



National Contact Point for
OECD Guidelines for
Multinational Enterprises

MINISTÉRIO DA
ECONOMIA



**FINAL STATEMENT – Complaint of Non-Observance no.
01/2021**

Complainant:

Society for Threatened Peoples – Gesellschaft für bedrohte Völker (GfbV)

Respondent:

German multinational enterprise

NCP Brazil

Ministry of Economy

Executive Secretariat of the Chamber of Foreign Trade
(SE-CAMEX)

Esplanada dos Ministérios, Block J

E-mail: pcn.ocde@economia.gov.br

Website: <https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/camex/pcn>

9 August 2021

1. NATIONAL CONTACT POINT BRAZIL AND ITS ROLE	3
2. EXECUTIVE SUMMARY	3
3. THE COMPLAINT OF NON-OBSERVANCE AND COUNTERCLAIMS.....	3
4. REVIEW AND CONCLUSIONS	4
ANNEX I – Chronological Summary Complaint of Non-Observance no. 01/2021	4

1. NATIONAL CONTACT POINT BRAZIL AND ITS ROLE

1.1 The Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises (Guidelines) are recommendations addressed by governments to multinational enterprises operating in or from adhering countries and are the only multilaterally accepted and comprehensive government-backed code on responsible business conduct (RBC). The monitoring, promotion and implementation of the Guidelines are the responsibility of the OECD Investment Committee and the National Contact Points (NCPs).

1.2 The NCPs act as a central forum for all matters relating to the Guidelines, providing a unique mechanism for support, promotion and implementation. Their main objective is to help companies, groups, associations, trade unions and other stakeholders take appropriate action to implement the Guidelines, and to provide a platform to contribute to the resolution of issues related to non-observance.

1.3 NCP Brazil was created by Administrative Order no. 92, of the then Ministry of Finance, on 12 May 2003. Already within the new organisational structure of the federal Executive Branch, Decree no. 9 874 of 27 June 2019 was issued, which contained new provisions on the powers and organisation of NCP Brazil, confirming its structure as an Inter-ministerial Working Group (IWG-NCP), composed of eight agencies with co-ordination and secretarial work from the Ministry of Economy.

2. EXECUTIVE SUMMARY

2.1 On 30 December 2020, NCP Brazil received a complaint from the non-governmental organisation (NGO) Society for Threatened Peoples – Gesellschaft für bedrohte Völker (GfbV), representing affected parties, regarding the conduct of a German multinational enterprise. The alleged events were said to have occurred in Brazil, involving non-observance of the provisions of the Guidelines on general policies, disclosure, human rights and the environment.

2.2 A similar complaint was made to the NCP where the company's headquarters is located. Thus, during the first half of 2021, the NCPs of Brazil and Germany worked together on the case in order to clarify, among other things, the intention behind submitting the case simultaneously to two NCPs.

2.3 On 29 June 2021, the Complainant requested the closure of the complaint filed with NCP Brazil, opting for the case to be handled by NCP Germany.

3. THE COMPLAINT OF NON-OBSERVANCE AND COUNTERCLAIMS

3.1 Complaint of Non-Observance

3.1.1 The complaint was filed by the NGO Society for Threatened Peoples – Gesellschaft für bedrohte Völker (GfbV), with indigenous peoples as affected parties.

3.1.2 According to the complaint, the recommendations in part I, chapters II – General Policies (paragraphs 1, 2, 10, 11, 12 and 13), III – Disclosure (paragraph 3, point "d"), IV – Human Rights (paragraphs 1, 2, 3, 5 and 6) and VI – Environment (paragraphs 3, 4 and 5) of the Guidelines are not being observed.

3.1.3 The events occurred in Brazil and relate to a German multinational enterprise from the industrial sector, other activities and services.

3.2 Counterclaims

3.2.1 The multinational enterprise was not contacted as the Complainant withdrew before it was possible to complete the procedures in items 5.7.1 and 5.10, namely:

5.7.1. The report will be submitted to the IWG-NCP, which will decide on the specific instance in question. The quorum needed for the meeting is an absolute majority. The decision on acceptance will be taken by a simple majority, i.e. half plus one of the total votes of the members attending the meeting.

5.10. The company(ies) identified in the specific instance will be notified and will be given access to the documents. It (they) will also have the opportunity to comment on the Complaint, after its acceptance.

4. REVIEW AND CONCLUSIONS

4.1 Following the Complainant's request to have the case handled by NCP Germany, and considering the content of this statement, NCP Brazil closed Specific Instance no. 01/2021.

ANNEX I – Complaint of Non-Observance no. 01/2021

Description	Date
NCP Brazil receives Specific Instance no. 01/2021	30 December 2020
NCP Brazil requests additional information from the Complainant	26 January 2021
NCP Brazil receives additional information in respect of the complaint	26 February 2021
NCP Brazil finalises the Admissibility Analysis	17 March 2021
NCP Brazil invites the rapporteur	6 April 2021
Co-operation between NCP Brazil and NCP Germany	May/June 2021
NCP Brazil receives notice of withdrawal	29 June 2021
NCP Brazil closes the case due to Complainant's withdrawal	August 2021