

---

**EXPLANATORY NOTES TO THE PROPOSAL  
TO AMEND THE ARTICLES OF ASSOCIATION OF  
Koninklijke DSM N.V.,  
having its official seat in Heerlen.**

---

dated 14 February 2011

as it will be presented at the Company's general meeting of shareholders  
to be held on 28 April 2011 for its approval.

**ALLEN & OVERY**  
AMSTERDAM

## **EXPLANATORY NOTES TO THE PROPOSAL TO AMEND THE ARTICLES OF ASSOCIATION OF KONINKLIJKE DSM N.V. (DSM), as it will be presented at the Company's general meeting of shareholders to be held on 28 April 2011 for its approval.**

### **1. General**

It is proposed to amend the articles of association in connection with: (i) the coming into effect as of 1 July 2010 of the Act of 30 June 2010 to amend Book 2 of the Dutch Civil Code and the Financial Supervision Act (*Wet op het financieel toezicht*) to implement the EC Directive on shareholders rights in listed companies (**Shareholders' Rights Act**) and (ii) the Act of 28 October 2010 to amend the Securities Giro Transactions Act (*Wet giraal effectenverkeer*) (**SGTA**) which came into effect on 1 January 2011, implementing the expansion of the protection of clients of intermediaries with respect to financial instruments and to effectuate a further form of dematerialisation of securities (**Act amendment SGTA**).

This amendment of the articles of association also offers the opportunity to amend the objects of the company (article 3) which have not been changed for numerous years. With this amendment it is envisaged to bring the objects into line with the strategic transformation of DSM; from a chemical company to a Life Sciences and Materials Sciences company. The proposed amendment of the objects of the company also expresses the focal point of DSM on the triple bottom line of economic performance, environmental quality and social responsibility at all its activities.

It is furthermore proposed to grant the Managing Board the authority to also be able to distribute (interim) dividend a. in shares, and b. to make this distribution from the reserves (share premium reserve).

Finally, some amendments are proposed of a more technical nature or amendments that are aligned to the practical course of events within the company.

### **2. Shareholders' Rights Act**

The Shareholders' Rights Act impacts primarily subjects that are provided for in Articles 37, 41, 42 and 44 of the articles of association.

The Shareholders' Rights Act determines, for example, that the notice for convening a general meeting shall be given not later than on the forty-second day (currently the fifteenth day) before that of the meeting. It is proposed to insert this time period in so many words in Article 37 section 2. Also the amended rules regarding the content of the notice prescribed by the Shareholders' Rights Act are to be inserted in Article 37 section 3. These provisions are in line with what is already customary at DSM.

It is no longer necessary that documents pertaining to the meeting are made available for inspection at a paying agent (*betaalkantoor*) in the Netherlands stated in the notice; therefore, Article 37 section 7 is deleted.

The Shareholders' Rights Act stipulates mandatorily that a general meeting must have a fixed record date and that this record date must be set at the twenty-eighth day before that of the meeting. The use of a record date is thus no longer at the discretion of the management board; it has become mandatory. Article 41 section 2 will be amended to reflect this and Article 41 section 5 (old) will be deleted.

In connection with the mandatory record date, it is no longer permitted to maintain an obligation concerning the placing in custody of supporting documents (shares) or restrictions on their transfer, for participation at a general meeting of shareholders.

To align the right to place items on the agenda, as contained in Article 41 section 6 (new), with the Shareholders Rights Act, a justification requirement has been added, while the ground for refusal (important interest of the company) has been deleted. To absorb easily any future amendments of the Act, reference is made to the statutory provision concerned (section 2:114a Dutch Civil Code) with respect to any further requirements that can be set to exercise of the right to place items on the agenda, with the proviso that the capital requirement to the exercise the right to place items on the agenda, after the amendment of the Act, stays without alterations at 1%.

The Shareholders Rights Act sets some additional requirements to the use of electronic means of communication to exercise the right to attend general meeting and the right to vote prior to the meeting. For more on this see Article 41 section 4 and 5 (new) and Article 42 section 7 (new). The Managing Board decides whether and how those means of communication may be used.

The company is longer obliged to publish notices for general meetings and announcements regarding dividend and other payments in a national daily newspaper. It is sufficient to publish this on the company's website, together with a press release. In light of the above, it is proposed to amend Article 44.

### **3. Act amendment SGTA**

With the Act amendment SGTA it is amongst others envisaged to expand the protection of investors against the bankruptcy of the institution with which they hold their securities account; in future the protection not only accrues to clients of an institution associated with Euroclear Nederland, but also to clients of other intermediaries. The changed terminology of the SGTA will be included in the articles of association.

Also, in connection with the strive for further dematerialisation, the change to the SGTA that in principle renders it impossible to deliver shares from the giro circuit, is of importance to DSM's articles of association. In Article 15 section 3 (old) shares can be delivered at the Euroclear-participant's request after the consent of the Managing Board; in connection with aforementioned change to the SGTA it is proposed to determine that shares can only be delivered with due observance of the related provisions of the SGTA. By way of statutory transitional arrangement the shareholder still has the right to request the delivery of his shares for a period of six months, beginning on 1 January 2011.

Also as a consequence of these changes some definitions in Article 1 that refer to the SGTA will be amended.

### **4. Authority Managing Board with distribution of (interim) dividend**

It is proposed to grant the Managing Board the authority to resolve that an (interim) dividend may be distributed not in cash but in shares in the company. The Managing Board may also provide that this payment will be made from the freely distributable part of the company's equity. This concerns, in particular, the share premium reserve (Article 33 new section 2).

### **5. Technical and practical amendments**

In Article 1 some definitions are deleted. The term 'dependent company' will be replaced in Article 21 section 2 by 'subsidiary'. Article 21 section 2 under b will be brought in line with earlier amended legislation. The same applies to the amendment contained in Article 30 and Article 32 section 8.

For practical reasons, the method of signing and registrations in the register of shareholders will be simplified (Article 8 section 1).

The manner in which general meetings vote, is brought in line with the present situation. The chairman of the meeting determines the manner in which voting takes place (Article 42 section 5).

## **6. Authorisation**

The proposal to amend the articles of association shall also include the granting of a power of attorney to each member of the Managing Board, the Company Secretary, the director of Corporate Legal Affairs as well as to each (deputy) civil law notary, paralegal and notarial assistant of Allen & Overy LLP, attorneys, civil law notaries and tax lawyers in Amsterdam, to apply for the ministerial declaration of no objection on the draft deed of amendment of the articles of association, and to have this deed executed.

- 0 - 0 - 0 -