

# Mechanisms for cooperation

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NATURE, LEGAL ASPECTS, EXAMPLES

# Abidjan meeting: modalities for cooperation

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- Acknowledge the already existing mechanisms, such as MoUs between some organizations, and informal cooperation at different levels, and the need for strengthening this further
- An appropriate (legal) instrument needs to be identified (e.g. MoU), which should contain detailed ToRs that go beyond the level of detail usually provided in the MoU.
- The (legal) instrument should address, among other things: duration and revision, financing.
- The (legal) instrument should provide a description of mandates of organizations involved, as well as areas of collaboration, and the collaboration mechanisms to be used, including e.g.: establishment of working groups; participation in meetings.

# What is an MoU?\*

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In public international law: UN Treaty Handbook provides:

*The term memorandum of understanding (M.O.U.) is often used to denote a less formal international instrument than a typical treaty or international agreement. It often sets out operational arrangements under a framework international agreement. It is also used for the regulation of technical or detailed matters. An M.O.U. typically consists of a single instrument and is entered into among States and/or international organizations.*

\*MoU has different meanings in different contexts (private and public law)

# MoUs legally binding?

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## Depends on context:

To determine whether a particular MoU is meant to be a legally binding document (i.e. a treaty), following elements are taken into consideration:

- actual terms
- Inclusion of actual commitments
- particular circumstances
  - (parties' intent)
  - signatories' position (e.g. Ministerial level vs Director level);

The International Court of Justice *Qatar v. Bahrain*, 1 July 1994

# General characteristics of MoUs

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- Require signature
- don't require ratification (depending on the national law)
- require less time for their development than binding treaties
- can provide a formal basis for cooperation and joint activities

# MoU RFMO-RS

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## [2004 MoU](#)

- UNEP as Secretariat of the Mediterranean Action Plan (UNEP/MAP)
- FAO on behalf of the GFCM

Chapeau: recognition of distinct mandates but common goals

Body of the MoU:

Appendix: detail

Purpose	Scope
Organizational arrangements	Emblems logos
Intellectual property	Notification and amendments
Interpretation	Termination

# What an MoU does not do

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An MoU is not a substitute for collaboration

An MoU is not to be developed without shared understanding and intent on activities