

Constitution of the Association German Initiative on Sustainable Cocoa

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Name, Registered Office and Financial Year

- (1) The Association shall bear the name German Initiative on Sustainable Cocoa and is to be entered into the German Register of Associations as Forum Nachhaltiger Kakao. After registration, the letters 'e.V.' [*eingetragener Verein*: registered association] shall be added to the name.
- (2) The Association's registered office shall be in Berlin.
- (3) The financial year shall be the calendar year.

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Purpose

- (1) The Association shall directly and solely pursue public-benefit goals as described in the paragraph entitled 'Tax-privileged purposes' of the Fiscal Code of Germany.
- (2) The purpose of the Association shall be the advancement of development cooperation as defined in section 52 (2) No. 15 of the Fiscal Code as well as nature conservation and environmental protection as defined in section 52 (2) No. 8 of the Fiscal Code.
- (3) The Association's constitutional purpose shall be achieved in particular:
 - a) by implementing its own projects to promote sustainable cocoa farming with the goals of improving the economic and social conditions of those involved in cocoa farming and of protecting and conserving the natural resources of the cocoa farming countries;
 - b) by procuring funds for legal entities under public law and/or other tax-privileged entities as defined in section 58 (1) and (2) of the Fiscal Code to support the advancement of development cooperation as defined in section 52 (2) No. 15 of the Fiscal Code as well as nature conservation and environmental protection as defined in section 52 (2) No. 8 of the Fiscal Code in order to promote sustainable cocoa cultivation with the goal of improving the economic and social conditions of those involved in cocoa farming and to protect and conserve the natural resources of the cocoa farming countries.
- (4) Within the scope of its constitutional purpose, the Association shall:
 - a) work towards a consensus regarding methods, means and ways to achieve sustainability in cocoa farming, this consensus to be reflected in the agreement of all those involved on an effective, best-practice-based model for gradually introducing cocoa farmers to sustainable cocoa cultivation;
 - b) disseminate in cocoa farming countries knowledge about sustainable farming methods that apply existing best-practice approaches, particularly certification capacity enhancement measures, thus facilitating the implementation of sustainability standards for cocoa farmers;
 - c) support the governments of cocoa farming countries in networking, communicating and advancing existing best-practice measures and projects for sustainable cocoa farming with the long-term goal of increasing the amount of

sustainably produced cocoa, thus increasing the cocoa farmers' income while protecting and conserving natural resources.

- d) integrate existing initiatives set up to advance the sustainable cultivation of cocoa into networks and cooperate with them;
- e) provide its members with guidance on how sustainability criteria can be integrated into cocoa procurement in order to boost demand for sustainably produced cocoa;
- f) inform the public about the Association's activities and the progress made in sustainability efforts in the cocoa farming regions.

The order of the measures listed in section 2 (4) above is not intended to reflect their importance in pursuing the Association's purpose.

- (5) The Association shall not be under any obligation to pursue the Association's purposes pursuant to section 2 (2) simultaneously or with equal emphasis. There shall likewise be no obligation to achieve those purposes simultaneously and with equal emphasis in terms of the methods and activities adopted pursuant to section 2 (3) and (4); on the contrary, the Association shall be permitted to set varying priorities. The Association shall, in the context of its decision-making processes, set priorities regarding the measures to be taken in pursuit of its goals.
- (6) The Association's activities shall be altruistic; it shall not primarily pursue its own economic advantage.
- (7) The Association's funds may only be used for the stipulated constitutional purposes. No member shall receive benefits from the Association's funds.
- (8) No person may benefit from expenditures foreign to the Association's purpose or from disproportionately high remuneration.
- (9) In order to fulfill its purpose, the Association may commission third parties, for example to maintain an administrative office. Any commissioning of third parties is to be conducted in such a way that these third parties are deemed the Association's auxiliary personnel pursuant to section 57 (1) Sentence 2 of the Fiscal Code.

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Patronage

The executive board may invite a suitable public figure or institution to act as patron.

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Membership, Guest or Advisor Status

- (1) The Association shall have regular members and sponsoring members.
- (2) Only those belonging to the following four groups (the membership groups) may have the status of regular members:
 - a) The public sector (Group A)

This group has only one member: the Federal Republic of Germany, represented by the Federal Ministry of Food and Agriculture (Bundesministerium für Ernährung, Landwirtschaft und BMEL) and the German Federal Ministry for

Economic Cooperation and Development (Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung or BMZ).

b) The cocoa, chocolate and confectionery industries (Group B)

Members of this group can be:

associations, confederations, unions, companies and organizations of the cocoa, chocolate and confectionery industries or other cocoa and chocolate processing industries.

c) The retail grocery trade (Group C)

Members of this group can be:

Retail grocery trade associations, confederations, unions and companies.

d) Civil society (Group D)

Members of this group can be:

- non-governmental organizations (NGOs) that have an interest in sustainable cocoa farming and can make a contribution toward the achievement of the Association's goals;
- unions working in the area of sustainable cocoa farming;
- organizations that offer or develop standards for sustainable cocoa farming;
- institutions in the fields of science, education and culture that work in the area of sustainable cocoa farming and in particular concern themselves with research, testing and studies on sustainable cocoa farming.

- (3) In case of doubt as to the group to which a member is to be attributed, the executive board shall decide. This shall also apply in case of doubt as to whether an applicant falls under any group at all.
- (4) The governments of the cocoa producing countries, relevant cocoa farming organizations from the producing countries, cocoa producers, the International Cocoa Organization (ICCO) and other organizations working in the cocoa industry are granted guest status or advisory status upon request.
- (5) Other natural persons or legal entities that belong to one of the groups designated in (2) above can become sponsoring members of the Association.
- (6) Membership of the Association shall be obtained by means of a written application upon which the executive board shall decide within six weeks. The same shall apply to the granting of guest or advisory status. Applicants may lodge an objection to a negative decision. Any such objection must be submitted to the executive board in writing within one month of receipt of the negative decision. A decision regarding the objection shall then be reached at the next regular members' meeting.

5

Termination of Membership

(1) Membership shall end

- a) for legal entities if they are dissolved and for natural persons upon their death;

- b) upon deletion from the commercial register of a sole proprietorship or commercial company or upon initiation of insolvency proceedings;
 - c) by written declaration of withdrawal by means of registered letter giving six months' notice effective at the end of a financial year;
 - d) by expulsion from the Association.
- (2) Any member that has contravened the interests of the Association to a significant degree can be expelled from the Association by means of an executive board decision. Before expulsion, the member in question shall be given a chance to mount a written defense.

6 Governing Bodies

The Association's governing bodies shall be:

- the executive board
- the members' meeting.

7 Executive Board

- (1) The Association's executive board shall consist of up to eight (8) members. It shall also be the executive board as defined in section 26 of the German Civil Code (*Bürgerliches Gesetzbuch* or BGB).
- (2) The Association member Federal Republic of Germany shall have the right to appoint two executive board members. The Association members, Association of the German Confectionery Industry (BDSI) and Federal Association of the German Retail Grocery Trade (BVLH) shall each have the right to appoint one member of the executive board. The executive board member appointed by BDSI shall belong to Member Group B and the executive board member appointed by BVLH shall belong to Member Group C.

The above-mentioned Association members shall have the right to remove their appointed executive board members from office at any time and appoint new executive board members. This right shall constitute a special right of these members as defined in section 35 of the German Civil Code.

- (3) In addition to the executive board members appointed pursuant to section 7 (2) above, separate ballots shall be held in which:
- a) one executive board member shall be elected by the Association members of Member Group B;
 - b) one executive board member shall be elected by the Association members of Member Group C;
 - c) two executive board members shall be elected by the Association members of Member Group D.

These member groups shall also be responsible for reaching a decision regarding any dismissal of the executive board member(s) they have elected. This shall constitute a special right of these members as defined in section 35 of the German Civil Code.

The election of these executive board members shall take place in a members' meeting for a term of office of one year starting on the date of the election. However, the executive board members in question shall remain in office until the next new election.

If one of these executive board members leaves the executive board prematurely, the member group in question shall elect a substitute member for the remaining term of office; this election shall take place by means of a written procedure. The chairperson of the executive board, or in the latter's absence the deputy chairperson, shall write to all the members of the member group concerned, giving them an opportunity – within an appropriate period of at least two weeks after dispatch of the letter – to nominate candidates. Then, within another two-week period, a letter enclosing a list of the candidates shall be sent to the members with a request that they participate in the election by means of a written vote within a time period to be set forth in the letter amounting once again to at least two weeks.

The executive board members shall be elected in one ballot. Whoever receives the most votes shall be deemed elected.

- (4) Executive board members elected pursuant to section 7 (2) and section 7 (3) above can be expelled by the members' meeting for good cause.
- (5) The executive board shall elect a chairperson and two deputy chairperson from among its members.
- (6) The executive board shall be responsible for all Association matters to the extent that such matters are not the responsibility of the members' meeting pursuant to this Constitution. The duties of the executive board shall include in particular:
 - a) preparing and calling members' and executive board meetings and setting agendas for those meetings;
 - b) implementing members' meeting resolutions;
 - c) passing resolutions on the admission and/or expulsion of members;
 - d) receiving suggestions for and passing resolutions on projects, measures and activities;
 - e) commissioning and monitoring auxiliary personnel as described in section 2 (8) of this Constitution;
 - f) drawing up a budget;
 - g) drawing up a statement of accounts and annual financial statements;
 - h) issuing public statements in the name of the Association.
- (7) The executive board shall constitute a quorum only if a representative of each of the four membership groups is present at the meeting.
- (8) The executive board shall abide by the following rules when passing resolutions:
 - a) The executive board members are to use their best efforts to reach unanimous decisions.

- b) Executive board resolutions shall require a majority of the valid votes cast as well as the consent of at least one of the executive board members from each of the four member groups as described in section 4 (2) of this Constitution. Abstentions shall be deemed invalid votes.
 - c) Resolutions may be passed with the majorities set forth in this section 7 (8) by means of written circulation in lieu of a meeting.
- (9) Meetings of the executive board shall be called by the chairperson, or in the latter's absence the deputy chairperson, at least three times annually. Meetings may be held in the form of video or telephone conferences.
- (10) The Association shall be represented for judicial or extra-judicial purposes by two members of the executive board, one of whom shall be the chairperson or deputy chairperson. For internal purposes, this power of representation shall be limited by the rule that it may only be exercised together with another member of the executive board that represents a different member group as described in section 4 (2) above. This shall not affect the external power of representation.
- (11) The treasurer shall administer the Association's funds and thus be responsible for preparing the statement of accounts to be drawn up by the executive board.
- (12) The members of the executive board shall work on a voluntary basis. Reimbursement for the outlays and expenses arising in the context of their work shall be possible up to a reasonable amount.

8

Duties of the Members' Meeting

The duties of the members' meeting shall include in particular:

- a) passing a resolution on the budget drawn up by the executive board for the next fiscal year;
- b) formal acceptance of the statement of accounts;
- c) formal receipt and approval of the annual financial statements;
- d) ratifying the actions of the executive board in the previous year;
- e) deciding on resolutions proposed by the executive board, in particular the approval of a schedule of membership dues;
- f) passing resolutions on amendments to this Constitution or the dissolution of the Association;
- g) choosing an external auditor and formally receiving the auditor's report;
- h) dismissing executive board members for good cause pursuant to section 7 (4) above.

9

Calling a Members' Meeting

- (1) The executive board chairperson, or in the latter's absence the deputy chairperson, shall call a members' meeting each year, if possible within the first six months, by means of a simple letter or e-mail with four weeks' notice. The agenda set by the

executive board is to be included. The notice period shall be deemed fulfilled if the invitation is sent in good time to the member's address or e-mail address last known to the Association.

- (2) The executive board chairperson, or in the latter's absence the deputy chairperson, must immediately call a members' meeting if necessary in the interests of the Association, or if at least a quarter of the members request in writing that a meeting be called, mentioning the purpose and grounds.

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Voting Rights, Procedure and Resolutions of the Members' Meeting

- (1) Only regular members shall have voting rights in the members' meeting. Advisors and guests pursuant to section 4 (4) and sponsoring members pursuant to section 4 (5) shall have a voice in the members' meeting but no voting right.
- (2) Every regular member shall have a vote in the members' meeting. The Association members may be represented at a members' meeting by one of their employees or an authorized person, in particular by another Association member. In the latter case, a written power of attorney is necessary. The Association member that represents another Association member pursuant to section 10 (2) sentence 2 shall still have the right to be represented by an employee or authorized person.
- (3) A properly called members' meeting shall constitute a quorum if at least one member from each member group is present. Should a members' meeting fail to constitute a quorum, the executive board chairperson, or in the latter's absence the deputy chairperson, must call a new members' meeting that shall constitute a quorum regardless of the number or group membership of the members present if and to the extent that the meeting deals with topics that were on the agenda of the members' meeting that did not constitute a quorum.
- (4) The members' meeting shall be chaired by the executive board chairperson, or in the latter's absence the deputy chairperson. The chair of the meeting shall designate a minute taker.
- (5) The members' meeting shall decide
 - a) on any amendment to this Constitution with a majority of three quarters of the valid votes cast;
 - b) on the dissolution of the Association with a majority of three quarters of the votes of all Association members;
 - c) on all other matters with a simple majority of the valid votes cast.

Abstentions shall be deemed invalid votes.

Members' meeting resolutions shall also require the consent of at least one member belonging to each of the member groups designated in section 4 (2) of this Constitution. This shall not apply in the case of a resolution to dissolve the Association.

- (6) Once adopted, resolutions to amend this Constitution that relate to the Association's purpose and/or use of assets are to be submitted to the relevant tax authorities. If the tax authorities object on the grounds of public-benefit status, the resolution is to be resubmitted to the members' meeting, noting the objections, for a further decision.

- (7) Minutes are to be prepared of the decisions taken by the members' meeting; the minutes are to be signed by the meeting's chair and minute taker.

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Working Groups and Advisors

- (1) The executive board shall be authorized to constitute working groups and/or consult advisors in relation to individual areas of expertise and in particular for scientific advice, to support projects or to include relevant actors.
- (2) The working groups and advisors shall have a purely advisory function.
- (3) Each working group shall choose a leader from among its members to report to the executive board. The members of the executive board shall be invited to meetings of the working groups.
- (4) The members of working groups shall work on a voluntary basis. Reimbursement for the outlays and expenses arising in the context of their work shall be possible up to a reasonable amount if the executive board passes a resolution to this effect.

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Membership Dues

- (1) Membership dues are annual dues to be paid pursuant to the schedule of membership dues.
- (2) The Federal Republic of Germany shall not be required to pay membership dues.
- (3) The amount of dues and the corresponding payment dates shall be established by the members' meeting in a dues schedule.
- (4) In individual justified cases, member may be partially or completely exempted from paying membership dues by means of an executive board resolution.

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Association Logo, Association Media

- (1) The executive board shall issue guidelines for the use of the Association's logo.
- (2) Members shall be entitled to use the Association's logo in compliance with the guidelines issued by the executive board.
- (3) The executive board may also permit persons and institutions having guest or advisory status pursuant to section 4 (4) to use the Association's logo in compliance with the guidelines issued by the executive board.
- (4) Clauses 13 (1) through 13 (3) shall apply to any Association media that the executive board may decide to create in the context of its public relations work.

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Budget, Annual Financial Statements and Statement of Accounts, Audits

- (1) The executive board must set a budget for every financial year.

- (2) After each financial year ends, the executive board must also draw up annual financial statements according to commercial law principles for that financial year. The annual financial statements are to be explained in the statement of accounts.
- (3) The implementation of the budget and the annual financial statements are to be audited by an external auditor qualified as a certified public accountant.
- (4) The external auditor's report is to be submitted to the members' meeting. It is to be sent to the members together with the invitation to the members' meeting.

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Dissolution of the Association

- (1) Any petition to dissolve the Association is to be sent by registered mail to the members at least three months before the members' meeting.
- (2) If the Association is dissolved or no longer pursues tax-privileged goals, the Association's assets shall devolve to a public legal entity or another tax-privileged entity designated by the executive board so that they can be used to advance development cooperation as defined in section 52 (2) No. 15 of the Fiscal Code of Germany in the area of sustainable cocoa farming.

This Constitution was established on April 8, 2014.

Following the resolution of the Annual General Meeting (April 19, 2016) it includes the amendments in § 7, paragraph 5