



Council

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Agenda item 19

Cooperation with other relevant international organizations

Memorandum of understanding between the International Seabed Authority and the African Union

Note by the Secretary-General

I. Introduction

1. By virtue of article 169, paragraph 1, of the United Nations Convention on the Law of the Sea of 10 December 1982, the Secretary-General of the International Seabed Authority shall, on matters within the competence of the Authority, make suitable arrangements for consultation and cooperation with international and non-governmental organizations recognized by the Economic and Social Council of the United Nations. Such arrangements require the approval of the Council of the Authority. Organizations with which the Secretary-General has entered into an arrangement are permitted to designate representatives to attend meetings of the organs of the Authority as observers in accordance with the rules of procedures of those organs. Written reports of the organizations on subjects related to the work of the Authority and in which they have special competence may be distributed to States parties by the Secretary-General.

II. Memorandum of understanding between the International Seabed Authority and the African Union

2. In the light of the number of areas of common interest, the International Seabed Authority and the African Union, which is an observer to the International Seabed Authority, have had intense exchanges on the possibility of formalizing their cooperation.

3. The terms of the draft memorandum of understanding were finalized at the technical level by the secretariat of the Authority and the African Union Commission before it was formally submitted to the Authority for consideration by its Council in July 2022.



III. Action by the Council

4. The Council is invited to take note of the present note and its annex and to approve the memorandum of understanding between the International Seabed Authority and the African Union.

Annex

Memorandum of understanding between the International Seabed Authority and the African Union

The purpose of the present memorandum of understanding is to specify the scope of cooperation between the African Union, represented by the African Union Commission, and the International Seabed Authority (hereinafter referred to as “the Authority”), established by the United Nations Convention on the Law of the Sea, signed in Montego Bay, Jamaica, on 10 December 1982 (hereinafter referred to as “the Convention”).

Whereas

The African Union is a continental body consisting of member States that make up the African continent, with its objectives, values and principles for “an integrated, prosperous and peaceful Africa, driven by its own citizens and representing a dynamic force in the global arena”, enshrined in its Constitutive Act;

The Authority is the competent organization through which States parties to the Convention shall, in accordance with Part XI of the Convention and the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, adopted, on 28 July 1994, by the General Assembly of the United Nations in its resolution 48/263 (hereinafter referred to as “the 1994 Agreement”), organize and control activities in the Area, particularly with a view to administering the mineral resources of the Area, as defined in article 1, paragraph 1 (1) of the Convention;

The Authority seeks consultation and cooperation with, inter alia, international organizations on matters within the competence of the Authority by virtue of article 169 of the Convention;

Most parties to the African Union are members of the Authority;

The Authority and the African Union have decided:

With regard to purpose

1. To provide a framework between the Authority and the African Union to promote cooperation in matters of mutual concern relating to their purposes and functions, including the implementation of the legal regime governing activities in the Area, in the interest of their respective member States, in particular those from the African Union;

With regard to mutual consultation and cooperation

2. To consult, where appropriate and practical, on matters of mutual interest with a view to promoting or enhancing a better understanding and coordination of their respective activities in respect of such matters, in particular in the fields of cooperation listed in the annex to the present memorandum of understanding, with a view to strengthening synergies in the achievement of their respective strategic objectives;

3. To cooperate, where appropriate and practical, in the exchange of information, including reports of meetings of relevance to each other;

4. To conduct, where appropriate, cooperative studies, workshops and seminars;

5. To consult regularly on the scope and content of cooperation between the Authority and the African Union;

With regard to participation in meetings

6. To invite each other's representatives to attend and participate in the meetings of their respective governing bodies as observers, in accordance with their respective rules of procedure, as well as in relevant meetings of experts and workshops;

With regard to exchange of information and documents

7. That the exchange of information, publications and reports between the two organizations shall be subject to the requirement of confidentiality of data and information imposed upon them;

8. That the secretariat of the Authority and the African Union shall also keep each other informed of current and planned activities of mutual interest for the purpose of identifying areas in which cooperation may prove desirable, including their respective strategic objectives and voluntary commitments for the achievement of the Sustainable Development Goals and capacity-building opportunities;

With regard to financial implications

9. That the memorandum of understanding does not impose financial obligations on either party; that the costs and expenses resulting from the exchange of information or cooperation pursuant to the present memorandum of understanding shall be borne by each of the parties, and that the raising of resources and their allocation to any activities carried out under the present memorandum of understanding are subject to the respective financial rules and regulations of each party;

With regard to implementation of the present memorandum of understanding

10. The Secretary-General of the Authority and the Chairperson of the African Union Commission may enter into supplementary arrangements for the implementation of the present memorandum of understanding by the exchange of letters, which would become part of the memorandum of understanding;

With regard to privileges, immunities and facilities

11. Nothing in this memorandum of understanding shall be interpreted or construed as a waiver or a modification of privileges, immunities and facilities which the Authority and the African Union enjoy by virtue of the international agreements applicable to them;

With regard to amendments, duration, entry into force and final provisions

12. That the present memorandum of understanding may be amended at any time by the mutual consent, expressed in writing, of the Secretary-General of the Authority and the Chairperson of the African Union Commission. Any such amendment shall enter into force three months following the consent by the two parties;

13. That the present memorandum of understanding may be terminated by either signatory by giving six months' written notice to the other signatory prior to the proposed date of termination;

14. That the present memorandum of understanding shall come into effect upon its signature by the Chairperson of the African Union Commission and the Secretary-General of the Authority;

15. That the present memorandum of understanding shall remain in force for an initial period of three (3) years and be renewed automatically for succeeding periods of three (3) years each, subject to a review prior to the end of each three- (3) year period, unless earlier terminated in accordance with paragraph 13;

16. That nothing in the present memorandum of understanding shall bind any of the member States of the African Union jointly or severally. Similarly, the memorandum of understanding shall not bind any of the members of the Authority jointly or severally;

17. That the present memorandum of understanding is without prejudice to agreements concluded by either signatory with other organizations and programmes;

18. The foregoing represents the understandings reached between the Authority and the African Union upon the matters referred to herein.

In witness whereof, the undersigned have signed the present memorandum of understanding in duplicate in the Arabic, English, French, Portuguese, Spanish, Kiswahili languages, all originals being equally authentic.

Done in ____ this day of ____

For the African Union

For the International Seabed Authority

Moussa Faki Mahamat
Chairperson of the African Union
Commission

Michael W. Lodge
Secretary-General

Annex

Fields of cooperation

1. Fields of cooperation pursuant to the present memorandum of understanding include:

(a) Raising awareness of the United Nations Convention on the Law of the Sea and of the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 in order to enhance membership of the Authority by encouraging members of the African Union that are not yet members of the Authority to consider joining the Authority and by encouraging members of the African Union who are members of the Authority to consider becoming parties to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982;

(b) Raising awareness of the protocol on the privileges and immunities of the International Seabed Authority and encouraging members of the Authority that are members of the African Union to become parties to the Protocol if they have not yet done so;

(c) Promoting the participation of members of the African Union that are members of the Authority in the development of mineral resources in the Area, including in reserved areas;

(d) Promoting the sustainable development of mineral resources in support of the Africa Blue Economy Strategy; Agenda 2063: The Africa We Want, Goal 6, “Blue/ocean economy for accelerated economic growth”, and Goal 7, “Environmentally sustainable and climate-resilient economies and communities”; and the Revised African Convention on the Conservation of Nature and Natural Resources (Maputo 2003);

(e) Providing tailored capacity-building opportunities and technical assistance to address the specific needs identified by the members of the Authority and the members of the African Union;

(f) Technical assistance in fulfilling the obligations pursuant to article 84 (2) of the Convention;

(g) Joint cooperation on seminars and workshops related to the development and implementation of the legal framework for activities in the Area and on other matters of mutual interest;

(h) Promote and encourage the participation of African States in marine scientific research programmes undertaken in the Area through the different capacity-building/development programmes and initiatives implemented;

(i) Undertaking a long-term assessment on the state of mineral resources and the marine environment in African countries and disseminate outcomes to the relevant stakeholders.

2. The Authority and the African Minerals Development Centre – a specialized agency of the African Union – will liaise to promote the implementation of the fields of cooperation of this annex and, where appropriate, develop a strategy for its execution; and explore modalities for further collaboration.