EUROPEAN COMMISSION

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| In the published version of this decision, some information has been omitted, pursuant to articles 30 and 31 of Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus […] | | PUBLIC VERSION<br><br>This document is made available for information purposes only. |
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**Subject: SA.45584 (2016/N) – Slovakia – LIP – Investment aid to Mondi SCP**

Sir, /Madam,

## 1. PROCEDURE

(1) By electronic notification registered on 10 October 2016, the Slovak authorities notified to the Commission regional aid in favour of Mondi SCP a.s. (hereinafter "Mondi SCP"), which Slovakia had granted subject to Commission approval.

(2) By letters of 28 October 2016 (2016/105558), 9 January 2017 (2017/001605), 10 April 2017 (2017/ 036494) and of 12 June 2017 (2017/055458) the Commission requested supplementary information, which was submitted by letters registered at the Commission on 16 November 2016 (2016/111801), 25 January 2017 (2017/008077), 8 February 2017 (2017/013738) and on 4 May 2017 (2017/ 043805), and on 15 June 2017 (2017/057063). On 31 January 2017, a meeting between the Commission services, the Slovak authorities and the investor took place.

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## 2. DETAILED DESCRIPTION OF THE AID MEASURE

### 2.1. Objective of the aid measure

(3) The Slovak authorities intend to promote regional development by providing regional aid for an initial investment in Mondi SCP's existing Ružomberok plant, increasing its pulp production capacities, and diversifying its product range by introducing the production of corrugated case material (CCM). Ružomberok is located in the Žilina region, in Stredné Slovensko, an area eligible for regional aid under Art. 107(3)(a) TFEU, with a standard regional aid ceiling of 35% under the Slovak regional aid map for the period from July 2014 to 2020[1] (hereinafter "Slovak Regional Aid Map"). The project is expected to create 105 direct jobs.

### 2.2. The beneficiary

(4) The recipient of the aid, Mondi SCP, is a joint venture owned by Mondi SCP Holdings, B.V. (51%) and Eco-Investment a.s. (49%).[2]

(5) Mondi SCP Holdings, B.V. is ultimately owned by Mondi Plc (UK incorporated company holding the non-African assets). Mondi Plc and Mondi Limited (South African incorporated company holding the African assets) together form the Mondi Group. The Mondi Group is an international packaging and paper production company with about 25 000 employees across more than 30 countries.

(6) Eco-Investment a.s. is a Czech based privately held investment and holding company, which has investments predominantly in the Slovak and Czech Republics. Its business portfolio includes investments in pulp and paper industry, packaging, food industry, communications and real estate.

(7) The Slovak authorities confirmed that Mondi SCP is not a company in difficulty within the meaning of the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty[3].

### 2.3. The investment project

#### *2.3.1. The notified project*

(8) The notified investment project in Mondi SCP's Ružomberok plant concerns the increase of its pulp production capacities (pulp is a raw material for corrugated case material) by 106 000 tons/year and the introduction of a CCM[4] production for which a new paper machine will be installed, with a capacity of up to 300 000 tons /year. In the first years, this paper machine will produce mainly traditional CCM grades; a new product, called Kraft Top White (KTW), characterised by a top layer of hardwood pulp and a bottom layer made out of recycled paper, will be gradually introduced.

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1 SA.37477 (N/2013), OJ C 210 of 04.07.2014 p.6.

2 Eco-Investment is the legal successor of Eco-Invest as of 1 November 2016. At the time when the aid application was submitted, i.e. in December 2015, the Joint Venture partner in Mondi SCP was Eco-Invest.

3 OJ C 249, 31.7.2014, p. 1–28

4 CCM encompasses both linerboard and fluting. The liner constitutes a flat inner or outer layer whereas the fluting is the undulated layer. CCM is made out of natural wood or recycled fibres. Liners made out of wood (also called virgin) fibres are called kraftliners, whereas liners made out of recycled fibres are called testliners. Liners can be of white or brown colour, whereas flutings are always brown.

(9) Works on the investment project have not yet started, as the aid beneficiary is waiting for the Commission decision on the notified aid measure. The investment is to be completed within 2.5 years after start of works; full production capacity is planned to be reached in the fourth year after start of production.

#### *2.3.2. Eligible investment costs*

(10) The eligible investment costs amount to EUR 309.8 million in nominal value (EUR 301.5 million in present value[5]). Table 1 below presents the breakdown of the eligible costs in nominal value.

*Table 1: Breakdown of eligible investment costs (nominal in EUR)*

| In EUR | 2016 | 2017 | 2018 | 2019 | 2020 | Total |
|---|---|---|---|---|---|---|
| **Building** | […]* | […] | […] | […] | […] | […] |
| **Machinery/Equipment** | […] | […] | […] | […] | […] | […] |
| **Intangible assets** | […] | […] | […] | […] | […] | […] |
| **Total** | […] | […] | […] | […] | […] | **309,800,000** |

(11) Only new assets will be accepted as eligible expenditure.

(12) Certain existing assets of the establishment – e.g. existing infrastructure of the paper mill in the area of pulp production, energy, recovery, wood yard and some of the administration area – will be used for the investment project. The pro rata value of the re-used assets amounts to EUR 47 million; thus the eligible costs exceed by at least 200% the book value of the assets that are reused as registered in the fiscal year preceding the start of works.

### 2.4. Legal basis

(13) The notified financial support constitutes an individually notifiable case of application of an aid scheme, which was put into effect under Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty[6] (General Block Exemption Regulation, hereinafter "GBER"), having as its national legal basis the Act no. 561/2007 Coll. on Investment Aid and amendments and supplements to certain acts, as amended (SA.41768, (2015/X)) (Zákon č. 561/2007 Z. z. o investičnej pomoci a o zmene a doplnení niektorých zákonov v znení neskorších predpisov).

[5] The present values in this decision are calculated on the basis of a discounting rate of 1.06 %, applicable at the time when the Slovak authorities granted the aid (on 10 March 2016) – subject to Commission approval - to Mondi SCP. Present values are discounted to the year 2016.

[6] OJ L 187, 26.6.2014, p. 1–78

*[…] Business secret

### 2.5. Aid amount

(14) The total aid amounts to EUR 48.8 million in nominal value (EUR 46.3 million in present value), and is granted in the form of partial exemption from corporate income tax.

*Table 2: Aid amount (nominal in EUR)*

| **In EUR** | **2018** | **2019** | **2020** | **2021** | **2022** | **2023** | **Total** |
|---|---|---|---|---|---|---|---|
| Tax allowance | […] | […] | […] | […] | […] | […] | **48,836,000** |

### 2.6. Aid intensity and cumulation with other investment aid

(15) The notified aid amount of EUR 46.3 million in present value for eligible expenditure of EUR 301.5 million in present value corresponds to an aid intensity of 15.35 %. The financial support for the project will not be combined with any other financial support that would be disbursed for the same eligible costs from any other local, regional, national or European Union source.

(16) The Slovak authorities commit that neither the approved maximum aid amount in present value nor the approved aid intensity will be exceeded if the amount of eligible expenditure deviates from the estimated amount.

### 2.7. Own contribution

(17) The aid beneficiary will contribute at least 25% to the financing of the investment.

### 2.8. Maintenance of the assisted activity

(18) The aid is awarded under the condition that the beneficiary will maintain the investment in the assisted region for a minimum period of five years after its completion.

### 2.9. Contribution to regional development (cohesion) objective

(19) The Slovak authorities consider that the investment will contribute to the regional development of Ružomberok, Žilina region (Stredné Slovensko), for the following reasons:

- The investment project creates 105 new direct jobs in a region with high unemployment.
- The investment will also lead to the creation of some 300 indirect jobs, in particular with suppliers and service providers.
- The works on the investment project are expected to create about 500 temporary jobs in the construction and installation of the paper machine.
- The beneficiary provides extensive training to improve the qualification of its employees.

- The beneficiary also implements programmes to support the development of students (i.e. to direct their focus on the technical and creative thinking not only in the field of pulp and paper). Mondi SCP's target groups are mostly graduates of secondary vocational schools in the field of polytechnology and technology and of the Slovak University of Technology in Bratislava, the Technical University in Zvolen, and of other Slovak universities.
- Hosting a facility that uses industry leading paper and pulp manufacturing processes and technologies as well as introducing a new CCM product in the European Union will allow the EU to benefit from knowledge spillover benefits.
- As the new production process will be partly based on recycled paper, the project will boost the development of a recycling system for used paper.

### 2.10. Appropriateness

(20) The Slovak authorities explained that in order to address the handicaps of the region, Ružomberok and Žilina region have put into place several measures to improve infrastructure (including the completion of a highway), education and training, to reduce unemployment, and to enhance technology transfer and innovation.

(21) They argue that an investment aid in favour of Mondi SCP is necessary to incentivise the Mondi Group to carry out the investment in Slovakia rather than in the alternative location presented in the counterfactuals (see section 2.11.1 of this decision); a non-financial incentive would be insufficient to bridge the viability gap and thus to attract the investment.

(22) The form of aid is a partial exemption from corporate income taxes. The Slovak authorities prefer this form of aid over direct grants as the budgetary costs are spread over several years.

### 2.11. Incentive effect

(23) The formal application for aid was submitted by Mondi SCP on 3 December 2015, i.e. before the start of works on the investment. In addition, the beneficiary is waiting for a Commission decision before adopting his final locaton decision.

(24) Between 2012 and 2014, Mondi SCP carried out in its Ružomberok plant a large investment project concerning the regeneration area, with the objective of "enabling more eco-efficient means of increasing the production of pulp at the mill". Slovakia granted aid for this project in 2012 under a block-exempted scheme, but submitted the mandatory summary information pursuant to Art. 8(2) of the RAG BER[7] only in 2015 (SA.40845 (2015/MF). The aid granted in 2012 is not as such within the scope of the present decision.

(25) Nevertheless, with regard to the question of whether this investment into the extension of the regeneration area (installation of a new recovery boiler and extension of the evaporation plant) relating to pulp production constituted *de facto* an integral part of the notified investment into (increased capacity of) pulp production and thus into CCM production, the Slovak authorities submitted the following elements:

[7] OJ L 302, 1.11.2006, p. 29–40

- Mondi SCP had at the time of the investment into the regeneration area project in 2011/2012 no intention to create a CCM capacity in Ružomberok. A new recovery boiler is a significant long-term investment in the mill, with a lifetime of between 30 and 40 years (which may be even prolonged). Due to this long lifetime, significant impact on the overall production capacity of the mill and high costs and technical limitations to increase the capacity afterwards it is common practice in the sector to build the recovery boiler bigger than the capacity need at the time of the investment.

- This initial capacity extension plans were already reached, and even exceeded in 2016[8]. This additional pulp production was used for the then existing product portfolio of Mondi SCP.

- A first kick-off meeting regarding the investment into CCM production took place only in March 2014. A first feasibility study regarding the extension of the pulp production by additional 106 000 tons which is now included in the notified project was carried out by the consultancy Poyry only in May 2015.

- Due to the five-year gap between the start of works of the two projects (regeneration area project: 2012, CCM production: 2017), the investment projects do not qualify as a single investment project under the regional aid rules (RAG BER, Guidelines on National Regional Aid for 2007-13, Guidelines on Regional State Aid for 2014-2020).

In view of the above, the Slovak authorities consider that even if the investment concerning the regeneration area involves a marginal capacity extension element, this element does not affect the presence of the incentive effect of the aid for the notified investment project.

### *2.11.1. Counterfactual scenario*

(26) The Slovak authorities invoke Scenario 2 ("the investment would be carried out elsewhere without the aid") of the Guidelines on Regional State Aid for 2014-2020[9] (hereinafter "RAG"), claiming that the aid provides an incentive to the beneficiary to carry out the investment in its existing Ružomberok plant rather than in Mondi Group's existing plant in [European location situated outside of the EEA] . In the absence of the Slovak aid, Mondi Group would carry out an investment project under the full ownership of Mondi Group in this [European location situated outside of the EEA] plant.[10]

(27) The Slovak authorities explain that Mondi Group continuously assesses whether there are new investment opportunities that could be implemented in its existing production facilities, and is therefore well aware of the present status of infrastructure, production capacities and input costs in all of its locations. Based on this continuous assessment, the Mondi Group did not consider any other locations than Ružomberok in Slovakia

[8] The additional capacity to be created was planned to be […]tonnes per year, with a further option to increase it up to […] tonnes per year. In 2016 Mondi SCP exceeded this target as it increased its production by […] tonnes compared to the capacity of 2011 (2011: […] tons per year; 2016: […] tons per year).

[9] OJ C 209, 23.07.2013, p.1

[10] Investing in [European location situated outside of the EEA], Mondi Group would have to bear the full investment costs and would enjoy the benefits entirely, whereas it would share the costs and benefits in proportion to its shares (51%) in Mondi SCP if it located the project in Slovakia.

and [European location situated outside of the EEA] for the investment at hand as the overall readiness of the other paper production mills within the portfolio of the Mondi Group was insufficient to meet Mondi's requirements for an investment of this type, range and scale. Other existing locations in the EEA – in particular its existing production sites in Poland and Bulgaria – were not considered for this or a similar investment, as they would have required substantial additional investments into infrastructure and into pulp production, which would have rendered overall investments there very expensive and not economical.

*The decision-making process within Mondi SCP*

(28) The close cooperation of the two joint venture partners is ensured by a monthly Board of Directors meeting with the participation of five members: three from Mondi Group and two from Eco-Investment. On operative issues the Mondi Group can adopt unilaterally decisions. Strategic decisions, as for example on the notified investment project, require the support by at least four Directors. Thus both partners possess a blocking minority on strategic decisions of Mondi SCP.

(29) However, Eco-Investment is not in a position to decide on, or influence location decisions of Mondi Group's investments outside of Slovakia or to block such a decision, i.e. Eco-Investment is excluded from the decision-making of the Mondi Group for any investments outside of Slovakia. Furthermore, Eco-Investment cannot impose on the Mondi Group to carry out an investment in Slovakia. Thus, Slovakia submits that the Mondi Group is the sole decision maker on the location of the investment.

(30) Slovakia explained that Mondi Group considers investments in Mondi SCP in strategic partnership with Eco-Investment. Investment opportunities are analysed jointly with Eco-Investment, and overall benefits and costs are taken into account for the whole project, and not only partially according to the shares. Therefore Eco-Investment was informed of the idea to investigate a potential installation of a new CCM machine at the start of the project. The notified investment project was developed by Mondi SCP, involving the participation of both shareholders. The Board of Directors of Mondi SCP agreed in February 2016 unanimously to the project.

*The decision-making process within the Mondi Group*

(31) In Mondi Group, capital investments of the size of the notified investment need to be approved by the Boards of Mondi Limited and Mondi Pls. Proposals for investment projects are elaborated by the respective Business Units in cooperation with the respective production plants.

(32) Company documents show that the plans for the alternative investment projects in Ružomberok and in [European location situated outside of the EEA] have been developed simultaneously and to the same level of detail. Mondi Group carried out extensive analyses for both projects: in particular it identified and developed the technical possibilities for both locations to grow in the CCM market, it ordered pre-engineering studies and carried out feasibility studies for both projects, it run trials for the pulp and/or CCM to be produced in both locations, it contacted key customers regarding the possible investment alternatives and customer requirements, and it prepared financial forecasts for both alternatives.

(33) The preparatory work for the decision making has been finalised for both alternatives. The final approval by the Boards of Mondi Limited and Mondi Pls. on the investment project/location has been put on hold until the Commission decides on the notified aid measure.

*Alternative investments / locations*

(34) The alternative investment in [European location situated outside of the EEA] consists of (1) “de-bottlenecking” an existing pulp mill, (2) setting up a new green liquor pulp line, (3) converting an existing paper machine until now used for newsprint into a paper machine for CCM production, and “de-bottlenecking” an existing paper machine already used for CCM production.

(35) Relevant internal company documents demonstrate that the company compared the economic viability of both locations, taking into account the expected revenues, the total costs of the investment, the planned production costs and the residual value of the investment after fifteen years for each location, as well as the opportunity costs resulting from the loss of revenue from the newsprint business in [European location situated outside of the EEA] (EUR 61 million per year).

(36) The Slovak authorities argue that the targeted market could be served both from [European location situated outside of the EEA] and Slovakia, the production of both plants could be delivered to a certain extent to the same customers, but the customer base would still not be entirely identical. The production capacity (CCM) would be slightly different ([European location situated outside of the EEA] with 273,000 tons vs Slovakia with 300,000 tons). Therefore, the expected revenues for the two locations are different.

(37) The investment cost in [European location situated outside of the EEA] would be substantially lower as important parts of the existing paper machine for the production of newsprint paper could be reused.

(38) The overall production costs would also be lower in [European location situated outside of the EEA], even though transport costs would be higher for the [European location situated outside of the EEA] plant. The cost disadvantage of Slovakia is mainly due to significantly higher labour, energy, and raw material costs.

(39) Due to the lower investment costs, the residual value for the [European location situated outside of the EEA] plant is lower. The Mondi Group calculates for both projects with a residual value of assets of 15% of their initial value after 15 years of operations.

(40) Taking the above assumptions into account, on the basis of a project lifetime of 15 years, a risk-adjusted discount rate of 8% for Slovakia, and of 11% for [European location situated outside of the EEA], the net present value of the [European location situated outside of the EEA] project is EUR 52 million higher. Possible [European location situated outside of the EEA] investment incentives would increase the NPV disadvantage of Slovakia to EUR 63 million. The notified Slovak aid is to compensate – partially - this cost disadvantage in order to attract the investment to its assisted region. The Mondi Group is prepared to bear the remaining cost disadvantage of EUR 5.5 million (or of EUR 16.5 million taking into account possible [European location situated outside of the EEA] investment incentives), as it considers that the

disadvantage measured in NPV can be compensated by certain qualitative and strategic factors, such as:

- [European location situated outside of the EEA] is one of the largest paper mills of the Mondi Group. To concentrate even more production capacity and investments in [European location situated outside of the EEA] bears certain risks that are not reflected in the NPV calculations, e.g.:
    - Exposure to possible negative development of costs for the main raw materials (mainly wood and energy) on the [country of the European location situated outside of the EEA] market. A geographical split of the production locations and sourcing can mitigate some risks and reduce dependencies.
    - Operational problems in the infrastructure of the mill can impact the production of the whole mill. The bigger the mill is, the bigger the impact for Mondi is. Thus, a distribution of the production capacity between more locations is mitigating that risk.

- The Ružomberok investment project would allow Mondi to introduce a new innovative product, i.e. the Kraft Top White, on the market. This would enable the Mondi Group to serve the customers with a wider product portfolio in the CCM market and to react in a more flexible way to market demand and future trends.

- With the investment in Ružomberok, Mondi Group would possess an additional plant for CCM production, thus reducing dependency of other locations and increasing flexibility to fulfill customer demands.

- In case of technical problems (e.g. requiring machine parts or specialised maintenance by international suppliers/service providers), Ružomberok will be more easily accessible, ensuring shorter stillstand periods.

### 2.12. Closure of other plants in the EEA and possible relocation

(41) The Slovak authorities informed the Commission that at the time Mondi SCP applied for aid on 3 December 2016, the Mondi Group did not have any concrete plans to close down the same or similar activity in the EEA within a period of two years after completion of the investment. They confirmed however that Mondi Group closed a Specialty Kraft Paper ("SKP")[11] producing plant (food packaging, release base and release liner) in Finland and a Specialty Kraft Paper converting plant (release liner) in Italy in 2015. The activities of the closed Finnish and Italian plants fall under the same NACE code (NACE code C 17.12 Manufacture of Paper and Paperboard) as the activity to be carried out in Ružomberok, but their final products are completely different and do not belong to the CCM market: there is neither from the demand, nor from the supply side substitutability between SKP and CCM.

[11] SKP is used for flexible and primary packaging (i.e. direct contact with the packed product), while corrugated boxes are rigid used for secondary and transit packaging (i.e. no direct contact with the packed product). SKP is normally further processed depending on the requirements of the end use. There is a broad range of applications of SKP, e.g.: release base, release liner (e.g. for hygiene applications), industrial (e.g. for tapes applications), food packaging, medical packaging, etc.. SKP can be sold at a 2-4 times higher price due to more complex applications and to the usage of only virgin fibres.

(42) In fact, the Italian plant did not produce paper on its own, but operated a coater which put silicone on paper produced elsewhere. There is not necessarily a technical link between a paper machine and a coater, and the processes are totally different. Also the investment costs for a coater (about EUR 10 million) and a SKP line (approximately EUR 60-100 million) are not comparable.

(43) Regarding the closed Finnish plant, the Slovak authorities explained that it would not have been technically feasible and economically viable to transform the closed down paper machines for SKP into a paper machine for CCM production. The technical difficulties lie in the fact that (i) the machine widths in the Finnish plant were not suitable to fit the CCM width, (ii) the grammage requirement of the paper machine for CCM is substantially higher than the maximum that could have been achieved on the paper machines in the Finnish plant, (iii) the capacities of the Finnish paper machines were far below the capacities that would be needed to render the CCM production competitive. The conversion of the paper machines would not have been possible at reasonable investment costs. From an economic point of view it would be desirable to produce CCM in an integrated plant (i.e. to have pulp production and paper machines in the same plant). There was no pulp production in place in Finland, and to install it for such a small operation would not have been economically feasible.

(44) The Slovak authorities confirmed that the beneficiary (i) did not and will not transfer staff from the closed activities to Slovakia; (ii) will not call the staff in the closing down establishments to train new staff in the new establishment; (iii) has not and will not transfer material assets or production lines of the closed/closing activities to Slovakia; (iv) has not and will not follow up orders for equipment or materials by the new premises instead of the old one.

(45) The Slovak authorities also emphasise that the time span between closure in Finland and Italy in 2015 and the planned start of operations (in 2020) of the planned new CCM machine in Slovakia would exclude any realistic perspective of relocation of activities as supplier/client relations would be disrupted.

(46) The Slovak authorities also submitted a declaration stating that ECO-Invest (at the time of aid application the joint venture partner was Eco-Invest) had not closed down the same or similar activity in the EEA in the two years preceding the application for aid, and that at the moment of aid application it did not have any concrete plans to do so within two years after completion of the investment.

### 2.13. Competition effects

(47) The Slovak authorities submitted information on the the possible effects on competition as presented in the assessment part of this decision.

### 2.14. General provisions

(48) The Slovak authorities undertook to publish on a central website, or on a single website retrieving information from several websites at least the following information on the notified measure: aid granting decision (or a link to it), granting authority, individual beneficiary, form and amount of aid, date of granting, and the region in which the beneficiary is located. This information will be kept for at least 10 years, and must be available to the general public without restrictions.

## 3. ASSESSMENT OF THE AID MEASURE AND COMPATIBILITY

### 3.1. Existence of aid

(49) The financial support will be given by the Slovak authorities in the form of a partial exemption from corporate income tax. The support is thus given by a Member State and through State resources within the meaning of Article 107(1) TFEU.

(50) As the aid is granted to a single company, Mondi SCP, the measure is selective.

(51) It will relieve Mondi SCP from costs it normally would have had to bear itself, and therefore the company benefits from an economic advantage over its competitors.

(52) The measure is likely to affect trade between Member States as trade between Member States exists in the paper sector.

(53) As the measure favours Mondi SCP, competition is distorted or is threatened to be distorted.

(54) Consequently, the Commission considers that the measure constitutes State aid within the meaning of Article 107(1) of the TFEU.

### 3.2. Legality of the aid measure

(55) As the planned regional investment aid of EUR 46.3 million exceeds the individual notification threshold laid down in Article 4(1)(a) of the GBER (EUR 26.25 million in the Stredné Slovensko region), it is excluded from exemption under the GBER, and has thus to be notified individually.

(56) By notifying the awarding of the aid subject to Commission approval, the Slovak authorities respected their obligations under Article 108(3) TFEU.

### 3.3. Assessment of the aid measure

(57) Having established that the notified measure constitutes State aid within the meaning of Article 107(1) TFEU and that it is subject to Commission approval, it is necessary to examine whether the investment project is eligible for aid and whether the measure can be found compatible with the internal market.

(58) As the objective of the measure is to promote regional development in an area designated in accordance with Article 107(3)(a) TFEU, and the aid is to be granted in the period between 1 July 2014 and 31 December 2020, the legal basis for its assessment are the RAG.

(59) In line with the provisions of the RAG, the Commission will first establish whether the notified investment project is eligible for regional aid. The Commission will then verify the compatibility of the notified aid in application of the Common Assessment Principles laid down in the RAG.

#### *3.3.1. Eligibility of the notified investment project*

(60) The project to be supported is located in Ružomberok (Stredné Slovensko), an area eligible for regional aid pursuant to Article 107(3)(a) TFEU ("a-area") in accordance

with the Slovak Regional Aid Map. Pursuant to paragraph 34 of the RAG, in a-areas initial investments by large undertakings may benefit from regional investment aid.

(61) The Slovak authorities intend to grant aid to an investment in Mondi SCP's existing establishment in Ružomberok aimed at extending its pulp production capacity and at adding corrugated case material to its range of products.

(62) Pursuant to paragraph 20(h) of RAG an initial investment means an investment in tangible and intangible assets related to (i) the setting-up of a new establishment, (ii) the extension of the capacity of an existing establishment, (iii) the diversification of the output of an establishment into products not previously produced in the establishment, or (iv) a fundamental change in the overall production process of an existing establishment.[12] As the project involves capacity extension of an existing establishment (pulp) and diversification of the output of an establishment into products not previously produced in the establishment (CCM), it represents an initial investment within the meaning of paragraph 20(h) of RAG. According to paragraph 20(e) of the RAG, and within the limits defined in this paragraph, the costs for new assets for Mondi SCP are in principle eligible for regional aid.[13]

(63) In conclusion, the Commission considers that the notified project is eligible for regional aid, provided that all compatibility criteria of the RAG are met.

#### *3.3.2. Compatibility of the aid measure*

(64) The Commission communication on state aid modernisation[14] of 8 May 2012 called for the identification and definition of common principles applicable to the assessment of the compatibility of all aid measures. In their section 3, the RAG define and operationalise these "Common Assessment Principles" (CAP) for the purposes of regional aid.

(65) The assessment under the CAP of the RAG takes place in three steps:

- in a first step, it is checked whether **minimum requirements** regarding credibility of counterfactual scenario, appropriateness, incentive effect, and proportionality of the aid and its contribution to regional development are met (see RAG, sections 3.2-3.6);

- in the second step, it is verified, that the aid does not lead to **manifest negative effects** (blacklist) that would prohibit the granting of aid, e.g. aid exceeding the allowable maximum aid intensity ceiling, creating overcapacity in a sector in absolute decline, attracting an investment that would have gone without the aid to another region with a similar or worse off socio-economic situation, or causal for the closure of activities elsewhere in the EEA (see RAG, section 3.7.2);

[12] According to paragraph 20(h)(b) of the RAG, an initial investment can also be "an acquisition of assets directly linked to an establishment provided the establishment has closed or would have closed if it had not been purchased, and is bought by an investor unrelated to the seller. The sole acquisition of shares of an undertaking does not qualify as an initial investment".

[13] Pursuant to paragraph 20(e) of the RAG eligible costs means, for the purpose of investment aid, tangible and intangible assets related to an initial investment, or wage costs.

[14] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions on EU State Aid Modernisation (SAM), COM/2012/0209 final

- in the third step, for not blacklisted aid projects meeting the minimum requirements, a **balancing** is carried out to ensure that the contribution to regional development outweighs the negative effects on trade and competition (see RAG, sections 3.7.1 and 3.7.4) .

### *3.3.3. Minimum requirements*

#### *3.3.3.1. Contribution to regional objective and need for State intervention*

(66) The RAG require Member States to prove in concrete terms the real and sustained contribution of the aided investment to the regional development of the target region. To help Member States in this task, Section 3.2.2. of the RAG lists a number of indicators that Member States may use in order to demonstrate the regional contribution of individual investment aid notified to the Commission. To prove the real and sustained contribution, Member States also have to show that the viability of the project is demonstrated by a financial contribution of the aid beneficiary of at least 25% of the eligible costs[15], provided through its own resources or by external financing, in a form that is free of any public financial support. In addition, the investment (the aided assets) has to be is maintained in the area concerned for a minimum period of five years (three years for SMEs) after completion of the investment[16].

(67) The Stredné Slovensko region is eligible for regional aid pursuant to Article 107(3)(a) of the TFEU. The Commission takes note of the investment's positive regional effects, as presented by the Slovak authorities (see recital (19) of this decision) and considers that in particular:

- the direct and indirect job creation effects, the potential to attract additional suppliers and service providers,
- the knowledge spill over benefits from hosting a facility that uses industry leading paper and pulp manufacturing processes and technologies,
- the extensive training programmes offered to employees,
- the student development programmes implemented by the beneficiary and by Slovak universities,
- and the incentive provided to the development of recycling system for used paper

represent a significant contribution to the development of the region and to the achievement of the EU cohesion objective.

(68) The Commission notes that the beneficiary will contribute at least 25% of the eligible costs, and commits to keep the investment for 5 years after completion of the project in the area concerned (see recitals (17) and (18) of this decision).

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15 See paragraph 38 of the RAG

16 See paragraph 36 of the RAG

*3.3.3.2. Appropriateness of regional aid/the aid instrument*

(69) According to paragraph 50 of the RAG, the notified aid measure must be an appropriate policy instrument to address the policy objective concerned, and underlines that an aid measure will not be considered compatible if other less distortive policy instruments or other less distortive types of aid instruments are available. Section 3.4 therefore introduces a double appropriateness test. Under this first appropriateness test, Member States have in particular to identify the bottlenecks to regional development and the specific handicaps of firms operating in the target region, and to clarify to what extent bottlenecks to regional development could also successfully be targeted by non-aid measures. Under the second appropriateness test, the Member State has to indicate why – in view of the individual merits of the case - the chosen form of regional investment aid is the best instrument to influence the investment or location decision.

(70) The Slovak authorities explained that general measures to support economic and social development at regional levels have already been taken by investing in infrastructure (including the completion of a motorway), and by improving education and training. In addition further actions have been taken to address the difficulties this region is facing, by implementing measures to reduce unemployment, incentivising technology transfer and innovation. Nevertheless, the region remains amongst the disadvantaged regions of the EU. The Commission considers that infrastructural developments and other general measures alone are insufficient to reduce the given regional disparities. The Commission, in line with earlier case practise under comparable provisions of the Communication from the Commission on the criteria for an in-depth assessment of regional aid to large investment projects (hereinafter "IDAC")[17] (e.g. in the AUDI decision[18]) therefore accepts that state aid, and regional investment aid in particular, is an appropriate form of support to achieve the cohesion objective for the Ružomberok area/Žilina region (Stredné Slovensko).

(71) The aid in form of a partial exemption from corporate income tax is appropriate, as it allows bridging the disadvantage of Ružomberok compared to [European location situated outside of the EEA]. The aid equivalent resulting from other forms of aid (except direct grants) appears insufficient to fully compensate the disadvantage. The Commission accepts the budgetary reasons of the Slovak authorities why they prefer aid in the form of tax advantages (tax exemption over a series of years, capped to the maximum aid amount/aid intensity) to direct grants, and notes that this form of tax advantages incentivises the company to maintain its activity in the region concerned for a longer period beyond the minimum requirement of five years.

*3.3.3.3. Incentive effect*

(72) According to section 3.5 of the RAG, regional aid can only be found compatible with the internal market if it has an incentive effect. An incentive effect is present when the aid changes the behaviour of an undertaking in a way that it engages in additional activity contributing to the development of an area which it would not have engaged in without the aid or would only have engaged in such activity in a restricted or different manner or in another location. The aid must not subsidise the costs of an activity that

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17 OJ C 223, 16.09.2009, p.3.

18 SA.36754 LIP - HU - Aid for AUDI HUNGARIA MOTOR Ltd; OJ L 310, 17.11.2016

an undertaking would have incurred in any event and must not compensate for the normal business risk of an economic activity.

(73) Paragraphs 64-65 of the RAG set out the formal incentive effect requirement, i.e. works on an individual investment can start only after submitting the application form for aid.

(74) As mentioned in recital (24) of this decision, an investment into the extension of the regeneration area (mainly replacement of an existing by a new recovery boiler) – based on new, modern, environmentally friendly and effective technology - was launched in 2012 and completed in 2014. The Commission assessed whether this investment project should be considered as the "start of works" of the notified investment project. In fact, the 2012-2014 extension of the capacity of the regeneration area enabled Mondi SCP amongst others (energy efficiency, meeting environmental standards) to increase the pulp production. There are no indications however that the investment project into the regeneration area would constitute the start of works of the notified investment project. An investment into a recovery boiler is a long-term investment (for 30-40 years) and the fact that its capacity was somewhat larger (15%) than what was needed in 2011/2012 seems to be rational to allow the company an extension at a later stage. The additional pulp production capacity created by the investment into the regeneration area was already absorbed in 2016 by the then already existing product portfolio of Mondi SCP. The additional pulp capacity resulting from the 2012 investment is thus not available for the CCM production in Ružomberok[19]. In addition, the company documents in the notified project show that considerations and plans ("kick-off" meeting) on the latter project only started in 2014, when the investment project into the regeneration area was almost completed. This time gap between the completion of the 2012 investment and the planned start of works on the notified investment project , as well as the five year gap between the start of works of the two projects (i.e. 2012 and 2017) also excude that the 2012 investment can be considered to constitute the first step in the notified investment project. Moreover, to cater for the pulp needed for the CCM production, the notified project includes a further significant investment to increase the pulp production capacity.

(75) In view of the above, the Commission concludes that the start of works of the regeneration boiler project does not constitute the start of the notified investment project.

(76) The beneficiary applied for aid on 3 December 2015, i.e. before start of works on the investment. There is no indication that the relevant location decision would *de facto* already have been irreversibly taken before the company formally applied for aid. Hence, the formal incentive effect is proven.

(77) As there are many valid reasons for a company to locate its investment in a certain region, even without any aid being granted, the RAG requires the Commission to verify in detail that the aid is necessary to provide a substantive incentive effect for the investment. In this context – as set out in section 3.5.2 of the RAG – the Member State is also required to provide a comprehensive description of the counterfactual scenario in which no aid would be granted to the beneficiary. The Commission has to verify

[19] Before the notified investment project Mondi SCP was operating four paper machines: three paper machines that were producing office paper for written communication and professional printing, and one paper machine producing specialty kraft paper (for carrier bags, PE coating, ream wrapping and open mouth bags).

that these scenarios are realistic and credible. According to paragraph 68 of the RAG, a counterfactual scenario is credible if it is genuine and relates to the decision-making factors at the time of the decision.

(78) The RAG (see paragraph 69) requires the Member State to demonstrate to the Commission the existence of the incentive effect of the aid and to provide clear evidence that the aid effectively had an impact on the investment choice or the location choice. It thus places the burden of proof regarding the existence of an incentive effect on the Member State.

(79) Paragraph 61 of the RAG stipulates that the (substantive) incentive effect can be proven in two possible scenarios: in the absence of aid the investment would not be sufficiently profitable (scenario 1); in the absence of aid the investment would take place in another location (scenario 2).

(80) Paragraph 71 of the RAG indicates that for scenario 2 – which is invoked by the Slovak authorities in the present case - the Member State could provide the required proof of the incentive effect of the aid by providing contemporary company documents that show that a comparison has been made between the costs and benefits of locating the investment in the assisted region selected with alternative locations. For that purpose, the Member State is invited by paragraph 72 of the RAG to rely on official board documents, risk assessments, financial reports, internal business plans, expert opinions, other studies and documents that elaborate on various investment scenarios.

(81) To verify the viability in a scenario 2 context, all relevant costs and revenues have to be taken into account[20].

(82) The Commission notes that the Slovak authorities submitted the required information in form of comprehensive, contemporary and genuine evidence documenting the decision-making process of the beneficiary (at the level of Mondi Group and at Mondi SCP) concerning the investment and location decision. The documents explain the counterfactual scenario which involves two similar, comparable investments and two locations, Ružomberok in Slovakia and [European location situated outside of the EEA] (located outside of the EEA)[21].

*Comparable alternative investment projects*

(83) The investments considered in the two locations are not fully identical as there is already to a certain extent different equipment available in the two locations; however, the investments address the same product market, and according to Slovakia, also the same geographical market. The investment projects differ insofar as in Slovakia a new paper machine needs to built, while in [European location situated outside of the EEA] an existing paper machine for newsprint can be converted for CCM production. In addition the pulp line in Slovakia only needs to be extended, while in [European location situated outside of the EEA]a new pulp line needs to be installed. The targeted

[20] In compliance with paragraph 80 of the RAG, when analyising all relevant costs and benefits, possible subsidies available in the alternative location may be taken into account if this alternative location is outside the EEA.

[21] No other locations have been taken into consideration as the other existing production mills of the Mondi Group would not have been able to meet the needs of an investment of this type, range and scale in an economically viable way.

additional CCM capacities are very close (270 ktons vs 300 ktons), whilst the CCM grades produced would be slightly different, but still belonging to the same CCM product market. Company documents show that there would be a large overlap of potential customers served from the Slovak and the [European location situated outside of the EEA] plant.

(84) In this context, the beneficiary stressed that as both investments are targeting the same market (CCM), it can only execute one of the projects at the same time. There is no indication that the company would carry out both investments in the near future, and the company also assessed the probability of a significant investment into additional CCM production in [European location situated outside of the EEA] with start of works before 2020 as "very low"[22].

(85) The [European location situated outside of the EEA] plant is fully owned by the Mondi Group, while the Slovak plant belongs to a joint venture between Mondi Group (51%) and Eco-Investment (49%). The Commission takes note that being a strategic partner of Eco-Investment, Mondi Group assesses investment opportunities and alternatives taking into account the full costs and benefits of Mondi SCP, even if it only has to bear expenses and benefits from revenue only up to the proportion of its shares in the company.

(86) The project planning and project preparation were advanced simultaneously for the two projects, and have reached the same level of completeness: the calculations, revenue and cost estimates for the two options were carried out at the same level of accuracy and the assumptions behind the calculations and forecasts are consistent. Details of these cost calculations - which constitute business secrets - both for investment and operating costs, were made available and explained to the Commission. The Commission verified that the underlying parameters are realistic, and based on all relevant facts decides that the investment projects in Ružomberok and [European location situated outside of the EEA] are sufficiently comparable to take them into account in a scenario 2 assessment as credible counterfactuals.

*Comparative calculations*

(87) The Commission verified whether the assumptions and comparative calculations concerning the expected benefits and costs are realistic and credible.

(88) As far as the revenue side is concerned the following elements were taken into account: As in the two alternative locations different grades of CCM would be produced, the unit prices differ. Similarly, the production capacities are not the same. Therefore, the expected revenues from CCM production are different (EUR 140 million in [European location situated outside of the EEA] vs EUR 191 million in Ružomberok in the year when full capacity will be reached).

(89) The investment cost in [European location situated outside of the EEA] would be substantially lower as important parts of the existing paper machine for the production

22 The beneficiary explained that if the investment is carried out in Slovakia, there will be some demand on the market for CCM that will be unsatisfied and left to the competitors, but it would not justify – from an economic perspective - carrying out a second investment targeting CCM market in [country of the European location situated outside of the EEA]. Furthermore, the current newspaper production (which uses the machines that will need to be converted for CCM production) can still continue to operate profitably for the coming years.

of newsprint paper could be reused and an existing CCM paper machine would be debottlenecked.

(90) As a consequence, the residual value of the assets after the end of the fifteen-year period would be lower in [European location situated outside of the EEA].

(91) The overall production costs - mainly due to significantly lower labour, energy, and raw material costs - would be lower in [European location situated outside of the EEA], and this despite lower transport costs in Ružomberok.

(92) Present values are calculated using different discount rates to reflect location specific risks (i.e. country risk).

(93) Based on these calculations, the NPV of the Ružomberok investment project would have a cost disadvantage of EUR 52 million in present value (EUR 63 million, if the possible [country of the European location situated outside of the EEA] investment incentive is also taken into account) compared to that of the [European location situated outside of the EEA] investment project.

(94) Hence, the Commission considers - based on genuine, contemporary and realistic evidence submitted by the Slovak authorities - that the aid effectively has an impact on the investment's location choice. By reducing the viability gap in favour of Ružomberok, the aid could trigger the still outstanding location decision in favour of Ružomberok.

(95) In view of the above, the Commission considers that the aid meets the formal incentive requirements and has real (substantive) incentive effect.

*3.3.3.4. Proportionality of the aid amount*[23]

(96) According to section 3.6 of the RAG, the aid amount must be limited to the minimum needed to induce the additional investment or activity in the area concerned. For scenario 2 situations, according to paragraph 106 of the RAG, the Member State must demonstrate the proportionality on the basis of documentation such as that referred to in paragraph 72 of the RAG.

(97) Pursuant to paragraph 80 of the RAG, in scenario 2 situations (location incentives), the notified individual aid will be considered to be limited to the minimum, if the aid amount does not exceed the difference between the net present value of the investment in the target area with the net present value in the alternative location, while taking into account all relevant costs and benefits ("net extra-cost" approach).

(98) The Commission notes that the Slovak authorities submitted the required genuine documentation, and considers that the Slovak authorities successfully demonstrated on the basis of this documentation that the proportionality test is met, because the notified aid of EUR 46.3 million in present value does not exceed the calculated cost disadvantage of EUR 52 million (or EUR 63 million taking into account the [country of the European location situated outside of the EEA] investment incentives) of Slovakia compared to the [European location situated outside of the EEA] investment project.

[23] See the following section of this decision regarding conformity with the applicable aid intensity ceiling (see paragraph 81 to 86 and paragraph 107 of the RAG).

(99) The Commission notes that even if aid is granted, the Slovak investment project still has a cost disadvantage of EUR 5.5 million (or EUR 16.5 million taking into account the [country of the European location situated outside of the EEA] investment incentives) relative to the [European location situated outside of the EEA] investment project. The Commission also estimated the extent of the disadvantage of the Slovak plant (i) by extrapolating the NPV brought by every single million EUR of investment in the [European location situated outside of the EEA] project to the amount that is planned to be invested in Slovakia as well as (ii) by extrapolating the NPV brought by every kton capacity created of the [European location situated outside of the EEA]investment project to the capacity that is planned to be created in Slovakia. The Commission concluded that such assumptions lead to an even higher disadvantage of the Slovak investment project relative to the [European location situated outside of the EEA]investment project.

(100) In earlier cases approved under the comparable rules of the IDAC, the Commission accepted that limited differences between aid and net handicap are not only in line with the proportionality test, but also do not put into question the incentive effect of the aid. The Commission notes that the remaining cost disadvantage could be acceptable for the Mondi Group due to certain, non-quantifiable and strategic advantages of carrying out the Slovak investment project (see recital (40) of this decision), presented by Slovakia. In particular the following strategic aspects were considered: not concentrating CCM production in [European location situated outside of the EEA] (in [European location situated outside of the EEA] there is already CCM production) can help the company to reduce exposure to possible negative development of costs for the main raw materials (mainly wood and energy) on the [European country of the location situated outside of the EEA] market. Splitting the CCM production capacity can mitigate risks that would be caused by operational problems in the infrastructure of the mill, which could impact the production of the whole mill. A new innovative product, the Kraft Top White could be introduced on the market, which would allow the Mondi Group to react in a more flexible way to to customers' demand. In case of technical problems (e.g. requiring machine parts or specialised maintenance by international suppliers/service providers), Ružomberok will be more easily accessible, ensuring shorter stillstand periods.

(101) As the cap resulting from the "net extra-cost" approach – i.e. taking into account the difference between the net present value of the investment in the target area and the net present value in the alternative location - is not exceeded, the Commission considers that the proportionality of the aid is demonstrated[24].

#### *3.3.3.5. Conclusion as to the respect of the minimum requirements*

(102) The assessment in recitals (67) to (101) of this decision allows concluding that all minimum requirements laid down in sections 3.2 to 3.6 of the RAG are met.

[24] The Commission carried out the "double cap" analysis of this decision, which is the combination of the net extra cost approach ("aid limited to the minimum necessary", see paragraph 79 of the RAG) and the maximum allowable ceilings (see paragraph 107 of the RAG). The analysis in section 3.3.4.1 showed that the maximum allowable aid intensities are also not exceeded.

### *3.3.4. Manifest negative effects on competition and trade*

(103) Section 3.7.2 of the RAG explicitly list a series of situations where the negative effects on trade and/or competition manifestly outweigh any positive effects, and where regional aid is prohibited:

*3.3.4.1. Manifest negative effect: The (adjusted) aid intensity ceiling is exceeded*

(104) A manifest negative effect would exist according to paragraph 119 of the RAG where the proposed aid amount exceeds, compared to the eligible (standardised) investment expenditure[25], the maximum (adjusted) aid intensity ceiling that applies for a project of the given size, taking into account the required "progressive scaling down"[26].

(105) The applicable regional aid ceiling in the Stredné Slovensko area is 35%. In view of the expected higher distortion of competition and trade, the maximum aid intensity for large investment projects must be scaled down using the mechanism as per paragraph 20(c) of the RAG. The planned total eligible expenditure in present value for the notified investment project is EUR 301.5 million. In application of the scaling down mechanism of paragraph 20(c), this leads to a maximum allowable aid intensity of 16.66% GGE (Gross Grant Equivalent) for the project. The notified aid intensity of 15.35% in this case is thus not higher than the regional aid ceilings corrected by the scaling-down mechanism.

(106) Sections 3.6.1.1 and 3.6.1.2 of the RAG explain which investment costs can be taken into account as eligible costs[27]. In the present case, section 3.6.1.1 applies as the eligible costs for the proposed investment aid are calculated on the basis of investment costs. The acquired assets will be new[28], no leasing costs[29] and no immaterial assets[30] are taken into account. The investment concerns an initial investment in the form of a capacity extension of the existing establishment of Mondi SCP in Ružomberok and in the form of a diversification of the output of an establishment into products previously not produced in the establishment. While there are no specific further conditions for the eligible costs relating to the capacity extension component of the investment project, for the eligible costs relating to the "diversification of an existing establishment" component specific conditions apply. In the latter case in line with paragraph 97 of the RAG the eligible costs must exceed by at least 200% the book value of the assets that are reused as registered in the fiscal year preceding the start of works. Since the pro rata book value of the already existing infrastructure assets that are used for the CCM production amount to EUR 47 million in the fiscal year preceding the start of works, the eligible costs of the notified project exceed by far more this threshold .

[25] The standardised eligible expenditure for investment projects by large firms is described in detail in section 3.6.1.1 and 3.6.1.2 of the RAG.

[26] See paragraph 86 and 20(c) of the RAG

[27] Pursuant to paragraph 20(e ) of the RAG, eligible costs means for the purpose of investment aid, tangible and intangible assets related to an initial investment or wage costs.

[28] See RAG, paragraph 94.

[29] See paragraph 98 of the RAG

[30] See paragraph 100 of the RAG

(107) Thus, the Commission notes that the eligible costs are established in accordance with the RAG.

(108) As the aid intensity does not exceed the maximum allowable and is applied to eligible expenditure established in line with the relevant rules, and as the notification excludes the combination of the notified aid with other aid, the basic requirement identified in paragraphs 107 and 118 not to exceed the maximum aid intensities is met, and the level playing field required by paragraph 81 of the RAG is ensured. Therefore, also the double cap condition, laid down in paragraph 83 of the RAG, resulting from the combination of the net extra cost approach ("aid limited to the minimum necessary", see paragraph 79 of the RAG and section 3.3.3.4**Error! Reference source not found. Error! Reference source not found.** of this decision) with the allowable ceilings is respected.

#### *3.3.4.2. Manifest negative effect: The aid creates overcapacity in a market in absolute decline*

(109) According to paragraph 120 of the RAG, a manifest negative effect arises also where the investment aid creates capacity in a market in absolute decline, as such aid is likely to crowd out competitors, or to prevent low cost firms from entering, and risks weakening incentives for competitors to innovate. This results in inefficient market structures which are also harmful to consumers in the long run.

(110) This verification is however necessary only where additional capacity is created on the relevant geographic market by the aid. Where the investment would have happened in any event ("scenario 2") in the same geographical market, the aid – provided it is limited to the minimum necessary to change the location decision - influences only the location decision, and additional capacity would have come on the relevant geographic market independent of it. Therefore, this verification will normally be required only in scenario 1 situations or in those scenario 2 situations where the alternative locations (i.e. the target region and the most viable region for the implementation) are located in different geographic markets.

(111) In order to determine whether this verification is necessary in the case at hand, the Commission has to assess and establish whether the two alternative locations are situated in different geographical markets. If the locations under consideration are in fact situated in different geographical markets, or if the Commission leaves the question open whether the two locations are situated on the same or different geographical markets, the "overcapacity in a declining market" test needs to be carried out.

(112) To verify whether the investment addresses a market in absolute decline – if the test is necessary - the relevant product and geographic market needs to be defined. A market is in absolute decline[31] if it shows over an appropriate reference period a negative growth rate. The average growth rate of the market concerned (apparent consumption data or sales data) is normally measured over the last three years before the start of the project or on the basis of projected growth rate in the coming three to five years.

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[31] It might also be necessary to verify whether an absolute decline is not hidden behind the effects of business cycle effects on the product market concerned, or caused by other exceptional effects that would bias the results of the standard approach. Constantly sinking product prices might be an indicator for a situation of absolute decline, or simply the result of substantial and continuous technical progress allowing to reduce per unit production costs.

*Product concerned*

(113) The product concerned is normally the product covered by the investment project. However, when the project concerns an intermediate product and a significant part of the output is not sold on the market, the product concerned may be the downstream product. In the case at hand the intermediate product is pulp and the final product is CCM.

(114) The intermediate product resulting from the notified investment project, i.e. the additional pulp will only be used as an input for the CCM production in Ružomberok and will not be sold on the market. Therefore the Commission considers that CCM is the product concerned by the investment.

(115) The new CCM grade, the KTW - characterised by a top layer of hardwood pulp and a bottom layer made out of recycled paper - is comparable and fully substitutable product to fully virgin products (kraftliner) as well as to products produced from recycled paper (testliner).

(116) As there is the possibility to produce a wide range of CCM grades on the new paper machine without any limitations, Mondi SCP will be able to switch anytime from the production of one CCM grade to another. The beneficiary will gradually introduce its new product and plans to place the full capacity of KTW on the market only after three years of operation. In the meantime Mondi SCP will produce different grades of CCM, including brown recycled CCM (brown liner and fluting, 100% recycled fibre).

(117) The Slovak authorities submit that only a negligible part of the CCM produced in Ružomberok will be used within the Mondi Group for the production of corrugated board; therefore, corrugated board does not need to be considered as a downstream product of its own.

(118) The Commission concludes that the "product concerned" by the investment project is CCM.

*Relevant product market*

(119) The Slovak authorities submit that the beneficiary plans to produce both white and brown liner as well as brown fluting in particular in the course of the first three years after the completion of the investment. The beneficiary will gradually introduce KTW in the market and it is planned to be the only product that will be produced after the fourth year following the completion of the aided investment. The beneficiary will be able to produce different grades of CCM (KTW, brown liner/ fluting)[32] according to the demand depending on market developments without any extra costs or additional efforts. The Slovak authorities also emphasised that liners can be directly converted into fluting. There is no investment necessary in order to do so at all. Thus, they consider that the liner is substitutable with fluting from the supply side.

(120) The Slovak authorities emphasize that brown and white liner are not considered separate products by customers and are therefore substitutable from the demand side. The reason is that customers who purchase liners and other CCM are producers of

[32] CCM encompasses both linerboard and fluting. The liner constitutes a flat inner or outer layer whereas the fluting is the undulated layer. CCM is made out of natural wood or recycled fibres. Liners made out of wood (also called virgin) fibres are called kraftliners, whereas liners made out of recycled fibres are called testliners. Liners can be of white or brown colour,whereas flutings are always brown.

corrugated board. Their demand for particular CCM grades regularly varies as it is driven by the actually desired features of the specific corrugated boards that they manufacture. These features are defined by the subsequent customers in the production chain (producers of corrugated boxes etc.). Such features cannot be directly derived from the category of products for whose packaging they are used. Mostly they depend on the customers’ personal preferences. Thus the Slovak authorities emphasise that it is not necessary to distinguish between white and brown liners as each CCM producer needs to be able to produce a wide range of the CCM grades in order to flexibly accommodate its customers’ variable needs. The price pressure and marketing demand on customer side and price developments lower any potential practical differences between brown and white liners. Since they have the same use, any kinds of brown liners and white liners should be considered as full substitutes. Finally, KTW as a new product in the white liner market, brown liner, and fluting, irrespective of the source (recycled paper or virgin fibres) are all to be considered as part of one overall relevant product market for CCM.

(121) The Slovak authorities referred to the Commission's earlier case practice[33] according to which different weights of CCM belong to the same relevant market, since they all are substitutable for the consumer. The reason is that the consumer can replace a single layer of heavier CCM by more layers of cheaper and lighter CCM.

(122) For the above reasons, the Slovak authorities suggest concluding that there is one overall relevant product market for CCM including both linerboard and fluting made from either natural wood or recycled fibres, irrespectively from whether they are white or brown.

(123) In its earlier case practice, the Commission considered that flutings made from recycled fibre and from virgin fibre are substitutes from both the demand and supply side point of view[34]. From demand side there is a substitution as both products have the same basic characteristics and the same use, and the customers in general substitute a heavier recycled fibre based fluting with lighter virgin based fluting, which outweighs the price difference. As regards the supply side substitutability, fluting made from virgin fibre can be produced on the same production line as fluting made from recycled fibre. This is in particular the case for the notified investment project, as it will result into the production of a hybrid CCM (top ply made of hardwood and bottom ply made of recycled paper).

(124) As regards the liners the Commission also established that there is substitutability between recycled fibre based testliner and overall liners from demand side. They have the same use, and the higher price for kraftliner is offset by the possibility to substitute a heavier testliner. The Commission also concluded that testliner and kraftliner are full substitutes from the supply side viewpoint, since every modern paper machine can produce both[35].

(125) The Commission notes that liners can be directly converted into fluting without any additional investment and that therefore liners and flutings are substitutable from the supply side and that therefore CCM producers can easily adapt to customers' needs.

[33] Commission decision in case SA.23827, Germany – Propapier PM2 GmbH, OJ L 179, 8.7.2015

[34] See Commission decision in case SA.23827, Germany – Propapier PM2 GmbH, OJ L 179, 8.7.2015

[35] See Commission decision in case SA.23827, Germany – Propapier PM2 GmbH, OJ L 179, 8.7.2015

(126) Taking into account the above, it could be concluded that the relevant product market for all types of CCM is the overall CCM market. However in its earlier case practice, the Commission left the question of the relevant market open, especially as regards the subdivision into virgin fibre based products and recycled fibre based products.

(127) In the case at hand the beneficiary will be able to deliver a product (KTW) that is based on both virgin and recycled fibres. In the first three years it will gradually introduce the hybrid product and phase out its recycled fibre based CCM. There is a very high flexibility in the production of different CCM grades. The ultimate final product will be the hybrid KTW, which has the characteristics in use and quality as a virgin fibre based and recycled fibre based CCM, therefore the demand substitutablity is also high.

(128) In view of the above, the Commission considers for the purpose of the present state aid assessment that the relevant product market is the CMM overall market and a further segmentation is not necessary. The Commission therefore decided to verify whether the aid creates overcapacity in a market in absolute decline on the overall CCM market.

*Relevant geographic market*

(129) The Slovak authorities argue that the relevant geographic market for the overall paper and packaging production and CCM in general is world-wide, but in any case wider than just EEA. CCM is traded at least on the EEA market, including at least Russia and Turkey or possibly even world-wide.

(130) The Slovak authorities explain in this context that the overall paper and packaging production is currently traded on world-wide basis. Prices and quality of the respective products are similar in different countries around the world. The logistics costs constitute only a small part of the total manufacturing expenses. In addition, possible disadvantages in logistic costs can be offset by other main input costs, such as fibre costs or energy costs. Based on internal analysis of the the Mondi Group EU exports and imports of these products are significant from/to Russia, Turkey, the USA, Latin America, Asia, Africa, countries of Europe outside the EEA and rest of the world.

(131) The Slovak authorities also stressed that large amount of CCM that are currently produced by Mondi Group and by other CCM producers within the EEA is exported to non-EEA-countries, in particular to Russia or Turkey. On the other hand, many producers of corrugated board or corrugated boxes within the EEA import the relevant CCM from non-EEA-countries and in particular from Russia or Turkey. Therefore, there is a significant competition between CCM producers from EEA and at least Russia or Turkey. To support their conclusion, the Slovak authorities provided the following data and statistics:

- Statistics based on the historical data created by an independent company RISI that is focused on providing information and data on forest products around the globe[36]. It follows from the statistics in question that besides the EEA, CCM is normally traded to and from other countries including primarily Russia, Turkey, and also other Southeast European countries outside the EEA;

[36] For more information, please refer to the website of RISI available at: http://www.risiinfo.com/about-risi/.

- Statistics showing that in the past Turkey was a CCM importing country. Now, due to the latest and planned investments Turkey is and also will be even more a CCM exporting country supplying EEA countries with significant volumes;

- Statistics summarised and estimates created by RISI which show that there are significant capacities of CCM in Russia, Turkey and other Southeast European countries outside the EEA. Part of these capacities are exported to EEA;

- Internal Mondi Group's estimates describing the capacities and consumption of CCM within various countries, including Russia and Turkey;

- Statistics created by Orifjon & Associates summarizing the destinations of unbleached, i.e. brown, kraftliner produced in Russia which can be used as both linerboard or fluting. According to these statistics Russian unbleached kraftliner is also exported to Italy, Germany, Turkey, Ukraine, Romania, the United Kingdom, Estonia and Latvia;

For the internal processes and internal statistics regarding the structure of the relevant market for CCM, Mondi Group in its practice relies on the fact that the EEA, Russia and Turkey are part of the same relevant market for CCM.

(132) Even though the Slovak authorities consider that the relevant geographic CCM market includes at least the EEA, Russia and Turkey, and is possibly even global, they nevertheless presented data in this notification for the EEA market. The Commission considered in its earlier case practice that the relevant geographic market is either the EEA, or at least EEA wide For the purpose of the present decision, the Commission decided to leave the question of the exact definition of the geographic market open. Therefore, it will carry out the relevant cometiton tests at the level of the narrower market. Thus, the Commission has to verify whether the aid creates overcapacity in a market in absolute decline at the level of the overall CCM market of the EEA.

*Testing whether the aid creates overcapacity in a market in absolute decline*

(133) The calculations show that the overall CCM market is not in absolute decline in the last three years before the start of the project as it shows positive growth both both in value (2.33%) and volume terms (2.20%)[37]. In addition the Commission notes that the created CCM capacity of 1.1% - compared to the EEA capacity that existed in the year before the start of works - is low, i.e. would be unlikely to have significant effect even if the market was in absolute decline.

(134) Therefore, the Commission concludes that the aid does not contribute to the creation of overcapacity in a market in absolute decline, thus does not have a manifest negative effect on competition.

37 The sales value data was provided on the basis of official prices published by FOEX & VDW. While the sales volume data was provided on the basis of extrapolation of the CAGR of 2002-2015 of the historical data published by RISI.

*3.3.4.3. Manifest negative effect: Counter-cohesion effect*

(135) Paragraph 121 of the RAG lays down an anti-cohesion effect provision that applies exclusively for scenario 2 situations. This provision prohibits[38] the region with the lower project-specific viability to participate in subsidy races to the detriment of equally weak or worse-off regions.

(136) The Slovak authorities confirm that the aid beneficiary considered only one other alternative location for the investment project, namely [European location situated outside of the EEA], which is not in the EEA. None of the existing sites with higher or same aid intensity within the EEA were considered as a feasible location (see paragraph (27)). This information is supported by documents submitted by the aid beneficiary and the Slovak authorities. Therefore, the Commission considers that the aid has no anti-cohesion effect.

*3.3.4.4. Manifest negative effect: Closure of activities elsewhere/relocation*

(137) Pursuant to paragraph 122 of the RAG, where the beneficiary has concrete plans to close down or has closed down within two years preceding the date of applying for aid the same or a similar activity in another area in the EEA and relocates that activity to the target area, if there is a causal link between the aid and the relocation, this will constitute a negative effect that is unlikely to be compensated by any positive elements.

(138) As explained in paragraph (41) Mondi Group closed an SKP producing plant in Finland and an SKP converting plant in Italy in 2015. As the activity of the closed Finnish and Italian plants fall under the same NACE code as the activity to be carried out in Ružomberok, the Commission has to assess whether the closed activities are being relocated to Slovakia, and if so, whether a causal link exists between the Slovak aid and the relocation.

(139) On the basis of the elements provided by the Slovak authorities, as presented in section 2.12 of this decision, the Commission concludes that there is no relocation of activities to Ružomberok:

- The output of the closed plants in Italy and in Finland, SKP seems to belong to different product markets than the CCM production. The NACE code in question (17.12) is very wide and includes many products, where there is often hardly any substitution from supply or from demand side. The products cannot be produced on the same equipment without major additional investments, and serve different purposes and types of customers, and hence address different product markets.

- In the closed site in Italy there was no paper production at all, the activity covered only the conversion of paper (i.e. the Italian plant operated a coater which put silicone on paper produced elsewhere, while the investment project in Ružomberok is for production. There is also no technical link between a paper machine and a coater, and the needed equipment is different.

- The closed activities concern the production of SKP, technologically different from the CCM production, which is planned to be implemented in Ružomberok.

[38] According to paragraph 121 this would constitute a negative element in the overall balancing test that is unlikely to be compensated by any positive elements, because it runs counter the very rationale of regional aid.

The conversion of the paper machines available in the Finnish plant would not have been possible at reasonable investment costs. In addition, there was no pulp production in Finland and it would not have been economically feasible to install pulp production equipment for an operation of this size.

- Even if the production of the Finnish and Italian closed plants had been addressing the same product market as the one in Slovakia, since the production in Slovakia is planned to start in 2020, it would be unlikely that the Mondi Group could keep those customers for 4-5 years without any supplies.

- Finally, it is confirmed that no staff, no assets or no orders will be transferred to Ružomberok from the closed and closing activities and no staff in the closing down establishments is called upon to train new staff in the new establishment.

(140) Based on the information provided by the Slovak authorities, the Commission has not identified any other EEA establishments from where the beneficiary may have relocated activities to the aided establishment, in order to assess whether there would be any causal link between such relocation and the aid measure at hand.

(141) In view of the above, the Commission concludes that the notified aid has no causal effect for any relocation of existing/closed down activities to Ružomberok.

*3.3.4.5. Conclusion as to the existence of manifest negative effects on competition and trade*

(142) The assessment in recitals (104) to (141) of this decision therefore allows to conclude that the aid has no manifest negative effect on competition or trade in the meaning of section 3.7.2.

### *3.3.5. Balancing of positive and negative effects of the aid*

(143) Paragraph 112 of the RAG lays down the following: "For the aid to be compatible, the negative effects of the measure in terms of distortion of competition and impact on trade between Member states must be limited and outweighed by the positive effects in terms of contribution to the objective of common interest. Certain situations can be identified where the negative effects manifestly outweigh any positive effects, meaning that aid cannot be found compatible with the internal market."

(144) The assessment of the minimum requirements showed that the aid measure is appropriate, that the counterfactual scenario presented is credible and realistic, that the aid has incentive effect and is limited to the amount necessary to change the location decision of the beneficiary. By triggering the location of the investment in assisted region, the aid contributes to the regional development of the Ružomberok area (Žilina region, Stredné Slovensko). The assessment also showed that the aid has no manifest negative effect: it does neither lead to the creation or maintenance of overcapacity in a market in absolute decline, nor does it lead to excessive effects on trade, it respects in particular the applicable regional aid ceiling, has no anti-cohesion effect, and is not causal for the relocation of activities from other contracting parties of the EEA to Ružomberok. In addition, the aid does not entail a non-severable violation of EU law39.

[39] See paragraph 28 of the RAG

(145) Undue negative effects on competition that would have to be taken into account in the remaining balancing are identified in paragraphs 114 and 115 and 132 of the RAG and concern the creation or reinforcement of a dominant market position or the creation or reinforcement of overcapacities in an underperforming market (even if this market is not in absolute decline).

(146) The Commission considers that the aid does not lead to (or reinforces) a dominant market position of the aid beneficiary, as the company does not possess a substantial market power ([<10]% market share, both in sales value and sales volume terms on the overall CCM market in the EEA) and the prognosis until 2022 does also not foresee an increase in market share that would allow the company to create significant market share.

(147) Underperformance is normally measured compared to the EEA GDP over the last three years before the start of works, and a market is considered to be in relative decline, if its average growth rate of the given market does not reach the average growth rate of the EEA GDP. In case of the CCM market in the EEA, the average growth rate both in volume (2.2%) and value (2.33%) terms does not reach the average GDP growth rate in the EEA (2.68%). On the basis of these figures, the Commission notes that the CCM market is growing in absolute terms, but stays slightly below the average growth rate other sectors can realise within the EEA. The Commission also notes that the overall capacity increase of 1.1% this investment will create is rather limited. If the current average volume growth rate of 2.2% is forecasted for the following years of the CCM market, the Commission considers that the market is very unlikely to have difficulties absorbing the additional capacity created by the investment.

(148) In the present case, also the effect of the aid on trade is limited since the regional aid ceiling is respected and the measure has no counter-cohesion and relocation effects.

*Conclusion as to the overall balancing*

(149) As the aid meets all minimum requirements, has no manifest negative effect, and the analysis in recitals (145) and (148) shows that it has only very limited effect on competition and trade, the Commission considers that the substantial positive effects of the aid on the regional development of the Ružomberok area (Žilina region, Stredné Slovensko), and in particular the employment and income generation effects of the investment, clearly outweigh any negative effects.

#### *3.3.5.1. Transparency*

(150) In view of paragraph II.2 of the Commission's Transparency Communication[40], Member States must ensure the publication on a comprehensive State aid website, at national or regional level, of a full text of the approved aid scheme or the individual aid granting decision and its implementing provisions, or a link to it; the identity of the granting authority or authorities; the identity of the individual beneficiaries, the form and amount of aid granted to each beneficiary, the date of granting, the type of undertaking (if SME or large enterprise), the region in which the beneficiary is located

[40] Communication from the Commission amending the Communications from the Commission on EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks, on Guidelines on regional State aid for 2014-2020, on State aid for films and other audiovisual works, on Guidelines on State aid to promote risk finance investments and on Guidelines on State aid to airports and airlines, OJ C 198, 27.6.2014, p. 30.

(at NUTS 2 level) and the principal economic sector in which the beneficiary has its activities (at NACE group level). Such information must be published after the decision to grant the aid has been taken, must be kept for at least ten years and must be available to the general public without restrictions.

## 4. CONCLUSION

(1) The Commission has accordingly decided:

- not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(a) of the Treaty on the Functioning of the European Union.

(2) The Commission reminds the Slovak authorities of their commitment to fulfil the reporting obligations.

(3) The Commission further reminds the Slovak authorities that all plans to modify that aid measure must be notified to the Commission.

(4) Finally, the Commission notes that the Slovak authorities agreed to have the present decision adopted in the English language.

If this letter contains confidential information, which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site:

http://ec.europa.eu/competition/elojade/isef/index.cfm.

Your request should be sent by registered letter or fax to:

European Commission
Directorate-General for Competition
State Aid Registry
B – 1049 Brussels
Fax No: 32 2 296 12 42

Yours faithfully,

For the Commission

Margrethe VESTAGER
Member of the Commission