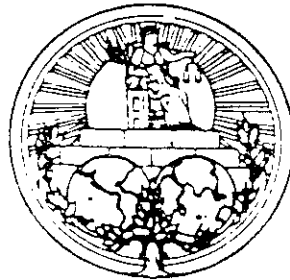




TERMS OF REFERENCE, GUIDELINES AND RULES
of the
SECRETARY-GENERAL'S TRUST FUND
TO ASSIST STATES IN THE SETTLEMENT OF DISPUTES
THROUGH THE INTERNATIONAL COURT OF JUSTICE



UNITED NATIONS
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Reasons for Establishing the Trust Fund

1. The United Nations has a special role in the maintenance of peace and security. The Charter recognizes settlement of disputes "by peaceful means, and in conformity with the principles of justice and international law" as a basic purpose of the United Nations and as an essential tool for the maintenance of international peace and security. The importance of peaceful settlement of disputes has been reiterated in numerous UN legal instruments, including the Declaration on Principles of International Law Concerning the Friendly Relations and Cooperation among States of 24 October 1970 and the Manila Declaration on the Peaceful Settlement of Disputes of 15 November 1982. In the Manila Declaration the General Assembly stressed once again that States should be encouraged to settle disputes by making full use of the provisions of the Charter of the United Nations, in particular those concerning the peaceful settlement of disputes. At the same time the Manila Declaration also states that recourse to judicial settlement of legal disputes, particularly

referral to the International Court of Justice, should not be considered an unfriendly act between States.

2. The Court is the principal judicial organ of the United Nations. Its judgments represent the most authoritative pronouncement on international law. As follows from Article 36(3) of the Charter, the Court is also the principal organ for resolving legal disputes between States. The Secretary-General, as the Chief Administrative Officer of the Organization, has, therefore, a special responsibility to promote judicial settlement through the Court.

3. Legal disputes may arise in various parts of the world over a wide variety of issues. There are occasions where the parties concerned are prepared to seek settlement of their disputes through the International Court of Justice, but cannot proceed because of the lack of legal expertise or funds. There may also be cases where the parties are unable to implement an ICJ decision because of the same reasons. In all such cases the availability of funds would advance the peaceful settlement of disputes.

4. The cost which may be incurred by ICJ proceedings is a factor which may in some instances discourage States from resorting to the Court. In arbitration, the parties bear the costs of the arbitrators and the maintenance of the tribunal (e.g. the registry etc.). The administrative costs of the

International Court of Justice are borne by the United Nations. But, as in arbitration, the parties must bear the costs of agents, counsels, experts, witnesses, and the preparation of memorials and counter-memorials, etc. The total can be considerable. Thus, costs can be a factor in deciding whether a dispute should be referred to the International Court of Justice. The availability of funds would therefore be helpful for States which lack the necessary funds.

5. The United Nations has extensive experience in providing assistance to countries for their industrial and economic development. This experience could be utilized to assist States in obtaining the necessary legal expertise to facilitate settlement of disputes.

Object and purpose of the Trust Fund

6. This Trust Fund (hereinafter referred to as "the Fund") is established by the Secretary-General under the Financial Regulations and Rules of the United Nations. The purpose of the Fund is to provide, in accordance with the terms and conditions specified herein, financial assistance to States for expenses incurred in connexion with: (i) a dispute submitted to the International Court of Justice by way of a special agreement, or (ii) the execution of a Judgment of the Court resulting from such special agreement.

Contributions to the Fund

7. The Secretary-General invites States, inter-governmental organizations, national institutions, non-governmental organizations, as well as natural and juridical persons to make voluntary financial contributions to the Fund.

Application for Financial Assistance

8. An application for financial assistance from the Fund may be submitted by any Member State of the United Nations, any State party to the Statute of the International Court of Justice or a Non-Member State having complied with Security Council resolution 9 (1946), which has concluded a special agreement for the purpose of submitting a specific dispute to the International Court of Justice for judgment. The application shall be accompanied by:

- (i) a copy of the special agreement referred to;
- (ii) an itemized statement of the estimated costs for which financial assistance is requested from the Fund;
- (iii) an undertaking that the requesting State shall supply a final statement of account providing details of the expenditures made from the approved amounts, to be certified by an auditor acceptable to the United Nations.

Establishment of Panel of Experts

9. For each request for financial assistance, the Secretary-General will establish a Panel of Experts composed of three persons of the highest judicial and moral standing. The task of the Panel is to examine the application on the basis of paragraph 8 above, to recommend to the Secretary-General the amount of financial assistance to be given and the types of expenses for which the assistance may be used: e.g. preparation of memorials, counter-memorials and replies; fees for agents, counsel, advocates, experts or witnesses; legal research fees; costs related to oral proceedings: e.g. interpretation into and/or from languages other than English and French; expenses of producing technical materials (e.g. reproduction of cartographic evidence); costs relating to the execution of an ICJ Judgment (e.g. demarcation of boundaries).

10. The work of the Panel of Experts shall be conducted in strict confidentiality.

11. In considering an application, the Panel of Experts shall be guided solely by the financial needs of the requesting State and availability of funds.

12. Travel expenses and subsistence allowance are payable to members of the Panel from the Fund.

Granting of Assistance

13. The Secretary-General will provide financial assistance from the Fund on the basis of the evaluation and recommendations of the Panel of Experts. Payments will be made against receipts evidencing actual expenditures for approved costs.

Application of UN Financial Regulations and Rules

14. The Financial Regulations and Rules of the United Nations shall apply to the administration of the Trust Fund. The Fund shall be subject to the auditing procedures provided therein.

Reporting

15. An annual report on the activities of the Fund will be made to the General Assembly.

Implementing Office

16. The Office of Legal Affairs is the Implementing Office for the Trust Fund and provides the services required for the operation of the Fund.

Revision

17. The Secretary-General may revise the above, if circumstances so require.