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Bucharest, 23 April 2009

Dear Mr. Julio Garcia Burgues

RE: The Kronospan case/Sebes/Romania and its compliance with EU and national directives and norms for environmental protection

The Independent Center for Environmental Protection at Sebes is an NGO based in the town of Sebes/Romania, which has a population of 37,000. Its goal is to stop the pollution generated by Kronospan, an international wood processing company, which has an industrial plant located in Sebes. The *Independent Centre for the Development of Environmental Resources* (ICDER) is a non-governmental organisation (NGO) based in Cluj-Napoca. It implements programs and projects to defend the public's constitutional right to a clean environment; to help develop the NGO sector in Romania, and to improve the decision-making processes of public authorities.

Both groups have been closely monitoring Kronospan's activities in the town of Sebes. Over time these have had an adverse impact on the local environment and the health of the local population. It has been estimated that Kronospan's five chimney stacks release 36,000,000 cubic metres of chemical emissions per day and 1.8 tonnes of fine wood dust, impregnated with formaldehyde and other toxic matters. The constant and elevated discharge of substances such as PM10ⁱ respirable particulate matter and formaldehyde are of particular concern, given PM10'sⁱⁱ known contribution to premature deaths and formaldehyde having been classified as carcinogenic by the World Health Organisation.ⁱⁱⁱ

Kronospan has also been operating its Sebes plant in breach of important laws. During 2007 the company built an extension to their Sebes formaldehyde plant for which they have neither environmental nor construction permits. In February 2008 Kronospan's current factory had a technical accident which led to the release of 800kg of formaldehyde. The company did not report the accident. Fortunately it was detected by an air quality monitoring station installed by the local environmental protection agency (EPA). Not that this has been the only case of substantial formaldehyde emissions by Kronospan Sebes in 2008. According to the EPA by mid-July 2008 legal limits of formaldehyde emissions into the environment had been exceeded on 13 occasions.^{iv}

A detailed account of all legal issues surrounding Kronospan's activity in Sebes, as well as its severe impact on the population and environment's health already generated in the town of Sebes can be found in the fact sheet attached.

Our concerns mostly surround the failure from the part of the competent Romanian authorities to fully comply with the relevant EU and Romanian normative acts in the field of human settlements protection from industrial pollution, in the field of air quality and in the field of financial insurance against environmental liability. This becomes clear when:

- one assesses how the environmental guard has over the time controlled and sanctioned the company for its infringements of legal limits of pollution and illegal extensions of existing facilities. The following examples prove that the Romanian authorities do not have the will not the capacity to authorize, control, monitor and sanction Kronospan's industrial platform from the town of Sebes in full respect of all European and national normative acts applicable in the field.

As such, between 2004 and 2007 Kronospan functioned with no environmental authorization whatsoever. In 2007 it obtained an environmental authorization, however Environmental authorization SB 67/2007 violates Emergency Governmental Ordinance (OUG) 152/2005 which transposes the IPPC Directive because it does not contain the mandatory monitoring requirements and contains no conditions regarding the capacity and time-line for storing the hazardous waste. According to an official letter from the Alba Environmental guard, between 2004 and 2008 a total of 14 sanctions in the form of fines were applied to Kronospan by this institution for exceeding legal limits of pollutants, totalling in value 200000 euros. Besides the fact that all sanctions were contested in court by the company, which increases the costs of the environmental authority, costs that end up being paid by the tax payers, it becomes evident why Kronospan prefers to pollute instead of investing into technologies to protect the environment, in strict monitoring of emissions, in keeping the emissions into legally admitted limits and in a veritable consultation process with the affected community.

During 2007, Kronochem a sister company of Kronospan Sebes assembled on the Sebes industrial platform a formaldehyde production unit to double the current annual production (60000 t/a). This unit which has no environmental accord and no construction permit gravely violates OUG 195/2005 on environmental protection and Law 50/1991 on the authorisation of construction works. The Alba environmental guard fined the company and requested the demolition of the illegal unit. However, it has done so via an act that has proven in court to be procedurally incorrect and as such was annulled by the competent court.

What's more, Kronochem launched at the regional environmental protection agency (ARPM) in Sibiu an authorization procedure to obtain an environmental avis for the detailed urbanistic plan (PUD). This move would create the framework to build the already existing formaldehyde production unit. According to the provisions of Governmental Decision (HG) 1076/2004 on the environmental impact assessment for plans and programs (SEA) and according to the provisions of Law 350/2001 on the territorial management and urbanism, ARPM Sibiu should not have initiated the SEA procedure for a PUD wherein the construction under evaluation already exists. ARPM Sibiu should have rejected the request for an environmental avis from the very beginning. The principal aim of the environmental assessment can not be achieved in a case where plans which are submitted for approval have already been implemented - in this case with the erection of the unit. This makes it impossible to assess the environmental baseline and its evolution in absence of the plan ('zero' alternative). On the contrary, in April 2009 ARPM Sibiu issued the environmental avis.

- when one considers that Kronospan's industrial platform functions in the residential area of Sebes, with no buffer zone for population's protection from industrial pollution;
- when one considers that Kronospan does not hold an insurance against environmental liability and as such is not in compliance with *DIRECTIVE 2004/35/CE* on environmental liability.

In light of the above, we are herewith calling upon DG Environment to:

- fully investigate the Kronospan Sebes case, both from the point of view of how the company and the competent authorities are in compliance with the relevant EU Directives and regarding the impact of the Kronospan's industrial platform on the population and environment's health ;
- launch the necessary procedures so that the Council Directive **67/548/EEC** on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labeling of dangerous substances to list the formaldehyde as a cancer-causing substance based on the research and conclusions of the World Health Organization's International Center for Cancer Research;
- exercise pressure on the competent Romanian authorities not to issue an integrated environmental authorization for the Kronospan's industrial platform in Sebes without full respect of all laws, regulations and norms both European and national in the field of human settlements protection from industrial pollution, in the field of air quality and in the field of financial insurance against environmental liability;
- exercise pressure on the competent Romanian authorities to fully enforce the EIA and SEA Directives with regards to Kronospan's newly build facilities for formaldehydes and plied wood production in the town of Sebes and Brasov in the sense of refraining from carrying out any procedure and issue any act that would attempt to legalize the existing illegal facilities.

Sincerely yours,

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i Limit of daily admitted value of PM10: 50ug/mc; Average annual admitted value of PM10 - 20ug/mc.

Values of PM10 measured at Sebes on 23.10.2008: 112.67 ug/mc. Values of PM10 measured at Sebes on 24.10.2008: 77.98 ug/mc.

ii <http://www.gbuapcd.org/pm10.htm> and <http://jech.bmj.com/cgi/reprint/58/10/831>

iii 'Centre international de Recherche sur le Cancer', Communique de Presse No. 153, 15 Juin 2004 at <http://www.iarc.fr>

iv <http://www.jurnalul.ro/articole/129418/kronospan-in-zodia-cancerului>