



# *Towards an MoU for the Sio-Malaba-Malakisi basin*

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# *OUTLINE*

- Technical session
  - Main elements of an MoU
  
- Practical session
  - Review of the MoU working draft
  - Plenary session
  - Facilitated discussion
  
- Way forward



# ***TECHNICAL SESSION***

## ***WHY THE NEED OF AN MoU?***

- To materialise the spirit of collaboration between States
- To articulate processes and mechanisms required towards the achievement of a specific goal
  - *Sustainable development of a transboundary water basin*
  - *Creation of institutional mechanisms to promote cooperation*

## ***WHAT IS AN MoU? (I)***

- A **non-legally binding instrument** based on a joint declaration of **intent** by the Parties
- It can address several issues:
  - *Protection of the environment*
  - *Establishment of a river basin organisation*
  - *Construction of specific binational infrastructure*
  - *Define a roadmap for the development of a treaty*

# ***WHAT IS AN MoU?(II)***

- **A Memorandum of Understanding**
  - It is a non-binding instrument
  - Includes intentions
  
- **A Treaty**
  - Binding
  - Contains rights and obligations

# ***MAIN CONTENT OF AN MoU***

- Preamble
- Scope
- Objectives
- Guiding principles
- Commitments
- Implementation mechanisms
- Other provisions

## ***PREAMBLE (I)***

- Contains a brief introduction on the context in which an MoU is being adopted
- Identifies the parties
- Determines the main goal sought to be accomplished with the implementation of the MoU



## ***PREAMBLE (II)***

- ***Matters to be taken into account***
  - What is the main goal of the MOU?
  - Which existing frameworks may be essential to be referred to in the MoU?
  - What instruments and/or initiatives should be acknowledged in the text?

## ***SCOPE (I)***

- Defines the coverage of the MoU:
  - Geographical
    - *Surface water/ groundwater*
  - Functional
    - Types of water uses and activities
  - The MoU should respond to existing and potential future challenges

## ***SCOPE (II)***

- ***Matters to be taken into account***
  - What waters are covered by the MOU?
  - Which uses and activities may be expressly contemplated in the MoU?
  - What are existing and future potential challenges?
    - Environmental/Economic/Climate Change

## ***OBJECTIVES (I)***

- These are the expected results to be achieved through the implementation of the MoU.
- The objectives originate on a joint vision stated by the Parties
- Considering previous meetings, *What will be the objectives of the MoU?*

## ***OBJECTIVES (II)***

- Support the identification and preparation of projects with transboundary implications
- Support the prioritization and sequencing of projects in the basin
- Facilitate the mobilization of funding to implement projects in the basin
- Support the implementation of projects in the basin

## ***OBJECTIVES (III)***

### **Matters to be taken into account**

- What should the MoU promote?
  - To foster cooperation among the Parties and ensure sustainable development and peace in the region.
  - To ensure technical capacities of the Parties
  - To promote the involvement and inclusion of local communities and civil society.

## ***GUIDING PRINCIPLES (I)***

- Principles that guide the development of the commitments of the parties
- These derive from international relations and are commonly accepted by States.
- Considering previous meetings, *What will be the guiding principles of the MoU?*

## ***GUIDING PRINCIPLES (II)***

- Enhancement of bilateral cooperation under a river basin approach
- Sustainable management of the basin's natural resources under a water-food-energy ecosystems nexus approach
- Stakeholder-inclusive, benefit-enhancing approach
- Benefit and cost sharing
- Polluter pays principle



# ***GUIDING PRINCIPLES (III)***

## **Matters to be taken into account**

- What are the main challenges affecting the Basin?
- What are the benefits deriving from the uses of the waters?
- What are the possible measures to be adopted to address environmental degradation?
- Are there options or alternatives to existing or potential uses of the water of the Basin?
- What is the role of local stakeholders and the civil society?

## *COMMITMENTS (I)*

- Specific and concrete actions for the achievement of the MoU
- Duties to which the Parties agreed upon for the enhanced management of shared waters
- Considering previous meetings, *What will be the commitments of the MoU?*

## ***COMMITMENTS (II)***

- *Promote socio-economic development and enhanced household incomes*
- *Enhance environmental sustainability and reduce environmental risks*
- *Improve the management of the basin's natural resources*

## ***COMMITMENTS (III)***

### ***Matters to be taken into account***

- *What actions need to be promoted to achieve sustainable development in the Basin?*
- *What data and information needs to be collected and exchanged among the Parties?*
- *How can the Parties monitor the state of the Basin?*

# *IMPLEMENTATION MECHANISMS*



- Refers to the necessary mechanisms for the Parties to comply with the MoU.
- The process of operationalising the MoU
- A strong institutional framework ensures an adequate implementation of agreements
  - Can the Joint Working Group support this? Take this forward
  - Investment plan and institutional framework

# ***INSTITUTIONAL FRAMEWORK***

- **Council** High-level decision making body providing political guidance
- **Technical Committee** Operationalization of high-level decisions into work plans and programs
- **Secretariat** Administrative services
- **Expert groups** Technical advice from member states to RBO
- **National commissions** Administrative, functional or technical linkage of RBO to member states

# ***INSTITUTIONAL FRAMEWORK: FINANCING***



- The adequate governance of shared waters, the development of programs and projects, and the implementation of activities require financial resources
- From Member States and/or external actors
- Cost sharing (Equal parts/ According to the basin territory in each State/ According to the benefits)
- To be effective, river basins organisations need to ensure long-term financial sustainability

# ***IMPLEMENTATION MECHANISMS***

- ***Matters to be taken into account***
  - What is the desired institutional structure for the basin?
  - What is the role of the Parties in the MoU implementation?
  - How can participatory mechanisms involving civil society, local communities or NGOs be promoted?



# ***OTHER PROVISIONS***

- Data and information management
  - *Collection*
  - *Exchange*
- Monitoring
  - The fulfillment of the MoU by the Parties
  - The state of the shared waters (quantity /quality)
- Dispute resolution mechanisms

# ***OTHER PROVISIONS: PUBLIC PARTICIPATION***

- The MoU can determine the role of key stakeholders in the management of shared waters, particularly in terms of:
  - Data and information sharing
  - Access to information
  - Consultations for planned measures
  - Involvement in discussions
  - Participation in meetings
  - Direct inclusion (voice and vote)



# ***PRACTICAL SESSION***

# *Structure of the Session*

This practical session consists of four parts:

- An analysis of the elements of an MoU applied to the SMM using the “SMM MoU working draft”
- A Plenary Session
- A Facilitated Discussion
- Way forward

# *The Analysis Session*

For this session, participants will break up in 3 (three) mixed groups to review the following main contents of the MoU:

- **Group 1:** To review “Preamble”, “Scope” and “Objectives”
- **Group 2:** To review “Guiding Principles” and “Commitments”
- **Group 3:** To review “Implementation Mechanisms” and “Other Provisions”

## *The Review Session*

- Each group will gather and nominate three persons who will later present the results from their group review.
- Each group will review the parts of the MoU that has been assigned
- Each group will read, analyse, discuss, comment and provide written input and observations to the SMM MoU working draft

## *Plenary Session*

- Each group will nominate 3 speakers who will present the observations, comments and inputs to each element of MoU working text

## *Facilitated Discussion*

After each group has presented its findings, the rest of Participants will provide their observations and comments to the results of each group



## *Way Forward*

- In consensus, participants will determine the way forward for the preparation of the SMM MoU