

Convention on Cluster Munitions

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Review of the status and operation of the Convention and other matters important for achieving the aims of the Convention**Implementation of the financial procedures on the financing of the Implementation Support Unit**

Report on Elements for the Review of the financial Procedures on the Financing of the Implementation Support Unit of the CCM

Submitted by the Coordinators of the Working group on the General Status and Operation of the Convention (Bosnia and Herzegovina and Switzerland)

1. The First Review Conference of the Convention on Cluster Munitions (CCM) held in Dubrovnik, Croatia, in September 2015, adopted a number of decisions regarding the CCM Implementation Support Unit (ISU). Paragraph 28 of the Conference Final Document (CCM/CONF/2015/7) adopted the *Financial Procedures for the Implementation Support Unit*. The decision further indicated that these financial procedures would be reviewed at the Seventh Meeting of States Parties (7 MSP).
2. A number of CCM States Parties made a declaration and/or reservation, or explained their position upon the adoption of the financial procedures at the Review Conference. The position of the majority of these States does not seem to have significantly changed since the Review Conference.
3. The financial procedures adopted at the First Review Conference have been applied fully so far only over one full financial cycle (2016). The basis on which the review relies is therefore fairly narrow.
4. The financial procedures spelled out in Annex V to the Dubrovnik Final Document contain a number of provisions that are reviewed in turn in the report.

The budget (paragraphs 3-6)

5. The ISU has prepared a yearly work plan and budget for the following financial period for consideration and approval by States Parties at each MSP. The yearly ISU budget

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for the period 2016-2020 having been decided at the First Review Conference, the yearly workplan/budget have so far constituted a confirmation that a deviation from this decision has not been necessary.

6. Exchanges on this document have been limited at the Sixth Meeting of States Parties as it has simply served to confirm a decision already made. States Parties may want to consider over time whether such documentation produced yearly by the ISU is useful or whether the ISU should only prepare documentation in case of a deviation from the five-year budget adopted at the Review Conference.

Contributions (paragraphs 7-9)

7. The contribution mechanism is the centerpiece of the financial procedures adopted at the First Review Conference. This mechanism was implemented for one full budget cycle in 2016. Over the course of 2016, the CCM presidency sent generic letters to States Parties on four occasions asking for contributions based on the decision taken at the Review Conference. Each communication contained an excel sheet indicating for each State Party the corresponding amount for the categories 7a and 7b established by the financial procedures. Only full coverage of aggregated equivalent of 7a and 7b allows for the financing of the ISU budget.

Contributions for financial year 2016 were as follows:

<i>Category 7a</i>	- contributions of CHF 117,731.93 - contributions made by 37 States Parties - category 62% covered
<i>Category 7b</i>	- contributions of CHF 143,261.51 - contributions made by 34 States Parties - category 50.5% covered
<i>Category 7c</i>	- contributions of CHF 212,140.16 - contributions made by 8 States Parties - 4 States Parties making a voluntary contributions in addition to contributing to 7a and 7b - 2 States Parties making a voluntary contributions in addition to contributing to 7a - 2 States Parties making voluntary contributions only instead of 7a and 7b
Total contributions	- CHF 477,372.24 (ISU budget = CHF 471'762) - contributions made by 39 States Parties

8. The vast majority of the 39 States Parties that contributed have done so on the basis of categories 7a and 7b and the scale of contributions linked thereto. 37 of these 39 States Parties have provided contributions under category 7a, many of them confirming that they consider this category to be of a mandatory nature.

9. 34 States Parties have provided contributions under both category 7a and 7b. This fact seems to indicate that many States consider category 7b to be of a similar nature to category 7a. However, it was reported that the text of the financial procedure adopted at the Review Conference could be confusing when it comes to the nature of category 7b and that not all of these 34 States Parties necessarily place category 7a and 7b on the same footing.

Some had to rely on an internal budget stream different than for mandatory contributions in order to make a contribution under category 7b.

10. Three States Parties have provided contributions under category 7a but not 7b, considering that the former was binding but not the latter. Two of these States Parties have however made contributions under 7c and of an amount significantly greater than what they were called to contribute under 7b.

11. Two States Parties contributed under category 7c only, although in the form of an amount inferior to the corresponding 7a and 7b for them.

12. Finally, four States Parties made a voluntary contribution under 7c on top of their contributions under 7a and 7b amounting to around CHF 120,000, covering thereby a significant share of the overall budget.

13. If the 2016 ISU budget was fully covered, it is in no small part due to the fact that a few States Parties made contributions in excess of their 7a and 7b categories, combined with the fact that all major donors, with very few exceptions, made a significant contribution.

14. A number of additional points can be raised with regard to the implementation of categories 7a and 7b.

15. Category 7a foresees that not only States parties but also observer States should contribute to financing of ISU activities linked to organizing the MSPs. The participation in the MSP by States not party to the CCM constitutes one instrument under the convention to promote its universalization, and such participation is actively encouraged and promoted. These two aspects are partly conflicting, the financial consequences of any participation making it more difficult for a State not Party to take the decision to attend a MSP.

16. Another question concerns the 40%-60% allocation of costs between category 7a and 7b. This allocation results from discussions at the Review Conference and an initial evaluation by the participants regarding the ISU activities. The situation was also complicated by the fact that the ISU had not fully taken up its function by that time. A more robust assessment of the time effectively devoted by the ISU to the organization of the MSPs (as opposed to other activities) would be useful in assessing whether the 40-60% allocation made at the Review Conference corresponds fully to reality. Arguably, the splitting of ISU activities between preparations for the MSP and the fulfilment of other tasks is artificial in nature. The ISU works year round in support of the Presidency, the Coordinators and States Parties towards the concluding event that the MSP constitutes. While the 40/60 allocation could be discussed in order to better reflect the actual amount of work dedicated to the preparation of the MSP, a more fundamental question is whether categories 7a and 7b should be maintained, or form a single category for contributions towards the preparation of the MSP. The latter option may better reflect the actual work structure of the ISU as implementation is becoming increasingly complex, notably due to upcoming implementation deadlines.

17. A significant number of States Parties did not make any contributions to the ISU CCM in 2016 and have not acted upon the communications from the CCM presidency. This concerns some 60 States Parties. A number of contributing factors would seem to explain this situation.

18. The complexity of the financial procedure adopted at the Review Conference seems to have played a role. The fact that States Parties are receiving one bill from the United Nations in Geneva towards the organization of the CCM MSP and one from the ISU has also created some confusion. Finally, the fact that the communication from the CCM presidency regarding ISU contributions were of a generic nature may also have had an impact in the lack of responsiveness by some States Parties.

19. A number of measures could be considered to address this lack of responsiveness, some having now already been in part taken. Regular outreach by the presidency or the

ISU to explain the decision taken in Dubrovnik and its functioning could be useful in raising awareness among States Parties and in providing greater clarity. The issuing of more personalized communication by the presidency in requesting contributions (instead of generic ones) also seems to be a key measure.

20. This applies not only to the letters sent by the chairmanship but also any annexed invoicing. An invoice that looks similar to those sent out by the UNOG for the organization of disarmament treaties MSPs is not only a document that States Parties are familiar with. It would also seem that such a document would be helpful if not necessary for a number of States Parties for their legal department to agree to making contributions.

21. One aspect that does not seem to have been included in the financial procedures established at the Review Conference is that of a timeline for the financial process. The procedures do not contain any provisions regarding, for instance, when the requests for contributions should be sent out and by when contributions should ideally be made. Having greater clarity in this area could be useful in particular for the ISU to improve planning and manage cash flow.

22. The ISU budget for the year $x+1$ is adopted at the MSP held usually in the third quarter of year x . To improve planning and predictability, the requests for contribution could be sent out as a matter of principle by the end of October of year x . In this communication, States Parties would be asked to provide their contribution by the end of March in year $x+1$. This cut-off date would serve as a basis for the Chair to take follow-up actions with regard to contributions. A number of treaties follow this timeline, notably with a view of securing the necessary cash flow for the ISU that has expenditures starting in the first month of year $x+1$.

23. Still regarding the issue of predictability, it has to be noted that only a few States Parties have made multi-year commitments as encouraged by the financial procedures, and that these have not covered periods extending beyond two years. Similarly, few if any State Party have indicated at the MSP the level of its contributions for the following financial periods.

24. Finally, it must be noted that the implementation of the financial procedures adopted at the Review Conference is demanding and time-consuming for the ISU. Many time-hours have to be devoted in particular to tracking and seeking clarity on categorization of these contributions and liaising with the GICHD finance department to correctly allocate them. These efforts take resources away from implementing the work plan and from supporting States Parties in applying the convention. Some of the technical measures suggested above may improve the situation somehow, but the implementation of the procedures will likely remain time-consuming owing to their complexity.

Fund (paragraph 10-11)

25. The financial procedures adopted at the First Review Conference provide that a working capital reserve shall be maintained. They also indicate that the level of the capital reserve is to be determined on a regular basis by the MSP. The MSP has made no such determination so far.

26. A number of States Parties have made dedicated contributions to the capital reserve, amounting to CHF 16,714. Beside these contributions, the ISU has accumulated surpluses over the years. This is essentially due to the fact that initial voluntary contributions were made for the establishment of the ISU, which started operating later than expected. Also, ISU staff took up their functions in a staggered fashion. Carry-over for the years 2013 to 2015 amounts to CHF 355,000. In addition, the ISU made a budget surplus of around CHF 70,000 in 2016 (ISU underspent in 2016, not being fully staffed). The carry-over, or part thereof, could be channelled toward the capital reserve, should States Parties agree to it. With the ISU now fully staffed, the potential for underspending as in previous years has

become almost non-existent, which will require that the ISU budget be fully financed for the Unit to stay operational in the years to come.

27. The capital reserve plays a key role in ensuring that the ISU has, at all times, the required cash flow to ensure continued operation. Expenditures start as of January of each year, and the ISU cannot rely on a third party cash flow. The ISU has de facto relied on the carry-over referred to above to ensure smooth operation.

28. A number of elements warrant consideration regarding the level at which the capital reserve should be set.

29. The level at which a capital reserve should be set is linked to its functionality(ies). The ISU CCM capital reserve established by the financial procedures adopted at the Review Conference is limited to the issue of temporary cash flow shortfall. It does not, at this stage, extend to also serve as a buffer in case a one-off yearly deficit materializes. The level required for a capital reserve that could be drawn upon to cover a deficit probably would need to be higher than one used only to cover temporary cash deficits, and it requires different procedures.

30. The Anti-personnel Landmine Convention established an ISU security buffer in 2015 to cover possible annual deficits. It set the amount of the buffer to the equivalent of the ISU yearly budget and provides procedures for the use of the buffer (the buffer can be drawn upon by decision from the coordination committee after the annual accounts have been closed).

31. For a capital reserve whose function is limited to covering cash flow shortfalls, an amount of CHF 300,000 would seem to be sufficient. Such an amount would cover personnel costs for a period of eight months and enable the ISU to take the necessary steps together with the presidency and States Parties. In terms of guidelines, the financial procedures adopted at the Review Conference already provide that *drawdowns from the working capital reserve shall be restored...as soon as possible*. It may also make sense to request the ISU to inform the Chairmanship and the Coordination Committee when it has to draw on the capital reserve to cover a temporary cash flow shortfall.

32. Should CCM States Parties decide to extend the function of the capital reserve to cover a potential budget deficit, it should then be maintained at a higher level. Ensuring that it is equivalent to roughly a yearly budget, or in other words to CHF 500,000 to avoid yearly adjustments, would seem advisable. Guidance regarding the use of the capital reserve should probably also be provided, including on the authorization for using the reserve to cover a budget deficit. Authorization by the Coordination Committee for any drawdown should probably be required. The need for rebuilding the reserve as rapidly as practically possible should also be spelled out.

Audit (paragraph 12)

33. The provisions set forth in paragraph 12 have been implemented, the procedures followed and the required documentation submitted.

Concluding remarks

34. This review, relying only on one full financial cycle, can only constitute an initial and partial assessment of the financial procedures for the ISU adopted at the First Review Conference. A new review after a few years of implementation will be required, to more thoroughly assess the effectiveness of the financial procedures. The Second Review Conference constitutes a natural stage for such an assessment.

35. In reviewing the financial procedures, it must be recalled that the decision taken at the Review Conference indicates that they should meet the three principles of ownership, predictability and sustainability.

36. Clear progress and efforts are clearly required to ensure that the principle of ownership is to be met. Contributions for the first cycle have been made by fewer than half of CCM States Parties, when the ISU serves them all.

37. Lack of clarity remains as well as to whether the financial procedures meet the principles of predictability and sustainability. The fact that 37 of the 39 States Parties that made contributions in 2016 have contributed under category 7a, and that 34 States Parties have done likewise for category 7b, while indicating that they consider these categories as mandatory constitutes an initial positive development. Also, the fact that most of the main donors – with very few exceptions – have made contributions is also a positive sign.

38. However, it must be noted that the 2016 budget was covered only because of the voluntary contributions made by a few States Parties in excess of the amount they contributed under category 7a and 7b. These contributions covered more than a quarter of the budget. Some of these States Parties have indicated that it could not be taken for granted that they would be in a position to repeat such contributions.

39. The financial procedures will only demonstrate that they are predictable and sustainable if major contributors make a contribution every year commensurate with categories 7a and 7b. If some were to refrain from making such contributions, predictability would be affected. It could also affect, over time, the resolve of those making voluntary contributions far in excess of their 7a and 7b contributions.

40. Finally, the above considerations should be part of a more structured debate on how to ensure that the functions attributed by States Parties to the ISU are sustainably and reliably financed, with a view to updating and where possible consolidating the financial procedures in the context of the next Review Conference.
