

# Corporate Governance Report

2009



**A·TEC** INDUSTRIES

# Corporate governance report

## Compulsory disclosures under section 243b Austrian Business Code

A-TEC Industries AG, a company listed on the Vienna Stock Exchange prime market, has voluntarily committed itself to compliance with the Austrian Code of Corporate Governance as amended in January 2010, which is posted on the Company's website [www.a-tecindustries.com](http://www.a-tecindustries.com).

This Code is generally recognised at the Vienna Stock Exchange. No external audit was carried out in 2009; the auditor of the financial statements audited in accordance with section 269 UGB (Austrian Business Code) that a Corporate Governance Report was established.

The A-TEC Group aspires to advance the careers of equally qualified women, such that they attain management board, supervisory board and other management positions, without setting quotas. During the application and recruitment process, attention is paid to equal treatment of female and male candidates.

By virtue of the resolution of the extraordinary general meeting held on 19 October 2009, the Articles of Association of A-TEC Industries AG were amended to comply with the Aktienrechtsänderungsgesetz (Companies [Amendment] Act).

In addition to the compensation report, the following explanations are given with regard to C rules:

**Rule 26:** CEO Mirko Kovats is the Supervisory Board Chairman of three external public limited companies.

**Rule 27:** The remuneration of the A-TEC Industries AG Management Board and certain members of senior management includes performance related components.

**Rule 34:** The rules of procedure of the Management and Supervisory boards are not published, either in their entirety or in extracts, since A-TEC Industries AG considers them to be confidential.

**Rule 77:** The consolidated financial statements are audited in accordance with the Austrian statutory provisions currently in force, and the standards and guidelines for generally accepted auditing practice established by the pronouncements of the professional associations of auditors in Austria. These conform to the International Standards on Auditing (ISA).

## Disclosure on the composition of the Management and Supervisory Boards

### The Management Board

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|---|---|
| <p>Mirko Kovats<br/>Chairman of the Management Board<br/>(since 9 March 2006, end of current term of office 9 March 2011)</p>             | <p>Born in 1948. Studied at the Universität für Welthandel (now the Vienna University of Economics and Business Administration), obtaining a doctorate in 1971. Import-export business in Central and Eastern Europe with a focus on machine tools. Acquisition of a 50% interest in the EMCO Group in 1997; founder and majority shareholder of A-TEC Industries. Involved in establishing and expanding the Group through acquisitions of ATB, AE&amp;E and Montanwerke Brixlegg. Chief Executive Officer (CEO) of A-TEC Industries AG since 2006.</p> <p>Memberships of supervisory boards and similar responsibilities other than those of consolidated domestic and foreign Group companies: AURUM Immobilienverwaltungs AG; Capital und Industrie Investment AG and CII Mining Industries AG.</p> |
| <p>Christian Schmidt<br/>Deputy Chairman of the Management Board<br/>(since 9 March 2006, end of current term of office 9 March 2011)</p> | <p>Born in 1957. Studied at the University of Natural Resources and Applied Life Sciences, Vienna and the Swiss Federal Institute of Technology Zurich, graduating in 1982. From 1983 on; management positions in industry and at consultancies. Co-owner of the A-TEC Industries Group since 2001. Involved in expanding the A-TEC Industries Group. Member of the ATB and AE&amp;E management boards. Since 2006 Chief Operating Officer (COO) and Deputy Chairman of the Management Board of A-TEC Industries AG.</p>  |
| <p>Christian Schrötter<br/>Management Board member (since 1 January 2008, end of current term of office 31 December 2010)</p>             | <p>Born in 1963. Studied Economics and Computer Science, and Business in Vienna and the USA, obtaining an Austrian MA and an MBA in 1987 and 1988, respectively. A senior manager at PW Pricewaterhouse, CFO at ONE, the Siemens Elin Group and ATB, and since 1 January 2008 Chief Finance Officer (CFO) at A-TEC Industries AG.</p>   |

### The Supervisory Board

|   |   |
|---|---|
| <p>Freimut Dobretsberger<br/>Supervisory Board Chairman<br/>(since 28 September 2006, end of current term of office AGM 2011)</p> | <p>Born in 1937. Independent<sup>1)</sup>, CEO of Bank der Österreichischen Postsparkasse AG until 1999. Memberships of supervisory boards and similar responsibilities in listed and foreign companies: ATB Austria Antriebstechnik AG</p> |
| <p>Johannes Edelsbacher<br/>Deputy Chairman<br/>(since 28 September 2006, end of current term of office AGM 2011)</p>             | <p>Born in 1944. Independent<sup>1)</sup>, Chief executive of an auditing and accountancy firm.</p>   |
| <p>Dr. Gernot Grimm<br/>Member of the Supervisory Board<br/>(since 6 November 2006, end of current term of office AGM 2013)</p>   | <p>Born in 1957. Independent<sup>1)</sup>, Head of the technology transfer and safety research unit at the Ministry of Transport, Innovation and Technology since 2005.</p>   |
| <p>Klaus Requat<br/>Member of the Supervisory Board<br/>(since 27 June 2008, end of current term of office AGM 2012)</p>          | <p>Born in 1959. Independent<sup>1)</sup>, Managing Partner of Carpima Invest and previously manager of the Austria and Emerging Europe group at Unicredit CAIB AG</p>  |
| <p>Horst Wiesinger<br/>Member of the Supervisory Board<br/>(since 27 June 2008, end of current term of office AGM 2012)</p>       | <p>Born in 1940. Independent<sup>1)</sup>, Managing partner at Horst Wiesinger Consulting GmbH</p>  |
| <p>Helmuth Palzer<br/>Member of the Supervisory Board<br/>(since 27 June 2008, end of current term of office AGM 2011)</p>        | <p>Born in 1942. Independent<sup>1)</sup>, Independent consultant; chairman of Austrian Energy &amp; Environment AG until 2005</p>  |

1) independent in the meaning of C Rules 53 and 54.

## Disclosure on the composition of the Management and Supervisory Boards

### Division of responsibilities

#### Management Board

In his capacity as Chief Executive Officer (CEO) and Chairman of the Management Board Mirko Kovats is responsible for the overall coordination and strategic alignment of the Company. As spokesman of the Management Board he is responsible for furnishing information to the Company's governing bodies, and for making declarations to its shareholders, the public and the media.

As Chief Operating Officer (COO) Christian Schmidt is responsible for the operational management of the various divisions. This concerns, in particular, the technology employed by, and development of the factories. He also heads the central human resources (HR) function.

As Chief Financial Officer (CFO) Christian Schrötter heads the finance function, and the accounting function including risk management. He is also in charge of corporate internal financial control, and the legal, insurance and IT functions.

Management Board meetings take place at least once a month.

#### Supervisory Board

By virtue of the applicable legislation, the Company's articles of association and its rules of procedure, the Supervisory Board is responsible for oversight of the Management Board of A-TEC Industries AG. Gernot Grimm's mandate was extended by four years during the AGM held on 28 May 2009.

#### Supervisory Board committees and their decision-making powers

The Audit Committee consists of selected members of the Supervisory Board. Johannes Edelsbacher, who is the managing director of an accountancy and audit firm, chairs the committee as a finance expert pursuant to Rule 40. The Deputy Chairman is Mr. Wiesinger; the other members are Freimut Dobretsberger and Klaus Requat. The decision-making powers of the Audit Committee are in accordance with the members' statutory duties. Under the new arrangements established by section 92(4a) Aktiengesetz [Companies Act] (AktG), two further companies in the A-TEC Group were required to set up audit committees, resulting in a total of four audit committees in the Group.

The agendas of the Nomination and Remuneration Committees are drawn up by the Executive Committee, consisting of the Chairman Freimut Dobretsberger and the Deputy Chairman Johannes Edels-

bacher. The Supervisory Board set up these committees to provide the Board with efficient support. Their responsibilities include preparing explicit tasks and questions for the entire Supervisory Board. As the former CEO of Bank der Österreichischen Postsparkasse AG, Freimut Dobretsberger has the requisite knowledge and skills concerning remuneration policy in the meaning of C Rule 43 of the Code. External advisers were not consulted with regard to these questions.

#### Number of Committee and Supervisory Board meetings, including scope of responsibility

In 2009, five Supervisory Board meetings were held with attendance rates of almost 100%.

Besides an extensive discussion regarding business development and external influences, during the year under review the Supervisory Board meetings focused on the cost reduction and rationalisation programmes implemented. The Group-wide working capital optimisation programme was presented to the Board, and progress followed. The Management Board also presented refinements to the risk management system and discussed the related objectives and opportunities with the Supervisory Board. Besides regular reporting on liquidity and financing, a further focus was on preparations for the convertible bond issue which was successfully floated in October 2009.

Details of the matters discussed by Supervisory Board meetings are given in the Report of the Supervisory Board.

Four Audit Committee meetings took place in the year under review. These dealt with cooperation with the auditors, audit progress, internal audit issues and the establishment of a risk management system. Five Executive Committee meetings were held during the run-up and follow-up to the plenary Supervisory Board meetings.

#### Declaration of independence

No members of the Supervisory Board have any business or personal relationships with A-TEC Industries AG or its Management Board which could give rise to a material conflict of interest such that these relationships might influence members' behaviour.

The behaviour of the members of the Supervisory Board is therefore not under any influence in the meaning of C Rules 53 and 54 of the Austrian Code of Corporate Governance.

The Supervisory Board has not defined independence criteria. The guidelines for independence set out in Annex 1 of the Code of Corporate Governance were used for guidance purposes. All of the members of the Supervisory Board have declared their indepen-

dence, on their own responsibility, in the presence of the Chairman. No explicit minority shareholders' representative has been elected to the Supervisory Board.

### Disclosure of information on the remuneration of Management and Supervisory board members

The following information concerning remuneration relates to the implementation of the EU recommendation on directors' remuneration of 30 April 2009 by means of a revision of the Austrian Code of Corporate Governance dated January 2010.

No material changes were made to the principles governing the remuneration of A-TEC Industries AG Management Board members as compared to the previous year. The remuneration of the members of the Management Board varies according to their duties, responsibilities and personal performance, and the balance of these components is reasonable.

The variable components are geared to the business performance of the Group, and the main performance measures applied are operating profits in the form of EBIT or EBT, or order intake. One Management Board member's compensation is subject to an upper limit. In the case of the other two members there are no contractual limits to the ratio to the fixed components in the meaning of Rule 27. The ratio of the variable components of the Management Board's compensation to total compensation was 59.4% during the year under review (2008: 6.4%).

The remuneration components are set for a period of one year and hence do not include any multiple-year or non-financial criteria. A-TEC Industries AG's stable ownership structure, with core shareholders whose interest is in long-term value creation, does not induce management to take unwise short-term, speculative risks but encourages it to base its decisions on long-term performance criteria.

In 2008 one Management Board member was granted 44,000 share options in the form of an equity settled plan, at an issue price of EUR 25.00 per share. Investment of own capital is not prescribed. To fully exercise the share options, the eligible member must have been an active employee of the Company continuously for a period of at least three years.

There is no company pension scheme for A-TEC Industries AG Management Board members; there are isolated instances of individual agreements at divisional level. Entitlements to termination benefits payable on separation are at competitive levels for the industries concerned. However, there are no limits to amounts or time limits in the event of premature termination as required by C Rule 27a of the Code. Currently there are no contractual arrangements allowing the Company to require repayment of variable remuneration components.

Directors' and officers' (D&O) insurance cover at normal industry levels has been taken out for Management Board members at the Company's expense.

The remuneration of Management Board members was EUR 2,695,000 in 2009 (2008: EUR 1,093,000). Of this amount the fixed pay components were EUR 1,067,000 (2008: EUR 995,000) and the variable components EUR 1,600,000 (2008: EUR 70,000).

A-TEC Industries AG takes the view that disclosure of the remuneration of individual board members in accordance with C Rule 31 would be of no benefit to shareholders.

The principles and the amount of remuneration of Supervisory Board members, including the chairman and his deputy, are published in the Articles of Association to be posted on A-TEC Industries AG's website. In total, Supervisory Board members receive one-tenth of a percent of the profits after tax reported in the approved consolidated financial statements. This amount is distributed at a rate of 100% for the chairman, 75% for his deputy, and 50% for all other members. The minimum remuneration was paid in 2009, with the chairman's entitlement set at EUR 20,000, that of his deputy at EUR 15,000, and that of all other members at EUR 10,000.

Performance-related remuneration is limited to twice the above amounts. The total compensation of the Supervisory Board in 2009 was EUR 91,000 (2008: EUR 77,000).

### Auditor's fees

BDO Salzburg Wirtschaftsprüfung GmbH was appointed by the Annual General Meeting on 28 May 2009 as the auditor of the individual and consolidated financial statements for the 2009 financial year. The auditing expenses for the year under report were EUR 707,000. Further other services of BDO Salzburg Wirtschaftsprüfung GmbH were called upon in the amount of EUR 87,000.

### Compliance Code

A-TEC Industries AG has introduced a binding Group-wide compliance code to prevent the abuse of inside information. The code is based on European and Austrian legislation.

The code applies, without limitation, to all employees of the parent entity, the Supervisory Board, relevant external consultants and service providers, and selected executives with the various operating subsidiaries. The duties of the compliance officer include raising awareness and constantly providing information to the divisional compliance officers, timely notification of blocking periods and trading prohibitions, and sensitising new employees to these issues.

Where necessary, confidentiality areas are established for persons who receive project related access to inside information. Five project related confidentiality areas were set up in 2009.

A-TEC Industries AG posts information on directors' dealings on its website, via a link to the Austrian Financial Market Authority (FMA), as required by law.

The Management Board

27 April 2010



**Mirko Kovats**

**Chief Executive Officer**



**Christian Schmidt**

**Member of the Management Board**



**Christian Schrötter**

**Member of the Management Board**