

Arms Trade Treaty  
**Tenth Conference of States Parties**  
 Geneva, 19 – 23 August 2024

**ATT DIVERSION INFORMATION EXCHANGE FORUM (DIEF)  
 CHAIR WORKING PAPER ON THE REVIEW OF THE USEFULNESS OF THE DIEF MEETINGS AND TERMS OF  
 REFERENCE**

**INTRODUCTION**

1. This working paper by the Chair of the Diversion Information Exchange Forum (DIEF) concerns the following task which the DIEF was charged with by the Ninth Conference of States Parties (CSP9) to the ATT:

**CSP9 decision on the review of the usefulness of the DIEF**

*“In view of the decision of CSP7 to review the usefulness of the DIEF at the first CSP following two cycles of DIEF meetings, the Conference also decided to task the DIEF to review the usefulness of its meetings and its Terms of Reference, and to submit a report to the Tenth Conference of States Parties for a decision.”<sup>1</sup>*

2. The working paper aims to facilitate discussions on the DIEF review in respect of the functioning of the DIEF and its Terms of Reference (ToR),<sup>2</sup> as well as on the further consideration of the Treaty’s diversion-related information exchange requirements and encouragements within the ATT process in general.<sup>3</sup> The review will also take into account the CSP9 decisions concerning the WGETI, its reconfiguration, the WGETI previous Sub-working Group on Article 11 and the review of the ATT Programme of Work.<sup>4</sup> In that regard, the paper commences by recalling the background and purpose of the DIEF and its position within the ATT process. The second part sets out the core elements of the DIEF and its ToR to be evaluated and provides observations and questions in relation to those. Part 3 links the role of the DIEF with the abovementioned CSP9 decisions. The last part summarizes the observations and questions throughout the paper and suggests the next steps in the review process.

3. This working paper has only been made available to States Parties and signatory States because CSP9 specifically tasked the DIEF to evaluate the DIEF meetings and ToR and Rule 6 of its ToR limits participation in the DIEF to States Parties and signatory States. In accordance with Rule 14 of the ToR, like all DIEF

<sup>1</sup> The decision of CSP6 on the establishment of the DIEF (see paragraph 40 of the Final Report of CSP6; [ATT/CSP6/2020/SEC/635/Conf.FinRep.Rev](#)) planned this review for CSP8, but on the recommendation of the DIEF Chair, CSP7 decided to defer the review due to the COVID-19 pandemic and the inability to organize in-person DIEF meetings (see the DIEF Chair’s Report to CSP7; [ATT/CSP7.DIEF/2021/CHAIR/673/Conf.Rep](#); and paragraph 27 of the Final Report of CSP7; [ATT/CSP7/2021/SEC/681/Conf.FinRep.Rev1](#)).

<sup>2</sup> The Terms of Reference (ToR) concerning the Diversion Information Exchange Forum ([ATT/CSP6.DIEF/2020/CHAIR/632/Conf.DIEFToRs](#)) are available at <https://www.thearmstradetreaty.org/diversion-information-exchange-forum.html?templateId=1386528>.

<sup>3</sup> See in that respect Article 11 (3), (4) and (5), as well as Article 13 (2) and Article 15 (4) of the Treaty. All these provisions address the exchange of diversion-related information, including operational information for assessment and enforcement purposes, as well as information about policy measures to prevent and address diversion.

<sup>4</sup> See paragraphs 24 (e-f), 25 and 35 of the Final Report of CSP9 ([ATT/CSP9/2023/SEC/773/Conf.FinRep.Rev2](#)). Annex D of the WGETI Chair’s Draft Report to CSP9 ([ATT/CSP9.WGETI/2023/CHAIR/767/Conf.Rep](#)) and Management Committee Draft Proposal on the Review of the ATT Programme of Work ([ATT/CSP9.MC/2023/MC/765/Conf.Prop](#)).

documentation, the working paper is also a confidential document. Nevertheless, it is the intention of the Chair to seek the views of other ATT stakeholders on the future functioning of the DIEF, including civil society and industry. It is therefore the proposal of the Chair that following discussions on this working paper during the 22 February 2024 DIEF meeting, the Chair will hold virtual informal consultations about the review and the general outcomes of this meeting with all ATT stakeholders. This is further addressed in the last part of the working paper.

## **BACKGROUND AND PURPOSE OF THE DIEF, PLACE WITHIN THE ATT PROCESS**

4. In short, the DIEF is a *sui generis body* for informal voluntary exchanges between ATT States Parties and signatory States concerning *concrete* cases of detected or suspected diversion and for sharing *concrete, operational* diversion-related information. It was established by the CSP6 and is governed by its own ToR. These ToR explain the background and purpose of the DIEF as follows:

### **Background and purpose of the DIEF**

*The Diversion Information Exchange Forum has its origin in the informal meeting among interested States Parties and signatory States to discuss concrete cases of suspected or detected diversion that they are dealing or have dealt with, that States Parties endorsed as the third tier of the three-tier approach to sharing information on diversion during the Fourth Conference of States Parties. The endorsement of the three-tier approach and the informal meeting followed discussions on this topic in the Working Group on Transparency and Reporting (WGTR), as a mechanism to facilitate the information exchanges that are required or encouraged by the Treaty.*

*At an informal kick-off meeting during CSP5, a second informal meeting and subsequent remote consultations during the preparatory process towards CSP6, all held under the chairmanship of the WGTR co-chairs, States Parties discussed the potential future set-up of the Forum, its working methods and handling of information, and the potential information to be shared. These discussions led States Parties at CSP6 to establish the Diversion Information Exchange Forum as a sui generis body of the Conference for States Parties and signatory States, governed by its own Terms of Reference, that were also adopted at CSP6.*

*The purpose of the Forum is to allow States Parties and signatory States to share concrete and operational information about cases of suspected or detected diversion that they are dealing or have dealt with, so that they can actually prevent it from happening, address it properly when it already has occurred, or help other States preventing or addressing such cases. In that respect, it is meant as a complementary instrument to bilateral exchanges between States involved in a specific case and as a mechanism that facilitates States Parties in the implementation of paragraphs 3, 4 and particularly 5 of article 11 of the Treaty, encouraging State Parties to share relevant information with one another on effective measures to address diversion, and article 15 on international cooperation. The intended outcome of the Forum is to clarify specific cases and identify and discuss appropriate responses, for which sharing concrete and operational information is indispensable. In light of the potential sensitivity and confidentiality of such information, it was thought to be essential that exchanges in the Forum are informal and thus disconnected from regular WGETI and WGTR meetings (without ruling out discussions on general patterns and lessons learnt in the WGETI sub-group on diversion).*

5. The background clarifies that the DIEF is part of the so-called “three-tier approach to sharing information on diversion” which was discussed in the Working Group on Transparency and Reporting (WGTR) and endorsed at CSP4, setting out the overall approach to diversion-related discussions in the ATT process.

**CSP4 decision on the “three-tier approach to sharing information on diversion”**

*[The Conference] endorsed a three-tier approach to sharing information on diversion, subject to each State’s national laws, practices or policies: 1) policy-level exchanges on diversion in the sub-working group on Article 11 of the Working Group on Effective Treaty Implementation; 2) intersessional exchange of policy-related and relevant operational information via the information exchange portal that is under development; and 3) an informal meeting among interested States Parties (and possibly signatory States) to discuss concrete cases of detected or suspected diversion that they are dealing or have dealt with.<sup>5</sup>*

6. The three-tier approach to sharing information on diversion established a link between the DIEF and the Working Group on Effective Treaty Implementation: where the DIEF was to provide a platform for *operational* information exchanges on diversion between States Parties and signatory States, the WGETI would be the platform for *policy* discussions on diversion between all ATT stakeholders. In that regard, it was considered that the operational information exchanges in the DIEF could help identify major trends and general lessons learnt, as well as expose issues that could benefit from policy discussions within the WGETI. This link needs to be acknowledged in the review. It is noted on this subject that the WGETI Sub-working Group on Article 11 mentioned in the three-tier approach has ended its work after CSP9. The termination of this Sub-working Group has a double impact on the operation of the DIEF. First, the ToR of the DIEF make explicit reference to the Sub-working Group on Article 11 in relation to its chairperson, which could be amended.<sup>6</sup> Secondly, with the termination of the Sub-working Group on Article 11, the policy element of the three-tier approach, to which also the ToR of the DIEF refer, is no longer active. In that respect, delegations could reflect on whether there is any gap that needs to be filled considering the existing tools guidance documents generated by the Sub-working Group on Article 11, and whether the DIEF could have a role in that. This is addressed further below (see paragraphs 30-36).

7. For clarity, since the DIEF was established at CSP6, three meetings have taken place.<sup>7</sup> The inaugural DIEF meeting took place during CSP8 (24 August 2022). The second and third DIEF meetings were organized during the second CSP9 session of ATT Working Group meetings (11 May 2023) and CSP9 itself (23 August 2023). In these three meetings, a total of seven presentations were given by six different States Parties.

## **EVALUATION OF CURRENT DIEF MEETINGS AND TERMS OF REFERENCE: CORE ELEMENTS AND OBSERVATIONS**

8. Evaluating the usefulness or success of the DIEF involves two elements. One element concerns the acknowledgement of its importance as a fairly distinctive platform for sharing the kind of operational information that is included in Rules 18-20 of the DIEF ToR. This acknowledgement of its importance has been prevalent since its establishment. Both within the ATT framework and externally, States Parties and other ATT stakeholders have highlighted this explicitly in their statements. Examples outside the ATT framework include statements in the Biennial Meeting of States on the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (UN PoA) and the open debate on Small Arms and Light Weapons in the UN Security Council (highlighting the role of the DIEF in the

<sup>5</sup> See paragraph 24 (e) of the Final Report of CSP4 ([ATT/CSP4/2018/SEC/369/Conf.FinRep.Rev1](#)).

<sup>6</sup> Rule 4 of the DIEF ToR provides the following about the chairperson: “*The Forum shall be chaired by the facilitator of the sub-working group on Article 11 of the Working Group on Effective Treaty Implementation. If the facilitator is not available, or the sub-working group is suspended or cancelled, the Chair of the Forum shall be appointed by the President of the Conference for a period until the conclusion of the following CSP*”.

<sup>7</sup> Rule 3 of the DIEF ToR provides the following about the organization of DIEF meetings: “*The Forum meets up to twice a year, during the sessions of preparatory meetings, and/or the Conference of States Parties, subject to a decision of the President of the Conference, in consultation with the Chair of the Forum and the Secretariat.*”.

exchange of information between States on diversion, as well as the synergies between the ATT and other instruments).<sup>8</sup>

9. The other element of evaluating its usefulness involves looking at the information that States Parties and signatory States have actually shared in DIEF meetings, and assessing whether the DIEF set-up and ToR are in fact adequate to generate the operational exchanges for which the DIEF was established.

10. It is not the intention of this paper to effectively conduct that assessment, as that is within the remit of States Parties. **The paper rather aims to provide a number of observations and questions for delegations to consider, linked to the core elements of the DIEF and the corresponding rules in the DIEF ToR.** These core elements are the following: i) the schedule and frequency of DIEF meetings; ii) the chairing of the DIEF; iii) the participation of non-state experts; iv) presentations that may involve other States Parties and/or signatory States; v) confidentiality; vi) sharing and use of confidential information; vii) types of information that States are encouraged to share and exchange; and viii) a possible oral briefing to the WGETI or the CSP about general patterns and lessons learnt coming out of a DIEF meeting.<sup>9</sup> **One general observation that applies to all elements is that any assessment needs to take into account that experience with the DIEF is still very limited; as indicated, only three meetings have taken place since its establishment.**

### Schedule and frequency of DIEF meetings

#### Rule 3 of the DIEF ToR

*The Forum meets up to twice a year, during the sessions of preparatory meetings, and/or the Conference of States Parties, subject to a decision of the President of the Conference, in consultation with the Chair of the Forum and the Secretariat. For that purpose, the President of the Conference will, at appropriate times, issue a call to States Parties and signatory States to present cases of suspected or detected diversion and to share other diversion-related information in the Forum.*

11. On this topic it is noted that in the first CSP cycle of the DIEF's operation, CSP8, one meeting was held, at the CSP itself. In the CSP9 cycle, two DIEF meetings took place, one at CSP9 itself and one as part of a session of ATT Working Group meetings. Interest in the latter appeared less, as only one State Party gave a presentation. Since there have only been three meetings, it is of course difficult to draw conclusions from this. The rule above provides flexibility to assess concretely in a given CSP cycle whether one or two meetings are appropriate and to take into account any considerations for that purpose, including cost. **In their reflection, delegations need to consider whether this flexibility can be maintained, whether a fixed rule of one DIEF meeting per CSP cycle should be introduced, or another arrangement should be put in place.**

12. **In this context, delegations should also consider the communication about DIEF meetings, and reflect whether more awareness-raising about the DIEF and its purpose of sharing operational information is necessary.**

<sup>8</sup> See the European Union statement of 27 June 2022 on the consideration of the implementation of the Programme of Action at BMS8 ([https://www.eeas.europa.eu/delegations/un-new-york/eu-statement-consideration-implementation-programme-action-eight-biennial-meeting-states\\_en](https://www.eeas.europa.eu/delegations/un-new-york/eu-statement-consideration-implementation-programme-action-eight-biennial-meeting-states_en)) and the Belgian statement of 22 November 2021 referencing the DIEF during the Ministerial-Level Open Debate on Small Arms in the UN Security Council (<https://press.un.org/en/2021/sc14708.doc.htm>).

<sup>9</sup> These core elements reflect the topics on which there was considerable debate during the CSP6 cycle discussions on the establishment of the DIEF. For a summary the discussions on these elements and the rationale behind the corresponding rules, see the WGTR Co-chairs' report to States Parties and signatory States of 23 July 2020 on the progress regarding the Informal Meeting on Diversion Information Exchange during the CSP6 cycle (not available online).

13. **Similarly, delegations should reflect on what could be done to increase the participation of enforcement officers in DIEF meetings.** This is important, because the purpose of the DIEF is to support States' enforcement efforts and more participation of enforcement officers would facilitate the focus of the meeting on exchanging concrete and operational diversion-related information.

### Chairperson of the DIEF

#### Rule 4 of the DIEF ToR

*The Forum shall be chaired by the facilitator of the sub-working group on Article 11 of the Working Group on Effective Treaty Implementation. If the facilitator is not available, or the sub-working group is suspended or cancelled, the Chair of the Forum shall be appointed by the President of the Conference for a period until the conclusion of the following CSP.*

14. Concerning this topic, the rule above was mentioned earlier because it provides as the default option that the facilitator of the WGETI Sub-working Group on Article 11 is also the Chair the DIEF, and this Sub-working Group has since been terminated. The rule nevertheless accommodates this, by providing that in case of suspension or cancellation of this Sub-working Group, the Chair is appointed by the CSP President. **The rule could obviously be amended to make the appointment by the CSP President the only option, but States Parties need to decide whether effectively amending the ToR for this purpose is worthwhile.**

### Participation of non-state experts, presentations that may involve other States Parties and/or signatory States, confidentiality and sharing and use of confidential information

#### Rules 8, 12, and 14-16 of the DIEF ToR

##### Rule 8

*States Parties and signatory States can propose to invite non-state experts with specific expertise in investigating, establishing, identifying and/or addressing cases of diversion to take part in a presentation on a concrete diversion case and the subsequent debate on that case. They shall submit their proposals, describing the purpose of the experts' participation, at least 30 days in advance of a meeting by notifying the Secretariat. The Secretariat will then immediately distribute such proposal to all States Parties and institute a silence procedure for five days.*

*If a State Party objects to a proposal to invite a non-state expert, that State Party shall consult the proposing State and both States shall, by mutual consent, cooperate to pursue resolving the objection. If the objection is not resolved at least 20 days in advance of the meeting, the objection shall then be referred to the State Parties that participate in the meeting for a procedural decision.*

##### Rule 12

*If a State Party or a signatory State intends to present information that may involve one or more other States Parties and signatory States, it shall notify those States Parties and signatory States of its intention at least 30 days in advance of the meeting and request their response at least 15 days in advance of the meeting. The presenting State is required to include the response from those States Parties and signatory States in the presentation.*

*Unless it is legally required to do so in view of the nature of the information it intends to share, the presenting State does not need to obtain the consent of those States Parties and signatory States to be able to give the intended presentation. After the presentation, those States Parties and signatory States shall be accorded the right of reply by the Chair in accordance with rule 24 (2) of the Rules of Procedure for the Conference of States Parties.*

##### Rule 14

*Meetings of the Forum are confidential, including their agenda and all supporting documentation, unless decided otherwise by its participants.*

**Rule 15**

*Participants, including non-state experts invited under rule 8, must ensure the confidentiality of discussions and of all the information that is classified as such by its provider, unless decided otherwise, respectively by consensus among participants and the provider. Non-state experts will be explicitly informed of this obligation prior to the meeting by the State Party or signatory State that has invited them.*

*Any participant, the Chair of the Forum, or the ATT Secretariat may raise with any other participant, bilaterally, questions concerning any suspected unauthorized disclosure of confidential information that was shared during a Forum meeting or via the information exchange platform. In the event of any demonstrated instance of such unauthorized disclosure, the participant with which such concern is raised, will provide an explanation of the matter to the originating participant, and take appropriate remedial measures in accordance with its respective national laws and regulations.*

**Rule 16**

*Participants can share all the information that they obtained in meetings within their competent national authorities, notably their enforcement authorities, while maintaining confidentiality. Any operational use of this information, for example in the context of an export assessment or enforcement proceedings, will be discussed with the provider of the information.*

15. These three core elements all reflect and address the sensitivity of the information which States are encouraged to share in the DIEF. The corresponding rules were included in the ToR as confidence-building measures, to assure States that they can securely share concrete data about cases and concrete operational information about diversion, including details by involved entities (see further paragraph 22 and rules 18 and 19, which list the types of information that States are encouraged to share and exchange).

16. It is observed, however, that the presentations in the DIEF so far did not include concrete data, such as information that would allow identifying the actors involved in the diversion or diversion attempt, nor the States in which the diversion took place or was meant to take place.<sup>10</sup> While some presentations addressed a State's policy measures, also States presenting actual cases States rather described the facts of these cases in general terms, focusing on the actions that it had undertaken to prevent or address the diversion that was to take place or had taken place.

17. In that regard, the notification procedure in rule 12 in case information is presented "*that may involve one or more other States Parties and signatory States*" has been not tested in meetings.

18. The same applies to rules 14 to 16 about confidentiality and the use of information from presentations. It is noteworthy regarding these elements that the presentation of one State Party during the CSP9 DIEF meeting was also made publicly available by the presenters themselves.<sup>11</sup>

19. These observations also make the link with the element of participation of non-state experts in DIEF meetings. The restriction of the DIEF to States Parties and signatory States was effectively based on the premise that this could lead to more in-depth information sharing than would be the case if other ATT stakeholders are involved in DIEF meetings.

20. This all does not necessarily need to lead to the conclusion that the confidentiality of the meetings and the restriction to States Parties and signatory States has been without merit. **In that regard, it would be beneficial for the DIEF to hear from those States that have already presented actual cases in the DIEF to what extent these rules have in fact contributed to their ability to present these cases, even if they did not share any concrete sensitive or confidential information.**

<sup>10</sup> On this topic, further down reference is made to Article 11 (5) of the Treaty and rule 19 of the DIEF ToR, which encourage States Parties to share information such as information on illicit activities including corruption, international trafficking routes, illicit brokers, sources of illicit supply, methods of concealment, common points of dispatch, or destinations used by organized groups engaged in diversion.

<sup>11</sup> [https://www.argentina.gob.ar/sites/default/files/presentacion\\_dief.pdf](https://www.argentina.gob.ar/sites/default/files/presentacion_dief.pdf).

21. Of course, only three meetings have taken place so far and to allow the prospect of the Dief fulfilling its purpose, **it remains important to be able to offer States Parties and signatory States a platform to share concrete and operational information in a confidential setting among them.** This remains so, even if the reach of the Dief would be expanded to also include policy discussions on diversion, which would then involve all ATT stakeholders (see paragraphs 30-36).

### Types of information that States are encouraged to share and exchange

#### Rules 18-20 of the Dief ToR

##### Rule 18

*Taking into account article 11 (3) to (5), States Parties and signatory States are encouraged to share and exchange, on a voluntary basis and in accordance with their respective national laws and regulations, data concerning concrete cases in which they prevented or identified diversion that they consider useful for other States Parties and signatory States to:* 1) assist in addressing the cases at hand; or 2) prevent or address similar cases in the future.

*Useful data are, inter alia, the details of the diversion and its discovery, the timeliness of the discovery, the ways and methods that were used and, where appropriate and feasible, the details of the actors involved. This concerns both closed and ongoing investigations.*

##### Rule 19

*Generally, States Parties and signatory States are encouraged to share any diversion-related information that they deem relevant on, inter alia: a) illicit arms transfer activities including corruption; b) international arms trafficking routes; c) illicit arms brokers; d) sources of illicit supply; e) methods of concealment; f) common points of dispatch; g) destinations used by organised groups engaged in diversion.*

##### Rule 20

*To complement the existing Database of National Points of Contact in the restricted area of the ATT website and to allow for the efficient and effective exchange of operational diversion-related information in the field, States Parties and signatory States may exchange up-to-date contact details of their relevant enforcement authorities through the Secretariat.*

22. The types of information that States are encouraged to share and exchange is obviously a crucial element of the Dief ToR. In that regard, delegations are reminded of the *raison d'être* of the Dief as an instrument of international cooperation, giving effect to Article 15 (4) of the Treaty. The Dief was established to offer States Parties (and signatory States) a confidential platform to share the kind of information with each other that the Treaty requires or encourages them to do so. It is meant as a multilateral complement to bilateral exchanges. In that respect, the enumeration of elements in rule 19 is directly taken from article 11 (5) of the Treaty, which explicitly encourages States Parties to share such information with one another.

23. As indicated above, this kind of concrete, operational information has not been shared in presentations. Also this does not mean that the information exchanges in the Dief have failed to reach any objective; as a minimum the three meetings that took place so far have put the need for (more) international cooperation at the forefront of preventing and addressing diversion. It is nevertheless an observation for delegations to consider when assessing the usefulness of the Dief. **In that respect delegations should answer the question whether sharing this kind of concrete information is in fact feasible in the context of the Dief, even with the confidence-building measures in rules 8, 12, and 14-16 of the Dief ToR and, if so, what can or should be done more to facilitate such exchanges.** In this reflection delegations should take into account the benefits which the exchange of such information with other States Parties and signatory States could

have, for example in the context of risk assessments or enforcement proceedings (cf. rule 16 of the Dief ToR on the use of information).

24. A second observation regarding the information that was shared in Dief meetings, is that presenters also focused on policy measures they have taken to prevent and/or address diversion as well as instruments of international cooperation that have been used in practice or which presenters deem necessary to enhance. This observation raises the question whether this needs to be recognized and whether there is in fact a need to complement the current exclusive focus of the Dief on operational exchanges with a policy-oriented component (see paragraphs 30-36).

25. The last type of information which the Dief ToR encourage States to exchange concerns contact details of their enforcement authorities (through the Secretariat). **It is noted that so far, no State Party or signatory State has provided any contact details of their relevant enforcement authorities to the ATT Secretariat. Delegations should consider whether any action on this would be useful.**

### Possible oral briefing to the WGETI or the CSP about general patterns and lessons learnt

#### Rule 22 of the Dief ToR

*If considered useful and feasible by participants on a case-by-case basis, the Chair will orally brief the WGETI or the Conference on any major trends and general lessons learnt that came out of a meeting of the Forum, and on general issues that could benefit from policy discussions within the WGETI. Giving the briefing and its outline shall be decided by consensus by the States Parties and signatory States that participated in that meeting.*

*In any case, such oral briefing may not contain any information that could allow attribution to a particular State Party or signatory State, unless that State has given its consent. Furthermore, a State that has presented a case during a meeting may object to any briefing that is based on its case, regardless of any possible attribution.*

26. Delegations are reminded that these oral briefings intended to strike a balance between the confidentiality that is needed for States Parties and signatory States to actually share useful information on the one hand and transparency about States' implementation of the Treaty on the other hand. The Chair giving such oral briefing to the WGETI or the CSP has been a standard practice after each of the three Dief meetings that have taken place. These briefings have been well-received. While they have not led to any follow-up policy discussions, delegations are reminded that the primary objective of the Dief is the exchange of operational information itself.

#### ROLE OF THE DIEF IN LIGHT OF THE CSP9 DECISIONS ON THE WGETI AND THE REVIEW OF THE ATT PROGRAMME OF WORK

27. Earlier in this working paper, reference was made to the CSP9 decisions on the WGETI, including its reconfiguration, and the review of the ATT Programme of Work (see paragraphs 2 and 6). Three elements from these decisions are relevant from the Dief perspective: 1) the end of the WGETI Sub-working Group on Article 11; 2) the instruction of the CSP9 "to keep diversion as an important topic of attention in all future discussions in the WGETI", based on the WGETI observation that "the obligation to take measures to prevent diversion is a crucial requirement across-the-board of all types of transfer"; and 3) the observation in the adopted proposal on the review of the ATT Programme of Work that "this review could allow to further align the work of the Dief with the mainstream work of the WGETI".

28. The latter observation was part of a broader note on the DIEF in the adopted proposal on the review of the ATT Programme of Work and its the section about the configuration and substance of the work in the working groups:

*“The Diversion Information Exchange Forum (DIEF) is of a different nature than the WGETI. The purpose of the DIEF is not to discuss measures that States (should) take to implement the Treaty, but to share operational information about concrete cases of suspected or detected diversion. In that respect, the work of the DIEF would remain complementary with that of a reconfigured WGETI. The Terms of Reference of the DIEF also address the relationship between the DIEF and the WGETI, allowing the DIEF Chair to orally brief the WGETI on any major trends and general lessons learnt that came out of a DIEF meeting, and on general issues that could benefit from policy discussions within the WGETI (Rule 22). The DIEF and its usefulness is scheduled to be reviewed at CSP10. This review could allow to further align the work of the DIEF with the mainstream work of the WGETI.” (paragraph 19.d).*

29. Delegations need to consider this possible further alignment of the DIEF with the mainstream work of the WGETI, also taking into account the other listed elements from the CSP9 decisions. **During the 22 February 2024 DIEF meeting, delegations will be invited to share their views on this further alignment.**

30. In reference to paragraphs 6 and 27 of this working paper, one option that might be appropriate to explore is that the DIEF itself offers States an opportunity to address the policy questions that flow from the diversion cases and operational diversion-related information that are presented, as some presenters have already done in past DIEF meetings. For that purpose, States Parties could consider whether it would be feasible to complement the DIEF’s current exclusive focus on operational exchanges with a policy component that would focus on the practical implementation of international cooperation in preventing an addressing diversion. These are not only the overall priorities set in the context of the review of the ATT Programme of Work, but the Treaty also inherently links preventing and addressing diversion and international cooperation together in Articles 11 and 15. This is also acknowledged in the DIEF ToR and during DIEF meetings, with States emphasizing the need for more international cooperation in the daily practice of fighting diversion.

31. In line with the undertaking to further align the work of the DIEF with the mainstream work of the WGETI, the policy-component could concretely address practical measures of international cooperation in preventing and addressing diversion, as well as identify synergies between the ATT and other international instruments and initiatives, including their symbiotic implementation at the national level.<sup>12</sup> This could complement the proposed general exchange of national practices about enforcement arrangements in the new WGETI Sub-working Group on exchange of national implementation practices.<sup>13</sup>

<sup>12</sup> A pertinent example in that respect would be the UN Firearms Protocol and the related Working Group on Firearms, which deals with relevant questions (<https://www.unodc.org/unodc/en/treaties/CTOC/working-group-on-firearms-2023.html>). Also the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (UN PoA) is interesting from the DIEF perspective, in particular its practice of biennially national implementation reports by States in which they are requested to provide information about diversion incidents which occurred, inter alia related to international transfers. This information is made available on the UN PoA website (<https://smallarms.un-arm.org/>). Another example is the Small Arms and Light Weapons Project of the World Customs Union (WCO) that aims to detect and prevent illicit trafficking of SALW (<https://www.wcoomd.org/en/topics/enforcement-and-compliance/activities-and-programmes/security-programme/small-arms-and-light-weapons-project.aspx>).

<sup>13</sup> See the working document on initiating structured discussions and developing a multi-year workplan of the WGETI Sub-working Group on Exchange of National Implementation Practices (<ATT/CSP10.WGETI/2024/CHAIR/775/LetterSub.Docs>).

32. The policy component could provide a platform for exchanges of views with relevant stakeholders, such as international organizations linked to the mentioned instruments, about the work that is carried out within other fora regarding diversion and their possible consideration of the ATT in that context. This could lead to a better understanding of practical diversion challenges within the ATT process and how the ATT can contribute to as well as benefit from initiatives to advance international cooperation efforts.

33. The operational exchanges that are currently the DIEF's exclusive would remain the prime focus of the DIEF, and could also feed into these policy discussions. For example, the types of diversion that are presented in the operational exchanges could be the basis for discussions on measures of international cooperation that can prevent or address such diversion.

34. In terms of participation in such exchanges, delegations should consider whether the policy component of the DIEF could be open to all ATT stakeholders, including civil society and industry.

35. If States Parties would effectively consider complementing the DIEF's current exclusive focus on operational exchanges with some policy component, there are a few implications to take into account. First, this would evidently require revision of the ToR. Suggestions on how this could be approached are addressed in the part on next steps. Second, the practical and budgetary implications would need to be considered. These would depend on the set-up that is eventually preferred, but could be minimal. The policy component could in reality be integrated into the current timeframe and budget of DIEF meetings, for example by having a two-part meeting every time the DIEF meets, or by having one operational meeting and one policy meeting per cycle.

36. Delegations should take these observations into account when reflecting on the further alignment of the DIEF with the mainstream work of the WGETI and consider whether adding a policy component to the DIEF is an appropriate measure to strengthen the DIEF's work and to keep diversion as an important topic of attention in the ATT process. **During the 22 February 2024 DIEF meeting, delegations will be invited to share their views on this possible extended role and its implications.**

## OBSERVATIONS AND QUESTIONS TO CONSIDER AND WAY FORWARD

37. Throughout this working paper a number of observations and questions are put forward for delegations' consideration. **In summary, these observations and questions concerned the following questions for delegations to consider:**

- *Should the flexibility for the CSP President (in consultation with the DIEF Chair of the Forum and the ATT Secretariat) to organize up to two DIEF meetings per year be maintained, should a fixed rule of one DIEF meeting per CSP cycle be introduced or should another arrangement be put in place?*
- *Is more awareness-raising about the DIEF and its purpose of sharing operational information necessary?*
- *What could be done to increase the participation of enforcement officers in DIEF meetings?*
- *Could those States that have already presented actual cases in the DIEF explain to what extent the rules concerning confidentiality and the restriction to States Parties and signatory States have impacted their ability to present these cases, even if they did not share any concrete sensitive or confidential information?*
- *Is sharing the kind of concrete and operational information listed in rules 18 and 19 effectively feasible in the context of the DIEF, even with the confidence-building measures referenced in paragraph 17 and, if so, what can or should be done more to facilitate such exchanges?*
- *Should any action be taken to encourage State Parties and signatory States to provide contact details of their relevant enforcement authorities to the ATT Secretariat (as encouraged in the ToR)?*

- *How could the work of the DIEF be further aligned with the mainstream work of the WGETI?*
- *Should the current exclusive focus of the DIEF on operational exchanges be complemented with a policy component, which would focus on the practical implementation of international cooperation in preventing an addressing diversion?*

38. It is noted that in several of the observations and questions throughout the paper, a caveat is included, which points out that so far only three DIEF meetings have taken place that this might make drawing conclusions about the usefulness difficult. **Delegations also need to take this still limited experience with the DIEF into account in their considerations.**

39. **During the 22 February 2024 DIEF meeting, delegations will be invited to share their views on these questions, and will also have the opportunity to provide any general comment or suggestion. This also applies to other aspects of the DIEF than the core elements that are the focus in this working paper.**

40. The concrete purpose of the discussion on 22 February 2024 will be to provide elements for the report which the DIEF needs to submit to CSP10 about the review of the usefulness of DIEF meetings and its ToR, including draft recommendations and, if applicable, possible amendments to the DIEF ToR.

41. In terms of next steps, following the 22 February 2024 DIEF meeting, the DIEF Chair will prepare a first draft of this report and the draft recommendations for CSP10 to consider. As indicated, and if agreed, the DIEF Chair will subsequently hold the abovementioned virtual informal consultations to seek the view of other ATT stakeholders on the future functioning of the DIEF. For this purpose, the DIEF Chair will set a date in consultation with the ATT Secretariat and subsequently circulate an invitation to all AT stakeholders. Following these consultations, the Chair will finalize the first draft of the report and circulate this to States Parties and signatory States with a view to have a discussion on this draft during the CSP10 Informal Preparatory Meeting on 16-17 May 2024 or during virtual informal consultations with States and signatory States (as the 22 February 2024 DIEF meeting is currently the only scheduled meeting to discuss the review). It is noted, however, that the opportunity to do so during the CSP10 Informal Preparatory Meeting is currently still unclear. Considering this uncertainty, in case the discussions would effectively lead to a proposal that requires substantial revision of the ToR, it might be appropriate that CSP10 only takes a principled decision on this proposal and tasks the DIEF to revise the ToR in line with that decision and submit the revised text to CSP11 for a decision, as a way to ensure sufficient time to discuss the concrete amendments to the ToR. **During the 22 February 2024 DIEF meeting, delegations will have the opportunity to share their views on these next steps.**

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