EUROPEAN COMMISSION

Brussels, 24.1.2025
C(2025) 660 final

PUBLIC VERSION

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus […]. Where possible the information omitted has been replaced by ranges of figures or a general description.

International Paper Company
6400 Poplar Avenue
Memphis, Tennessee 38197
United States

Subject: **Case M.11564 – INTERNATIONAL PAPER / DS SMITH**
Commission decision pursuant to Article 6(1)(b) in conjunction with Article 6(2) of Council Regulation No 139/2004[1] and Article 57 of the Agreement on the European Economic Area[2]

Dear Sir or Madam,

(1) On 25 November 2024, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which International Paper Company ('International Paper' or 'IP' or the 'Notifying Party', United States) will acquire sole control over DS Smith Plc ('DS Smith' or 'DSS', United Kingdom) within the meaning of Article 3(1)(b) of the Merger Regulation, by way of purchase of shares ('Transaction').[3] IP and DSS are designated hereinafter as the 'Parties'.

1 OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation'). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ('TFEU') has introduced certain changes, such as the replacement of 'Community' by 'Union' and 'common market' by 'internal market'. The terminology of the TFEU will be used throughout this decision.
2 OJ L 1, 3.1.1994, p. 3 (the 'EEA Agreement').
3 OJ C, C/2024/7266, 3.12.2024.

1. THE PARTIES

(2) **IP**, whose shares are traded on the New York Stock Exchange, is a provider of renewable fibre-based packaging and pulp products, as well as a recycler of fibre-based waste. IP serves customers from manufacturing operations in North America, South America, North Africa, and Europe.

(3) **DSS**, whose shares are traded on the main market of the London Stock Exchange, is an international provider of sustainable fibre-based packaging, focused mainly in the European and North American markets. It also has recycling and paper-making operations.

2. THE CONCENTRATION

(4) Pursuant to a Co-operation Agreement signed on 16 April 2024, IP proposes to acquire the entire share capital of DSS. As a result, DSS will be a wholly owned subsidiary of IP.

(5) Post-Transaction, it is envisaged that IP will continue being a publicly traded company, with a disperse ownership structure. Upon completion, the Transaction will result in *pro forma* ownership of the resulting IP group of approximately 66.3% for current IP shareholders and approximately 33.7% for current DSS shareholders.[4]

(6) The Transaction therefore consists of the acquisition by IP of sole control over DSS.

3. UNION DIMENSION

(7) The undertakings concerned have a combined aggregate worldwide turnover of more than EUR 5,000 million (DSS: EUR 9,474.70 million in the financial year ending on 30 April 2023; IP: EUR 17,800 million in 2023).[5] Each of them has a Union-wide turnover in excess of EUR 250 million (DSS: EUR […] million in the financial year ending on 30 April 2023; IP: EUR […] million in 2023), but each does not achieve more than two-thirds of its aggregate Union-wide turnover within one and the same Member State. The Transaction therefore has a Union dimension.

4. MARKET DEFINITION

(8) The Parties are both vertically integrated companies. In the EEA, they are notably active in the manufacture and supply of corrugated case materials ('CCM'), corrugated sheets, and corrugated cases.

4.1. Manufacture and supply of CCM

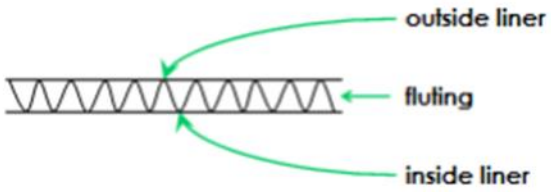
(9) CCM consists of a range of products from base paper which are the main inputs for the manufacturing of corrugated sheets, which are in turn converted into corrugated cases (or boxes). CCM includes both liners, forming the flat inner or outer layers of

4 Form CO, paragraph 44.

5 Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Consolidated Jurisdictional Notice (OJ C95, 16.4.2008, p. 1).

corrugated packaging, and fluting, which is the rippled middle layer affixed between two liners, providing rigidity, bulkiness, and strength to the corrugated packaging.

Figure 1: CCM



Source: Commission's decision in Case M.8331 – Mondi/Powerflute, paragraph 13.

(10) Both liners and fluting can be made from virgin wood fibres or from recycled paper (recycled CCM), as well as from a mix of the two. Liners produced by chemically treating virgin wood fibres are called 'kraftliners', while 'testliners' or 'recycled CCMs' are made from recycled paper.

(11) Fluting from virgin wood fibres ('kraft fluting') can be (i) Nordic semi-chemical fluting ('NSCF') containing (almost) exclusively Nordic birch tree fibres, and (ii) semichemical fluting ('SCF') containing a large proportion (around 70-80%) of virgin wood fibres, as well as recycled fibres (around 20-30%).

(12) Recycled fluting can be (i) high performance ('HP') recycled fluting, made out of 100% recycled paper, the performance of which is improved by the addition of starch and other chemicals, or (ii) standard recycled fluting made of 100% recycled paper, also known as 'Wellenstoff'.[6]

4.1.1. Product market definition

4.1.1.1. Commission's decisional practice

(13) In previous decisions, the Commission has considered a market for CCM[7] and, within CCM, it has identified separate relevant markets for fluting and liners.[8] Furthermore, the Commission considered, but ultimately left open, whether the market for liners should be further sub-segmented between kraftliner and testliner,[9]

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6 Cases M.8915 – *DS Smith/Europac*, paragraphs 24-27 and M.8831 – *Mondi/Powerflute*, paragraphs 13-16. Form CO, paragraphs 138-140.

7 Cases M.8915 – *DS Smith/Europac*, paragraphs 33-36; M.8831 – *Mondi/Powerflute*, paragraph 17; M.7558 - *DS Smith/Duropack*, paragraphs 8-9; M.6512 – *DS Smith/SCA*, paragraphs 54-55; M.6682 – *Kinnevik/BillerudKorsnas*, paragraphs 56 and 71; and M.3935 – *Jefferson Smurfit/Kappa*, paragraphs 17-18.

8 Cases M.8915 – *DS Smith/Europac*, paragraphs 33-36 and M.8831 – *Mondi/Powerflute*, paragraphs 26-28.

9 Cases M.8915 – *DS Smith/Europac*, paragraphs 33-36; M.7558 – *DS Smith/Duropack*, paragraph 9; M.6512 - *DS Smith/SCA*, paragraphs 54-55; M.6682 – *Kinnevik/BillerudKorsnas*, paragraphs 55-56; and Case M.3935 – *Jefferson Smurfit/Kappa*, paragraphs 17-18.

and whether the market for fluting should be further sub-segmented by different types of fluting.[10]

4.1.1.2. Notifying Party's views

(14) The Notifying Party argues that there are strong arguments that the market should comprise all types of CCM, as there is strong supply- and demand-side substitutability between most CCM product types.

(15) From a supply-side perspective, the Notifying Party submits that the production of most liners and fluting can typically occur on the same machinery and that more than 70% of the recycled CCM mills produce both fluting and liners.[11]

(16) From a demand-side perspective, with respect to the distinction between fluting and liner, the Notifying Party argues that dual-use paper grades are available, which can be used equally for liner or fluting. The Notifying Party acknowledges that kraftliner and testliner products are not fully substitutable, due to performance differences, but highlights that (i) paper mills can and switch between both products, in particular if the price differential does not justify the relatively small performance increase, (ii) equivalent end product performance can be achieved, potentially at lower cost, using testliner, and (iii) CCM production technology is constantly improving such that CCM made from recycled paper is reaching much higher performance levels, further blurring the distinction between kraftliner and testliner.[12]

(17) The Notifying Party concludes, however, that the precise product market definition may be left open in this case.

4.1.1.3. Commission's assessment

(18) The Commission's market investigation sought to understand, in the first place, whether liners and fluting belong to the same product market.

(19) The results show that, for a large part of end applications, liners and fluting are not interchangeable from a demand-side perspective. Most market participants who expressed an opinion agree that there is no substitutability or only limited substitutability between the two CCM products. Some participants highlight that liners and fluting are products with different technical characteristics, different price levels, and that only exceptionally may one be replaced by another (e.g., for packaging solutions transporting lightweight contents, a liner may replace a flute).[13]

(20) From a supply-side perspective, the results of the Commission's market investigation are mixed, with approximately half of suppliers replying that the production processes and required machinery to manufacture liners and fluting are mostly identical and the other half pointing to material differences between them.

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10 Cases M.8915 – *DS Smith/Europac*, paragraphs 33-36 and M.8831 - *Mondi/Powerflute*, paragraphs 29-43.

11 Form CO, paragraph 210.

12 Form CO, paragraph 211.

13 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions C.A.1.1-C.A.1.2 and eRFI 'Competitors – corrugated case materials, Question C.A.4.

Some respondents highlight that the production of liners requires the addition of specific chemicals (dye to make the paper brown, starch for strength, and sizing agents to make the paper water-repellent).[14]

(21) The Commission's market investigation also assessed whether a further sub-segmentation of liners between testliners and kraftliners is necessary. Most of the surveyed CCM customers consider that there is, at best, limited substitutability between the two product types, from a demand-side perspective. Kraftliners are higher-quality and stronger products than testliners. The latter have substantially lower strength properties and durability, being less resistant to tears, punctures, and moisture. Therefore, testliners cannot replace kraftliners for end-use applications that require packaging solutions capable of resisting demanding supply chain conditions (e.g., transport of food products).[15]

(22) From a supply-side perspective, most CCM suppliers who expressed an opinion consider that there are material differences between kraftliners and testliners, in terms of the required production machines/equipment, the raw material used (predominantly virgin fibres in the case of kraftliners and predominantly recycled fibres in the case of testliners), and production costs (testliners being less costly to produce).[16] Accordingly, most CCM suppliers consider that switching from the production of kraftliners to the production of testliners (and vice-versa), using the same production line, would be difficult and entail significant additional costs.[17]

(23) Based on the above, there are substantial reasons to consider that the supply of liners and the supply of flutings are distinct relevant product markets and that the market for liners should be further segmented between kraftliners and testliners. For the purposes of this decision, it is not necessary to conclude whether it is appropriate to sub-segment the possible flutings market between different fluting product types (i.e., between NSCF, SCF, HP, or Wellenstoff fluting)[18] because the Transaction does not give rise to affected markets even if each of these fluting types are distinct product markets. Accordingly, fluting products will not be further discussed.

(24) For the purposes of the present case, the exact product market definition (notably the questions of whether liners and fluting products are part of the same product market and, if not, whether a further sub-segmentation of the market for liners is appropriate) may be left open, given that the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement with respect to the manufacture and supply of CCM under any plausible market definition. The Commission will assess the effects of the Transaction by reference to the relevant narrowest market delimitation resulting in an affected market, i.e., the market for the manufacture and supply of kraftliner.[19]

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14 Replies to eRFI 'Competitors – corrugated case materials', Question C.A.2.

15 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions C.A.1.1-C.A.1.2.

16 Replies to eRFI 'Competitors – corrugated case materials, Question C.A.2.

17 Replies to eRFI 'Competitors – corrugated case materials', Question C.A.3.1.

18 None of the Parties is active in the manufacture and supply of kraft fluting (including NSCF or SCF) in the EEA. Form CO, footnote 360.

19 Since the Transaction does not give rise to affected horizontal overlaps or vertical relationships involving the supply of testliner, this product will not be further discussed in this decision.

4.1.2. Geographic market definition

4.1.2.1. Commission's decisional practice

(25) In previous cases, the Commission has considered the markets for the manufacture and supply of CCM, as well as its sub-segments, to be at least EEA-wide in scope.[20]

4.1.2.2. Notifying Party's views

(26) The Notifying Party argues that these markets are global, on the basis of the level of volumes of CCM exported out of the EEA but concludes that the exact geographic market definition may be left open or, at the minimum, be considered to be at least EEA-wide.[21]

4.1.2.3. Commission's assessment

(27) Consistently with previous decisional practice, the results of the market investigation reveal that most suppliers consider that the relevant CCM markets are EEA-wide.[22] Accordingly, most CCM suppliers that participated in the investigation have sold more than 60% of their total production of kraftliners and testliners within the EEA.[23] To them, only 0-20% of the total volumes of kraftliners and of testliners sold within the EEA are imported from other regions.[24] Similarly, the majority of customers that expressed an opinion considers that the markets are, at least, EEA-wide (with only a minority of these considering that the markets are worldwide).[25]

(28) For the purposes of the present case, the exact geographic market definition may be left open, given that the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement with respect to the manufacture and supply of kraftliners and testliners under any plausible market definition. The Commission will assess the effects of the Transaction by reference to the narrowest plausible geographic market delimitation, corresponding to the EEA.

4.2. Manufacture and supply of corrugated sheets

(29) CCM is converted into corrugated sheets in a corrugator by gluing the fluting to an upper and lower layer of liner. Two or three layers of corrugated sheets can be combined to produce 'double-wall' or 'triple-wall' corrugated sheets.

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20 Cases M.8915 – *DS Smith/Europac*, paragraphs 39-41; M.8831 – *Mondi/Powerflute*, paragraphs 44-48; M.7558 – *DS Smith/Duropack*, paragraphs 9 and 33-34; M.6512 – *DS Smith/SCA*, paragraphs 56-57; M.6682 – *Kinnevik/BillerudKorsnas*, paragraphs 58 and 71; and M.3935 – *Jefferson Smurfit/Kappa*, paragraph 19.

21 Form CO, paragraphs 213-214.

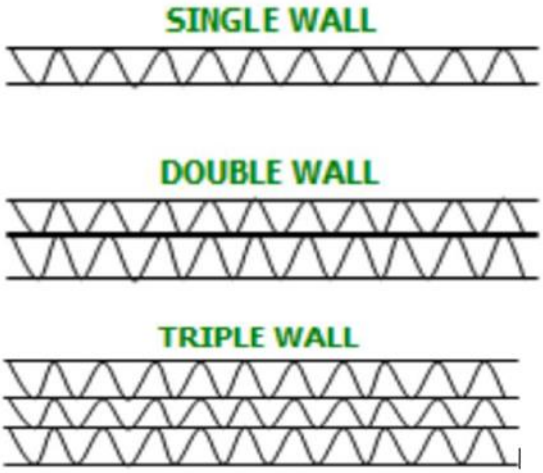
22 Replies to eRFI 'Competitors – corrugated case materials', Question C.B.2.

23 Replies to eRFI 'Competitors – corrugated case materials', Question C.B.1.2.

24 Replies to eRFI 'Competitors – corrugated case materials', Question C.B.3.2.

25 Replies to eRFI 'Competitors – corrugated sheets and cases', Question C.A.2.

Figure 2: Corrugated sheets



Source: Form CO, Figure 4.

(30) Sheets are produced at two different types of production facilities: (i) sheet feeders, which are plants dedicated exclusively to the conversion of CCM into corrugated sheets, which are then predominantly supplied to converter plants (also known as sheet plants), or, less frequently, (ii) integrated plants, also commonly known as box plants, which convert CCM into corrugated sheets and then convert them into corrugated cases at the same production site. Whilst integrated plants are designed to sell cases to end users, they can also sell sheets to sheet plants, though usually sheet feeders are more efficient at producing sheets.[26]

4.2.1. Product market definition

4.2.1.1. Commission's decisional practice

(31) In previous decisions, the Commission has considered a product market comprising all types of corrugated sheets.[27] It has also further considered segmenting the market between 'conventional' corrugated sheets and 'heavy-duty' corrugated sheets, the latter comprising either (i) only triple-wall sheets or (ii) triple-wall and double-wall sheets, insofar as the sheets contain at least one A flute (i.e., AA, BA, and CA)[28] and weigh more than a given threshold (ranging between 300 and 1000 g/sqm).[29] In two previous cases, the Commission, while ultimately leaving the exact market definition open, considered a more precise definition of heavy-duty corrugated sheets, including namely '*triple- and double-wall sheets, insofar as the board contains at least one A flute and weighs more than 800 g/sqm*'.[30]

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26 Case M.8915 – *DS Smith/Europac*, paragraph 42. Form CO, paragraph 123.

27 M.3935 – *Jefferson Smurfit/Kappa*, paragraph 22.

28 There are different flute types (B, C, A, E, F), which can be combined in double- or triple-wall corrugated sheets (e.g., AA, BA, CA, and BC double-wall). Form CO, paragraph 219.

29 Cases M.7558 – *DS Smith/Duropack*, paragraph 11; M.6512 – *DS Smith/SCA Packaging*, paragraphs 60-70; and M.8831 – *Mondi/Powerflute*, paragraphs 51-52.

30 Cases M.6512 – *DS Smith/SCA Packaging*, footnote 26 and M.1418 – *SCA Packaging/Rexam*, paragraph 10.

4.2.1.2. Notifying Party's views

(32) The Notifying Party submits that it is not appropriate to segment between conventional and heavy-duty corrugated sheets because (i) from a demand-side perspective, the choice of sheet is driven by end customers' case requirements (accordingly, the continuum of capabilities of case characteristics are also informative for the sheet market) and different grades can be used interchangeably by end customers, and (ii) from a supply-side perspective, the investment needed for an active sheet producer to begin supplying triple-wall (investment in specific corrugators), is not particularly large.[31]

4.2.1.3. Commission's assessment

(33) The results of the Commission's market investigation show that there are strong arguments pointing towards the definition of distinct markets for the supply of each of conventional and heavy-duty corrugated sheets, even though there might not be a standard industry-wide definition of what may be qualified as a heavy-duty sheet.

(34) Sheet customers generally tend to provide the exact technical specifications of the sheet that they wish to procure.[32] Most market participants who expressed an opinion believe that there is no standard industry-wide definition of what qualifies as a heavy-duty sheet.[33] At the same time, most participants admit distinguishing, for internal purposes, between conventional and heavy-duty corrugated sheets.[34] When asked about their internal definition of heavy-duty corrugated sheets, most suppliers converge in considering triple-wall sheets, and sheets with an even higher number of walls, as heavy-duty sheets.[35] Consistently with the Commission's previous decisional practice, many suppliers who participated in the investigation also point out that double-wall sheets with a certain weight belong to this definition.[36] However, the results of the market investigation are inconclusive as to the exact cut-off point, in terms of weight, beyond which a double-wall sheet is to be qualified as heavy-duty.[37]

(35) From a demand-side perspective, virtually all market participants who expressed an opinion confirm that heavy-duty corrugated sheets are used for different end-use applications, mostly by customers in specific industries that require the transport of heavy, bulky, and/or delicate materials (such as the automotive, household appliances, and chemical sectors).[38] Similarly, almost all respondents consider that

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31 Form CO, paragraphs 216-221.

32 E.g., minutes of call with a competitor on 18 September 2024 (non-confidential version), paragraph 11: *'(…) each sheet and box has unique technical specifications and is specifically tailored to the content/products that the customer wants to transport and the individual needs of the customer*'.

33 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions D.A.3. and E.A.4.

34 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions D.A.2 and E.A.3.

35 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions D.A.2.1 and D.A.3.1.

36 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions D.A.2.1 and D.A.3.1.

37 The Commission carried out its market investigation based on the definition of heavy-duty used by the Parties in the notification, which is consistent with the Commission's conclusions in its previous decisional practice, i.e., triple- and double-wall sheets, insofar as the board contains at least one A flute and weighs more than 800 g/sqm.

38 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions D.A.4, D.A.4.1, E.A.5, and E.A.5.1.

there are significant price differences between the two types of corrugated sheets, reflecting the fact that the production of heavy-duty sheets require a higher quantity of paper and/or paper with a higher grammage, as well as more costly production processes.[39]

(36) Most heavy-duty sheet suppliers consider that customers purchasing heavy-duty corrugated sheets require specific technical characteristics that, most of the time, cannot be found in conventional corrugated sheets.[40] Similarly, most customers confirm that, from a technical point of view, it is not viable to switch from heavy-duty corrugated sheets to conventional ones (or vice-versa)[41] and that, in the past, they have not switched between the two.[42]

(37) From a supply-side perspective, most suppliers and customers clarify that the production of heavy-duty corrugated sheets occurs mostly in different manufacturing lines, and using different equipment, than the production of conventional corrugated sheets.[43]

(38) Accordingly, almost all market participants who expressed an opinion consider that it is appropriate to distinguish between conventional and heavy-duty corrugated sheets.[44]

(39) Therefore, most of the elements in the Commission's file point towards the definition of separate markets for the manufacture and supply of each of conventional and heavy-duty corrugated sheets. In any event, for the purposes of the present case, the exact product market definition may be left open, given that the Transaction, as modified by the remedies offered by the Parties, does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement with respect to the manufacture and supply of corrugated sheets under any plausible market definition. Consistently with the results of the market investigation, the Commission will assess the effects of this Transaction by reference to the relevant narrowest market delimitations, i.e., the markets for the manufacture and supply of each of conventional and heavy-duty corrugated sheets.[45]

4.2.2. Geographic market definition

4.2.2.1. Commission's decisional practice

(40) In markets where transport costs represent an important fraction of costs, competitive conditions change as a function of the distance between each supplier and the customer. Transport costs put suppliers that are located at a greater distance

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39 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions D.A.5, D.A.5.1, E.A.6, and E.A.6.1.

40 Replies to eRFI 'Competitors – corrugated sheets and cases', Question D.A.7.

41 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions E.A.7 and F.A.2.

42 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions E.A.9 and F.A.3.

43 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions D.A.6. and E.A.8.

44 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions D.A.1 and E.A.2.

45 The Commission carried out its market investigation based on the definition of heavy-duty used by the Parties in the notification, which is consistent with the Commission's conclusions in its previous decisional practice, i.e., triple- and double-wall sheets, insofar as the board contains at least one A flute and weighs more than 800 g/sqm.

from the customer at a competitive disadvantage relative to suppliers that are located closer to the customer.[46]

(41) In such cases, the Commission may define the geographic market based on catchment areas. The Commission usually relies on catchment areas that are representative of the purchasing patterns of most customers. This can be determined from the actual distribution of delivery or travel distances or time, and/or can be based on the views of market participants. On that basis, the Commission typically considers catchment areas covering 80 % of sales or customers. Depending on market-specific considerations, the Commission may also rely on alternative sets of ranges. The Commission has, for instance, also defined geographic markets on the basis of catchment areas covering 70 % and/or 90 % of sales.[47]

(42) The exact market boundaries and the methods used to approximate them can vary significantly from case to case.[48]

(43) Consistent with the above, the Commission has, in previous cases, analysed the effects of concentrations in these markets both on a (i) national-wide level and on a (ii) local-wide level, corresponding to a radius of 300 km to 400 km around the production sites of each of the undertakings concerned.[49] In a relatively recent decision, where DSS was the acquirer, the Commission also relied on previous cases, considering local markets of 400-km radius around production sites.[50] The Commission additionally considered that heavy-duty corrugated sheets may be transported farther than conventional ones.[51] The exact scope of the geographic market definition was consistently left open for both conventional and heavy-duty corrugated sheets.

4.2.2.2. Notifying Party's views

(44) The Notifying Party submits that the markets for both conventional and heavy-duty sheets are at least national, arguing that (i) plants can and do supply sheets across borders and at distances significantly over 400 km and (ii) distribution costs are low ([0-5]% and [5-10]% of the production costs, for conventional and heavy-duty sheets, respectively).[52]

4.2.2.3. Commission's assessment

(45) The Commission's market investigation revealed that the markets for the manufacture and supply of corrugated sheets have a local dimension. Transport costs are relatively high compared to the low cost of corrugated sheet products, making it

46 Communication from the Commission – Commission Notice on the definition of the relevant market for the purposes of Union competition law, OJ C/2023/6789 ('Market Definition Notice'), paragraph 72.

47 Market Definition Notice, paragraphs 73-74.

48 Market definition Notice, paragraph 74.

49 Cases M.7558 – *DS Smith/Duropack*, paragraph 12; M.2032 – *SCA Packaging/Metsä Corrugated*, paragraphs 23-24; M.6512 – *DS Smith/SCA Packaging*, paragraphs 71-76; M.3935 – *Jefferson Smurfit/Kappa*, paragraph 23.

50 Case M.8915 – *DS Smith/Europac*, paragraph 57.

51 Case M.8915 – *DS Smith/Europac*, paragraph 56.

52 Form CO, paragraphs 222-237.

uneconomical to transport these products beyond a limited distance.[53] Accordingly, market participants who expressed an opinion consider that geographic proximity from customers' own plants is one of the most important competitive criteria.[54] In addition, most suppliers informed the Commission that they supply mostly clients within a certain radius around their production plants, rather than on a national or wider basis.[55] Similarly, the Parties' transactional data reveal that the Parties' plants supply mostly locally.[56]

(46) As explained in Section 4.2.2.1, above, in markets with these characteristics, the Commission typically defines the geographic market based on catchment areas.

(47) As to the size of the catchment areas in this case, the Commission's market investigation results support the definition of local geographic markets corresponding to radii of 400 km or less from the Parties' relevant production sites. The vast majority of market participants declare that, across the EEA in 2023, they either supplied or purchased 80% of their total supply or purchases of conventional corrugated sheets from plants that are located within a radius of 400 km or less of their own factories.[57]

(48) As for the supply of heavy-duty corrugated sheets, most market participants consider that it is economical to supply them further than conventional corrugated sheets, as they are more costly to produce and therefore more expensive.[58] At the same time, the vast majority of market participants declare that, in the EEA in 2023, they either supplied or purchased 80% of their total supply or purchases of heavy-duty sheets from plants located within a radius of 400 km of their own factories.[59]

(49) Therefore, most of the elements in the Commission's file point towards the definition of catchment areas of 400 km. In any event, for the purposes of the present case, the exact geographic market definition may be left open, given that the Transaction, as modified by the remedies offered by the Parties, does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement with respect to the manufacture and supply of conventional and heavy-duty corrugated sheets under any plausible market definition. Consistently with the results of the market investigation, the Commission will assess the effects of this Transaction by reference to catchment areas of 400 km, acknowledging however that in certain areas competition may occur more locally and that heavy-duty corrugated sheets may be profitably transported farther than conventional corrugated sheets.

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53 E.g., minutes of call with a competitor on 29 July 2024 (non-confidential version), paragraph 18, and minutes of call with a competitor on 19 August 2024, paragraph 20.

54 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions D.B.A.3.1 and E.B.A.3.1.

55 Replies to eRFI 'Competitors – corrugated sheets and cases', Question D.A.8.

56 Form CO, Joint Confidential Annex RFI 1 Q13.

57 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions D.A.9.3, E.A.11.2, and F.A.5.2.

58 Replies to eRFI 'Competitors – corrugated sheets and cases', Question D.A.9.1.

59 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions D.A.9.3, E.A.11.2, and F.A.5.2.

4.3. Manufacture and supply of corrugated cases

(50) Corrugated sheets can be further developed into corrugated cases by printing, slotting and/or die-cutting, folding and gluing, and/or stitching the corrugated sheets. Cases are produced either by converter plants (also known as sheet plants), which convert sheets supplied by sheet feeders or box plants into cases for sale to end customers, or integrated plants (also known as box plants).[60]

(51) Unlike corrugated sheets, corrugated boxes are not an input product, but a finished product sold to end customers in a variety of sectors, including fast-moving consumer goods, automotive, and defence.[61]

(52) There are three main types of corrugated cases: (i) conventional, (ii) heavy-duty (cases for customers that need a high level of protection for their goods in transit, typically used in the industrial or automotive segments, and comprising a low level of decoration),[62] and (iii) litho-laminated cases (secondary packaging to distribute goods that may also be used as 'shelf-ready' packaging; accordingly, they need to meet the requirements of both distribution and promotional purposes). The latter product type includes corrugated packaging printed off-set with high-quality images and as such the main difference from other types of corrugated packaging consists in the printing process.[63]

4.3.1. Product market definition

4.3.1.1. Commission's decisional practice

(53) In previous decisions, the Commission, while leaving open the exact scope of the relevant product markets, has considered a market for cases, with potential sub-segmentations for conventional, heavy-duty, and litho-laminated cases.[64] As the Parties' activities in the supply of litho-laminated cases do not give rise to affected horizontal overlaps or vertical relationships, this market will not be further discussed in this decision.

4.3.1.2. Notifying Party's views

(54) The Notifying Party considers that it is not appropriate to segment between conventional and heavy-duty corrugated cases because (i) all plants can easily produce corrugated packaging across the spectrum of capabilities, and (ii) the equipment and know-how for the manufacture of heavy-duty sheets is readily available and the conversion of double-wall sheets to cases is the same that is used for the conversion of conventional sheets to conventional cases. The Notifying Party, however, recognises that the conversion of triple-wall sheets may require additional equipment. The Notifying Party also argues that a segmentation by

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60 Cases M.8915 – *DS Smith/Europac*, paragraph 58. Form CO, paragraph 123.

61 M.6512 – *DS Smith/SCA Packaging*, paragraph 91.

62 M.6512 – *DS Smith/SCA Packaging*, paragraph 96.

63 M.6512 – *DS Smith/SCA Packaging*, paragraph 99. Form CO, paragraph 240.

64 Cases M.8915 – *DS Smith/Europac*, paragraph 67; M.7558 – *DS Smith/Duropack*, paragraph 14; M.6512 – *DS Smith/SCA Packaging*, paragraph 94; M.1418 – *SCA Packaging/Rexam*, paragraph 10; and M.8831 – *Mondi/Powerflute*, paragraphs 51-52.

customer sectors (between, e.g., automotive, fast-moving consumer goods, agriculture) is not appropriate because plants rarely focus or specialise on a given industry segment, seeking to manufacture a range of products for customers across sectors.[65]

4.3.1.3. Commission's assessment

(55) As was the case for corrugated sheets, the results of the Commission's market investigation show that there are strong arguments pointing towards the definition of distinct markets for the manufacture and supply of each of conventional and heavy-duty corrugated cases, even though there might not be a standard industry-wide definition of what may be qualified as a heavy-duty case.

(56) Most customers generally tend to provide the exact technical specifications of the cases that they wish to procure.[66] Most market participants consider that there is no standard industry-wide definition of heavy-duty corrugated cases.[67] Half of the market participants expressing an opinion admit, however, that they distinguish, for internal purposes, between conventional and heavy-duty corrugated cases.[68] When asked about their internal definition of heavy-duty corrugated cases, these market participants point out to the higher number of walls, higher weight and strength, and different end-uses.[69] Nevertheless, the results of the market investigation are inconclusive as to the exact definition of heavy-duty corrugated cases.[70]

(57) Similarly to what was described above with respect to corrugated sheets, most participants who expressed an opinion confirm that, from a demand-side perspective, (i) heavy-duty corrugated cases are used for different end-use applications, mostly by customers in specific industries that require the transport of heavy, bulky, and/or delicate materials (such as the automotive, household appliances, and chemical sectors)[71] and (ii) there are significant price differences between the two types of corrugated cases.[72]

(58) From a supply-side perspective, the results were mixed, though a significant number of competitors revealed that the production of heavy-duty cases usually requires '*larger machinery*'. One participant explained that while all equipment capable of

65 Form CO, paragraph 240-253.

66 E.g., minutes of call with a competitor on 18 September 2024 (non-confidential version), paragraph 11.

67 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions E.C.3 and F.C.3, and replies to eRFI 'Customers – corrugated cases', Question C.A.3.

68 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions E.C.2 and F.C.2, and replies to eRFI 'Customers – corrugated cases', Question C.A.2.

69 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions E.C.2.1 and F.C.2.1, and replies to eRFI 'Customers – corrugated cases', Question C.A.2.1.

70 The Commission carried out its market investigation based on the definition of heavy-duty used by the Parties in the notification, which is consistent with the Commission's conclusions in its previous decisional practice, i.e., cases made of triple- and double-wall sheets, insofar as the board contains at least one A flute and weighs more than 800 g/sqm.

71 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions E.C.4, E.C.4.1, F.C.4., and F.C.4.1, and replies to eRFI 'Customers – corrugated cases', Questions C.A.4 and C.A.4.1.

72 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions E.C.5, E.C.5.1, F.C.5 and F.C.5.1, and replies to eRFI 'Customers – corrugated cases', Questions C.A.5 and C.A.5.1.

producing heavy-duty cases may produce conventional cases, the opposite is not necessarily true.[73]

(59) Accordingly, as was the case for corrugated sheets, almost all market participants who expressed an opinion consider that it is appropriate to distinguish between conventional and heavy-duty corrugated cases.[74]

(60) Therefore, most of the elements in the Commission's file point towards the definition of separate markets for the manufacture and supply of each of conventional and heavy-duty corrugated cases. In any event, for the purposes of the present case, the exact product market may be left open, given that the Transaction, as modified by the remedies offered by the Parties, does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement with respect to the manufacture and supply of corrugated cases under any plausible market definition. Consistently with the results of the market investigation, the Commission will assess the effects of this Transaction by reference to the relevant narrowest market delimitations, i.e., the markets for the manufacture and supply of each of conventional and heavy-duty corrugated cases.

4.3.2. Geographic market definition

4.3.2.1. Commission's decisional practice

(61) In previous cases, the Commission analysed the effects of concentrations in this markets both on a (i) national-wide level and (ii) local-wide level, corresponding to radius of 200 km to 300 km around the production sites of each of the undertakings concerned. As regards heavy-duty corrugated cases, the Commission has in the past considered the geographic market to be wider than that for conventional corrugated cases. The exact scope of the geographic market definition was consistently left open for both conventional and heavy-duty corrugated cases.[75]

4.3.2.2. Notifying Party's views

(62) The Notifying Party considers that the markets for both conventional and heavy-duty cases are at least national because (i) distribution costs are low and (ii) a significant part of the Parties' sales are made to customers beyond 300 km.[76]

4.3.2.3. Commission's assessment

(63) As was the case for corrugated sheets, the Commission's market investigation revealed that the markets for the manufacture and supply of corrugated cases have a local dimension, as it is not economical to transport these products beyond a certain distance, considering the high production costs relative to the price of transport.[77]

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73 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions E.C.6, E.C.6.1, F.C.6, and F.C.6.1.

74 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions E.C.1 and F.C.1, and replies to eRFI 'Customers – corrugated cases', Question C.A.1.

75 Case M.8915 – *DS Smith/Europac*, paragraphs 70-74.

76 Form CO, paragraphs 254-277.

77 E.g., minutes of call with a competitor on 29 July 2024 (non-confidential version), paragraph 18, and minutes of call with a competitor on 19 August 2024, paragraph 20.

Accordingly, most market participants informed the Commission that they supply mostly to clients within a certain radius around their production plants, rather than on a national or wider basis.[78] Similarly, the Parties' transactional data also reveal that the Parties' plants supply mostly locally.[79]

(64) As explained in Section 4.2.2.1, above, in markets with these characteristics, the Commission typically defines the geographic market based on catchment areas.

(65) With respect to the size of the catchment areas, the Commission's investigation results support the definition of local geographic markets corresponding to radii of 300 km or less from the Parties' relevant production sites. The vast majority of market participants declare that, across the EEA in 2023, they either supplied or purchased 80% of their total supply of purchases of conventional corrugated cases from plants that are located within a radius of 300 km or less of their own factories.[80]

(66) As for the supply of heavy-duty corrugated cases, several market participants consider that it is economical to supply them further than conventional corrugated cases, as they are more costly to produce and therefore more expensive.[81] At the same time, the vast majority of suppliers declare that, in the EEA in 2023, they supplied 80% of their total supply of heavy-duty cases from plants located within a radius of 300 km of their own factories.[82]

(67) Therefore, most of the elements in the Commission's file point towards the definition of catchment areas of 300 km. In any event, for the purposes of the present case, the exact geographic market definition may be left open, given that the Transaction, as modified by the remedies offered by the Parties, does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement with respect to the markets for the manufacture and supply of conventional and heavy-duty corrugated cases under any plausible market definition. Consistently with the results of the market investigation, the Commission will assess the effects of this Transaction by reference to the narrowest plausible geographic market delimitations, corresponding to 300 km around each of the Parties' production sites, acknowledging however that in certain areas competition may occur more locally and that heavy-duty corrugated cases may be profitably transported farther than conventional corrugated sheets.

78 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions E.C.7 and F.C.7, and replies to eRFI 'Customers – corrugated cases', Question C.B.1.

79 Form CO, Joint Confidential Annex RFI 1 Q13.

80 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions E.C.8.3 and F.C.8.3, and replies to eRFI 'Customers – corrugated cases', Question C.B.1.1.

81 Replies to eRFI 'Competitors – corrugated sheets and cases', Question E.C.10.2 and replies to eRFI 'Customers – corrugated cases', Question C.B.1.2. Minutes of call with a competitor on 29 July 2024, paragraph 20, minutes of call with a competitor on 16 October 2024, paragraph 10, and minutes of call with a competitor on 14 October 2024, paragraph 15.

82 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions E.C.8.3 and F.C.8.3.

5. COMPETITIVE ASSESSMENT

5.1. Legal framework

(68) This decision will assess the likelihood of the Transaction originating (i) non-coordinated horizontal effects, (ii) non-coordinated vertical effects, and (iii) coordinated horizontal effects.

(69) Non-coordinated horizontal effects. The legal test for the assessment of non-coordinated horizontal effects of a concentration is set out in the Merger Regulation and in the Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings ('Horizontal Merger Guidelines').[83]

(70) A concentration may significantly impede effective competition in a market by removing important competitive constraints on one or more sellers who consequently have increased market power.[84] To assess whether the concentration could result in non-coordinated effects, the Commission considers, notably, the parties' market shares and concentration levels.[85] Market shares and concentration levels provide useful first indications of the market structure and competitive importance of the merging parties and their competitors. Several other factors identified in the Horizontal Merger Guidelines are considered, such as whether the Parties are close competitors, whether customers could switch suppliers or promote entry, and whether the concentration would eliminate an important competitive force.[86]

(71) Non-coordinated vertical effects. According to the Non-horizontal Merger Guidelines,[87] foreclosure occurs when actual or potential rivals' access to markets is hampered, thereby reducing those companies' ability and/or incentive to compete.[88] Such foreclosure can take two forms: (i) input foreclosure, when access of downstream rivals to supplies is hampered[89] and (ii) customer foreclosure, when access of upstream rivals to a sufficient customer base is hampered.[90]

(72) For input or customer foreclosure to be a concern, three conditions need to be met post-Transaction: (i) the merged entity needs to have the ability to foreclose its

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83 OJ C 31, 5.2.2004, p. 5.

84 Horizontal Merger Guidelines, paragraph 24.

85 Horizontal Merger Guidelines, paragraphs 17-38. In order to measure concentration levels, the Commission applies the Herfindahl-Hirschman Index ('HHI'). The Commission is unlikely to identify horizontal competition concerns in a market with a post-concentration HHI below 1000. The Commission is also unlikely to identify horizontal competition concerns in a concentration with a post-merger HHI between 1000 and 2000 and a delta below 250, or a merger with a post-merger HHI above 2000 and a delta below 150, except where special circumstances are present. However, HHI levels, in combination with the relevant deltas, are used merely as an initial indicator of the absence of competition concerns and do not give rise to a presumption of either the existence or the absence of such concerns.

86 Horizontal Merger Guidelines, paragraphs 28-31 and 37-38.

87 Guidelines on the assessment of non-horizontal mergers under the Council Regulation on the control of concentrations between undertakings, OJ C 265, 18.10.2008, p. 7.

88 Non-horizontal Merger Guidelines, paragraphs 20-29.

89 Non-horizontal Merger Guidelines, paragraph 31.

90 Non-horizontal Merger Guidelines, paragraph 58.

rivals, (ii) the merged entity needs to have the incentive to foreclose its rivals, and (iii) the foreclosure strategy needs to have a significant detrimental effect on competition on the downstream market (input foreclosure) or on consumers in the downstream market (customer foreclosure).[91] In practice, these factors are often examined together since they are closely intertwined.

(73) Coordinated horizontal effects. To assess coordinated effects, the Horizontal Merger Guidelines require proof that the concentration will make coordination more likely, more effective, and more sustainable. The Commission's assessment therefore focuses on the changes in terms of these factors that the transactions will bring about. The Commission's assessment focuses on the following factors: (i) the ability to reach terms of coordination and (ii) whether such coordination would be sustainable, based on an analysis of (a) the ability to monitor deviations from the terms of coordination, (b) the existence of a credible deterrent mechanism if deviation is detected, and (c) the reactions of outsiders, such as current and future competitors not participating in the coordination, as well as customers, not being able to jeopardise the results expected from the coordination.[92]

5.2. Overview of affected markets

(74) The Transaction gives rise to the following horizontally affected markets:

(a) Manufacture and supply of conventional corrugated sheets and heavy-duty corrugated sheets, in which the Parties have a combined market share of at least 20% in several catchment areas in Portugal, Spain, and Italy (those identified in Sections 5.4.1, 5.4.2, and 5.4.3, below); and

(b) Manufacture and supply of conventional corrugated cases, in which the Parties have a combined market share of at least 20% in several catchment areas in France, Italy, Portugal, and Spain (those identified in Section 5.5, below).

(75) The Transaction also gives rise to vertical relationships, resulting in affected markets, between::

(a) Upstream, the markets for the manufacture and supply of kraftliner in the EEA, where the Parties' combined market share is lower than 30%, and, downstream, the manufacture and supply of conventional corrugated sheets and heavy-duty corrugated sheets, in which the Parties have a combined market share of at least 30% in several catchment areas in Italy, Portugal, and Spain (those identified in Section 5.6, below); and

(b) Upstream, the markets for the manufacture and supply of conventional corrugated sheets and heavy-duty corrugated sheets, in which the Parties have a combined market share of at least 30% in several catchment areas in Italy, Portugal, and Spain and, downstream, the markets for the manufacture and supply of conventional corrugated cases and heavy-duty corrugated cases, in which the Parties have a combined market share generally lower than 30% in

91 Non-horizontal Merger Guidelines, paragraphs. 32 and 59.

92 Horizontal Merger Guidelines, paragraphs 39-57.

several catchment areas in Italy, Portugal, and Spain.[93] These vertical relationships are identified in detail in Section 5.7, below.

(76) Finally, the Transaction also results in horizontal overlaps and vertical relationships on other markets. However, none of these give rise to affected markets within the meaning of recital 25(g) of Annex I to Regulation (EU) 2023/914.[94] Since there are no indications that the Transaction would lead to serious doubts on any of these markets, these overlaps will not be assessed in detail in this decision.

5.3. Market share methodology

5.3.1. The Notifying Party's market share methodology

(77) The Notifying Party estimated market shares for the manufacture and supply of corrugated sheets and cases in France, Italy, Portugal, and Spain on the basis of national and local markets.[95]

(78) The Notifying Party constructs the markets based on a bottom-up approach, relying on the Parties' local market expertise and industry association data to supplement third-party information (RISI)[96] in each country to account for competitor merchant market sales.

(79) National and local market sizes are calculated based on the sum of the Parties' (actual) and competitors' (estimated) merchant market sales volumes of the respective sites in each country/local market. Local market shares are calculated on the basis of a radius around each of the Parties' plants that fall within the following defined radii: (i) 400-km radius for corrugated sheets and (ii) 300-km radius for corrugated cases, using each of the Parties' production sites as 'centroids' of each local market in France, Italy, Portugal, and Spain.

5.3.2. The Commission's considerations on the Notifying Party's market shares

(80) The Commission notes that the Notifying Party's market share calculation includes all sales generated by each production site, regardless of where these sales actually take place, in line with the Market Definition Notice.[97] At the same time, the Market Definition Notice highlights how in these types of markets the competitive conditions may change as a function of distance, where the locations of customers

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93 The Parties' activities in the manufacture and supply of corrugated sheets in France do not give rise to affected vertical relationships in France because they meet the conditions for review under point 5(d)(ii)(bb) of the Commission Notice on a simplified treatment for certain concentrations under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings, OJ C 160, 5.5.2023, p. 1-10, applicable pursuant to recital 25(g) of Annex I to Commission Implementing Regulation (EU) 2023/914 of 20 April 2023 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings, OJ L 119, 5.5.2023, p. 22.

94 Commission Implementing Regulation (EU) 2023/914 of 20 April 2023 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings and repealing Commission Regulation (EC) No 802/2004, OJ L 119, 5.5.2023, p. 22-102.

95 Form CO, Annex RFI 1 Q19.03.

96 RISI is a subsidiary of Fastmarkets, a global market analyses provider. It provides third-party market data for the paper and corrugated packaging sectors. Form CO, Annex RFI 1 Q19.03.

97 Market Definition Notice, paragraph 109.

and suppliers matter for the customers' choice.[98] Market shares represent a first indication of the competitive intensity of the merging parties and are the starting point of the competitive assessment.[99] In addition, further analysis can be introduced to take account for the closeness of competition that may stem from geographic differentiation.

(81) In particular, to take into account the degree of geographic differentiation among competitors, sales of each site can be proportionally attributed to the extent that their local area overlaps with the defined radius ('the proportional analysis").[100]

(82) Notably, a comparison of the merged entity's combined market shares and the allocated sales shares from the proportional analysis reveals that the Parties' combined shares from the proportional analysis tend to be, on average, slightly higher than the combined market shares submitted by the Notifying Party. These results indicate that, stemming from their geographical proximity, the Parties tend to be closer competitors to each other than what their market shares imply. The average difference for corrugated sheets and corrugated cases is approximately [0-5]% and [0-5]%, respectively. These figures increase to [0-5]% and [0-5]%, respectively, when focusing solely on the markets where the Commission has raised serious doubts, as will be elaborated in the following sections.

(83) In this context, the Commission will take into account, in the assessment of the Parties' closeness of competition, where relevant, the Parties' actual sales. These may show a closer level of competition than indicated by market shares.

5.4. Non-coordinated horizontal effects: manufacture and supply of conventional and heavy-duty corrugated sheets

5.4.1. Portugal

5.4.1.1. Introduction

(84) The Transaction results in affected markets for the manufacture and supply of conventional corrugated sheets in Portugal in the following 400-km catchment areas: in North Portugal, (i) DSS Gondesende,[101] (ii) DSS Guilhabreu, (iii) IP Ovar; and, in West Portugal, (iv) DSS Albarraque, and (v) DSS Leiria.

98 Market Definition Notice, paragraphs 73 and 85.

99 Horizontal Merger Guidelines, paragraph 14.

100 In the absence of customer geolocated data for competitors, the proportional analysis assumes that customers are uniformly distributed across the different local markets. With more granular data on the competitors' customer geolocations a more precise share calculation is possible.

101 The plants of the Parties will be hereinafter referred to by the party's name and the plant's location, e.g., 'DSS Gondesende' and 'IP Ovar', meaning DSS's plant in Gondesende and IP's plant in Ovar, respectively.

Figure 3: Overview of combined market shares (MS) in the affected catchment areas in Portugal



Combined MS < 30% / Combined MS 30-40% / Combined MS > 40%

Source: Commission, based on data in Form CO, Annex RFI 1 Q19.02.

5.4.1.2. Notifying Party's views

(85) The Notifying Party considers that the Transaction does not raise competition concerns with regard to the markets for the supply of conventional corrugated sheets in Portugal, for the following reasons.[102]

(86) *First*, according to the Notifying Party, the Parties' overall combined shares in the relevant catchment areas are modest, at around [20-30]-[30-40]%, and the increments contributed by IP, of [5-10]%, are limited.

(87) *Second*, the Notifying Party points to a strong competitive landscape, with competitors such as Saica Group, Empresa de Cartão Canelado ('ECC'), Grupo Zarrinha, CL Grupo Industrial, Smurfit Westrock, and Sebastião & Martins. According to the Notifying Party, competition has intensified in the past few years since DSS's acquisition of Europac, with Saica Group tripling its merchant market output and competitors such as ECC, Sebastião & Martins, and Smurfit WestRock expanding production, modernizing facilities, and therefore having spare capacity.

(88) *Third* according to the Notifying Party, barriers to entry are low. The Notifying Party highlights that there are no particular regulatory or other impediments to new entry or expansion.

102 Form CO, paragraphs 410-418.

(89) *Fourth*, the Notifying Party explains that sheets are commoditised products, and customers can (and do) switch suppliers often and multi-source to fulfil their requirements.

5.4.1.3. Commission's assessment

(90) The Commission considers that the Transaction raises serious doubts as to its compatibility with the internal market in respect of the manufacture and supply of conventional corrugated sheets in the relevant catchment areas in Portugal, for the following reasons.

5.4.1.3.1. Market structure and market shares

(91) *First*, the Commission's investigation does not confirm the Notifying Party's argument that the Parties' combined share and increment are limited, namely in light of the limited size of the merchant market and the alleged weakening of the Parties' competitive position since DS Smith's acquisition of Europac.

(92) The Commission notes that, at national level (the geographic scope of the markets, as proposed by the Notifying Party), the Parties achieve a combined market share of [30-40]% with regard to conventional corrugated sheets, with an increment of [10-20]% brought by IP.

Table 1: Volume market shares in Portugal, 2023

	Conventional corrugated sheets	
Competitor	**Volume (Mm2)**	**Share (%)**
International Paper	[…]	[10-20]%
DS Smith	[…]	[20-30]%
Combined	***[…]***	***[30-40]%***
Saica Group	[…]	[20-30]%
Sebastião & Martins	[…]	[10-20]%
ECC	[…]	[10-20]%
Grupo Zarrinha	[…]	[10-20]%
Smurfit Westrock	[…]	[5-10]%
Other	[…]	[0-5]%
Total	**[200-300]**	**100%**

Source: Form CO, Annex RFI 1 Q19.01.

(93) Based on a narrower geographic market definition, encompassing radii of 400 km around the Parties' relevant production plants, the Parties' activities give rise to five affected catchment areas in the North and West of Portugal. According to the Notifying Party's estimates, the Parties' combined market shares vary between [20-30]% and [30-40]%, with an increment of [5-10]%.

(94) However, the Commission conducted a market reconstruction, by collecting the actual sales volumes of all main competitors in the Portuguese market. On the basis of the Parties' and main competitors' sales volume data in 2023, the Parties' combined market share is significantly higher than the Notifying Party's estimate, at [40-50]%, with an increment of [10-20]%. The tables below show the Parties'

combined market share estimates in those five local markets, as well as the market shares resulting from the market reconstruction that the Commission conducted.

Table 2: Parties' combined (volume) share in overlapping affected catchment areas, all sheets,[103] Portugal, 2023[104]

Region of centroid	Centroid name	Parties' combined share	DSS's share	IP's share	Delta HHI	Post-Transaction HHI
North Portugal	DSS Gondesende (Gopaca)	[30-40]%	[20-30]%	[5-10]%	[0-500]	[1,000-2,000]
	DSS Guilhabreu	[30-40]%	[20-30]%	[5-10]%	[0-500]	[1,000-2,000]
	IP Ovar	[30-40]%	[20-30]%	[5-10]%	[0-500]	[1,000-2,000]
West Portugal	DSS Albarraque	[20-30]%	[10-20]%	[5-10]%	[0-500]	[1,000-2,000]
	DSS Leiria	[30-40]%	[20-30]%	[5-10]%	[0-500]	[1,000-2,000]

Source: Form CO, Annex RFI 1 Q19.02.

Table 3: Commission's market reconstruction in the five local markets, 2023

Centroid plant	Parties' combined market share (increment) in the supply of conventional corrugated sheets	
	Notifying Party's estimate	Market reconstruction
North Portugal		
DSS Gondesende	[30-40]% ([5-10]%)	[40-50]% ([10-20]%)
DSS Guilhabreu	[30-40]% ([5-10]%)	[40-50]% ([10-20]%)
IP Ovar	[30-40]% ([5-10]%)	[40-50]% ([10-20]%)
West Portugal		
DSS Albarraque	[20-30]% ([5-10]%)	[40-50]% ([10-20]%)
DSS Leiria	[30-40]% ([5-10]%)	[40-50]% ([10-20]%)

Source: Form CO, Annex RFI 1 Q19.02.

(95) The market shares resulting from the Commission's market reconstruction are more in line with those estimated internally by the Parties prior to the Transaction, which pointed to a combined national capacity-based share of [60-70]%.[105] While the Notifying Party submits that this share is not reliable, namely due to limitations associated with the source data,[106] it is consistent also with estimates provided by several of the market participants contacted by the Commission. For example, one

103 The Parties' activities do not overlap in the supply of heavy-duty sheets in Portugal. The Notifying Party clarifies in footnote 580 of the Form CO and the reply to Request for Information 13 that shares for 'conventional sheets only' would be very similar to the estimates shares for 'all sheets', given that heavy-duty sheets represent less than [0-5]% of all sheets sold in Portugal.

104 All radii of 400 km drawn around each of the Parties' production plants in Portugal cover almost the whole of Portugal (and North-West Spain). The difference in the resulting market shares stems mainly from the fact that the market shares in the catchment areas around DSS Gondesende, DSS Guilhabreu, IP Ovar, and DSS Leiria also include the estimated merchant sales of all plants of the Parties located in North-West Spain (i.e., DSS Cartogal and DSS Galicia).

105 Form CO, DSS Annex 5.4.003, slide 11.

106 Parties' reply to Request for Information 6, Questions 1-2.

market participant considered that *'the Parties could capture a large market share, potentially around [40-50]% or more'*,[107] whereas another estimated that *'post-Transaction, the combined entity will hold [70-80]% of the capacity in the market and will have a [50-60]-[60-70]% market share in terms of sales'*.[108]

(96) The concentration level as measured by the HHI would also increase significantly, with the delta HHI well above the 150 and 250 thresholds, both according to the Notifying Party and to the Commission's market reconstruction.[109]

(97) The Commission therefore considers that the Parties' combined shares and increments are much higher than those estimated by the Notifying Party and are indicative of the significant market power held by the Parties in the local markets for conventional corrugated sheets in Portugal.

5.4.1.3.2. Closeness of competition

(98) *Second*, when it comes to closeness of competition, a vast majority of sheet suppliers considered that DS Smith and IP are close competitors, whereas all other competitors are not considered close to either of the Parties.[110] By way of example, one competitor notes that *'when it comes to the variety of products, the Parties are the closest competitors'*.[111]

(99) The Commission therefore considers that the Parties appear to be relatively close competitors.

5.4.1.3.3. Removal of an important competitive force

(100) *Third, a*s for the alleged existence of many strong competitors in the different catchment areas, the Parties were considered '*strong'* competitors by a large majority of sheet suppliers, whereas all others (i.e., Saica Group, Smurfit Westrock, Sebastião & Martins, ECC, Grupo Zarrinha) were considered '*weak'* competitors by a vast majority of sheet suppliers.[112]

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107 Minutes of call with a competitor on 16 October 2024 (non-confidential version), paragraph 31.

108 Minutes of call with a customer on 30 October 2024 (non-confidential version), paragraph 20. Citation translated from Portuguese: *'(…) pós-Transação, a entidade combinada deterá 70% da capacidade instalada no mercado e deterá uma quota de mercado de 55-60% em termos de volume de vendas.'*

109 Horizontal Merger Guidelines, paragraphs 19-20. According to the Notifying Party's estimates, the post-Transaction HHI is [1,000-2,000], such that the HHI delta of [0-500] is above the 250 level under which horizontal competition concerns are unlikely when the post-concentration HHI is below 2,000. According to the Commission's market reconstruction, the post-Transaction HHI is [2,000-3,000], such that the HHI delta of [500-1,000] is well above the 150 level under which horizontal competition concerns are unlikely when the post-concentration HHI is above 2,000.

110 Replies to eRFI 'Competitors – Corrugated sheets and cases', Question D.B.B.3. In a scale of 1 to 5, a competitor is considered '*not close'* if assigned the ratings 1 or 2, '*neutral'* if assigned the rating 3, and '*close'* if assigned the ratings 4 or 5.

111 Minutes of call with a customer on 29 October 2024 (non-confidential version), paragraph 17. Citation translated from Portuguese: *'(…) a [CONFIDENTIAL] nota que a nível da diversidade da gama de produtos, as Partes são as mais próximas.'*

112 Replies to eRFI 'Competitors – Corrugated sheets and cases', Question D.B.B.2. In a scale of 1 to 5, a competitor is considered 'weak' if assigned the ratings 1 or 2, 'average' if assigned the rating 3, and 'strong' if assigned the ratings 4 or 5.

(101) In this regard, the Commission notes that the combined entity, together with its biggest competitors Saica Group and Grupo Zarrinha, would represent [60-70]% of the market in the relevant catchment areas (according to the Notifying Party's estimates).

(102) Moreover, according to the Commission's market reconstruction, the Parties only face two competitors with a market share above 10%.

(103) The Commission therefore considers that the Transaction will remove an important competitive force from the market.

5.4.1.3.4. Market entry and capacity expansion

(104) *Fourth*, as for the potential for further entry or expansion, the vast majority of respondents indicated that it was either difficult or very difficult to enter the market for corrugated sheets in the relevant catchment areas in Portugal, noting for example that costs for the development of new greenfield projects are high.[113]

(105) A vast majority of respondents was likewise unable to identify new competitors in the country. When asked whether any new competitor had entered the market in the past 5 years, or was possibly contemplating entering in the next 5 years, only one potential candidate was identified, Hinojosa.[114] However, Hinojosa confirmed to the Commission that entering the corrugated sheets markets in Portugal is not contemplated in its strategic plan for the next 3 years.[115]

(106) Moreover, existing sheet competitors have confirmed that increasing production further would be difficult, as adding additional shifts would entail significant costs. For example, one competitor indicated that it *'does not think it can meet new demand if necessary. [CONFIDENTIAL] is satisfied with its current capacity ratio. Currently, they operate in [CONFIDENTIAL] shifts now and could theoretically add a [CONFIDENTIAL] shift, but this would be technically challenging, and there are no plans for [CONFIDENTIAL] to do it'*.[116]

(107) The Commission therefore considers that entry barriers are high and that insufficient entry or expansion has been observed in recent years.

5.4.1.3.5. Customers' countervailing buyer power

(108) As for the Notifying Party's assertion that customers multi-source and can switch suppliers quickly, several market participants indicated that the Parties' competitors active in the supply of conventional sheets in the relevant catchment areas in Portugal are vertically integrated companies whose production of conventional sheets is aimed first and foremost at internal consumption (for subsequent production of conventional cases).[117] In particular, sheet customers expressed

113 Replies to eRFI 'Competitors – Corrugated sheets and cases', Questions D.B.A.10 and E.B.A.13.
114 Replies to eRFI 'Competitors – Corrugated sheets and cases', Questions D.B.A.10 and E.B.A.13.
115 Email of Hinojosa dated 15 October 2024.
116 Minutes of call with a competitor on 16 October 2024 (non-confidential version), paragraph 29.
117 According to Form CO Annex RFI 1 Q19.02, competitors active in the supply of both corrugated sheets and cases in Portugal include Saica, Sebastião Martins, ECC, Grupo Zarrinha, and Smurfit

concerns that finding alternative suppliers is already challenging prior to the Transaction.

(109) Some reported contacting the main conventional sheet suppliers with procurement requests, only to receive unreasonably high quotes, or no response at all: '*(…) we have previously attempted to contact suppliers such as Grupo Vouga, Grupo Zarrinha, Sebastião & Martins, and even Saica. However, all either refused to supply us, or offered excessively high prices*'. The same customer noted that both Smurfit Westrock and ECC direct their production mostly at internal consumption rather than external sales. Moreover, entering the market by becoming a vertically integrated firm would be unfeasible due to the costly financial burden associated with acquiring a corrugator.[118]

(110) These concerns were echoed by other sheet customers. For example, one noted that *'it is increasingly hard to find alternative suppliers'*, again indicating that Smurfit Westrock's plant is to a large extent not suited to address external needs, and that sheet suppliers such as Sebastião & Martins, Saica Group, Grupo Zarrinha, and ECC are not available to supply this customer.[119]

(111) Yet another customer stated that *'in the segment of conventional corrugated sheets, it is already difficult for us today to find an alternative supplier to the Parties, due either to lack of capacity or lack of willingness of firms to supply us. This situation will only worsen post-Transaction'*. This customer also explained – similarly to the two previously cited customers – that many of the corrugated sheet suppliers active in Portugal produce corrugated sheets mostly as an input to their own corrugated case production (rather than for external sales to third parties).[120]

(112) The Commission therefore considers that customers do not hold sufficient countervailing buyer power that would adequately discipline the merged entity. On the contrary, even in the present situation, customers are already faced with limited alternatives.

5.4.1.3.6. Conclusion

(113) Given the high levels of concentration in the market, the fact that the Parties are close competitors, the lack of credible alternatives, and the barriers to entry and expansion, the Commission considers it likely that, post-Transaction, the merged

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Westrock; as well as Cartonajes Vir and CL Grupo Industrial (Matias Goma) who are based in Spain are also active in some of the local Portuguese catchment areas.

118 Minutes of call with a customer on 29 October 2024 (non-confidential version), paragraphs 11-12 and 15-21. Citation translated from Portuguese: *'A [CONFIDENTIAL] nota que tem sentido dificuldade em obter fornecedores alternativos às Partes. Em particular, tentou contactar anteriormente fornecedores tais como o Grupo Vouga, Grupo Zarrinha, Sebastião & Martins, e até mesmo a Saica. Contudo, todos se recusaram a fornecer a [CONFIDENTIAL], ou ofereceram preços excessivamente elevados.'*

119 Minutes of call with a customer on 29 October 2024 (non-confidential version), paragraphs 15-18. Citation translated from Portuguese: *'A [CONFIDENTIAL] considera que é cada vez mais difícil encontrar fornecedores alternativos.'*

120 Minutes of call with a customer on 30 October 2024 (non-confidential version), paragraphs 8-15. Citation translated from Portuguese: '*No segmento da prancha ondulada convencional, é já difícil para a [CONFIDENTIAL] contratar com um fornecedor alternativo às Partes, ou por falta de capacidade ou por falta de abertura ou interesse destes em contratar. A situação só piorará pós-Transação.*'

entity would be able to increase prices or to otherwise deteriorate quality or the conditions of supply in the markets for the supply of conventional corrugated sheets in the relevant catchment areas in the North and West of Portugal.

(114) This concern is shared by market participants, with a vast majority of respondents in the Commission's market investigation indicating that the merged entity would be able to raise prices post-Transaction.[121] For example, one respondent noted that *'(…) with less competition, there will certainly be an increase of the price of the input, leading to an increase in price of boxes and, inevitably, in an increase of the price of products overall'*.[122]

(115) In view of the above, the Commission considers that the Transaction raises serious doubts as to its compatibility with the internal market with regard to the supply of conventional corrugated sheets in the relevant catchment areas in the North and West of Portugal.

5.4.2. Spain

5.4.2.1. Introduction

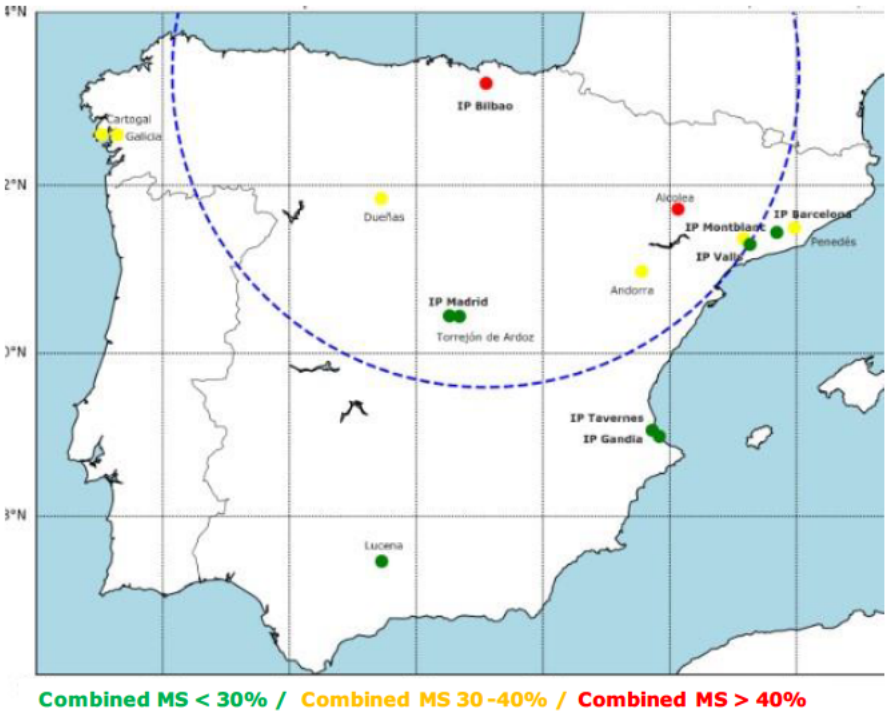
(116) The Transaction gives rise to affected markets in the manufacture and supply of conventional and heavy-duty corrugated sheets in Spain in the following 400-km catchment areas: in Central Spain, around (i) DSS Dueñas; in North-East Spain, around (ii) DSS Alcolea, (iii) DSS Andorra, (iv) IP Barcelona, (v) IP Bilbao, (vi) IP Montblanc, (vii) IP Valls, (viii) DSS Penedés; in North-West Spain, around (ix) DSS Cartogal, (x) DSS Galicia; and in South-East Spain, around (xi) IP Gandia, and (xii) IP Tavernes.

(117) The Transaction will additionally result in several affected markets for the supply of heavy-duty corrugated sheets in North-East Spain, in the 400-km catchment areas around DSS Alcolea and IP Bilbao.

[121] Replies to eRFI 'Competitors – Corrugated sheets and cases', Question G.2.

[122] Replies to eRFI 'Competitors – Corrugated sheets and cases', Question G.4. Citation translated from Portuguese: *'(…) com menos concorrência haverá certamente aumento de preços de matéria prima, o que levará a um aumento de preços na embalagem e inevitavelmente a um aumento de preços dos produtos em geral*'.

Figure 4: Overview of combined market shares (MS) in the affected catchment areas in Spain



Source: Commission, based on data in Form CO, Annex RFI 1 Q19.02.

5.4.2.2. Notifying Party's views

(118) The Notifying Party claims that no competition concerns will arise from the Transaction with respect to the markets for the manufacture and supply of corrugated sheets in Spain, for the following reasons.[123]

(119) *First*, the Parties' combined market share for corrugated sheets in Spain is modest, with an increment of only [5-10]%, and sheets are commoditized products with minimal customer loyalty, enabling frequent supplier switching.

(120) *Second*, the Parties will continue to face significant competition from large companies such as Saica Group, Ondulados Carme, Grupo Petit, and Smurfit Westrock, alongside smaller local competitors with sufficient spare capacity to increase output, as well as imports into Spain.

(121) *Third*, entry and expansion are facilitated by low barriers, widely available technology, flexible production capacity in box plants, and no significant regulatory or intellectual property restrictions.

(122) *Fourth*, when it comes to heavy-duty corrugated sheets, these account for a small share of overall corrugated sheet sales and, in any event, (i) Smurfit Westrock will remain the leading supplier in the region, (ii) heavy-duty sheets can be distributed over longer distances than conventional ones, and (iii) all corrugated sheet suppliers have the technical capability to manufacture heavy-duty sheets.

123 Form CO, paragraph 420 and similarly paragraphs 427, 431, 435, and 439.

5.4.2.3. Commission's assessment

(123) The Commission notes that, at the national level (the geographic scope of the markets, as proposed by the Notifying Party), the Parties' combined market share in the market for the supply of conventional corrugated sheets is [30-40]%, with an increment of [5-10]%. The Parties' combined market share in the manufacture and supply of heavy-duty corrugated sheets is [20-30]%, with an increment of [10-20]%.

Table 4: Volume market shares in Spain, conventional sheets, 2023

Competitor	Volume (Mm2)	Share (%)
International Paper	[…]	[5-10]%
DS Smith Plc	[…]	[20-30]%
Combined	***[…]***	***[30-40]%***
Saica Group	[…]	[10-20]%
Smurfit Kappa Group	[…]	[10-20]%
Grupo Petit	[…]	[5-10]%
Ondulados Carme	[…]	[5-10]%
Ondulados del Papel	[…]	[5-10]%
Cartonajes Gamoy	[…]	[0-5]%
La Plana	[…]	[0-5]%
Hinojosa Group	[…]	[0-5]%
Ondulats Olive	[…]	[0-5]%
Cartonajes Peral	[…]	[0-5]%
Others[124]	[…]	[5-10]%
Total	**[600-700]**	**100%**

Source: Form CO, Annex RFI 1 Q19.01.

Table 5: Volume market shares in Spain, heavy-duty sheets, 2023

Competitor	Volume (Mm2)	Share (%)
International Paper	[…]	[10-20]%
DS Smith Plc	[…]	[10-20]%
Combined	***[…]***	***[20-30]%***
Smurfit Westrock	[…]	[30-40]%
Cartonajes Gamoy	[…]	[10-20]%
Caletre	[…]	[10-20]%
Cartedyam	[…]	[5-10]%
Grupo Petit	[…]	[0-5]%
Total	**[20-30]**	**100%**

Source: Form CO, Annex RFI 1 Q19.01.

(124) On a local level, based on geographic markets comprising radii of 400 km around the Parties' relevant production facilities, the Parties' activities in the supply of conventional corrugated sheets result in affected markets in several catchment areas in Central, North-East, North-West, and South-East Spain, and in the supply of

[124] Includes CL Grupo Industrial (Matias Goma), Cartedyam, Klingele Papierwerke GmbH & Co. KG, Mora y Goma, Saeco, Cartonajes Vir, and Grupo Erabil.

heavy-duty corrugated sheets in North-East Spain. The tables below shows the Parties' combined market share estimates in these markets.

Table 6: Parties' combined (volume) share in overlapping affected catchment areas, conventional sheets, Spain, 2023

Region of centroid	Centroid name	Parties' combined share	DSS's share	IP's share	Delta HHI	Post-Transaction HHI
Central Spain	DSS Dueñas	[30-40]%	[20-30]%	[10-20]%	[500-1,000]	[1,000-2,000]
North-East Spain	DSS Alcolea	[30-40]%	[20-30]%	[5-10]%	[0-500]	[1,000-2,000]
	DSS Andorra	[30-40]%	[20-30]%	[5-10]%	[0-500]	[1,000-2,000]
	IP Barcelona	[30-40]%	[20-30]%	[0-5]%	[0-500]	[1,000-2,000]
	IP Bilbao	[20-30]%	[10-20]%	[10-20]%	[0-500]	[2,000-3,000]
	IP Montblanc	[30-40]%	[20-30]%	[5-10]%	[0-500]	[1,000-2,000]
	IP Valls	[30-40]%	[20-30]%	[5-10]%	[0-500]	[1,000-2,000]
	DSS Penedés	[30-40]%	[20-30]%	[0-5]%	[0-500]	[1,000-2,000]
North-West Spain	DSS Cartogal	[30-40]%	[20-30]%	[5-10]%	[0-500]	[2,000-3,000]
	DSS Galicia	[30-40]%	[20-30]%	[5-10]%	[0-500]	[2,000-3,000]
South-East Spain	IP Gandia	[30-40]%	[20-30]%	[5-10]%	[0-500]	[1,000-2,000]
	IP Tavernes	[30-40]%	[20-30]%	[5-10]%	[0-500]	[1,000-2,000]

Source: Form CO, Annex RFI 1 Q19.02.

Table 7: Parties' combined (volume) share in overlapping affected catchment areas, heavy-duty sheets, Spain, 2023

Region of centroid	Centroid name	Parties' combined share	DSS's share	IP's share	Delta HHI	Post-Transaction HHI
North-East Spain	DSS Alcolea	[20-30]%	[10-20]%	[10-20]%	[0-500]	[2,000-3,000]
	IP Bilbao	[30-40]%	[10-20]%	[10-20]%	[0-500]	[2,000-3,000]

Source: Form CO, Annex RFI 1 Q19.02.

(125) However, as will be discussed in further detail in Section 5.4.2.3.5, below, the Commission conducted a market reconstruction, by contacting the Parties' alleged competitors in the supply of heavy-duty corrugated sheets in North-East Spain. On the basis of this outreach, the Parties' combined market share is significantly higher than the Notifying Party's estimate, likely around [90-100]% in this region, with an increment of approximately [40-50]%.

5.4.2.3.1. Central Spain – Conventional corrugated sheets

(126) In Central Spain, the Parties achieve a combined market share of [30-40]% in the market for the manufacture and supply of conventional corrugated sheets in the catchment area around DSS Dueñas, with an increment of [10-20]%.

(127) The Commission however considers that the Transaction does not raise serious doubts as to its compatibility with the internal market in this market, for the following reasons.

(128) *First*, the Parties' combined market share of [30-40]% is likely to significantly overestimate the Parties' competitive position.

(129) The Notifying Party estimates that the total market size around DSS Dueñas is [400-500] Mm2. However, only [0-100] Mm2 (i.e. less than [0-5]%) are sold by the DSS Dueñas plant. A significant portion of the remainder volumes formally included in the Dueñas catchment area rather correspond to volumes produced in Portugal and sold within Portugal.[125]

(130) The Parties' combined market share in the Dueñas catchment area is therefore not a result of a strong position in the Dueñas region, but rather due to the Parties' strong position in Portugal (see Section 5.4.1, above). In particular, of the Parties' production in Portugal in 2023, only [5-10]% was exported into Spain. The exclusion of the production from the Parties' plants located in Portugal that is sold domestically reduces the Parties' combined market share around DSS Dueñas to only [20-30]%, with an increment of [5-10]%.[126]

(131) *Second*, the responses to the market investigation indicate that many customers multi-source. For example, one customer noted that it procures [30-50]% of its corrugated sheets from DS Smith, with the remainder being procured from smaller local suppliers.[127] Moreover, none of the respondents indicated that, post-Transaction, they would lack sufficient alternative suppliers in Central Spain.[128] In the local market around DSS Dueñas alone, the Parties face 12 competitors, with their largest competitor, Saica Group, holding a market share of [10-20]%.[129]

(132) *Third*, in the course of the market investigation no concerns were raised in relation to Central Spain.

(133) Therefore, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to the manufacture and supply of conventional corrugated sheets in the catchment area around DSS Dueñas.

(134) The Commission further notes that the remedies proposed by the Notifying Party, namely the divestment of both IP Ovar and IP Bilbao, as described in Sections 6-7, below, will in any case significantly reduce the Parties' combined local market shares in Central Spain.

5.4.2.3.2. North-East Spain – Conventional corrugated sheets

(135) In North-East Spain, the Parties achieve combined market shares of [20-30]-[30-40]% (with increments of [0-5]-[10-20]%) in the markets for the manufacture and supply of conventional corrugated sheets in the catchment areas around DSS Alcolea, DSS Andorra, IP Barcelona, IP Bilbao, IP Montblanc, IP Valls, and DSS Penedés.

125 Form CO, DSS Confidential Annex RFI 4 Q22.
126 Form CO, DSS Confidential Annex RFI 4 Q22 and IP Confidential Annex RFI 4 Q22.
127 Minutes of call with a customer on 13 November 2024 (non-confidential version), paragraph 4.
128 Replies to eRFI 'Competitors – Corrugated sheets and cases', Questions D.B.A.7 and E.B.C.A.1.
129 Form CO, Annex RFI 1 Q19.02.

(136) The Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market in these markets, for the following reasons.

(137) *First*, the Parties' combined market share and increments in these affected local markets are not *per se* problematic.[130]

(138) *Second*, there is a large number of competitors in these markets, such as Saica Group, Grupo Petit, Ondulados Carme, and Smurfit Westrock. The market investigation indicated that many customers in Spain multi-source.[131] Given that, post-Transaction, multiple competitors will remain in these markets and these jointly represent a volume that is higher than the combined entity's, the customers' ability to multi-source is unlikely to be jeopardised.

(139) *Third*, the responses to the market investigation revealed limited, and largely unsubstantiated, concerns related to the supply of conventional sheets in North-East Spain (most concerns around this geographic area related instead to heavy-duty corrugated sheets, as discussed in Section 5.4.2.3.5, below).[132]

(140) Therefore, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to the manufacture and supply of conventional corrugated sheets in the relevant catchment areas in North-East Spain.

(141) The Commission further notes that the remedies proposed by the Notifying Party, namely the divestment of IP Bilbao, as described in Sections 6-7, below, will in any case significantly reduce the Parties' combined local market shares in North-East Spain.

5.4.2.3.3. North-West Spain – Conventional corrugated sheets

(142) In North-West Spain, the Parties achieve a combined market share of [30-40]% in the markets for the manufacture and supply of conventional corrugated sheets in the catchment areas around DSS Cartogal and DSS Galicia, with an increment of [5-10]%.

(143) The Commission however considers that the Transaction does not raise serious doubts as to its compatibility with the internal market in these markets, for the following reasons.

(144) *First*, the Parties' combined local market share of [30-40]% is likely to significantly overestimate the Parties' competitive position in North-West Spain. The Notifying Party estimates that the total market size in the catchment areas around DSS Cartogal and DSS Galicia is [200-300] Mm2. However, only [0-100] Mm2 (i.e., less than [5-10]%) are sold by the DSS Cartogal and DSS Galicia plants. A significant portion of the remainder volumes formally included in the DSS Cartogal and DSS

130 Horizontal Merger Guidelines, paragraph 17. Market shares above 50% may in themselves be evidence of the existence of a dominant market position, whereas those below 25% may be presumed to be compatible with the common market.

131 E.g., minutes of call with a customer on 13 November 2024 (non-confidential version), paragraph 4.

132 Replies to eRFI 'Competitors – Corrugated sheets and cases', Question D.B.C.A.1.

Galicia catchment areas rather correspond to volumes produced in Portugal and sold within Portugal.[133]

(145) The Parties' combined market share in this local market therefore follows not from their strong position in the region, but rather from their strong position in Portugal. However, as discussed previously in Section 5.4.2.3.1, the majority of the Parties' production in Portugal is sold to customers located in Portugal, not North-West Spain. Of the Parties' production in Portugal in 2023, only [5-10]% is exported into Spain. Excluding the production from the Parties' plants located in Portugal that is sold domestically reduces the Parties' combined market shares in the catchment areas around DSS Cartogal and DSS Galicia to only [10-20]%, with increments of [0-5]% (corresponding to limited volumes which are exported out of IP Ovar into Spain).[134]

(146) *Second*, the responses to the market investigation indicate that many customers multi-source.[135] In this context, none of the respondents indicated that they would lack sufficient alternative suppliers post-Transaction in North-West Spain.[136] The Parties face six competitors in this region, with their largest competitor, Saica Group, holding a market share of [20-30]%.[137]

(147) *Third*, in the course of the market investigation no concerns were raised in relation to North-West Spain.

(148) Therefore, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to the manufacture and supply of conventional corrugated sheets in the relevant catchment areas in North-West Spain.

(149) The Commission further notes that the remedies proposed by the Notifying Party, as described in Sections 6-7, below, will in any case fully remove the Parties' overlaps in the local markets in North-West Spain.

5.4.2.3.4. South-East Spain – Conventional corrugated sheets

(150) In South-East Spain, the Parties achieve combined market shares of [30-40]% (with increments of [5-10]%) in the markets for the manufacture and supply of conventional corrugated sheets in the catchment areas around IP Gandia and IP Tavernes.

(151) The Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market in these markets, for the following reasons.

133 Form CO, DSS Confidential Annex RFI 4 Q22.

134 Form CO, DSS Confidential Annex RFI 4 Q22 and IP Confidential Annex RFI 4 Q22.

135 E.g., see minutes of call with a customer on 13 November 2024 (non-confidential version), paragraph 4.

136 Replies to eRFI 'Competitors – Corrugated sheets and cases', Questions D.B.A.7 and E.B.C.A.1.

137 Form CO, Annex RFI 1 Q19.02.

(152) *First*, the Parties' combined market share and increments in these affected local markets are not *per se* problematic.[138]

(153) *Second*, there is a large number of competitors in the affected local markets, such as Saica Group, Grupo Petit, Ondulados del Papel, and Smurfit Westrock. The market investigation indicated that many customers multi-source.[139] Given that multiple competitors will remain post-Transaction and that these jointly represent a volume that is higher than the combined entity, the customers' ability to multi-source is unlikely to be jeopardised.

(154) *Third*, the responses to the market investigation revealed limited, and largely unsubstantiated, concerns related to conventional sheets in South-East Spain.

(155) Therefore, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to the manufacture and supply of conventional corrugated sheets in the relevant catchment areas in South-East Spain.

5.4.2.3.5. North-East Spain – Heavy-duty corrugated sheets

(156) The Commission considers that the Transaction raises serious doubts as to its compatibility with the internal market in respect to the market for the manufacture and supply of heavy-duty corrugated sheets in Spain in the relevant catchment areas in North-East Spain (those around IP Bilbao and DSS Alcolea), for the following reasons.

5.4.2.3.5.1. Market structure and market shares

(157) *First*, as for the Notifying Party's argument that the Parties' combined share and increment are limited, namely in light of Smurfit Westrock's leading position in this market, this is not borne out by the Commission's investigation.

(158) According to the Notifying Party's estimates, the Parties achieve a combined market share of [20-30]% in the catchment area around DSS Alcolea and [30-40]% in the catchment area around IP Bilbao, with an increment of [10-20]% and [10-20]%, respectively, contributed by IP.[140]

(159) However, the Commission conducted a market reconstruction, by collecting the actual sales volumes of all competitors included in the Parties' market share calculations, namely Grupo Petit, Smurfit Westrock, Cartonajes Gamoy, Cartedyam, and Caletre. All these competitors responded that they either had not supplied heavy-duty corrugated sheets to third parties in 2023 or were not active in the production of corrugated heavy-duty sheets altogether. On that basis, post-

138 Horizontal Merger Guidelines, paragraph 17. Market shares above 50% may in themselves be evidence of the existence of a dominant market position, whereas those below 25% may be presumed to be compatible with the common market.

139 E.g., see minutes of call with a customer on 13 November 2024 (non-confidential version), paragraph 4.

140 Form CO, Annex RFI 1 Q19.02.

Transaction the merged entity would have a [very strong position] in the catchment areas around DSS Alcolea and IP Bilbao.

(160) This concern over the Parties' potentially [very strong] position was raised by multiple sheet customers over the course of the Commission's market outreach. For example, one customer noted that *'If IP and DSS were to increase the price of heavy-duty sheets, […] would not be able to find another supplier. No other supplier in Spain could provide heavy-duty sheets to […]'*.[141]

(161) The Commission therefore concludes that, far from being limited, the Parties' positions in these catchment areas are very strong, with the merged entity likely holding a [very strong position].

5.4.2.3.5.2. Closeness of competition and removal of an important competitive force

(162) *Second*, in view of the Commission's market reconstruction, which finds that the Parties are the only two active suppliers of heavy-duty corrugated sheets in the catchment areas around DSS Alcolea and IP Bilbao, it immediately follows that the Parties are close competitors. In particular, the removal of either party would necessarily result in the removal of the only competitive force in these catchment areas.

(163) *Third,* the Notifying Party argues that other competitive forces should be taken into account in the competitive assessment, namely suppliers of heavy-duty corrugated sheets located outside the relevant catchment areas, because, as they could start supplying within the relevant catchment areas, they exert a competitive constraint on the Parties. While the Commission acknowledges that in principle heavy-duty corrugated sheets may be profitably transported farther than conventional corrugated sheets, in the case of North-East Spain this does not appear to be borne out by the Commission's market investigation, for the following reasons:

(a) As explained in Section 4.2, above, a vast majority of respondents confirmed that they do not sell/procure further than 400 km from their premises;

(b) The Commission has reached out to the competitors mentioned by the Parties as being located outside of the relevant catchment areas but allegedly selling heavy-duty sheets into these areas. It appears that none of them has supplied to Spain in 2023, as they consider themselves to be too far away to be competitive.[142]

(c) This is moreover consistent with IP's own sales data, which suggests that [90-100]% of IP's heavy-duty sheet sales are shipped within a radius of 400 km of its production plants, with [90-100]% being shipped within a radius of 500 km.[143]

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141 Minutes of call with a customer on 14 October 2024 (non-confidential version), paragraph 22. Citation translated from Spanish: *'Si IP y DSS aumentaran el precio de las planchas en calidades pesadas, [CONFIDENTIAL] no conseguiría encontrar otro proveedor. Ningún otro proveedor en España podría suministrar planchas en calidades pesadas a [CONFIDENTIAL].'*

142 Emails of potential competitor in heavy-duty corrugated sheets, dated 20 November 2024 (non-confidential version) and 5 December 2024 (non-confidential version).

143 Form CO, Annex RFI 1 Q12.

(164) *Fourth*, the Notifying Party similarly argues that suppliers of conventional corrugated sheets located in the relevant catchment areas should be taken into account in the competitive assessment. This is because, according to the Notifying Party, heavy-duty sheets can be manufactured by all corrugated sheet suppliers. However, this argument is likewise not supported by the Commission's market investigation. A vast majority of respondents confirmed that they are technically unable to switch production from conventional sheets to heavy-duty sheets, or vice-versa.[144]

(165) In particular, respondents explained that heavy-duty corrugated sheets are used for different end-use applications and/or in different industries (e.g., heavy industries, such as automotive, aviation, and defence) than conventional corrugated sheets. Moreover, respondents explained that heavy-duty corrugated sheets are produced using different production lines and/or equipment than conventional corrugated sheets.[145]

(166) The Commission therefore considers that the Parties are close competitors (indeed, the only competitors) and that the removal of either party would entail the loss of an important competitive force.

5.4.2.3.5.3. Market entry and capacity expansion

(167) *Fifth*, as for potential entry, one competitor noted that although they had not sold heavy-duty corrugated sheets to third parties in 2023 (or 2024), they have begun preparations to enter this market in the coming years. Given the early stages of this competitor's potential entry plans, this competitor was unable to quantify their future production or sales of heavy-duty corrugated sheets.[146]

(168) However, even if the Commission accepts the Parties' estimates of this competitor's sales for 2023, the Parties' combined market share remains very high, […] above [50-60]%.

(169) The Commission's market outreach indicated that this potential entrant is unlikely to exert a significant competitive constraint on the Parties, with one customer noting that *'Although it is possible that […] may produce heavy-duty sheets, it will do so with very limited production capacity and few options. It is not comparable to the offering of the Parties'*.[147]

(170) The only possible source of market entry which the Commission's investigation has identified would not sufficiently alter the Commission's assessment, as the Parties would in any case hold a combined market share significantly above [50-60]%.

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144 Replies to eRFI 'Corrugated sheets and cases competitors', Questions D.A.7 and E.A.7.

145 Replies to eRFI 'Corrugated sheets and cases competitors', Questions D.A.4, D.A.6, E.A.5, E.A.8.

146 Email from potential competitor dated 28 October 2024.

147 Minutes of call with a customer on 14 October 2024 (non-confidential version), paragraph 22. Citation translated from Spanish: *'Aunque es posible que [CONFIDENTIAL] produzca planchas en calidades pesadas, lo hará con una capacidad de producción muy limitada y pocas opciones. No es comparable con la oferta de las Partes.'*

5.4.2.3.5.4. Customers' countervailing buyer power

(171) In view of the fact that the Parties appear to be the only suppliers of heavy-duty corrugated sheets in the relevant catchment areas, by definition, the Parties' customers would currently have no alternative to the merged entity post-Transaction.

(172) Moreover, on the buyer side, the markets are not concentrated. The Parties have identified at least […] customers to whom they supply heavy-duty corrugated sheets in the relevant catchment areas.[148]

(173) The Commission therefore considers that customers do not hold sufficient countervailing buyer power that would adequately discipline the merged entity.

5.4.2.3.5.5. Conclusion

(174) Given the very high levels of concentration in the market, the fact that the Parties are possibly the only two competitors, with only one potential entrant not having the scale required to match them, and the absence of sufficient countervailing power to adequately discipline the merged entity, the Commission considers it likely that, post-Transaction, the merged entity would be able to increase prices or to otherwise deteriorate quality or supply conditions in the manufacture and supply of heavy-duty corrugated sheets in the relevant catchment areas in North-East Spain.

(175) This concern is shared by market participants, with a vast majority of respondents in the Commission's market investigation indicating that the merged entity would be able to raise prices post-Transaction in this market.[149]

(176) In view of the above, the Commission considers that the Transaction raises serious doubts as to its compatibility with the internal market with regard to the supply of heavy-duty corrugated sheets in the relevant catchment areas in North-East Spain.

5.4.3. Italy

5.4.3.1. Introduction

(177) The Transaction gives rise to one affected market in the manufacture and supply of conventional corrugated sheets in the 400-km catchment area around IP Catania.

[148] Form CO, Annex 46 (IP HD Spain Contact Details) and Annex 47 (DSS HD Spain Contact Details).

[149] Replies to eRFI 'Competitors – Corrugated sheets and cases', Question D.B.A.8.

Figure 5: Overview of combined market shares (MS) in the affected catchment areas in Italy



Source: Commission, based on data in Form CO, Annex RFI 1 Q19.02.

5.4.3.2. Notifying Party's views

(178) The Notifying Party claims that no competition concerns will arise from the Transaction with respect to the markets for the manufacture and supply of corrugated sheets in Italy, for the following reasons.[150]

(179) *First*, the Parties' plants in the two affected catchment areas are separated by the sea. In any case, the Parties' combined market shares in these areas in Italy are modest, with a negligible increment of at most [0-5]%, such that the Transaction does not significantly alter competitive dynamics.

(180) *Second*, the Parties will continue to face significant competition from large rivals, such as Pro-Gest and Cart-One, alongside a variety of smaller local competitors.

(181) *Third*, barriers to entry and expansion are low. Combined with significant spare capacity, these factors contribute to discipline any potential price increase attempts.

(182) *Fourth*, there is little brand or customer loyalty, with customers frequently multi-sourcing and switching suppliers for commoditized products like corrugated sheets.

5.4.3.3. Commission's assessment

(183) The Commission notes that, at national level (the geographic scope of the markets, as proposed by the Notifying Party), the Parties' combined market share is

150 Form CO, paragraphs 392-399.

approximately [10-20]% in the market for the supply of conventional corrugated sheets, with a minor increment of approximately [0-5]%.

Table 8: Volume market shares in Italy, all sheets,[151] 2023

Competitor	Volume (Mm2)	Share (%)
International Paper	[…]	[0-5]%
DS Smith Plc	[…]	[10-20]%
Combined	***[…]***	***[10-20]%***
Pro-Gest Group	[…]	[20-30]%
La Veggia Group	[…]	[10-20]%
Smurfit Kappa Group	[…]	[10-20]%
Progroup AG	[…]	[5-10]%
Cart-One s.r.l.	[…]	[0-5]%
Piemontesi	[…]	[0-5]%
Borgioni Packaging Group	[…]	[0-5]%
Palm Group	[…]	[0-5]%
Innova Group	[…]	[0-5]%
Hinojosa Group	[…]	[0-5]%
VPK Packaging Group	[…]	[0-5]%
Liner Italia International	[…]	[0-5]%
Adda Ondulati	[…]	[0-5]%
Scatolificio Idealkart S.r.l.	[…]	[0-5]%
Benedetti	[…]	[0-5]%
FP Holding S.r.l.	[…]	[0-5]%
Others[152]	[…]	[10-20]%
Total	**[2400-2500]**	**100%**

Source: Form CO, Annex RFI 1 Q19.01.

(184) On a local level, the Parties' activities in the manufacture and supply of conventional corrugated sheets give rise to an affected market in Catania. The Parties achieve a combined market share of [40-50]% in the market for the supply of conventional corrugated sheets in the catchment area around IP Catania, with a limited increment of [0-5]%, as shown in the following table.

Table 9: Parties' combined (volume) share in overlapping affected catchment area, all sheets,[153] Italy, 2023

Region of centroid	Centroid name	Parties' combined share	DSS's share	IP's share	Delta HHI	Post-Transaction HHI
Catania	IP Catania	[40-50]%	[30-40]%	[0-5]%	[0-500]	[3,000-4,000]

151 The Parties' activities do not overlap in the supply of heavy-duty sheets in Italy. The Notifying Party clarifies in footnote 580 of the Form CO and the reply to Request for Information 13 that shares for 'conventional sheets only' would be very similar to the estimates shares for 'all sheets', given that heavy-duty sheets represent [0-5]% or less of the volume of corrugated sheets sold in Italy.

152 Includes Pisani, Saica Group, ReLife Group, Italmicro, Del Savio, and other smaller competitors.

153 The Parties' activities do not overlap in the supply of heavy-duty sheets in Italy. The Notifying Party clarifies in footnote 580 of the Form CO and the reply to Request for Information 13 that shares for 'conventional sheets only' would be very similar to the estimates shares for 'all sheets', given that heavy-duty sheets represent [0-5]% or less of the volume of corrugated sheets sold in Italy.

Source: Form CO, Annex RFI 1 Q19.02.

(185) The Commission however considers that the Transaction does not raise serious doubts as to its compatibility with the internal market in this market, for the following reasons.

(186) *First*, the existence of an affected market centred around IP Catania is based on the fact that this plant, the only plant of IP in this catchment area, is 396 km away from the DSS Nola Sheetfeeding plant, the only plant of DSS in this catchment area. However, as the Parties explain, since IP Catania is located in the island of Sicily, the two Parties' plants are separated by the sea and in practice do not tend to compete with each other. In particular, IP Catania delivers […] of its corrugated sheets sales within Sicily (with the remainder delivered to Calabria, i.e., not in close proximity to the DSS Nola Sheetfeeding plant). Similarly, DSS Nola Sheetfeeding delivers […] of its corrugated sheets sales within mainland Italy.[154]

(187) The Commission's market outreach has confirmed that it is largely uncommon for corrugated sheets to be sold into or out of Sicily. For example, one customer noted that *'it would be possible to transport corrugated boxes from the South to Sicily, but it is not economically reasonable as prices would not be competitive. In practice, this does not happen (corrugated products produced there are not supplied to regions outside Sicily and corrugated products produced on the mainland are not supplied to Sicily)'*.[155]

(188) *Second*, in any case, the increment arising from the Transaction is only [0-5]%, such that the Transaction is unlikely to significantly alter competitive dynamics.

(189) *Third*, competitors in this region are much larger than International Paper, operating plants which are geographically much closer to DSS Nola Sheetfeeding than IP Catania. For example, Hinojosa holds a share of [30-40]% and has a plant in Arzano. Other competitors include Cart-One ([10-20]%) and Lubox Imballaggi ([5-10]%).

(190) Therefore, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to the supply of conventional corrugated sheets in the catchment area around IP Catania.

5.5. Non-coordinated horizontal effects: manufacture and supply of conventional corrugated cases

(191) The Parties' activities overlap in the markets for the manufacture and supply of conventional corrugated cases in Italy, Spain, Portugal, and France. According to the data submitted by the Parties, the Transaction gives rise to horizontally affected markets in the following geographic areas:

(a) Five local catchment areas in two regions of Italy;

(b) Two local catchment areas in one region of Spain;

(c) One local catchment area in Portugal; and

154 Form CO, paragraphs 395-398.

155 Minutes of call with a customer on 15 October 2024 (non-confidential version), paragraph 16.

(d) 16 local catchment areas in four regions of France.

5.5.1. Italy

5.5.1.1. Introduction

(192) The Parties' activities overlap in the manufacture and supply of conventional corrugated cases in five 300-km catchment areas located in the North and South of Italy regions.

5.5.1.2. Notifying Party's views

(193) The Notifying Party claims that no competition concerns will arise from the Transaction with respect to the markets for the manufacture and supply of corrugated cases in Italy.[156]

(194) *First*, the Parties' combined shares for the manufacture and supply of corrugated cases are limited and the share increments contributed by IP in the respective local catchment areas, of a maximum [5-10]%, are minimal.

(195) *Second*, there will continue to be many equivalent or stronger competitors present throughout the relevant regions. For the local areas surrounding the Parties' sites in North Italy, these include Smurfit Westrock, Saica Group, Pro-Gest, Cart-One, Relife, Imballaggi Piemontesi, VPK, Ondalba, Innova Group, and others.

5.5.1.3. Commission's assessment

(196) The Commission notes that, at national level (the geographic scope of the markets, as proposed by the Notifying Party), the Parties' combined market share will be just below [20-30]% in the market for the manufacture and supply of conventional corrugated cases. The increment brought by IP will be approximately [5-10]%.

Table 10: Parties' combined (volume) share, national market, all cases,[157] Italy, 2023

Parties' combined share	DSS's share	IP's share	Delta HHI	Post-Transaction HHI
[10-20]%	[10-20]%	[5-10]%	[0-500]	[500-1,000]

Source: Form CO, Annex RFI 1 Q19.01.

(197) At local level, the Parties' combined market shares do not differ significantly: between [20-30] and [20-30]%, with modest increments ([0-5]%-[5-10]%). The post-Transaction HHI and delta HHI are moderate.

156 Form CO, paragraphs 482-488.

157 The Parties' activities do not overlap in the supply of heavy-duty cases in Italy. The Notifying Party clarifies in its response to Request for Information 13 that shares for 'conventional cases only' would be very similar to the estimates shares for 'all cases', given that heavy-duty cases represent a very small fraction of the total market at a national level and in each catchment area.

Table 11: Parties' combined (volume) share in overlapping affected catchment areas, all cases,[158] Italy, 2023

Region of centroid	Centroid name	Parties' combined share	DSS's share	IP's share	Delta HHI	Post-Transaction HHI
North Italy	DSS Marlia	[20-30]%	[10-20]%	[5-10]%	[0-500]	[500-1,000]
	DSS Pessione	[20-30]%	[10-20]%	[0-5]%	[0-500]	[500-1,000]
	DSS Porcari	[20-30]%	[10-20]%	[5-10]%	[0-500]	[500-1,000]
	DSS Quargnento	[20-30]%	[20-30]%	[0-5]%	[0-500]	[500-1,000]
South Italy	IP Pomezia	[20-30]%	[10-20]%	[5-10]%	[0-500]	[1,000-2,000]

Source: Form CO, Annex RFI 1 Q19.02.

(198) Overall, the Commission notes that the Parties' combined market shares post-Transaction will be limited. These markets are not particularly concentrated and the Parties will continue to face strong competition from multiple case suppliers, such as Smurfit Westrock, Saica Group, Pro-Gest, Cart-One, Relife, Imballaggi Piemontesi, VPK, Ondalba, Innova Group. In addition, no market participant raised concerns with regards to Italy or its local markets.

(199) In view of these elements, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to the manufacture and supply of conventional corrugated sheets in the relevant catchment areas in the North and South of Italy.

5.5.2. Spain

5.5.2.1. Introduction

(200) The Transaction gives rise to affected markets in the manufacture and supply of conventional corrugated cases in two 300-km catchment areas in the North-West of Spain.

5.5.2.2. Notifying Party's views

(201) The Notifying Party claims that no competition concerns will arise from the Transaction with respect to the markets for manufacture and supply of corrugated cases in Spain.[159]

(202) *First*, the Parties' combined shares for the supply of conventional corrugated cases are moderate and the share increments contributed by IP in all local catchment areas, of up to [0-5]%, are very limited.

(203) *Second*, there will continue to be many competitors within the local catchment areas around DSS's plants in the region. In the local areas surrounding the DSS sites in North-West Spain, competitors include Saica Group, Smurfit Westrock, Sebastião & Martins, and Grupo Zarrinha.

158 *Ibidem*.
159 Form CO, paragraphs 503-511.

5.5.2.3. Commission's assessment

(204) The Commission notes that, at the national level (the geographic scope of the markets, as proposed by the Notifying Party), the Parties' combined market share will be around [10-20]% and [0-5]% in the markets for the manufacture and supply of conventional and heavy-duty corrugated cases, respectively. The increment contributed by IP will be between [0-5]% and [5-10]%.

Table 12: Parties' combined (volume) share, national market, heavy-duty and conventional break down, Spain, 2023

Market	Segment	DSS's share	IP's share	Delta HHI	Post-Transaction HHI
Cases	Conventional	[5-10]%	[5-10]%	[0-500]	[1,000-2,000]
	Heavy-duty	[0-5]%	[0-5]%	[0-500]	[500-1,000]

Source: Form CO, Annex RFI 1 Q19.01.

(205) At the local level, the Parties' market shares are higher and the Transaction leads to affected markets in two catchment areas, located in the North-West of Spain. In these areas, the Parties' combined market shares will be [20-30]%, with a very limited increment ([0-5]%). The post-Transaction HHI (below [1,000-2,000]) and delta HHI (below [0-500]) are moderate.

Table 13: Parties' combined (volume) share in overlapping affected catchment areas, all cases,[160] Spain, 2023

Region of centroid	Centroid name	Parties' combined share	DSS's share	IP's share	Delta HHI	Post-Transaction HHI
North-West Spain	DSS Cartogal	[20-30]%	[20-30]%	[0-5]%	[0-500]	[1,000-2,000]
	DSS Galicia	[20-30]%	[20-30]%	[0-5]%	[0-500]	[1,000-2,000]

Source: Form CO, Annex RFI 1 Q19.02.

(206) The Commission notes that the Parties' combined market shares post-Transaction will be limited. The increment brought by International Paper is small, below [5-10]%. The markets are not particularly concentrated and the Parties will continue to face strong competition from various suppliers, such as Saica Group, Smurfit Westrock, Groupo Petit, and Hinojosa. In addition, no market participant raised concerns with regards to these markets.

(207) In view of these elements, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to the manufacture and supply of conventional corrugated cases in the catchment areas in North-West Spain.

160 As the heavy-duty segment in Spain is very small in terms of sales, the market shares on the segment for the manufacture and supply of conventional cases would be very similar. In addition, the Transaction does not lead to any affected market on the segment for the manufacture and supply of heavy-duty corrugated cases (Form CO, Annex RFI 1, Q19.02).

5.5.3. Portugal

5.5.3.1. Introduction

(208) The Transaction results in an affected market in the manufacture and supply of conventional corrugated cases in the 300-km catchment area around DSS Albarraque.

5.5.3.2. Notifying Party's views

(209) The Notifying Party claims that no competition concerns will arise from the Transaction with respect to the market for the manufacture and supply of corrugated cases in Portugal.[161]

(210) *First*, the Parties' combined shares in the markets for the supply of conventional corrugated cases are moderate and the share increment contributed by IP in the local catchment area, of [0-5]%, is limited.

(211) *Second*, there will continue to be many competitors within the local catchment area, such as Saica Group, Grupo Zarrinha, and Smurfit Westrock.

5.5.3.3. Commission's assessment

(212) The Commission notes that, at the national level (the geographic scope of the markets, as proposed by the Notifying Party), the Parties' combined market share will be [20-30]%, with an increment contributed by IP of less than [5-10]%. The post-Transaction HHI and delta HHI levels are moderate, as shown in the following table.

Table 14: Parties' combined (volume) share, national market, all cases,[162] Portugal, 2023

Combined share	DSS's share	IP's share	Delta HHI	Post-Transaction HHI
[20-30]%	[10-20]%	[0-5]%	[0-500]	[1,000-2,000]

Source: Form CO, Annex RFI 1 Q19.01.

(213) At the local level, the Commission notes that the Parties' combined market share post-Transaction will be limited, below [30-40]%. The increment brought by IP is small, below [5-10]%. The market is not particularly concentrated and the Parties will continue to face strong competition from various suppliers, such as Saica Group, Grupo Zarrinha, and Smurfit Westrock. Finally, no market participant raised concerns.

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161 Form CO, paragraphs 503-511.

162 The Parties' activities do not overlap in the supply of heavy-duty cases in Portugal. The Notifying Party clarifies in its response to Request for Information 13 that shares for 'conventional cases only' would be very similar to the estimates shares for 'all cases', given that heavy-duty cases represent a very small fraction of the total market at a national level and in each catchment area.

Table 15: Parties' combined (volume) share in the overlapping affected catchment area, all cases,[163] Portugal, 2023

Region of centroid	Centroid name	Parties' combined share	DSS's share	IP's share	Delta HHI	Post-Transaction HHI
West Portugal	DSS Albarraque	[20-30]%	[20-30]%	[0-5]%	[0-500]	[1,000-2,000]

Source: Form CO, Annex RFI 1 Q19.02.

(214) In view of these elements, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to the manufacture and supply of conventional corrugated cases in the relevant catchment area in Portugal (DSS Albarraque).

5.5.4. France

5.5.4.1. Introduction

(215) The Commission notes that, at the national level (the geographic scope of the markets, as proposed by the Notifying Party), the Parties' combined market share is [20-30]% in the market for the manufacture and supply of conventional corrugated cases in France, with an increment of [5-10]%. The new entity will continue to face competition from strong competitors, such as Smurfit Westrock, Saica Group, and Groupe Rossmann.

Table 16: Volume market shares in France, all cases, 2023[164]

Competitor	Volumes (Mm2)	Share (%)
International Paper	[…]	[5-10]
DS Smith Plc	[…]	[20-30]%
Combined	***[…]***	***[20-30]%***
Smurfit Westrock	[…]	[20-30]%
Saica Group	[…]	[10-20]%
Groupe Rossmann	[…]	[5-10]%
VPK Packaging Group	[…]	[5-10]%
Hinojosa Group	[…]	[0-5]%
Palm Group	[…]	[0-5]%
CL Grupo Industrial (Matias Goma)	[…]	[0-5]%
Be Paper (Wizpaper)	[…]	[0-5]%
Cartonneries de Gondardennes S.A.	[…]	[0-5]%
Other	[…]	[0-5]%
Total	**[5,100-5,200]**	**100%**

163 *Ibidem.*

164 Market shares are similar for 2021 and 2022. The Parties' activities do not overlap in the supply of heavy-duty cases in France. The Notifying Party clarifies in its response to Request for Information 13 that shares for 'conventional cases only' would be very similar to the estimates shares for 'all cases', given that heavy-duty cases represent a very small fraction of the total market at a national level and in each catchment area.

Source: Form CO, Annex RFI 1 Q19.01.

(216) At the local level, the Parties' combined market shares will remain below [30-40]%, with increments of [5-10]%, in the catchment areas located in the East of France, in South-East France, and in the North of France (to the exception of IP Cabourg and IP Saint-Amand). Market shares are relatively higher in the West of France and in two catchment areas in the North of France (around IP Cabourg and IP Saint-Amand), where the Parties' combined market shares range from [30-40] to [40-50]%, with increments of [5-10]-[5-10]%.

Table 17: Parties' combined (volume) share in overlapping affected catchment areas, all cases, France, 2023[165]

Region of centroid	Centroid name	Parties' combined share	DSS's share	IP's share	Delta HHI	Post-Transaction HHI
East France	IP Chalon-sur-Saône	[20-30]%	[10-20]%	[5-10]%	[0-500]	[1,000-2,000]
North France	IP Cabourg	[30-40]%	[20-30]%	[5-10]%	[0-500]	[1,000-2,000]
	DSS Gasny	[20-30]%	[20-30]%	[5-10]%	[0-500]	[1,000-2,000]
	IP Mortagne	[20-30]%	[20-30]%	[5-10]%	[0-500]	[1,000-2,000]
	IP Saint-Amand	[40-50]%	[30-40]%	[5-10]%	[0-500]	[2,000-3,000]
	DSS Mehun sur Yevre	[20-30]%	[20-30]%	[5-10]%	[0-500]	[2,000-3,000]
	DSS Rouen	[20-30]%	[20-30]%	[5-10]%	[0-500]	[2,000-3,000]
	DSS St-Just-en-Chaussée	[20-30]%	[20-30]%	[0-5]%	[0-500]	[1,000-2,000]
South-East France	DSS Meyzieu	[20-30]%	[20-30]%	[5-10]%	[0-500]	[1,000-2,000]
	DSS Rives	[20-30]%	[10-20]%	[5-10]%	[0-500]	[1,000-2,000]
	DSS Savoie	[20-30]%	[10-20]%	[5-10]%	[0-500]	[1,000-2,000]
	DSS St Jean de Bournay	[20-30]%	[10-20]%	[5-10]%	[0-500]	[1,000-2,000]
West France	DSS Carhaix-Plouguer	[40-50]%	[30-40]%	[5-10]%	[500-1,000]	[3,000-4,000]
	DSS Durtal	[30-40]%	[20-30]%	[5-10]%	[0-500]	[2,000-3,000]
	DSS La Chevrolière (Atlantique)	[30-40]%	[30-40]%	[5-10]%	[500-1,000]	[2,000-3,000]
	DSS Thouarce	[30-40]%	[20-30]%	[5-10]%	[0-500]	[2,000-3,000]

Source: Form CO, Annex RFI 1 Q19.02.

165 *Ibidem.*

(217) In the catchment areas located in the East of France, South-East of France, and in the North of France (to the exception of IP Cabourg and IP Saint-Amand), the Commission considers that, in view of the moderate market shares (below [30-40]%), relatively modest increments ([5-10]%), the presence of multiple competitors, and the absence of substantiated concerns,[166] the Transaction does not raise serious doubts as to its compatibility with the internal market. These catchment areas will not be further assessed in this decision. The situation is however different in the West of France and in two catchment areas in the North of France, around IP Cabourg and IP Saint-Amand. Hereinafter, this area will be referred as North-West France.[167]

5.5.4.2. North-West France

5.5.4.2.1. Introduction

(218) The Parties achieve relatively high market shares – varying between [30-40]% and [40-50]% – in all six 300-km catchment areas located in North-West of France. The increments brought by the Transaction vary between [5-10]% and [5-10]%.

Figure 6: Overview of combined market shares (MS) in the affected catchment areas in France



Source: Commission, based on data in Form CO, Annex RFI 1 Q19.02.

166 During the market investigation, some market participants pointed out to potential concerns in South-East France, around Lyon. However, the Commission notes that, in these catchment areas, the combined market shares are moderate (below [30-40]%) and the Parties face many competitors. Even those customers that expressed potential concerns confirmed that there are numerous alternative suppliers to the Parties in this area (at least four and up to seven) and most of them do not currently source from both Parties.

167 I.e., the four catchment areas in the West of France as well as the two catchment areas in the North of France with high combined market shares (catchment areas around IP Cabourg and IP Saint-Amand).

5.5.4.2.2. Notifying Party's views

(219) The Notifying Party considers that no competition concerns can arise in the markets for manufacture and supply of conventional corrugated cases in the North and West of France.[168]

(220) *First*, the Notifying Party claims that the share increments contributed by IP in all relevant local catchment areas are limited, below [10-20]%.

(221) *Second*, it submits that there are many competitors present throughout the region or located just outside the catchment areas. For example, around DSS Carhaix-Plouguer, the Notifying Party identified three rivals, Smurfit Westrock ([30-40]%), Saica Group ([10-20]%), and VPK ([5-10]%).

(222) *Third*, based on its analysis of the distribution of sales, the Notifying Party claims that IP and DSS are not close competitors, especially in the area around DSS Carhaix-Plouguer and IP Saint-Amand, where the merged entity will have the highest market shares.

(223) *Fourth*, the Notifying Party explains that the barriers to entry and expansion are low in the North and West of France, as they are in the rest of the country. There are no regulatory or other impediments to new entry or expansion, as ongoing investments demonstrate. In addition, box plants have spare capacity and competitors could easily increase output. Moreover, overall competition increased since the review by the Commission of DSS's acquisition of Europac.

5.5.4.2.3. Commission's assessment

(224) The Commission considers that the Transaction raises serious doubts as to its compatibility with the internal market with regard to the manufacture and supply of conventional cases in North-West France, for the following reasons.

5.5.4.2.3.1. Market structure and market shares

(225) *First*, the Commission notes that the market shares are high in all local catchment areas, above [30-40]% and up to [40-50]% in the catchment area around Carhaix-Plouguer. Moreover, the increment brought by IP is not negligible (between [5-10]% and [5-10]%).

Table 18: Parties' (volume) shares in overlapping affected catchment areas, conventional corrugated cases, North-West France, 2023

Centroid name	DSS's share	IP's share	Parties' combined share
DSS Carhaix-Plouguer	[30-40]%	[5-10]%	**[40-50]%**
DSS La Chevrolière	[30-40]%	[5-10]%	**[30-40]%**
DSS Durtal	[20-30]%	[5-10]%	**[30-40]%**
DSS Thouarce	[20-30]%	[5-10]%	**[30-40]%**
IP Saint-Amand	[30-40]%	[5-10]%	**[40-50]%**
IP Cabourg	[20-30]%	[5-10]%	**[30-40]%**

168 Form CO, paragraphs 464-477.

Source: Form CO, Annex RFI 1 Q19.02.

(226) The Commission notes that these market shares do not support the Parties' claim that the market structure would have significantly changed since its review of DSS's acquisition of Europac.[169] At the time of this decision, the Parties had market shares of [30-40] to [50-60]%, with an increment generally between [5-10]% and [10-20]%.[170]

(227) *Second*, the Commission has also calculated the HHI and HHI delta in order to assess the levels of concentration in the relevant catchment areas.

Table 19: HHI and HHI delta in overlapping affected catchment areas, conventional corrugated cases, North-West France

Centroid name	Pre-Transaction HHI	Post-Transaction HHI	HHI Delta
DSS Carhaix-Plouguer	[2,000-3,000]	[3,000-4,000]	[500-1,000]
DSS La Chevrolière	[2,000-3,000]	[2,000-3,000]	[500-1,000]
DSS Durtal	[2,000-3,000]	[2,000-3,000]	[0-500]
DSS Thouarce	[2,000-3,000]	[2,000-3,000]	[0-500]
IP Saint-Amand	[2,000-3,000]	[2,000-3,000]	[0-500]
IP Cabourg	[1,000-2,000]	[1,000-2,000]	[0-500]

Source: Form CO, Annex RFI 1 Q19.02.

(228) As this table shows, the Transaction will further reinforce concentration in areas that are already highly concentrated. The pre-Transaction HHI already exceeds [2,000-3,000] in all catchment areas (to the exception of IP Cabourg) and will reach a high level in most areas (above 2,500 and even reaching [3,000-4,000] in the area around DSS Carhaix-Plouguer). Moreover, the HHI delta resulting from the Transaction is significant (above [0-500] in most areas, reaching [500-1,000] in the area around DSS Carhaix-Plouguer), showing that the Transaction will significantly modify the pre-existing market structure.

(229) As a result of the high concentration, the top two competitors (the merged entity together with Smurfit Westrock) will account for more than [60-70]% of sales in five catchment areas (including up to [80-90]% around DSS Carhaix-Plouguer), as shown in the following table.

169 Form CO, paragraph 475.

170 Case M.8915 – *DS Smith/Europac*, paragraph 187.

Table 20: Post-Transaction combined market shares of the top two competitors in overlapping affected catchment areas, conventional corrugated cases, North-West France, 2023

Centroid name	Merged entity	Smurfit Westrock	Total coverage of the top two competitors
DSS Carhaix-Plouguer	[40-50]%	[30-40]%	**[80-90]%**
DSS La Chevrolière	[30-40]%	[20-30]%	**[60-70]%**
DSS Durtal	[30-40]%	[20-30]%	**[60-70]%**
DSS Thouarce	[30-40]%	[30-40]%	**[60-70]%**
IP Saint-Amand	[40-50]%	[20-30]%	**[60-70]%**
IP Cabourg	[30-40]%	[20-30]%	**[50-60]%**

Source: Form CO, Annex RFI 1 Q19.02.

(230) *Third*, to the exception of Smurfit Westrock, all remaining competitors will have much lower market shares, usually several times lower than the merged entity, as can be seen in the following table. The merged entity will usually face significant competition from Smurfit Westrock and only one additional competitor with a sizable share (usually between [10-20]% and [20-30]%), with all other competitors having shares below [10-20]% (to the exception of IP Cabourg), and in some cases no more than [5-10]%.

Table 21: Post-Transaction shares of the merged entity and its main competitors in overlapping affected catchment areas, conventional corrugated cases, North-West France, 2023

Centroid name	Merged entity	1st competitor (Smurfit Westrock)	2nd competitor	3rd competitor	4th competitor
DSS Carhaix-Plouguer	[40-50]%	[30-40]%	[10-20]%	[5-10]%	[0-5]%
DSS La Chevrolière	[30-40]%	[20-30]%	[20-30]%	[5-10]%	[0-5]%
DSS Durtal	[30-40]%	[20-30]%	[20-30]%	[5-10]%	[5-10]%
DSS Thouarce	[30-40]%	[30-40]%	[10-20]%	[5-10]%	[5-10]%
IP St Amand	[40-50]%	[20-30]%	[10-20]%	[5-10]%	[5-10]%
IP Cabourg	[30-40]%	[20-30]%	[10-20]%	[10-20]%	[5-10]%

Source: Notifying Party, Form CO, Annex RFI 1 Q19.02.

(231) *Fourth*, the Commission notes that the merged entity will also have a significant share in terms of capacity, quite similar to or even higher than its market shares in terms of volume of sales, as shown in the following table.

Table 22: Capacity of the merged entity and its main competitors in overlapping affected catchment areas, conventional corrugated cases, North-West France, 2023

Centroid name	Merged entity (increment)	1st competitor (Smurfit Westrock)	2nd competitor	3rd competitor
DSS Carhaix-Plouguer	[50-60]% ([10-20]%)	[30-40]%	[5-10]%	[5-10]%
DSS La Chevrolière	[40-50]% ([10-20]%)	[20-30]%	[20-30]%	[5-10]%
DSS Durtal	[30-40]% ([5-10]%)	[20-30]%	[10-20]%	[5-10]%
DSS Thouarce	[30-40]% ([5-10]%)	[30-40]%	[10-20]%	[5-10]%

Centroid name	Merged entity (increment)	1st competitor (Smurfit Westrock)	2nd competitor	3rd competitor
IP Saint-Amand	[40-50]% ([5-10]%)	[20-30]%	[10-20]%	[5-10]%
IP Cabourg	[30-40]% ([5-10]%)	[20-30]%	[10-20]%	[10-20]%

Source: Notifying Party, Form CO, Annex RFI 4 Q18.02.

(232) *Fifth*, the Commission notes that, in all catchment areas, the merged entity will have a large geographic coverage, with a high number of sites, only matched or surpassed by Smurfit Westrock. Its coverage will usually be much higher than other competitors' coverage (to the exception of Smurfit Westrock), as shown in the following table.

Table 23: Number of sites of the merged entity and its main competitors in overlapping affected catchment areas, conventional corrugated cases, North-West France

Centroid name	Merged entity (increment)	1st competitor (Smurfit Westrock)	2nd competitor	3rd competitor
DSS Carhaix-Plouguer	6 (2)	6	2	1
DSS La Chevrolière	9 (3)	9	6	2
DSS Durtal	12 (3)	15	7	5
DSS Thouarce	11 (3)	15	7	4
IP Saint-Amand	11 (3)	10	5	4
IP Cabourg	12 (3)	11	8	6

Source: Notifying Party, Form CO, Annex RFI 1 Q21.a.2.

(233) In this respect, the Commission notes that many market participants underlined that the Transaction will further reinforce concentration in this specific area and that customers will be left with limited alternatives. For example, one customer explained that: '*The 2 main suppliers in the region are DSS and IP, each with several plants, and in the event of a merger, they would become our sole supplier in the region (70% of our business)*'.[171] Other customers highlighted that the Transaction will lead to a reduction from three to two suppliers: '*today there is 3 big players, it will become 2. It really depends if the others (n°4,5,6) are able to stay competitive. For us it means to find new partner to keep a lever of negotiation*'.[172]

5.5.4.2.3.2. Closeness of competition

(234) The Notifying Party argues that the Parties are not close competitors in these catchment areas, in particular in the areas around IP Saint-Amand and DSS Carhaix-Plouguer. It argues that the distribution data shows that each plant mostly delivers in its close vicinity and that the relevant DS Smith plants lose only limited volumes to IP in tenders. Moreover, the plants of the Parties in this region are not geographically close to one another.[173]

171 Replies to eRFI 'Customers – corrugated cases', Question D.B.1. Citation translated from French: *'Les 2 principaux fournisseurs de la région sont DS et IP avec plusieurs usines chacun et en cas de fusion, cela deviendrait notre seul fournisseur sur la région (70% de notre business)'.*

172 Replies to eRFI 'Customers – corrugated cases', Question D.B.1.

173 Form CO, paragraph 470, figures 13 and following.

(235) *First*, the Commission notes that the customers that expressed a view during the market investigation consider that the Parties are, together with Smurtfit Westrock, close competitors.[174] The same view is shared by competitors.[175] One competitor explained that '*IP and DSS are close competitors'*.[176] Another one submitted that '*DSS and IP are close competitors, comparable to the top players such as Smurfit WestRock'*.[177]

(236) *Second*, on the plants' respective locations, the Commission notes that while the Parties' plants are usually not the closest, they remain relatively close. In particular, the closest plant of the other party is never located at the fringe of the concerned catchment area.[178] Moreover, as shown in the figure below, when considering the distance between the different plants and the centroid in each of the markets in North-West France, the market shares resulting from the proportional analysis are higher in all the catchment areas, in particular, DSS Carhaix-Plouguer (+[0-5]%, up to [50-60]%), IP Saint-Amand (+[0-5]%), and IP Cabourg (+[0-5]%). This confirms that the Parties appear to be relatively close competitors from a geographic standpoint.

Figure 7: Market shares' variations when adjusted by importance of the geographic overlaps

[…]

Source: Commission analysis of the Notifying Party's market share data (Form CO).[179]

(237) *Third*, on the distribution data, the Commission notes that while it is accurate, based on the Parties' data,[180] that the plants distribute in their immediate vicinity, there are administrative areas served to a […] extent by plants of both Parties, such as the Ille-et-Vilaine area, which is served by DSS Carhaix-Plouguer but also by IP Saint-Amand, albeit to a […] extent, as shown by the figures below.

Figure 8: Distribution map of IP Saint-Amand's customer sales

[…]

Source: Form CO, Figure 13, paragraph 470.

Figure 9: Distribution map of DSS Carhaix-Plouguer's customer sales

[…]

Source: Form CO, Figure 14, paragraph 470.

174 Replies to eRFI 'Customers – corrugated cases', Questions D.B.3 and D.B.7.
175 Replies to eRFI 'Competitors – corrugated sheets and cases', Questions E.D.B.4 and E.D.B.5.
176 Minutes of a call with a competitor on 29 July 2024 (non-confidential version), paragraph 22.
177 Minutes of a call with a competitor on 31 July 2024 (non-confidential version), paragraph 25.
178 Form CO, Annex RFI 1 Q19.f.
179 Difference between the market shares from the proportional methodology and those from the Notifying Party's calculations for North-West France local markets. The proportional methodology allocates each plants sales to the market size, to the extent it falls into the catchment area, assuming customers are uniformly distributed. The Notifying Party's calculations allocate to the market size all the sales of those plants that are in the catchment areas.
180 Form CO, paragraph 470, figures 13 and following.

(238) *Fourth*, on the tender data, the Commission notes that there are significant limitations to the analysis provided by the Notifying Party. First of all, in this industry, there are only limited volumes that are allocated through tenders (for example, less than [10-20]% for IP).[181] Second, the assessment provided by the Notifying Party […].[182] In view of these […], the Commission considers that it is not possible to reach meaningful conclusions based on these data.

(239) Overall, it results from the market investigation that the Parties appear to be relatively close competitors.

5.5.4.2.3.3. Removal of an important competitive force

(240) The Notifying Party argues that IP does not represent a significant competitive constraint in North-West France, as it contributes a limited increment.[183]

(241) However, the Commission notes that IP is usually among the top 4 or 5 suppliers in each of the concerned catchment areas and that it will contribute an increment that is not negligible (between [5-10]% and [5-10]%).

(242) In addition, it stems from the market investigation that the majority of respondents who expressed a view see IP as a strong competitor in North-West France.[184] In this respect, one customer explained that '*IP is a key player in this sector. Although a bit farther away, it remained our last option to have a competing supplier*'.[185] Another highlighted that '*IP is strong because they have 3 plants in the area with an important capacity of production that allows them to be competitive. Their weakness is their level of service which is lower than their competition (Smurfit Westrock and DS Smith). Their organization is more local*'.[186] Another submitted that International Paper was strong not only because of its location and capacity but also because of its '*desire to conquer new markets'*.[187]

(243) As a result, the Commission considers that the Transaction will remove an important competitive force from the market.

5.5.4.2.3.4. Market entry and capacity expansion

(244) The Notifying Party claims that box plants have spare capacity, and competitors could increase output by, for example, increasing the number of production shifts or by adding overtime.[188]

(245) However, the market investigation did not confirm that production can easily be expanded in these catchment areas. No structural capacity is foreseen by competitors

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181 Form CO, paragraph 745; replies to eRFI 'Competitors – corrugated sheets and cases', Question E.D.A.7.

182 Form CO, paragraph 755.

183 Form CO, paragraph 470.

184 Replies to eRFI 'Customers – corrugated cases', Question D.B.3; replies to eRFI 'Competitors – corrugated sheets and cases', Question E.D.B.4.

185 Replies to eRFI 'Customers – corrugated cases', Question D.B.6.1.

186 Replies to eRFI 'Customers – corrugated cases', Question D.B.6.1.

187 Replies to eRFI 'Customers – corrugated cases', Question D.B.6.1.

188 Form CO, paragraph 470.

in these areas and a capacity expansion by more than 15% is seen as difficult by competitors.[189]

(246) Moreover, in recent years, there was no competitor entering in these areas, to the exception of VPK, who has invested in a new corrugated packaging plant near Rouen. This plant, opened in 2023, is located in the catchment areas of IP Saint-Amand, IP Cabourg and DSS Durtal, but not in the DSS Carhaix-Plouguer and DSS La Chevrolière ones. More importantly, as VPK explained '*because of the transport cost and lead times, even if this plant was producing at full capacity, it would represent limited additional volumes, as compared to the total size of the relevant markets in the North-West of France, as the West and South of Brittany as well as a big part of the Pays de la Loire and further south would fall beyond the range of distance to be competitive. The same applies when looking only at the plants serving Normandy, the capacity added by the new VPK plant remains moderate as compared to the total size of the market in Normandy*'.[190] In addition, no market participant foresees new suppliers entering the market in the near future.[191] This can be explained by the fact that competitors see barriers to entry in this region as high. For example, one competitor explained the following*: 'First of all, building a greenfield capacity in France is difficult as it requires significant investments. Expanding capacity is not easy even on an existing plant as there is structural overcapacity in the French market. As a result, the barriers to enter or expand (…) are very high and it is unlikely that a new player would enter greenfield in the near future*'.[192]

5.5.4.2.3.5. Customers' countervailing power

(247) Contrary to the Notifying Party's view, the Commission considers that, in view of the limited alternatives customers will have in this region, they will not be able to exert a sufficient countervailing power.

(248) In this respect, the Commission notes that many customers expressed concerns regarding the impact of the Transaction, pointing out that the number of competitors would further decrease in the concerned areas, leading to price increases. Some consider that the merged entity will be an unavoidable trading partner.[193]

(249) The lack of sufficient alternatives is a concern widely shared by customers. One explained that '*The 2 main suppliers in the region are DSS and IP, each with several plants, and in the event of a merger, they would become our sole supplier in the region (70% of our business)*'.[194] Another one underlined that '*today there is 3 big players, it will become 2. It really depends if the others (n°4,5,6) are able to stay competitive. For us it means to find new partner to keep a lever of negotiation'*.[195]

189 Replies to eRFI 'Competitors – corrugated sheets and cases', Question F.D.B.1-3.
190 Email from VPK dated 20 January 2025.
191 Replies to eRFI 'Competitors – corrugated sheets and cases', Question F.D.B.3-4.
192 Minutes of a call with a competitor on 31 July 2024 (non-confidential version), paragraph 31.
193 Replies to eRFI 'Customers – corrugated cases', Question D.B.2.3.
194 Reply to eRFI 'Customers – corrugated cases', Question D.B.1. Citation translated from French: *'Les 2 principaux fournisseurs de la région sont DS et IP avec plusieurs usines chacun et en cas de fusion, cela deviendrait notre seul fournisseur sur la région (70% de notre business)'.*
195 Reply to eRFI 'Customers – corrugated cases', Question D.B.1.

(250) In view of the limited alternatives and lack of available capacity in the short term, a number of customers are concerned that they would not be able to easily switch. For example, one customer explained the following: '*We could switch easily (in feasibility) but this change will take time and be more expensive because it will be with a smaller or a farther supplier or even with someone we don't want to work with*'.[196] Another one highlighted that it '*could change to Smurfit Kappa but their capacity is limited. It is likely that we won't be the only ones to switch to this supplier which could be a major issue for our 2 plants in Brittany*'.[197]

(251) In view of the above, the Commission considers that the Transaction raises serious doubts as to its compatibility with the internal market with regard to the manufacture and supply of conventional corrugated cases in each of the relevant catchment areas in North-West France.

5.6. Non-coordinated vertical effects: upstream manufacture and supply of kraftliner and downstream manufacture and supply of corrugated sheets

5.6.1. Introduction

(252) The Transaction gives rise to vertical relationships, resulting in affected markets, between, upstream, the Parties' activities in the supply of kraftliner in the EEA, where they have a combined share of [10-20]% in 2023, and, downstream, the Parties' activities in the manufacture and supply of conventional and heavy-duty corrugated sheets, where the Parties' combined shares are at least [30-40]% in several catchment areas in Italy, Portugal, and Spain.

(253) These vertical relationships are identified in the following table.

Table 24: Parties' combined (volume) share in vertically affected markets, kraftliner (EEA) and conventional and heavy-duty sheets[198] (Portugal, Spain, Italy), 2023

Kraftliner (Upstream)		Sheets (Downstream)			
Region	**Kraftliner**	**Region**	**Plant Name**	**Conventional**	**Heavy-Duty**
EEA-wide	[10-20]%	Catania	IP Catania	[40-50]%	N.A.
		South Italy	DSS Nola	[30-40]%	N.A.
		North Portugal	DSS Gondesende	[30-40]%	N.A.
		North Portugal	DSS Guilhabreu	[30-40]%	N.A.
		North Portugal	IP Ovar	[30-40]%	N.A.
		West Portugal	DSS Leiria	[30-40]%	N.A.
		Central Spain	DSS Dueñas	[30-40]%	N.A.
		North-East Spain	DSS Alcolea	[30-40]%	[20-30]%
		North-East Spain	DSS Andorra	[30-40]%	N.A.

196 Reply to eRFI 'Customers – corrugated cases', Question D.B.2.1.

197 Reply to eRFI 'Customers – corrugated cases', Question D.B.2.1.

198 Where shares for 'conventional sheets only' are not available, the table reports instead shares for 'all sheets'. The Notifying Party clarifies in its response to Request for Information 13 that shares for 'conventional sheets only' would be very similar to the estimates shares for 'all sheets', given that heavy-duty sheets represent a very small fraction of the total market at a national level and in each catchment area.

Kraftliner (Upstream)		Sheets (Downstream)			
Region	**Kraftliner**	**Region**	**Plant Name**	**Conventional**	**Heavy-Duty**
		North-East Spain	IP Barcelona	[30-40]%	N.A.
		North-East Spain	IP Bilbao	[20-30]%	[30-40]%
		North-East Spain	IP Montblanc	[30-40]%	N.A.
		North-East Spain	DSS Penedés	[30-40]%	N.A.
		North-West Spain	DSS Cartogal	[30-40]%	N.A.
		North-West Spain	DSS Galicia	[30-40]%	N.A.
		South-East Spain	IP Gandia	[30-40]%	N.A.
		South-East Spain	IP Tavernes	[30-40]%	N.A.

Source: Form CO, Table 35 and Annexes RFI 1 Q19.02 and RFI 4 Q6.

5.6.2. Notifying Party's views

(254) The Notifying Party submits that the Transaction cannot lead to input foreclosure because the merged entity's upstream market presence in kraftliner remains limited with a market share of [10-20]%.[199] The Notifying Party moreover claims that the Transaction cannot result in customer foreclosure as the merged entity will have to continue relying on third-party suppliers post-Transaction, given that its demand for kraftliner in the EEA […] exceeds its production volumes.[200]

5.6.3. Commission's assessment

5.6.3.1. Input foreclosure

(255) The Commission considers that the merged entity will not have the ability to engage in input foreclosure, for the following reasons.

(256) *First*, the fact that the Parties' upstream market shares do not exceed [10-20]%[201] in the EEA suggests that the merged entity will not have a significant degree of market power in relation to kraftliner, without which it is unlikely to have a significant influence on the conditions of competition on the market for the manufacture and supply of kraftliner in a manner that could lead to input foreclosure concerns.[202]

(257) *Second*, as kraftliner is sold at an EEA-wide level, rival corrugated sheets suppliers (i.e. kraftliner customers) will continue to have access to this product, irrespective of where they are based, as there will continue to be several competitors (such as Billerud, Mondi Group, Smurfit Westrock, SCA, Metsä Group) supplying kraftliner across the EEA. A majority of kraftliner customers responding to the Commission's questionnaire consider that, post-Transaction, there will remain a sufficient number of companies active on the market for the manufacture and supply of kraftliner in the EEA apart from the merged entity.[203]

199 Form CO, Table 25.
200 Form CO, paragraph 556.
201 Form CO, Table 25.
202 Non-horizontal Merger Guidelines, paragraph 35.
203 Replies to eRFI 'Competitors – corrugated sheets and cases', Question C.B.1.3.

(258) *Third*, rival corrugated sheet suppliers generally multi-source and have the ability to switch to other suppliers. This was confirmed during the Commission's market investigation, with a majority of respondents indicating that in 2023 they had three or more kraftliner suppliers.[204] In addition, the vast majority of kraftliner suppliers indicate that customers have the ability to switch to another supplier within less than 6 months, with contracts being usually concluded for periods of less than 1 or 2 years.[205]

(259) *Fourth*, a majority of kraftliner customers consider that it is not likely that post-Transaction the merged entity would have the ability or the incentive to raise prices, reduce output, or deteriorate the quality of kraftliner in the EEA.[206]

(260) For these reasons, the Commission considers that the merged entity would lack the ability to engage in input foreclosure strategies in the market for the manufacture and supply of kraftliner in the EEA. It is therefore not necessary to assess whether the merged entity would have the incentive to engage in input foreclosure and whether such hypothetical foreclosure strategy would have a significant detrimental effect on the downstream markets.

5.6.3.2. Customer foreclosure

(261) The Commission considers that the merged entity will not have the ability to engage in a customer foreclosure strategy, for the following reasons.

(262) *First*, the market for kraftliner is at least EEA-wide in scope and the merged entity's market shares in the downstream local markets are moderate. Therefore, even if upstream rivals in the supply of kraftliner could no longer sell to the merged entity's plants in, for instance, Catania, Italy (where IP's shares reach up to [40-50]%), they would still have sufficient alternative customers in the remainder of the EEA territory to sell their kraftliners to.

(263) *Second*, although the merged entity's purchasing share of kraftliner represents [30-40]% in the EEA,[207] customer foreclosure concerns are unlikely to arise as the merged entity will continue to rely on third-party suppliers post-Transaction. This is due to the fact that the merged entity's demand for kraftliner in the EEA far exceeds the volume it produces. In this respect, the Commission notes that IP and DSS's combined production of internally consumed kraftliner in the EEA is approximately […] thousand tonnes, whilst the Parties' combined purchasing volumes in the EEA in 2023 amounts to […] thousand tonnes, i.e., the Parties' demand for kraftliner exceeds their own internal production volumes […].[208] In these circumstances, the Commission considers that the merged entity is unlikely to stop relying on third-party suppliers of kraftliner in the short to medium term.

(264) *Third*, a majority of respondents to the Commission's market investigation indicated that the merged entity would be unlikely to stop purchasing kraftliner or

204 Replies to eRFI 'Competitors – corrugated sheets and cases', Question C.B.1.1.
205 Replies to eRFI 'Competitors – corrugated case materials', Question D.A.4.
206 Replies to eRFI 'Competitors – corrugated sheets and cases', Question C.B.1.4.
207 Form CO, Table 36.
208 Form CO, paragraph 556.

significantly deteriorate purchasing conditions, indicating that, in their view, post-Transaction, there will remain a sufficient number of kraftliner customers in the EEA.[209]

(265) *Fourth,* a majority of rival kraftliner suppliers responding to the Commission's market investigation indicated that they could find alternative customers in the short-term.[210]

(266) In light of the above, the Commission considers that the merged entity would lack the ability to engage in customer foreclosure in the market for the manufacture and supply of kraftliner in the EEA. It is therefore not necessary to assess whether the merged entity would have the incentive to engage in customer foreclosure and whether such hypothetical foreclosure strategy would have a significant detrimental effect on the upstream market.

(267) Therefore, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to the vertical relationship between the Parties' activities on the upstream market for the manufacture and supply of kraftliner in the EEA and the downstream markets for the manufacture and supply of conventional and heavy-duty corrugated sheets.

5.7. Non-coordinated vertical effects: upstream manufacture and supply of corrugated sheets and downstream manufacture and supply of corrugated cases

5.7.1. Introduction

(268) The Commission notes that the local scope of the upstream and downstream markets appears to differ based on the market investigation results. As explained in Sections 4.2 and 4.3, above, while it appears that the local scope of the upstream corrugated sheet markets is 400 km, that of the downstream corrugated case markets appears to be 300 km. Therefore, it is difficult to definitely identify the vertically affected local markets, given that more than one downstream market can fall under a specific upstream market.

(269) Consistent with the approach followed in *DS Smith/Europac*,[211] in order to be able to assess the potential impact of the Transaction due to the vertical links between the Parties' activities in the manufacture and supply of corrugated sheets and cases, the Commission uses the market shares in the local markets around the production plants of the Parties as proxies because the Commission considers that they are representative of the competitive landscape in the affected markets.

(270) Following this approach, the Transaction leads to vertical relationships, resulting in affected markets, between the local corrugated sheet markets upstream and the local corrugated case markets downstream, in Portugal, Spain, and Italy.

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209 Replies to eRFI 'Competitors – corrugated sheets and cases', Question C.B.1.5.

210 Replies to eRFI 'Competitors – corrugated case materials', Question D.C.4.2.

211 Case M.8915 – *DS Smith/Europac*.

5.7.2. Notifying Party's views

(271) The Notifying Party argues that post-Transaction the merged entity will not have the ability or incentive to engage in input foreclosure strategies, for the following reasons.[212] *First*, according to the Notifying Party, the merged entity is unlikely to have a significant degree of market power on the upstream markets. *Second*, the Parties' key competitors in the manufacture and supply of corrugated cases are already vertically integrated operators. Such competitors are therefore not dependent on purchases of corrugated sheets on the merchant market. Other rival downstream corrugated case suppliers could still access the majority of the current merchant corrugated sheets market. The Parties moreover expect imports to be increased in response to any hypothetical input foreclosure strategy.

(272) In addition, the Notifying Party claims that any customer foreclosure theory of harm is implausible.[213] *First*, the merged entity will not have a significant degree of market power in the markets for the manufacture and supply of corrugated cases or any segments thereof. The Transaction will result in a modest downstream share increment for corrugated cases contributed by IP in all affected local markets. *Second*, the Parties' activities in the downstream affected markets account for only a […] fraction of demand for corrugated sheets as the Parties self-supply the […] of their respective requirements in sheets.[214]

5.7.3. The Commission's assessment

5.7.3.1. Portugal

(273) In Portugal, the Transaction gives rise to vertical relationships, resulting in affected markets, between the Parties' combined activities in:

(a) upstream, the local markets for the manufacture and supply of conventional corrugated sheets around (i) DSS Gondesende, (ii) DSS Guilhabreu, (iii) IP Ovar, (iv) DSS Leiria, and (v) DSS Albarraque;[215] and

(b) downstream, the local markets for the manufacture and supply of conventional corrugated cases around (i) DSS Albarraque, (ii) DSS Cartogal, (iii) DSS Dueñas, (iv) DSS Galicia, (v) DSS Gondesende (Gopaca), (vi) DSS Guilhabreu, (vii) DSS Leiria, (viii) DSS San Claudio, and (ix) IP Ovar.

(274) These vertical relationships are identified in detail in the following table.

212 Form CO, paragraphs 584-585.

213 Form CO, paragraphs 589-590.

214 Form CO, Table 42.

215 The vertical relationships involving the upstream manufacture and supply of conventional corrugated sheets in the catchment area around DSS Albarraque are also considered affected vertical relationships even though the Notifying Party's estimated combined market share in this catchment area is [20-30]%, as the Commission's market reconstruction revealed this share to be at least [40-50]% – see Section 5.4.1.

Table 25: Parties' combined (volume) share in vertically affected catchment areas, all sheets and cases,[216] Portugal, 2023

Sheets Centroid		Combined Share	Cases Centroid		Combined Share
Region	Plant Name		Region	Plant Name	
North Portugal	DSS Gondesende DSS Guilhabreu IP Ovar	[30-40]%	West Portugal	DSS Albarraque	[20-30]%
			North-West Spain	DSS Cartogal	[20-30]%
			Central Spain	DSS Dueñas	[10-20]%
			North-West Spain	DSS Galicia	[20-30]%
			North Portugal	DSS Gondesende	[20-30]%
			North Portugal	DSS Guilhabreu	[20-30]%
			West Portugal	DSS Leiria	[10-20]%
			North-West Spain	DSS San Claudio	[20-30]%
			North Portugal	IP Ovar	[20-30]%
West Portugal	DSS Leiria	[30-40]%	West Portugal	DSS Albarraque	[20-30]%
			North-West Spain	DSS Cartogal	[20-30]%
			North-West Spain	DSS Galicia	[20-30]%
			North Portugal	DSS Gondesende	[20-30]%
			North Portugal	DSS Guilhabreu	[20-30]%
			West Portugal	DSS Leiria	[10-20]%
			North Portugal	IP Ovar	[20-30]%
West Portugal	DSS Albarraque	[20-30]%	West Portugal	DSS Albarraque	[20-30]%
			North Portugal	DSS Gondesende	[20-30]%
			North Portugal	DSS Guilhabreu	[20-30]%
			West Portugal	DSS Leiria	[10-20]%
			North Portugal	IP Ovar	[20-30]%

Source: Form CO, Joint Annex RFI 4 Q6 (resubmitted 26 November 2024).

(275) On the one hand, the Commission takes the view that the Transaction is likely to lead to input foreclosure in these markets, for the following reasons.

(276) *First*, as explained in detail in Section 5.4.1, the Commission carried out a market reconstruction in Portugal pursuant to which it found that both the Parties' combined share and the increment in the markets for the supply of corrugated sheets in the relevant catchment areas in Portugal are much higher ([40-50]%, with an increment of [10-20]%) than initially estimated by the Notifying Party ([20-30]%-[30-40]% with an increment of [5-10]%-[5-10]%).

(277) *Second*, the Notifying Party appears to have overestimated the position of its main competitors in the upstream market. The Commission's market investigation showed that conventional corrugated sheet customers generally considered the Parties' main

[216] The Parties' activities do not overlap in the supply of heavy-duty sheets in Portugal. The Notifying Party clarifies in its response to Request for Information 13 that shares for 'conventional sheets only' and for 'conventional cases only' would be very similar to the estimates shares for 'all sheets' and 'all cases', respectively, given that heavy-duty sheets and cases represent a very small fraction of the total markets at a national level and in each catchment area.

competitors as '*weak*' on the market as opposed to the Parties who are considered as '*strong*'.[217]

(278) *Third*, as further detailed in Section 5.4.1, during the Commission's market investigation, several conventional corrugated sheet customers expressed concerns, indicating that it is already – pre-Transaction – challenging to find alternative suppliers.

(279) *Fourth*, the Commission notes that potential entry is highly unlikely as the vast majority of respondents to the Commission's market investigation indicated that it was either '*difficult'* or '*very difficult*' to enter the corrugated sheets markets in Portugal.[218]

(280) Therefore, the Commission considers that such concentration confers a significant degree of market power to the merged entity on the upstream markets. Accordingly, it is likely that, post-Transaction, the merged entity will have the ability to engage in input foreclosure, for example, by increasing prices, reducing output or otherwise deteriorating quality of the input product.

(281) As for the incentive of the merged entity to engage in input foreclosure strategies, the Commission takes the view that, given that corrugated cases are more complex products,[219] and thus more profitable ones, the merged entity would have an incentive to limit its sheets sales to its competitors, in order to gain profits from expanding its downstream sales.

(282) The Commission takes note that the effects of a potential input foreclosure strategy would be lessened by the fact that some of the Parties' downstream competitors are themselves vertically integrated. However, smaller non-integrated downstream competitors still represent at least [30-40]%[220] of the downstream markets. Therefore, the Commission considers that a potential input foreclosure strategy is likely to have a significant detrimental effect on the downstream markets.

(283) On the other hand, the Commission considers that the merged entity is unlikely to have the ability to engage in a customer foreclosure strategy, for the following reasons. *First*, both Parties already currently […] their sheet demand.[221] *Second*, their combined market shares in the relevant downstream local markets are always below [30-40]%, as shown in the previous table. The Parties therefore […] demand with respect to conventional corrugated sheets in the downstream markets. Consequently, the Commission considers that the merged entity is likely to lack the ability to engage in customer foreclosure in these markets. It is therefore not necessary to assess whether the merged entity would have the incentive to foreclose

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217 Replies to eRFI 'Corrugated sheets and cases competitors', Question D.B.B.2. In a scale of 1 to 5, a competitor is considered 'weak' if assigned the ratings 1 or 2, 'average' if assigned the rating 3, and 'strong' if assigned the ratings 4 or 5.

218 Replies to eRFI 'Competitors – Corrugated sheets and cases', Question D.B.A.10.

219 As confirmed during the Commission's market outreach by market participants indicating that corrugated sheets are products with less added value than cases (e.g., minutes of call with a competitor on 18 September 2024 (non-confidential version), paragraph 16).

220 Form CO, Annex RFI 1, Q19.02.

221 Form CO, Table 42.

customers and whether such hypothetical foreclosure strategy would have a significant detrimental effect on the upstream markets.

(284) Therefore, the Commission considers that the Transaction raises serious doubts as to its compatibility with the internal market with regard to the vertical relationships between the Parties' activities on the upstream markets for the manufacture and supply of conventional corrugated sheets and the downstream markets for the manufacture and supply of conventional corrugated cases in North and West Portugal in the catchment areas identified at paragraphs (273)-(274), above.

5.7.3.2. Spain

(285) In Spain, the Transaction gives rise to vertical relationships, resulting in affected markets, between the Parties' combined activities in:

(a) upstream, the local market for the manufacture and supply of conventional corrugated sheets around (i) DSS Dueñas and (ii) DSS Alcolea; and

(b) downstream, the local markets for the manufacture and supply of conventional corrugated cases around (i) DSS Andorra, (ii) DSS Cartogal, (iii) Dueñas (iv) DSS Galicia, (v) DSS Gondesende, (vi) DSS Guilhabreu, (vii) DSS San Claudio, (viii) DSS Santander, (ix) DSS Torrejón de Ardoz, (x) IP Grinon, (xi) IP Madrid, (xii) IP Ovar, (xiii) DSS Dicesa, (xiv) DSS Torrelavit, (xv) IP Barcelona, (xvi) IP Bilbao, (xvii) IP Gandia, (xviii) IP Madrid, (xix) IP Montblanc, (xx) IP Tavernes, and (xxi) IP Valls.

(286) In addition, in Spain, the Transaction gives rise to vertical relationships, resulting in affected markets, between the Parties' combined activities in:

(a) upstream, the local markets for the manufacture and supply of heavy-duty corrugated sheets around DSS Alcolea and IP Bilbao;[222] and,

(b) downstream, the local markets for the manufacture and supply of heavy-duty corrugated cases around (i) DSS Santander and (ii) IP Bilbao.

(287) These vertical relationships are identified in detail in the table below.

Table 26: Parties' combined (volume) share in vertically affected catchment areas, conventional and heavy-duty sheets and cases,[223] Spain, 2023

Sheets Centroid		Combined Market Share		Cases Centroid		Combined Market Share	
Region	Plant Name	Conv.	Heavy- Duty	Region	Plant Name	Conv.	Heavy-Duty
Central Spain	DSS Dueñas	[30-40]%	N.A.	North-East Spain	DSS Andorra	[10-20]%	N.A.

[222] The vertical relationships involving the upstream manufacture and supply of heavy-duty corrugated sheets in the catchment areas around DSS Alcolea and IP Bilbao are also considered affected vertical relationships even though the merged entity has an estimated combined market share of respectively [20-30]% and [30-40]% in these catchment areas, as the Commission's market reconstruction revealed these shares to be close to [90-100]% – see Section 5.4.2.

[223] Where shares for 'conventional sheets/cases only' are not available, the table reports instead shares for 'all sheets/cases'.

Sheets Centroid		Combined Market Share		Cases Centroid		Combined Market Share	
Region	Plant Name	Conv.	Heavy- Duty	Region	Plant Name	Conv.	Heavy-Duty
				North-West Spain	DSS Cartogal	[20-30]%	N.A.
				Central Spain	DSS Dueñas	[10-20]%	N.A.
				North-West Spain	DSS Galicia	[20-30]%	N.A.
				North Portugal	DSS Gondesende	[20-30]%	N.A.
				North Portugal	DSS Guilhabreu	[20-30]%	N.A.
				North-West Spain	DSS San Claudio	[20-30]%	N.A.
				North-East Spain	DSS Santander	[10-20]%	[5-10]%
				Central Spain	DSS Torrejón	[10-20]%	N.A.
				Central Spain	IP Grinon	[10-20]%	N.A.
				Central Spain	IP Madrid	[10-20]%	N.A.
				North Portugal	IP Ovar	[20-30]%	N.A.
				North-East Spain	IP Bilbao	[5-10]%	5%
North-East Spain	DSS Alcolea	[30-40]%	[20-30]%	North-East Spain	DSS Andorra	[10-20]%	N.A.
				North-East Spain	DSS Dicesa	[10-20]%	N.A.
				Central Spain	DSS Dueñas	[10-20]%	N.A.
				North-East Spain	DSS Santander	[10-20]%	[5-10]%
				Central Spain	DSS Torrejón	[10-20]%	N.A.
				North-East Spain	DSS Torrelavit	[10-20]%	N.A.
				North-East Spain	IP Barcelona	[10-20]%	N.A.
				North-East Spain	IP Bilbao	[5-10]%	5%
				South-East Spain	IP Gandia	[10-20]%	N.A.
				Central Spain	IP Grinon	[10-20]%	N.A.
				Central Spain	IP Madrid	[10-20]%	N.A.
				North-East Spain	IP Montblanc	[10-20]%	N.A.
				South-East Spain	IP Tavernes	[5-10]%	N.A.
				North-East Spain	IP Valls	[10-20]%	N.A.

Sheets Centroid		Combined Market Share		Cases Centroid		Combined Market Share	
Region	**Plant Name**	**Conv.**	**Heavy- Duty**	**Region**	**Plant Name**	**Conv.**	**Heavy-Duty**
North-East Spain	IP Bilbao	[20-30]%	[30-40]%	North-East Spain	DSS Andorra	[10-20]%	N.A.
				West France	DSS Cognac	[20-30]%	N.A.
				Central Spain	DSS Dueñas	[10-20]%	N.A.
				North-West Spain	DSS San Claudio	[20-30]%	N.A.
				North-East Spain	DSS Santander	[10-20]%	[5-10]%
				Central Spain	DSS Torrejón	[10-20]%	N.A.
				North-East Spain	IP Bilbao	[5-10]%	[5-10]%
				Central Spain	IP Grinon	[10-20]%	N.A.
				Central Spain	IP Madrid	[10-20]%	N.A.
				North-East Spain	IP Montblanc	[10-20]%	N.A.

Source: Form CO, Joint Annex RFI 4 Q6 (resubmitted 26 November 2024).

5.7.3.2.1. Conventional corrugated sheets (upstream) and cases (downstream)

(288) On the one hand, the Commission takes the view that that the merged entity will not have the ability to engage in input foreclosure strategies in these markets, for the following reasons.

(289) *First*, as discussed in detail in Section 5.4.2, although the merged entity has a relatively high upstream market share of [30-40]% in the local market around DSS Dueñas, the Commission considers that this share significantly overestimates the Parties competitive position in this market. As explained at paragraphs (128)-(130), above, a significant portion of the volumes formally attributed to the Dueñas catchment area rather correspond to volumes produced in Portugal and sold within Portugal. The Parties' combined market share in the Dueñas region are therefore rather reflective of their position in Portugal. As for the catchment area around Alcolea, the Parties have a [30-40]% upstream market share in the local market. As explained at paragraphs (136)-(139), above, the Commission considers, notably in light of the Parties' market share and presence of several competitors, that the merged entity is unlikely to have a significant degree of market power in this market. Without a significant degree of market power upstream, the merged entity is unlikely to have a significant influence on the conditions of competition on the markets for the manufacture and supply of conventional corrugated cases in a manner that could lead to input foreclosure concerns.[224]

[224] Non-horizontal Merger Guidelines, paragraph 35.

(290) *Second*, post-Transaction, downstream rival corrugated case manufacturers will likely have access to sufficient alternative sources of supply. In the local market around DSS Dueñas, the Parties face [>10] competitors (e.g., Saica Group, Sebastião & Martins, Smurfit Westrock), with their largest competitor, Saica Group, holding a market share of [10-20]%.[225] Similarly, around DSS Alcolea, the Parties have [>10] competitors (e.g., Saica Group, Grupo Petit, Smurfit Westrock), with their largest competitor holding a [10-20]% market share. As explained in Section 5.4.2, the Commission's market investigation showed that rival downstream conventional case suppliers currently tend to multi-source. Moreover, a majority confirmed that they could easily switch suppliers and a vast majority indicated that they could terminate their ongoing corrugated sheet purchasing contracts in the EEA within less than a month.[226]

(291) *Third*, the merged entity's main competitors (e.g., Saica Group, Smurfit Westrock) are vertically integrated and can generally rely on their own upstream operations.

(292) On the other hand, the Commission considers that the merged entity is unlikely to have the ability to engage in customer foreclosure strategies, for the following reasons. *First*, both Parties already currently […] their conventional corrugated sheet demand in Spain.[227] *Second*, their combined market shares in the relevant downstream local markets are always below [30-40]%, as shown in the previous table. The merged entity is therefore unlikely to represent a significant source of demand with respect to conventional corrugated sheets in the downstream markets. Consequently, the Commission considers that the merged entity is unlikely to have the ability to engage in customer foreclosure strategies in these markets. It is therefore not necessary to assess whether the merged entity would have the incentive to foreclose customers and whether such hypothetical strategy would have a significant detrimental effect on the upstream market.

(293) Therefore, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to the vertical relationships between the Parties' activities on the upstream markets for the manufacture and supply of conventional corrugated sheets and the downstream markets for the manufacture and supply of conventional corrugated cases in the relevant catchment areas in Spain.

5.7.3.2.2. Heavy-duty corrugated sheets (upstream) and cases (downstream)

(294) The situation is materially different as regards the vertical relationships between the manufacture and supply of heavy-duty corrugated sheets (upstream) and cases (downstream) in the relevant catchment areas in Spain.

(295) On the one hand, the Commission takes the view that the Transaction is likely to lead to input foreclosure strategies in these markets.

225 Form CO, Annex RFI 1 Q19.02.

226 Replies to eRFI 'Competitors – corrugated sheets and cases', Question E.B.A.8.

227 Form CO, Table 42.

(296) *First*, the Notifying Party's argument that the Parties' combined share and increment are limited was not confirmed by the Commission's investigation. As discussed in detail in Section 5.4.2, following a market reconstruction, whereby the Commission collected actual sales volumes of the Parties' competitors, it found that the merged entity was the […] supplier of heavy-duty corrugated sheets in the local markets around DSS Alcolea and IP Bilbao.

(297) *Second*, as explained in Section 5.4.2, the Notifying Party's claim that competitors based in France and Italy could potentially export heavy-duty corrugated sheets to the relevant local markets in Spain could not be confirmed during the Commission's market investigation.

(298) *Third*, although the Commission notes that there is a potential entrant in the relevant local markets, it considers, as explained in Section 5.4.2., that this potential competitor is unlikely to constitute a sufficient alternative source of supply of heavy-duty corrugated sheets in the short-term post-Transaction.[228]

(299) Accordingly, the Commission considers that such concentration confers a significant degree of market power to the merged entity in the manufacture and supply of heavy-duty corrugated sheets in the catchment areas around DSS Alcolea and IP Bilbao. Accordingly, it is likely that, post-Transaction, the merged entity will have the ability to engage in input foreclosure, for example, by increasing prices, reducing output or otherwise deteriorating quality of the input product.

(300) As for the incentive of the merged entity to engage in input foreclosure, the Commission takes the view that given that cases are more complex[229] and thus more profitable products, the merged entity would have an incentive to limit its sheets sales to its competitors, in order to gain profits from expanding its downstream sales.

(301) Finally, in light of the Parties' significant market power upstream, an input foreclosure strategy is likely to have significant detrimental effect on competitors in the downstream markets for the manufacture and supply of conventional corrugated cases.

(302) On the other hand, the Commission considers that the merged entity is unlikely to have the ability to engage in customer foreclosure, for the following reasons. *First*, both Parties already currently […].[230] *Second*, their combined market shares in the relevant downstream local markets are modest, always below [10-20]%, as shown in the previous table. The Parties therefore do not represent a significant source of demand with respect to heavy-duty corrugated sheets in the downstream markets. Consequently, the Commission considers that the merged entity is unlikely to have the ability to engage in customer foreclosure strategies in these markets. It is therefore not necessary to assess whether the merged entity would have the incentive to foreclose customers and whether such hypothetical foreclosure strategy would have a significant detrimental effect on the upstream market.

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228 Minutes of call with a customer on 14 October 2024 (non-confidential version), paragraph 22.

229 As confirmed during the Commission's market outreach by market participants indicating that corrugated sheets are products with less added value than cases (e.g., minutes of call with a competitor on 18 September 2024 (non-confidential version), paragraph 16).

230 Form CO, Table 42.

(303) Therefore, the Commission considers that the Transaction raises serious doubts as to its compatibility with the internal market with regard to the vertical relationships between the Parties' activities on the upstream markets for the manufacture and supply of heavy-duty corrugated sheets and the downstream markets for the manufacture and supply of heavy-duty corrugated cases in the relevant catchment areas in Spain.

5.7.3.3. Italy

(304) The Transaction gives rise to vertical relationships, resulting in affected markets, between:

(a) upstream, the Parties' activities in the supply of conventional corrugated sheets in the catchment areas around IP Catania and DSS Nola Sheetfeeding, in South Italy; and

(b) downstream, (i) the Parties' activities in the supply of conventional corrugated cases in the catchment area around DSS Nola and (ii) IP's activities in the supply of conventional corrugated cases in the catchment area around IP Catania.

(305) These vertical relationships are identified in detail in the table below.

Table 27: Parties' combined (volume) share in overlapping vertically affected catchment areas, all sheets and cases,[231] Italy, 2023

Sheets Centroid		Combined Share	Cases Centroid		Combined Share
Region	Plant Name		Region	Plant Name	
Catania	IP Catania	[40-50]%	South Italy	DSS Nola	[10-20]%
			Catania	IP Catania	[50-60]%[232]
South Italy	DSS Nola	[30-40]%	Catania	IP Catania	[50-60]%

Source: Form CO, Joint Annex RFI 4 Q6 (resubmitted 26 November 2024).

(306) On the one hand, the Commission takes the view that the merged entity will not have the ability to engage in input foreclosure strategies in these markets, for the following reasons.

(307) As explained in Section 5.4.3, although the merged entity's market share is relatively high upstream ([30-40]% to [40-50]%), IP Catania and DSS Nola Sheetfeeding, in practice, do not supply conventional corrugated sheets in the same areas. IP Catania delivers [80-90]% of its corrugated sheets sales within Sicily (with the remainder delivered to Calabria, i.e., not in close proximity to the DSS Nola Sheetfeeding plant). Conversely, the Nola Sheetfeeding plant delivers [80-90]% of

231 The Parties' activities do not overlap in the supply of heavy-duty sheets and cases in Italy. The Notifying Party clarifies in its response to Request for Information 13 that shares for 'conventional sheets only' and for 'conventional cases only' would be very similar to the estimates shares for 'all sheets' and 'all cases', respectively, given that heavy-duty sheets and cases represent a very small fraction of the total markets at a national level and in each catchment area.

232 In the downstream supply of conventional corrugated cases there is no overlap between the Parties, as DSS Nola is not part of IP Catania's catchment area when the relevant radius decreases from 400 km (sheets) to 300 km (cases).

its corrugated sheets sales within mainland Italy[233] and only [10-20]% of its total corrugated sheets sales are made in the area proximate to IP Catania. Accordingly, the Commission considers that this concentration does not confer a significant degree of market power to the merged entity on the upstream markets for the manufacture and supply of conventional corrugated sheets in the catchment areas around IP Catania and DSS Nola Sheetfeeding.

(308) Moreover, IP Catania's core business is the manufacture and supply of corrugated cases. It currently only supplies a negligible volume of conventional corrugated sheets on the merchant market (c. [0-100] Msqm in FY2023 and only [0-100] Msqm in YTD 2024).[234] It follows that the Transaction is unlikely to have any impact on downstream corrugated case suppliers' sourcing strategy in Catania. The Commission notes in this respect that Cart-One, IP's main competitor in Catania does not currently source sheets from IP Catania and therefore already has alternative sources of supply (including its own upstream operations).[235]

(309) Considering the above, the Commission considers that the merged entity would lack the ability to engage in input foreclosure in the local markets around IP Catania and DSS Nola Sheetfeeding. It is therefore not necessary to assess whether the merged entity would have the incentive to engage in input foreclosure and whether such hypothetical foreclosure strategy would have a significant detrimental effect on the upstream market.

(310) On the other hand, the Commission considers that that the merged entity is unlikely to have the ability to engage in customer foreclosure as both Parties already currently internalise to a […] extent their sheet demand in Italy.[236] Specifically, IP Catania […] corrugated sheets from the merchant market and self-supplies […]% of its sheets requirements. […], DSS Nola Sheetfeeding […] corrugated sheets from the merchant market.[237] It is therefore not necessary to assess whether the merged entity would have the incentive to foreclose customers and whether such hypothetical foreclosure strategy would have a significant detrimental effect on the upstream market.

(311) Therefore, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to the vertical relationships between the Parties' activities on the upstream markets for the manufacture and supply of conventional corrugated sheets and the downstream markets for the manufacture and supply of conventional corrugated cases in the relevant catchment areas in Italy.

5.8. Coordinated horizontal effects

(312) The Notifying Party argues that the Transaction will not raise coordinated effects in any of the horizontally affected markets as the corrugated packaging industry is

233 Form CO, paragraph 398.
234 Form CO, paragraph 398.
235 Form CO, paragraph 610.
236 Form CO, Table 42.
237 Form CO, paragraph 618.

characterised by a large number and diverse array of competing suppliers, and this industry structure reduces the risk of any coordinated effects by itself.[238]

(313) The Commission takes the view that the Transaction is unlikely to lead to coordinated effects on the market for the manufacture and supply of CCM under any plausible market definition, due to the Parties' limited combined market shares (between [5-10]%-[10-20]%) on any plausible CCM subsegment. Therefore, this market will not be further discussed in this section.

(314) As for the markets for the manufacture and supply of conventional and heavy-duty sheets in Portugal, Spain, Italy, and France, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to coordinated effects, irrespective of the exact product and geographic market definition retained, for the following reasons.

(a) *First*, rival sheet suppliers differ significantly in terms of market shares, capacity, and level of vertical integration, making it difficult to reach a common understanding on the terms of coordination. Moreover, coordination is also unlikely as different companies are active in different geographic markets.

(b) *Second*, the Commission's market investigation shows that the sourcing of corrugated sheets is organised in different ways via tenders, bilateral negotiations, and spot purchases.[239] Therefore, suppliers are not aware of the pricing strategy of their competitors. The Commission notes that the Notifying Party is often not able to correctly assess its competitors' third-party sales or capacity. The Commission therefore takes the view that the market is not sufficiently transparent to allow the coordinating firms to monitor to a sufficient degree whether other firms are deviating and thus know when to retaliate.

(c) *Third*, the fact that customers generally multi-source and can easily switch suppliers[240] due to factors such as fluctuating demand, product and service quality, as well as price, makes coordination further unlikely.

(315) The market features described in (a)-(c) are also characteristics of the markets for the manufacture and supply of conventional and heavy-duty cases, in Portugal, Spain, Italy and France. In addition, the Commission notes that customers generally order cases with highly individualized specifications in terms of design, size, and other characteristics, further adding to the complexity of these markets.[241] The Commission therefore takes the view that the Transaction is also unlikely to lead to coordinated effects on the markets for the manufacture and supply of corrugated cases under any plausible market definition.

238 Form CO, paragraphs 512-517.

239 Replies to eRFI 'Competitors – Corrugated sheets and cases', Questions D.B.A.7.

240 Replies to eRFI 'Competitors – Corrugated sheets and cases', Questions D.B.A.6.

241 Minutes of call with a competitor on 19 August 2024 (non-confidential version), paragraph 25; minutes of call with a competitor on 18 September 2024 (non-confidential version), paragraph 11; minutes of call with a customer on 15 October 2024 (non-confidential version), paragraph 10.

5.9. Conclusion

(316) In light of the above, the Commission considers that the Transaction raises serious doubts as to its compatibility with the internal market and the functioning of the EEA Agreement, as it is likely that, post-Transaction, the merged entity would:

(a) Be able to increase prices, reduce output, or otherwise deteriorate the quality of

– conventional corrugated sheets in the North and West of Portugal (notably, in the catchment areas around DSS Gondesende, DSS Guilhabreu, IP Ovar, DSS Albarraque, and DSS Leiria),

– heavy-duty corrugated sheets in North-East Spain (notably, in the catchment areas around DSS Alcolea and IP Bilbao), and

– conventional corrugated cases in North-West France (notably, in the catchment areas around DSS Carhaix-Plouguer, DSS La Chevrolière, DSS Durtal, DSS Thouarce, IP Saint-Amand, and IP Cabourg), thereby significantly impeding effective competition;

(b) Have the ability and incentive to foreclose its downstream competitors in the markets for the supply of conventional corrugated cases in the catchment areas around (i) DSS Albarraque, (ii) DSS Cartogal, (iii) DSS Dueñas, (iv) DSS Galicia, (v) DSS Gondesende (Gopaca), (vi) DSS Guilhabreu, (vii) DSS Leiria, (viii) DSS San Claudio and (ix) IP Ovar, by restricting access to, increasing the price of, or deteriorating the quality of the conventional corrugated sheets that it sells to them from the catchment areas around (i) DSS Gondesende, (ii) DSS Guilhabreu, (iii) IP Ovar, (iv) DSS Leiria, and (v) DSS Albarraque, thereby significantly impeding effective competition; and

(c) Have the ability and incentive to foreclose its downstream competitors in the market for the supply of heavy-duty corrugated cases in the catchment areas around DSS Santander and IP Bilbao, by restricting access to, increasing the price of, or deteriorating the quality of the heavy-duty corrugated sheets that it sells to them from the catchment areas around DSS Alcolea and IP Bilbao, thereby significantly impeding effective competition.

6. PROPOSED REMEDIES

(317) When a notified concentration raises serious doubts as to its compatibility with the internal market or the functioning of the EEA agreement, the parties may undertake to modify the notified concentration so as to remove the grounds for the serious doubts identified by the Commission with a view to having it declared compatible with the internal market pursuant to Article 6(1)(b) in conjunction with Article 6(2) of the Merger Regulation.[242]

[242] Commission Notice on remedies acceptable under Council Regulation (EC) No 139/2004 and under Commission Regulation (EC) No 802/2004 (2008/C 267/01), (the 'Commission Notice on Remedies'), paragraph 5.

(318) As set out in the Commission Notice on Remedies, it is for the notifying parties to the concentration to put forward commitments.[243] The Commission is only entitled to accept commitments that are deemed capable of making the notified concentration compatible with the internal market.[244] The commitments have to eliminate the Commission's competition concerns entirely and they have to be comprehensive and effective from all points of view.

(319) On 20 December 2024, in order to remove the serious doubts arising from the Transaction and render it compatible with the internal market, the Parties have modified the notified concentration by entering into the following commitments under Article 6(2) of the Merger Regulation, which are annexed to this decision and form an integral part thereof ('Commitments').

(320) The Commission launched a market test of these Commitments on 3 January 2025, seeking responses from customers and competitors of the Parties. On 20 January 2025, the Notifying Party submitted a slightly revised final version of the Commitments.

(321) As per the Commitments, the Notifying Party commits to divest:

(a) Three IP plants located in Normandy, France, namely: a box plant in Saint-Amand, a box plant in Mortagne, and a sheet plant in Cabourg, all of which manufacture and supply conventional corrugated cases, and which shall be sold together to a single purchaser;

(b) IP's box plant in Ovar, Portugal, which manufactures and supplies conventional corrugated sheets; and

(c) IP's box plant in Bilbao, Spain, which manufactures and supplies heavy-duty corrugated sheets.

Each of these plants will be designated hereinafter as 'Divestment Business' or, jointly, as 'Divestment Businesses'.

(322) The Divestment Businesses include, in particular, all assets and staff, to the extent they contribute to the current operation or are necessary to ensure the viability and competitiveness of the Divestment Businesses, in particular:

(a) all such tangible and intangible assets (including products under development and related rights, intellectual property rights and know-how);

(b) all such licences, permits and authorisations issued by any governmental organisation for the benefit of the Divestment Businesses;

(c) all such contracts, leases, commitments and customer orders of the Divestment Businesses; all customers, credits and other records of the Divestment Businesses; all cooperation agreements with third parties; and

(d) all staff currently employed by the Divestment Businesses, including staff seconded to the Divestment Businesses, shared personnel as well as the additional personnel listed in the Schedule of the Commitments.

243 Commission Notice on Remedies, paragraph 6.

244 Commission Notice on Remedies, paragraph 9.

(323) The Commitments also include the benefit, for a transitional period, on terms and conditions equivalent to those at present afforded to the Divestment Businesses, of the current arrangements under which IP or its affiliated undertakings supply products or services to the Divestment Businesses or of any other current or new arrangements which are necessary for the viability of the Divestment Businesses, unless otherwise agreed with the purchaser(s) and with the approval of the Commission. These include the supply of CCM, centrally procured sourcing (such as […]), and services (such as […]) by IP to the Divestment Businesses, under the terms described in the Commitments.

(324) In addition, the Notifying Party undertakes, subject to customary limitations, not to solicit the key personnel transferred with the Divestment Businesses, and necessary to maintain the viability and competitiveness of the Divestment Businesses, for a period of […] after closing of the purchaser or purchasers' acquisition of the Divestment Businesses.

(325) Moreover, for a period of ten years after closing of the acquisition of the Divestment Businesses, the Notifying Party undertakes not to acquire, directly or indirectly, in whole or in part, the Divestment Businesses.

(326) Furthermore, the Commitments provide that the purchaser(s) of the Divestment Businesses will meet the following criteria: (i) be independent and unconnected to the Parties, (ii) have the financial resources, proven expertise, and incentive to maintain and develop the Divestment Businesses, (iii) have a preexisting footprint in the paper industry in the EEA or in the UK (with plans for expansion in the EEA), in particular in the production of corrugated sheets and/or cases, and (iv) the purchase shall not be likely to create *prima facie* competition concerns.

(327) Finally, the Notifying Party has entered into related commitments regarding, *inter alia,* (i) the separation of the Divestment Businesses from their retained businesses, (ii) the preservation of the viability, marketability, and competitiveness of the Divestment Businesses, and (iii) the appointment of a monitoring trustee and, if necessary, a divestiture trustee.

7. ASSESSMENT OF THE PROPOSED REMEDIES

7.1. Framework for the assessment of the proposed remedies

(328) In Phase I, commitments can only be accepted by the Commission where the competition problems are readily identifiable and can easily be remedied. The competition problems therefore need to be so straightforward, and the commitments so clear-cut, that (i) it is not necessary to open an in-depth investigation and (ii) the commitments are sufficient to clearly rule out serious doubts within the meaning of Article 6(1)(c) of the Merger Regulation.[245]

(329) In assessing whether or not the commitments proposed by the parties would restore effective competition, the Commission considers all relevant factors, including *inter alia* the type, scale, and scope of the proposed commitments, judged by reference to

[245] Commission Notice on Remedies, paragraph 81.

the structure and particular characteristics of the market in which the Commission has identified serious doubts as to the compatibility of the notified concentration with the internal market, including the position of the parties and other participants on the market.[246]

(330) In order for the commitments to comply with these principles, they must be capable of being implemented effectively within a short period of time.[247] The Commission must determine with the requisite degree of certainty, at the time of its decision, that they will be fully implemented and that they are likely to maintain effective competition in the market.[248]

(331) As regards the form of acceptable commitments, the Merger Regulation leaves discretion to the Commission (as long as the commitments meet the requisite standard). Divestiture commitments are often the most effective way to eliminate competition concerns. The intended effects of a divestiture will only be achieved if and once the business to divest is transferred to a suitable purchaser.[249]

(332) To ensure that the business is divested to a suitable purchaser, the commitments have to include general (and sometimes case-specific) purchaser criteria.[250] This will allow the Commission to conclude that the divestiture of the business to a specific purchaser will likely remove the competition concerns identified.

7.2. Results of the market test of the Commitments

(333) The Commission market tested the Commitments as of 3 January 2025.

(334) The results of the market test were overall positive. The majority of respondents who expressed an opinion were of the view that the Commitments will remove the serious doubts identified by the Commission.[251] A significant majority of respondents who expressed an opinion submitted that the provisions of the Commitments are sufficiently clear and capable of being implemented in a timely manner.[252] The majority of respondents who expressed an opinion considered that the Divestment Businesses are viable and include all necessary tangible and intangible assets for the purchaser(s) to operate in the relevant markets where serious doubts were identified.[253] Most respondents who expressed an opinion submitted that the Divestment Businesses are attractive businesses likely to elicit significant

246 Commission Notice on Remedies, paragraph 12.
247 Commission Notice on Remedies, paragraph 9.
248 Commission Notice on Remedies, paragraph 10.
249 Case T-177/04 – *easyJet v Commission* [2006] ECR II-1913, paragraph 197.
250 Commission Notice on Remedies, paragraph 49.
251 Replies to eRFI 'Competitors – Questionnaire on proposed divestments', Question D.6 and replies to eRFI 'Customers – Questionnaire on proposed divestments', Question D.3.
252 Replies to eRFI 'Competitors – Questionnaire on proposed divestments', Question D.5 and replies to eRFI 'Customers – Questionnaire on proposed divestments', Question D.2.
253 Replies to eRFI 'Competitors – Questionnaire on proposed divestments', Question E.2 and replies to eRFI 'Customers – Questionnaire on proposed divestments', Question E.2.

interest from potential purchasers[254] and several corrugated sheet and/or case suppliers expressed interest in buying some or all of them.[255]

(335) During the market test, the market participants identified two risks that required limited adjustments to the Commitments. *First*, some market participants claimed that some of the Normandy plants would not be interesting enough on a standalone basis to be sold separately. *Second*, some market participants highlighted that there is a risk that centrally managed customers would not switch to the purchaser(s). The results of the market test and these risks, which are described in more detail in Sections 7.3.2 and 7.3.3, below, were communicated to the Parties in a meeting on 15 January 2025. In response to these risks, the Notifying Party submitted a slightly revised final version of the Commitments on 20 January 2025, where it commits to (i) divest the three Normandy Divestment Businesses to a single purchaser and (ii) reinforced the purchaser criteria by explicitly providing that the purchaser(s) must have a preexisting footprint in the paper industry in the EEA or in the UK (with plans for expansion in the EEA), in particular in the production of corrugated sheets and/or cases.

7.3. Commission's assessment

7.3.1. Suitability of the Commitments to remove the Commission's serious doubts

(336) The divestiture of the Divestment Businesses addresses the concerns that the merged entity could, post-Transaction, profitably raise prices, deteriorate quality, or decrease quantities, in the relevant catchment areas in Portugal, Spain, and France (identified in detail in Section 5.9, above). By divesting the Divestment Businesses to one or more independent third-party purchaser(s), the market share increments brought by the Transaction in the relevant markets are eliminated. This occurs because:

(a) the three Divestment Businesses located in Normandy, France, are the only IP plants in the markets for the supply of conventional corrugated cases in North-West France where serious doubts were identified;

(b) the Divestment Business in Ovar, Portugal, is the only IP plant in the markets for the supply of conventional corrugated sheets in the North and West of Portugal where serious doubts were identified; and

(c) the Divestment Business in Bilbao, Spain, is the only IP plant in the markets for the supply of heavy-duty corrugated sheets in North-East Spain where serious doubts were identified.

(337) Accordingly, the market share of the merged entity will not increase as a result of the Transaction in the areas of concern.

(338) Similarly, the Commitments also address the serious doubts identified with respect to the vertical relationships between the Parties' activities because, as a result of the elimination of the increments contributed by IP in the relevant upstream catchment areas in Portugal and Spain, the Transaction will not affect (and therefore not

254 Replies to eRFI 'Competitors – Questionnaire on proposed divestments', Question E.1 and replies to eRFI 'Customers – Questionnaire on proposed divestments', Question E.1.

255 Replies to eRFI 'Competitors – Questionnaire on proposed divestments', Question D.3.

increase) the merged entity's ability and incentive to input foreclose downstream rivals in the downstream markets for the manufacture and sale of (i) conventional corrugated cases in the relevant catchment areas in Portugal and (ii) heavy-duty corrugated cases in the relevant catchment areas in Spain (identified in detail in Section 5.9, above).

(339) The Divestment Businesses, including all tangible and intangible assets, as well as dedicated personnel, are operated as standalone businesses and are not heavily integrated within the rest of IP's operations.[256]

(340) The sale of the Divestment Businesses therefore constitutes a straightforward and clear-cut structural remedy generally suitable to clearly rule out serious doubts within the meaning of Article 6(1)(c) of the Merger Regulation.

(341) The Commission therefore considers that the scope of the Divestment Businesses is sufficiently comprehensive and the divestiture could in principle remove the Commission's serious doubts as to the compatibility of the Transaction with the internal market or the functioning of the EEA Agreement.

7.3.2. Viability of the Divestment Businesses

(342) The Commission considers that, based on the evidence on file and the results of the market test, the Commitments are suitable and lead to the divestment of viable and competitive businesses.

(343) *First*, the three Divestment Businesses in Normandy, as well as the Divestment Businesses in Ovar and in Bilbao, constitute standalone businesses largely operating independently from the rest of IP's operations.[257] Hence, the Commitments will not require any complex carve-out from IP's operations.

(344) *Second,* the Divestment Businesses are profitable:

(a) The three Divestment Businesses in Normandy have jointly achieved a turnover of EUR […] million, with an EBITDA of EUR […] million in 2023;[258]

(b) The Divestment Business in Ovar achieved a turnover of EUR […] million, with an EBITDA of EUR […] million in 2023;[259] and

(c) The Divestment Business in Bilbao achieved a turnover of EUR […] million, with an EBITDA of EUR […] million in 2023.[260]

(345) *Third,* the market test has confirmed the overall viability and competitiveness of the Divestment Businesses:

(a) Regarding the three Divestment Businesses in Normandy, the majority of the respondents having expressed an opinion confirmed that the businesses are

256 Form RM, paragraphs 2.11, 2.17, 2.27.
257 Form RM, paragraphs 2.11, 2.17, and 2.27.
258 Form RM, paragraph 2.10.
259 Form RM, paragraph 2.18.
260 Form RM, paragraph 2.26.

viable, allowing a suitable purchaser or purchasers to compete effectively and on a lasting basis in the markets for the supply of conventional corrugated cases in the relevant catchment areas in North-West France.[261] Specifically about IP Saint-Amand, one respondent submitted that '*we also estimate that it could achieve long-term viability and competitiveness in the market*';[262]

(b) Moreover, the vast majority of the market test respondents having expressed an opinion confirmed that the Divestment Business in Ovar is viable, allowing a suitable purchaser to compete effectively and on a lasting basis in the market for the supply of conventional corrugated sheets in the relevant catchment areas in Portugal.[263] One respondent submitted that '*We are confident that this facility has the potential to be viable in the future*'.[264]

(c) Finally, the vast majority of the market test respondents having expressed an opinion confirmed that the Divestment Business in Bilbao is viable, allowing a suitable purchaser to compete effectively and on a lasting basis in the markets for the supply of heavy-duty corrugated sheets in the relevant catchment areas in Spain.[265] One respondent submitted that this plant '*has [traditionallly] been a sustainable business (…)*'.[266]

(346) *Fourth*, the Commission notes that a significant minority of respondents to the market test who expressed a view indicated that there is a risk that centrally managed customers could stop sourcing from the Divestment Businesses.[267] However, to the exception of […], volumes sold by the Divestment Businesses to other centrally managed customers are either […]. In addition, market test respondents consider that customers will stay with the Divestment Businesses if they offer […].[268] For instance, one customer said that it depends '*on the economic conditions – if the pricing conditions are acceptable and the quality of the service (which was previously checked) is maintained, a customer may not want to switch supplier and will continue to be sourced by the [Divestment Businesses]*'.[269]

(347) With respect to the EEA-wide supply agreement between IP and […], the Commitments include an […] in order to ensure that the relevant Divestment Businesses will have the ability to continue selling the concerned volumes at the same conditions for the remaining duration of the contracts. In view of these elements, the Commission considers that there is no significant risk that the Divestment Businesses will be deprived of significant volumes, impacting their financial viability, provided that the purchaser (or purchasers) are sufficiently competitive operator(s).

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261 Replies to eRFI 'Competitors – Questionnaire on proposed divestments', Question E.2 and replies to eRFI 'Customers – Questionnaire on proposed divestments', Question E.2.

262 Replies to eRFI 'Competitors – Questionnaire on proposed divestments', Question E.2.

263 Replies to eRFI 'Competitors – Questionnaire on proposed divestments', Question E.2.

264 Replies to eRFI 'Competitors – Questionnaire on proposed divestments', Question E.2.

265 Replies to eRFI 'Competitors – Questionnaire on proposed divestments', Question E.2.

266 Replies to eRFI 'Competitors – Questionnaire on proposed divestments', Question E.2.

267 Replies to eRFI 'Competitors – Questionnaire on proposed divestments', Question E.9, and replies to eRFI 'Customers – Questionnaire on proposed divestments', Question E.8.

268 Replies to eRFI 'Customers – Questionnaire on proposed divestments', Question E.8.1.

269 Replies to eRFI 'Customers – Questionnaire on proposed divestments', Question E.8.1.

(348) In order to address the risk that a significant portion of other centrally managed customers would not switch to the purchaser(s), the Parties have submitted a slightly revised final version of the Commitments on 20 January 2025, where they reinforced the purchaser criteria by explicitly providing that the purchaser(s) must have a preexisting footprint in the paper industry in the EEA or in the UK (with plans for expansion in the EEA), in particular in the production of corrugated sheets and/or cases.

(349) Finally, the Commission considers that, in view of the market test results, the Commitments are sufficient as regards the scope and the duration of the transitional service agreements offered by the Notifying Party. In particular, the vast majority of competitors and customers having expressed a view consider the proposed transitional supply agreements – including those providing for the supply of CCM, centrally procured sourcing […], and services […] by IP to the Divestment Businesses – to be sufficient and adequate, including their proposed duration.[270]

7.3.3. Attractiveness of the Divestment Businesses

(350) The Divestment Businesses are profitable, pre-existing, and relatively stand-alone businesses.[271] The Commission therefore considers that the Divestment Businesses would be attractive to suitable purchasers.

(351) The majority of respondents to the market test who expressed a firm view confirmed that the three Divestment Businesses in Normandy, as well as the Divestment Businesses in Ovar and Bilbao, are sufficiently interesting to attract suitable purchasers.[272]

(352) As regards the three Divestment Businesses in Normandy, the Commission notes that a significant minority of competitors who expressed a view indicated that IP Cabourg and IP Mortagne would be insufficiently interesting on a standalone basis.[273] The main comments related to the size of the plants.[274] This points towards the necessity of the three Divestments Businesses in Normandy being bought together. In view of the above, the Notifying Party proposed to divest the Divestment Businesses located in Normandy as a package to a single purchaser.

(353) Based on the results of the market test, the Commission considers that the Divestment Businesses in Saint-Amand, Mortagne, and Cabourg, taken together, and each of the Divestment Businesses in Ovar and Bilbao, are attractive businesses. This is further confirmed by the fact that several companies, all with strong experience in the corrugated packaging industry in the EEA, have expressed a strong preliminary interest in acquiring the Divestment Businesses.[275]

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270 Replies to eRFI 'Competitors – Questionnaire on proposed divestments', Question E.6, and replies to eRFI 'Customers – Questionnaire on proposed divestments', Questions E.6 and E.7

271 Form RM, paragraphs 2.11, 2.17 and 2.27

272 Replies to eRFI 'Competitors – Questionnaire on proposed divestments', Question E.1.

273 Replies to eRFI 'Competitors – Questionnaire on proposed divestments', Question E.1, and replies to eRFI 'Customers – Questionnaire on proposed divestments', Question E.1.

274 One competitor indicated that the '*plant is not very sizable*' (replies to eRFI 'Competitors – Questionnaire on proposed divestments', Question E.1).

275 Replies to eRFI 'Competitors – Questionnaire on proposed divestments', Question D.3.

7.3.4. Purchaser criteria and potential buyers

(354) The Commitments contain the standard requirements that the purchaser or purchasers (i) are independent from the Notifying Party, (ii) have the financial resources, proven expertise, and incentive to maintain and develop the Divestment Businesses as viable and active competitive forces, and that (iii) the divestments are unlikely to create *prima facie* competition concerns. In addition, the purchaser(s) must have a preexisting footprint in the paper industry in the EEA or in the UK (with plans for expansion in the EEA), in particular in the production of corrugated sheets and/or cases.

(355) The vast majority of the respondents to the market test that expressed an opinion considered these criteria to be appropriate and sufficient, allowing the purchaser or purchasers to be active competitive forces against the combined entity.[276]

(356) The Commission therefore concludes that the purchaser criteria offered by the Notifying Party in the Commitments are sufficient to ensure that an appropriate purchaser can be selected, ensuring the viability of the Divestment Businesses.

7.4. Conclusion

(357) For the reasons outlined above, the Commitments entered into by the undertakings concerned are sufficient to eliminate the serious doubts as to the compatibility of the Transaction with the internal market.

(358) The commitments in Section B of the Annex constitute conditions attached to this decision, as only through full compliance therewith can the structural changes in the relevant markets be achieved. The other commitments set out in the Annex constitute obligations, as they concern the implementing steps which are necessary to achieve the modifications sought in a manner compatible with the internal market.

8. CONCLUSION

(359) For the above reasons, the Commission has decided not to oppose the notified operation as modified by the Commitments and to declare it compatible with the internal market and with the functioning of the EEA Agreement, subject to full compliance with the conditions in Section B of the Commitments annexed to the present decision and with the obligations contained in the other sections of the said Commitments. This decision is adopted in application of Article 6(1)(b) in conjunction with Article 6(2) of the Merger Regulation and Article 57 of the EEA Agreement.

[276] Replies to eRFI 'Competitors – Questionnaire on proposed divestments', Question F.1, and replies to eRFI 'Customers – Questionnaire on proposed divestments', Question F.1.

For the Commission

(Signed)
Teresa RIBERA
Executive Vice-President

20.01.2025

Case M. 11564 - International Paper Company / DS Smith

COMMITMENTS TO THE EUROPEAN COMMISSION

Pursuant to Article 6(2) of Council Regulation (EC) No 139/2004 (the "**Merger Regulation**"), International Paper Company ("**IP**" or the "**Notifying Party**") hereby enters into the following Commitments (the "**Commitments**") vis-à-vis the European Commission (the "**Commission**") with a view to rendering the acquisition of the entire issued shareholding of DS Smith Plc ("**DSS**", and together with IP, the "**Parties**") by IP (the "**Concentration**") compatible with the internal market and the functioning of the EEA Agreement.

This text shall be interpreted in light of the Commission's decision pursuant to Article 6(1)(b) of the Merger Regulation to declare the Concentration compatible with the internal market and the functioning of the EEA Agreement (the "**Decision**"), in the general framework of European Union law, in particular in light of the Merger Regulation, and by reference to the Commission Notice on remedies acceptable under Council Regulation (EC) No 139/2004 and under Commission Regulation (EC) No 802/2004 (the "**Remedies Notice**").

SECTION A. DEFINITIONS

1. For the purpose of the Commitments, the following terms shall have the following meaning:

Affiliated Undertakings: undertakings controlled by the Parties and/or by the ultimate parents of the Parties, whereby the notion of control shall be interpreted pursuant to Article 3 of the Merger Regulation and in light of the Commission Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (the "**Consolidated Jurisdictional Notice**").

Allocation Key: […].

Assets: the assets that contribute to the current operation or are necessary to ensure the viability and competitiveness of the Divestment Businesses as indicated in Section B, paragraph 6(i), 6(ii) and 6(iii) and described in more detail in the Schedule.

CCM: corrugated case materials.

Closing: the transfer of the legal title to the Divestment Businesses to the Purchaser(s).

Closing Period: the period of […] from the approval of the Purchaser(s) and the terms of sale by the Commission.

Confidential Information: any business secrets, know-how, commercial information, or any other information of a proprietary nature that is not in the public domain.

Conflict of Interest: any conflict of interest that impairs the Trustee's objectivity and independence in discharging its duties under the Commitments.

Divestment Businesses: the businesses as defined in Section B and in the Schedule which the Notifying Party commits to divest.

Divestiture Trustee: one or more natural or legal person(s) who is/are approved by the Commission and appointed by IP and who has/have received from IP the exclusive Trustee Mandate to sell the Divestment Businesses to one or more Purchaser(s) at no minimum price.

Effective Date: the date of adoption of the Decision.

First Divestiture Period: the period of […] from the Effective Date.

Hold Separate Manager: the person or persons appointed by IP for the Divestment Businesses to manage the day-to-day business under the supervision of the Monitoring Trustee.

IP: International Paper Company, incorporated under the laws of New York, with its registered office at 6400 Poplar Avenue, Memphis, TN 38197, United States and registered under registration number 2098737.

IP St Amand: IP's box plant located at 50160, Saint-Amand-Villages, France.

IP Cabourg: IP's sheet plant located at ZAC de Cabourg Village 47, 14390 Cabourg, France.

IP Mortagne: IP's box plant located at Avenue de la gare 61400 Saint-Langis-Les-Mortagne, France

IP Normandie plants: IP St Amand, IP Cabourg and IP Mortagne.

IP Bilbao: IP's box plant located at Polígono Bentako Erreka s/n Carretera Nacional 625, Km. 380,5 48480 Arrigorriaga Vizcaya, Spain.

IP Ovar: IP's box plant located at Zona Industrial de Ovar, Apartado 92, 3881-902, Ovar, Portugal.

Key Personnel: all personnel necessary to maintain the viability and competitiveness of the Divestment Businesses, as listed in the Schedule, including the Hold Separate Manager.

Monitoring Trustee: one or more natural or legal person(s) who is/are approved by the Commission and appointed by IP, and who has/have the duty to monitor IP's compliance with the conditions and obligations attached to the Decision.

Parties: IP (the Notifying Party) and DSS (the undertaking that is the target of the Concentration).

Personnel: all staff currently employed by the Divestment Businesses, including staff seconded to the Divestment Businesses, shared personnel as well as the additional personnel listed in the Schedule.

Purchaser(s): the entity or entities approved by the Commission as acquirer(s) of the Divestment Business(es) in accordance with the criteria set out in Section D.

Purchaser(s) Criteria: the criteria laid down in paragraph 15 of these Commitments that the Purchaser(s) must fulfil in order to be approved by the Commission.

Schedule: the schedule to these Commitments describing more in detail the Divestment Businesses.

Seller: IP.

Trustee(s): the Monitoring Trustee and/or the Divestiture Trustee as the case may be.

Trustee Divestiture Period: the period of […] from the end of the First Divestiture Period.

SECTION B. THE COMMITMENT TO DIVEST AND THE DIVESTMENT BUSINESSES

Commitment to divest

2. In order to maintain effective competition, IP commits to divest, or procure the divestiture of the Divestment Businesses by the end of the Trustee Divestiture Period as a going concern to a purchaser or purchasers and on terms of sale approved by the Commission in accordance with the procedure described in paragraph 16 of these Commitments. To carry out the divestiture, IP commits to find a purchaser or purchasers and to enter into a final binding sale and purchase agreement(s) for the sale of the Divestment Businesses within the First Divestiture Period. If IP has not entered into such an agreement(s) at the end of the First Divestiture Period, IP shall grant the Divestiture Trustee an exclusive mandate to sell the Divestment Businesses in accordance with the procedure described in paragraph 28 in the Trustee Divestiture Period.

3. IP shall be deemed to have complied with this commitment if:

   (i) by the end of the Trustee Divestiture Period, IP or the Divestiture Trustee has entered into one or more final binding sale and purchase agreement(s) and the Commission approves the proposed purchaser(s) and the terms of sale as being consistent with the Commitments in accordance with the procedure described in paragraph 16; and

   (ii) the Closing of the sale of the Divestment Businesses to the Purchaser(s) takes place within the Closing Period.

4. In order to maintain the structural effect of the Commitments, the Notifying Party shall, for a period of 10 years after Closing, not acquire, whether directly or indirectly, the possibility of exercising influence (as defined in paragraph 42 of the Remedies Notice, footnote 3) over the whole or part of the Divestment Businesses, unless, following the submission of a reasoned request from the Notifying Party showing good cause and accompanied by a report from the Monitoring Trustee (as provided in paragraph 43 of these Commitments), the Commission finds that the structure of the market has changed to such an extent that the absence of influence over the Divestment Businesses is no longer necessary to render the proposed concentration compatible with the internal market.

Structure and definition of the Divestment Businesses

5. The Divestment Businesses consist of:

   (i) the IP Normandie plants, as described in further detail in the Schedule, to be divested together as a single package;

   (ii) IP Bilbao, as described in further detail in the Schedule; and

   (iii) IP Ovar, as described in further detail in the Schedule.

   The legal and functional structure of the Divestment Businesses as operated to date is described in the Schedule. The Divestment Businesses, as described in more detail in the Schedule, include all assets and staff to the extent to which they contribute to the current operation or are necessary to ensure the viability and competitiveness of the Divestment Businesses, in particular:

   (iv) all such tangible and intangible assets (including products under development and related rights, intellectual property rights and know-how);

(v) all such licences, permits and authorisations issued by any governmental organisation for the benefit of the Divestment Businesses;

(vi) all such contracts, leases, commitments and customer orders of the Divestment Businesses; all customer, credit and other records of the Divestment Businesses; all cooperation agreements with third parties; and

(vii) the Personnel.

6. In addition, the Divestment Businesses include the benefit, for a transitional period after Closing, on terms and conditions equivalent to those at present afforded to the Divestment Businesses, of the current arrangements under which IP or its Affiliated Undertakings supply products or services to the Divestment Businesses or of any other current or new arrangements which are necessary for the viability of the Divestment Businesses, as detailed in the Schedule, unless otherwise agreed with the Purchaser and with the approval of the Commission. Strict firewall procedures shall be adopted so as to ensure that any competitively sensitive information related to, or arising from, such supply arrangements (for example, product roadmaps) will not be shared with, or passed on to, anyone outside the relevant business units/divisions providing the relevant product/services.

SECTION C. RELATED COMMITMENTS

Preservation of viability, marketability and competitiveness

7. From the Effective Date until Closing, the Notifying Party shall preserve or procure the preservation of the economic viability, marketability and competitiveness of the Divestment Businesses, in accordance with good business practice, and shall minimise as far as possible any risk of loss of competitive potential of the Divestment Businesses. In particular IP undertakes:

(i) not to carry out any action that might have a significant adverse impact on the value, management or competitiveness of the Divestment Businesses or that might alter the nature and scope of activity, or the industrial or commercial strategy or the investment policy of the Divestment Businesses;

(ii) to make available, or procure to make available, sufficient financial and other resources needed for the development of the Divestment Businesses, on the basis of the continuation of the existing business plans;

(iii) to take all reasonable steps, or procure that all reasonable steps are being taken, including appropriate incentive schemes (based on industry practice), to encourage all Key Personnel to remain with the Divestment Businesses, and not to solicit or move any Personnel to IP's remaining businesses. Where, nevertheless, individual members of the Key Personnel exceptionally leave the Divestment Businesses, IP shall provide a reasoned proposal to replace the person or persons concerned to the Commission and the Monitoring Trustee. IP must be able to demonstrate to the Commission that the replacement is well suited to carry out the functions exercised by those individual members of the Key Personnel. The replacement shall take place under the supervision of the Monitoring Trustee, who shall report to the Commission.

(iv) to take all reasonable steps, or procure that all reasonable steps are being taken, to assist the Divestment Businesses in the process of IT migration and/or IT separation until the full process is completed;

(v) to the extent the Divestment Businesses include any licences, permits and authorisations issued by any governmental organisation or any other third party/parties for the benefit of the Divestment Businesses, to take all reasonable steps, or procure that all reasonable steps are being taken, to obtain consent from any governmental organisation or any other third party/parties for all required licences, permits and authorisations.

Hold-separate obligations

8. The Notifying Party commits to keep the Divestment Businesses separate from the businesses it is retaining and to ensure that unless explicitly permitted under these Commitments: (i) management and staff of the businesses retained by IP have no involvement in the Divestment Businesses; (ii) the Key Personnel and Personnel of the Divestment Businesses have no involvement in any business retained by IP and do not report to any individual outside the Divestment Businesses.

9. Until Closing, IP shall assist the Monitoring Trustee in ensuring that the Divestment Businesses are managed as distinct and saleable entities separate from the businesses which IP is retaining. Immediately after the Effective Date, IP shall appoint one or more Hold Separate Manager(s), who shall be part of the Key Personnel. The Hold Separate Manager(s) shall manage the Divestment Businesses independently and in the best interest of the business with a view to ensuring their continued economic viability, marketability and competitiveness and their independence from the businesses retained by IP. The Hold Separate Manager shall closely cooperate with and report to the Monitoring Trustee and, if applicable, the Divestiture Trustee. Any replacement of the Hold Separate Manager shall be subject to the procedure laid down in paragraph 7(iii) of these Commitments. The Commission may, after having heard IP, require IP to replace the Hold Separate Manager.

Ring-fencing

10. IP shall implement, or procure to implement, to the extent possible, all necessary measures to ensure that it does not, after the Effective Date, obtain any Confidential Information relating to the Divestment Businesses and that any such Confidential Information obtained by IP before the Effective Date will be eliminated and not be used by IP. This includes measures vis-à-vis IP appointees on the supervisory board and/or board of directors of the Divestment Businesses. In particular, the participation of the Divestment Businesses in any central information technology network shall be severed to the extent possible, without compromising the viability of the Divestment Businesses. IP may obtain or keep information relating to the Divestment Businesses which is reasonably necessary for the divestiture of the Divestment Businesses or the disclosure of which to IP is required by law.

Non-solicitation clause

11. The Parties undertake, subject to customary limitations, not to solicit, and to procure that Affiliated Undertakings do not solicit, the Key Personnel transferred with the Divestment Businesses for a period of […] after Closing.

Due diligence

12. In order to enable potential purchasers to carry out a reasonable due diligence of the Divestment Businesses, IP shall provide them with the confidential version (or a meaningful non-confidential version) of the Commitments. Subject to customary confidentiality assurances and dependent on the stage of the divestiture process, IP shall also:

(i) provide to potential purchasers sufficient information as regards the Divestment Businesses; and

(ii) provide to potential purchasers sufficient information relating to the Personnel and allow them reasonable access to the Personnel.

Reporting

13. IP shall submit written reports in English on potential purchasers of the Divestment Businesses and developments in the negotiations with such potential purchasers to the Commission and the Monitoring Trustee no later than 10 days after the end of every month following the Effective Date (or otherwise at the Commission's request). IP shall submit a list of all potential purchasers who have expressed interest in acquiring one or both of the Divestment Businesses to the Commission at each and every stage of the divestiture process, as well as a copy of all the offers made by potential purchasers within five days of their receipt.

14. IP shall inform the Commission and the Monitoring Trustee on the preparation of the data room documentation and the due diligence procedure and shall submit a copy of any information memorandum to the Commission and the Monitoring Trustee before sending the memorandum out to potential purchasers.

SECTION D. THE PURCHASER(S)

15. In order to be approved by the Commission, the Purchaser(s) must fulfil the following criteria:

(i) The Purchaser(s) shall be independent of and unconnected to the Notifying Party and its Affiliated Undertakings (this being assessed having regard to the situation following the divestiture). In addition, neither the Seller nor any of its affiliated undertakings is a suitable Purchaser.

(ii) The Purchaser(s) shall have the financial resources, proven expertise and incentive to maintain and develop the Divestment Business(es) as a viable and active competitive force in competition with the Parties and other competitors;

(iii) The Purchaser(s) shall have an existing footprint (meaning more than one plant) in the paper industry in the EEA or in the UK (with plans for expansion in the EEA), in particular activities in the production of corrugated sheet and/or corrugated case; and

(iv) The acquisition of the Divestment Business(es) by the Purchaser(s) must neither be likely to create, in light of the information available to the Commission, *prima facie* competition concerns nor give rise to a risk that the implementation of the Commitments will be delayed. In particular, the Purchaser(s) must reasonably be expected to obtain all necessary approvals from the relevant regulatory authorities for the acquisition of the Divestment Business(es).

16. The final binding sale and purchase agreement(s) (as well as ancillary agreements) relating to the divestment of the Divestment Businesses shall be conditional on the Commission's approval. When IP has reached an agreement with a purchaser, it shall submit a fully documented and reasoned proposal, including a copy of the final agreement(s), within one week to the Commission and the Monitoring Trustee. IP must be able to demonstrate to the Commission that the purchaser(s) fulfil(s) the

Purchaser(s) Criteria and that the Divestment Businesses are being sold in a manner consistent with the Commission's Decision and the Commitments. For the approval, the Commission shall verify that the purchaser(s) fulfil(s) the Purchaser(s) Criteria and that the Divestment Businesses are being sold in a manner consistent with the Commitments including their objective to bring about a lasting structural change in the market. The Commission may approve the sale of the Divestment Businesses without one or more Assets or parts of the Personnel, or by substituting one or more Assets or parts of the Personnel with one or more different assets or different personnel, if this does not affect the viability and competitiveness of the Divestment Businesses after the sale, taking account of the proposed purchaser(s).

SECTION E. TRUSTEE

I. Appointment procedure

17. IP shall appoint a Monitoring Trustee to carry out the functions specified in these Commitments for a Monitoring Trustee. IP commits not to close the Concentration before the appointment of a Monitoring Trustee.

18. If IP has not entered into a binding sale and purchase agreement(s) regarding the Divestment Businesses […] before the end of the First Divestiture Period or if the Commission has rejected a purchaser(s) proposed by IP at that time or thereafter, IP shall appoint a Divestiture Trustee. The appointment of the Divestiture Trustee shall take effect upon the commencement of the Trustee Divestiture Period.

19. The Trustee shall:

(i) at the time of appointment, be independent of the Notifying Party, the Seller, any identified potential purchaser, and its/theirs Affiliated Undertakings;

(ii) possess the necessary qualifications to carry out its mandate, for example have sufficient relevant experience as an investment banker or consultant or auditor; and

(iii) neither have nor become exposed to a Conflict of Interest.

20. The Trustee shall be remunerated by the Notifying Party in a way that does not impede the independent and effective fulfilment of its mandate. In particular, where the remuneration package of a Divestiture Trustee includes a success premium linked to the final sale value of the Divestment Businesses, such success premium may only be earned if the divestiture takes place within the Trustee Divestiture Period.

Proposal by IP

21. No later than two weeks after the Effective Date, IP shall submit the name or names of one or more natural or legal persons whom IP proposes to appoint as the Monitoring Trustee to the Commission for approval. No later than […] before the end of the First Divestiture Period or on request by the Commission, IP shall submit a list of one or more persons whom IP proposes to appoint as Divestiture Trustee to the Commission for approval. The proposal shall contain sufficient information for the Commission to verify that the person or persons proposed as Trustee fulfil the requirements set out in paragraph 19 and shall include:

(i) the full terms of the proposed mandate, which shall include all provisions necessary to enable the Trustee to fulfil its duties under these Commitments;

(ii) the outline of a work plan which describes how the Trustee intends to carry out its assigned tasks; and

(iii) an indication of whether the proposed Trustee is to act as both Monitoring Trustee and Divestiture Trustee or whether different trustees are proposed for the two functions.

Approval or rejection by the Commission

22. The Commission shall have the discretion to approve or reject the proposed Trustee(s) and to approve the proposed mandate subject to any modifications it deems necessary for the Trustee to fulfil its obligations. If only one name is approved, IP shall appoint or cause to be appointed the person or persons concerned as Trustee, in accordance with the mandate approved by the Commission. If more than one name is approved, IP shall be free to choose the Trustee to be appointed from amongst the names approved. The Trustee shall be appointed within one week of the Commission's approval, in accordance with the mandate approved by the Commission.

New proposal by IP

23. If all the proposed Trustees are rejected, IP shall submit the names of at least two more natural or legal persons within one week of being informed of the rejection, in accordance with paragraphs 17 and 22 of these Commitments.

Trustee nominated by the Commission

24. If all further proposed Trustees are rejected by the Commission, the Commission shall nominate a Trustee, whom IP shall appoint, or cause to be appointed, in accordance with a trustee mandate approved by the Commission.

II. Functions of the Trustee

25. The Trustee shall assume its specified duties and obligations in order to ensure compliance with the Commitments. The Commission may, on its own initiative or at the request of the Trustee or IP, give any orders or instructions to the Trustee in order to ensure compliance with the conditions and obligations attached to the Decision.

Duties and obligations of the Monitoring Trustee

26. The Monitoring Trustee shall:

(i) propose in its first report to the Commission a detailed work plan describing how it intends to monitor compliance with the obligations and conditions attached to the Decision.

(ii) oversee, in close co-operation with the Hold Separate Manager, the on-going management of the Divestment Businesses with a view to ensuring their continued economic viability, marketability and competitiveness and monitor compliance by IP with the conditions and obligations attached to the Decision. To that end the Monitoring Trustee shall:

(a) monitor the preservation of the economic viability, marketability and competitiveness of the Divestment Businesses, and the keeping

separate of the Divestment Businesses from the business retained by IP, in accordance with paragraphs 7 and 8 of these Commitments;

(b) monitor that Parties make available sufficient resources for the Divestment Businesses to develop, based on the continuation of existing business plans and relevant milestones or of any other future or ongoing projects that are important for the viability of the Divestment Businesses to the extent that there are any support obligations from the Parties;

(c) to the extent that the Commitments include transitional agreements or the obligation to supply certain inputs, products or services, the Trustee shall monitor the strict compliance with the terms approved and inform the Commission promptly of any changes or compliance problems during the term of such agreements.

(d) supervise the management of the Divestment Businesses as distinct and saleable entities, in accordance with paragraph 9 of these Commitments;

(e) with respect to Confidential Information:

- determine all necessary measures to ensure that IP does not after the Effective Date obtain any Confidential Information relating to the Divestment Businesses,
- in particular strive for the severing of the Divestment Businesses' participation in a central information technology network to the extent possible, without compromising the viability of the Divestment Businesses,
- make sure that any Confidential Information relating to the Divestment Businesses obtained by IP before the Effective Date is eliminated in accordance with normal document destruction protocols and will not be used by IP; and
- decide whether such information may be disclosed to or kept by IP as the disclosure is reasonably necessary to allow IP to carry out the divestiture or as the disclosure is required by law;

(f) monitor the splitting of assets and the allocation of Personnel between the Divestment Businesses and IP or Affiliated Undertakings;

(iii) propose to IP such measures as the Monitoring Trustee considers necessary to ensure IP's compliance with the conditions and obligations attached to the Decision, in particular the maintenance of the full economic viability, marketability or competitiveness of the Divestment Businesses, the holding separate of the Divestment Businesses and the non-disclosure of competitively sensitive information;

(iv) review and assess potential purchasers as well as the progress of the divestiture process and verify that, dependent on the stage of the divestiture process:

(a) it is fully independent from any identified potential purchaser and is not exposed to any Conflict of Interest in their respect;

(b) potential purchasers receive sufficient and correct information relating to the Divestment Businesses and the Personnel in particular by reviewing, if available, the data room documentation, the information memorandum and the due diligence process, and by ensuring their access to a confidential version or a meaningful non-confidential version of the Commitments, and

(c) potential purchasers are granted reasonable access to the Personnel and Key Personnel;

(v) act as a contact point for any requests by third parties, in particular potential purchasers, in relation to the Commitments;

(vi) provide to the Commission, sending IP a non-confidential copy at the same time, a written report within 15 days after the end of every month that shall cover the operation and management of the Divestment Businesses as well as the splitting of assets and the allocation of Personnel so that the Commission can assess whether the business is held in a manner consistent with the Commitments and the progress of the divestiture process as well as potential purchasers;

(vii) promptly report in writing to the Commission, sending IP a non-confidential copy at the same time, if it concludes on reasonable grounds that IP is failing to comply with these Commitments;

(viii) promptly report in writing to the Commission as soon as it becomes aware of potential exposure to a Conflict of Interest appearing after its appointment, including if it becomes aware of any potential lack of independence or Conflict of Interest with any purchaser participating in the sale process;

(ix) to the extent that the Commitments include transitional services agreements, support for projects under development, or the obligation to supply certain inputs, products or services, assess that these obligations are satisfactorily reflected in the sale and purchase agreement and other transaction documents, and inform the Commission promptly of any deviation from the terms included in the Commitments or approved by the Commission or any dispute as to the compliance with such terms during the full duration of the agreement.

(x) promptly report in writing to the Commission risks of degradation of the value or operation of the Divestment Business, or risks that the Purchaser does not or is not able to carry on or maintain investments that are essential for the viability of the Divestment Business;

(xi) within one week after receipt of the documented proposal referred to in paragraph 16 of these Commitments, submit to the Commission, sending IP a non-confidential copy at the same time, a reasoned opinion as to the suitability and independence of the proposed purchaser(s) and the viability of the Divestment Businesses after the Sale and as to whether the Divestment Businesses are sold in a manner consistent with the conditions and obligations attached to the Decision, in particular, if relevant, whether the Sale of the Divestment Businesses without one or more Assets or not all

of the Personnel affects the viability of the Divestment Businesses after the sale, taking account of the proposed purchaser(s); and

(xii) assume the other functions assigned to the Monitoring Trustee under the conditions and obligations attached to the Decision; and

(xiii) remain throughout the term of the Commitments a point of contact for IP, the Purchaser, the Commission and any other interested third party, in case of issues arising from the implementation and monitoring of the Commitments, including by producing ad hoc reports upon request of the Commission.

27. If the Monitoring and Divestiture Trustee are not the same legal or natural persons, the Monitoring Trustee and the Divestiture Trustee shall cooperate closely with each other during and for the purpose of the preparation of the Trustee Divestiture Period in order to facilitate each other's tasks.

Duties and obligations of the Divestiture Trustee

28. Within the Trustee Divestiture Period, the Divestiture Trustee shall sell at no minimum price the Divestment Businesses to a purchaser or purchasers, provided that the Commission has approved both the purchaser or purchasers and the final binding sale and purchase agreement(s) (and ancillary agreements) as in line with the Commission's Decision and the Commitments in accordance with paragraphs 15 and 16 of these Commitments. The Divestiture Trustee shall include in the sale and purchase agreement(s) (as well as in any ancillary agreements) such terms and conditions as it considers appropriate for an expedient sale in the Trustee Divestiture Period. In particular, the Divestiture Trustee may include in the sale and purchase agreement(s) such customary representations and warranties and indemnities as are reasonably required to effect the sale. The Divestiture Trustee shall protect the legitimate financial interests of IP, subject to IP's unconditional obligation to divest at no minimum price in the Trustee Divestiture Period.

29. In the Trustee Divestiture Period (or otherwise at the Commission's request), the Divestiture Trustee shall provide the Commission with a comprehensive monthly report written in English on the progress of the divestiture process. Such reports shall be submitted within 15 days after the end of every month with a simultaneous copy to the Monitoring Trustee and a non-confidential copy to IP.

III. Duties and obligations of the Parties

30. IP shall provide and shall cause its advisors to provide the Trustee with all such co-operation, assistance and information as the Trustee may reasonably require to perform its tasks. The Trustee shall have full and complete access to any of IP's or the Divestment Businesses' books, records, documents, management or other personnel, facilities, sites and technical information necessary for fulfilling its duties under the Commitments and IP and the Divestment Businesses shall provide the Trustee upon request with copies of any document. IP and the Divestment Businesses shall make available to the Trustee one or more offices on their premises and shall be available for meetings in order to provide the Trustee with all information necessary for the performance of its tasks.

31. IP shall provide the Monitoring Trustee with all managerial and administrative support that it may reasonably request on behalf of the management of the Divestment Businesses. This shall include all administrative support functions relating to the Divestment Businesses which are currently carried out at

headquarters level. IP shall provide and shall cause its advisors to provide the Monitoring Trustee, on request, with the information submitted to potential purchasers, in particular give the Monitoring Trustee access to the data room documentation and all other information granted to potential purchasers in the due diligence procedure. IP shall inform the Monitoring Trustee on possible purchasers, submit lists of potential purchasers at each stage of the selection process, including the offers made by potential purchasers at those stages, and keep the Monitoring Trustee informed of all developments in the divestiture process.

32. IP shall grant or procure Affiliated Undertakings to grant comprehensive powers of attorney, duly executed, to the Divestiture Trustee to effect the sale (including ancillary agreements), the Closing and all actions and declarations which the Divestiture Trustee considers necessary or appropriate to achieve the sale and the Closing, including the appointment of advisors to assist with the sale process. Upon request of the Divestiture Trustee, IP shall cause the documents required for effecting the sale and the Closing to be duly executed.

33. IP shall indemnify the Trustee and its employees and agents (each an "**Indemnified Party**") and hold each Indemnified Party harmless against, and hereby agrees that an Indemnified Party shall have no liability to IP for, any liabilities arising out of the performance of the Trustee's duties under the Commitments, except to the extent that such liabilities result from the wilful default, recklessness, gross negligence or bad faith of the Trustee, its employees, agents or advisors.

34. At the expense of IP, the Trustee may appoint advisors (in particular for corporate finance or legal advice), subject to IP's approval (this approval not to be unreasonably withheld or delayed) if the Trustee considers the appointment of such advisors necessary or appropriate for the performance of its duties and obligations under the Mandate, provided that any fees and other expenses incurred by the Trustee are reasonable. Should IP refuse to approve the advisors proposed by the Trustee the Commission may approve the appointment of such advisors instead, after having heard IP, at the expense of IP. Only the Trustee shall be entitled to issue instructions to the advisors. Paragraph 33 of these Commitments shall apply *mutatis mutandis*. In the Trustee Divestiture Period, the Divestiture Trustee may use advisors who served IP during the Divestiture Period if the Divestiture Trustee considers this to be in the best interest of an expedient sale. At the expense of IP, the Divestiture Trustee may appoint advisors (in particular for corporate finance or legal advice), without IP's approval, if the Divestiture Trustee considers the appointment of such advisors necessary or appropriate for the performance of its duties and obligations under the Mandate, provided that any fees and other expenses incurred by the Trustee are in line with business practice.

35. IP agrees that the Commission may share Confidential Information proprietary to IP with the Trustee. The Trustee shall not disclose such information and the principles contained in Article 17 (1) and (2) of the Merger Regulation apply *mutatis mutandis*.

36. The Notifying Party agrees that the contact details of the Monitoring Trustee are published on the website of the Commission's Directorate-General for Competition and they shall inform interested third parties, in particular any potential purchasers, of the identity and the tasks of the Monitoring Trustee.

37. For a period of 10 years from the Effective Date the Commission may request all information from the Parties that is reasonably necessary to monitor the effective implementation of these Commitments.

IV. Replacement, discharge and reappointment of the Trustee

38. If the Trustee ceases to perform its functions under the Commitments or for any other good cause, including the exposure of the Trustee to a Conflict of Interest:

(i) the Commission may, after hearing the Trustee and IP, require IP to replace the Trustee; or

(ii) IP may, with the prior approval of the Commission, replace the Trustee.

39. If the Trustee is removed according to paragraph 38 of these Commitments, the Trustee may be required to continue in its function until a new Trustee is in place to whom the Trustee has effected a full hand over of all relevant information. The new Trustee shall be appointed in accordance with the procedure referred to in paragraphs 17 to 24 of these Commitments.

40. Unless removed according to paragraph 38 of these Commitments, the Trustee shall cease to act as Trustee only after the Commission has discharged it from its duties after all the Commitments with which the Trustee has been entrusted have been implemented. However, the Commission may at any time require the reappointment of the Monitoring Trustee if it subsequently appears that the relevant remedies might not have been fully and properly implemented.

SECTION F. THE REVIEW CLAUSE

41. The Commission may extend the time periods foreseen in the Commitments in response to a request from IP or, in appropriate cases, on its own initiative. Where IP requests an extension of a time period, it shall submit a reasoned request to the Commission no later than one month before the expiry of that period, showing good cause. This request shall be accompanied by a report from the Monitoring Trustee, who shall, at the same time send a non-confidential copy of the report to the Notifying Party. Only in exceptional circumstances shall IP be entitled to request an extension within the last month of any period.

42. The Commission may further, in response to a reasoned request from the Notifying Party showing good cause waive, modify or substitute, in exceptional circumstances, one or more of the undertakings in these Commitments. This request shall be accompanied by a report from the Monitoring Trustee, who shall, at the same time send a non-confidential copy of the report to the Notifying Party. The request shall not have the effect of suspending the application of the undertaking and, in particular, of suspending the expiry of any time period in which the undertaking has to be complied with.

SECTION G. ENTRY INTO FORCE

43. The Commitments shall take effect upon the date of adoption of the Decision.

…….
[Signed]

20 January 2025

SCHEDULE

1. The Divestment Businesses comprise IP St Amand, IP Cabourg, IP Mortagne (the **IP Normandie plants**), IP Ovar and IP Bilbao.

IP St Amand

2. In accordance with paragraph 5 of these Commitments, IP St Amand includes:

(i) **the following main tangible assets**: save as stated below, all tangible assets owned by IP and necessary for the production, servicing and sale of all products and product lines manufactured at IP St Amand, specifically including:

(a) the plant located at the above address, including transfer of IP's legal interest in the land on which the plant is located and as shown in **Annex 1**;

(b) all manufacturing and sales assets including capital equipment, vehicles, supplies, inventory, office furniture, fixed assets and fixtures, materials and warehouses and storage facilities, including the following key manufacturing equipment:

Asset type	**Number and year**
Corrugators	[…]
Flat bed die-cutters	[…] […]
Folder gluers	[…] […]
Printers	[…]
Pre-print press	[…]

(ii) **the following main intangible assets**: save as stated below, a non-exclusive, non-transferrable, perpetual (for the remaining duration of the intellectual property right), royalty-free licence (without the right to sub-licence) for the benefit of the business currently carried on by IP St Amand, for any intangible asset that is necessary for the development, production, servicing and sale of the products currently manufactured at IP St Amand. Nothing in this licence shall restrict the ability of the Purchaser to transfer or sub-licence the benefit of this licence as a result of: (a) an intra-group transfer; or (b) a subsequent sale of IP St Amand;

(iii) **the following main licences, permits and authorisations**: all licences, permits and authorisations necessary to produce the products manufactured at IP St Amand to the extent transferrable under applicable law. IP shall use its best efforts to assign the applicable aspects of such relevant licences, permits and authorisations to the Purchaser;

(iv) **the following main contracts, agreements, leases, commitments and understandings**: all external customer contracts relating to the products manufactured at IP St Amand, and all other external contracts, agreements, leases and commitments necessary for operation of the business of IP St Amand. With respect to centrally managed customer contracts, IP shall use its best efforts to transfer or assign the portion of these contracts that relates to the products manufactured at IP St Amand;

(v) **the following customer, credit and other records**: all customer accounts, orders and credit records or portions thereof relating to the products manufactured at IP St Amand;

(vi) **the following Personnel**: the Personnel listed in **Annex 2**, to the extent still employed on the Effective Date;

(vii) **the following Key Personnel**: all Key Personnel listed in **Annex 2**, to the extent still employed on the Effective Date; and

(viii) **the arrangements for the supply of the following products or services by IP or Affiliated Undertakings for a transitional period of up to 12 months (extendable by two additional 6-month periods at the option of the Purchaser) after Closing**:

(a) CCM, either (i) produced by IP or (ii) sourced by IP's EMEA CCM sourcing team from third parties. In the case of CCM produced by IP, it will be offered at […]. In the case of CCM sourced by IP's EMEA CCM sourcing team from third parties, it will be offered at […];

(b) with regard to all other centrally procured sourcing […] and services […], the IP EMEA sourcing team will find offers and negotiate prices with third-party vendors. IP St Amand will then have the opportunity to order from these vendors at the same price as IP's other plants in France. […].

(ix) **the arrangements for the purchase of pre-printed CCM by IP or Affiliated Undertakings from IP St Amand for a transitional period of up to 12 months (extendable by two additional 6-month periods at the option of the Purchaser) after Closing**.

3. IP St Amand shall not include:

(i) the ownership of, or right to use, any IP rights currently owned by IP St Amand that are not used solely or predominantly or not necessary for either the operation of or the viability of IP St Amand's business;

(ii) any brands or logos currently held, as owner or licensee, by IP;

(iii) any rights to websites or domain names;

(iv) books and records required to be retained pursuant to any law provided that the Purchaser shall on request receive a copy of the same;

4. If there is any asset or personnel which is not covered by paragraph 2 of this Schedule but which is both used (exclusively or predominantly) in IP St Amand and necessary for the continued viability and competitiveness of IP St Amand, that asset or adequate substitute will be offered to potential purchasers.

IP Cabourg

5. In accordance with paragraph 5 of these Commitments, IP Cabourg includes, but is not limited to:

(i) **the following main tangible assets**: save as stated below, all tangible assets owned by IP and necessary for the production, servicing and sale of all products and product lines manufactured at IP Cabourg, specifically including:

(a) the plant located at the above address, including transfer of IP's legal interest in the land on which the plant is located and as shown in **Annex 1**;

(b) all manufacturing and sales assets including capital equipment, vehicles, supplies, inventory, office furniture, fixed assets and fixtures, materials and warehouses and storage facilities, including the following key manufacturing equipment:

Asset type	**Number and year**
Flat bed die-cutters	[…] […]
Folder gluers	[…] […]
Slotter rotary die-cutters	[…] […]
Gluer	[…]
Slotter	[…]
Laminator	[…]

(ii) **the following main intangible assets**: save as stated below, a non-exclusive, non-transferrable, perpetual (for the remaining duration of the intellectual property right), royalty-free licence (without the right to sub-licence) for the benefit of the business currently carried on by IP Cabourg for any intangible asset that is necessary for the development, production, servicing and sale of the products currently manufactured at IP Cabourg. Nothing in this licence shall restrict the ability of the Purchaser to transfer or sub-licence the benefit of this licence as a result of: (a) an intra-group transfer; or (b) a subsequent sale of IP Cabourg;

(iii) **the following main licences, permits and authorisations**: all licences, permits and authorisations necessary to produce the products manufactured at IP Cabourg to the extent transferrable under applicable law. IP shall use its best efforts to assign the applicable aspects of such relevant licences, permits and authorisations to the Purchaser;

(iv) **the following main contracts, agreements, leases, commitments and understandings**: all external customer contracts relating to the products manufactured at IP Cabourg and all other external contracts, agreements, leases and commitments necessary for operation of the business of IP Cabourg;

(v) **the following customer, credit and other records**: all customer accounts, orders and credit records or portions thereof relating to the products manufactured at IP Cabourg;

(vi) **the following Personnel**: the Personnel listed in Annex 2, to the extent still employed on the Effective Date;

(vii) **the following Key Personnel**: all Key Personnel listed in Annex 2, to the extent still employed on the Effective Date; and

(viii) **the arrangements for the supply of the following products or services by the Parties or Affiliated Undertakings for a transitional period of up to 12 months (extendable by two additional 6-month periods at the option of the Purchaser) after Closing**:

(a) CCM, either (i) produced by IP or (ii) sourced by IP's EMEA CCM sourcing team from third parties. In the case of CCM produced by IP, it will be offered at […]. In the case of CCM sourced by IP's EMEA CCM sourcing team from third parties, it will be offered at […];

~~(b)~~ with regard to all other centrally procured sourcing […] and services […], the IP EMEA sourcing team will find offers and negotiate prices with third-party vendors. IP Cabourg will then have the opportunity to order from these vendors at the same price as IP's other plants in France. […].

6. IP Cabourg shall not include:

(i) the ownership of, or right to use, any IP rights currently owned by IP Cabourg that are not used solely or predominantly or not necessary for either the operation of or the viability of IP Cabourg's business;

(ii) any brands or logos currently held, as owner or licensee, by IP;

(iii) any rights to websites or domain names; or

(iv) books and records required to be retained pursuant to any law provided that the Purchaser shall on request receive a copy of the same.

7. If there is any asset or personnel which is not covered by paragraph 5 of this Schedule but which is both used (exclusively or predominantly) in IP Cabourg and necessary for the continued viability and competitiveness of IP Cabourg, that asset or adequate substitute will be offered to potential purchasers.

IP Mortagne

8. In accordance with paragraph 5 of these Commitments, IP Mortagne includes, but is not limited to:

(i) **the following main tangible assets**: save as stated below, all tangible assets owned by IP and necessary for the production, servicing and sale of all

products and product lines manufactured at IP Mortagne, specifically including:

(a) the plant located at the above address, including transfer of IP's legal interest in the land on which the plant is located and as shown in **Annex 1**;

(b) all manufacturing and sales assets including capital equipment, vehicles, supplies, inventory, office furniture, fixed assets and fixtures, materials and warehouses and storage facilities, including the following key manufacturing equipment:

Asset type	**Number and year**
Corrugators	[…]
Flat bed die-cutters	[…]
Folder gluers	[…] […]
Printers	[…]

(ii) **the following main intangible assets**: save as stated below, a non-exclusive, non-transferrable, perpetual (for the remaining duration of the intellectual property right), royalty-free licence (without the right to sub-licence) for the benefit of the business currently carried on by IP Mortagne, for any intangible asset that is necessary for the development, production, servicing and sale of the products currently manufactured at IP Mortagne. Nothing in this licence shall restrict the ability of the Purchaser to transfer or sub-licence the benefit of this licence as a result of: (a) an intra-group transfer; or (b) a subsequent sale of IP Mortagne;

(iii) **the following main licences, permits and authorisations**: all licences, permits and authorisations necessary to produce the products manufactured at IP Mortagne to the extent transferrable under applicable law. IP shall use its best efforts to assign the applicable aspects of such relevant licences, permits and authorisations to the Purchaser;

(iv) **the following main contracts, agreements, leases, commitments and understandings**: all external customer contracts relating to the products manufactured at IP Mortagne, and all other external contracts, agreements, leases and commitments necessary for the operation of the business of IP Mortagne. With respect to centrally managed customer contracts, IP shall use its best efforts to transfer or assign the portion of these contracts that relates to the products manufactured at IP St Mortagne;

[…]

(v) **the following customer, credit and other records**: all customer accounts, orders and credit records or portions thereof relating to the products manufactured at IP Mortagne;

(vi) **the following Personnel**: the Personnel listed in **Annex 2** (which do not include the Personnel listed in **Annex 3** and paragraph 9 below), to the extent still employed on the Effective Date;

(vii) **the following Key Personnel**: all Key Personnel listed in **Annex 2** (which do not include the Personnel listed in **Annex 3** and paragraph 9 below), to the extent still employed on the Effective Date; and

(viii) **the arrangements for the supply of the following products or services by the Parties or Affiliated Undertakings for a transitional period of up to 12 months (extendable by two additional 6-month periods at the option of the Purchaser) after Closing**:

(a) CCM, either (i) produced by IP or (ii) sourced by IP's EMEA CCM sourcing team from third parties. In the case of CCM produced by IP, it will be offered at […]. In the case of CCM sourced by IP's EMEA CCM sourcing team from third parties, it will be offered at […];

(b) with regard to all other centrally procured sourcing […] and services […], the IP EMEA sourcing team will find offers and negotiate prices with third-party vendors. IP Mortagne will then have the opportunity to order from these vendors at the same price as IP's other plants in France. […].

9. IP Mortagne shall not include:

(i) The Personnel listed in **Annex 3** employed by IP Mortagne but forming part of IP's Head Office for France located in Chalon sur Saone and which do not form part of the business of IP Mortagne.

These Personnel are therefore not included in the Personnel or Key Personnel of IP Mortagne listed in **Annex 2** and all hardware and equipment used primarily by those personnel (including office and IT equipment) shall not be transferred;

(ii) the ownership of, or right to use, any IP rights currently owned by IP Mortagne that are not used solely or predominantly or not necessary for either the operation of or the viability of IP Mortagne's business;

(iii) any brands or logos currently held, as owner or licensee, by IP;

(iv) any rights to websites or domain names;

(v) books and records required to be retained pursuant to any law provided that the Purchaser shall on request receive a copy of the same;

10. If there is any asset or personnel which is not covered by paragraph 8 of this Schedule but which is both used (exclusively or predominantly) in IP Mortagne and necessary for the continued viability and competitiveness of IP Mortagne, that asset or adequate substitute will be offered to potential purchasers.

IP Ovar

11. In accordance with paragraph 5 of these Commitments, IP Ovar includes, but is not limited to:

(i) **the following main tangible assets**: save as stated below, all tangible assets owned by IP and necessary for the production, servicing and sale of all products and product lines manufactured at IP Ovar, specifically including:

(a) the plant located at the above address, including transfer of IP's legal interest in the land on which the plant is located and as shown in **Annex 4**;

(b) the lease of the warehouse located at […];

(c) all manufacturing and sales assets including capital equipment, vehicles, supplies, inventory, office furniture, fixed assets and fixtures, materials and warehouses and storage facilities, including the following key manufacturing equipment:

Asset type	**Number and year**
Corrugators	[…]
Rotary Cutters	[…]
Flat Die Cutters	[…]
Slotters	[…]
Conversion machine (casemaker)	[…]

(ii) **the following main intangible assets**: save as stated below, a non-exclusive, non-transferrable, perpetual (for the remaining duration of the intellectual property right), royalty-free licence (without the right to sub-licence) for the benefit of the business currently carried on by IP Ovar, for any intangible asset that is necessary for the development, production, servicing and sale of the products currently manufactured at IP Ovar. Nothing in this licence shall restrict the ability of the Purchaser to transfer or sub-licence the benefit of this licence as a result of: (a) an intra-group transfer; or (b) a subsequent sale of IP Ovar;

(iii) **the following main licences, permits and authorisations**: all licences, permits and authorisations necessary to produce the products manufactured at IP Ovar to the extent transferrable under applicable law. IP shall use its best efforts to assign the applicable aspects of such relevant licences, permits and authorisations to the Purchaser;

(iv) **the following main contracts, agreements, leases, commitments and understandings**: all external customer contracts relating to the products manufactured at IP Ovar and all other external contracts, agreements, leases and commitments necessary for the operation of the business of IP Ovar. With respect to shared customer contracts, IP shall use its best efforts to transfer or assign the portion of these contracts that relates to the products manufactured at IP Ovar;

(v) **the following customer, credit and other records**: all customer accounts, orders and credit records or portions thereof relating to the products manufactured at IP Ovar;

(vi) **the following Personnel**: the Personnel listed in **Annex 5**, to the extent still employed on the Effective Date;

(vii) **the following Key Personnel**: all Key Personnel listed in **Annex 5**, to the extent still employed on the Effective Date; and

(viii) **the arrangements for the supply of the following products or services by the Parties or Affiliated Undertakings for a transitional period of up to 12 months (extendable by two additional 6-month periods at the option of the Purchaser) after Closing**:

(a) CCM, either (i) produced by IP or (ii) sourced by IP's EMEA CCM sourcing team from third parties. In the case of CCM produced by IP, it will be offered at […]. In the case of CCM sourced by IP's EMEA CCM sourcing team from third parties, it will be offered at […];

(b) with regard to all other centrally procured sourcing […] and services […], the IP EMEA sourcing team will find offers and negotiate prices with third-party vendors. IP Ovar will then have the opportunity to order from these vendors at the same price as IP's other plants in Iberia. […].

12. IP Ovar shall not include:

(i) the ownership of, or right to use, any IP rights currently owned by IP Ovar that are not used solely or predominantly or not necessary for either the operation of or the viability of IP Ovar's business;

(ii) any brands or logos currently held, as owner or licensee, by IP;

(iii) any rights to websites or domain names; or

(iv) books and records required to be retained pursuant to any law provided that the Purchaser shall on request receive a copy of the same.

13. If there is any asset or personnel which is not covered by paragraph 11 of this Schedule but which is both used (exclusively or predominantly) in IP Ovar and necessary for the continued viability and competitiveness of IP Ovar, that asset or adequate substitute will be offered to potential purchasers.

IP Bilbao

14. In accordance with paragraph 5 of these Commitments, IP Bilbao includes, but is not limited to:

(i) **the following main tangible assets**: save as stated below, all tangible assets owned by IP and necessary for the production, servicing and sale of all products and product lines manufactured at IP Bilbao, specifically including:

(a) the plant located at the above address, including transfer of IP's legal interest in the land on which the plant is located and as shown in **Annex 6**;

(b) all manufacturing and sales assets including capital equipment, vehicles, supplies, inventory, office furniture, fixed assets and

fixtures, materials and warehouses and storage facilities, including the following key manufacturing equipment:

Asset type	Number and year
Corrugators	[…]
Rotary Cutters	[…]
Slotters	[…]
Conversion machine (casemaker)	[…]

(ii) **the following main intangible assets**: save as stated below, a non-exclusive, non-transferrable, perpetual (for the remaining duration of the intellectual property right), royalty-free licence (without the right to sub-licence) for the benefit of the business currently carried on by IP Bilbao, for any intangible asset that is necessary for the development, production, servicing and sale of the products currently manufactured at IP Bilbao. Nothing in this licence shall restrict the ability of the Purchaser to transfer or sub-licence the benefit of this licence as a result of: (a) an intra-group transfer; or (b) a subsequent sale of IP Bilbao;

(iii) **the following main licences, permits and authorisations**: all licences, permits and authorisations necessary to produce the products manufactured at IP Bilbao to the extent transferrable under applicable law. IP shall use its best efforts to assign the applicable aspects of such relevant licences, permits and authorisations to the Purchaser;

(iv) **the following main contracts, agreements, leases, commitments and understandings**: all external customer contracts relating to the products manufactured at IP Bilbao and all other external contracts, agreements, leases and commitments necessary for the operation of the business of IP Bilbao. IP shall use its best efforts to transfer or assign the applicable aspects of all such contracts, agreements, leases, commitments and understandings to the Purchaser, including with respect to shared customer contracts the portion of such shared customer contracts that relates to the products manufactured at IP Bilbao.

[…].

(v) **the following customer, credit and other records**: all customer accounts, orders and credit records or portions thereof relating to the products manufactured at IP Bilbao;

(vi) **the following Personnel**: the Personnel listed in **Annex 7** (which do not include the Personnel listed in **Annex 8** below), to the extent still employed on the Effective Date;

(vii) **the following Key Personnel**: all Key Personnel listed in **Annex 7** (which do not include the Personnel listed in **Annex 8** below), to the extent still employed on the Effective Date; and

(viii) **the arrangements for the supply of the following products or services by the Parties or Affiliated Undertakings for a transitional period of up**

to 12 months (extendable by two additional 6-month periods at the option of the Purchaser) after Closing:

(a) CCM, either (i) produced by IP or (ii) sourced by IP's EMEA CCM sourcing team from third parties. In the case of CCM produced by IP, it will be offered at […]. In the case of CCM sourced by IP's EMEA CCM sourcing team from third parties, it will be offered at […];

(b) with regard to all other centrally procured sourcing […] and services […], the IP EMEA sourcing team will find offers and negotiate prices with third-party vendors. IP Bilbao will then have the opportunity to order from these vendors at the same price as IP's other plants in Iberia. […].

15. IP Bilbao shall not include:

(i) The Personnel listed in **Annex 8** employed by IP Bilbao but who perform regional functions and do not form part of the business of IP Bilbao.

These Personnel are therefore not included in the Personnel or Key Personnel of IP Bilbao listed in **Annex 7** and all hardware and equipment used primarily by those personnel (including office and IT equipment) shall not be transferred;

(ii) the ownership of, or right to use, any IP rights currently owned by IP Bilbao that are not used solely or predominantly or not necessary for either the operation of or the viability of IP Bilbao's business;

(iii) any brands or logos currently held, as owner or licensee, by IP;

(iv) any rights to websites or domain names; or

(v) books and records required to be retained pursuant to any law provided that the Purchaser shall on request receive a copy of the same.

16. If there is any asset or personnel which is not covered by paragraph 14 of this Schedule but which is both used (exclusively or predominantly) in IP Bilbao and necessary for the continued viability and competitiveness of IP Bilbao, that asset or adequate substitute will be offered to potential purchasers.

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Annex 8	**IP Bilbao – Excluded Personnel with regional functions**

ANNEX 1

Aerial photos of the IP Normandie sites

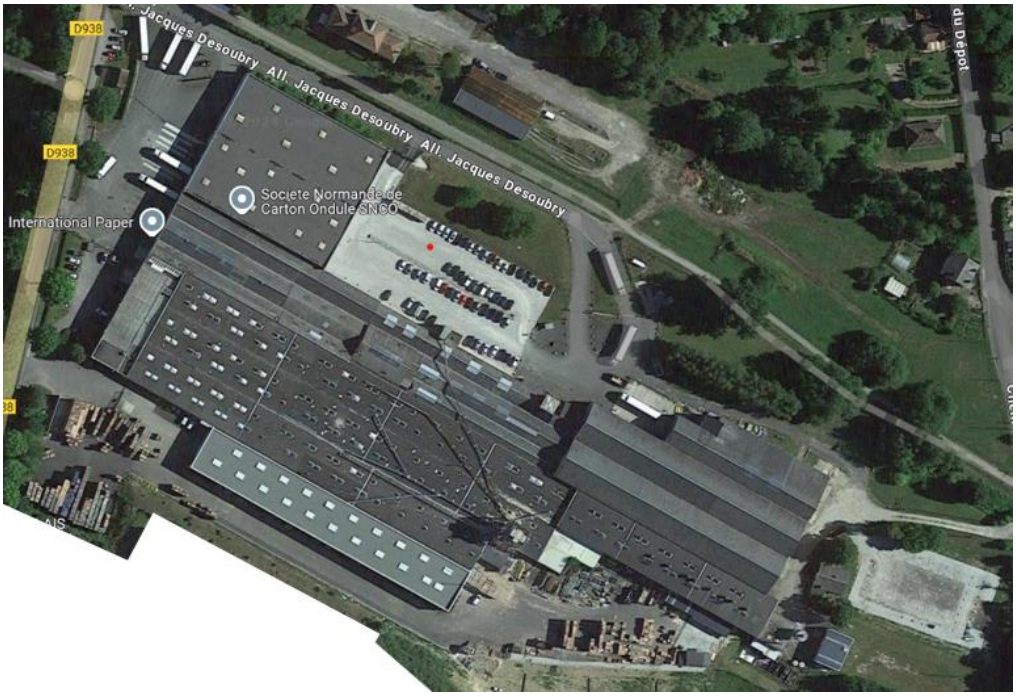
1. IP St Amand



2. IP Cabourg



3. IP Mortagne



ANNEX 2

IP Normandie Plants – Personnel

Details of Personnel employed at IP St Amand

Job description	**Number**
Manufacturing Direct	**[100-150]**
Manufacturing Indirect	[0-10]
Maintenance	[10-20]
Internal transport/warehousing	[0-10]
Manufacturing other	[10-20]
Total Manufacturing	**[150-200]**
Total Distribution	**[0-10]**
Sales	[0-10]
Customer services	[0-10]
Design	[0-10]
Total Commercial	**[10-20]**
Finance	[0-10]
HR	[0-10]
Other general administration	[0-10]
Total Administration	**[10-20]**
Total Permanent	**[150-200]**
Temporary direct	[30-40]
Temporary indirect	[0-10]
Total Temporary	**[40-50]**
Long term ill	[0-10]
Total Headcount	**[200-250]**

Details of Key Personnel employed at IP St Amand

Function	**Name**
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]

Details of Personnel employed at IP Cabourg

Job description	Number
Manufacturing Direct	**[10-20]**
Manufacturing Indirect	[0-10]
Maintenance	[0-10]
Internal transport/warehousing	[0-10]
Manufacturing other	[0-10]
Total Manufacturing	**[20-30]**
Sales	[0-10]
Customer services	[0-10]
Design	[0-10]
Total Commercial	**[0-10]**
Finance	[0-10]
Total Administration	**[0-10]**
Total Permanent	**[30-40]**
Temporary direct	[0-10]
Total Temporary	**[0-10]**
Long term ill	[0-10]
Total Headcount	**[30-40]**

Details of Key Personnel employed at IP Cabourg

Function	Name
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]

Details of Personnel employed at IP Mortagne

Job description	Number
Manufacturing Direct	**[50-100]**
Manufacturing Indirect	[0-10]
Maintenance	[0-10]
Internal transport/warehousing	[10-20]
Manufacturing other	[0-10]
Total Manufacturing	**[50-100]**
Sales	[0-10]
Customer services	[0-10]
Design	[0-10]
Total Commercial	**[0-10]**
Finance	[0-10]
Other general administration	[0-10][1]
Total Administration	**[0-10]**
Total Permanent	**[100-150]**
Temporary direct	[0-10]
Total Temporary	**[0-10]**
Long term ill	[0-10]
Total Headcount	**[100-150]**

[1] […].

Details of Key Personnel employed at IP Mortagne

Function	**Name**
[2][…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]

[2] […].

ANNEX 3

IP Mortagne – Excluded Personnel constituting IP's Head Office for France

Function	Name
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]

ANNEX 4

Aerial photo of the IP Ovar site



ANNEX 5

IP Ovar – Personnel

Details of Personnel employed at IP Ovar

Job description	**Number**
Design	[0-10]
Maintenance	[0-10]
Plant manager	[0-10]
Production	[50-100]
Quality and environment	[0-10]
Sales	[0-10]
Plant Controller	[0-10]
Logistics/supply chain	[0-10]
Total Permanent	**[50-100]**
Total Temporary	**[10-20]**
Total Headcount	**[100-150]**

Details of Key Personnel employed at IP Ovar

Function	**Name**
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]

ANNEX 6

Aerial photo of the IP Bilbao site



ANNEX 7

IP Bilbao – Personnel

Details of Personnel employed at IP Bilbao

Job description	**Number**
Design	[0-10]
Maintenance	[0-10]
Plant manager	[0-10]
Production	[50-100]
Quality and environment	[0-10]
Sales	[0-10]
Plant Controller	[0-10]
Logistics/supply chain	[10-20]
Total Permanent	**[100-150]**
Total Temporary	**[10-20]**
Total Headcount	**[100-150]**

Details of Key Personnel employed at IP Bilbao

Function	**Name**
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]

ANNEX 8

IP Bilbao – Excluded Personnel with regional functions

Function	Name
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]
[…]	[…]