

This draft MoU is not an agreed endorsement by the First Meeting on Dugong Conservation in the Indian Ocean and South-east Asia. It presents a starting point for discussion at the second meeting.

## **Regional Dugong Conservation MoU**

## ***Example text for the background***

### **Background**

The Parties to this Memorandum of Understanding (MoU), in light of the following:

The international responsibilities to conserve, protect and manage dugong populations, across their range, pursuant to the Convention on Migratory Species of Wild Animals (CMS);

Coastal states, pursuant to the 1982 United National Convention on the Law of the Sea, have a sovereign right to explore and exploit, conserve and manage the natural resources within their Exclusive Economic Zones;

The Convention on Migratory Species 7<sup>th</sup> Conference of the Parties' recommendation that states in the range of dugongs cooperate among themselves, as appropriate, and participate actively to develop and conclude a memorandum of understanding and an action plan for the conservation and management of dugongs throughout the species' range;

Dugongs are listed on Appendix I of the Conservation on International Trade in Endangered Species of Wild Fauna and Flora (CITES) which bans international trade.

Knowledge of the biology, ecology, and population dynamics of dugongs, and information on their cultural, social and economic values is deficient, and that cooperation will facilitate research and monitoring of dugongs in order to develop and implement relevant protection measures;

Some populations of dugongs and their habitats are seriously threatened from a range of human activities such as habitat degradation and destruction, fishing pressure, unsustainable levels of hunting and poaching in some areas, vessel strikes, ecotourism, pollution, and disease;

Many maritime activities in the dugongs' range, such as fishing and tourism, are socially and economically important and should be conducted in an ecologically sustainable and responsible manner;

In some states of the dugong's range, the subsistence harvest of dugongs is an important economic, spiritual, social and cultural activity;

The dugongs' range covers a vast area, which crosses territorial borders and encroaches on Exclusive Economic Zones;

Their desire to establish through this MoU co-operative measures for the protection and management of dugongs and their habitats throughout the region, including involving all the states in the region, as well as relevant inter-governmental, non-governmental and private sector organisations, in co-operative conservation and management of dugongs and their habitat;

The desirability of involving other states whose nationals or vessels conduct activities that may affect dugongs of the region, as well as states that may be in a position to contribute resources or expertise that may promote the implementation of this MoU;

Concerted and coordinated action must be taken immediately in order to meet the threats posed to dugong populations and their habitats;

Have reached the following understandings to pursue the actions set forth in this MoU, individually and collectively, to improve the conservation status of dugongs and their habitats.

### **Example text for Definitions and Interpretation**

#### **1. Definitions and Interpretation**

- a) "Dugongs" means the species *Dugong dugon*.
- b) "Habitat" means all those aquatic environments which dugongs use at any stage of their life cycles.
- c) "Region" means all the water in and coastal states of the Indian Ocean, East Asia and Pacific Ocean within the ecological range of the dugong.
- d) "Range" means all the areas of water that the dugong inhabits, stays in temporarily, or crosses at any time during its life cycle.
- e) "Conservation status of dugongs" means the sum of the influences acting on the dugong species that may affect its long-term distribution and abundance [Article I(b) of the CMS];
- f) Conservation status will be taken as favorable when:
  - i) population dynamics indicate that the species is maintaining itself on a long-term basis as a viable component of its ecosystems;
  - ii) the range of the species is neither currently being reduced, nor is likely to be reduced, on a long-term basis;
  - iii) there is, and will be in the foreseeable future, sufficient habitat to maintain the population of the species on a long-term basis;
  - iv) the distribution and abundance of the species approach historic coverage and levels to the extent that potentially suitable ecosystems exist and to the extent consistent with wise wildlife management; and
  - v) levels of direct and indirect anthropogenic mortality on the species, from all causes, are low enough to allow dugong populations to recover.
- g) "Convention" means the Convention on the Conservation of Migratory Species of Wild Animals (Bonn, 23 June 1979);

- h) "Secretariat" means, unless the context otherwise indicates, the Secretariat to this MoU;
- i) "Signatory State" means a state which has signed this MoU;
- j) This MoU will be considered as an agreement within the meaning of Article IV, paragraph 4, of the Convention.
- k) The annexes to this MoU are an integral part of it. Any reference to the MoU includes a reference to its annexes.

### **Example text for Objective**

#### **2. Objective**

The objective of this MoU is, based on the best available scientific evidence, to conserve, protect and manage, dugongs and their habitat, in order to regenerate dugong populations in the region, while taking into account the environmental, socio-economic and cultural characteristics of the Signatory States.

### **Example text for Actions**

#### **3. Desired Actions**

To achieve the objective of this MoU, in a spirit of mutual understanding and co-operation the Signatory States will, wherever possible:

- a) Co-operate closely in order to restore, or where appropriate maintain, a favourable conservation status for dugongs and the habitats on which they depend, including where appropriate, taking into account subsistence harvest of dugongs in those States where it is allowed;
- b) Implement, subject to availability of necessary resources, the provisions of the Conservation and Management Plan, which are annexed to this MoU. The Conservation and Management Plan addresses such things as: species conservation and protection, habitat protection and management, management of subsistence harvesting (in those States where it occurs), reduction of threats, research and education, information exchange and capacity building;
- c) As necessary, review, formulate, revise and harmonise national legislation relevant to the conservation of dugongs and their habitats, and make every effort to implement such legislation effectively;
- d) Consider ratifying or acceding to those international instruments most relevant to the conservation of dugongs and their habitat, in order to enhance the legal protection of the species in the region;

- e) Establish and fund a secretariat, which will assist communication, encourage reporting and facilitate activities between and among Signatory States, sub-regional institutions created pursuant to sub-paragraphs (e) and (f) of the Basic Principles (Title 4), and other interested states and organisations. The Secretariat will transmit to all of the Signatory States and to each of the sub-regional institutions, all of the national reports it receives, prepare a periodic review of progress in implementation of the Conservation and Management Plan annexed to this MoU, and perform such other functions as may be assigned by the Signatory States. The Secretariat will be based in the office of an appropriate national, regional or international organization, as decided by the consensus of the Signatory States at their first meeting, after consideration of all offers received;
- f) Establish an Advisory Committee to provide scientific, technical and legal advice to the Signatory States, individually and collectively, on the conservation, protection and management of dugongs and their habitats in the region. The Signatory States may nominate individuals for membership on the Committee who have expertise in the fields of dugong biology, dugong management, coastal development, socio-economics, law, fisheries technology, indigenous rights and other relevant disciplines. The size, composition and terms of appointment of the Advisory Committee will be determined by the Signatory States at their first Meeting.
- g) Designate a competent National Authority to serve as a focal point for communication among Signatory States and activities under this MoU, and communicate the complete contact details of this authority (and any changes thereto) to the Secretariat;
- h) Provide to the Secretariat a regular report on their implementation of this MoU, the periodicity of which will be determined at the first meeting of the Signatory States;
- i) Assess at their first meeting, the extent of the need for and possibilities of obtaining financial resources, including the establishment of a special fund for purposes such as:
- i) meeting the expenses required for the operation of the Secretariat, [the Advisory Committee] and activities carried out under this MoU; and
  - ii) assisting the Signatory States to carry out their responsibilities under this MoU.

## **Example text for Basic Principles**

### **4. Basic Principles**

- a) Each Signatory State will aim to implement, within the limits of its jurisdiction, the MoU with respect to:
- i) its land territory adjacent to the range;
  - ii) marine areas in the region under its national jurisdiction; and
  - iii) vessels operating in the region under its flag.

- b) Implementation of this MoU, including the Conservation and Management Plan, should be assessed at regular meetings of the Signatory States to be attended by representatives of each of the Signatory States and persons or organisations technically qualified in, or relevant to, the conservation of dugongs and their habitat. Such meetings will be convened by the Secretariat and hosted by, and organized in collaboration with, one of the Signatory States. Such meetings should be held annually, at least initially. The periodicity of these meetings may be reviewed and revised by consensus of the Signatory States at any of their regular meetings.
- c) This MoU, including the Conservation and Management Plan, may be amended by a consensus resolution signed on behalf of all the Signatory States.
- d) The Signatory States acknowledge that this MoU is not legally binding.
- e) Signatory States may establish, by mutual arrangement, bilateral, sub-regional or regional management plans that are consistent with this MoU.
- f) Actions under this MoU will be coordinated with Signatory States, as well as with sub-regional institutions in the region.
- g) The original text of this MoU, in the English language, will be deposited with the UNEP Convention Secretariat, which is the Depositary of the Convention ('the Depositary'). The text so deposited with the Depositary will be considered definitive.
- h) Nothing in this MoU will preclude Signatory States from implementing stronger national measures than those specified in the Conservation and Management plan annexed to this MoU, in accordance with rules of international law.

## **5. Resolution of disputes**

Disputes arising about the terms of this MoU will not be referred to international arbitration or adjudication. Without limiting the generality of the foregoing, none of the Signatory States will invoke Article XIII of the Convention to settle any dispute concerning the terms of this MoU. Instead, the Signatory States will endeavour to solve such disputes by amicable consultations and negotiation.

## **6. Open for Signature, Commencement and Termination**

- a) This MoU is open for signature by all states that exercise jurisdiction over any part of the dugong's range, or a state whose flag vessels, outside national jurisdictional limits but within the area of the MoU, are engaged in operations affecting dugongs.
- b) This MoU takes effect on the first day of the third month following the month in which it is signed by the Xth Signatory State. It remains open for signature

- indefinitely for subsequent states, and will come into effect for those states on the first day of the third month after the month in which they sign this MoU.
- c) Any party may withdraw from this MoU by giving one year's notice of its intention to withdraw to the Depositary and that withdrawal will take effect on the anniversary of the date that the Depositary receives that notice.

[SIGNATURE BLOCK]

Signed in X copies in the English language.

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