


Bayer



Articles of Incorporation of
Bayer Aktiengesellschaft
Leverkusen

Articles of Incorporation

As of May 6, 2011



The translated version of the Articles of Incorporation is a convenience translation. Only its German version is legally binding.

General Provisions

§ 1 Name and Registered Office

- (1) The name of the Company is Bayer Aktiengesellschaft.
- (2) The registered office of the Company is in Leverkusen.

§ 2 Object of the Company

- (1) The object of the Company is manufacturing, marketing and other industrial activities or the provision of services in the fields of health care, agriculture, polymers and chemicals.
- (2) The Company is authorized to undertake all business which is related to, or directly or indirectly serves, the object of the Company.
- (3) The Company may establish, acquire or take participating interests in other companies, in particular those whose objects fully or partially cover the aforementioned areas. It may bring companies in which it holds participating interests under its uniform control, or confine itself to the administration thereof. It may transfer their operations in full or in part to newly established or existing subsidiaries.

§ 3 Fiscal Year, Notices, Transmission of Information, Place of Jurisdiction


- (1) The fiscal year shall be the calendar year.
- (2) Notices of the Company shall be published in the electronic Gazette of the Federal Republic of Germany (elektronischer Bundesanzeiger). The transmission of information to stockholders may also take place by means of data telecommunication.
- (3) The place of jurisdiction for all disputes between the Company and stockholders shall be the location of the Company's registered office. Foreign courts shall have no jurisdiction with respect to such disputes.

Capital Stock and Shares

§ 4 Capital Stock

- (1) The capital stock amounts to €2,116,986,388.48 and is divided into 826,947,808 registered shares (no-par shares).

- (2) The Board of Management, with the consent of the Supervisory Board, is authorized until April 29, 2015 to raise the capital stock by a total of up to €530,000,000.00 through the issuance of new registered shares in one or more installments. The issuance of new registered shares may take place against cash contributions and/or contributions in kind. Capital increases against contributions in kind may only be carried out for a total up to €423,397,120.00 (Authorized Capital I). Stockholders shall in principle be granted a subscription right. The subscription right can also be granted indirectly to the stockholders pursuant to § 186 paragraph 5 AktG. The Board of Management shall however be authorized, with the consent of the Supervisory Board, to exclude the stockholders' right of subscription:
 - for fractional amounts resulting from the subscription ratio,
 - insofar as this is necessary in order to grant holders or creditors of bonds with option / or conversion rights or obligations issued by the




Company or its Group companies a subscription right to new shares to the extent to which they would be entitled upon exercising their option or conversion rights or after fulfillment of an option or conversion obligation,

- provided the increase in capital stock occurs for the granting of shares through contributions in kind for the purpose of acquiring companies, parts of companies, interests in companies or other assets.


The proportionate amount of share capital attributable to shares that may be issued under the exclusion of the stockholder subscription right against cash or contributions in kind may not exceed 20% of the company's capital stock existing at the time of the Stockholders' Meeting resolution. The Board of Management, with the consent of the Supervisory Board, shall decide upon the content of the share rights and the further terms of the issuance of shares including the issue price.

- (3) The Board of Management, with the consent of the Supervisory Board, is authorized until April 29, 2015 to increase the capital stock by a total of up to €211,698,560.00 (Authorized Capital II) through the issuance of new registered shares against cash contributions in one or more installments. Stockholders shall be granted a subscrip-



tion right. The subscription right can also be granted indirectly to the stockholders pursuant to § 186 paragraph 5 AktG. The Board of Management shall however be authorized, with the consent of the Supervisory Board, to exclude the stockholders' right of subscription:


- for fractional amounts resulting from the subscription ratio,
- insofar as the increase in capital stock occurs against cash contributions and the proportionate amount of the capital stock attributable to the new shares for which a subscription right is excluded does not exceed 10% of the existing capital stock at the time of the resolution or, in the event that this amount is less, 10% of the existing capital stock at the time the new shares are issued, and the new shares against cash contributions are issued at an issue price which is not substantially below the market price of the already listed shares of the Company with the same terms at the time of the final determination of the issue price by the Board of Management in the meaning of § 203 paragraph 1 and 2 in conjunction with § 186 paragraph 3 sentence 4 AktG. All treasury shares which are tendered after April 30, 2010 under exclusion of stockholder subscription rights pursuant to § 71 paragraph 1 Number 8 sentence 5 in conjunction



with § 186 paragraph 3 sentence 4 AktG are included in the aforementioned 10% limit. Further, those shares which have been issued or are to be issued for the servicing of bonds with option / or conversion rights or obligations are to be included in the limit provided that the bonds are issued after April 30, 2010 under exclusion of the subscription right in analogous application of § 186 paragraph 3 sentence 4 AktG.

The Board of Management, with the consent of the Supervisory Board, shall decide the contents of the share rights and the further conditions of the share issuance including the issue price.

- (4) The Capital Stock is conditionally increased by up to €211,698,560.00 through the issuance of up to 82,694,750 new registered shares (Conditional Capital 2010). The conditional increase in capital is only to be executed if holders of option / or conversion rights or parties required to exercise option rights or required to convert on the basis of bonds with warrants, convertible bonds, profit sharing rights or profit participation bonds (or a combination of these instruments) issued or guaranteed by Bayer AG or a Bayer AG Group company in the meaning of § 18 AktG in which Bayer AG either directly or indirectly holds at least of 90% of the votes and the equity on the basis of the resolution by the Stockholders'



Meeting from April 30, 2010, make use of their option / or conversion rights or to the extent that they are required to exercise option / or conversion rights fulfill their obligation to exercise their option or conversion rights, and no other forms of performance are used. The issuance of the new shares shall take place with a price for each option or conversion determined pursuant to the previously described authorization resolution.

The new shares issued on the basis of the exercise of option / or conversion rights or the fulfillment of the option / or conversion obligations participate in earnings from the beginning of the fiscal year in which they originate. The Board of Management is authorized, with the consent of the Supervisory Board, to determine the further specifics of the execution of the increase in conditional capital.

- (5) In the event of a capital increase, the dividend entitlement may be determined differently from that specified in Section 60 of the German Stock Corporation Act (Aktiengesetz).

§ 5 Shares

- (1) Stockholders shall have no entitlement to the issuance of share certificates.
- (2) The Board of Management shall have the right to decide on any issuance of share certificates and all details of such issuance.

Constitution

A. The Board of Management

§ 6 Composition, Rules of Procedure

- (1) The Board of Management shall consist of at least two members. The number of members of the Board of Management shall otherwise be determined by the Supervisory Board. The Supervisory Board may appoint one member of the Board of Management to be Chairman of the Board of Management and one member of the Board of Management to be Vice Chairman of the Board of Management.
- (2) The Board of Management may, by unanimous resolution, decide on its own Rules of Procedure if these have not been issued for the Board of Management by the Supervisory Board.


§ 7 Power of Representation

The Company is represented by two members of the Board of Management or by one member of the Board of Management acting jointly with a *Prokurist* (authorized signatory with full power of representation).

B. The Supervisory Board

§ 8 Composition, Election, Term of Office

- (1) The Supervisory Board shall consist of 20 members. Ten members shall be elected by the Stockholders' Meeting in accordance with the provisions of the German Stock Corporation Act (Aktiengesetz), and ten by the employees in accordance with the provisions of the Codetermination Act (Mitbestimmungsgesetz) of May 4, 1976.
- (2) The members of the Supervisory Board shall be elected for a term extending to the end of the Stockholders' Meeting that resolves about ratification of the actions of the Supervisory Board in the fourth fiscal year after commencement of their terms of office, not counting the fiscal year in which the terms of office begin (standard term of office). The Annual Stockholders' Meeting may specify a term of office that is shorter than the standard term of office for individual, but no more than five, Supervisory Board members at the time of their election and, subject to the statutory limits, specify differing start and end dates for their term of office.
- (3) The Stockholders' Meeting may, at the same time as it elects the members of the Supervisory Board, elect one or more substitute members. The substitute members shall replace members who have ceased to be members of the Supervisory Board




for the remainder of their terms of office. The election of substitute members for the employee representatives on the Supervisory Board shall take place in accordance with the provisions of the Codetermination Act (Mitbestimmungsgesetz).

- (4) If a member of the Supervisory Board to be elected by the Stockholders' Meeting ceases to be a member of the Supervisory Board before the end of his or her term of office and if no elected substitute is available, an election shall be held to determine a successor for the remainder of the term of office of the member who has left the Supervisory Board prematurely, unless the successor is specifically elected for a differing term.
- (5) Members of the Supervisory Board may resign at any time by giving two weeks' written notice to the Chairman of the Supervisory Board or to the Board of Management. The dismissal of a member of the Supervisory Board elected by the stockholders shall require a majority of at least three quarters of the votes cast.


§ 9 Chairman and Vice Chairman


- (1) The Supervisory Board shall elect a Chairman and a Vice Chairman from among its members. The election shall take place in accordance with the provisions of the Codetermination Act (Mitbestimmungsgesetz).

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- (2) Unless a shorter term of office is determined at the time of their election, the Chairman and Vice Chairman of the Supervisory Board shall be elected as Chairman and Vice Chairman, respectively, for the duration of their membership of the Supervisory Board. This election shall take place at a meeting which, without having to be separately convened, shall take place immediately after the Stockholders' Meeting during which elections to the Supervisory Board were held.
 - (3) If the Chairman or the Vice Chairman of the Supervisory Board ceases to be a member before the end of his or her term of office, the Supervisory Board shall elect a successor at its next meeting. If the Chairman of the Supervisory Board ceases to be a member, such meeting shall be convened by the Vice Chairman.
 - (4) The Vice Chairman shall only acquire the rights and obligations of the Chairman if the latter is unable to attend and if those rights and obligations are, in this event, explicitly assigned to the Vice Chairman by law or under these Articles of Incorporation.

§ 10 Convening of Meetings and Passing of Resolutions


- (1) The Chairman of the Supervisory Board shall convene and chair the meetings of the Supervisory Board. The Supervisory Board shall meet twice per calendar half-year. Additional meetings shall be held if required by law or if deemed appropriate for business reasons.
- (2) The members of the Board of Management may attend meetings of the Supervisory Board unless the Chairman of the Supervisory Board determines otherwise for a particular reason.
- (3) The Supervisory Board shall be deemed to have a quorum if at least one half of the number of members of which it is required to consist participate in voting. A member also participates in the passing of the resolution if he or she abstains from voting. Absent members of the Supervisory Board may participate in the passing of a resolution if they arrange for written votes to be cast by other members of the Supervisory Board. A vote sent by fax or by another commonly used means of communication shall also be deemed to be a written vote.

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- (4) If, at a meeting of the Supervisory Board, the number of stockholder representatives and the number of employee representatives who participate in voting are not equal, a revote shall be taken if so requested by two members of the Supervisory Board. Such revote shall be taken at the next regular meeting, unless a special meeting of the Supervisory Board is convened. Thereafter, no further revote shall be permitted to take place at the request of only a minority of the members.
 - (5) At the instigation of the Chairman, the Supervisory Board may also pass resolutions by casting votes verbally, by telephone, in writing, by fax, or via another common communication medium. Such resolutions shall be confirmed in writing by the Chairman and recorded in the minutes of the next meeting.
 - (6) Resolutions of the Supervisory Board shall be passed by a majority of the votes cast, except where otherwise provided by law. In case of a tie, the Chairman of the Supervisory Board shall have the casting vote, if the stalemate continues after a second voting on the same subject matter.
 - (7) Minutes of the deliberations and resolutions of the Supervisory Board shall be recorded and filed. They must be signed by the Chairman.

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- (8) Declarations by the Supervisory Board and its committees shall be made by the Chairman on behalf of the Supervisory Board. The Chairman, but not the other members, is authorized to receive declarations on behalf of the Supervisory Board.
 - (9) The Supervisory Board may resolve on amendments to these Articles of Incorporation that relate solely to their wording.

§ 11 Rules of Procedure and Committees


- (1) The Supervisory Board shall decide on its own Rules of Procedure.
- (2) In addition to the committee pursuant to Section 27 para. 3 of the Codetermination Act (Mitbestimmungsgesetz), the Supervisory Board may establish other committees and appoint members of the Supervisory Board to such committees. Decision-making powers may be assigned to the committees as permitted by law.
- (3) The rules set out under Article 10 shall apply analogously to the committees. The committee may elect a Chairman from among its members if one has not been appointed by the Supervisory Board. If a committee vote is a tie and a second vote on the same resolution again produces a tie, the Chairman of the committee shall have the



casting vote. The Supervisory Board may regulate the activities of the committees in its Rules of Procedure.

§ 12 Remuneration of the Supervisory Board

- (1) Apart from reimbursement of his or her expenses, each member of the Supervisory Board shall receive a fixed annual remuneration in the amount of €60,000 and a variable annual remuneration. The variable annual remuneration shall be €2,000 for every €50,000,000 or part thereof by which the gross cash flow as reported in the consolidated group financial statements of the recent fiscal year exceeds €3,100,000,000, provided that the variable annual remuneration in total may not exceed €30,000.
- (2) The Chairman shall receive three times the amount stated in para. 1, the Vice Chairman shall receive one-and-a-half times the amount stated in para. 1. Members of the Supervisory Board who also are members of a committee shall receive an additional quarter of the amount stated in para. 1. Members of the Supervisory Board who also are chairman of a committee shall receive a further additional quarter of the amount stated in para. 1. A member of the Supervisory Board, however, shall not receive in total an annual remuneration exceeding three



times the aggregate annual amount stated in para. 1.

- (3) Supervisory Board members who have been members of the Supervisory Board or of one of its committees or who have chaired one of its committees for only a part of the fiscal year shall receive a lower remuneration on a pro rata basis.
- (4) The Company shall reimburse to the Supervisory Board members the expenses incurred through the exercise of their office, including any sales tax (value added tax) payable on their remuneration and on the reimbursement of their expenses.
- (5) The Company may purchase liability insurance for the members of the Supervisory Board to cover their legal liability arising from their activities as members of the Supervisory Board.

C. The Stockholders' Meeting

§ 13 Place of the Stockholders' Meeting


The Stockholders' Meeting shall be held at the Company's registered office or in a German city with over 100,000 inhabitants.

§ 14 Notice of the Stockholders' Meeting

Insofar as no other persons are legally authorized to do so, the Stockholders' Meeting shall be convened by the Board of Management. To the extent no shorter deadline is permitted by law, notice shall be provided at least thirty days prior to the meeting. The convening deadline is extended by the days of the registration deadline (§ 15 paragraph 2).

§ 15 Right of Attendance


- (1) Only those stockholders who are entered in the share register and have registered for the Stockholders' Meeting in time are entitled to attend the Meeting and to exercise voting rights.
- (2) Registration must be received by the Company at the address provided in the notice of the Stockholders' Meeting at least six days prior to the meeting.

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- (3) The voting right can also be exercised through a proxy. The granting of the proxy, the cancellation of the proxy and the evidence of the authorization to be provided to the Company are required in the form required by law; the notice of the meeting can establish relief from this requirement. In the notice of the Stockholders' Meeting the Company can establish, beyond the legally required information, the terms as to the form and manner in which the evidence of the granting of the proxy to proxy holders can be communicated. Concrete forms and communication channels can be established in the meeting notice for the granting and cancellation of a proxy to a proxy holder appointed by the Company.

 - (4) The Board of Management can provide that the stockholders may cast their votes without participating in the meeting through written or electronic communication (absentee voting). It can determine the specifics of the absentee voting process.

§ 16 Conduct of the Stockholders' Meeting

- (1) The Stockholders' Meeting shall be chaired by the Chairman of the Supervisory Board or, if the Chairman is unable to attend, by another member of the Supervisory Board representing the stockholders, to be nominated by the Chairman. In the event that neither the Chairman nor a member of the Supervisory Board designated by the Chairman takes the chair, the stockholder representatives in attendance shall elect a Chairman for the Meeting by a simple majority of the votes cast.
- (2) The Chairman of the Stockholders' Meeting shall preside over the discussions and shall determine the sequence of items for deliberation and the nature and form of voting. The result of the vote may also be ascertained by deducting the number of yes or no votes and abstentions from the total number of votes held by those entitled to vote.
- (3) The chairman is entitled to set reasonable time limits on the right of the stockholders to speak and pose questions. In particular, he may at the beginning or during the Stockholders' Meeting set reasonable time frames for the course of the Stockholders' Meeting, for the comments on the specific agenda items, or for the specific questions and speeches.

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- (4) The meeting Chairman is authorized to permit the partial or complete transmission of the Stockholders' Meeting in image and sound in a manner to be determined by him.

§ 17 Resolutions

- (1) Each share carries the right to one vote at the Stockholders' Meeting.
- (2) Unless otherwise provided by these Articles of Incorporation or by law, resolutions of the Stockholders' Meeting shall be passed by a simple majority of the votes cast and, where a capital majority is required in addition, by a simple majority of the capital stock represented when the vote is taken.

Annual Financial Statements and Distribution of the Profit

§ 18 Annual Financial Statements

- (1) The Board of Management shall prepare the annual financial statements and management report of Bayer AG, along with the annual financial statements and management report of the Bayer Group, for the preceding fiscal year by the statutory deadlines and shall submit them immediately after their preparation to the Supervisory Board and to the auditor. The Board of Management shall at the same time submit to the Supervisory Board a proposal for use of the distributable profit.
- (2) The annual financial statements of Bayer AG and those of the Bayer Group shall be prepared in accordance with the statutory provisions and accepted accounting principles.
- (3) The Board of Management and the Supervisory Board shall be authorized, when confirming the annual financial statements, to allocate the net income remaining after deduction of the amounts to be allocated to the statutory reserve, plus any loss carryforward, in part or in full to “other retained earnings”. The allocation of an amount greater than one half of the net income for the year shall not be permissible if as a result of such transfer the “other retained earnings” would exceed one half of the capital stock.

§ 19 Use of the Distributable Profit

- (1) The Stockholders' Meeting shall resolve annually, during the first eight months of the fiscal year, on the ratification of the actions of the members of the Board of Management and the Supervisory Board, the use of the distributable profit and the appointment of the auditor (Annual Stockholders' Meeting).
- (2) The distributable profit shall be apportioned equally among the stockholders, unless the Stockholders' Meeting resolves to use it in some other manner.
- (3) The Stockholders' Meeting may resolve to distribute all or part of the distributable profit to the stockholders by way of distribution in kind.



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