

Report of the Board of Executive Directors on item 8 of the Agenda pursuant to Sections 221 paragraph 4 sentence 2, 186 paragraph 4 sentence 2 of the German Stock Corporation Act (AktG)

A lawsuit had been filed against the resolution adopted during the Annual General Meeting of 10 May 2006 under item 7 of the Agenda regarding the authorization to issue convertible and option bonds and create a conditional capital, which argued that the determination of only a minimum issue price was not permitted. By decision of 21 December 2006, the District Court Kassel ruled in favour of the lawsuit. The appeal aimed against the ruling was rejected by the Upper State Court Frankfurt am Main, civil senates in Kassel, by judgment of 16 May 2008, which has become unappealable.

Considering the uncertain outcome of the legal dispute and the long time that would probably have passed until the German Federal Court of Justice would have rendered a judgment, the company decided not to lodge an appeal on points of law. The concerns that were raised against the effectiveness of the shareholder resolution at the time are no longer relevant, since the law now explicitly permits the determination of a minimum issue price when adopting a resolution about the creation of a conditional capital through a clarification in Section 193 paragraph 2 of the German Stock Corporation Act (AktG).

We report in detail on the authorization resolution proposed to this year's Annual General Meeting under item 8 of the Agenda, particularly the subscription right exclusion in No. 2, lit. c) of the resolution proposal, as follows:

The issuance of convertible bonds and/or option bonds may, in addition to the classical possibilities of taking up debt or equity, provide the opportunity to utilize attractive financing alternatives on the capital markets depending on the market situation. The Board of Executive Directors believes that it is in the interest of the company to have this financing possibility also available to the company.

The issuance of convertible bonds and/or option bonds (together "Bonds") makes it possible to take up capital at attractive conditions. The generated conversion or, as the case may be, option premiums benefit the company's capital base and thereby enable it to utilize more advantageous financing opportunities. The possibility to also establish conversion obligations in addition to the grant of conversion and/or option rights, which are also provided for, expands the structuring scope for this financing instrument. The authorization provides the company with the necessary flexibility to place the Bonds by itself or through direct or indirect affiliates. Other than in Euro, Bonds may also be issued in the legal currency of any other OECD country. In order to achieve a balanced relationship between the company's interest in expanding the basis of its financing possibilities through the aforementioned instruments and the interests of the shareholders to be protected against any unreasonable dilution of their shareholdings, the conditional capital shall be created only up to a maximum amount of ten percent of the share capital.

The shareholders will generally also receive a subscription right for convertible or option bonds. The Board of Executive Directors shall, however, be authorized, with the consent of the Supervisory Board, to exclude the subscription right of the

shareholders when Bonds are issued against cash contributions in corresponding application of Section 186 paragraph 3 sentence 4 of the German Stock Corporation Act (AktG), insofar as the issuance of shares based on conversion or, as the case may be, option rights or conversion obligations is limited to up to ten percent of the company's share capital.

The possibility to exclude the subscription right enables the company to make use of advantageous stock exchange situations rapidly and to place Bonds on the market quickly and flexibly and based on attractive conditions. Stock markets have become significantly more volatile. Generating the most advantageous issue result therefore depends increasingly on the ability to react to market developments on short notice. Conditions that are advantageous and as close to the market as possible can generally be obtained only, if the offer period for which the company is bound by them is not too long. In the case of rights issues, a safety discount is necessary, which is regularly not insignificant, in order to ensure the attractiveness of the conditions and thus the chances for success throughout the entire offer period. Though Section 186 paragraph 2 of the German Stock Corporation Act (AktG) does permit a publication of the subscription price (and thus in the case of option and convertible bonds of the conditions of the bond) until the third-last day of the subscription period, a market risk nevertheless exists in this case for several days, considering the volatility of stock markets, which may lead to safety discounts when the bond conditions are determined and thus to conditions that are not close to the market. Where a subscription right is granted, an alternative placement with a third party becomes more difficult or, as the case may be, may involve additional efforts because of the uncertainty as to whether it is exercised (subscription behaviour). Finally, the company is unable to react to any change of the market situation at short notice where a subscription right is granted, because of the duration of the subscription period, which may lead to detrimental capital procurement for the company.

The interests of the shareholders are protected in the case of an exclusion of subscription rights in accordance with Section 186 paragraph 3 sentence 4 of the German Stock Corporation Act (AktG), since Bonds will not be issued significantly below market value. The market value is to be determined in accordance with recognized financial mathematical principles. For this purpose, the expert opinion of an experienced investment bank or accounting firm will be obtained. When determining the price, taking account the respective situation on the capital markets, the Board of Executive Directors will keep the discount from the market value as small as possible. As a consequence, the imputed value of a subscription right will effectively approach zero so that the shareholders cannot suffer a significant economic loss through the exclusion of the subscription right. The shareholders are also able to maintain their participation in the company's share capital at nearly identical conditions through an acquisition over the stock exchange. Their financial interests are reasonably protected thereby. The authorization to exclude the subscription right in accordance with Section 186 paragraph 3 sentence 4 of the German Stock Corporation Act (AktG) applies only to Bonds with rights to shares, to which a proportionate amount of the share capital totalling no more than ten percent of the share capital is attributable at the time the resolution is adopted on 11 May 2010 or, if it the amount of the share capital is lower at that time, at the time when the authorization is exercised. Shares are credited towards this maximum amount, which are otherwise issued

with exclusion of the subscription right or in accordance with Section 186 paragraph 3 sentence 4 of the German Stock Corporation Act (AktG). This credit occurs in the interest of shareholders in the smallest possible dilution of their participation.

Furthermore, the Board of Executive Directors is to be provided with the possibility, with the consent of the Supervisory Board, to exclude the subscription right of shareholders in order to grant a subscription right to the holders or creditors of convertible and/or option rights or of convertible bonds with conversion obligations to the extent to which they would be entitled to after an exercise of the conversion or, as the case may be, option rights or after fulfilment of the conversion obligation. This makes it possible to prevent that if the authorization is exercised, the option or, as the case may be, conversion price for the holders of already existing conversion or, as the case may be, option rights will have to be reduced under the option and conversion conditions or that the company may have to provide other dilution protection.

The Board of Executive Directors is furthermore to be authorized, with the consent of the Supervisory Board, to exempt fractional amounts from the subscription right. Such fractional amounts may result from the amount of the respective issue volume and the calculation of a practicable subscription ratio. Excluding the subscription right in these cases makes it easier to implement the capital measure. The free fractions excluded from the shareholders' subscription right are either sold over the stock exchange or are realized otherwise in the manner most beneficial for the company.

Finally, the Board of Executive Directors is also to be authorized, with the consent of the Supervisory Board, to exclude the subscription right of shareholders to the extent that Bonds are issued against consideration in-kind for purposes of acquiring enterprises, participations in enterprises, or parts of enterprises, if the value of the consideration in-kind is adequate in relation to the value of the Bonds. This makes it possible to use Bonds as and acquisition currency in suitable cases, thereby acquiring interesting acquisition target on short notice while preserving liquidity. This is of particular importance for the company, since it is exposed to international competition and since it may be advantageous to take recourse to international partnerships and participations for the development or marketing of products and services. The Board of Executive Directors will examine diligently in each individual case, whether it will make use of the authorization to issue Bonds with the exclusion of subscription rights. It will do this only, if this is in the interest of the company.

The authorization to exclude subscription rights pursuant to lit. c) aa) through c) dd) is limited overall. It applies overall only to Bonds with conversion rights or obligations or, as the case may be, option rights for shares representing a proportionate amount of

the share capital of up to ten percent of the share capital at the time the resolution is adopted on 11 May 2010 or, if the amount of the share capital is lower at that time, at the time when the authorization is exercised. By limiting the authorization to exercise subscription rights, the interest of the shareholders in the lowest possible dilution of their participation is protected.

10 March 2010

The Board of Executive Directors
K+S Aktiengesellschaft