EXECUTIVE SUMMARY:

The manufacture, trade and regulation of law enforcement and security equipment in Brazil

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EXECUTIVE SUMMARY

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 unrest. While the market for law enforcement equipment has historically been dominated by North American and European companies, in recent years Brazil has established itself as a leading manufacturer and exporter.

If well-designed and used in accordance with international human rights law and the principles of legality, necessity, proportionality, precaution, non-discrimination and accountability, 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. 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 in Brazil and elsewhere, 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 of the equipment used by law enforcement as well as 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. Attempts to prevent the types of human rights violations associated with the use of law enforcement equipment must therefore 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.

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
Executive Summary

The 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.

**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.

Research conducted for this report identified numerous cases of the misuse of law enforcement equipment both on the street and in places of detention, some of which could amount to torture or ill-treatment. Notable examples, of the types of misuse of force identified by the report include, the use of chemical irritants as a ‘preventative measure’ to disperse crowds posing no threat including crowds at cultural events such as concerts, the use of electric shock weapons against detainees who had already been brought under control and posing no threat, and the use of kinetic impact projectiles at close range against protestors leading to deaths and serious injuries.

In recent years international standards governing the use of force by law enforcement equipment including UN Basic Principles and UN Guidance on Less Lethal Weapons 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’. 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’.

While the development of these standards is commendable, it is clear from the identified by the report that existing guidance on the use of law enforcement equipment and weapons in Brazil is insufficient. As such, Omega recommends the development of 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.

**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 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.

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.

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 Goias 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.

While the majority of the products produced by these companies have a legitimate role in law enforcement, Omega has identified the manufacture of a number of products, notably thumb cuffs and direct contact electric shock weapons which are inherently abusive and should be prohibited. Other
products of concern identified by the report included, stun grenades manufactured by Condor which are promoted as suitable for indoor use and kinetic impact ammunition containing multiple projectiles promoted for use by law enforcement by Condor and CBC. 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 injury, such use increases the risk of serious or life-threatenning injuries. Ammunition containing multiple projectiles meanwhile are inherently inaccurate and therefore unsuitable for use by law enforcement.

In order to minimise the number of deaths and serious injuries caused by law enforcement equipment and weapons, it is essential that all equipment selected for use by law enforcement is well-designed and appropriate for the operational context in which it is deployed. In particular, this report argues that, in accordance with international standards, all equipment and weapons used by law enforcement officials should be rigorously and independently tested prior to selection and procurement.

Recently, the Ministry of Justice and Public Security (MJSP) through the National Secretariat for Public Security (SENASP) has created the National Programme for Standardization and Certification of Public Safety Products (Pro-Seguranca) which is intended to ‘establish Technical Standards that contemplate the minimum requirements for safety, quality and performance of equipment, products and public safety services’. 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.

Although the creation of the Pro-Seguranca programme 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, an initial analysis of the programme’s design and early implementation highlights some areas of concern. Specifically, the report raises concerns about the lack of civil society involvement in the initial drafting of standards. Concerns are also raised about the limited range of weapons which will be subject to testing and questions whether the primary objective of the process itself is to enhance public safety or only the safety law enforcement officials.
Promotion

As Brazilian manufacturers of law enforcement equipment have grown in size and number, several companies have sought to established themselves globally. 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 through their attendance at the many defence and security exhibitions held annually around the world.

An analysis of exhibitors at international arms fairs over the past decade, reveals the growing presence of several Brazilian manufacturers of law enforcement equipment at events around the world, including at fairs hosted in the Asia and the Middle East.

In recent years, a number of states have introduced regulations to control the types of products that can be promoted for sale on 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 weapons. The report emphasises the importance of Brazilian companies respecting and complying with these local laws and regulations as well as the policies of the event organisers. The report further observes how failure to do so has previously led the Brazilian company Condor to be expelled from a UK event.

Import, Distribution and Promotion in Brazil

Despite the existence of controls on the import of certain types of law enforcement and security equipment, 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 products.

Foreign manufacturers of defence and security equipment often work in partnership with local distributors and representatives to market and sell their products to domestic buyers. 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 Limited, and NL Tecnologia e Segurança, who are the exclusive representatives of PEPPERBALL products including chemical irritant projectiles and launchers in Brazil.
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.

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.

**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 alone. 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 USD. 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. The recent success of Brazilian manufacturers of law enforcement equipment can partly be attributed to ongoing financial and diplomatic support for the industry from the Brazilian government, which has provided millions of

Research carried by Omega has identified evidence to suggest that a total of 13 Brazilian companies having either carried out actual exports, claimed to have exported or registered to export one or more types of law enforcement equipment, 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; IndustriaDe Material Belico Do Brasil (IMBEL); Indios Pirotecnia Ltda; O Filizzola & Cia Ltda; Poly Defensor; RJC Defesa Aeroespacial Ltda; and Taurus S.A.

A lack of granular data concerning the export of law enforcement equipment means that a detailed quantitative analysis of the Brazilian export market for law enforcement equipment was not possible. Instead the report identifies a number of illustrative cases of exports by Brazilian companies which demonstrate the need for greater oversight and regulation of the trade.

Notable examples of exports identified by the report include:

- The export by Condor of less lethal policing equipment including tear gas to the Bahraini authorities, during the government’s the violent repression of pro-democracy and anti-government protestors. Repeated attempts have been made by Bahraini activists and the international community to stop supplies of tear gas to Bahrain, however, data published by the Ministry of Development, Industry and Foreign Trade show that around $2 million USD worth of equipment was exported to the country from the Nova Iguaçu municipality in 2018 alone.

- The export of chemical irritants manufactured by Condor to Venezuela. There is evidence to suggest these products were used in 2014 and 2017 to violently suppress protests against the government. Reports of the violence eventually 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 ‘tear gas canisters’ that had already been negotiated.

- The shipping of 8,000 handguns to Fares Mohammed Hassan Mana’a, 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.

- In 2015 it was reported that Taurus had also arranged to sell firearms to Mana’a’s son, Adeeb Mana’a. According to a UN report, the firearms were ‘very likely destined for the
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, the policy was applied and updated confidentially, making it almost impossible for civil society groups to analyse the effectiveness of the regulation or provide adequate oversight. However, more recently 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 oversight. In August 2018, for example, Brazil became the 97th State Party to the Arms Trade Treaty (ATT), thereby committing itself 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. Brazil’s accession to the ATT was followed shortly after by its participation in the newly created Alliance for Torture Free Trade, a group of around 60 states all of whom have declared their intention to take effective measures to restriction of the trade in goods used for capital punishment and torture. Finally, in June 2019, Brazil was among 81 states to vote in favour of a UNGA resolution calling on the UN Secretary-General 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 equipment. 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). According to the Decree, the new policy, which replaces PNEMEM, 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'. Law enforcement equipment covered by the policy includes ‘Firearms (less than .50 or 12 GA or 12.7 mm), ‘incapacitating electric weapons’ and ‘lesslethal ammunition launchers equal to or greater than 40mm’.

Under the rules of PNEIPRODE, companies are required to apply for authorization to enter into preliminary negotiations with foreign buyers. Once a sale has been agreed, companies will then be permitted to apply for an export license. Within the framework of the policy, the Ministry of Foreign Affairs is responsible for receiving and authorizing preliminary export negotiation requests for defence products and 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 Defence, which is also responsible for reviewing and updating the list of products covered by the policy.

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 maybe 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.

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 with the Ministry of Defence, accompanied by a detailed description of the products to be imported and a justification for the import.

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.

Despite these positives, however, the report identifies several aspects of the current policy which are concerning and which require immediate attention.

Firstly, although the list of goods controlled under the new regulation contains certain types of law enforcement equipment, including electric shock weapons and firearms, the list is far from comprehensive and includes several significant omissions. 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. Chemical irritants, stun grenades and kinetic impact ammunition are regulated separately by Decree 10.030/2019 as “controlled products”. Although this designation means that their import and export require pre-authorisation by the Army these transactions are not scrutinised to the same degree as the defence products which fall under the PNEIPRODE. For example, there is no explicit requirement to consider the possibility that exported equipment could be used to commit human rights or international humanitarian law violations. Instruments of restraint and striking weapons are currently not designated as ‘controlled products so either and so to the best of Omega’s knowledge are currently not controlled.

Secondly, the report raises concerns that attempts to streamline the process, for example 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. Particular concern is raised about the fast-tracking of requests to export equipment designated as ‘Class I’, 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. 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.

Next, while the policy establishes rules regarding the import and export of law enforcement and security equipment, the report notes that it establishes no restrictions on promotional activities. Furthermore, it is observed that 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. Finally, the report also expresses concern about the transparency of the process as it is currently designed, noting that the policy does not appear to require the State to publish reports detailing authorized export data.
Listed below are the recommendations made by Omega in the report:

**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, 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 of 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 weapons.
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 punishment.

- Immediately suspend and deny export licences where there are credible allegations that the agencies and security forces involved have recently used such equipment to commit or facilitate serious human rights violations, or where there is a substantial risk of serious violations of human rights 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.
Executive Summary

• Take steps to address the weaknesses of PNEIPRODE identified by this report. Specifically:
  o Reclassify pistols, shotguns and electric shock weapons from Class I to Class II
  o 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.
  o Make publicly available details of the criteria and process used to classify defence products are either ‘Class I’ or ‘Class II’.
  o Make publicly available details of the process by which the criteria used to assess the appropriateness of exports are evaluated, including sources used.
  o Publish regularly 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