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Arms Trade Treaty  
**First Conference of States Parties**  
Cancun, 24-27 August 2015

## **Draft Report on Financial Rules**

*(Australia and Ghana)*

### **Overview**

During the informal preparatory meeting for the First Conference of States Parties (1CSP) to the Arms Trade Treaty held in Berlin 27-28 November 2014 it was agreed that Ghana would serve as facilitator for the Financial Rules with a view to conduct consultations and prepare a draft for consideration of States Parties at 1CSP.

At the First formal Preparatory Meeting held in Port of Spain 23-24 February 2015, it was agreed that Australia would join Ghana as a co-facilitator.

By this appointment Australia and Ghana were required to assist the Chair to seek and collate views of State Parties and Signatory States to the ATT, International Organization, Regional Organizations and Civil Society on a financial rules to govern the activities of the Secretariat, the costs related to meetings of the States Parties, Secretariat and prepare a draft budget for adoption at the 1CSP.

In addition to the consultations held during the First Preparatory Meeting in Port of Spain, the informal Preparatory Meeting held in Vienna 21-22 April 2015 and the Final Preparatory Meeting held in Geneva 6-8 July 2015, the co-facilitators conducted a number of informal consultations in New York in April 2015 and in Geneva March 2015.

Several delegations attended one or other of these consultations, and reviewed, discussed and suggested changes to various versions of the draft text. A number of delegations also provided the co-facilitators with written suggestions which were incorporated into the text.

### **Draft Financial rules**

After the collation of views presented by States and other organisations, the co-facilitators presented two draft versions of the financial rules during the course of the Final Preparatory Meeting held in Geneva 6-8 July 2015 (one prior to the meeting and one on 8 July). An additional round of consultations was held in New York on 31 July 2015, with further written submissions provided to the co-facilitators subsequently.

The draft circulated by the Provisional Secretariat as ATT/CSP1/2015/WP.3 on 12 August was thus incrementally developed taking all the various views into account and attempting to meet the needs of the maximum number of states which expressed views in the various rounds of consultations. In addition, the facilitators consulted a number of references, especially texts of financial rules of other analogous Treaty organisations (BWC, International Seabed Authority, APMBC, CCM, CCW and some environmental organisations). The facilitators also benefited from input from various civil society organisations, and in particular from the comparative analyses of international organisations' rules and structures prepared by ATT Legal.

## Key issues on the draft financial rules

At the Final Preparatory Meeting held in Geneva 6-8 July, it was agreed that Terms of Reference for a Management Committee (combining earlier proposals for a Budget Committee and a Management Committee) to be established pursuant to Article 17.4 of the Treaty would be presented for adoption at 1CSP. [ATT/CSP1/2015/PM.2/5 Procedural Report paragraph 22].

In the draft text of Working Paper 3 there remains bracketed text in Rules 4.1, 5.1, 5.2, 6.2, and Rule 8, reflecting gaps in final consensus on the overall text.

Rule 4.1 refers to the establishment of the Management Committee with alternative formulations of text being [established pursuant to the decision of the 1CSP] and [the mandate of which is provided in the Rules of Procedure].

The Rules of Procedure, having now been adopted therefore require a separate decision of 1CSP for adoption of the Terms of Reference of the Management Committee. We thus propose that the first formulation, that is, [established pursuant to the decision of the 1CSP] is the appropriate one.

Rule 8 refers to decision making on amendments to the rules with bracketed alternatives reflecting the two proposed options for voting on substantive issues (as a last resort) in Rules of Procedure, ie  $\frac{3}{4}$  or  $\frac{2}{3}$  majority. Given adoption of the  $\frac{2}{3}$  majority in Rules of Procedure this morning, it is therefore appropriate for this to be reflecting in the Financial Rules. Thus we propose the bracketed option [ $\frac{3}{4}$ ] be removed.

To further bring consistency with the Rules of Procedure, we would propose also to remove Rule 5.6 which provides for the postponement of the Conference of States Parties in the event that sufficient funds are not available two months ahead of the scheduled opening of the Conference. Rule 11.1 of the Rules of Procedure says that the Conference shall be held annually in sessions unless decided otherwise by the Conference. The President, could, therefore, on advice from the Secretariat under Financial Rule 5.5 (that were insufficient funds to hold a Conference session) propose an intersessional decision by the Conference to postpone an ordinary session.

This brings us to the final unresolved issues in Rules 5.1, 5.2 and 6.2, which in fact are all the same issue, that is whether the contribution rates for funding of CSPs, subsidiary bodies and the Secretariat, based on the adjusted UN scale of assessment should ensure that [no state contributes less than USD100 which would cover the administrative cost of levying and collecting its contribution] and that no one contribution exceeds either [22%] or [12%] of the total.

The rationale for the USD100 minimum has been put during previous consultations - and is in fact provided in the text of the Rule itself – as the minimum required to cover the administrative cost of levying and collecting the contribution of each state. During previous consultations many states supported the principle but some states questioned the validity of the figure (which was initially estimated at USD500, and was also proposed as a percentage in a previous draft).

Following the final preparatory conference in Geneva, Australia and Ghana consulted with the Financial Resources Management Service of the United Nations Office at Geneva, which manages finances for several treaties and conventions, and confirmed that USD\$100 was the appropriate threshold to apply in order to cover the administrative costs of levying and collecting contributions and participation fees.

Australia and Ghana thus present to states the proposal that this be adopted into the text. This provision would ensure that practical operations of the Secretariat would have the effective outcome that a few states' contributions would actually be collected from the very start of the Treaty's operations.

Based on indicative figures, it is estimated that nearly half of States Parties and Signatories (59 States of 130) fall below the USD\$100 threshold. Thus the basic obligation of states parties to share in the funding, and thus ownership, of the Treaty would be at great risk of failure from the outset. Indeed, a decision to forgo the proposed USD\$100 threshold would amount to a decision to forgo the contributions of nearly half of States Parties and signatories.

This does not seem to be a prudent nor auspicious start to the life of our Treaty and risks exposing the treaty to long-term debt. A minimum contribution or participation fee should be **viewed both as a symbolic as well as practical indication of each States commitment to the implementation of the Treaty.**

With regard to the second proposed amendment to the adjusted UN scale of assessment, the bracketed [22%] or [10%] cap to any one state's contribution, Australia and Ghana propose that given the overwhelming majority view, that in line with accepted UN practice the maximum amount of 22% be retained in conformity with the overwhelming majority opinion of states present and we propose can be accepted by all states parties.

Excellencies and Colleagues, these are the remaining issues to be finalized in the text that would enable us to adopt the financial rules.

### **Draft Budget**

Article 17(3) of the ATT says that Conference of States Parties shall adopt a budget for the financial period until the next ordinary session. To achieve this, the co-facilitators were tasked during the final preparatory meeting in Geneva to draft for the 1CSP three indicative budgets for the three locations for the secretariat ie Port of Spain, Geneva and Vienna.

To this effect the co-facilitators sent a spreadsheet containing the various budget activities for the three candidates to provide indicative figures.

The co-facilitators wish to announce that the responses provided by the three candidates have been made available to states through the 1CSP official website.

The co-facilitators wish to express their gratitude to the candidates for their cooperation and wish to announce that there remains some further work to be done, in consultation with the host state of the Secretariat, for a draft budget to be provided for adoption at this meeting.

### **Recommendations**

Australia and Ghana therefore wish to recommend:

- That the Conference adopt of the text of the Financial Rules with these minor amendments.
- That the Conference adopt the Terms of Reference of the Management Committee.
- That, pending a decision on the location of the Secretariat, a budget be prepared in consultation with the host state of the Secretariat and presented for approval.