

# Wadden Sea Board

WSB 21  
17 November 2017  
Vester Vested, Denmark



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<b>Agenda Item:</b>	<b>6.1</b>
<b>Subject:</b>	<b>Progress paper concerning the Wadden Sea World Heritage Foundation; Draft statutes of the Wadden Sea UNESCO World Heritage Foundation</b>
<b>Document No.</b>	<b>WSB 21/6.1/4</b>
<b>Date:</b>	<b>10 November 17</b>
<b>Submitted by:</b>	<b>Wadden Sea Board Chair</b>

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**Proposal:** The meeting is invited to give global directions and comments to fine tune the draft statutes. The draft statutes were elaborated along the lines of the statutes of the Allianz Umweltstiftung. The delegations are also invited to ask their own legal departments for a legal check. If delegations have detailed remarks, they are requested to submit these to the Chair. Please send possible remarks by email by the 8th of January 2018. We propose that WSB (22) consider the amended statutes again.



## **PROGRESS PAPER CONCERNING WADDEN SEA WORLD HERITAGE FOUNDATION (version 9-11-2017)**

**Submitted to WSB 21 by the Chair.**

**Proposal: The meeting is invited to give an overall opinion about this paper and the statutes**

### **What happened since last WSB?**

**May/June.** Informal HOD's meeting and WSB. I recall some conclusions of this meetings:

- This work concerning the Foundation should be conducted independently of the work regarding the Partnership Center (PC);
- The legal/institutional framework for interaction between the governing body of CWSS, the Partnership Hub and the (organs of) the Foundation will need to be defined in the future;
- Co Verdaas should continue his exploratory work on the Foundation, taking into account the concerns voiced by Denmark and Germany;
- Christiane Paulus will facilitate contact with a Berlin-based BMUB expert who is managing the German 'Biodiversity in Good Company' Initiative;
- Hans Christian Karsten will explore options for a face-to-face meeting between Janne Liburd, Christina Egsvang Føns and Co Verdaas to discuss the Danish concerns.

**June-October.** Co Verdaas and Jochem Pleijsier had explanatory talks with some CEO's/directors and public authorities, *amongst others*:

- Mr. Jeroen de Haas from ENECO (energy company)
- Mr. Kees Vendrik, Chief Economist/director at the Triodos Bank, the most sustainable bank in NL;
- Mr. Tino Wallaart, director of the Gieskes-Strijbis family trust, an authoritative trust in The Netherlands;
- Mr. Gerard Kremers, representative of VNO/NCW-North (Dutch companies).
- Mr. Hartmut Neumann, Industrie- und Handelskammer für Ostfriesland und Papenburg (pm);
- Director-General Sonnema of dept. Nature and Biodiversity (Min. of Agriculture, Nature and Food safety);
- State Secretary Flasbarth and dept. Director-General (Christiane). BMUB.
- Danish colleagues in Gramm;
- We did speak during the Wadden Sea Day with all our German and (most) Danish colleagues, the NGO's and the CWSS. (NB. The Minister of Lower Saxony mentioned the foundation already in his speech.

### **Conclusions on the basis of the interviews of the Chair:**

- We came to the conclusion that our former idea of a foundation and trust fund, where private partners give donations and the Foundation runs projects,

is not realistic. We met more and more CEO's, other directors of private entities (family trusts) and some Foundation experts. The opinion of this group of interviewees is that the time of philanthropy and sponsoring is definitively over. Private engagement with nature protection must be in accordance with the core business and the mission of companies. A pragmatic, internationally focused, networking Foundation to enhance (PPS) business cases is the best possible option. A very good example is the Ameland project (a promising Foundation theme for all the islands in the UNESCO area: *self-sufficiency in the field of energy of the Wadden islands through a PPS with all kinds of stakeholders*).

- We spoke on the 4th of July in Berlin with State Secretary Mr. Jochen Flasbarth and with German experts on Foundations & Trust funds. It appeared to be a positive meeting. The experts we met were Prof. Günther Bachmann from the Allianz Umweltstiftung and Carolin Bossmeyer, managing director at the 'Biodiversity in good company' Initiative (an organisation with 28 companies stimulating biodiversity in all departments of their organizations).
- Private entities or members of the board of recommendation must have a 'heart for nature' and a track record with sustainable choices;
- Mr. Flasbarth, Christiane Paulus, Nicola Breier, prof. Günther Bachmann and Carolin Bossmeyer all have a positive attitude towards the kind of foundation proposed by Dutch private entities and experts: *a light (networking) structure and concrete business cases*.
- On the 10th of August we spoke with our Danish colleagues. There was an exchange of thoughts about a Foundation. We came to the joint (informal) conclusion that a kind of Foundation with a light structure can add value to the existing trilateral work. The Allianz Umweltstiftung can be a good example and is well known by the German stakeholders. We choose lean business cases, initiated by private parties. Just like the Allianz Umweltstiftung.
- We need to have sound icon projects which are well connected to the interests of private partners. Choose projects which have a cross border or trilateral impact (first reflections of the delegations: flyway, swimway, 'plastic soup', 'dark sky', scientific research, UNESCO Wadden Sea chairs at Universities, sponsoring of marketing activities).
- An innovative and pragmatic working Foundation like the Allianz Environmental Foundation can be a good example. 'Inventing the wheel again', is not necessary.
- As a threshold, all delegations agreed upon using the (OUV) criteria laid down in the WH Strategy 2020 as well as approved in the Working Group Business Cooperation Partnership in December 2016 ('the five c's').

### **Opinion of some Dutch CEO's of sustainable private companies about private involvement:**

- In the initial phase, choose one or two of this specific themes (on which private activities can be linked). Examples are banning of the plastic soup, increasing biodiversity Wadden area and self-sufficiency in the field of energy of the Wadden islands. Or buying out (environment damaging) fishing in the UNESCO Wadden Sea area?
- Choose two liaison officers (networkers/facilitators) who are competent, who know the region and political cultures of the three countries and their different regions.
- Ministers and Government officials must know, support and protect these facilitators and their work. Among other things, by paying these people for a longer period of time (from a Governmental process money budget).

## What's next in 2017 and 2018:

### **November-December.**

Of course there are some challenges upon our path. We have to discuss things further within our (new) Minister (NL) and State Secretary (G), national parks, NGO's etc. And it could be that for instance a 'trailblazer' from a private entity could do a lot. Then things can go very quick.

We will try to check details of the Foundation and experiences of Allianz with prof. Dr. Bachmann and dr. Lutz Spandau and present a revised proposal to the next HOD meeting and (later) WSB.

*Legal checks.* The only legal question is (in our opinion) if Danish and Dutch persons can be member of the curatorium and if private entities from NL and DK want to contribute: is tax reduction possible? Approval of the principles and draft statutes of our Foundation (Possible members of the Foundation, committee of recommendation, board of Trustees); WHF-articles in draft Trilateral Wadden Government Declaration;

**January-April 2018.** Progress in WSB's and search for candidates for organs of the Foundation and projects/business cases to work with (to start with: Ameland CO2 neutral, others islands too).

**May 2018.** Approval of the draft WH-F at the conference.

### **Proposal Foundation**

The Allianz Umweltstiftung consists of a small team of 3 liaison officers and one assistant. A council and a curatorium with authoritative and influential people. It is a lean, pragmatic, innovative and efficient Organization. A Foundation 'light', so to say.

What we can do, making our Foundation as efficient as possible, is to appoint one of the liaison officers as (the) one headed board (Vorstand). The Curatorium (board of trustees) can consist of 3 or 4 German, 2 Dutch and 1 Danish 'important' persons. We have also committee of recommendation with authoritative and well-known people.

The Foundation can be located at Wilhelmshaven, the budget is about € 300K per year for five years for establishment of the Foundation, paid by Germany and The Netherlands.

First draft version of the Dutch Chair, updated until the 7th of November 2017

## **Articles of Association of the Trilateral Wadden Sea World Heritage Foundation**

### **1. Name, legal form and seat of the trilateral foundation**

- (1) The foundation shall bear the name '*Trilateral Wadden Sea World Heritage Foundation*';
- (2) It shall be a public foundation under private law with legal capacity with its official seat in Wilhelmshaven, Germany.

### **2. Object of the foundation**

The global object of the foundation is to contribute to an existence worthy of living in a healthy, sustainable future, and in particular

- (1) Enhancing the ownership, engagement, pride, awareness and involvement of (primarily) private entities, (funding) institutes and citizens by protecting this World Heritage;
- (2) Contributing to the maintenance and improvement of the trilateral UNESCO Wadden Sea World Heritage area and its surroundings via facilitating appropriate business cases, collecting (private) funds etc.;
- (3) Supporting and enforcing the existing activities and structures of the trilateral cooperation (e.g. raising the profile of the Wadden Sea (inter)nationally);
- (4) Being a supportive partner of other private foundations within the Wadden Sea area and UNESCO (marine) reserves worldwide.

The basis of the foundation (and its organs) are the 'Outstanding Universal Values (OUV)' of UNESCO. The foundation shall only carry out activities and business cases that, in their entirety, are governed by the Statement of OUV for the Wadden Sea World Heritage. UNESCO natural heritage sites are required to meet (at least one of) the following OUV criteria:

- superlative natural phenomena of exceptional natural beauty (OUV criterion vii)
- outstanding example of earth's history (criterion viii)
- outstanding example of significant and on-going ecological and biological processes (criterion ix)
- significant natural habitats for conservation of biological diversity (criterion x).
- the integrity of the entire area should also be guaranteed for a world natural heritage site. In addition to this, conservation and management should be ensured.

The foundation may pursue activities in the following areas:

- Nature conservation and rural conservation
- Species and biotope conservation
- Area protection
- Climate, air pollution prevention
- Water protection
- Environmental, land and forestry management
- Environmental and settlement development

- Environment and traffic
- Environment and energy
- Environment and tourism
- Environment and waste
- Environmental education and awareness
- Environmental monitoring
- Environmental research, in particular the effects of climate change on the ecological system of the Wadden Sea
- Financing of (a) UNESCO University chair(s) which benefits increasing knowledge about the area.

Activities have to contribute to the maintenance and improvement of the area and its surroundings via facilitating appropriate business cases, collecting (private) funds etc.[PM. The Wadden Sea Board has approved the following criteria for business cases: credibility, conservation, capacity building, communication and (stimulating) communities].

### **3. Purposes of public benefit**

- (1) The foundation shall pursue exclusively and directly purposes of public benefit within the meaning of the division on tax-privileged purposes of the German Fiscal Code. It may pursue its objects in the Wadden Sea area of Denmark, Germany and The Netherlands, to the extent that this does not cause any doubt as to the public benefit nature of its work.
- (2) The foundation's activities are pursued altruistically; it does not primarily pursue commercial purposes. The foundation's assets must only be used for its objects in accordance with the articles of association. No person should benefit from expenditure that is not in line with the foundation's objects, nor from disproportionately high remuneration or other use of assets.
- (3) The foundation may also achieve its objects by partially allocating assets to other corporations of public law with tax privileges for use for tax privileged purposes.

### **4. Endowment assets**

- (1) The endowment assets for the years 2018-2020 shall be at least €300,000 annually (in 2018: €100.000). This amount must be maintained on an ongoing basis and without limitation.
- (2) The endowment assets may be added to by contributions from the founders or third parties made for this express purpose (e.g. donations) or private sums.

### **5. Use of assets, financial year**

The financial year is the calendar year.

### **6. Foundation's organs**

- (1) The foundation's organs shall be the board of trustees, committee of recommendation and the management board.
- (2) The members of the foundation's organs shall be volunteers. They shall have a right to reimbursement of their costs. The board of trustees may, however, grant a suitable remuneration for the organ members' time spent on the foundation's activities.

## **7. Number of members, tenure and composition of the management board**

- (1) The management board shall at least comprise one and at maximum 5 members. The management board shall be appointed by the board of trustees.
- (2) The members of the management board are appointed for terms of three years. Members may be reappointed for multiple terms.
- (3) The management board shall meet with the chairman of the board of trustees or a member of the board of trustees designated by the chairman at least twice annually.
- (4) The board of trustees shall appoint a deputy to act as manager where the management board is not available or legally or factually prevented from performing its tasks.
- (5) When the management board leaves, and pending the appointment of (a) successor(s), the chairman of the board of trustees may appoint a member with powers to manage operations and represent the foundation.

## **8. Rights and obligations of the management board**

- (1) The management board shall legally represent the foundation both in and out of court.
- (2) The management board shall manage the foundation and run its day-to-day operations. This includes, in particular, the management of the foundation's assets, allocating foundation assets, reporting on the foundation's activities and providing associated financial reports.
- (3) The managing director constitutes the management board. The management board may, with the consent of the board of trustees [and the heads of the delegations of the Wadden Sea Board], and as required by the volume of the day-to-day operations, appoint or hire full-time or part-time staff or a business unit (without governing organs).

## **9. Number of members, tenure and composition of the board of trustees/board of recommendation**

- (1) The board of trustees shall comprise 4-8 members. It shall consist of members appointed by the Wadden Sea Board (WSB), including at least one member from each of the three member states.
- (2) The members of the board of trustees are appointed for terms of five years. Members may be reappointed for a second and third term.
- (3) The foundation shall appoint a chairman and deputy chairman from the members of the board of trustees. The board of trustees shall meet at least once annually. The management board will attend meetings of the board of trustees unless the board of trustees excludes it from a particular meeting.
- (4) Beyond this, the board of trustees shall lay down its internal composition in a set of standing orders; resolutions on the standing orders must be passed unanimously.
- (5) The members of the board of trustees are also, at the same time, members of the committee of recommendation. Besides this trustees, the committee of recommendation has other members which are authoritative and well known persons from several sectors of society, with a heart for nature reserve protection.

## **10. Rights and obligations of the board of trustees**

- (1) The board of trustees shall monitor compliance with the foundation's purpose and may, after consulting with the management board, lay down guidelines on the achievement of the individual foundation objects.
- (2) The management board's activity report and the associated financial report shall be passed by the board of trustees. It shall also grant the management board a discharge of liability.
- (3) The following measures require the board of trustees' approval:
  - a. Allocation of foundation assets (art. 8(3)(B));
  - b. Appointing a full-time management and hiring personnel (art.8(4));
  - c. Determining management board member salaries (art.6(2));
  - d. Management board resolutions regarding the standing orders (art. 7(6)).
- (4) The board of trustees may pass a set of standing orders for the management board.

## **11. Decision-making**

- (1) The board of trustees has a quorum when the meeting has been properly convened and more than half of its members, including the chairman or deputy chairman, are present. Resolutions are passed by a simple majority of votes cast. The chairman, or in his or her absence, the deputy chairman, shall have a casting vote in the event of a tied vote.
- (2) At meetings, each member of the board of trustees may represent up to two other members of the board of trustees as a proxy. The right to act as a proxy does not extend to decisions under art. 12 of these articles of association.
- (3) Meetings of the board of trustees shall be convened by invitation in writing, including an agenda, at two weeks' notice.
- (4) The board of trustees may also take written resolutions out of meetings, as long as no member objects to this procedure. After four weeks of receipt of the request to vote in a written vote, silence shall be taken to be agreement. The resolutions under art. 10(3b) and (3c), as well as art. 12 may only be taken at meetings.
- (5) Resolution and results of votes shall be recorded in the minutes which must be sent to all members without delay.

## **12. Amendments to articles of association, relocation of seat, dissolution, distribution of assets**

- (1) In the event that the foundation's object becomes impossible to achieve or, due to significant changes in circumstances, it no longer appears to be meaningful, the board of trustees, by a majority of at least two thirds of its members, and the management board, with WSB's consent, may, in a joint sitting, give the foundation a new object.
- (2) Clause (1) applies analogously to resolutions to relocate the foundation's seat, dissolve the foundation or to make changes to its assets (clause (5)).
- (3) Other amendments to the articles of associations can be made by a two-thirds majority of the board of trustees.
- (4) Amendments to the articles of association which would see the foundation fail to meet the requirements for public-benefit character are invalid. Irrespective of any approval obligations under the German Foundations Act

(*Stiftungsgesetz*), the relevant taxation office must be informed of any resolutions to amend the articles of association or dissolve the foundation. Changes to the foundation's object (article (2)) are subject to this authority's approval.

- (5) When the foundation is liquidated or dissolved, its assets shall fall to a corporation under public law or some other body with tax privileges for immediate and exclusive use for purposes provided for under article 2 or for other purposes which as closely as possible approximate these purposes.

### **13. Supervisory authority**

- (1) The Foundation's supervisory authority shall be the Environmental Ministry of the State of Lower Saxony, or the Lower Saxony ministry in charge of the Trilateral Wadden Sea Partnership.
- (2) Proposed budgets and annual reports shall be presented to the supervisory authority.
- (3) Amendments to the articles of association can only take effect after being approved by the relevant authority.