

Charter Blue Action Fund

Preamble

Through their richness in biodiversity and natural resources, as well as their productivity, marine and coastal areas contribute significantly to livelihoods and nutrition people in developing countries. More than 90% of people who depend on fishing or aquaculture as their livelihood live in developing countries. The oceans regulate the climate and are critical determining factors of weather events, including precipitation, drought or flooding. They play a fundamental role in adapting to climate change, as they absorb 25-30% of CO2 emissions. And the water's surface absorbs around 90% of the heat generated by the combustion of fossil fuels.

However, marine and coastal areas are under extreme pressure due to the overuse of their resources, loss of habitats for flora and fauna, pollutant and waste disposal and the effects of climate change. At present, only 2.1% of the oceans are classified as marine protected areas and only 1% can be considered a highly protected "no take zone". To counter this, the Federal Ministry for Economic Cooperation and Development has developed the 10 Point Action Plan on Marine Protection and Sustainable Fisheries. A key element of this action plan is the Blue Action Fund.

The "Blue Action Fund" is designed to intensify the protection of the coast and sea in partner countries of German development cooperation. It is intended to contribute in the legal form of a Foundation to curb the dramatic decline in marine biodiversity in priority, particularly vulnerable regions of Africa, Latin America and Asia, including selected areas of the deep sea, and to stabilize the incomes of poor coastal fishermen. The allocation of funds will be implemented under a grant program for non-governmental organizations (NGOs).

Note:

For reasons of better legibility, the simultaneous use of male and female speech forms is dispensed with. All personal and official names apply to both sexes.

§ 1

Name, Legal Form, Registered Office and Fiscal Year

1. The Foundation shall bear the name Blue Action Fund.
2. It is a legally valid Foundation of civil law.
3. It has its legal seat in Frankfurt am Main.
4. The financial year of the Foundation is the calendar year. The first financial year of the Foundation is a partial financial year and is not subject to the audit requirement of Section 7 para. 1 g) below.

§ 2

Foundation Purpose and Charitable Character

1. The Foundation shall exclusively and directly pursue non-profit purposes within the meaning of the section entitled "Tax-Advantaged Purposes" of the German tax code.

a) The purpose of the Foundation is

- the promotion of environmental protection in relation to developing countries, particularly of marine and coastal protection for the conservation of regions and species meriting protection at a global level (§ 52 para. 2 no. 8 AO¹);
- the promotion of development cooperation, in particular in the area of the sustainable use of maritime resources and the protection of the marine environment (§ 52 para. 2 no. 15 AO),
- the promotion of science and research, in so far as it relates to the aforementioned purposes (§ 52 (2) No. 1 AO).

b) The Foundation's purposes are, in particular, implemented through the promotion of measures and projects, mainly in countries which are, according to the ODA list published (in the updated version applicable from time to time) by the Development Assistance Committee (DAC) of the Organization for Economic Cooperation and Development (OECD), are entitled to receive public development aid (Official Development Aid, ODA), in the areas of:

- Protection of marine biodiversity (creation, management and monitoring of marine protected areas and buffer zones, monitoring of fisheries, cross-border coordination, regulatory framework);
- Sustainable use of marine biodiversity (healthy marine ecosystems, sustainable fisheries, aquaculture, ecotourism, creation of alternative sources of income, incentive systems for non-extraction);
- Exchange of knowledge (awareness of local communities, information for consumers and decision-makers);
- Research (data collection on the status of marine biodiversity, exchange of experience and best practice).

The Foundation is not obliged to promote all Foundations every year.

2. The Foundation may also fulfill its statutory purposes by obtaining funds for the realization of the tax-privileged purposes of other bodies or for the realization of tax-privileged purposes by juvenile persons of public law within the meaning of § 58 no. 1 AO as permitted within the framework of the tax law.

3. The Foundation may contribute a portion of its funds to another tax-privileged body or legal person of public law for the realization of tax-privileged purposes (§ 58 No. 2 AO).

4. The Foundation may implement its own projects within the framework of this charter, but in that connection shall not establish a special purpose or an economic business.

5. The Foundation acts charitably (not for itself); it does not in the first instance pursue its own economic purposes.

6. The funds of the Foundation may only be used in line with the charter for the purposes of the Foundation. The bodies of the Foundation, as well as its sponsor donors and their legal successors, are not entitled to not receive any grants or donations from the Foundation's funds.

¹ "AO" is the abbreviation in German for the German Tax Code.

7. No person may benefit from payments which are alien to the purpose of the Foundation or from disproportionately high remuneration.

8. The Foundation also performs its tasks through domestic and foreign assistants within the meaning of § 57 para. 1 sentence 2 AO, insofar as it does not act through the procurement of funds pursuant to § 58 no. 1 AO.

§ 3

Foundation Capital; Spendable Capital

1. The Foundation capital must be kept intact in its inventory as far as it is not intended for consumption (spending) by the sponsor donor.

2. The particulars of the Foundation's capital are determined by the Foundation act. It consists of a permanent stock of endowment capital and a usable capital that is dedicated to be consumed (spendable capital). The Foundation may (in addition to earnings on the spendable capital) use annually up to 10% of the spendable capital for the fulfillment of the Foundation's purposes. Unused withdrawals may be carried forward to the following years.

At least 5% of the spendable capital must be consumed annually for the fulfillment of the Foundation's purposes. The Foundation's spendable capital must be consumed after 10 years.

3. Exceptions to the above principles are permissible with the consent of the Foundation Supervisory Authority, insofar as the donor's wishes cannot be implemented in any other way and the Foundation's existence is guaranteed for an appropriate period.

§ 4

Use of Assets and Grants

1. Earnings on the Foundation's capital and donations, insofar as these are not intended by the donor to increase the endowment capital referred to in section 3 (1), may only be used in accordance with the Foundation's purpose of the purpose. Donations to capital are permitted in both the endowment capital and the spendable capital. If donations are linked to a usage obligation consistent with the charter, the Foundation must comply with them.

2. The Foundation may set up reserves within the scope allowable under the tax regulations.

§ 5

Foundation bodies

1. The Foundation's constituent bodies are

a) the management board; and

b) the supervisory board

c) the sponsor donors KfW and the Federal Ministry for Economic Cooperation and Development ("BMZ") are founding organizations for purposes of the appointment of the members of the supervisory board in accordance with Section 10 (1) below.

2. The members of the supervisory board serve on an honorary (volunteer) basis. If the income situation of the Foundation permits this, the supervisory board may decide that individual or all members of the management board receive an appropriate remuneration set by the supervisory board. Apart from that, the members of the management board also serve on an honorary basis. All members of the two bodies are entitled to compensation for costs and expenses incurred in connection with the exercise of their duties as a member of the body.
3. A member of one body may not be a member of the other body at the same time.
4. Members of the bodies are only liable for intentional misconduct and gross negligence.

§ 6

Management Board

1. The management board shall consist of at least two and a maximum of three persons. It shall be elected by the supervisory board for a period of three years or by a different term of office to be determined by the supervisory board. Re-election is permitted. After the end of his term of office, the acting management board continues the business until the election of the new management board. The members of the first management board are appointed by the sponsor donors for a period to be determined by them. All members of the management board must have special expertise and experience with regard to the tasks of the Foundation and particularly support their objectives.
2. If a member of the management board wishes to resign his office before the expiry of his term of office, he has to announce this to the management board and the supervisory board six months before his departure. The notice period applies unless there is an important reason. Insofar as members of the management board are employees of the sponsor donor KfW, their office ends with the termination of the employment relationship.
3. The members of the management board may be dismissed before the expiry of their term of office for an important reason, in particular in the case of incapacity for proper management or conduct contrary to law or the provisions of the charter. Such a resolution requires the approval of three quarters of members of the supervisory board, by way of derogation from Section 12 para. 4.
4. The management board shall elect an Executive Director and a Deputy Executive Director from among its members for the duration of the term of office.

§ 7

Responsibilities of the Management Board

1. The management board shall ensure the permanent and sustained fulfillment of the Foundation's purpose. It shall manage the business of the Foundation in accordance with the law, these Articles of Association as well as the management board by-laws to be issued in accordance with section 4, with reasonable care appropriate to a management board. The management board shall use the Foundation's resources frugally and economically. The management board is in particular responsible for
 - a) Managing, under on its own responsibility, of the Foundation's assets according to the Foundation's purpose, this charter and the management board by-laws;

- b) Deciding on the creation and dissolution of reserves;
- c) Implementing the measures to achieve the purpose of the Foundation, in particular the granting of the available funds;
- d) Establishing a budget for the coming financial year;
- e) Appropriate measures to ensure compliance, prevention of corruption and risk management;
- f) Producing an annual report on the fulfillment of the purpose of the Foundation;
- g) Preparing a financial statement compliant with regulatory requirements within six months of the end of the financial year in question. The annual accounts must be audited by an independent auditor and must contain the following contents:

- Balance sheet showing the assets and reserves as at 1 January and the balance as at 31 December,
- Presentation of the spendable assets, including any contributions as well as actual spending.
- earnings from the Foundation assets,
- Any additional contributions to the endowment capital

or the spendable capital,

- Any donations of third-parties in furtherance of the Foundation's purpose.

2. The audited financial statements, including the balance sheet and the report on the fulfillment of the purpose of the Foundation, shall be submitted to the supervisory board and the foundation authority within nine months after the end of the financial year.

3. The management board shall represent the Foundation in court and out of court action by at least two of its members. One of these members must be the Executive Director or, in the event of his / her being prevented, the Deputy Executive Director.

The supervisory board may also entrust a member of the management board with the day-to-day business of the management of the Foundation (the so-called Managing Executive Director). The supervisory board may confer sole power of attorney on the Managing Executive Director and/or waive the restrictions on multiple representation pursuant to Art. § 181 of the German Civil Code (BGB).

4. The supervisory board shall adopt a by-laws for the management board which may make certain transactions and projects subject to its approval.

5. Experts may be consulted for the day-to-day business and a managing officer and/or support staff may be hired if the Foundation's financial situation allows and the ongoing business of the Foundation is promoted thereby. The managing officer can be appointed as special representatives in the sense of § 30 BGB.

§ 8

Unauthorized Business

1. The making of loans or granting of credits by the Foundation are impermissible.

2. The issuance of bonds and the assumption of unconditional or conditional guarantees and similar liabilities is impermissible.

3. The granting of loans and loans to members of the management or supervisory board and to employees of the Foundation, as well as their dependents or closely connected persons, is impermissible.

§ 9

Resolution of the Management Board

1. The management board shall be convened by the Executive Director or his deputy as often as is necessary, but at least four times a year. The meeting shall be convened by at least two weeks' notice stating the agenda. Meetings shall also be convened if two members of the management board or the supervisory board so request.

2. Decisions of the management board are usually taken at meetings. The management board shall be deemed to have a quorum if at least two members are present or represented at a properly convened meeting. A member of the management board may be represented at the meeting by another member of the management board. No member of the management board can represent more than one member of the management board. The authorization to represent a management board member should be given in writing.

3. Errors in convening a meeting are deemed to be cured if all members of the management board are present and no member disagrees.

4. The management board shall pass resolutions by a simple majority of the votes cast. Stimuli are considered as non-delivered votes. In the event of a tie, the Executive Director's vote, or in the event of his/her absence the vote of the Deputy Executive Director, shall be determinative.

5. Minutes shall be kept of the meetings of the management board, which shall be signed by the Executive Director and the Secretary. Meetings may also be held by telephone or video conference, unless a member of the management board objects. Resolutions shall be recorded in writing. The minutes are to be brought to the attention of all members of the management board and the Chairman of the supervisory board.

6. The Executive Director may also request written, telegraphic or electronic voting by circulation in consent form, with the transmission of the items for decision items and indication of the voting period, which as a rule will be at least two weeks. The decision must be documented in an appropriate manner and recorded in the minutes of the next meeting. If a member of the management board disagrees with the Executive Director's request, the latter shall convene a regular meeting of the management board.

7. Secrecy must be maintained on the content of the management board meetings.

§ 10

Supervisory Board

1. The supervisory board shall consist of two appointed members and up to seven other elected members. They should have expertise necessary or useful for the fulfillment of the purposes. The term

of office of the members of the supervisory board is three years. Re-appointment or re-election is permitted.

The two appointed members of the supervisory board are determined as follows:

- a) A member of the supervisory board is appointed by the sponsor donor KfW, who does not need to be an employee of KfW.
- b) A member of the supervisory board is appointed by BMZ, who does not need to be an employee of BMZ.

The other members of the supervisory board shall be elected by the members appointed pursuant to paragraphs (a) and (b) above by joint declaration. Elected members shall be persons who have demonstrable expertise in the area of foundation management or the purposes of the Foundation (pursuant to § 2).

2. The appointed members may be recalled at any time by the appointing institution. In the event of the departure of an appointed member, a substitute member shall be appointed by the person entitled to do so under para. 1 a) and b). Upon the resignation of an elected member, the appointed members shall be free to elect a successor by joint declaration.

3. The member of the supervisory board appointed by BMZ in accordance with paragraph 1 b) above shall be Chairman of the supervisory board; the member of the supervisory board appointed by KfW pursuant to para. 1 a) shall be Deputy Chairman. Insofar as BMZ or KfW have agreed in writing that its appointed member of the supervisory board not also hold the supervisory board Chair or Deputy Chair, as the case may be, the entire supervisory board shall elect from among its members a Chairman or Deputy Chairman of the supervisory board for a period of three years. Re-election is permitted.

4. Decisions of the supervisory board cannot be taken against the vote of the member appointed by BMZ pursuant to paragraph 1b above.

5. Insofar as BMZ or KfW no longer wish to exercise their rights referred to in paragraph 1 (a) and (b) above, and have declared this in writing to the Foundation, all the members of the supervisory board shall be chosen by election, i.e. by a majority vote decision of the supervisory board. The same applies if BMZ or KfW does not exercise their right to appoint within six months after the departure of a person appointed by them. To the extent that appointed members are replaced by election, the special rights assigned to them by this charter shall no longer apply.

6. The supervisory board may adopt by-laws governing its conduct, for the adoption and amendment of which, in addition to the requirements of Section 12, the approval of three quarters of the members is required.

§ 11

Tasks of the Supervisory Board

1. The supervisory board shall take the Foundation's strategic policy decisions, which shall be implemented by the management board. In addition, it has in particular the following tasks:

- Election of the members of the management board (§ 6 para. 1);

- Advising, supporting and supervising the management board;
 - Adoption of the by-laws for the management board;
 - Requests to the foundation authority for changes to the statutes, changes in purpose, dissolution and merger of the Foundation with another Foundation;
 - Consent to legal transactions and projects which according to the by-law the management board require the approval of the supervisory board;
 - Approval of the budget for the following year;
 - Appointment of the auditor;
 - Receipt of the audited annual accounts;
 - Discharge of the Management Board;
 - Review of the allocation of Foundation's funds and the realization of Foundation's purposes.
2. Each individual member of the supervisory board has a comprehensive right to information and examination.
3. The Chairman of the supervisory board or, in the event of his absence, the Deputy Chairman, represents the Foundation in legal transactions with the management board and with the appointment of the auditor.

§ 12

Resolution of the supervisory board

1. Meetings of the supervisory board shall be convened by the Chairman or his deputy, whenever necessary for proper management, but at least once a year. The meeting shall be convened by at least two weeks' notice stating the agenda. Meetings shall also be convened if two members of the supervisory board or the management board of the Foundation so request.
2. Decisions of the supervisory board are generally taken at meetings. The supervisory board shall have a quorum if more than half of its members are present or represented after a proper notice has been made. A member of the supervisory board may be represented at the meeting by another member of the supervisory board.
3. Errors in convening a meeting are considered to be cured if all members are present or represented and no member disagrees.
4. Unless stipulated otherwise in this Articles of Association, the Supervisory board shall take its decisions by a simple majority of the non-abstaining members who are present or represented. In the event of a tie, the Chairman's vote, or in the event of his/her absence the vote of his Deputy, shall be determinative.
5. Minutes of the supervisory board meetings shall be kept and must be signed and signed by the Chairman and the secretary. Meetings may also be held by telephone or video conferencing unless a member of the supervisory board objects. Resolutions shall be recorded in the wording. The minutes

shall be reported to all members of the supervisory board and to the Executive Director of the management board of the Foundation.

6. The Chairman may also request written, telegraphic or electronic voting by circulation in consent form, with the transmission of the items for decision items and indication of the voting period, which as a rule will be at least two weeks. The decision must be documented in an appropriate manner and recorded in the minutes of the next meeting. If a member of the management board disagrees with the Chairman's request, the latter shall convene a regular meeting of the supervisory board.

7. Secrecy must be maintained on the contents of the board meetings. This does not apply to the members called in relation to their sending institutions.

§ 13

Amendments to the Charter

1. The supervisory board shall decide on amendments to the charter, which may also be made without substantial changes in circumstances if they do not fall under § 14. Before its submission, the proposed amendment of the charter shall be coordinated with the responsible tax authority with regard to the public interest and legal requirements.

2. The resolution to amend requires unanimity.

§ 14

Purpose change, repeal and merger

1. The dissolution, merging with another Foundation or the modification of the purpose can only take place if, on the basis of substantial changes in the circumstances, it appears to be appropriate. The will of the founder in creating the Foundation must be considered.

2. Decisions on applications to the foundation authority regarding the enlargement of the purpose, change of purpose, merger or dissolution shall be taken by the supervisory board. Such decisions require a unanimous resolution of the supervisory board. The remaining provisions of § 13 shall apply.

§ 15

Foundation Supervision

The Foundation is subject to state supervision in accordance with the applicable foundation law.

§ 16

Property investment

In the event of the dissolution of the Foundation or in the event of the cessation of tax-privileged activities, the Foundation's assets shall be transferred to a legal entity under public law or another tax-exempt body for the purposes of the charitable purposes referred to in § 2.

§ 17

Coming into Force

This charter shall enter into force on the day of the Foundation's recognition.