



REPORT from the Board of Directors OF FOMENTO DE CONSTRUCCIONES Y CONTRATAS, S.A. regarding the proposed AMENDMENT TO THE ARTICLES OF INCORPORATION (Item 4 of the Agenda).

1. PURPOSE OF THE REPORT

In accordance with article 144.1a) of Public Corporations Act (Ley de Sociedades Anónimas “LSA”), this report was drafted by the Board of Directors on 5 May 2009 to justify the proposal for the amendment of articles 17 and 42 of the Articles of Incorporation of FOMENTO DE CONSTRUCCIONES Y CONTRATAS, S.A.

2. JUSTIFICATION OF THE PROPOSAL

The amendments to the Articles of Incorporation that are submitted to the General Meeting of Shareholders for approval aim to introduce specific technical improvements to the text of the Articles of Incorporation as a result of recent regulatory reforms which affect articles 17 and 42.

Regarding article 17 on the constitution of the General Meeting of Shareholders, it is proposed to amend the second paragraph which regulates special situations for the constitution of the General Meeting of Shareholders with a view to including the new situations added by Final Provision 1.15 of *Law 3/2009, of 3 April, on Structural Amendments to Mercantile Companies*, which amends [article 103.1](#) of Public Corporations Act.

The new regulation increases the number of situations that require a superquorum in the General Meeting of Shareholders, adding to those contained in the previous regulation (bond issues, the change of corporate form, the merger or demerger of the company, a capital increase or decrease, and amendments to the Articles of Incorporation) the following: the transfer en bloc of assets and liabilities, the overriding or limitation of pre-emptive subscription rights to new shares, and the transfer of the domicile to another country.

It is also proposed to amend article 42 of the Articles of Incorporation relating to the annual accounts to adapt it to the new wording of article 172 of Public Corporations Act as amended by *Law 16/2007 of 4 July, on the reform and adaptation of mercantile legislation on accounting measures for its international harmonisation with European Union regulation*, which regulates the content of annual accounts by adding, to the balance sheet, income statement and notes, two new accounting documents: a statement of changes in net equity in the year and a cash flow statement.

For these purposes, it is proposed to eliminate the reference in article 42.2 of the Articles of Incorporation stating that annual accounts "*will include the balance sheet, income statement and notes*".

For comparison purposes, the current and proposed wording of the aforementioned articles of the Articles of Incorporation are set out below:

CURRENT WORDING	PROPOSED WORDING
<p>1</p> <p>2 Article 17. Constitution of the General Meeting.</p> <p>3</p> <p>4 The Ordinary and Extraordinary General Meeting will be validly convened on the original meeting date when the shareholders present or represented account for at least fifty percent (50%) of the subscribed capital with voting rights; on the alternate date, the meeting shall be validly convened when the shareholders present or represented account for at least forty-five (45%) of the subscribed capital with voting rights.</p> <p>5</p> <p>6 Notwithstanding the provisions of the previous paragraph, in order for the Ordinary or Extraordinary General Meeting of Shareholders to validly pass resolutions on debenture issues, capital increases or decreases or the transformation, merger or division of the Company and, in general, any modification of the Articles of Incorporation, it shall be necessary for shareholders accounting for at least fifty percent (50%) of the subscribed capital with voting rights to be present or represented on the original meeting date, while on the alternate date it shall suffice to have shareholders accounting for at least forty-five percent (45%) of the subscribed capital with voting rights to be present or represented.</p>	<p>9</p> <p>10 Article 17. Constitution of the General Meeting.</p> <p>11</p> <p>12 The Ordinary and Extraordinary General Meeting will be validly convened on the original meeting date when the shareholders present or represented account for at least fifty percent (50%) of the subscribed capital with voting rights; on the alternate date, the meeting shall be validly convened when the shareholders present or represented account for at least forty-five (45%) of the subscribed capital with voting rights.</p> <p>13</p> <p>14 Notwithstanding the provisions of the previous paragraph, in order for the Ordinary or Extraordinary General Meeting of Shareholders to validly pass resolutions on debenture issues, capital increases or decreases or the transformation, merger or division of the Company, <u>the transfer en bloc of assets and liabilities, the overriding or limiting of pre-emptive subscription rights to new shares, the transfer of the domicile to another country</u> and, in general, any modification of the Articles of Incorporation, it shall be necessary for shareholders accounting for at least fifty percent (50%) of the subscribed capital with voting rights to be present or represented on the original meeting date, while on the alternate date it shall suffice</p>

<p>7 8 When the shareholders in attendance or represented account for less than fifty percent (50%) of the subscribed capital with voting right, the resolutions referred to in the previous paragraph may only be validly passed with the favourable vote of two-thirds of the share capital present or represented at the Meeting."</p>	<p>to have shareholders accounting for at least forty-five percent (45%) of the subscribed capital with voting rights to be present or represented. 15 16 When the shareholders in attendance or represented account for less than fifty percent (50%) of the subscribed capital with voting right, the resolutions referred to in the previous paragraph may only be validly passed with the favourable vote of two-thirds of the share capital present or represented at the Meeting."</p>
<p>17 18 Article 42. The Annual Accounts. 19 20 As mandated in the Commerce Code, the Company must keep orderly accounting records of its business activities which make it possible to follow its operations chronologically and must also prepare inventories and balance sheets. The accounting records must be authenticated by the Business Register where the company has its headquarters. 21 22 The Directors are obligated to compile, within three months of the end of the financial year, the Annual Accounts, the Directors' Report and the Proposal for the Application of Profits/Losses, as well as the consolidated Accounts and Directors' Report, where applicable. The annual accounts shall include the Balance Sheet, the Profit and Loss Account and the Annual Report. These documents, which are considered a single unit, shall be written clearly and shall reflect a true image of the Company's wealth, its financial situation and its economic results, according to the provisions of the Public Corporations Act and shall be signed by the Directors. 23</p>	<p>24 25 Article 42. The Annual Accounts. 26 27 As mandated in the Commerce Code, the Company must keep orderly accounting records of its business activities which make it possible to follow its operations chronologically and must also prepare inventories and balance sheets. The accounting records must be authenticated by the Business Register where the company has its headquarters. 28 29 The Directors are obligated to compile, within three months of the end of the financial year, the Annual Accounts, the Directors' Report and the Proposal for the Application of Profits/Losses, as well as the consolidated Accounts and Directors' Report, where applicable. The annual accounts shall include the Balance Sheet, the Profit and Loss Account and the Annual Report. These documents, which are considered a single unit, shall be written clearly and shall reflect a true image of the Company's wealth, its financial situation and its economic results, according to the provisions of the Public Corporations Act and the Commerce Code and shall be signed by all the Directors. 30</p>