

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE
UNITED NATIONS ENVIRONMENT PROGRAMME
AND
PORT MANAGEMENT ASSOCIATION OF EASTERN AND SOUTHERN AFRICA

This Memorandum of Understanding is entered into by **Port Management Association of Eastern and Southern Africa** and the United Nations Environment Programme ("UNEP"), a subsidiary organ of the United Nations, established by UN General Assembly resolution 2997 (XXVII) of 15 December 1972, hereinafter jointly referred to as "the Parties".

WHEREAS UNEP is the leading global environmental authority that sets the global environmental agenda, promotes the coherent implementation of the environmental dimension of sustainable development within the United Nations system and serves as an authoritative advocate for the global environment;

WHEREAS **Port Management Association of Eastern and Southern Africa**, is a Inter-governmental organization and has as its mandate or objective references to this MOU shall be construed as including any Annexes, as varied or amended in accordance with the terms of this MOU. Any Annexes shall be subject to the provisions of this MOU, and in case of any inconsistency between an Annex and this MOU, the latter shall prevail. Implementation of any subsequent activities, projects and programmes pursuant to this MOU, including those involving the transfer of funds between the Parties, shall necessitate the execution of appropriate legal instruments between the Parties. The terms of such legal instruments shall be subject to the provisions of this MOU. This MOU represents the complete understanding between the Parties and supersedes all prior MOUs, communications and representations, whether oral or written, concerning the subject matter of this MOU. Any Party's failure to request implementation of a provision of this MOU shall not constitute a waiver of that or any other provision of this MOU;

WHEREAS the Parties share common goals and objectives with regard to the coherent implementation of the environmental dimensions of sustainable development, and wish to collaborate in areas of mutual concern, with transparency and efficiency, in the development of initiatives and actions of joint interest within their respective mandates and governing regulations;

NOW, THEREFORE, the Parties, being aware of the benefits that this cooperation will bring, agree as follows:

Article 1

Purpose

The purpose of this Memorandum of Understanding is to provide a framework of cooperation and facilitate collaboration between the Parties, on a non-exclusive basis, in areas of common concern and interest. This Memorandum of Understanding shall not represent any commitment on the part of either Party to give preferred treatment to the other in any matter contemplated under this Memorandum of Understanding or otherwise. The definition and implementation of any subsequent specific activities, projects and programmes pursuant to this Memorandum of Understanding, including those involving the transfer of funds between the Parties, shall be subject to separate agreements that may be entered into between the Parties under this Memorandum of Understanding.



Article 2

Areas of Cooperation

The Parties hereby establish a strategic partnership and agree to cooperate in the following nonexhaustive areas of common concern and interest:

- document the spatial distribution of operational, planned and proposed ports in the Eastern, Western and Southern African and Indian Ocean regions;
- using geo-spatial technology and other applications, produce visual media showing the intersection of these categories of ports with critical marine and coastal resources across the region;
- analyse and document environmental impacts of operational ports on ecosystems and associated biodiversity;
- analyse and document projected environmental impacts of planned/proposed ports;
- conduct scenario analyses on development options from Business as Usual to options which incorporate environmental considerations to make a business case for sustainability/limiting impacts to the environment arising out of planned/proposed port development;
- provide key policy and management recommendations for sustainable port development in the region captured in succinct policy briefs for Nairobi Convention Contracting Parties and other key stakeholders in the region in so far such regions fall within PMAESA's jurisdiction;
- develop a toolkit for Green Port development for applicability throughout the Eastern, Western and Southern African and Indian Ocean regions capturing best practice from other regions.

Article 3

Consultation and Exchange of Information

The Parties shall, on a regular basis, keep each other informed of and consult on matters of common interest, which in their opinion are likely to lead to mutual collaboration, and shall, at such intervals as deemed appropriate, convene meetings to review the progress of activities being carried out under this Memorandum of Understanding and to plan future activities. Either Party may invite the other to send observers to meetings or conferences convened by them or under their auspices in which, in their opinion, the other may have an interest. Invitations shall be subject to the procedures applicable to such meetings or conferences. Consultation and the exchange of information and documents under the present Memorandum of Understanding shall be without prejudice to arrangements that may be required to safeguard the confidential and restricted character of certain information and documents. Such arrangements will survive the termination of the present Memorandum of Understanding and of any agreements signed by the Parties within the scope of the present collaboration.

Article 4

Nature of the Cooperation

Neither Party shall be entitled to enter into commitments or make legally binding declarations on behalf of the other Party. Nothing in this Memorandum of Understanding shall be deemed to constitute a joint venture, agency, interest grouping or any other kind of formal business grouping or entity between the Parties.

Article 5

Implementation

The Parties will develop a plan under the present Memorandum of Understanding, including specific activities, projects and programmes, whose definition and implementation shall be subject to detailed separate agreements, in accordance with Article 1.

Each Party shall be responsible for its acts and omissions in connection with the present Memorandum of Understanding

and its implementation unless mutually agreed by the Parties upon a separate agreement.

Article 6

Acknowledgement of the Partnership

The Parties agree to recognize and acknowledge their partnership, as appropriate. To that end, the Parties will consult with each other concerning the manner and form of such recognition and acknowledgement, including the use of their names and logos.

Article 7

United Nations Privileges and Immunities

Nothing in or relating to the present Memorandum of Understanding shall be deemed a waiver, expressed or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.

Article 8

Dispute Settlement

The Parties shall use good faith efforts to settle amicably any dispute, controversy or claim arising out of the present Memorandum of Understanding.

Article 9

Miscellaneous

Failure by either Party to request the implementation of a provision of this Memorandum of Understanding to the other Party shall not constitute a waiver of that or any other provision of this Memorandum of Understanding.

Article 10

Term, Termination, Amendment

This Memorandum of Understanding shall have an initial term of two years from the date on which it is duly signed by both Parties, unless terminated earlier by mutual consent or by either Party upon three months' notice in writing to the other Party. This Memorandum of Understanding may be amended only by mutual written agreement of the Parties. Such amendment will become an integral part of this Memorandum of Understanding.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties affix their signatures below.



**For the United Nations Environment
Programme**



Name: Susan Gardner

Title: Director, Ecosystems Division

Date: 05/12/2019

**For Port Management Association of Eastern and Southern
Africa**



Name: Col André D. Ciseau

Title: Secretary General, PMAESA

Date: 05 Dec 2019.