

January 23rd 2009

IOTC CIRCULAR 2009/02

SUBJECT: FUND TO ASSIST DEVELOPING STATES THAT ARE SIGNATORIES OF THE UNFSA TO IMPLEMENT ITS PROVISIONS

Please find attached information pertaining to the Assistance Fund established under Part VII of the Agreement for the Implementation of the Provisions of the United Nations Convention of the Law of the Sea of December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA).

This Fund has been established to assist developing States that are signatories of the UNFSA to implement its provisions, including participation in the work of Regional Fisheries Management Organisations. For those eligible Members of IOTC, it could provide for a source of funding to participate in meetings of the Commission and subsidiary bodies or to fund training and capacity building required to fulfil the obligations under the UNFSA.

The information attached includes:

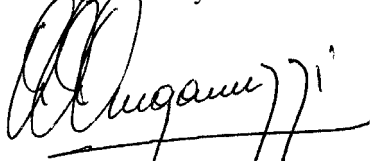
- a. Terms of Reference
- b. Application Procedures
- c. Application for Assistance Form

For more information, you can visit the UN website at

http://www.un.org/Depts/los/convention_agreements/fishstocktrustfund/fishstocktrustfund.htm

Please do not hesitate to contact us if you have any questions

Yours sincerely



Alejandro Anganuzzi
Executive Secretary

Attachments:

- . Terms of Reference
- . Application Procedures
- . Application for Assistance Form

Distribution

IOTC Members: Australia, Belize, China, Eritrea, European Community, India, Indonesia, Iran, Japan, Kenya, Korea, Malaysia, Mauritius, Oman, Pakistan, Philippines, Seychelles, Sierra Leone, Sri Lanka, Sudan, Tanzania, Thailand, United Kingdom, Vanuatu.

IOTC Chairperson.

Cooperating non contracting parties: South Africa, Uruguay.

This message has been transmitted by email and fax.

**ASSISTANCE FUND UNDER PART VII OF THE AGREEMENT FOR THE
IMPLEMENTATION OF THE PROVISIONS OF THE UNITED NATIONS
CONVENTION ON THE LAW OF THE SEA OF 10 DECEMBER 1982
RELATING TO THE CONSERVATION AND MANAGEMENT OF
STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS**

TERMS OF REFERENCE OF THE ASSISTANCE FUND

Reasons for establishing the Assistance Fund

1. Article 25 of Part VII of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (hereinafter referred to as “the Agreement”) requires States Parties to cooperate either directly or through subregional, regional and global organizations to enhance the ability of developing States, in particular the least-developed among them and small island developing States, to conserve and manage straddling fish stocks and highly migratory fish stocks and to develop their own fisheries for such stocks; to enable their participation in high seas fisheries for such stocks, including facilitating access to such fisheries subject to articles 5 and 11 of the Agreement; and to facilitate their participation in subregional and regional fisheries management organizations and arrangements.

2. Article 25 of the Agreement further provides that cooperation with developing States for the purposes of that article shall include the provision of financial assistance, assistance relating to human resources development, technical assistance, transfer of technology, including through joint venture arrangements, and advisory and consultative services. Such assistance shall inter alia be directed specifically towards improved conservation and management of straddling fish stocks and highly migratory fish stocks through collection, reporting, verification, exchange and analysis of fisheries data and related information as well as stock assessment and scientific research and monitoring control, surveillance, compliance and enforcement, including training and capacity-building at the local level, development and funding of national and regional observer programmes and access to technology and equipment.

3. Under Article 26 of the Agreement, States are required to cooperate to establish special funds to assist developing States in the implementation of the Agreement, including assisting developing States to meet the costs involved in any proceedings for the settlement of disputes to which they may be parties.

4. This fund is one component of assistance to be provided in accordance with Part VII of the Agreement and supplements other sources of assistance.

Establishment of the Assistance Fund

5. The Fund is established pursuant to General Assembly resolution A/58/14.

6. The purpose of the Fund is to provide financial assistance to developing States Parties to the Agreement to assist in the implementation of the Agreement in accordance with Part VII of the Agreement.

Implementing Office

7. The Food and Agriculture Organization (FAO) will administer the Fund and act as the implementing office for the Fund in collaboration with the United Nations. The FAO will establish a Trust Fund account for the purpose of the Fund. All voluntary financial contributions made to the FAO for this purpose shall be deposited by FAO into the Trust Fund account.

8. In the administration of the Fund, the United Nations and the FAO shall take into account experience and best practice in the management of other trust funds established within the framework of the 1982 United Nations Convention on the Law of the Sea.

Collaboration between the United Nations and the Food and Agriculture Organization

9. The United Nations and the FAO will collaborate with each other and will make available to each other all information and assistance as may be required in relation to the administration and operation of the Fund. In particular they will, as appropriate, seek to achieve mutual benefits from any arrangements under this Fund with similar activities, including in relation to the promotion and implementation of the 1993 FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas and the 1995 FAO Code of Conduct for Responsible Fisheries.

10. The United Nations will receive applications, ensure that the agreed procedural requirements are met, and then forward them expeditiously to the FAO for review and decision, in accordance with these Terms of Reference. In the case of applications for assistance under paragraph 14(g) of these Terms of Reference concerning proceedings for the settlement of disputes under the Agreement, the United Nations will review and decide on these applications.

Contributions to the Assistance Fund

11. The United Nations and FAO invite States, intergovernmental organizations, international financial institutions, national institutions, non-governmental organizations, as well as natural and juridical persons, to make voluntary financial contributions to the Fund.

Applications for assistance

12. An application for financial assistance from the Fund may be submitted by any developing State Party to the Agreement. Such an application may also be submitted on behalf of the Party by an appropriate sub-regional or regional organization or arrangement.

13. The application should specify how it relates to the implementation of the Agreement and include a description of the desired outputs of the project/expenditure and an itemisation of anticipated costs.

Purposes of assistance

14. The purpose of the financial assistance applied for should be specified and may be sought for the following purposes:

a) Facilitating the participation of representatives from developing States Parties, in particular the least-developed among them and small island developing States Parties to the Agreement, in the meetings and activities of relevant regional and subregional fisheries management organizations and arrangements.

Such assistance may include such costs as travel costs and, if appropriate, daily subsistence allowances for delegations participating in relevant regional and subregional fisheries management organizations or arrangements, including technical experts.

b) Assisting with travel costs, and if appropriate daily subsistence allowances, associated with the participation of developing States Parties, in particular the least-developed among them and small island developing States Parties to the Agreement, in relevant meetings concerning high seas fisheries of relevant global organizations, such as the United Nations Development Programme, the Food and Agriculture Organization and other specialised agencies, the Global Environment Facility, the Commission on Sustainable Development and other appropriate international and regional organizations and bodies.

Applications for this purpose shall include details of how the meeting in question relates to implementation of the Agreement.

c) Supporting ongoing and future negotiations to establish new regional or subregional fisheries management organizations and arrangements in areas where such bodies are not currently in place, to renegotiate founding agreements for such organizations and arrangements and to strengthen existing subregional and regional fisheries management organizations and arrangements in accordance with the Agreement.

A condition for such support is that reference to implementing the Agreement is made in founding documents and/or work programmes of the regional or subregional fisheries management organizations or arrangements and in the national fisheries policies and/or management plans of States Parties.

d) Building capacity for activities in key areas such as effective exercise of flag State responsibilities, monitoring, control and surveillance, data collection and scientific research relevant to straddling and highly migratory fish stocks on a national and/or regional level.

e) Facilitating exchange of information and experience on the implementation of the Agreement.

f) Assisting developing States Parties to the Agreement, in particular the least-developed among them and small island developing States, with human resources development, technical training, and technical assistance in relation to conservation and management of straddling and highly migratory fish stocks and development of fisheries for such stocks, consistent with the duty to ensure the proper conservation and management of such stocks.

g) Assisting in meeting the costs involved in proceedings for the settlement of disputes between States Parties to the Agreement concerning the interpretation or application of the Agreement in accordance with Part VIII of the Agreement or proceedings concerning the interpretation or application of a subregional, regional or global fishery agreement relating to straddling fish stocks or highly migratory fish stocks to which they are parties, including any dispute concerning the conservation and management of such stocks and complementary to any assistance provided under the ITLOS Trust Fund established by General Assembly resolution 55/7 or the Trust Fund for the International Court of Justice established by General Assembly resolution A/47/444 or the financial assistance fund established by the Permanent Court of Arbitration.

Consideration of applications and granting of assistance

15. Requests for financial assistance shall be considered without delay in the order in which they have been submitted. FAO will establish a panel of independent and impartial experts of the highest professional standing to review the applications and to make recommendations on the amount of financial assistance to be given in each case. The panel also will include two official representatives from States Parties to the Agreement, one of whom is a donor to the Fund, as well as technical experts and a representative from the United Nations, as required.

16. In the case of applications for travel related expenses, as specified in paragraphs 14(a) and 14(b), the FAO may make decisions on applications without referral to the panel

17. Review of applications and decisions shall be guided by the purposes of the Fund, the provisions of the Agreement, the financial needs of the requesting developing State Party and availability of funds, with priority given to least developed countries and small island developing States Parties to the Agreement. The financial assistance shall be provided on an impartial basis. Consideration of applications will also include an assessment of whether any existing alternative sources of assistance are available. All decisions on assistance from the Fund shall take into account the size of the Fund and the need for cost effectiveness in its use.

18. In considering applications, the United Nations and the FAO should also work together to inform relevant regional fisheries management organizations and UN bodies about applications under the Fund in order that they may comment if they so choose.

19. The United Nations and the FAO, as appropriate, will provide financial assistance from the Fund in an expeditious manner in accordance with paragraphs 15-18 of these Terms of Reference.

Application of the Financial Regulations and Rules of the Food and Agriculture Organization

20. FAO shall establish and manage the Fund in accordance with its Financial Regulations and other applicable Rules.

Reporting

21. An annual report on the activities of the Fund, including a financial statement of the contributions to and disbursements from the Fund, shall be included in the report of the Secretary-General of the United Nations on “Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments”. A report on the activities of the Fund to date, including a financial statement of the contributions to and disbursements from the Fund shall also be presented at the Review Conference provided for in Article 36 of the Agreement.

22. Recipients of assistance shall be required to provide a report on the purpose and outcome of the approved expenditure to the FAO for the above-mentioned report. The United Nations and the FAO shall share these reports.

Revision and Review

23. These Terms of Reference may be revised if circumstances so require.

24. The States Parties to the Agreement shall periodically review the activities of the Fund with a view to assessing and evaluating the effectiveness of the financial assistance provided pursuant to these Terms of Reference.

25. Taking into account paragraph 17 of these Terms of Reference, the States Parties to the Agreement may also make recommendations on priorities for the use of the Fund.

Publicity

26. The United Nations and FAO will maintain on their websites details of the Fund, including details on application procedures, assistance provided, and links to other relevant websites. The United Nations and the FAO should also explore ways to promote contributions to the fund and knowledge of the fund through regional fisheries management organizations and arrangements, multilateral donor organizations, and international financial institutions.

Application procedures

Any developing State Party to the Agreement can submit an application for financial Assistance from the Fund. Such an application can also be submitted on behalf of the Party by an appropriate sub-regional or regional organization or arrangement.

Applications should be submitted to DOALOS using the application form provided and should be addressed to:

The Director
Division for Ocean Affairs and the Law of the Sea
Office of Legal Affairs, United Nations
Room DC2-0450
New York, NY 10017
U.S.A.

Applications by States Parties should be made through their Permanent Missions to the United Nations, or alternatively through their Ministries of Foreign Affairs. Applications submitted by a sub-regional or regional organization or arrangement on behalf of a State Party should be transmitted to DOALOS with a letter signed by the Head of the organization or arrangement concerned.

After ensuring that the agreed procedural requirements are met, DOALOS will forward the applications to FAO for review and decision, in accordance with the Terms of Reference of the Fund. In the case of applications for assistance under paragraph 14(g) of the Terms of Reference concerning proceedings for the settlement of disputes under the Agreement, DOALOS will review and decide on these applications.



Division for Ocean Affairs and
the Law of the Sea
Office of Legal Affairs
United Nations



Food and Agriculture Organization
of the United Nations

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APPLICATION FOR ASSISTANCE

Instructions

Application forms should be completed by the candidate in typewritten form or legible handwriting in English, French or Spanish. Each question must be answered clearly and completely. Detailed answers are required in order to ensure proper evaluation. If necessary, additional pages of the same size (letter) may be attached. Please read carefully the Terms of Reference of the Assistance Fund before completing this application.

1. Information about the requesting State/Organization

a) State: _____

or

b) Sub-regional, regional organization or arrangement: _____

on behalf of (name of State): _____

2. Information about the focal point¹

Name (first, middle, last): Mr./Ms. _____

Title: _____

E-mail: _____

Telephone No.: _____ Fax No.: _____

Mailing address: _____

¹ This person will be contacted should FAO or DOALOS need further information regarding this application.

3. Purpose of assistance requested (please check one)

- a) Facilitating the participation of representatives from developing States Parties, in particular the least-developed among them and small island developing States Parties to the Agreement, in the meetings and activities of relevant regional and sub-regional fisheries management organizations and arrangements. Such assistance may include such costs as travel costs and, if appropriate, daily subsistence allowances for delegations participating in relevant regional and subregional fisheries management organizations or arrangements, including technical experts.
- b) Assisting with travel costs, and if appropriate daily subsistence allowances, associated with the participation of developing States Parties, in particular the least-developed among them and small island developing States Parties to the Agreement, in relevant meetings concerning high seas fisheries of relevant global organizations, such as the United Nations Development Programme, the Food and Agriculture Organizations of the United Nations and other specialized agencies, the Global Environment facility, the Commission on Sustainable Development and other appropriate international and regional organizations and bodies. **Applications for this purpose shall include details of how the meeting in question relates to implementation of the Agreement.**
- c) Supporting ongoing and future negotiations to establish new regional and subregional fisheries management organizations and arrangements in areas where such bodies are not currently in place, to renegotiate founding agreements for such organizations and arrangements and to strengthen existing subregional and regional fisheries management organizations and arrangements in accordance with the Agreement. **A condition for such support is that reference to implementing the Agreement is made in founding documents and/or work programmes of the regional or subregional fisheries management organizations or arrangements and in the national fisheries policies and/or management plans of States Parties.**
- d) Building capacity for activities in key areas such as effective exercise of flag State responsibilities, monitoring, control and surveillance, data collection and scientific research relevant to straddling and highly migratory fish stocks on a national and/or regional level.
- e) Facilitating exchange of information and experience on the implementation of the Agreement.
- f) Assisting developing States Parties to the Agreement, in particular the least-developed among them and small island developing States, with human resources development, technical training, and technical assistance in relation to conservation and management of straddling and highly migratory fish stocks and development of fisheries for such stocks, consistent with the duty to ensure the proper conservation and management of such stocks.
- g) Assisting in meeting the costs involved in proceedings for the settlement of disputes between States Parties to the Agreement concerning the interpretation or application of the Agreement in accordance with Part VIII of the Agreement or proceedings concerning the interpretation or application of a subregional, regional or global fishery agreement relating to straddling fish stocks or highly migratory fish stocks to which they are parties, including any dispute concerning the conservation and management of such stocks and complementary to any assistance provided under the ITLOS Trust Fund established by General Assembly resolution 55/7 or the Trust Fund for the International Court of Justice established by General Assembly resolution 47/444 or the financial assistance fund established by the Permanent Court of Arbitration.

4. Please specify how, in your case, the assistance requested relates to the implementation of the Agreement

5. Description of desired outputs of the project/expenditure

6. Itemization of anticipated costs

7. Describe any existing alternative sources of assistance that are available

I certify that the statements above are true, complete and correct to the best of my knowledge. If assistance is granted, I am hereby informed that the State concerned will be required to provide a report on the purpose, outcome and use of the approved expenditure to FAO in accordance with relevant rules and procedures of FAO or such arrangements as may be included.

Date: _____ Signature: _____

Name (print): _____

FOR DOALOS/ FAO USE ONLY

Date received by DOALOS: _____ Date forwarded to FAO: _____

Comments: _____
