



Ponto de Contato Nacional – PCN  
Portaria Interministerial nº 37, de 19/02/2013

**Statement of Non-Acceptance for Further Examination: Enterprise of non-lethal technologies**

**Notification:** This National Contact Point (NCP) received on September 22, 2015 a notification on non-observance of the OECD Guidelines for Multinational Enterprises formulated by a non-profit organization (Claimant) headquartered in the United States against a Brazilian multinational that produces and trades non-lethal technologies (Enterprise).

**Non-observance of the Guidelines.** According to the Claimant, the multinational company had violated Chapter IV, Articles 1, 2, 3, 4 and 5 of the OECD Guidelines by providing tear gas to Bahrain and other Gulf Cooperation Council countries. The product in question was used in violation to the human rights. The Claimant also refers to the Enterprise's failure to comply with Chapter IV, Article 45, indicating that the Enterprise left unclear whether it undertook an adequate due diligence process that would enable assessing the actual and potential impacts of its products on human rights and, more directly, assessing its contributions to human rights violations in Bahrain.

*IV. Human Rights*

*States have the duty to protect human rights. Enterprises should, within the framework of internationally recognised human rights, the international human rights obligations of the countries in which they operate as well as relevant domestic laws and regulations:*

- 1. Respect human rights, which means they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.*
  - 2. Within the context of their own activities, avoid causing or contributing to adverse human rights impacts and address such impacts when they occur.*
  - 3. Seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts.*
  - 4. Have a policy commitment to respect human rights.*
  - 5. Carry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts.*
- 45. Paragraph 5 recommends that enterprises carry out human rights due diligence. The process entails assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses as well as communicating how impacts are addressed. Human rights due diligence can be included within broader enterprise risk management systems provided that it goes beyond simply identifying and managing material risks to the enterprise itself to include the risks to rights-holders. It is an on-going exercise, recognising that human rights risks may change over time as the enterprise's operations and operating context evolve. Complementary guidance on due diligence, including in relation to supply chains, and appropriate responses to risks arising in supply chains are provided under paragraphs A.10 to A.12 of the Chapter on General Policies and their Commentaries.*

**Assessment.** National Contact Point Brazil, in the initial assessment of the Notification, concluded that the Notification contains elements that keep thematic pertinence with the themes addressed by the "OECD Guidelines for Multinational Enterprises" and complies with the provisions of Article 3, of NCP Brazil Resolution n. 01/2012.



**Ponto de Contato Nacional – PCN**  
**Portaria Interministerial nº 37, de 19/02/2013**

NCP Brazil has consulted the Ministry of Foreign Affairs of Brazil on the information on permits for negotiation and permits for export of such goods by a Brazilian company. This information, however, is confidential, preventing this NCP to determine whether the Enterprise in question had any trade relations with Bahrain.

**Conclusion:** Considering the facts presented are not objectively verifiable, this Brazil NCP is unable to further examine the Notification. Going forward, it understands that offering its services will not positively contribute to the resolution of the matter.

**Other actions of Brazil NCP:** Finally, it is important to note that this NCP notified formally the Ministry of Foreign Affairs of the alleged irregularities regarding the compliance of the Brazilian regulatory framework for permits to negotiate and trade non-lethal technologies.

Brasília, November 18, 2015.