

**klöckner & co**

multi metal distribution

## **Articles of Association**

**Klöckner & Co SE**  
**Duisburg**

as of September 18, 2009

This edition of our Articles of Association,  
prepared for the convenience of English speaking readers,

is a translation of the German original.



## I. General Provisions

### Section 1 Company Name, Seat and Business year

- (1) The European Company (*Societas Europaea*) - hereinafter referred to as the "Company" - operates under the name of:  
Klöckner & Co SE.
- (2) It has its registered seat in Duisburg.
- (3) The business year is the calendar year.

### Section 2 Corporate Purpose

- (1) The corporate purpose of the Company is
  - (a) the distribution and trading of steel, metal and synthetic products as well as their manufacture and processing and
  - (b) the acquisition and administration of participations of all kinds, in particular in companies whose corporate purpose includes the activities described under a).
- (2) The Company may form subsidiaries in Germany and abroad, establish branches and assume participations in other companies to the extent they are active in the Company's field of business or are beneficial to its corporate purpose, including for the purpose of the development and subsequent sale of such companies. The Company may represent companies in which it participates, consolidate them under a unified management and conclude inter-company agreements for this purpose. The Company may outsource or convey its business in full or in part to affiliated companies.

### Section 3 Notices and Transmission of Information

- (1) Notices of the Company shall be published in the electronic Federal Gazette of the Federal Republic of Germany (*elektronischer Bundesanzeiger*), unless otherwise required by mandatory law.
- (2) The Company is entitled to transmit information to the shareholders, with their consent, by way of electronic data transmission.

## II. Share Capital and Shares

### Section 4 Amount and Division of the Share Capital

- (1) Share Capital

The Company's share capital amounts to EUR 166,250,000.00 (in words: Euro one hundred and sixty-six million two hundred and fifty thousand). It is divided into 66,500,000 (in words: sixty-six million five hundred thousand) non-par value registered shares. The share capital in the amount of EUR 100,000,000.00 (in words: Euro one hundred million) was paid in through the identity-preserving



change of legal form of the former Multi Metal Holding GmbH to Klöckner & Co Aktiengesellschaft. Then the share capital in the amount of EUR 116,250,000 (in words: Euro one hundred and sixteen million two hundred and fifty thousand) was paid in through the identity-preserving conversion of the former Klöckner & Co Aktiengesellschaft into Klöckner & Co SE. Finally, the share capital in the amount of EUR 50,000,000 (in words: Euro fifty million) was paid in as a cash contribution as part of a capital increase in 2009.

- (2) The share capital of the Company shall be subject to a conditional increase of up to EUR 11,625,000.00 by the issue of up to 4,650,000 new non-par value registered shares with dividend rights from the beginning of the business year in which they are issued. However, this conditional capital increase only applies up to a maximum amount and number of shares in which the conditional capital increase has not yet been executed at the point in time of the conversion of Klöckner & Co Aktiengesellschaft into a European Company (SE) pursuant to the Terms of Conversion of 5 May 2008 takes effect.

The conditional capital shall serve to grant subscription and/or conversion rights to the holders of option bonds and/or convertible bonds that are issued by the Company or a group company in accordance with the authorisation granted by the General Meeting of the Company on 20 June 2007. New shares shall be issued in accordance with the option price or conversion price resolved as Item 9 of the agenda of the General Meeting of the Company held on 20 June 2007.

The conditional capital increase shall only take place to the extent that the holders and/or creditors of subscription or conversion rights choose to exercise these rights or to the extent that the holders with a conversion obligation fulfil this obligation and to the extent that no cash settlement is granted and no own shares or shares created from authorised capital are used to satisfy this obligation. The Management Board shall be authorised to determine the further details of the execution of a conditional capital increase (Conditional Capital 2007).

- (3) The share capital of the Company shall be subject to a conditional increase of up to EUR 11,625,000.00 by the issue of up to 4,650,000 new non-par value registered shares with dividend rights from the beginning of the business year in which they are issued.

The conditional capital shall serve to grant subscription and/or conversion rights to the holders of option bonds and/or convertible bonds that are issued by the Company or a group company in accordance with the authorisation granted by the General Meeting of the Company on 20 June 2008. New shares shall be issued in accordance with the option price or conversion price resolved as Item 10 of the agenda of the General Meeting of the Company held on 20 June 2008.



The conditional capital increase shall only take place to the extent that the holders and/or creditors of subscription or conversion rights choose to exercise these rights or to the extent that the holders with a conversion obligation fulfil this obligation and to the extent that no cash settlement is granted and no own shares or shares created from authorised capital are used to satisfy this obligation. The Management Board shall be authorised to determine the further details of the execution of a conditional capital increase (Conditional Capital 2008).

- (4) The share capital of the company will be subject to a conditional increase of up to EUR 11,625,000.00 by the issue of up to 4,650,000 new registered non-par value shares with entitlement to profits from the beginning of the financial year in which they are issued.

The conditional capital will serve to grant shares to satisfy subscription and/or conversion rights of the holders of option bonds and/or convertible bonds that are issued by the company or a group company in accordance with the authority of the General Meeting of the company on May 26, 2009. New shares will be issued in accordance with the option price or conversion price resolved as agenda item 7 of the Annual General Meeting of the company held on May 26, 2009.

The conditional capital increase will only take place to the extent that the holders and/or creditors of subscription or conversion rights make use of these rights or to the extent that the holders with a conversion obligation fulfill this obligation and to the extent that no cash settlement is granted and that no own shares or shares created from authorized capital are used for servicing purposes. The Management Board will be authorized to establish the further details of the implementation of a conditional capital increase (conditional capital 2009).

- (5) The shares are registered by name. If, in the event of a capital increase, the resolution on the capital increase does not specify whether the new shares should be bearer shares or registered shares, then they shall be issued as shares registered by name.
- (6) The form of the share certificates and the dividend and talon coupons shall be determined by the Management Board upon approval of the Supervisory Board. The shareholders' right to receive share certificates and dividend coupons is excluded to the extent permissible by law and certificates are not required according to the rules of the stock exchange where the share has been admitted for trading. The Company shall be entitled to issue share certificates which embody individual shares or multiple shares (global shares).
- (7) In the event of a capital increase, the dividend rights of new shares may be determined in deviation from Section 60 para. 2 of the German Stock Corporation Act.



### III. Corporate Bodies

#### Section 5 Corporate Bodies

The organisation of the Company shall follow the two-tier system. Corporate bodies of the Company are the management body ("Management Board"), the supervisory body ("Supervisory Board") and the General Meeting.

### IV. Management Board

#### Section 6 Composition and Rules of Procedure

- (1) The Management Board comprises one or more members. The Supervisory Board shall determine the number of members of the Management Board.
- (2) The Supervisory Board may appoint a chairman of the Management Board as well as a deputy chairman of the Management Board.
- (3) The Supervisory Board shall issue Rules of Procedure for the Management Board including a Schedule of Responsibilities (*Geschäftsverteilungsplan*) allocation of duties.
- (4) Members of the Management Board shall be appointed for a maximum term of office of five years. A member may be re-appointed once or several times.

#### Section 7 Representation of the Company

If the Management Board only has one member, then he shall represent the Company acting alone. If two or more members are appointed, then the Company shall be represented by two members jointly or by one member jointly with an authorised signatory (*Prokurist*). The Supervisory Board may grant individual Management Board members the power to represent the Company alone and/or release that person from the prohibition of multiple representation set forth in Section 181 2<sup>nd</sup> alternative of the German Civil Code (*Bürgerliches Gesetzbuch - BGB*).

#### Section 8 Management

- (1) The Management Board shall manage the business in accordance with the laws, the Articles of Association, its Rules of Procedure and the Schedule of Responsibilities.
- (2) The Management Board requires the approval of the Supervisory Board to carry out the following transactions:
  - transactions which will cause a fundamental change of the net assets, financial position and results of operations or the risk exposure of the Company;
  - foundation, dissolution, acquisition or sale of shareholdings as well as changes in shareholding which exceed a limit to be



determined by the Supervisory Board in the Rules of Procedure of the Management Board;

- conclusion, major amendment or termination of inter-company agreements within the meaning of Sections 291 et seq. of the German Stock Corporation Act; and
- conclusion, major amendment or termination of profit participation agreements and silent partnerships.

The Supervisory Board has the right to issue Rules of Procedure for the Management Board in which, in particular, further transactions may be made subject to the approval of the Supervisory Board. The Supervisory Board may grant a revocable approval in advance of a specific group of transactions in general or on the condition that an individual transaction satisfies specific requirements.

## V. Supervisory Board

### Section 9 Composition, Term of Office, Resignation from Office

- (1) The Supervisory Board comprises six members, who shall be elected by the General Meeting.
- (2) The Supervisory Board members shall each be elected for a period up to the conclusion of the General Meeting which resolves on the formal discharge of the Supervisory Board for the fourth business year after commencement of the respective term of office, whereby the business year in which the term of office begins is not counted. The term of office shall be no longer than six years. When electing a Supervisory Board member, the General Meeting may in each case determine a shorter term of office. A successor to a member who resigned before his term of office expired shall be elected for the remainder of the term of office of the resigning member unless otherwise resolved by the General Meeting. A member may be reappointed once or several times.
- (3) Notwithstanding paragraph (1) and paragraph (2), the following persons are appointed as members of the first Supervisory Board of Klöckner & Co SE:
  - Professor Dr. Dieter H. Vogel, Meerbusch, Managing Partner of Lindsay Goldberg Vogel GmbH, Düsseldorf;
  - Dr. Michael Rogowski, Heidenheim, Chairman of the Supervisory Board and Shareholders' Committee of Voith AG, Heidenheim;
  - Robert J. Koehler, Wiesbaden, Chairman of the Management Board of SGL CARBON Aktiengesellschaft, Wiesbaden;
  - Frank H. Lakerveld, Hattingen, member of the Management Board of Sonepar S.A., Paris (France);



- Dr. Jochen Melchior, Essen, former Chairman of the Management Board of the former STEAG AG, Essen,
- Dr. Hans Georg Vater, Ratingen, former member of the Management Board of HOCHTIEF Aktiengesellschaft, Essen.

The appointment of Prof. Dr. Dieter Vogel, Dr. Michael Rogowski and Mr. Frank H. Lakerveld shall be for the period up to the conclusion of the General Meeting which resolves on the discharge of the Supervisory Board for the second business year after the commencement of the term of office. The appointment of Dr. Jochen Melchior and Dr. Hans Georg Vater shall be for the period up to the conclusion of the General Meeting which resolves on the discharge of the Supervisory Board for the third business year after the commencement of the term of office. The appointment of Mr. Robert J. Koehler shall be for the period up to the conclusion of the General Meeting which resolves on the discharge of the Supervisory Board for the fourth business year after the commencement of the term of office.

The appointments set forth above shall each be for a maximum of six years. If the registration of the SE takes place in 2008, the business year in which the term of office commences shall not be counted in respect of the appointments set forth above. On the other hand, if the registration of the SE takes place in 2009 or later, the business year in which the term of office commences shall be counted in respect of the appointments set forth above

- (4) When a Supervisory Board member is elected, a substitute member may also be appointed at the same time who shall become a Supervisory Board member if the Supervisory Board member should resign prior to the expiration of his term of office and a successor has not been elected. The term of office of a substitute member who has joined the Supervisory Board shall expire once a successor for the resigned Supervisory Board member has been appointed, at the latest upon the expiration of the resigned Supervisory Board member's term of office.
- (5) Notwithstanding the right to resign from office for good cause, the members and the substitute members of the Supervisory Board may resign from office by rendering a written declaration to the Chairman of the Supervisory Board or to the Management Board observing a notice period of four weeks.
- (6) The General Meeting shall be free to recall members of the Supervisory Board prior to the expiration of their term of office without giving reasons.

#### **Section 10 Chairman and Deputy Chairman**

- (1) The Supervisory Board shall elect a Chairman and a Deputy Chairman from among its members. The Supervisory Board Chairman and the Deputy Supervisory Board Chairman shall be elected by a simple majority of votes, in the event of a tie, the decision shall be



made by lot. Should the Chairman or his Deputy resign from the Supervisory Board before his term of office has expired, the Supervisory Board shall conduct a new election.

- (2) If the Supervisory Board Chairman and the Deputy Supervisory Board Chairman are hindered to carry out their duties, then the eldest Supervisory Board member in terms of age shall take the chair of the Supervisory Board for the duration of the hindrance.
- (3) The Chairman of the Supervisory Board or in his absence, his Deputy, are authorised to submit and receive declarations of intent in the name of the Supervisory Board which are required to implement the Supervisory Board's resolutions.

### **Section 11 Rules of Procedure**

The Supervisory Board shall decide on its own Rules of Procedure within the framework of the mandatory statutory provisions and the provisions of these Articles of Association.

### **Section 12 Committees**

The Supervisory Board may establish committees from among its members and, to the extent legally permissible, allocate decision-making authority to them.

### **Section 13 Confidentiality**

The members of the Supervisory Board shall - even after resigning from office - maintain secrecy with respect to confidential information and secrets of the Company, namely trade and business secrets, which become known to them as part of their activities on the Supervisory Board.

### **Section 14 Remuneration**

- (1) In addition to reimbursement for their appropriate expenses and the VAT accruing on their remuneration and expenditures, the members of the Supervisory Board shall receive:
  - (a) a fixed annual remuneration in the amount of EUR 17,000.00;
  - (b) a performance-related remuneration in the amount of EUR 150.00 for each full EUR 1,000,000.00 by which the group profit in the respective business year for which the remuneration is being paid exceeds the sum of EUR 50,000,000.00.

The remuneration pursuant to (b) may, for each Supervisory Board member, not exceed the sum of the fixed annual remuneration pursuant to (a), taking paragraph 2 into account, by more than 100 %. Section 113 para. 3 sentence 1 of the German Stock Corporation Act shall remain unaffected.

- (2) The Supervisory Board Chairman shall receive three times and his Deputy twice the remuneration pursuant to paragraph 1.



- (3) Additionally, Supervisory Board members shall receive an attendance fee of EUR 2,000.00 for each meeting of the Supervisory Board and its Committees at which they are present. The Supervisory Board Chairman and a chairman of a Supervisory Board Committee shall receive three times and the Deputy Supervisory Board Chairman and a deputy chairman of a Supervisory Board Committee shall receive twice the attendance fee.
- (4) Supervisory Board members who only belong to the Supervisory Board during part of the respective business year shall receive one twelfth of the remuneration for each month or partial month of their membership. The same shall apply accordingly to the increase of the remuneration for the Supervisory Board Chairman and his Deputy pursuant to paragraph 2.
- (5) The remuneration pursuant to paragraph 1 (a) and (b), as well as the attendance fee, shall be payable at the conclusion of the General Meeting which receives the consolidated annual financial statements for the respective business year or decides on their approval.
- (6) For the calculation of the remuneration pursuant to paragraph 1, the group profit for the relevant business year, as shown in the approved consolidated annual financial statements pursuant to IFRS, which has been furnished with an unlimited audit certificate, shall be authoritative, whereby no planned amortizations of goodwill within the meaning of IFRS will be carried out.
- (7) The fixed annual remuneration pursuant to paragraph 1 (a) and the performance-related annual remuneration pursuant to paragraph 1 (b) shall be paid in full for the first time for the business year which follows the business year in which the Company was registered as an SE in the commercial register.
- (8) The Company may maintain D&O insurance for its corporate bodies with appropriate coverage in its own interest and at its own expense. If it does, then the Supervisory Board members must be included.

## **VI. General Meeting**

### **Section 15 Location and Convening**

- (1) The General Meeting shall be held at the registered seat of the Company, a German stock exchange centre or a major German city with a population of more than 100,000.
- (2) The convening of the meeting must be published in the electronic Federal Gazette at least 30 days before the day at the end of which the shareholders must have notified their attendance (Section 16), not counting the day of the announcement and the last day on which the shareholders have to submit their notification.

### **Section 16 Participation and Voting Rights**



- (1) Shareholders shall be entitled to participate in the General Meeting and exercise their voting right in the General Meeting if they have notified the Management Board at the Company's registered seat of their participation in a timely manner in writing, by facsimile or, if the Management Board so resolves, electronically by a method to be determined in detail by the Company, and are registered in the share register on the date of the General Meeting. The voting right may only be exercised to the extent reflected by the entry in the share register on the date of the General Meeting. The delivery of the notification and the date of the General Meeting must be at least six days apart. The Management Board may determine a shorter time period.
- (2) The voting right may be exercised by an authorised representative. If neither a credit institute nor a shareholders' association is so authorised, then the power of attorney shall be granted in writing, by facsimile or electronically by a method to be determined in detail by the Company.

**Section 17 Chairing the General Meeting**

- (1) The General Meeting shall be chaired by the Chairman of the Supervisory Board or, if he is prevented from attending, by another Supervisory Board member to be determined by the Supervisory Board.
- (2) The Chairman shall preside over the meeting and shall determine the order in which the agenda items will be dealt with as well as the manner and order of the voting on resolutions. He may impose a reasonable time limit on the shareholders' right to ask questions and speak; in particular, he may set a reasonable timeframe for the course of the meeting, the deliberation of the agenda items as well as the individual speeches or questions.

**Section 18 Image and Sound Transmission**

The General Meeting may be transmitted by the Company in the form of a sound and image transmission, in whole or in part, if the Management Board and the Supervisory Board so resolve and announce this upon convening the meeting.

**Section 19 Adoption of Resolutions**

- (1) Each non-par value registered share shall grant one vote in the General Meeting.
- (2) Unless otherwise prescribed by mandatory law, the resolutions shall be adopted by a simple majority of the votes cast and, where the statutes require a majority of the capital along with a majority of the votes, by a simple majority of the share capital represented during the adoption of the resolution. A simple majority of the votes cast is sufficient for the adoption of a resolution regarding an amendment of the Articles of Association if at least half of the share capital is represented and no higher majority is prescribed by mandatory law.



**VII. Annual Financial Statements and Appropriation of Profit**

**Section 20 Annual Financial Statements and Appropriation of Profit**

- (1) Within the first three months of the business year, the Management Board shall submit the annual financial statements and the management report, as well as the consolidated annual financial statements and the consolidated management report for the past year to the Supervisory Board without undue delay after their preparation. At the same time, the Management Board shall submit its proposal for the appropriation of the balance sheet profit to the Supervisory Board. Section 298 para. 3 and Section 315 para. 3 of the German Commercial Code (*Handelsgesetzbuch - HGB*) shall remain unaffected.
- (2) Upon receipt of the Supervisory Board's report, the Management Board shall convene the ordinary General Meeting without undue delay, which must be held within the first six months of each business year. It shall decide on the discharge of the Management Board and Supervisory Board, on the election of the auditor of the annual financial statements and the appropriation of the balance sheet profit.
- (3) Upon approval of annual financial statements, the Management Board and Supervisory Board shall be authorised to allocate all or parts of the annual profit remaining after the deduction of the amounts to be allocated to the statutory reserves and the loss carry-forward, to other reserves.
- (4) The balance sheet profit shall be distributed to the shareholders unless the General Meeting resolves on a different appropriation.
- (5) The General Meeting may also resolve a distribution in kind if the items to be distributed can be traded on a market within the meaning of Section 3 para. 2 of the German Stock Corporation Act.

**VIII. Final Provisions**

**Section 21 Amendments to the Articles of Association**

The Supervisory Board shall be authorised to resolve amendments to these Articles of Association which only affect the wording. It may also adjust the Articles of Association to conform to new statutory requirements which are binding on the Company without a General Meeting resolution being required.

**Section 22 Formation Costs (costs of formation of the company as a GmbH, of the conversion into a stock corporation and of the conversion into an SE)**



**(1)** Costs of formation as a GmbH

The Company shall bear the costs of the formation and publication up to an amount of EUR 2,000.00.

**(2)** Costs of Conversion of Multi Metal Holding GmbH into Klöckner & Co. Aktiengesellschaft

The Company was created by way of a conversion into a different legal form. The Company shall bear the cost of the change of form (notarial and court costs, publication costs, legal and tax consultation costs, cost of the formation audit) up to the amount of EUR 100,000.00.

**(3)** Costs of Conversion of Klöckner & Co Aktiengesellschaft into Klöckner & Co SE

The Company shall bear the costs of the conversion from the legal form of a stock corporation into the legal form of an SE (in particular the costs of the negotiation procedure on the participation of the employees, notarial and court costs, publications costs, legal and tax consultation costs, costs of preparation of the valuation certificate pursuant to Art. 37 para. 6 of the German SE Participation Act) up to the amount of EUR 1 million.



**Klöckner & Co SE**  
Am Silberpalais 1  
D-47057 Duisburg  
[www.kloeckner.de](http://www.kloeckner.de)

