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Submitted by: the Management Committee

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DRAFT PROPOSAL TO ADDRESS PROBLEMS RELATED TO FINANCIAL LIQUIDITY

Background

1. At the Fourth Conference of States Parties (CSP4) of the ATT, the Management Committee presented its report (referenced ATT/CSP4/MC/2018/MC/353/Conf.UnpaidContr) setting out recommendations to address the issue of unpaid assessed contributions. After consideration, the Fourth Conference of States Parties decided to mandate the Management Committee to further explore options to address problems related to financial liquidity, including the feasibility of establishing a reserve fund, with a view to putting forward proposals to be considered at the Fifth Conference of States Parties (see paragraph 36.b. of the Final Report, referenced ATT/CSP4/2018/SEC/369/Conf.FinRep.Rev1).

Current situation and billing practice

2. The financial period of the ATT is a calendar year (1 January – 31 December). The States Parties adopt the budget for the next CSP-cycle (and year) at their annual Conference of States Parties, usually held at the end of August or beginning of September. Subsequently, the ATT Secretariat closes the accounts for the current CSP-cycle and sends invoices for the assessed contributions for the next cycle usually at the end of October. The invoices need to be paid within 90 days after receipt of the invoice from the ATT Secretariat (Financial Rules – Rule 8.a.). The uncommitted balance of appropriations from the previous budget, if there is any, is settled with that same invoice (Rule 8.4). So far the ATT Secretariat only 'rolled over' the funds that were available in cash. The full amounts of credits due was not available in cash due to some contributions not being paid before closure of the accounts. Therefore, the total amount of credits due has not yet been 'rolled over'. The ATT Secretariat 'ring-fenced' any arrears that have been paid after the closure of the accounts, hence they have not been used to fund current expenditures and are reserved to be rolled-over with the next invoice. This means that those contributions that are still due remain on the books after closure of the accounts.

3. As it stands today, less than a third of the assessed contributions are paid within 90 days. As there is no 'rule' that the funds for meetings need to be in the 'bank' 3 months in advance, as is the case in the UN system, the ATT Secretariat can organise meetings of the preparatory process as early as the end of January. Although the ATT Secretariat staff is contracted for a period of four years (once renewable), the funds for their salaries do not need to be in the 'bank' in advance in order to issue contracts of a certain period, as is the case in the UN system. Because of these flexibilities, the meetings have so far taken place as scheduled and other payment obligations, such as the salaries of the ATT Secretariat staff, have been fulfilled. However, when the ATT 'rolls over' the total amount of credits that are due, based on Rule 8.4, the risks of problems related to financial liquidity increases, as

the ATT is building a budget deficit of about 15% per annum (see paragraph 5 of the Management Committee's report on unpaid contributions). Furthermore, the current rules on the invoicing of contributions stipulate that the invoices are calculated on the assumption that all signatory States and other observer States which attended the CSP in the preceding year shall attend the following CSP (Rule 5.2.a). This leaves the Treaty with a vulnerability in terms of liquidity if those States do not attend and therefore decide not to pay their contributions in that year. This will be settled with the next invoice (Rule 5.2.b), but in the meantime this could lead to a liquidity problem. The possible consequences of problems related to financial liquidity were set out in paragraph 9 of the Management Committee's report on unpaid contributions. Therefore, it is advisable to explore options to improve financial liquidity, including the establishment of a reserve fund. The options explored are not mutually exclusive and could all be implemented at the same time, if the CSP decides to adopt them.

Exploring options

4. The Fourth CSP decided to task the ATT Secretariat and the Management Committee to implement the **administrative measures** to address some of the causes of delayed and non-payment of assessed contributions, as outlined in Table 1 of the Management Committee's report (see paragraph 36.a. of the Final Report). In addition, the ATT Secretariat could use the flexibility in the current Financial Rules to close the accounts at a later stage than the current practice. It could send the invoices, as the Rules stipulate, by 15 October of the previous year (Rule 8.1.a.). Settling of the funds due to final costings and adjustments based on changes in participation can be done with the invoice of the following calendar year (Rule 5.2.b and 8.4).

A. Further administrative measures

5. Rule 8.4 stipulates that the **uncommitted balance of appropriations** should be rolled-over to the next financial period, thereby reducing the States' contribution for the next financial period. As mentioned in paragraph 2, this has been done systematically by the ATT Secretariat, but only for the funds that were available in cash. However, if Rule 8.4 were to be implemented fully for the next invoice, the ATT might end up with a large deficit worth nearly one-third of its annual budget as of 2020 and hence an acute liquidity problem possibly affecting the holding of meetings and Secretarial support could arise already in 2020. Therefore, a time-bound exception to Rule 8.4 of six years should be made.

6. In order to deal with the vulnerability in terms of liquidity related to the **non-attendance of signatory States and observer States** that have been issued with an invoice in advance, the CSP could decide on replacing the current Rule 5.2.a. with the following: 'Signatory States and other observer States in attendance at each CSP, or at any subsidiary bodies it may establish, shall be invoiced an attendance fee as soon as they confirm their attendance. All States Parties shall be invoiced irrespective of attendance (in accordance with Rule 5.1) and before the start of the financial period (in accordance with Rule 8.1).' The current Rule 5.2.b will ensure that adjustments are made after the end of the meetings and any debits or credits due to states will be taken into account in the contributions to be made for the following calendar year. Alternatively, if such adjustment cannot be agreed on, States Parties could consider suspending Rule 5.2.a. for States that have indicated before the invoices are sent that it will not participate in the next CSP-cycle. At least, this would ensure that the Treaty does not face serious liquidity problems if the concerned State's share of the contribution would have been relatively large due to its economic size.

7. Furthermore, in order to avoid an accumulation of liabilities for the Treaty, an administrative measure could be taken to **limit the expenditure for a financial year** to an amount based on the average collection rate for the preceding three years, unless contributions for the financial year indicate that this average will be exceeded.

8. In that regard, a further administrative measure could be taken, namely that **arrears for unpaid contributions** remain the amount of the initial assessment invoiced to the relevant State Party for the year in question. Otherwise, States Parties, that are paying after the end of the financial year, are effectively rewarded, as the actual expenditure will be lower than the adopted operational budget due to the preceding administrative measure.

B. Add a contingency provision

9. An option to explore to improve liquidity is including a **contingency provision** in the annual budget proposal. This also provides the necessary transparency and limits the risks of 'overbudgeting'. As Financial Rule 8.4 stipulates that 'the uncommitted balance of appropriations from previous financial periods shall be rolled-over to the next financial period, thereby reducing the States' contributions for the next financial period', a contingency of 15%, for example, could ensure funds being available right at the start of the financial period, if spending of the previous year remains within the budget. This has been practiced in other multilateral treaties, such as the Nuclear Non-Proliferation Treaty and the Anti-Personnel Mine Ban Convention.

C. Reserve fund

10. Another option to explore is establishing a **reserve fund**. The Management Committee's report on unpaid contributions for the Fourth CSP suggested the following sources: a) uncommitted funds (assessed contributions) from the previous financial periods, which are not rolled-over to the next financial period to reduce states' contributions; b) a percentage (e.g. 2-5%) could be added to all annual contributions and money received could be deposited in the reserve fund; c) voluntary contributions.

11. The different sources for such fund were discussed at the Fourth CSP, with a number of States Parties indicating that they could not support paying (compulsory) assessed contributions into a reserve fund. A reserve fund sourced with voluntary contributions remained an option to explore, although some reservations were expressed as well. In order to ensure that the fund is used to cover financial liquidity related problems only (and not non-payments), drawdowns from such a fund should be repaid to it from annual assessed contributions of States Parties within 12 months. Also, drawdowns should not exceed the average collection rate over the preceding three years in order to ensure the fund is fully reimbursed.

12. A further question that needs to be answered in this context is whether to establish a reserve fund to cover only for financial liquidity related problems concerning the ATT Secretariat, and not also the budget for the meetings (preparatory process and CSP). As four-year contracts were concluded with the staff of the ATT Secretariat, States Parties have an obligation to pay their salaries. Meetings, however, could be cancelled, if there are insufficient funds available. States Parties could decide on a certain target for the voluntary reserve fund, taking into account the pattern of payments over the preceding three years.

Recommendations

13. The Management Committee noted during the First and Second CSP5 Informal Preparatory Meeting and informal meetings for States Parties on Financial Issues held on 3 June and 30 July 2019 that there is not sufficient support for all the options explored in the previous paragraphs. It therefore only proposes the following in paragraphs 14 to 17 as it believes that they may command consensus.

14. States Parties should recommend that the ATT Secretariat uses the flexibility in the current Financial Rules to close the accounts at a later stage, as stipulated in paragraph 4.

15. States Parties should agree on the following administrative measure: the total credits that are due to States that paid their contributions for the period until 2018 that are not available ('and ring-fenced') in the current accounts at the start of CSP5 will not be rolled-over as of the next invoice for 2020, but will, as an exception, be rolled-over over a period not exceeding 5 years. In the meantime, for the purpose of transparency, the full amount of the part of the uncommitted balance of appropriations that is due to each State should be made visible in the subsequent invoices and any spreadsheet on the status of the payment of contributions. The implementation of this measure should be reviewed at CSP7.

16. States Parties should agree on establishing a reserve fund sourced from voluntary contributions on the basis of the annexed Terms of Reference.

17. States Parties should request the Management Committee to continue monitoring the financial situation of the Treaty, review the effectiveness of the current financial measures, and report on it at CSP7 for consideration by the States Parties.

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Annex: Terms of Reference for the Voluntary Reserve Fund

- Contributions to the Voluntary Reserve Fund should be strictly voluntary;
- The Fund cannot be used to cover non-payments of assessed contributions in any circumstance;
- The Fund can only be used to provide liquidity for the costs of the ATT Secretariat for the current financial period;
- Drawdowns from the Fund should be repaid to it from annual assessed contributions of States as soon as they are paid, but at least within the same financial period. The total amount of drawdowns should not exceed the average collection rate over the preceding three years, pertaining to the costs of the ATT Secretariat.
- The target for the Fund is set at the equivalent amount of the annual costs of the ATT Secretariat. The Secretariat will inform the Management Committee when the target is reached and will inform potential contributing States Parties and signatory States that the target has been reached.
- In the event of a termination of the activities of the Voluntary Reserve Fund, the funds shall be returned to the States Parties and signatory States who contributed them.
- The Head of the ATT Secretariat is responsible for the use of the Fund according to these Terms of References, and shall inform the Management Committee of any drawdowns from the Fund. The Head of ATT Secretariat shall also report on any use of the Fund to the CSP as part of the annual Financial Report.