



Memorandums of Understanding, Agreements, and Legal Differences between Them

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Terrorism continues to pose a threat to international peace and security due to its cross-border impact. It targets innocent civilians, government institutions, and public places to destabilize security and terrorize people. As a result, the world is now calling for and encouraging international cooperation to combat this menace, which does not only concern the states where terrorist acts occur but extends its influence to other nations. Because of this cross-border effect, international cooperation is deemed necessary to confront these terrorist groups, prevent their movement, recruitment, and funding.

International cooperation to counter terrorism aims to achieve common objectives, address challenges, enhance communication, and activate coordination among states to exchange intelligence information. This contributes to data analysis, identifying sources of threats, and terrorist cells. Moreover, international cooperation helps sharing expertise and knowledge, and developing modern techniques in the field of counterterrorism, thus bolstering the ability to address evolving terrorist threats.

International cooperation also plays a pivotal role in eliminating the sources of terrorist financing and cutting off funding channels. Terrorist groups heavily rely on funding for their activities and attacks, and curbing the flow of financial support to them reduces their capacity to carry out terrorist acts.

Numerous international and regional organizations have emphasized the significance of international cooperation in countering terrorism. These include the United Nations, represented by the United Nations Office of Counter-Terrorism (UNOCT) and the United Nations Counter-Terrorism Centre (UNCCT), the United Nations Office on Drugs and Crime (UNODC), the International Criminal Police Organization (Interpol), and IMCTC. These organizations and international bodies serve as channels connecting different nations, enabling them to effectively collaborate in the fight against terrorism.

The importance of international cooperation in countering terrorism is also evident through the use of various documents, memorandums of understanding, international and regional treaties and agreements. All of these aim to enhance international cooperation, coordinate efforts, exchange information, and unify policies and measures to efficiently confront the terrorist threat.

While these documents differ in objectives, content, obligations of the signatory states, and their legal status, they all align with international laws and norms, respect human rights, and work towards achieving global peace and security. Accordingly, these documents serve as effective tools for achieving international cooperation and enhancing counterterrorism efforts worldwide .

Memoranda of Understanding and Agreements

Memoranda of Understanding and Agreements are two types of international documents used to organize cooperation between states in various fields, including counterterrorism. However, there are legal differences between them regarding the nature of the agreement and the extent to which the parties are bound by.

Memoranda of Understanding

Memoranda of Understanding (MoUs) are non-legally binding agreements between states or between a state and an institution or organization. They are international instruments of lesser formality. They often outline implementing arrangements within a broader international framework agreement. They are also used to regulate technical and detailed matters. They are typically a single document and do not require authentication. States or international organizations make them accessible. The United Nations usually enters into MoUs with Member States to organize peacekeeping operations or arrange UN conferences. The United Nations also signs MoUs for collaboration with other international organizations.

In addition, MoUs include provisions that aim to enhance the capabilities of participating states in counterterrorism by providing necessary training, technology, and equipment to strengthen security capacities. MoUs specify terms for cooperation and coordination in specific areas, including counterterrorism. Despite not being legally binding, MoUs are important documents that establish cooperation between states in various fields.

Agreements

Agreements are legally binding documents between states that outline rights and obligations to be fulfilled by the parties. They contain specific and binding clauses and require the ratification process from the signing states to become effective.

Agreements have both a general and specific meaning:

A. As a general term: Agreements represent "international agreements", which encompass instruments that do not meet the criteria of a "treaty." According to the United Nations Treaty Handbook, the difference lies in the fact that an "agreement" can be made between various entities, not just states. This includes companies, organizations, or individuals. In contrast, "treaties" are made between states and are signed by their leaders, making them more formal and binding.

B. As a specific term: Agreements have a less formal nature compared to "treaties" and they address more specific subjects. The term "agreement" is often used specifically for bilateral or limited multilateral treaties. It is frequently applied to technical or administrative documents and covers issues related to economic, cultural, scientific, and technical cooperation. Agreements also frequently address financial matters related to investment guarantees and financial affairs.

https://treaties.un.org/Pages/Resource.aspx?path=Publication/TH/Page1_en.xml

Differences between a Memorandum of Understanding and an Agreement:

Although MoUs and agreements are official legal documents, there are significant differences between them in terms of scope, legal strength, commitment, negotiation, and amendment.

Scope:

- An MoU is usually used as a preparatory document for the possibility of signing an official treaty in the future. It may be used to outline goals and general principles of the agreement, as well as clarify the necessary procedures for negotiation and reaching a formal agreement.

- An agreement is a formal and legal contract that includes specific and defined terms for the agreement between the involved parties. Agreements may encompass legal

commitments upon their parties, including rights, obligations, and potential amendments.

Legal Strength:

- An MoU lacks definitive legal strength and is generally interpretable for mutual understanding and implementation.
- An agreement generally carries binding legal force and is subject to national and international laws and contracts. Agreements are legally enforceable and binding.

Commitment:

- In MoUs, parties typically commit to actions based on what is agreed upon in the MoU, but the commitments are not legally binding.
- In an agreement, parties are legally bound to fulfill and implement the terms and details specified in the treaty.

Negotiation and Amendment:

- MoUs can be easily amended during the ongoing negotiation process before the agreement is officially concluded.
- An agreement, in general, is difficult to amend after it has been signed, and parties thereto may require consensus to make any amendments.

In conclusion, international cooperation to counter terrorism is crucial to eliminating this serious threat and maintaining global security and stability. The importance of collaboration in countering terrorism is evident through international and regional MoUs, treaties and agreements, as it requires mutual cooperation and partnership among various nations to coordinate efforts, exchange information, unify policies and procedures efficiently and effectively against terrorist threats. This includes the establishment of organizations and centers dedicated to counterterrorism efforts, such as the UN Office of Counter-Terrorism (UNOCT), the UN Counter-Terrorism Centre (UNCCT), the UN Office on Drugs and Crime (UNODC), and the Islamic Military Counter Terrorism Coalition (IMCTC), which aims to coordinate joint efforts of Member States to address terrorist threats.