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## **PARTICIPANTS' PAPERS**

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### **EFFECTIVE LEGAL AND PRACTICAL MEASURES FOR COMBATING CORRUPTION: A CRIMINAL JUSTICE RESPONSE**

*Marco César dos Santos Sousa\**

#### **I. INTRODUCTION**

This paper intends to analyse the current situation of the Federative Republic of Brazil regarding corruption: its consequences; preventive and repressive measures; and the native legal system.

Corruption has existed since the birth of organized society and stands as an unwanted reality which undermines the effectiveness of public policies and the economic growth of a country, in developed nations as much as in those still developing.

Since the beginning of Brazil's re-democratization, in the late 1970s, there was a progressive densification of corruption indictments and also an increase in the feeling that it had spread desperately, as a social metastasis. The increase in indictments was certainly a result of a truly socio-cultural and behavioural transformation of the Brazilian people, who woke up and faced the problem, trying to reach another level of relationship with their government, demanding transparency and ethical principles; fair punishment; and the recovery of the damages caused to society.

The Brazilian government, aware of the current need to provide a better response to people's claims regarding corruption, has designed policies to combat corruption systematically. Brazilian society has witnessed the articulated and integrated way in which corruption is being tackled in the country today, with the co-operation of all the state defence agencies in this endeavour. As a result, never before have so many illicit schemes been uncovered and so many corrupt people been arrested.

In order to maximize the preventive and repressive measures against corruption and to follow international development on this matter, the Brazilian government has been increasing and consolidating its relationship with other countries, aiming for mutual co-operation and integration.

#### **II. THE STRUCTURE OF THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL**

The Federative Republic of Brazil, formed by the indissoluble union of States and Municipalities, as well as the Federal District, is a Legal Democratic State and is found on sovereignty, citizenship, the dignity of the individual, the social values of labour and free enterprise, and political pluralism.

The exercise of power within the structure of the Brazilian Federative Republic is attributed to distinct and independent entities, each with its own particular function, with further provision for a control system among them, so as not to allow the possibility of procedures that are in disagreement with the Law or the Constitution. The executive, legislature and judiciary are the three branches of government.

The executive branch is exercised by the President of the Republic, assisted by the Ministers of State. It is responsible for carrying out the aims of the State, by applying the policies and programmes towards this purpose.

The federal legislative power is exercised by the bicameral body that is the National Congress, which has

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\* Police Chief – Director of the Inspection Division, Department of Internal Affairs, Civil Police of the Federal District, Brasília, Brazil.

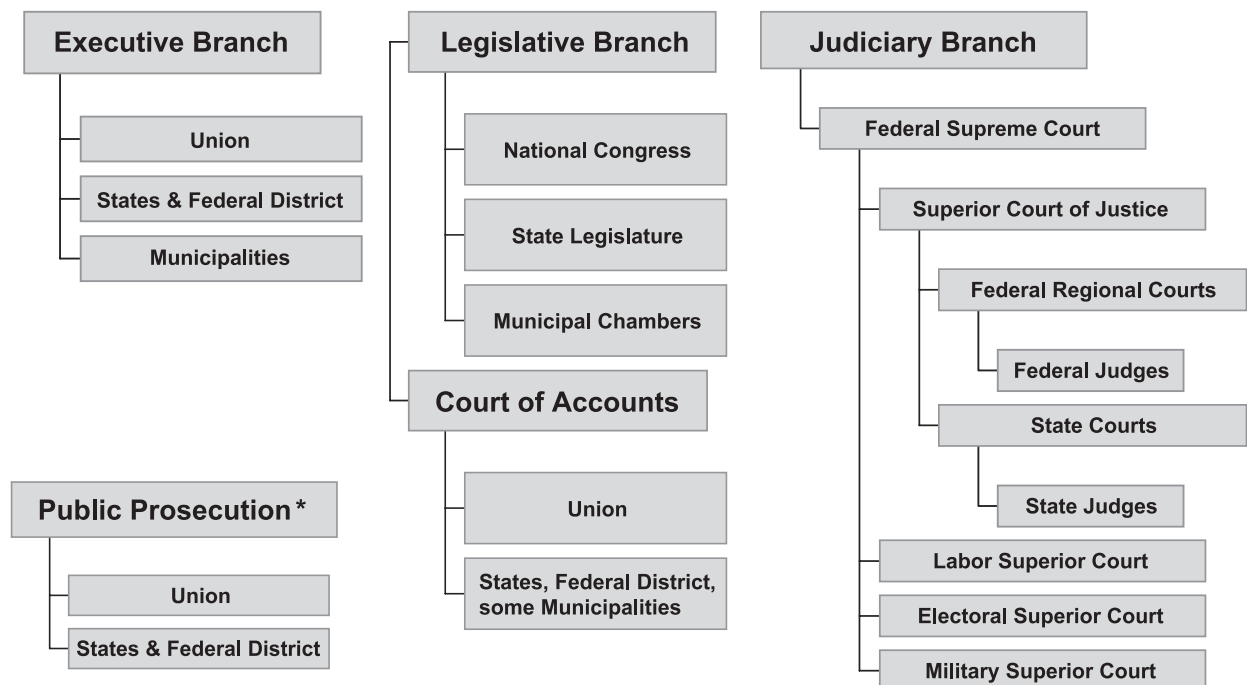
two houses: the Chamber of Deputies and the Federal Senate. It is responsible for the elaboration of laws. The Legislative Branch can also reckon upon the National Accounts Court's aid for guidance in carrying out inspection procedures of the national entities with regards to accounts, finance, budget, operations and assets.

The judiciary has its functional, administrative and financial autonomy guaranteed by the Constitution. It is responsible for the solution of conflicts among citizens, entities and the State.

Every branch of government has its own internal control system to audit the accounts, finances, budgets, operations and assets of the Union and of entities of direct and indirect public administration, to ensure legality, legitimacy, economic efficiency, and accountability in the use of grants and in granting tax relief or expanding tax incentives.

Based on these principles, the Federal Court of Accounts and the State Courts of Accounts, acting in concert with legislative bodies, exercise external control of all branches and of all organs and agencies at every level of Brazilian government.

### BRAZILIAN ADMINISTRATIVE STRUCTURE



### III. MATERIAL AND PROCEDURAL WARRANTIES ESTABLISHED BY THE CURRENT FEDERAL CONSTITUTION

The Representatives of the Brazilian People, on 5 October 1988, convened in the National Constituent Assembly to institute a democratic state for the purpose of ensuring the exercise of social and individual rights, liberty, security, well-being, development, equality and justice as supreme values of a fraternal, pluralist and unprejudiced society, founded on social harmony and committed, in the internal and international orders, to the peaceful settlement of disputes, and promulgated the country's present Federal Constitution.

The extensive fifth article of the Constitution establishes material and procedural warranties, entitled Fundamental Rights and Guarantees – Individual and Collective Rights and Duties, some of which are important to quote:

- (i) No one shall be obliged to do or refrain from doing something except by virtue of law (II);

- (ii) No one shall be submitted to torture or to inhuman or degrading treatment (III);
- (iii) The home is the inviolable refuge of the individual, and no one may enter therein without the consent of the dweller, except in the event of “*flagrante delicto*” or disaster, or to provide help, or, during the day, by court order (XI);
- (iv) The secrecy of correspondence and of telegraphic, data and telephone communications is inviolable, except, in the latter case, by court order, in the cases and in the manner prescribed by law for the purposes of criminal investigation or criminal procedural finding of facts (XII);
- (v) There is no crime without a previous law to define it, nor a punishment without a previous legal combination (XXXIX);
- (vi) Penal law shall not be retroactive, except to benefit the defendant (XL);
- (vii) No punishment shall go beyond the person of the convict, and the obligation to compensate for the damage, as well as the decreeing of loss of assets may, under the terms of the law, be extended to the successors and executed against them, up to the limit of the value of the assets transferred (XLV);
- (viii) The law shall regulate the individualization of punishment and shall adopt the following, among others (XLVI):
  - a) deprivation or restriction of freedom;
  - b) loss of assets;
  - c) fine;
  - d) alternative rendering of social service;
  - e) suspension or deprivation of rights.
- (ix) No one shall undergo legal proceeding or sentencing save by the competent authority (LIII);
- (x) Litigants, in judicial or administrative processes, as well as defendants in general, are ensured of the adversary system and of full defense, with the means and resources inherent to it (LV);
- (xi) Evidence obtained through illicit means are unacceptable in the process (LVI);
- (xii) No one shall be considered guilty before the issuing of a final and unappealable penal sentence (LVII);

#### IV. CORRUPTION IN THE FEDERATIVE REPUBLIC OF BRAZIL

The first records of corruption in Brazil date from the 16<sup>th</sup> Century, during the period of Portuguese colonization. In those days, it was common, among public officials, who were responsible for the surveillance of contraband and other misdemeanours, to illegally trade in Brazilian products, such as wood, spices, gold, diamonds, etc.

In the new period of Brazilian history, when independence had been declared and the Republic proclaimed, new forms of corruption were born.

One such form of corruption was related to the attainment of contracts from the government for public work. The trading in influence resulted in easy illegal money for the corrupted public officials.

Another form of corruption was electoral corruption. To be part of politics represented a guaranteed way to quick and easy enrichment, without, most of the time, any obligation towards promises made during the campaign period. During that period, in the early years of the Republic, emerged the “halter vote”, or the vote forcefully imposed by the landlords on their employees and dependents. Creative forms of forcing the votes were born, such as an unusual one in which voters received one shoe during the election process and the other after the results.

From 1964 to 1985, Brazil was under a military dictatorship. In that period, there were many records of administrative misdemeanours, such as abuse of functions, trading in influence and embezzlement of public property by public servants. The government established censure, which restricted the important role of the free press in questioning and exposing the illegal activities of public servants.

With the end of the dictatorship in 1985 a re-democratization occurred, and civil society mobilized itself, demanding immediate changes, one of which was a direct vote for president.

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In 1992 Brazilian history reached a watermark in corruption scandals with the “impeachment” of President Fernando Collor. A young, popular and charismatic President, with innovative ideas, Fernando Collor was caught in a massive scheme of misappropriation of money, based on blackmail and involving resources of the Federal Administration.

In recent years, Brazilian society has lived with frequent corruption scandals, exposed by the media. The government of Luis Inácio Lula Da Silva, our current President, was shaken by an enormous political crisis created by the “*Mensalão*” scandal. This was a scheme in which some politicians were accused of receiving money from the government to vote on projects according to the government’s interests.

Brazilian people have witnessed the strengthening of the “fourth power”, represented by the press, nowadays responsible for the exposure of many cases of corruption via the Public Administration. The press is assuming its natural social role, contributing to Brazil’s development. This role, nevertheless, is a consequence of Brazil’s wake-up call, and its government has an important role in this new reality. The effective work done by some institutions and state agencies in combating corruption has provided all the information contained in the scandals printed and broadcast by the press. The courageous initiative of the government shows its disposition to change the course of history.

Repressive measures have been adopted with notable results in many areas. Large investments have been made in preventive measures, such as the creation of Control and Inspection Agencies, which are responsible, among other things, for the inspection of the use of public property and assets, for the creation of methods that provide transparency of all public activities, and for encouraging public thirst for the acquisition of knowledge of government activities.

Discussion with civil society transformed corruption into the main theme of many types of manifestations, from professional seminars, in which are discussed technical issues on its combat, to academic theses, advertisement campaigns, songs and movies.

## V. BRAZIL’S FIGHT AGAINST CORRUPTION

The Brazilian government established an effective politics of systematic resistance to corruption, in which initiatives of preventive character are privileged, and are used in conjunction with repressive actions of dismantling of organized groups which have acted for such a long time in the Public Administration.

In order to confront the problem in an integrated and articulated form, the government encouraged the union of all the defence organs of the State in this work. The result was the uncovering of many scandals of illicit schemes that defrauded the Public Administration and effective arrest of corrupt public agents.

In the Executive, three institutions currently assume the leadership in the war against corruption: The Public Prosecution Service, the Federal Police and the Office of the Controller General. In recent years, such institutions have earned respect nationally and internationally, due to their effective work in the fight against corruption, accomplished in an absolutely impersonal way, without any interference by political parties that could compromise their performance.

### A. Institutional Mechanisms

#### 1. Public Prosecution

The Constitution of 1988 created the Public Prosecution Service, with the function of defending the juridical order, the democratic regime, social and individual inalienable interests, and taking care of the fulfillment of the law. It is a permanent institution, essential for the jurisdictional function of the State, and holds functional, administrative and financial autonomy.

The Brazilian Constitution, in its Article 129, attributes to the Public Prosecution Service the following functions: to promote, privately, the public penal action; to promote the civil inquiry and the public civil action, for the protection of the social and public patrimony, of the environment and other collective and diffuse interests; to send on the notifications on the administrative procedures of its competence, demanding information and documents to inform it; and to perform external control of police activity.

## 2. Federal Police Department

According to the Federal Constitution, in Article 144, first paragraph, and the Law No. 10,683, of 28 May 2003, in Article 27, seventh paragraph, it is attributed to the Federal Police Department: to forbid and verify penal infractions against the social and political order or on detriment of assets, services and interests of the Union or its autarchic entity and public companies, as well as other infractions which practice cause interstate and international repercussions and demand uniform repression. It carries out, exclusively, the functions of Judiciary Police of the Union. On the use of its attributions, the Department that investigates, looking for the repression and prevention of crimes, fulfills a strategic role in the fight against corruption all over Brazilian territory.

The Federal Police Department has been developing important and effective progress in the fight against corruption. It is important to quote that since January 2003, more than a hundred Special Operations of the Federal Police were carried out with the specific aim of combating corruption. As a result, 2,097 people were arrested, among which 825 were public servants. More than 80 of these operations were on a large scale, focused at dismantling entire criminal groups, most of which had been operating for a long time prior to the formation of the current government.

The dismantled criminal organizations were specialized in crimes against the tax order, money laundering, fraud in public procurement and embezzlement of public funds, with the participation of public servants of the three branches, including social welfare tax auditors, which caused large losses to the state treasury.

As an example, Special Operation Hurricane, carried out by the Federal Police, was revealed on 13 April 2007, showing a new angle of Brazilian justice to its society. In this operation, in which 400 agents participated, not only “*Bicheiros*” (owners of a kind of clandestine lottery in which names of animals are substituted for numbers) and lawyers accused of illegal gambling, but also civil and federal police officers; judges and high court judges, who were suspected of selling sentences; and a member of the Federal Public Prosecution, were arrested. This operation started when a judge from Rio de Janeiro authorized telephonic interception. By the infiltration of some undercover agents, some important documents were photographed and information gathered on the investigation. The investigation resulted in 25 arrests, and in addition the capture of two tons of documents, 19 weapons, more than 500 pieces of jewellery, 51 luxury cars and a few million *reals* in cash.

The Federal Police has occupied a noticeable position in the government’s strategies, redeeming society’s credibility in the Public Administration, which was weakening progressively with the strengthening of organized crime. By highlighting the spurious relationship between illicit actors and public servants, the Federal Police revives trust in the government’s repressive measures and spreads throughout the Public Administration, preventively, the idea of punishment as consequence for corrupt acts.

Since 1997, many actions taken by the Federal Police have caused cuts in the institution’s own flesh, since many “bad cops” were uncovered in investigations related to organized crime. Between 2003 and 2004, at least 110 federal police officers were formally accused.

During 2007 the Federal Police intensified its actions against tax order and financial crimes. As of June 2007, 166 special operations had been executed, resulting in the arrestments of 2,126 people, among which were contractors, currency dealers, smugglers and other suspects, including 220 public servants.

Most of these operations were attained by the Federal Police with the aid of the Brazilian Federal Revenue Secretariat. At least 60% of the missions resulted in formal accusations against withholders involved in money laundering and tax evasion schemes. This new strategy reveals that the institution, besides scattering criminal organizations, many of which had ramifications in the Public Administration, also became a strong way to enhance the Federal Treasury’s gathering, by recovering public money through legal sanctions applied to the defrauder.

As of 10 December 2007, the Federal Police executed 179 Special Operations, resulting in 2,693 arrests, among which 308 were public servants, including 14 federal police officers. Some of them are worth noting:



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*(i) Operation ANANIAS*

The Federal Police, in association with the IBAMA – Brazilian Environmental Institute, on 2 March unleashed this operation in order to arrest 30 members of a gang specialized in crimes against the environment, which acted near Altamira City. After seven months of intense investigation, a complex scheme involving lumberjacks, auditors and public servants was scattered.

*(ii) Operation CENTIPEDE*

The Federal Police, on 20 April, executed this operation in order to break up a gang which had committed, for more than 10 years, crimes such as notarial frauds, illegal occupancy of Federal property, crimes against the financial system and corruption of public servants.

*(iii) Operation HEAVEN*

The Federal Police, in association with the Norwegian Police, on 9 May executed this operation in order to combat a Norwegian criminal gang, specialized in money laundering, using the real estate investment market from Rio Grande do Norte State. Many arrests were made in the northeastern States of Rio Grande do Norte and Paraíba, and also in Norway.

*(iv) Operation FREUD*

This operation was executed on 19 June and was developed by the Social Security Task Force, formed by the Federal Police, the Federal Public Prosecution and the Social Security Ministry. Sixteen people were arrested, accused of participation in a gang responsible for defrauding the Social Security in Minas Gerais State. Twenty-five court orders for search and seizure warrants of residences, offices and doctors' offices were executed in the metropolitan area of Belo Horizonte City. The gang was composed of National Health and Security Service servants, including expert doctors, auditors and counterfeiters who acted to obtain fraudulent National Health and Security Service benefits. Most of the frauds involved psychiatric illnesses. During the investigations many auditors' offices were identified. They were used to attract interested people to obtain National Health and Security Service benefits – illness assistance and disability retirement – in a deceitful way.

*(v) Operation MATAMENTO*

This operation was executed on 27 June in the northern city of Marabá. It aimed to accomplish 18 arrests and to execute 20 search and seizure warrants, sent off by the State Justice of Pará. Fifteen people were arrested, among which were six military policemen and a business-woman of that city. They seized about U\$ 90,000,00 (ninety thousand dollars) in cash, two kilos of cocaine and many weapons. The initial investigations showed the participation of military police officers in drug trafficking and in an extermination group, which was responsible for at least 10 deaths in that year alone.

<b>FEDERAL POLICE DEPARTMENT</b>			
<b>Detentions in 2007</b>			
<b>Operations</b>	<b>Total</b>	<b>Public Servants</b>	<b>Federal Police Officers</b>
<b>179</b>	<b>2.693</b>	<b>308</b>	<b>14</b>

**3. Office of the Controller General**

The Office of the Controller General (CGU) was created by Law No. 10,683 on 28 May 2003, and acts in all the agencies and entities of the Federal Executive as the central agency for internal control and audit, disciplinary action and ombudsman action. It also develops actions to promote transparency and prevent corruption, which are at the core of the Federal Government's proposed policy and basic target programme. In addition to acting in all phases of control, the Office of the Controller General also focuses on the execution of typical functions of an anti-corruption agency.

The Office's structure includes the Secretariat for Corruption Prevention and Strategic Information - the SPCI - which concentrates actions towards corruption prevention and promotion of transparency within the scope of the Federal Government. This Secretariat is also responsible for the co-ordination of specific activities to prevent corruption of foreign public officials in international business transactions, and for the monitoring of the implementation of the OECD, OAS and UN international conventions against corruption.

Also included in the office's structure is the Federal Secretariat of Internal Control, responsible, among other functions, for the monitoring and the evaluation of the execution of government actions, the application of budgetary allocations in the execution of such actions, and the administrative performance of those public officials responsible for their implementation.

In order to stimulate the discussion and open it up to civil society, the office created the Council for Public Transparency and Fight against Corruption. Composed of 20 members and an equal number of representatives of public authorities and of entities from civil society, among which associations of workers, contractors, lawyers, journalists and churches, it is responsible for the discussion and suggestion of measures for perfecting and reinforcing mechanisms and policies for transparency in public administration and for fighting corruption.

One of the top priority actions of the Office of the Controller General is to ensure Brazilian society is aware of the importance of the participation of citizens in controlling the use of public resources. Many programmes and activities were carried out in an attempt to incite such participation, in order to form a vigilant and an active society, which worries and fights to maintain rectitude in public expenses.

Some of these main programmes and activities are worth noting:

*(i) Program of Auditing based on Randomized Public Selection*

Every month, 60 municipal areas are selected in a random and impersonal way for an inspection of the utilization of their federal resources. More recently, this mechanism's aim was amplified, in order to select and inspect, randomly, larger federal programmes which are executed by State Governments.

*(ii) Program for Training Public Officials*

A broad programme was developed for training municipal administrative servants, in order to avoid mistakes made as a result of lack of knowledge of the rules that govern the execution of public expenses. This programme was initiated with many regional seminars and, in a short time, it intends to provide distance training mechanisms, available throughout the entire Republic.

*(iii) Mobilization of Civil Society*

This programme is directed at community leaders and members of the various local councils in charge of monitoring and inspecting the execution of social programmes carried out by federal resources. It intends to develop and perfect the inspection actions carried out by the councils and the community bodies.

*(iv) "Keep a Sharp Eye on Public Money" Guide*

Teaches citizens their civil rights; the responsibilities and duties of Municipal, State and Federal Agencies and Offices; the destination of public funds; the ways to inspect use of funds; and other information regarding the use of public money. It is available in print or on the Office's webpage: [http://www.cgu.gov.br/olho\\_vivo/Recursos/Publicacoes/arquivos/cartilha\\_olhoVivo.pdf](http://www.cgu.gov.br/olho_vivo/Recursos/Publicacoes/arquivos/cartilha_olhoVivo.pdf).

*(v) Transparency Portal*

This mechanism provides a list of all the Federal resources transferred throughout the country. The portal is freely available for consultation by any interested citizen, at [www.portaldatransparencia.gov.br](http://www.portaldatransparencia.gov.br), and all the information is presented in simple and accessible language, to guarantee comprehension.

*(vi) Program for Qualification in Disciplinary Administrative Processes*

Due to the lack of specialized public servants capable of detecting and investigating embezzlement and other transgressions in the public sector, this programme prepares public agents to carry out such tasks, in order to reduce impunity.

*(vii) Auditing within the Federal Administration*

During 2003 and 2004, the Office carried out 6,000 audits in Federal bodies and passed on to the Court of Accounts over 2,500 Special Balance Sheets.

*(viii) National Program of Capacity Building and Training for the Combating of Corruption and Money Laundering*

This programme was developed within the scope of the National Strategy to Combat Corruption and Money Laundering. It is directed at public agents involved in combating corruption and money laundering, such as judges, police authorities, prosecutors and tax agents.

In order to perfect and improve the instruments and the techniques used in prevention and combat of corruption, the Office of the Controller General maintains convention and partnership with public offices, civil society and non-governmental organizations (NGOs), such as:

*(a) Project Fighting Corruption in Brazil*

This is a convention between the Office of the Controller General and the Embassy of the United Kingdom in Brazil, in order to perfect Brazilian auditors' capacity to identify illegal practices and embezzlement of public resources.

*(b) Technical Co-operation between CGU and Brazil Transparency (NGO)*

This is a convention of technical co-operation between the Office of the Controller General and Brazil Transparency, an NGO, in order to provide technical aid regarding the definition of strategies and mechanisms to prevent corruption.

*(c) UNODC Convention*

This is a convention between the Office of the Controller General and the United Nations Office on Drugs and Crime, in order to assist the Brazilian government in the realization of a Global Forum to combat corruption (Brasília, June 2005), and in establishing mechanisms to enable public servants with auditing and investigation techniques to formulate a national integrity system and a national strategic plan against corruption.

4. Department of Asset Recovery and International Legal Cooperation

The Department of Asset Recovery and International Cooperation, subordinated to the Ministry of Justice, was created by Decree No. 4,991 on 18 February 2004. This department is responsible for identifying threats, defining effective and efficient policies, and developing an anti-money laundering culture. The main objective is to recover assets sent abroad illegally and the products of criminal activities, such as those deriving from illegal drug trafficking, illegal weapon trafficking, corruption and misappropriation of public funds, etc.

The DRCI is the competent agency to link, integrate and propose government actions and to co-ordinate the Brazilian's State's action on combating money laundering, transnational organized crime, recovery of assets and international legal co-operation; to negotiate agreements and co-ordinate the execution of international legal co-operation; and to instruct, issue opinions on and co-ordinate the execution of active and passive international legal co-operation, including international letters rogatory, etc.

5. Financial Activities Council Control

The Financial Activities Council Control (COAF), subordinated to the Ministry of Finance, was created by Law No. 9,613 on 3 March 1998. This council is responsible for disciplining, enforcing administrative penalties, and receiving, examining and identifying suspected illegal activities linked to money laundering.

6. Civil Police of the Federal District

According to the Federal Constitution, Article 144, fourth paragraph, it is attributed to the Civil Polices, excepting the Union attributions, the functions of the Judicial Police and the investigation of penal infractions, excluding military crimes. As the Federal Police Department, the Civil Polices are also responsible for the investigation, repression and prevention of crimes. Each state, territory and the Federal District has its own Civil Police, with precinct jurisdiction.



The Federal District is the Capital of Brazil and, therefore, the political, judicial, legislative and administrative centre of the country. In order to fulfill its role in the public security system, the Civil Police of the Federal District has excelled at constant improving of investigative procedures, with emphasis on the intelligence and technical police fields. In 2008, the Institution celebrated its 200<sup>th</sup> anniversary, proud of its unrestricted respect of fundamental rights, its full integration with society, its honesty, its impartiality, its pro-activity, and its total engagement with the preservation of the public order and the safety of the citizens and the endowment.

Through the last years, the Civil Police of the Federal District has played an important role in the battle against corruption, unleashing many operations in order to dismantle organized groups of criminals responsible for a great amount of losses to the State Treasury. Some of these operations are worth highlighting:

*(i) Operation AQUARELA*

A Task Force, formed by the Civil Police of the Federal District and the Federal Public Prosecution, executed this operation in order to arrest suspects of committing crimes against the Public Administration, embezzlement of public funds, money laundering, bidding fraud and criminal association. Among the suspects was a former president of a State Bank. As a result, 20 people were arrested in Brasília and in other states of Brazil. During the operation, some weapons; 130 computers; 95 expensive watches; many precious stones; 200,000 US dollars in cash; and hundreds of documents were seized. It is assumed that approximately 30 million US dollars were deviated.

*(ii) Operation TENTACLES*

The Civil Police of the Federal District, on 28 April 2005, executed this operation in order to arrest a gang formed by tax auditors; retired tax auditors; accountants; lawyers; entrepreneurs; and some other public servants from the State Treasury Agency, who were accused of crimes, among which money laundering; criminal association; influence trafficking; active corruption; crimes against the tax order; and others. As a result, 13 people were arrested and later accused in public criminal prosecutions. It is assumed that approximately 25 million US dollars were deviated from the State Treasury.

*(iii) Operation GALILEU*

The Civil Police of the Federal District Police, on November 2004, initiated an investigation which led to a gang specialized in committing frauds on official examinations for government posts and for private universities. The leading member was a public servant, who confessed to some of the frauds. The group used to sell the answers to the examinations, the theme of the compositions and, sometimes, even the inclusion of the lists of those who passed, charging the candidate from 25,000 to 35,000 US dollars. As a result, 80 people were arrested, among whom were a military police officers and some public servants.

## **VI. BRAZIL'S CRIMINAL PROCEDURES**

According to the Federal Constitution, in its Article 144, the investigation of criminal activities, excluding military crimes, is attributed to the Federal and the Civil Polices, as explained above.

After the occurrence of a crime, once the Federal or the Civil Police, according to its attributions, is informed, an inquiry is initiated by written orders of the competent police authority in order to gather evidence. The inquiry may be initiated by the Chief of Police *ex officio*; at the request of victims; or at the demand of the judge or the public prosecutor. After the investigation is completed, a report is made by the Chief of Police in charge, including information of all the evidence gathered.

The inquiry with its final report is submitted to a public prosecutor, who can demand other investigative actions, accept the evidence in order to formally accuse the suspect or the indicted one, or suggest the closure of the case. If the public prosecutor agrees that the evidence gathered is enough to prosecute the suspect or the indicted, a formal accusation is issued and the penal action is started. If the formal accusation is received by the competent judge, then the indicted is prosecuted and adjudicated.

The Federal Constitution establishes some prerogatives to Public Authorities, determining special attributions to prosecute and adjudicate them.

According to Article 52, it is a private attribution of the Federal Senate to process and adjudicate the President and the Vice-President of the Republic, on responsibility crimes; and the State Ministers and the Navy, Army and Air Force commanders on the same crimes, connected to those. The Federal Senate is also responsible for processing and adjudicating the Federal Supreme Court Ministers; the members of the National Council of Justice and of the National Council of the Public Prosecution; the Chief of the Federal Public Prosecution and the General Attorney of the Union, for responsibility crimes.

Congressmen and Senators can only be adjudicated by the Federal Supreme Court (Article 53). This court has also the attribution to process and adjudicate the President and the Vice-President of the Republic; the members of the National Congress; its own Ministers and the Chief of the Federal Public Prosecution, for common penal infractions. The process and the adjudication of the State Ministers; the Navy, Army and Air Force commanders; the members of the Superior Courts and of the Union Court of Accounts; and the Chiefs of Diplomatic missions, with permanent nature, for common penal infractions and for responsibility crimes, are also attributions of the Federal Supreme Court.

The Superior Court of Justice is responsible for processing and adjudicating the State and the Federal District Governors, for common crimes; the Chief Judges of the State and of the Federal District Courts; the members of the State and of the Federal District Courts of Accounts, the Federal Regional Courts, and the Electoral and Labor Regional Courts; the members of the Municipal Councils or Courts of Accounts and the members of the Union Public Prosecution, who officiate on Courts, for common and responsibility crimes.

The Federal Regional Courts are responsible for the process and adjudication of Federal Judges and members of the Union Public Prosecution, excepting the attribution of the Electoral Justice.

The Federal Judges are responsible for the process and adjudication of all cases of interest to the Union, of an autarchic entity or to a federal public enterprise, as a defendant, a plaintiff or opponent, excluding the cases of bankruptcy; of labor accidents; and those attributed to the Electoral or Labor Courts. The same responsibility works for political crimes and penal infractions which caused damage to the endowments, services or interests of the Union or of its autarchic entities or public enterprises, excluding misdemeanours and the responsibility of the Electoral and Labor Courts. In some cases specified by law, the process and adjudication of some crimes against the financial system and against the economic and financial order are also the Federal Judges' responsibility.

The Union Public Prosecution is composed of the Federal; the Labor; the Military; and the Federal District and Territories Public Prosecution.

The Federal Public Prosecution performs its duties in cases in which the Federal Supreme Court, the Superior Court of Justice, the Federal Regional Courts, the Federal Judges, and the Electoral Courts and Judges are responsible.

The other cases are processed and adjudicated by the Federal District and Territories and the State Judges. The prosecution of these cases is performed by the Federal District and Territories Public Prosecution.

## **VII. BRAZIL'S PREVENTIVE MEASURES AGAINST CORRUPTION**

The consequences of corruption on society are visible: the engagement of economic development and of political legitimacy, and the gradual weakening of democratic institutions, moral values, and the trust of the people in the public services, etc. Such factors contribute to the strengthening of organized crime and to the worsening of social problems.

Conscious of the necessity to improve constantly in the war against corruption, the government, hitting the mark, is following the evolution of international society in treating the problem. For this reason, Brazil has enlarged its relationship with other countries, aiming at integration and mutual co-operation.

It concerns the Office of the Controller General, through the Secretariat for Corruption Prevention and Strategic Information, to follow the implementation of the conventions and international commitment assumed by Brazil which have the aim of preventing and fighting corruption.

The main conventions signed and confirmed by Brazil are:

*(i) United Nations Convention against Corruption - UNCAC*

The United Nations Convention against Corruption was signed on 9 December 2003, in the city of Mérida, México, ratified on 15 June 2005, and promulgated by the Brazilian government by means of Decree No. 5,687 on 31 January 2006. It had basically the aim of: promoting and fortifying the measures to prevent and fight corruption more efficiently and effectively; promoting, facilitating and supporting international co-operation and technical assistance in preventing and fighting corruption, including the recovery of assets; promoting integrity; and the obligation of rendering accounts and the right conduct of matters and of public assets. Legal mechanisms were established, for the first time, for the repatriation of assets and resources sent to other countries, obtained by means of corrupt acts.

*(ii) The Organization of the American States (OAS)*

The Inter-American Convention against Corruption was signed on 29 March 1996, ratified on 10 July 2002, and promulgated by the Brazilian Government by means of Decree No. 4,410 on 7 October 2002. It has the object of promoting and fortifying, in the signatory countries, the necessary mechanisms to help to prevent, detect and punish corruption, when proceeding in the public functions, as well as corrupt acts specifically linked to such functions.

*(iii) Organization for Economic Co-operation and Development - OECD*

This convention was signed on 17 December 1997, ratified on 15 June 2000, and promulgated by the Brazilian government by means of Decree No. 3,678 on 30 November 2000. It works specifically on fighting corruption of foreign public employees in international commercial transactions. It constitutes an instrument that defines the duties of Governments, companies, public accountants, lawyers and the civil society of the signatory nations of the Treaty.

## **VIII. BRAZIL'S LEGAL REGIME FOR COMBATING CORRUPTION**

### **A. The Federal Constitution**

This important document, composed of 250 articles, with many paragraphs, sections and items; 55 amendments and six revision amendments, regulates the country's entire legal system and guarantees the free exercise of the executive, the judicial and the legislative branches, the public prosecution and the constitutional powers of the units of the Federation.

The Federal Constitution shows an important concern for proper conduct by civil servants and the probity of public affairs. That concern is reflected especially in Article 37, which sets forth the basic principles of direct and indirect public administration in the branches of the government of the Union, the states, the Federal District and the municipalities, which are: lawfulness, impersonality, morality, publicity and the principle of efficiency.

The Constitution, in its Article 37, Item XXII, paragraph 4, stipulates that persons guilty of government misconduct shall lose their political rights and public office. They will not be allowed to transfer personal property and will be required to reimburse the Public Treasury in the manner and to the degree prescribed by law. They may also face criminal prosecution.

The Federal Constitution also holds public servants liable for damages caused to third parties when those damages were intentionally inflicted or caused by negligence.

It prohibits the use of any image, name or symbol that amounts to self promotion in advertising the actions, programmes, works, services and campaigns of public agencies.

### **B. Ordinary Laws applicable to Public Servants**

*(i) Law No. 1,079, of 10 April 1950 and Decree-Law No. 201, of 27 February 1967*

These legal mechanisms provide political-administrative penalties (loss of position and disqualification from any government job or position for a period of up to five years) and criminal penalties (imprisonment for up to 12 years) for public servants whose dishonest conduct is harmful to Government. The first mechanism is applied to misconduct practiced by the President of the Republic, Ministers of State, Judges of

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the Federal Supreme Court, the Attorney General of the Republic, and the Governors and Secretaries of State. The second one is applied to misconduct and political-administrative violations practiced by mayors and members of city/town councils.

*(ii) Law No. 6.880, of 9 December 1980*

This law, the Statute of the Military Servants, introduced the principles of military ethics, some of which are worth quoting: to love truth and the responsibility as the basis of personal dignity; to perform one's duties with authority, efficiency and integrity; to serve and to enforce the laws, regulations, instructions and orders received from the competent authorities; to maintain faultless public and private conduct; and to refrain from using position or the rank in order to obtain personal advantages of any kind, or in order to guide personal or private business.

*(iii) Law No. 8,027, of 12 April 1990*

This law contains the rules of conduct for Civil Public Servants of the Union, autonomous government entities and public foundations. It spells out the duties of every civil public servant, such as reporting violations of the law, omissions and abuse of power; penalties varying from warning, suspension for up to 90 days and dismissal, applied in cases of administrative wrongdoing by public civil servants; and the civil, administrative and criminal liability incurred for irregularities in the exercise of functions and duties.

*(iv) Law No. 8,112, of 11 December 1990*

This law sets up the juridical regime governing civil servants employed by the Union, the autonomous governing agencies and the federal public foundations. It regulates the filling of government positions, job stability, prohibitions, rights and duties of public servants, such as: to be loyal to the institutions one must serve; to observe the rules and regulations; to behave in a way compatible way with administrative morality; etc.

*(v) Law No. 8,137, of 27 December 1990*

This law establishes crimes against the tax order and the economic order and against the consumer relationship. The third article defines as crimes conduct against the tax order, such as: to request, require, demand or obtain, for oneself or for anyone else, direct or indirectly, even if from outside of the public position or before being invested with it, but because of it, improper advantage; to accept the promise of such advantage, in order to omit to register or to charge tax or social dues, or to charge such partially; and to support, directly or indirectly, a private interest before the financial administration, using the benefits of the public position.

*(vi) Law No. 8,429, of 3 June 1992*

This law establishes penalties for acts of government impropriety committed either by public servants or private individuals and harmful to public property. Those acts are divided into three categories:

- a) illicit enrichment whereby one gains illicit assets by virtue of one's office, mandate, function, employment or government business (Art. 9);
- b) acts harmful to the public treasury whereby one causes a loss of assets, diverts funds, embezzles, squanders or destroys public property or the effects of public entities (Art. 10); and
- c) acts that violate the duties of probity, impartiality, lawfulness and loyalty to public institutions (Art. 12).

*(vii) Law No. 8,730, of 10 November 1993*

This Law stipulates that disclosure of assets and income is mandatory for positions, employment and service in the executive, legislative and judicial branches.

*(viii) Decree No. 1,171, of 22 June 1994*

This Decree approved the Code of Professional Ethics for Civil Public Servants in the Executive Branch of the Federal Government. It provides for:

- a) the creation of an Ethics Commission in all offices of the direct and indirect Federal Government;
- b) the rules of professional responsibility and legal ethics;
- c) the public servant's main duties, such as integrity, advising one's superior of any and every act or

fact against the public interest; refraining from engaging in any function or exercising any power or authority, whose purpose diverges from the public interest;

- d) prohibitions on public servants, such as prohibiting the use of one's position to obtain any kind of advantage or receive any kind of financial assistance in exchange for the performance of one's official functions.

*(ix) Law No. 9,613, of 4 March 1998*

The Law of Money Laundering Offenses established provisions on the criminal offence of laundering or concealment of assets, rights and values, and also implemented the rules to criminalize bribery of foreign public servants.

*(x) Law No. 9.784, of 29 January 1999*

This Law stipulates the rules applied to the Disciplinary Administrative Process, providing some principles which are implicit in the Federal Constitution, such as proportionality, decency and reasoned judgment.

*(xi) Supplementary Law No. 101, of 4 May 2000 (The Accountability Fiscal Act)*

This supplementary law introduced rules regarding public funds, which aimed to achieve accountability in fiscal management.

*(xii) Decree No. 4.081, of 11 January 2002*

This Decree approved the Code of Ethical Conduct for Public Servants serving in the Office of the President and in the Office of the Vice President of the Republic.

### **C. Crimes against the Public Administration**

Brazil's Criminal Code, Federal Law No. 2,848 of December 1940, in its Title XI, defines conduct which can characterize crimes practiced by public agents against the Public Administration. This title is, originally, divided into three chapters: crimes practiced by public servants against the administration in general; crimes practiced by private individuals against the administration in general; and crimes against the administration of justice.

In order to accomplish the adaption of Brazilian law to the commitments assumed in the Convention on Combating Corruption of Foreign Public Officials in International Business Transactions, Law No. 10,467 of 11 June 2002, was promulgated. This Law added Chapter II-A to the Title XI of Brazil's Criminal Code, which defines the crimes practiced by private individuals against a foreign public administration.

It is worth outlining some of these crimes, such as those noted below.

#### **1. Crimes Practiced by Public Servants against the Administration in General**

*(i) Embezzlement of Public Money (Article 312)*

To embezzle money, assets or any movable personal property, private or public, or to divert it, for himself or anyone else, by the public servant who has its possession as a result of his or her official position. Punishment is reclusion from two to 12 years and fine.

The same punishment will be applied, if the public servant, although not possessing the money, the asset or the property, subtracts it or assists, in any way, the subtraction, for his or anyone else's benefits, taking advantage of the benefits provided by the public position.

*(ii) Insertion of False Data in Information Systems (Article 313-A)*

For the authorized employee to insert or to facilitate the insertion of false data, or to alter or to exclude, improperly, correct data from the Public Administration computer systems or databases, in order to obtain improper advantages for his or her or anyone else's benefit or to divert it, for him or herself or anyone else, or to cause damage. Punishment is reclusion from two to 12 years and fine.

*(iii) Irregular use of Public Revenues or Budgets (Art. 315)*

This crime is to forward public revenues or budgets to a different destination from the one established by law. Punishment is confinement from one to three years or fine.



*(iv) Bribery (Art. 316)*

To demand, for him or herself or for anyone else, direct or indirectly, even from outside of the public position or before being invested with it, but because of it, improper advantage. Punishment is reclusion from two to eight years and fine.

The same article defines the Exaction as being the conduct of demanding a tribute or social tax by the public servant who knows or should know it is improper, or when proper, uses serious or shameful means of collecting, unauthorized by law. Punishment is reclusion from three to eight years and fine.

Also, the conduct of diverting, for his or her or anyone else's benefit, the result of an improper collection due to the public treasury. Punishment is reclusion from two to 12 years and fine.

*(v) Passive Corruption (Art. 317)*

To request or receive, for him or herself or for anyone else, direct or indirectly, even from outside of the public position or before being invested with it, but because of it, improper advantage, or to accept the promise of this advantage. Punishment is reclusion from one to eight years and fine.

The punishment is increased to a third if, as a result of the advantage or of its promise, the Public Servant postpones or doesn't practice any "*ex officio*" act or practices it violating his or her functional duty.

This crime includes the practice, omission of practice or delay of practice of an "*ex officio*" act, violating a functional duty, yielding to someone else's request or influence. Punishment is confinement from three months to one year or fine.

*(vi) Facilitation of Contraband or Embezzlement (Art. 318)*

This crime refers to conduct which facilitates, with the violation of a functional duty, the practice of smuggling contraband or the commission of embezzlement. Punishment is reclusion from three to eight years and fine.

2. Crimes Practiced by Private Individuals against the Administration in General

*(i) Influence Trafficking (Art. 332)*

To request, require, demand or obtain, for him or herself or for anyone else, advantage or the promise of this advantage, in order to influence a public servant in the performance of his or her duties. Punishment is reclusion from two to five years and fine.

The punishment is increased by a half, if the agent declares or insinuates that the advantage is also assigned to the public servant.

*(ii) Active Corruption (Art. 333)*

This is to offer or promise improper advantage to a public servant, in order to induce him or her to practice, omit or postpone an "*ex officio*" act. Punishment is reclusion from one to eight years and fine.

The punishment is increased by a third if, as a result of the advantage or of its promise, the public servant postpones or omits an "*ex officio*" act, or practices it, violating a functional duty.

3. Crimes Practiced by Private Individuals against a Foreign Public Administration

*(i) Active Corruption in an International Business Transaction (Art. 337-B)*

To promise, offer or give, direct or indirectly, improper advantage to a foreign public servant, or to someone else, in order to induce him or her to practice, omit or postpone an "*ex officio*" act related to a foreign business transaction. Punishment is reclusion from one to eight years and fine.

The punishment is increased by a third if, as a result of the advantage or of its promise, the public servant postpones or omits the "*ex officio*" act, or practices it, violating a functional duty.

*(ii) Influence Trafficking in an International Business Transaction (Art. 337-C)*

To request, require, demand or obtain, for him or herself or for anyone else, directly or indirectly, an

advantage or the promise of this advantage, in order to influence in a foreign public servant an act, related to an international business transaction, in the performance of his or her duties. Punishment is reclusion from two to five years and fine.

The punishment is increased by a half if the agent declares or insinuates that the advantage is also assigned to the foreign public servant.

*(iii) The Concept of Foreign Public Servant (Art. 337-D)*

For penal purposes, a foreign public servant is a person who, even if temporarily or if not on a remunerated basis, holds a position, job or plays a public role in state entities or in diplomatic representations of a foreign country.

It is equivalent to a foreign public servant, the person who holds a position, job or plays a public role in companies controlled, directly or indirectly, by the State of a foreign country, or in international public organizations.

## IX. MONEY LAUNDERING

The crime of money laundering is global in character and an estimated 500 billion to 1.5 trillion US dollars is laundered annually. In this process, in order to legitimate all the capital earned through criminal acts, the money runs through countries' financial and economic systems, compromising the security of its financial and economic order, stimulating the practice of serious crimes such as terrorism, drug trafficking, weapons trafficking, extortion, corruption, etc.

In order to try to prevent and punish those who use the money laundering process to conceal or disguise the nature, origin, localization, disposition or movement of assets, rights or properties derived, directly or indirectly, from criminal acts, many countries have promulgated specific laws with the intention of incriminating money laundering-related conduct.

In Brazil, Law No. 9,613, of 4 March 1998 was promulgated with the intention of defining a new special type of crime; to prevent the use of the national financial system as an instrument for laundering; to institute a national financial intelligence agency (Financial Activities Council Control – COAF); and to create administrative, penal and procedural rules to prevent and punish related crimes.

The first article defines the main types of criminal conduct, which are complemented by the antecedent crimes, and which can generate a product or illicit gain that could be an object of capital laundering.

In its Article 4, the law establishes that the judge may order “*ex officio*” or by request of the public prosecution or the police authority, the restraint or seizure of assets, rights and properties belonging to the defendant or registered under his or her name, if there is evidence that they are the object of the related crimes.

According to Article 7, in case of conviction, these assets are declared to be forfeited in favour of the Union safeguarding, however, the victim or a third party with good faith rights. Another consequence of the conviction is the suspension of the right to hold offices of any nature in the public service, or positions as directors, members of management or administration councils of any of the legal persons referred to in Article 9 of the Law, for a period corresponding to double the term of imprisonment stipulated by the judicial sentence.

It is worth pointing out that owing to the fact that there is material concurrence between the prior crime and the crime of money laundering, the penalties applied to each of the crimes must be added up. Therefore, in the case of conviction for both the prior and the money laundering crime, the sentence provided for the latter shall be applied cumulatively with the sentence provided for in the Criminal Code for the former.

The Law also establishes that if there is an international treaty or convention and a request from a competent foreign authority, the judge will order the restraint or seizure of assets, rights and properties belonging to the defendant or registered under his or her name, if there is evidence that they are the object of the related crimes, committed abroad. Even in the absence of international treaties or conventions, this order can be declared if the requesting government promises Brazil reciprocity.

The creation of the Financial Activities Council Control, a national financial intelligence agency, was a major step in combating corruption. This Council has the purpose of instructing and applying administrative punishments; to receive, examine and identify the occurrence of suspected illicit activities defined in this Law; and to co-ordinate and propose co-operation and information exchanging mechanisms, which enable fast and efficient actions on combating the concealment or disguising of assets, rights and properties.

The Council is authorized to demand banking and financial cadastral information from Public Administration offices, regarding individuals involved in suspicious activities. This information will provide material analysis regarding the growth of assets of individuals. According to the results, this information is sent to the responsible organ, in order to start the legal administrative or criminal measures.

In the scope of the Federal Executive, if the individual investigated is a public servant, the Office of the Controller General initiates a confidential administrative inquiry which intends to verify whether the growth of the assets is compatible with the declared income. If proved that it is not compatible, than the Office initiates a Disciplinary Administrative Process, which can result in administrative punishments, such as dismissal.

The information gathered by the Council may help identify the author and co-author of the related crimes; the localization of the laundered assets and properties; their condemnation and the consequent confiscation of the profits, instruments and proceeds of the crimes.

The financial intelligence system that feeds the Council relies on the collaboration of the Federal Prosecutor's Office; the Office of the Controller General (CGU); the Federal Police Department; the Brazilian Central Bank (BACEN); the Securities and Exchange Commission (CVM); and the Superintendence of Private Insurance (SUSEP) and the Secretariat of Complementary Social Security (INSS) of the Social Security Ministry, which regulate and supervise the sectors under their responsibility.

This co-operation travels back and forth, since the exchange of data can provide the organs who feed the system with the information necessary to trace, block and retrieve assets concealed or disguised; to identify and block suspicious financial transactions; to initiate criminal investigation and, if the case, to propose the institution of prosecution.

## **X. OPERATION TENTACLES**

This investigation was initiated in 2004, with the initiation of an inquiry to verify criminal news originating in a State Treasury Agency, according to which some treasury auditors were committing crimes against the tax order, defined in Article 3, II, of Law No. 8,137 of 27 December 1990.

During the investigation, which involved over 80 suspects, among whom were tax auditors, retired tax auditors, accountants, lawyers, entrepreneurs, and some other public servants from the State Treasury Agency, telephone interception was authorized by a competent judge.

By this measure, the scheme elaborated by the leading characters of the group could be discovered, lighting up the functions of each member. As the investigation improved, it was doubtless that the suspected group formed a criminal organization, with the purpose of growing rich by the damage caused to the State Treasury.

The investigation defined many kinds of illicit conduct practiced by the participants of the criminal organization. The two leading characters, tax auditors, framed tax assessments against companies, in order to "negotiate" the value of the tax or the annulment of the tax assessments. The accountants involved were responsible for persuading the entrepreneurs to accept the proposal of bribery, and for intervening in the transaction.

The auditors prepared formal tax defences, based on tax assessments they had filed themselves, which were filed against the State Treasury by the lawyers for the criminal group. As a result, the companies which gave the bribes were able to reduce or even cancel their public debts. One of the senior lawyers was the daughter of one of the leading auditors involved.

All the money received as a bribe was divided among the members of the criminal organization and

carefully laundered. Some of the members deposited the illicit money in relatives' current banking accounts; others acquired vehicles, companies and other properties, in all cases representing amounts incompatible with their incomes. The telephone interception showed that one of the auditors acquired US\$4,000 in cash, proving his attempt to conceal illicit money.

The attempt to avoid the production of evidence was constant during the investigation, as the members used deceits such as constantly changing their telephone lines and e-mail addresses; avoiding the use of real names or details of operations on the telephone; and even hiring private investigators to find out about public official investigations occasionally initiated to uncover their activities.

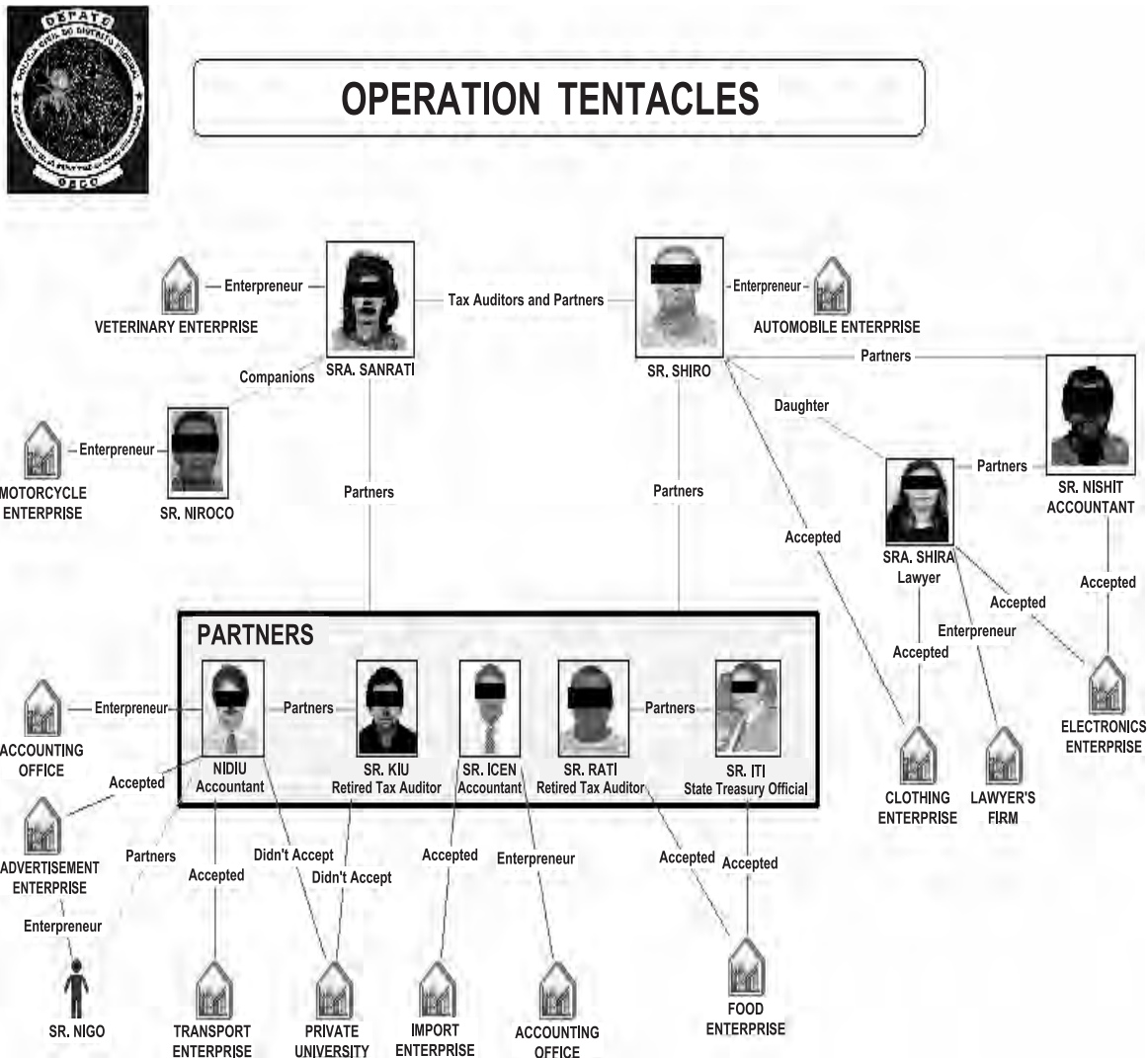
After gathering all the primary evidence, the chief of police in charge of the investigation requested the competent judge for temporary and preventive custody; for search and seizure to be carried out in homes and offices; for the breach of fiscal and banking secrecy; and for the freezing of assets of some of the leading members of the criminal organization.

On 28 April 2005, Operation Tentacles was executed, resulting in the arrest of 13 people, who were later accused in public criminal prosecutions of many crimes, among which money laundering; criminal association; influence trafficking; active corruption; crimes against the tax order; and others.

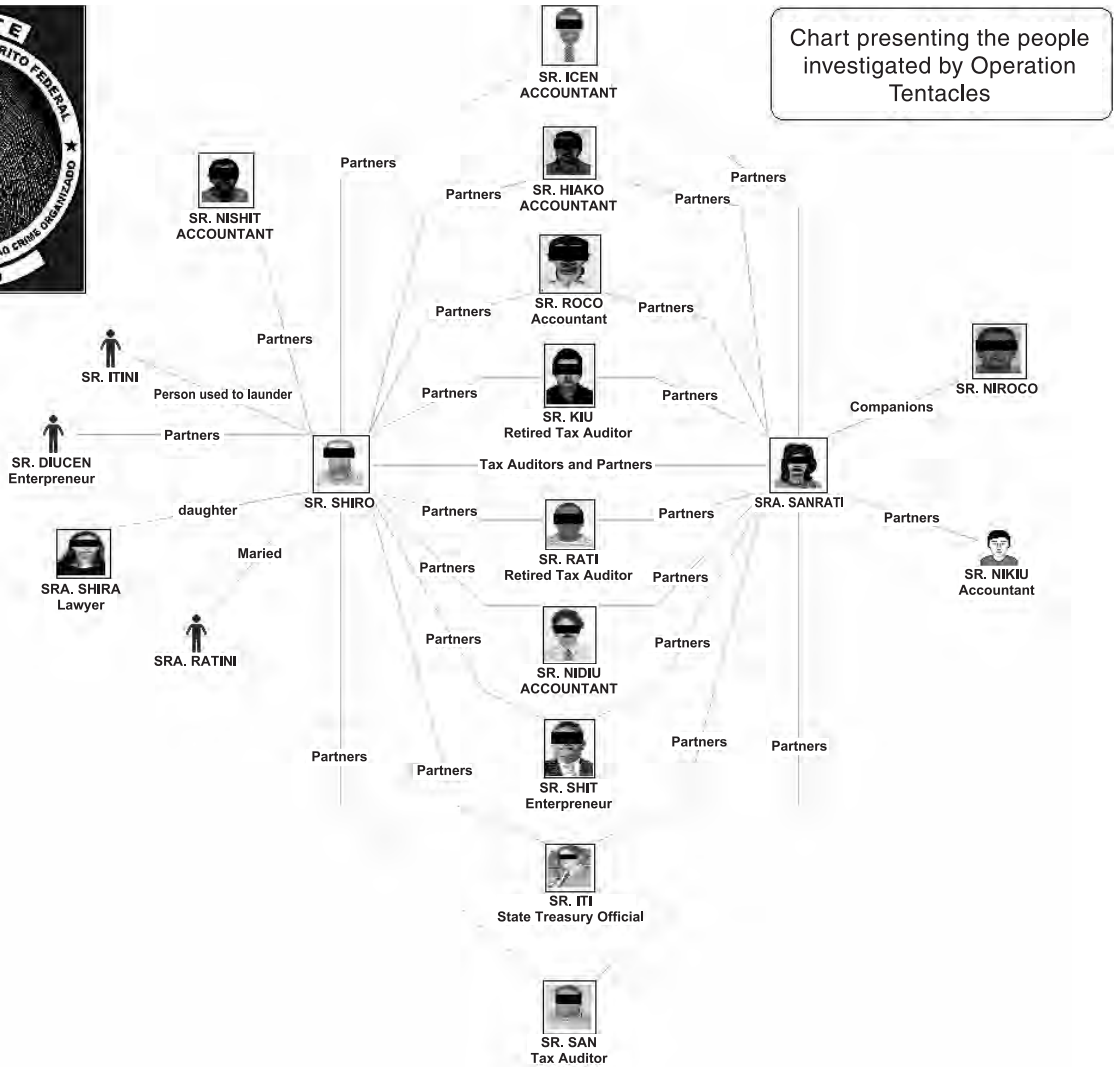
On 23 March 2006, after the due disciplinary administrative process, some of the leading members of the organization were formally dismissed from the State Treasury Agency.

The estimated damage caused to the State Treasury was around US\$25,000,000 (twenty five million dollars) in deviated money.

**A. Charts**



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XI. BRAZILIAN STATISTICS

A. Federal Police Department Statistics 2005

Exchange of Criminal Information in 2005

<i>REQUESTS</i>	<i>NUMBER</i>	<i>PERCENTAGE</i>
RECEIVED	26,297	68.87%
MADE	11,885	31.13%
TOTAL	38,182	100%

Remarks

- Exchange of criminal information with the 184 member countries of the International Criminal Police Organization (Interpol), units of the Federal Police Department (DPF), Ministry of Justice and bodies of justice.
- The exchanges of information comprise solicitations, diffusions, memoranda, administrative information, etc.



**Extraditions and Transfer of Prisoners**

<i>TYPE</i>	<i>NUMBER</i>
1. ACTIVE EXTRADITIONS <sup>1</sup>	08
2. PASSIVE EXTRADITIONS <sup>2</sup>	45
3. TRANSFERS <sup>3</sup>	04

1. The Brazilian State requests the delivery of criminals to the foreign State.
2. The foreign State requests the delivery of criminals to Brazil.
3. By force of the treaty, the convicted criminal serves the sentence in his or her home country.

**Police Inquiries  
Financial Crimes and Money Laundering**

INITIATED INQUIRIES	1,051
REPORTED INQUIRIES	379
ON-GOING INQUIRIES	2,646

**B. Financial Activities Council Control (COAF) Statistics – 2005**

**Communications Received by the COAF**

<b>COMMUNICATIONS OF OPERATIONS RECEIVED BY THE COAF</b>					
<b>1 – Atypical Operations (Art. 11, clause II, item “b” of Law n. 9.613/98)</b>	1998-2002	2003	2004	2005	Total
<b>1.1 – Sectors Regulated by the COAF</b>					
Bingos	2,454	19	7	0	2,480
Real Estate Actions	2,287	619	630	750	4,286
<i>Factoring</i>	84	1	27	12,892	13,004
Jewelry, Precious Metals and Stones	9	0	1	0	10
Lotteries and Raffles	382	140	84	101	707
Objects of Art and Antiques	1	1	2	0	4
<b>Subtotal</b>	<b>5,217</b>	<b>780</b>	<b>751</b>	<b>13,743</b>	<b>20,491</b>
<b>1.2 – Sectors with Own Regulatory Body</b>					
Financial System (Central Bank)	12,198	5,494	7,090	12,589	37,371
Insurance (SUSEP)	275	879	1,169	2,505	4,828
Stock Market (CVM)	20	13	12	178	223
Pension Funds (SPC)	9	2	28	105	144
<b>Subtotal</b>	<b>12,502</b>	<b>6,388</b>	<b>8,299</b>	<b>15,377</b>	<b>42,566</b>
<b>Total of Atypical Operations (1.1 + 1.2)</b>	<b>17,719</b>	<b>7,168</b>	<b>9,050</b>	<b>29,120</b>	<b>63,057</b>
<b>2 – Operations by Limit or Criterion (Art. 11, clause II, item “a” of Law n. 9.613/98)</b>					
<b>2.1 – Sectors with Own Regulatory Body</b>					
Financial System (Central Bank)	0	33,358	76,102	129,489	238,949
<b>Total (1+2)</b>	<b>17,719</b>	<b>40,526</b>	<b>85,152</b>	<b>158,609</b>	<b>302,006</b>

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**Communications of Suspect Operations on the Financial System by Range of Values of the Communications (2005)**

Ranges of Value (R\$)		Number	Percentage	
From	To		In the Range	Accumulated
1	10,000	1,051	8.62%	8.62%
10,001	50,000	1,273	10.44%	19.07%
50,001	100,000	835	6.85%	25.92%
100,001	500,000	2,468	20.25%	46.17%
500,001	1,000,000	996	8.17%	54.34%
1,000,001	10,000,000	4,658	38.22%	92.56%
10,000,001	100,000,000	849	6.97%	99.52%
100,000,001	-	58	0.48%	100.00%
<b>Subtotal</b>		<b>12,188</b>		96.81%
<b>Cancelled</b>		<b>401</b>		3.19%
<b>Total</b>		<b>12,589</b>		100.00%

**Time between the Reception of the Last Communication and the Making of the Report  
(Ex Officio and Others 2005)**

Range (in days)	Number of Reports	Participation	
		%	Accumulated
0 a 3	182	25.17	24,17
3 a 10	215	29.74	54,91
10 a 20	152	21.02	75,93
20 a 30	55	7.61	83,54
30 a 60	58	8.02	91,56
More than 60	61	8.44	100,00
<b>TOTAL</b>	<b>723</b>	100.00	

National Exchange of Information, by Origin							
Original Body	2003		2004		2005		TOTAL
	SISPED	Others	SISPED	Others	SISPED	Others	
Police Authorities	20	102	93	110	147	179	651
Prosecutor's Office	101	66	315	93	217	105	897
Bodies of the Government	25	20	126	19	116	36	342
Judiciary Branch	2	60	0	107	2	111	282
<b>Subtotal</b>	<b>148</b>	<b>248</b>	<b>534</b>	<b>329</b>	<b>482</b>	<b>431</b>	<b>2.172</b>
<b>TOTAL</b>	<b>396</b>		<b>863</b>		<b>913</b>		

NOTES:

1. "Others" includes fax and memoranda.
2. SISPED – *Sistema Eletrônico de Intercâmbio de Informações* - Electronic System for the Exchange of Information – developed to bring more agility and security to the exchange of information, substituting the memoranda through which the COAF receives information from competent authorities and shares its reports.

Exchange of Informaion with FIU's and Foreign Authorities								
Requests for Information	1998/ 1999	2000	2001	2002	2003	2004	2005	TOTAL
Received by the COAF	22	19	45	99	80	78	87	430
Made by the COAF	4	54	46	57	96	137	70	464
TOTAL	26	73	91	156	176	215	157	894

**Requests Received by the COAF**

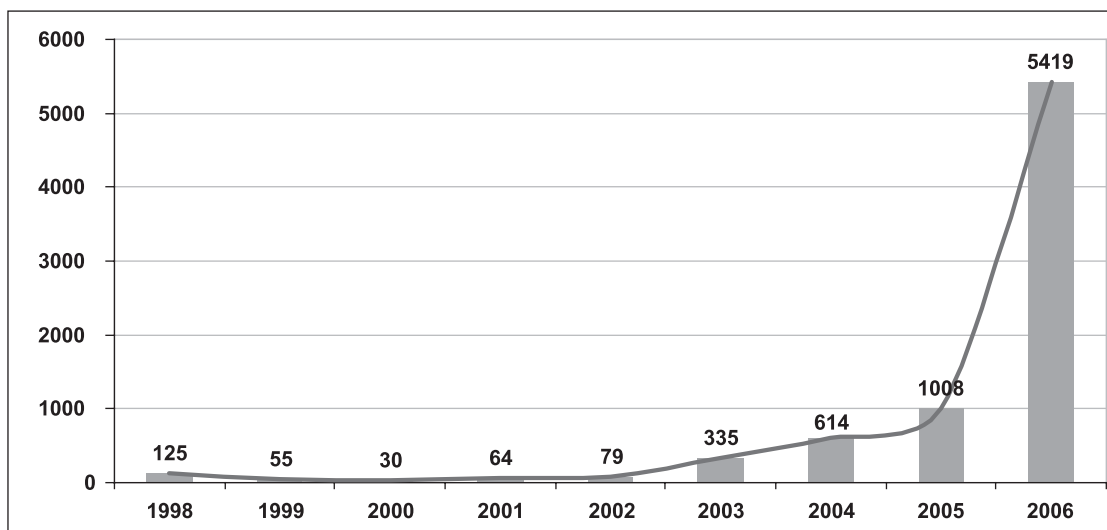
Country – FIU	%
Portugal	32%
USA	14%
Bolivia	7%
Peru	6%
Belgium	5%
Venezuela	5%
Other 16	31%
<b>TOTAL</b>	<b>100%</b>

**Requests Made by the COAF**

Country – FIU	%
USA	25%
Uruguay	9%
The Cayman Islands	9%
The British Virgin Islands	7%
Italy	5%
Other 24	45%
<b>TOTAL</b>	<b>100%</b>

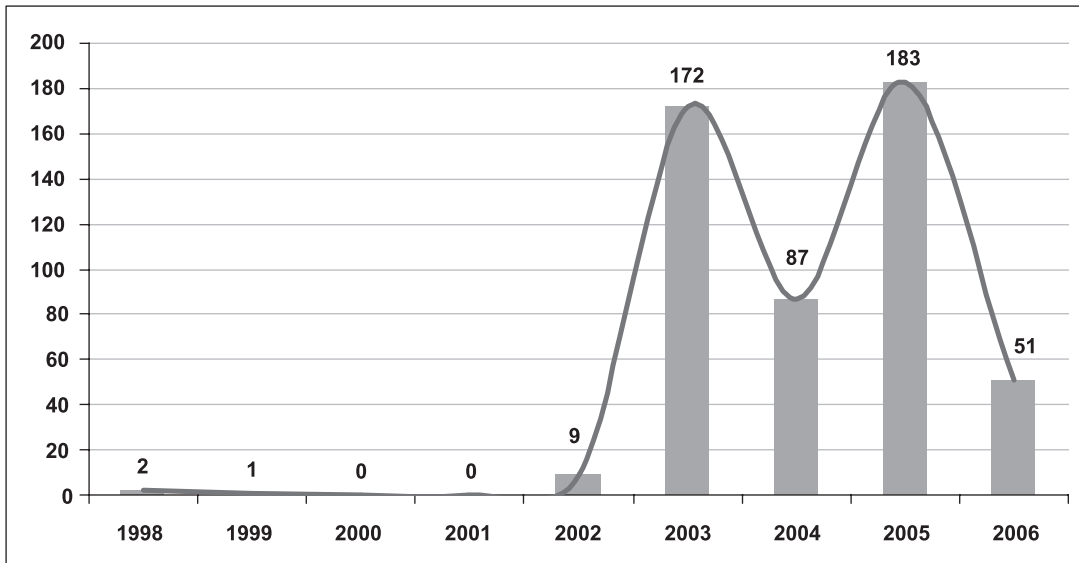
**C. Department of Asset Recovery and International Legal Cooperation (DRCI) Statistics – 2005**

**Statistics on Combating the Money Laundering Offence  
Investigated and Accused**

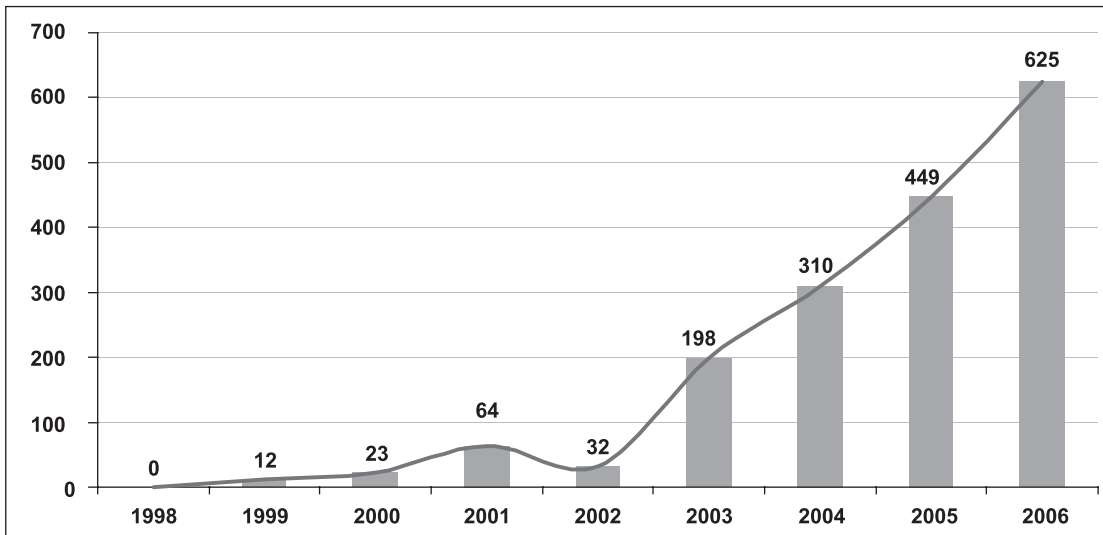


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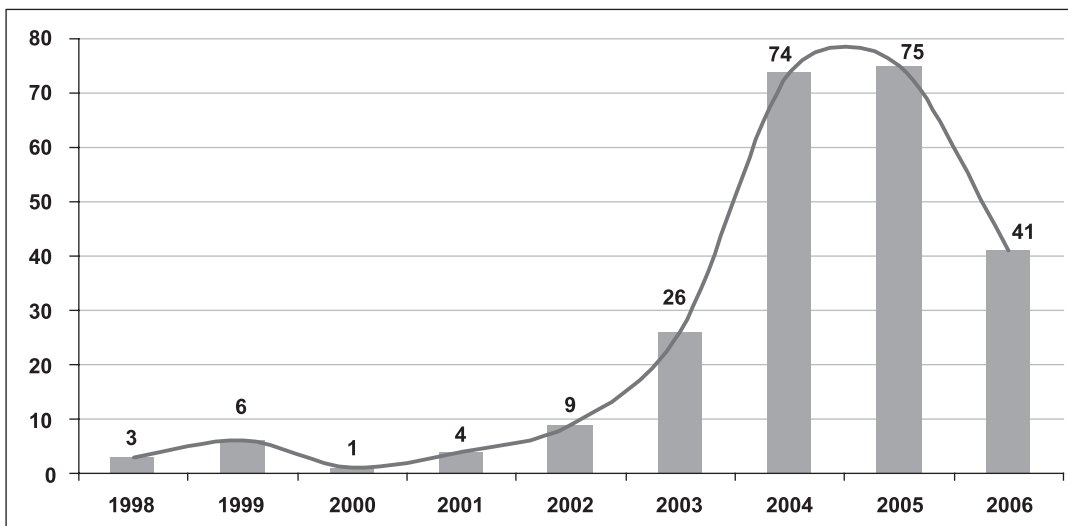
**Convicted**



**Inquiries**



**Penal Actions**



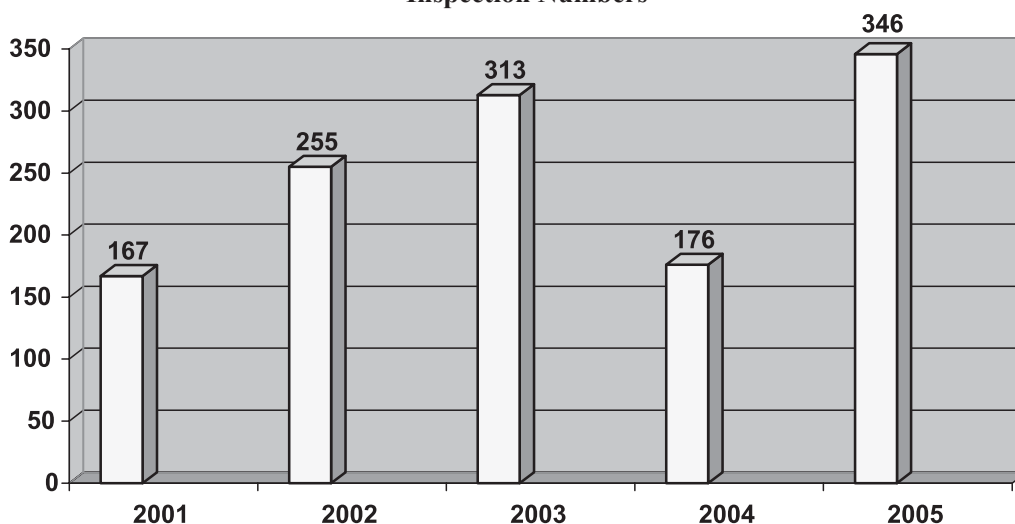
**D. Securities and Exchange Commission (CVM) Statistics – 2005**

**Market Surveillance 2005**

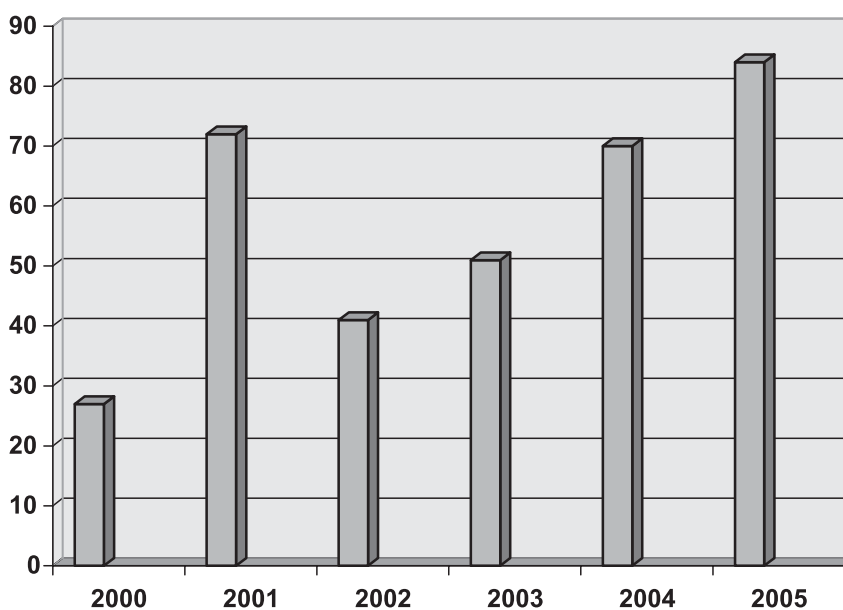
<b>Enterprises opened:</b>	<b>764</b>
<b>Enterprises opened in Bovespa's list:</b>	<b>340</b>
<b>Enterprises incentivated:</b>	<b>1,485</b>
<b>Auditors:</b>	<b>418</b>
<b>Agencies and Distributors:</b>	<b>304</b>
<b>Independent Agents:</b>	<b>2,694</b>
<b>Securities and Exchange Analysts:</b>	<b>710</b>
<b>Investment Funds:</b>	<b>5,895</b>
<b>Non-resident investor pools:</b>	<b>372</b>
<b>Pools Administrators:</b>	<b>1,526</b>

*Data as of April 2006*

**Inspection Numbers**



**SAP – Sanctionary Administrative Processes**





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PARTICIPANTS' PAPERS

**Proceeding Statistics 2005**

<b>Sanctionary Administrative Processes (SAP) distributed to the college:</b>	77
<b>Judgements:</b>	84
<b>Commitment Terms:</b>	16
<i>Judgment results:</i>	
<b>Fine:</b>	142
<b>Warnings:</b>	53
<b>Suspensions:</b>	9
<b>Disabilities:</b>	9
<b>Prohibitions:</b>	6
<b>Acquittals or exclusions:</b>	365

**Superintendence of On-Site Inspections – SFI  
Inspections Made and Administrative Inquiries**

DESCRIPTION		2001	2002	2003	2004	2005	2006(*)
1	Number of inspections made	167	255	313	176	346	300
2	Number of administrative inquiries initiated	18	14	28	17	30	30

(\*) Prediction

**Superintendence of Accounting and Auditing Ruling – SNC  
Auditors Registered**

	<b>2004</b>	<b>2005</b>
Natural Persons:	113	100
Legal Persons:	309	314
In-charge Technicians:	1,135	785

**Follow-up of the Independent Auditors Performance (since 1978)**

<u>Total of registered cases</u>	<u>In 2005</u>	<u>In 2004</u>	<u>Since 1978</u>
Analyses to be concluded	24	10	----
Analyses concluded	19	35	803
Auditors warned by memorandum	8	10	309
Discarded	7	21	334
Inquiries and Terms of Prosecution	4	4	160
Inquiries to be Judged	20	23	----

**Auditors Involved in the External Quality Review Program 2005**

DESCRIPTION	Independent Auditor - Natural Persons	Independent Auditor - Legal Persons	TOTAL
Auditors Selected	35	82	117
Auditors Canceled	4	7	11

## **XII. CONCLUSION**

Corruption represents a menace to society's steadiness and security, since it weakens the institutions and the values of democracy, ethics and justice. Like a cancer, it spreads throughout many sectors in society, compromising its development. If not treated properly, this cancer might control the whole state body, causing immeasurable damage and loss.

Brazilian society is opening its eyes to the problem and seeing the link between corruption and criminal organizations and the enormous drain on resources sorely needed for education, health, security and infrastructure, caused by it.

A heated debate on the issue has long invaded our daily lives. Corruption has become a theme of recent jokes, songs, movies, and advertisement campaigns and many different layers of society are aware of its costs to the country's political and economic development. This participation, encouraged by the government, plays a vital watchdog role, since the demand and urge for transparency; administrative, legal and social reforms; and rectitude in the State actions, increase.

The Government has invested in this battle and has taken huge and serious steps in developing preventive and repressive measures against corruption. The co-operation of all law enforcement organizations, civil society, non-governmental organizations, and of course, all nations, uniting intention and action against this cancer, can only be successful.

## **XIII. REMARKS**

The statistics and some of the information used in this essay were provided by officials and directors of the Office of the Controller General (CGU).