.

(c) A declaration may be submitted only where all of the notifying partyies are declaring that no notifiable foreign financial contributions in the last three years have been granted to them. Where at least one of the notifying partyies has been granted notifiable foreign financial contributions, the submission shall be considered a notification for the purposes of this Implementing Regulation.

(d) Requested contact details of the notifying parties must be provided in the format prescribed by the Commission's Directorate General for Internal market, industry, entrepreneurship and SMEs (DG GROW) on its website[3]. For a proper review process, it is essential that the contact details are accurate. To this end, email addresses provided should not be personalised and attributed to specific contact persons, rather functional company mailboxes of the team in charge of notification should be used. The Commission may declare the notification incomplete on the basis of inappropriate contact details.

(e) Supporting documentation under Section 6 must be provided together with a summary table following the format prescribed by DG GROW on its website.

(f) In accordance with Article 7(4) of the Implementing Regulation, incorrect or misleading information in, or provided together with, the notification will be considered as rendering the notification incomplete for the purposes of determining the effective date of notification.

(g) Under Article 29(4) of Regulation (EU) 2022/2560, where a notification accompanying a tender or request to participate remains incomplete despite a request made by the Commission to complete it, the Commission should adopt a decision requesting the contracting authority or contracting entity to adopt a decision rejecting such an irregular tender or request to participate.

(h) Under Article 33(2) of Regulation (EU) 2022/2560, the economic operators concerned who, either intentionally or negligently, provides incorrect or misleading information, may be liable to fines of up to 1 % of their aggregate turnover. In addition, pursuant to Article 18(1)(b) of Regulation (EU) 2022/2560, the Commission may revoke its decision where it was based on incomplete, incorrect or misleading information.

8. HOW TO NOTIFY?

(19) Notifications shall be submitted in one of the official languages of the Union. The names of the notifying parties shall also be submitted in their original language. The information required by this Form FS-PP must be set out using the sections and sub-sections and, where relevant, annexing supporting documentation. The notification submitted must include an attestation as provided in Section 8. Where

[3] Please see: https://single-market-economy.ec.europa.eu/single-market/public-procurement/foreign-subsidies-regulation and follow the instructions there.

information provided in two different sections partly (or wholly) overlaps, cross-references may be used.

(20) The notification must be signed by persons authorised by law to act on behalf of each notifying party or by one or more of the notifying party's(ies') authorised representatives. The corresponding power(s) of attorney (or written proof that they are authorised to act) must be attached to the notification. Technical specifications and instructions regarding notifications can be found on the website of the Commission's Directorate General for Internal market, industry, entrepreneurship and SMEs.

(21) In completing Section 3 of this Form FS-PP, the notifying party(ies) is/are invited to consider whether, for purposes of clarity, the information in that section is best presented in numerical order, or whether the information can be grouped together for each individual foreign financial contribution (or group of foreign financial contributions).

(22) For the sake of clarity, certain information may be put in annexes. However, it is essential that all key substantive pieces of information are presented in the body of the notification. Any annexes submitted must only be used to supplement the information supplied in the main body of the notification itself and it must be clearly indicated in the body where supplemental information is provided in an annex.

(23) Supporting documents are to be submitted in their original language; where this is not an official language of the Union, a translation into the language of the proceeding shall be attached (Article 5(4) of the Implementing Regulation).

9. CONFIDENTIALITY AND PERSONAL DATA

(24) Article 339 of the Treaty on the Functioning of the European Union and Article ('TFEU') 43(2) of Regulation (EU) 2022/2560 require that the Commission, its officials and other servants do not disclose information covered by the obligation of professional secrecy that they have acquired through the application of the Regulation. The same principle must also apply to protect confidentiality between notifying parties.

(25) If the notifying party(ies) believe(s) that their interests would be harmed if any of the information they are asked to supply were to be published or otherwise disclosed to other parties, including the other economic operators they submit the notification with and the relevant contracting authority or contracting entity, they should submit this information to the relevant contracting authority or contracting entity separately with each page clearly marked 'Confidential'. For this purpose, a separate encrypted archive of documents may be submitted and the key provided to the Commission separately. The notifying parties should also give reasons why this information should not be disclosed or published.

(26) In cases where the notification is completed by more than one notifying party, business secrets may be submitted under separate cover, and referred to in the notification as an annex. In order for a notification to be considered complete, all such annexes must be included in the notification.

(27) Any personal data submitted in or with a notification will be processed in compliance with Regulation (EU) 2018/1725 of the European Parliament and of the Council.[4]

1. SECTION 1: Description of the public procurement

1.1. Provide a link to the published document calling for competition in this procedure on Tenders Electronic Daily (TED) as well as any other platforms, and a summary of the public procurement procedure

1.2. Where the European Single Procurement Document (ESPD) is used by the notifying party(ies), the obligation to provide a summary of the public procurement procedure should be fulfilled by a filled-in Part I of Annex 2 of Commission Implementing Regulation (EU) 2016/7[5].

1.3. Where the notifying party(ies) submit(s) their information through the ESPD, Section 1 of this Form FS-PP should be directly imported from the ESPD into the Form FS-PP using a digital service provided by the Commission. In the absence of such a service, the contracting authority or contracting entity should forward to the Commission the notification along with the filled-in Part I of Annex 2 of the ESPD.

1.4. Where the notifying party(ies) do(es) not submit their information through the ESPD, this section must be filled in with the information required in Part I of Annex 2 of the ESPD.

1.5. Where the notifying party(ies) submit(s) their information through the ESPD only partially, the missing elements from Part I of Annex 2 of the ESPD part must be provided in this section.

2. SECTION 2: Information about the notifying party(ies)

2.1. Where the ESPD is used by the notifying party(ies), the obligation to provide information about the notifying party(ies) can be fulfilled by providing Part II of Annex 2 of Implementing Regulation (EU) 2016/7 of 5 January 2016 establishing the standard form for the ESPD. The ESPD is filled in for all the economic operators participating in the tender or requests to participate as well as subcontractors whose capacities are relied upon for fulfilling the selection criteria. Subcontractors that are not 'main subcontractors' in the meaning of Article 29(5) of Regulation (EU) 2022/2560 do not have to fill in this section of the form. Subcontractors that are 'main subcontractors' in the meaning of Article 29(5) of Regulation (EU) 2022/2560 of the European Parliament and of the Council, but the capacities of which are not relied on in line with Article 63 of Directive 2014/24/EU or Article 79 of Directive 2014/25/EU, have to fill in this section manually.

2.2. Where the notifying party(ies) submit(s) their information through the ESPD, this part of the Form FS-PP shall be directly imported from the ESPD into this Form FS-PP using a digital service provided by the Commission. In the absence of such a service, the contracting authority or contracting entity must forward to the

[4] OJ L 295, 21.11.2018, p. 39. See also a privacy statement relating to competition investigations at https://ec.europa.eu/competition-policy/index/privacy-policy-competition-investigations_en.

[5] Commission Implementing Regulation (EU) 2016/7 of 5 January 2016 establishing the standard form for the European Single Procurement Document (OJ L 3, 6.1.2016, p. 16).

Commission this notification along with the filled-in Part II of Annex 2 of the submitted ESPD.

2.3. Where the notifying party(ies) do(es) not submit their information through the ESPD, this section must be filled in with the information required in Part II of Annex 2 of the ESPD.

2.4. Where the notifying party(ies) submit(s) their information through the ESPD only partially, the missing elements from Part II of Annex 2 of the ESPD part must be provided in this section.

2.5. Please introduce your e-mail address or unique identifier used for the EU Login account which will serve for communication.

3. SECTION 3: Foreign financial contributions

3.1. The assessment of whether there is a distortion caused by foreign subsidies in a public procurement procedure is done by assessing the indicators of distortion[6] and whether the tender is unduly advantageous in relation to the works, supplies or services concerned[7]. In this Section, the notifying party(ies) should only report foreign financial contributions falling into the scope of of Article 5(1), points (a) to (c) and (e) of Regulation (EU) 2022/2560, which are amongst the most likely to distort the internal market. For foreign financial contributions not falling into these categories, please refer to point 3.3. of this Section and Table 1. For public procurement procedures meeting the thresholds in Articles 28(1)(a) and 28(2) of Regulation (EU) 2022/2560, in which foreign financial contributions notifiable in line with Article 28(1)(b) of Regulation (EU) 2022/2560, have been granted to the notifying party(ies) in the three years prior to the notification, please indicate whether each of the notifying partyies have been individually granted[8] foreign financial contributions equal to or in excess of EUR 1 million in the three years prior to the notification that may fall into any of the categories of Article 5(1), points (a) to (c) and (e) of Regulation (EU) 2022/2560:

3.1.1. In order to allow to determine whether a foreign financial contribution has been granted to an undertaking that was ailing within the meaning of Article 5(1)(a) of Regulation (EU) 2022/2560, please indicate whether any of the following conditions were met at any point of time in the three years prior to the notification:

3.1.1.1. Is the notifying party a limited liability company, where more than half of its subscribed share capital has disappeared as a result of accumulated losses?

☐ yes ☐ no

3.1.1.2. Is the notifying party a company where at least some members have unlimited liability for the debt of the company, and where more than half of its capital as

[6] Article 4 of Regulation (EU) 2022/2560

[7] Article 27 of Regulation (EU) 2022/2560

[8] A financial contribution should be considered granted from the moment the beneficiary obtains a legal entitlement to receive the financial contribution. The actual disbursement of the financial contribution is not a necessary condition for bringing a financial contribution within the scope of Regulation (EU) 2022/2560.

shown in the company accounts has disappeared as a result of accumulated losses?

☐ yes ☐ no

3.1.1.3. Is the notifying party subject to collective insolvency proceedings or does it fulfil the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors?

☐ yes ☐ no

3.1.1.4. In the case the notifying party in question is not an SME[9]:

3.1.1.4.1. has the notifying party's book debt to equity ratio been greater than 7.5 for the past two years

and

3.1.1.4.2. has the notifying party's EBITDA interest coverage[10] ratio been below 1.0 for the past two years?

☐ yes ☐ no

3.1.1.5. If the reply to any of the questions in sections 3.1.1.1 to 3.1.1.4 was 'yes' in relation to any of the notifying partyies, please indicate whether during the period in which the undertaking in question was ailing, it received any foreign financial contributions that may have contributed to restore its long-term viability (including any temporary liquidity assistance designed to support that restoration of viability) or to keep that party afloat for the short time needed to work out a restructuring or liquidation plan.

Notifying party(ies) ☐ yes ☐ no

3.1.1.6. If the reply to any of the questions in sections 3.1.1.1 to 3.1.1.4 was 'yes' in relation to any of the notifying parties, indicate if there is a restructuring plan capable of leading to the long-term viability of that party and if this restructuring plan includes a significant own contribution by the notifying party and provide details of that plan.

3.1.1.7. If the reply to any of the questions in points 3.1.1.1 to 3.1.1.4 was 'yes', please substantiate the answer, including references in the answer to the supporting evidence or documents that are to be provided in annexes (such documents may include, but are not limited to, the notifying party's latest profit and loss account statements with balance sheets, or court decision opening collective insolvency proceedings on the company or documents providing evidence that the criteria for

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9 Small and medium-sized enterprises or SMEs are defined in Annex I of 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).

10 Earnings before interest, tax, depreciation and amortisation. This ratio is calculated as EBITDA / Interest payments

being placed under insolvency proceedings at the request of creditors under national company law are met, etc.).

3.1.2. A foreign financial contribution in the form of an unlimited guarantee for the debts or liabilities of the undertaking, namely without any limitation as to the amount or the duration of such guarantee (Article 5(1)(b)).

☐ yes ☐ no

3.1.3. An export financing measure that is not in line with the OECD Arrangement on officially supported export credits (Article 5(1)(c)).

☐ yes ☐ no

3.1.4. A foreign financial contribution enabling an undertaking to submit an unduly advantageous tender on the basis of which the undertaking could be awarded the relevant contract (Article 5(1)(e)).

☐ yes ☐ no

3.2. For each foreign financial contribution equal to or in excess of EUR 1 million granted to the notifying parties in the three years prior to the notification that may fall into any of the categories of Article 5(1), points (a) to (c) and (e) of Regulation (EU) 2022/2560, provide the following information and provide supporting documents:

3.2.1. Form of the financial contribution (e.g. loan, tax exemption, capital injection, fiscal incentive, contributions in kind, etc.).

3.2.2. Third country granting the financial contribution. Specify also the granting public authority or entity.

3.2.3. Amount of each financial contribution.

3.2.4. Purpose and economic rationale for granting the financial contribution to the party

3.2.5. Whether there are any conditions attached to the financial contributions as well as its use.

3.2.6. Describe the main elements and characteristics of those financial contributions (e.g. interest rates and duration in the case of a loan).

3.2.7. Explain whether the financial contribution confers a benefit within the meaning of Article 3 of Regulation (EU) 2022/2560 to the undertaking to which the foreign financial contribution has been granted. Please explain why, with reference to the supporting documents provided under Section 6.

3.2.8. Explain whether the financial contribution is limited in law or in fact, within the meaning of Article 3 of Regulation (EU) 2022/2560, to certain undertakings or industries[11]. Please explain why, with reference to the supporting documents provided under Section 6.

[11] The benefit should be conferred on one or more undertakings or industries. The specificity of the foreign subsidy could be established by law or in fact.

3.2.9. Explain if the financial contribution is granted only for operating costs[12] exclusively linked with the public procurement at stake.

3.3. Provide an overview of the foreign financial contributions equal to or in excess of EUR 1 million granted to the notifying parties in the three years prior to the notification that do not fall into any of the categories of Article 5(1), points (a) to (e) of Regulation (EU) 2022/2560 following the template and instructions provided in Table 1.

4. SECTION 4: Justification for absence of unduly advantageous tender

4.1. For any of the foreign financial contributions enabling an undertaking to submit an unduly advantageous tender on the basis of which the undertaking could be awarded the relevant contract (Article 5(1)(e) of Regulation (EU) 2022/2560), are there any elements which can be adduced to demonstrate that the tender is not unduly advantageous directly or indirectly due to the financial contribution(s) received, including the elements referred to in Article 69(2) of Directive 2014/24/EU or Article 84(2) of Directive 2014/25/EU?

4.2. The elements may in particular refer to:

4.2.1. *the economics of the manufacturing process, of the services provided or of the construction method*;

4.2.2. *the technical solutions chosen or any exceptionally favourable conditions available to the tenderer for the supply of the products or services or for the execution of the work*;

4.2.3. *the originality of the work, supplies or services proposed by the tenderer*;

4.2.4. *compliance with applicable obligations in the fields of environmental, social and labour law*;

4.2.5. *compliance with obligations regarding subcontracting*.

5. SECTION 5: Possible positive effects

5.1. If applicable, list and substantiate any possible positive effects on the development of the relevant subsidised economic activity on the internal market. Please also list and substantiate any other positive effects of the foreign subsidies, such as broader positive effects in relation to the relevant policy objectives, in particular those of the Union, and specify when and where those effects have or are expected to take place. Please provide a description of each of those positive effects.

6. SECTION 6: Supporting documentation

Please provide the following for each notifying party:

6.1. Copies of all the supporting official documents relating to the financial contributions that may fall into any of the categories of Article 5(1), points (a) to (c) and (e) of Regulation (EU) 2022/2560 pursuant to Section 3.1.

[12] For instance personnel costs, materials, energy, maintenance, rent, administration.

6.2. Copies of the following documents prepared by or for or received by any member of the board of management, the board of directors or the supervisory board: analyses, reports, studies surveys, presentations and any comparable documents discussing the purpose, use and economic rationale of the foreign financial contributions that may fall into any of the categories of Article 5(1), points (a) to (c) and (e) of Regulation (EU) 2022/2560. Provide the same documents prepared by or for or received by the entity granting the foreign financial contribution to the extent that they are in your possession or that they are publicly available.

6.3. An indication of the internet address, if any, at which the most recent annual accounts or reports of the notifying party(ies) are available, or if no such internet address exists, copies of the most recent annual accounts and reports.

6.4. Where the notifying party(ies) provide(s) justifications of the absence of an undue advantage of the tender by filling in Section 4 of this form, they also need to provide documentation for the period covering the three years preceding the notification, substantiating the adduced elements. Such documentation may include inter alia, as relevant:

a. tax declarations for the period under review, including copies of company tax returns and VAT returns,

b. business plans and market research underlying the decision to participate in the public procurement procedure.

7. SECTION 7: Declaration

7.1. In line with the Introduction, recital 6, for public procurement procedures meeting the thresholds in Articles 28(1)(a) and 28(2) of Regulation (EU) 2022/2560, in which no foreign financial contributions, notifiable in line with Article 28(1)(b) of Regulation (EU) 2022/2560, have been granted to the notifying party(ies) in the last three years, Sections 1, 2 and 8 of this Form must be filled out, as well as this Section, containing the following statement:

'None of the notifying parties have received foreign financial contributions notifiable under Chapter 4 of Regulation (EU) 2022/2560.'

7.2. In accordance with the obligation in Article 29(1) of Regulation (EU) 2022/2560, the notifying party(ies) must list all foreign financial contributions received. This obligation covers all foreign financial contributions non-notifiable in accordance with Article 28(1), point (b), of Regulation (EU) 2022/2560 received in the last three years preceding the declaration.

7.3. However, non-notifiable foreign financial contributions, which are of a value below EUR 1 million but above the value indicated in Section 7.4 below in the last three years preceding the declaration can be declared as aggregate without indicating their values, using Table 2. When requested by the Commission, such foreign financial contributions must be reported individually.

7.4. In line with Article 4(3) of Regulation (EU) 2022/2560, foreign financial contributions of which the total amount per third country is lower than the amount of de minimis aid as defined in Article 3(2), first subparagraph, of Regulation (EU) No 1407/2013 over the consecutive period of three years preceding the declaration do not have to be reported in the declaration.

8. SECTION 8: Attestation

8.1. The notification must conclude with the following attestation which is to be signed by each notifying party:

8.2. '*The notifying party(ies) confirm(s) that, to the best of their knowledge and belief, the information given in this notification or declaration and is true, correct, and complete, that true and complete copies of documents required by this Form FS-PP have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere*.

8.3. *They are aware of the provisions of Article 33 of Regulation (EU) 2022/2560 concerning fines and periodic penalty payments*.'

Date:

[signatory 1] Name: Organisation: Position: Address: Phone number: E-mail: ['e-signed' / signature]	[signatory 2 if applicable, repeat as many times as there are notifying parties] Name: Organisation: Position: Address: Phone number: E-mail: ['e-signed' / signature]

Table 1

Instructions to provide information concerning foreign financial contributions that do not fall into any of the categories of Article 5(1), points (a) to (e) (Section 3.3)

1. This Table is used to provide an overview of the foreign financial contributions equal to or in excess of EUR 1 million granted by each third country to the notifying parties in the three years prior to the notification and that do ***not*** fall into any of the categories of Article 5(1), points (a) to (e) of Regulation (EU) 2022/2560 following the template and instructions below. Point A clarifies which information needs to be included in the table, and Point B clarifies which information is not to be included.

A. Information to be included in the Table

2. Group the different financial contributions per third country and ***per type***, such as direct grant, loan/financing instrument/repayable advances, tax advantage, guarantee, risk capital instrument, equity intervention, debt write-off, contributions provided for the non-economic activities of an undertaking (see recital 16 of Regulation (EU) 2022/2560), or other.

3. Include only those countries where the estimated aggregate amount of all financial contributions per country granted in the three years prior to the notification (calculated according to point 5) is EUR 4 million or more.

4. For each type of financial contribution, provide a brief description of the purpose of the financial contributions and the granting entities.

5. Quantify the estimated aggregate amount of financial contributions granted ***by each third country*** in the three years prior to the notification in the form of ***ranges***, as specified in the notes to the Table below. For the calculation of this amount**,** the following considerations are relevant:

(a) Take into account foreign financial contributions falling into the categories of Article 5(1) of Regulation (EU) 2022/2560 and on which information has been provided under Sections 3.1 and 3.2.

(b) Do ***not*** take into account foreign financial contributions excluded according to points 6 and 7 below.

B. Exceptions

6. You do ***not*** need to include in the Table a description of the following foreign financial contributions:

(a) Deferrals of payment of taxes and/or of social security contributions, tax amnesties and tax holidays as well as normal depreciation and loss-carry forward rules that are of general application. If these measures are limited, for example, to certain sectors, regions or (types of) undertakings, they have to be included.

(b) Application of tax reliefs for avoidance of double taxation in line with the provisions of bilateral or multilateral agreements for avoidance of double taxation as well as unilateral tax reliefs for avoidance of double taxation applied under national tax legislation to the extent they follow the same logic as the provisions of bilateral or multilateral agreements.

(c) Provision/purchase of goods/services (except financial services) at market terms in the ordinary course of business, for example the provision/purchase of goods or

services carried out following a competitive, transparent and non-discriminatory tender procedure.

(d) Foreign financial contributions below the individual amount of EUR 1 million.

Third-country	**Type of financial contribution***	**Brief description of the purpose of the financial contribution and the granting entity****
Country A	*Type 1*	
	Type 2	
	Type 3	
	Type 4	
	...	
Total estimated financial contributions granted by A: EUR […]***		
Country B	*Type 1*	
	Type 2	
	Type 3	
	Type 4	
	...	
Total estimated financial contributions granted by B: EUR […]***		
Country C		
…		

Note: please provide a separate table for each of the notifying parties. Third countries and, where possible, types of contributions, should be ordered by total amount of foreign financial contribution, from the highest to the lowest.

(*) Identify the financial contributions grouping them by type: such as direct grant, loan/financing instrument/repayable advances, tax advantage, guarantee, risk capital instrument, equity intervention, debt write-off, contributions provided for the non-economic activities of an undertaking (see recital 16 of Regulation 2022/2560), or other.

(**) General description of the purpose of the financial contributions included in each type and of the granting entity(ies). For instance, '*tax exemption for the production of product A and R&D activities*', '*several loans with State-owned banks for purpose X*', '*several financing measures with State investment agencies to cover operating expenses / for R&D activities*', '*public capital injection in Company X*'.

(***) Use the following ranges: '*EUR 45-100 million*", "*EUR >100-500 million*", "*EUR >500-1 000 million*", "*more than EUR 1 000 million*".

C. Further information

7. The foreign financial contributions that may be relevant for the assessment of each public procurement may depend on a number of factors such as the sectors or activities involved, the type of financial contributions or other specificities of the

case. In light of these specificities, the Commission may request additional information where it considers such information necessary for its assessment.

Table 2

For reporting of foreign financial contributions which are of a value below EUR 1 million and above the value indicated in Section 7.4

Third-country	Brief description of the financial contributions
Country A	
Country B	
Country C	
…	