

*Responsible business conduct in the arms sector*

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*Ensuring business practice in line with the UN  
Guiding Principles on Business and Human Rights*

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August 21, 2023

# UN Working Group Information Note

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A more robust and consistent application of the UN Guiding Principles on Business and Human Rights (“the Guiding Principles”) *by States and businesses* in the arms sector is crucial to improving human rights outcomes, as the Guiding Principles are a key tool for States and businesses to model their policies in order to close these gaps.

This challenge is complex, but stronger application of the Guiding Principles across the arms sector—by both States and businesses—is critical to helping to prevent, mitigate, and remedy negative human rights impacts that this sector currently enables.

The synergies & complementarities between arms control frameworks including the ATT and the UNGPs provide an opportunity for stakeholders to exchange on practices and develop relevant guidance towards ensuring responsible business conduct in the international trade in conventional arms.

<https://www.ohchr.org/sites/default/files/2022-08/BHR-Arms-sector-info-note.pdf>

# Governance gap – the starting point for Information Note on arms sector

- States largely do not require arms companies to conduct Human Rights Due Diligence (HRDD).  
E.g. reference to it in the business and human rights sections of National Action Plans (NAPs), or in national legislation or other regulatory requirements.  
“[...] beyond applying export controls and other domestic and international restrictions, most states have not required defence companies to conduct human rights due diligence in their global operations and supply chains”
- This contributes to the prevailing lack of understanding that the Guiding Principles have implications for arms companies beyond mere compliance with export controls.

# Key points – What role for States?

## Under the ATT

Aims to prevent violations of International Humanitarian Law (IHL) and International Human Rights Law (IHRL) – preamble, principles & provisions, including in Articles 6 to 14.

E.g. Art. 7 requires an exporting State Party to assess the potential that the transferred arms or items could be used to commit or facilitate a serious violation of IHL or IHRL, including in particular acts of gender-based violence (GBV) or violence against women and children.

## Under the Guiding Principles

- State Duty to Protect people from harms connected to business activity includes oversight of business itself – all sectors
- This includes States taking any number of measures (a “smart mix”) to ensure that businesses respect human rights
- Guiding Principles 3-7 are particularly relevant. Examples focuses on GP 3, 4 and 7. This is where States use a mix of regulation, guidance, incentives like export credit, procurement, to ensure businesses engage in their own HRDD
- Guiding Principles and updated OECD Guidelines for Multinational Enterprises (2023) are focused on State commitments and are guidance on State responsibilities under international human rights law.

# What do the Guiding Principles call for?

**Respective** responsibilities of each actor without substituting companies' responsibilities with States' obligations or vice versa.

Businesses are meant to respect human rights and prevent harm using a tool called human rights due diligence (HRDD)- many **examples of different sectors coming up with good practices.**

This is a **common framework and language** that is accepted by States, business and civil society – now more than a decade in use.

**It is a simple foundational framework.**

# How are States addressing this?

Under the Guiding Principles and in practice, government uses a variety of tools

- Export credit recruitments (OECD Common Approaches)
- Procurement requirements/rules (Many new developments including requirements relating to modern slavery)
- Customs rules (e.g. US Tariff Act and other forced labor prevention)
- Regulation (e.g. French or German due diligence laws)
- Guidance and good practices – encouraging industry developed standards (e.g. Surveillance HRDD guidance)
- Multistakeholder initiatives and collaboration (Private military and security industry)

# Export license does not remove the need for HRDD

The Information note highlights the reason for the UN Guiding Principles – this is because of failures when States don't engage in proper oversight

And so having a shared responsibility is what is needed for all sectors

Other sectors subject to licensing and regulation also have developed practices relating to human rights due diligence separate from any State approvals

Examples – Pharmaceuticals, Medical Devices, Chemicals, Technology (e.g. surveillance)

## ...further relevance to the ATT

By echoing & integrating the broader discussions on the Guiding Principles, the ATT demonstrates that:

- industry actors have a direct benefit to follow and be involved in the implementation of the ATT
- this involvement aligns with other realities they face already.

Furthermore, by aligning with existing standards, the ATT:

- avoids creating competing expectations for business;
- contributes to prevent, mitigate, and remedy negative human rights impacts that this sector currently enables.

**Welcome this first step towards exchanging of information and good practice with regard to risk assessment and HRDD policies and processes – at the national and regional levels at this CSP cycles; and look forward to this continuing in future CSPs.**