

Note by the Food and Agriculture Organization on reinforcing the use of the Part VII Assistance Fund

1. Introduction

By paragraph 10 of its resolution A/58/14, adopted on 24 November 2003, the United Nations General Assembly (UNGA) established an **Assistance Fund under Part VII** of the 1995 Agreement for the Implementation of the Provisions of the UN 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 (the Agreement) to assist developing States Parties in the implementation of the Agreement.

The Part VII Fund is jointly administered by the Food and Agriculture Organization of the United Nations (FAO) and the United Nations Division for Ocean Affairs and the Law of the Sea (DOALOS). The Fund plays an important role in assisting developing States Parties in the implementation of the Agreement. Despite generous contributions by States Parties over the years¹, the Fund is once again nearing depletion.

2. Call for contributions

In a letter to Permanent Representatives in New York, dated 11 December 2014, the Assistant Director-General of the FAO Fisheries and Aquaculture Department and the Director of DOALOS invited Governments to consider contributing to the Assistance Fund. Following this letter, only the Government of Norway contributed to the fund with a donation of \$200,000.

In paragraph 191 of its resolution 70/75 of 8 December 2015 on Sustainable fisheries, the UNGA addresses the same issue by encouraging “*States, individually and through regional fisheries management organizations and arrangements, to provide greater assistance and to promote coherence in such assistance for developing States in designing, establishing and implementing relevant agreements, instruments and tools for the conservation and sustainable management of fish stocks, including in designing and strengthening their domestic regulatory fisheries policies and those of regional fisheries management organizations or arrangements in their regions, and the enhancement of*

¹ Up to 31 December 2015 the Governments of Canada, Iceland, Lebanon, New Zealand, Norway and the United States of America had made financial contributions to the Assistance Fund totalling \$1,667,455.

research and scientific capabilities through existing funds, such as the Assistance Fund under Part VII of the Agreement”.

3. Use of the Fund

Paragraph 14 of the Terms of Reference provide for several purposes for which assistance could be granted including²:

- 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 organisations 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

² For full details, please see the Terms of Reference, which are available at:
http://www.un.org/depts/los/convention_agreements/fishstocktrustfund/tor_fund.pdf

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 International Tribunal for the Law of the Sea 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.

Notwithstanding the broad range of purposes, the Fund has increasingly been used to support participation of representatives from the developing countries in meetings and workshops.

Since the Fund's establishment in 2005, approximately 47 percent of the expenditure has been used for purpose 14(a), 24 percent for 14(b), six percent for 14(c), six percent for 14(d), none for 14(e), 15 percent for 14(f), none for 14(g), and two percent for administrative costs. The overwhelming majority of use has been for travel related purposes. More specifically, the Division received 24 applications for assistance in 2015, and 13 applications for assistance thus far in 2016, all of which have been for travel related purposes.

4. Considerations for reinforcing the use of the Fund

a. Broader use of the Fund by States Parties

Given the broad and varied purposes that the Fund can be used for, States Parties may consider reviewing the activities of the Fund and encouraging more diverse requests for assistance, other than travel-related support. FAO and DOALOS could be requested to undertake additional outreach in this regard. However, the use of the fund for some of the other uses foreseen in the Terms of Reference would require the Fund to maintain a much more substantial balance than it has maintained in recent years, therefore necessitating further donations to the Fund.

b. Development of initiatives by RFMO/As

Recalling paragraph 12 of the Terms of Reference, which allows for RFMO/As to submit applications for assistance on behalf of developing States Parties which are contracting Parties to the RFMO/As, the Review Conference may consider encouraging these organizations to be proactive in identifying and developing initiatives, supported by the Part VII Fund, of benefit to such developing States. The outputs of these initiatives would support developing States Parties in the implementation of the Agreement, including by facilitating their participation in the work of RFMOs.

c. Financial contributions towards specific projects under the Part VII Fund

The Review Conference may consider affirming the possibility of accepting voluntary financial contributions from donors for specific projects supporting the implementation of the Agreement under the current Terms of Reference of the Fund. Such projects would supplement the general Fund and constitute an additional component of assistance within the framework of the Part VII Assistance Fund and its Terms of Reference. Such an arrangement may be more suitable for some potential donors, which, due to their internal regulations, are not in a position to contribute to the Fund in its current form.