



Americans for Democracy and Human Rights in Bahrain

OECD COMPLAINT AGAINST DAE KWANG CHEMICAL CORPORATION FOR POSSIBLE VIOLATIONS OF THE 2011 OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

COMPLAINANTS: Bahrain Watch
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(ADHRB)

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I. INTRODUCTION

1. The present complaint concerns an impending large shipment of tear gas from Korean company Dae Kwang Chemical Corporation (Dae Kwang) to the Government of the Kingdom of Bahrain (Bahrain Government). The shipment raises grave concerns about the complicity of Dae Kwang in human rights violations resulting from the Bahrain Government's likely use of the tear gas.

2. As documented in the Report of the Bahrain Independent Commission of Inquiry (BICI Report) and several reports published over the last two years by reputed human rights organisations,¹ the Bahrain Government has systematically deployed tear gas against civilian populations in an excessive and inappropriate manner. See, for example, paragraphs 1095 and 1117 of the BICI Report:

3. "1095. Witness statements and evidence gathered by the Commission also indicates that PSF units used amounts of tear gas that were disproportionate to the objective of dispersing protesters. In some incidents, which were witnessed by Commission investigators on 29 August 2011, tear gas was fired directly at or into houses, in circumstances

¹ See Bahrain Independent Commission of Inquiry, *Report of the Bahrain Independent Commission of Inquiry*, November 2011, available at www.bici.org.bh (Last Accessed: 25/11/2013) and Physicians for Human rights, *Weaponizing Tear Gas: Bahrain's Unprecedented Use of Toxic Chemical Agents Against Civilians*, August 2013 available at <http://physiciansforhumanrights.org/library/reports/weaponizing-tear-gas.html#sthash.ULbFrQRi.dpuf> (Last Accessed: 19/11/2013) and Human Rights Watch, *Bahrain: Hold Police Accountable in Teargas Episode*, 4 July 2012, available at <http://www.hrw.org/news/2012/07/04/bahrain-hold-police-accountable-teargas-episode> (Last Accessed: 25/11/2013).

where there was no threat to PSF personnel. Commission investigators witnessed one instance in which 16 tear gas canisters were fired during a period of less than four minutes in a highly populated area. In another incident witnessed by Commission investigators in Janusan, at least four tear gas canisters (each containing six projectiles) were fired from a short range into the kitchen and living room of a home. Such use of tear gas rendered these homes uninhabitable..

4. ...1117. The Commission has found that PSF units resorted to the disproportionate use of tear gas for the dispersion of protesters. On many occasions, the number of tear gas canisters fired at protesters was disproportionate to the size of the demonstration and the number of participants. In a number of situations, tear gas canisters were fired at private homes, in a manner that was unnecessary and indiscriminate."

5. See further paragraphs 253, 471, 634, 792, 903, 918, 970, 975, 1051, 1055, 1058, 1060, 1062, 1064, 1068, 1073 and 1091 of the Report.

6. This use of tear gas by the Bahrain Government has resulted in multiple violations of internationally recognised human rights, including the right to life, the right to be free from torture and other inhuman, degrading or cruel treatment or punishment, and the right to freedom of assembly. These violations are ongoing; the Bahrain Government has made no material changes to its use of tear gas. The Bahrain Government

received previous shipments of tear gas between 2011-12 from Dae Kwang² that are believed to have been used in these violations. Therefore, if Dae Kwang continues to ship tear gas to Bahrain, there is a genuine, substantial and real risk that human rights violations would result. The OECD Guidelines for Multinational Enterprises require that enterprises, such as Dae Kwang, "prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts." In the present case, the delivery of tear gas is highly likely to directly cause and perpetuate adverse human rights impacts, as the Bahraini authorities could not employ such tear gas if not delivered. The anticipated adverse human rights impact cannot be prevented or mitigated other than by stopping planned shipments and investigating previous shipments.

7. Bahrain Watch obtained a 16 June 2013 tender document³ issued by Bahrain's Ministry of Interior, soliciting proposals to supply the Ministry with 1.6 million tear gas shells, 145,000 flash bang grenades, and 90,000 tear gas grenades. We understand that the Korean Defense Acquisition Program Administration (DAPA) is currently considering a

² Kerr, S., *Bahrain Boosts Supplies of Tear Gas as Instability Continues*, Financial Times, 21 October 2013, available at <http://ft.com/cms/s/0/67a619e2-397d-11e3-a3a4-00144feab7de.html> (Last Accessed: 26/11/2013).

³ Bahrain Watch, *Leaked Document Shows Massive New Tear Gas Shipment Planned for Bahrain*, 16 (Bahrain Watch, October 2013) available at <https://bahrainwatch.org/blog/2013/10/16/leaked-document-shows-massive-new-tear-gas-shipment-planned-for-bahrain/> (Last Accessed: 25/11/2013) and see Appendix [E].

request from an unnamed Korean Company to export tear gas to Bahrain.⁴ Given the previous export of Dae Kwang tear gas canisters to Bahrain, we believe that Dae Kwang is originating the shipment. It is also possible that Dae Kwang may ship tear gas to a sympathetic third party state---such as Saudi Arabia---for re-export to Bahrain. Since any such shipment carries substantially the same risks, it too should not take place, and Dae Kwang is obliged to ensure end-user agreements are adhered to.

8. The Complainants, Bahrain Watch and Americans for Democracy and Human Rights (ADHRB), request that the National Contact Point facilitate a resolution of this issue, or, in the absence of such resolution, make recommendations to uphold the OECD Guidelines for Multinational Enterprises, namely for Dae Kwang to refrain from delivering tear gas to Bahrain (directly, or via an intermediary) because of the adverse human rights impact that the delivery of such a product would entail.

9. The Complainants also request that the National Contact Point act immediately to prevent any such export pending the resolution of this complaint. We therefore request the Ombudsman to respond within 7 days in order to clarify whether it is prepared to act to prevent exports in this regard, pending full resolution of the complaint.

⁴ Confidential Communication to author.

II. PARTIES TO THE COMPLAINT

a. COMPLAINANTS

3. Bahrain Watch is an independent research and advocacy organisation that seeks to promote effective, transparent and accountable governance in Bahrain. The organisation was formed in 2012 by a group of researchers and activists. Although it has no legal personality distinct from that of its members, nominee members are able to represent the organisation where required. The group focuses on research and advocacy on all forms of governance in Bahrain, including political reform, economic development, and cyber security.⁵

4. Americans for Democracy and Human Rights in Bahrain (ADHRB) is a non-profit 501(c)(3) organization based in the United States of America.⁶ It primarily advocates for democratic reform in Bahrain by lobbying actors in the United States and the international community.⁷ The organization is directed by Husain Abdulla,⁸ a Bahraini national and naturalized United

⁵ Bahrain Watch, *About Us*, available at <https://bahrainwatch.org/about.php> (Last Accessed: 26/11/2013)

⁶ Americans for Democracy and Human Rights in Bahrain, *"Failing Grade: A Report Card on the Implementation Status of the Bahrain Independent Commission of Inquiry Report"*, (ADHRB, Feb. 2013), at 3, available at <http://adhrb.org/wp-content/uploads/2012/11/BICI-Report-Updated-2013.pdf> (Last accessed 25 Nov. 2013).

⁷ Americans for Democracy and Human Rights in Bahrain, *"About Americans for Democracy and Human Rights in Bahrain"*, (ADHRB) available at <http://adhrb.org/about/>. (Last accessed 25 Nov. 2013).

⁸ Americans for Democracy and Human Rights in Bahrain, *"Our Staff"*, (ADHRB) available at <http://adhrb.org/about/ourstaff/>. (Last accessed 25 Nov. 2013).

States citizen who was stripped of his Bahraini citizenship by the Bahrain Government after advocating for democratic reform in the country.⁹

b. DEFENDANT

10. Dae Kwang Chemical Corporation (Dae Kwang) is a South Korean private corporation established in 2001 specializing in the manufacture of explosives and chemicals.¹⁰ The Defendant manufactures and sells CS gas (tear gas) and tear gas-related chemicals.¹¹ Tear gas is a caustic chemical irritant that is a solid powder at room temperature. It can be aerosolized by heating.¹² Generally, tear gas is delivered by canisters launched from a distance, but it can also be delivered by hand grenades.¹³ Tear gas causes a severe reaction on contact with the human body.¹⁴ By stimulating the pain receptors in mucous membranes in the eyes, mouth, nose, eyes, throat, and lungs, tear gas can induce overwhelming and

⁹ Americans for Democracy and Human Rights in Bahrain, "Bahrain Revokes Citizenship of 31 Dissidents, including ADHRB's Director", (ADHRB), available at <http://adhrb.org/2012/11/bahrain-revokes-citizenship-of-31-dissidents-including-adhrbs-director/> (Last accessed 25 Nov. 2013).

¹⁰ Dae Kwang Chemical Corporation, "Company Profile", (DaeKwang Chemical Corp), available at http://dkc21.en.ec21.com/company_info.jsp (Last accessed 25 Nov. 2013).

¹¹ *ibid.*

¹² T. C. Marrs, H. F. Colgrave, N. L. Cross, M. F. Gazzard and R. F. R. Brown, *A repeated dose study of the toxicity of inhaled 2-chlorobenzylidene malonitrile (CS) aerosol in three species of laboratory animal*, Archives of Toxicology, March 1983, Volume 52, Issue 3, pp 183-198 available at <http://link.springer.com/article/10.1007%2FBF00333898> and see B. Ballantyne and D. W. Swanston, *The comparative acute mammalian toxicity of 1-chloroacetophenone (CN) and 2-chlorobenzylidene malonitrile (CS)*, Archives of Toxicology, 2978, Vol. 40, Issue 2, pp 75-95 available at <http://www.springerlink.com/content/m17075801362u733/>.

¹³ See *Tender Document* at Appendix [E].

¹⁴ *ibid* note 12.

incapacitating amounts of pain.¹⁵ Inhaling excessive amounts of tear gas may cause lung damage, leading to asphyxiation.¹⁶

11. The Defendant's DK-38 line of products are a series of 38mm shells used for delivery of tear gas.¹⁷ The product comes in plastic or aluminum shells and can be equipped with a dye to color an emanating cloud of tear gas.¹⁸ A single DK-38S cartridge is approximately 38mm in diameter and 120mm long.¹⁹ It weighs approximately 175g and stores approximately 65g of tear gas chemical.²⁰ The company sells DK-38 tear gas canisters in units of 80 canisters per box.²¹ Canisters are loaded into into a 38mm anti-riot gun and fired, and designed for a maximum range of over 100m.²² The Defendant maintains a demonstration video of an anti-riot gun delivering a DK-38 shell on its website.²³

¹⁵ *ibid* note 12.

¹⁶ *ibid* note 12.

¹⁷ Dae Kwang Chemical Corporation, "Anti-riot area - 38mm SERIES; 38 Series DK-38S CS Cartridge Burning (Aluminum)", (DaeKwang Chemical Corp) available at [http://www.dkc21.com/eng/38Series.html?p=DK-38S\(Aluminum\)](http://www.dkc21.com/eng/38Series.html?p=DK-38S(Aluminum)) (Last accessed 25 Nov. 2013).

¹⁸ *ibid* and see Dae Kwang Chemical Corporation, "Anti-riot area - 38mm SERIES; 38 Series DK-38S CS Cartridge Burning (Plastic)", (DaeKwang Chemical Corp) available at [http://www.dkc21.com/eng/38Series.html?p=DK-38S\(Plastic\)](http://www.dkc21.com/eng/38Series.html?p=DK-38S(Plastic)) (Last accessed 25 Nov. 2013).

¹⁹ *ibid* note 17.

²⁰ *ibid*.

²¹ *ibid*.

²² *ibid*.

²³ See Dae Kwang Chemical Corporation Demonstration Video available at <http://dkc21.com/~dkc21/bbsDown/38Series/20130724CUiGLCE.mp4> (Last Accessed: 25/11/2013).

12. The Defendant's DK-40 line of products are a series of 40mm tear gas shells.²⁴ Like the DK-38 line, the DK-40 line may be purchased with plastic or aluminum cartridge casings and with coloring dyes.²⁵ A single DK-40S cartridge is approximately 40mm in diameter and 120mm in length.²⁶ It weighs approximately 188g and is capable of containing 98g of tear gas chemical.²⁷ Again like the DK-38 line, the Defendant sells DK-40 canisters in units of 80 canisters per box.²⁸ Canisters are loaded into into a 40mm anti-riot gun and fired, and designed for a maximum range of over 100m.²⁹ The Defendant maintains a demonstration video of the DK-40 anti-riot gun launching a DK-40 canister on its website.³⁰

13. The Defendant also sells the DK-600 Multiple Launcher Set. The DK-600 is capable of firing 64 40mm tear gas canisters within the span of approximately three seconds, delivering up to 6.3kg of tear gas in a very short time. The maximum range of the DK-600 is approximately 200m.³¹

²⁴ Dae Kwang Chemical Corporation, "Anti-riot area - 40mm SERIES; 40 Series DK-40S CS Cartridge Burning (Plastic)", (DaeKwang Chemical Corp) available at [http://dkc21.com/eng/40Series.html?p=DK-40S\(Plastic\)](http://dkc21.com/eng/40Series.html?p=DK-40S(Plastic)) (Last accessed 25 Nov. 2013).

²⁵ *ibid.*

²⁶ *ibid.*

²⁷ *ibid.*

²⁸ *ibid.*

²⁹ *ibid.*

³⁰ See Demonstion Video at <http://dkc21.com/~dkc21/bbsDown/40Series/20130723QVDNQD.mp4> (Last Accessed: 25/11/2013).

³¹ See Dae Kwang Chemical Corporation, *Anti-Riot Area Multiple Launcher Set*, Dae Kwang Chemical Corp available at <http://dkc21.com/eng/MultipleLauncherSet.html> (Last Accessed: 25/11/2013).

14. The Defendant additionally sells tear gas and flashbang hand grenades.³² The Defendant sells 13 different models of hand grenades.³³ Different tear gas models deliver different quantities of tear gas, with the smallest delivering 30g of tear gas chemical³⁴ and the largest delivering 100g of tear gas chemical.³⁵ The Defendant maintains video demonstrations of each of these products on its website.³⁶

15. The Defendant also sells a liquid that it markets as a tear gas liquid.³⁷ The liquid causes a severe burning sensation when it comes in contact with a person's skin or eyes.³⁸ The Defendant sells the product in a concentrated form with instructions to dilute the product in a solution of 99% water/1% product.³⁹ The Defendant's website describes that the product should be delivered through a fire hose, which sprays the diluted product onto a crowd.⁴⁰

³² See Dae Kwang Chemical Corporation, *TEARGAS*, Dae Kwang Chemical Corp available at <http://www.dkc21.com/eng/teargas.html> (Last accessed 26/11/2013).

³³ *ibid.*

³⁴ See Dae Kwang Chemical Corporation, *Hand Series DK-500 CS Burning*, Dae Kwang Chemical Corp available at <http://www.dkc21.com/eng/HandSeries.html?p=DK-500> (Last Accessed 26/11/2013).

³⁵ See Dae Kwang Chemical Corporation, *Hand Series DK-N500 CS Burning*, Dae Kwang Chemical Corp available at <http://www.dkc21.com/eng/HandSeries.html?p=DK-N500> (Last Accessed 26/11/2013).

³⁶ See Dae Kwang Chemical Corporation Demonstration Video available at <http://dkc21.com/~dkc21/bbsDown/MultipleLauncherSet/20130725MWJLKY.mp4> (Last Accessed: 25/11/2013).

³⁷ See Dae Kwang Chemical Corporation, *Tear Gas Solution*, Dae Kwang Chemical Corp available at <http://www.dkc21.com/eng/TearGasSolution.html?p=TearGasSolution> (Last Accessed 26/11/2013).

³⁸ *ibid.*

³⁹ *ibid.*

⁴⁰ *ibid.*

III. COMPLAINANTS' GOOD FAITH PARTICIPATION IN OECD PROCEEDINGS

16. The OECD Guidelines for Multinational Enterprises require any complainants initiating a complaint with a National Contact Point to engage the complaint procedure in good faith. "Good faith behaviour in this context means responding in a timely fashion, maintaining confidentiality where appropriate, refraining from misrepresenting the process and from threatening or taking reprisals against parties involved in the procedure, and genuinely engaging in the procedures with a view to finding a solution to the issues raised in accordance with the Guidelines." ⁴¹ In addition to pledging to fulfill the Guidelines' expectations of the good faith behavior of complainants, Complainants additionally wish to disclose further actions taken up to this point as well as parallel proceedings in which the Complainants will engage in the near future.

a. PREVIOUS ATTEMPTS TO RESOLVE THE ISSUE

17. The Complainants have tried multiple avenues outside of OECD procedures in attempting to resolve the complaint. Complainants have both contacted the Defendant directly and asked the Korean government to use administrative action to restrict Dae Kwang's ability to export tear gas

⁴¹ OECD, 'Commentary on the Implementation Procedures of the OECD Guidelines for Multinational Enterprises', OECD Guidelines for Multinational Enterprises (2011), Para 21, available at <http://www.oecd.org/daf/inv/mne/48004323.pdf> (Last Accessed: 26/11/2013).

to Bahrain. None of these avenues have been successful in soliciting a response.

18. The Complainants first attempted to contact the South Korean government directly. An email⁴² was sent by Complainant Ahmed Ali on the 21st of October 2013 to the South Korean Embassy in London requesting a meeting with the South Korean Ambassador regarding the shipment of tear gas to Bahrain. As of the date of submitting this complaint, the Complainant has not received a response. Lord Eric Avebury, vice-Chair for the Parliamentary Human Rights Groups for the House of Lords of the United Kingdom, acting at the request of Complainants, wrote to the President of the Republic of Korea on 4 November 2013,⁴³ urging her to take executive action to stop Dae Kwang's shipment to Bahrain. As of the date submitting this complaint, Lord Avebury has not received a response. Complainants have additionally sent daily emails since the 16th of October 2013 to the Korean embassy in London requesting a meeting with the Ambassador regarding the tear gas shipment.⁴⁴ As of the date submitting this complaint, Complainants have received no response to these requests.

19. Complainants have established an online campaign, "Stop The Shipment," which encourages supporters to send complaints to Defendant and

⁴² See Appendix [F-1].

⁴³ Bahrain Watch, *Letter From Lord Eric Avebury to South Korean President*, 4 November 2013 available at <https://bahrainwatch.org/blog/2013/11/04/letter-from-lord-avebury-to-south-korean-president/> (Last Accessed: 22/11/2013).

⁴⁴ See Appendix [F-1].

the Korean Government. On 16 October 2013, Complainants launched a website, www.stoptheshipment.org, which contains a web form allowing supporters to directly email the Korean Ministry of Foreign Affairs (MoFA), the Korean Ministry of Science, ICT, and Future Planning, the DAPA, and Defendant. The form contains a stock email message,⁴⁵ calling upon Defendant and the Korean government to stop shipments of tear gas to Bahrain. As of 26 November 2013, supporters have sent over 187,000 emails to the abovementioned bodies, using the form. The website also allows Complainants' supporters to call DAPA and MoFA free of charge. Finally, Complainants' supporters have also attempted to contact Korean government agencies through fax, Facebook and Twitter.

20. Complainants have attempted to express opposition to and raise public awareness of the shipment, by organizing protests at Korean embassies. To date, Complainants have organized three separate protests in London⁴⁶, two outside outside the Korean Embassy in London, and one outside 10 Downing Street. During the Embassy protests held on the 18th and 20th of October 2013, protesters entered the Embassy and requested to speak with the Ambassador. Protesters also sent a letter to the South Korean Embassy in

⁴⁵ Bahrain Watch, *Stop the Shipment* at <http://stoptheshipment.org> and Appendix [F-2].

⁴⁶ First Protest on 18 October 2013, see Bahrain Watch, *Stop the Shipment Gains Widespread Support in its First Week*, available at <https://bahrainwatch.org/blog/2013/10/25/stoptheshipment-campaign-gains-widespread-support-in-its-first-week/> (Last Accessed: 26/11/2013) and Second Protest on 25 October 2013, see Bahrain Watch, *Stop the Shipment Campaign Kicks into High Gear*, <https://bahrainwatch.org/blog/2013/11/01/stoptheshipment-campaign-kicks-into-high-gear-as-korea-weighs-issuing-tear-gas-export-license/> (Last Accessed: 26/11/2013). Third protest took place on 30 October 2013 outside 10 Downing Street during a visit by the South Korean President to London.

London addressing the South Korean Ambassador requesting to meet with him. These meeting requests have yet to receive a response.

21. Several Korean organizations have taken their own actions to stop the shipment, with the approval of Complainants. On 17 October 2013, the Korean Confederation of Trade Unions sent a letter to DAPA and the Korean National Police Agency (KNPA),⁴⁷ on 30 October 2013, Amnesty International Korea launched an online action targeted at MoFA,⁴⁸ and on 31 October 2013, 31 Korean non-governmental organizations organized a protest in front of DAPA requesting an end to tear gas exports to Bahrain.⁴⁹ These actions did not receive Government response.

22. Thus far, the Complainants have been told by a source that contacted the Korean Government that the MoFA is consulting with the Korean DAPA in response to a request from an unnamed Korean Company to export tear gas to Bahrain. The Complainants have not received any return correspondence from Dae Kwang.

⁴⁷ Mena Solidarity Network, *Bahrain: Koreans Condemn Tear Gas Shipment*, 18 October 2013, available at <http://menasolidaritynetwork.com/2013/10/18/bahrain-korean-unions-condemn-tear-gas-shipment/> (Last Accessed: 26/11/2013).

⁴⁸ Amnesty International Korea, *[긴급] 바레인에 한국산 최루탄 수출 즉각 중단하라!*, available at <http://amnesty.or.kr/ai-action/7534/> (Last Accessed: 26/11/2013).

⁴⁹ See Stop the Shipment Action in South Korea <http://www.youtube.com/watch?v=73Q53W39kQ4> 1 November 2013 (Last Accessed: 25/11/2013) and see 시민단체, 바레인 최루탄 수출 규탄 <http://www.redian.org/archive/61933> and 한국 평화인권단체, 무기 수출 장려하는 방위사업청 규탄 <http://www.newscham.net/news/view.php?board=news&nid=71916> (Last Accessed: 26/11/2013).

b. PARALLEL PROCEEDINGS

23. At the time of the filing of this complaint, the Complainants are not involved in any parallel proceedings concerning Defendant's shipment of tear gas to Bahrain. However, due to the exigency of the circumstances and the human rights concerns involved with the shipment, the Complainants are also contemplating pursuing other legal means of preventing the shipment. Critical to this decision will be the grant of injunctive relief to prevent export of tear gas to Bahrain (see e.g. request above). In any event, as parallel proceedings are likely to be against government actors, the Complainants understand any such alternative mechanisms not to represent a breach of the good faith requirement of the Guidelines.

IV. STATEMENT OF FACTS

a. COUNTRY CONDITIONS

24. Over the past forty years, Bahrain has seen significant periods of political turmoil. From 1994 to 1999, Bahrain endured regular protests and arrests, and occasional violence and bombings.⁵⁰ Over 40 people were killed during this period⁵¹ and tear gas was also used to suppress dissent.⁵² Conflict abated somewhat after the 1999 ascension of Emir Hamad

⁵⁰ Freedom House, *Freedom in the World 2012: Bahrain*, 2012 available at <http://www.freedomhouse.org/report/freedom-world/2012/bahrain-0> (Last Accessed: 26/11/2013).

⁵¹ *ibid.*

⁵² US Department of State, *Bahrain Human Rights Practices 1995*, March 1996, available at http://dosfan.lib.uic.edu/ERC/democracy/1995_hrp_report/95hrp_report_nea/Bahrain.html (Last Accessed: 26/11/2013).

bin Isa al Khalifa, and the 2001 passage of the National Action Charter, a referendum on the structure of Bahrain's government.⁵³ Many in the opposition were disappointed when, in 2002, Emir Hamad declared himself King, and unilaterally promulgated a new constitution that diluted the power of the elected legislative branch.⁵⁴ Tensions again began to rise over the next decade, as the government failed to address social and economic issues, and moved to further restrict opposition activities.⁵⁵

25. In February 2011, thousands of peaceful protesters, inspired by the Arab Spring, took to the streets and occupied the Pearl Roundabout, a major square in Bahrain's capital city.⁵⁶ Protesters demanded that the Government move to address social and economic grievances, and give them a greater political voice.⁵⁷ The government cracked down on protesters using live ammunition, shotgun pellets, rubber bullets and a large amount of tear gas, before withdrawing and allowing them to continue occupying the Roundabout.⁵⁸ Video evidence provided⁵⁹ depicts the scenes when thousands of protesters were attacked in their sleep using hundreds of tear gas canisters.

⁵³ Charles Gordon Smith, Jill Ann Crystal, 'Bahrain: domestic and foreign relations since independence', *Encyclopedia Britannica* (2013), available at <http://www.britannica.com/EBchecked/topic/49072/Bahrain/93662/Domestic-and-foreign-relations-since-independence#ref901847> (Last Accessed 26/11/2013).

⁵⁴ *ibid.*

⁵⁵ *ibid.*

⁵⁶ *ibid*; See also Martin Chulov, Tom Finn, and Saeed Kamali Deghan, 'Bahrain protesters reclaim Pearl roundabout in central Manama,' *The Guardian* (19 February 2011), available at <http://www.theguardian.com/world/2011/feb/19/bahrain-protesters-reclaim-city-centre-manama> (Last Accessed 26/11/2013).

⁵⁷ *ibid.*

⁵⁸ Charles Gordon Smith, *ibid* note 53.

⁵⁹ See Appendix [A].

26. On 16 March 2011, the government invited the military forces of the Gulf Cooperation Council into Bahrain.⁶⁰ The Government violently evicted protesters from the Pearl Roundabout in a military-led operation, and the Bahrain Defense Forces established a series of checkpoints along key highways, manned by tanks and armored vehicles.⁶¹ Within a few days, the government had succeeded in containing large-scale protests.⁶² Dozens were killed and thousands were injured during the assaults.⁶³

27. Since the assault on the 2011 protests, the human rights situation in Bahrain has continued to deteriorate with repeated instances of torture, ill-treatment, arbitrary arrests, imprisonment and collective punishment.⁶⁴ The frequency and similarity of such incidents is strongly suggestive of systematic practices. Government security forces have arrested prominent human rights activists⁶⁵ and have violently cracked down upon both civilians and protesters.⁶⁶ The Bahrain Center for Human Rights says that tear gas is the leading cause of death by Bahraini security forces in

⁶⁰ Charles Gordon Smith, *ibid* note 53.

⁶¹ *ibid*; See also Staff, 'Bahrain stays normal as police maintain vigil,' *Trade Arabia* (Manama, 15 August 2013), available at http://www.tradearabia.com/news/LAW_241028.html (Last Accessed 26/11/2013).

⁶² Charles Gordon Smith, *ibid* note 53.

⁶³ BICI Report, *ibid* note 1.

⁶⁴ See Human Rights Watch, *World Report 2013: Bahrain*, 2013 available at <http://www.hrw.org/world-report/2013/country-chapters/bahrain> (Last Accessed: 26/11/2013).

⁶⁵ BBC News, *Bahrain Human Rights Activist Nabeel Rajab Imprisoned*, 9 July 2012, available at <http://www.bbc.co.uk/news/world-middle-east-18768705> (Last Accessed: 26/11/2013).

⁶⁶ New York Time, *Bahrain Criticized for Use of Tear Gas Following Boys Funeral*, 29 January 2013, available at http://thelede.blogs.nytimes.com/2013/01/29/bahrain-criticized-for-use-of-tear-gas-following-boys-funeral/?_r=0 (Last Accessed: 26/11/2013).

cases they have documented.⁶⁷ The Centre linked 39% of deaths by security forces to tear gas.⁶⁸

28. Tear gas has been used on a daily basis. The Financial Times quotes an activist estimate that security forces have used 2 million canisters since February 2011.⁶⁹ See, for example, the list of video evidence in Appendix A. It has also been deployed against many gatherings outside mosques, for funeral processions and in other communal expressions of civic life⁷⁰. It has caused severe injuries and multiple loss of life, as detailed below.

b. THE ADVERSE EFFECTS OF THE USE OF TEAR GAS IN BAHRAIN

29. Since 2011, at least 39 deaths in Bahrain may be attributed to the Government's misuse of tear gas, according to a 2012 report by Physicians for Human Rights.⁷¹ The indicated causes of death include close-range head and neck impact wounds from metal tear gas canisters, and complications from inhaling a large amount of tear gas, often in an enclosed area.⁷² See

⁶⁷ See Bahrain Centre for Human Rights, *Two Years of Deaths and Detentions*, February 2013, available at <http://bahrainrights.hopto.org/BCHR/wp-content/uploads/2013/02/Second-Anniversary-Report-Published.pdf> (Last Accessed: 26/11/2013).

⁶⁸ *ibid.*

⁶⁹ See Ali, A., *Stop Impunity in Bahrain*, Equal Times, 28 October 2013, available at <http://www.equaltimes.org/opinion/stop-impunity-in-bahrain-stoptheshipment> (Last Accessed: 26/11/2013). and *ibid* at 2.

⁷⁰ See cultural rights section below.

⁷¹ Physicians for Human Rights, *Weaponizing Tear Gas: Bahrain's Unprecedented Use of Toxic Chemical Agents against Civilians* (August 2012), available at https://s3.amazonaws.com/PHR_Reports/Bahrain-TearGas-Aug2012-small.pdf (Last Accessed 26/11/2013).

⁷² *ibid.*

further the references in the Report of the Bahrain Independent Commission of Inquiry above.

30. On 25 March 2011, security forces fired a tear gas canister directly at individuals at close range.⁷³ The canister struck 14-year-old Ali Jawad Ahmed Al-Shaikh in the back of his neck.⁷⁴ He died shortly afterwards.⁷⁵ On 14 February 2013, Mahmood al-Jazeeri was struck in his head by a tear gas canister.⁷⁶ He died on 22 February due to his injuries.⁷⁷ Amateur footage posted to YouTube shows a member of the security forces firing a tear gas canister at Mahmood.⁷⁸ At least three other individuals may have died due to similar injuries since 2011.⁷⁹ As of November 2012, no member of the security forces has been convicted or put on trial in relation to any case of death linked to tear gas.⁸⁰

⁷³ BICI Report, *ibid* note 1, at 255-6.

⁷⁴ *ibid*.

⁷⁵ *ibid*.

⁷⁶ Marc Owen Jones, *Media Distortion & Lack of Police Accountability: The Death of Mahmood al-Jaziri*, Bahrain Watch, 22 March 2013, available at <https://bahrainwatch.org/blog/2013/03/22/media-distortion-lack-of-police-accountability-the-death-of-mahmood-al-jaziri/> (Last Accessed: 26/11/2013).

⁷⁷ *ibid*.

⁷⁸ Bahrain Centre for Human Rights, *Bahrain: Weaponizing Teargas by Bahrain Authorities Kills Another Victim: 20 Year-Old Mahmood Al-Jazeeri*, 25 April 2013 <http://www.bahrainrights.org/en/node/6081> (Last Accessed: 19/11/2013).

⁷⁹ *ibid*; See also Physicians for Human Rights, *ibid* note 71.

⁸⁰ BICI Follow-Up Report, Attachment 2, pp.63-112, available at http://iaa.bh/downloads/bici_nov2012_en.pdf (Last Accessed: 26/11/2013).

31. On other occasions, security forces have fired tear gas canisters into enclosed areas such as homes or other buildings.⁸¹ Due to the enclosed nature of these areas, the tear gas is unable to dissipate; occupants may inhale concentrated doses or even be asphyxiated. Victims with respiratory problems, including those with asthma, are particularly vulnerable.⁸² The use of tear gas indoors is also a fire hazard and is believed to have caused fires in the past.⁸³

32. On 17 September 2012, security forces threw a tear gas canister into the home of Hasan Abdallah Ali Ahmad while he was present.⁸⁴ He died shortly thereafter.⁸⁵ On 29 February 2012, security forces fired a tear gas canister into the home of Haj Habib al Mulla while he was present.⁸⁶ He died of asphyxiation shortly thereafter.⁸⁷ The BICI report concluded that the Bahrain Ministry of Interior has categorically failed to conduct any investigation into circumstances surrounding this death⁸⁸. The November 2012 follow-up report to the BICI Report, authored by the Project

⁸¹ BICI Report, *ibid* note 1, at ¶1095. "The usual practice of PSF units was to use excessive amounts of tear gas to disperse protesters. On a number of occasions, PSF units fired tear gas canisters at and into residences".

⁸² Physicians for Human Rights, *ibid* note 71.

⁸³ Staff Editor, حريق بمنزل عائلة بحرينية في كرباباد بفعل مسيل الدموع, *Al Wasat News* (17 March 2013), available at <http://www.alwasatnews.com/3479/news/read/643902/1.html> (Last Accessed: 26/11/2013); User: zooz881, العكر / حريق في أحد المنازل بفعل طلقة 'مسيل دموع' (2013 March 3)) <http://www.youtube.com/watch?v=Yg5NP4DNDRg> (Last Accessed: 25/11/2013).

⁸⁴ Physicians for Human Rights, *ibid* note 71.

⁸⁵ *ibid*.

⁸⁶ Local Editor, 'Thousands of Bahrainis Mourn another Tear Gas Victim,' *Al-Manar News* (29 February 2012), available at <http://www.almanar.com.lb/english/adetails.php?eid=47319&frid=23&seccatid=27&cid=23&fromval=1>.

⁸⁷ *ibid*.

⁸⁸ BICI Report, *ibid* note 1, at ¶¶972-973.

on Middle East Democracy, also failed to mention any investigations conducted into this death.⁸⁹ It was critical of the slow progress made in relation to the other BICI recommendations.

c. INTERNATIONAL CRITICISM OF BAHRAIN'S USE OF TEAR GAS

33. In written testimony submitted to a 1 August 2012 hearing of the Tom Lantos Human Rights Commission in the United States House of Representatives, Richard Sollom, Deputy Director of Physicians for Human Rights remarked, "Bahraini authorities have waged an unusually relentless campaign against its majority Shi'a population for over 500 days by weaponizing toxic chemical agents---so called tear gas. In Bahrain, law enforcement officials have deployed tear gas to punish protesters, inflict suffering, and suppress dissent. Usually perceived by the international community as a benign tool for crowd control, tear gas, especially when used in large quantities and in enclosed spaces, poses serious health risks and even causes death. Since February 2011, the Bahrain Government has unleashed a torrent of these toxic chemical agents against men, women, and children, including the elderly and infirm. I spoke with 16 survivors of such attacks. One young man reported that Bahraini security forces fired a tear gas canister directly at him, fracturing facial bones and

⁸⁹ See POMED, *One Year Later: Assessing Bahrain's Implementation of the BICI Report*, Project on Middle East Democracy, November 2012, available at http://pomed.org/wordpress/wp-content/uploads/2012/11/POMED_BahrainReport_web-FINAL.pdf (Last Accessed: 26/11/2013)

rupturing his left eye. His medical records showed that surgeons were unsuccessful in saving his eye. He is now permanently blind.”⁹⁰

34. In a 26 January 2012 statement, Amnesty International remarked that “the rise in fatalities and eyewitness accounts suggest that tear gas is being used inappropriately by Bahraini security forces, including in people’s homes and other confined spaces.”⁹¹ Amnesty International has also called for the suspension of transfers of tear gas and other riot control equipment to the Bahraini authorities.⁹²

35. Following a joint mission to Bahrain in April and May 2012 with the International Rehabilitation Council for Torture Victims (ICRT), REDRESS raised concerns regarding “the excessive use of force by law enforcement personnel and, in particular, the indiscriminate or deliberate targeting of protesters and bystanders with tear gas canisters and bird shots.”⁹³ They argued that the cases they documented “appear to illustrate a lack of ... training, the ignoring of ... training or a lack of adherence to any rules of engagement.”⁹⁴ REDRESS noted that in several cases, “the tear gas shell has been used as a weapon targeted at the bodies of members of public from

⁹⁰ Physicians for Human Rights, *ibid* note 71.

⁹¹ Amnesty International, *Bahrain’s use of tear gas against protesters increasingly deadly*, 26 January 2012 <http://www.amnesty.org/en/news/bahrain-s-use-tear-gas-against-protesters-increasingly-deadly-2012-01-26> (Last Accessed: 21/11/2013).

⁹² *ibid*.

⁹³ Redress, *Bahrain: Fundamental Reform or Torture without End?*, April 2013, available at <http://www.redress.org/downloads/country-reports/Fundamentalreform.pdf> (Last Accessed: 26/11/2013).

⁹⁴ *ibid*.

ranges sufficiently close to cause bone fractures, and/or to leave lasting marks”, and that “tear gas shells are being employed as potentially lethal weapons.”⁹⁵

36. In a 21 March 2012 statement, the United Nations Office of the UN High Commissioner for Human Rights expressed concerns about “worrying” reports it had received regarding the disproportionate and excessive use of teargas, birdshot pellets and rubber bullets by Bahraini security forces.⁹⁶ The statement also called for an investigation into the use of excessive force, noting that “use of tear gas in particular has reportedly resulted in a number of deaths of protesters and bystanders - and that number has reportedly risen in recent months.”⁹⁷

37. On 17 January 2013, the European Parliament called for sanctions against “individuals directly responsible human rights abuses” in Bahrain, and for “restrictions on EU exports of surveillance technology, tear gas and crowd-control material.”⁹⁸ Additionally, both the United States⁹⁹ and

⁹⁵ *ibid.*

⁹⁶ Briefing note on Bahrain, OHCHR (20 March 2012), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11989&LangID=E> (Last Accessed: 21/11/2013).

⁹⁷ *ibid.*

⁹⁸ European Parliament News, *Human rights: violence against women in India; crackdown in Bahrain; insecurity in Central African Republic*, Press Release, Human Rights, 17 January 2013 <http://www.europarl.europa.eu/news/en/news-room/content/20130114IPR05320/html/Human-rights-violence-against-women-in-India-Bahrain-Central-African-Republic%20> (Last Accessed: 21/11/2013).

⁹⁹ US Department of State, Senior Administration Officials on Bahrain , Special Briefing, Senior Administration, 11 May 2012, available at <http://www.state.gov/r/pa/prs/ps/2012/05/189810.htm> (Last Accessed: 26/11/2013).

the United Kingdom¹⁰⁰ have previously suspended shipments of tear gas to Bahrain because of its disproportionate and improper use by security forces.

38. Human Rights Watch (HRW) has said the Bahraini security forces have "repeatedly used teargas disproportionately and sometimes unlawfully in suppressing anti-government demonstrations" since 2011, when protests against the monarchy erupted as part of the wave of Arab spring uprisings.¹⁰¹ Teargas misuse has been implicated in more than a dozen deaths and serious injuries, HRW says.¹⁰²

d. **DAE KWANG'S BUSINESS RELATIONSHIP WITH THE GOVERNMENT OF THE KINGDOM OF BAHRAIN**

39. KNPA, which regulates the export of tear gas to ensure domestic safety, told Amnesty International Korea¹⁰³ that Dae Kwang had sought its permission to export 1,546,680 canisters of tear gas to Bahrain in 2011 and 2012, including 1,249,680 DK-38S CS Cartridges.

40. A 21 October 2013 article in the Financial Times newspaper quoted a senior executive at Dae Kwang as confirming that his company had exported

¹⁰⁰ Channel 4, *Bahrain: UK Revoke All Export Licenses to Bahrain*, 18 February 2011, available at <http://www.channel4.com/news/bahrain-uk-may-have-supplied-tear-gas-canisters> (Last Accessed: 26/11/2013).

¹⁰¹ Balck, I., *Bahrain teargas stockpile plan faces international opposition*, Guardian, 29 October, available at <http://www.theguardian.com/world/2013/oct/29/bahrain-teargas-stockpile-plan-campaign> (Last Accessed: 26/11/2013).

¹⁰² *ibid.*

¹⁰³ See Appendix [F-3].

approximately 1 million rounds of tear gas in 2011 and 2012.¹⁰⁴ The executive stated that no contract had been signed for any subsequent shipment.¹⁰⁵

41. Products visually identical to the DK-40S canisters and DK-500N grenades manufactured by the Defendant have been identified in Bahrain since 2011.¹⁰⁶

V. JURISDICTIONAL ANALYSIS

42. The Republic of Korea is a member of the OECD.¹⁰⁷ According to Article I(1) of the Amendment of the Decision of the Council on the OECD Guidelines for Multinational Enterprises, National Contact Points may receive and consider OECD Complaints concerning companies within their territorial jurisdiction.¹⁰⁸ Dae Kwang Chemical Corporation is a Korean company that operates out of Gyeongsang Province in the Republic of

¹⁰⁴ Kerr, S., *Bahrain Boosts Supplies of Tear Gas as Instability Continues*, Financial Times, 21 October 2013, available at <http://www.ft.com/cms/s/0/67a619e2-397d-11e3-a3a4-00144feab7de.html> (Last Accessed: 26/11/2013).

¹⁰⁵ *ibid.*

¹⁰⁶ See Bahrain images at Bahrain Watch available at <https://bahrainwatch.org/img/tgas-unmarked-bahrain-2.jpg> and <https://bahrainwatch.org/img/tgas-unmarked-bahrain-3.jpg> and European Bahraini Organisation for Human Rights image <http://www.ebohr.org/wp-content/uploads/2013/01/hkzwo1.jpg> (Last Accessed: 26/11/2013).

¹⁰⁷ *List of OECD Member Countries - Ratification of the Convention of the OECD*, Organization for Economic Cooperation and Development, available at <http://www.oecd.org/general/listofoecdmembercountries-ratificationoftheconventionontheoecd.htm> (Last Accessed: 26/11/2013).

¹⁰⁸ *OECD Guidelines for Multinational Companies*, Organization for Economic Cooperation and Development (2011), available at <http://www.oecd.org/daf/inv/mne/48004323.pdf> (Last Accessed: 26/11/2013), at 18.

Korea.¹⁰⁹ The Foreign Investment Policy Division of the Ministry of Knowledge and Economy of the Government of the Republic of Korea is the designated National Contact Point for the Republic of Korea.¹¹⁰ Because the Foreign Investment Policy Division is the OECD National Contact Point with jurisdiction over the Defendant, the Foreign Investment Policy Division may consider the present complaint.

VI. CHOICE OF LAW

43. OECD Guideline 2 states that enterprises should “*respect the internationally recognised human rights of those affected by their activities*”.¹¹¹ We have set out above why the activities of Dae Kwang - in exporting tear gas to the Bahrain Government - are directly affecting Bahraini civilians. The OECD Guidelines for Multinational Enterprises do not themselves define “human rights.” Instead, the Guidelines envision that companies within the jurisdiction of the Guidelines refer to internationally accepted human rights law, including at a minimum the Universal Declaration of Human Rights (UDHR), the International Covenant for Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR).¹¹² As such, this complaint is founded upon, at a minimum, human rights violations and the risk of

¹⁰⁹ *Dae Kwang Chemical Corp*, Companylist.org, available at http://companylist.org/Details/10312857/Korea/Dae_Kwang_Chemical_Corp/ (Last Accessed: 26/11/2013).

¹¹⁰ *National Contact Points*, Organization for Economic Cooperation and Development (June 2013), available at <http://www.oecd.org/daf/inv/mne/2013NCPCContactDetails.pdf> (Last Accessed 26/11/2013).

¹¹¹ OECD Guidelines, *ibid* note 105, at 19.

¹¹² *ibid*, at 32.

future violations against rights and freedoms prescribed by the UDHR, ICCPR, and ICESCR. The complaint will also consider the interpretations of these international conventions by United Nations actors and organizations.

44. Beyond what the OECD Guidelines for Multinational Enterprises consider the minimum standards of international law, the Republic of Korea has also committed to a number of additional human rights standards, including multiple treaties and conventions. The Republic of Korea ratified the ICCPR on 10 April 1990¹¹³ and the ICESCR on the same date.¹¹⁴ The Republic of Korea ratified the Convention against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment (CAT) on 9 January 1995¹¹⁵ and the Convention on the Rights of the Child (CRC) on 20 November 1991.¹¹⁶ Because the Republic of Korea has committed to these additional treaties, because they also in substance reflect standards of

¹¹³ *International Covenant on Civil and Political Rights: Ratification Status*, United Nations Office for the High Commissioner for Human Rights (26 November 2013), available at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en (Last Accessed: 26/11/2013).

¹¹⁴ *International Covenant on Economic, Social, and Cultural Rights: Ratification Status*, United Nations Office of the High Commissioner for Human Rights (26 November 2013), available at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3-a&chapter=4&lang=en (Last Accessed 26/11/2013).

¹¹⁵ *Convention Against Torture: Ratification Status*, United Nations Office of the High Commissioner for Human Rights (26 November 2013), available at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9&chapter=4&lang=en (Last Accessed 26/11/2013).

¹¹⁶ *Convention on the Rights of the Child: Ratification Status*, United Nations Office of the High Commissioner for Human Rights (26 November 2013), available at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en (Last Accessed 26/11/2013).

customary international law of a peremptory character,¹¹⁷ and because the Defendant's conduct affecting the human rights of Bahraini citizens occurs primarily in the Republic of Korea, the complaint will also consider the additional human rights standards contained within those additional treaties.

VII. ARGUMENT

a. DAE KWANG'S SHIPMENT OF TEAR GAS TO BAHRAIN WILL VIOLATE THE 2011 OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

45. "Enterprises should, within the framework of internationally recognized human rights...seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts."¹¹⁸ Under the OECD Guidelines, Organizations have an affirmative duty to prevent their products from contributing to violations of human rights. Thus, if a customer's use of the Defendant's product or similar products has caused human rights violations, the Defendant is aware of the human rights violations, and the Defendant does

¹¹⁷ *Prosecutor v. Anto Furundzija*, International Criminal Tribunal for the former Yugoslavia, Case no. IT-95-17/1-T10, Trial Chamber, Judgment, 10 December 1998, available at www.icty.org; see also Human Rights Committee, General Comment 24 (52), General comment on issues relating to reservations made upon ratification or accession to the Covenant or the Optional Protocols thereto, or in relation to declarations under article 41 of the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.6 (1994), available at <http://www1.umn.edu/humanrts/gencomm/hrcom24.htm> (Last Accessed: 26/11/2013).

¹¹⁸ OECD Guidelines, *ibid* note 105, at 32.

not seek ways to prevent or mitigate adverse human rights impacts associated with those products, the Defendant has violated the OECD Guidelines for Multinational Enterprises. Dae Kwang should at the time of any exports, under Chapter IV of the guidelines, set out the framework of applicable law and human rights practices that enterprises should adhere to. We address this below.

i. THE GOVERNMENT OF THE KINGDOM OF BAHRAIN'S USE OF TEAR GAS CONSTITUTES A VIOLATION OF HUMAN RIGHTS

1) THE EXCESSIVE AND DISPROPORTIONATE USE OF TEAR GAS BY BAHRAIN'S AUTHORITIES CAUSING THE DEATH OF 39 BAHRAINIS CONSTITUTES A VIOLATION OF THE RIGHT TO LIFE

46. "Every human being has the inherent right to life. The right shall be protected by law. No one shall be arbitrarily deprived of life."¹¹⁹ The right to life is also thought to have obtained both customary international law and *jus cogens* status.¹²⁰ According to Article 4(2) of the ICCPR, the right to life cannot be derogated during the period of a state of emergency. States should "prevent arbitrary killings by their

¹¹⁹ International Covenant on Civil and Political Rights, Article 6, Paragraph 1. See also Universal Declaration of Human Rights, Article 3 ("Everyone has the right to life..."); Convention on the Rights of the Child, Article 6, Paragraph 1 ("State Parties recognize that every child has an inherent right to life.").

¹²⁰ Human Rights Committee, General Comment 6, Article 6 (Sixteenth session, 1982), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 6 (1994), , available at <http://www1.umn.edu/humanrts/gencomm/hrcom6.htm> (Last Accessed: 26/11/2013).

own security forces.”¹²¹ Law enforcement officials may use force only when strictly necessary and to the extent required by their duties.”¹²² These standards are also reflected in the customary international law prohibition of extra-judicial and arbitrary killing.¹²³

47. The Bahrain Government has used tear gas either manufactured by the Defendant or similar to that manufactured by the Defendant in circumstances relating to the deaths of at least 39 persons. In the majority of these cases, the authorities’ use of force was neither necessary nor proportional, and thus constitute violations of the above human rights.

48. See for example the death of a 14-year old Bahraini male, Ali Jawad Ahmed Al Shaikh,¹²⁴ on 31 August 2011. He died after he was struck in the back of his neck by a tear gas canister fired at close range from directly behind him.¹²⁵ Witness statements in the BICI Report state that Ali Jawad was engaged in a protest in his village of Sitra, at the time of his

¹²¹ Human Rights Committee, General Comment 6, Article 6 (Sixteenth session, 1982), U.N. Doc. HRI/Gen/1/Rev.1 at 6 (1994).

¹²² Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, U.N. Doc. A/CONF.144/28/Rev.1 at 112 (1990).

¹²³ Human Rights Committee, *ibid* at 114.

¹²⁴ See section IV (b) above.

¹²⁵ Goodman, D., *A 14-Year-Old Boy is Killed in Bahrain as Security Forces Break Up Protest*, New York Times, 31 August 2011 http://www.nytimes.com/2011/09/01/world/middleeast/01bahrain.html?_r=1 (Last Accessed: 26/11/2013).

death.¹²⁶ His death certificate states that he died of “a fractured spine, internal bleeding and shock.”¹²⁷ The coroner’s report found that his injuries were inconsistent with a tear gas canister impact.¹²⁸ However, the BICI conducted a forensic report revealing that his injuries were consistent with those caused by a tear gas canister impact at short range.¹²⁹

49. The Government’s use of force in the death of Ali Jawad Ahmad Al Shaikh did not meet the tests of strict necessity,¹³⁰ proportionality,¹³¹ non-discrimination,¹³² accountability,¹³³ and minimizing harm. Nor was it

¹²⁶ BICI Report, *ibid* note 1, at ¶1070.

¹²⁷ *ibid* at ¶1067.

¹²⁸ Bahrain Information Affairs Authority, *Update on Death of 14 Year Old Boy*, 1 September 2011 <http://iaa.bh/pressReleasedetails.aspx?id=38> (Last Accessed: 26/11/2013).

¹²⁹ BICI Report, *ibid* note 1, at ¶1068.

¹³⁰ “Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms.” U.N. Principles on the Use of Force, at art. 4. 189. Governments must also provide law enforcement officials training, while giving “special attention to issues of police ethics and human rights, ...to alternatives to the use of force and firearms, including the peaceful settlement of conflicts, the understanding of crowd behavior, and the methods of persuasion, negotiation and mediation ... with a view to limiting the use of force and firearms.” *ibid* at art. 20. See also U.N. Policy on Formed Police Units, at 9.

¹³¹ “Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury” U.N. Principles on the Use of Force, at art. 9. See also U.N. Policy on Formed Police Units, *supra* note 126, at 9.

¹³² ICCPR at Article 4(1).

¹³³ “Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law.” U.N. Principles on the Use of Force, *supra* note at article 7. “A prison sentence shall be the penalty for any person who ... deprives [another] in any illegal manner of his freedom ... [i]f the act is accompanied by ... bodily harm or acts of physical or mental torture.” Bahrain Penal Code, at article 357. “U.N. Principles on the Use of Force at art. 7. “Where injury or death is caused by the use of force and firearms by law enforcement officials, they shall report the incident promptly to their superiors” U.N. Principles on the Use of Force, *supra* at art. 6. “In cases of death and serious injury or other grave consequences, a detailed report shall be sent promptly to the competent authorities responsible for administrative review and judicial control.” *ibid* at art. 22. “Governments and law enforcement agencies shall ensure that superior officers are held responsible if they know, or should have known, that law enforcement officials under their command are

subject to a prompt and effective ex-officio investigation. Ali Jawad was struck in the back of the neck, and thus had his back turned to the officer that fired the canister. In light of this, it is highly improbable that he presented an immediate threat. It should also be recalled that Bahrain's security forces typically wear body armor,¹³⁴ further minimizing the ability of Ali Jawad to place the officer in immediate danger. Therefore the use of force was not required to fulfill the officer's duty.

50. Furthermore, at the time he received the injury that caused his death, Ali Jawad was engaged in a peaceful protest. He was not armed and had not committed any violent crime that would justify the use of force, nor was he in preparation for a crime that would justify the use of force.¹³⁵ If the officer needed to arrest Ali Jawad, he could have done so employing the 'least restrictive means' i.e. proportionately in a non-

resorting, or have resorted, to the unlawful use of force and firearms, and they did not take all measures in their power to prevent, suppress or report such use." *ibid* at art. 24. "Persons affected by the use of force and firearms or their legal representatives shall have access to an independent process, including a judicial process." *ibid* at art. 23. "Governments and law enforcement agencies shall ensure that no criminal or disciplinary sanction is imposed on law enforcement officials who, in compliance with the Code of Conduct for Law Enforcement Officials and these basic principles, refuse to carry out an order to use force and firearms, or who report such use by other officials." *ibid* at art. 25; "Obedience to superior orders shall be no defence if law enforcement officials knew that an order to use force and firearms resulting in the death or serious injury of a person was manifestly unlawful and had a reasonable opportunity to refuse to follow it. In any case, responsibility also rests on the superiors who gave the unlawful orders." *ibid* at art. 26. "Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles." *ibid* at art. 8.

¹³³

¹³⁴ BICI Report, *ibid* note 1, at ¶147.

¹³⁵ *ibid* at 250.

violent (and certainly non-lethally violent) manner. Because the use of force causing Ali Jawad's death was neither necessary nor required to fulfill the officer's duty, it is clear that the Bahrain Government arbitrarily caused his death in violation of Article 6 of the ICCPR.

51. There have been at least 4 deaths caused in this or a similar manner.¹³⁶ The government's decision to use force was neither necessary nor proportionate, and therefore the government arbitrarily caused their deaths in violation of the right to life enshrined in Article 6 of the ICCPR.

52. Another paradigm case of the unlawful use of tear gas causing breaches of the right to life occurred on 25 March 2011, when security forces fired multiple tear gas canisters directly into the home of a 71-year-old Bahraini male named Isa Mohammed Ali Abdullah.¹³⁷ According to Physicians for Human Rights,¹³⁸ Isa suffocated and died as a result of the tear gas. However, there was no autopsy, and no cause of death is available.¹³⁹ A government report said that a blood test showed no "traces of tear gas inhalation," and that no further investigation was conducted

¹³⁶ See Appendix A for the details regarding their deaths.

¹³⁷ See Human Rights Watch, *Bahrain: Investigate Deaths Linked to Crackdown*, 29 March 2011, available at <http://www.hrw.org/news/2011/03/29/bahrain-investigate-deaths-linked-crackdown> (Last Accessed: 26/11/2013).

¹³⁸ See Physicians for Human Rights Report, *ibid* note 71.

¹³⁹ BICI Report, *ibid* note 1, at ¶972.

because "there were no suspicions and/or any indications of a criminal act."¹⁴⁰

53. The government's use of force in causing Isa Mohammed's death was neither necessary nor required to fulfill the officer's duty. At the time, Isa Mohammed was a 71-year-old man in his home. It is unlikely that he would have posed a threat to the safety of the security officers or members of the public in his position. Additionally, Isa Mohammed was unlikely to be in the process of committing a violent crime requiring the use of force. If the officer needed to arrest the 71-year-old, he could have easily done so using the least restrictive means avoiding the use of force therefore minimizing harm. Because the government's use of force causing the death of Isa Mohammed was neither necessary nor required to fulfill the officer's duty, the government arbitrarily caused his death in violation of the right to life enshrined in Article 6 ICCPR.

54. On 9 November 2011, security forces began shelling the village of Bilad al-Qadeem with tear gas.¹⁴¹ They blanketed the town with tear gas for three days during the religious celebration of Ashoura.¹⁴² On the third day, the entire village was shrouded in tear gas. A 5-day-old infant girl

¹⁴⁰ BICI Follow-Up Report, *ibid* note 80, Attachment 2, Case 15 at 75.

¹⁴¹ Bahrain Centre for Human Rights, *Bahrain: Infant Suffocated to Death with Teargas*, 12 December 2011, available at <http://bahrainrights.hopto.org/en/node/4898> (Last Accessed: 26/11/2013).

¹⁴² *ibid*.

named Sajida Faisal Jawad¹⁴³ and her 3-year-old sister Sarah Faisal Jawad were both exposed to the tear gas and could not breathe, and Sajida's skin turned blue due to lack of oxygen. Her parents took them to the hospital, where they were both pronounced dead.¹⁴⁴

55. The use of force causing Sajida's and Sarah's death was neither necessary nor required to fulfill the officer's duty. Sajida was a 5-day-old infant and Sarah was a 3-year-old child, and neither could pose any significant threat to a security officer. Further, as both Sajida and Sarah were children and Sajida was an infant, neither were capable of committing any crime that could provoke the use of force. Because the use of force leading to Sajida's and Sarah's deaths was neither necessary nor required to fulfill the officer's duty, the government arbitrarily caused their deaths within the meaning of the ICCPR and deprived them of their right to life under the Convention on the Rights of the Child.¹⁴⁵

56. On 25 October 2013, witnesses reported that security forces shot a 19-year-old male named Abbas Abdulnabi Marhoon in his head with a tear gas

¹⁴³ Kerr, S., *Baby's Death Threatens Bahrain Reform Agenda*, Financial Times (12 December 2012), available at <http://www.ft.com/cms/s/0/8969c42a-24b2-11e1-ac4b-00144feabdc0.html#axzz1gME82cz3> (Last Accessed: 26/11/2013)

¹⁴⁴ *ibid* note 140; see also User: SayedF14, *مداخلة والد الشهيدة ساجدة فيصل*, YouTube (11 December 2011), available at <http://www.youtube.com/watch?v=89zuBw71BXc> (Last Accessed: 26/11/2013).

¹⁴⁵ Article 6 and 9(4), UN Convention on the Rights of the Child 1989.

canister.¹⁴⁶ According to his family, Marhoon is in a vegetative state; he underwent an operation to insert a feeding tube into his stomach.¹⁴⁷

57. The use of force that endangered the life of Abbas was neither necessary nor required to fulfill the officer's duty. No credible reports exist of Abbas threatening either security forces or members of the public. Additionally, security forces, such as the ones that used force against Abbas, typically wear body armor,¹⁴⁸ reducing the risk that Abbas could effectively attack them. The use of force against Abbas was also not required to fulfill the officer's duty. If the officer needed to arrest Abbas, he could have done so using significantly less force than that which endangered Abbas' life. Because the use of force by Bahraini security officers was neither necessary nor required to fulfill the officer's duty, the government arbitrarily caused his death within the meaning of the ICCPR and deprived him of his life within the meaning of the Convention on the Rights of the Child.

58. Authorities in Bahrain have killed at least 31 people in this manner.¹⁴⁹ In each case, government security forces fired significant

¹⁴⁶ Manama Voice, إصابة "خطيرة" في رأس شاب من كرزكان... و"الداخلية" تعلن عن تلقيها "البلاغ" 16/10/2013, available at http://manamavoice.com/news-news_read-15750-0.html (Last Accessed: 26/11/2013).

¹⁴⁷ Bahrain Centre for Human Rights, *Bahrain: Weaponized Tear Gas in Bahrain Leaves Young Man in Vegetative State*, available at <http://www.bahrainrights.org/en/node/6568> (Last Accessed 26/11/2013).

¹⁴⁸ BICI Report, *ibid* note 1, at ¶147.

¹⁴⁹ See Appendix [A].

amounts of tear gas into an enclosed area, wantonly fired tear gas canisters into crowds, or carried out a sustained and repeated campaign of tear gas use against targeted civilian populations such as identified villages over a prolonged period. In each case, the government's use of force was neither necessary nor required to fulfill the officer's duty, as the victims did not present threats to the safety of the officers or the public and the victims did not commit crimes sufficient to provoke the use of force. Because the government's use of force causing their deaths was neither necessary nor required to fulfill the officer's duty, the government arbitrarily caused their deaths. The deaths were not subject to prompt, effective and independent ex-officio investigations by the Bahraini authorities as required by their positive duties arising from the right to life in international law.

**2) THE GOVERNMENT OF THE KINGDOM OF BAHRAIN'S USE OF
TEAR GAS CONSTITUTES A VIOLATION OF THE RIGHTS AGAINST
CRUEL, UNUSUAL, AND DEGRADING TREATMENT OR PUNISHMENT**

59. "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."¹⁵⁰ The Convention against Torture defines torture as "... any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as... punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a

¹⁵⁰ ICCPR, *ibid* note 119.

third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”¹⁵¹ It separately defines and requires prohibition of acts of cruel, inhuman and degrading treatment.¹⁵² The Convention sets out the positive obligations required of state parties by the jus cogens prohibition of torture and cruel, inhuman and degrading treatment in international law. It therefore also illustrates the actions of private actors who engage in or facilitate the commission of torture and/or cruel, inhuman or degrading treatment. In addition to their effective prohibition, the Convention also requires that states take positive action to investigate, train to eliminate and punish any instances of torture or cruel, inhuman or degrading treatment.

60. The Bahrain Government has routinely used tear gas to torture Bahrainis and to inflict upon them cruel, inhuman and degrading treatment in violation of the international law standards reflected in the ICCPR, CAT and customary international law¹⁵³. Furthermore, it has failed to investigate these cases.

¹⁵¹ Article 1(1), UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984.

¹⁵² *ibid* at 16.

¹⁵³ See Appendix [D].

61. On 5 April 2012, a family that prefers to remain anonymous gathered in their home around 10:00 PM when a masked man in civilian clothes ran into the home and dragged the family's 15-year-old son from the house.¹⁵⁴ The family resisted and pulled the son back into the house and closed the door.¹⁵⁵ The man banged on the door, then took a tear gas launcher, placed it against the window, and fired two canisters of tear gas into the house.¹⁵⁶ Shortly afterwards, security forces surrounded the house and fired multiple rounds of tear gas into the house.¹⁵⁷ The tear gas caused the family members severe pain.¹⁵⁸ A young boy jumped from a second story window to flee the tear gas, while a 14-year-old girl fell unconscious as a result of the fumes.¹⁵⁹ Although family members were not killed in this attack, the government use of force in this situation clearly constitutes torture and cruel, inhuman and degrading treatment. The tear gas caused severe pain and suffering, to the point where a 14-year-old girl fell unconscious. Security forces were clearly acting in their official capacity when they fired tear gas into the home. Security forces appear to have used the tear gas to punish the family for not surrendering the son. Because security forces acted in their official capacity to punish a family by causing them severe pain and suffering, the government is responsible for torture under the meaning of the ICCPR and CAT. This unlawfulness is compounded by the Bahrain Government's failure to promptly

¹⁵⁴ Physicians for Human Rights, *ibid* note 71, at 26.

¹⁵⁵ *ibid.*

¹⁵⁶ *ibid.*

¹⁵⁷ *ibid.*

¹⁵⁸ *ibid.*

¹⁵⁹ *ibid.*

initiate an ex-officio independent and effective investigation into the incident.

62. Reports emerge daily of similar situations wherein Bahraini security forces fire multiple rounds of tear gas into enclosed areas, causing severe pain and suffering to those inside. In each of these situations, Bahraini security officers act in their official capacity to punish protesters and other persons by causing them severe pain and suffering. As such, the Bahrain Government has committed torture within the meaning of the ICCPR and CAT.

3) THE GOVERNMENT OF THE KINGDOM OF BAHRAIN'S USE OF TEAR GAS TO TARGET MOSQUES, FUNERALS AND PLACES OF WORK CONSTITUTES A VIOLATION OF THE RIGHT TO PARTICIPATE IN CULTURAL LIFE AND THE RIGHT TO PURSUE ECONOMIC DEVELOPMENT

63. Article 21 of the ICCPR protects the right of peaceful assembly.¹⁶⁰ Although a qualified right, qualifications of this right may only be made "which are necessary in a democratic society" for (most relevantly) public safety and public order.¹⁶¹ Article 19 of the ICCPR protects the right to freedom of expression.¹⁶² This right is engaged by democratic protests, and

¹⁶⁰ ICCPR, *ibid* note 119.

¹⁶¹ *ibid*.

¹⁶² *ibid*.

may only be qualified in the name of national security and public order.¹⁶³ Moreover, Article 18 of the ICCPR provides for the universal right to thought, conscience and religion and the right to manifest religion in worship, observance, practice and teaching.¹⁶⁴

64. Article 1 of the ICCPR and the International Covenant on Economic, Social, and Cultural Rights recognises the universal right to self-determination and the pursuit of economic, social and cultural development.¹⁶⁵ State parties to the Covenant must guarantee that the rights of the Covenant are exercised without discrimination under Article 2 and that any limitations to the rights of the Covenant must be compatible with the nature of the rights in promoting the general welfare in a democratic society.¹⁶⁶

65. Article 7 of the ICCPR recognises the right of everyone to the enjoyment of just and favourable conditions of work, including safe and healthy working conditions.¹⁶⁷ Article 15 of the Covenant recognizes the right of everyone to take part in cultural life.¹⁶⁸

¹⁶³ *ibid.*

¹⁶⁴ *ibid.*

¹⁶⁵ *ibid.*; see also ICESCR, *ibid* note 120.

¹⁶⁶ ICCPR, *ibid* note 119.

¹⁶⁷ *ibid.*

¹⁶⁸ *ibid.*

66. All of the above rights have been breached by the campaign of disproportionate and repeated targeting of tear gas against civilian populations in Bahrain. The Government has deployed tear gas in places of work on numerous occasions.¹⁶⁹ It has severely and detrimentally influenced the cultural life in villages, prevented the effective manifestation of religion, and forestalled and the effective realisation of the freedom of expression through the targeting of tear gas at religious processions,¹⁷⁰ mosques,¹⁷¹ cultural centres,¹⁷² political associations¹⁷³ and funeral processions.¹⁷⁴ It has deployed tear gas not for purposes of riot control, but to break-up pro-democracy demonstrations and to punish those participating in them.

ii. DAE KWANG HAS CONTRIBUTED TO AND IS AWARE OF THE HUMAN RIGHTS VIOLATIONS IN BAHRAIN AND HAS NOT TAKEN ANY AFFIRMATIVE STEPS TO PREVENT OR MITIGATE HUMAN RIGHTS VIOLATIONS IN CONNECTION WITH THE USE OF ITS PRODUCT

¹⁶⁹ See Appendix [A] - Category 'Place of Work'.

¹⁷⁰ Updates: Bahrain: Authorities Promoting Sectarian Tensions by Targeting Shia Muslims during Ashoura, *Bahrain Center for Human Rights* (15 November 2013), available at <http://www.bahrainrights.org/en/node/6565> (Last Accessed: 26/11/2013).

¹⁷¹ Bahrain opposition says regime is desecrating mosques, *Presstv.com* (16 March 2013), available at <http://www.presstv.com/detail/2013/03/16/293801/bahrain-blamed-for-mosque-desecration/> (Last Accessed: 26 November 2013) and *تضرر مسجد بالمعالمير بطلقة مسيل دموع*, *Al Wasat News* (25 August 2013), available at <http://www.alwasatnews.com/4005/news/read/803393/1.html> (Last Accessed: 26/11/2013).

¹⁷² Ali Al Mousawi, «إطلاق «مسيلات الدموع» على مآتم السنابس وقت انعقاد مسابقة قرآنية», *Al Wasat News* (4 March 2013), available at <http://www.alwasatnews.com/3831/news/read/743676/1.html> (Last Accessed 26/11/2013).

¹⁷³ Malik Abdullah, «الأمّن يفرق محتجين قرب «الوفاق»», *Al Wasat News* (24 December 2011), available at <http://www.alwasatnews.com/3395/news/read/616659/1.html> (Last Accessed 26/11/2013).

¹⁷⁴ Funeral for Bahrain teen descends into clashes, *Associated Press* (Manama, 23 October 2013), available at <http://news.yahoo.com/funeral-bahrain-teen-descends-clashes-195137005.html> (Last Accessed: 26/11/2013).

67. It is asserted that the Defendant is aware of human rights violations in Bahrain. The Complainants and their supporters have contacted the Defendant on numerous occasions, advising the Defendant of the ethical concerns associated with exporting tear gas to Bahrain. Additionally, the allegations of human rights violations associated with the Bahrain Government and more particularly its use of tear gas have been prominent in the international press for a considerable period - ever since the events of February/March 2011 - and this will no doubt have come to the attention of the Defendant.

68. Further, the Defendant has been made aware that tear gas canisters physically identical to those manufactured by the Defendant were complicit in the extrajudicial killing of at least one Bahraini. According to eyewitnesses, 15 year old Sayed Hashim Sayed Saeed was shot in the head with an unmarked tear gas canister.¹⁷⁵ He subsequently died from an injury to the neck, according to a copy of his Medical Notification of Cause of Death.¹⁷⁶ Eyewitnesses took pictures of tear gas canisters they recovered from the scene of the shooting.¹⁷⁷ One photo shows a bloodied tear gas canister that is visually identical to either the DK-38S or DK-40S

¹⁷⁵ Bahrain Centre for Human Rights, *Bahrain: Urgent appeal, 15 year old Sayed Hashim Sayed Saeed killed today, areas under attack*, 31 December 2011 <http://www.bahrainrights.org/en/node/6081> (Last Accessed: 26/11/2013).

¹⁷⁶ *ibid.*

¹⁷⁷ *ibid.*

displayed on Defendant's website.¹⁷⁸ Although it is not determinative of the risk presented by the proposed shipment, which concerns the Bahrain Government's use of tear gas generally, it is nevertheless noteworthy that on at least one occasion, tear gas canisters resembling those sold by the Defendant have been used to kill protesters.

69. While the Defendant is aware of the human rights violations associated with the Bahrain Government's use of its product, the Defendant has not undertaken any affirmative steps to prevent or mitigate human rights violations in connection with its sale of tear gas to the Bahrain Government. In order to prevent or mitigate human rights violations, the Defendant could have stopped all shipments. However, it appears that the Defendant has taken no such steps. In 2011, the Defendant sent a first shipment of tear gas to Bahrain.¹⁷⁹ In 2012, a large shipment of over 1 million tear gas canisters was sent from Korea to Bahrain.¹⁸⁰ In October 2013, the Complainants received a confidential document indicating that the Bahrain Government was seeking to purchase an additional 1.69 million units of tear gas.¹⁸¹

¹⁷⁸ John Horne and Ahmed Ali, *South Korea is Playing a Deadly Game by Fueling Bahrain's Violent Crackdown*, PolicyMic <http://www.policymic.com/articles/67615/south-korea-is-playing-a-deadly-game-by-fueling-bahrain-s-violent-crackdown> 16 October 2013 (Last Accessed: 22/11/2013).

¹⁷⁹ See Appendix [F-3].

¹⁸⁰ *ibid.*

¹⁸¹ *ibid.*

70. Because the Defendant is aware of the human rights violations associated with the Bahrain Government's use of its product and because the Defendant has failed to cease all export activity in relation to Bahrain or states from which onward sale of tear gas could be made to Bahrain, the Defendant has violated the 2011 OECD Guidelines for Multinational Enterprises.

VIII. CONCLUSION

71. It is well known that the Bahrain Government has engaged in the suppression of pro-democracy protests since the events of February/March 2011 (and, indeed, beforehand). This in and of itself is sufficient to engage the requirement in Ch. IV, para 2 of the OECD Guidelines that the Defendant avoid causing or contributing to human rights impacts through the supply of tear gas. However, it is also well known that the Bahrain Government has committed widespread human rights abuses against members of the population as part of its suppression of protest.

72. NGOs and the BICI have all emphasised how tear gas has been a critical component in many of these abuses. Together, the evidence shows that the Bahrain Government's use of tear gas in excessive quantities; used in a disproportionate manner; targeted at peaceful demonstrations; deployed in inappropriate and unsafe situations; and targeted as a ballistic weapon at unarmed members of the population has been responsible

for extrajudicial killings; torture; cruel, inhuman and degrading treatment; and the suppression of the democratic rights of freedom of assembly; expression; thought, conscience and religion; and economic and cultural rights.

73. Dae Kwang has been a significant supplier of tear gas to Bahrain since 2011. It is no doubt aware of the Bahrain Government's abuses following efforts by campaigners to notify them through numerous methods including letters, emails, phone calls, faxes and protests. Notwithstanding this, the evidence suggests that the Defendant is contemplating, indeed seeks imminently, the export of a further 1.5 million canisters in 2013.

74. Many of the rights breached by the Bahrain Government's use of tear gas are of a peremptory nature - the highest status accorded by international law. As such, they permit no derogation and require a clear and decisive response from the Korean Government and from corporations such as the Defendant. The rights of freedom of expression and assembly and the right of cultural expression and to be free of collective punishment are further fundamental human rights that are engaged by the conduct of the Bahrain Government's use of tear gas.

75. It is clear that any previous exports of tear gas to Bahrain are highly likely to have been used in breach of the above human rights standards. As such, any contemplated future shipment also carries a grave risk of similar deployment and must therefore be prohibited under international law and in compliance with the OECD Guidelines. The Claimants thus ask the Ombudsman to require the Defendant to completely cease all exports of tear gas to Bahrain. The Claimants also request an immediate investigation into the practices of Dae Kwang which have breached international human rights law and the OECD Guidelines and that all exports are ceased pending the outcome of this investigation.

APPENDIX

APPENDIX (A) VIDEO EVIDENCE OF THE MISUSE OF TEAR GAS IN BAHRAIN

TEAR GAS ATTACKS ON CIVILIANS

<u>No.</u>	<u>Date</u>	<u>Link</u>	<u>Category</u>	<u>Description</u>
1	25/11/2011	http://www.youtube.com/watch?v=JK7ImjAJe3s	Civilian	Footage shows security forces aiming directly at civilians, most notably a woman who barely avoids the canister.
2	25/11/2011	http://www.youtube.com/watch?v=MMrHsuTIFIQ	Civilian/ Home	Tear gas/sound grenades thrown on lone woman entering building by police forces.
3	17/02/2012	http://www.youtube.com/watch?v=fBXG2yYOyZI	Civilian	Footage showing attack upon women.
4	31/03/2012	http://www.youtube.com/watch?v=js4Abw7vGxc	Civilian/ Funeral	Tear gas fired during funeral.
5	22/02/2013	http://www.youtube.com/watch?v=f3bVdvZHdHQ	Civilian	Security forces targeting women in the village using tear gas.
6	31/03/2013	http://www.youtube.com/watch?v=hrQQmY04Utc	Civilian	Footage of Bahraini police throwing stun grenades at two women and a young child. Bahrain Centre for Human Rights says the women were targeted for being protestors.

Tear Gas Attacks on Places of Work

<u>No.</u>	<u>Date</u>	<u>Link</u>	<u>Category</u>	<u>Description</u>
1	02/09/2012	http://www.youtube.com/watch?v=NvqM-9fa_5k	Place of Work	Tear gas dropped into a women's salon by police forces
2	05/07/2013	http://www.youtube.com/watch?v=Oui4pIhUxw4	Place of Work	(date video was uploaded, no other source) Footage shows a crowd huddling inside a coffee shop. Screams can be heard as police throw tear gas through the main window of the cafe. Footage also shows images from December (in the same location), images of masked men

				running with tear gas canisters. Officers randomly shooting at protesters or people driving by.
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TEAR GAS ATTACKS ON HOMES

<u>No.</u>	<u>Date</u>	<u>Link</u>	<u>Category</u>	<u>Description</u>
1	14/04/2011	http://www.youtube.com/watch?v=PQPiKsBrR0c	Home	Video footage shows Bahrain police firing teargas at homes, no one was around him and the streets were empty.
2	18/04/2011	http://www.youtube.com/watch?v=5009o4PJtzW	Home	Video footage showing Bahraini police firing teargas on the doorsteps of houses at night.
3	15/07/2011	http://www.youtube.com/watch?v=ygp6id7xvk8	Home	Video throwing tear gas into people's houses.
4	22/07/2011	http://www.youtube.com/watch?v=YaPVUdWyTfY	Home	Crime of intentional killing of civilians in their homes. Security forces targeted house of Zainab Al-Juma with tear gas and sound bombs. Al-Juma died as a result of inhaling excessive amount of tear gas thrown into her house. in this video neighbours rushing into the house to evacuate her family, mostly children and women.
5	04/01/2012	http://www.youtube.com/watch?v=ZDxRDifmhxE	Home	Security forces firing teargas cannisters into homes at the dead of night
6	27/01/2012	http://www.youtube.com/watch?v=IjuMrCEDENY&list=PL9FCAFE7CC30EFFF2	Home	Security forces target homes using teargas.
7	08/03/2012	http://www	Home	Internal combustion of a home

		.youtube.com/watch?v=zQDAq2DYT-w		which is a result of direct targeting of homes by police forces which lead to the burning of the second floor. Footage shows young people trying to extinguish the fire and move folks home.
8	18/05/2012	http://www.youtube.com/watch?v=fQ4M2BgeJQU	Home	Video footage shows Bahraini civilians trapped in home that has been filled with tear gas trying to escape.
9	20/05/2012	http://www.youtube.com/watch?v=gQcBcfLeeWO	Home	Riot police shooting tear gas at random to kill peaceful protesters which leads to burning a house in Mamer village.
10	27/05/2012	http://www.youtube.com/watch?v=-u3Hv3QmKFE http://www.youtube.com/watch?v=vK3mVoQJGJw	Home	Tear gas shot inside a home.
11	23/07/2012	https://www.youtube.com/watch?v=qTnynqiFW6A	Home	Security forces deliberately throw poisonous gases inside the homes.
12	20/08/2012	https://www.youtube.com/watch?v=-ullsb9CvKY	Home	Security forces shoot tear gas inside a house.
13	20/08/2012	http://www.youtube.com/watch?v=2uS7omk9A0k&list=PL9FCAFE7CC30EFFF2	Home	Security forces firing tear gas inside a home.
14	01/01/2013	http://www.youtube.com/watch?v=-Rm-a_gbygmc&list=PL9FCA	Home	After demonstrations tear gas has been thrown into a house, one woman appears to have collapsed.

		FE7CC30EFF F2		
15	14/03/2013	http://www.youtube.com/watch?v=kfU8d9X1bR4	Home	Video shows security forces dropping a tear gas cannister in a house (screams are heard).
16	16/03/2013	http://www.youtube.com/watch?v=AFLqFXLvFXI	Home	Footage shows a burnt house caused by a canister shot from teargas.

TEAR GAS ATTACKS ON PLACES OF WORSHIP

<u>No.</u>	<u>Date</u>	<u>Link</u>	<u>Category</u>	<u>Description</u>
1	26/11/2011	http://www.youtube.com/watch?v=5aGouJVPbcE	Place of Worship	Bahraini forces attacking women with teargas in the women's section of the mosque.

TEAR GAS ATTACKS ON PROTESTS

<u>No.</u>	<u>Date</u>	<u>Link</u>	<u>Category</u>	<u>Description</u>
1	14/02/2011	http://www.youtube.com/watch?v=XreARZPeUUg	Protest	The video documents a peaceful protest that took place on the first day of the Bahrain uprising in 2011. It shows the presence of men, women and children conducting a peaceful protest outside the village of Duraz with no indication that any violence is imminent. Nevertheless, armed security forces disproportionately charged in large numbers firing tear gas at the protesters. (Video shows peaceful protest calling for democracy. Armed security forces in groups attacking

				peaceful protesters.)
2	16/02/2011	http://www.youtube.com/watch?v=Ihfzq6Vqh_A	Protest	Bahraini use tear gas against protesters.
3	17/02/2011	http://www.youtube.com/watch?v=eYl8UDtcGjg	Protest	Riot police shooting tear gas at people who showed up at the Lulu roundabout for protests. Female screams can be heard in the background with a man yelling for her to sit down (in order to remain safe?)
4	11/03/2011	http://www.youtube.com/watch?v=ntGgtXEExfI	Protest	Barrage of tear gas used against peaceful protesters causing clear cases of fainting.
5	15/07/2011	http://www.youtube.com/watch?v=-91_b0AmyY&bpctr=1381755879	Protest	Bahraini police handling peaceful protestors by throwing teargas canisters at random.
6	07/09/2011	http://www.youtube.com/watch?v=p6Y6QGQWBQc	Protest	Peaceful rally welcoming Dr Ali Al-Ekri, The rally is peaceful and in some sense a celebration for his release. You can hear the sound of tear gas being shot into the crowds followed by the smoke that is rising up amongst the crowds.
7	26/11/2011	http://www.youtube.com/watch?v=tkkdXC_XRSU	Protest	Protesters being attacked by tear gas in one of Bahrain's biggest towns, Aali. Women and children visible in the footage. Sounds indicate that more than three shots fired.
8	26/11/2011	http://www.youtube.com/watch?v=McEbGkeT_iE	Protest	Beginning of the repression of the peaceful sit-in. Police forces throw tear gas canisters at protesters and continue to do so even as they run. Protesters remain peaceful and yet are still targeted by forces.
9	14/03/2013	https://www.youtube.com/watch?v=pmLEJqmgZ0k	Protest	Unarmed protesters running from riot police throwing tear gas canisters. A canister is shot at one protester's back, he braces the back of his neck before he is shot.
10	26/04/	https://www.	Protest	Direct shot against protestor.

	2013	youtube.com/watch?v=E700lwMoP-w		
11	26/04/2013	http://www.youtube.com/watch?v=WTdhBP50zoQ	Protest	Bahraini regime forces directly shooting a group of women with tear gas canisters in an attempt to disperse them during a protest.
12	14/03/2013	http://www.youtube.com/watch?v=oQtJbFu2nW0&list=PL9FCAFE7CC30EFFF2	Protest/Home	Police fire tear gas at protesters, and then flood village in tear gas. Shows police officer going to a house and shooting tear gas before walking away.

TEAR GAS USED AS A METHOD OF EXTRAJUDICIAL KILLING

<u>No.</u>	<u>Date</u>	<u>Link</u>	<u>Category</u>	<u>Description</u>
1	23/02/2013	https://www.youtube.com/watch?v=Ump2Pz7NnfM https://www.youtube.com/watch?v=rwmVKgMHWeM http://www.youtube.com/watch?v=mNWCxlrSyv0	Rare Extrajudicial Killing Footage	Mahmood Al-Jazeera was killed at the age of twenty as a tear gas canister was hit directly to his face at a close range. He was an unarmed protester in the village of Nabih Salih. The BCHR was informed that Al-Jazeera was brought to medical complex unconscious suffering from a direct injury to brain from a heavy object. Suffered from a fractured skull, multiple brain intrusions and severe brain edema.

TEAR GAS SHOT AT VEHICLES

<u>No.</u>	<u>Date</u>	<u>Link</u>	<u>Category</u>	<u>Description</u>
1	14/02/2011	http://www.youtube.com/watch?v=Yzi35eZATfk	Vehicle	Bahraini police shot tear gas in a civilian car at night in a residential area.
2	27/01/2012	http://www.youtube.com/watch?v=...	Vehicle	Tear gas canister thrown into car; as a result a woman has fallen

		be.com/watch?v=j1nc-KGbB_A		unconscious.
		http://www.youtube.com/watch?v=NcWRtEqOTbQ		
3	15/02/2012	http://www.youtube.com/watch?v=McU9FOXbh8	Vehicle	Video showing the result of teargas being thrown into a car that was parked outside of residence.
4	31/03/2012	http://www.youtube.com/watch?v=l3ypslwhdTA	Vehicle	Video showing the result of teargas being shot into stationary vehicle
5	12/09/2012	http://www.youtube.com/watch?v=jbwaTotVOpg	Vehicle	Video shows security forces throwing tear gas canister into an empty car.
6	09/11/2012	http://www.youtube.com/watch?v=w9WSK-Hmhgk#t=28	Vehicle	Video clip portrays tear gas canisters thrown into civilian cars by security forces making women jump out.

APPENDIX (B) LIST OF TEAR GAS RELATED DEATHS IN BAHRAIN

(PHR List 2012)

No.	Name	Age	Cause of Death	Place	Date
1	Issa Mohammed Ali Abullah	71	Exposure to Teargas.	Ma'ameer	25/03/2011
2	Sayed Ahmed Saeed Shams	15	Possible blunt force trauma to neck due to impact	Saar	30/03/2011

			from tear gas canister.		
3	Khadija Merza Abbas Yusuf Abdulhai	...	Tear gas exposure at home.	...	05/04/2011
4	Mohammed Abdulhussain Farhan	6	Tear gas exposure at home.	Sitra	30/04/2011
5	Zainab Ali Ahmed Al Tajer	69	Tear gas exposure.	Sanabis	02/06/2011
6	Sayed Adnan Sayed Hassan Al Musawi	44	Tear gas exposure at a religious event.	Duraz	23/06/2011
7	Zainab Hassan Ahmed Jumaa	47	Tear gas exposure.	Sitra	15/07/2011
8	Isa Ahmed Al Taweel	60	Tear gas exposure.	Sitra	31/07/2011
9	Ali Jawad Ahmad Al Shaikh	14	Possible blunt force trauma to head due to impact from tear gas canister.	Sitra	31/08/2011
10	Sayyed Jawad Ahmed Hashim Marhoon	36	Tear gas exposure at protest.	Sitra	14/09/2011
11	Jaafar Lutf Allah	74	Tear gas exposure.	Abu Saiba	30/09/2011
12	Sajida Faisal Jawad	0	Tear gas exposure at home.	Bilad Al Qadeem	11/12/2011
13	Abdulali Ali Ahmed	73	Tear gas exposure.	Muqsha	17/12/2011
14	Sayed Hashim Sayed Saeed	15	Possible blunt force trauma to head due to impact from tear gas canister.	Sitra	30/12/2011
15	Fakhria Jassim Al Sakran	55	Tear gas exposure.	Isa Town	3/12/2012
16	Salma Muhsin	81	Tear gas exposure	Barbar	15/01/2012

			at home.		
17	Yaseen Jassim Al Asfoor	14	Collapsed lungs after gas exposure at home.	Ma'ameer	20/01/2012
18	Mohamed Khamis Al Khunaizi	26	Tear gas exposure.	Jidhafs	20/01/2012
19	Saeed Ali Al Sukari	65	Tear gas exposure at home.	A'ali	25/01/2012
20	Abbas Jaffar Al Shaikh	26	Unknown; tear gas exposure, but patient had rubber bullet and birdshot injuries.		25/01/2012
21	Abdali Abdulla Mohamed Al Ma'ameery	58	Tear gas exposure at home.	Ma'ameer	1/02/2012
22	Zahra Ali Al Hawaj	69	Tear gas exposure at home.	Naim	1/02/2012
23	Ali Issa Abdulla Al Hayeki	48	Tear gas exposure at home.	Samaheej	6/02/2012
24	Mansoor Salman	85	Tear gas exposure.	Sitra	18/02/2012
25	Rose Nisha Naikarottu Baby Varghese	28	Tear gas induced asthma attack and coma.	SMC	21/02/2012
26	Abdah Hussain Isa	68	Tear gas exposure.	Sihla	25/02/2012
27	Haj Habib Al Mulla	60	Tear gas exposure at home.	Sihla	29/02/2012
28	Fadhel Al Obaidy	21	Possible blunt force trauma to head due to impact from tear gas canister.	Duraz	2/03/2012
29	Yahya Yousif Ahmed	0	Tear gas exposure during mother's pregnancy.	Manama	5/03/2012
30	Sakeena Marhoon	78	Tear gas exposure.	Abu Saiba	6 Mar 2012
31	Jaafer Jassem Ridha	41	Tear gas exposure.	?	17 Mar 2012

32	Sabri Mahfoodh	27	Tear gas exposure.	Shahrakan	18/03/2012
33	Abda Ali Abdulmohse	55	Tear gas exposure.	Jidhafs	23/03/2012
34	Ahmed Abdulnabi Abdulrasool	31	Tear gas exposure at home	Shahrakan	24/03/2012
35	Hasan Abdallah Ali Ahmad	59	Exposure to tear gas thrown inside his home and in neighboring street.	Sitra	17/09/2012
36	Basel Mansoor Al-Qattan	44	Suffered from cardiomyopathy and asthma, which made him vulnerable to the tear gas that led to his death.	Manama	19/12/2012
37	Haj Habib Ibrahim Abdullah	88	Exposure to extensive amount of tear gas.	Malikiya	13 Jan 2013
38	Qassim Habib	8	Exposure to tear gas/Village attacked extensively with tear gas.	Karbabad	26/12/2013
39	Mahmood Isa Al-Jazeera	20	Tear gas aimed at him during participation in protest on February 14 2013.	Nabih Saleh	22/12/2013

APPENDIX (D) KEY REPORTS

- Weaponizing Tear Gas by Physicians for Human Rights - <http://physiciansforhumanrights.org/library/reports/weaponizing-tear-gas.html>
- Bahrain's use of tear gas against protesters increasingly deadly by Amnesty International - <http://www.amnesty.org/en/news/bahrain-s-use-tear-gas-against-protesters-increasingly-deadly-2012-01-26>
- Bahrain: Hold Police Accountable in Teargas Episode by Human Rights Watch - <http://www.hrw.org/news/2012/07/04/bahrain-hold-police-accountable-teargas-episode>
- The Bahrain Independent Commission of Inquiry Report
- Bahrain Is Criticized for Its 'Torrent' of Tear Gas Use by the New York Times -

http://www.nytimes.com/2012/08/01/world/middleeast/bahrain-criticized-for-torrent-of-tear-gas-use.html?_r=0

- Bahraini villagers fear effects of tear gas by Al Jazeera English -
<http://www.aljazeera.com/indepth/features/2012/04/201241122912440203.html>
- The Guardian: Bahrain teargas stockpile plan faces international opposition
<http://www.theguardian.com/world/2013/oct/29/bahrain-teargas-stockpile-plan-campaign>
- Russia Today: 'Campaign of spiraling repression': Bahrain's massive tear gas shipment challenged by rights activists
<http://rt.com/op-edge/bahrain-tear-gas-shipment-699/>
- Reuters: Bahrain defends use of teargas following criticism
<http://www.reuters.com/article/2013/10/26/us-bahrain-teargas-idUSBRE99P06M20131026>
- HuffPost Live: Will Bahrain Have More Tear Gas Canisters Than People?
<http://live.huffingtonpost.com/r/archive/segment/bahrain-has-more-tear-gas-canisters-than-citizens/5269515478c90a45000003e5>
- Arabian Business: Bahrain said to seek 1.6m tear gas cannisters
<http://m.arabianbusiness.com/bahrain-said-seek-1-6m-tear-gas-cannisters-524281.html>
- Vila Web (Catalan media): Bahrain: més pots de gasos lacrimògens que no pas habitants
<http://bahrainwatch.us4.list-manage2.com/track/click?u=f56bdef8c2f1a29435d3a14bc&id=a2eaf3c70b&e=28e650d196>
- Global Voices: South Korean Tear Gas Being Used in Bahrain?
<http://bahrainwatch.us4.list-manage.com/track/click?u=f56bdef8c2f1a29435d3a14bc&id=c5859d22f3&e=28e650d196>
- Il Journal (Italian): Bahrain: le accuse al governo sugli scontri
<http://bahrainwatch.us4.list-manage1.com/track/click?u=f56bdef8c2f1a29435d3a14bc&id=7538b82d64&e=28e650d196>
- France24: Campaign launched to stop tear gas shipment to Bahrain
<http://bahrainwatch.us4.list-manage2.com/track/click?u=f56bdef8c2f1a29435d3a14bc&id=bd20f65adf&e=28e650d196>
- South Korean media: [Newscham](#), [Redian](#), [Press by PLE](#), [News1](#), [Yonhap News Agency](#)
- Bahrain Criticized for Use of Tear Gas Following Boy's Funeral by the New York Times -
<http://thelede.blogs.nytimes.com/2013/01/29/bahrain-criticized-for-use-of-tear-gas-following-boys-funeral/>

- Will Bahrain Have More Tear Gas Canisters Than People? by the Huffington Post - <http://live.huffingtonpost.com/r/archive/segment/bahrain-has-more-tear-gas-canisters-than-citizens/5269515478c90a45000003e5>
- Concern over Bahrain 'tear-gas tender' by the BBC - <http://www.bbc.co.uk/news/world-middle-east-24622010>
- New York Times: Rights Group Warns Against Bahrain's Use of Tear Gas Against Protesters <http://www.nytimes.com/2013/10/23/world/middleeast/rights-group-warns-against-tear-gas-abuse-by-bahrain.html>
- Financial Times: Bahrain boosts supplies of tear gas as instability continues <http://on.ft.com/175gsnf>
- Independent: Tear-gas shells replace the Pearl as the symbol of Bahrain <http://www.independent.co.uk/voices/comment/teargas-shells-replace-the-pearl-as-the-symbol-of-bahrain-8891649.html>
- VICE: Bahrain Just Bought More Tear Gas Canisters Than It Has Citizens http://www.vice.com/en_uk/read/bahrain-just-bought-more-tear-gas-canisters-than-it-has-citizens
- Slate.com: Bahrain Wants to Buy More Tear Gas Canisters Than It Has People http://www.slate.com/blogs/the_world_/2013/10/23/bahrain_order_more_than_1_6_million_tear_gas_shells.html
- Huffington Post: Bahrain Tear Gas Tender By Interior Ministry Fuels Fears That Kingdom Is Stockpiling Dangerous Chemical http://www.huffingtonpost.com/2013/10/24/bahrain-tear-gas_n_4157270.html
- UPI: Bahrain suspected of stockpiling tear gas http://www.upi.com/Top_News/Special/2013/10/17/Bahrain-suspected-of-stockpiling-tear-gas/UPI-26391382022262/
- International Business Times: Bahrain's Leaked Teargas Tender Triggers Global Campaign <http://www.ibtimes.co.uk/articles/515958/20131022/bahrain-teargas-stop-shipment-tender.htm>
- Global Voices: More Tear Gas Than People <http://globalvoicesonline.org/2013/10/25/bahrain-more-tear-gas-than-people/>
- Alahram: Rights group exposes new teargas shipment to Bahrain <http://english.ahram.org.eg/NewsContent/2/8/84683/World/Region/Rights-group-exposes-new-teargas-shipment-to-Bahra.aspx>
- Alakhbar: Activists urge Korea to cancel massive tear gas shipment to Bahrain <http://english.al->

akhbar.com/content/activists-urge-korea-cancel-massive-tear-gas-shipment-bahrain

- RT: Bahrain's enormous tear gas tender exposed amid ongoing unrest <http://rt.com/news/bahrain-tear-gas-tender-654/>
- U.S. Gov should speak out against Bahraini Tear Gas Deal by Human Right First - <http://www.humanrightsfirst.org/2013/10/17/u-s-government-should-speak-out-against-proposed-bahraini-tear-gas-deal-with-south-korea/>
- Clouds of Death by Al Wefaq Society - http://www.youtube.com/watch?v=_blU8nolfBo
- "Behind the Scenes" of Bahrain by Dan Rather Reports - <http://www.youtube.com/watch?v=hkoj6jXCKfs>
- Lethal Use of Tear Gas in #Bahrain from Amber Lyon by CNN - <http://www.youtube.com/watch?v=y221Y8CymxU%20>
- Bahrain protesters hit by tear gas by Al Jazeera English - <http://www.youtube.com/watch?v=9F2FQCCmsBU%20>

KINGDOM OF BAHRAIN
MINISTRY OF THE INTERIOR
Purchasing Directorate



مملكة البحرين
وزارة الداخلية
إدارة المشتريات

Ref: PD/RFQ-011/06-13
Date: 16th June 2013.

Subject: Request For Proposal

On behalf of the Ministry of Interior, the Purchasing Directorate is hereby pleased to invite you to submit your proposal for the following Tear Gas Cartridges and Sound Grenades:

No.	Description	Qty.
1.	CS Tear Gas Long Range Shell 37/40 mm	800,000
2.	CS Tear Gas Short Range Shell 37/40 mm	400,000
3.	CS Tear Gas Shell, Multiple Submunition (5Way) 37/40 mm	400,000
4.	Sound & Flash Grenade, 1 Bang	60,000
5.	Sound & Flash Grenade, 2 Bang	50,000
6.	Sound & Flash Grenade, 6-9 Bang	35,000
7.	CS Hand Grenades (One way)	45,000
8.	Tear Gas Hand Grenades (Five way)	45,000

Hence, your proposal must be submitted, containing the following information in precise:

- Unit and Total price against each item
- Prices CIF Kingdom of Bahrain by Air and Sea
- Delivery schedule
- Shelf life
- Warranty
- Full technical details which will conform with NATO/International Standards.
- The commitment of the company for the replacement of damaged/short landed items against the delivered consignment upon request.
- The commitment of the company for carrying out the necessary training of Ministry of Interior personnel at your factory upon request 'if required'.
- The commitment of the company to invite a delegation of Ministry of Interior to demonstrate production and Testing process upon request 'if required'.
- Size of consignment in cubic meter/feet in order to make the arrangements for storage.
- Quotation validity for 90 days from the date of issue.
- Terms of Payment

Cont'd P/2



- P/2 -

Ref. PD/ RFQ-011/06-13

Date: 16th June 2013.

In addition, please be advised with the following:

1. Requested quantities are estimated. Upon the approval of your offer, actual ordered quantity may be increased or decreased than the quoted quantities.
2. Manufacturing Date is required to be mentioned in your quotation whereas Batch Number, Lot Number and Manufacturing Date to be labeled on the ammunition Packages in case of the approval of your quotation.
3. Your proposal is to be submitted in 2 sets, one original and one copy.
4. Your proposal is required to be submitted in a **Sealed Envelope by Courier Service and should reach at this Ministry of Interior, not later than 16th July 2013**, Our RFQ Reference Number mentioned on the top of this letter to be quoted on the Courier Service envelop or on AWB.
5. Your Proposal is required to be sent at the following address, **keeping in view that any Emailed Proposal will not be accepted:**

Ministry of Interior,
Purchasing Directorate,
Police Fort, Salmanya Ave.,
Manama - Kingdom of Bahrain

Attn.: Brigadier,
AUS for Administrative Affairs
Abdulla Bin Ahmed Al-Khalifa

6. Final acceptance of ordered items shall be done after approval and receipt, counting and testing of goods in the Kingdom of Bahrain.

For further queries or verifications please contact E-mail at purchasing@ausamoi.gov.bh

Your co-operation with Ministry of the Interior would be highly appreciated and looking forward to receive your proposal in due course.

Best regards,


Brigadier,
AUS for Administrative Affairs
Abdulla Bin Ahmed Al-Khalifa





QUOTATION FORM

Supplier Name: _____ QTN Ref: _____

Tender/RFQ No. : _____ RFQ Closing Date: _____

Lump sum Quoted Amount

Currency Name : _____

Amount in Words : _____

Delivery Period: _____

Validity of Quotation:

90 Days

Name & Position: _____ Signature: _____

Contact Person name and Contact No. for any required clarifications

Name: _____

Contact No. _____

Date: _____

Company Stamp

Purchasing Directorate Stamp

Please fill this form and send it along with your quotation's envelope

APPENDIX [F] COMMUNICATIONS TO SOUTH KOREAN GOVERNMENT

[F-1] EMAIL TO KOREAN EMBASSY



Ahmed Ali <ahmed@bahrainwatch.org>
to koreanembinuk ▾

Oct 21 ☆



To whom it may concern,

I am a researcher at the advocacy firm Bahrain Watch and would like to request an urgent meeting with the South Korean Ambassador in London.

We have recently released a tender document detailing a large shipment of tear gas canisters to Bahrain from South Korea and a campaign was launched against it.

We need to discuss steps with the ambassador, otherwise the campaign will grow without your input. This is an opportunity to collaborate with activists and let them know what steps are being taken by the South Korean government in regards to Bahrain exports.

I look forward to your reply.

All the best.

LLM LLB Ahmed Ali
Cardiff University
Bahrain Watch

[F-2] EXAMPLE OF LETTERS SENT TO KOREAN GOVERNMENT AGENCIES

Since 2011, Bahrain's security forces have misused tear gas indiscriminately and inhumanely, causing injury, death, miscarriages, and possible long-term health complications. Tear gas is supposed to be 'non-lethal', but Bahrain's police use large amounts of tear gas in residential areas, even when there are no protests, and sometimes shoot tear gas directly into houses. The police also fire the canisters directly at people's heads, which has caused serious injuries and deaths. Overall, 39 deaths in Bahrain have been attributed to tear gas, according to Physicians for Human Rights. The death toll includes both young and old, both men and women, and people with disabilities. Very few police have been punished for killing protesters.

Based on videos and images we have seen, the top suppliers of tear gas products used in Bahrain between 2011 and 2013 appear to be DaeKwang Chemical Corporation and CNO Tech of South Korea. Another company, Korea Defense Industry (KDI) may also export to Bahrain. The other major exporter is a South African/German company called Rheinmetall Denel. DaeKwang Chemical Corporation and CNO Tech have exported over 1.5 million pieces of tear gas to Bahrain between 2011 and 2012. This is more than the entire population of Bahrain, which is 1.2 million, of which 600,000 are citizens.

Please immediately stop exporting CS gas and other chemical agents to Bahrain, so no more peaceful protesters are killed with your products. Other countries, including the United States, have already stopped exporting tear gas to Bahrain. Companies that continue to export these products will be held liable under International Law on the grounds of contributing to the intentional abuse and misuse of chemical agents by the Bahrain security forces. You have a responsibility to prevent exports where tear gas is being misused.

Already, the issue of tear gas exports to Bahrain is being widely covered in the international media, including in the New York Times (<http://www.nytimes.com/2013/10/23/world/middleeast/rights-group-warns-against-tear-gas-abuse-by-bahrain.html>) and the Financial Times (<http://ft.com/cms/s/0/67a619e2-397d-11e3-a3a4-00144feab7de.html>). Members of Parliament in Europe are beginning to question relations with Korea, over the issue of their tear gas exports to Bahrain (<http://www.marinetjeschaake.eu/2013/10/mep-stop-the-export-of-teargas-to-bahrain/>). The world is watching you.

Your family and friends are precious to you, and Bahrainis' families and friends are precious to them. Stop killing Bahrainis' lovely family and friends. Stop tear gas exports to Bahrain. Learn more at: <http://bahrainwatch.org/arms/>

**APPENDIX [F-3] RESPONSE FROM KNPA AND DAPA TO AMNESTY INTERNATIONAL
KOREA**

1. 최루탄 수출 현황

○ 터키

연도별	계	종류 및 수량		
		DK-38S	KP-5	DK-3
계	253,100발	52,000발	160,100발	41,000발
2011년	111,100발		100,100발	11,000발
2012년	142,000발	52,000발	60,000발	30,000발

- 2010, 2013년도 수출사례 없음

○ 바레인

년도별	계	종류 및 수량			
		DK-38S	KP-5	DK-3	최루 분사형 고무탄
계	1,546,680	1,249,680	25,000	25,000	247,000
2011년	225,000	150,000			75,000
2012년	1,321,680	1,099,680	25,000	25,000	172,000

- 2010, 2013년도 수출사례 없음

2. 최종 사용자는 해당 국가의 경찰청

3. 수출허가 관련 최종 사용목적은 알 수 없음

4. 어떤 평가를 통해 최루탄이 인권침해에 사용될 수 있음에도 불구하고 그 수출을 허가하게 되었는지 여부

- 수출허가는 총포·도검·화약류 등 단속법 제9조에 의거,

가. 수출허가 신청자의 적정여부(총단법 제9조 제3항)

나. 적법한 생산여부 등을 심사하여 수출을 허가

※ 총단법의 인·허가는 성질상 일반적 금지에 대한 해제에 불과하므로 허가권자는 신청이 법에서 정한 요건을 구비한 때에는 허가하여야 하고, 법에서 정하는 제한사유 이외의 사유로 허가신청을 거부할 수 없음 (대법원 96누3036판결)

5. 터키 당국에서 수출을 요청한 적이 있는지 여부

- 터키 경찰청이 현지 에이전트 TEZCUR사에 최루탄 구매요청, TEZCUR사에서 한국 씨엔오테크(주) 무역중개업자를 통해 제조업체인 대광화공에 발주를 요청한 사안임

6. 바레인에서 최루탄의 남용으로 인권상황이 악화되고 있음을 인지하고 있었는지 여부

- 총단법은 국내법으로서 공공의 안전을 보호법익으로 하며, 국제적 인권상황을 동 법령으로 규제할 수 없음

국민의 눈높이에서 일하겠습니다



경 찰 청

수신 (사)국제엠네스티 한국지부 이사장 귀하
(경유)

제목 최루탄 수출 관련 답변서 송부

세계 인권보호와 증진을 위해 활동하는 귀 단체의 건승과 발전을 기원합니다.

1. 관련근거

가. 국제엠네스티 캠페인-355(2013.09.27.)호 터키 최루탄 무기수출 관련
질의서 송부

나. 국제엠네스티 캠페인-386(2013.10.15.)호 바레인 최루탄 수출 관련
질의서 송부

2. 위와 관련, 경남지방경찰청의 최루탄(화공품) 수출허가 현황 등 질의에 대한
답변서를 송부하니 (사)국제엠네스티한국지부이사장은 업무에 참고하시기 바랍니다.

붙임 : 터키, 바레인 수출 현황 1부. 끝.

경 찰 청



경위 장유미 경정 김용웅 생활질서과장 전일 2013. 10. 23.
김종보

합조자

시행 생활질서과-3365 [2013. 10. 23.] 접수

우 120-704 서울 서대문구 미군통 경찰청 생활질서과 / <http://www.police.go.kr>

전화번호 02-3150-1375 팩스번호 02-3150-3848 / luz99@police.go.kr / 비공개(5)

정보의 개방과 공유로 일자리는 높고 생활은 편리합니다

문서관리카드-생활질서과-3365 1/1

