



OVERVIEW OF THE GOVERNMENTAL ACTION

CRIME PREVENTION AND CRIMINAL JUSTICE:
THE DYNAMICS OF FACING GLOBAL
CHALLENGES

XII UNITED NATIONS CONGRESS ON
CRIME PREVENTION AND CRIMINAL JUSTICE
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Overview of the Governmental Action

Crime Prevention and Criminal Justice:
the dynamics of facing global
challenges

XII United Nations Congress on
Crime Prevention and Criminal Justice
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List of Abbreviations

ABC – Brazilian Cooperation Agency
ABIN – Brazilian Intelligence Agency
ANAC – National Civil Aviation Agency
ANTT – National Ground Transportation Agency
ANVISA – National Health Surveillance Agency
ARB – Return to Brazil Authorization
BTWC – Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction
CICAD – Inter-American Drug Abuse Control
CICTE – the Inter-American Committee against Terrorism
CINTEPOL – Integrated Police Intelligence and Strategic Analysis Center
CND – United Nations Commission of Narcotic Drugs
COAF – Financial Activities Control Board
CONAD – National Council for Drug Policy
CONANDA – National Council on the Rights of the Child
CONEPA – Congress on Alternative Sentences and Penalties
CONJUVE – National Youth Council
CONPORTOS – National Public Port, Terminal, and Waterway Security Commission
CONSEG – National Conference on Public Security
CNEN – National Nuclear Energy Commission
CREDEN – External Relations and National Defense Committee
CVM – Brazilian Securities Commission
CWC – Chemical Weapons Convention
DARM – Illicit Arms Trafficking Suppression Unit
DCT – Counter-Terrorism Department
DEPEN – National Penitentiary Department
DPF – Federal Police Department
DRCI – Department of Asset Recovery and International Legal Cooperation

DRT – Regional Labor Offices
ECA – Child and Adolescent Bill of Rights
ESF – Family Health Strategy
ETP – Coordinating Group on Confronting Trafficking in Persons
FATF – Financial Action Task Force on Money Laundering and Terrorist Financing
FIU – Financial Intelligence Unit
FUNPEN – National Penitentiary Fund
GENACIS – Gender, alcohol and culture: an international study, by the World Health Organization
GAFISUD – Financial Action Task Force of South America
GSI – Office of Institutional Security of the Presidency of the Republic
IAEA – International Atomic Energy Agency
ICA – Aeronautical Command Order
ICAO – International Civil Aviation Organization
INCB – International Narcotics Control Board
InfoPen – National Penitentiary Information Database
INFRAERO – Brazilian Airport Infrastructure Company
SISP – Public Security Intelligence Subsystem
ISPS Code – International Ship and Port Facility Security Code
RFB – Federal Revenue Department
LEP – Criminal Sentence Execution
MD – Ministry of Defense
MEM – Multilateral Evaluation Mechanism
MF – Ministry of Finance
NEPOM – Special Maritime Police Centers
NPT – Nuclear Non-Proliferation Treaty
OAS – Organization of American States
OBID – Brazilian Drug Information Observatory
OIJ – Ibero-American Youth Organization
PAC – Accelerated Growth Program
PAISM – National Policy on Comprehensive Women’s Health Care
PEC – Proposed Constitutional Amendment
PEN Online – Pre-Export Notification Online
PeQuí – National Chemical Profile Study
PESTRAF – Study on Trafficking in Women, Children, and Adolescents for Sexual Exploitation

PNAD – National Household Sample Survey
PNAVSEC – National Civil Aviation Security Program
PNETP – National Plan on Confronting Trafficking in Persons
PNSSP – National Penitentiary System Health Plan
PPCAAM – Protection Program for Children and Youth Threatened with Death
PRF – Federal Highway Patrol Department
PRONASCI – National Public Security with the Full Exercise of Human Rights Program
REDE – Diversity Education Network
REDLECE – Latin American Network for Education in Prisons
RENADE – National Network for the Defense of Young Persons in Conflict with the Law
RENAESP – National Advanced Studies in Public Security Network
SANTER – Counter-Terrorism Service of the Federal Police
SEDH – The Special Secretariat of Human Rights of the Presidency of the Republic
SENASP – National Secretariat of Public Security
SEPPIR – Special Secretariat for Policies to Promote Racial Equality
SINARM – National Weapons Database
SINASE – The National Social-Educational Assistance System
SINPI – National Database of Wanted and Banned Persons
SINPA – National Passport Database
SISBIN – Brazilian Intelligence System
SISNAD – National Drug Policy
SIPIA – Integrated Database for Children and Young Persons
SNJ – National Youth Secretariat
SPM – Special Secretariat for Women’s Policies
SRF – the Brazilian Revenue Secretariat
SUPERA – National Secretariat for Drug Policy
SUS – Unified Health System
SUSP – Unified Public Security System
UNGASS – United Nations General Assembly Special Assembly
UNODC – United Nations Office on Drugs and Crime
WMD – weapons of mass destruction



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Foreword

The Brazilian Government is honored to host the Twelfth United Nations Congress on Crime Prevention and Criminal Justice in the city of Salvador in April 2010. Brazilian society is engaged in the discussion of issues that concern other UN member states regarding the promotion of their citizens' security and welfare, and in the pursuit of the best approaches to the extensive range of themes agreed for the congress agenda.

In order to present the positions of the Brazilian Delegation on such issues, an Overview of Governmental Action has been prepared to identify those of greatest relevance to the country; to show the difficulties faced by government bodies in implementing sectoral security policies and the challenges confronting government action, such as crime prevention; and to point out the prospects for the continuous pursuit of best practices, efficiency, and protection of human rights in law enforcement.

The purpose of this Overview of Governmental Action is to provide a succinct sample of reflections, perceptions, policies, and actions by the different Executive agencies that have participated in its preparation. Under the coordination of the Ministry of External Relations and the Ministry of Justice, the work was accomplished by working groups consisting of representatives of the Office of Institutional Security, the Special Secretariat of Human Rights, and the National Secretariat for Drug Policy, all three under the President's Office; the General Attorney's Office; the Ministry of the Economy's Financial



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Activities Control Board; the Federal Police and National Penitentiary Departments; the Brazilian Intelligence Agency; the National Criminal and Penitentiary Policies Counsel; the National Public Security Counsel; the Office of the Comptroller General; the Ministries of Education and Health; the National Youth and Public Security Bureaus under the President's Office; and the Federal Supreme Court.

This publication aims at broadening cooperation among the countries participating in the Twelfth Congress can be derived, with a view to building fairer societies and to fostering a culture of peace in the international community.

Preface

This Overview of Governmental Action presents some of the most relevant Brazilian policies on the important issues of the agenda pertaining to public security and to preventing and combating transnational crime, which are the object of a coordinated, ongoing reflection by the Brazilian Government. This publication reflects the Brazilian Government's positions on the themes addressed by the Twelfth United National Congress on Crime Prevention and Criminal Justice and refers to good practices, implementation, draft bills, and experiences in international cooperation, as well as on innovative initiatives applicable in other countries and on possible actions by the international community.

This overview of Brazilian actions, policies, and initiatives shows that the country has made significant progress in areas of vital importance. Public security and combating corruption, money laundering, and organized crime, as well as trafficking in persons and exploitation of migrants are a priority for the Brazilian Government. In implementing policies and programs anchored on coordinated action by the various government levels and agencies, Brazil has adopted multidisciplinary measures that address the different aspects of each problem. Moreover, government policies and actions in recent decades have been characterized by the systematic participation of institutions and representatives of civil society.

This multidisciplinary approach was adopted in order to establish the National Public Security and Citizenship Program (PRONASCI) launched

by President Luiz Inácio Lula da Silva in August 2007 and unanimously approved by the Brazilian National Congress. PRONASCI introduces a new model of public security in Brazil, as it combines security policies and social actions, emphasizing prevention and targeting the causes of violence, which are often linked to social vulnerability.

Based on the principle of respect of human rights, the program goes beyond the limits of a government policy to become a State policy aimed at guaranteeing the most basic right – the right to life. From the Brazilian standpoint, public security should be seen as a democratic achievement of the entire society. To be recognized and respected, the State must function as an effective institution in ensuring the dignity of all citizens.

All PRONASCI actions will be mentioned throughout this publication, but for a better understanding of the Program's underlying principles one could already mention the actions geared to urbanization and recovery of public spaces. These actions are of fundamental importance for less developed communities and help the perception of the State's presence besides the coercive aspect. Government bodies are thus seen as social cohesion agents and as facilitators of opportunities for social, educational, and cultural uplifting. Other PRONASCI actions range from programs aimed at the young population, especially at young people in vulnerable situation, to initiatives for combating criminal organizations.

Civil society has played a major role in PRONASCI, participating in the change of the Brazilian public security paradigm, as illustrated by the First National Conference on Public Security. This Conference provided a forum of discussion between the Federal State and Brazilian society for the development of a national public security policy, whose guidelines incorporate the main demands identified by the most diverse civil society organizations.

Also worth stressing are Brazil's efforts to develop and implement a public policy on the traffic in persons. In January 2010 was concluded an assessment of the implementation of the First National Plan on Confronting Trafficking in Persons and a goal has already been established for the preparation of the Second Plan, based on the National Policy on Confronting Trafficking in Persons, introduced in 2006. This policy is reinforced by PRONASCI actions, which also include measures to combat this problem. A National Campaign was recently launched to raise the population's awareness of this crime and to involve Brazilian society in combating it. Progress in this respect includes the training of specialized agents and the setting up of an Integrated System for

Confronting Trafficking in Persons, under National Justice Secretariat of the Ministry of Justice's, which allows the sharing of information among the agencies charged with the execution of national plans.

Another priority policy set by the Brazilian Government is combating money laundering. The National Strategy to Combat Corruption and Money Laundering involve over sixty government agencies in accordance with the issues addressed and with annual and multiyear plans. Its purpose is to help the different agencies to coordinate consistent, effective public policies on combating organized crime. These policies call, among other things, for an array of government actions to combat money laundering and to recover illicit assets held both at home and abroad originating in the embezzlement of public funds.

Conscious that the success of policies on combating transnational crimes is helped by international cooperation, Brazil has established partnerships, promoted joint initiatives, extended assistance, and received support from different countries and international organizations. It has actively participated in and presented proposals at international forums, adopted recommendations, as well as identifying flaws, overhauling domestic legislation, and suggesting changes for improving the mechanisms of cooperation among countries.

The Twelfth United Nations Congress on Crime Prevention and Criminal Justice is one of the most important forums for the exchange of experiences and good practices in combating crimes affecting the international community. It has the full support of the Brazilian Government for strengthening its agenda and following up its results, so that lines of action may be adopted to enhance the efficacy and efficiency of crime prevention strategies, thereby improving our criminal justice systems and speeding up judiciary actions.

It is incumbent upon the participating countries to formulate a new vision of the great issues and thus strengthen the Rule of Law, recognizing the criminal justice system as one of the guiding factors of government actions aimed at promoting democracy and economic and social development.



Chapter 1 – Children, youth and crime*

Introduction

The Brazilian government attaches particular importance to protecting and promoting the basic rights of children and young persons and views public policies on education, health, and social welfare as the most effective means to prevent the vulnerability of the youngest population segments to violence.

The response to juvenile crime should be based on social-educational measures and social inclusion, and not rely strictly on the application of criminal justice and repressive policies. Cognizant of this responsibility, the Brazilian government has implemented programs aimed at inclusion and improved living, health, and educational conditions for children, in addition to opportunities for social reintegration following completion of the applicable social-educational measures.

1. Legislative Framework – Child and Youth Rights Protection System

In Brazil, matters related to children are addressed as human rights issues, pursuant to Decree 6980 of 2009. The Special Secretariat of Human Rights of the Presidency of the Republic (“Secretaria Especial dos Direitos Humanos

* The issues discussed in this chapter correspond to the topics addressed in item 3 of the agenda of the 12th United Nations Congress on Crime Prevention and Criminal Justice.

da Presidência da República” – SEDH) is tasked with executing policies and measures to promote, guarantee, and safeguard the rights of children and young persons, in accordance with the recommendations of the National Council on the Rights of the Child (“Conselho Nacional dos Direitos da Criança e do Adolescente” – CONANDA) and a network of partner organizations and institutions.

The Child and Adolescent Bill of Rights (“Estatuto da Criança e do Adolescente” – ECA), Law 8069 of 1990, was enacted for the purpose of ensuring full compliance with the Child and Youth Rights Protection System, a body of agencies systematically organized to promote, oversee, and safeguard human rights protection policies for the youngest population segments through:

- specialized state public defender units charged with providing free legal assistance to juveniles who lack the financial means to retain defense counsel or are denied access to the courts;
- child rights defense centers aimed at guaranteeing legal and social protection to juveniles and the effective exercise of violated rights (article 87, subsection 5, of the ECA);
- family associations set up to provide systematic follow-up in prison facilities and report rights violations.

In regard to the victimization of children, the SEDH established a comprehensive nationwide channel to receive complaint reports: the 100 hotline. The complaints are handled by a network of partner institutions connected to the Child and Youth Rights Protection System, including the pertinent investigative law enforcement agencies.

The purpose of the rights protection policies enacted over the past two decades has been to implement and strengthen a new institutional framework aimed at the implementation of the Doctrine of Full Protection for the Rights of Children and Youth through initiatives undertaken with the individual states and municipalities, civil society stakeholders, and international organizations.

SEDH has taken an active role in the discussions on proposed laws to reduce the age of criminal responsibility from the current 18 years and restructure existing social-educational measures through a position of consistent opposition to these initiatives, on the grounds that they would violate the internationally recognized doctrine of full protection.

In contrast to the legal framework for children, which has been in place for more than twenty years, the laws governing youth policies are in their infancy. These included a range of bills currently pending in the National Congress, the most important of which is the Proposed Constitutional Amendment (“Proposta de Emenda Constitucional” – PEC) for Young Persons. The amendment would guarantee formal inclusion of the rights of young persons to education and vocational training, in addition to the full exercise of their civil, political, economic, social rights, in the Federal Constitution. The objective is to expand the access of youth to health, jobs, credit, income, sport, recreation and leisure, culture, and social welfare. Furthermore, the Youth Amendment would serve to enact the Youth Bill of Rights and the National Youth Plan into law. Both statutes are now under consideration in the National Congress. Another initiative under review is a Draft Legislative Decree authorizing Brazil’s formal adhesion to the Ibero-American Youth Organization (“Organização Iberoamericana de Juventude” – OIJ).

Education and Deprivation of Liberty

The right to education is a fundamental human right for the exercise of liberty. It is also central to ensuring education is employed in the public interest. Providing education to youth and adults deprived of liberty directly expresses the conviction that the restrictions placed on the freedom of confined persons and prisoners in no way affects the full exercise of their other fundamental rights.

At the international level, the Standard Minimum Rules for the Treatment of Offenders, approved at the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Geneva, in 1955, established specific guarantees for education in prisons. Although the document represents a milestone in the right to education for prisoners, the guidelines provided for in the Standard Minimum rules are restrictive and fail to affirm the universal nature of the right to education.

The 1997 Hamburg Declaration, issued at the Fifth International Conference on Adult Education, reaffirmed the right of prison inmates to learn, expressly stating that “learning opportunities for all, including the unreached and the excluded, is the most urgent concern.”

One of the central objectives of treatment centers, as provided for under the United Nations Standard Minimum Rules for the Administration of Justice,

also known as the Beijing Rules (Resolution 40/33, United Nations General Assembly), is to assist juveniles to assume socially constructive and productive roles by offering them the necessary skills for social reintegration, avoiding, this way, situations of educational disadvantage.

In May 1990, the United Nations Economic and Social Council approved a series of relevant resolutions on prison education (Resolution 20 of 1990) and on education, training, and public awareness in the field of crime prevention (Resolution 24 of 1990). Some of the key recommendations included: the provision by States of various types of education capable of contributing significantly to crime prevention, resocialization of prisoners, and reduction in recidivism; the design of prison education policies aimed at the improvement of every person, bearing in mind the specific social, economic, and cultural backgrounds of individuals; and others.

Resolutions 45/111 and 45/122 of 1990 further expanded on the principles provided for in Resolutions 20 and 24 and affirmed the right of all prison inmates to participate in cultural and educational activities for their full development through ratification of the basic principles for the treatment of persons deprived of liberty.

Brazil's Law of Criminal Sentence Execution ("Lei de Execução Penal" – LEP) – Law 7210 of 1984 – expressly mandates that prison facilities provide educational assistance to prisoners based on the following parameters: a) mandatory primary education; b) delivery of basic or advanced technical vocational training; c) the execution of agreements with public or private entities that institute schools or offer specialized course programs; d) the implementation of libraries in every prison facility equipped with instructional, recreational, and educational materials for use by all categories of prisoners (articles 17-21, LEP).

The only requirement in the law involves the delivery of primary education. Access to secondary education or higher learning for inmates serving prison sentences is not provided for or guaranteed. The issue is presently under review, in the light of the State's mandate, as established in the Federal Constitution, to ensure the "progressive universalization of free public secondary education" (article 208, subsection II, of the Federal Constitution) and "access to higher levels of education, research, and artistic creation according to individual capacity" (article 208, subsection V, of the Federal constitution).

In the Brazilian government's view, education for young persons and adults deprived of liberty constitutes a subjective human right provided for in international and Brazilian law, and represents a component of the applicable sentence execution policies. Confinement represents the suspension, for a pre-established time period, of a person's right to live in freedom. Yet, this does not imply suspension of the right to dignity, privacy, physical, psychological, and moral welfare, or personal and social development, all of which can only be achieved through education.

2. Institutions and programs

As mentioned above, the Child and Youth Rights Protection System is composed of a network of agencies with different roles in protecting the rights of children and young persons. The Brazilian government has sought, with the cooperation of civil society organizations, to enhance the complex institutional structure developed to coordinate legal assistance, education, health, and social welfare policy initiatives, and other measures.

However, in addition to fulfilling the basic needs of children, young persons, and their families, a need was identified to formulate and develop programs aimed at specific situations and conditions affecting part or entire segments of the youngest population, thereby responding to the demands of professionals and of Brazilian society. This section is devoted to those initiatives.

Children and Young Persons Threatened with Death

The vulnerability of children to violence, a phenomenon rooted in a range of factors, constitutes a serious source of concern that has prompted broad mobilization efforts among civil society stakeholders and the Brazilian government. As part of the Brazilian State's efforts to confront deaths among children, Decree 6231 of 2007 established the Protection Program for Children and Youth Threatened with Death ("Programa de Proteção a Crianças e Adolescentes Ameaçados de Morte" – PPCAAM). The program acts on two distinct levels, offering:

- Direct assistance to threatened children and their families by relocating them from the location of the threat to new homes and communities. The objective is to offer protected individuals the opportunity, through educational

initiatives, for engagement in cultural projects and professional activities as a way of enhancing their employment qualifications, among others.

- Prevention activities, including the performance of studies, research, and support to intervention efforts aimed at vulnerable children. The following initiatives have been implemented in the framework of the program: a) the Lethal Violence Reduction Project (“Projeto de Redução da Violência Letal”), July 2009, a program instituted by the Shantytown Observatory (“Observatório de Favelas”) and UNICEF to mobilize the public and the government to confront the problem; b) the development of the Youth Murder Index (“Índice de Homicídios na Adolescência”), a tool applied in cities with more than 100,000 inhabitants that measures the risk of death by homicide among youth in a particular area.

The Protection Program is currently executed in six Brazilian states (São Paulo, Rio de Janeiro, Espírito Santo, Minas Gerais, Pará, Pernambuco) and the Federal District, and is under implementation in Alagoas, Bahia, and Paraná. In 2010, the program is set to be implemented in 11 regions covered under the Children’s Social Agenda (“Agenda Social Criança”). In addition, the Federal Technical Center (“Núcleo Técnico Federal”) will be established to handle test cases in states not encompassed under the PPCAAM.

Administration of Youth Policies

Aware of the importance to formulate policies aimed specifically at the youngest population segments, in 2004 the Brazilian government established an inter-ministerial group coordinated by the Secretary-General of the Presidency of the Republic (“Secretaria-Geral da Presidência da República”) to conduct a survey of the key federal programs devoted to the youth segment, prepare a diagnostic analysis of the situation of Brazilian youth, and present policy proposals for young persons.

In 2005, the National Youth Secretariat (“Secretaria Nacional de Juventude” – SNJ), a component of the Secretary-General of the Presidency of the Republic, was created to develop strategic policies for youth. The initiative serves to consolidate an institutional structure to coordinate and integrate the federal government’s youth actions based on the challenges laid out in the National Youth Policy.

Also launched in 2005 was the National Youth Council (“Conselho Nacional de Juventude” – CONJUVE). The Council offers a forum for dialogue between civil society stakeholders, the government, and Brazilian youth. It serves as a consultative body aimed at supporting the National Secretariat of Justice (SNJ) in the formulation of guidelines for government action, performing studies and research on the socioeconomic realities of youth, and ensuring the National Youth Policy is conducted with a view to expanding the citizen participation and recognizing the rights and abilities of young persons.

To this end, in 2008 the SNJ sponsored the First National Conference on Youth Policies (“1ª Conferência Nacional de Políticas Públicas de Juventude”) with the objective of identifying the realities and needs of Brazilian youth. Preparation of the Conference involved over 400,000 people divided into 841 municipal and regional conferences, 689 open conferences, 26 state conferences – encompassing the Federal District as well – and, lastly, the National Consultation with Traditional Peoples and Communities (“Consulta Nacional aos Povos e Comunidades Tradicionais”). The effort resulted in the organization of the First Conference in Brasilia with over 2,600 participants.

At the event, 70 resolutions and 22 priorities relating to Youth Policies were approved, all incorporated to the Youth Pact (“Pacto pela Juventude”) strategy. The pact represents a proposal launched by the National Youth Council (“Conselho Nacional de Juventude”) to the federal, state, and municipal governments and mayors and assembly persons aimed at securing a commitment from the individual units of the federation to implement the Conference resolutions, in addition to the guidelines issued by the Youth Policy Council.

ProJovem

In 2005, the federal government implemented the National Social Inclusion Program for Young Persons (“Programa Nacional de Inclusão Social de Jovens: Educação, Qualificação e Ação Comunitária” – ProJovem). Designed by an inter-ministerial group, the program is based on four axes:

- ProJovem Teenager (“ProJovem Adolescente”) – formerly the Youth Agent Program (“Programa Agente Jovem”) – the objective of which is to complement the basic social protections afforded to families;

- ProJovem Urban (“ProJovem Urbano”), which is aimed at elevating schooling levels by ensuring completion of primary school, while providing vocational training and promoting experiences on the exercise of civil and political, social, cultural, and economic rights by young persons;
- ProJovem Countryside (“ProJovem Campo”) – reorganization of the Popular Knowledge of the Land Program (“Programa Saberes da Terra”) – an initiative intended to strengthen and expand the access to and permanence of young family farmers in the educational system, with a view to promoting completion of primary education, capacity building, and vocational training; and
- ProJovem Worker (“Jovem Trabalhador”) – consolidation of the Social Consortia for Youth (“Consórcio Social da Juventude”), Citizen Youth (“Juventude Cidadã”), and Factory School (“Escola de Fábrica”) Programs – an initiative aimed at preparing young persons for the job market.

With the exception of the ProJovem Adolescent initiative, the programs are aimed at young persons 18 to 29 years of age.

Education in Prison Facilities

The ProJovem Urban Project in Prison Facilities (“Projeto ProJovem Urbano nos Estabelecimentos Penais”) is a component initiative of the National Public Security with the Full Exercise of Human Rights Program (“Programa Nacional de Segurança Pública com Cidadania” – PRONASCI), regulated by Law 11692 of 2008. This particular initiative of the ProJovem effort includes specific features intended to adapt it the prison environment.

The Project provides assistance to young persons deprived of liberty, who have been sentenced to at least three years of closed detention, and is aimed, above all, at those without a primary education. It is composed of a set of actions to elevate schooling levels, initial training for the job market, digital inclusion, and the development of experiences for direct social participation and the exercise of human rights.

The objective is to stimulate young inmates to reflect on their social and local realities, expand their knowledge of and information on rights, collective coexistence, dialogue and interaction, and share experiences based on the specific social and cultural contexts of young persons.

Brazil's Role in Multilateral Cooperation

Brazil proposed the establishment of and to this day actively participates in the Latin American Network for Education in Prisons (“Rede Latino-americana de Educação em Prisões” – REDLECE), officially launched at the meeting of MERCOSUR Education Ministers in Belo Horizonte in 2006. The network is supported by the Eurosocial Project, an initiative funded by the European Commission, and includes the following participating countries: Argentina, Colombia, Costa Rica, Ecuador, El Salvador, Honduras, Mexico, Paraguay, Peru, and Uruguay. The network’s activities fall within the scope of the efforts of MERCOSUR’s Education Sector.

The REDLECE enables the registration and dissemination of information, the exchange of experiences, and the development of common positions. It plays a key role in promoting enhanced public policies in member countries and in consolidating a regional discussion forum in the field. The purpose of the REDLECE is to raise awareness in Latin American societies with respect to the importance of guaranteeing the right to education for every persons, irrespective of the existing social fissures that adversely affects individual subjects of rights.

3. Perspectives

National Social-Educational Assistance System

A 2006 CONANDA document entitled ‘The National Social-Educational Assistance System’ (“Sistema Nacional de Atendimento Socioeducativo” – SINASE) reaffirmed the educational nature of the social-educational sentences imposed on young persons accused of criminal offenses. The Brazilian government called for the formal implementation of SINASE and a new law to govern the execution of social-educational measures, with a view to preventing or limiting undue discretion in the identification, processing, and execution of measures and establishing more objective parameters and fairer procedures. In that sense, the Brazilian National Congress is discussing a bill of law on the execution of social-educational measures and the implementation of SINASE.

The responsible institutions have coordinated with the Ministry of Social Development and Hunger Alleviation (“Ministério do Desenvolvimento Social

e Combate à Fome”) to attach special priority to non-confinement measures (community service, conditional parole programs) as alternatives to confinement measures, which should only be applied exceptional and transitory circumstances. The purpose is to reverse the growing trend toward subjecting young persons to confinement, an approach that has proved ineffective in providing greater social inclusion for former internees of the correctional system.

With a view to guaranteeing young internees the right to family and community life, in addition to their specific cultural expressions, measures have been developed to promote open detention programs at the municipal level. The effort centers on the coordination of inter-sectoral policies at the local level and the creation of community support networks, as well as through the regionalization of deprivation of liberty programs.

The government has given emphasis to initiatives aimed at restorative programs, in an effort to address the question of responsibility from a non-retributionist perspective and, in this way, fulfill the recommendations of United Nations Resolution 2002/12 – Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters, adopted in 2002 by the Economic and Social Council of the United Nations.

The SINASE Inter-Sectoral Implementation Commission, in which ministries and national civil society organizations participate, was established to discuss the reorganization of the social-educational system, a component part of the Brazilian government’s social agenda for children and young persons. One of the issues addressed by the Commission is the “Tailor Made” (“Na Medida Certa”) Project aimed at young persons serving social-educational sentences in closed or open detention systems, encompassing internment and semi-open detention units in the 26 states and the Federal District and open detention units in municipalities with more than 50,000 inhabitants.

Submitted and discussed within the framework of CONANDA, the project signals a new trend toward focusing on defined territorial regions that offer the potential for increased scale, budgetary resources, and consolidation of methodologies for federal government programs. The “Tailor Made” (“Na Medida Certa”) Project constitutes the most recent response to an increasingly complex social challenge for Brazilian society: the appropriate assignment of responsibility and assistance to young persons in conflict with the law.

Measures undertaken with defense networks and entities have been introduced as well, including: implementation and strengthening of specialized child and youth centers within juvenile criminal justice and public security

institutions (Public Defender Units, Criminal Courts, Law Enforcement Agencies, and the Public Prosecutor's Office); enhanced organization and coordination of strategic networks. Two examples of these networks are the recently created: National Network for the Defense of Young Persons in Conflict with the Law ("Rede Nacional de Defesa do Adolescente em Conflito com a Lei" – RENADE), composed of attorneys, public defenders, and legal defense centers, and the National Juvenile Justice Forum ("Fórum Nacional de Justiça Juvenil"), established in 2008 and made up of state juvenile court judges designated by the Courts of Justice.

Also warranting mention are the efforts of the SEDH in the legislative sphere involving discussions and draft laws and proposed constitutional amendments on issues concerning young persons in conflict with the law. Examples include reductions in the age of criminal responsibility (currently 18 years), increased social-educational sentences, and the establishment of detention facilities for young persons with mental disabilities based on the outdated logic of traditional psychiatric wards and asylums. The SEDH has consistently opposed these legislative proposals based on the principles underlying the government measures described above and the applicable international recommendations.

Yet another important government initiative centers on the consolidation of a matrix of social-educational content based on a modern paradigm of full protection, accomplished through studies and discussion involving all participants in the rights protection system.

Integrated Information System

The various measures undertaken with Brazilian states and civil society organizations in conjunction with advances in information technology spurred the development of the Integrated Database for Children and Young Persons ("Sistema Integrado de Informações para a Infância e Adolescência" – SIPIA), a system with information on both the protection systems (SIPIA System/Guardian Councils) and the social-educational systems (SIPIA-SINASE).

The SIPIA will enable access to real-time data on young persons in conflict with the law, thereby contributing to strengthen and enhance public policy oversight and development. Further, the existence of media tools fosters monitoring of the program's execution procedures and determination of indicators on the human rights violations entered in the system. The tools will

be used as information sources for the National Child and Youth Rights Observatory (“Observatório Nacional dos Direitos da Criança e do Adolescente”) (<http://www.obscriancaeadolescente.org.br/>).

Education for Young Persons and Adults Deprived of Liberty

In 2005, the Ministries of Education and Justice launched a series of measures in cooperation with UNESCO and partner governments aimed at delivering education to prisoners. The effort was included as a target of the National Public Security with the Full Exercise of Human Rights Program (“Programa Nacional de Segurança Pública com Cidadania” – PRONASCI).

PRONASCI includes a series of measures to control and repress criminal activity rooted in addressing the socioeconomic causes of the phenomenon.

Among the actions undertaken by PRONASCI is the formulation of policies to improve the prison system, including initiatives to value professionals in the field and provide support to the implementation of educational and vocational training projects to persons serving prison terms and to former inmates of the penitentiary system. PRONASCI approaches public security as a decentralized and coordinated policy involving the Federal government, states, and municipalities and as an integral component of social inclusion policies in housing, education, work, recreation and leisure, assistance, and job and income generation.

Full Protection Network for Children and Youth

Children and youth are subjects of rights since they have special needs for their full development. This principle is a direct product of the legal consolidation of human rights at the international and national levels in the 20th century. However, the principle has not been broadly incorporated in the daily life of Brazilian society.

The acute vulnerability of children and youth, in particular poor and non-white individuals, reveals that the consolidation of rights has yet to be translated into concrete practices capable of establishing new standards and attitudes for the treatment of children and youth in the family, community, social, and state context. It is critical that all of society recognize aggression, mistreatment, corporeal or psychological punishment, sexual abuse, neglect, and child labor as criminal offenses and unacceptable conduct.

The Brazilian government attaches particular importance to the role of schools in this effort, given their capacity to exercise a positive influence on parents and communities. Through incorporation of the Human Rights Protection System for Children and Youth (“Sistema de Garantia de Direitos Humanos de Crianças e Adolescentes”), schools become venues staffed with qualified and trained personnel to offer children and young persons assistance in reporting or confronting cases of violence and to participate in the notification and follow-up procedures in partnership with other key actors of the full protection networks. Administrators, educators, and other education professionals must be trained to handle delicate and difficult situations which, in certain cases, may include threatening environments or circumstances long kept silenced or neglected by society.

The federal government’s policies aim to address this situation, particularly in those areas deemed of greatest social risk and vulnerability, through measures implemented by the Ministry of Education to build up the capacity of schools to deliver support in overcoming physical and psychological scars of violence and to develop practices to reduce the incidence of violence in communities.

The “Protective School” (“Escola que Protege”) Project stimulates communities to engage in defending the rights of children and young persons. It is essential that families and communities are integrated to the measures undertaken in schools and that they participate in the process, both as direct beneficiaries of protective actions and as partners in guaranteeing and promoting the rights of children and youth.

Extra-community integration on weekends is accomplished through the “Open School: Education, Culture, Sport, and Work for Young Persons” (“Escola Aberta: Educação, Cultura, Esporte e Trabalho para a Juventude”) program. The initiative encourage public schools to serve as an alternative space for training, cultural, sport, and recreational activities offered to primary school students and their communities on weekends. A product of a partnership between the Ministry of Education and state and municipal education secretariats, the program also contributes to reducing violence in school communities.

In several communities, schools constitute the only available public facility and, as such, represent a vital center for the exercise of civil and political, social, economic, and cultural rights of children and youth and their families. Strengthening school-community relationships contributes, moreover, to the development of a dynamic education policy project in schools, designed to

guide schools and the formulation of their related didactic-pedagogical program with the effective participation of all actors involved.

The “Open School” (“Escola Aberta”) program does not limit education to expanded mental maturity achieved through strict technical and academic instruction, but strives, rather, for full development, including in the field of culture, sport, and recreation. The program attaches value to local, informal, and popular knowledge and regional culture as a means to overcome social exclusion and reduce violence and to build new spaces for the exercise of fundamental rights.

Human Rights and Diversity

The increased mobilization among various social sectors to recognize the legitimacy of their differences has corresponded to a clear awareness regarding the strategic role of education in confronting the factors that prevent or hinder social and political participation of all citizens.

In a national setting marked by serious violations of the rights of lesbian, gay, bisexual, transgender, transvestite, and transsexual – LGBT persons, including in schools, education has an indisputably relevant role to play. Education is viewed as an essential factor to guarantee social inclusion, promote equality of opportunities, and confront all forms of prejudice, discrimination, and violence, including those pertaining to issues of gender and sexuality. These issues relate to interrelated concepts, such as gender, gender identity, sexuality, and sexual orientation, for which specific educational policies are required.

The Brazilian government believes that an inclusive approach to educational policies encompassing gender, sexual orientation, and sexuality cannot be limited to sexual health and reproductive rights, notwithstanding their central significance. Rather, investments are essential in the initial and continuing training of educators to stimulate the adoption of positive views toward all persons and overcome the perception of others as different, unequal, inferior, or abnormal, including in regard to sexuality. By the same token, efforts are made to conduct ongoing reviews of educational curricula and the production and distribution of didactic material, with a view to promoting appropriate pedagogical approaches and content.

With respect to education in human rights, the Ministry of Education has sought to enhance: a) training for primary education professionals and the

production of educational materials and books; and b) incentives to the establishment of educational reference centers in human rights education in institutions of higher learning, whether study and research centers or spaces for bibliographic reference materials and articles, discussion group sessions, and other resources and activities.

A group of public institutions of higher learning devoted to providing continuing training to education professionals established a Diversity Education Network (“Rede de Educação para a Diversidade” – REDE). The objective is to disseminate and develop educational methodologies to incorporate subjects relating to diversity in daily classroom activities. Continuing training course programs are offered to public primary school teachers in eight thematic areas pertaining to diversity: ethnic and race relations, gender and diversity, training for tutors, training for young persons and adults, field education, comprehensive and integrated education, environmental education, and diversity and citizenship. The project was launched through a partnership among the Special Secretariat for Women’s Policies (“Secretaria Especial de Políticas para as Mulheres” – SPM), the Special Secretariat for Policies to Promote Racial Equality (“Secretaria Especial de Políticas de Promoção da Igualdade Racial” – SEPPIR), the Ministry of Education and academic institutions.

Child and Youth Health

The Child and Adolescent Bill of Rights (“Estatuto da Criança e do Adolescente” – ECA) sets out a specific mandate for the Unified Health System (“Sistema Único de Saúde” – SUS): to promote the right to life and health of children and adolescents through comprehensive health assistance, which presupposes universal and equal access to services at the three levels of health care – primary, secondary, and tertiary.

The system was developed on the basis of provisions contained in the Federal Constitution establishing the principles and guidelines of health care in Brazil, which were subsequently enacted into law through Laws 8080 and 8142 of 1990. Universal and equal access to health promotion, protection, and recovery measures is a basic principle, accomplishment of which is charged to the three levels of government: federal, state, and municipal. The private sector, for its part, delivers complementary health services to the public. Finally, the SUS is guided by the operational principles of decentralized management, comprehensive assistance, and community participation.

The Ministry of Health follows the recommendations of the World Health Organization – WHO, which defines children as persons 0 to 9 years of age and adolescents as persons 10 to 19 years of age. The Ministry of Health adopts these definitions for health actions directed to child and adolescent age groups, taking into account, on the one hand, the child’s growth and development stage and, on the other, the specific health needs of individuals and the onset of puberty.

The comprehensive health care policies implemented in Brazil for children 0 to 9 years of age and adolescents 10 to 19 years of age are fully consistent with the commitments undertaken by Brazil under the Convention on the Rights of the Child, (1989), the Federal Constitution (1988), the Child and Adolescent Bill of Rights (1990), and the Millennium Development Goals (2000). They are also consistent with the inter-sectoral policies formulated between state and municipal governments and organized civil society stakeholders for the purpose of implementing health actions and strategies.

In the issue of Children’s Health and Breastfeeding, five priority action lines were selected beginning in 2008, most notably violence prevention and the promotion of a culture of peace. Through this particular action line, a set of measures was established with the objective of offering health professionals guidance on providing care to children in situations of violence and their families; raising awareness among administrators on the organization of comprehensive health care services for children victims of violence; and, lastly, fostering an enhanced health care and social protection network across Brazil.

To effectively promote broad training in the exercise of human rights by children and adolescents, based on the interaction between health and education policies, the Ministries of Education and Health launched the School Health Program (“Programa Saúde na Escola”), an initiative applied throughout the federal public primary and secondary school system, the federal public vocational and technical training system, and the youth and adult education system.

Through the end of 2009, implementation of the program had been completed in 609 municipalities covered under the Family Health (“Saúde da Família” – ESF). The municipalities are among the 1,242 Brazilian municipalities with the lowest Primary Education Development Index (“Índice de Desenvolvimento da Educação Básica”) and, as such, priorities of the Ministry of Education’s Education Development Plan (“Plano de Desenvolvimento da Educação”).

In addition to the municipalities covered under the ESF and situated at the bottom end of the IDEB, another 2,050 schools in participating municipalities of the More Education Program (“Programa Mais Educação”), corresponding to state capitals and major metropolitan areas, will be included.

The objectives of the School Health Program are:

- to promote health and a culture of peace, reinforcing the prevention of health damage and strengthening the relationship between public health and public education systems;
- to coordinate SUS actions with those of the public primary education system, in order to extend the reach and impact of the health measures aimed at students and their families, ensuring optimal use of available spaces, equipment, and resources;
- to provide enhanced means for the full development of students;
- to contribute to the construction of a social assistance system centered on promoting the exercise of human rights;
- to confront vulnerabilities in the health field capable of jeopardizing the full educational development of students;
- to promote communication between schools and health units, assuring the exchange of information on the health conditions of students; and
- to strengthen community participation in primary education and health policies at the three levels of government (federal, state, and municipal).

The PSE applies five components to guarantee accomplishment of these objectives:

- Evaluation of the health conditions of students: performed jointly by schools and the Family Health Program team support centers in municipalities;
- Health promotion and prevention: includes the additional participation of the Violence and Health Promotion and Culture of Peace Centers (“Núcleos de Prevenção de Violências e Promoção da Saúde e da Cultura de Paz”);
- Continuing education and training of education and health professionals and youth for the School Health Program: actions implemented by the Ministry of Health and Ministry of Education;
- Monitoring of student health evaluations: based on health tracking and research experiences and instruments applied by the Ministry of Health;

- **Monitoring and evaluation of the School Health Program:** the effort has mobilized partner ministries to formulate appropriate indicators.

In regard to the health and prevention component, efforts will be undertaken to expand the reporting of violence in schools through coordination of the Violence and Health Promotion and Culture of Peace Centers. The Individual Notification/Investigation Form for Domestic, Sexual, and Other Forms of Violence serves as an effective tool to uncover and formally enter reports of violence. It is aimed at population segments in situations of vulnerability or violence, namely children, young persons, women, and the elderly, who are today the focus of special normative policies and instruments mandating the notification of cases of violence. The notifications also serve to report and uncover situations of violence affecting other vulnerable segments and victims of trafficking in persons and human organs.

The notification forms have a positive impact by recording information on victims and offenders, as well as the types, nature, circumstances, and consequences of violent acts. The information furthers the effort to refer and confront cases of violence from a multidisciplinary and inter-sectoral perspective – that is, based on an approach rooted in providing comprehensive social and legal assistance, in addition to facilitating the delivery of health care services.

It is essential to mention two policies with significant effects on the prevention of juvenile crime: the 2001 National Policy for the Reduction of Morbimortality due to Accidents and Violence (“Política Nacional de Redução da Morbimortalidade por Acidentes e Violências”) and the 2006 National Health Promotion Policy (“Política Nacional de Promoção da Saúde”), administered through the Health Center Network.

The objective of the Policy for the Reduction of Morbimortality is to promote safe and healthy behaviors and environments, monitor the occurrence of accidents and violence, expand pre-hospital care, assist victims, build the capacity of human resources, and support the performance of studies and research.

For its part, the National Health Promotion Policy (“Política Nacional de Promoção da Saúde”) is aimed at promoting quality of life and reducing health vulnerabilities and risks, in accordance with their determining and conditioning factors, including lifestyle, working conditions, housing, environment, recreation and leisure, culture, access to essential goods and services. The PNPS strives

to give continuity and expand the specific objectives of the previous policy, namely: a) to stimulate non-violent lifestyles and the consolidation of a culture of peace; b) to extend cooperation between the health field and other government areas, sectors, and social actors in public policy management; c) to develop and strengthen initiatives that contribute to reducing inequality.

Through the end of 2009, 255 Violence Prevention, Health Promotion, and Culture of Peace Centers had been implemented, 216 in municipal health secretariats, 21 in state health secretariats, another 16 managed by academic institutions, and an additional 2 by non-governmental organizations.

Health and Social-Educational Measures

Young persons serving social-educational sentences involving closed detention or semi-open detention must be assured access to comprehensive health services pursuant to the guidelines established by the Ministry of Health in regard to the Social Agenda – a set of policies issued through Administrative Rules 1426 of 2004 and 647 of 2009. In coordination with the state and municipal health secretariats and administrators of the social-education system, the ministry provides guidance to the preparation of State Operation Plans setting forth the specific form of assistance delivered to the youth segment.

At the same time, the Ministry implements financial transfers to provide for support to the continuing education of professionals engaged in delivering assistance, the purchase and development of educational material, and other measures to promote health and prevent illness and health-related damage. In 2009, four states adhered to the State Operation Plan, which is currently under implementation in the cities of Rio Branco, Acre; Teresina, Parnaíba and Picos, Piauí; Jaboatão dos Guararapes, Arcoverde, Abreu, and Lima, Caruaru and Garanhuns, Pernambuco; Goiânia, Luziânia, Formosa, Jataí, Anápolis, Itumbiara, and Rio Verde, Goiás; and the Federal District.

The Ministry of Health fosters the organization of health networks to provide assistance to young and adult women, as well as children and adolescents victims of violence of both sexes through an effort centered on promoting inter-sectorial rights protection and guarantee networks prioritizing locations where the youngest population segments are most vulnerable to violence, sexual exploitation, and trafficking in persons.

The launch of the Adolescent Health Booklet (“Caderneta de Saúde de Adolescentes”) represents another important measure undertaken among the

territorial units of the Federation. The booklet contributes to monitoring the development of young persons and enables the government to deliver educational initiatives in health and the prevention of health damage with a view to reducing individual and social vulnerabilities.

The measures the Government is taking are complemented by the actions of other public authorities, in particular the Judiciary, the Legislative and the Department of Public Prosecution. Furthermore, the actions taken by the private sector in financing not only their own initiatives, but also those of third parties are already contributing to prevent young people from being in conflict with the law and to the social reintegration of young people in conflict with the law or victims of the offense. No less important is the support offered by civil society, in partnership with the Government, in carrying out activities in the communities. The Brazilian society is interested in discussing the best and most effective ways of preventing children and young persons from being in conflict with the law and from being exposed to crime, and of encouraging their full human development within a more fair and equitable society.

Chapter 2 – Ratification and implementation of international instruments for the prevention and elimination of terrorism*

Introduction

Brazil is committed to fostering human, social, and economic development, combating all forms of discrimination, and promoting a culture of peace and justice. Brazil condemns all manifestation of terrorism, and that it should be confronted in strict accordance with the Charter of the United Nations and other norms of International Law, International Human Rights Law, and Humanitarian Law. The repudiation of terrorism is expressly set forth in article 4, subsection VIII, of the Federal Constitution, which governs the country's relations with other States. Among other principles, Brazil is guided by the formal condemnation of terrorism, defined as a non bailable offense (article 5 of the Federal Constitution).

Brazil has implemented the mechanisms necessary to prevent and combat international terrorism and discourage the employment of means aimed at financing terrorism. To this end, the country has modernized its internal legislation, participating in the formulation of international norms and contributing to bilateral and multilateral cooperation in preventing, combating, and prohibiting the financing of terrorism.

It is the Brazilian government's view that universal measures to prevent and combat terrorism should be adopted, including in countries not affected by terrorism, in the light of the transnational character of international terrorism

* The issues discussed in this chapter correspond to the topics addressed in item 4 of the agenda of the 12th United Nations Congress on Crime Prevention and Criminal Justice.

and in accordance with the resolutions of the United Nations Security Council and the related multilateral treaties. Brazil is party to all 13 international conventions in effect, as well as the Inter-American Convention against Terrorism (Organization of American States). Brazil is also a member of the Financial Action Task Force on Money Laundering and Terrorist Financing – FATF, which issued 40 recommendations related to the money laundering offense and 9 specific recommendations with guidance on preventing and suppressing terrorist financing, defined as a predicate offense.

The section below sets out the internal legal framework currently under implementation and aimed at ensuring compliance with the respective obligations under Internal Law.

1. Brazilian Legal Framework

In Brazil, the offense of terrorism is defined as a heinous crime under Law 8072 of 1990, and, as such, is not subject to amnesty, pardon, reprieve, or bail. Furthermore, Law 9613 of 1998, which classifies terrorism as a predicate offense of money laundering, established the Financial Activities Control Board (“Conselho de Controle de Atividades Financeiras” – COAF), a component of the Ministry of Finance. Discussed in further detail below, the Board is a multidisciplinary body represented by all executive branch agencies engaged in formulating policies and executing actions to confront international terrorism. COAF maintains a close working relationship with the National Congress in relation to the incorporation, through enactment of domestic laws, of the international commitments undertaken in the applicable treaties to which the country is a signatory.

The Brazilian government maintains an ongoing dialogue with the various agencies responsible for preventing and confronting international terrorism and the financing of terrorism. The Office of Institutional Security of the Presidency of the Republic (“Gabinete de Segurança Institucional da Presidência da República”), the Ministry of Justice, the Ministry of Defense, and the Ministry of Finance are charged with the performance of specific responsibilities, in coordination with the Ministry of External Relations, as provided for in the National Defense Strategy (“Estratégia Nacional de Defesa”), formalized through Decree 6703 of 2008, and the National Defense Policy (“Política Nacional de Defesa”), established through Decree 5484 of 2005. The Strategy sets out guidelines for developing the necessary structures to prevent terrorist actions and conduct counter-terrorism operations.

Other important legal instruments include the Law on Money Laundering, Law 9613 of 1998, and the statute instituting the Brazilian Intelligence System, Law 9883 of 1999, and Law 8974 of 1995, governing the field of genetic engineering.

The adoption of internal laws aimed at ensuring Brazil's compliance with the obligations set out in multilateral treaties has fostered the establishment or strengthening of institutions within the various government agencies engaged in the issue.

Additionally, a number of other draft laws and norms are currently under discussion in the government, with the objective of modernizing and enhancing the applicable internal legislation and, in this way, fulfilling all aspects of the international recommendations and obligations in this area.

Financing of Terrorism

Money laundering has been classified as a criminal offense since the incorporation of the provisions of the UN's 1988 Vienna Convention against Illicit Traffic in Narcotics in the domestic legal framework in 1991.

The Brazilian law establishing terrorism as a predicate offense of money laundering also mandated the creation of the Financial Activities Control Board ("Conselho de Controle de Atividades Financeiras" – COAF), a component of the Ministry of Finance, (article 14 of Law 9613 of 1998). The Board performs a series of important duties, including cooperation and timely and efficient information exchanges, with a view to combating terrorist assets and financing. Brazil's Financial Intelligence Unit – FIU is regulated by Complementary Law 105 of 2001, which authorizes the lifting of secrecy in international transactions for the purpose of the investigation of criminal offenses, based on provisions governing the practice of international terrorism.

In accordance with the recommendations of the International Financial Action Task Force – FATF, of which Brazil is a member, COAF can impose sanctions on enterprises through the establishment of administrative proceedings. Brazilian law provides for effective criminal sanctions against natural persons suspected of collaborating with, assisting, or supporting the commission, planning, or intended commission of a terrorist act.

Similarly, a range of other international agreements and recommendations have been incorporated in Brazilian law. The country is a signatory to the United Nations International Convention for the Suppression of the Financing

of Terrorism and the United Nations Convention against Transnational Organized Crime, enacted through Decree 5640 of 2005. United Nations Security Council Resolutions 1267 of 1999 and 1373 of 2001 were incorporated through Decree 3267 of 1999 and Decree 3976 of 2001, respectively. Brazil also signed the OAS Convention against Terrorism, passed into law through Decree 5639 of 2005.

In Brazil, any person who by any means, whether directly or indirectly, unlawfully or intentionally, employs or raises financial resources for use or with the knowledge that such resources will be used, in whole or in part, in the commission of a terrorist act is deemed to be in violation of the law, pursuant to Law 7170 of 1983. The Brazilian Code of Criminal Justice and the Brazilian Code of Criminal Procedure authorizes Brazil to take all measures as necessary to seize and freeze, or confiscate or take possession, of financial resources used or allocated for the purpose of committing terrorist acts.

Additionally, Law 10605 of 2002 provides for the civil liability of the Brazilian State in respect to third parties in case of terrorist attacks or acts of war against Brazilian registered aircraft operated by Brazilian public air transport companies, with the exception of air charter services.

Brazil maintains comprehensive statistics in various areas related to the application of criminal laws. Secure and reliable information on ongoing investigations and cases prosecuted by the nation's courts are furnished through a variety of institutions and agencies, including the Federal Public Prosecutor's Office, the Federal Police Department, COAF, the Federal Revenue Department ("Receita Federal" – RFB), the Brazilian Securities Commission ("Comissão de Valores Mobiliários" – CVM), and law enforcement departments throughout Brazil. However, at present, there are no ongoing investigations related to terrorist financing.

2. Institutional Framework

Promoting public safety and security is among the main priorities of Brazilian society and the Brazilian government. The focus of this effort is centered primarily on preventing and combating crime. Among the offenses with the most severe impact on the lives of Brazilian citizens are the illicit traffic of narcotics, arms trafficking, urban crime, juvenile delinquency, the involvement of children and young persons in various types and degrees of serious criminal offense, in addition to different forms of common violations, including pedophilia

and the exploitation of women and children for sexual ends. From the Brazilian perspective, and in the light of the country's situation and circumstances, including Brazilian society's broad acceptance of cultural, ethnic, racial, and religious diversity and the process of political, social, and economic integration on the South American continent, issues related to international terrorism assume relatively less significance in the context of the priorities of Brazilian society.

In Brazil's view, common crime and transnational organized crime bear no connection to terrorism, although a potential relationship could exist in certain circumstances and specific geopolitical situations. As a country with a long tradition of taking in immigrants from the widest possible origins, Brazil does not classify irregular immigration – as in the case of undocumented persons – as a criminal offense, nor does it view international borders as a source of concern with respect to international terrorism. Indeed, Brazilian society has benefited immeasurably from the inestimable contribution of immigrant labor, and evidenced a clear capacity to accommodate distinct cultural, socioeconomic, and religious perspectives throughout the country's disparate regions.

Notwithstanding this context, and while there have yet to be any recorded instances of terrorist operations or financing of terrorism within the territorial boundaries of Brazil, the government has sought to ensure vigilance and the establishment of laws, institutions, mechanisms, and capacities necessary to bolster efforts to prevent terrorism and its financing.

Of the various agencies of the public administration engaged in preventing and combating international terrorism, the National Secretariat of Public Security (“Secretaria Nacional de Segurança Pública”), of the Ministry of Justice, has sole responsibility for coordinating, pursuant to Decree 3695 of 2000, the activities of the security organizations encompassed under the Public Security Intelligence Subsystem (“Sistema de Inteligência de Segurança Pública” – SISP) that operate within the national territory. The agencies are: the Office of Institutional Security of the Presidency of the Republic (“Gabinete de Segurança Institucional da Presidência da República” – GSI), the Ministry of Defense (“Ministério da Defesa” – MD), the Civil Defense Force (“Defesa Civil”), the Ministry of Finance (“Ministério da Fazenda” – MF), the Federal Police Department, (“Departamento de Polícia Federal” – DPF) the Federal Highway Patrol Department (“Polícia Rodoviária Federal” – PRF), and the Brazilian Intelligence Agency (“Agência Brasileira de Inteligência” – ABIN).

Within their specific areas of competence, the members of these agencies track and evaluate real or potential threats to public security and prepare studies and reports, with a view to neutralizing, preventing, and punishing unlawful acts of any nature, including terrorism. The Ministry of Justice works closely with the individual states through the Federal Police Department, the Department of Foreigners, the Department for Coordination of Joint Police Action (“Departamento de Coordenação de Ação Conjunta da Polícia”), and the Department of Cooperation and Coordination of Security Activities (“Departamento de Cooperação e Coordenação das Atividades de Segurança”).

Also worth noting are the activities of the External Relations and National Defense Committee (“Câmara das Relações Exteriores e Defesa Nacional” – CREDEN), a branch of the Government Council, tasked with formulating policies, adopting guidelines and programs, and overseeing their implementation, including, for example, initiatives to combat narcotics trafficking and other transnational crimes, as well as terrorism, as established in Decrees 1895 of 1996, 2009 of 1996, 4801 of 2003, and 7009 of 2009.

Airport Security

The Brazilian institutional framework governing airport security encompasses the Ministry of Defense, in particular the Secretariat of Civil Aviation (“Secretaria de Aviação Civil”), the National Civil Aviation Agency (“Agência Nacional de Aviação Civil” – ANAC), and the Brazilian Airport Infrastructure Company (“Empresa Brasileira de Infra-Estrutura Aeroportuária” – INFRAERO). ANAC is the agency with primary responsibility for ensuring that Brazilian airport security standards comply with the determinations of the International Civil Aviation Organization – ICAO.

The security procedures related to passenger boarding and deplaning established under the Convention on International Civil Aviation, also known as the Chicago Convention of 1944, are performed by the Federal Police Department. The Department’s responsibilities are set in the National Civil Aviation Security Program (“Programa Nacional de Segurança da Aviação Civil” – PNAVSEC), issued through Aeronautical Command Order (“Instrução do Comando da Aeronáutica” – ICA) 58-53.

The standards and practices recommended in Annex 17 of the Chicago Convention are implemented by Brazil, based on the following provisions:

- The measures in effect in the largest and most important Brazilian airports – with operations involving aircraft with capacity for 60 passengers and a total weight of over 45,500 kg – are aimed at protecting against unlawful acts of interference in international civil aviation. In smaller airports, which carries domestic flights serviced by small aircrafts, the application of security measures is contingent on risk evaluations performed by ANAC.

- ANAC adopted a national quality control program for civil aviation security in Brazil that involves regular inspections, audits, simulations, and vulnerability studies – as provided for in ANAC’s National Regulation (Standard 3.4.4).

- Personnel with responsibility for security controls in the aviation sector are subject to background check and specific selection procedures, in accordance with Standard 3.4.1. of Annex 17 of the Chicago Convention, as mandated by the ANAC National Regulation (ICA 107-1006).

- Brazil works with other States in the context of national civil aviation security programs, in particular through the support provided to the establishment of adequate structures for the execution of cooperation in security matters.

Port Security

The agreements concluded between Brazil and the International Maritime Organization (IMO) have resulted in substantial investments in equipment and capacity building for the purpose of adapting Brazilian ports to the current international security requirements provided for in the International Ship and Port Facility Security Code – ISPS Code.

The National Public Port, Terminal, and Waterway Security Commission (“Comissão Nacional de Segurança Pública nos Portos, Terminais e Vias Navegáveis” – CONPORTOS) has primary responsibility for developing and executing the prevention and suppression system for unlawful acts in the framework of the measures established by the IMO, including implementation of the ISPS Code.

The Special Maritime Police Centers (“Núcleos Especiais de Polícia Marítima” – NEPOM), implemented in a number of states, conduct systematic patrols of maritime transport in port areas and inland water bodies. A product of an agreement executed between the Ministry of Justice and the Brazilian Navy, the Centers are responsible for preventing and suppressing criminal

activities in Brazilian ports, on waterways, and at sea, and controlling and enforcing the movement of unauthorized persons, in addition to performing inspections of vessels, crews, and passengers.

3. International Action

The Brazilian government supports the decisive role of multilateral forums in the fight against terrorism. In this light, it attaches priority to participation in meeting of the Special Working Group of the United Nations currently negotiating a comprehensive convention on the matter. Brazil also plays a prominent role in the Financial Action Task Force – FATF and the Financial Action Task Force of South America – GAFISUD, collaborating in the effort to prevent and combat the financing of terrorism. In the framework of the OAS, the country participated actively in the negotiations that resulted in the adoption of the Inter-American Convention against Terrorism in June 2002 and has provided direct cooperation to the activities undertaken by the Inter-American Committee against Terrorism – CICTE. In September 2001, the Ministers of the Interior and Justice of MERCOSUR approved the creation of the Permanent Working Group – today designated the Specialized Forum on Terrorism – to assess and propose joint and coordinated action against terrorism.

Brazil's commitment to preventing and combating terrorism and the financing of terrorism is readily evidenced by the modernization of the applicable domestic laws, the country's bilateral and multilateral cooperation arrangements, and the development of international standards to prevent and suppress international terrorism, as well as identify and block the related sources of financing.

The efforts of preventing and combating terrorism are enshrined in a series of 13 International Conventions negotiated from 1963 to 2005 that provide for independent, yet complementary, obligations conducive to enhanced preparedness among States to confront international terrorism. The Conventions set out the applicable offenses and procedures for mutual legal assistance based on formal requests from States, criminal prosecution in accordance with internal legal systems, and guaranteed punishment and extradition in the fields of aviation, navigation, and maritime security, among others.

United Nations Conventions on Terrorism and Their Adoption by Brazil

Cv.	Title	Countries ¹	Execution	Entry into Effect	Brazil
1.	Convention on Offences and Other Acts Committed on Board Aircraft (1963)	184	09/14/1963	12/4/1969	Decree 66520/70 04/14/1970
2.	Convention for the Suppression of the Unlawful Seizure of Aircraft (1970).	184	12/16/1970	10/16/1963	Decree 70201/72 02/14/1972
3.	Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (1971)	187	09/23/1971	01/26/1973	Decree 72383/73 01/26/1973
4.	Convention on the Prevention and Punishment of Crimes against Persons Enjoying International Immunity, Including Diplomatic Agents (1973).	173	12/14/1973	02/20/1977	Decree 3167/99 6/7/1999
5.	International Convention against the Taking of Hostages (1979).	167	12/18/1979	6/3/1983	Decree 3517/00 4/7/2000
6.	Convention on the Physical Protection of Nuclear Materials (1980).	139	3/3/1980	2/8/1987	Decree 95/91 2/8/1987
6.1	Amendments to Convention on the Physical Protection of Nuclear Materials (2005)	24	7/8/2005	---	---
7.	Protocol for the Repression of Unlawful Acts of Violence in Airports Serving International Civil Aviation (1988).	168	02/24/1988	8/6/1989	Decree 2611/98 6/8/1997
8.	Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (1988)	152	3/10/1988	3/1/1992	01/23/2006
8.1	Protocol to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (2005)	8	08/14/2005	---	---
9.	Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (1988)	140	3/10/1988	3/1/1992	01/21/2006
9.1	Protocol to the for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (2005)	6	08/14/2005	---	---
10.	Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991)	140	3/1/1991	06/21/1998	Decree 4021/01 12/3/2001
11.	International Convention on the Suppression of Terrorist Bombings (1997)	164	12/15/1997	05/23/2001	Decree 4394/02 09/22/2002
12.	International Convention for the Suppression of the Financing of Terrorism (1999)	172	12/9/1999	4/10/2002	Decree 5640/05 10/16/2005
13.	International Convention for the Suppression of Acts of Nuclear Terrorism (2005)	63	04/13/2005	7/7/2007	Legislative Decree 267/09 6/10/2009

Fonte: http://treaties.un.org/Pages/DB.aspx?path=DB/studies/page2_en.xml&menu=MTDSG; <http://www2.mre.gov.br/dai/terrorismo.htm>; <http://www.state.gov/documents/organization/122599.pdf>

¹Number of countries ratifying the Conventions as of 1 March 2009.

Brazil participates in international efforts aimed at preventing and combating all forms of terrorism, including acts of terrorism involving weapons of mass destruction – WMD. Those countries in possession of WMD stockpiles, in particular nuclear weapons, have a particular responsibility to promote nuclear disarmament, an objective that should be pursued in relation to chemical and biological weapons as well. Ideally, the elimination of weapons of mass destruction would preclude the possibility of their use in terrorist acts.

Brazil is a signatory to the main international nuclear non-proliferation treaties – The Convention on the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco) and the Nuclear Non-Proliferation Treaty – NPT. It also ratified the International Convention for the Suppression of Acts of Nuclear Terrorism, the Chemical Weapons Convention – CWC, and, since 1973, the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction – BTWC. The Ministries of Health and Agriculture exercise primary responsibility for executing the provisions and following up implementation of the BTWC. The Convention was incorporated to domestic law through Decree 77374 of 1976, although issues related to biological weapons have been covered under Brazilian law since 1940. Also of note was the enactment of Law 8974/95, governing genetic engineering and modified living organisms, in addition to materials which could be employed in terrorist activities.

In the nuclear field, Brazil adheres to a group of six international conventions of the International Atomic Energy Agency – IAEA in the area of safety and security. The country has consistently maintained high standards of security for nuclear materials and facilities through application of IAEA recommendations on the transport, storage, and protection of nuclear materials. The National Nuclear Energy Commission (“Comissão Nacional de Energias Nuclear” – CNEN) elevated the security clearance levels to Brazilian nuclear facilities and reinforced patrolling of high-security areas.

4. Perspectives

Brazilian authorities are mindful of the need and prepared to prevent use of the national territory for concealment, transit, recruitment, and financing activities aimed at terrorism. Brazil has invested in building the capacity of law enforcement and intelligence agencies to reinforce prevention policies and

ensure effective implementation of international commitments and the decisions and recommendations of technical bodies devoted to establishing security standards in various domains.

Challenges

One of Brazil's primary challenges lies in effectively patrolling the full extent of its national territory, composed of nearly 17,000 kilometers (10,600 miles) of land borders and 8,000 kilometers (5,000 miles) of maritime border area under the responsibility of law enforcement and military authorities.

Law 6815 of 1980 mandates that "entry into the national territory shall only occur at locations where the competent bodies of the Ministries of Health, Justice, and Finance maintain inspection and enforcement units" (article 22). However, the permeability of the country's land borders requires extensive efforts on the part of Brazilian authorities to control and suppress unlawful activities. To this end capacity building measures for the Armed Forces, Federal Police Department, and the various state public security secretariats is of the utmost importance.

Brazil has striven to pursue an integrated and effective approach to border surveillance and vigilance and control efforts, with a view to preventing the use of the national territory for criminal ends. Enhancement of the institutional and legal frameworks has special importance by contributing toward the formulation of more effective objectives and clearly delineating the respective mandates.

Integrated Action

Brazil boasts a consolidated institutional culture of joint action. The Brazilian Federal Police has primary responsibility for immigration controls and border security. The Department works in cooperation with the Brazilian Revenue Secretariat ("Secretaria da Receita Federal" – SRF), which is tasked with controlling and overseeing the flow of goods into and out of Brazilian territory at ports, airports, and border regions. The Revenue Department performs its duties in cooperation with other federal agencies – including the Federal Highway Patrol Department ("Polícia Rodoviária Federal" – PRF), while providing support to the effort against contraband in coordination with the National Ground Transportation Agency ("Agência Nacional de Transportes

Terrestres” – ANTT), the institution charged with conducting cargo and vehicles inspections. No less significant is the application of health regulations by the National Health Surveillance Agency (“Agência Nacional de Vigilância Sanitária” – ANVISA).

All of the agencies interact with and complement each other through the performance of the specific functions provided for by law, and through joint actions, including operations to prevent and suppress the illicit traffic of narcotics, contraband, embezzlement, forgery, bio-piracy, capital flight, and the illegal import of currency into the national territory.

An important initiative of the Brazilian government involves the National Strategy to Combat Corruption and Money Laundering, a body established in 2003 and composed of representatives from over 60 government agencies and entities, the judicial branch, and the Public Prosecutor’s Office that is coordinated by the National Justice Secretariat (“Secretaria Nacional de Justiça”) of the Ministry of Justice. Each year, targets are established, and fulfilled, as part of the group’s work plan, especially in respect to the development and submission of draft laws to the National Congress and the executive branch that are either directly demanded by the public or necessary to ensure fulfillment of the country’s international obligations. Of the various targets identified are measures to ensure accomplishment of the provisions contained in treaties and other instruments of international law, including those related to preventing and combating the financing of terrorism.

Customs Modernization

The Brazilian customs service is undergoing an extensive modernization process: enhanced facilities and new equipment – aircraft, motorized vessels, and scanners, among others – are part of an effort to bolster legal customs controls without jeopardizing international trade flows. The Federal Police Department and working groups of the Brazilian Revenue Department’s Intelligence Unit have the authority to exchange information with customs services of countries throughout the world, with a view to preventing criminal activities.

The National Database of Wanted and Banned Persons (“Sistema Nacional de Procurados e Pessoas Impedidas” – SINPI) is available for consultation at border entry and exit points and is fed with data provided by Brazilian security authorities and Interpol. The Brazilian Federal Police employs

the National Passport Database (“Sistema Nacional de Passaportes” – SINPA), a system containing records on all lost and stolen passports and travel documents, which are transmitted to Interpol. Further, the Federal Police has issued biometric passports in the individual states and the Federal District since 2006, a move intended to disrupt fraudulent activities.

The New Brazilian Passport

Brazil’s new common passport was first issued in 2006, based on the international security standards established by the International Civil Aviation Organization – ICAO and in compliance with MERCOSUR standards. The passport includes 16 security features to prevent forgery.²

In conjunction with the prevailing international norms, immigration authorities have discretionary powers to permit or deny entrance to any person into national territory. Entry may be denied due to suspected risk or potential detriment to national interest, in accordance with the information provided through the SINPI.

Strengthening of the Institutional and Legal Framework

Enhancing Brazilian law to combat terrorism was the subject of a study undertaken by the Counter-Terrorisms Technical Group (“Grupo Técnico de Contra-terrorismo”) established by the Government’s Council of External Relations and National Defense Committee (“Câmara de Relações Exteriores e Defesa Nacional” – CREDEN). The initiative involves a broad institutional mobilization effort aimed at providing Brazil with a legal framework properly adapted to the applicable provisions of International Law on preventing and combating terrorism. Development of draft legislation on Defense of the State and the Democratic State Based on the Rule of Law is currently under discussion with a view to updating the National Security Law. The new National Intelligence Policy (“Política Nacional de Inteligência”), for its part, includes

⁴ 1. Two dimensional barcode; 2. Micro letters in background; 3. Background in iris printing; 4. Background with invisible print; 5. Intaglio printing with latent image; 6. Intaglio printing with OVI ink (optically variable); 7. Security sheet – data protection; 8. Mould-made watermark; 9. Paper with visible and invisible fibers; 10. Paper with security thread; 11. Chemically reactive paper; 12. Abrasion and solvent sensitive ink; 13. Bi-color luminescent binding (stitched thread); 14. Conical laser perforation; 15. Pages with stitch finishing; 16. Pages in electrotype watermark.

proposed changes to the Brazilian Intelligence System (“Sistema Brasileiro de Inteligência” – SISBIN), in an effort to bolster the effectiveness of intelligence production.

Mechanisms for international cooperation, information exchanges between States, and the protection of confidentiality are presently under consideration for incorporation in Brazilian law. The Office of Institutional Security has held multidisciplinary discussions for purposes of formulating a policy to protect and defend “critical infrastructure” in the fields of telecommunications, finance, transportation, and various forms of electric power generation.

Intelligence and Prevention

Since 1995, the Federal Police Department has operated a specialized counter-terrorism unit under the organization’s Intelligence Directorate: the Counter-Terrorism Service of the Federal Police (“Serviço de Antiterrorismo da Polícia Federal” – SANTER). The objective of the unit is to produce information for use in the decision-making processes of the Intelligence Director, the Director-General, and, as necessary, the Minister of Justice.

Additionally, the reorganization of the Brazilian Intelligence Agency (“Agência Brasileira de Inteligência” – ABIN) included the establishment of a specific unit devoted to tracking terrorist activity: the Counter-Terrorism Department (“Departamento de Contra-Terrorismo” – DCT). The new unit is tasked with formulating policies to prevent and coordinate information exchanges with key international counter-terrorism agencies.

5. Domestic Coordination and International Cooperation

Brazil believes that enhanced cooperation among States contributes to advancing the effort to prevent and combat international terrorism, in particular within the framework of Security Council Resolution 1373 of 2001, which was incorporated into Brazilian law through Decree 3976 of 2001. The Resolution calls on countries to identify means to intensify and accelerate the exchange of operational information – including in respect of lost or falsified documents, explosives, and weapons – and to provide mutual legal assistance. That cooperation is manifested in a variety of fields, among them the legal assistance area and in the intelligence services, whether in the form of law

enforcement measures or actual intelligence, including prevention, enforcement, and control actions.

International cooperation is also critical to preventing and combating money laundering, an area that has been bolstered and augmented through information exchanges between Financial Intelligence Units, either on a bilateral basis or through the Egmont Group, a network of Financial Intelligence Units established in 1995. The Egmont Group is an important instrument that enables expanded analysis and, by extension, enhancement of the information made available by the competent State authorities. Over the last decade, COAF has employed the Egmont Group on a regular basis.

Cooperation within the framework of MERCOSUR dates to the mid-1990s. In 1996, Brazil, Argentina, and Paraguay established the Tripartite Command of the Tri-Border Area to coordinate law enforcement and intelligence actions in the region. The Reciprocal Regional Security Cooperation and Coordination Plan marked a milestone in the consolidation of efforts by the States Parties and Associated States in the operational and intelligence fields for purposes of combating all forms of transnational organized crime. The Plan was launched at the Meeting of MERCOSUR Interior and Justice Ministers in November 1999.

In the field of intelligence, ABIN maintains cooperation and information exchange arrangements with related services throughout the world. On the domestic front, the agency is tasked with communicating any suspected case of international terrorism to the State's other security institutions and, by extension, alerting the responsible agencies in the scope of their respective competencies. To date, ABIN's intelligence investigations and active participation in international cooperation in capacity building and reciprocal exchange activities have not uncovered any evidence indicating efforts to plan, support, commission, incite acts or provide refuge in connection with terrorism.

Brazil cooperates with other countries, in particular neighboring countries, with a view to strengthening border security and preventing transnational crimes through integrated action units of the competent institutions established at border checkpoints.

The Federal Police Department also carries out information exchanges with various law enforcement organizations in other countries with the objective of undertaking police intelligence actions. The Federal Police databases containing information furnished by Brazilian agencies and Interpol are

consulted by Brazilian consular officials prior to the issuance of travel visas to Brazil.

It is important to underscore that in the limited context of the South American continent Brazil views its borders as spaces for integration, whether through MERCOSUR or UNASUL. Brazil does not consider irregular immigration an unlawful act.

Assistance

COAF has exercised a valuable role in the effort to prevent and combat money laundering and suppress the financing of terrorism, in fulfillment of the recommendations of the Financial Action Task Force – FATF. Organized on the basis of the law on money laundering, the Board now provides cooperation to other countries, primarily in South America.

Initially, COAF benefited from the cooperation provided by other countries, particularly in relation to the strengthening of its database and information collection mechanisms. Additionally, the body received support from the Inter-American Commission for the Control of Drug Abuse – CICAD through investments in technology and capacity building programs. The Board also benefited from the knowledge acquired in course programs and seminars on money laundering, the financing of terrorism, intelligence analysis and techniques, the regulation of industries, the development of standards, and other capacities offered by international agencies in Brazil and abroad.

The initiatives undertaken in recent years have centered primarily on strengthening COAF’s direct relations with a wider number of Financial Intelligence Units in other countries, field work in technological applications and information security procedures, and capacity building for personnel, in which COAF has served as both service provider and beneficiary in terms of the dissemination of skills and knowledge and procedural routines. COAF has increasingly engaged in imparting its experiences and technical capacities in support of countries in which similar government units are under implementation and capacity building in the fight against terrorist financing.

As part of the effort undertaken with GAFISUD within the framework of the Legal Working Group (“Grupo Trabalho Jurídico”), COAF worked closely with the Ministry of Justice and the Central Bank to examine a series of questions related to the oversight of not-for-profit entities and the application of measures aimed at the immediate freezing of assets allegedly connected to

terrorists, in accordance with United Nations Security Council Resolution 1373. COAF and GAFISUD prepared a handbook of best practice for the implementation of special investigative techniques and the freezing of assets potentially related to terrorist activities.

Today COAF provides assistance to various countries in South America and Africa and has become a model FIU in the region. In 2008, COAF renewed its pledge to deliver technical assistance to the members of the Community of Portuguese-Speaking Countries, an initiative backed by a number of international organizations, most notably the World Bank and the United Nations Office on Drugs and Crime – UNODC. The Board provides cooperation to friendly countries in the design of projects aimed at developing and enhancing legal and institutional structures to prevent and combat money laundering and the financing of terrorism. The School of Public Finance (“Escola de Administração Fazendária”) acts in coordination with COAF to offer capacity building to public servants.

6. Perspectives to share with the international community

Of the various Resolutions of the UN Security Council, the Global Strategy of the United Nations to Combat Terrorism and its accompanying comprehensive plan of action sets out four broad categories of measure member countries are urged to adopt: those intended to address situations leading to the dissemination of terrorism, prevent and combat terrorism, strengthen the role of the United Nations in the field, and assure respect for human rights and the Rule of Law as a basis for combating terrorism. In Brazil’s view, it is critical that the struggle against terrorism be waged in strict accordance with due process, human rights, civil liberties, and International Humanitarian Law. There can be no justification for sacrificing any of the advances secured in the scope of civilization or for the application of arbitrary or discriminatory acts in the name of combating terrorism. It is imperative that the respect, protection, and promotion of human rights serve as guiding principles in the execution of security policies against terrorism.

In developing countries, issues such as social exclusion, inadequate education and health, socioeconomic disparities, and the absence of opportunity for a stable and promising life are factors that drive young persons to engage in unlawful acts and enter into conflict with the law. The Brazilian experience, as discussed in another chapter, reinforces the view that poverty

and social exclusion spawn criminal activity in certain circumstances, such as occurs in cases of vulnerable or fragile family ties. To date, no acts of terrorism have been registered in Brazil, for any motive, including as a means to protest social exclusion. There are specific situations, however, in which culturally distinct societies are unable to coexist peacefully, generating resentment conducive to extremist acts.

One of the main characteristics of Brazilian society is its broad diversity and pluralism. The country's multicultural and multiethnic composition is reflected in its political, ethnic, gender, religious, and racial tolerance. The Brazilian Federal Constitution expresses this spirit by establishing, in conjunction with the repudiation of terrorism and racism, the fundamental principle of cooperation among peoples for human progress. The consistent application of these principles prompted Brazil to support the establishment of a High Level Group for the Alliance of Civilizations within the scope of the United Nations. Brazilian society believes that the promotion of closer ties and understanding among peoples and coexistence based on cultural, socioeconomic, ethnic, and religious diversity can contribute to foster the culture of peace.

Chapter 3 – Crime prevention: the guidelines of the United Nations. Urban crime*

Introduction

The issue of crime prevention is of particular relevance among the priorities of the Brazilian Government, being addressed in various Brazilian legal instruments, especially in the 1988 Federal Constitution.

1. Brazilian Legislative Framework

Article 5 of the 1988 Federal Constitution (Individual and Collective Rights and Duties) guarantees, among other rights, the right to security, while article 6 assures the right to security as a social right.

The Federal Constitution elaborates further on the issue in article 144, affirming that public security is a duty of the State and a right and responsibility of all persons (article 144), which, moreover, is to be exercised by the following agencies with a view to preserving public order and ensuring the safety of persons and property: the Federal Police Department, the Federal Road Highway Police, the Civil Police, the Military Police, and the Military Fire Brigades.

* The issues discussed in this chapter correspond to the topics addressed in item 5 and workshop 3 of the agenda of the 12th United Nations Congress on Crime Prevention and Criminal Justice.

In addition to the Constitution, crime prevention is addressed in the Brazilian Code of Criminal Justice as well. The principles of the Brazilian criminal justice system of crime prevention, reintegration of convicted persons into society, and prevention of recidivism. In this light, the Brazilian Code of Criminal Justice includes provisions that not only ensure convicted offenders are treated with dignity but that contribute to individualizing sentences to ensure their application effectively and to serve the intended objectives.

Finally, approval of the Disarmament Statute (“Estatuto do Desarmamento”)– Law 10826 of December 2003 – represented an important normative advance in crime prevention in Brazil by setting out requirements on the registration, possession, and sale of firearms and ammunition throughout the country. The legislation led entering into force into force of the registration of two million firearms from 2006 to 2009 and served as a catalyst for the Disarmament Campaign (“Campanha do Desarmamento”), through which individuals who voluntarily surrender firearms to the Federal Police receive cash payments of R\$ 100.00 to R\$ 300.00. Between 2006 and 2009, a total of 490,000 firearms were relinquished.

2. Institutional Framework

The Ministry of Justice is the principal driver of the nation’s public security policy, which the units of the Federation implement in a decentralized manner and with relative independence.

After four decades of implementing a strategy centered on the repression of urban crime, the Brazilian government concluded that the reduction in crime rates had fallen short of their expected targets. In response, a new public security model was designed, one that emphasizes crime prevention and an alternative approach centered on ensuring a balance between prevention and repression.

Over the last 50 years, Brazil experienced an accelerated process of urbanization. The urban population’s share of the country’s total population rose from 36% in 1950 to 78% in 1990. In that period, more than 100 million Brazilian streamed into cities lacking adequate social infrastructure. The years of economic instability, runaway inflation, and precipitous declines in the State’s investment capacity led to a profound erosion of the social fabric in outlying areas of Brazil’s major cities.

Faced with this challenging set of circumstances, a new law enforcement approach was required, one that moved away from reactive law enforcement actions implemented without corresponding investments in intelligence and technology or adequate recognition and valuing of career law enforcement

agents and personnel – leading to the application of repressive actions that often proved inappropriate and failed, in the medium and long terms, to achieve the goal of reducing urban crime rates – toward a model based on a coordinated strategy of effective application of the law and social programs.

Young persons have traditionally been considered either the victims of violence or a risk to society. The federal government takes a different view on this matter, as reflected in the formulation of youth policies that recognize young persons as subjects of rights. The resulting initiatives in this area are aimed at enabling youth to reclaim their sense of belonging to the community. The government appreciates the urgency and importance of offering opportunities and guaranteeing the full exercise of civil, political, social, cultural, and economic rights. In this light, the Ministry of Justice created the National Public Security with the Full Exercise of Human Rights Program (“Programa Nacional de Segurança Pública com Cidadania” – PRONASCI), an effort launched in August 2007 by President Luiz Inácio Lula da Silva.

PRONASCI fosters public security policies with social actions by giving priority to prevention and tackling the root causes of violence. Far more than a limited government policy, the program – which carries the force of law – constitutes an official State policy aimed at ensuring the right to life with security. The objective of PRONASCI – www.mj.gov.br/pronasci – is to offer individuals the means to ensure the full exercise of rights.

Public Security and the Full Exercise of Human Rights

PRONASCI gives priority to measures designed for young persons (15-24 years of age) in situations of social vulnerability. Through implementation of a diversity of projects, an effort is made to reach young persons directly, especially those in areas of acute social instability and insecurity. The objective is to assist young persons who have committed criminal offenses or are at risk of being recruited into criminal activity, namely a) adolescents in conflict with the law; b) young persons who have completed their mandatory military service; c) young prisoners or former inmates of the penitentiary system; and d) young persons in situations of severe family crisis. Because of PRONASCI's encompassing and integrated approach, young persons covered under the program do not participate in other government-sponsored social initiatives.

However, preventing young persons and adolescents from engaging in criminal conduct is not sufficient. It is equally important to adopt measures that promote the re-socialization of individuals sentenced to deprivation of liberty through the

implementation of education and vocational training projects capable of bolstering their employability and progressive reintegration into the family unit and society.

To this end, PRONASCI places particular emphasis on urban development and the recovery of public spaces as a way of fostering a perception of the State among communities as a vehicle for expanding and facilitating opportunities for social, educational, and cultural advancement, and not simply as an instrument of coercion. This effort requires measures not commonly provided for in the programs and budget schedules of public security institutions.

A key initiative undertaken in the framework of PRONASCI involves the establishment of special confinement facilities for young adults, where inmates are separated by age group and by category of criminal offense. The aim is to prevent contact between 18-24 year-olds convicted of minor offenses and serious offenders or the heads of organized criminal groups. In these special facilities social workers provide educational and vocational training programs and medical and psychological assistance. Thus, the goal is to ensure that prisons fulfill the mandate of truly rehabilitating young offenders, while effecting a significant change in the realities of Brazilian prisons.

PRONASCI's efforts also extend to the field of financial intelligence devoted to combating organized crime. Program actions include strengthening and expanding the number of Anti-Money Laundering Laboratories ("Laboratórios Contra a Lavagem de Dinheiro"). The laboratories are part of a pioneering initiative of the National Justice Secretariat ("Secretaria Nacional de Justiça") designed to identify the profit-making activities of criminal organizations and their members, with a view to cutting off their financing sources. Using last generation technology and a methodology developed in Brazil, the laboratories perform rapid analyses of large quantities of information. The interruption of financial flows affects every facet of criminal organizations by denying them the ability to fund their operations with the recycled proceeds of criminal activities, thereby hampering the emergence of new criminal enterprises.

PRONASCI breaks new ground by promoting the effective participation of civil society in redefining Brazil's public security model. A prime example was the First National Conference on Public Security ("Conferência Nacional de Segurança Pública" – CONSEG). Preceded by preparatory meetings in every individual state of the Federation, the Conference provided a unique opportunity for the State (managers and administrators, public security

personnel, government leaders) and civil society stakeholders (scholars, research and professional training institutes, NGOs, and the private sector) to engage in wide-ranging discussions aimed at reviewing and formulating public security policies for Brazil capable of promoting the full exercise of citizenship and effectuating the principle of public participation. More than 225,000 people took direct part in the initiative and another 500,000 participated indirectly by submitting comments and selecting the 10 principles and 40 guidelines on which Brazil's broad and unprecedented public security policy would be founded and consolidated.

Of the 10 principles set out in the First CONSEG, the highest vote total went to the requirement that the national policy ensure institutional autonomy, transparency in the dissemination of data, and consolidation of the Unified Public Security System (“Sistema Único de Segurança Pública” – SUSP) and PRONASCI. Other key principles included: the commitment to defend the dignity of human beings; foster, guarantee, and consolidate a new conception of public security as a fundamental right; and recognize the need to restructure the penitentiary system, assuring it is more human and respectful of the diversity of identities.

Of the 40 guidelines, the one that is reflected on Proposed Constitutional Amendment (“Proposta de Emenda Constitucional”) 308 of 2004 received the highest vote tally. The amendment would transform penitentiary agents into correctional officers. Examples of other guidelines are: promoting the autonomy and modernization of criminal investigation units; determining and regulating the role and constitutional duties of municipalities in regard to Public Security; and creating legal mechanisms to guarantee minimum and proportional budgetary and financial resources for the adoption of public policies in the field of accident prevention.

The new model spawned a need to build capacity among professionals in the security field, with a view to promoting enhanced ties and integration between agents and the public. A grant of approximately US\$ 220.00 is awarded to professionals taking part in the capacity building programs. To date, over 400,000 public officials have been trained and prepared to address the phenomenon of crime based on the principles and precepts of the newly defined model. To ensure full development of the program, R\$ 6.707 billion (nearly US\$ 3 billion) will be invested over a five-year period (2007-2012), a total 500% greater than all previous budget allocations combined.

Police Action and the Protection and Promotion of Human Rights

As discussed above, PRONASCI's underlying objective is the coordination of public security policies and social actions, with an emphasis on crime prevention and respect for human rights, and, simultaneously, the disruption of the strategies pursued by organized crime, including corruption in the penitentiary system. The principal axes of the program are: a) training and valuing of public security professionals; b) reorganization of the penitentiary system; c) combating police corruption; and d) community involvement in violence prevention. The first axis encompasses the federal government's effort to stimulate the adoption of "good practices" by state police agencies through capacity building course programs. Of particular note are the following measures:

- Development of national guidelines on the use of force and firearms for public security professionals;
- Development of standardized operational procedures for military police officers; and
- Support to the creation, implementation, and operation of police Ombudsman units at the state level.

In regard to the first item, a working group coordinated jointly by the Special Secretariat of Human Rights ("Secretaria Especial dos Direitos Humanos" – SEDH), a component of the Presidency of the Republic, and the National Secretariat of Public Security ("Secretaria Nacional de Segurança Pública" – SENASP), a branch of the Ministry of Justice, was established to prepare national guidelines on the use of force and firearms by public security personnel. In addition to the representatives of the two Secretariats, professionals from a variety of law enforcement bodies (state police agencies, the Federal Police Department, the Highway Patrol Department, and the National Public Security Force), municipal guards, scholars, and civil society representatives participate in the group.

The working group's basic purpose is to augment the safety of professionals and reduce deaths related to law enforcement actions. Beyond the development of national guidelines on the use of force and firearms, the group's specific objectives are:

- To assist the National Secretariat of Public Security (“Secretaria Nacional de Segurança Pública” – SENASP) to determine the individual and collective weapons and protective gear that are to be supplied to individual states with federal funds;
- To formulate general guidance on the design of a capacity building matrix on the use of force and firearms; and
- To establish standard procedures for the review and control of actions involving the use of force, in particular actions in which officially issued equipment is employed.

In regard to the second item, the Special Secretariat of Human Rights (“Secretaria Especial de Direitos Humanos” – SEDH) of the Presidency of the Republic and the Secretariat of Public Security (“Secretaria Nacional de Segurança Pública” – SENASP) coordinated the development and standardization of operational procedures for military police officers based on the respect for human rights. The standardization of operational procedures is aimed at modernizing management processes in public security institutions as well as protecting police officers and the general public, while contributing to the dissemination and adoption of good operational practices.

Standardized procedures will also serve to promote the control and evaluation of organizational processes. From the perspective of public perception, standardization reinforces the view of law enforcement agents as fully trained professionals and of the related police actions as legitimate and legal measures by reducing the incidence of damage and injury.

The third item relates to fostering the establishment, implementation, and operation of police Ombudsman units at the state level. The measure strives to democratize and assure the transparency of public security institutions.

3. Reflections and perceptions on crime prevention

There is a significant social component to the underlying causes of violence. Therefore, selecting the criminal justice or law enforcement fields as the sole starting point from which to examine and confront the issue of violence and crime is inadequate.

In this light, the various perspectives below warrant consideration:

- It is necessary to coordinate, based on a broad and varied approach, preventive law enforcement actions and non-police measures aimed at reducing crime, violence, and recidivism rates. Strengthening of the government's presence through the delivery of essential quality services should be understood as a right guaranteed to all citizens. Specifically, recognized areas of vulnerability in which criminal organizations are active should be targeted through the planning of strategies to prevent violence and confront crime. This approach can enable comprehensive intervention in critical geographic territories based on the reconstruction of urban spaces, investments – e.g., public lighting and sanitation –, greater valuing of public spaces, and the registration of illegally occupied land and property, in addition to programs to create and increase public cultural, recreational and leisure, sport, health, and educational equipment and facilities. Moreover, investments are necessary in actions capable of strengthening community ties, promoting social cohesion, stimulating the exercise of human rights, and preventing the involvement of individuals in unlawful activities. In Brazil, young persons have been the primary victims of violence. For this reason, particular emphasis should be placed on investments in vocational training and income generation and job creation programs for young persons, given their recognized effectiveness as prevention measures. The related investments should include contributions from government and the business community alike. Finally, priority should be attached to youth entrepreneurship efforts, such as those developed through PRONASCI;

- Firearms are a primary cause of violence and death in Brazil. In some areas, the risk of firearm death is exceedingly high – in fact, firearms are responsible for 90% of all homicides. Following the recent nationwide disarmament campaigns (registration and surrender of firearms by the civil populations), the Ministry of Justice estimates that the number of unregistered firearms in the country stands at four million. Data of the Ministry of Health reveal that the enforcement and control actions undertaken under the Disarmament Statute have played a pivotal role in achieving unprecedented reductions in firearm deaths. Studies show that restrictions on the circulation of firearms have a positive impact on lowering the rate of violent deaths. Disarmament and the guaranteed implementation of the Disarmament Statute have provided critical steps in this direction. As provide for by law, measures have included periodic firearm collection and re-registration campaigns, civil society mobilization efforts connected to the centralized consolidation of information on civilian and military weapons in the National Weapons Database (“Sistema Nacional de

Armas” – SINARM). In this light, the periodic application of the Disarmament Statute through public campaigns could serve as a basic and continuing strategy to achieve the objectives set out in this area;

- The ongoing and thorough follow-up of police actions by communities constitutes one of the fundamental principles underlying the success of any prevention-centered public security policy, to the extent it expresses a partnership between the public and public security and social defense institutions founded on a new strategic and philosophical outlook. To this end, the community police initiative merges and values two historically disparate factors: the identification and resolution of social problems with community participation and crime prevention. In addition to investing in the creation and implementation of community follow-up programs, the National Secretariat of Public Security (“Secretaria Nacional de Segurança Pública” – SENASP) is tasked with the mission to incorporate the principles undergirding this philosophy in the activities of police agencies.

New Paradigm: PRONASCI

PRONASCI encompasses 94 measures divided into Structural Actions and Local Programs (Ações Estruturais e Programas Locais). The federal program is applied in states and municipalities, where it is individualized based on the specific needs and features of each particular locality. Structural Actions are aimed at modernizing law enforcement agencies and the prison system, valuing professionals in the field, and combating police corruption and organized crime. For their part, Local Programs are intended to redirect young persons away from criminal activity by placing them in government-sponsored social programs. To this end, projects are submitted for analysis by technical staff of the Ministry of Justice, upon which they may, if approved, be eligible for full federal financing and subsequent implementation by local governments. Further, new initiatives and efforts under execution in the states and municipalities – including those undertaken in any of Brazil’s more than 5,000 municipalities not covered under the initial program – may qualify to receive PRONASCI resources, provided the related initiatives meet the Program’s goals.

Of the 94 measures involving the Union, states, municipalities, and individual communities, the following bear mention:

- **Training Grant:** public security professionals receive incentives to study and work with communities. Low-income civil and military police personnel, firefighters, crime investigators, and penitentiary agents are eligible to receive up to R\$ 400.00/month. To qualify for the award, public security professionals must enroll in and pass a capacity building course program administered, accredited, or recognized by SENASP, have a verified income of no more than R\$ 1,700.00, and not have been sanctioned for a serious administrative violation in the last five years;

- **Police Training:** a major component of the training offered to public security professionals includes the promotion and protection of human rights. Personnel are trained in the use of non-lethal technologies, as well as investigative techniques, incident command systems, ballistics, DNA, forensic medicine, among others. The course programs are administered through the National Network of Advanced Studies in Public Security (“Rede Nacional de Altos Estudos em Segurança Pública” – RENAESP), a group of 66 public and private universities, and distance education tele-centers.

- **Women of Peace (“Mulheres da Paz”):** the project provides capacity building to women community leaders in issues such as ethics, human rights and citizenship, to stimulate them to serve as program multipliers and to draw in young persons targeted for inclusion in the PRONASCI effort;

- **Protect (“Protejo”):** the effort is aimed at young persons separated from their families or exposed to domestic or urban violence. Through the program, youth are offered sport, educational, and cultural activities. Following one to two years of participation in the program, beneficiaries move on to serve as multipliers in building a culture of peace in communities. Young persons are provided a grant of R\$ 100.00/month – approximately US\$ 60.00 – to take part in project activities.

- **Prison System:** in addition to the establishment of the special confinement facilities for young adults described above, specific assistance is provided to female inmates, including nurseries and clinical services. Reorganization of the prison system involves measures to provide capacity building to penitentiary agents and vocational training to inmates;

- **National Housing Plan for Public Security Professionals (“Plano Nacional de Habitação para Profissionais de Segurança Pública”):** the initiative provides low-income public security professionals earning up to four minimum monthly salaries access to low-cost housing. For their part, personnel earning up to R\$ 4,900.00 a month receive a home purchase credit guarantee of up to R\$ 50,000.00. The plan includes backing from the Federal Savings Bank (“Caixa Econômica Federal”);

- **Partnerships with Ministries and Secretariats:** some of the measures executed through PRONASCI are the product of partnerships with ministries and special secretariats. An example involves the joint actions between PRONASCI and the Accelerated Growth Program (“Programa de Aceleração do Crescimento” – PAC) in regions in which urban recovery and infrastructure improvement projects have been undertaken in local communities. Another example is the initiative of the National Secretariat for Drug Policy (“Secretaria Nacional de Políticas sobre Drogas”) of the Presidency of the Republic to expand the Speak Up (“Viva Voz”), a project aimed at providing guidance to young persons and families on the challenges and dangers posed by drugs.

Human Rights and Combating torture

The government operates the Integrated Plan of Action for Preventing and Combating Torture (“Plano de Ações Integradas para a Prevenção e o Combate à Tortura”), an initiative launched in 2006 by the Special Secretariat of Human Rights of the Presidency of the Republic (“Secretaria Especial dos Direitos Humanos da Presidência da República” – SEDH). To date, 11 states and the Federal District have adhered to the plan, through which efforts are undertaken to ensure effective punishment for the commission of torture and appropriate support to victims. Specific measures include videotaping of interrogations and unannounced visits to detention centers, the creation of specific Ombudsman units in police agencies and the penitentiary system, in addition to capacity training for civil society stakeholders in the monitoring of prison facilities.

In 2006, the National Committee on Preventing and Combating Torture was established in the framework of the SEDH, and includes the participation of scholars and civil society stakeholders. The Committee is charged with recommending policies and promoting inter-institutional cooperation to prevent and combat torture. Pursuant to article 22 of the United Nations Convention against Torture, the Committee exercises the duty and authority to receive and investigate complaints against persons for any alleged act of torture.

4. International Community

At the Seventeenth Session of the Commission on Crime Prevention and Criminal Justice, 14-18 April 2008, Brazil submitted a proposed resolution to strengthen urban crime prevention. Adopted by the United Nations

Economic and Social Council in its Forty-second Session of 24 July 2008, the text encourages the implementation of effective measures to prevent urban crime and strengthen the criminal justice system in the member States of the United Nations.

The Twelfth United Nations Congress on Crime Prevention and Criminal Justice in Brazil will serve to further strengthen the Brazilian government's efforts in the crime prevention field by offering a forum for the exchange of experiences and good practices, in addition to the approval of a five-year package of global policy guidelines on the issue. Brazil will offer all assistance to the Twelfth Congress, especially in terms of its successful policies and experiences, and hopes that the Congress will result in the establishment of action lines aimed at implementing more effective and efficient crime prevention strategies and improving the criminal justice system – without losing sight of the continuing effort to enhance the timeliness and celerity of justice.

Successful policies and experiences must be developed on the basis of diagnostic analyses, planning, execution, and evaluation that take into account the peculiarities of local conditions and that ultimately must be adapted to distinct realities.

Chapter 4 – Prevention and coping with human trafficking and violence against migrant workers and their families*

Introduction

The Brazilian State considers trafficking in persons to constitute one of the most ignominious international crimes. Confronting the practice requires steadfast effort by the international community through bilateral and multilateral cooperation activities.

Brazil designed and implemented a policy to combat trafficking in persons centered on a multi-dimensional (transversal) approach to the issue that stimulates action by a range of federal agencies in the fields of guidance counseling and legal assistance, education, health, social assistance, promotion of racial equality, labor and employment, agrarian development, human rights, protection and promotion of women's rights, tourism, and culture.

Brazilian authorities believe it is essential to ensure wide public dissemination of the offense of trafficking in persons, for without the participation of society, the long-standing culture of silence and ignorance will continue to prevail, deterring detection efforts. The collaboration of society helps determine profiles of victims, traffickers, locations of recruitment, and the destinations of trafficked persons.

In Brazil, trafficking in persons is essentially characterized by the recruitment of women and homosexuals in situations of vulnerability and economic hardship who are in search of opportunities for a better life abroad. In general, criminal

* The issues discussed in this chapter correspond to the topics addressed in itens 6 and 10 of the agenda of the 12th United Nations Congress on Crime Prevention and Criminal Justice.

organizations of varying levels of coordination control the international traffic in persons, while internal trafficking routes are operated by less sophisticated groups.

One of the most important studies on the traffic in persons in Brazil was the 2002 Study on Trafficking in Women, Children, and Adolescents for Sexual Exploitation (“Pesquisa sobre o Tráfico de Mulheres, Crianças e Adolescentes para Fins de Exploração Sexual” – PESTRAF). The nationwide survey mapped 241 internal and international routes used in the trafficking of Brazilian children, adolescents, and women. The study concluded, additionally, that Brazil is a destination for persons trafficked from other continents, including entire families, although women and girls constitute the prime target. Countries of origin include Nigeria, on the African continent, China and Korea, in Asia, and, above all, the neighboring countries of Bolivia, Peru, and Paraguay.

The research analysis also found that traffickers tend to be well educated and sophisticated, and male. However, the PESTRAF estimates that women represent up to 41% of all persons engaged in the related criminal activities, serving primarily as recruiters.

1. Legal Framework and International Commitments

Brazil is State part to the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, and the Protocol Against the Smuggling of Migrants by Land, Sea, and Air.

Trafficking in persons for prostitution or any other form of sexual exploitation is classified a criminal offense under the Brazilian Code of Criminal Justice (articles 231 and 231-A). While no laws have been enacted on trafficking in persons or the smuggling of migrants, with specific provisions on the establishment of special investigative procedures, criminal prosecution, extradition, where applicable, and mutual legal assistance, there are applicable legal instruments in force to address the respective criminal offenses. Most notable among these is Law 9034 of 1995, governing the use of operational means to prevent and suppress the activities of criminal organizations, and Law 9807 of 1999, which establishes standards for the organization and operation of special protection programs for victims and threatened witnesses.

Law 9807 institutes the Federal Assistance Program for Victims and Threatened Witnesses and provides for the protection of accused persons or convicted offenders who voluntarily offer effective collaboration in law enforcement investigations and criminal prosecutions. In transforming victims

into witnesses, victims are able to take active part in identifying and establishing the criminal responsibility of perpetrators. Investigators encounter strong resistance from victims to the identification of traffickers where inadequate psychological support is provided, due to the enduring fear of reprisal.

Law 9034 provides for the “use of operational means to prevent and suppress the activities of criminal organizations,” which encompasses trafficking in persons and the smuggling of migrants. The statute represents an important tool to combat transnational organized crime and is fully consistent with the international agreements ratified by Brazil.

In regard to suppressing and establishing responsibility for trafficking in persons for the removal of organs, the applicable statute is Law 9434 of 1997. The instrument mandates criminal penalties for the sale of human tissue, organs, and body parts. The law was invoked in 2004 to convict more than 20 persons accused of taking part in an international network engaged in recruiting persons in Brazil for purposes of the removal and sale of their kidneys in other countries.

With respect to illegal migration, Brazil regards migrants as subjects of rights, a position very different from that applied in other countries. A tangible reflection of this approach is Law 11961 of 2009, which legalized the status of approximately 45,000 migrants, guaranteeing them exercise of the same rights and duties as those conferred on Brazilian nationals, including the freedom to move throughout the national territory and full access to paid employment, education, public health, and the Justice System. Similarly, following extensive discussions with various segments of Brazilian society, the executive branch prepared a draft law on foreign nationals (Bill 5655 of 2009) that is currently under consideration in the National Congress.

Indeed, in Brazil’s view migration should be understood and addressed from a human rights standpoint, which the country considers the effective path to full incorporation of migrants to the broader society, pursuant to the guidelines set forth in international instruments, such as the Vienna Convention and the Geneva Conventions, the Charter of the United Nations, and the Palermo Protocols. The Bill cited above was developed in this spirit, as reflected in its treatment of immigration from a humanitarian perspective and the required adoption, in the framework of national migration policy, of facilitating measures to regulate migratory flows, combat xenophobia, mass deportation, trafficking in persons and migrants, and other abusive practices, often a direct product of the illegal status of migrants.

The Brazilian government's Coordinating Group on Confronting Trafficking in Persons ("Coordenação de Enfrentamento ao Tráfico de Pessoas" – ETP), a component of the National Justice Secretariat ("Secretaria Nacional de Justiça") of the Ministry of Justice, conducted technical investigations in coordination with a range of national and international sectors and authorities on the violence perpetrated against migrants, migrant workers, and their families. Based on the information collected, measures were identified for each individual case and subsequently incorporating to draft Law 12015 of 2009, which broadens and more clearly defines the crime of trafficking in persons for sexual exploitation, on both the internal and external fronts. It also increased the sanctions applicable to the crime and related acts, with a view to discouraging the commission of repeated offenses.

It is important to note that the illegal or clandestine entry of foreign nationals into Brazil does not by itself constitute a criminal offense, but rather an administrative violation. At the same time, Brazil endeavors to pursue a policy of frequent migratory regularization efforts and encourages the discussion and approval of bilateral and multilateral agreements on migratory regularization and residence. Recent examples of residence agreements include a number of formal instruments concluded between the States Parties of MERCOSUR, Bolivia, and Chile, all of which are in effect.

Furthermore, Brazilian law contains a variety of constitutional and infra-constitutional provisions that provide broad guarantees to the protection of migrants and their families. The Federal Constitution enumerates a series of fundamental rights and guarantees, irrespective of origin or nationality, while at the infra-constitutional level, article 95 of Law 6815 of 1980 expressly assures foreign nationals the same rights as those conferred on Brazilians. In this light, Brazil enforces equal treatment in respect of fundamental rights and guarantees for national and non-national workers. Indeed, the failure to comply with any of the principles governing the list of formal rights and guarantees are subject to legal action in the civil, labor, and even criminal spheres. In cases involving violence, Brazilians and foreign nationals alike may file complaints with the Regional Labor Offices ("Delegacias Regionais do Trabalho" – DRT), specialized bodies established to combat labor crimes. Similarly, Brazilians and foreign nationals may enter appeals with the Regional Labor Courts of Justice to secure fulfillment of their labor claims.

Migrant minors may not travel – including, travel through, or exit the national territory – unless accompanied by the responsible guardian or with

the express authorization of the responsible guardian, pursuant to the Statute on Foreigners (“Estatuto do Estrangeiro” – article 7, subsection I, Law 6815 of 1980) and the Child and Adolescent Bill of Rights (“Estatuto da Criança e do Adolescente” – articles 83-85, Law 8069 of 1990).

In 2009, the Working Group on Legislation on Trafficking in Persons (“Grupo de Trabalho sobre Legislação de Tráfico de Pessoas”) was established through Administrative Rule 194. The Working Group devotes its efforts to following-up on legislative matters and enhancing Brazilian law in respect to confronting the crime of trafficking in persons and related acts. The entity is composed of representatives from across the federal government and associated representatives of a broad spectrum of bodies in the public administration and civil society organizations. Creation of the Working Group is among the measures undertaken to fulfill the National Plan on Confronting Trafficking in Persons (“Plano Nacional de Enfrentamento ao Tráfico de Pessoas”), which aims to prevent trafficking in persons.

2. National Policy on Confronting Trafficking in Persons and institutions involved

On 26 October 2006, Brazil launched the National Policy on Confronting Trafficking in Persons (“Política Nacional de Enfrentamento ao Tráfico de Pessoas”) through Decree 5948, a measure arising directly from ratification of the Additional Protocol to the United Nations Convention Against Transnational Organized Crime on the Prevention, Suppression, and Punishment of Trafficking in Persons, Especially Women and Children of 12 March 2004 – enacted into law through Decree 5017 of 2004. Various federal bodies and civil society organizations contributed toward formulating the policy, which establishes principles, guidelines, and actions to prevent and suppress trafficking in persons and provide assistance to victims.

Subsequently, the National Plan on Confronting Trafficking in Persons (“Plano Nacional de Enfrentamento ao Tráfico de Pessoas” – PNETP) was unveiled on 8 January 2008 and formally enacted into law through Decree 6347 of that same year. The purpose of the plan is to assure implementation of the National Policy by establishing mandatory goals to be fulfilled within a period of two years and executed in integrated fashion by government bodies, with a view to prevent overlapping actions. The PNETP provides for measures in the criminal justice and public security fields, as well as in the fields of

guidance counseling and legal assistance, education, health, social assistance, the promotion of racial equality, agrarian development, human rights, the protection and promotion of women's rights, tourism, and culture.

The Ministry of Justice has endeavored to foster communication channels between law enforcement agents, prosecutors, judges, and other interested representatives of organized civil society to promote the integration of a broad network of institutions in confronting the trafficking offense. To this end, an ongoing publicity campaign on international trafficking in women has been pursued since 2007.

On the eve of its second anniversary, the National Plan on Confronting Trafficking in Persons, in conjunction with the National Policy, has made major strides in combating the trafficking offense. Among the goals accomplished to date are the preparation and publication of studies and research analyses in the field. Examples include the "First Diagnostic Study on Trafficking in Humans: São Paulo, Rio de Janeiro, Goiás, and Ceará" ("I Diagnóstico sobre o tráfico de seres humanos: São Paulo, Rio de Janeiro, Goiás e Ceará"), "Survey on Trafficking in Humans in the State of Rio Grande do Sul" ("Pesquisa sobre tráfico de seres humanos no Estado do Rio Grande do Sul"), "Evidence of Trafficking in Humans among Deportees and Persons Denied Entry Returning to Brazil Via the Guarulhos Airport" ("Indícios de tráfico de pessoas no universo de deportados(as) e não admitidos(as) que regressam via aeroporto de Guarulhos"). Additional publications are scheduled to be released through 2010, when the National Plan is set to lapse, as are the results of the Working Group for Legislation on Trafficking in Persons ("Grupo de Trabalho sobre Legislação de Tráfico de Pessoas") and the National Plan.

The PNETP also provides for capacity building for professionals in the field. Some of the capacity building projects undertaken to date include: a) a course program offered to 600 professionals in partnership with the University of Brasilia; b) the "Trafficking in Humans" distance course administered by the National Secretariat of Public Security ("Secretaria Nacional de Segurança Pública"), through which 14,379 public security professionals have received training; c) the National Seminar on Confronting Trafficking in Persons: Assistance and Support Network ("Seminário Nacional sobre Enfrentamento ao Tráfico de Pessoas: Rede de Atendimento e Acolhimento"), organized in partnership with the National Conference of Brazilian Bishops ("Conferência Nacional dos Bispos do Brasil"); d) the First International Seminar on Illegal Migration and Trafficking in Persons, sponsored in partnership with the Federal

Police Department; e) the Seminar on Migration Policy and Trafficking in Persons in Brazil: A Study (“Seminário Políticas Migratórias e Tráfico de Pessoas no Brasil: estudo de uma ferramenta”), organized in partnership with the Scalabrano Center for Migration Studies and the UNODC.

Similarly, the federal government has obtained promising results in reducing the incidence of violence through the PRONASCI program, some of the goals of which are combating money laundering and confronting trafficking in persons. Specifically, PRONASCI includes two measures that address trafficking in persons: the development of the National Policy on Trafficking in Persons (Action 40) and support to the establishment of Centers to Confront Trafficking in Persons (Action 41). Centers to Confront Trafficking in Persons have been implemented in Acre, Goiás, Pará, Pernambuco, Rio de Janeiro, and São Paulo, in addition to Advanced Posts (“Postos Avançados”) set up at the Belém do Pará and Guarulhos airports. Agreements have been signed to set up centers in Bahia and Ceará, and to implement new Advanced Post in Bahia and Rio de Janeiro.

In recent years, the Federal Police has undertaken actions to expand and consolidate the knowledge and awareness of agents in relation to the offense of trafficking in persons, with a view to ensuring more effective investigations. Examples include the diversity of training initiatives and seminars administered to agents with primary responsibility for investigating the trafficking crimes through the Regional Workshops on Trafficking in Persons for Sexual and Labor Exploitation. In the course of their preparatory training for admission to law enforcement careers, cadets at the National Police Academy (“Academia Nacional de Polícia”) receive specific training on criminal offenses involving human rights violations and trafficking in persons. Federal police officers are trained, additionally, in the investigation and identification of assets and property obtained with illicit proceeds to facilitate the subsequent seizure, confiscation, or forfeiture of illegally obtained assets and property.

The results of these efforts are reflected in the strengthening of investigative measures and the increased number of successful law enforcement operations launched on the basis of collected technical data and information. Brazil believes that combating this particular form of trafficking should not be the exclusive task of any one country, given the very dynamics of the offense. The range of initiatives has given rise to the formulation of new coordinated actions between national and international bodies engaged in identifying the various routes used in human trafficking, suppressing the offense, and punishing perpetrators.

Brazilian consulates and embassies overseas provide assistance in cases of Brazilian nationals who have fallen victim to international trafficking in persons. Consulate authorities may issue a Return to Brazil Authorization (“Autorização de Retorno ao Brasil” – ARB), a provisional document that permits immediate return to the country, in the event that the individual is not in possession of his or her passport. In addition, the Ministry of External Relations has instructed Brazilian embassies and consulates in Europe to map the local network of support centers and shelters, with a view to working in partnership with European countries to ensure victims receive the appropriate protection.

3. Perspectives and initiatives

The actions, activities, and goals provided for in the National Plan on Confronting Trafficking in Persons have been developed by a range of different actors and followed up by the Evaluation and Dissemination Advisory Group (“Grupo Assessor de Avaliação e Disseminação”), which was tasked with preparing a final report scheduled to be submitted in January 2010 to the Presidency of the Republic, international organizations, and the Brazilian public.

To meet the continuing need for enhancing and fully equipping law enforcement agents with means to confront trafficking in persons and the related offenses, specialized police sectors and teams will be established to combat the activities of organized criminal groups. The measures are consistent with the provisions of Law 9034 of 1995 on the use of operational means to prevent and suppress the activities of criminal organizations. Additionally, the Judicial branch has set up special courts to try cases involving organized criminal activities.

The Brazilian government also unveiled the National Capacity Building Program (“Programa Nacional de Capacitação”), an initiative that has succeeded in systematizing the existing methodologies and training initiatives applied by multipliers to confront trafficking in persons. All of the centers and partners engaged in the effort against trafficking will adopt the program.

With regard to the prosecution of persons involved in the recruitment of migrants, the government submitted the draft Statute on Foreigners (“Lei de Estrangeiros”) to the National Congress, cognizant of the complexity and transnational character of human trafficking. The proposed law seeks to strengthen the legal status of victims by granting illegal immigrants who effectively

cooperate with investigations aimed at identifying the perpetrators of criminal offenses the right to remain in Brazil, on a temporary basis or permanently, or to return to their country of origin or residence.

Despite the range of recent efforts, Brazilian law has not yet been fully adapted to the terms of the Palermo Protocols on trafficking in persons. For instance, there is as of yet not specific criminal provision governing trafficking in persons for labor exploitation or the removal of organs. Nor has a legislative instrument on the crime of trafficking in persons and the smuggling of migrants been enacted that provides for the use of special investigative techniques and extradition and mutual legal assistance.

With a view to proposing improvements to Brazilian law, the Working Group on Trafficking in Persons Legislation (“Grupo de Trabalho sobre Legislação de Tráfico de Pessoas”) has examined a number of legal instruments and draft laws aimed at amending the Brazilian Code of Criminal Justice and the Child and Adolescent Bill of Rights, for the purpose, among others, of more precisely classifying the offense of trafficking in persons, setting out the applicable penalties, and establishing related provisions. Moreover, a bill providing for the organization and operation of specific public policies to confront trafficking in humans, especially women and children, is under consideration. The proposed statute would institute the National System for Preventing and Confronting Trafficking in Humans (“Sistema Nacional de Prevenção e Enfrentamento ao Tráfico de Seres Humanos”) and provide for the application of the pertinent civil and criminal provisions.

The ongoing reorganization of the Federal Police Department includes the planned creation of a specific unit to combat trafficking in persons. The institution has worked in coordination with other bodies, such as the Public Prosecutor’s Office for Labor and Employment (“Ministério Público do Trabalho e Emprego”), the Ministry of Labor, and the Special Secretariat for Women’s Policy (“Secretaria Especial de Políticas para as Mulheres”), in an effort to encourage victims to collaborate. Recent agreements concluded with these institutions will enable the provision of effective assistance and the referral of cases to specialized victims’ units, thereby serving to bolster confidence in the government and to spur victims to collaborate spontaneously in the dismantling of criminal organizations.

A valuable data collection system currently in place is the complaint hotline (“disque-denúncia”). Through the hotline, the public can call in reports of offenses committed against children, adolescents, and women. A specific data

collection system for cases of trafficking in persons is currently under development by the National Justice Secretariat in partnership with international organizations.

New Forward Posts (“Postos Avançados”) are set to be implemented in airports, in coordination with the Brazilian Airport Infrastructure Company (“Empresa Brasileira de Infra-estrutura Aeroportuária” – INFRAERO), for purposes of providing assistance and preventing trafficking. A final effort worth mentioning is the Women of Peace Project (“Projeto Mulheres da Paz”), through which the Centers for Confronting Trafficking in Persons provide women community leaders with capacity building in ethics, human rights, civil and political rights, and economic and social rights, contributing, in this way, to fulfill one of the fundamental principles of the struggle against violence: cooperation between government bodies in the execution of measures.

4. International Cooperation

Brazil has achieved promising results in its relations with members of the international community in the effort to confront trafficking in persons and migrants and to combat criminal organizations, in particular through international legal cooperation in criminal matters, including confiscation, prosecution and extradition, as provided for under international agreements.

In regard to protection of victims, in 2006 Brazil instituted the Assistance Program for Child and Adolescent Victims of Trafficking for Sexual Exploitation (“Programa de Assistência a Crianças e Adolescentes Vítimas de Tráfico para fins de Exploração Sexual”). Through a series of training and technical and financial assistance initiatives, the program developed a methodology for the delivery of social and psychological assistance, as well as legal assistance, for children and adolescent victims of trafficking. The measures assist victims in overcoming the related trauma and provide them with information on their rights, promoting, in this way, a return to family and community life and the resumption of productive activities. The program’s components are based on the provisions of the Palermo Protocols. Locations targeted for implementation of the program include municipalities situated along internal and international trafficking routes and in border regions.

In respect to cooperation among the Member States to the Protocols Against Trafficking in Persons and the Smuggling of Migrants, partnerships have been forged with Portugal and Belgium to implement joint measures aimed at providing special assistance to victims. Cooperation initiatives have

also been undertaken with the United Nations Office on Drugs and Crime and the International Labor Organization to disseminate information on the issue and promote the integration of security agencies in the various countries. The efforts serve to open new channels for communication and for the exchange of information and experiences between partner countries, facilitating the collection of valuable data to combat the trafficking offense.

A particularly timely trend in this area involves the deepening of cooperation within MERCOSUR. For Brazil, combating the smuggling of migrants and trafficking in persons is hampered by the country's sheer size and the extension of its borders, factors which require rapid response and operational capabilities. The suppression of trafficking is further hindered by the relatively low cost of the related criminal activities, which benefit from ready access to communications and readily available transportation between ports and airports.

The United Nations Office on Drugs And Crime has provided valuable cooperation to Brazil in the effort to combat trafficking in persons and the related offenses. The UNODC supplies information on the profile of traffickers and victims, vulnerable regions within the national territory, and the principal trafficking routes, all critical elements for determining the goals and actions that Brazilian authorities should adopt.

Similarly, by monitoring the implementation of legal instruments by signatory countries, the UNODC effectively disseminates information on the respective crimes to every State in the region, recommending a range of measures to confront the trafficking offense.

The entity furnishes valuable technical assistance, particularly through capacity building for the actors charged with suppressing trafficking offenses, equipping institutions with the necessary tools and means, and collaborating on an ongoing basis with institutions engaged on all three fronts of action: prevention, suppression, and assistance to victims.

5. Insights to the International Community - Social aspects

With this in mind, the Brazilian government believes the international strategy to confront trafficking should give emphasis to the following:

- Enhancement of the methods employed to suppress trafficking in persons and migrants through cooperation between countries of origin, transit, and destination based on the formation of joint investigative teams;

- Recognition that this heinous act, in any of its manifestations and in innumerable cases, is profoundly linked to poverty and the deep-seated socioeconomic disparities identified in particular regions;

- The understanding that migrants should be considered subjects of rights, not criminal offenders, to which end States should assure they are treated with dignity and humanity. In this light, humanitarian migration policies are necessary to ensure that the promotion and protection of the human rights of migrants receive special attention from the State;

- Formal classification of two specific and distinct criminal offenses, one for trafficking in organs and another for trafficking in persons for the removal of organs;

- Means to prohibit the consumption of products derived from the exploitation of the labor of victims who, under such circumstances, are subject to conditions analogous to slavery;

- Integration of information systems in the field of trafficking in persons and migrants, with the objective of facilitating expanded knowledge on the phenomenon;

- Implementation of a multi-dimensional (transversal) approach to confronting trafficking in persons through the application of measures in both the criminal justice and public security spheres and in the fields of guidance counseling and legal assistance, education, health, social assistance, the promotion of racial equality, labor and employment, agrarian development, human rights, the protection and promotion of women's rights, tourism, and culture;

- Review of the Palermo Protocols, with a view to adapting them to current realities and intensifying the prevention and suppression of trafficking in organs;

As a host country for migrants in different moments of its history, Brazil has a tradition of accommodating and reconciling differences. As an active part of dynamic processes of integration – Mercosur and UNASUR – that include the various economic, social and cultural activities of the South American societies, Brazil is aware of the indispensability of the promotion and protection of human rights as a fundamental requirement to the development of societies, the harmonious coexistence among peoples and the consolidation of a culture of peace. From the Brazilian point of view, boundaries are an important factor of rapprochement between neighboring countries.

Chapter 5 – Combating Money Laundering and Practical Approaches to Confront Crime*

Introduction

The perception of money laundering³ as a social problem – of national and international scope alike – emerged in the late 1980s. This triggered the introduction of various international instruments under which the offense was criminalized – including the 1988 Vienna Convention, the 2000 UN Convention Against Transnational Organized Crime, and the 2003 UN Convention against Corruption.

In the 1990s, the prevention and suppression of organized crime became increasingly intertwined with efforts to combat the various means of corruption on the conduct of criminal activities depends, as well as all forms of profit-generating crime. While certainly necessary, the mere conviction and incarceration of members of criminal organizations proved insufficient to reduce crime rates significantly. Therefore, cutting off the flow of financial resources that feed criminal activities was identified as the best means to effectively disrupt these enterprises. Indeed, combating money laundering serves to prevent the use of illicit financial resources for the commission of new crimes.

* The issues discussed in this chapter correspond to the topics addressed in items 7 and 9 of the agenda of the 12th United Nations Congress on Crime Prevention and Criminal Justice.

³*Money Laundering* is an expression that refers to economic and financial activities designed to disguise or conceal the illicit origin of particular financial assets or property, with a view to giving the related assets or property the appearance of legitimacy or, at least, hindering the effort to demonstrate or prove their acquisition by illegal means.

1. Legal and Institution Frameworks

Among the principal advances secured by the Brazilian Government in implementing effective measures to combat money laundering is Law 9613 of 1998, which gave added impetus to the efforts to confront the related criminal activities in Brazil. The criminal classification of the offense and creation of the Brazilian financial intelligence unit, the Financial Activities Control Board (“Conselho de Controle de Atividades Financeiras” – COAF), a component of the Ministry of Finance, has enabled Brazil to implement international recommendations, particularly those of the Financial Action Task Force on Money Laundering and Terrorism Financing (FATF).

Policies to Combat Money Laundering and Crime

The fight against money laundering has constituted a policy priority of the Ministry of Justice of Brazil since 2003, spurred by the conviction that the effectiveness of the related actions requires ongoing strengthening of the interaction between various levels of government.

The focus given to this area led to the establishment of the Department of Foreigners (“Departamentos de Estrangeiro”) and the Department of Asset Recovery and International Legal Cooperation (“Departamento de Recuperação de Ativos e Cooperação Jurídica Internacional” – DRCI).⁴ The Department of Foreigners operates a central authority tasked with processing extradition and prisoner transfer requests. For its part, the DRCI coordinates the set of government actions aimed at combating money laundering and the recovery of illicit assets in Brazil and abroad as compensation for damages and losses to public property. Further, the Department acts as Brazil’s Central Authority for international legal cooperation matters, through the receipt and evaluation, for purposes of determining the possibility of granting formal approval, of sentences handed down in foreign jurisdictions, the processing of letters rogatory, the furnishing of information on international law, and applications for the obtainment of legal decisions in Brazilian Courts in criminal and civil matters, including petition for the confiscation or forfeiture of assets and property. Lastly, the DRCI receives and analyzes cooperation requests on the basis of the principle of reciprocity, which are transmitted through the Ministry of External Relations.

⁴ Decree 4991 of 18 February 2004.

The National Strategy to Combat Corruption and Money Laundering (“Estratégia Nacional de Combate à Corrupção e à Lavagem de Dinheiro”) is an innovative initiative that fuses the know-how and interests of various participating bodies toward a common goal. The Strategy offers a forum through which various public agencies and entities can formulate consistent and effective public policies to confront crime in a coordinated fashion. Further, the Strategy includes the development of annual and multi-annual plans of action, with the objective of evaluating the results achieved in particular time periods and identifying key issues requiring further assessment and elaboration. First adopted in 2004, this coordinated approach has been successfully replicated by the participating bodies in the intervening years.

To follow-up the work of the different groups represented within the Strategy, the Integrated Management Office for Preventing and Combating Corruption and Money Laundering (“Gabinete de Gestão Integrada de Prevenção e Combate à Corrupção e Lavagem de Dinheiro”) was established. The Office holds quarterly meetings to follow-up the execution of approved initiatives, undertakes management actions to ensure their fulfillment, authorizes changes to approved initiatives, and, where necessary, cancels the implementation of initiatives.

A number of initiatives undertaken within the framework of ENCCLA have become standard good practices in combating money laundering. Some of these are described below:

- National Capacity Building and Training Program to Combat Corruption and Money Laundering (“Programa Nacional de Capacitação e Treinamento para o Combate à Corrupção e à Lavagem de Dinheiro”): the objective is to strengthen coordination between public officials. Course and training programs are offered to enhance the capacities and skills required for the application of preventive measures and the conduct of criminal investigations and prosecutions related to money laundering;

- National Asset Seizure and Forfeiture Database (“Sistema Nacional de Cadastro de Bens Apreendidos”): created in 2006, the National Asset Seizure and Forfeiture Database provides information on the quantity and location of all of assets and property subject to emergency court-ordered asset measures. In 2007, the National Justice Council (“Conselho Nacional de Justiça”) assumed coordination of the related implementation effort, with a view to fulfilling this policy goal, one ultimately achieved in December 2008 with the Database’s implementation;

- **Anti-Money Laundering Technology Laboratory** (“Laboratório de Tecnologia contra Lavagem de Dinheiro”): model unit designed for the application of technology-based analysis solutions to large volumes of information and the dissemination of studies on best practices in “hardware,” “software,” and the adaptation of professional skills and capacities to technological analysis. The Laboratory is aimed at the development of research studies applied to decision-making in case planning, statistics for new strategies, and training and capacity building for public officials. To this end, the Laboratory serves as a valuable tool for the replication of best practices and advanced technologies and methodologies;

- **Handbook of International Legal Cooperation and Asset Recovery** (“Manual de Cooperação Jurídica Internacional e Recuperação de Ativos”): published in 2008, the Handbook is devoted to legal cooperation in the civil and criminal spheres and provides information on international legal cooperation between national cooperation authorities. In respect to legal cooperation in the criminal sphere, the Handbook seeks to bring Brazilian legal authorities closer to the practical and normative realities of international legal cooperation by presenting it as an effective mechanism to combat transnational crime;

- **National Program for the Dissemination of International Legal Cooperation** (“Programa Nacional de Difusão da Cooperação Jurídica Internacional” – Grotius Program Brazil): inspired by the Grotius Program, an initiative launched in Europe from 1996 to 2000, the Brazilian initiative seeks to: a) incentivize and deliver capacity building to public officials in the field of international legal cooperation b) foster learning, research, and academic extension studies in subjects related to international legal cooperation, and c) promote publications on international legal cooperation based on scientific research;

- **Information on Financial Transactions**: the Financial Activities Control Board (“Conselho de Controle de Atividades Financeiras” – COAF), the Brazilian government’s financial intelligence unit, receives and analyzes the mandatory communications on financial transactions submitted by the pertinent sectors required under the Law on Money Laundering. In the event evidence is identified indicating commission of the unlawful acts prescribed in the Law, or of any other criminal offenses, financial intelligence reports are prepared and subsequently referred to the competent authorities for criminal investigation and prosecution. The Law further confers on COAF the authority to regulate those sectors that are not subject to a formal oversight body, yet are legally

required to report financial transactions. COAF implements a series of robust procedures in the performance of its functions based on the principles of risk management, corporate governance, and substantial and ongoing investments in personnel and system capacities.

- **Client Registration in the National Financial Database:** a computer system containing registration information on cash, savings account, and time deposits, in addition to other assets, rights, and securities directly held by clients of financial institutions or their legal representatives or proxies. The registration enables identification of the relationships maintained between financial institutions and their account holders or clients, or, further, the legal representatives or proxies of account holders and clients;

- **BACEN-Jud:** a direct outgrowth of the Registration Database, a measure that has contributed to expediting the monitoring of bank accounts, an electronic system designated the BACEN-Jud was established to authorize court-ordered asset seizures connected to resources held in bank accounts under the jurisdiction of the Central Bank of Brazil. In addition to ensuring compliance with court orders for the freezing and release of accounts and financial assets, the BACEN-Jud facilitates the obtainment of account balances, bank statements, and client addresses, and is available to all Brazilian criminal investigation and prosecution authorities. This makes it possible to meet any legal assistance request.

2. Perspectives and challenges

Brazil supports the consolidation of registration data on individual, assets, and private ownership and holdership records as a means to facilitate access to relevant information capable of assisting the fight against crime. The access to information executed through consolidated computer systems significantly expedites the official actions of authorities at the national and international levels. Additionally, the measure benefits the delivery of broader and more effective international legal cooperation.

Brazil maintains a number of registration systems – Motor Vehicle Records, National Financial System Client Lists, Databases of Persons Sanctioned for Acts of Administrative Misconduct, within the scope of the Judicial Branch, Real Estate Property Declarations, Asset Seizures and Forfeitures, Registries of Wanted and Banned Persons, within the scope of the Federal Police Department, Security Information, and Registries of Eligible Entities.

Judicial authorities can obtain information on the asset and property holdings of convicted offenders through a program launched in partnership with the Brazilian Federal Revenue Department (“Receita Federal do Brasil”) and the National Justice Council (“Conselho Nacional de Justiça” – CNJ). Further, the CNJ is presently working to establish a consolidated national registry for notarial services. The registry will include information on civil, property, and security and stock registrations. Similarly, the Office of the Comptroller-General (“Controladoria-Geral da União” – CGU) is in the process of consolidating a National Registry of Commercial Boards (“Cadastro Nacional de Juntas Comerciais”) with data on legally constituted corporation.

One of the key challenges facing governments is how to quicken the pace of justice. The need to assure individuals the exercise of the right of challenge and a full defense often has the effect of slowing the criminal justice system to a crawl. Yet, thrift in concluding criminal procedures, whether investigative or legal, is important, as widely recognized, not only to guarantee enforcement of the law, but for purposes of ensuring that criminal prosecutions serve as an example as well. In this light, the objective of international legal cooperation in the criminal sphere is to enhance the pace and efficiency of criminal prosecutions.

Legal Reforms

The Brazilian State has modernized the national legal framework on two fronts: one is aimed at streamlining legal procedures, while the other centers on adapting the internal normative instruments to the provisions set forth in international conventions and the FATF recommendations.

Additionally, a series of amendments have been introduced in the Brazilian Code of Criminal Justice to simplify the applicable processes and enable the use of technology and computers in procedural acts. A direct effect of international legal cooperation was the revised draft of article 185, paragraphs 2 to 9, of the Brazilian Code of Criminal Justice, which allows for the use of videoconferencing equipment for the purpose of obtaining statements and testimony. The technology is widely adopted to fulfill international legal cooperation requests. The methods provided for in article 405 and the corresponding paragraphs of the Brazilian Code of Criminal Procedure – namely magnetic recording, digital stenography or a similar techniques, including audiovisual – pave the way for the processing of request submissions by other countries in electronic format prior to the delivery of the physical documentation setting out the actions undertaken by Brazil.

Specialized Federal Courts for Money Laundering Crimes

The Federal Justice Council (“Conselho de Justiça Federal”), a component of the Judicial Branch, designated specific federal courts to exercise exclusive or concurrent competence in the prosecution of crimes committed against the national financial system and the laundering or concealment of assets, rights, and securities.⁵ Subsequently, the Federal Regional Courts implemented additional specialized courts in the five jurisdictional regions tasked with prosecuting the related offenses.

Computer Systems

The implementation of computer systems has served to expedite judicial procedures through the substitution of traditional instruments and processes with virtual electronic mechanisms. An example is the PROJUDI System, an initiative of the CNJ. The system is based a computer program that effectively replaces paper files with electronic files, thus generating “digital procedural records.” Digital records may be accessed over the Internet through different user level passwords, enabling more effective performance of each user’s specific functions – judges, attorneys, court officers and staff. Computerized systems also allow for electronic notifications of judicial acts (subpoenas and summonses).

The second aspect of computerized systems involves the Consolidated National Registry of Notarial Services, currently under development by the CNJ, and the National Registry of Commercial Boards, an initiative of the CGU.

3. Domestic Coordination and International Cooperation

National Drug Policy System

As an example of good Brazilian practices in regard to the disposal of asset confiscations and recovery, the Law⁶ governing institution of the National Drug Policy System (“Sistema Nacional de Políticas Públicas sobre Drogas”)

⁵ Resolution 314 of 2003.

⁶ Law 11343 of 23 August 2006.

provides for the application of confiscated assets toward the social reintegration and rehabilitation of drug addicts and the suppression of narcotics sales.

With respect to vehicles, vessels, or aircraft, the law authorizes case judges to order the issuance of temporary certificates of registration to the transit authority or equivalent registration and control body on behalf of the institutions to which confiscated items are transferred. Those institutions are then exempted from paying fines, fees, and taxes assessed prior to the final and unappealable court decisions on forfeiture of the related assets to the Union. All assets not assigned to the custody and use of a law enforcement authority, intelligence agencies, or military units are transferred in advance and the corresponding amounts deposited in court administered interest-bearing accounts until conclusion of the respective criminal prosecutions.

Under the law, fund resources must be distributed as follows: a) to vocational training programs in education on, prevention, treatment, recovery, suppression, control, and enforcement of drug use and trafficking; b) to technical and scientific drug prevention programs; c) to public awareness-raising programs, including educational and community-based campaigns; d) to organizations engaged in delivering specific treatment and rehabilitation services to users; e) to the adequate equipping and funding of enforcement, control, and suppression activities dedicated to confronting drug use and the illicit traffic in narcotics and controlled substances; f) to the payment of participation quotas undertaken by Brazil in its capacity as a member of international or regional organizations devoted to drug-related issues; g) to the payment of the fund's management costs and those arising from execution of the duties and responsibilities of the National Drug Secretariat (“Secretaria Nacional sobre Drogas”); h) to the redemption of bond certificates issued by the national Treasury as a guarantee for the resources transferred to the National Ant-Drug Fund (“Fundo Nacional Antidrogas”); i) to the payment of expenses in connection with the duties and measures executed by COAF to combat the crimes of money laundering and concealment of assets, rights, and securities, as provided for in the Law on Money Laundering.

Prevention of Money Laundering

Brazil's legal framework does not yet include the possibility of civil forfeiture. Yet, the country has ensured the execution of official measures in international legal cooperation, based on article 43, 1, of the 2003 UN

Convention against Corruption, aimed at the establishment of administrative misconduct actions, which are civil in nature.

Exchange of Confidential Information

The Brazilian State boasts a broad and comprehensive legal framework on information access by the competent public bodies and entities engaged in financial enforcement and the investigating the use of the financial sector for unlawful practices. The following institutions are guaranteed access to information without need for a court order: a) the Central Bank of Brazil, in order to detect and investigate unlawful acts or launch inquiries in financial institutions subject to special oversight mechanisms; b) the Federal Legislative Branch and the Congressional Inquiry Commissions (“Comissões Parlamentares de Inquérito”); c) the Brazilian Securities Commission (“Comissão de Valores Mobiliários”), with a view to the oversight of securities transactions and services; d) the Brazilian financial intelligence unit, COAF, through the information submitted by the Central Bank and the Brazilian Securities Commission; e) federal, state, and municipal tax authorities, in cases in which an administrative proceeding or procedure has been established; and f) the Public Prosecutor’s Office, for the purpose of investigating criminal offenses, and other authorities with competence to verify the commission of administrative offenses, through official communications from the Central Bank or Brazilian Securities Commission.⁷

Additionally, the Law on Money Laundering provides for the following, without the need for a court order: a) mandatory communication of the registration information of account holders by banking or financial institutions to the Central Bank of Brazil and of any suspicious financial transactions to COAF; b) mandatory communication by COAF of evidence of criminal activity, including money laundering, to the competent investigative authorities.

The following measures may be executed through a prior court order:

- The lifting of banking secrecy required for the investigation of criminal offenses at any stage of the related investigation or judicial proceeding, specifically in relation to the illicit traffic in narcotic drugs or similar substances, the smuggling or traffic in arms, ammunition, or materials employed in their

⁷ Complementary Law 105 of 10 January 2001

production, extortion through abduction, acts against the public administration, violations against the tax and social security systems, money laundering, and the concealment of assets, rights, and securities by criminal organizations;

- The delivery of confidential information and documents to administrative disciplinary committees aimed at investigating the liability of public servants for violations committed in the performance of their official duties;

- The lifting of confidentiality maintained by financial institutions in relation to information and documents pertaining to assets, rights, and securities and the obligations of physical or legal persons subject to the disciplinary oversight of the Brazilian Securities Commission (“Comissão de Valores Mobiliários”), in cases in which an administrative investigative proceeding has been established.

Brazilian authorities and agencies devoted to the detection, suppression, and enforcement of crime do not encounter difficulties in identifying or tracing assets and property acquired by or for the commission of unlawful acts, a factor that facilitates the offer of legal cooperation for asset recovery.

Principle of Dual Criminality

The Brazilian government believes that the distorted application of the Principle of Dual Criminality significantly undermines international legal cooperation activities and the use of information and documents arising from those activities. The Brazilian State adopts the most limited interpretation possible of dual criminality, and the international treaties to which the country is a party reflect this position. Article 5 of the Inter-American Convention on Mutual Assistance in Criminal Matters⁸ provides for the provision of international legal assistance, even in the absence of dual criminality, for requests involving asset freezes and seizures, inspections and confiscation, including the execution of search and seizure orders. Article 1, paragraphs 4, 22, and 23, of the MERCOSUR Protocol on Mutual Legal Assistance in Criminal Matters also authorizes the delivery of international legal assistance, irrespective of dual criminality, for purposes of the execution of seizure and forfeiture measures, submission of documents, inspections, delivery of objects, documents, and criminal records.

⁸ Decree 6340 of 3 January 2008.

In the case of cooperation requests in connection with tax and financial crimes, broad legal cooperation requires that those countries which define the related acts as mere administrative violations apply a more flexible interpretation to the Principle of Dual Criminality, in order to ensure the assets derived from serious offenses can be traced, frozen, and returned to their countries of origin.

In its bilateral agreements, Brazil generally establishes that dual criminality does not necessarily generate negative effects for cooperation, by making the refusal of requests on the related grounds optional in equivalent cases. Further, Brazil does not oppose cooperation in cases of fiscal and tax crimes, despite the resistance it has encountered from other countries in regard to the grant of active requests in this field.

The country is prohibited to cooperate in cases of capital punishment, life imprisonment, forced labor, and cruel punishment, to the extent these penalties violate Brazil's sentencing guidelines and the normative provisions regulating those guidelines. However, cooperation may be provided for purposes of extradition if the requesting State undertakes to commute the penalties set forth above to a finite prison sentence. Additionally, in regard to evidence collection (discovery), the requesting State may apply all means authorized under Brazilian law in the respective cooperation request.

4. Suggestions to the Action of the International Community

Legal Cooperation

The intensification of international legal cooperation – whether through reciprocity or whether based in international treaty obligations – offers the possibility of bolstering mutual confidence and commitment among cooperating States. In a majority of cases, however, these elements are not yet sufficient to overcome a series of obstacles to the enhanced effectiveness of legal assistance between States.

With respect to legal cooperation aimed at asset recovery, in a select number of countries the judicial branch continues to resist cooperation in the absence of a final judicial decision. This reticence hinders and, at times, prevents the grant of requests for the adoption of court injunctions intended to preserve the status quo in respect of assets and rights and, in this way, ensure effective outcomes in the criminal prosecutions that give rise to the original cooperation requests.

It is the Brazilian government's view that best course of action for the international community in this area would be the adoption, in all cases, of the advance restitution of assets – as provided for in article 57, paragraph 3, of the Mérida Convention –, so as to assure blocked financial resources and assets remain deposited in interest-bearing accounts administered by the courts with responsibility for the respective criminal prosecutions, until conviction, and an accompanying sentence of confiscation, or acquittal, followed by the restitution of the assets and resources in question to the defendant.

The Brazilian position is also justified in cases involving court injunctions related to the attachment of property or active enterprises, the continued operation of which, until issuance of a final forfeiture decision, could generate excessive obligations and costs. In these circumstances, the ideal response would be the advance disposal and restitution of the respective assets and property in a manner similar to that described in the paragraph above.

International Organizations

The regional inter-governmental organizations that operate on similar bases to the FATF perform a relevant function, to the extent the periodic evaluations undertaken within those bodies spurs the implementation of the 40 + 9 recommendations, thereby supplying member States with critical instruments to counter money laundering and prevent and combat terrorism financing.

At the same time, the analyses of classifications of offenses offer substantial assistance in unraveling the modus operandi of offenders, enabling legal and law enforcement activities to be directed toward combating transnational organized crime. Because of the essentially mutating nature of criminal activity, the continuous updating and adaptation of the norms and policies governing money laundering offenses is pivotal.

However, the changing face of criminal activity occurs in different stages on the world stage. In some countries, only the most rudimentary forms of money laundering are employed, while in others innovative strategies are identified on a periodic basis, a product of the sophistication of criminal enterprises engaged in the related activities and their use of highly skilled professionals and modern technology instruments. In this context, the utility of the existing normative framework, including treaties, and the strategies adopted in international forums, such as the FATF recommendations, is not undermined by the shifting approaches and methods of criminal organizations.

Because of their eminently programmatic nature, the conventions drafted in the scope of international forums and entities are useful to the formulation and development of anti-money laundering instruments in the internal sphere. However, it is of fundamental importance that States Parties adopt the measures necessary to fulfill the commitments undertaken on the international plane.

International Legal Cooperation Networks

The international legal cooperation networks established within the framework of regional organizations, in conjunction with or as a consequence of multilateral mutual legal assistance mechanisms, also provide an important contribution to overcoming the obstacles that hamper communication between States.

A pioneering initiative in this area is the European Judicial Network established in 1998 as part of the Action Plan to Combat Organized Crime adopted by the European Council in 1997. The objective of the international legal cooperation networks is to facilitate cooperation between member States, provide legal information and practices to national authorities, and assist national authorities in formulating assistance requests. The networks are composed of national contact points designated by the Central Authorities who, in addition to coordinating national efforts on matters related to international legal cooperation, are tasked with mediating the cooperation process. They do not serve a bureaucratic function, to the extent the networks are founded on information exchanges and informal contacts. Brazil participates in three international legal cooperation networks: the OAS's Hemispheric Information Exchange Network for Legal Assistance in Criminal Matters and Extradition, the Ibero-American Network for Judicial Cooperation – IberRED; and the International Legal and Judicial Cooperation Network of the Portuguese-Speaking Countries Legal Network.

To date, a number of tangible results have been obtained through the international legal cooperation networks. In a variety of cooperation initiatives to combat crime, success has hinged on the collaboration of public officials, despite the direct applicability of a single network. Currently, the various networks are not interlinked. Their interconnection could serve to expedite the solution of cooperation cases between countries not belonging to the same networks.

Strengthening of Central Authorities

One advance achieved by the Brazilian State involves the organization and specialization of Central Authorities as a facilitating element in international legal cooperation. Central Authorities have the capacity to ensure uniform State action, the standardization of procedures, and adequate specialization to address the matter in question, thereby avoiding the duplication of efforts and waste, and ensuring the respective transmissions and communications are executed in the same manner and through a single administrative channel.

It is of fundamental importance that each State provide its Central Authority with the logistical and human resources to guarantee timely and secure processing of international legal cooperation requests, in order to mediate information exchanges between national and international authorities in an effective and efficient manner. To this end, the Brazilian State maintains the Department of Asset Recovery and International Legal Cooperation (“Departamento de Recuperação de Ativos e Cooperação Jurídica Internacional”), an administrative component of the Ministry of Justice.

Implementation of a Unified Registry and Electronic Layout

Given the relevance of information on financial transaction to combat money laundering and predicate offenses, the Brazilian government believes the international community should move to create unified registries and electronic layouts for adoption by the widest number of State’s possible. These measures would serve to facilitate international legal cooperation significantly by expediting the examination of transactions, as well as the identification and freezing of the proceeds of crime.

Confiscation

The different approaches to confiscation, whether based on judicial convictions or not, continue to pose a challenge to the international community. For the Brazilian government, the most appropriate solution is offered in article 43, 1, of the Mérida Convention, through which States are authorized to provide assistance in the investigations and procedures connected to civil and administrative matters involving corruption.

Solutions to the Principle of Dual Criminality

One of the key concerns of experts in relation to international cooperation is the Principle of Dual Criminality. The principle is so defined in the English versions of the United Nations Convention Against Transnational Organized Crime and of the Convention of the Organisation for Economic Co-operation and Development – OECD on Combating Bribery of Foreign Public Officials in International Commercial Transactions. Dual criminality occurs when one State is requested by another to execute a specific judicial measure in a criminal proceeding involving an act not classified as a criminal offense under the requested State’s laws.

In the effort to combat transnational crime, the traditional response of requested States was to refuse assistance on the grounds of the absence of an equivalent criminal classification under its internal laws for the offense subject to the cooperation request. There are, nonetheless, possible solutions to the obstacles posed by dual criminality:

- Expanding the interpretation of criminal classification by waiving the requirement that a particular act correspond to an offense of the same degree or type in both countries. Establishing a sufficient connection between the essential elements (*essentialia delicti*) of an offense would be sufficient for purposes of the application of dual criminality;
- Examination by the international community of the need to apply dual criminality for purposes of executing cooperation related to specific judicial measures;⁹
- Broadening of the criminal classifications to which the principle of dual criminality applies by virtue of the obligations undertaken by the requested State through adherence to an international convention or treaty in which a particular act is criminalized, even where such act is not classified as a criminal offense under the requested State’s internal laws;¹⁰ and
- Automatic applicability of cooperation treaties. The respective treaties would be undergirded by the required and sufficient legal bases for purposes of the provision of assistance.

⁹ UNCC, article 46, paragraph 9.b.

¹⁰ Article 9, paragraph 2, of the OECD Convention.



Chapter 6 – Science and Technology - Resource within the reach of the crime, but also with the law enforcement*

Introduction

The Brazilian government believes that the use of technical and scientific resources to prevent and prosecute criminal offenses is essential for security and effective law enforcement. The importance of these elements encompasses both the use of science and technology by national authorities and information and knowledge on the potential uses and unlawful appropriation of technical resources for the commission of criminal offenses. Brazil has undertaken a range of measures to address this issue, including adapting the applicable legal framework and training public security forces, with the objective of using technology as a tool to achieve a safer and more secure society.

To this end, the Brazilian government has closely tracked the international and domestic discussion on cyber crime, given the global scope and sheer complexity of this particular form of criminal activity. An issue of major interest and currency, particularly in the light of Brazil's territorial dimensions and the effort to ensure digital inclusion, as well as the natural tendency toward the multiplication of Internet services in the coming years, crimes against computer systems, or those perpetrated through the use of information technology, have grown exponentially, posing additional obstacles to the efforts of government, which will be required increasingly to adopt new tools in order to address this challenge.

* The issues discussed in this chapter correspond to the topics addressed in item 8 of the agenda of the 12th United Nations Congress on Crime Prevention and Criminal Justice.

1. Cybernetics and New Investigative Techniques

A. Cyber Crime

Rising cyber crime rates in Brazil, especially crimes against honor, banking fraud, child pornography, and the falsification of data in information systems, is due primarily to the large number of Internet users across the national territory, a product of the country's economic growth, and substantial investments in digital inclusion projects in recent years.

Although PC penetration rates in Brazil are relatively low, according to figures of the Brazilian Institute for Geography and Statistics ("Brazilian Institute of Geography and Statistics" – IBGE) there are over 64 million Internet users throughout the country, including cybercafé and LAN establishment users. In 2008, 17.95 million Brazilian households (31.2%) had PCs, 13.7 million (23.8%) of which had Internet access. In addition, Brazilians are among the most active Internet users in the world, with some of the highest navigating times, illustrating the potential value of the Web as an instrument for Brazilian society and national development. At the same time, these figures have spurred initiatives to enhance the management and governance of cyberspace, with a view to preventing and combating the use of the Internet for the commission of criminal offenses.

Concerned with the impact of computer crimes on critical infrastructure, including communications, and the privacy of users who access online services delivered by government, civil society, and private enterprises, among them banking institutions, Brazil shares the international community's concern regarding the importance of strengthening and expanding mutual cooperation, in accordance with national needs and interests.

Legal Framework

In 1998, the Federal Supreme Court ("Supremo Tribunal Federal") ruled that innovation in the means or performance – new *modus operandi* – of a criminal offense through the use of technological resources does not invalidate the particular criminal classification, nor violate the principle of legality. In his ruling, the presiding rapporteur, Minister Sepúlveda Pertence, stated that the related scenarios would not involve gap-filling of the applicable legislation by analogy, therefore obviating the need to adapt existing criminal law to acts committed with the use of computers.

In this light, no amendments to Brazilian law are required for the purpose of classifying specific criminal offenses committed with the use of computers, which, however, could also be perpetrated by other means. Based on this interpretation, *incidental computer crimes* – those in which the electronic operation constitutes but one means for commission of a unlawful act that could be perpetrated through other channels as well, including crimes against honor, banking fraud, and child pornography – do not require modifications in the applicable law for the purpose of criminal investigation and prosecution.

However, certain categories of unlawful conduct are the direct product of advances in information technology, to the extent their commission is inextricably bound to the use of computer systems. In these cases, specific legislation is required for purposes of criminal investigation and prosecution, in accordance with article 5, subsection XXXIX, of the Federal Constitution and article 1 of the Brazilian Code of Criminal Justice, by which “there is no crime in the absence of a prior law defining it as such; there can be no conviction in the absence of formal legal charges.”

Therefore, *pure computer crimes* – those which can only be committed by electronic means, including unauthorized access to computer systems and dissemination of malicious code – and *crimes where a computer system or network is the target* – those in which the computer itself is the target of an unlawful electronic processing operation, such as computer sabotage and attacks against communications or other critical infrastructure – must be expressly classified under current Brazilian law.

Despite the advances achieved in recent years in legal doctrine and jurisprudence, gaps have been identified in the domestic legal system, regarding, for example, the crime of unauthorized access to computer networks, communications devices, or computer systems; improper disclosure or use of personal data and information through a computer network, communications device, or computer system; execution or release of malicious code, among others.

Given this scenario, in conjunction with the efforts of Brazilian experts to promote the approval of laws to respond to technological advances, a series of related legislative initiatives are under consideration in the National Congress. To date, a variety of unlawful acts have been prescribed in law, including:

- Unlawful Interception: article 10 of Law 9296 of 1996;
- Attacking Computer Systems and Databases Operated by the Public Administration: articles 313-A and 313-B of the Brazilian Code of Criminal Justice;

- Child Pornography: article 241 and following of the Child and Adolescent Bill of Rights (“Estatuto da Criança e do Adolescente”);
- Copyright Violation: article 184 of the Brazilian Criminal Code of Justice, as interpreted under the provisions of Laws 9609 and 9610 of 1998.

Brazilian law does not yet provide for the obligations and responsibilities of Internet service providers – access and content providers. This gap carries serious consequences for users and the investigation of criminal offenses committed on the World Wide Web. That issue has been the subject of discussions within the Ministry of Justice aimed at regulating the Internet’s civil law framework in Brazil and within the scope of the National Telecommunications Agency (“Agência Nacional de Telecomunicações” – ANATEL), which is currently in the process of rewriting the sector’s normative guidelines and rules. The new regulations would set forth the obligations of enterprises, the rights of users, and the mandatory inclusion of maximum and minimum Internet connection speeds in service contracts, in addition to measures to stimulate competition.

A pivotal initiative in the legislative sphere was the approval of Law 11829 of 25 November 2008, which amended the Child and Adolescent Bill of Rights (“Estatuto da Criança e do Adolescente” – Law 8069 of 13 July 1990) by establishing the possession of child pornography as a criminal offense subject, in the event of conviction, to a sentence of one to four years imprisonment and fine. The previous legal provision required a showing of the diffusion and dissemination of unlawful content, a condition waived under the new law.

In addition, under the current legislation, any person who furnishes the means or services to store pornographic photographs, video, or images involving children and any person who provides access through computer networks to unlawful photographs, video, or images are subject to punishment as well. Law 11829 was the direct outgrowth of the Federal Senate’s Congressional Inquiry Commission (“Comissão Parlamentar de Inquérito” – CPI) on Pedophilia, which included the support and guidance of the Federal Police Department.

To be sure, Brazil boasts some of the world’s most advanced anti-child pornography legislation, an achievement that has allowed for major strides in the prevention and suppression of the related crimes. Key initiatives driven by this legal framework include the Carousel I (“Carrossel I”), Carousel II (“Carrossel II”), and Turk (“Turko”) Law Enforcement Operations involving

investigations into the activities 220 persons in Brazil and the arrest and incarceration of approximately 500 offenders worldwide on charges of possession and distribution of child pornography.

B. The Use Technology to Combat Crime

The Federal Police Department has invested heavily in material and human resources to develop and apply information technology aimed at combating crime, most notably organized crime. Brazil has sought to enhance the mechanisms employed in treating the data collected in criminal investigations, due to the extensive volume of the information involved and the complexity of the criminal acts. To this end, Brazil has implemented crime laboratories and equipment, as well as information processing systems and software aimed at the prevention and prosecution of crimes. In regard to the suppression of crimes against intellectual property, recent efforts include the I-Commerce and I-Commerce II Law Enforcement Operations, through which hundreds of offenders were identified and charged with the sale and distribution of fraudulent merchandise on Internet sites.

Substantial investments have been allocated to confront the threats to public security, primarily through the creation of formal investigative units to counter cyber crime. A total of 27 units will be implemented in the states and the Federal District within the scope of the Federal Police Department. Further, the Federal Police is currently organizing a variety of capacity building and training events. In the framework of the National Police Academy's training program for new law enforcement agents, a Cyber Crime Enforcement Police module was created to provide personnel entering the law enforcement field with the know-how and skills necessary for the conduct of effective cyberspace investigations.

Specifically, four technology applications aimed at combating crime warrant mention: the DNA Laboratory ("Laboratório DNA"), the National Crime Institute of the Federal Police ("Instituto Nacional de Criminalística da Polícia Federal"), the Brazilian Diamond DNA Project ("Projeto DNA dos Diamantes Brasileiros"), and the Drug Chemical Profile Project ("Projeto – Perfil Químico das Drogas" PeQui).

DNA Laboratory Project

Given Brazil's extensive biodiversity endowment, the Federal Police faces a major challenge in combating poaching and the illegal traffic in wildlife. The DNA

Laboratory (“Laboratório DNA”) of the Federal Police Department’s National Crime Institute (“Instituto Nacional de Criminalística”) provides investigators engaged in collecting material evidence on criminal offenses with a specific forensic tool to identify wildlife species – namely, the mitochondrial DNA (mtDNA) test. Today, the test is employed in approximately 15% of all cases. Use of the tool has increased steadily because of its high precision and applicability in cases where the anatomical analysis of collected material is not possible.

The National Crime Institute’s DNA Laboratory is in the process of implementing a database on the genetic profiles of missing children and adolescents with an automated identification feature to ensure more timely and expedited processing. The feature will enable the identification of long-missing children and recovered human remains, a procedure which would generally not be possible through the application of other methods.

Brazilian Diamond DNA Project

Another of the tools developed by Federal Police investigators to combat crime is the Brazilian Diamond DNA Project. The control of the production and sale of diamonds in Brazil and abroad remains inadequate due to the absence of systematic mineralogical parameters for enterprises in disparate business fields. The objective of the Kimberley Certification is to standardize the applicable control process.

In this context, the National Crime Institute has worked assiduously since January 2007 to set up a database containing the mineralogical parameters of Brazilian diamonds intended for implementation in government institutions, mining companies, and diamond and precious stone distributors. The initiative will contribute to catapulting Brazil into a leading and pioneering position in the field of diamond production and sales controls.

Preliminary results of the Project were presented at the Kimberley Process Certification Scheme in India in November 2008. Dissemination of the results have spurred a number of countries and institutions, including laboratories and enterprises, to express an interest in undertaking joint initiatives with the Federal Police.

The Project’s most important contribution is the generation of data capable of providing technical assistance to government agencies, ensuring the application of more effective and accurate measures to determine the origin of diamonds extracted and sold in Brazil. Controls on the origin of diamonds

assist in combating crimes connected to the illegal traffic of stones and metals, primarily crimes committed against the human life.

In addition to enabling the mineralogical identification of Brazilian diamonds, the Project will contribute to reduced capital flight, more effective anti-money laundering efforts, and control of mining activities with significant environmental impact, thus benefiting primarily the populations affected by the extraction and sale of precious stones.

Drug chemical Profile – PeQui Project

The National Crime Institute is currently developing the Drug Chemical Profile Project (“Projeto Perfil Químico das Drogas” – Projeto PeQui) with the financial support of the Ministry of Science and Technology’s Studies and Projects Financing Unit of the (“Financiadora de Estudos e Projetos do Ministério da Ciência e Tecnologia”) and the United Nations Office on Drugs and Crime (UNDOC).

The PeQui Project consists of studies on the physical properties of addictive drugs and their impurities, for purposes of mapping their chemical profile and assembling valuable information for authorities and institutions engaged in studying, controlling, and combating illicit substances. These studies serve to establish the connection between samples and materials seized in law enforcement operations, classifying them on the basis of associated chemical groups. They enable determination of the key links between drug distributors and users, the description of distribution patterns and networks, and the identification of the sources of illicit narcotics, including their geographic origin. The resulting data can be used both by administrators and researchers in the health and drug policy fields.

2. Perspectives

Brazil’s official views and positions in this area are based on assessments of the challenges facing the implementation of a systematic and effective approach. Among the principal obstacles and difficulties hampering the effort to combat cyber crime in Brazil, the factors set out below are of particular note and deserve special attention from national authorities:

- The lag between approval of legal reforms and the pace of technological innovation;

- Inadequate equipping of the Judiciary Police, particularly in regard to the number of computer specialists. An increase in specialized staff would pave the way for expanded law enforcement measures throughout the national territory;

- Problems inherent to investigative procedures: a) identification of persons, especially where communication terminals are shared by various users; b) identification of the location of criminal acts, in particular in cases involving mobile Internet access; c) the integrity and authenticity of collected data and metadata; d) the large volume of collected data; e) ciphered data;

- Increased sophistication of criminal organizations in the commission of cyber crimes, primarily child pornography, banking and financial fraud, money laundering, and dissemination of malicious code;

- Expanded use of encrypted resources by criminal organizations, in conjunction with the need to strengthen the import, export, and distribution controls applied to dual use technologies; and

- The transnational nature of criminal activity in this area, engendering the following impacts: a) the need for international legal cooperation grounded in timely and effective procedures to prevent and suppress the related offenses; b) the need to undertake steps abroad, including the lifting of telematic (computer and wireless telecommunications) secrecy and the collection of other evidentiary proof stored in foreign countries, even where the related acts and results of such acts occur in a single jurisdiction; c) the potential need to execute court orders in other countries, such as letters rogatory and exequatur (execution of a court decision in a foreign jurisdiction); and d) possible conflicts involving jurisdiction, where criminal offenses are committed in one country, the related services providers are located in another, and the results are generated in a third jurisdiction.

Integrated Police Intelligence and Strategic Analysis Center

In 2009, Brazil allocated investments to the Integrated Police Intelligence and Strategic Analysis Center (“Centro Integrado de Inteligência Policial e Análise Estratégica” – CINTEPOL), the objective of which is to support a diversity of intelligence and criminal investigation actions. CINTEPOL is the Federal Police Department’s principal initiative against organized crime and consists of a set of measures aimed at providing crime investigators with the latest technologies to execute the data analysis and police intelligence activities described below.

Data Analysis System

The data analysis system consists of a comprehensive series of law enforcement analysis and intelligence elements. The system includes functions that enable chronological identification, analysis, and visualization of complex information on apparently disconnected persons, locations, events, and trends organized in readily understandable intuitive diagrams. Additionally, the system offers geo-referencing and data mining functions.

The system as a whole is based on virtualization technology, with the related processing operations accomplished through a supercomputer. To ensure effective utilization of the system and access to the database, a robust security system is under development founded on encryption technologies and dynamic passwords.

Automated Digital Fingerprint Identification System

The automated digital fingerprint identification system, known as the AFIS System, represents a key advance in a critical area of law enforcement agencies – the identification of persons. Fully implemented in the Federal Police Department, the system's database is currently in the process of being integrated with other agency databases, including the passport system. Further, agreements have been concluded with 22 public security secretariats in Brazilian states to implement and integrate the system.

Database Integration

Database integration is a long-standing objective of the Brazilian Federal Police. Through the use of government data technologies and Web services, the plan is to integrate all agency databases with the Data Analysis System Tables. Further, agreements will be executed to extend the integration effort to the databases operated by Public Security Secretariats in the individual states, the Federal Revenue Department (“Receita Federal do Brasil”), the Office of the Comptroller-General (“Controladoria-Geral da União” – CGU), and the INFOSEG System, among others.

The initiative represents a fundamental pillar of CINTEPOL's activities, providing federal law enforcement officers and those of other Brazilian security agencies with have direct access to a wide range of information on individuals

and organizations targeted for investigation through a consolidated tool protected with a single-user password. Integration allows for a wider variety of information connections, including those distributed through local databases operated across Brazil

Discreet Equipment

The substantial acquisition of discreet equipment by the Federal Police will serve to significantly increase the investigative capacities of member entities and agencies. The new infrastructure is aimed at a variety of functions, the location of targets by Global Positioning System – GPS, data transmission through the Global System for Mobile Communications – GSM, thermal night vision, among others.

These tools will enable the Federal Police to analyze criminal incidents, extracting critical information capable of contributing to the formulation of enhanced strategies and modes of action by public security forces. Law enforcement efforts against electronic banking fraud offer a good illustration of the promising results emerging from the initiative. Recently, thousands of investigative procedures were consolidated into approximately 20 new investigations aimed at identifying and suppressing the unlawful activities of criminal groups, laying the groundwork for a significant increase in the quality and efficiency of Federal Police actions. The same model is in the process of being adopted by every agency unit and division engaged in combating organized crime.

Computer System Incident Response Teams

Analyses in the information technology sector reveal that Brazil is a primary targets of Spam attacks. These attacks pose a serious risk to the capacity of communications networks rooted in the upsurge in undesirable traffic and resulting increases in equipment and personnel costs. Additionally, according to the Computer System Incident Response Studies Center (“Centro de Estudos de Respostas a Incidentes em Rede”), a component of the Brazilian Internet Management Committee (“Comitê Gestor da Internet no Brasil”), in 2009 alone there were more than 300,000 computer system incidents in Brazil, a large portion of which (26%) corresponded to malicious attacks aimed at the obtainment of personal data and information. To confront the problem,

Brazil has undertaken efforts to enhance its prevention and containment infrastructure through the formation of Computer System Incident Response Teams (“Equipes de Tratamento de Incidentes em Redes” – CSIRT) and the establishment of the National Computer System Incident Database (“Base Nacional de Incidentes em Redes”), which is fed with information collected by the Computer System Incident Response Teams. The purpose of the Database is to support coordinated prevention actions, including the timely identification and neutralization of threats, before attacks are able to reach their intended objective and generate tangible damage.

Advances and Policies

Despite all of these challenges, Brazil has made significant progress in the effort against cyber crimes, especially through the joint operations undertaken between the Federal Police Department and the Public Prosecutor’s Office. In 1996, the first specialized criminal investigators began operating in the field, a process that culminated with the establishment of a computer crime investigation sector within the National Crime Institute (“Instituto Nacional de Criminalística” – INC). Currently, the unit has 200 experts working in Brazilian states. In addition to expanded human resources, Federal Police investigators have been provided with essential material resources through the acquisition of last generation investigative equipment and software.

Development of New Technologies

An important new tool for combating computer crimes in the forensic field is the EspiaMule, a software package developed by federal criminal investigators. The program enables the computer identification of users who share child pornography files worldwide. The tool was employed in the Carousel I and II Operations, which resulted in a number of arrests and convictions throughout Brazil and abroad, as described above.

Congressional Inquiry Commission on Pedophilia

In 2008, the Federal Senate established a Congressional Inquiry Commission (“Comissão Parlamentar de Inquérito” – CPI), designated the Pedophilia CPI, that included the participation of the Federal Police

Department, the Public Prosecutor's Office, and various non-governmental organizations. The effort produced an agreement with Google, telecommunications operators, and credit card management companies aimed at addressing, at least partially, the absence of procedural legislation to combat cyber crimes, in particular child pornography.

In addition a Children's Protection Commission ("Comissão de Proteção à Infância") was created within the framework of the Brazilian Internet Management Committee ("Comitê Gestor da Internet do Brasil" – CGI.br) in which representatives of the public and private sectors alike are actively engaged. Further, in December 2008 the Pedophilia CPI spurred conclusion of a Cooperation Agreement between telecommunications operators, Internet service providers, the Federal Senate's Pedophilia CPI, the Public Prosecutor's Office, the National Council of Attorneys-General ("Conselho Nacional dos Procuradores-Gerais"), the Federal Police Department, the Brazilian Internet Management Committee, the non-governmental organization Safernet Brasil designed to marshal efforts to prevent and combat crimes against children committed with the aid of the Internet. The initiative marked a significant step forward in the fight against pedophilia in Brazil.

Because safeguarding the welfare and interest of children is a priority of Brazil, a specific sector was created to protect children online. Recently, the Federal Police Department signed a pioneering agreement with a non-governmental entity to assist in combating the sexual exploitation of children on the Internet.

Conduct Adjustment Agreement

In July 2008, the Public Prosecutor's Office announced the conclusion of a Conduct Adjustment Agreement ("Termo de Ajustamento de Conduta") with Google Brazil in the framework of the Pedophilia CPI. The agreement was based on the identification of a substantial volume of criminal offenses committed in the scope Google's virtual domains by the Group on Combating Cyber Crime ("Grupo de Combate a Crimes Cibernéticos") of the São Paulo Public Prosecutor's Office, in particular child pornography and racism

Pursuant to the agreement, the company undertook to comply with Brazilian law and collaborate in the investigation of cyber crimes perpetrated on the Orkut chat site, a popular virtual community in Brazil. Similarly, Google announced the implementation of security measures aimed assisting Brazilian

authorities in combating Internet crimes. The instruments require the company to block images considered offensive, maintain Orkut access records for a period of 180 days, which may be extended by judicial authorities, and remove unlawful content from the Internet upon a court order or an official request of a law enforcement authority or the Public Prosecutor's Office, in addition to preserving any data required to identify the authors of prohibited content.

Strengthening the Fight against Cyber crime

In the effort to strengthen the fight against cyber crime, the following guidelines issued to Brazilian authorities engaged in this area warrant particular note:

- Implement restricted access security measures and procedures in computer networks and systems, especially those related to the delivery of public services and other critical infrastructure;
 - Raise awareness among users based on security measures and procedures;
 - Encourage the reporting of cyber crimes by victims;
 - Require cybercafés and LAN establishments, and cyber offices, to maintain updated records of users, similar to the solutions adopted in the Federal District (Law 3437 of 9 September 2004), São Paulo (Law 12228 of 11 January 2006), and Rio Grande do Sul (Law 12698 of 04 May 2007);
 - Ensure technical assistance and cooperation with the international community through the exchange of data and information, sharing of tools, and capacity building for technical personnel in developing countries;
 - Establish specific investigative and forensic procedures for cyber crimes, given the volatility of the related evidence and the need for international cooperation in law enforcement investigations;
 - Implement mechanisms to trace users engaged in unlawful activities;
 - Equip agencies through the implementation of forensic laboratories, and promote the specialization of and cooperation between law enforcement bodies at the national and international levels devoted to the issue;
 - Invest in information security as a mechanism for the immediate prevention of unlawful acts, with a view to reducing the vulnerabilities of computer systems and networks.

3. International Cooperation

Brazil has developed cooperation mechanisms in science and technology to prevent and combat crime in other countries, primarily centered on the supply of technical assistance to Latin American countries, specifically: a) in the field of public computer systems security, through the Office of Institutional Security of the Presidency of the Republic (“Gabinete de Segurança Institucional da Presidência da República”); and b) in the field of transnational crime fighting and capacity building for law enforcement agents in other countries, through the Federal Police Department.

Brazil has organized international technical events to discuss computer crime, including the International Conference on Cyber Crime Investigation – ICCyber. The objective of the forum is to establish a discussion channel and develop methodologies to combat cyber crime. The ICCyber brings together law enforcement agents – Police, Public Prosecutor’s Office, and authorities of the judicial branch –, information technology professionals, and computer forensics researchers from Brazil and abroad to examine issues connected to cyber crime.

The last conference held in September 2009 was attended by 700 participants, including computer experts, federal and state law enforcement agents, criminal investigators, intelligence agents, prosecutors, public servants engaged in criminal investigations and prosecutions, bank executives, employees of financial institutions and insurance companies, researchers and educators interested in computer forensics and cyber crimes, and professionals in the field of computer security. The annual conference stands as a valuable illustration of international cooperation in the application of information technology to ensure a safer and more secure cyber environment.

Capacity Building Policies

A key initiative in the area of technical cooperation is the capacity building offered by the Federal Police Department to law enforcement agents in the member countries of the Portuguese-Speaking Community of Nations through the National Police Academy’ Training Course. Students with training or engaged in the computer forensics field have the opportunity to take part in a Specific Crime Investigation Day (“Específica de Criminalística”) in the laboratories of the Federal Police Department’s National Crime Institute.

Another important initiative is the inclusion of a Cyber Crime (“Crimes Cibernéticos”) course in the National Police Academy’s Professional Training Program. The course provides new members of the law enforcement community with access to the basic knowledge know-how required to conduct investigations in technology environments prior to initiating their professional duties. A number of the technology tools required to effectively administer the training programs are in place, most notably a distance course program for other Latin American countries provided through Interpol’s Latin American Working Party on Information Technology Crime. The Working Party’s vice-presidency of which is exercised by the Federal Police Department, which also coordinates the group’s Training Section.

Direct Cooperation

As the agency with primary responsibility for international cooperation in the law enforcement field in Brazil, the Federal Police Department tasked the Cyber Crime Suppression Unit (“Unidade de Repressão a Crimes Cibernéticos”) and the Criminal Investigation Service in Information Technology (“Serviço de Perícias em Informática”) of the National Crime Institute with integrating the G-8’s 24/7 emergency response network. Through the initiative, any law enforcement cooperation request, whether active – Brazil to another country – or passive – another country to Brazil –, receives the necessary investigative and technical support from the designated contact point. Various partnership projects with public and private institutions are in the process of being developed, particularly with academic institutions, offering the potential to contribute significantly toward the effort against cyber crime.

In regard to direct law enforcement cooperation, requests are received through law enforcement attachés and the 24/7 Network or Interpol for the location of persons, access to Internet registration data, and access to the Internet connection records of national providers. A substantial majority of requests are granted. However, in Brazil access to the information of Internet users is only allowed through a formal judicial authorization.

Assistance

In the area of assistance, the United Nations Office on Drugs and Crime should sponsor a study among member countries to survey perceptions within

communities, principally institutions engaged in combating cyber crimes, specifically in regard to the occurrence of unlawful acts and the activities necessary to prevent and suppress criminal conduct in Brazil.

The study should focus on identifying the related principal challenges, characteristics, and organizational gaps, as well as the solutions adopted and level of awareness of national populations. An in-depth study reflecting how the problem is perceived by law enforcement agencies and society could serve to provide a valuable overview of this field. Similarly, the study would assist in determining priorities, both in terms of organization and capacity building. With a view to enabling the analysis of data and determination of common goals, the study should be based on comprehensive and standardized forms capable of covering a representative sample.

Another strategy could involve increasing the frequency of discussion meetings based on a roadshow format, as a way of stimulating debate on cyber crime, which would focus on a specific topic year-to-year, such as Internet pedophilia. Further, the UNDOC should foster the formulation of a standardized information exchange process on the particular topic of discussion in a given year, with a view to expediting the development of operations to prevent and combat computer crimes. To this end, the discussions should include the participation of all professionals engaged in the criminal investigation and prosecution field, in view of their capacity to examine the technical viability of solutions for the problems addressed.

The annual topic should be subdivided into thematic forums devoted to considering prevention, suppression, scientific matters, and academic questions. Full participation by all actors involved in these segments is pivotal, in the light of the issue's multidisciplinary character and the impossibility of formulating solutions restricted to the legal or technological fields.

The UNODC should incentivize research in new investigative technologies and fund the formation of specialized cyber crime investigation teams. It should also foster the implementation of investigative laboratories to enable investigators to apply the latest law enforcement analysis and intelligence technologies, including I2, Encase, and FTK. In addition, the Office should promote events, training programs, courses, seminars, and conferences on cyber crime, which could be held in developing and developed countries alike, thereby facilitating the exchange of technology and information.

Based on the surveys of the challenges posed in this area and the existing gaps in capacity building and infrastructure, a model should be developed to

incentivize the execution of research and knowledge replication projects. To this end, the UNDOC could receive funding proposals for projects centered on the annual topics and organize the proposals by specific field. The best research and capacity building projects could then be executed and the resulting products made available. A prime example is the development of the EspiaMule software to trace P2P network users who share unlawful content. With adequate funding, the technology could be refined and distributed as a practical tool, including the related training, to member countries.

4. The Convenience of an International Instrument on Cyber Crimes

Negotiation of a global instrument in the framework of the United Nations with the full participation of all interested countries is currently the subject of extensive discussions. These include the need to assist developing countries in delivering training and capacity building to agencies engaged in criminal investigation and prosecution, with a view to securing the highest possible effectiveness of law enforcement operations. In 1990, the United Nations General Assembly approved Resolution 45/121. This was followed in 1994 by the release of the United Nations' *Manual on the prevention and control of computer-related crime*. In 2001, Resolution 55/63 of 22 January, titled *Combating the criminal misuse of information technology*, was published. A new round of discussions on the subject was held in April 2005 at the Eleventh United Nations Congress on Crime Prevention and Criminal Justice in Bangkok. In conjunction with these initiatives, a series of regional legal instruments on the question of cyber crime have been approved.

In this light, continuation and updating of the discussions on the possibility of expanding international legal cooperation in the cyber crime field through approval of a new United Nations convention, pursuant to the Bangkok Declaration of 2005, is recommended.

Additionally, the negotiation of new agreements on the formation and functioning of joint transnational criminal investigation teams should be undertaken within the framework of the United Nations, based on article 19 of the United Nations Convention Against Transnational Organized Crime, which, despite its broad scope, fails to fully address a range of requirements relating to the criminal investigation and prosecution of cyber crimes.

With this in mind, Brazil supports the negotiation of a specific agreement on international legal cooperation in this area as a means to overcome the



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existing digital divide, in both the information technology and communications fields, that separates the developed and developing worlds – a strategy that should serve as the driving force of cooperation and assistance initiatives.

Chapter 7 – Deprivation of Liberty Measures and the Treatment of Prisoners - the United Nations Minimum Rules*

Introduction

The difficulties and challenges faced by Brazil's correctional system are well known. Problems such as overcrowding, the lack of effective social reintegration policies, repeated violations of the rights of offenders, overall neglect of former inmates, shortage of penitentiary intelligence tools, and substandard working conditions for penitentiary agents constitute but some examples.

Reforming the correctional system, which in many ways reflects much of what ails Brazil today, requires redefining the prevailing culture and mentality of Brazilian penal legislation and its application by police agencies, the Courts, and the Public Prosecutor's Office. Beyond enforcing the law, it is necessary to interrupt the ongoing cycle of violence and rebuild affected social relations.

With a view to overcoming this current crisis, Brazil has devoted its efforts to guaranteeing that the nation's criminal justice and penitentiary policy has the capacity to tackle the social and criminal dimensions of violence in an integrated fashion. In addition, the policy gives priority to direct responses of the executive branch to the phenomenon of crime as a way of mobilizing both the criminal justice system and the social and civil rights of the prison population

* The issues discussed in this chapter correspond to the topics of workshops 2 and 5 of the agenda of the 12th United Nations Congress on Crime Prevention and Criminal Justice.

based on a public security model founded on a mix of crime prevention, qualified professional enforcement, and rights promotion measures.

1. Policies, principles, guidelines

The National Public Security and Full Exercise of Human Rights Program (“Programa Nacional de Segurança Pública com Cidadania” – PRONASCI), a pioneering initiative founded on a consolidated framework of violence prevention, control, and suppression measures centered on addressing the root causes of crime, is aimed primarily at the reorganization of the prison system and at the re-socialization of young offenders sentenced to confinement and former inmates of the penitentiary system.

Of the 94 actions encompassed under the Program relating to urban crime prevention, as discussed in Chapter 3, a total of 11 refer to the correctional system: construction of special prison facilities for young adults aged 18-24 years; construction of special correctional facilities for women; implementation of health facilities in existing state prisons; increased schooling levels among young offenders; establishment of a national housing plan for civil and military police personnel, firefighters, and penitentiary agents; implementation of an electronic security system in existing state prisons; expansion and consolidation of the national distance education system (RENASEP/SENAESP) for purposes of inclusion in the penitentiary system; design of a higher learning course program (technology program) for penitentiary agents; funding for continuing training of penitentiary agents; inclusion of penitentiary agents in a Training Scholarship Program (“Bolsa-Formação”), an initiative of the National Secretariat of Public Security (“Secretaria Nacional de Segurança Pública”) of the Ministry of Justice.

The penitentiary system was one of the seven guiding themes of the First National Conference on Public Security held in Brasilia in 2009, the objective of which was the formulation of a new National Public Security Policy. The national conference included the participation of professionals in the field, public managers, and civil society representatives from the 27 states of the Federation. The First Conference generated ten principles, including “to recognize the need to reorganize the corrective system by assuring that it becomes more humane and respectful of the diversity of identities and exercises the effective capacity to re-socialize offenders, while guaranteeing the legitimacy and independence of the system’s management, prioritizing alternatives to deprivation of liberty measures, and augmenting the inspection and monitoring framework.”

2. Federal Correctional System

The Federal Correctional System was initially launched in 2006 to operate five prison facilities throughout Brazil, each with a capacity for 208 inmates housed in individual cells. The facilities were aimed at holding high-risk offenders, the heads of criminal organizations, as well as inmates at-risk due to the nature of their offenses.

In June 2006, the Federal Penitentiary of Catanduvas, Paraná, was inaugurated, followed in December by the Federal Penitentiary of Campo Grande, Mato Grosso do Sul. A third facility, the Federal Penitentiary of Porto Velho, Rondônia, opened in May 2009. For its part, the Federal Unit of Mossoró, Rio Grande do Norte, inaugurated in July 2009, has begun to take in prisoners. The fifth Federal Penitentiary will be built in the Federal District in 2010. As with the other four facilities, the new penitentiary's architectural design will render it virtually impermeable to escape and rebellion.

To date, 428 offenders have passed through the federal facilities, while another 447 are currently confined in the establishments. Through March 2010, no escapes, prison riot deaths, acts of corruption involving penitentiary agents, or apprehensions of mobile telephones had been registered. Surveys of the Penitentiary Intelligence Division (“Área de Inteligência Penitenciária”) reveal, based on information of the National Penitentiary Information Database (“Sistema Nacional de Informações Penitenciárias”), that the Federal Correctional System has been directly responsible for the nearly 80% reduction in critical events in state prisons (rebellions, riots, deaths, etc.) since 2006.

The objective of the federal correctional system is to ensure administrative execution of the confinement measures imposed on provisional or convicted inmates whose inclusion in the facilities is in the direct interest of public security or of the prisoner, and to house provisional or convicted inmates subject to a distinct disciplinary regime due to the risk they pose to the order and security of correctional facilities or to public safety – pursuant to article 52, paragraphs 1 and 2, of Law 10792 of 1 December 2003. The specific functions of correctional facilities are laid out in Decree 6049 of 27 February 2007, which approves the Federal Penitentiary Regulation (Regulamento Penitenciário Federal).

The Federal Correctional System is made up by the individual federal penitentiary facilities, which lie under the responsibility of the National

Penitentiary Department (“Departamento Penitenciário Nacional” – DEPEN) of the Ministry of Justice. DEPEN’s Federal Correctional System Directorate (“Diretoria do Sistema Penitenciário Federal”) is responsible for managing the System through its separate units: the General Coordination for Inclusion, Classification, and Removal (“Coordenação-Geral de Inclusão, Classificação e Remoção”), the General Coordination for Penitentiary Treatment (“Coordenação-Geral de Tratamento Penitenciário”), the General Coordination for Penitentiary Information and Intelligence (“Coordenação-Geral de Informação e Inteligência Penitenciária”), the Office of Inspector-General (“Corregedoria-Geral”), and the Federal Penitentiaries (“Penitenciárias Federais”).

Women in the Prison System

In 2008, the female prison population in Brazil increased at a proportionally higher rate than the male prison population. Although the total number of women currently serving prison sentences is far lower than the number of convicted men, the Brazilian case reflects a reality evidenced throughout Latin America and points to the urgency of examining in detail the factors underlying the participation of women in crime. Further, there is a need to ensure that the assistance and infrastructure provided to women recognize the specific characteristics and needs of the female population, in accordance with its rights and identities.

In 2009, a law was issued requiring that women’s detention facilities be staffed exclusively by female penitentiary agents.

In regard to pregnant and nursing mothers and newborns, laws passed in 2009 assure minimum assistance with medical care for women, primarily during prenatal and postnatal periods, and newborns, as well as the implementation of nurseries where convicted inmates can provide care, including breastfeeding, for children up to six months of age. Further, women’s prison facilities will be equipped with child care centers for children between the ages of six months and seven years.

3. Innovative Approach to the Penitentiary Issue

The Brazilian government has adopted a series of measures, particularly in recent years, with a view to reversing the continued increase of the prison population. Some of these measures are described below.

InfoPen

The discussions on augmenting the existing social defense structures do not generally attach great value to integrated information systems. Today, the media devotes far more attention to public investments in weapons, patrol vehicles, and aircraft. However, effective public security actions cannot be implemented in the absence of an information collection, analysis, and processing system. The investigative process is anchored in data gathering. Investments that lay the groundwork for the tangible application of actions represent pivotal elements for the disparate agencies of the criminal justice system – police departments, intelligence units, administrative bodies of the correctional systems, the Courts, and the Public Prosecutor’s Office.

One of the key deficiencies of the criminal justice system is the absence of a national database containing information on offenders. The National Public Security Information, Justice, and Enforcement Integration Network (“Rede de Integração Nacional de Informações de Segurança Pública, Justiça e Fiscalização”) consolidates data on investigations, prosecutions, arrest warrants, and other information. However the system provides only general information (name and name of parents) and does not include the inmate population in 1,771 facilities across the 27 States. State prison administration bodies, meanwhile, operate computer databases to manage prisoners. Consequently, while it would not be incorrect to conclude that individual Brazilian states maintain computer systems with information on their respective prison populations, at the national level there is a shortage of data on the prison population as a whole, given the failure to integrate the disparate state-level systems in a consolidated database.

The National Penitentiary Information Database (“Sistema Nacional de Informação Penitenciária” – InfoPen) was established with a view to correcting this deficiency. Launched in 2004, InfoPen is a Web based system employing pre-established profiles requiring mandatory registration and passwords. The information is transmitted from a centralized database in Brasilia over secure cryptographic channels. The objective is to ensure the new systems integrate prison establishments and penitentiary system secretariats throughout Brazil in a single, unified database.

Infopen encompasses three distinct subsystems, also referred to as modules:

- **InfoPen Statistics (InfoPen Estatística):** fully (100%) implemented in every Brazilian state, the module collects quantitative data on the prison population, enabling precise determination of the number of prisoners in Brazil, by age group, legal status, ethnicity, gender, etc.;
- **InfoPen Management (InfoPen Gestão):** implemented in 16 states and under implementation in the remaining 11, this module will serve to produce qualitative data based on available information, that is, detailed data on each prison inmate. InfoPen Management will furnish information ranging from the names, names of parents, height, and body type of offenders to addresses, fingerprints, scars, tattoos or body markings, distinct features, criminal records, and visiting relatives;
- **InfoPen Intelligence (InfoPen Inteligência):** a byproduct of the implementation of InfoPen Management in the states, the subsystem matches data entered in the Statistics and Management modules. Access to the information will serve to consolidate a network of relationships through data matching, thereby enabling effective criminal profiling, verification of the ties between prisoners, visitors, and attorneys, advance detection of attempted fraudulent activities, and other elements.

Fully developed in Brazil, Infopen employs federal government software to consolidate and transform the data system of states without the need to reenter existing information. DEPEN expects nationwide integration of the consolidated database to be completed by 2012, at which time InfoPen will become a powerful tool in providing valuable and effective assistance to the sentence execution process and the ongoing effort against organized crime.

National System of Alternative Sentences and Penalties

Since 1984, Brazilian criminal law has authorized the State to impose alternative penalties on low- and medium-risk offenders through the application of rights restrictions, in lieu of prison sentences. In 1998, fewer than 100,000 alternative sanctions had been handed down. A decade later, the application of alternative sentences or penalties had grown significantly. The 2008 National Program for Alternative Sentences and Penalties served to consolidate rights restrictions as a formal criminal justice policy of the Brazilian executive branch.

In 2008, the Congressional Inquiry Commission on the Correctional System (“Comissão Parlamentar de Inquérito do Sistema Carcerário”) recommended instituting alternative sanctions as a response to the critical challenges faced by the correctional system. At the Eleventh National Conference on Human Rights (“Conferência Nacional de Direitos Humanos”) in 2008, alternative sentences and measures were approved as a central issue for consideration in the framework of the State’s national penitentiary policy, specifically as an avenue for promoting a new approach to criminal justice. The Fifth National Congress on Alternative Sentences and Penalties (“Congresso Nacional de Penas e Medidas Alternativas” – CONEPA) in 2009, which centered on the theme Exercise of Human Rights and Alternative Sentences and Penalties, served as a preparatory stage to the First National Conference on Public Security (“Conferência Nacional de Segurança Pública”). For its part, the Conference directly contributed to establishing the National Alternative Sentences and Penalties System (“Sistema Nacional de Penas e Medidas Alternativas”) as a priority of Brazil’s public security policy agenda through approval of Principle 7 – to recognize the need to reorganize the correctional system to assure it is more humane – and Guideline 22 – calling for the constitution of a system encompassing alternative sentences and penalties.

The stepped-up application of alternative sentences and penalties since the late-1990s has been driven by enhanced legal provisions, namely a series of laws enacted beginning in 1995.¹¹ Similarly, creation of the National Program accelerated and expanded the number of public services aimed at the application of alternative sanctions – 20 specialized Courts and 306 monitoring centers and units for alternative sentences and penalties throughout the national territory, in addition to an extensive social network. The Monitoring Centers and specialized Courts have been refined over time. The centers are today staffed by teams of psychologists, educators, social workers, and attorneys who perform interdisciplinary functions and work to ensure continuing and effective follow-up of offenders subject to alternative sentences and penalties.

The execution and application of alternative sentences and penalties in Brazil over the past decade has met with significant success, driven by the recognition that incarceration as an instrument of social control should be reserved for offenders whose criminal acts require their removal from society and that the most effective course of action for the majority of offenders centers on the imposition of alternative sentences and penalties.

¹¹ (Law 9099) and 1998 (Law 9714)

National Penitentiary System Health Plan

International law, in particular the United Nations Standard Minimum Rules for the Treatment of Prisoners, views proper health care for prison inmates as a critical factor in their reintegration to society, to the extent that it ensures physical and mental conditions conducive to participation and good performance in educational, employment, social, religious activities, and others. In this light, health is a central pillar of the social reintegration process.

Article 1 of the Law on Sentence Execution (“Lei de Execução Penal”) requires the pertinent agencies to provide means for the harmonious reintegration of convicted felons and internees into society, while article 10 mandates that the State ensure assistance to prisoners and internees, with a view to preventing crime and guiding former offenders back into society. Similarly, article 11 sets out health care as one of the forms of assistance to which inmates and internees are entitled. Finally, article 14 assures the provision of medical, pharmaceutical, and dental care.

This range of legal provisions gave rise to the National Penitentiary System Health Plan (“Plano Nacional de Saúde no Sistema Penitenciário” – PNSSP) in 2003. The Plan provides for the implementation of health units staffed by a physician, nurse, psychologist, social worker, orthodontist, nursing assistance, and dental assistant. Through the provision of direct assistance, health unit staff contributes to controlling and reducing the most prevalent health problems and complications affecting the Brazilian penitentiary population. Some of the main measures undertaken by health staff include the control of tuberculosis, hypertension, and diabetes, prevention, diagnosis, and assistance for Sexually Transmitted Diseases and AIDS, skin diseases, hepatitis, and leprosy, as well as assistance for the severe health effects engendered by alcohol and drug abuse. In addition to the implementation of these basic units, the Plan also provides for specialized ambulatory care and treatment of hospital complications.

The PNSSP extends to 183 state and municipal penitentiary establishment in 18 states: Acre, Amazonas, Bahia, Ceará, Distrito Federal, Espírito Santo, Goiás, Minas Gerais, Mato Grosso do Sul, Mato Grosso, Paraíba, Pernambuco, Paraná, Rio de Janeiro, Rondônia, Rio Grande do Sul, São Paulo, and Tocantins.

Implementation of the Plan includes adaptation of the physical spaces occupied by the health facilities in prison facilities and equipment acquisitions.

After five years of training and consolidation of the initial participating states in the National Correctional System Health Plan (“Plano Nacional de Saúde no Sistema Penitenciário”), the Ministries of Health and Justice are now in the process of evaluating the Plan and identifying the key challenges and difficulties in its implementation.

Training for Correctional System Personnel

Through 2005, specific training institutions for prison personnel, referred to as Penitentiary Management Schools (“Escolas de Gestão Penitenciária”), were implemented in five states: Minas Gerais, Paraná, Rio de Janeiro, Rio Grande do Sul, and São Paulo. The institutions were launched by initiative of the individual state governments. In the other 22 states of the union, training was provided to personnel through related agencies, generally police departments. Today, the Penitentiary Management Schools are being replicated at a rapid pace as they strive to become centers of excellence in the research and development of tools aimed at ensuring good management practices in the pertinent activities.

In addition, professional capacity building for personnel has been provided by other entities through a variety of instructional, enhancement, training, undergraduate, specialization, lecture, and seminar programs, which have served to complement the course programs administered through the Penitentiary Management Schools. There are currently 27 agreements in effect aimed at enhancing the professional skills of 15,000 penitentiary agents.

Community Councils

The Law on Criminal provides for the establishment of Sentence Execution Community Councils. The Councils are composed of a representative of the local industry or commerce association, an attorney designated by the Brazilian Bar Association (“Ordem dos Advogados do Brasil”), and a social worker appointed by the National Council of Social Workers (“Conselho Nacional de Assistentes Sociais”). Members of the Council conduct regular visits to prison facilities, interview inmates, prepare reports, which are subsequently submitted to the sentencing judge and the Penitentiary Council, and take steps to obtain the material and human resources necessary to improve the assistance delivered to prison inmates and internees.

The Community Councils represent a link between the State, the public, and the prison population. Their establishment is contingent on a decision of the sentencing judge. In the course of their activities, the Councils have encountered obstacles stemming from the lack of information and knowledge on the part of communities, authorities, and penitentiary agents as to their existence.

Today, the Rio Grande do Sul state Community Councils hold meetings and exchange information and experiences – an effective practice which could be extended to other locations. Strengthening of the Community Councils requires dissemination of their functions and the advocacy and defense of those functions before the Courts, with a view to utilizing the judiciary as a channel to raise awareness and impart information to the correctional facilities on the activities, duties, and rights of Council members.

Third Edition of the National Human Rights Program

The Special Secretariat of Human Rights (“Secretaria Especial dos Direitos Humanos” – SEDH) of the Presidency of the Republic prepared the third edition of the National Human Rights Plan (“Plano Nacional dos Direitos Humanos”), in an effort to update the related public policies and respond to the demands arising from the 2008 National Conference on Human Rights (“Conferência Nacional dos Direitos Humanos”). The Plan addresses public security on the basis of the principles established in the 1988 Federal Constitution and in accordance with International Law.

The public security section of the Human Rights Plan lays out two guidelines concerning the Correctional System. The first calls for the consolidation of a national policy to eradicate torture and other cruel, inhuman, or degrading punishments. Programmatic actions include the development of a draft law on implementation of a National Prevention Mechanism (“Mecanismo Preventivo Nacional”), an inspection system for prison facilities aimed at the regular and periodic monitoring of detention centers, pursuant to the Optional Protocol to the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. Further, the Plan provides for training of federal penitentiary agents through course programs in combating torture and the importance of promoting and protecting human rights.

An addition guideline for the correctional system urges that priority be given to the application of alternative sentences and penalties, in lieu of

confinement, and the enhancement of penitentiary establishments through the following measures:

- Development of a proposed amended law to replace the Law on Sentence Execution (Law 7210 of 1984), with the objective of identifying means to prohibit the entry of banned substances and materials into prison facilities; eliminating body searches of family visitors; barring the public disclosure of information on the psychological profile of inmates and psychiatric diagnoses performed in prison facilities; requiring the delivery of educational services in penitentiaries and legal remission for inmates who attend educational programs;
- Identification of situations subject to pardon for offenders convicted of non-violent crimes, a step which could lead to significant easing of the prison population;
- Periodic reviews of the sentence execution procedures applied to the prison population;
- Construction of correctional facilities in individual states and the Federal District equipped with the means to provide assistance to pregnant inmates;
- Application of the National Policy on Comprehensive Women’s Health Care (Política Nacional de Atenção Integral à Saúde da Mulher – PAISM) in prison facilities, ensuring prenatal care, implementation of specific cells, and adequate periods for breastfeeding;
- Application of the National Mental Health Policy (Política Nacional de Saúde Mental) and the Policy on Comprehensive Assistance to Alcohol and Drug Users (Política para a Atenção Integral a Usuários de Álcool e Outras Drogas) in the correctional system;
- Study on the possibilities for training professionals in the follow-up of parolees, work furlough inmates, irrespective of the particular sentence execution regime, and offenders serving alternative sentences;
- Implementation of the Penitentiary Information Database (“Sistema de Informações Penitenciárias”);
- Expansion of the awareness-raising campaign aimed at securing the social inclusion of former inmates;
- Establishment of guidelines to enhance the social reintegration of prison inmates, internees, and former;
- Development of strategic actions aimed at assuring the proper disposition of transsexuals and transvestites incarcerated in women’s correctional establishments.

National Correctional System Fund

Established in 1994, the National Correctional System Fund (“Fundo Penitenciário Nacional” –FUNPEN), a financial accountability and funding instrument incorporated in the federal budget, has achieved impressive results. Brazil is the only country on the American continent that devotes a specific fund to investments in the correctional penitentiary system for purposes of supplementing the financial resources allocated to state penitentiaries. The Fund’s purpose is to provide support to the modernization and enhancement of the activities and programs undertaken within the scope of the Brazilian Penitentiary System. Through the system individual states are required to direct, in addition to the federal funds allocations they receive, a portion of their own budget resources to prison facilities. Nonetheless, in a number of states the FUNPEN accounts for the majority of the investments channeled to the local penitentiary systems. In Rondônia, for example, where local investments in the construction of prison space over the course of the last decade were negligible, 90% of the state’s existing prison infrastructure was funded with federal appropriations. By contrast, in some cases state investments exceed the federal contribution by a wide margin, including in São Paulo, Paraná, and Minas Gerais.

New prison space opened across the country with resources of the National Correctional System Fund represents nearly 1/3 of all of the available prison space in Brazil’s Correctional System. This substantial percentage reveals the significant dependence of many states on FUNPEN and, by extension, the Fund’s critical importance to Brazil.

FUNPEN is composed of resources generated from the federal lottery system, court fees (only through 2005), financial resources from a diversity of sources, including fine assessments, asset seizures and non-financial financial resources in the form of premiums on bank deposits.

4. The Convenience of a Review of the United Nations Standard Minimum Rules for the Treatment of Prisoners

Recent legal doctrine and criminological theory in the field of sentence execution has not succeeded in diminishing the employment of incarceration as the primary form of criminal sanction. Indeed, application of confinement measures has increased at an unprecedented rate at the global level, assuming new and alarming dimensions in recent years. In this context, a number of initiatives have sought to update the original rules to address these challenges,

consolidate and incorporate a new set of rights, and take into account the specific needs of groups subject to prison sentences.

Equally important is the emerging view of sentence execution as encompassing more than the limited confines of the public security sphere. Rather, sentence execution now includes a broad social dimension requiring the integrated efforts of various branches of the State – health, education, labor, social security, among others. In addition, the system’s imminent collapse in the face of mass incarceration has reinforced the need to identify and execute public investments in alternative strategies to incarceration, as reflected in emerging consensus that prison sentences should be restricted only to highly targeted and truly necessary cases. In this light, the role of prison sentences in the criminal justice system should take into account the reintegration of former inmates, in the absence of which the very utility of incarceration is cast into doubt.

While the 1955 Standard Minimum Rules on the Treatment of Prisoners is largely outdated, the international community confronts serious challenges in implementing and effectuating the current instrument in the face of social, political, and economic constraints. In this context, in 2007 the International Penal and Penitentiary Foundation established the Latin American Committee to Review the United Nations Standard Minimum Rules for the Treatment of Prisoners, a body presided by the Federal Supreme Court of Brazil. The initiative set out to incorporate provisions on the issue in the existing rules which are currently dispersed throughout a range of normative international instruments – especially those governing human rights. Additionally, the initiative endeavored to enhance the standard minimum rules based on the specificities of the specific groups subject to incarceration, in accordance with the development of criminological concepts and the incorporation of successful international experiences. Completed in December 2009, the Committee’s final report is scheduled to be submitted at the Twelfth Congress on Crime Prevention and Criminal Justice in Salvador, Brazil, and discussed in a Working Group on best practices for the treatment of prisoners in the criminal justice system.

In addition to the review of the Standard Minimum Rules, effective international involvement is needed to establish a standing working group made of interested delegations and driven by the following objectives: a) to examine the causes underlying the failure to implement the current standard minimum

rules; b) to take into account regional specificities; c) to verify technical cooperation needs of member countries; d) to propose solutions capable of ensuring the effective implementation of the standard minimum rules.

Chapter 8 – Facing the world drug problem*

Introduction

Brazil has made significant strides in strengthening the institutions and means to confront the global drug problem.

The analysis and consideration of the global drug problem, a central concern of the United Nations General Assembly Special Assembly (UNGASS) on drugs in 1998, has led to a series of important conclusions in Brazil regarding the most effective approaches that government and society should adopt to confront the problem. A key conclusion is that suppression of unlawful drug activities does not by itself constitute a decisive solution to the challenge.

In 1998, Brazil established the National Anti-Drug Secretariat (“Secretaria Nacional Antidrogas”), a component of the Office of Institutional Security of the Presidency of the Republic (“Gabinete de Segurança Institucional da Presidência da República”), to organize and coordinate the formulation of a national anti-drug policy. In 2002, the Secretariat laid out the fundamental principles undergirding the National Anti-Drug Policy. Beginning in 2003, the principles were reviewed and updated to take into account new scientific research and the profound changes in the social, political, and economic landscape of Brazil and the world.

In 2005, the National Policy on Drugs (“Política Nacional Sobre Drogas”) was unveiled, a product of a broad-ranging process of public participation

* The issues discussed in this chapter correspond to the topics of workshop 4 of the agenda of the 12th United Nations Congress on Crime Prevention and Criminal Justice.

mediated by the scientific community. The Policy is based on scientific principles and takes an encompassing and balanced approach to the subject, addressing public health aspects, human rights, and constitutional guarantees. The State policy has given rise to measures in recent years that reflect the steadfast effort of the Brazilian government to pursue an inter-sectoral strategy founded on shared responsibility and actions aimed at demand and supply reduction. In addition, the National Policy has spurred Brazilian society to move beyond the all-too-often simplistic, emotional, and polarizing debate between the strict enforcement and pro-legalization.

Modernization of the country's existing legal framework represents another significant advance. The 2006 Law on Drugs instituted the National Drug Policy System (“Sistema Nacional de Políticas Públicas Sobre Drogas”), which employs an innovative approach to draw a clear distinction between drug traffickers and addicts and thereby ensure equally distinct and specific treatment for the two categories of offenders. Similarly, the System classifies the offense of the financing of illicit trafficking in narcotics, with a view to depriving criminal organizations of their capital resources.

In regard to the range of efforts related to demand and supply reduction, the Brazilian government has adopted a strategy centered on stepped up border surveillance, control and enforcement of precursors, eradication of illicit crops, disruption of drug trafficking operations, and anti-money laundering initiatives. Significant advances have also been secured in the applicable domestic health surveillance laws governing the control of psychotropic substances, narcotics, and precursors through more rigorous inspection and enforcement of the national and international trade in controlled substances – as provided for in domestic normative provisions, which are, in fact, more stringent than those set forth in the 1988 United Nations Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Further, the regulation of prescription drug advertising has been reinforced and extended to the Internet.

Heightened international cooperation has served as a valuable tool in the effort to reduce supply by optimizing efforts and coordination solutions capable of mitigating the impact of drug consumption and trafficking.

On the international front, Brazil has assumed a prominent position over the past decade in various multilateral, sub-regional, and regional forums on the issue. At the bilateral level, Brazil maintains an ongoing dialogue and

cooperation with a number of countries, primarily its South American neighbors, with which agreements have been forged to prevent and suppress drugs and other issues inherent to the problem.

Brazilian efforts in regard to demand reduction have been founded on a strategy of close coordination with the scientific community through the development of diagnostic analyses on drug consumption patterns aimed at guiding determination and planning of the responses adopted. On the basis of these guidelines, and ever cognizant of the pertinent ethical dimensions and human rights aspects underlying the problem, the country has sought to formulate solutions exempt of moral judgment, giving emphasis to and undertaking selected interventions aimed at reducing adverse effects, as part of a formal public health strategy.

Another important aspect of the actions undertaken to reduce demand center is to recognize and valuing alternative strategies emanating directly from communities. To this end, capacity building programs have been offered to impart updated and unbiased scientific information directly to various actors engaged in addressing the drug problem. Further, an additional sign of the progress achieved in demand reduction is the incorporation of a wide-ranging discussion of the issue on the public agenda, which has served to mobilize and commit a diversity of social segments to the collective construction of alternative strategies to confront the challenge.

In 2008, Brazil took another step toward modernizing its legal framework and guaranteeing human rights by determining that conduct not involving the sale of drugs does not fall under the scope of the illicit traffic of narcotics. The measure paves the way for treating addicts and traffickers separately and distinctly. To this end, Brazil's 2006 drug law permanently abolished the application of prison sentences for drug users.

Brazil's position is that while the goal of a world without drugs poses a difficult challenge, this objective is only further complicated by the unintended consequences generated in various regions of the world through the imposition of essentially repressive measures. These include the increased incarceration of offenders on drug-related charges, growing violence connected to the illicit narcotics market, rising mortality rates due to homicide and violence among young persons – and the corresponding dramatic impact on mortality and life expectancy indicators. To these challenges, we can add the erosion of labor performance and employability, social exclusion arising from drug use, and dissemination of the illicit narcotics market, among others.

1. Legal Framework

The broad-ranging review undertaken in 2003 of drug policies and the corresponding legal framework generated positive outcomes for Brazil. Of particular note are the following instruments:

- National Drug Policy (“Política Nacional Sobre Drogas”), the product of coordinated efforts between bodies and agencies at the three levels of government, with the active participation of society;

- National Drug Law (“Lei Nacional sobre Drogas”), enacted in 2006. In 2003, a comprehensive reform was undertaken of the country’s thirty-year-old drug legislation, which had lapsed into obsolescence and was wholly disassociated from the scientific advances in the field and the process of profound social transformation;

- National Alcohol Policy (“Política Nacional Sobre o Álcool”), approved through Decree 6117 of 2007. Addressed as an illicit drug, the abuse of which generates severe social effects, particularly in the public health and security fields, alcohol is also, in certain circumstances, “an entry point” to illicit drug consumption. The Policy includes fundamental principles to confront the problems related to alcohol consumption based on an inter-sectoral and comprehensive set of actions aimed at mitigating the associated social impact, situations of violence, and criminal activity related to alcohol consumption;

- Law 11705 of 2008, which prohibits the sale of alcoholic beverages on federal highways and provides for administrative and criminal sanctions against motorists who drive under the influence of alcohol;

- Law 11754 of 2008, which renamed the National Anti-Drug Secretariat (“Secretaria Nacional Antidrogas”) and the National Anti-Drug Council (“Conselho Nacional Antidrogas”) as the National Secretariat for Drug Policy (“Secretaria Nacional de Políticas sobre Drogas”) and the National Council for Drug Policy (“Conselho Nacional de Políticas sobre Drogas” – CONAD), respectively, as a way of reflecting the evolution away from a conceptual framework and approach founded on the suppression of drugs as the overriding strategy to a broader definition of the problem and of the respective solutions;

- Implementation of the National Public Security with the Full Exercise of Human Rights Program (“PRONASCI”) in August 2007. As discussed in Chapter 3, through the multiple actions undertaken to promote the twin objectives of security and human rights, the Program includes strengthening

of fundamental policies conducive to a more inclusive society – rooted in promoting the rights of individuals.

2. Framework to Face the World Drug Problem

Demand Reduction

The Brazilian government's strategy in the area of demand reduction is founded on three main axes: diagnostic analysis, capacity building, and strategic projects.

The first axis relates to analyzing the status of drug consumption, its impact on the various domains of daily life, and the available alternatives. Development of the diagnostic analysis has been carried forward through the performance of nationwide studies and surveys of the general population and specific segments, those most vulnerable to drug consumption and trafficking.

To date, the following resources have been generated:

- Survey published in 2003 on drug use among street children and adolescents in the 27 state capitals. The document provides information on the prevalence of drug use, including drug types, frequency and methods of use, and the factors underlying the vulnerability of street children and adolescents in Brazil;

- Fifth edition of the survey on use of psychotropic substances among primary and secondary education students in the 27 state capitals of Brazil. Published in 2004, the study offers a diagnostic analysis of drug consumption among students, with a view to contributing toward the implementation of prevention policies in schools;

- Survey of alcohol consumption patterns among the Brazilian population. Published in 2007, the analysis represents the largest single study on alcohol consumption patterns performed in Brazil. The document identifies the habits and attitudes of the Brazilian population in relation to alcoholic beverages, including a specific survey of consumption patterns among indigenous, young, and female populations. The data collected from the research initiative was incorporated to the WHO's GENACIS study;

- National survey on alcohol use and other drugs among university students. Currently in the final stages of preparation, the nationwide sample survey was conducted in public and private institutions of higher learning in all

27 state capitals, with a view to describing the prevalence and patterns of drug consumption among university students, as well as the associated problems engendered by consumption;

- Study on the impact of the consumption of alcoholic beverages and other psychoactive substances on Brazilian vehicular traffic. Currently in the final stages of completion, the nationwide study aims to assess the impact of the use of alcohol and other psychoactive substances on Brazilian vehicular traffic. The analysis is based on data collected from private motorists, passenger and transport drivers, and motorcyclists.

- Second edition of the household survey of psychotropic drug use in Brazil. Published in 2005, the study encompasses the country's 108 largest cities. The research work focused on individuals 12 to 65 years of age in every Brazilian city with more than 200,000 inhabitants across all five regions of the country; and

- Mapping of the government and non-governmental institutions engaged in issues related to drug consumption. Published in 2007, the study offers a survey of the government and non-governmental institutions across Brazil involved in drug-related fields, with a view to mapping prevention, treatment, educational, research, and social reintegration measures. The list of more than 10,000 institutions identified by the survey are available to the public on the databases of the Speak Up ("Viva-Voz") hotline service and the Brazilian Drug Information Observatory ("Observatório Brasileiro de Informações sobre Drogas" – OBID).

The second axis corresponds to capacity building for social actors directly engaged in drug issues, as well as multipliers for information on prevention, treatment, and social reintegration. A broad network has been implemented, composed of municipal assembly persons, educators, health professionals, public security personnel, legal professionals, religious and spiritual movement leaders, among others. The capacity building course programs developed by the National Secretariat for Drug Policy ("Secretaria Nacional de Políticas sobre Drogas") include:

- Capacity building in demand reduction, administered to municipal assembly persons, the members of children's rights guidance councils, and educational, health, and security counselors;

- Training in the prevention of improper drug use, offered to public school educators;

- Capacity building in demand and supply reduction, delivered to public security personnel;
- Capacity building in improper drug use, provided to police officers and civilian staff of the federal police engaged in the suppression of illicit trafficking in drugs;
- Training for occupational health and workplace security professionals and members of the internal workplace accident prevention committees (“Comissão Interna de Prevenção de Acidentes de Trabalho”);
- Training for professionals of the primary health system in detecting abuse of and addiction to psychoactive substances, for purposes of referral, temporary intervention, social reintegration, and the follow-up of addicts – National Secretariat for Drug Policy (“Secretaria Nacional de Políticas sobre Drogas” – SUPERA);
- Training in community therapy; and
- Regional specialization Online Research Program for Professionals in the Health and Related Fields for the Study of the Drug Phenomenon in Latin America (“Programa Regional de Especialização de Pesquisa *online* para Profissionais de Saúde e Áreas Correlatas para Estudar o Fenômeno das Drogas na América Latina”).

The third axis consists of the implementation of nationwide projects to expand public access to information on, knowledge of, and existing community resources for the prevention of drug use. Of the projects launched to date, the following warrant mention:

- Reorganization of the National Council for Drug Policy (“Conselho Nacional de Políticas sobre Drogas”). Up to the enactment of Law 11343 of 2006, CONAD consisted of public bodies, with the participation of civil society stakeholders. The reorganization effort transformed the Council into a normative body with an equal number of representatives from government and civil society tasked with undertaking collective deliberations to prepare general guidelines for the National Drug Policy System (“Sistema Nacional de Políticas Públicas sobre Drogas” – SISNAD);
- Implementation of the 0800 service or the Speak Up (“Viva Voz”) Assistance Center, through which free responses and specialized counseling are provided to prevent the use of psychoactive substances, as well as information on drugs and their effects on the body based on current scientific research and epidemiological data;

- Implementation of the drug research network, aimed at promoting training, the decentralization of human resources, and access by scientists throughout Brazil to projects of interest to the National Household Sample Survey (“Programa Nacional por Amostra de Domicílios” – PNAD), including the corresponding optimization of financial resources and scientific literature on drugs-related questions;

- Drug use prevention project for religious institutions and related movements entitled Faith in Prevention (“Fé na Prevenção”), aimed at building capacity among religious and spiritual leaders to prevent improper drug use and other risk behaviors, as well as to identify situations requiring referral to existing community services;

- Reorganization of the Brazilian Drug Information Observatory (“Observatório Brasileiro de Informações sobre Drogas”) through integration of the national drug database to information systems operated by the Brazilian government and other countries, and the development of the First Brazilian Report on Narcotics (“I Relatório Brasileiro sobre Drogas”);

- Provision of equipment and capacity building to the Federal Highway Patrol Department to ensure appropriate enforcement of motorists driving under the influence of alcohol. The initiative is aimed at acquiring breathalyzers and equipping three thousand Federal Highway Patrol vehicles as well as providing capacity building for highway patrol officers in the proper enforcement of motorists and equipment use;

- Use of resources generated from the seizure of the assets of narcotics trafficking. Through agreements concluded with the individual states and municipalities, the Anti-Drug Fund (FUNAD) executes the disposal of assets seized from drug trafficking, incorporating them, following their auction, to the resources applied to prevention; and

- Presidency of the Inter-American Drug Abuse Control Commission (“Comissão Interamericana de Controle e Abuso de Drogas” – CICAD). Brazil chaired the commission in 2007.

Supply Reduction

Drugs represent the most profitable commodity of criminal enterprises. Some of these groups specialize in drug trafficking, while others are engaged in specialized logistical aspects, including the planting, production, and distribution of drugs, accomplished through the commission of a series of

related criminal offenses intended to ensure continued operation of the supply chain. Money laundering, corruption, trafficking in arms, international fraud involving forged documents and credit cards, and trafficking in organs, women, and children are just some examples of the criminal offenses connected to drug trafficking.

Globalization has also had an impact on the development and sophistication of organized crime groups, as reflected in the increased specialization and internationalization of their activities, a phenomenon consistent with the global trend toward the elimination of borders and the formation of economic and trade blocs. Emerging technologies in the computer, communications, and transportation fields, in conjunction with enhanced knowledge of financial operations, represent some of the key elements contributing to the rise in international crime.

Therefore, given the degree of sophistication employed in the commission of criminal offenses and the need to combat these activities effectively, the Federal Police Department has undertaken continuing efforts to expand the ranks of its law enforcement personnel, improve intelligence activities, and acquire high technology equipment. These measures are part of a strategy to disrupt criminal organizations, with a view not only to apprehending those involved but seizing their assets and depriving them of the necessary operational resources. The objective is to prevent those controlling criminal organizations from continuing to manage their operations following arrest and conviction.

Another pivotal element of the strategy to combat drug trafficking involves ongoing border surveillance, including through the execution of joint and coordinated operations with law enforcement agencies in neighboring countries. The effort extends, moreover, to the control of precursors and other chemical substances by the Federal Police Department through coordinated actions with other government agencies, in particular the National Health Surveillance Agency (“Agência Nacional de Vigilância Sanitária”). The eradication of illicit marijuana crops has been the focus of valuable cooperation initiatives with neighboring countries.

The measures implemented to identify the links between drug trafficking and organized crime require a series of actions based on solid science involving systematic chemical analyses of the supplies seized by control bodies. A diagnostic examination based on information regarding the origin, potential routes, and quality of the drug in each region of the country, as well as its connection to locations abroad, can offer more precise assistance to the analysis

of the illicit traffic and consumption of drugs in Brazil. The Federal Police Department applies the National Chemical Profile Study Program (“Programa Nacional de Estudo do Perfil Químico” – PeQui) to seized cocaine and ecstasy supplies. Samples are submitted for chemical analyses, after which the resulting technical information is merged with the field information generated from the seizure operation to identify the probable origin and destination of the narcotics. The PeQui’s database systematizes the collected information.

Control Measures: ANVISA and DPF

Law 9782 of 26 January 1999 assigns primary responsibility for controlling and enforcing substances and medications subject to special controls in Brazil to the National Health Surveillance Agency (“Agência Nacional de Vigilância Sanitária” – ANVISA).

In an effort to standardize the related actions and establish technical regulations governing the control of substances, in May 1998 the Ministry of Health issued an administrative rule on special authorizations for the sale, transport, prescription, storage, and packaging of controlled substances by industries, distributors, and establishments, under the strict oversight of the country’s regulatory authorities. In addition to the provisions governing the special authorizations, the administrative rule sets forth lists of substances subject to special controls, including those provided for under the United Nations Conventions and others, as determined by the Brazilian government.

The lists are periodically updated through decisions of the competent national authorities for public security and health matters, in accordance with the international commitments ratified by Brazil. Enforcement of the controlled precursors listed in the UN Conventions is executed jointly by ANVISA and the Federal Police Department.

To prevent the diversion of psychotropic substances, narcotic drugs, and precursors, a 1999 Ministry of Health directive regulates the international trade of controlled substances in regard to the respective export and import authorizations, Certificates of “No Objection”, permits to export, prior import and export approval, annual import quotas, and other measures.

In addition to responding to the risk of the diversion of chemical products to the production of illicit narcotics, the National Drug Policy System (“Sistema Nacional de Políticas Públicas sobre Drogas”) has established measures to prevent the improper use of drugs, issued normative provisions to suppress

the unauthorized production and illicit traffic in narcotics, set forth specific criminal classifications, and directed the Federal Police Department to control and monitor illicit substances, including precursors and chemical products.

Brazil adopts strict controls on the export of precursors. An export authorization is required for the export of any of the precursors listed in D1 (Annex I of SVS Administrative Rule 344 of 1998), as well as medications and prescription drugs containing any of the listed precursors. To obtain an authorization, companies must submit a series of required documents attesting to the legitimacy of the commercial transaction to the competent authorities in Brazil and the countries of destination. For each authorization to export precursor substances issued by the Brazilian government, a pre-export notification is executed through the Pre-Export Notification Online (PEN Online) system of the International Narcotics Control Board – INCB to the pertinent governments. The mechanism has contributed to identifying suspicious transactions and preventing diversion. Taking into account the shared duties of ANVISA and the Federal Police Department in combating the diversion of precursors for purposes of the production of illicit narcotics, the two agencies exercise joint responsibility for the notifications executed through the PEN Online system.

Related Crimes: Trafficking in Arms in the Context of the Illicit Traffic in Narcotics

Cognizant of the links between drug trafficking and the illicit traffic in firearms in various countries, the Federal Police Department operates an Illicit Arms Trafficking Suppression Unit (“Repressão ao Tráfico Ilícito de Armas” – DARM, composed of the Regional Illicit Arms Trafficking Suppression Precincts implemented in the 27 states of the union.

DARM and the regional precincts (DELEARMS) are charged with combating the illicit traffic in firearms, accessories, and ammunition, including rifle scopes, silencers, fuses, gunpowder, and projectiles, among others. Current law expressly prohibits the possession, carrying, sale, and international traffic in arms, mandating that the Federal Police Department ensure enforcement of the respective provisions, pursuant to article 144, subsections I and II, of the Federal Constitution.

The flow of illicit arms and ammunition in Brazil is a direct result of the demand of criminal gangs and organizations engaged in the illicit traffic of

narcotics and the commission of property offense through the employment of violence, and more recently, groups involved in aiding and abetting prison escapes. Criminal gangs and organizations use military caliber weapons restricted, pursuant to Decree 3665 of 200, to the Armed Forces and police agencies for the commission of unlawful acts. The weapons are either stolen or diverted from police or military forces or imported clandestinely.

Examinations of the activities of criminal groups that employ firearms indicate that, while the demand for weapons is not widespread, it is continuous. The illicit international traffic in arms and ammunition is localized and centered in specific areas. Clandestine arms and ammunition imports generally arrive disassembled and in small quantities. To date, large shipments of arms have not been registered in Brazil.

To identify the origin of diverted arms and ammunition, the Federal Police Department has developed and enhanced, in coordination with other countries, tracking techniques. Tracking is executed through the collection of firearms, identification information, in particular serial numbers and data from firearm manufacturers or control agencies. It represents one of the key, if not the key, investigative technique for ascertaining the origin or destination of a firearm, as well as the exact point from which it was diverted to unlawful activities. It is important to note that in contrast to narcotic substances, which are illicit by their very nature, confiscated firearms in general derive from a legal origin prior to their diversion to illicit purposes by criminal offenders or groups.

In addition to supporting and implementing the norms provided for in international treaties and conventions to which Brazil is a signatory, the Federal Police Department has adopted initiatives to implement bilateral cooperation arrangements, including the Police Cooperation Strategy Agreement (“Termos de Estratégia de Cooperação Policial”) concluded with two bordering countries.

3. Drugs and Society

Crime rates and the multiple connections between drugs and violence pose increasingly complex challenges to the effort to confront transnational organized crime. As the current statistical reveals, this circumstance, to which young persons are the most vulnerable, requires broad and integrated action by government institutions and society.

Driven by the recognition that the reduction in the demand for drugs is directly related to the corresponding reduction in social vulnerability, the federal government launched the Integrated Drug Use and Violence Preventive Action Program (“Ações Integradas na Prevenção ao Uso de Drogas e Violência”), with the objective of strengthening the support provided to the services engaged in addressing the problem. The Program consists of the development of joint and integrated prevention and treatment and social reintegration measures intended to reduce criminal offenses connected to the improper use of alcohol and other drugs. The target audience encompasses young persons aged 12 to 29 years, their family members, and the respective communities, in addition to the specific segments covered under each sub-project of the policy.

The following metropolitan areas were selected to take part in the initial stage of the program, based on official crime indicators: Rio de Janeiro; Vitória, Espírito Santo; Salvador, Bahia; Porto Alegre, Rio Grande do Sul; and Brasília, Federal District. The Program encompasses nearly 24 million people and includes investments in the amount of 54 million reais.

4. International Cooperation

The Brazilian government recognizes the global nature of the drug problem and advocates the principle of shared responsibility, which advocates replacing the assignment of individualized responsibility to producing, consuming, and transit countries with the adoption, by the international community, of a common and comprehensive approach to all aspects of the problem. Traditionally identified as a drug transit country by virtue of the extensive geographic area available for the entry and exit of narcotics, Brazil views control of the chemical precursors necessary for the preparation of illicit narcotics as a pivotal factor in preventing and suppressing drug trafficking. These traditional categories, however, are manifestly inadequate. For example, consuming countries of so-called “natural” (plant-based) drugs today are engaged in the production and export of addictive synthetic narcotics. These nations thus fall into the category of drug suppliers, as well as representing consuming markets and transit points, as understood in the broadest sense – that is, through which drugs are not simply moved over land borders, but are shipped via ports and airports to other markets.

Brazil is not a producer of drugs. Drugs produced in other States pass through particular areas of the country, in particular where border controls

are hampered by challenging physical conditions, ultimately exiting the country. However, a portion of the illicit product is left behind, generating consumption, primarily among low-income youth, a market for cheap drugs, and acute damage to public health and the future of the affected populations.

The concept of shared responsibility was enshrined by the member states of the United Nations during the Twentieth General Assembly – 20th UNGASS – in 1998, giving rise to the Political Declaration and the fundamental principles on the reduction of narcotics demand. In 2009, a review was conducted of the commitments undertaken by the member States. Additionally, updating of the original concepts resulted in a new Political Declaration, the principles of which constitute a globally accepted common framework for cooperation between countries on the issue of drugs.

Brazil is a signatory to the United Nations Conventions on Narcotic Drugs, specifically: the 1961 Single Convention on Drugs, amended by the 1972 Protocol; the 1971 Convention on Psychotropic Substances; and the 1988 Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substance. The country takes active part in the United Nations Commission of Narcotic Drugs – CND. In addition, the Brazilian government cooperates with the UNODC in Brazil and undertakes technical cooperation programs in the fields of drug demand and supply reduction.

Demand Reduction

In regard to international cooperation in the area of demand reduction, the National Secretariat for Drug Policy operates an extensive portfolio of projects aimed principally at the sharing of good practices. The policy formulation process, the development and implementation of prevention programs, and capacity building for stakeholders and community leaders have constituted the central focus of bilateral cooperation, primarily with South American, Central American, and African countries.

Further, SENAD offers distance education course programs to various countries. Professionals in Chile, Peru, Uruguay, Paraguay, Bolivia, and Mozambique have received training in intervention strategies through application of a detection system to identify the abuse of and dependence on psychoactive substances: referral, temporary intervention, social reintegration, and follow-up. In the light of the positive response to the distance capacity building program and demand for its expanded application, the Brazilian Cooperation Agency

(“Agência Brasileira de Cooperação” – ABC) of the Ministry of External Relations provides financing to the adaptation of SENAD’s training platform to the specific realities of countries on the American continent, as well as English and Spanish translations of the related instructional material. In this way, and guided by the principle of shared responsibility, Brazil offers the international community a valuable prevention tool.

Another cooperation project developed by SENAD in the capacity building field is the Online Specialization Course in Research on Drugs for Professionals in the Health and Related Fields (“Curso *Online* de Especialização em Pesquisa na Área de Drogas para Profissionais de Saúde e Áreas Correlatas”), implemented in partnership with the Riberão Preto Nursing School of the University of São Paulo. The fourth edition of the course program included the participation of health professionals from Paraguay, Uruguay, Peru, Guatemala, and Mozambique.

Equally important are the cooperation projects undertaken with international organizations, including the United Nations and the OAS. SENAD maintains a technical and consulting cooperation agreement field with the UNODC in the program evaluation. At the regional level, Brazil takes active part in various expert groups and in the Multilateral Evaluation Mechanism (MEM) of the Intern-American Drug Abuse Control Commission of the OAS.

Supply Reduction

With respect to supply reduction, the Brazilian Federal Police Department has entered into exchange programs with various countries, through which liaison officers are received at Brazilian ports and airports. The Brazilian Federal Police offers training and capacity building course programs to law enforcement personnel in various countries, including Europe, in specific areas, ranging from airport and port security to maritime cargo risk analyses. Brazil has extended its liaison exchange training programs to include Brazilian and foreign law enforcement agents.

Based on bilateral cooperation agreements, the Brazilian government has concluded, through the Federal Police Department, a series specific implementation agreements in the field of law enforcement cooperation with Bolivia, Peru, and Paraguay, which include programs, goals, schedules of tasks, and evaluations. The agreements also provide for periodic joint operations with the participating countries for the interdiction of drugs, arms,

and other illicit products and merchandise, in addition to increased intelligence sharing on transnational criminal organizations, in particular those engaged in the illicit traffic of narcotics and related offense, and information in the field of criminal investigation. Further, the parties agreed to maintain the liaison officers assigned to intelligence units in the participating neighboring countries in place.

The Federal Police Department maintains stations on Brazil's land and water borders, through which it works in coordination with the Federal Revenue Department ("Secretaria da Receita Federal"), the Federal Highway Patrol Department (Polícia Rodoviária Federal), the Brazilian Army, Navy, and Air Force, as well as the civil police department – state and local level coordination – and the military police department – preventive coordination. The border stations also serve as a platform for joint actions between the Federal Police and similar agencies in countries with which Brazil maintains law enforcement cooperation arrangements.

5. The Exercise of Mutual and Shared Responsibility by the States

2009 marked an important milestone in the international agenda on the global drug problem. Following several years of committed effort to the implementation of the United Nations General Assembly Special Session agreement, the international community met to evaluate the progress achieved.

Similarly, the Inter-American Drug Abuse Control Commission of the OAS decided to update its anti-drug strategy, with a view to bringing the principles adopted by the United Nations into alignment with the region's specific realities and setting. Brazil was chosen to coordinate the effort.

Among the progress identified in the General Assembly Special Session, the following are of particular note: a) an international control system constituted on a solid foundation of treaties to guide national strategies aimed at demand and supply reduction; b) the establishment by a number of countries of specialized national institutions to coordinate national policy in this area; c) strengthening of international cooperation, implemented in a coordinated manner and in accordance with the principle of shared responsibility; and d) the increased production of scientific and technical literature on the various aspects of the drug issue.

The assessment also served to identify a number of points for inclusion in a future global strategy: a) the consensus on the need for increased investments in demand reduction and, more important, in prevention programs, with a

view to achieving greater balance with supply reduction efforts; and b) the formulation of public policies increasingly founded on scientific research and the exercise of coordinated international cooperation aimed at maximizing efforts.

<i>Formato</i>	<i>15,5 x 22,5 cm</i>
<i>Mancha gráfica</i>	<i>12 x 18,3cm</i>
<i>Papel</i>	<i>pólen soft 80g (miolo), duo design 250g (capa)</i>
<i>Fontes</i>	<i>Times New Roman 17/20,4 (títulos), 12/14 (textos)</i>