



Brazil National Contact Point

MINISTRY OF DEVELOPMENT, INDUSTRY, TRADE AND SERVICES
Executive Secretary of the Chamber of Foreign Trade
National Contact Point for Brazil



MINISTRY OF DEVELOPMENT,
INDUSTRY,
COMMERCE AND
SERVICES

FINAL REPORT SPECIFIC INSTANCE No. 06/2018¹ ADERE-MG, Conectas Human Rights and Nestlé

As noted in the Procedural Guidelines for the OECD Guidelines for Multinational Enterprises, after the conclusion of a specific instance and after consultation with the parties involved, the NCP will disclose the results of the proceedings.

(a) This report describes the issues presented, the procedures initiated by the NCP to assist the parties and the point at which an agreement was reached. Information on the results of good offices has been included by agreement of both parties.

It should be noted that, as the specific instances are not court cases and the NCPs are not judicial bodies, the NCPs cannot directly request compensation or oblige the parties to take part in a conciliation or mediation process.

**National Contact Point for the OECD Guidelines for Multinational Enterprises in Brazil
- NCP Brazil**

June 2023

¹ Allegation of Non-Compliance No. 06/2018 is a spin-off of Allegation of Non-Compliance No. 02/2018, relating to 6 (six) multinational companies. This Final Statement refers only to Nestlé.



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1. Overview of the PCN and its role

1. The Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises (Guidelines) are recommendations addressed by governments to multinational enterprises operating in or from adhering countries. To date, 51 countries, including Brazil, have signed up to the Guidelines, committing themselves to implementing them and encouraging their use.
2. The Guidelines are the only multilaterally accepted and comprehensive code on responsible business conduct (RBC). The National Contact Points (NCPs) operate as a central forum for issues related to the Guidelines, offering a unique mechanism for support, promotion and implementation.
3. Brazil's NCP was established in 2003 and had its structure revised by [Decree No. 11.105 of June 27, 2022](#). It is currently an Interministerial Working Group (GTI-PCN) coordinated by the Executive Secretariat of the Foreign Trade Chamber of the Ministry of Development, Industry, Trade and Services, and is made up of representatives from different bodies.
4. The main objective of the NCPs is to help companies, groups, associations, trade unions and other stakeholders to take appropriate measures to implement the Guidelines. In this context, the NCPs have two main functions: to raise awareness and promote compliance with the Guidelines; and to contribute to the resolution of issues that arise in relation to the implementation of the OECD Guidelines, through so-called specific fora (SIs).
5. The NCP Brazil contributes to the resolution of the issues presented by offering good offices, which usually take the form of mediation between the claimant and the alleged company. In addition, the NCP can issue recommendations on how to improve the implementation of the Guidelines in specific cases, and follow up on these recommendations. The handling of specific instances by the NCP Brazil is carried out in accordance with its Manual of Procedures for Specific Instances and the Procedural Guidance of the Guidelines (Manual).



2. Summary Executive

6. On August 21, 2018, Allegation No. 02/2018 (SEI [9507554](#)) was submitted to the NCP Brazil by the Articulation of Rural Employees of the State of Minas Gerais (ADERE-MG), an organization that brings together several rural employee unions, together with the non-governmental organization Conectas Human Rights.
7. The submission alleged that multinationals Dunkin'Donuts, Illy, Jacobs Douwe Egberts, Mc Donald's, Nestlé and Starbucks failed to comply with the OECD Guidelines on human and labor rights on coffee plantations in southern Minas Gerais, due to due diligence failures in their supply chains.
8. On September 12, 2018, the Brazil NCP concluded that the claim met the criteria for admissibility and acceptance. In correspondence dated January 18, 2019, Nestlé submitted its counter-allegations (SEI No. [5400393](#)).
9. With the restructuring of the Brazil NCP Interministerial Working Group (GTI-PCN), the case was resumed in August 2019, and the GTI-PCN accepted the recommendations of the Rapporteur, representing the Ministry of Women, Family and Human Rights, to dismember the case, in view of the complexity and specificities involving the allegations of each of the companies (SEI [9507636](#)). The individualized submission took place on September 9, 2019 (SEI [5418866](#)).
10. On March 11, 2020, the GTI-PCN Brazil approved the acceptance report of Specific Instance 06/2018 (SEI [9628950](#)) and the recommendations of the rapporteur - representative of the Ministry of Women, Family and Human Rights (MMFDH), and additional documentation was requested for analysis by the rapporteur (SEI [9637419](#)).
11. On September 10, 2020, Nestlé Brasil Ltda presented the NCP with its response (SEI 10448400) to the request for information, having sent a supplement on November 27, 2020 (SEI 12793109), at the request of the NCP.



12. On February 5, 2021, the GTI-PCN approved the rapporteur's opinion offering good offices to the parties. The good offices are the main stage of the specific instances, in which the NCP seeks to contribute to resolving the issues raised, through dialogue between the parties, with the aim of constructive engagement between the parties and strengthening the company's CER practices and the implementation of the Guidelines.
13. Following the approval of the offer of good offices by the GTI-PCN, the parties were notified and meetings were held with each party to explain the procedure. Both parties expressed their interest in the good offices stage. The claimants, on May 21, 2021 (SEI 19445932), and Nestlé, on August 23, 2021 ([SEI 18301694](#)).
14. Subsequently, professionals from the Ministry of Labor and Social Security (MTP) were appointed as mediators, and their names were approved by both parties. The NCP, together with the MTP mediators, drew up the Work Plan (Sei 26424765) for the mediation in accordance with item 6.9 of the Manual of Procedures. The Work Plan was analyzed by the parties and approved on March 25, 2022, after which the mediation meetings began, with the NCP accompanying them.
15. There were seven face-to-face mediation meetings between the parties, in which they were able to present their points of view, allegations and counter-allegations. The meetings took place on the following dates:
 - (i) June 03, 2022, in São Paulo;
 - (ii) July 11, 2022, in São Paulo;
 - (iii) August 18, 2022, in Minas Gerais,
 - (iv) September 12, 2022, in Rio de Janeiro;
 - (v) October 06, 2022, in Brasília;
 - (vi) November 03, 2022, in São Paulo;
 - (vii) December 06, 2022, in São Paulo.
16. In the meantime, there was interaction and meetings between the parties without the intervention of the NCP or mediators, which contributed to the progress of the work and demonstrated the parties' interest in maturing the proposals.



17. Having completed the mediation process, this report aims to present an overview of the case, a description of the process conducted by PCN Brasil and the recommendations for the company. All the documentation that underpins the analysis of this case was entered into the Ministry of Economy's Electronic Information System (SEI), SEI Process No. [19971.100650/2020-57](#).

18. This Final Report follows the Manual of Procedures for Specific Instances of the National Contact Point, published in 2020, which provides for the work of the National Contact Point. This document is available on the PCN Brazil website at www.pcn.economia.gov.br.

3. The procedures of PCN

19. Since receiving the submission, the NCP has taken the following actions:

Date	Action taken
	Receipt and initial assessment
21/08/2018	Receipt of submission on 06 multinationals
12/09/2018	Admission of the claim and recommendation for dismemberment
18/01/2019	Receipt of Defendant's Counterclaims
09/09/2019	Receipt of individualized submission
11/03/2020	Acceptance of the Specific Instance by the GTI-PCN
10/09/2020	Receipt of the information requested for the Alleged
27/11/2020	Receipt of the requested information
05/02/2021	Decision on proposal for good offices by the GTI-PCN
	Good offices and mediation actions
17/02/2021	Offer of good offices to the alleged
14/04/2021	Offer of good offices to claimants
21/05/2021	Acceptance of the offer of good offices by the claimants
23/08/2021	Acceptance of the offer of good offices by the alleged
25/03/2022	Approval of the Work Plan by both parties
03/06/2022	First mediation
11/07/2022	Second mediation
18/08/2022	Third mediation
12/09/2022	Fourth mediation
06/10/2022	Fifth mediation
03/11/2022	Sixth mediation
06/12/2022	Seventh mediation
	Conclusion
01/06/2023	Presentation of the draft Final Report by the rapporteur
01/06/2023	Approval of the draft Final Report by the GTI-PCN
15/06/2023	Forwarding the draft Final Report for analysis by the parties
30/08/2023	Approval of the Final Report by the GTI-PCN
26/10/2023	Publication of the Final Report



4. Content of the submission and the response from company

20. On August 21, 2018, the Articulation of Rural Employees of the State of Minas Gerais (ADERE-MG), together with the non-governmental organization Conectas Human Rights, submitted an allegation of non-compliance with the OECD Guidelines for Multinational Enterprises to the National Contact Point in Brazil. Initially, the claim was filed against the multinational companies Nestlé, Jacobs Douwe Egberts, McDonald's, Dunkin' Donuts, Starbucks and Illy.
21. After the preliminary analysis and considering that the allegation met the requirements of items I, II and IV of Article 10 of PCN Resolution No. 01/2016², of November 16, 2016, but did not have a sufficiently limited focus, as required by item III of the same provision, a request was made for the submission of an allegation of non-compliance by a company, with a delimited object, in order to enable appropriate mediation or conciliation to be carried out.
22. In September 2019, a claim was filed against Nestlé. The documents attached reported violations of rights that occurred between 2015 and July 2018. However, the problems pointed out were of a continuous nature, suggesting systemic problems in the harvesting of coffee in the region, as well as routine purchasing procedures without due diligence, with the argument that the company refused to make information available to interested parties.
23. The plaintiffs claim, in short, the existence of violations of labor and human rights committed by coffee farms allegedly purchased by the defendant in the course of its business activities linked to the south of Minas Gerais, which would ultimately be related to cases of contemporary slavery. They are based on the possible ineffectiveness of the alleged company's supply chain due diligence mechanisms related to human and labor rights, which would be inadequate for the size, nature and risk of its operations.

² It was replaced by Resolution No. 1 of March 3, 2020, which established the Manual of Procedures for Specific Instances of the National Contact Point.



24. The allegation describes a situation that would be widespread in the south of the state of Minas Gerais. The account taken of thirty-seven people rescued from farms, victims of serious violations of labour and human rights, including circumstances characterized by Brazilian law as work analogous to slavery, together with inspection reports and administrative infraction notices issued by the Federal Labour Inspectorate, would prove this claim.
25. The workers would be co-opted in Bahia, during the dry season, to work in the coffee harvest in Minas Gerais, through irregular labor intermediation. The fraudulent job offers amounted to human trafficking. The accommodation for the workers was inappropriate, with no basic furniture or, in some cases, even running water, electricity or toilets. There are reports of serious safety problems, such as the risk of electric shock or fires.
26. In other cases, employees have had their food irregularly deducted or have had their access to food restricted. They also report cases of grueling working hours and insufficient provision of personal protective equipment, as well as reports of illnesses caused by the pesticides used.
27. The Claimants cite the occurrence of fraud in the weighing of harvested coffee in order to reduce the payment due to employees. The fraud was facilitated by the lack of formalization of employment contracts or even the retention of workers' Work and Social Security Cards.
28. The allegation continues with a general contextualization of Minas Gerais' position as a major national coffee producer, followed by a brief overview of national and international legislation dealing with slave labour, as well as the basic organization of the national policy to combat this violation.
29. It then moves on to a brief explanation of cause, contribution and direct relationship, according to the Guidelines, and then to a summary of the ordinary functioning of the coffee supply chain.



30. Then, based on the reports "Bitter Coffee", published in March 2016 by the organization Danwatch, and "Certified coffee, workers without rights", published in December 2016 by Repórter Brasil, the plaintiffs point to Nestlé's contribution to violations in the south of Minas Gerais.
31. According to the Danwatch report, the company admitted to buying coffee from two farms where Brazilian authorities freed workers in conditions analogous to slavery in July 2015. It also acknowledges that it has a code of conduct which includes a commitment by its suppliers to comply with a series of international human rights conventions and the main conventions of the International Labor Organization.
32. The company admitted to having bought coffee from the export company Carmo Coffees, produced on the Lagoa and Pedra farms, where the Federal Labor Inspectorate identified conditions analogous to slavery in July 2015. Agronomists from the company allegedly visited the former in August 2015 and the latter in August 2014, without any irregularities being identified.
33. Nestlé explained that the harvest had already been completed at the time of the visits, and that the problems described had been resolved by Fazenda Lagoa after the labor inspectors' inspection. The company replied to the NGO that purchases from the two farms had been suspended until the investigations were concluded.
34. The plaintiffs argued that, despite the existence of tools to check the integrity of the supply chain, by buying coffee without knowing its origin, the company was incurring in a relationship of contribution by omission.
35. They claimed that the situation described would violate the following provisions of the Guidelines:

II. General Policies

Companies must take full account of the policies in force in the countries where they carry out their activities, and consider the points of view of other players involved. In this sense: Companies must:

(...)

2. Respect the internationally recognized human rights of those affected by its activities.



(...)

10. Carry out risk-based *due diligence*, for example by incorporating risk management systems into your company, to identify, avoid and mitigate actual and potential adverse impacts, as described in paragraphs 11 and 12, and explain how these impacts are addressed. The nature and scope of *due diligence* depends on the circumstances of a particular situation.

11. Avoid causing or contributing to adverse impacts on the matters covered by the Guidelines through its own activities, and deal with such impacts when they occur.

12. Seek to avoid or mitigate an adverse impact, if they have not contributed to that impact, when the impact is nevertheless directly linked to their operations, goods or services by a business relationship. This is not intended to transfer responsibility from the entity causing an adverse impact to the company with which it has a business relationship.

13. In addition to addressing adverse impacts in relation to the matters covered by the Guidelines, encourage, where possible, business partners, including suppliers and subcontractors, to apply principles of responsible business conduct compatible with the Guidelines.

IV. Human Rights

States have a duty to protect human rights. Companies should, in the context of internationally recognized human rights, the international human rights obligations of the countries in which they operate, as well as domestic laws and regulations:

1. Respect human rights, which means that they must avoid violating the human rights of others and must deal with adverse impacts on human rights with which they are involved.

2. Within the context of its own activities, avoid causing or contributing to adverse impacts on human rights and address these impacts when they occur.

3. Look for ways to avoid or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to these impacts.

(...)

5. Carry out human rights *due diligence* appropriate to the size, nature and scope of the operations and the seriousness of the risks of adverse effects on human rights.

6. Provide for or cooperate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have caused or contributed to such impacts.

V. Employment and Labor Relations



1. (...) d) Contribute to the elimination of all forms of forced or compulsory labor and take appropriate measures to ensure that forced or compulsory labor does not exist in its operations.

36. Finally, they ask that the company:

1. Reinforce your commitment to human rights by pledging to fulfill your duty to respect Brazilian labor, criminal, and international human rights standards, especially with regard to working conditions on coffee farms in southern Minas Gerais;
2. Draw up and implement a plan for mitigating supply chain risks in southern Minas Gerais, in line with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Human Rights and Business, as well as good practices in the sector. The plan could involve improving its own forms of inspection, partnering with local trade unions, consulting with the Labor Prosecutor's Office, and establishing an effective communication channel for complaints;
3. Adopt effective measures to identify the farms in your supply chain and make this information available to local actors and the public. Transparency and traceability of suppliers allow local actors, including the workers themselves, to know who their products are destined for and which corporate standards apply;
4. Provide accessible complaint and grievance mechanisms for actors in the southern region of Minas Gerais, in accordance with internationally recognized effectiveness criteria;
5. Carry out an evaluation of its human rights policies, identifying the procedural and practical flaws that have led to violations, and draw up strategies to correct them. The evaluation should include the participation of victims of violations and their legal representatives;
6. Establish a remediation plan for the victims of the violations to which they have contributed, in conjunction with the other actors involved or on their own, with the participation of victims of the violations and their legal representatives;
7. Establish a plan to prevent and mitigate future violations, especially through measures to strengthen victim support bodies such as the union.

37. On January 18, 2019, Nestlé Brasil Ltda. submitted a response to the initial allegation, IE 02/2018, which was subsequently subdivided. In the document, it stated that the company did not admit violations of labor rights or forced labor in its supply chain. Following the complaints it received, it allegedly carried out an investigation



It concluded that no grain from the farms in question had been bought by the company.

38. More generally, with regard to its approach to these types of problems, it reiterated what was already in the claim, in the sense that it has a *Responsible Sourcing Standard*, non-compliance with which by its commercial partners can result in the modification or discontinuation of their relations.
39. Specifically with regard to coffee, he mentioned the Nescafé Plan and Nespresso AAA. He added that, at the time, 85% of its Brazilian supply came from sustainable sources, verified by external certifications, such as the *Common Code for Coffee Community* (4C), the *Rainforest Alliance* and similar. It said it planned to have 100% of the chain certified by the end of 2019.
40. In the additional information provided by Nestlé Brasil Ltda. on September 10 and later on November 27, 2020, the company presented a statement issued by Carmo Coffees (Exportadora de Cafés Carmo de Minas Ltda), in which the exporter stated that it "*does not do business with individuals or companies listed in the Register of Employees who have subjected workers to conditions analogous to slavery*". Nestlé presented documents from the exporter, indicating that it had stopped doing business with the Lagoa and da Pedra farms, investigated in the claim, prior to the inspection by the then Ministry of Labor, stating that there had been no purchases from these farms, including in the 2015 harvest.
41. Nestlé clarified that it is a party to and actively participates in the National Pact for the Eradication of Slave Labour, and is a member of InPACTO, a non-profit organization that mobilizes different sectors to promote decent work. In addition, it reported that it participates in the Global Coffee Platform, an international association that involves the entire chain and whose ultimate goal is to promote the sustainability of the sector, especially the well-being of workers.
42. He mentioned that the activities of Nestlé's partners and suppliers are monitored through audits to monitor compliance with legislation and the company's own codes of conduct for suppliers. He mentioned that the company conducts



inspection visits to suppliers and producers to ensure that coffee plantations comply with the principles of the company's Supplier Code, and for verified and/or certified coffee, the company relies on its own or independent inspections. He explained that Nestlé agronomists are in direct contact with farmers and teams from the Nestlé Quality Control Center (NQCC) and visit coffee farms and plantations regularly to help farmers improve sustainable agricultural practices, which includes checking social issues and working conditions, as well as to increase the productivity and quality of coffee. He updated the information he had previously provided, stating that 100% of the coffee purchased from suppliers in the south of Minas Gerais was certified as being of sustainable origin.

43. He stressed that Nespresso AAA, a program that supports and promotes best practices in the field, has responsible purchasing as one of the foundations of the company's approach to the sustainable development of its business. He clarified that the Nespresso AAA Program has a zero tolerance policy in relation to Fair Labor critical points, which include Forced and Child Labor. And so, depending on the irregularity found during an inspection, the farm may be suspended from the AAA Program, as well as from all commercial transactions, with the supplier having 90 (ninety) days to implement an effective action plan. Otherwise, it is excluded from the AAA Program.
44. With regard to training, the company said that it provides training both to its employees and to experts, focusing on the coffee harvest and the environmental and labor standards that should govern all production activities. It also presented the document "Checklist for the prevention of labor analogous to slavery for coffee producers", exemplifying the prevention and guidance measures adopted by Nestlé with its suppliers.
45. Finally, the company claimed that it never obtained any financial benefits from the alleged violations, and that the price of the coffee was set according to the New York Stock Exchange price, with the exchange rate of the day. It mentioned the payment of the premium related to Nespresso's AAA (triple A) program, in which the



payment of above market value to its Suppliers, if the supplier achieves strict levels of responsible sourcing. It also presented a statement from Nestlé's supplier, Carmo Coffees, stating that *"negotiation and prices paid for the product is not linked to the values and payment of employees of the respective estates/farms"*.

5. Evaluation

46. The initial evaluation process aims to determine whether the issues presented in the specific instance merit further analysis. As such, the aim of this section is to provide transparency as to why the NCP decided that the issues presented merited further consideration, i.e. whether the issues are i) bona fide and ii) relevant to the implementation of the Guidelines.
47. As indicated above, it is worth noting that when the initial assessment of this specific instance was carried out, the procedures were regulated in Resolution PCN nº 1/2016, which was replaced by Resolution no. 1/2020, which established the current Manual of Procedures for Specific Instances of the National Contact Point (Manual).
48. In this sense, as this claim was submitted before the publication of Resolution No. 1/2020, which established the Manual of Procedures, according to item 12.2. of the Manual, this specific instance became subject to its procedures in the subsequent phase, that is, during the good offices.
49. Thus, according to art. 4º, I and II, of the then PCN Resolution nº 1/2016³, the claim should contain the identification of the interested parties, accompanied by their addresses and means of contact. This requirement was met.

³ Art. 4 Allegations of non-compliance must contain the following information:

I - identification of the claimant, specifying the names, physical and electronic correspondence addresses, telephone numbers and, where applicable, facsimile numbers of those responsible for contacting the NCP; II - identification of the multinational company which is the subject of the allegation, specifying the name of its representative in Brazil with physical and electronic correspondence address, telephone number and, where applicable, facsimile number; III - specification of the article(s) of the Guidelines that have not been or are not being complied with by the multinational enterprise; IV - indication of how the alleged non-compliance with the Guidelines affects, even potentially, the claimant or persons represented by him/her; V - description, if applicable, of the efforts undertaken by the claimant to have the multinational enterprise resolve the alleged non-compliance with the Guidelines and of the results of these efforts; VI - copy of any document or information that may serve to understand the facts or



50. Chapter II - General Policies, items 2, 10, 11, 12 and 13; Chapter IV - Human Rights, items 1, 2, 3, 5 and 6; and Chapter V were cited as allegedly breached.

- Employment and Labor Relations item I, d; all of the OECD Guidelines for Multinational Enterprises. Thus, the requirement of art. 4º, III, of Resolution PCN nº 1/2016 was met.

51. The facts described directly affect the rights of rural workers who carry out their activities in the state of Minas Gerais, so that ADERE's legitimacy to file the Allegation of Non-compliance assessed here is guaranteed, in accordance with art. 4º, IV, and art. 10, I, of PCN Resolution nº 1/2016⁴.

52. Although the NGO Conectas does not represent the affected workers, nor is it itself affected by the facts narrated, according to them, it acted directly with the alleged company in an attempt to seek information about its integrity procedures in supply chains, in addition to having as its object the defense of human rights. Therefore, her participation as an interested party was considered legitimate, based on the same provisions mentioned above, in order to provide adequate information in any mediation procedure.

53. In this sense, the petition states:

"(...) Conectas Human Rights contacted Nestlé in 2018 in order to obtain information on the application of its policies and practices with the aim of avoiding the acquisition of coffee harvested through serious violations of human and labor rights.

In addition, Conectas sent Nestlé a list of farms located in the southern region of Minas Gerais that were included on the Dirty List, questioning the possibility of the company (i) publishing its list of suppliers in a transparent manner; or (ii) guaranteeing that the farms listed by Conectas are not part of the company's supply chain."

VII - specification of confidential material, in accordance with the provisions of art. 18, § 1; VIII - signing of a confidentiality agreement, made available on the NCP website, in which the claimant undertakes to maintain confidentiality until acceptance for examination or rejection of the Allegation of Non-compliance.

⁴ Art. 10 The rapporteur shall draw up an opinion on the acceptance for Examination of the Allegation of Non-compliance, in which he shall take into account:

I - whether there is a direct impact, even if potential, between the claimant and the object of the claim;



54. It can be seen that the claim describes the efforts made by the claimants to solve the problems raised, in order to comply with the provisions of art. 4º, V, of Resolution PCN nº 1/2016.
55. Documents and information demonstrating the efforts made by the claimants to resolve the case directly are attached to the claim, thus fulfilling the provisions of art. 4º, VI, of the Resolution. The provisions of article 4º, VII, are not essential, while the phase referred to in item VIII has already been completed with the first acceptance of the case, before it is separated into a procedure by company.
56. Thus, the formal requirements for analysis of the merits have been met.
57. The facts alleged were pertinent to items II, 2, 10, 12 and 13; IV, 1, 3, 5 and 6; and V, I, d, all of the OECD Guidelines for Multinational Enterprises. The requirement of art. 10, II, of Resolution PCN nº 1/2016 was met.⁵
58. Considering the above, the NCP decided that the issues presented merited further analysis. Furthermore, since the NCP's objective is not to make a value judgment but to facilitate the achievement of a negotiated solution between those involved, in view of the information presented, good offices were offered, which evolved as follows.

6. The result of good trades

59. The aim of this section is to present the results of the good offices phase, which, as already mentioned, involved a series of meetings between the parties, NCPs and mediators, where mutual agreement was reached on resolving the issues raised.
60. As is well known, the parties were under no obligation to accept the offer of good offices, their acceptance being an opportunity to demonstrate good faith and commitment to responsible business conduct (RBC) practices and the Guidelines.

⁵ Art. 10 The rapporteur will draw up an opinion on the acceptance for Examination of the Allegation of Non-compliance, in which he will take into consideration: I - whether there is a direct affectation, even if potential, between the claimant and the subject of the Allegation; II - whether the Allegation brings together elements that have thematic pertinence with the themes addressed by the Guidelines; III - whether the Allegation contains a sufficiently delimited focus; and IV - whether the Allegation presents facts and circumstantial evidence verifiable by means of objective criteria.



61. In this sense, although there was not agreement on all the points raised by the claimants, there was engagement by both parties in the joint construction of the continuous improvement of good practices in CER, which can be demonstrated during the follow-up phase of this specific instance.
62. The Good Offices procedure was conducted according to the principles of impartiality and independence of the mediators, confidentiality, orality, informality, informed decision-making, isonomy and autonomy of the parties, the search for consensus and good faith.
63. During the mediation sessions, the parties had the opportunity to put forward their points of view and positions on their objectives for a responsible and sustainable coffee supply chain, especially one free of slave-like labor, which is the focus of Mediation in Specific Instance No. 6/2018. Among the positive results of the process was the creation of a channel for dialogue between the parties, which contributed greatly to the progress of the negotiations.
64. Despite differences of opinion on some proposed solutions to the issues raised by the claimants, the parties were committed to improving working conditions and eradicating forced, compulsory and/or child labor.
65. As a result of this search for solutions, the parties agreed to adopt a number of actions aimed at improving working conditions in the coffee supply chain and preventing human rights violations, as described in the Annex to this Final Report.
66. It is important to note that the Annex containing the consensus measures and/or Agreement is confidential, at the request of the Respondent and in accordance with the terms of item 10, sub-item 49, paragraph "f", of the Work Plan of this Specific Instance No. 6/2018, as well as item 7.5, paragraph "c", of the Procedures Manual for Specific Instances of the NCP Brazil, which states that the "content of the agreement will be included only to the extent that both parties agree to its public disclosure".



67. Thus, although the Annex/Agreement is not public, the document will guide the progress of the agreed proposals and serve as a basis for monitoring by both the parties and the GTI-PCN.

68. With regard to the aspects on which the mediation did not succeed, the following stand out:

(i) providing a list of coffee-producing properties that supply raw materials to traders who, in turn, sell coffee to Nestlé Brasil Ltda;

(ii) Unscheduled visits by Nestlé to coffee producers, accompanied by representatives of the claimants;

(iii) Creation of a bonus/score policy for the purchase of coffee from farms that prove their willingness to engage in collective bargaining;

(iv) Establishment of a remediation/reparation plan for the victims of the violations, together with the actors involved or separately, with the participation of victims of the violations and their legal representatives.

69. The good offices phase allowed the parties to present and discuss possible solutions to the issues raised in IE 06/2018. It can be seen that both parties were committed to seeking viable alternatives and are open to continuing to make progress in implementing good practices related to responsible business conduct.

7. Analysis and conclusions

70. In light of what has been said in this report, it is possible to see that there are still points to be matured, especially with regard to the discussion about opening up the list of coffee-producing farms that sell the raw material to *traders*. This is a relevant issue for the Claimants, but there has been no progress due to the commercial impossibility argued by Nestlé Brasil Ltda. However, it can be seen that the Agreement between the parties has the potential to create progress on several fronts through social dialog.

71. In addition, the possibility of working together, with the participation of various actors (ADERE/Conectas, the Ministry of Labor, Nestlé, employers, employees, unions and associations), can have extremely positive repercussions, including at a regional or national level.



72. It is therefore understood that the establishment and consolidation of a channel of dialog between the parties and the ongoing efforts to improve due diligence will contribute to the improvement of good practices in responsible business conduct by Nestlé. In addition, the positive results of these efforts will serve as a model and contribute to the necessary progress in complying with the Guidelines in this important productive sector in Brazil.

8. Recommendations

73. Considering that the NCP can issue recommendations, the aim of this item is to identify the actions that the company in question can implement with a view to increasing adherence to the content of the Guidelines.
74. Thus, it is recommended that the company continue to improve its due diligence mechanisms, in order to encourage the continuous improvement of working conditions on the coffee farms that make up its supply chain. Furthermore, it is recommended that the alleged company seeks to "encourage, whenever possible, business partners, including suppliers and subcontractors, to apply principles of responsible business conduct compatible with the Guidelines", under the terms of its item II.13.
75. Also as good practice, it is suggested that compliance with the actions set out in the Agreement made between the parties, as well as the other improvements to be achieved in the due diligence mechanisms, be presented not only in the follow-up reports of this specific body or in the company's own periodic reports, but as far as possible, that they be disseminated to the different stakeholders in this productive sector, as a way of contributing to the encouragement and promotion of CER in the sector.
76. With regard to the topics on which there was no consensus, it is suggested that the company assess the feasibility of implementing them at an appropriate time, considering the advantages of continuous improvement in good CER practices.
77. Despite the fact that the Guidelines are voluntary, NCP Brazil hopes that the recommendations presented will be taken into account, as they are suitable for the realization of human rights, with good possibilities for generating shared value, in the ideal format of building win-win solutions.



9. Follow-up

78. As an important part of the NCP's non-judicial role, the follow-up of agreements and recommendations supports the effectiveness of the specific instance process. In particular, it can promote the effectiveness of the Guidelines by encouraging parties to stay engaged with the issues and companies to implement the recommendations and agreements adopted in line with the Guidelines.
79. In this way, the NCP Brazil will monitor this specific instance for a period of at least one year after the publication of this Final Report. In this sense, six months after the publication of this Report, the NCP will ask both parties for a report on the progress made. Should either party deem it necessary, the NCP will be available for meetings aimed at further clarification.
80. Once the reports have been received, the NCP will issue a follow-up report setting out the efforts made to comply with the proposed recommendations. Again, after six months, the NCP will request a new report from both parties.
81. It is important to note that constructive interaction between the parties, regardless of the NCP, is seen as positive and tends to speed up the process of improving responsible business conduct.
82. Therefore, considering all of the above, this concludes the Final Report of Specific Instance 06/2018, which presented the stages of this SI and the progress made by the parties during the good offices. At the end of this stage, it will be up to the NCP to monitor compliance with the recommendations and provide any support if necessary.