

Constitution of the "Forum for Sustainable Palm Oil"

(as at 12th May 2021)

ARTICLE 1

Name, registered office and financial year

- (1) The Association, which is entered in the German Register of Associations, bears the name 'Forum for Sustainable Palm Oil' (FONAP).
- (2) The Association's registered office is in Berlin.
- (3) The financial year shall be the calendar year.

ARTICLE 2

Purpose

- (1) The Association shall directly and solely pursue public-benefit goals as described in the section entitled 'Tax-privileged purposes' of the German Fiscal Code.
- (2) The purpose of the Association shall be the advancement of development cooperation as defined in Art. 52 (2) No. 15 of the Fiscal Code, as well as nature conservation and environmental protection as defined in Art. 52 (2) No. 8 of the Fiscal Code.
- (3) The Association's constitutional purpose shall be achieved in particular by
 - a) the promotion of sustainable agricultural supply chains, with a focus on palm oil;
 - b) the implementation of own projects or direct/indirect support of third-party projects to promote sustainable palm oil cultivation with the aim of improving the living conditions of those involved in palm oil cultivation socially & economically and to preserve or conserve natural resources in the cultivating countries;
 - c) the joint commitment of members to use only palm oil that has been certified 100% sustainable. Details are regulated by a declaration of public commitment resolved by the members' General Assembly;
 - d) direct/indirect participation in revision processes of sustainability standards that FONAP approves;
 - e) additional criteria agreed upon by the membership, which members and supporters insist on adhering to in the respective supply chains or which they address directly/indirectly in the producer countries and cultivation regions with local partners. Further details will be regulated in respective documents according to the current situation and needs;
 - f) the joint commitment of supporters to support members in achieving their goals. Details will be regulated in a separate declaration of public commitment for supporters to be passed by the members' General Assembly;
 - g) procuring funds for legal entities under public law and other tax-privileged entities as defined in Art. 58 (1) and (2) of the Fiscal Code to support the advancement of development cooperation as defined in Art. 52 (2) No. 15 of the Fiscal Code, as well as nature conservation and environmental protection as defined in Art. 52 (2) No. 8 of the Fiscal Code, in order to promote more sustainable palm oil production with the goal of improving the economic and social conditions of those involved in cultivation and thus to protect and conserve the natural resources of the palm oil-producing countries.
- (4) Within the scope of the Association's constitutional purpose,

- a) members and supporters shall promote the use of certified sustainable palm oil by means of their respective ambitious public commitment;
- b) the Association shall set up a platform for sharing information, networking and discussion within the framework of competition law at both national and international level;
- c) in line with its mission to inform and educate, the association informs the public about the association's activities and the progress of sustainability efforts in the growing regions, as well as the successes achieved by the association's members and supporters within the framework of their self-commitment and the additional criteria they have adopted;
- d) the Association shall provide technical and content-related information on topics relevant to the sustainable palm oil industry, and shall carry out sector-specific events (e.g. seminars and training courses);
- e) the Association shall cooperate with the existing certification systems and local, national and international multi-actor platforms working towards a sustainable palm oil industry;
- f) the Association shall demand the further development and improvement of existing certification systems; this is achieved by direct/indirect participation in the revision processes of sustainability standards that FONAP accepts, or by means of additional criteria adopted by the membership, which the members and supporters in the respective supply chains insist on adhering to. Further details are set out in the relevant documents, which are updated as necessary.

The order of the measures listed in section (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 Article 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 Article 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. For the purpose of fundraising, the association can set up offers such as seminars and trainings for members and non-members at a charge. Such economic activity serves exclusively to realise the tax-privileged, statutory purposes of the association.
- (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 fulfil 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 Art. 57 (1) Sentence 2 of the Fiscal Code.

ARTICLE 3 Patronage

The Steering Committee may invite a suitable public figure or institution to act as patron.

ARTICLE 4 Ordinary membership, supporter, guest or advisor status

- (1) The Association shall have ordinary members, sponsoring members and supporters.
- (2) The following institutions and groups can become ordinary members of the Association:
 - a) Industrial and commercial companies, sole proprietorships and organisations that process and use palm oil, palm kernel oil or corresponding derivatives in their products, as well as their associations;
 - b) Non-governmental organisations, trade unions, faith-based organisations, standard-setting organisations, scientific institutions and all institutions not listed here that have a proven interest in certified palm oil and palm kernel oil or corresponding derivatives;
 - c) The Federal Republic of Germany, represented by the Federal Ministry of Food and Agriculture and the Federal Ministry of Economic Cooperation and Development;
 - d) Individuals who are not registered as merchants/commercial companies in the German commercial register cannot become members.

Membership is not tied to an official address in Germany, Austria or Switzerland. Irrespective of the member's official address, the member must acknowledge the goals of the Forum for Sustainable Palm Oil.

(3) Supporters

Companies that operate exclusively in the field of manufacturing and processing oleo-derivatives and fractions and/or in trading such derivatives and fractions (business-to-business/B2B, not business-to-consumer/B2C or consumer goods manufacturers) can become supporters. This includes the distribution and wholesale distribution of oleo-derivatives and fractions, but not the cultivation of oil palms.

Membership as a supporter is not tied to an official address in Germany, Austria or Switzerland. Irrespective of the supporter's official address, the supporter must acknowledge the goals of the Forum for Sustainable Palm Oil.

(4) Guest or advisor status

- a) Organisations and companies that are interested in working with the Forum for Sustainable Palm Oil (FONAP) but do not wish to become members can be accorded guest status. This guest status entails conditions and restrictions that the Steering Committee shall establish as generally applicable in its first meeting.

- b) The Steering Committee can invite institutions, groups and individuals to become FONAP advisors and accord them advisor status.
- (5) Other natural persons or legal entities that belong to one of the groups designated in paragraphs 2, 3 and 4 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 Steering Committee shall decide within six weeks. Applicants may lodge an objection to a negative decision. Any such objection must be submitted to the Steering Committee in writing within one month of receipt of the negative decision. A decision regarding the objection shall then be reached at the next regular General Assembly of members.

ARTICLE 5

Penalties imposed by the association

- (1) If a member or supporter is culpable of a breach of duty, the association may impose penalties. Negligence shall constitute sufficient grounds for culpability unless otherwise determined.
- (2) Penalties may be imposed especially in the case of the following breaches of duty:
 - a) Violation of the Association's constitutional purpose or contravention of its interests,
 - b) Infringement of the respective public commitment as defined in Article 2 (3a) or (3b).
- (3) The Association may impose the following penalties for breaches of duty:
 - a) Reprimand
 - b) Provision of compensation
 - c) Withdrawal of voting right for up to one year
 - d) Expulsion from the Association.
- (4) The Steering Committee issues instructions to impose penalties, including the expulsion of a member or supporter from the Association.
- (5) The member/supporter has the right to comment in writing before the Steering Committee decides whether to impose a penalty. The member/supporter can also make a personal statement to the Steering Committee if he or she so wishes.
 - a) The member/supporter must be informed of the decision.
 - b) The reasons for an expulsion must be set out in writing.

ARTICLE 6
Termination of membership

- (1) For members and supporters, 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 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 a Steering Committee decision. The Steering Committee's decisions are based on Article 9 (9c). Before expulsion, the member in question shall be given a chance to mount a written defence.

ARTICLE 7
Governing bodies

The Association's governing bodies shall be:

- the members' General Assembly
- the Steering Committee.

ARTICLE 8
Duties of the General Assembly

The General Assembly is the highest decision-making body of the Association. It constitutes the discussion and work platform for themes related to sustainable palm oil production and has the following duties, in particular:

- a) Setting up working groups;
- b) Establishing the thematic priorities for the Association's work;
- c) Passing a resolution on the budget drawn up by the Steering Committee for the next financial year;
- d) Formal acceptance of the statement of accounts;
- e) Formal receipt and approval of the annual financial statements;
- f) Ratifying the actions of the Steering Committee in the previous year;

- g) Deciding on resolutions proposed by the Steering Committee, in particular the approval of a schedule of membership fees;
- h) Passing resolutions on amendments to this Constitution or the dissolution of the Association;
- i) Choosing an external auditor and formally receiving the auditor's report;
- j) Dismissing Steering Committee members for good cause, pursuant to Article 9 (7) above.
- k) Passing a resolution on the type and amount of special allocations, amounting to a maximum of 45% of the respective membership fee as defined in Article 2 of the Fiscal Code.

ARTICLE 9 Steering Committee

- (1) The Association's Steering Committee shall consist of a minimum of four to a maximum of six members. It shall also be the executive board as defined in Art. 26 of the German Civil Code (BGB). Supporters cannot be elected to the Steering Committee.
- (2) The Federal Republic of Germany has the right to second a representative as a member of the Steering Committee.
- (3) At least one other Steering Committee member is elected based on a proposal by the non-governmental organisations (Article 4 (2 lit. b)). Every non-governmental organisation has the right to name at least one candidate to be elected to the Steering Committee.
- (4) Furthermore, all members can name one or more candidates.
- (5) All Steering Committee members, including all candidates of the non-governmental organisations, are elected in one ballot. The five candidates receiving the largest number of valid votes cast are duly elected to the Steering Committee. If there are only five or fewer candidates for election, the candidates who receive at least one vote are elected. If the elected candidates do not include any candidate proposed by a non-governmental organisation, the elected candidate with the lowest number of votes is exchanged for the candidate of the non-governmental organisation with the highest number of votes.
- (6) Elected Steering Committee members shall remain in office for two years counting from the date of the election. However, the Steering Committee members in question shall remain in office until the next new election.

If one of the elected Steering Committee members leaves the Steering Committee prematurely, the ordinary members shall elect a substitute member for the remaining term of office; this election shall take place by means of a written procedure. Sections 3, 4 and 5 above apply accordingly. The chairperson of the Steering Committee or, if the chairperson is absent, the deputy chairperson, shall write to all the members, giving them an opportunity – within an appropriate period of at least two weeks after dispatch of the letter – to nominate candidates. Then, within a 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 out in the letter, and amounting once again to at least two weeks.

- (7) Steering Board members elected pursuant to Article 9 (2) can, with good cause, be expelled by the General Assembly.
- (8) The Steering Committee shall elect a chairperson, a deputy chairperson and a treasurer from among its members.
- (9) The Steering Committee shall be responsible for all Association matters to the extent that such matters are not the responsibility of the General Assembly pursuant to this Constitution. The duties of the Steering Committee shall include in particular:
 - a) preparing and calling General Assembly and Steering Committee meetings and setting agendas for those meetings;
 - b) implementing resolutions of the General Assembly;
 - c) passing resolutions on the admission and/or expulsion of members;
 - d) receiving suggestions for and passing resolutions on work plans, projects, measures and activities;
 - e) commissioning and monitoring auxiliary personnel as described in Article 2 (9) 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.
- (10) The Steering Committee is only quorate if at least four representatives, at least one of whom must represent a non-governmental organisation, take part or are effectively represented. A Steering Committee member is entitled to be represented by another Steering Committee member. A Steering Committee member can, however, only represent one other Steering Committee member.
- (11) The Steering Committee shall abide by the following rules when passing resolutions:
 - a) the Steering Committee members are to use their best efforts to reach unanimous decisions.
 - b) Steering Committee resolutions require the majority of the valid votes cast. Abstentions shall be deemed invalid votes.
 - c) resolutions may also be passed with the majorities set forth in this section by means of written circulation in lieu of a meeting.
- (12) Meetings of the Steering Committee shall be called by the chairperson or, if the chairperson is absent, by the deputy chairperson, at least three times a year. Meetings may also be held in the form of video or telephone conferences.

- (13) The Association shall be represented for judicial or extra-judicial purposes by two members of the Steering Committee, one of whom shall be the chairperson or deputy chairperson.
- (14) The treasurer shall administer the Association's funds and thus be responsible for preparing the statement of accounts to be drawn up by the Steering Committee.
- (15) The members of the Steering Committee shall work on a voluntary basis. Reimbursement for the outlays and expenses arising in the context of their work shall be possible up to the actual amount of those expenses.
- (16) The Steering Committee can make any editorial modifications and modifications to the Constitution that are required by courts or authorities. The General Assembly must be notified of these modifications.

ARTICLE 10 **Calling the General Assembly**

- (1) The Steering Committee chairperson or, in the chairperson's absence, the deputy chairperson shall call a General Assembly 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 Steering Committee 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. The General Assembly may be held both digitally and in person. The specific form will be announced in the invitation.
- (2) The Steering Committee chairperson or, in the chairperson's absence, the deputy chairperson must immediately call a General Assembly if necessary in the interests of the Association, or if at least a quarter of the members request in writing that an Assembly be called, mentioning the purpose and grounds.

ARTICLE 11 **Voting rights, procedure and resolutions of the General Assembly**

- (1) Both ordinary members and supporters shall have voting rights in the General Assembly. Advisors and guests pursuant to Article 4 (4) and sponsoring members pursuant to Article 4 (5) shall have a voice in the General Assembly but no voting right.
- (2) Every ordinary member and every supporter (Article 11 (1)) shall have a vote in the General Assembly. The Association members or supporters may be represented at a General Assembly by one of their employees or an authorised person, in particular by another Association member or supporter. A written power of attorney is necessary for representatives with a voting right. The Association member or supporter that represents another Association member or supporter pursuant to sentence 2 shall still have the right to be represented by an employee or authorised person.
- (3) Every ordinary General Assembly is quorate if at least half of the members with voting rights are present or have sent a representative in accordance with Article 11 (2). Should a General Assembly fail to constitute a quorum, the Steering Committee chairperson or, in the chairperson's absence, the deputy chairperson must call a new General Assembly that shall constitute a quorum regardless of the number of members

present, if and to the extent that the Assembly meeting deals with topics that were on the agenda of the General Assembly that did not constitute a quorum.

- (4) The General Assembly shall be chaired by the Steering Committee chairperson or, in the chairperson's absence, the deputy chairperson. The chair of the meeting shall designate someone to take minutes.
- (5) The General Assembly 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.

- (6) Resolutions of the General Assembly can also be made by means of a written circulation procedure. The written vote of at least half of the members with voting rights is required for the resolution to be valid. The majorities set out in Article 11 (5) apply to all resolutions.
- (7) 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 General Assembly, noting the objections, for a further decision to be made.
- (8) Minutes are to be prepared of the decisions taken by the General Assembly; the minutes are to be signed by the Assembly's chair and minute taker.

ARTICLE 12

Working groups and advisors

- (1) Both the General Assembly and the Steering Committee can appoint working groups on individual focal areas related to the Association's activities.
- (2) The Steering Committee can call in advisors.
- (3) The working groups and advisors shall have a purely advisory function.
- (4) Each working group shall choose a leader from among its members to report to the Steering Committee. The members of the Steering Committee shall be invited to meetings of the working groups.
- (5) The members of working groups shall work on a voluntary basis. Reimbursement for the outlays and expenses arising in the context of their work may be made up to the actual amount of those expenses, if the Steering Committee passes a resolution to this effect.

ARTICLE 13

Membership fees

- (1) Membership fees are annual fees to be paid pursuant to the schedule of membership fees.
- (2) Organisations and companies with guest status (Article 4 (4)) shall also pay annual fees in line with the schedule of membership fees.
- (3) Supporters (Article 4 (3)) shall pay annual fees in line with the fee schedule.
- (4) Membership is free of charge for the Federal Republic of Germany.
- (5) The amount of fees for members and contributions by supporters, as well as the corresponding payment dates, shall be established by the General Assembly in a fee schedule.
- (6) In justified individual cases, members may be partially or completely exempted from paying membership fees by means of a Steering Committee resolution.

ARTICLE 14

Association logo, Association media

- (1) The Steering Committee shall issue guidelines for the use of the Association's logo.
- (2) Members and supporters shall be entitled to use the Association's logo in compliance with the communication guidelines issued by the Steering Committee.
- (3) The Steering Committee may also permit persons and institutions having guest or advisory status pursuant to Article 4 (4) to use the Association's logo in compliance with the communication guidelines issued by the Steering Committee.
- (4) Items 1 to 3 of this Article 14 shall apply to any Association media that the Steering Committee may decide to create in the context of its public relations work.

ARTICLE 15

Budget, annual financial statements and statement of accounts, audits

- (1) The Steering Committee must set a budget for every financial year.
- (2) After each financial year ends, the Steering Committee 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 General Assembly. It is to be sent to the members and supporters together with the invitation to the General Assembly.

ARTICLE 16

Dissolution of the Association

- (1) Any petition to dissolve the Association is to be sent by registered mail to the members and supporters at least three months before the General Assembly.
- (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 Steering Committee so that they can be used to advance development cooperation as defined in Art. 52 (2) No. 15 and/or nature conservation and environmental protection as defined in Art. 52 (2) No. 8 of the German Fiscal Code.

Work Translation