



MAX PLANCK FOUNDATION

for International Peace and
the Rule of Law

Statutes of the Max Planck Foundation for International Peace and the Rule of Law Non-profit LLC

§ 1 Name

The name of the company is:

“Max Planck Foundation for International Peace and the Rule of Law Non-profit LLC”.

§ 2 Registered Seat, Share Capital

(1) The registered seat of the company is Heidelberg.

(2) The company's share capital amounts to EUR 25,000.-- (in words: Euros twenty-five thousand). The sole share with the serial number 1 is held by *Max-Planck-Gesellschaft zur Forderungen der Wissenschaften e.V.*.

(3) The financial year corresponds to the calendar year.

§ 3 Purpose of the Company

(1) The purpose of the company is:

- a) to support development cooperation (including a global knowledge transfer),
- b) to support science and research with a view to lit. a),
- c) to support international principles of tolerance and understanding among nations,
- d) to support popular and professional education,
- e) to support democratic political systems,
- f) to procure funds within the meaning of the German Tax Code (*Abgabenordnung*) § 58(1) for the benefit of the aforesaid purposes.



(2) The company realises these purposes by supporting peace, the rule of law, human rights and the understanding of legal cultures across borders and by conducting research in the areas of international law, European law and foreign public law. This is achieved in particular through:

- a) a global knowledge transfer, for example in the form of consultation, education and exchange projects,
- b) support of exchange among scientists and specialists of different disciplines,
- c) scientific and technical assistance in peace processes,
- d) scientific and technical support in the reform of legal systems of developing and transition countries,
- e) scientific contributions to theorising relating to the promotion of peace and the rule of law, and
- f) consultation on political and social questions within the framework of the company's purpose.

(3) The company is free in its development policy activities and scientific research as well as in its. Except as stipulated below, the company has full and unrestricted discretion in the choice, order and carrying out of scientific and development policy work. It cooperates with the Max Planck Society for the Advancement of Science Registered Association and other research institutes as well as institutions for development cooperation (in particular with tax exempt entities within the meaning of the German Tax Code (*Abgabenordnung*) §§ 51 et seq. or with entities of public law) within the framework of its purposes according to these statutes.

(4) The company sees itself committed to the maintenance of good scientific practice. Each employee of the company is expected, in the context of his or her work, to observe principles for ensuring good scientific practice. Adherence to this code is obligatory for each employee of the company.

(5) The company may pursue any and all activities connected with the purpose of the company and, in the process, may also obtain holdings in other entities. On the condition that the company is not active in the way in the procurement of funds pursuant to the German Tax Code §58(1), it fulfils its tasks itself or does so through an auxiliary person in accordance with the requirements of the German Tax Code §57 (1)(2).

(6) Research results are published promptly.



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§ 4

Non-profit Status

(1) The company exclusively and directly pursues non-profit purposes within the meaning of the "tax-privileged purposes" section of the German Tax Code.

(2) The company is selflessly active; it does not primarily pursue goals that serve its own economic interests.

(3) The funds of the company may only be used for the company purposes according to these statutes.

(4) The shareholders may not receive any share of the profits or any other form of remuneration from the funds of the company.

(5) No person may benefit from expenditures that are not related to the purpose of the company or from disproportionately high remunerations.

§ 5

Organising Bodies of the Company

The organising bodies of the company are:

- a) the board of directors (§§ 7 et seqq.),
- b) the Shareholders' Meeting (§ 11),
- c) the scientific and development policy advisory committee (§ 12).

§ 6

Economic Management and control

(1) The organising bodies of the company are to observe the principles of economic efficiency and frugality in their management of the company.

(2) Control of the budget funds is done in accordance with the control principles and guidelines valid for the *Max-Planck-Gesellschaft zur Förderung der Wissenschaft e.V.* on the basis of an economic plan.



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§ 7
Management

- (1) The company has one or more directors.
- (2) The directors may work on a paid or unpaid basis; they receive reimbursement of any expenses actually incurred.
- (3) The scientific and development policy advisory committee and the members of the management can propose new directors.
- (4) Without prejudice to the right to issue directives of the Shareholders' Meeting, the board of directors – in compliance with the purposes of the company – decides in particular:
 - a) on the choice and carrying out of the scientific and development policy activities,
 - b) on the initiation of projects as well as their implementation,
 - c) on the appointment and dismissal of limited-time personnel.
- (5) At the end of the financial year the board of directors is to compile a comprehensive activity report in which the business and support activities of the company for the previous financial year are presented. The activity report must in particular address the pursuit of the company purpose by the board of directors. The activity report is to be submitted to the shareholder for the purpose of information and be clarified if applicable.
- (6) In other respects, the activities of the board of directors are regulated by the code of procedure, which according to § 11(6)(c) require the approval of the Shareholders' Meeting.
- (7) To the extent permissible by law, the liability of the board of directors towards the company and the shareholder shall be limited to intent and gross negligence.

§ 8
Representation

- (1) If only one company director has been appointed, he or she shall represent the company alone. If more than one director has been appointed, the company shall be represented by at least two company directors jointly or by one company director together with an authorised signatory. The Shareholders' Meeting may reach a decision which deviates from this rule.
- (2) The Shareholders' Meeting can grant sole power of representation to one or more company directors. The Shareholders' Meeting can grant the power of authorised signatory and the power of attorney.



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(3) The Shareholders' Meeting can exempt one or more company directors from the limitations of § 181 BGB (German Civil Code).

(4) The aforementioned regulation shall also apply to liquidators. If the company is liquidated by the directors up to that time according to § 66, subsection 1, German Limited Liability Companies Act, their specific representation power shall also continue to apply as liquidators.

§ 9

Annual Financial Statement, Economic Plan

(1) The board of directors is obliged to produce the annual financial statement (balance sheet, profit and loss account) as well as the company report within the legal time limits after the end of each financial year and to have it audited by one of the auditors appointed by the Shareholders' Meeting. After the audit by the auditors, the board of directors promptly presents the annual financial statement, the audit report as well as the recommendation for the allocation of yearly net earnings to the meeting of the shareholders for further examination and the adoption of resolutions.

(2) The board of directors is to prepare the annual economic plan (a one-year earnings, investment and financing plan) for the following year within the first eight months of each preceding year and present it to the Shareholders' Meeting for deliberation and approval.

(3) In addition to this, the board of directors is to issue a medium-term financial plan covering the planning year and at least four subsequent financial years and present it to the Shareholders' Meeting for deliberation. The assumptions and essential planning data on which calculations are based are to be clarified.

(4) The company may form financial reserves within the framework of the tax guidelines for non-profit organisations.

§ 10

Financing of the Company

(1) The financial needs/budget of the company are exclusively covered by:

- a) external funding from grants,
- b) other external contributions, e.g. donations,
- c) returns from investment management of the company's own assets.



(2) Beyond the nominal amount of the share, the shareholder makes no further deposits (additional contributions) and provides no other financial means, in particular in the form of loans.

(3) The shareholder provides the company with no sureties or other financial securities.

§ 11 **Shareholders' Meeting**

(1) The Shareholders' Meeting shall be held at least once a year within the statutory periods, albeit no later than 30 November of each and every year. Apart from this, the Shareholders' Meeting shall be convened if the company's interest so demands, e.g. in the event of essential changes to the strategic planning, distinct failure to reach the operative targets and in particular in the event of risks jeopardising its existence.

(2) The convening of the Shareholders' Meeting is the task of the board of directors. It must occur if the shareholder, the scientific and development policy advisory committee or a director requests it.

(3) The convening of the Shareholders' Meeting is issued to the shareholder in a written form, by fax or by e-mail with specification of the place, date, Ordinary Shareholders' Meetings and of one week for Extraordinary Shareholders' Meetings. The notice period begins with the receipt of the convening notification by the shareholder. The day of the meeting is not counted in the calculation of the notice period. The necessary documents should be provided to the shareholder three weeks before the Shareholders' Meeting. To the extent that cogent directives do not contradict, waiver of all directives of form and period of the convening prescribed by the Shareholders' Agreement or law shall be admissible.

(4) The Shareholders' Meeting takes place at the registered seat of the company, provided the shareholder has not agreed to another location.

(5) The chair at the Shareholders' Meeting shall be taken by the sole shareholder's representative.

(6) The Shareholders' Meeting decides on matters provided for according to law and company statutes, in particular:



- a) the approval of company planning (economic planning consisting of earnings, investment and finance planning) including planning calculations as well as their adjustments,
- b) the approval of the annual financial statement, the use of the net gains or the covering of a loss as well as the allocation to and withdrawal from earnings reserves in accordance with the laws relating to non-profit organisations,
- c) the appointment, employment, termination and recall of directors, including employment contracts as well as the approval of code of procedure for the board of directors,
- d) the selection and recall of members of the scientific and development policy advisory committee,
- e) the granting and revocation of the sole representational authority of a director or of more than one director as well as of authorised signatory power and/or power of attorney,
- f) the selection and appointment of a company financial statement auditor,
- g) the approval of the actions of the board of directors as well as of the scientific and development policy advisory committee,
- h) conclusion of unlimited employment agreements for the company's employees
- i) the granting of loans from funds which are not intended to be used in the near future and the obtaining of loans within the scope of the company's non-profit aims, provided that the measure is not contained in the economic plan approved by the Shareholders' Meeting.
- j) the acquisition, sale and the encumbrance of real properties, property rights and rights equivalent to real properties outside the approved company planning.
- k) investments whose value in individual cases exceeds EUR 15,000 (in words: fifteen thousand Euros), provided these investments are not contained in the company planning approved by the Shareholders' Meeting,
- l) the acquisition and sale of shares in other companies, the founding or liquidation of companies as well as the merging, increasing and decreasing of nominal capital and other legal restructurings of companies,
- m) the exclusion of shareholders,
- n) the modification of the statutes as well as structural measures that are tantamount to changes to the company as an entity or to its purpose,
- o) the liquidation of the company and the election of liquidators,
- p) the relocation of the registered seat and the sale of the company as a whole or of essential parts of the company,
- q) the pursuit of legal claims against members of the board of directors and of the scientific and development policy advisory committee,
- r) the disposal of shares or parts of shares, in particular on assignment, pledging, usufruct creation as well as the joining of new shareholders,
- s) the approval of legal transactions between the company and members of the organising bodies of the shareholder or their dependants.



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(7) The Shareholders' Meeting can reserve the right to approve further business by single directive or code of procedure.

(8) As a matter of principle, shareholders' resolutions are passed at the Shareholders' Meeting. Unless mandatory laws stipulate another form, shareholder resolutions can also be adopted in written form, verbally or by telephone. For every resolution adopted outside of Shareholders' Meetings, signed minutes are to be taken immediately by the chairperson recording the day and the method of resolution adoption, the content of the resolution and the casting of votes. The minutes are to be signed by the shareholder or by its representative.

(9) The lodging of remedies of any type against shareholder resolutions can only be made within a period of one month after receipt of the minutes concerning the resolution.

(10) Meeting participants are obliged to maintain confidentiality concerning the affairs of the company. This does not apply vis-à-vis organising bodies of the company or the general administration of the shareholder provided they are dealing with their involvement in the meeting, nor for generally known facts.

§ 12

Scientific and Development Policy Advisory Committee

(1) The scientific and development policy advisory committee (hereinafter: "the advisory committee") evaluates the activities of the company from a scientific and development policy perspective every 1-2 years and advises the board of directors in relation to the fulfilling of the company purpose and adherence to the requirements for non-profit status, in relation to the (strategic) development of the company and the selection and conceptualisation of development aid projects supported by state, public or other non-recoverable funds. In relation to the new appointment of members to the board of directors, the advisory committee should state its views before the consultation in the Shareholders' Meeting.

(2) The German Limited Liability Companies Act (*GmbHG*) § 52(1) only applies to the advisory committee insofar and as long as the shareholder adopts it with the majority required to modify the company statutes.

(3) The advisory committee consists of at least five and no more than seven persons, for the most part internationally recognised scholars and scientists, prominent individuals from project countries and representatives of the state institutions which support this company. The composition of the advisory committee should correspond to the company's field of activity. One member should be a director of the Max Planck Institute for Comparative Public Law and International Law in Heidelberg and one member should be a director of another Max Planck institute.



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(4) The members of the advisory committee are appointed by the Shareholders' Meeting on the recommendation of the board of directors by a majority vote. The normal term of office of a member of the advisory committee is four years from the day of appointment unless the term is ended prematurely by resignation, possible at any time, or a recall for good and sufficient reason. For a recall for good and sufficient reason, in addition to the good and sufficient reason, a majority vote of the Shareholders' Meeting is required. Reappointment after the end of a term of office is permissible. If a committee member resigns before the end of his or her term of office, a vote is to be taken for a replacement for the remainder of the term.

(5) The advisory committee elects a chairperson and vice-chairperson from its midst for a term of office to be determined upon their election; as a rule this is four years. The advisory committee makes its declarations through its chairperson, and if he or she is prevented from doing so, through its vice-chairperson.

(6) The chairperson of the advisory committee convenes an advisory committee meeting every 1-2 years. In other respects, the advisory committee is to be convened if so requested by the shareholder, one third of the advisory committee or a director. In the preparation, the convening and the conducting of an advisory committee meeting, it is supported by the company. The latter provides the advisory committee with the necessary information and resources for its activities. The shareholder or a person named by the Shareholders' Meeting can participate in the meetings of the advisory committee in an advisory capacity. The advisory committee and its members have a comprehensive right to information towards the board of directors.

(7) Each member of the advisory committee has one vote at advisory committee meetings. Resolutions of the advisory committee are adopted with a simple majority of the votes cast. In the event of a tie vote, the vote of the chairperson or, if the chairperson is prevented from voting, then the vote of the vice-chairperson is the deciding vote. The chairperson chairs the meetings of the advisory committee.

(8) Unless mandatory laws stipulate another form, resolutions of the advisory committee can also be adopted in written form, verbally or by telephone, if all members of the advisory committee have consented to the form of resolution adoption. For every resolution adopted outside of advisory committee meetings, signed minutes are to be taken immediately by the chairperson recording the day and the form of resolution adoption, the content of the resolution and the casting of votes. The minutes are to be signed by the chairperson and the vice-chairperson.

(9) Members of the advisory committee are to observe secrecy in relation to company affairs provided that such affairs are confidential in nature. Membership of the advisory committee is on an honorary basis. The members of the advisory committee are provided with an expense allowance for their activity. The principal guideline for the activity of the advisory committee is the welfare of the company and the realisation of its purpose.



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§ 13

Liquidation of the Company

(1) If the shareholder has the intention of dissolving the company without a reason within the meaning of subsection 2 or subsection 3 existing, the management is to be informed 6 months in advance. The possibility of take-over of the shares by third parties may exist.

(2) The non-profit limited liability company shall be liquidated:

- a) in cases of the German Limited Liability Companies Act (*GmbHG*) § 60(1),
- b) in the case of the revocation or cessation of the fiscal non-profit status of the company.

(3) The non-profit limited liability company can in particular be liquidated:

- a) in the event of the determination of an annual deficit of more than EUR 200,000 (in words: two hundred thousand Euros) in the commercial law annual financial statement,
- b) in the event of the incurring of an annual deficit of more than EUR 100,000 (in words: one hundred thousand Euros) per year in two consecutive financial years,
- c) if over a period of more than two financial years a cumulated annual deficit is reached of more than EUR 300,000 (in words: three hundred thousand Euros).

(4) In the event of the liquidation of the company or the cessation of tax-privileged purposes, the company's assets, to the extent that they are greater in value than the paid-in capital of the shareholder and the market value of contributions made in kind by the shareholder, shall fall to the Max Planck Society for the Advancement of Science Registered Association with its registered seat in Berlin, which is to use them immediately and exclusively for the advancement of science and research.

(5) Upon the liquidation of the company, upon the shareholder's departure or upon the discontinuation of tax-privileged objectives, the shareholder shall receive no more than its paid-in capital and the market value of its contributions made in kind.

(6) To the extent that the amount of the repayment of the paid-in capital share and/or market value of the non-cash capital contributions would endanger the existence of the company, the shareholder is obligated to grant a reasonable extension, however at the longest for two years, on these instalments; consecutive extensions are not permitted.

§ 14



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Notifications

Official announcements of the company are published only in the German Federal Gazette.

§ 15

Formation Expenses

The company bears the costs of formation, in particular for notary, court, legal and tax consultancy costs, up to the amount of EUR 2,500 (in words: two thousand five hundred Euros).

§ 16

Final Provisions

(1) Insofar as these statutes contain no deviating regulations, the German Limited Liability Companies Act (*GmbHG*) applies.

(2) Should individual provisions of these statutes or provisions added to them in the future be entirely or in part of no legal force or later lose their legal force or enforceability, the validity of the remaining provisions of these statutes shall not be affected. The same applies if it is determined that the statutes contain a regulatory gap. In the place of the invalid or unenforceable provisions or to fill the regulatory gap, a reasonable regulation shall apply which corresponds to what would have been agreed upon according to the intent and purpose of these statutes had the matter been considered at the conclusion of the statutes or upon the later addition of a provision. This also applies if the invalidity of a provision depends, for example, on a measure of performance or time (time period or deadline) prescribed in these statutes; in such a case, a legally permissible measure of performance or time (time period or deadline) most closely approximating that which was intended shall then be deemed to be effective.