

CIECH Spółka Akcyjna
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Articles of Association
CIECH Spółka Akcyjna
Unified text

With the inclusion of unified text amendments dated 14 January 1997 (Notarial Act, Register A, No. 290/97) introduced by reports prepared in the form of Notarial Acts dated 2 June 1998 (Register A, No. 9719/98), of the 24 May 2000 (Register A, No. 8777/2000), of 27 June 2001 (Register A, No. 19647/2001), of 19 October 2001 (Register A, No. 32749/2001), of 14 February 2002 (Register A, No. 3510/2002), of 28 August 2003 (Register A, No. 21080/2003), of 19 May 2004 (Register A, No. 13729/2004), of 28 June 2004 (Register A, No. 16888/2004), of 29 June 2005 (Register A, No. 11155/2005), of 21 June 2007 (Register A, No. 10277/2007), of 26 June 2008 (Register A, No. 11382/2008), and of 14 September 2009 (Register A, No. 7097/2009).

I. General provisions.

Paragraph 1

1. Company name: „CIECH Spółka Akcyjna”.
2. The company may use its abbreviated name: „CIECH S.A.”

Paragraph 2

The Company's registered offices are located in the capital city of Warsaw.

Paragraph 3

The company operates within the Republic of Poland and beyond its borders.

Paragraph 4

The Company is formed for an indefinite period of time.

Paragraph 5

The company may create divisions, and other organisational units, or create companies, or join with existing companies, or become involved in any legally permissible organisational-legal associations.

II. Company's Business Activity.

Paragraph 6

1. Company's business activity consists of:
 - 1) operating as agents handling the sale of fuel, ore, metals, and industrial chemicals (PKD 46.12.Z),
 - 2) operating as agents specialising in the sale of other defined goods (PKD 46.18.Z),
 - 3) operating as agents handling the sale of all types of goods (PKD 46.19.Z),
 - 4) wholesale of pharmaceutical and medical goods (PKD 46.46.Z),
 - 5) wholesale of fuels and derivative products (PKD 46.71.Z),
 - 6) wholesale of chemical goods (PKD 46.75.Z),
 - 7) wholesale of other semi-finished products (PKD 46.76.Z),
 - 8) non-specialised wholesale (PKD 46.90.Z),
 - 9) goods handling at sea ports (PKD 52.24.A),
 - 10) goods handling at inland ports (PKD 52.24.B),
 - 11) goods handling at other goods-handling points (PKD 52.24.C),
 - 12) warehousing and storage of other goods (PKD 52.10.B),
 - 13) other forms of lending (PKD 64.92.Z),
 - 14) other financial services not classified elsewhere, with the exclusion of insurance and retirement funds (PKD 64.99.Z),
 - 15) purchase and sell property at own cost (PKD 68.10.Z),
 - 16) leasing and management of own or leased property (PKD 68.20.Z),

- 17) legal services (PKD 69.10.Z),
 - 18) market research and public surveys (PKD 73.20.Z),
 - 19) other consulting services associated with business and management (PKD 70.22.Z),
 - 20) head offices and holdings' operations, with the exclusion of financial holdings (PKD 70.10.Z),
 - 21) other professional, scientific, or technical business activity not classified elsewhere (PKD 74.90.Z).
2. In the event that any type of the Company's activities require a permit or licence, the Company will undertake the activity in that capacity, after such permit or licence is granted.

II. Share Capital and Shares.

Paragraph 7

1. The Company share capital equals PLN 140,001,420 (in words: one hundred and forty million, one thousand, four hundred and twenty), and is divided between 28,000,000 (in words: twenty eight million) shares with nominal value of PLN 5 (five) each, including:
 - 20,816 (in words: twenty thousand, eight hundred and sixteen) series A ordinary bearer shares,
 - 19.775.200 (in words: nineteen million, seven hundred and seventy five thousand, and two hundred) series B ordinary bearers shares,
 - 8.203.984 (in words: eight million, two hundred and three thousand, nine hundred and eighty four) series C ordinary bearers shares.
2. In accordance with requirements pursuant to effective regulations, an essential change in Company business activity does not require the acquisition of shares.

Paragraph 8

1. Shares may not be redeemed with the shareholder's permission, through the course of being acquired by the Company (voluntary redemption).
2. The acquisition of treasury shares by the Company with the aim of redemption, requires the General Meeting's consent, expressed as a resolution.
3. The redemption of Company shares requires a General Meeting resolution, which should particularly define the legal basis for the redemption, the amount of compensation due to the shareholder of the redeemed shares or a justification for the redemption of shares without compensation, and the method of reducing the Company's share capital.
4. The Company may issue utility certificates in exchange for the redeemed shares.

Paragraph 9

The Company creates:

- supplementary capital;
- reserve capital;
- earmarked funds;
- other funds provisioned for by the law.

Paragraph 10

Supplementary capital is created for the purposes of covering losses from write-offs in the amount of at least 8% of net profit for the given financial year, until that capital does not reach at least a third of the share capital. The General Meeting defines the amount of write-offs.

Paragraph 11

The reserve capital is created from write-offs from net profit for a given financial year, depending on the supplementary capital, for the purposes of covering specific Company losses or expenses. The decision to create reserve capital, and the amount of write-offs for this capital is made by the General Meeting.

Paragraph 12

The General Meeting decides how the supplementary capital and the reserve capital will be used, providing that a part of the supplementary capital - up to a third of the share capital - may be used solely to cover losses shown in the financial report.

Paragraph 13

1. Earmarked funds are created and abolished by a General Meeting resolution.
2. Earmarked funds may be created from profit write-offs for distribution and other funds, and may be assigned for Company development purposes, Company employees' social purposes, Company's Management Board and employees compensation for annual achievements at work, and other purposes according to Company needs.
3. Company Management Board manages the earmarked funds according to their purpose subject to the General Meeting resolution.

Paragraph 14

1. The shareholders are entitled to a share in net profits shown in the financial report for the previous financial year, audited by a certified Auditor, assigned by the General Meeting to pay the shareholders.
2. The net profit for the given financial year may be assigned to as follows:
 - supplementary capital;
 - reserve capital;
 - earmarked funds;
 - dividend payout to shareholders;
 - other purposes defined by a General Meeting resolution.
3. The date according to which the list of shareholders entitled to a dividend for a given financial year, is established based on a General Meeting resolution. This dividend is paid out on a date defined by the General Meeting resolution. If a General Meeting resolution does not define such a date, the dividend is paid out on a date defined by the Supervisory Board.

Paragraph 15

1. A calendar year is considered a financial year.
2. Within five months following the end of the financial year, the Management Board is obligated prepare and present the Supervisory Board with the previous year's financial report, and the Management Board report on Company operations, as well as the

consolidated financial report, and the capital group operations report with the Company as the parent company, provided that the Company prepared these reports, which were verified by a certified Auditor.

3. Following approval by the Supervisory Board the Management Board report on Company operations, the previous financial year's financial report, and the consolidated financial report, as well as the capital group operations report, whose parent company is the Company, must be approved by the General Meeting.

IV. Company bodies.

Paragraph 16

Company bodies consists of:

- a) General Meeting;
- b) Supervisory Board;
- c) Management Board.

Annual Meeting

Paragraph 17

1. The Annual Meeting takes the form of a general or extraordinary meeting.
2. The Annual General Meeting convenes the Company Management Board. The Supervisory Board may convene an Annual General Meeting if the Management Board does not convene it within the specified time.
3. The following have the right to convene an Extraordinary General Meeting:
 - 1) Management Board,
 - 2) Supervisory Board, if they deem it necessary,
 - 3) shareholders representing at least half of the share capital or at least a half of the total votes in the Company.
4. A shareholder or shareholders representing at least 1/20 of the share capital may request an Extraordinary General Meeting to be convened, and to place specific issues on the agenda of that Meeting. The request, including a justification, should be presented to the Management Board in writing or sent electronically at the e-mail address listed on the Company's website.
5. The agenda of the General Meeting is set by the Company Management Board, and in cases referred to in Paragraph 17, point 3, item 2), and item 3), by the party convening the General Meeting.
6. A Shareholder or shareholders representing at least 1/20 of the share capital may:
 - 1) request specific issues to be placed on the agenda of the next General Meeting electronically at the e-mail address listed on the Company website, not later than twenty one days prior to designated date of the Meeting, and must contain a justification or a draft of the resolution associated with the proposed point on the agenda;
 - 2) Prior to the General Meeting, advise the Company of the resolution drafts associated with issues introduced to the agenda of the General Meeting or matters, which may be introduced to the agenda, in writing or via electronic mail at the e-mail address listed on the Company website.

Paragraph 18

The following falls within the authority and responsibility of the General Meeting:

- 1) review and approve: Management report on Company operations, previous financial year's financial report, consolidated financial report, and the report on capital group operations with the Company as the parent company, provided that the Company prepares the reports; as well as to acknowledge the fulfilment of duties by Company bodies' members;
- 2) pass resolutions on the distribution of profit, or on covering losses;
- 3) adopt General Meeting regulations;
- 4) amend Company Articles of Association;
- 5) change the type of Company business activity;
- 6) dispose or lease an enterprise or its organised portion, and establish limited property rights for it;
- 7) appoint and discharge Supervisory Board members and establish the amount of remuneration for Supervisory Board members;
- 8) appoint and discharge Management Board members, including the President of the Management Board;
- 9) increase or reduce the share capital;
- 10) pass resolutions in reference to issuing bonds, including convertible bonds;
- 11) merge the Company with other companies, divide and transform the Company;
- 12) dissolve the Company;
- 13) grant the Company permission to acquire shares for the purposes of redemption, and adopt share redemption terms;
- 14) pass other resolutions provisioned by the law or these Articles of Association.

Paragraph 19

The General Meeting resolutions are passed by absolute majority vote, unless the Commercial Code, or the provisions of other statutes, or Articles of Association provide for other terms of passing resolutions.

Supervisory Board

Paragraph 20

1. The Supervisory Board consists of five to nine members appointed by the General Meeting.
2. The Supervisory Board members have a joint tenure of three years.
3. Individual Supervisory Board members may be discharged at any time in a manner provisioned for their appointment.
4. The Supervisory Board operates on the basis of regulations, which have been adopted by the Supervisory Board, and approved by the General Meeting.
5. The Supervisory Board selects the Chairman of the Supervisory Board from amongst themselves, and a Vice Chairman if such need arises, as well as a secretary.
6. The Supervisory Board may appoint committees (including an Audit Committee) from among its members.

Paragraph 21

1. The Supervisory Board constantly monitors Company operations.
2. The following falls with the Supervisory Board's responsibilities and authority:
 - 1) assess the Management Board's report on Company Operations, as well as the previous financial year's financial report, and the report on capital group operations, whose parent company is the Company, provided that the Company prepared these reports, in the scope of consistency with books and documents, and consistency with the actual state of affairs, as well as applications to the Management Board regarding the profit distribution or covering of losses, and also the annual written report on the findings of this assessment presented to the General Meeting;
 - 2) review Company operations programmes developed by the Management Board;
 - 3) consider and review matters designated as objects of General Meeting resolutions;
 - 4) adopt Supervisory Board regulations;
 - 5) approve Management Board regulations;
 - 6) establish remuneration terms and the amounts of Management Board remunerations, including the President of the Management Board remuneration;
 - 7) select a certified Auditor to audit the Company financial report, and to audit the Company's capital group's consolidated financial report;
 - 8) grant permission to exercise the right or to incur a liability, which on the basis of one or several related legal actions exceeds the equivalent of PLN 10,000,000 (in words: ten million) with the exception of:
 - a) agreements for the sale of raw materials, semi-finished products, and products related to the Company's business activity;
 - b) activities, which require the General Meeting's consent.
3. In order to carry out its responsibilities, the Supervisory Board may audit all Company's documents, request the Management Board or the employees to provide reports and clarifications, and to carry out a revision of Company's assets.
4. The members of the Supervisory Board carry out their rights and responsibilities personally.

Paragraph 22

1. The Supervisory Board passes resolutions by absolute majority vote in the presence of at least half of the Supervisory Board team, while in the event of an equally split vote, the Chairman of the Board's vote is decisive.
2. The Supervisory Board may pass resolutions without convening a meeting, through the course of voting in writing or through means of direct long-distance communication, while in order to effectively pass a resolution in this manner, it is necessary to inform all Management Board members regarding the content of the resolution draft.
3. The members of the Supervisory Board may participate in passing a Board resolution by voting in writing through another member of the Supervisory Board, who will submit it on their behalf. No vote may be submitted in writing concerning matters introduced to the agenda at the time of the Supervisory Board meeting.
4. Resolutions passed in a manner referred to in points 2 and 3 above does not relate to the appointment of the Supervisory Board's Chairman, the Vice Chairman, or its Secretary, or to suspending the Board's members duties, including the duties of the Chairman of the Board.

Management Board

Paragraph 23

1. The Management Board consists of three to five individuals, including the President of the Management Board, appointed and discharged by the General Meeting.
2. The Management Board members have a joint tenure of three years.
3. On behalf of the Company, an employment contract or a management agreement based on a Supervisory Board's resolution is concluded with the Management Board members by a Supervisory Board representative, who is appointed from among its members. Other legal activities between the Company and Management Board members are concluded in the same manner.
4. The Management Board acts on the basis of the Management Board regulations adopted by the Management Board and approved by the Supervisory Board.

Paragraph 24

1. The Management Board holds authority over all business matters, decisions, and other matters not restricted by the Commercial Code or the provisions of the Company Articles of Association at the General Meeting's or the Supervisory Board's exclusive jurisdiction.
2. The President of the Management Board directs the work of the Board. The President of the Management Board convenes the Management Board meetings subject to rules defined by Management Board regulations, and may issue rulings in all order and organisational matters related to Management Board's work.
3. The Company observes an internal division of power and responsibilities among Management Board members in the scope of handling its business matters. A detailed scope of individual Company Management Board members' responsibilities and powers is defined by the Management Board.
4. Management Board resolutions are required solely in reference to matters, which exceed the scope of standard Company activities, in particular:
 - 1) approve or amend Management Board regulations;
 - 2) approve or amend the Company's Organisational Regulations;
 - 3) accept applications submitted to the Supervisory Board or the General Meeting;
 - 4) convene General Meetings and accept its proposed agendas;
 - 5) accept annual and long-term financial plans and Company growth strategies;
 - 6) issue a procuration or general powers of attorney;
 - 7) incur loans;
 - 8) issue loans and donations;
 - 9) exercise the right or to incur liabilities in an amount exceeding PLN 500,000.00 (in words: five hundred thousand);
 - 10) apply for bank guarantees, incur bill of exchange liabilities, or issue any type of guarantees, and to establish other securities.
5. A Management Board's resolution is also required in matters, which do not exceed the Company's standard scope of activities, when its execution is requested by any of the Management Board members.
6. Management Board resolutions are passed by absolute majority vote. In the event of an equally split vote, the President of Management Board's vote is decisive.
7. The President of the Management Board adjudicates in internal disputes concerning authority and responsibilities among the Management Board members.

Paragraph 25

The President of the Management Board independently, or two members of the Management Board, or a single Management Board member together with a proxy, is authorised to submit declarations of will and sign on behalf of the Company.

V. Final provisions.

Paragraph 26

The Company places announcements pursuant to the Commercial Code provisions.

Paragraph 27

In a capacity not regulated by these Articles of Association - the Commercial Code provisions as well as other effective regulations shall apply to the Company.