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ANNEX 1

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

Table of Contents

1. The purpose of the Form FS-CO 2
2. Types of information required by the Form FS-CO 2
3. Information that is not reasonably available 3
4. Information that is not necessary for the Commission's examination of the case 3
5. Pre-notification contacts and waiver requests 4
6. The requirement for a correct and complete notification 4
7. How to notify 5
8. Confidentiality and Personal Data 6
9. Definitions and instructions for the purposes of this Form FS-CO 6
1. SECTION 1: Description of the concentration 8
2. SECTION 2: Information about the parties 9
3. SECTION 3: Details of the concentration, ownership and control 10
4. SECTION 4: Notification thresholds 12
5. SECTION 5: Foreign financial contributions 13
6. SECTION 6: Impact on the internal market of the foreign financial contributions in the concentration 17
7. SECTION 7: Possible positive effects 19
8. SECTION 8: Supporting documentation 20
9. SECTION 9: Attestation 21

ANNEX I

FORM FS-CO RELATING TO THE NOTIFICATION OF A CONCENTRATION PURSUANT TO REGULATION (EU) 2022/2560

INTRODUCTION

1. THE PURPOSE OF THE FORM FS-CO

1. This Form FS-CO specifies the information that must be provided by the notifying party(ies) when submitting a notification to the Commission of a proposed concentration in the context of 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-CO is annexed.

2. TYPES OF INFORMATION REQUIRED BY THE FORM FS-CO

2. The Form FS-CO requires the following information:

   (a) Basic information which is in principle necessary for the assessment of all concentrations (Sections 1-4).

   (b) Information on foreign financial contributions received by the parties pursuant to Article 20(3), point (b) of Regulation (EU) 2022/2560 (Section 5). In particular, pursuant to Section 5 of the Form FS-CO, detailed information is requested on each of the foreign financial contributions equal to or in excess of EUR 1 million granted to the parties to the concentration in the three years prior to the conclusion of the agreement, the announcement of the public bid or the acquisition of a controlling interest that may fall into <u>any of the categories of Article 5(1), points (a) to (d)</u> of Regulation (EU) 2022/2560. In relation to other foreign financial contributions, the Form FS-CO requires an overview of the various types of financial contributions equal to or in excess of EUR 1 million granted to the notifying party(ies) in the three years prior to the conclusion of the agreement, the announcement of the public bid or the acquisition of a controlling interest in accordance with the instructions provided in Table 1. 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 5 and in Table 1, or on any other foreign financial contributions received by the party(ies) to the concentration. In any case, all foreign financial contributions granted to the parties to the concentration in the three years prior to the conclusion of the agreement, the announcement of the public bid or the acquisition of a

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

[2] [OP: please insert OJ reference].

controlling interest must be taken into account for the purposes of determining whether the notification threshold under Article 20(3)(b) of Regulation (EU) 2022/2560 is met, regardless of whether any information is requested about them under Section 5.

(c) Information necessary for assessing whether the foreign financial contributions in the concentration may distort the internal market within the meaning of Articles 4 or 5 of Regulation (EU) 2022/2560 (both in relation to the acquisition process as well as the activities that the parties to the concentration will carry out) (Section 6).

(d) Information on possible positive effects of the foreign subsidies (Section 7).

(e) Supporting documentation (Section 8).

3. The information required in Sections 1-6 and Section 8 must in principle be provided in order for a notification to be considered complete. By contrast, it is for the notifying party(ies) to decide whether to provide the information required under Section 7, which deals with information on possible positive effects of the foreign subsidies on the development of the relevant subsidised economic activity on the internal market as well as other positive effects in relation to the relevant policy objectives.

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

3. INFORMATION THAT IS NOT REASONABLY AVAILABLE

5. Where specific pieces of information required by this Form FS-CO 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-CO related to that information. The request should be submitted in accordance with the instructions in recitals 9 - 11 of this Introduction.

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

6. Pursuant to Article 4(4) 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-CO related to this information, where the Commission considers that compliance with those obligations or requirements is not necessary for its examination of the case.

7. 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-CO related to this information. This request should be submitted in accordance with the instructions for waiver requests laid down in recitals 9 – 11 of this Introduction.

5. PRE-NOTIFICATION CONTACTS AND WAIVER REQUESTS

8. The notifying party(ies) is encouraged to engage in pre-notification discussions in sufficient time prior to the notification, preferably on the basis of a draft notification. 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 a foreign subsidy in the context of a concentration. As such, while not mandatory, pre-notification contacts can be extremely 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 5 and in Table 1, and to ensure that the notification is complete. Moreover, pre-notification contacts may result in a reduction in the information required.

9. 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) gives 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 could be obtained by the Commission.

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

10. 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.

11. The fact that the Commission may have accepted that particular information requested by this Form FS-CO 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.

6. THE REQUIREMENT FOR A CORRECT AND COMPLETE NOTIFICATION

12. As explained in recitals 2 – 4 of this Introduction, the information requested in Sections 1-6 and Section 8 must in principle be provided in all cases for the notification to be considered complete. All the required information must be provided in the appropriate sections and must be correct and complete.

13. In particular, the following should be noted:

   (a) The time period of 25 working days laid down in Article 24(1), points (a) and (b) 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 concentration within the strict time limits laid down in Regulation (EU) 2022/2560.

(b) The notifying party(ies) should verify, in the course of preparing the notification, that contact names and numbers, and in particular e-mail addresses, provided to the Commission are accurate, relevant and up-to-date.

(c) Requested contact details must be provided in the format prescribed by the Commission's Directorate General for Competition ('DG Competition') on its website. For a proper investigatory process, it is essential that the contact details are accurate. To this end, email addresses provided must be personalised and attributed to specific contact persons and consequently, general company mailboxes (e.g., info@, hello@) must be avoided. The Commission may declare the notification incomplete on the basis of inappropriate contact details.

(d) Supporting documentation under Section 8 must be provided together with a summary table following the format prescribed by DG Competition on its website.

(e) In accordance with Article 6(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.

(f) Under Article 26(2) of Regulation (EU) 2022/2560, the undertaking 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 on a concentration where it was based on incomplete, incorrect or misleading information.

7. HOW TO NOTIFY

14. 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-CO must be set out using the sections and sub-sections and, where relevant, annexing supporting documentation. The notification submitted must include a signed attestation as provided in Section 9. Where information provided in two different sections partly (or wholly) overlaps, cross-references may be used.

15. 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 (including signatures) can be found on DG Competition's website.

16. In completing Sections 5, 6 and 7 of this Form FS-CO, the notifying party(ies) is invited to consider whether, in the interest of clarity, those sections are best presented in numerical order, or whether they can be grouped together for each individual foreign financial contribution (or group of foreign financial contributions).

17. 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.

18. 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 4(3) of the Implementing Regulation).

8. CONFIDENTIALITY AND PERSONAL DATA

19. Article 339 of the Treaty on the Functioning of the European Union ('TFEU') and Article 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 Regulation (EU) 2022/2560. The same principle must also apply to protect confidentiality between notifying parties.

20. If the notifying party(ies) believe 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, they should submit this information separately with each page clearly marked 'Confidential'. The notifying party(ies) should also give reasons why this information should not be disclosed or published.

21. In the case of mergers or acquisitions of joint control, or in other cases where the notification is completed by more than one 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.

22. 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.[3]

9. DEFINITIONS AND INSTRUCTIONS FOR THE PURPOSES OF THIS FORM FS-CO

23. For the purposes of this Annex, the following definitions apply:

    (a) 'Notifying party(ies)': in accordance with Article 21(3) of Regulation (EU) 2022/2560, in the case of a merger, this term refers to all the parties to the merger or, in the case of an acquisition of control, to all the undertakings or persons acquiring sole or joint control of the whole or parts of one or more undertakings.

    (b) 'Target(s)': refers to all undertakings or parts of an undertaking in which a controlling interest is being acquired (including a joint venture) or which is the subject of a public bid. This term does not include the seller(s).

[3] 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.

(c) ‘Party/parties to the concentration’: the notifying party(ies) as defined in (a) and the target as defined in (b).

24. Unless otherwise specified:

(a) The term ‘notifying party(ies)’ includes, (i) all the undertakings that are solely or jointly, directly or indirectly, controlled by the ‘notifying party(ies)’ in accordance with Article 20(5) and 20(6) of Regulation (EU) 2022/2560, (ii) all the undertakings or persons that solely or jointly, directly or indirectly, control the ‘notifying party(ies)’, and (iii) the undertakings controlled by the undertakings referred in point (ii).

(b) The term ‘target(s)’ includes all the undertakings that are solely or jointly, directly or indirectly controlled by the ‘target(s)’ in accordance with Article 20(5) and 20(6) of Regulation (EU) 2022/2560. Conversely, this term does not include undertakings and persons that will no longer control, solely or jointly, directly or indirectly, the ‘target(s)’ once the concentration has been implemented (e.g. the sellers in the case of an acquisition of control).

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

1. SECTION 1: DESCRIPTION OF THE CONCENTRATION

1.1. Provide an executive summary of the concentration, specifying the parties to the concentration, the acquisition process (e.g. whether the notifying party(ies) was (were) selected following a competitive process), the nature of the concentration (e.g. merger, acquisition of joint or sole control, or creation of a joint venture), the strategic and economic rationale of the concentration, and the activities of the parties to the concentration.

2. SECTION 2: INFORMATION ABOUT THE PARTIES

2.1. Information on the parties to the concentration.

For each party to the concentration provide:

2.1.1. the name of the undertaking (the name of the undertaking shall also be submitted in its original language);

2.1.2. its role in the concentration (merging party/acquiring party/target/newly created joint venture);

2.1.3. the name, address, telephone number and e-mail address of, and position held by, the appropriate contact person; the address given must be an address for service to which documents and, in particular, Commission decisions and other procedural documents may be notified, and the contact person given must be deemed to be authorised to accept service;

2.1.4. if one or more authorised external representatives of the undertaking are appointed, the representative or representatives to which documents and, in particular, Commission decisions and other procedural documents may be notified:

2.1.4.1. the name, address, telephone number and e-mail address of, and position held by, each representative; and

2.1.4.2. the written proof that each representative is authorised to act for the party to the concentration in question (based on the model Power of Attorney available on DG Competition's website).

2.2. Nature of each party's business.

For each party to the concentration, describe the nature of the undertaking's business.

3. SECTION 3: DETAILS OF THE CONCENTRATION, OWNERSHIP AND CONTROL

The information sought in this section may be illustrated by the use of organisation charts or diagrams to show the structure of ownership and control of the parties to the concentration before and after completion of the concentration.

3.1. Describe the nature of the concentration being notified by reference to the relevant criteria of Regulation (EU) 2022/2560:

3.1.1 Identify the undertakings or persons that ultimately solely or jointly control the notifying party(ies), directly or indirectly, and describe the structure of ownership and control of the parties to the concentration before the completion of the concentration.

3.1.2 Explain whether the proposed concentration is:

(i) a merger within the meaning of Article 20(1), point (a) of Regulation (EU) 2022/2560;

(ii) an acquisition of sole or joint control within the meaning of Article 20(1), point (b) of Regulation (EU) 2022/2560; or

(iii) the creation of a joint venture within the meaning of Article 20(2) of Regulation (EU) 2022/2560.

3.1.3 Explain how the concentration will be implemented (for example by conclusion of an agreement, by the launch of a public bid, etc.).

3.1.4 By reference to Article 21 of Regulation (EU) 2022/2560 explain which of the following have taken place at the time of notification:

(i) An agreement has been concluded.

(ii) A controlling interest has been acquired.

(iii) A public bid or the intention to launch a public bid has been announced; or

(iv) The notifying party(ies) and the sellers (as the case may be) have demonstrated a good faith intention to conclude an agreement.

3.1.5 Indicate the expected date of any major events designed to bring about the completion of the concentration.

3.1.6 Explain the structure of ownership and control of the target or the undertaking resulting from the concentration.

3.2. Describe the economic rationale of the concentration.

3.3. State the value of the transaction (the purchase price or the value of all the assets involved, as applicable); specify whether this is paid in the form of equity, cash, or other assets. Also indicate the enterprise value of the target and explain how this enterprise value has been calculated[4].

3.4. List all the sources of finance (debt, equity, cash, assets, etc.) used to fund the transaction.

3.5. If all or part of the acquisition is financed through debt:

3.5.1. indicate the lender for each debt instrument;

3.5.2. indicate all guarantees and collateral associated to each debt instrument.

3.6. If all or part of the acquisition is financed through equity:

3.6.1. indicate the identity of the undertakings subscribing/purchasing the shares;

3.6.2. indicate any conditions attached to the equity financing.

3.7. Confirm whether the notifying party(ies) has made any acquisitions of control during the last three years which have been notified to the European Commission under Regulation (EU) 2022/2560 or under Regulation (EC) 139/2004 on the control of concentrations between undertakings.

3.8. Provide a list of acquisitions of control made during the last three years by the notifying party(ies) which have been notified under merger control rules to a national competition authority in the Union.

[4] For the purposes of this Form FS-CO, enterprise value measures a company's total value, and should include in its calculation the market capitalization of the target but also short-term and long-term debt and any cash or cash equivalents on the target's balance sheet.

4. SECTION 4: NOTIFICATION THRESHOLDS

4.1. Provide the turnover in the Union for the preceding financial year[5] for each of the undertakings identified in Article 20(3), point (a) of Regulation (EU) 2022/2560 as relevant:[6]

4.1.1. In the case of a merger: for each of the merging undertakings;

4.1.2. In the case of an acquisition of control: the target, including the joint venture in cases of acquisition of joint control.

Turnover data must be provided by filling in the Commission's template table available on DG Competition's website.

This turnover data should be calculated in accordance with Article 22(1) of Regulation (EU) 2022/2560. In accordance with Article 22(2) of Regulation (EU) 2022/2560, where the concentration consists of the acquisition of parts, whether or not constituted as legal entities, of one or more undertakings, out of the seller's turnover, only the turnover relating to the parts which are the object of the concentration shall be taken into account.

4.2. Have the undertakings identified in Article 20(3)(b) of Regulation (EU) 2022/2560 been granted combined aggregate financial contributions of more than EUR 50 million from third countries in the three years prior to the conclusion of the agreement[7], the announcement of the public bid, or the acquisition of a controlling interest?

☐ yes ☐ no

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5 On the calculation of turnover, see Article 22 of Regulation (EU) 2022/2560.

6 According to Article 20(3), point (a) of Regulation (EU) 2022/2560, it is necessary that at least one of the merging undertakings, the acquired undertaking or the joint venture is 'established in the Union'. 'Established in the Union' must be understood in accordance with the case law of the Court of Justice and includes the incorporation of a subsidiary in the Union, as well as a permanent business establishment in the Union (see judgments in cases C-230/14 Weltimmo, paragraphs 29, 30; C-39/13, C-40/13 and C-41/13 SCA Group Holding and Others, paragraphs 24, 25, 26, 27; and C-196/87 Steymann, paragraph 16).

7 A foreign financial contribution should be considered granted from the moment the beneficiary obtains an entitlement to receive the foreign financial contribution. The actual disbursement of the foreign financial contribution is not a necessary condition for a foreign financial contribution to fall within the scope of Regulation (EU) 2022/2560.

5. SECTION 5: FOREIGN FINANCIAL CONTRIBUTIONS

5.1. Indicate whether each of the notifying party(ies) or the target have been individually granted in the three years prior to the conclusion of the agreement, the announcement of the public bid, or the acquisition of a controlling interest, any foreign financial contributions equal to or in excess of EUR 1 million that may fall into any of the categories of Article 5(1), points (a) to (d) of Regulation (EU) 2022/2560:

5.1.1. In order 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 conclusion of the agreement, the announcement of the public bid, or the acquisition of a controlling interest:

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

Notifying party(ies) ☐ yes ☐ no

Target ☐ yes ☐ no

5.1.1.2. Is the undertaking 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 shown in the company accounts has disappeared as a result of accumulated losses?

Notifying party(ies) ☐ yes ☐ no

Target ☐ yes ☐ no

5.1.1.3. Is the undertaking 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?

Notifying party(ies) ☐ yes ☐ no

Target ☐ yes ☐ no

5.1.1.4. In case the undertaking in question is not an SME[8]:

5.1.1.4.1. has the undertaking's book debt to equity ratio been greater than 7.5 for the past two years?

[8] 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).

and

5.1.1.4.2. has the undertaking's EBITDA[9] interest coverage ratio been below 1.0 for the past two years?

Notifying party(ies) ☐ yes ☐ no

Target ☐ yes ☐ no

5.1.1.5. If the reply to any of the questions in sections 5.1.1.1 to 5.1.1.4 was 'yes' in relation to any of the parties to the concentration, 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

Target ☐ yes ☐ no

5.1.1.6. If the reply to any of the questions in sections 5.1.1.1 to 5.1.1.4 was 'yes' in relation to any of the parties to the concentration, 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, the target or any other party to the concentration and provide details of that plan.

5.1.1.7. If the reply to any of the questions in sections 5.1.1.1 to 5.1.1.4 was 'yes', please substantiate the answer, including references in the answer to the supporting documents that are to be provided in annexes (such documents may include, but are not limited to, the notifying party's or target's latest profit and loss account statements with balance sheets, or court decisions opening collective insolvency proceedings on the company, or documents providing evidence that the criteria for being placed under insolvency proceedings at the request of creditors under national company law are met, etc.).

5.1.2. 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)).

Notifying party(ies) ☐ yes ☐ no

[9] Earnings before interest, tax, depreciation and amortisation.

Target ☐ yes ☐ no

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

Notifying party(ies) ☐ yes ☐ no

Target ☐ yes ☐ no

5.1.4. A foreign financial contribution directly facilitating a concentration (Article 5(1)(d)).

Notifying party(ies) ☐ yes ☐ no

Target ☐ yes ☐ no

5.2. For each foreign financial contribution equal to or in excess of EUR 1 million individually granted to each of the parties to the concentration in the three years prior to the conclusion of the agreement, the announcement of the public bid, or the acquisition of a controlling interest that may fall into any of the categories of Article 5(1), points (a) to (d) of Regulation (EU) 2022/2560, provide the following information and provide supporting documents:

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

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

5.2.3. Amount of each financial contribution.

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

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

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

5.2.7. 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 or to any other party to the concentration.[10] Please explain why, with reference to the supporting documents provided under Section 8.

5.2.8. 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

[10] A financial contribution should be considered to confer a benefit on an undertaking if it could not have been obtained under normal market conditions. For more details on how to assess the existence of a benefit, see recital (13) of Regulation (EU) 2022/2560.

undertakings or industries.[11] Please explain why, with reference to the supporting documents provided under Section 8.

5.3. Provide an overview of the foreign financial contributions equal to or in excess of EUR 1 million granted to the notifying party(ies) in the three years prior to the conclusion of the agreement, the announcement of the public bid, or the acquisition of a controlling interest 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 provided in Table 1.

[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.

6. SECTION 6: IMPACT ON THE INTERNAL MARKET OF THE FOREIGN FINANCIAL CONTRIBUTIONS IN THE CONCENTRATION

6.1. Does the concentration occur in the context of a structured bidding process? If so:

6.1.1. Provide a detailed description of the bidding process.

6.1.2. Provide a description of the profile of each of the other candidates of which you are aware (e.g. whether these are private equity companies or industrial undertakings).

6.2. Please explain what are the different business lines or activities of the target, explaining categories of products and/or services offered in each of them and to what customers. Explain whether the notifying party(ies) are active in the same or related activities or business lines and describe them.

6.3. For each of the business lines or activities described under Section 6.2 for the target and the notifying party(ies), please indicate:

6.3.1. the turnover achieved at worldwide level and Union level for that business line or activity;

6.3.2. The percentage that the turnover achieved in the Union represents in relation to the overall turnover of the undertaking for that business line or activity.

6.4. For each of the financial contributions for which additional information has been provided pursuant to Section 5.2 above, please explain whether and how the financial contribution may improve the competitive position in the internal market of the parties to the concentration. When replying to this section, please make reference to the nature, amount and use or purpose of the financial contribution.

6.5. Indicate if the concentration triggered merger control notifications in the Union (at Union or national level) and, if so, indicate the status of each of these proceedings at the time of this notification.

6.6. Indicate if the concentration triggered other regulatory filings in the Union (such as foreign direct investment screening filings at national level) and, if so, please indicate the status of these proceedings at the time of the notification.

CONTACT DETAILS

6.7. Provide the contact details of the five largest competitors of the target active in the Union.

6.8. If the concentration triggered merger control filings in the Union (at Union level or national level), provide all the contact details of the competitors provided in the context of this / these merger control filing(s).

7. SECTION 7: POSSIBLE POSITIVE EFFECTS

7.1. 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 subsidy 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.

8. SECTION 8: SUPPORTING DOCUMENTATION

Please provide the following for each party to the concentration:

8.1. Copies of all the supporting documents relating to the financial contributions that may fall into any of the categories of Article 5(1), points (a) to (d) of Regulation (EU) 2022/2560 pursuant to Section 5.1.

8.2. 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:

(a) 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 (d) 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.

(b) Analyses, reports, studies, surveys, presentations and any comparable documents for the purpose of assessing or analysing the concentration with respect to its rationale (including documents where the transaction is discussed in relation to potential alternative acquisitions).

(c) In case any external advisors assisted the notifying party in a due diligence carried out on the target for the purposes of the concentration, provide summaries, conclusions or reports prepared by those advisors as part of that due diligence, as well as any documents where the value of the transaction is assessed or discussed.

8.3. An indication of the internet address, if any, at which the most recent annual accounts or reports of the parties to the concentration are available, or if no such internet address exists, copies of the most recent annual accounts and reports of the parties to the concentration.

9. SECTION 9: ATTESTATION

The notification must conclude with the following attestation which is to be signed by or on behalf of all the notifying parties:

'*The notifying party or parties confirm that, to the best of their knowledge and belief, the information given in this notification is true, correct, and complete, that true and complete copies of documents required by the Form FS-CO 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.*

They are aware of the provisions of Article 26 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] 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 5.3)

1. 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 party(ies) in the three years prior to the conclusion of the agreement, the announcement of the public bid, or the acquisition of a controlling interest 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.

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 granted in the three years prior to the conclusion of the agreement, the announcement of the public bid, or the acquisition of a controlling interest (calculated according to point 5) is EUR 45 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 conclusion of the agreement, the announcement of the public bid, or the acquisition of a controlling interest 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 5.1 and 5.2.

(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 information on the following foreign financial contributions:

(a) Deferrals of payment of taxes 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 and conditions 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.

7. In the case of acquisitions of control or creations of joint ventures by an investment fund or by a legal entity controlled by or via an investment fund, you do not need to include foreign financial contributions granted to other investment funds managed by the same investment company but with a majority of different investors measured according to their entitlement to profit (or granted to portfolio companies controlled by these other funds) provided you can demonstrate that the following conditions are cumulatively met:

(a) The fund which controls the acquiring entity must be subject to Directive 2011/61/EU of 8 June 2011 on Alternative Investment Fund Managers or to an equivalent third country legislation in terms of prudential, organisational and conduct rules, including requirements aimed to protect investors; and

(b) The economic and commercial transactions between the fund which controls the acquiring entity and other investment funds (and the companies controlled by these funds) managed by the same investment company are non-existent or limited. In this regard, you must provide the Commission with evidence of any of such economic and commercial transactions which may have taken place in the three years prior to the conclusion of the agreement, the announcement of the public bid, or the acquisition of a controlling interest. Economic and commercial transactions include but are not limited to the sale of assets (including ownership in companies), loans, credit lines, or guarantees.

Party X		
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	
	...	
Estimated aggregate financial contributions granted by A: EUR […]***		
Country B	*Type 1*	
	Type 2	
	Type 3	
	Type 4	
	...	

Estimated aggregate 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

8. The foreign financial contributions that may be relevant for the assessment of each concentration 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.