

## **Resolution adopted by the General Assembly**

*[without reference to a Main Committee (A/55/L.10 and Corr.1 and Add.1)]*

### **55/7. Oceans and the law of the sea**

#### **Annex II**

**Trust fund for the purpose of facilitating the preparation of submissions to the Commission on the Limits of the Continental Shelf for developing States, in particular the least developed countries and small island developing States, and compliance with article 76 of the United Nations Convention on the Law of the Sea**

#### **Terms of reference, guidelines and rules**

##### **1. Reasons for establishing the Trust Fund**

1. Promoting and developing the marine scientific and technological capacity of developing States, in particular the least developed countries and small island States, with a view to accelerating their social and economic development, is essential for the effective implementation of the United Nations Convention on the Law of the Sea of 10 December 1982 (“the Convention”).

2. Coastal States intending to establish the outer limits of their continental shelf beyond 200 nautical miles from the baseline from which the breadth of their territorial sea is measured are required by article 76 of the Convention to submit the relevant data and information to the Commission on the Limits of the Continental Shelf (“the Commission”). In accordance with article 4 of annex II to the Convention, the particulars of such limits should be submitted to the Commission within ten years of the entry into force of the Convention for that State. For some States a submission should be made by 16 November 2004.

3. Developing States, in particular the least developed countries and small island developing States, may face difficulties in complying with the time limit for submissions to the Commission. The Trust Fund is intended to assist these States in complying with the requirements relating to a submission to the Commission.

4. Under article 3, paragraph 1 (b), of annex II to the Convention, the Commission may provide scientific and technical advice, if requested by the coastal States concerned, during the preparation of the data to be submitted in accordance with article 76.

5. The Commission has adopted an outline for a five-day training course in order to facilitate the preparation of submissions in accordance with its Scientific and Technical Guidelines. The course is to be developed and delivered by interested Governments, international organizations and institutions which possess the necessary expertise and facilities. The Commission has likewise prepared a basic flow chart illustrating the preparation of submissions by coastal States.

6. The delineation of the continental shelf of a coastal State in accordance with article 76 and annex II to the Convention and annex II to the Final Act of the Third United Nations Conference on the Law of the Sea (“the Final Act”) requires a programme for hydrographic and geoscientific surveying and mapping of the continental margin. The complexity and scale, and hence the costs involved, of such a programme will vary greatly from State to State according to the different geographical and geophysical circumstances. A first approach will always involve an assessment of the particular case at hand, followed by planning of appropriate projects for further data acquisition. Such projects require the contracting of highlevel scientific/technical expertise and modern technology. By nature, the costs involved in such data acquisition projects are substantial. In addition to contributing to the Voluntary Fund herein established, the international community should make every effort to facilitate the full implementation of article 76 both financially and in any other possible way or capacity.

7. The initial assessment and the project planning itself will require qualifications

in hydrography and geosciences in addition to a full understanding of the relevant provisions of the Convention. The final preparation of a submission to the Commission also requires high-level expertise in geosciences and hydrography.

8. The United Nations has extensive experience in providing assistance to countries for their industrial and economic development. This experience could be extended and utilized to assist States in implementing their rights and obligations under article 76 of the Convention.

## **2. Objects and purpose of the Trust Fund**

9. The Secretary-General, under the Financial Regulations and Rules of the United Nations, establishes the present Trust Fund (“the Fund”). The object of the Fund is to enable developing States, in particular the least developed coastal countries and small island developing States, to make an initial assessment of their particular case, make appropriate plans for further investigations and data acquisition, and to prepare the final submission documents when the necessary data have been acquired.

10. The data acquisition campaigns themselves are not the object of the Fund.

11. An initial assessment of the nature of the continental shelf of a coastal State is often made in the form of a desktop study, which is a review and compilation of all existing data and information. Decisions for further action and/or planning for further data acquisition and mapping projects will be based on such a study.

12. The purpose of the Fund is to provide, in accordance with the terms and conditions specified in the Financial Regulations and Rules of the United Nations:

(a) Training to the appropriate technical and administrative staff of the coastal State in question, in order to enable them to perform initial desktop studies and project planning, or at least to take full part in these activities;

(b) Funds for such studies and planning activities, including funds for advisory/consultancy assistance if needed.

13. The preparation of the final submission documents will have to meet the requirements of article 76 and annex II to the Convention (and for some States, annex II to the Final Act) and the Scientific and Technical Guidelines of the Commission. The training should take this into account and aim at enabling the State’s personnel also to prepare most of these documents themselves. The preparation of the submission may induce costs that may be met by funds from the Fund (e.g. software and hardware equipment, technical assistance, etc.).

## **3. Contributions to the Fund**

14. The Secretary-General invites States, intergovernmental organizations and agencies, national institutions, non-governmental organizations and international financial institutions as well as natural and juridical persons to make voluntary financial or other contributions to the Fund.

## **4. Application for financial assistance**

15. An application for financial assistance from the Fund may be submitted by any developing State, in particular the least developed countries and small island developing States, who are Members of the United Nations and party to the Convention.

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

(a) Training of technical and administrative staff;

(b) Desktop study or other means to make an initial assessment of the nature of the continental shelf and its limits;

(c) Working out of plans for the acquisition of necessary additional data and mapping projects;

(d) Preparation of final submission documents;

(e) Advisory/consultancy assistance related to the above points.

17. Detailed information under each of these purposes should be provided as follows:

*(a) Training of technical and administrative staff*

The application shall be accompanied by:

- (i) A specification of the goal of the training and which positions the trainees are intended to fill afterwards;
- (ii) Information on the training institute(s) in question;
- (iii) A copy of the training course(s);
- (iv) The curriculum vitae of the trainees;
- (v) An itemized statement of the estimated costs for which assistance is requested.

*(b) Desktop study or other means to make an assessment of the nature of the continental shelf and its limits*

The application shall be accompanied by:

- (i) A short description of the aim of the study;
- (ii) An overview map of the area in question;
- (iii) An overview, as complete as possible, of the database already available to the State;
- (iv) An outline of how the work will be done and what tools are available (software and hardware);
- (v) A specification of what will be done by the State's own staff, and what will be contracted for;
- (vi) An itemized statement of the estimated costs for which assistance is requested.

*(c) Working out of plans for the acquisition of necessary additional data and mapping projects*

The application shall be accompanied by:

- (i) A summary of the status of knowledge of the continental margin, preferably based on a previous desktop study;
- (ii) A preliminary assessment of the needs for specific additional data and/or information in accordance with the requirements of article 76 and annex II to the Convention, and annex II to the Final Act;
- (iii) An itemized statement of the estimated costs for which assistance is requested.

*(d) Preparation of final submission documents*

The application shall be accompanied by:

- (i) A specification of what kind of assistance is needed;
- (ii) An itemized statement of the estimated costs for which assistance is requested.

*(e) Advisory/consultancy assistance related to the above points*

The application shall be accompanied by:

- (i) A copy of the contract between the Government and the technical or scientific expert in question;
- (ii) An itemized statement of the costs for which assistance is requested.

18. In all these cases the application shall be accompanied by 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.

## **5. Consideration of applications**

19. Each request for financial assistance shall be considered by the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs ("the Division"), which acts as the secretariat of the Commission.

20. The Division may engage an independent panel of experts of the highest moral standing to assist in the examination of applications on the basis of section 4 above

and to recommend the amount of financial assistance to be given. However, no sitting Commission member should serve on this panel of experts. The Division shall prepare and circulate to Member States a list of prospective members of the panel of experts. Any member of the expert panel opposed by a Member State should not be included in the panel. The Division shall on an annual basis provide a list of the panel of experts as an annex to the annual report of the Secretary-General.

21. In considering the application, the Division shall be guided solely by the financial needs of the requesting developing State and availability of funds, with priority given to least developed countries and small island developing States, taking into account the imminence of pending deadlines.

22. Travel expenses and subsistence allowance are payable to independent experts engaged by the Division to consider applications.

#### **6. Granting of assistance**

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

#### **7. Application of article 5 of annex II to the Convention**

24. Nationals of the coastal State making the submission who are members of the Commission and any Commission member who has assisted a coastal State by providing scientific and technical advice with respect to the delineation shall not be a member of the subcommission dealing with that submission but has the right to participate as a member in the proceedings of the Commission concerning the said submission. In an effort to promote transparency and to give full effect to article 5 of annex II to the Convention there should be full disclosure by Commission members, Trust Fund recipients and training sponsors to the Division of any presubmission contacts.

#### **8. Reporting requirements for full disclosure**

25. Interested Governments, international organizations and institutions who provide any training for which any costs are reimbursed by this Fund are strongly encouraged to provide the complete list of participants to the Division.

26. Commission members who participate in any activities pursuant to this Fund shall disclose this information to the Division.

27. Upon submission to the Commission of its information on the limits of its continental shelf pursuant to article 76 of the Convention, a coastal State that has received assistance from this Fund shall disclose this information, including the involvement of any Commission members.

#### **9. Application of the Financial Regulations and Rules of the United Nations**

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

#### **10. Reporting to the General Assembly**

29. An annual report on the activities of the Fund, including details of the contributions to and disbursements from the Fund, will be made to the General Assembly.

#### **11. Implementing office**

30. The Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs is the implementing office for the Fund and will provide the services required for the operation of the Fund.

#### **12. Revision**

31. The General Assembly may revise the above if circumstances so require.