

GENERAL OUTLINE FOR A MEMORANDUM OF UNDERSTANDING (MOU)

When a draft MOU is drawn, the substantive office is required to consult Article 19 of the Constitution of UNIDO, document UNIDO/IDB.1/7 of 3 October 1985, the annex to document UNIDO/GC.1/7 addressing guidelines for the relationship of UNIDO with intergovernmental, non-governmental, governmental and other organizations and the Director-General's Bulletin UNIDO/DGB/(E).53/Rev.1 dated 20 November 2006.

A draft MOU should be cleared by the Legal and Financial Services Branch and as the case may be, by the Human Resources Branch. These services should be informed as to the legal status of the entity that intends to sign the MOU with UNIDO; whether its aims and purposes are in conformity with the purposes and principles of the Constitution of UNIDO; if it is actively concerned with areas falling within the competence of UNIDO; and, if it can undertake to support actively the work of UNIDO, etc.

The representative of the other party to the MOU may need an instrument of full powers for signature. Likewise, an instrument of full powers will be needed for any official of UNIDO who will sign the MOU on behalf of the Director-General. According to existing procedures, the signed MOU should be sent to the Legal Office for safekeeping.

1. Title of MOU: In terms of an order of reference to the parties in the title, the name of UNIDO should appear first. The names of both parties should be spelled out. The parties' full address (no Post Office Boxes) should also be provided in the title (or, in the alternative, in the Preamble).

2. Preambular paragraphs:

- (a) The parties to the MOU with their complete address.
- (b) The mandate, objective and purpose of UNIDO as related to the purpose of the MOU:

Option 1: "Considering that UNIDO, as a specialized agency of the United Nations, has the primary responsibility in promoting industrial development in the developing countries and in countries with economies in transition;"

Option 2: "The United Nations Industrial Development Organization (hereinafter referred to as UNIDO), as a specialized agency of the United Nations, has the central role in coordinating all activities of the United Nations system in the field of sustainable industrial development in the developing countries and in countries with the economies in transition. UNIDO also promotes industrial development and cooperation on global,

regional and national, as well as on sectoral levels, within the framework of its three thematic priorities of poverty reduction through productive activities, trade capacity-building, and environment and energy.”

- (c) The mandate, objective and purpose of the other party/parties.
- (d) The intention/willingness of both parties to enter into the MOU.

3. Operative Part:

- (a) **Purpose of the MOU.** The first operative article of the MOU should set forth, in clear and succinct terms, the central purpose behind the parties’ decision to conclude the MOU.
- (b) **Description of the areas of cooperation:** The areas of cooperation should conform to the “*Business Plan On The Future Role and Functions of UNIDO*”, (document GC.7/5, Annex I), General Conference resolution GC.10/Res.2 on the medium-term programme framework, General Conference document GC.10/14 and the related conference room paper GC.10/CRP.4, Director-General’s document: *Operationalizing UNIDO’s Corporate Strategy - Services and Priorities for the Medium Term 2004-2007*, Industrial Development Board document IDB.28/3 and other relevant documents. The areas of cooperation should be preceded by the following sentence: “Subject to the programme of work approved by the policy-making organs of UNIDO and the conclusion of project documents for specific projects, ...”.
- (c) **Mechanism and modalities of implementation of the MOU.**
- (d) **[Annual or biannual] review and assessment of implementation of MOU,** if any.
- (e) **Name and address of focal points of the parties, if any.**
- (f) **General clause on financial issues:** Every MOU should specify from WHAT source or sources and HOW the parties are going to finance the activities foreseen in the MOU. In addition, every MOU should include the following clause: “The implementation of activities envisaged in the Memorandum of Understanding shall depend on the availability of the necessary financial resources and shall be made in accordance with the Financial Regulations and Rules of UNIDO.”

4. Final Clauses:

- (a) **Entry into force:** “The Memorandum of Understanding will enter into force upon signature by the Parties.”

- (b) **Duration of the MOU:** “This Memorandum of Understanding is signed for an initial period of [five] years and may be renewed by mutual agreement between the Parties.”
- (c) **Termination clause:** “Each Party shall have the right to terminate the Memorandum of Understanding by giving [three] [six] - months’ notice in writing to the other Party at any time. If the Memorandum of Understanding is terminated by either Party, steps shall be taken to ensure that the termination does not affect any prior obligation, project or activity already in progress.”
- (d) **Amendment clause:** “The Memorandum of Understanding may be modified or amended by written agreement between the Parties”.
- (e) **Privileges and immunities of UNIDO:** “Nothing in or relating to this Memorandum of Understanding shall be deemed a waiver, express or implied, of any of the privileges and immunities of UNIDO.”
- (f) **Confidentiality:** “Nothing in this Memorandum of Understanding shall be so construed as to require either Party to furnish any material, data or information the furnishing of which could, in its judgment, require it to violate its policy regarding the confidentiality of such information.”
- (g) **Name, emblem and official seal of UNIDO:** “[NAME OF THE OTHER PARTY] shall not use UNIDO’s name, emblem and official seal in any form or manner whatsoever, or any abbreviation of the name of UNIDO, without the prior written authorization of the Director-General of UNIDO.”
- (h) **Language clause:** “This Memorandum of Understanding has been drawn up in English and [ANOTHER LANGUAGE], in two originals. In case of discrepancy, the English version shall prevail.

[Alternatively, the language of the MOU could be addressed in the signature block]

- (i) **Dispute settlement clause:** Since an MOU normally does not create binding financial obligations for either party, formal means of dispute settlement like arbitration should be avoided, particularly if the MOU is concluded with an intergovernmental organization (UN common system or otherwise):

“In the event of a dispute, controversy or claim arising out of or relating to this Memorandum of Understanding, or the breach, termination or invalidity thereof (a “dispute”), the Parties will use their best efforts to settle promptly such dispute through direct negotiation. Any dispute that is not settled within sixty (60) days from the date either Party has notified the other Party of the nature of the dispute and of the measures that should be taken to rectify it will be resolved through consultation between the Director-General of UNIDO and the [TITLE OF EXECUTIVE HEAD] of [NAME OF THE OTHER PARTY] or their duly authorized representatives. Each Party will give full and sympathetic consideration to any proposal advanced by the

other to settle amicably any matter for which no provision has been made or any controversy as to the interpretation or application of this MOU.”

5. Signature block: The signature block identifies the name and functional title of the signatories for each party, as well as the place and date of signature (and the language of the MOU if not addressed in a separate article). As in the title, UNIDO should be mentioned first and the signature of UNIDO’s representative should appear on the left hand side. Under the signature line, the functional title should appear, followed by the date and place of signature unless already specified:

“IN WITNESS WHEREOF the undersigned, duly appointed representatives of the United Nations Industrial Development Organization and of [NAME OF THE OTHER PARTY], respectively, have on behalf of the Parties signed the present Memorandum of Understanding in English [and in French], in two originals, at [PLACE], this [DAY] day of [MONTH] 2007.

For the United Nations Industrial
Development Organization:

For [NAME OF THE OTHER
PARTY]:

Name:
Title:
Date:
Place:

Name:
Title:
Date:
Place:”