

THE MANUFACTURE, TRADE AND REGULATION OF LAW ENFORCEMENT AND SECURITY EQUIPMENT IN BRAZIL



Omega Research Foundation

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ABOUT

The Omega Research Foundation provides rigorous, objective, evidence-based research on the manufacture, trade, and use of, military, security and police (MSP) technologies worldwide. Our research is used to develop and monitor effective controls and standards on the manufacture, trade, and use of MSP equipment; hold governments to account for the transfers they authorise; challenge questionable transfers of MSP equipment; educate policymakers, journalists & human rights monitors; and provide redress for torture survivors. For more information or to contact us, please visit our website at www.omegaresearchfoundation.org.

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1. INTRODUCTION

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In recent years, the manufacture, promotion and trade of law enforcement and security equipment including, striking weapons, instruments of restraint, electric shock weapons, chemical irritants, kinetic impact ammunition, firearms and live ammunition and stun grenades has grown steadily, as national governments have come to increasingly rely on the use of such equipment to manage prisons, police borders and suppress civil unrest¹. In 2015, the global trade of less lethal weapons was estimated to be worth approximately \$5.65 billion USD. In 2020, this figure is forecast to reach \$8.37 billion USD².

Historically the manufacture and trade of law enforcement and security equipment has been dominated by North American and European companies, but this is no longer the case, with major manufacturers now also present in other regions. One country which has experienced particular success in the sector is Brazil, which over the past decade has established itself as a leading manufacturer and exporter of policing and security equipment. Although Brazil's trade in law enforcement equipment still only represents a small proportion of its broader arms industry, the sector has grown steadily in prominence, driven, in part, by growing domestic and international demand as well as high levels of government support and defence spending.

If well-designed and used in accordance with international human rights law and the principles of legality, necessity, proportionality, precaution, non-discrimination and accountability³, the types of law enforcement and security equipment manufactured by Brazilian companies can play an important role in helping to maintain public order and uphold the rule of law, by giving law enforcement officials the means to provide a graduated response in circumstances where the use of physical force is unavoidable. Indeed, according to the UN Basic Principles on the Use of Force and Firearms (UN Basic Principles), it is crucial for governments and law enforcement agencies to "equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms"⁴, including what were then known as "non-lethal incapacitating weapons"⁵.

At the same time, however, there have been a high number of reported cases of serious injuries and deaths related to the abusive use of law enforcement equipment, resulting in violations to the rights to life and physical integrity, the right to be free from torture or other cruel, inhuman or degrading treatment or punishment (torture and other ill-treatment), and the rights to freedom of expression and freedom of peaceful assembly. Often incidents such as these involve the misuse of equipment by law enforcement personnel and highlight the need for greater training and accountability for individuals who are authorised to use force. However, in many cases, these abuses also raise serious questions about the design and safety of the equipment used by law

enforcement as well as the compatibility of certain types of equipment with human rights norms and standards. In particular, human rights organisations including Omega, observe how poor regulation combined with the privately led growth of the sector has led to the development of types of equipment which are inherently abusive and whose use is inconsistent with the prohibition of torture and other ill-treatment⁶. The use of law enforcement equipment to commit acts of torture and other ill-treatment has also raised concerns about the extent to which the sale of such equipment to abusive regimes is consistent with business and human rights principles and other human rights standards. From this perspective, attempts to prevent the types of human rights violations associated with the use of law enforcement equipment must not only involve better training and increased accountability for law enforcement officials, but also greater regulation of the manufacture, promotion and trade of the equipment itself.



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In response to these concerns, the UN General Assembly (UNGA) has urged states to "take appropriate effective legislative, administrative, judicial and other measures to prevent and prohibit the production, trade, export, import and use of equipment that has no practical use other than for torture or other cruel, inhuman or degrading treatment or punishment"⁷. The UN Guidance on Less Lethal Weapons in Law Enforcement, meanwhile, recommends that States "regulate all transfers, including export and import of less lethal weapons and related equipment in accordance with international obligations. They should put in place risk assessment procedures to ensure that such items are not used to commit or facilitate serious violations of international humanitarian law or violation of the rights to life, to physical integrity, to freedom of peaceful assembly or to a fair trial, or of other due process guarantees or other human rights"⁸. Concerns about the manufacture and trade of law enforcement and security equipment have also been evident at the regional level, with several intergovernmental bodies including the EU and the Council of Europe already implementing or in the process of

developing trade regulations, intended to restrict the manufacture, promotion and sale of certain types of law enforcement equipment⁹.

In the context of growing international concern with the manufacture and trade of law enforcement equipment and weapons as well as Brazil's emergence as a significant competitor in the sector, this report aims to provide an insight into this aspect of Brazil's arms trade, as well as develop recommendations about how this trade can be better controlled and regulated. In order to provide context for the rest of the report, section one briefly introduces the types of law enforcement and security equipment currently used by police and prison officials in Brazil, including their technical features and potential human rights implications. This section also highlights several recent examples of how these types of equipment have been misused by Brazilian law enforcement officials on the streets and in places of detention. Section two of the report then provides an analysis of Brazilian manufacturers of law enforcement equipment and weapons and the products they produce. In doing so, this section also highlights a number of important issues which should be taken into consideration when testing and selecting equipment for use by law enforcement. In section three, the report examines Brazil's trade in law enforcement equipment and weapons, beginning with an analysis of the promotion of Brazilian products globally and Brazil's current import market. This is then followed by an analysis of Brazilian exports of law enforcement equipment and weapons, including several case studies which raise serious concerns about the effectiveness of Brazil's export control regime over the past decade. Finally, the report examines recent changes to the regulations governing the export and import of law enforcement equipment in Brazil and concludes by making a series of recommendations about how these regulations might be strengthened.

METHODOLOGY

Research for this report was carried out by the Omega Research Foundation (Omega) during late 2019 and early 2020. The dataset of information about companies engaged in the manufacture and trade of law enforcement equipment on which this report draws has been maintained and updated by Omega, which has researched the global police and security equipment market since 1990. Omega carries out market surveying on a continuous basis and gathers current as well as historical market, product and trade data from a wide range of open and commercial sources. These include information from company websites and brochures; industry sector publications; government publications; company and financial information from national company registries; government and commercially-produced trade statistics; media organisations; and credible reports and publications by non-governmental organisations (NGOs) and international governmental organisations (IGOs). Unless otherwise stated, data about the size, scope and evolution of the manufacture, promotion and trade of law enforcement equipment is taken from Omega's datasets. Case studies of the abusive use of law enforcement equipment in Brazil and internationally have been drawn from a wide range of sources including, news reports, human rights monitoring body reports and reports published by national and international human rights organisations. All information, including photographs, relating to specific companies is for illustrative purposes only. Unless otherwise stated, it is not intended to infer wrong-doing on the part of these companies and no such inference should be drawn. All of the companies included in this report have been contacted for comment prior to publication.

2. USE OF LAW ENFORCEMENT EQUIPMENT IN BRAZIL

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USE OF LAW ENFORCEMENT EQUIPMENT IN BRAZIL

In Brazil, law enforcement officials are equipped with a wide range of equipment and weapons from instruments of restraint and striking weapons to chemical irritants and firearms, which enable them to provide a proportionate and graduated response to the threats they may face.

Although the primary focus of this report is the manufacture and trade of law enforcement equipment and weapons, in order to provide context for the concerns raised in the report it is nonetheless instructive to begin by analysing the types of equipment that are currently used by law enforcement in Brazil. With this in mind, the sections below briefly examine the different types of equipment and weapons currently used by Brazilian police and prison officials. In doing so, the report will highlight some of the potential human rights implications and risks associated with each type of law enforcement equipment as well as some recent examples of how these have been misused both on the streets and in places of detention.

2.1 Chemical Irritants

Chemical irritants are a range of toxic chemical agents which are widely used by law enforcement officials against individuals engaged in violence or posing a threat of violence and for controlling or dispersing crowds¹⁰. Commonly used irritants include CN or CS (often called tear gas) and OC or PAVA (often called pepper spray), all of which are designed to deter or disable by temporarily producing sensory irritation and pain in the eyes and upper respiratory tract. These chemicals can be delivered via hand-held aerosol sprays, larger shoulder-worn and 'back-pack' style sprayers, hand-thrown grenades, weapon-launched projectiles and grenades, water cannon, and fixed position dispensers which deliver irritants into a specific area.

Exposure to chemical irritants can result in profuse tearing of the eyes, coughing and chest tightness. When used in excessive quantities chemical irritants can also cause difficulty breathing, vomiting, chemical burns, and blistering of the skin. In extreme cases, death either through asphyxiation or chemical poisoning has also been reported. The risks associated with the use of chemical irritants vary depending on a range of factors including the means of delivery used, the location and environmental conditions, the quantity of irritant used, and the age and physical condition of those exposed¹¹. Specifically, the risk of death or serious injury is greatly increased if used in confined spaces, such as prison cells, or in situations where it is difficult for crowds to disperse, such as sports stadiums¹². Such misuse not only increases the risk of overexposure but can also create panic leading to secondary crush injuries. The use of wide-area dispersal mechanisms such as water cannons can also increase the risks associated with chemical irritants, since these methods of dispersal are inherently

indiscriminate, and therefore carry the risk of affecting innocent bystanders or groups which are particularly at risk from the effects of chemical irritants such as the elderly, children, pregnant women or people with respiratory problems. Finally, the use of launched projectiles containing chemical irritants carries the added risk of causing penetration wounds, concussion, other head injuries, and even death, if they hit a person directly.



▲ "#OcupaBrasilia - 24/05/2017 - Brasilia (DF)" by midianinja is licensed with CC BY-NC-SA 2.0.

Recently, UN, regional and national monitoring bodies have all raised concerns about the use of chemical irritants in Brazil, both as a means of crowd control and in places of detention. In 2017, for example, the Brazilian National Mechanism to Prevent and Combat Torture – *Mecanismo Nacional de Prevenção e Combate à Tortura* (MNPCT) reported that the use of pepper spray in places of detention in Mato Grosso state had become 'naturalised' with inmates reported to have been awakened at night with 'spray nozzles inside their cells'¹³. On this issue, the United Nations Subcommittee on Torture Prevention (SPT) stated in its report on a visit to Brazil, that it has 'serious reservations about the use of irritant gases in confined spaces, as it may entail health risks and cause unnecessary suffering'¹⁴.

The use of chemical irritants to police public assemblies has become increasingly widespread in Brazil since the demonstrations that occurred throughout the country in 2013 and the protests during the 2014 World Cup and 2016 Summer Olympic Games in Rio de Janeiro. Since then, it has become common for law enforcement officials to use tear gas and pepper spray to disperse crowds, regardless of the nature of the gathering or the use or threat of violence by participants. In many instances, police use of chemical irritants has been shown to

be excessive or inconsistent with police guidelines. In 2015, for example, military police in Sao Paulo fired tear gas at a crowd protesting increases in public transport fares within a metro station. According to reports, the use of tear gas within a confined space was contrary to police guidelines and caused panic among protestors and members of the station staff to become sick¹⁵.

The use of chemical irritants has also been regularly reported during cultural events, such as music concerts. During a show by the rapper BNegão in Mato Grosso do Sul, in July 2019, the singer announced on stage that two of his producers had been assaulted by police the previous day. Following this announcement, the concert was reportedly abruptly interrupted by police officers who used pepper spray to disperse the audience¹⁶. Such abusive use of chemical irritants was again evident during the 2020 Brazilian Carnival when there were reports of several incidents of chemical irritants being used to end peaceful gatherings in Rondonia¹⁷ and Rio de Janeiro¹⁸. The use of chemical irritants to disperse peaceful gatherings and cultural events is contrary to use of force principles and provides further evidence of a growing trend of Brazilian police using chemical irritants not as an option of last resort, but as a "preventative" measure.

2.2 Electric Shock Weapons

Electric shock weapons emit an electric charge with the aim of incapacitating an individual or ensuring compliance through pain and the loss of muscle control. These weapons come in a variety of forms, but those used by law enforcement in Brazil can broadly be divided into two categories, projectile and direct contact¹⁹.

Projectile electric shock weapons²⁰ fire darts or probes up to a distance of several meters. The darts, which are connected to a launch device by wires, attach to a person's body, delivering an incapacitating electric shock that causes the subject to lose muscle control. The effects of projectile electric shock weapons vary depending on the power of the device, the duration of the shock delivered, the physical condition and underlying health of the person targeted as well as environmental factors, such as moisture on the target's skin. The capacity of projectile electric shock weapons to incapacitate targets at a distance without recourse to lethal force means that their use can be considered legitimate in limited and extreme circumstances. Nevertheless, the powerful nature of the electrical charges delivered by the weapons means that they are prone to abuse and can cause serious health effects such as cardiac arrest, or even death. Furthermore, the temporary loss of muscle control can cause the target to collapse without being able to protect themselves, leading to secondary injuries which can themselves be severe or life-threatening²¹.

It is essential that projectile electric shock weapons are used in accordance with international standards on use of force. The UN Committee Against Torture has recommended that "the use of electrical discharge weapons is strictly compliant with the principles of necessity, subsidiarity, proportionality, advance warning (where feasible) and precaution"²². The Committee previously recommended that "electrical discharge weapons are used exclusively in extreme and limited situations – where there is a real and immediate threat to life or risk of serious injury – as a substitute for lethal weapons and by trained law enforcement personnel only".²³

The second category of electric shock weapons, direct contact electric shock devices, deliver an electric shock when pressed directly against an individual. Direct contact electric shock weapons come in a variety of forms including electric shock batons, shields and stun guns²⁴. These weapons are already being used by law enforcement in many countries and have been widely traded and promoted for both law enforcement and self-defence throughout the world. Unlike projectile electric shock weapons, the shocks delivered by these devices cause intense localised pain but do not generally cause neuromuscular incapacitation. As such they serve no legitimate law enforcement purpose which cannot be effectively accomplished with safer alternatives.



▲ Taser M26 projectile electric shock weapon photographed by the MNCPT during a monitoring visit in 2018 © MNCPT

The capacity of direct contact electric shock weapons to apply extremely painful electric shocks at the push of a button, and to do this repeatedly including to very sensitive parts of the body, such as the neck, throat, ears, underarms, groin and genitals, without long-lasting identifiable physical traces, means that they are prone to abuse. According to the UN Guidance on Less Lethal Weapons in Law Enforcement, the use of these weapons creates an especially high risk of “inflicting pain or suffering so severe that it may amount to an element of torture or cruel, inhuman or degrading treatment or punishment”, and may increase the individual’s level of aggression.²⁵ As such, direct contact electric shock weapons are not appropriate for law enforcement. As such, their manufacture and use for such purposes should be strictly prohibited.

In Brazil, electric shock weapons have been associated with a number of human rights abuses, including the torture of a male detainee at the juvenile detention centre, *Centro de Socio-educação Professora*

Marlene Henrique Alves in North Fluminense, Rio de Janeiro. According to a report by the Rio de Janeiro State Mechanism to Prevent and Combat Torture – *Mecanismo Estadual de Prevenção e Combate à Tortura do Rio de Janeiro* (MEPCT/RJ), in 2015 a juvenile identified only as ‘M’, was subjected to a prolonged period of torture, during which he was beaten, stripped, handcuffed to a fixed object and repeatedly shocked by guards using a ‘taser gun’. The report also notes that the guards wet his body to enhance the effect of the electricity²⁶. Similarly, in 2017, videos posted online, appeared to show members of the Group of Special Penitentiary Operations - *Grupamento de Operações Penitenciárias Especiais* (GOPE) in the State of Goiás, using projectile electric shock weapons both to fire projectiles and in drive stun mode against prisoners who were under their control and posing no threat²⁷.

In addition to their abusive use in places of detention, there have been reports of electric shock weapons being used inappropriately against protestors in Brazil. In 2016, for example, images and video footage disseminated online, appear to show police firing a projectile electric shock weapon into the abdomen of a young student protestor from Campinas, São Paulo, despite having already been brought under control by the officers²⁸.

2.3 Striking Weapons

Striking weapons including batons, truncheons and other clubs are commonly used by police and security forces for public order policing and in places of detention around the world. Such weapons can be made of rubber, wood, plastic or metal and can be short or long (20cm–2m), telescopic, collapsible or side-handled. Certain types of protective equipment such as shields or arm guards are also sometimes used offensively to strike or control suspects. Hand-held kinetic impact weapons are used by law enforcement officials to strike a subject to cause physical pain or to threaten physical pain in order to force them to comply or to deter them from action. Batons and truncheons can also be used defensively by law enforcement officials e.g. to protect from blows from assailants.

If employed in conformity with international human rights law and standards, in particular those relating to use of force, certain types of striking weapons can have a legitimate role in law enforcement. However, torture monitors and human rights organisations have regularly documented examples of the misuse of striking weapons to inflict unnecessary harm or suffering, including through the use of excessive force or by hitting or jabbing sensitive parts of the body. In certain instances, these cases have amounted to torture or other ill-treatment, or have resulted in serious injury or death²⁹.

In Brazil, there have been numerous reports of the misuse of kinetic impact weapons by the police and by law enforcement officials in places of detention. In 2019, for example, the MNPCT reported that during its visits to prisons in the state of Ceará, a large number of prisoners had complained of having their fingers broken by agents of the Penitentiary Intervention Task Force – *Força Tarefa de Intervenção Penitenciária* (FTIP). The report describes the practice of beating fingers with batons as ‘systematic’ and alleges that the FTIP agents may have been acting under the orders of Secretary of Penitentiary Administration, who, in a public hearing

attempted to justify the practice by claiming that it would diminish the prisoners' ability to hold objects and therefore prevent them from attacking other prisoners³⁰.



▲ Injuries caused by the use of striking weapons photographed by the MNCPT during a monitoring visit, © MNCPT

In addition to their abusive use in places of detention, striking weapons have also been misused by Brazilian law enforcement officials in the context of the policing of public protests. In 2017, for example, student Mateus Ferreira da Silva, 33, suffered a traumatic brain injury and multiple fractures and spent 12 days in intensive care after he was struck in the face by a police baton with such force that it caused the baton to break. Ferreira da Silva was attacked during a demonstration in Goiania³¹. Photographs and videos of the incident which did not appear to show the student acting violently or posing any threat to the officer were later circulated online leading to widespread condemnation of the police officer's actions.

2.4 Kinetic Impact Projectiles

Kinetic impact projectiles (sometimes referred to as rubber bullets or pellets) are designed to enforce compliance and subdue a subject through blunt trauma and pain. Kinetic impact projectiles come in a range of calibers and sizes and can be made of a variety of materials including plastic, rubber, wood and foam. Kinetic impact ammunition can contain both single and multiple projectiles and can be fired from a wide range of weapons, including conventional small arms such as shotguns, pistols and assault rifles, as well as 'less lethal' grenade launchers and specialist compressed air launchers.

Although kinetic impact projectiles are not designed to penetrate the body, if misused, they can often cause serious or even life-threatening injuries including lacerations, broken bones, concussion, head injuries or internal organ damage. The risk of serious injury or death is significantly increased if projectiles are fired at close range or aimed at sensitive parts of the body, e.g. the head, chest or abdomen. The use of kinetic impact projectiles in confined spaces or during public assemblies, meanwhile, significantly increases the risk of bystanders being hit.

In Brazil, there have been several reported deaths and serious injuries caused by kinetic impact projectiles being fired from close range and against people posing no threat of violence. On 17th March 2017, for example, a Military Police officer in the State of Pernambuco shot Edvaldo da Silva Alves in the thigh with a kinetic impact projectile from a distance of fewer than five metres during a peaceful protest. Although the projectile was surgically removed from da Silva Alves' body, he later died of a general infection caused by his injuries³². In a similar incident in 2018, a 37-year-old man was seriously injured by a kinetic impact projectile fired from a distance of 10 metres during a peaceful protest. According to medical reports, the projectile caused an injury to the man's superficial femoral artery and left a 2cm perforation to his left thigh. In late 2019, a 16-year-old girl lost sight in one eye after being hit by a rubber bullet fired by police while trying to disperse a 'funk' party in Guaianases, São Paulo³³. According to reports, the party had already been dispersed when the police fired from point-blank range.



▲ 12-gauge kinetic impact projectiles photographed by MNCPT during a monitoring visit, 2018 © MNCPT

In addition to being used against people exercising their right to peaceful assembly, reports suggest that kinetic impact projectiles have also been abused in places of detention in Brazil. In one incident, captured on closed-circuit cameras at the Joinville Regional Prison in Santa Catarina State in 2013, officials, reportedly from the Department of Prison Administration, forced a group of male detainees to strip down to their underwear, line up in tightly-packed rows, crouch down with their hands on their heads and face the wall. Behind the prisoners, a group of approximately 12 armed officials used kinetic impact projectiles and tear gas on the detainees, as well as spraying what appears to be a chemical irritant directly into their eyes³⁴. The MNPCT has also reported on the alleged use of rubber bullets by prison staff against detainees in reprisal for having provided information to human rights monitors in the state of Mato Grosso³⁵.

2.5 Instruments of restraint

Instruments of restraint are designed to restrict or immobilize the movement of a person's body, in whole or in part. Although, handcuffs and leg cuffs are the instruments of restraint most commonly used by law enforcement personnel, others are also used. These vary in size and shape according to which and how many parts of the body they are designed to restrain, the material they are made out of, and other design features.

While conventional restraints such as handcuffs and legs cuffs can be used legitimately and safely by law enforcement personnel, their use may also be considered unlawful if not deployed in conformity with international human rights laws and standards³⁶. UN and regional monitoring bodies and anti-torture NGOs have frequently documented the misuse of handcuffs and leg restraints to increase the level of suffering caused to individuals already under control, for example, through excessive tightening; attachment to fixed objects; prolonged use; the use of stress positions; or the use of restraints in conjunction with other means of force e.g. hand-held batons or pepper spray. Such uses of restraints increase the risk of serious injury or death and may constitute torture or ill-treatment.

In Brazil, human rights organisations and torture monitors have reported numerous cases of restraints being misused by law enforcement personal and prison officers, some of which could amount to torture or other ill-treatment. While the following examples of abuse are particularly egregious, it is important to note that the routine use of instruments of restraint in certain places of detention, including juvenile centres³⁷, and even in some courtrooms³⁸ is also of concern and can amount to a violation of the prohibition of torture and other ill-treatment, the presumption of innocence and other human rights.

In 2017, following visits to places of detention in the state of Mato Grosso, the MNPCT reported that it was 'quite common for prisoners to be cuffed with their hands and feet behind them, passing one instrument of restraint inside the other'. The report added that prisoners are then 'thrown on the floor, belly down, in a position known to them as the "little package"'. At this point, prison guards punch and kick the prisoner, before spraying pepper spray into a plastic bag and placing it over the prisoners' heads'.³⁹ The MNPCT delegation received testimony



Metal handcuffs and leg cuffs fixed to metal bars, photographed by the MNCPT during a monitoring visit, 2017, © MNCPT

from prisoners who lost consciousness more than once during these “torture sessions”. In 2018, meanwhile, the MEPCT/ RJ denounced the use of a “torture technique” called the “ballerina” in the Socio-Education Centre Professor Antônio Carlos Gomes da Costa, a juvenile centre for girls. This consisted of handcuffing the victim’s hands above them, thus forcing them to remain on their toes to avoid arm pain⁴⁰.



▲ A prisoner restrained using hinged metal handcuffs, photographed by the MNCPT during a monitoring visit, 2017, © MNCPT

In addition to the use of stress positions, torture monitors have also reported the inappropriate use of restraints on vulnerable detainees. In 2016, for example, the MEPCT/RJ reported that nine victims of a fire at the *Escola João Luiz Alves*, a juvenile detention centre, were taken to the Souza Aguiar Hospital in Rio de Janeiro for treatment. In its report, the mechanism expressed concern that during their hospitalization the adolescents were kept handcuffed to their beds, despite being very weak and some having burns on their wrists. One teenager died shortly after arriving at the hospital, while another boy died in the hospital days later, where he was kept handcuffed until his last hours of life⁴¹. In another case in 2018, the MEPCT/RJ reported that, despite a State Law that prohibits the use of handcuffs during labor, a pregnant woman in Rio de Janeiro was kept handcuffed to her hospital bed until she was giving birth and then again during the night after she had given birth⁴².

2.6 Firearms and live ammunition

Firearms which are loaded with conventional metal-jacketed ammunition are designed to kill. Firearms commonly used by police and other law enforcement officials include pistols, shotguns and rifles⁴³.

According to the UN Basic Principles, lethal firearms are, as a general rule, not appropriate for the management of mass gatherings or in places of detention and should only be used when ‘strictly unavoidable in order to protect life’⁴⁴. Furthermore, the use of firearms in fully automatic or burst fire mode should not normally be used for law enforcement purposes⁴⁵.

Nonetheless, each year thousands of people are killed globally by law enforcement officials using lethal firearms. The problem of police shootings is particularly acute in Brazil, where the excessive and unnecessary use of lethal force is common in the context of the so-called “war on drugs”. In 2018, the number of people killed as a result of police operations rose to a record high level of 6,220, equivalent to 17 deaths every day⁴⁶. Even with a sharp fall of crimes during the Covid-19 pandemic, the number of deaths continues to rise, especially in states with a history of high lethality such as Rio de Janeiro, Sao Paulo and Goiás⁴⁷.



▲ Firearms photographed during a monitoring visit by the MNCPT, September 2017 © MNCPT

Many have attributed this recent increase in police killings in Brazil, to the rhetoric and policies of the Brazilian Government, whose hardline approach to tackling criminality has attracted widespread international condemnation. In 2019, for example, President Bolsonaro’s Government introduced a bill, the effect of which, makes it easier for police officers who use lethal force to avoid prosecution. Commenting on the bill, President Bolsonaro said that if the proposals were approved by congress then criminals would ‘die in the streets like

cockroaches⁴⁸. However, there are also systemic, long-standing reasons for the number of deaths related to the use of firearms by law enforcement, particularly the militaristic culture and tactics adopted by some Brazilian police forces, including the reckless use of high-powered automatic weapons in densely built-up areas as well as the use of helicopters as platforms from which to shoot at suspects⁴⁹. In addition to the widespread use of firearms in non-custodial settings, lethal weapons are also carried on a routine basis by security personnel in prisons and other places of detention. In these contexts, firearms are often used to threaten or intimidate prisoners, although some deaths have also been reported⁵⁰.



▲ A shotgun held by a prison officer, 2018 © MNCPT

2.7 Stun Grenades

Stun grenades, also known as disorientation devices or flash-bangs are weapons designed to generate a loud explosion and/or a flash of light in order to cause disorientation (temporary blindness, temporary loss of hearing and loss of balance) and panic. Some models also dispense chemical irritants, inert smoke or rubber projectiles. Stun grenades were originally developed for military purposes, but in recent years have increasingly been used for crowd control in some countries, including Brazil.

The explosive nature of stun grenades means that they have the potential to create serious and even life-threatening injuries due to the pressure of the blast or shrapnel from the fragmentation of the grenade, with the risk of serious injury increasing in accordance with a person's proximity to the blast. The loud bangs and flashes created by stun grenades can also cause panic among crowds leading to secondary injuries such as falls or crushing. A 2015 investigation published by ProPublica, found over 50 cases of severe injuries and deaths

caused by stun grenades in the United States alone since 2000⁵¹.

Given their indiscriminate nature and their propensity to cause panic, stun grenades should not be considered as an acceptable means of crowd control. The UN Human Rights Guidance on Less Lethal Weapons in Law Enforcement states that "the use of pyrotechnic flash-bang grenades directly against a person would be unlawful".⁵² Furthermore, grenades which are explosive or fragment are not appropriate for crowd control.

In Brazil, there have been several documented cases of life-changing injuries sustained from the use of stun grenades. In 2013, for example, student Vitor Araújo lost sight in one eye after being hit by shrapnel from a stun grenade during a protest in downtown São Paulo⁵³. In a similar incident in 2016, 19-year-old student Deborah Fabri was left blinded in one eye after shrapnel from a stun grenade thrown by police during a peaceful protest in Brasilia punctured her left eye⁵⁴. More recently, there have been a number of reports of police officers using stun grenades to disperse crowds peacefully celebrating cultural events. In February this year, for example, stun grenades were reportedly thrown by police at crowds of people attending street carnival celebrations in Porto Alegre⁵⁵ and Rio de Janeiro⁵⁶. Reports suggest that the police provided little or no warning to attendees before throwing the grenades, as Bruno Lapa who attend the Rio de Janeiro event commented, 'the police showed up in some 20 vehicles throwing bombs, there was no dialogue'⁵⁷.

2.8 Regulation of the use of law enforcement equipment

At an international level, norms and standards governing the use of law enforcement equipment and weapons are well established. The UN Basic Principles, for example, provide detailed guidance on the legitimate use of force by law enforcement officials with an emphasis on the lawful use of firearms⁵⁸. More recently, the UN Guidance on Less Lethal Weapons has outlined a wide range of standards focused more specifically on the use of less lethal weapons and equipment, such as chemical irritants and kinetic impact projectiles⁵⁹. In Brazil, these and other standards have gradually begun to be reflected in domestic law. Inter-ministerial Ordinance no. 4,226, of December 31, 2010, from the Minister of State for Justice and the Chief Minister of State of Human Rights Secretariat of the Presidency of the Republic, for example, establishes broad-ranging guidelines on the use of force, including the requirement that 'use of force by public security agents must comply with the principles of legality, necessity, proportionality, moderation and convenience'⁶⁰. More recently, Law No. 13,060, of December 22, 2014, established that law enforcement officials (not including prison officials) in Brazil must 'prioritize the use of instruments of less offensive potential, as long as their use does not jeopardize the physical or psychological integrity of the police'⁶¹. The law also establishes the requirement that training courses for law enforcement officials must include content that enables them to use less lethal weapons.

While the development of these standards is commendable, it is clear from the cases outlined in the section above that existing guidance on the use of law enforcement equipment and weapons in Brazil is insufficient. In a report submitted to the UN Human Rights Council in 2016 the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment called on the Brazilian government to close the 'gaps in Law No. 13.060' by defining 'which weapons qualify as non-lethal and elaborate[ing] on the interpretation of "legality", "necessity" and

“proportionality”⁶². More recently, the National Council on Human Rights (CNDH) has recommended the adoption of new measures to regulate the use of less lethal weapons in the national penitentiary system, including guidance to clarify the types of less lethal instruments that the security forces are allowed to carry and circumstances in which their use is authorised⁶³.

A comprehensive analysis of the strengths and weaknesses of existing Brazilian use of force regulations is well beyond the scope of this report. Nevertheless, Omega supports calls to develop additional more detailed guidance on the use of law enforcement equipment and weapons by Brazilian police and prison officials. Any additional regulations should not only reflect broad use of force principles, such as the need for proportionality and necessity but also provide more detailed guidance which takes into consideration the specific technical capabilities and risks associated with all types of equipment used by law enforcement officials, including the issues highlighted in the section above.

Recommendations

Omega calls on relevant national authorities in Brazil to:

- Ensure that domestic legislation, protocols and guidelines governing the use of force and firearms and all other law enforcement equipment comply with international human rights laws and standards; that these standards are effectively implemented by officials exercising law enforcement duties; that civil society organisations are invited to actively participate in any process designed to amend these standards; and that there is independent oversight and accountability for any abuses.

Omega calls on monitoring bodies tasked with visiting places of detention and/or monitoring the public use of force to:

- Provide their members with the training and information necessary to accurately document use of force incidents and allegations, including details of the equipment used. This may include the development of a standardised list of equipment and common abuses to look out for.

3. MANUFACTURE, SELECTION AND TESTING

Over the past few decades, defence manufacturing in Brazil has been through several cycles of growth and stagnation, from its peak in the 1980s, through a period of decline in the 1990s, to a steady recovery during the 2000s. Over recent years, Brazil's defence industrial base (IDB) has continued to strengthen, driven in part by a growing domestic and global demand for defence products, but also by government economic and diplomatic support for the sector.

For decades, the Brazilian Government, like many others, has considered the defence industry as strategic to the country's broader economic and foreign policy agenda. From this perspective, government officials view the export of Brazilian manufactured arms, not only as a tool of wealth creation but also as a means of closing the economic and political gap between Brazil and other more economically developed nations, by advancing technological development and projecting an image of modernity and military power.

This perception of the arms industry as strategically important has encouraged successive governments to provide financial support to the sector, through a range of grants and low-interest loans⁶⁴. Between, 2008 and 2015, for example, Brazil's National Development Bank (BNDES) granted roughly \$70.5 million USD in low-interest loans to defence companies⁶⁵. In addition to grants, defence manufacturers have also received government financial support in the form of tax relief. The Special Taxation Regime for the Defence Industry (Retid), for example, is designed to encourage development in the 'strategic area of defence' by reducing charges associated with production and incentivising innovation and the development of new products⁶⁶. The Brazilian government estimates this incentive programme cost a total of R\$ 327,570,975 from 2014 to 2018⁶⁷. More recently, the defence sector has been further bolstered by the election of the conservative president Jair Bolsonaro, whose pro-military policies have helped to ensure continued support for the defence sector and have created a political environment that is sensitive to the industry's demands.

Together these factors have allowed Brazilian defence manufacturing to continue to grow, establishing Brazil as the predominant defence manufacturer in the region. According to a survey by the Secretary of Defence Products (SEPROD), in 2019 alone, there was an increase of 16% in the number of Defence Companies (ED) and 11% of Strategic Defence Companies (EED) accredited, in comparison with 2018⁶⁸. The survey also revealed that during the same period there was a 21.8% increase in the number of companies taking advantage of the government's Retid tax regime⁶⁹.

Although manufacturers of law enforcement equipment and weapons represent only a minority of defence companies, their fortunes and the factors underpinning their success have largely mirrored those of the sector

as a whole. Civil unrest both domestically and internationally has increased demand for police and crowd control equipment. The country's hosting of major international events such as the World Cup in 2014 and the Olympics in 2016, meanwhile, saw Brazilian authorities invest heavily in law enforcement equipment and award lucrative contracts to domestic companies such as Condor Non-Lethal Technologies (Condor) for the supply of rubber bullets, tear gas, and electric shock weapons ahead of the events⁷⁰.

Like other defence companies, Brazilian manufacturers of law enforcement and security equipment have also benefited from government support as well as a steady rise in military expenditure and spending on public security and prisons more generally⁷¹. Among the many recipients of BNDES support, for example, have been manufacturers of police and security equipment including Taurus and Companhia Brasileira de Cartuchos (CBC) who between 2008 and 2015 received \$16.7 and \$2.9 million USD in low-interest loans respectively.

More recently, BNDES, together with the Financier of Studies and Projects - *Financiadora de Estudos e Projetos* (FINEP) and other public agencies, have also provided financial support to manufacturers of law enforcement equipment through the Inova Aerodefesa programme. The scheme formed part of the Brazilian Government's broader Inova Empresa scheme which provided financial support for companies across several sectors considered strategic by the Federal Government. The Aerodefesa part of the programme was intended to support research and innovation across a broad range of aerospace and defence projects. Among the various thematic lines supported by the programme were projects to encourage research and development of 'Non-lethal technologies' including, 'jets and sprays; light grenades; tasers; shock sticks; sonic firing; hot waves; electric incapacitation pistols; other devices'⁷². In total 91 projects from 64 major Brazilian companies were selected for funding with resources from the Inova Aerodefesa programme, including the less lethal weapons manufacturer Condor, who had previously already received over R\$4 million in grants from FINEP to support the development of its 'SPARK' projectile electric-shock weapon⁷³. Details released by FINEP reveal that the approved business plans had a budget of R\$8.6bn (approximately \$3.7bn USD) - over three times more than was initially budgeted for the programme⁷⁴.

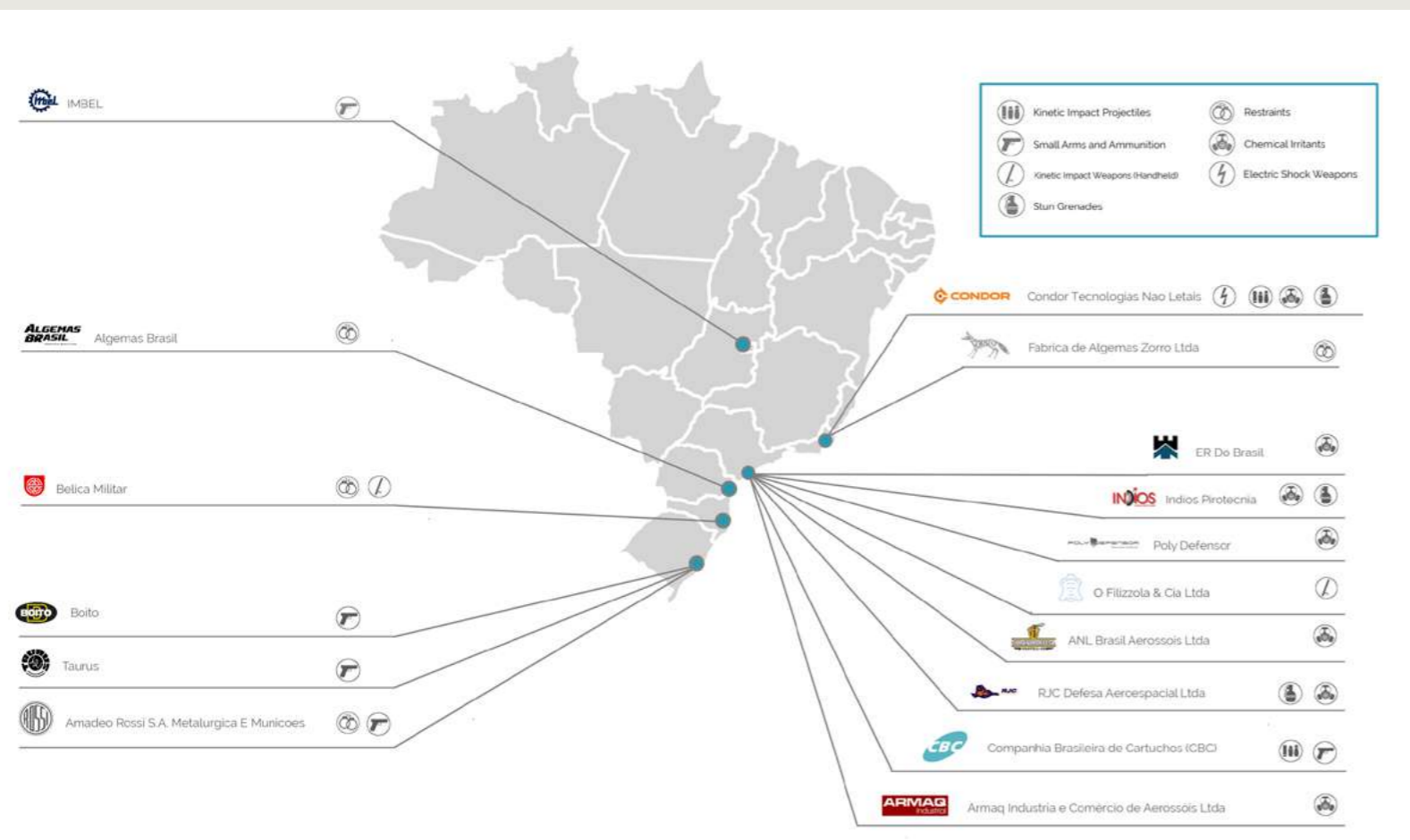
This combination of growing demand and government support has allowed Brazilian manufacturers of law enforcement equipment and weapons to rise in prominence with several companies establishing themselves internationally as market leaders. Indeed, such has been the success of companies such as Condor, CBC and Taurus that these companies are now classified as EED's, a designation more commonly reserved for manufactures of conventional weapons and military equipment such as Indústria de Material Bélico do Brasil (IMBEL) and AVIBRAS⁷⁵.

In the process of compiling this report, Omega identified a total of 16 Brazilian companies involved in the manufacture of various types of law enforcement equipment and weapons including, chemical irritants, electric shock weapons, kinetic impact projectiles, handheld kinetic impact weapons, restraints, small arms and ammunition, and stun grenades (see map below).

The companies identified range widely in size and structure from small and medium-sized enterprises (SMEs) serving the domestic security market to international companies with complex networks of subsidiaries and operations across the world. Some of these companies such as Condor and Poly Defensor specialize in less lethal equipment, whereas others, like CBC and IMBEL, manufacture law enforcement equipment as part of a broader catalogue of conventional arms. While the majority of the companies are based in the industrial and commercial hubs of Rio de Janeiro and São Paulo, the findings revealed the presence of manufacturers of security equipment across the country, including in less economically developed states such as Goiás and Santa Catarina. Finally, although the list of manufacturers includes the state-owned company IMBEL, the research revealed that the current marketplace for security equipment in Brazil is dominated by privately-owned companies, some of whom have expanded into foreign markets.

The map below provides details of each of the companies identified during the research, including company names and the categories of equipment manufactured⁷⁶. While every effort has been made to make this information as comprehensive as possible, given the ever-changing nature of the global trade in military and security equipment, the list should not be considered as definitive but rather as illustrative of the diversity, scope and scale of Brazil's trade in law enforcement equipment and weapons.

Figure 1: Brazilian Manufacturers of law enforcement equipment and weapons



3.1 Testing and Selection of law enforcement equipment

Although some Brazilian manufacturers of law enforcement equipment and weapons export their products (see exports section below), the largest market for these companies remains Brazil itself. As a result, many of the products manufactured by these companies are currently used by law enforcement agencies across the country.

In section one, this report highlighted how adequate use of force protocols and accountability mechanisms can help to reduce the risks associated with the use of law enforcement equipment and weapons. However, these risks can also be directly affected by the design and manufacture of the equipment itself. As such, when attempting to minimise the number of deaths and serious injuries caused by law enforcement equipment and weapons, it is important not only to ensure that force used by law enforcement officials is in accordance with international human rights standards, but also that the equipment used is well-designed and appropriate for the operational context in which it is deployed. In particular, it is essential that all equipment and weapons used by law enforcement officials are rigorously and independently tested prior to selection and procurement. According to the UN Guidance on Less Lethal weapons, these tests should,

*'take into full account both the required and the potential capabilities and effects of the weapons, and should be based on impartial legal, technical, medical and scientific expertise and evidence. Testing should evaluate the effects of all reasonably likely or expected uses of the weapons. Particular consideration should be given to assessing the potential effects of using less lethal weapons and related equipment against individuals who may be especially vulnerable'*⁷⁷.

Furthermore, the guidance notes that, 'Less lethal weapons and related equipment whose designated, expected or intended use does not comply with the rules governing law enforcement, or which presents undue risk of loss of life or serious injury to anyone, including criminal suspects, bystanders or law enforcement officials themselves, shall not be authorized for procurement, deployment or use'⁷⁸.

In Brazil, the Ministry of Justice and Public Security (MJSP) through the National Secretariat for Public Security (SENASP) has recently created the National Programme for Standardization and Certification of Public Safety Products (Pro-Seguranca). The programme, which was brought into existence by Ordinance No. 104, of 13th March 2020⁷⁹ in accordance with § 3 of article 17 of Decree No. 10,030 / 2019⁸⁰, is intended to 'establish Technical Standards that contemplate the minimum requirements for safety, quality and performance of equipment, products and public safety services'⁸¹.

The process for developing standards through Pro-Seguranca consists of several stages, including a consultation with experts and councils representing public security institutions and a public consultation. The public

consultation phase, which should last for a minimum period of 30 days, is intended to provide an opportunity for a broader review of standards by all relevant stakeholders. Early consultations on some of the first draft standards published by SENASP, including one on electric shock weapons, have involved the publication of a preliminary text on the MJSP's website, where individuals are able to express their support or objection to a proposed standard and make suggested changes to the text. It is then the responsibility of SENASP to respond to public feedback as necessary. Following the public consultation phase, a consolidated document is then published as a SENASP technical standard.

In order to be certified, products or services must be tested to ensure compliance with the requirements of the relevant standard. According to the ordinance, these procedures must be conducted by a quality certification body and/or laboratory accredited by the National Institute of Metrology, Quality and Technology (Inmetro).

Once established, the technical standards developed by SENASP will need to be observed during the procurement of any relevant type of law enforcement equipment, where the body involved uses 'financial resources from the General Budget of the Union, including those of the National Security Public Fund'. However, in circumstances where the budgetary resources used to procure the equipment are not federal in origin, the ordinance notes that adherence to the standards will be optional only.

At the time of writing, SENASP has published one standard related to the technical specification of 'Pistols, calibre 9x19mm and .40 S&W' and is in the process of developing another related to electric shock weapons or what the standard itself terms 'Electro-Electronic Neuromuscular Incapacitation Weapons'. Responding to a request for information from Omega, SENASP also confirmed that it was planning to develop standards on rifles and carbines and ballistic vests in the near future and that, standards on other types of law enforcement equipment and weapons would be published in 2021 and 2022.

Although the Pro-Seguranca programme is still in the early stages of its implementation, it is clear from the programme's procedures and scope, that it is a positive development which has the potential to help improve the safety and quality of the equipment and weapons used by law enforcement officials in Brazil. The requirement that draft standards be subject to public consultation is particularly commendable and should help to ensure greater transparency and scrutiny of the process.

Nevertheless, an initial analysis of the programme's design and early implementation does highlight some areas of concern. Firstly, although the stated objective of Pro-Seguranca is to 'contemplate minimum requirements for safety, quality and performance of equipment', Ordinance No. 104 does not specify explicitly whose safety the standards process is designed to enhance. Specifically, the text of the ordinance does not make clear whether the standards developed are intended to minimise the risk of malfunctioning equipment injuring law enforcement officials or to enhance public safety by ensuring that the weapons and equipment used are capable of achieving likely operational objectives with the minimum force necessary. Indeed, 'human rights' is not referred to anywhere in the text. Secondly, although members of civil society and other independent

stakeholders are given an opportunity to participate in the creation of SENASP technical standards through the public consultation phase, the initial development of the standards is conducted almost entirely by individuals affiliated with law enforcement agencies. Given that Pro-Seguranca is a relatively new programme, it is too soon to judge the extent to which public comments on draft standards are able to significantly impact their development. Nevertheless, greater involvement of stakeholders from civil society, including human rights and legal experts, at an earlier stage would help to ensure that a focus on human rights and public safety is maintained. Finally, according to the text of the ordinance, SENASP will only consider the development of standards and requirements for products designated as 'controlled products' (PCE) under the terms of Decree No. 10,030. In practice, this means the programme will not develop standards related to the manufacture and selection of restraints or handheld kinetic impact weapons, since neither of these are designated as controlled products.

Although it is beyond the scope of this report to outline detailed recommendations for the technical specification of all types of equipment used by Brazilian law enforcement, taking the work of SENASP into consideration, the sections below examine in more detail the types of equipment currently manufactured by the Brazilian companies, indicating the types of technical features which should be considered when developing standards related to their performance and safety. In doing so, these sections also highlight a number of Brazilian manufactured products of concern, including some which Omega considers as inherently abusive, and whose manufacture and use should therefore be strictly prohibited.

3.1.1 Chemical Irritants

Given the diversity of chemical irritant weapons currently manufactured for use by law enforcement, multiple factors need to be considered during their selection, and these can vary significantly depending on the type and design of the device in question. The risks associated with chemical irritant devices are, first and foremost, determined by the toxicity and concentration of the chemical agent used and the quantity delivered. However, the potential danger of chemical irritant projectiles can also be affected by their kinetic energy and accuracy, while the level of risk involved in the use of chemical irritant grenades may vary depending on their explosive energy. Chemical irritant sprays also present a risk from the pressure of the contents, the solvents used or whether solid agent is expelled – all of which could potentially cause eye injuries.

Despite their widespread use by law enforcement around the world, there currently exist no international standards which effectively regulate the chemical agent concentration, quantity delivered or design of chemical irritant weapons⁸². As such, in order to ensure that chemical irritant weapons can be used in accordance with international human rights standards, it is essential that they are rigorously and independently tested prior to their selection, procurement and deployment. At a minimum, these tests should assess the risks posed to the target, for example through the toxicity and quantity of the irritants used; the accuracy and kinetic energy of projectiles; or the explosive energy of grenades where appropriate. Assessments should also be made to determine the risk and effects on individuals or groups who may be especially vulnerable, such as children, the

elderly and pregnant women⁸³.

To facilitate medical treatment and public acceptance, the results of these tests should be made publicly available along with any documentation concerning the equipment's technical specifications, features and use parameters⁸⁴. Finally, given the diversity of chemical irritant weapons available to law enforcement, it is also essential to ensure that the type of chemical irritant weapon selected is appropriate for use in the operational context for which it is intended.

Omega's records and research carried out for this report has identified a total of seven Brazilian companies involved in the manufacture of some form of chemical irritant and/or associated delivery mechanism. Six companies including RJC Defesa Aeroespacial Ltda, ANL Brasil Aerossois Ltda, ER Do Brasil, Condor, Armaq Industria e Comércio de Aerossóis Ltda, and Poly Defensor manufacture various types of chemical irritant sprays. Most of these sprays are marketed for use by law enforcement officials, but some products manufactured by ER Do Brasil, ANL Brasil Aerossois Ltda, and Poly Defensor are also marketed as self-defence products.

Most sprays manufactured by these companies contain chemical agents commonly used in irritant sprays such as OC, or CS. Notably, however, the sprays developed by Poly Defensor are formulated using ingredients such as a 'ginger extract' and camphor, which the manufacturer claims, are safer than chemical alternatives. The company also claims that these products have been approved by public bodies after being subjected to testing. However, aside from a technical note containing very little information published by the Brazilian National Health Surveillance Agency (ANVISA) in 2015, there seems to be a lack of information in the public sphere as to the nature of these tests⁸⁵. In order to ascertain their effectiveness and safety, therefore, further research and testing of these chemical alternatives should be carried out and the results made publicly available.

In total three companies, Indios Pirotecnia Ltda, Condor, and RJC Defesa Aeroespacial manufacture hand-thrown and/or weapon-fired chemical irritant grenades or projectiles. Alongside its extensive range of chemical irritant devices, Condor also manufactures 38mm and 40mm launchers designed to fire chemical irritant and other projectiles.

3.1.2 Electric Shock Weapons

Despite their growing use by law enforcement officials in Brazil and around the world, there currently exist no international standards that effectively regulate the design or performance of projectile electric shock weapons, including the strength of their electrical output or accuracy. As such, prior to their selection, procurement and deployment, it is essential that all electric shock weapons are rigorously and independently tested to ensure that they function correctly and are capable of being used in accordance with international human rights standards. Specifically, tests should be carried out to ascertain the electrical output of the device, ensuring that the weapon is capable of effectively incapacitating the target, with the shortest possible application of electrical shock and without causing serious injury or damage to internal organs. Tests should also be conducted to establish that the products can be fired accurately at the range at which it is designed to

Handheld chemical irritant sprays manufactured by Poly Defensor on display at Milipol 2019 © Robin Ballantyne/Omega Research Foundation



be used. In order to facilitate medical treatment and inform public discourse, the results of these tests should also be made publicly available along with any relevant documentation pertaining to the equipment's technical specifications, functions and use parameters.

In order to promote accountability and transparency related to the use of projectile electric shock weapons, only products that maintain an electronic record of every use should be permitted. The data recorded by these weapons should be made available to internal oversight bodies, investigators, prosecutors and torture monitors.

Finally, given that the use of projectile electric shock weapons should be limited to situations in which officers are faced with an imminent threat of death or life-threatening injury, when selecting equipment for deployment, due consideration should be given to the operational context in which they are likely to be used. Specifically, it is important to consider whether the selected weapon can be used proportionately and lawfully in this context and whether the same objectives could be achieved by less harmful means.



▲ SPARK DSK 700, projectile electric shock weapon manufactured by Condor on display at Milipol 2013 © Robin Ballantyne/Omega Research Foundation

Although there are many imported direct contact electric shock devices available for sale in Brazil, Omega has identified only one domestic manufacturer of projectile electric shock products at present, namely Condor, who with the support of government funding has developed and marketed the Condor 'Spark'. According to its operating manual, the Spark can be used either as a projectile electric shock device or in direct contact ('drive stun') mode and is currently in use by Brazilian police⁸⁶. While projectile electric shock weapons can

have a role to play in law enforcement, the capacity to use the Condor Spark as a direct contact electric shock weapon makes the device potentially abusive and therefore inappropriate for use by Brazilian law enforcement officials. In Omega's view, projectile electric shock weapons intended for law enforcement should not have direct contact shock capabilities, and those that do should have them permanently disabled. Where this is not possible, the promotion, trade and use of such weapons should be prohibited.

3.1.3 Kinetic impact weapons (handheld)

While conventional batons and truncheons can have a legitimate role in law enforcement, when testing and selecting handheld kinetic impact weapons it remains important to ensure that the design of the weapons and the materials they are made from are such that they do not impact with excessive force or cause injury which is unnecessary.

Previous investigations by Omega have highlighted the dangers of inherently abusive forms of striking weapons including spiked batons; sjamboks and other strengthened whips; weighted gloves and weighted batons. These weapons are designed to increase, not minimize, the amount of force (and resulting injury) inflicted on subjects and can often cause skin lacerations or puncture injuries. Given their potential to cause unnecessary and excessive injury these types of weapons clearly cannot legitimately be used for law enforcement purposes. As such, the manufacture, trade and use of these types of handheld kinetic impact weapons should be strictly prohibited.

Omega's research and records indicate that there are at least two Brazilian companies that manufacture handheld kinetic impact weapons, namely Belica Militar and O Filizzola & Cia Ltda, both of whom produce a range of police batons including side-handled and extendable batons. The batons manufactured by these companies are conventional in their design and appear to be manufactured using rubber or plastic. During our research Omega found no evidence to suggest that inherently abusive kinetic impact weapons such as spiked or weighted batons are currently being manufactured in Brazil.

3.1.4 Kinetic Impact Projectiles

Despite their widespread use by law enforcement agencies around the world, there currently exist few international standards regulating the design or performance, including kinetic energy or accuracy of less lethal ammunition. As described in section one of this reports, kinetic impact projectiles can be manufactured using a wide range of materials and come in a diverse range of designs and calibres. As a result, the performance of kinetic impact projectiles can vary substantially between different models. As such, prior to selection and deployment, it is essential that all kinetic impact projectiles are rigorously and independently tested in order to ensure that they are accurate and do not impact with excessive force.

Ammunition containing multiple projectiles, especially those that contain small pellets or balls are inherently inaccurate and therefore pose a heightened risk to unintended targets. Because of the small size of the pellets,

such ammunition also poses a particularly high risk of causing serious eye injuries including blindness. The dangers of these types of projectiles have been demonstrated in many countries, including in Chile in 2019, where a total of 445 eye injuries were recorded over a 5-month period, mainly owing to the use of kinetic impact ammunition containing multiple projectiles⁸⁷. Given their indiscriminate nature and potential to cause serious injuries, kinetic impact munitions containing multiple projectiles are not appropriate for law enforcement operations. Depending on the design and materials used, certain types of single projectile ammunition are also unacceptably inaccurate for use in a policing context. According to the UN Guidance on Less Lethal Weapons, 'to meet international standards, impact projectiles should be capable of striking an individual to within a 10-centimetre diameter of the targeted point when fired from the designated range'⁸⁸.

In addition to its accuracy, the energy that a projectile imparts is another factor that determines the level of risk associated with its use. The higher the kinetic energy a projectile has on impact, the greater the risk of it causing penetrating injuries or serious or life-threatening blunt force trauma. The kinetic energy of projectiles can vary significantly depending on their weight, velocity, design and composition. Rubber coated metal bullets, for example, typically impact with much greater kinetic energy than other types of kinetic impact projectiles and thus pose a high risk of serious injury or death. For this reason, rubber-coated metal rounds are inappropriate for law enforcement.

Omega's analysis of Brazilian manufacturers of law enforcement equipment shows that kinetic impact projectiles are produced by both Condor and CBC. The products manufactured by these companies include both single and multiple projectile rounds marketed for use by law enforcement. Given their inherently indiscriminate nature, Omega believes that the multiple projectile rounds produced by these companies are inappropriate for use by law enforcement.

3.1.5 Instruments of restraint

Although the cases of abuse involving instruments of restraint detailed in section one of this report involved the misuse of equipment by law enforcement officials, the risks associated with the use of restraints increase if the instruments themselves are poorly designed or inherently abusive. As such, when testing and selecting restraints, it is important to ensure that they are appropriate for use by law enforcement and include features designed to help prevent unnecessary pain and to reduce the risk of injury to the subject.

Firstly, metal handcuffs used by law enforcement should include a double locking mechanism which prevents accidental over-tightening. Handcuffs which lack a double locking mechanism⁸⁹, pose the risk of being over-tightened either intentionally or accidentally, as a suspect struggles during arrest or tries to loosen them to relieve the pressure. Secondly, while metal handcuffs linked by chain links allow limited movement of the wrists, handcuffs linked by a hinge or rigid bar severely restrict movement, thus heightening the risk of causing pain to the wrists, forearms and shoulders when used for extended periods. These types of handcuffs are also open



▲ A range of kinetic impact projectiles manufactured by Condor on display at Milipol 2019 © Robin Ballantyne/Omega Research Foundation



▲ A range of 12-gauge kinetic impact munitions manufactured by CBC and promoted on the company's website. Each munition contains multiple plastic or rubber pellets. © Companhia Brasileira de Cartuchos



▲ Thumb cuffs manufactured by Algemas Zorro promoted for sale online © Falcon Armas



▲ Hinged handcuffs and chain-linked leg cuffs photographed by the MNCPT during a monitoring visit, 2017 © MNCPT

to being used inappropriately as a pain compliance tool, particularly when used as a lever to pull or twist, potentially causing serious and long-term wrist, forearm or shoulder injuries. As such, when the use of metal handcuffs is required, preference should be given to the use of double-locking chain-link handcuffs over ridged or hinged handcuffs.

Alongside conventional restraints such as handcuffs and leg cuffs, previous Omega research has highlighted the international manufacture and trade of inherently abusive forms of restraints, including thumb and finger cuffs, restraint chairs and shackle boards, cage or net beds, and fixed bar restraints⁹⁰. All of these types of restraints can cause unnecessary pain and injury. As such, they are inappropriate for use by law enforcement regardless of the context and should be strictly prohibited.

Omega has identified four Brazilian companies involved in the manufacture of restraints, namely, Belica Militar, Rossi, Algemas Brasil, and Algemas Zorro. While three of these companies (Belica Militar, Rossi, and Algemas Brasil) appear only to manufacture conventional restraints such as handcuffs or leg cuffs, the fourth (Algemas Zorro) produces a much wider range of restraints, including thumb cuffs which are inherently abusive and should be prohibited⁹¹. During our research Omega has found no evidence of Brazilian companies manufacturing restraint chairs, net or cage beds, weighted restraints or fixed bar restraints.

3.1.6 Firearms

Firearms loaded with live ammunition are by their very nature designed to kill. Nevertheless, when selecting firearms for use by law enforcement, there are a number of factors which should be taken into consideration and tested in order to reduce the risk of unnecessary or accidental deaths.

Key features of a firearms design which should be considered during its testing and selection include the weapon's accuracy, consistency and reliability. When selecting firearms, due consideration should also be given to the appropriateness of the weapon's calibre and firing mode (e.g. automatic, semi-automatic) for the context in which it will likely be deployed and whether a less-powerful firearm or less lethal alternative could be used to achieve the same operational objective. Except in extreme circumstances, automatic firearms are not appropriate for law enforcement operations.

Omega's records and research carried out for this report identified four major companies involved in the manufacture of small arms and ammunition for law enforcement in Brazil: Taurus who specialize in the production of pistols and shotguns; CBC who produce shotguns and are one of the world's largest manufacturers of small arms ammunition; Boito who primarily manufacture shotguns; and the state-owned IMBEL who manufacture small arms and ammunition among a much broader range of conventional weaponry.

Over the past decade, the importance of implementing rigorous and scientific testing of firearms prior to procurement has been demonstrated by a series of problems encountered by the Sao Paulo state police with firearms supplied by Taurus. Firstly, in 2013, the Sao Paulo Military Police were forced to recall all 98,000 Taurus

24/7 pistols, after serious flaws were discovered with the firearm's design which, in some cases, caused the weapon to fire without the trigger being pulled⁹². More recently, it was reported that nearly 6000 sub-machine guns supplied by the company had remained in boxes, unused, for over five years after cracks were discovered which made the weapons unsafe to use⁹³. These issues have since led Taurus to be prohibited from supplying weapons to Sao Paulo for a period of two years⁹⁴.

3.1.7 Stun Grenades

The wide variety of stun grenades available on the market means that risks associated with their use can vary substantially depending on the devices' intended purpose, design and technical features. Despite their use by law enforcement agencies around the world, there currently exist no international standards regulating the design, operation or manufacture of stun grenades. As such, it is essential that prior to procurement all stun grenades intended for deployment in a law enforcement context are rigorously and independently tested to ascertain their risk of causing injury and to ensure that they can be used in compliance with international human rights standards. At a minimum, these tests should assess the explosive energy of the grenades, including the pressure wave, sound and heat generated by the device's detonation. Tests should also be conducted to assess the risk of injury from fragmentation. Given that explosive or fragmenting grenades pose a high risk of blast injuries and/or burns, these types of devices are inappropriate crowd control. The results of all tests conducted should be made publicly available along with any documents concerning the equipment's technical specifications, features or use parameters.

Given their indiscriminate nature and potential to cause serious and life-threatening injuries, it is essential that prior to deployment consideration is also given to the operational context in which stun grenades are likely to be used. Specifically, it is important to consider whether it is possible to use stun grenades lawfully and proportionally in this context and whether alternative types of equipment could achieve the same objectives more safely.

Research carried out for this report identified three Brazilian manufacturers of stun grenades promoted for law enforcement purposes, namely Indios Pirotecnia, RJC Defesa Aeroespacial Ltda and Condor. Certain models of stun grenade manufactured by Condor have been marketed as being suitable for use indoors. While the use of stun grenades in confined spaces such as prison environments may be lawful in exceptional circumstances such as hostage situations involving an imminent threat of death or serious injury⁹⁵, such use increases the risk of serious or life-threatening injuries. To date, Omega has been unable to identify any scientific tests that support Condor's claim that their grenades are safe to use indoors. If these tests have already been conducted, then the results should be made publicly available. If not, then Condor should cease promoting these grenades as suitable for indoor use and arrange appropriate scientific tests to verify their claims.



▲ Stun grenades manufactured by Condor on display at Milipol 2019 © Robin Ballantyne/Omega Research Foundation

Recommendations

Omega calls on national authorities in Brazil to:

- Strictly prohibit the manufacture of law enforcement equipment which has no practical use other than for the purpose of inflicting torture or other cruel, inhuman or degrading treatment or punishment.
- Carry out independent reviews based on international human rights law and standards to ascertain whether new or untested equipment is appropriate for use by law enforcement. These tests should be conducted by medical, legal, police and other experts and should evaluate the effects of all reasonably likely or expected uses of the equipment. Particular consideration should be given to assessing the potential risks of using the equipment against individuals who may be especially vulnerable and whether the same operational objectives could be achieved using less harmful alternatives. The results of these test should be made publicly available.
- Ensure that all launched projectiles, including kinetic impact projectiles and chemical irritant projectiles deployed by law enforcement, meet the accuracy standards as established by UN guidance on less lethal weapons⁹⁶.

Omega calls on companies involved in the manufacture and trade of law enforcement equipment to:

- Bring the capabilities and effects of their products to the attention of purchasers, users, and the general public. At a minimum, this should involve the publication of all documentation pertaining to the equipment's technical specifications, features and use parameters and should incorporate recommended safe operating procedures and highlight the medical risks of inappropriate use.
- Identify and release all medical studies and the names of the experts who have contributed to product testing and safety analyses, indicating those who have received compensation for promoting their products.

Omega calls on the United Nations to:

- Establish a group of experts, including medical, legal, technical and law enforcement professionals, and academics to develop international technical standards concerning the specification and performance of less lethal weapons and equipment, with the aim of minimising the risk of serious injury or death associated with their use. Standards to be developed include those related to the acceptable accuracy, consistency and kinetic energy of less lethal projectiles; the electrical output and length of the shock of projectile electric shock weapons; and the acceptable quantity delivered and concentration of chemical irritants.

04 | TRADE

In addition to examining the manufacture of law enforcement equipment in Brazil, for the purposes of this report, Omega also undertook research into the promotion, import and export of law enforcement equipment by Brazilian companies. As Brazilian manufacturers of law enforcement equipment have grown in size and number, several companies have established themselves globally. At the same time, growing domestic demand and high levels of security spending have led a number of international companies to identify Brazil as a potential market for their products⁹⁷.

While there is nothing unusual about the existence of this trade, it is important that all transfers of equipment are tightly monitored and regulated to ensure consistency with international human rights norms and standards. In particular, it is essential that equipment is not exported in circumstances where there is a high risk of it being used to commit human rights abuses and that the products that are traded are suitable for use by law enforcement. With this in mind, the following sections of the report provide an overview of the promotion, import and export of law enforcement equipment and weapons in Brazil. In doing so, the report highlights several issues of concern related to the trade, including the promotion of inherently abusive equipment and an alleged breach of a UN arms embargo. The final section of the report then examines recent changes to Brazil's regulation of the trade and makes recommendations for how this regulation can be strengthened.

4.1 Promotion of Brazilian products internationally

A critical factor in the internationalization of Brazilian manufacturers of law enforcement equipment has been their ability to promote their products to potential clients globally. One of the primary means by which companies can seek to promote their products is by attending arms fairs. Each year dozens of defence and security exhibitions are held around the world, providing companies with the opportunity to meet potential clients, showcase their products and broker deals with government and military delegations. While the presence of a company at a particular fair does not necessarily guarantee that the company has traded in that country or region, it does nevertheless provide an indication of their intent to do so.

In order to identify instances in which Brazilian companies have actively promoted their products to foreign buyers, Omega analysed exhibitor lists from over 100 international defence and security fairs⁹⁸. The results of this analysis reveal that since 2010 a total of 6 of the companies included in this report have attended one or more international fairs. Popular markets for Brazilian companies included Western Europe where three companies (Condor, Taurus and CBC) collectively exhibited a total of 48 times at seven fairs during the period

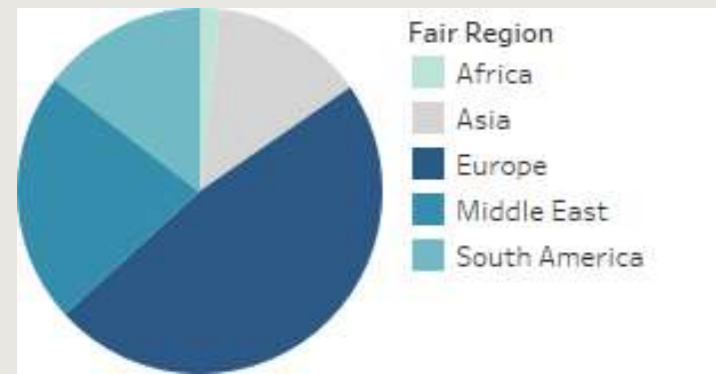
4. TRADE

analysed and the Middle East where the same three companies exhibited a total of 23 times.

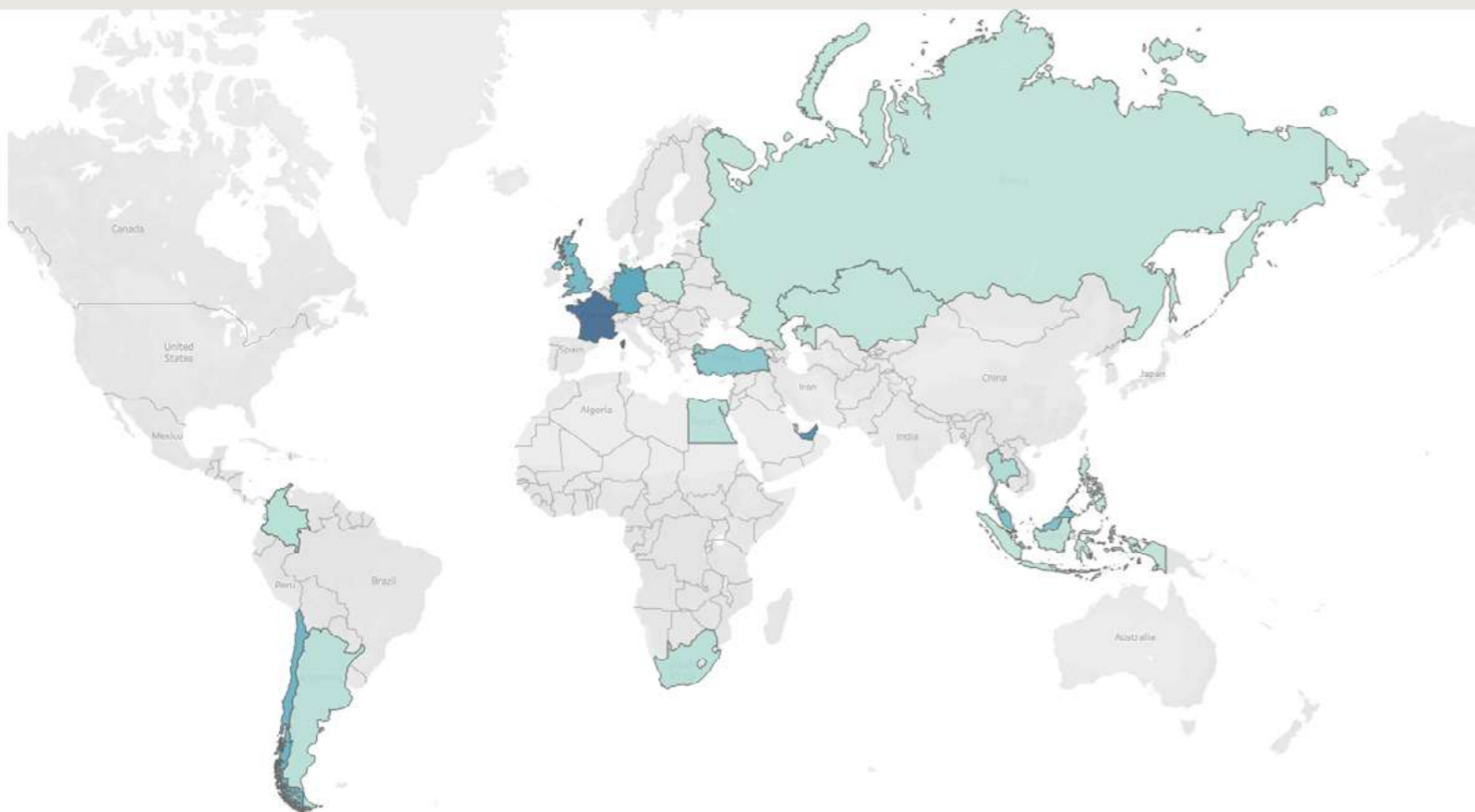
The most active companies were Condor, CBC, and Taurus which between them accounted for 88% of the total number of visits to international arms fairs by the Brazilian companies featured in this report during this period. Interestingly there appears to be a growth in the rate of attendance to international arms fairs by Brazilian law enforcement equipment manufacturers, with the number of exhibition visits by companies analysed increasing from just three in 2010 to 21 in 2015. This trend not only demonstrates the growing strength of the Brazilian defence sector but also the ambition of some Brazilian companies to compete in markets, which have historically been dominated by US and European companies.

Key to the international success of Brazil's defence industry over the past decade has been the Brazilian Agency for Export and Investment Promotion (APEX). Since 2006, APEX, in partnership with the Brazilian Defence and Security Industries Association (ABIMDE), has helped to facilitate the participation of Brazilian companies at arms fairs and events around the world. Between 2007 and 2013, APEX invested around R\$ 13 million to support the participation of 63 companies,

including manufacturers of law enforcement equipment in more than 30 international events⁹⁹. Describing the role of the agency in promoting these companies, APEX's President Maurício Borges commented that it, 'offers to exporting companies and partner organisations a diversified group of stocks



▲ ▼ **Figure 2: Attendance of Brazilian companies at international arms fairs 2010-2019**



and services for business promotion and the promotion of Brazilian products and services abroad. These actions deepen relations between Brazilian entrepreneurs and foreign buyers, contributing to the expansion and consolidation of business between them¹⁰⁰.

In recent years, a number of states have introduced regulations to control the types of products that can be promoted for sale on their websites, in the media and at arms and security fairs. Most notably, as part of its 'Anti-Torture Regulation' members of the European Union, agreed to prohibit the promotion of a wide range of inherently abusive law enforcement and security weapons¹⁰¹. Some states, including the United Kingdom, have gone further, prohibiting the promotion of additional types of equipment including direct contact and projectile electric shock weapons.

Failure to comply with these guidelines has previously led a Brazilian company to be expelled from an arms fair. In 2019, Condor's stand at the UK arms exhibition Defence and Security Equipment International (DSEI) was shut down and the company ejected from the event, following the discovery of a marketing brochure for its projectile electric shock weapon SPARK. According to the event's organisers Clarion Events, the promotion of the weapon was "not permitted under UK law and [was] a breach of the event's strict contractual terms and conditions"¹⁰². As such, when attending arms fairs internationally it is important for Brazilian companies, supported by APEX and ABIDME, to respect and comply with local laws and regulations as well as the policies of the event organisers.

4.2 Import, Distribution and Promotion in Brazil

Historically, Brazil's arms industry has been characterized by protectionism. Although President Bolsonaro and his predecessors have recently attempted to increase market competition by removing certain restrictions on the import and sale of firearms and live ammunition¹⁰³, restrictions on the importation of 'strategic defence products' which include certain types of kinetic impact projectiles and chemical irritants remain in place¹⁰⁴.

Despite these restrictions, high levels of government defence spending mean that Brazil remains an attractive market for foreign companies. Between 2014 and 2018, Brazil imported more foreign-manufactured arms than any other Latin American country, equivalent to 27% of the region's total arms imports¹⁰⁵. The attractiveness of the Brazilian market to foreign manufacturers is further demonstrated by the growing attendance at Brazil's largest biennial arms fair LAAD Defence & Security, which brings together manufacturers and suppliers of military and law enforcement equipment, including less lethal weapons, from around the world¹⁰⁶. Between 2011 and 2019 the number of visitors attending LAAD grew from 21,000 to just over 38,000. During the same period, the number of official delegations in attendance at the event also grew from 53 to 133. Among recent exhibitors at the event have been some of the world's largest and well-known manufacturers of law enforcement and security equipment, including Non-lethal Technologies (US), Safariland (US) and Rippel Effect (South Africa).

Foreign manufacturers of defence and security equipment often work in partnership with local distributors and representatives to market and sell their products to domestic buyers¹⁰⁷. During the research for this report, Omega identified a number of companies that supply foreign-manufactured law enforcement and security equipment, including Berkana Tecnologia em Segurança, which distributes the stun grenade 'Typhon Zeta' manufactured by British company Typhon Group Limited¹⁰⁸, and NL Tecnologia e Segurança, who are the exclusive representatives of PEPPERBALL products including chemical irritant projectiles and launchers in Brazil¹⁰⁹.



▲ A Quartzo promotional stand displaying an electric shock shield and baton (right) and an anti-riot suit with electric shock capture pole – an extendable metal pole incorporating an electric shock function and spikes with a moveable two-pronged claw designed to restrain targets by the wrist, ankles, or neck (left) © Quartzo Engenharia

Omega believes that the inherently abusive nature of the equipment marketed by one company is of particular concern. Quartzo Engenharia de Defesa supplies a wide range of crowd control and less lethal equipment manufactured by the Chinese company Shenzhen Senxunda Electronic Technology Co., Ltd, including inherently abusive direct contact and body-worn electric shock weapons, such as stun cuffs, electric shock gloves, stun batons, and stun vests. These products have been promoted at a number of trade shows in Brazil, including LAAD. In 2019, Omega sources who attended the LAAD fair documented the presence of Senxunda goods on a stall under the name of Quartzo. On the stall, a remote-control stun cuff and pair of electric shock gloves were physically exhibited and further body-worn electric shock devices were included in promotional materials available on the stall. The fair organisers later asked for these products to be removed from display and confiscated Senxunda brochures which were available at the stall.

Although Omega has not found evidence that the products promoted by Quartzo are currently being used by Brazilian law enforcement, their promotion at a Brazilian event is nevertheless highly concerning. In Omega's

view the promotion, import and distribution of law enforcement equipment which has no practical use other than for the purpose of inflicting torture or other cruel, inhuman or degrading treatment or punishment should be strictly prohibited. Furthermore, as with domestically manufactured products, in order to minimise the risk of the law enforcement equipment and weapons being used to commit human rights violations, it is essential to ensure that all equipment which is permitted to be imported is manufactured to a high standard and that its design is consistent with human rights standards.

4.3 Exports

During the 1980's Brazil was one of the world's biggest arms exporters, exporting over \$1 billion worth of military and security equipment between 1984 and 1986 alone¹¹⁰. The country's share of the global market declined sharply during the 1990s following the fall of the country's military regime, but in recent years has steadily recovered. In 2019, Brazil reported a 30% increase in total export authorisations for defence products, from \$ 915 million USD in the previous year to \$ 1.3 billion USD¹¹¹.

Although Brazil still cannot be considered as a major arms exporter (it averages only around 0.2% of global exports each year), it nonetheless remains the largest exporter in South America and has established itself as one of the world's leading exporters of firearms and live ammunition, ranking fourth in terms of its total exports behind the USA, Italy, and Germany¹¹². While the export of law enforcement equipment comprises a relatively small proportion of Brazil's overall defence trade, there is nevertheless evidence to suggest that there is high international demand for Brazilian manufactured products, with companies such as Condor emerging as world leaders in the sector.

In part, the success of Brazilian companies internationally can be attributed to the support of the Brazilian government, which has taken a proactive approach to the promotion of Brazilian manufactured arms abroad. In 2017, the Ministry of Foreign Affairs circulated the document *Planejamento Estratégico de Promoção Comercial* (PEPCOM 2017) among embassies and consulates, urging the Department of Trade and Investment Promotion to collaborate with industry associations to mobilise trade delegations to visit Asia, Africa, Europe and the Middle East in order to promote the sale of Brazilian defence and security products¹¹³. Similarly, Brazil's new national policy on the export and import of defence products, PNEIPRODE (see below), instructs the Ministry of Defence 'in coordination with the commercial promotion sectors of the Embassies of Brazil' to 'guide Brazilian military attachés to act with a view to promoting the IDB and assisting exporters abroad'¹¹⁴. Finally, in order to improve the efficiency of export negotiation processes, in 2018 the Council of Ministers of the Chamber of Foreign Trade (Camex) approved the creation of a new technical group, Team Brasil Defence, to coordinate and monitor negotiations on financing operations and grant guarantees for the export of Brazilian defence products.¹¹⁵

In addition to institutional support, in recent years Brazilian exporters of law enforcement and security equipment have also benefited from the apparent endorsement of the country's Executive. In January this year,

for example, it was reported that during an official visit to India (the world's 2nd largest arms importer) President Bolsonaro was accompanied by an entourage of defence officials along with the CEO's of 10 of Brazil's largest defence companies, including Taurus, CBC, and Condor. While visiting India, President Bolsonaro attended the 1st Brazil-India Defence Industry Dialogue of the India-Brazil Business Forum (IBBF). At the event, Taurus signed a joint venture agreement with the Indian company Jindal Defence. Under the terms of the agreement, the two companies will establish a new joint venture company (Jindal 51%, Taurus 49%) in Haryana, India to manufacture a range of small arms including carbines, revolvers, pistols and assault rifles based on existing Taurus technologies¹¹⁶. President Bolsonaro's visit to India, followed reports in 2019, that a similar cohort of defence company executives accompanied the president during visits to the UAE and Saudi Arabia - the world's largest arms importer¹¹⁷. The presence of large cohorts of defence industry representatives on official visits is symptomatic of the close relationship between the defence industry and government in Brazil. Recently it was reported that during the first 16 months of Bolsonaro's presidency, representatives from the defence industry had a total of 73 official meetings with the Federal Government¹¹⁸.

Unfortunately, despite the recent growth of Brazil's arms trade both regionally and internationally, there remains little comprehensive or detailed data related to the country's export of law enforcement equipment and weapons¹¹⁹. The Small Arms Survey's barometer of transparency ranks Brazil between China and the Philippines in 42nd place in terms of the reporting of its small arms exports. The availability of detailed data on exports was further restricted in 2017, following a decision by the Brazilian Government to cease publication of statistics on individual companies' exports, which had previously included information about the countries of destination and value ranges of exports. The justification given for this increased secrecy was "fiscal / business confidentiality"¹²⁰.

Given the lack of granular export data, a detailed quantitative analysis of the Brazilian export market for law enforcement equipment was not possible. However, by using anecdotal evidence and case studies as well as other trade information gathered from official government sources, company websites, and trade publications, it was nevertheless possible to get some sense of the overall size and scope of the country's exports¹²¹.

Using these sources, Omega has found evidence of 13 Brazilian companies having either carried out actual exports, claimed to have exported or registered to export one or more of the types of equipment described in section one, namely: Algemas Brasil; Amadeo Rossi S.A. Metalurgica E Municoes; Bélica Militar; CBC; Condor; E.R. Amantino Industria de Maquinas Equ. Accessorios e Armas Esportivas Ltda. (Boito); ER DO Brasil; Industria De Material Belico Do Brasil (IMBEL); Indios Pirotecnia Ltda; O Filizzola & Cia Ltda; Poly Defensor; RJC Defesa Aeroespacial Ltda; and Taurus S.A.

Details of the evidence concerning the exports of all these companies are provided in the table in Annex A. In the sections below, however, the report will focus on the cases of just two of these companies – Condor and Taurus – who are among Brazil's largest exporters of law enforcement and security equipment and whose recent export practices, including the sale of equipment to countries with dubious human rights records such

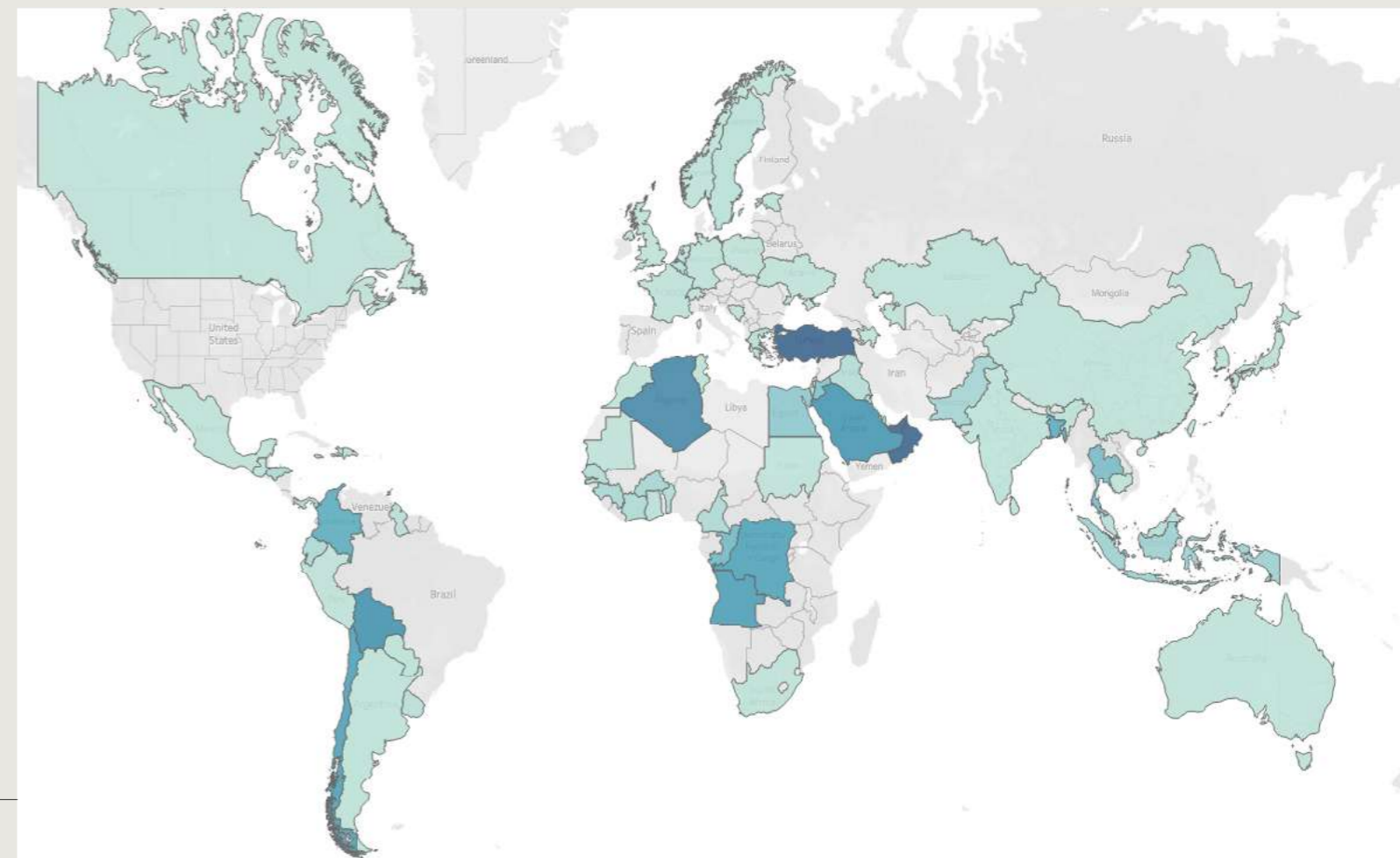
as Bahrain and Yemen, raise serious concerns about the rigour of Brazil's export regime over the past decade.

4.3.1 Case Study: Condor Non-Lethal Technologies

Over the past two decades, Condor has emerged as a world leader in the manufacture and trade of law enforcement equipment. Based in the Nova Iguaçu municipality of the state of Rio de Janeiro, the company manufactures a broad range of less lethal weapons, including chemical irritants, stun grenades, kinetic impact projectiles and electric shock weapons. Key to the success of Condor has been its ability to expand into foreign markets. According to the company's promotional materials, Condor currently has offices in Abu Dhabi, Singapore, Rio de Janeiro, and Brasilia as well as more than 80 agents and representatives operating worldwide¹²². In 2014, the company was designated as a defence company of strategic importance (EED) by the Brazilian Government¹²³.

Although the Brazilian government has recently stopped publishing detailed data about the exports of specific companies, data showing exports from municipalities including the type of product sold, the country of destination and the total value of the exports continue to be published by the Ministry of Development, Industry and Foreign Trade. According to this data, between 2012 and April 2020 a total of almost \$183 million USD worth of law enforcement and security equipment were exported from the Nova Iguaçu municipality¹²⁴. To the best of Omega's knowledge, Condor is the only manufacturer and exporter of these types of products in Nova Iguaçu. As such, it is highly likely that these figures relate to exports of Condor products.

▼ **Figure 3: Condor exports worldwide 2012-2020. Darker areas on the map represent regions with greater exports.**



Analysis of the data on this basis, suggests that between 2012 and early 2020 Condor exported weapons and equipment to a total of 79 countries across 7 regions, including Africa, Asia, and the Middle East. Key markets for the company included the Democratic Republic of Congo (\$5.3 million USD), Angola (\$5.6 million USD), Bolivia (\$6.5 million USD) and Chile (\$ 5.4 million USD). However, by far Condor's largest export market was the Middle East with approximately \$118 million USD (64.5%) worth of equipment sold to countries in the region, including, UAE (\$49 million USD), Oman (\$29 million USD), Turkey (\$14 million USD), and Saudi Arabia (\$6.4 million USD).

While there is nothing unusual in a company seeking to export its products internationally, the data analysed above highlights a number of examples where Condor's commercial practices appear to contradict the company's purported commitment to 'the basic principles of the right to life and respect for human rights'¹²⁵.

Over the past eight years, Condor has supplied a significant amount of less lethal policing equipment including tear gas to the Bahraini authorities. During this period, the Bahraini government have engaged in the violent repression of pro-democracy and anti-government protestors, using tear gas on an unprecedented scale, often at close range and in confined spaces. According to Physicians for Human Rights, between 2011 and 2012 exposure to tear gas led to the deaths of at least 34 people¹²⁶. In 2015, the death of Abdulaziz Al-Saeed was reportedly linked to the use of Condor manufactured products¹²⁷ and led the advocacy group Americans for Democracy & Human Rights in Bahrain to submit a complaint against the company for alleged violations of the 2011 OECD Guidelines for Multinational Enterprises¹²⁸.

There have been repeated attempts by Bahraini activists and the international community to stop supplies of tear gas to Bahrain. In 2014, the South Korean government suspended shipments of tear gas to Bahrain indefinitely¹²⁹. A year later, the European Parliament passed a resolution calling for an end to the supply of EU-produced tear gas to Bahrain¹³⁰.

Despite this international condemnation of the actions of the Bahraini authorities and the evidence of misuse, the data published by the Ministry of Development, Industry and Foreign Trade suggests that Condor continues to export to Bahrain. Between 2012 and 2020, the data shows exports of law enforcement and security equipment to Bahrain worth a total of \$13.3 million USD. Although the majority of this total was exported in 2014 (\$10.1 million USD), recent figures show that around \$2 million USD worth of equipment was exported to the country from the Nova Iguaçu municipality in 2018 alone¹³¹.

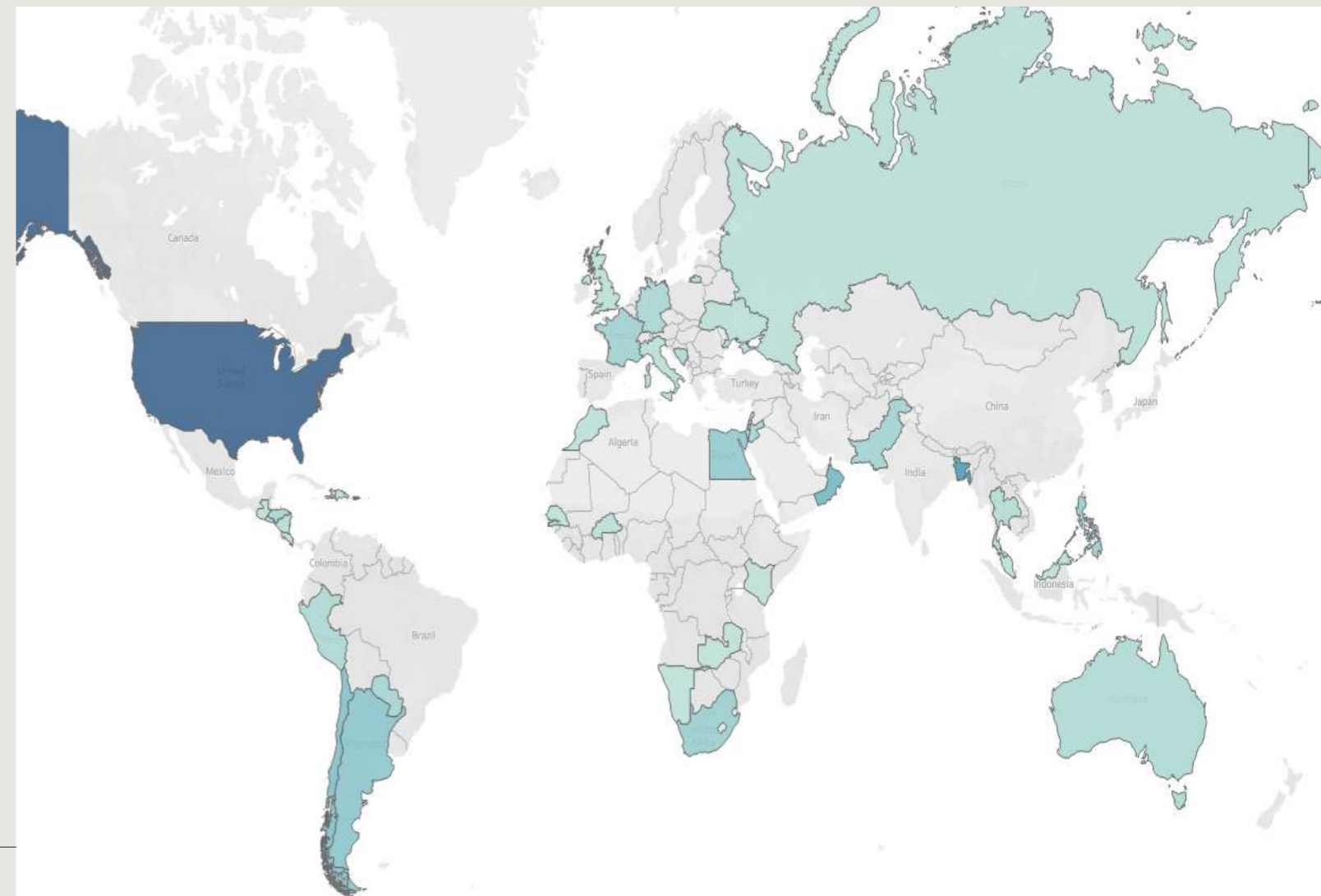
At a regional level, Condor products have also been widely used in Venezuela, where in March 2014 it was reported that 60% of the 2,310 tear gas cartridges collected following an intervention by Venezuelan National Police and National Guard during a student protest were manufactured by the company¹³². More recently, there was evidence that Condor products were used during the violent repression of protests in 2017 during which around 80 people are reported to have been killed¹³³. There is no publicly available information attributing

specific fatalities to the use of Condor products; however, publicly available reports do suggest that some of the deaths were caused by the use of tear gas cartridges fired directly at protesters¹³⁴. These reports led the Brazilian Foreign Ministry in June 2017 to suspend sales of tear gas to the country and to intervene to stop a shipment of Condor 'tear gas canisters' that had already been negotiated¹³⁵. Official information indicates that Condor exported goods worth around \$11 million USD to Venezuela between 2010 and 2011¹³⁶.

4.3.2 Case Study: Taurus

Today Taurus is one of the largest and most well-established manufacturers of small arms in South America, with production units in both Brazil and the United States¹³⁷. Taurus specialises in the production of pistols but manufactures a wide range of firearms, including shotguns, and semi and automatic rifles for the civilian and law enforcement markets. In addition to manufacturing Taurus branded weapons, Taurus also owns the rights to manufacture Rossi branded short-barrel firearms, and in 2012 purchased the single-action pistol manufacturer Heritage Manufacturing. While the majority of Taurus exports are intended for the civilian market (in particular those to the US), Taurus products are also used by a number of law enforcement agencies around the world, including in Singapore¹³⁸ and Argentina¹³⁹.

▼ **Figure 4: Taurus Exports worldwide 2012-2018. Darker areas on the map represent regions with greater exports.**



As a publicly listed company, Taurus is one of the few manufacturers of law enforcement equipment worldwide to publish annual reports and financial statements. These provide a useful insight into the companies export practices as well as its growth internationally. Analysis of these reports and statements for the period 2012-2018 reveals that although the company exports the vast majority (91%) of its firearms to the United States, Taurus products are nonetheless present in countries around the world¹⁴⁰. During the period analysed Taurus exported, around R\$78 million reais to Latin America and the Caribbean, R\$76 million reais to Asia, and R\$43 million reais to the Middle East. The reports also reveal that, despite a sharp decline in sales during the middle of the past decade, exports of Taurus products nearly doubled in the period 2014 to 2018 from R\$430 million to R\$833 million reais¹⁴¹.

Recent controversies related to the company have raised serious questions about the company's corporate governance and its compliance with business and human rights principles. In 2016, for example, federal prosecutors in southern Brazil charged two former executives of Forjas Taurus with shipping 8,000 handguns to Fares Mohammed Hassan Mana'a¹⁴², a known Yemeni arms trafficker. According to court documents, the handguns were initially intended for Djibouti but were redirected by Mana'a for use in Yemen, which was the subject of a UN arms embargo.



▲ Two Taurus PT 24/7 pistols advertised for sale on Telegram in Yemen. Source: United Nations Security Council, Final report of the Panel of Experts, in accordance with paragraph 6 of resolution 2456 (2019) (27 Jan 2020) S/2020/70 see: <https://bit.ly/3bVRLid>

Several months later it was reported that in 2015 Taurus had also arranged to sell firearms to Mana'a's son, Adeb Mana'a. According to a UN report, the firearms were 'very likely destined for the black market in Somalia and the wider region', but were seized by Saudi Arabia in transit¹⁴³. In its report, the UN noted that 'had Taurus Forjas S.A exercised due diligence then they would have identified aspects of this arms purchase that were suspicious in relation to the targeted arms embargo on Yemen and could have stopped the shipment'. The UN added that 'the modus operandi of the transfer, using his son Adeb Mana'a and a Djibouti end user, was designed to circumvent normal security and customs controls'¹⁴⁴.

The cases above demonstrate not only the scope and diversity of the Brazilian trade in law enforcement and security equipment but also the failure of the companies involved to adequately regulate themselves. In order to minimise the risk of Brazilian manufactured products being used to commit human rights violations, therefore, it is essential that the export of the types of law enforcement equipment described in this report are strictly regulated. Without such regulation, Brazil will not only be failing in its international obligations but also risks undermining its regional and international reputation as a peace-builder. With this in mind, the following section examines recent changes to the regulation of the import and export of law enforcement equipment and weapons in Brazil.

PNEMEM

During the period of its implementation, very little detailed information about the PNEMEM policy or its application was publicly available. However, in 2016, following the submission of a series of FOI requests and consultations with the Foreign Ministry Central Archive, researcher David Almstadter Mattar de Magalhães was granted access to around 800 pages of documents related to the policy, including details of export requests made by companies between 2011 and 2014¹⁷⁸. Although PNEMEM has been superseded by PNEIPRODE in 2018, these documents nevertheless provide valuable insights into the operation of Brazil's export control regime as well as the Foreign Ministry's decision-making processes in relation to arms exports at the beginning of the past decade.

According to documents analysed by Almstadter Mattar de Magalhães, between 2011-2014 the Foreign Ministry¹⁷⁹ received 901 requests for preliminary negotiations, of which only 35 (3.88%) were rejected. During the same period, the foreign ministry received a total of 1012 requests for export licenses of which only 7 (0.69%) were refused.

Analysis of the export requests rejected by the Foreign Ministry demonstrates that decision-making in relation to the export of security equipment was guided by a range of criteria, including the existence of arms embargoes, social or political unrest, as well as the possibility that the equipment transferred might be used in human rights abuses or diverted. In 2012 and 2013 for example, documents show that the Foreign Ministry vetoed requests from the company Taurus to engage in preliminary negotiations with Libya - which at the time was the subject of a UN arms embargo. In its response to the requests, the Ministry highlighted the risk that the transfer

could contribute to the deteriorating security situation in the country, stating that 'the current situation of political instability Libya is going through, a country where the widespread presence of weapons is a critical factor of destabilization. In this sense, the sale of arms to the Government of Libya could end up involving Brazil in possible clashes between the national security forces and the numerous non-state armed actors who operate there'¹⁸⁰. In 2012 meanwhile, documents show that the Ministry rejected requests from Condor to export less lethal weapons to both Guinea Bissau and Swaziland, both of which were in the midst of political turmoil. A request from Taurus to begin preliminary negotiations with Sudan in 2012, requests from IMBEL and Taurus to open dialogue with Egypt in 2013, and a request from CBC to begin discussions with Yemen in 2012, were all similarly rejected on the grounds of 'political and military instability'. In addition to these cases, the documents show that the Foreign Ministry was also willing to prevent negotiations with states that the Brazilian government did not recognise, rejecting requests from both CBC and Taurus to begin discussions with Kosovo in 2013 – which Brazil considered to be an integral part of Serbia.

While the cases above suggest the existence of criteria for decision-making in regards to export operations, according to Almstadter Mattar de Magalhães' analysis of the documents, these were never formalised or defined within the policy itself, leading to inconsistencies and contradictions in the way that requests were handled. Between 2011 and 2014, for example, all requests for preliminary negotiations with Burkina Faso (including requests submitted by Condor) were authorised by the Foreign Ministry, despite on-going political unrest and the violent suppression of political demonstrations which led to the overthrow of President Blaise Compaore by the military and the establishment of a provisional government under martial law. During the same period, transfers were also authorised to the bankrupt state of Haiti, where weapons were at a high risk of being diverted. In 2012 and 2013 alone Taurus sold small arms to Haiti worth approximately \$ 2.5 million USD¹⁸¹.

Although criteria intended to guide decision-making regarding export requests have been more clearly articulated in the new export policy, the cases above nevertheless raise serious questions about the consistency with which exports requests are handled by the Brazilian authorities as well as the impact that political pressure and the need to maintain the economic viability of the IDB have on decision-making.

4.4 Regulation of the Brazilian Trade

Until very recently, Brazilian exports of law enforcement and security equipment were regulated, in part, by the highly secretive export policy known as the National Policy for the Exportation of Material for Military Use (PNEMEM), established during the country's military dictatorship. Following its creation in 1974, PNEMEM was applied and updated confidentially, making it almost impossible for civil society groups to analyse the effectiveness of the regulation or provide adequate oversight. As Natália Pollachi, from Sou da Paz, put it in 2016, 'PNEMEM is secret [...]. The arms export policy is not open, there is no clarity on which criteria are used to authorise arms exports'¹⁴⁵. However, more recently and in line with international developments, which have seen intergovernmental organisations and some national governments adopt progressively tighter restrictions on the arms trade worldwide, Brazil has taken several steps to reform its approach to arms control which have helped to provide more clarity about its regulation of the trade of law enforcement and security products as well as greater scope for critical analysis and oversight¹⁴⁶.

Firstly, in August 2018 Brazil became the 97th State Party to the Arms Trade Treaty (ATT), an international treaty aimed at establishing 'the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms'¹⁴⁷. Under the terms of the ATT, Brazil is obliged to implement a standardized and enforceable national system for the control of international transfers of arms, including laws, regulations and procedures that enable it to administer licenses, implement enforcement mechanisms, and respond to requests for information about its trade activities. Furthermore, by acceding to the ATT, Brazil has committed itself to controlling arms exports and refusing authorization for exports that would breach existing arms embargoes or present an overriding risk of being used to commit or facilitate international human rights or humanitarian law violations. All signatories of the treaty are expected to submit an initial report outlining their existing control regime as well as providing information about the country's exports and imports. The deadline for Brazil to submit this report was 11th November 2019. At the time of writing, Brazil is yet to submit this report¹⁴⁸.

Brazil's accession to the ATT was followed shortly after by its participation in the newly created Alliance for Torture Free Trade. Initially launched by the European Union together with Argentina and Mongolia, the Alliance now has over 60 participating States, each signed up to a political declaration pledging them to "take effective measures, inter alia through legislation and effective enforcement where appropriate, for the restriction of the trade in goods used for capital punishment and torture"; to "strengthen cooperation in this area and to form a global network of Focal Points for the sharing of information and best practices"; and "to make available technical assistance for the design and implementation of relevant legislation"¹⁴⁹.

Finally, in June 2019, Brazil was among 81 states to vote in favour of the UNGA resolution *Towards torture-free trade: examining the feasibility, scope and parameters for possible common international standards*¹⁵⁰. The resolution, which was co-sponsored by a coalition of states, including Alliance members, called on the UN Secretary-General to establish a panel of governmental experts and to gather the views of

Member States on the feasibility and scope of options to establish common international standards for the import, export and transfer of goods used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.

In addition to its recent engagement with and support for international initiatives aimed at strengthening trade controls, Brazil has also taken steps to significantly reform its domestic regulations governing the export and import of law enforcement equipment¹⁵¹. In 2018, the Brazilian government published Decree No. 9607/2018, which established a new National Policy for the Export and Import of Defence Products - *Política Nacional de Exportação e Importação de Produtos de Defesa* (PNEIPRODE)¹⁵². According to the Decree, the new policy, which replaces PNENEM, is intended to 'control exports and imports of defence products, promote exports of these products, develop the defence industrial base in Brazil and prevent and eliminate illicit trafficking in conventional arms and their diversion'¹⁵³.

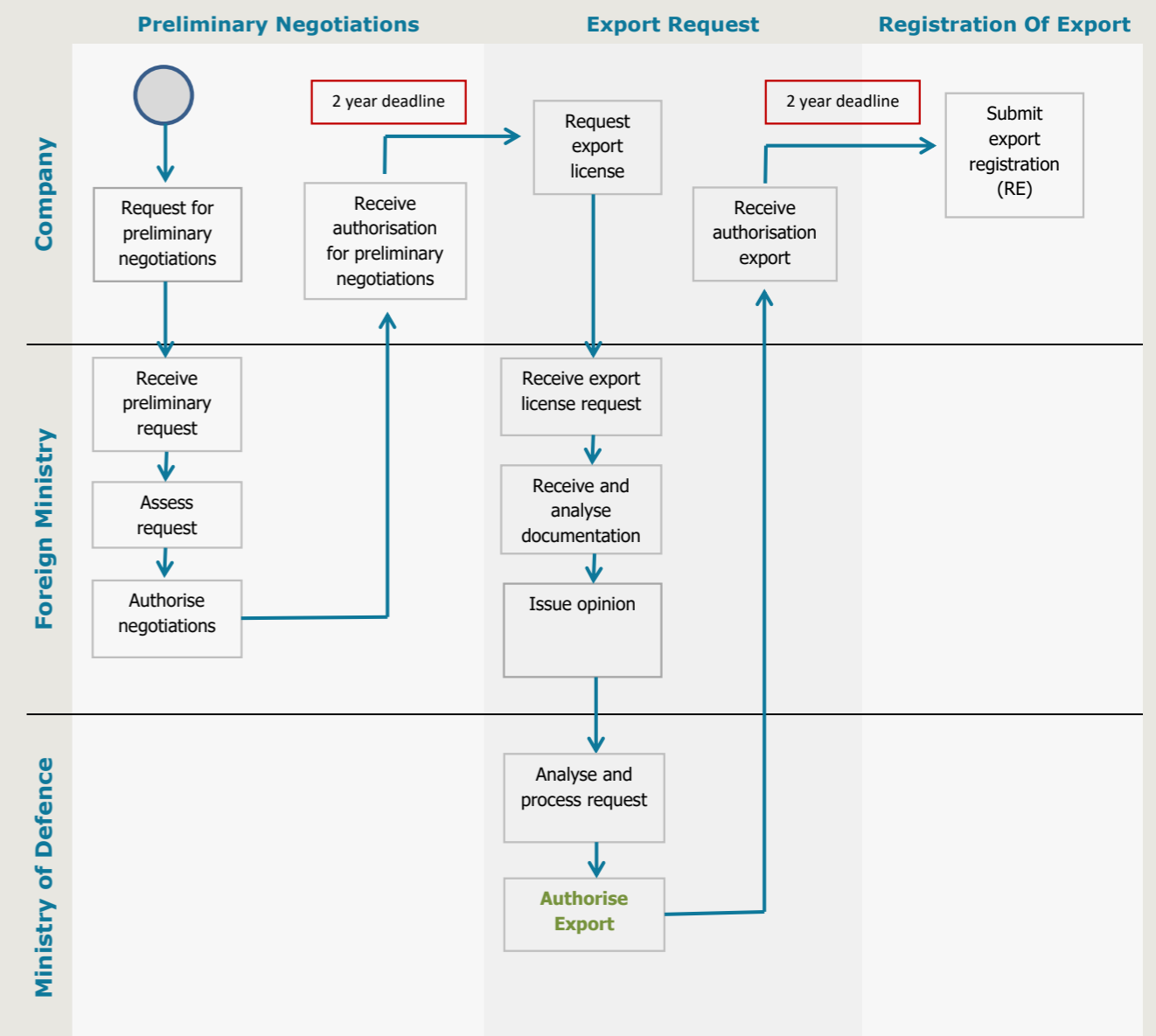
Article 4, of the policy, defines a 'product of defence', as "any good, service, work or information, including weapons, ammunition, transportation and communications, uniforms and individual and collective use of materials used in the final activities of defence, with the exception of administrative use". In practical terms, this means that the list covers conventional weapons and military equipment as well as certain types of law enforcement and security equipment, including, 'Firearms (less than .50 or 12 GA or 12.7 mm)', 'incapacitating electric weapons' and 'less lethal ammunition launchers equal to or greater than 40mm'¹⁵⁴. Details of all categories of equipment controlled by the regulation are provided in a list of defence products - *Lista de Produtos de Defesa* (LiPRODE) published by *Secretaria de Produtos de Defesa* (SEPROD).

Under the rules of PNEIPRODE, the export of products included on the list are controlled in two stages. Firstly, companies are required to apply for authorization to enter into 'preliminary negotiations' (NegPrel) with foreign buyers¹⁵⁵. These authorisations are valid for a period of two years from the date of issuance and may be withdrawn at any time if the government determines that circumstances have changed¹⁵⁶. Once a sale has been agreed, companies will then be permitted to apply for an export license (PEX).

Within the framework of PNEIPRODE, the Ministry of Foreign Affairs is responsible for receiving and authorizing preliminary export negotiation requests for defence products, forwarding prior notification to the United Nations Security Council, when necessary, and identifying opportunities to promote Brazilian companies and products¹⁵⁷. The Ministry is also responsible for advising the Ministry of Defence concerning the appropriateness of particular transfers from the point of view of Brazil's foreign relations.

Ultimate responsibility for deciding whether or not to grant export licenses lies with the Ministry of Defence¹⁵⁸. According to the policy, the Ministry is responsible for assessing exports and imports of controlled goods from the perspective of 'national defence and security, the preservation or transfer of indigenous technology and the promotion of the Defence Industrial Base'. Additional responsibilities of the Ministry of Defence under the policy include, "defining the parameters, standards and models to be adopted with regard to end-user and

▼ Figure 5: PNEI PRODE process¹⁸²



international import certificates, and analyzing the fulfilment of commitments assumed¹⁵⁹. Finally, the Ministry of Defence is also responsible for defining and updating the LiPRODE¹⁶⁰ and establishing administrative sanctions and penalties to be applied in the case of non-compliance with the regulation by exporters or importers¹⁶¹.

When considering requests for preliminary negotiations and export licenses, the policy states that the Ministries of Defence and Foreign Affairs should take into consideration a broad range of criteria. These include the existence of embargoes applied by the United Nations Security Council; the possibility that armaments may be used in acts of genocide, crimes against humanity or war crimes; the possibility of weapons being used to facilitate violations of human rights or international humanitarian law; and the risk that the weapons will be diverted. Furthermore, according to the text of the decree, all exports to private organizations abroad will only be allowed when they 'offer guarantees considered legal and satisfactory by the Brazilian Government regarding the purpose of the import'¹⁶². At a minimum, these must include an end-user certificate (CUF)¹⁶³ and

international import certificate (CII)¹⁶⁴ signed by the competent authority of the country of destination.

The government's stated purpose for the creation of the new regulation was to 'modernise and streamline'¹⁶⁵ the export process. With this in mind, the policy introduces a strict 15-day deadline for the Foreign Ministry to respond to and resolve preliminary negotiation requests which are extendable for an equal period only once. Furthermore, to minimise bureaucracy, the policy introduces a distinction between 'Class II' products which require manufacturers to follow the preliminary procedures described above and 'Class I' products which only require exporters to apply for an export license¹⁶⁶. According to the policy, the level of export control associated with specific categories of products is defined by the Ministry of Defence in consultation with the Foreign Ministry, and 'considering the technical characteristics of the product or the type of export operation'¹⁶⁷. Finally, with a view to 'speeding up the export process', the Ministry of Defence is also authorised to delegate its competences to grant export licenses to another designated authority¹⁶⁸.

In addition to regulating the export of defence products, the PNEIPRODE also establishes rules and procedures to control the import of products listed on the LiProde. According to the regulation, organisations wishing to import products listed on the LiProde must register their request accompanied by a detailed description of the product to be imported and a justification for the import via the Integrated Foreign Trade System (Siscomex). The Ministry of Defence will then have a period of fifteen days, extendable for an equal period once, to provide its decision. In cases where a signed CUF or CII is required by the exporting country, the Ministry of Defence will act as the competent body. The regulation maintains previous restrictions on the import of arms and ammunition that are manufactured in Brazil by companies accredited as EEDs, however, it is also stated that in special circumstance the Ministry of Defence is may grant authorization for the import of these products according to 'judgement of its convenience'.

The introduction of PNEIPRODE by the Brazilian government represents a welcome albeit long-overdue step towards reform, which should help to provide much greater clarity and transparency regarding Brazil's export regime. The policy specifies in detail the competences and responsibilities of relevant authorities and clearly outlines the process of decision-making. Furthermore, unlike its predecessor – PNENEM - the policy also establishes a clear and detailed list of criteria which should inform decision-making in relation to export operations, which in future can be used to hold decision-makers accountable. Article 14 of the policy, which includes a clause intended to prevent the re-export of controlled goods to third countries without the prior authorisation of the Ministry of Defence, is a particularly important addition, potentially preventing the re-export of equipment to countries with poor human rights records. Despite these positives, however, there nevertheless remain several aspects of the current policy which are concerning and which require immediate attention.

Firstly, although the first published version of the LiProde – the list of goods controlled under the new regulation – contains certain types of law enforcement equipment, including electric shock weapons and firearms¹⁶⁹, the list is far from comprehensive and includes several significant omissions which will severely limit its effectiveness in regulating the trade of law enforcement equipment. Specifically, the list includes no reference at all to any form

of chemical irritant, instruments of restraint, striking weapons or kinetic impact ammunition, or stun grenades. Furthermore, despite Brazil's membership of the Alliance for Torture Free Trade and its recent support for the UNGA resolution, neither the LiProde nor the policy itself prohibits or even mentions the transfer of inherently abusive equipment, such as thumb cuffs and body-worn electric shock weapons.-

Of the types of equipment omitted from the LiProde, chemical irritants, stun grenades and kinetic impact projectiles are regulated separately by Decree 10.030/2019 as 'controlled products'¹⁷⁰. This designation means that their import and export requires pre-authorisation by the Army rather than the Foreign Ministry and Ministry of Defence¹⁷¹. In order to be approved, exporters of these products are required to submit international import certificates signed and stamped by the government of the importing country as well as end user certificates when requested¹⁷². However, these transactions are not scrutinised to the same degree as the defence products which fall under the PNEIPRODE. For example, although the export of controlled products to countries under embargoes or other sanctions will not be authorized¹⁷³, there is no explicit requirement to consider the possibility that exported equipment could be used to commit human rights or international humanitarian law violations. Furthermore, instruments of restraint and striking weapons are not designated as 'controlled products' under by Decree 10.030/2019. To the best of Omega's knowledge, therefore, the import and export of restraints and handheld kinetic impact weapons are currently not controlled¹⁷⁴.

In addition to its limited scope, the policy also fails to account for the broad range of activities that constitute the trade. Specifically, while the policy establishes rules regarding the import and export of law enforcement and security equipment, it establishes no restrictions on promotional activities. In the EU, restrictions on these types of activities have recently been introduced through amendments to the EU's 'Anti-Torture Regulation and have already been used to successfully prevent the promotion of inherently abusive equipment at arms fairs hosted in EU member states¹⁷⁵.

Thirdly, although the decree outlines the criteria that the Foreign Ministry and Ministry of Defence should consider when approving export requests, the regulation provides no guidance as to how these criteria should be assessed or what sources of information should be reviewed prior to a decision being made.

Next, while a desire to modernise the export process for defence equipment was an important factor behind the creation of PNEIPRODE, attempts to streamline the process including through the imposition of strict deadlines for the submission of responses and the creation of a multi-tier classification system for products, increase the risk of poor or inconsistent decision-making and act to undermine the oversight that the export process is intended to provide. The fast-tracking of requests to export products designated as 'Class I' is particularly concerning, since this category currently includes a large number of product types that, in the view of Omega, require strict control, including pistols, shotguns and electric shock weapons. The text of the decree explains that products are classified as 'Class I' by the Ministry of Defence in consultation with the Foreign Ministry on the basis of their 'technical characteristics', however, to the best of Omega's knowledge, no clear guidance has yet been published describing the criteria used to classify these products or which 'technical characteristics' are

considered when doing so.

Furthermore, although the Foreign Ministry may issue an opinion on requests to export 'Class I' products, the Ministry has no power to prevent the export of these products since by definition they do not require preliminary authorisation. In practice, therefore, oversight of the export of these products is almost entirely the responsibility of the Ministry of Defence, which alone has the power to grant export licenses. Analysis of export requests under PNENEM (see above) reveals that the Foreign Ministry is usually the body that intervenes in the export process for reasons connected to human rights. By removing the need for exporters of 'Class I' products to request preliminary authorisation, therefore, the policy risks effectively negating the role of the Foreign Ministry in assessing the export of these goods, thereby limiting the consideration of human rights obligations as part of the export process.

Finally, the policy does not appear to require the State to publish reports detailing authorized export data. Article 5(9), for example, states that the Ministry of Defence keep under 'custody and preserve the confidentiality of data and documents related to the export and import operations within [its] competence'¹⁷⁶. Article 38 of the policy similarly explains that the information related to the export and import processes are considered to be of restricted access¹⁷⁷. Arguments in favour of a lack of transparency are often justified on the grounds of commercial confidentiality or national security. However, examples from other countries, including member states of the EU, demonstrate that states can be transparent regarding their exports without breaching the commercial confidentiality or competitiveness of the companies involved, or jeopardising national security. In order for civil society actors and other relevant groups to be able to provide effective oversight of the process, it is essential that information about the implementation of the policy is made publicly available.

Recommendations

Omega calls on national authorities in Brazil to:

- Prohibit the promotion, import or export of law enforcement equipment which has no practical use other than for the purpose of inflicting torture or other cruel, inhuman or degrading treatment or punishment¹⁸³.
- Immediately suspend and deny export licences where there are credible allegations that the end users have recently used such equipment to commit or facilitate serious human rights violations, or where there is a substantial risk of serious human rights violations being perpetrated with such equipment.
- Submit an initial report to the UNODA as soon as possible, in compliance with the reporting requirements of the ATT.

- Take steps to address the weaknesses of PNEIPRODE identified by this report. Specifically:
- Reclassify pistols, shotguns and electric shock weapons from Class I to Class II
- Amend and update the Liprode to include all types of law enforcement equipment and weapons featured in this report, including restraints, and handheld kinetic impact weapons.
- Make publicly available details of the criteria and process used to classify defence products as either 'Class I' or 'Class II'.
- Make publicly available details of how the criteria used to assess the appropriateness of exports are evaluated, including sources used.
- Publish regular activity reports on the import and export of law enforcement equipment and technical assistance. These reports should include information on the number of applications received, the items involved, the country of destination and the proposed end-user, the outcome of each application, and the total value of the transfer.

Omega calls on APEX and ABIMDE to:

- Work closely with Brazilian companies to ensure compliance with local regulation when participating in international arms exhibitions.

Omega calls on companies involved in the production and trade of law enforcement equipment to:

- Put in place robust due diligence mechanisms to assess actual and potential human rights impacts resulting from the production and/or trade of law enforcement equipment, integrate and act upon the findings, track responses, and communicate how any impacts are being addressed.

Omega calls on companies involved in the organisation and hosting of law enforcement and security trade events to:

- Develop and implement procedures and policies to prevent the promotion of inherently abusive equipment at their events.

5. CONCLUSION

05 | CONCLUSION

The aim of this report has been to provide an overview of the manufacture, trade, use and misuse of law enforcement equipment and weapons in Brazil and their regulation at the national level. Additional research is required in several areas, particularly with regard to the implementation of new trade controls, transparency concerns, corporate accountability and use of force regulations. Nevertheless, it is possible to identify several conclusions on the basis of this initial report.

Firstly, the report observed how the Brazilian market for law enforcement and security equipment has grown in recent decades with several companies now established internationally. It was noted that this growth has been driven both by increased demand for law enforcement equipment domestically and internationally as well as the financial and diplomatic support for the sector from the Brazilian government. A review of the Brazilian manufacturers of law enforcement equipment identified a number of mainly privately-owned companies producing a wide range of products from electric shock weapons and chemical irritants to kinetic impact projectiles and stun grenades.

While the majority of the products produced by these companies have a legitimate role in law enforcement, the report discovered the manufacture of a number of products, notably thumb cuffs and direct contact electric shock weapons which are inherently abusive. Furthermore, the report found evidence of the import and promotion of foreign-manufactured equipment, including direct contact and body-worn electric shock weapons, which have no practical use other than for the purpose of inflicting torture or other cruel, inhuman or degrading treatment or punishment. It was argued that in order to minimise the risk of torture and other ill-treatment, the manufacture, promotion, trade and use of these and other inherently abusive types of law enforcement equipment should be prohibited.

As well as raising concerns about the manufacture and trade of inherently abusive equipment, the report highlighted how other types of Brazilian-manufactured law enforcement equipment are being used in non-custodial settings and in places of detention to commit human rights abuses. In doing so, the report called for more effective training for law enforcement officials authorised to use force as well as the development of more rigorous and comprehensive guidelines on the use of law enforcement equipment. The report also argued that these incidents of abuse demonstrate the need for the equipment selected for use by law enforcement to be rigorously tested to ensure that they are fit for purpose and can be used lawfully and in compliance with international human rights norms and standards.

Next, the report identified several concerning examples of the export of Brazilian manufactured law enforcement equipment to countries with poor human rights records. While, recent reforms to Brazil's trade control regime,

may help to address some of the weaknesses of the previous control regime which were highlighted by these cases, they nevertheless raise serious questions about the consistency and rigour with which export requests are handled by the Brazilian authorities as well as the willingness of the defence companies to operate in accordance with business and human rights principles.



▲ An emergency task force stand guard over two prisoners, © MNCPT

Finally, regarding the recent reforms to Brazil's regulations governing the import and export of law enforcement equipment, the report noted that although changes to the previous regime were to be welcomed, new regulations still suffer from several weaknesses that require immediate attention. Specifically, the report raised concerns about the omission of certain types of equipment from the LiPRODE, the potential negative effects that efforts to streamline the licensing process could have on oversight, and a lack of transparency around transfers and the licensing process itself.

ANNEXES

ANNEX A

BRAZILIAN EXPORTERS OF LAW ENFORCEMENT EQUIPMENT AND WEAPONS

Algemas Brasil	<p>On its website, Algemas Brasil claims to sell instruments of restraint 'throughout Brazil, Latin America, the Caribbean and Central America'¹⁸⁴. We have been unable to verify this claim. Furthermore, Algemas Brasil has not appeared on the Brazilian Government's list of exporting companies for the past several years (2012-19).</p>	Indios Pirotecnia Ltda	<p>According to a guide to defence companies and products published by the Brazilian Ministry of Defence, Indios Pirotecnia Ltda supplies several foreign armed forces including Chile, Argentina, Peru, Colombia, Paraguay, Turkey, Tunisia, Bangladesh, Thailand, Egypt, and the United Arab Emirates¹⁹⁰.</p>
Amadeo Rossi S.A. Metalurgica E Municoes	<p>Although Rossi no longer produces firearms for sale in the Brazilian market, its guns can still be found in the foreign market, made by Amadeo Rossi (exclusively for export) or by Taurus (who owns the Rossi brand and manufactures its short-barrelled firearms). Rossi products are primarily sold to the civilian market.</p>	Poly Defensor	<p>Poly Defensor has a subsidiary company in the USA and exports around the world including to the UK, China, Singapore and India¹⁹¹</p>
Bélica Militar	<p>Belica Militar are listed in a registry of exporting companies published by the Ministry for Economy, Industry, Foreign Trade and Service^{s185}</p>	RJC Defesa Aeroespacial Ltda	<p>RJC Defesa Aeroespacial Ltda is listed in a registry of exporting companies published by the Ministry for Economy, Industry, Foreign Trade and Services¹⁹²</p>
Companhia Brasileira de Cartuchos (CBC)	<p>CBC, based in Ribeirão Pires, São Paulo, is one of the largest manufacturers of small arms ammunition in the world, producing a wide range of lethal and non-lethal ammunition. The CBC holding company CBC Global Ammunition owns a number of subsidiaries, including Magtech Ammunition (US), MEN (Germany) and Sellier & Bellot (Czech Republic). Collectively the CBC group claims to produce over 1.5 billion rounds of ammunition each year, with production units in Brazil, Germany and the Czech Republic and distribution centres in Brazil, the United States and Europe¹⁸⁶.</p>	Taurus Armas S.A.	<p>For details of Taurus' exports, see the exports section above.</p>
Condor Tecnologias Nao Letais	<p>For details of Condor's exports, see the exports section above.</p>	ER DO Brasil	<p>ER DO Brasil claims on its website that its Knockout self-defence spray is used by police and security forces 'from various cities in Brazil and abroad'. However, we have been unable to verify this claim. Furthermore, ER DO BRASIL has not appeared on the Foreign Ministry's list of exporting companies for the previous three years (2016-18).</p>
E.R. Amantino Industria de Maquinas Equ. Accessorios e Armas EsportivasW Ltda. (Boito)	<p>Boito exports around 90% of the weapons it produces, mainly to the United States¹⁸⁷. On its website, Boito lists resellers in several other countries, including Angola, Malawi, South Africa, Canada, Argentina, Bolivia, Paraguay, Uruguay, Bangladesh, Cyprus, Georgia, Lebanon, Italy, Norway, Czech Republic, Russia, Australia, New Zealand¹⁸⁸.</p>	O Filizzola & Cia Ltda	<p>O Filizzola & Cia Ltda are listed in a 2019 registry of exporters published by the Ministry for Economy, Industry, Foreign Trade and Services¹⁹³</p>
Industria De Material Belico Do Brasil (IMBEL)	<p>Around 60% of IMBEL's pistols are exported to countries including the United States, Venezuela and Uruguay¹⁸⁹.</p>		

ANNEX B

LIST OF RECOMMENDATIONS

The following recommendations are submitted for the careful consideration of policy-makers, trade control officials, monitoring bodies and companies involved in the manufacture and trade of law enforcement equipment.

Use of Force

Omega calls on relevant national authorities in Brazil to:

- Ensure that domestic legislation, protocols and guidelines governing the use of force and firearms and all other law enforcement equipment comply with international human rights laws and standards; that these standards are effectively implemented by officials exercising law enforcement duties; that civil society organisations are invited to actively participate in any process designed to amend these standards; and that there is independent oversight and accountability for any abuses.

Omega calls on monitoring bodies tasked with visiting places of detention and/or monitoring the public use of force to:

- Provide their members with the training and information necessary to accurately document use of force incidents and allegations, including details of the equipment used. This may include the development of a standardised list of equipment and common abuses to look out for.

Manufacture, Selection and Testing

Omega calls on national authorities in Brazil to:

- Strictly prohibit the manufacture of law enforcement equipment which has no practical use other than for the purpose of inflicting torture or other cruel, inhuman or degrading treatment or punishment.
- Carry out independent reviews based on international human rights law and standards to ascertain whether new or untested equipment is appropriate for use by law enforcement. These tests should be conducted by medical, legal, police and other experts and should evaluate the effects of all reasonably likely or expected uses of the equipment. Particular consideration should be given to assessing the potential risks of using the equipment against individuals who may be especially vulnerable and whether the same operational objectives could be achieved using less harmful alternatives. The results of these test should be made publicly available.
- Ensure that all launched projectiles, including kinetic impact projectiles and chemical irritant projectiles

deployed by law enforcement, meet the accuracy standards as established by UN guidance on less lethal weapons¹⁹⁴.

Omega calls on companies involved in the manufacture and trade of law enforcement equipment to:

- Bring the capabilities and effects of their products to the attention of purchasers, users, and the general public. At a minimum, this should involve the publication of all documentation pertaining to the equipment's technical specifications, features and use parameters and should incorporate recommended safe operating procedures and highlight the medical risks of inappropriate use.
- Identify and release all medical studies and the names of the experts who have contributed to product testing and safety analyses, indicating those who have received compensation for promoting their products.

Omega calls on the United Nations to:

- Establish a group of experts, including medical, legal, technical and law enforcement professionals, and academics to develop international technical standards concerning the specification and performance of less lethal weapons and equipment, with the aim of minimising the risk of serious injury or death associated with their use. Standards to be developed include those related to the acceptable accuracy, consistency and kinetic energy of less lethal projectiles; the electrical output and length of the shock of projectile electric shock weapons; and the acceptable quantity delivered and concentration of chemical irritants.

Trade

Omega calls on national authorities in Brazil to:

- Prohibit the promotion, import or export of law enforcement of equipment which has no practical use other than for the purpose of inflicting torture or other cruel, inhuman or degrading treatment or punishment¹⁹⁵.
- Immediately suspend and deny export licences where there are credible allegations that the end users have recently used such equipment to commit or facilitate serious human rights violations, or where there is a substantial risk of serious human rights violations being perpetrated with such equipment.
- Submit an initial report to the UNODA as soon as possible, in compliance with the reporting requirements of the ATT.
- Take steps to address the weaknesses of PNEIPRODE identified by this report. Specifically:
 - Reclassify pistols, shotguns and electric shock weapons from Class I to Class II
 - Amend and update the Liprode to include all types of law enforcement equipment and weapons featured in this report, including restraints, and handheld kinetic impact weapons.
 - Make publicly available details of the criteria and process used to classify defence products as either 'Class I' or 'Class II'.

- Make publicly available details of how the criteria used to assess the appropriateness of exports are evaluated, including sources used.
- Publish regular activity reports on the import and export of law enforcement equipment and technical assistance. These reports should include information on the number of applications received, the items involved, the country of destination and the proposed end-user, the outcome of each application, and the total value of the transfer.

Omega calls on APEX and ABIMDE to:

- Work closely with Brazilian companies to ensure compliance with local regulation when participating in international arms exhibitions.

Omega calls on companies involved in the production and trade of law enforcement equipment to:

- Put in place robust due diligence mechanisms to assess actual and potential human rights impacts resulting from the production and/or trade of law enforcement equipment, integrate and act upon the findings, track responses, and communicate how any impacts are being addressed.

Omega calls on companies involved in the organisation and hosting of law enforcement and security trade events to:

- Develop and implement procedures and policies to prevent the promotion of inherently abusive equipment at their events.

ENDNOTES

1 The focus of this report is limited to the analysis of the manufacture, trade and use of the types of law enforcement equipment and weapons listed above. The report does not provide analysis of other types of equipment which are used by law enforcement agencies, such as surveillance equipment or vehicles.

2 Markets and Markets, "Less-Lethal Ammunition Market", <<https://www.marketsandmarkets.com/Market-Reports/less-lethal-ammunition-market-252593903.html>> [accessed July 9 2020]

3 United Nations, 'United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (UN BPUFF)', Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, <<https://www.ohchr.org/en/professionalinterest/pages/useofforceandfirearms.aspx>> [accessed 9 July 2020]

4 Ibid. Article 2.

5 The term "less-lethal weapons" has now been widely adopted in recognition of the fact that any weapon can cause serious injuries or death, depending on the circumstances of use. Nonetheless, the use of the term "non-lethal" remains common in Latin America. For more information, see: ICRC, 'The Use of Weapons and Equipment in Law Enforcement Operations', ICRC, May 2020, <<https://www.icrc.org/en/document/use-weapons-and-equipment-law-enforcement-operations>>

6 This report distinguishes between equipment which can have a legitimate role in law enforcement and inherently abusive equipment. Unlike other types of law enforcement equipment, the use of inherently abusive equipment is unacceptable regardless of the context in which they are deployed. Examples of inherently abusive law enforcement equipment include, direct contact and body-worn electric shock weapons, thumb and finger cuffs, spiked batons and spiked shields. For more information and further examples of inherently abusive law enforcement equipment see: Omega Research Foundation, 'Visual Glossary of Military, Security and Police Equipment', (undated), <https://omegaresearchfoundation.org/visual_glossary?search_api_language=en>

7 UN General Assembly, 'Resolution adopted by the General Assembly on 17 December 2015' (A/70/489/Add.1) 17 December 2015, <https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/146>

8 Office of the United Nations High Commissioner for Human Rights (OHCHR), 'Guidance on Less-Lethal Weapons in Law Enforcement', 2020, <https://www.ohchr.org/Documents/HRBodies/CCPR/LLW_Guidance.pdf>, paragraph 4.7.1

9 Council of the European Union, 'Council Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment', <<https://op.europa.eu/en/publication-detail/-/publication/e7749622-48ca-4339-a7e0-92b363c975cb/language-en>>

10 The 1992 Chemical Weapons Convention uses the term "riot control agents", defined as "Any chemical not listed in a Schedule, which can produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure." Art. II(7), 1992 Chemical Weapons Convention. The use of this term is avoided in this report because it is inaccurate and pejorative to refer to all public assemblies as riots, and the term overlooks the fact that chemical irritants are also used for purposes other than crowd control.

11 According to the American Academy of Paediatrics, 'Children are uniquely vulnerable to physiological effects of chemical agents. A child's smaller size, more frequent number of breaths per minute and limited cardiovascular stress response compared to adults magnifies the harm of agents such as tear gas.' Colleen A. Kraft, 'AAP Statement in Response to Tear Gas Being Used Against Children at the U.S. Southern Border', American Academy of Paediatrics, 26 November 2018, <<https://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/AAP-Statement-in-Response-to-Tear-Gas-Being-Used-Against-Children-at-the-U-S-Southern-Border.aspx>> [accessed 09 December 2019].

12 OHCHR recommends the law enforcement officials 'never use riot control agents against persons who are restrained or confined to a place where they have no escape routes from the chemical... (and) never use riot control agents in confined spaces or expose the same targets to riot control agents several times during a short time period'. See OHCHR, 'Human Rights and Law Enforcement, A Manual on Human Rights Training for Law Enforcement Officials', 2017, chapter 5

13 MNPCT, 'Relatório De Missão A Unidades De Privação De Liberdade Do Estado Do Mato Grosso', September 2017, <<https://www.gov.br/mdh/pt-br/acao-a-informacao/participacao-social/sistema-nacional-de-prevencao-e-combate-a-tortura-snpct/mecanismo/relatorio-mato-grosso-2017/>> [accessed 05 March 2020]

14 SPT, 'Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Brazil Report on visit to Brazil', CAT/OP/BRA/1, 05 July 2012, para. 128, <<https://undocs.org/CAT/OP/BRA/1>> [accessed 03 July 2020]

15 Folha Press, 'Secretário diz que utilização de gás por PM no Metrô 'não era necessária', 30 January 2015, <<http://g1.globo.com/sao-paulo/noticia/2015/01/secretario-diz-que-utilizacao-de-gas-por-pm-no-metro-nao-era-necessaria.html>>

- 16 Rodolfo Vicentini, 'BNegão diz que teve show censurado: "Estão tentando transformar em um Estado policial'. 31 July 2019, <<https://entretenimento.uol.com.br/noticias/redacao/2019/07/31/bnegao-diz-que-teve-show-censurado-estao-tentando-transformar-em-um-estado-policial.htm>> [accessed 07 July 2020]
- 17 Rondoniaovivo, 'PM usa gás de pimenta e bala de borracha para dispersar foliões no carnaval', 25 February 2020, <<http://rondoniaovivo.com/policia/noticia/2020/02/25/veja-o-video-pm-usa-gas-de-pimenta-e-bala-de-borracha-para-dispersar-folhoes-no-carnaval.html>> [accessed 09 March 2020]
- 18 Washington Times, 'Rio party ahead of Carnival ends in chaos', 12 January 2020, <<https://www.washingtontimes.com/news/2020/jan/12/rio-de-janeiro-police-storm-celebration-tear-gas/>> [accessed 09 March 2020]
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- 154 Ministério da Defesa/Secretaria de Produtos de Defesa, 'PORTARIA Nº 1714/SEPROD/SG-MD, DE 27 DE ABRIL DE 2020', 28 April 2020, <<https://www.in.gov.br/web/dou/-/portaria-n-1714/seprod/sg-md-de-27-de-abril-de-2020-254213468>>
- 155 Applications for authorization for preliminary negotiations and applications for authorization for export of defence products, are received by the Defence Products Division (DEPROD) of the Ministry of Foreign Affairs.
- 156 The authorization for NegPrel and the deferral of the PEx granted during the preliminary procedures phase

may be canceled at any time, if the conditions that allowed its concessions are modified or in the face of new facts identified by the involved organs.

157 DEPROD receives applications for authorization for preliminary negotiations and applications for authorization for export of Defence products. DIPROD is responsible for processing orders at Itamaraty.

158 Presidência da República Secretaria-Geral Subchefia para Assuntos Jurídicos, note 107. See articles 5(7) and 17(6).

159 Ibid., Article 5(2)

160 Ministério da Defesa/Secretaria de Produtos de Defesa, note 160.

161 Presidência da República Secretaria-Geral Subchefia para Assuntos Jurídicos, note 107. Article 39

162 Presidência da República Secretaria-Geral Subchefia para Assuntos Jurídicos, note 107. Article 13

163 Article 4 defines a CUF as follows: 'official document required by the government of the country of the exporter, which must be completed, signed and stamped by the competent authority of the government of the country of the importer... in which it undertakes to be the end user of the product and that the item will not be transferred without prior authorization from the government of the exporting country'

164 Article 4 defines a CII as follows: 'document required by the government of the country of the exporter, which must be completed, signed and stamped by the competent authority of the government of the country of the importer, in which it undertakes that it: a) admits the import; b) has tracing systems for imported products; and c) the re-export of the product will only take place with the authorization of the competent authority of the government of the country of the importer'.

165 To improve efficiency, the Defence Products Export System (EXPRODEF) - a computerized system for handling the registration of export requests - was launched alongside the implementation of the policy.

166 Presidência da República Secretaria-Geral Subchefia para Assuntos Jurídicos, note 107. Article 10.

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