

**Certified translation from German into English (CHANGES NOT CERTIFIED)**

*[Translator's notes in square brackets]*

**ARTICLES OF INCORPORATION**

**o f**

**W a c k e r C h e m i e A G**

**I. General Provisions**

**A r t i c l e 1**

**Name, Registered Office, Financial Year and Announcements**

(1) The name of the Company is:

**Wacker Chemie AG**

(2) It has its registered office in Munich.

(3) The financial year shall be the calendar year.

(4) Announcements made by the Company shall be published in the Official Gazette of the Federal Republic of Germany [*Bundesanzeiger*].

**A r t i c l e 2**

**Objects of the Company**

(1) The objects of the Company are the production and distribution of chemical, biotechnological and metallic products and research into these areas domestically and abroad.

(2) The Company shall be entitled to undertake all measures and carry on all business which is suitable for promoting its corporate purposes. This shall include the setting up of branch offices as well as the acquisition and establishment of other enterprises and

the investment in the same domestically and abroad. It shall be entitled to manage such enterprises or limit itself to the administration of its investments in same. It shall be entitled to outsource its operations in whole or in part to affiliated enterprises.

## **II. Capital Stock and Shares**

### **Article 3 Capital Stock and Shares**

- (1) The total capital stock of the Company shall amount to EUR 260,763,000 (in words: two hundred and sixty million seven hundred and sixty three thousand euros). The capital stock shall be provided through the change of form of Wacker-Chemie Gesellschaft mit beschränkter Haftung (whose registered office is in Munich) pursuant to § 190 et seq. of the German Reorganizations Act [*Umwandlungsgesetz*].
- (2) The capital stock shall be divided into 52,152,600 non par value shares. The shares shall be bearer shares.
- (3) The executive board shall determine what form the share certificates should take.
- (4) Shareholders shall not be entitled to demand that they be issued with share certificates.
- (5) In the event that the Company increases its capital the right of the new shareholders to participate in profits may differ from the manner described in § 60 of the German Stock Corporation Act [*Aktiengesetz*].

### **III. Executive Board**

#### **Article 4 Composition and Rules of Procedure**

- (1) The executive board shall be comprised of one or more persons. The number of members of the executive board shall be decided by the supervisory board. The supervisory board may appoint representatives for members of the executive board.
- (2) The supervisory board shall appoint one member of the executive board to be the board's chief executive officer.
- (3) The supervisory board shall issue rules of procedure for the executive board which indicate, in particular, which business transactions require the consent of the supervisory board.

#### **Article 5 Power of Representation**

- (1) The Company shall be represented by one member of the executive board alone if the executive board is comprised of only one person or if the supervisory board has authorized one member of the executive board to represent the Company alone. Otherwise the Company shall be represented by two members of the executive board or by a member of the executive board and an executive vested with power of commercial representation under German law [*Prokura*] acting together.
- (2) It shall only be possible to grant joint powers of commercial representation.
- (3) The supervisory board may release all or specific members of the executive board as well as authorized signatory vested with power of commercial representation if acting together with a member of the executive board, from the prohibition on multiple representation according to Article 181, 2nd alternative of the German Civil Code (BGB). Article 112 of the German Stock Corporation Act (AktG) remains unaffected

thereby.

#### **IV. Supervisory Board**

##### **Article 6 Composition, Elections and Duration of Service**

- (1) The supervisory board shall be comprised of sixteen members. Eight (8) of its members shall be appointed by the general meeting of shareholders and eight (8) of its members shall be appointed by the employees pursuant to the provisions of the German Co-determination Act [*Mitbestimmungsgesetz*]. The general meeting of shareholders shall appoint candidates individually. Several or all of the supervisory board members may be appointed at one election. No more than two former members of the executive board may be members of the supervisory board.
- (2) The members of the supervisory board and any replacement members shall be elected for the period up until the end of the general meeting of shareholders which adopts the resolutions concerning the ratification of acts of management for the fourth financial year following the commencement of the members' term of office; the financial year in which the members' term of office begins shall not be counted. The general meeting of shareholders may decide upon a shorter term of office at the above election. If a successor is elected to replace a member leaving the supervisory board prior to the expiration of his term of office, the successor's term of office shall run for the remainder of the replaced member's term unless the general meeting of shareholders decides upon a different term of office for the successor.
- (3) It shall be possible when electing a member of the supervisory board to elect a replacement for him at the same time; the replacement shall become a member of the supervisory board if the supervisory board member leaves prior to the expiration of his term of office and no successor for him has been appointed. The term of office of a successor to a member of the supervisory board elected by the shareholders shall expire as soon as a successor for the outgoing member of the supervisory board is appointed; at the latest it shall expire when the term of office of the outgoing member

of the supervisory board expires.

- (4) The members and the replacement members of the supervisory board may resign from office without having to show due cause [*wichtiger Grund*] by giving the chairman of the supervisory board or the executive board four weeks' written notice of resignation. The chairman of the supervisory board – or the deputy chairman should the chairman resign – may agree to shorten this notice period or to dispense with it entirely.

### **A r t i c l e 7** **Chairman and Deputy Chairman**

- (1) The supervisory board shall appoint a chairman and a deputy chairman from its members in accordance with § 27 (1) and (2) of the German Co-determination Act. The term of office of the chairman and the deputy chairman shall be the same as their term of office as members of the supervisory board unless a shorter term of office was decided at the election. Following the end of the general meeting of shareholders at which the members of the supervisory board were newly elected, the supervisory board shall elect the chairman and deputy chairman at a meeting for which no special invitation is required.
- (2) If the chairman or his deputy leave office prematurely, the supervisory board must immediately call a new election.

### **A r t i c l e 8** **Rules of Procedure and Amendments to the Articles of Incorporation**

- (1) Within the framework of the mandatory statutory provisions and these articles of incorporation the supervisory board enacts its own rules of procedure.
- (2) The supervisory board shall be authorized to decide upon amendments to the articles of incorporation which only relate to their wording.

### **A r t i c l e 9** **Notice of Meeting**

- (1) The chairman shall give fourteen days' notice of a meeting of the supervisory board in text form (in writing, as a facsimile or by e-mail); where he is unable to do so his deputy shall do so. In calculating the notice, the day the invitation is sent and the day of the meeting shall not be included. In urgent cases, the chairman may shorten the notice period and give notice of a meeting orally or by telephone.
- (2) The invitation to the meeting must specify the individual points on the agenda. Notice of any additions to the agenda must be given no later than seven days prior to the meeting unless later notification is justified by a case of urgency.
- (3) The chairman shall be entitled to cancel or postpone a meeting in due exercise of his discretion.
- (4) The supervisory board must hold at least four meetings in each calendar year and at least two meetings in each calendar half year.

**A r t i c l e 1 0**  
**The Existence of a Quorum and the Adoption of Resolutions**

- (1) The supervisory board shall be quorate if, after all members have been invited to a meeting, at least half of the required total of members participate in the adoption of a resolution.
- (2) Resolutions shall be adopted with a simple majority of the votes cast unless mandatory statutory provisions require a different majority. If voting by the supervisory board results in an equal number of votes, and if a second vote on the same topic also results in an equal number of votes, then the chairman shall be entitled to cast two votes. § 108 (3) of the German Stock Corporation Act shall also be applied to the casting of the second vote. The deputy chairman shall not be entitled to a second vote. The Chairman shall determine how the meeting should be conducted and the manner of voting. He shall decide in the event that there is an equal number of votes whether a second vote will be taken at the same meeting.
- (3) The supervisory board shall only adopt resolutions on topics on the agenda if proper notice of them was given in the invitation to the meeting. If notice of a topic on the agenda was not given on time, it shall only be possible to adopt a resolution in respect

thereof if no member objects thereto. In such cases members of the supervisory board who were absent must be given an opportunity to subsequently object to the adoption of the resolution within a reasonable time limit to be determined by the chairman. The resolution shall first become effective if the absent member of the supervisory board has not objected with the time limit for doing so.

- (4) The supervisory board shall adopt resolutions as a rule at meetings. Absent members of the supervisory board may participate in the adoption of resolutions by the supervisory board and its committees by having their votes submitted in writing by other members of the supervisory board.
- (5) The chairman may decree that the supervisory board is also entitled to adopt resolutions in a telephone or video conference or outside of a meeting by votes cast orally, by telephone, in writing or in text form. There shall be no right to object to the manner of adopting resolutions decreed by the chairman. Such resolutions shall be recorded in writing by the chairman and copies thereof shall be forwarded to all members.
- (6) A record of the negotiations and resolutions of the supervisory board shall be prepared; it shall be signed by the chairman and a copy shall be forwarded to each member of the supervisory board.
- (7) The chairman and, where he is unable to do so, the deputy chairman shall be authorized to submit declarations of intention in the name of the supervisory board.

## **A r t i c l e 1 1**

### **Rules of Procedure and Committees**

- (1) The supervisory board shall set up a committee to carry out the tasks specified in § 31 (3) of the German Co-determination Act immediately after the chairman and his deputy have been elected. The committee shall be comprised of the chairman and his deputy and two additional members. One such additional member shall be elected by a majority of the votes cast by the members of the supervisory board elected by the employees and the other additional member shall be elected by a majority of the votes cast by the members of the supervisory board elected by the shareholders.

- (2) The supervisory board shall be entitled to set up additional committees and appoint its members to serve on such committees. It shall be possible to the extent permitted by law for the supervisory board to transfer its decision-making powers to such committees.
- (3) The supervisory board shall be responsible for determining the composition, powers and procedures of the committees.

## **A r t i c l e 1 2**

### **Remuneration of the Supervisory Board**

- (1) The members of the supervisory board shall receive fixed annual remuneration payable at the end of the financial year amounting to EUR 25,000 (in words: twenty five thousand euros). Members of the supervisory board who join or leave the supervisory board during a financial year shall receive a pro rata share of such remuneration.
- (2) The members of the supervisory board shall receive in addition to the remuneration referred to in paragraph 1 profit-based remuneration for the previous financial year after the annual financial statements have been approved. The profit-based remuneration shall be calculated in accordance with the percentage of return on the total assets (= percentage ratio of the pre-interest and pre-tax result to capital invested pursuant to the IFRS group annual financial statements. In this connection, the invested capital equals the sum of the fixed and current assets minus liquid funds.) If the return on total assets is 3 percent, the profit-based remuneration shall be 25 percent of the base remuneration pursuant to paragraph 1; if the return on total assets is 5 percent, the profit-based remuneration shall be 50 percent of the base remuneration; if the return on total assets is 7 percent, the profit-based remuneration shall be 75 percent of the base remuneration; if the return on total assets is 9 percent, the profit-based remuneration shall be 100 percent of the base remuneration; and if the return on total assets is 11 percent or more, the profit-based remuneration shall be 125 percent of the base remuneration
- (3) The remuneration outlined in paragraphs 1 and 2 shall be multiplied by a factor of 3 for the chairman of the supervisory board, by a factor of 2 for his deputy or a chairman of a committee and by a factor of 1.5 for any member of a committee. Where a person serves in more than one function, his additional functions shall not be taken into account, i.e. the chairman and his deputy shall not be entitled to additional factors if they serve on multiple committees and where members of the supervisory board serve on multiple committees, their service shall only be taken into account once.
- (4) The Company shall reimburse the members of the supervisory board for their necessary expenses in the form of a flat fee. The flat fee shall be EUR 12,000 (in

words: twelve thousand euros) per calendar year. The Company shall reimburse the members of the supervisory board for value added tax provided that they are entitled to charge the Company value added tax separately and they exercise this right.

- (5) The Company shall arrange adequate insurance protection for the members of the advisory board, in particular it shall take out D & O insurance for them.

## **V. General Meeting of Shareholders**

### **A r t i c l e 1 3 Place and Notice of Meeting**

- (1) The general meeting of shareholders shall be held at the registered office of the Company, at the registered office of a German Stock Exchange or in a German town with more than 100,000 inhabitants.
- (2) Notice of the general meeting of shareholders shall be given at the latest 30 days prior to the last registration date. The day of the notification and the last registration day shall not be included.

### **A r t i c l e 1 4 Right of Participation and Voting by Proxy**

- (1) Only those shareholders who have registered themselves in text form with the Company or with an office designated in the notification of the general meeting of shareholders no later than seven days prior to the general meeting of shareholders (last registration day) shall be entitled to participate in the general meeting of shareholders and vote.
- (2) Shareholders must prove that they are entitled to participate in the general meeting of shareholders by producing a certificate from the institution managing their account confirming their shareholding. This certificate must be in text form and in either English or German. The proof of shareholding must indicate that they held their shares at the

beginning of the twenty-first day prior to the general meeting of shareholders and be received by the Company or by an office designated in the invitation to the general meeting of shareholders no later than seven days prior to the general meeting of shareholders. The Company shall be entitled to request suitable additional evidence if it doubts the correctness or validity of the proof. If such proof is not provided or not provided in a suitable form, then the Company shall be entitled to refuse to allow the shareholder to participate in the general meeting of shareholders. As long as the Company is not listed on the stock exchange, the executive board may also permit another type of proof.

- (3) If the last day for registration is a Saturday, Sunday or statutory holiday at the place where the Company has its registered office, the last working day which precedes such day shall be a substitute for such Saturday, Sunday or statutory holiday.
- (4) The voting right may be exercised by an authorized representative. If neither a financial institution nor a shareholders' association has been authorized to vote, it shall also be possible to grant authority to vote in writing, by facsimile or electronically in a manner to be determined by the executive board. The details in relation to how such authority may be granted shall be included in the invitation to the general meeting of shareholders.

## **A r t i c l e 1 5**

### **Chairmanship of the General Meeting of Shareholders**

- (1) The chairman of the supervisory board shall chair the general meeting of shareholders. Where he is unable to do so, he must select another member of the supervisory board to perform this task. Where the chairman is unable to chair the general meeting of shareholders and he has not selected a replacement, the general meeting of shareholders shall be chaired by a person elected by the members of the supervisory board elected by the shareholders.
- (2) The chairman may decide that topics on the agenda be dealt with in a sequence different to the sequence that was notified. He may determine type, form and sequence of voting. He is entitled to impose a suitable limit on the allowed time for shareholders to speak and ask questions.

**A r t i c l e 1 6**  
**Broadcast of the General Meeting of Shareholders**

- (1) An audiovisual broadcast of the general meeting of shareholders may be made to the public.
- (2) The details of the broadcast shall be regulated by the executive board which will require the consent of the supervisory board and the consent of the chairman during the general meeting of shareholders.
- (3) If the general meeting of shareholders is to be broadcast, then this must be pointed out in the invitation to it and additional details must be given.

**A r t i c l e 1 7**  
**Participation of Executive Board and Supervisory Board**

- (1) The members of the executive board and the supervisory board shall participate in the general meeting of shareholders.
- (2) It shall be possible for members of the supervisory board to participate in the general meeting of shareholders by using an audiovisual broadcast if they are resident abroad or are unable to participate in the general meeting of shareholders because they are fulfilling their own business obligations on the day the meeting is held.
- (3) The chairman of the supervisory board shall be responsible for determining how the audiovisual broadcast shall be effected.

**A r t i c l e 1 8**  
**Adoption of Resolutions and Voting**

Each non par value share shall equate to one vote at the general meeting of shareholders. Resolutions shall be adopted by the general meeting of shareholders with a simple majority of the votes cast unless mandatory statutory provisions require a different majority. In cases where the law requires a majority of the votes cast by the capital stock represented at the passing of a resolution, a simple majority of said votes shall be sufficient unless mandatory statutory provisions stipulate otherwise.

**VI. Annual Financial Statements, Appropriation of Profits and the Ordinary Meeting of Shareholders**

**A r t i c l e 1 9**  
**Annual Financial Statements**

- (1) The executive board must prepare the annual financial statements and management report as well as the consolidated financial statements and the consolidated management report for the previous financial year within the statutory time limits for doing so and submit them to the supervisory board and auditors immediately thereafter. At the same time the executive board must submit a proposal to the supervisory board on how to use unappropriated profit.
- (2) At the time they approve the annual financial statements, the executive board and supervisory board shall be authorized to allocate the net profit for the financial year, which remains after the amounts which have to be allocated to statutory reserves and a loss carry forward has been deducted, in whole or in part to other retained earnings. They shall not be permitted to allocate an amount greater than half of the net profit for the financial year to retained earnings if the other retained earnings exceed half of the capital stock or after such allocation would exceed half of the capital stock.

**A r t i c l e 2 0**  
**Appropriation of Profits and the Ordinary Meeting of Shareholders**

- (1) The general meeting of shareholders shall decide every year in the first eight months of the financial year on the ratification of the actions of the members of the executive board and the supervisory board, on the use of unappropriated profit and on the appointment of the auditors (ordinary shareholders' meeting).
- (2) The general meeting of shareholders may decide to use the unappropriated profit by making a non-cash distribution instead of or in addition to a cash distribution.
- (3) With the consent of the supervisory board, the executive board is authorized to pay the shareholders an interim dividend after the close of a financial year, providing that the interim financial statements show a net profit for that year. The interim dividend shall

not exceed half of the net profit remaining after the amounts stipulated by law or the Articles of Association have been allocated to retained earnings. Furthermore, the interim dividend may not exceed half of the previous year's unappropriated profit.

**A r t i c l e 2 1**  
**Costs of Incorporation**

The Company shall bear the costs of the change of legal form and the associated costs of incorporating the Company, in particular the costs of the registration court, the notary, the publication, the costs of the examination for incorporation, and the legal and tax advice in an amount of up to EUR 50,000.00.