



MEMORANDUM OF UNDERSTANDING

Current Trends and Practices

Karen Tan
Deputy Senior Counsel

INSIGHT

- Memorandum of Understanding
 - Common provisions
 - Drafting MOU
 - Checklist

MEMORANDUM OF UNDERSTANDING

- Records international commitments
- Not legally binding

SKELETAL MOU

- Preamble
- Body
- Testimonium
- Signature Block

TITLE OF MOU

- Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam
- Government of Brunei Darussalam

MEMORANDUM OF UNDERSTANDING

BETWEEN

**THE GOVERNMENT OF HIS MAJESTY THE SULTAN AND
YANG DI-PERTUAN OF BRUNEI DARUSSALAM**

AND

THE GOVERNMENT OF MALAYSIA

**ON COOPERATION IN THE FIELDS OF YOUTH AND
SPORTS**

Preamble

- Sets the background, context and purpose of the MOU
- Political statement
- Preambular provisions are CAPITALISED and formatted in BOLD e.g. **RECALLING, ACKNOWLEDGING**
- The last preambular paragraph ends with **HAVE REACHED THE UNDERSTANDING**

*The Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam, **represented by the Ministry of Foreign Affairs and Trade** and the Government of _____, represented by the Ministry of Foreign Affairs (hereinafter referred to individually as the "Participant" or collectively as the "Participants");*

***DESIRING** to promote the development of relations of friendship and cooperation between the two countries;*

***CONVINCED** that a sincere and constructive dialogue on all aspects of bilateral relations, as well as on regional and international issues will contribute to the enhancement of their bilateral cooperation;*

***HAVE REACHED** the following understanding:*

BODY - Common Provisions

Objective	Protection of Intellectual Property Rights
Areas/Scope of Cooperation	Suspension
Implementation	Dispute Settlement
Financial Arrangements	Revision, Modification and Amendment
Confidentiality	Effective Date, Duration and Termination
Effect/Nature of MOU	

Objective

- Sets out the purpose of the MOU

The Participants, subject to the provisions of this Memorandum of Understanding and the laws, rules, procedures, regulations and national policies for the time being in force in their respective countries, will encourage and promote mutual co-operation in fields of youth and sports on the basis of equality and mutual benefit.

Areas/Scope of Cooperation

- Where the identified areas of cooperation are specified
- What if it's a non-exhaustive list OR there are some areas you can't envisage now?

AREAS OF CO-OPERATION

Each Participant will, subject to the laws, rules, regulations and national policies from time to time in force, governing the subject matter in their respective countries, endeavor to take necessary steps to encourage and promote co-operation in the fields of tourism in the following areas:

a) research and development;

b) education and training;

c) promotional and publicity events;

d) meetings, conventions and travel marts/trade fairs; and

e) any other areas of cooperation in the field of tourism to be mutually agreed upon by the Participants.

Implementation

- Monitoring the implementation of the MOU
- Establishment of Working Group/Joint Committee
- Identifies a focal point with details
- Level of representation
- Frequency of meetings

IMPLEMENTATION

*The Participants will determine the practical details of cooperation between them to ensure proper and effective **implementation** of this Memorandum of Understanding **subject to the laws, regulations, rules and national policies of the respective Participants**. For this purpose the Participants will consult each other through their **designated authorities**.*

The Participants may enter into supplemental agreements and arrangements for the purpose of implementing this Memorandum of Understanding.

DESIGNATED AUTHORITIES

The designated authorities and the contact details of the Participants responsible for the implementation of this Memorandum of Understanding are as follows:

BRUNEI DARUSSALAM

Ministry of Primary Resources and Tourism

Jalan Menteri Besar,

Bandar Seri Begawan BB3910,

BRUNEI DARUSSALAM

MALAYSIA

Ministry of Tourism and Culture

No. 2, Menara 1, Jalan

Presint 5, Pusat Pentadbiran Kerajaan Persekutuan

62200 PUTRAJAYA, MALAYSIA

Financial Arrangements

- Acknowledges that there will be costs arising from implementation of MOU
- Who bears costs?

FINANCIAL ARRANGEMENTS

*The financial arrangements to cover the expenses for the **co-operative activities** undertaken within the framework of this Memorandum of Understanding will be **mutually decided** upon by the respective Participants on a **case by case basis** subject to the **availability of funds**.*

Notwithstanding anything in paragraph 1 above, expenses for organizing the meetings of the Committee will be borne by the Participant hosting the meetings. The Participant which is sending its representatives for participation in the meetings, if any, will bear their own travel and living expenses.

Confidentiality

- To ensure that any information exchanged remains confidential

CONFIDENTIALITY

The Participants shall maintain the confidentiality of information and documents exchanged pursuant to this Memorandum of Understanding, and shall not disclose such information or documents received to any third party without the prior written consent of the other Participant. The provisions of this paragraph shall continue to apply even after the termination of this Memorandum of Understanding.

Protection of Intellectual Property Rights

Inclusion depends on nature of cooperation

INTELLECTUAL PROPERTY RIGHTS

1. *The protection of intellectual property rights shall be enforced in conformity with the respective national laws, rules and regulations of the Participants and with other international agreements to which the Participants are party to.*
2. *The use of the name, logo and/or official emblem of either Participant on any publication, document and/or paper is prohibited without the prior written approval of that Participant concerned.*
3. *Notwithstanding anything in sub-paragraph 1 above, the intellectual property rights in respect of any technological development, and any product and services development, carried out:*
 - i. *jointly by the Participants or research results obtained through the joint activity effort of the Participants, shall be jointly owned by the Participants in accordance with the terms to be mutually agreed upon; and*
 - ii. *solely and separately by the Participant or the research results obtained through the sole and separate effort of the Participant shall be solely owned by the Participant concerned*

Effect of Memorandum of Understanding

- To expressly state that the MOU is non-legally binding

Effect of Memorandum of Understanding

*Except for the provisions in Paragraph 5 (Protection of Intellectual Property Rights) and Paragraph 6 (Confidentiality), this Memorandum of Understanding **does not** give rise to legally binding rights or obligations under international law, and the cooperation and exchanges under this Memorandum will be conducted subject to the laws and regulations of the respective countries.*

Suspension

- Circumstances in which an MOU is suspended/cannot be fulfilled

SUSPENSION

*Each Participant reserves the right for **reasons** of national security, national interest, public order or public health to suspend temporarily, either in whole or in part, the implementation of this Memorandum of Understanding.*

*Such suspension shall take effect **immediately after notification has been given** to the other Participant through **direct contact channels**.*

Dispute Settlement

- Reflects the non-legally binding nature of the MOU

SETTLEMENT OF DISPUTES

Any difference or dispute between the Participants concerning the interpretation and/or implementation and/or application of any of the provisions of the Memorandum of Understanding shall be settled amicably through mutual consultation and/or negotiations between the Participants through diplomatic channels, without reference to any third party or international tribunal.

In the event of disputes in relating to Paragraph 7 (Protection of Intellectual Property Rights) and Paragraph 8 (Confidentiality), the Participants may agree to refer such disputes to their agreed third party or international tribunal.

Revision, Modification and Amendment

- Provides for how the MOU can be amended and when such amendment will come into effect

REVISION, MODIFICATION AND AMENDMENT

*Either Participant may **request in writing** a revision, modification or amendment of all or any part of this Memorandum of Understanding.*

*Any revision, modification or amendment agreed to by the Participants will be **reduced into writing and will form part** of this Memorandum of Understanding.*

*Such revision, modification or amendment will **come into effect** on such **date as may be determined** by the Participants.*

Any revision, modification or amendment will not prejudice the rights and obligations arising from or based on this Memorandum of Understanding prior or up to the date of such revision, modification or amendment.

Effective Date, Duration and Termination

- Effective Date
 - States the manner in which MOU come into effect
- Duration
 - Validity of MOU
 - Means of renewal/extension
- Termination
 - Means of terminating MOU

EFFECTIVE DATE, DURATION AND TERMINATION

*This Memorandum of Understanding will **come into effect on the date of signing** and will **remain in effect for a period of three (3) years**.*

*This Memorandum of Understanding will **automatically be renewed for successive periods of three (3) years** unless **terminated by either Participant, with six (6) months advance written notice**.*

This Memorandum of Understanding may be terminated by either Participant giving six (6) months advance written notice to the other Participant.

In the event of such termination, all commitments, ongoing projects and/ or activities made under this Memorandum of Understanding will remain valid and effective until the completion of such agreed commitments, ongoing projects and/or activities, unless the Participants agree otherwise.

- *This Memorandum of Understanding will **come into effect on the date of signature** and **will remain in effect** unless terminated by either Participant giving **six months advance written notice** to the other Participant of its intention to terminate this Memorandum of Understanding.*

- *This Memorandum of Understanding will **come into effect on the day of its signature** and **will remain in effect until 31 December 2023**.*
 - *This Memorandum of Understanding may be terminated by either of the Participants by giving written notice to the other Participant, through diplomatic channels, **at least six (6) months prior to the intended date of termination**.*

TESTIMONIUM

SIGNED at on
the day of in the year
..... in **two (2) original copies** in the
English and Romanian languages, both texts
being equally authentic. In case of divergence of
interpretation, the English text will prevail

Conclusion of MOU

- Vienna Convention on the Law of Treaties does not apply

SIGNATURE BLOCK

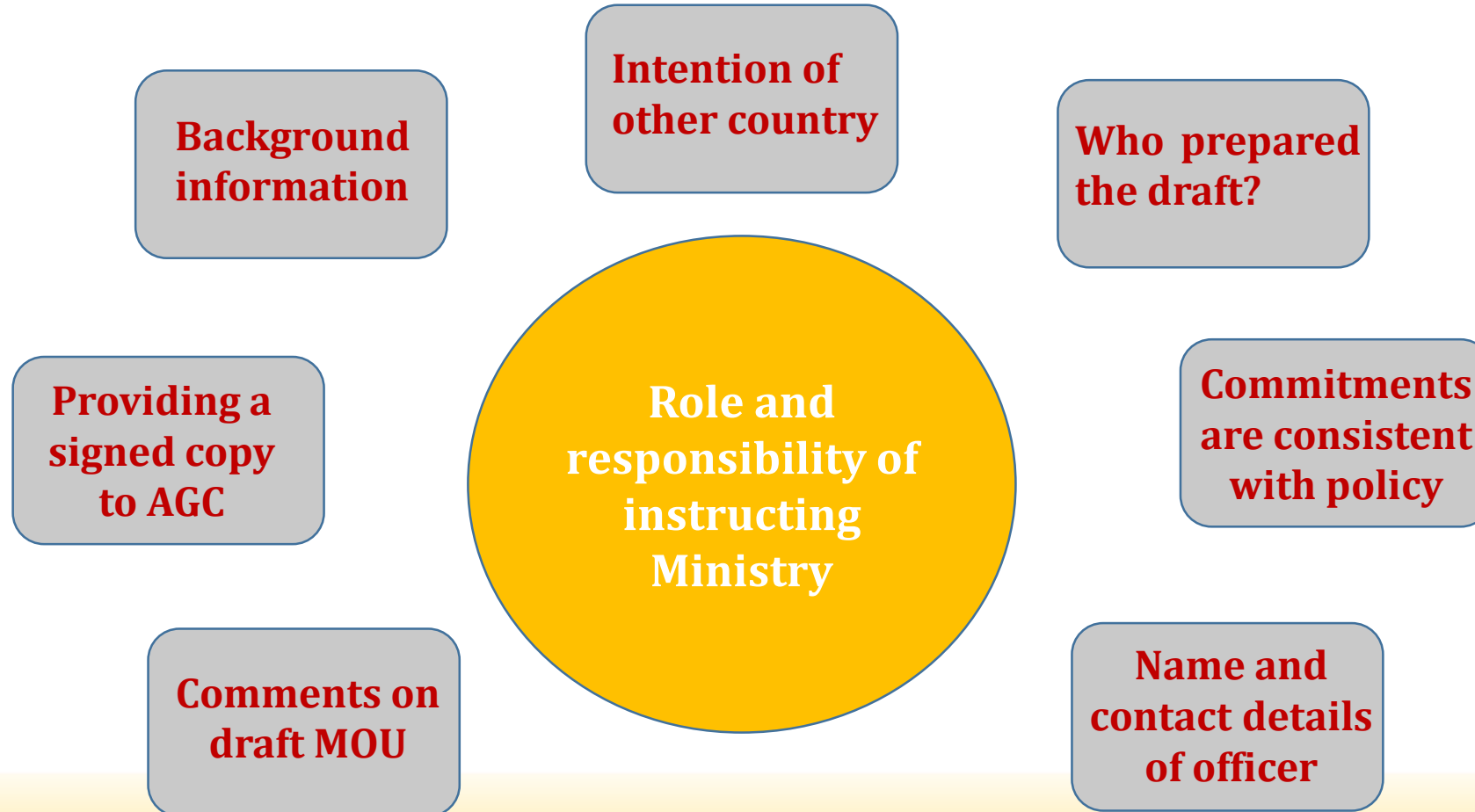
FOR AND ON BEHALF OF
THE GOVERNMENT OF HIS
MAJESTY THE SULTAN AND
YANG DI-PERTUAN OF
BRUNEI DARUSSALAM

.....
Ministry of Culture, Youth and
Sports, Brunei Darussalam

FOR AND ON BEHALF OF
THE GOVERNMENT OF THE
KINGDOM OF CAMBODIA

.....
The Ministry of Education, Youth
and Sport, Cambodia

CHECKLIST



Drafting Terminology

Treaties (Legally Binding)	MOUs (Non Legally Binding)
Article	Paragraph
Have agreed as follows	Have reached the understanding
Shall	May
Agree	Accept/Approve
Done	Signed
Enter into force	Come into effect



QUESTION AND ANSWER SESSION



Thank You

karen.tan@agc.gov.bn