

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

**ATT DIVERSION INFORMATION EXCHANGE FORUM (DIEF)
 CHAIR'S REPORT TO CSP10**

INTRODUCTION

1. This report 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.”¹

2. To allow for a meaningful discussion, the DIEF dedicated its entire 22 February 2024 meeting to the review exercise. The review was conducted on the basis of a working paper of the DIEF Chair (ATT/CSP10.DIEF/2024/CHAIR/781/DrWP). This working paper was only made available to States Parties and signatory States because CSP9 specifically tasked the DIEF to evaluate the DIEF meetings and its ToR and Rule 6 of the ToR limits participation in the DIEF to States Parties and signatory States. In accordance with Rule 14 of the ToR, like all DIEF documentation, the working paper was also a confidential document.

3. The working paper aimed to facilitate discussions on the DIEF review, as well as on the further consideration of the Treaty's diversion-related information exchange requirements and encouragements within the ATT process in general.² In that respect, the working paper and the subsequent discussion also took into account the CSP9 decisions concerning the WGETI, its reconfiguration, the previous WGETI Sub-working Group on Article 11 and the review of the ATT Programme of Work.³

4. Concretely, the paper addressed two aspects concerning the usefulness of the DIEF. The first aspect concerned the level of recognition of the DIEF's importance as a distinct platform for sharing the kind of

¹ 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](#)). 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>.

² 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.

³ 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](#)).

operational information that is included in Rules 18-20 of the DIEF ToR. The other aspect involved the nature of the information that States Parties and signatory States have actually shared in DIEF meetings and the suitability of the DIEF set-up and ToR for generating the operational exchanges for which the DIEF was established. For that purpose, the working paper provided a number of observations, linked to the following core elements of the DIEF and the corresponding rules in the DIEF ToR:

- 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.

5. To guide the discussions on these elements during the 22 February 2024 DIEF meeting, the working paper also included a number of questions for States Parties and signatory States 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?*

6. In considering these questions as well as all other aspects of the DIEF and the review exercise, States Parties and signatory States were requested to take into account the limited experience with the DIEF, as, only three DIEF meetings have taken place since its establishment by CSP6.⁴

7. This report summarizes the discussions on the different aspects of the review exercise and provides a number of recommendations that have come out of these discussions for States Parties to consider at CSP10.

⁴ 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).

IMPORTANCE OF THE DIEF

8. In addressing the level of recognition of the importance of the DIEF, the working paper of the DIEF Chair referred to instances where States Parties and other ATT stakeholders highlighted this importance explicitly in their statements, both within the ATT framework and externally.⁵ During the 22 February 2024 DIEF meeting, delegations also underlined their support for the DIEF and its purpose, as well as their commitment to make the DIEF a success. Delegations also emphasized that the DIEF is still a young body that needs to develop; in that regard, the exchanges during its three meetings were promising. Delegations further recognized the unique and valuable role of the DIEF, as it facilitates operational exchanges about diversion as no other multilateral body, thereby promoting international cooperation and trust between States Parties and signatory States.

SUITABILITY OF THE DIEF TERMS OF REFERENCE (ToR)

9. In line with their support for the DIEF as a developing body, delegations expressed their reluctance to make substantial changes to the DIEF ToR and its key foundations. This would be premature, as it is too soon for a full review of the ToR. Delegations indicated that the current arrangements are appropriate and provide a clear and transparent framework to manage expectations about information-sharing in DIEF meetings.

10. Concerning **rule 3 about the schedule and frequency of Forum meetings**, delegations supported the flexibility that rule 3 provides to the CSP President to organize *up to* two DIEF meetings per year, during the sessions of preparatory meetings, and/or the CSP (in consultation with the DIEF Chair and the ATT Secretariat). While supportive of this flexibility, some delegations nevertheless considered one meeting per year enough at this stage, preferably to be held during a session of working group meetings. According to these delegations, this would enhance the participation of licensing and enforcement officers in DIEF meetings. In contrast, a few delegations pointed out that some States tend to prioritize participation in the CSP over the working group meetings due to capacity and resource constraints. To increase information-sharing, delegations also made other suggestions about the organisation of DIEF meetings. These included: i) having thematic DIEF meetings, in line with the WGETI discussion topics; ii) organizing regional operational exchanges on diversion; and iii) having the DIEF meetings in a more informal manner and atmosphere.

11. Concerning **rule 4 about the Chair of the Forum**, delegations acknowledged that the reference to the facilitator of the WGETI Sub-working Group on Article 11 in this Rule is no longer valid after this sub-working group concluded its work. Delegations were open on whether or not Rule 4 should be amended to reflect this, as the rule already accommodates this situation, by providing that in case of suspension or cancellation of the Sub-working Group in question, the Chair is appointed by the CSP President.

12. Concerning **rules 8, 12, and 14-16 about the participation of non-state experts, presentations that may involve other States Parties and/or signatory States, confidentiality and sharing and use of confidential information**, States that have already presented actual cases in the DIEF explained that these confidence-building rules were important for them to be able to present their cases. They indicated that this

⁵ Examples outside the ATT framework included 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 exchange of information between States on diversion, as well as the synergies between the ATT and other instruments). See for example 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) 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>).

was also the case when the presented information was not confidential by nature, because sharing information about concrete diversion cases is always considered sensitive. Also other delegations indicated that the purpose of the DIEF can only be fulfilled if the current confidence-building rules stay in place. Open discussions that include other ATT stakeholders do not fit delegations' current expectations about DIEF meetings.

13. Concerning **rules 18 to 20 about types of information that States are encouraged to share and exchange**, all delegations supported the focus on operational exchanges and a large majority did not see a need at this time to expand the scope of DIEF discussions to include *policy* discussions on measures to prevent or address diversion. Delegations also indicated that after the discontinuance of the WGETI Sub-working Group on Article 11, the WGETI suffices as a platform to discuss the practical implementation of diversion-related obligations in general.

14. Concerning **rule 22 about a possible oral briefing to the WGETI or the CSP about general patterns and lessons learnt coming out of a Forum meeting**, a few delegations intervened. Those who did supported such briefings and indicated that they could be a basis for follow-up policy discussions in the WGETI (or in a joint session of the WGETI and the DIEF). Delegations underlined that these briefings constitute a link between the operational work in the DIEF and the policy work and diplomatic dialogue in the WGETI.

CONCLUSIONS AND RECOMMENDATIONS FOR CSP10

15. The DIEF Chair concluded the 22 February 2024 meeting with the following summary of discussions:

- It is too early since the establishment of the DIEF to conduct an overhaul of this body.
- The usefulness of the DIEF is not in question.
- The mandate and scope of the DIEF should remain unchanged for now; any future consideration of broadening the mandate and scope of the DIEF should include an assessment of the practical impact of such extension on DIEF and WGETI discussions.
- The DIEF ToR are still fit for purpose and only slight changes are acceptable. Rule 4 of the ToR on the DIEF Chair could be amended to reflect the termination of the WGETI sub-working group on Article 11.
- It remains important to consider ways to enhance the level of operational information-sharing and the participation of licensing and enforcement officials in DIEF meetings.

16. As to the way forward in the review exercise, the DIEF Chair and delegations concluded that since the 22 February 2024 meeting demonstrated broad agreement among States Parties and signatory States about the importance of the DIEF and all the core elements of its set-up and ToR, no further consultations were necessary. For that reason, it was concluded that the Chair could proceed immediately with the preparation of this report and the DIEF's recommendations for CSP10.

17. Based on these conclusions, the considerations above and the overall discussions on the review of the usefulness of the DIEF, its meetings and its ToR, the DIEF recommends that CSP10:

1) Confirms the importance of the Diversion Information Exchange Forum as a unique platform for States Parties and signatory States to conduct exchanges about concrete cases of suspected or detected diversion and to share concrete, operational diversion-related information, as included in Rules 18 and 19 of the DIEF Terms of Reference;

2) Confirms that the set-up of the DIEF and its Terms of Reference are still fit for purpose;

3) Adopts the updated Terms of Reference for the Diversion Information Exchange Forum, including changes to the background section and Rule 4 (Annex to the Chair's report);

- 4) Encourages all States Parties and signatory States to actively use the Diversion Information Exchange Forum as a means to facilitate international cooperation in order to prevent and eradicate diversion; and*
- 5) Encourages all States Parties and signatory States to facilitate the participation of enforcement officials in DIEF meetings and to provide contact details of their relevant enforcement authorities to the ATT Secretariat, as contemplated in Rules 7 and 20 of the DIEF Terms of Reference.*

ANNEX

Updated Terms of Reference (ToR) concerning the Diversion Information Exchange Forum

Background and purpose

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, which 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).

In line with the task given by States Parties at CSP9, the DIEF reviewed the usefulness of its meetings and its Terms of Reference during the CSP10 cycle. Overall, States Parties and signatory States acknowledged the continuing importance of the DIEF as a confidential body for operational exchanges about diversion and agreed that the set-up of the DIEF and its Terms of Reference are still fit for purpose. Following the CSP9 decisions concerning the Working Group on Effective Treaty Implementation (WGETI), its reconfiguration, the discontinuance of the WGETI Sub-working Group on Article 11 and the review of the ATT Programme of Work, States Parties at CSP10 nevertheless decided to update Rule 4 of the Terms of Reference to reflect the discontinuance of the said Sub-working Group on Article 11.

Set-up of the “Diversion Information Exchange Forum”

1. The “Diversion Information Exchange Forum” (hereinafter: the Forum) is a *sui generis* body for informal voluntary exchanges between States Parties to the Arms Trade Treaty (ATT) and signatory States concerning concrete cases of detected or suspected diversion and for sharing concrete, operational diversion-related information.
2. These Terms of Reference (hereinafter: ToR) govern the functioning of the Forum and the exchanges of information during its meetings as well as any intersessional exchanges and sharing of diversion-related information. The Rules of Procedure for the Conference of States Parties only apply to the Forum when explicitly stated in these ToR.
3. 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.
4. ~~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.
5. The work of the Forum will be supported by the Secretariat.

Participation

6. In line with the aforementioned CSP4 decision, meetings of the Forum are open for all States Parties and signatory States that are interested to discuss and share operational information on concrete diversion cases with other States Parties and signatory States. In that respect, all States Parties and signatory States can participate in all meetings and no objections can be raised.
7. Representation of States Parties and signatory States in meetings is governed by rules 6 to 8 of the Rules of Procedure for the Conference of States Parties.

In line with the purpose of the Forum, representation by enforcement officers in its meetings is strongly encouraged.

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.

Working methods

9. The Secretariat, in consultation with the Chair, shall distribute an invitation to all States Parties and signatory States at least 50 days in advance of each meeting, specifying its date and venue, and shall make the necessary administrative arrangements for the meeting.

The invitation will always include a call to States Parties and signatory States to present cases of suspected or detected diversion and to share other diversion-related information during the meeting.

10. At least 30 days in advance of a meeting, the Secretariat, in consultation with the Chair, will distribute a draft agenda for the meeting to all States Parties and signatory States, including relevant supporting documentation, if feasible.
11. States Parties and signatory States that intend to present a case of suspected or detected diversion or to share other diversion-related information during a meeting are encouraged to notify the Secretariat as soon as possible, even before the notification of the meeting. They shall announce their intention at the latest at the moment that the draft agenda for the meeting is adopted.
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.

13. States that present or intend to present diversion-related information in a meeting of the Forum are encouraged to also share this information via the information exchange platform in the restricted area of the ATT website, where possible.

Unless it concerns national security information or sharing the information would hamper ongoing or pending enforcement proceedings, States Parties are encouraged, in accordance with their national laws and procedures, to share the types of information included in the non-exhaustive list in rule 19 via the information exchange platform.

Nature of the meetings and handling of information

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

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.
17. In line with its confidential nature, no official minutes of the meeting will be drafted, nor an official report.

Types of information that States are encouraged to share and exchange

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.

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.

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.

Output of Forum meetings

21. The intended outcome of any meeting is operational, i.e. exchanges of information and concrete arrangements between involved and interested States Parties and signatory States that will contribute to preventing or addressing the concrete cases of diversion under discussion, or similar cases in the future. These exchanges and concrete arrangements fall within the scope of the confidentiality rules set out in rules 14 to 17.

22. 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.

Languages and documents

23. As to language and documents, rules 46 to 49 of the Rules of Procedure for the Conference of States Parties shall apply, with the exception of the provision in rule 48 that documents shall be made available to observers.

Budgetary Implications

24. Direct meetings costs, such as for technical support, documentation, and any translation and/or interpretation services, shall be covered by the resources allocated for the conduct of meetings in the budget of the Conference of States. Indirect meeting costs, such as travel and accommodation, shall be borne by participants except to the extent that sponsorship funding is available.
