

No. 24399

MULTILATERAL

Memorandum of Understanding to confer upon the Committee for Co-ordination of Joint Prospecting for Mineral Resources in South Pacific Offshore Areas status as an intergovernmental organization (with terms of reference of the Committee). Signed at Rarotonga on 25 May 1984

Authentic text: English.

Registered by Fiji on 1 November 1986.

MULTILATÉRAL

Mémorandum d'accord relatif à l'octroi au Comité pour la coordination de la prospection commune des ressources minérales au large des côtes du Pacifique Sud du statut d'organisation intergouvernementale (avec mandat du Comité). Signé à Rarotonga le 25 mai 1984

Texte authentique : anglais.

Enregistré par Fidji le 1^{er} novembre 1986.

A MEMORANDUM OF UNDERSTANDING¹ TO CONFER UPON THE COMMITTEE FOR CO-ORDINATION OF JOINT PROSPECTING FOR MINERAL RESOURCES IN SOUTH PACIFIC OFFSHORE AREAS STATUS AS AN INTERGOVERNMENTAL ORGANIZA- TION

Whereas the Governments of the Cook Islands, Fiji, Guam, Kiribati, New Zealand, Papua New Guinea, Solomon Islands, Tonga, Tuvalu, Vanuatu, and Western Samoa are members of the Committee for Co-ordination of Joint Prospecting for Mineral Resources in South Pacific Offshore Areas, abbreviated to CCOP/SOPAC; and

Whereas these Governments desire to continue to co-operate in the prospecting, research and development of the mineral resources of the onshore, coastal and offshore areas of the South Pacific; and

Whereas these Governments recognise that CCOP/SOPAC has made possible an effective level of co-operation since its formation with Terms of Reference in 1972; and

Whereas these Governments desire to remove any doubts that have arisen as to the institutional status of CCOP/SOPAC;

Now these Governments declare through this Memorandum of Understanding that:

1. CCOP/SOPAC which was formed with Terms of Reference in 1972 is hereby adopted as an inter-governmental organization.

¹ Came into force on 9 September 1984, i.e., 30 days after the date on which seven Governments had either signed it definitively or deposited an instrument of accession with the Government of Fiji, in accordance with paragraph 4:

<i>Governments</i>	<i>Date of definitive signature</i>
Cook Islands	25 May 1984
Kiribati	9 August 1984
Samoa	25 May 1984
Solomon Islands	25 May 1984
Tonga	9 August 1984
Tuvalu	25 May 1984
Vanuatu	25 May 1984

Subsequently, the Memorandum of Understanding came into force for the following Governments 30 days after they had signed it definitively or deposited an instrument of accession with the Government of Fiji, in accordance with paragraph 4:

<i>Governments</i>	<i>Date of definitive signature (s) or deposit of instrument of accession (a)</i>
Fiji	26 October 1984 (s)
(With effect from 26 November 1984.)	
Papua New Guinea	29 July 1985 (s)
(With effect from 29 August 1985.)	
New Zealand*	9 June 1986 (a)
(With effect from 9 July 1986.)	
Australia*	27 August 1986 (a)
(With effect from 27 September 1986.)	

* For the texts of the declarations made upon accession, see p. 234 of this volume.

2. The Terms of Reference, 1972, as amended and adopted at a meeting of ministers and representatives of participating countries held at Rarotonga in May 1984, are hereby adopted as the Constitution of CCOP/SOPAC.

3. Pacific Island Governments eligible for membership may join by signing or acceding to this Memorandum of Understanding and Terms of Reference after approval by CCOP/SOPAC.

4. This Memorandum of Understanding shall enter into force thirty days after signature or accession by seven governments. Thereafter it shall enter into force for subsequent signing or acceding governments thirty days after signature or deposit of an instrument of accession with the depository state.

5. This Memorandum of Understanding shall be reviewed not later than 31st December 1989.

6. The Government of Fiji is designated the depository for this Memorandum of Understanding and these Terms of Reference.

DATED this 25th day of May, 1984.

[THOMAS DAVIS]¹

Cook Islands

[RICARDO J. BORDALLO]

Jul. 26, 1984

Guam

New Zealand

[STEPHEN DANITOFEA]

Solomon Islands

[LALE SELUKA]

Tuvalu

[JACK O. J. NETZLER]

Western Samoa

[JONE NAISARA]

26 October 1984

Fiji

[BABERA KIRATA]

9 August 1984

Kiribati

[EDWARD LALATUTE]

29 July, 1985

Papua New Guinea

[SIONE TONGILAVA]

Tonga

[DONALD KALPOKAS]

Vanuatu

¹ Names of signatories appearing between brackets were not legible and have been supplied by the Government of Fiji — Les noms des signataires donnés entre crochets étaient illisibles et ont été fournis par le Gouvernement de Fidji.

TERMS OF REFERENCE OF THE COMMITTEE FOR CO-ORDINATION OF
JOINT PROSPECTING FOR MINERAL RESOURCES IN SOUTH
PACIFIC OFFSHORE AREAS (CCOP/SOPAC)

TITLE

1. The co-ordinating body for offshore prospecting in the South Pacific shall be entitled "Committee for Co-ordination of Joint Prospecting for Mineral Resources in South Pacific Offshore Areas" (hereinafter referred to as "the Committee"); it shall be referred to briefly as "Co-ordinating Committee for Offshore Prospecting, South Pacific" and abbreviated to "CCOP/SOPAC".

MEMBERSHIP

2. Subject to the approval of the Committee membership shall be open to any government within the Pacific Islands region. An eligible government may join by signing or acceding to the Memorandum of Understanding and Terms of Reference after approval by the Committee.

ORGANISATION

3. The Committee shall be composed of representatives nominated by the member governments and each member government shall nominate one national representative who will act as an intermediary between the Technical Secretariat of the Committee and his government during the periods between the meetings of the Committee. The Committee shall have its headquarters in Suva, Fiji.

4. The Committee shall meet as and when appropriate and shall hold at least one meeting during each calendar year. The Committee shall elect a Chairman and a Vice-Chairman at each of its annual meetings from among the representatives of the member governments present at the meeting. The Chairman and Vice-Chairman shall each retain that office, unless they resign, until the annual meeting following their election is convened, at which another election of Chairman and Vice-Chairman will be held. In the event of the Chairman resigning his office, the Vice-Chairman shall exercise all functions and powers of the Chairman.

5. During the period of assistance from the United Nations Development Programme, the Regional Representative of the Programme in the South Pacific, as well as the Executive Secretary of the Economic and Social Commission for Asia and the Pacific (ESCAP) or his representative, shall be invited to attend meetings of the Committee and may present and participate fully in the meetings but shall not have the right to vote.

6. CCOP/SOPAC shall have legal personality and in particular the capacity to contract, to acquire and dispose of movable and immovable property and to sue and be sued.

7. The Committee shall have a Technical Advisory Group, consisting of high-level experts from within and outside the region, which shall meet in conjunction with, or in advance of, the meetings of the Committee itself to consider the technical, scientific, and research aspects of the Committee's work programme and submit its findings to the Committee. The Committee shall appoint a Chairman for each meeting of the Technical Advisory Group from among the members of that Group present at the meeting; the Chairman shall retain that office until the meeting following his election is convened.

8. (a) The Committee shall have a Technical Secretariat as an executive body to manage its activities as approved by the Committee in its Work Programme. Matters arising between meetings which may require a Committee decision shall be brought to the attention of the Chairman by the Technical Secretariat.

(b) The Chairman will have the power to render decisions on behalf of the Committee on matters brought to his notice by the Technical Secretariat during the intervals between meetings of the Committee, after consultation with national representatives of member countries where matters of policy are concerned. The Chairman shall have authority to delegate such power to the Vice-Chairman.

(c) The Technical Secretariat shall be headed by a Director who shall be appointed by the Committee.

(d) The Committee may appoint a Deputy Director to assist the Director.

(e) The Director shall, to the extent provided in these Terms of Reference and as authorized by the Committee as its agent, have the capacity to contract, to acquire and dispose of movable and immovable property, and to institute legal proceedings on behalf of the Committee;

(f) The Director of the Technical Secretariat shall also be Secretary of the Committee. In that capacity, he shall be responsible for the organisation of and preparation for meetings and for the preparation of the records and reports of the Committee.

(g) The Director shall be responsible to the Committee in the performance of his functions;

(h) The Director shall:

- (i) Manage the affairs of the Committee, the Technical Secretariat, and its programmes.
- (ii) Appoint the other staff of the Technical Secretariat.
- (iii) Prepare and submit to the Committee for review and approval at its annual meeting, a report on the past and projected activities of the Technical Secretariat, the budget estimates and the accounts of the Committee.
- (iv) Arrange all matters relating to the publication of materials produced by the Committee.
- (v) Perform such other duties as may be required of him under these Terms of Reference or pursuant to decisions of the Committee.

FUNCTIONS

9. The Committee shall promote, co-ordinate, plan and implement geological, geophysical, energy studies and other related natural resource prospecting projects and basic investigations in the onshore, coastal and adjoining offshore areas of the member countries as well as the oceanic areas of the region. It shall to this end:

- (a) Review regularly the progress made with all projects included in the work programme of the Committee, as well as investigations carried out by other bodies relating to the onshore, coastal and offshore areas, together with training programmes pertaining to these and other activities of the Committee.
- (b) Recommend to member Governments appropriate measures for implementing the Committee's geological, geophysical, energy studies and other natural resource prospecting projects and basic investigations, particularly through joint action and co-ordinated long-term projects.

- (c) Seek out and attract possible sources of financial and technical support for such projects.
 - (d) Arrange for the preparation of requests for technical, financial and other assistance from international, scientific and research foundations concerned with natural resources.
 - (e) Advise member Governments on problems connected with onshore, coastal and offshore projects agreed upon between or among the Governments concerned, and on other related problems.
 - (f) Arrange means of advising member Governments, on request, concerning interpretation and evaluation of technical data relating to the natural resources potential, particularly minerals and energy, of their onshore, coastal and offshore areas for the information of the Government concerned.
 - (g) Promote and co-ordinate joint basic and long term studies by means of mutual sharing of technical facilities and information. Seek and take any steps required to secure financial and technical support for such co-ordinated studies from any external source.
 - (h) Prepare and promote plans for carrying out co-ordinated basic and applied research in the onshore, coastal and offshore areas of the member countries, as well as the oceanic areas of the region.
 - (i) Promote the establishment of programmes and facilities, both within and outside the region, for training personnel from the member countries in all fields relating to natural resources, especially minerals and energy.
 - (j) Promote the early publication of reports of the results of surveys and investigations conducted through the medium of CCOP/SOPAC and of other articles relating to the geology, mineral and energy potentials of the onshore, coastal and offshore areas of the region.
 - (k) Have authority to receive contributions of a financial or non-financial nature from members of the Committee or any external source.
 - (l) Establish regulations for the administration of the Technical Secretariat.
10. The Committee shall adopt its own rules and procedures, subject to the provisions set out below:
- (a) A quorum for meetings of the Committee shall be a majority of its members.
 - (b) Each member of the Committee shall have one vote.
 - (c) The Committee shall endeavour to reach its decisions by consensus. Where consensus is not possible, decisions of the Committee shall be made by a majority of members present and voting.
 - (d) The Technical Secretariat shall provide the necessary servicing of the Committee's meetings.
 - (e) The Technical Secretariat shall be responsible for preparing from time to time reports on the implementation of the Committee's recommendations, which shall be submitted to the Committee.
 - (f) All meetings shall be closed meetings unless the Committee shall decide otherwise.
 - (g) The annual meeting shall be held, unless otherwise decided, in member countries of the Committee on a rotation basis.

(h) The Chairman shall invite the assistance of the Executive Secretary of ESCAP in the issuing of a notice convening the annual meeting of the Committee and in preparing the provisional agenda and distributing basic relevant documents. The notice, the provisional agenda and the relevant documents shall be distributed at least six weeks before the commencement of the meeting.

(i) The Committee shall submit its report of each annual meeting as expeditiously as possible to the participating Governments, the South Pacific Forum and the Technical Advisory Group.

(j) The Committee shall have authority to invite representatives of Governments, international agencies, academic and research organisations, foundations, and private industry, to attend specific meetings of the Committee, in a consultative capacity or otherwise, on agenda items of interest to those governments and organisations.

(k) The Executive Secretary of ESCAP may take all steps required to secure the necessary financial and technical support for the Committee and the Technical Secretariat from ESCAP, the United Nations Development Programme and other friendly agencies and to arrange for the services of high-level technical advisers to participate in the deliberations of the Technical Advisory Group, and the Committee, as requested.

(l) English shall be the working language of the Committee.

RESOURCES

11. (a) The financial resources of the Committee shall be composed of:

- (i) The contributions from the member countries of CCOP/SOPAC;
- (ii) Funds received from Governments not members of CCOP/SOPAC;
- (iii) Monies received from international and national organisations;
- (iv) Other funds or monies received by the Committee.

(b) The Committee may also receive contributions of a non-financial nature.

(c) The Committee shall at each annual meeting review the state of its resources to ensure that timely and adequate resources are always available to the Committee and its programmes.

(d) The Committee shall be administered on a sound economic and financial basis.

(e) The receipt, custody and expenditures of the financial and non-financial resources of the Committee shall be in accordance with the [Resolutions] established by the Committee.

WITHDRAWAL FROM THE COMMITTEE

12. (a) Any member of the Committee may withdraw from the Committee by giving written notification of withdrawal to the Chairman.

(b) The Chairman of the Committee shall inform all other members of the Committee of receipt of such a notification.

(c) A notification of withdrawal shall take effect six months after the date of receipt of the notification by the Chairman.

DISSOLUTION OF THE COMMITTEE

13. (a) The Committee may, by a two-thirds majority of the members present and voting at an annual meeting, resolve that the Committee be dissolved.

(b) Such a resolution shall take effect after the next annual meeting of the Committee, provided that it has been ratified by two-thirds of the members. The Committee shall decide the manner in which the assets and obligations of the Committee should be liquidated prior to the dissolution of the Committee.

(c) The Committee shall, at the appropriate stage, adopt a final declaration stating that on a specified date the Committee shall be deemed dissolved. The declaration shall be communicated by the Chairman of the Committee to the members of the Committee.

AMENDMENT

14. The Committee may amend or revoke these Terms of Reference at any meeting of the Committee if approved by two-thirds of the members.

DECLARATIONS MADE
UPON ACCESSION

AUSTRALIA

The Government of Australia hereby declares that it regards the Memorandum of Understanding to confer upon the Committee for Co-ordination of Joint Prospecting for Mineral Resources in South Pacific Offshore Areas status as an Intergovernmental Organisation to be a treaty and further declares that it will accede to this instrument as if it were a treaty in accordance with the procedure contained in Paragraph 4.

NEW ZEALAND

(a) New Zealand declares its wholehearted support for the CCOP/SOPAC and its commitment to continuing cooperation in the prospecting, research and development of the mineral resources of the South Pacific.

(b) New Zealand declares that nothing in paragraph 9 of the Terms of Reference shall be interpreted as limiting the exclusive Sovereign rights of a coastal state with respect to the regulation of marine scientific research or exploration.

(c) With regard to paragraph 11 of the Terms of Reference dealing with the Committee's financial resources, New Zealand declares that it reserves the right to determine the kind and level of any contribution it may make to the Committee.

(d) New Zealand declares its support for an early review of the Memorandum of Understanding and certainly well before 31 December 1989, the date by which

DÉCLARATIONS FAITES
LORS DE L'ADHÉSION

AUSTRALIE

[TRADUCTION — TRANSLATION]

Le Gouvernement australien déclare qu'il considère le Mémorandum d'accord relatif à l'octroi au Comité pour la coordination de la prospection commune des ressources minérales au large des côtes du Pacifique Sud du statut d'organisation intergouvernementale comme un traité, et déclare en outre qu'il adhèrera à cet instrument comme s'il s'agissait d'un traité, conformément à la procédure indiquée au paragraphe 4.

NOUVELLE-ZÉLANDE

[TRADUCTION — TRANSLATION]

a) La Nouvelle-Zélande manifeste son appui sans réserve au CCPM/PS et son engagement de continuer à coopérer aux activités de prospection, de recherche et de mise en valeur des ressources minérales dans le Pacifique Sud.

b) La Nouvelle-Zélande déclare qu'aucune disposition du paragraphe 9 du Mandat ne peut être interprétée comme limitant les droits exclusifs souverains d'un Etat côtier en ce qui concerne la réglementation de la recherche scientifique marine ou l'exploration du milieu marin.

c) En ce qui concerne le paragraphe 11 du Mandat relatif aux ressources financières du Comité, la Nouvelle-Zélande déclare qu'elle se réserve le droit de déterminer le type et le niveau de la contribution qu'elle pourra éventuellement verser au Comité.

d) La Nouvelle-Zélande déclare qu'elle appuie une révision rapide du Mémorandum d'accord, laquelle devra certainement intervenir bien avant le

the Memorandum must be reviewed, in the light of the need to clarify:

- (i) The matters raised in this declaration;
- (ii) The function and role of the Committee, its Technical Advisory Group and the Technical Secretariat;
- (iii) The powers of the Chairman; and
- (iv) The legal status of the Memorandum.

31 décembre 1989, date fixée par ledit Mémorandum pour sa révision, eu égard à la nécessité d'élucider :

- i) Les questions soulevées dans la présente déclaration;
- ii) Les attributions et le rôle du Comité, de son Groupe consultatif technique et du Secrétariat technique;
- iii) Les pouvoirs du Président; et
- iv) Le statut juridique du Mémorandum.