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## Written response to the Commission's White Paper on Outbound Investments

The Danish Government welcomes this opportunity to share our written response to the Commission's White Paper on Outbound Investment (the White Paper). Before we provide you with our in-depth comments to the White Paper, we want to use this opportunity to describe how we understand economic security. This will bring some context to our remarks on the White Paper.

It is our view that the objective of economic security is to mitigate critical dependencies and vulnerabilities that exists in the intersection between economic policies and security policies. European economic security calls for a common approach to the need to diversify critical dependencies, the promotion of EU production, the protection of critical infrastructure and the control of export and investments in order to avoid unwanted technology leakage.

Due to the current geopolitical situation and with the rapid technological development the world is experiencing, the Danish Government finds it crucial for the EU to uphold global trade while securing the right balance between protection measures. Progress must be made on all three pillars of the economic security strategy. Protection measures cannot stand alone. As such, we must continue and give impetus to our efforts to promote a competitive and resilient EU economy with a focus on new and innovative technologies such as biotech, AI and quantum. Likewise, we must continue to strengthen cooperation and partnerships with third countries, including those with which we have common economic security interests.

An open European economy is fundamentally in our common interest, since it secures access to the most competitive goods and services. Furthermore, it is vital to ensure our competitiveness and our ability of European businesses to sell their goods and services globally. At the same time, the Danish Government recognizes the need to protect European technology and knowledge from unwanted technology leakage if concrete security risks and national security concerns are identified. We thus believe that protect measures should be limited to specific technologies that are critical for upholding the EU's economy and security.

The Danish Government believes that this calls for further analysis and more sufficient data, before we develop new tools such as the screening of outbound investments. In connection to this, we find it important that potential new tools are based on a solid and thorough analytical basis and are developed in close cooperation with Member States. For this reason, we welcome the White Paper on Outbound Investments and supports the intention of the White Paper.

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The Danish Government supports the suggested step-by-step approach in the White Paper, but notes that the suggested timeframe is optimistic.

As for the first step, the public consultation, we welcome this initiative.

As for the second step, the monitoring exercises, we suggest that the following issues are addressed, before the Commission makes its recommendation for the Member States to start the monitoring exercise:

- Need for common definitions and methodology.
- A monitoring exercise that limits the burdens on European businesses as much as possible.

As for the third step, the national and Common risk assessment, we welcome the exercise, but in order to secure useful assessments, we hope the Commission will address the abovementioned issues. In the following, we will elaborate on the issues identified.

#### **Need for common definitions and methodology.**

The Danish Government believe that there is a need for clear definitions of what constitutes an outbound investments and clear definitions of the technology areas in question.

We note that the White Paper does state that:

*“Member States should monitor investments of any kind by natural or legal persons resident or established in the EU (‘EU investors’) aimed at carrying out an economic activity outside the EU.”* The White Paper further states that such investments should include *“acquisitions, mergers, asset transfers, greenfield investments, joint ventures, and venture capital investments”*. These examples are helpful, but we suggest that a common agreement is reached as to how these six types of investments are understood, before any monitoring is initiated. E.g., for ‘acquisitions’ Member States should find a common understanding to when as *“an effective participation in the management”* is established.

Regarding the technology areas in which investments should be monitored, we find that there is a need for common definitions of the four mentioned technologies, if we wish to make sure that each Member State’s monitoring is based on a common understanding. We consider this as pivotal if the collected data is meant to be comparable.

In this regard, we suggest narrow definitions of the four technology areas. We note that the White Paper states that the four technologies are *“highly likely to present the most sensitive and immediate risks related to technology security and technology leakage”* according to the Commission Recommendation on critical technology areas for the EU's economic security for further risk assessment with Member States of 3 October 2023. We also note that the White Paper states that the technologies should be able to *“enhance military and intelligence capacities of actors who may use*

*these capabilities to threaten international peace and security.*” We thus suggest that the monitoring exercise only includes aspects of the four technologies that may be used to enhance military and intelligence capacities.

In relation to the methodology of the monitoring exercise, we finally note that a data collection will likely be based on a voluntary participation from businesses since Denmark and other Member States do not have the legal basis to collect the data. We recognize that voluntary data collection will likely be the best available option, but we also find that this is prone to be biased (e.g. meaning that not all potentially critical investments are likely to be reported). Such bias should be addressed and accounted for in the forthcoming risk assessment.

### **A monitoring exercise that limits the burdens on European businesses as much as possible.**

The Danish Government notes that the monitoring exercise is a burdensome new task not only for National Administrations, but especially for European businesses as well. In a response to a public consultation conducted by the Ministry of Business, Industry and Financial Affairs, it has been stressed that the monitoring exercise will be a heavy administrative burden on European business and that the exercise is in complete opposition to the Commission’s own ambition of reducing administrative burdens on European businesses. It is also a stated goal for the Danish Government to decrease administrative burdens on Danish businesses. Due to this, we see a need to limit the scope of the monitoring exercise so that it only includes the collection of necessary information to recognize transactions that *“enhance military and intelligence capacities of actors who may use these capabilities to threaten international peace and security.”*

The Danish Government has three concrete suggestions to how the scope of the monitoring exercise might be limited and thus decrease the administrative burdens on European industry.

- The scope could be limited, as mentioned in the section above, by agreeing on common definitions. Here we suggest that these definitions should be narrow and limited to only include aspects of the four technology areas that can be used for military or intelligence purposes.
- Considering that this monitoring should enable National Administrations to investigate whether an outbound investment can constitute a threat to European security or international peace, Denmark believes that like-minded countries should be excluded from the monitoring, e.g. OECD countries. Many like-minded countries are also some of the EU’s biggest trade partners, and this would also lessen the burden of this exercise on national administrations and European businesses.

- The Danish Government finds that the time period could be limited. The White Paper states that all transactions completed since 1 January 2019 should be included. We recognize the need to collect the necessary amount of data, but also finds that a shorter time period could lessen the administrative burdens on European businesses.

As a final remark, it is stressed that the Danish Government supports the intention of the White Paper. We recognize the need for more knowledge and data on outbound investment. The Danish Government, however, finds that the stated goals of more knowledge and data is possible to achieve through a narrower scope of the monitoring exercise.