

PERMANENT COURT OF ARBITRATION
FINANCIAL ASSISTANCE FUND FOR
SETTLEMENT OF INTERNATIONAL DISPUTES

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TERMS OF REFERENCE AND GUIDELINES

(as approved by the Administrative Council on December 11, 1995)

Establishment of a Financial Assistance Fund

1. The Hague Conventions for the Pacific Settlement of International Disputes of 1899 and 1907 brought into being what is today the oldest existing global system for the peaceful settlement of international disputes. They established the Permanent Court of Arbitration, and provided for the settlement of such disputes by States Parties through arbitration and other peaceful means of their own choice.

2. States Parties to the Conventions undertake to use their best efforts to ensure the peaceful settlement of their disputes. However, there may be instances when States are deterred from recourse to international arbitration or other means of settlement offered by the Conventions because they find it difficult at the time to allocate funds to meet the costs involved. Such costs may include the fees and expenses of members of an arbitral or other body entrusted with settling the dispute; the expenses of implementing an award or other decision or recommendation of such a body; payments to agents, counsel, experts and witnesses; and operational or administrative expenses connected with oral or written proceedings. Making funds available to meet costs of this nature could facilitate recourse to arbitration or other means of settlement, thus advancing the aims and purposes of the Conventions, and promoting friendly relations and cooperation among States.

3. Accordingly, the Secretary-General of the Permanent Court of Arbitration (the 'Secretary-General') has, with the approval of the Administrative Council, established a Financial Assistance Fund for the Settlement of International Disputes (the 'Fund'). The Fund will provide financial assistance to Qualifying States (as defined herein), in accordance with the terms and conditions specified herein, to enable them to meet, in whole or in part, expenses of the type referred to in paragraph 2.

Contributions to the Fund

4. The Fund shall consist of voluntary financial contributions by States, intergovernmental organizations, national institutions, as well as natural and legal persons.

Request for Financial Assistance from the Fund

5. For purposes of this document, ‘Qualifying State’ shall mean a State that is a party to the Convention of 1899 or 1907, or any institution or enterprise owned and controlled by such State, which has concluded an agreement for the purpose of submitting one or more disputes, whether existing or future, for settlement under the auspices of the Permanent Court of Arbitration by any of the means administered by the Permanent Court of Arbitration, and which State, at the time of requesting financial assistance from the Fund, is listed on the ‘DAC List of Aid Recipients’ prepared by the Organization for Economic Cooperation and Development (OECD).

6. Any Qualifying State may seek financial assistance from the Fund, by submitting a written request therefor to the Secretary-General, accompanied by:

- (i) A copy of the abovementioned dispute resolution agreement, as well as, in the case of an agreement to submit future disputes, a brief description of the specific dispute concerned;
- (ii) An itemized statement of the estimated costs for which financial assistance is sought 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, audited by an independent accountant acceptable to the International Bureau of the Permanent Court of Arbitration.

Implementing Office

7. The International Bureau of the Permanent Court of Arbitration shall be the implementing office for the Fund, and shall be responsible for the administration of the Fund. The International Bureau shall make no allocations or disbursements from the Fund, other than pursuant to a decision of the Board of Trustees, as set forth below.

Board of Trustees

8. For purposes of deciding on requests for financial assistance from the fund, there shall be a Board of Trustees (the ‘Board’), composed of no fewer than three and no more than seven members who have experience in international dispute resolution and are of the highest moral standing. Members shall be appointed by the Secretary-General with the approval of the Administrative Council, and shall serve for a term of four years, which may be renewed. The Secretary-General shall be entitled to fill any vacancy occurring in the membership of the Board with immediate effect, pending approval by the Administrative Council at its next following meeting.

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9. The Secretary-General shall serve as chairman of the Board. He shall conduct and participate fully in meetings of the Board, but shall not vote on any request for financial assistance from the Fund.

10. The Board shall examine requests for financial assistance from the Fund, and shall determine the amount of financial assistance to be given, if any, the categories of expenses to which it may be applied, as well as any terms and conditions it deems appropriate.

11. After having consulted the Board of Trustees, the Secretary-General shall adopt rules governing, *inter alia*, the manner in which the work of the Board is to be conducted. The work of the Board shall be conducted in strict confidentiality.

12. In considering a request for disbursement, the Board shall be guided, *inter alia*, by the financial needs of the requesting State and the availability of funds.

13. Members of the Board shall not be entitled to receive fees for their services, or reimbursement of expenses incurred in that connection. The Secretary-General may, in exceptional cases and in his sole discretion, determine the amount to be paid to a member by way of reimbursement of expenses for travel and subsistence incurred in connection with the rendering of services to the Board.

14. Upon the approval of a request for financial assistance, the amount granted shall be disbursed to the requesting State out of the Fund, pursuant to the terms and conditions set forth by the Board in its decision.

15. The decision of the Board concerning a request for financial assistance from the Fund shall be final, and not subject to recourse or review.

Reporting

16. The Secretary-General shall report to the Administrative Council at least once annually in detail on the activities and transactions relative to the Fund, including contributions pledged and received, and allocations and disbursements made. The Annual Report of the PCA shall contain a summary report on the activities of the Fund.

