FROM: Vice President and Corporate Secretary

Inspection Panel

Request for Inspection:

Romania: Mine Closure and Social Mitigation Project

Attached is a memorandum from the Executive Secretary of the Inspection Panel dated January 17, 2006, transmitting a memorandum to the Executive Directors from the Chairperson of the Inspection Panel entitled “Request for Inspection – Romania: Mine Closure and Social Mitigation Project (Loan No. 4509-RO).

Distribution:

Executive Directors and Alternates
President
Bank Group Senior Management
Vice Presidents, Bank, IFC and MIGA
Directors and Department Heads, Bank, IFC and MIGA
DATE: January 17, 2006

TO: Mr. Paatii Ofosu-Amaah

FROM: Eduardo Abbott, Executive Secretary, IPN

EXTENSION: 82617

SUBJECT: Request for Inspection
ROMANIA: Mine Closure and Social Mitigation Project
(IBRD Loan No. 4509-RO)

Attached for distribution to the Executive Directors and Alternates please find a Memorandum from the Chairperson of the Inspection Panel entitled “Request for Inspection ROMANIA: Mine Closure and Social Mitigation Project (IBRD Loan No. 4509-RO) dated January 17, 2006.

Attachments
MEMORANDUM TO THE EXECUTIVE DIRECTORS AND ALTERNATES OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

SUBJECT: Request for Inspection
ROMANIA: Mine Closure and Social Mitigation Project
(IBRD Loan No. 4509-RO)

Please be advised that on January 6, 2006, the Inspection Panel (the “Panel”) received a Request for Inspection (the “Request”) related to the above-mentioned Project. The Panel registered the Request for Inspection in the Panel’s Register on January 17, 2006, as provided in paragraph 17 of the Panel’s Operating Procedures. It also delivered a copy of the Request to the President of IBRD pursuant to paragraph 17 of the IBRD Resolution that established the Panel. Enclosed for your information are:

(1) A copy of the Notice of Registration; and
(2) A copy of the Transmittal Memorandum to the President.

Enclosures
NOTICE OF REGISTRATION

Re: Request for Inspection
ROMANIA: Mine Closure and Social Mitigation Project
(IBRD Loan No. 4509-RO)

On January 6, 2006, the Inspection Panel (the “Panel”) received a Request for Inspection (the “Request”) related to the Romania: Mine Closure and Social Mitigation Project (the “Project”). The company SC Ergio Prod SRL submitted the Request on its own behalf and on behalf of inhabitants that live in the area known as Vermesti, Comanesti City in Bacau County in Romania. SC Ergio Prod SRL is a company specialized in wood processing and is situated at the Vermesti Mines road in Vermesti. The Request for inspection includes 29 pages as annexes, among them a copy of 30 signatures of inhabitants from the area, authorizing SC Ergio Prod SRL to represent them and to act on their behalf.

According to the Project Appraisal Document (PAD), the Project’s objective is to support the Government’s efforts to reduce the burden on the national budget of Romania by closing uneconomic mines in a socially and environmentally sustainable manner, and to provide support to the modernization of the sector’s administrative framework.1

The Project’s objective is to be achieved through support for three components: (1) the closure of 29 uneconomic mines and the environmental remediation of mine sites; (2) the financing of social mitigation initiatives to help diversify the local economy in support of the Government’s restructuring program for the mining sector; and (3) technical and institutional assistance.

The Requesters claim that they have been harmed by the Project.\textsuperscript{2} They state that the mine closure operations – in particular massive ground transportation by heavy cars and trucks used for Project works – greatly damaged the Vermesti Mines road, used by the Requesters. This required them to make rearrangements and to repair the road at their own cost. They add that their own cars have suffered damages from the deteriorated condition of the road.

The Requesters assert that the works related to the environmental reconstruction of the Vermesti Mine area failed to protect adequately the land surrounding the mine area. They claim that their land has been filled with water because of insufficient provisions for water drainage channels.

The Requesters state that, as a consequence of the activities related to the closure of the Vermesti mine, massive rains in 2004 and 2005 flooded their area and negatively affected them. According to the Request, sterile material from the waste dump was carried by the rainwater onto the Requesters’ area and clogged the Vranceanu brook, thus reducing the brooks capacity to absorb the rainwater. The Requesters claim that the water from the waste dump of the Vermesti mine has reached their area and damaged the production machines of SC Ergio Prod SRL and the timber needed for production. They fear that the company will have to close and dismiss its 105 employees. The Requesters believe that the situation caused by the mine closure operations has put them under a great risk of being flooded again.

The Requesters also claim that the flooding has made it impossible to cultivate the land. According to them, many of the affected landowners are poor.

The Requesters also assert that as a consequence of the above-mentioned problems, the authorities decided not to continue existing permits for water management. The Requesters now fear that if they carry on their activities without the necessary permit they might be subject to legal actions.

The Requesters state that, when they tried to bring their concerns to the attention of the Bank, they faced difficulties in receiving information about whom to contact in the Bank. They contacted the Bank’s country office but claim that they did not receive an adequate response. They therefore request that the Panel recommend an investigation to the Board of Executive Directors.

With regard to the Bank’s failure to comply with its operational Policies and Procedures, the Requesters state that they are unable to be specific about relevant policies because they have not been able to access Project documents. However, the Requesters

\textsuperscript{2} In the Request, the Requesters refer to the more recent World Bank-financed “Mine Closure, Environmental and Socio-Economic Regeneration Project”, which was approved on December 16, 2004 and went into effect on June 27, 2005. According to the PAD, this Project constitutes one of several interrelated elements of the World Bank supported reform process of the Romanian mining sector. After an initial review, the Panel understands that the Request also concerns another Project named the “Mine Closure and Social Mitigation Project”, which covers the area in which the Requesters are situated and which, according to the PAD, is another of the interrelated elements of the World Bank-financed reform process (PAD for a Mine Closure, Environmental and Socio-Economic Regeneration Project, November 18, 2004, p.1).
claim that the Bank has failed to ensure that the Project improves the situation of their community and failed to recognize that the Project worsens the community’s situation.

The above claims may constitute a failure of the Bank to comply with various provisions of the following operational Policies and Procedures, including:

- OD 4.01 Environmental Assessment
- OD/OP/BP 13.05 Project Supervision
- World Bank Policy on Disclosure of Information

All communications with the Requesters in connection with the Request will be sent until further notice to Mr. George1 Merlusca, SC Ergio Prod SRL, Moldovei Str. No. 79, Comanesti, Bacau, Romania, 605200.

In accordance with paragraph 17 of the Panel’s Operating Procedures (the “Operating Procedures”), I am notifying you that I have, on January 17, 2006, which is also the date of the dispatch of this notice, registered this Request in the Inspection Panel Register.

In accordance with paragraph 18 of the IDA Resolution that established the Panel (“Resolution”), paragraphs 2 and 8 of the “Conclusions of the Board’s Second Review of the Inspection Panel” (the “1999 Clarifications”), and paragraph 18 (d) of the Operating Procedures, Bank Management must provide the Panel, no later than February 15, 2006, with written evidence that it has complied, or intends to comply, with the Bank’s relevant policies and procedures in relation to the above-referenced Project. The subject matter that Management must deal with in a response to the Request is set out in paragraphs 3 and 4 of the 1999 Clarifications.

After receiving the Management response, the Panel will, as outlined in the 1999 Clarifications and as provided by paragraph 19 of the Resolution, “determine whether the Request meets the eligibility criteria set out in paragraphs 12 to 14 [of the Resolution] and shall make a recommendation to the Executive Directors as to whether the matter should be investigated.”

The Request has been assigned IPN Request Number RQ06/2.

Yours sincerely,

[Signature]

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3 This is not an exhaustive list of Bank Policies and Procedures that might have been violated.
TO:

Mr. George1 Merlusca
SC Ergio Prod SRL
Moldovei Str. No. 79
Comanesti, Bacau
Romania
605200

Mr. Paul D. Wolfowitz
President
International Bank for Reconstruction and Development
Room MC12-750

[By hand against confirmation]

CC:

The Executive Directors and Alternates
International Bank for Reconstruction and Development
IPN REQUEST RQ06/2

January 17, 2006

MEMORANDUM TO THE PRESIDENT OF THE
THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Request for Inspection
ROMANIA: Mine Closure and Social Mitigation Project
(IBRD Loan No. 4509-RO)

In accordance with paragraph 17 of the IBRD Resolution that established the Inspection Panel (the “Resolution”) and paragraph 17 of the Inspection Panel’s Operating Procedures (the “Operating Procedures”), I hereby notify you that on January 6, 2006, the Inspection Panel (the “Panel”) received a Request for Inspection (the “Request”) related to the above-referenced Project.

I have on January 17, 2006, which is also the date of the dispatch of this notice, registered the Request in the Inspection Panel Register. Enclosed are:

1. A copy of the Notice of Registration; and
2. A copy of the Request for Inspection

In accordance with paragraph 18 of the Resolution, paragraphs 2 and 8 of the “Conclusions of the Board’s Second Review of the Inspection Panel” (the “1999 Clarifications”), and paragraph 18 (d) of the Operating Procedures, Bank Management is hereby notified that it must provide the Panel, no later than February 15, 2006, with written evidence that it has complied, or intends to comply with the Bank’s relevant policies and procedures in relation to the above-referenced Projects. The subject matter the Management must deal with in a response to the Request is set out in paragraphs 3 and 4 of the 1999 Clarifications.
After receiving the Management response, the Panel will, as outlined in the 1999 Clarifications and as provided by paragraph 19 of the Resolution, "determine whether the Request meets the eligibility criteria set out in paragraphs 12 to 14 and shall make a recommendation to the Executive Directors as to whether the matter should be investigated."

The Request has been assigned IPN Request Number RQ06/2.

Enclosures:

Request for Inspection
Notice of Registration

To: Mr. Paul Wolfowitz
President
International Bank for Reconstruction and Development
Room MC12-750

[By hand against confirmation]

cc: The Executive Directors and Alternates
International Bank for Reconstruction and Development
To: Executive Secretary, The Inspection Panel,  
1818 H Street, NW, Washington, DC 20433, USA

We, SC “ERGIO PROD SRL” in our own name and as representar,t of the inhabitants which  
lives in the area known as Vermesti, Comanesti city, Bacau county, Romania. Our address is Moldovej  
str., no. 79, Comanesti city, Bacau county, Romania, with the factory in Vermesti, Ciresoaia str. 

We have suffered and suffer further on damages because of the working made on the program  
“The Mines Closure, environmental and socio-economic regeneration” located in Romania, Bacau  
county, Comanesti city, Vermesti mine.  

The suffered damages contains two aspects: 
1. Were carried out massive transportations of ground with heavy cars which has leads at the  
highly deterioration of the road between the former Comprel company an the former Vermesti  
mine (aprox. 2,000m). Our company has made reparations and rearranging working of this road 
using as materials broken stones and ballast and also our machines (excavator and compactor).  
Those working were made starting with the year 2000 and continuing with 2002, 2003, 2004.  
Each year when the working executan? of the program for closure of the mine were carried out 
the ground, the road has been deteriorated requiring reparations and rearranging made on our 
expenses. Because of the bad condition of the road, our companies' cars which runs every day 
on this road, suffer a grater physical wearing than if the road would be in a normal condition. 

2. On the waste dump of the Vermesti mine were been realized channels for collecting of the 
humidity excess which evacuates an supplementary flow of water in Vranceanu brook over its 
capacity and after the massive rains from 2004 - 2005 the sterile material from the waste dump 
was carried out by the pluvial waters in the Vranceanu brook and has reduced significant its  
capacity of taking over of water by its clogging. Because of this in the year 2004 were produced  
inundations which meant for our company damages with value of 20,540$ and in the year 2005  
were produced inundations with value of 65,987.95 lei (21,286.44$) (18,329.99€). Also 
because of this, the area near the waste dump of Vermesti mine, area in which are we, became 
in danger of inundations, and for this The National Agency “Romanian Waters”, the “System of  
carefully management of waters” Bacau has decided not to prolong the validity of the  
authorization of carefully management of waters and much we are threaten with application of  
the law 310/2004, art. 93, which stipulate that: “continuing the activity after the losing of the 
right obtained by the law, respectively working without the authorization of carefully  
management of waters it is punished with jail from 1 year to 3 years or with penalty from  
300,000,000 lei to 500,000,000 lei (8,333€ - 13,888) (10,000$ - 16,666$). 

We mention that our company has as object of activity the processing of the wood, we are  
producers of houses, sheds and playhouses, our production is in percent of 96% dedicated for  
the export on the European community market (Italy, Spain, France, Germany, Denmark,  
Cyprus, Greece) and we work in this location from the year 2000, the last authorization of  
carefully management of waters is from September 2003 and it is proofing that at that time,  
weren't in the area conditions of inundations, those conditions were appeared during and 
following the executions of the working on the waste dump of the mine. We mention that we  
are a company with 105 employees and in this actual situation we are obliged to dismiss those  
people and to close the company and this isn't desired either by us or our employees and either  
for the Romanian economy. The situation described above have an influence in a negative way  
both our companies' activity and the way in which the agricultural lands are cultivated by the  
owner from this area which are poor.

We don't know if the operational polices of the World Bank were been violated because we
don't have access to the stipulations of the program "The Mines Closure, environmental and socio-economic regeneration", but, we think that this kind of program must bring benefits to the local community and not damages.

To announce and rectify this situation we made the following steps:

- 25.11.2003 – Address no. 331 of the company “MERSERV SRL” - company which is placed in the same area as us – to “COMINCO BUCOVINA SA” the executant of the of the working for mine closure in which they were request the execution of the working for carefully management of waters – address without answer – send by post;
- 05.05.2004 – Address no. 1172 of the company “ERGIO PROD SRL” to Ministry of the economy and commerce- in which we announced that the companies which are owner of lands near the waste dump, aren't agree with this project because the lands were affected in a negative way by the working made for the closure of the mine and asked that the lands must be bring to the initial aspect- address without answer – send by post;
- 21.04.2004 – Address no 1053 of the company “ERGIO PROD SRL” to Ministry of the economy and commerce – in which we announced that because of the working made for closure of the Vermesti mine following the massive rains from 14.04.2004 our company was flooded and because of that both our production and our goods were affected, and we request execution of the working for directing of the pluvial waters – address without answer - address send by post;
- 08.11.2004 – Address no 3165 of the company “ERGIO PROD SRL” to Comanesti city mayoralty – in which we announced the deterioration of the “Mines” road because of the ground transportations made with heavy cars by the working executant – address put down personally at the city mayoralty;
- 23.11.2004 – Complain to the Investigation Hot-Line of World Bank (by e-mail) – in the specific format which is requested;
- 03.12.2004 – We came back with a request of help from World Bank because we didn't receive any answer to the previous address – by e-mail;
- 07.12.2004 – Answer from Investigation Hot-Line of World Bank in which they told us that they aren't dealing with this kind of cases, but, they send to the relevant Department our complain;
- 21.03.2005 – Convocation from Alexandru Tabarcea lawyer (the lawyer which represent company SC “ERGIO PROD SRL”) to Ministry of the economy and commerce – in which it was called to the conciliation concordant with the stipulation of art. 720\textsuperscript{1} from Romanian Code of civil procedure – for rectify the situation appeared with the occasion of working for closure of the Vermesti mine – convocation without answer;
- 02.12.2005 – Address no 3554 – of the company “ERGIO PROD SRL” - to Romanian Govern, Ministry of Waters, Forests and environmental protection, Bacau county prefect's office, Bacau Work Inspection, Bacau county agency for employment, in which we presented the situation appeared on the execution of closure working for Vermesti mine – send by post;
- 05.12.2005 – We came back with a request to Investigation Hot-Line of World Bank in which we asked for an contact information regarding the relevant Department from World Bank which deals with cases like ours – by e-mail;
- 08.12.2005 – Because we didn't receive any answer we came back with request help in finding the contact information of he relevant Department from World Bank which deals with cases like ours – by e-mail;
- 08.12.2005 – Answer from Investigation Hot-Line of World Bank in which they say that they remember our e-mails from last year and they informed us that we must take contact with The Inspection Panel which deals with this kind of cases, also they send us a presentation brochure of the Inspection Panel:
08.12.2005 – Phone discussion with local office of World Bank – ms. Alexandra Caracoti – which told us to discuss with Ministry of the economy and commerce – The management unit of the project mr. Nicolae Turdean – because she told us that not the local office of World Bank is dealing with this kind of situations but Ministry of the economy and commerce;

08.12.2005 – Phone discussion at Ministry of the economy and commerce with mr. Nicolae Turdean which promise us that in the week 12-17.12.2005 will begin the working of declogging of the Vranceanu brook.

We request the Inspection Panel recommend to the World Bank's Executive Directors that an investigation of these matters be carried out.

Administrator: George1 Merlusca

Signature: Date: dec. 12. 2005

SC ERGIO PROD SRL
MOLDOVEI STR., NO. 79,
COMANESTI, BACAU
ROMANIA
605200
PHONE:0040-234-374131
FAX: 0040-234-374134
E-MAIL: ergio-prod@ergio.ro.

List of attachments:
- copies of the addresses we mention above;
- photos with the lands and the road, last year and this year;
- power of attorney from the inhabitants from this area for representing their interests.