



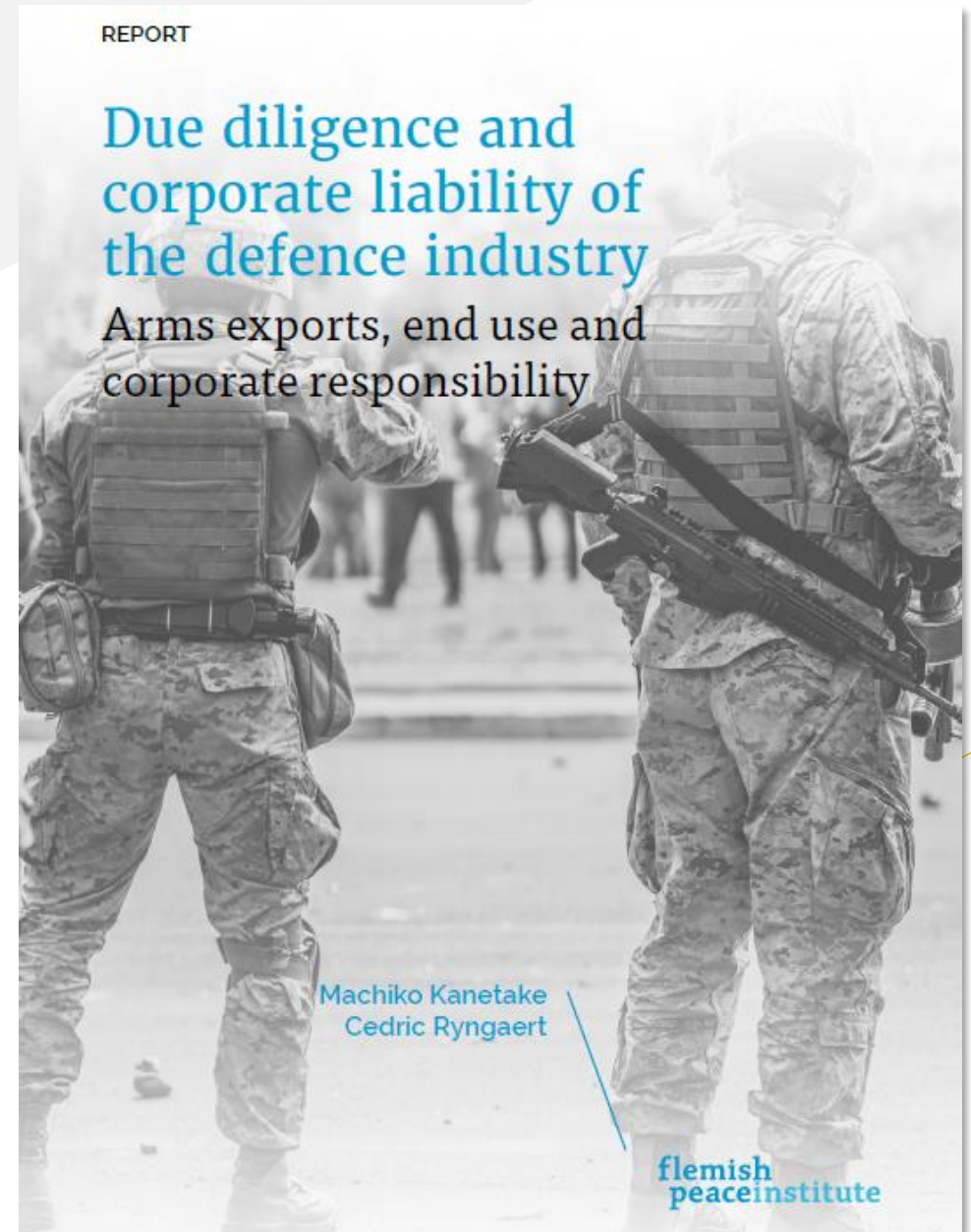
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# Arms-Exporting Companies' Due Diligence

- 1 Concepts of due diligence
- 2 Autonomous due diligence
- 3 Challenges for implementation
- 4 Connection to the ATT

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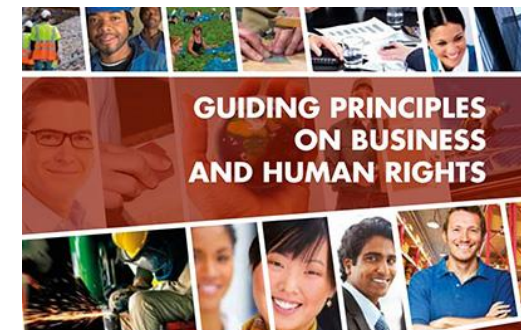
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# 1. Concepts of due diligence

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- Different conceptual variations
  - [1] Risk analysis for businesses
  - [2] Comprehensive processes for risk identification & mitigation
    - UN Guiding Principles (UNGPs) & OECD Guidelines/Guidance
  - [3] ‘Standard of conduct’ for businesses as a basis for liability
    - UNGPs potentially affect the interpretation of the standard of negligence, for instance
- Arms-exporting companies
  - UNGPs apply to the defence industry
    - Referring also to international humanitarian law (IHL)



## 2. Autonomous due diligence by the defence industry

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- State-industry nexus
  - Characteristic of the defence industry
- State's human rights & IHL due diligence sufficient?
  - OECD national contact points: unclear
  - State assessment – not replacement entirely
  - In practice, State-industry nexus creates the industry's reliance upon governmental assessment
  - Changes in the industry's cultures may be needed



### 3. Implementation challenges regarding the industry's due diligence

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- Uncertainty over the role of governmental licensing review
  - Acknowledge the strengths and weaknesses of respective review
- Complexity in interpreting adverse impacts & the level of risks
  - Learning from the ATT's risk assessment
- Difficulty in obtaining information
  - Publicly available information, on the basis of UN, other international organisations, and NGO reports



## 4. Connection to the ATT

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- Relevance of the ATT to the industry
  - ATT defines ‘adverse impacts’ resulting from arms exports
  - Sources of information for risk assessment (List of possible reference documents for Art 7)
- Relevance of the industry’s due diligence to the ATT
  - Substantive information exchange
  - Cultural change

REPORT

## Due diligence and corporate liability of the defence industry

Arms exports, end use and  
corporate responsibility

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