

**Statement by Mr. Jorge Hage Sobrinho,
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**Actions taken by Brazil to implement the OECD Convention on Combating Bribery of
Foreign Public Officials in International Business Transactions**

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Brazil signed the Convention in the same year it was adopted – in 1997 – and less than one month after Brazil signed it on December 17. Brazil deposited its ratification instrument on August, 2000, after our Congress approved the implementing legislative decree in June of that year. The Convention was then put into effect in Brazil almost immediately, through a Presidential Decree of November, 2000.

After the Convention came into force, the following legislative amendments were advanced by the Brazilian State, in order to adapt its legislation to the provisions of the Treaty:

- In 2002, an amendment to the Brazilian Penal Code, introduced by the Law no. 10,467, included the Crimes of Active Corruption in International Commercial Transactions and Influence Peddling in International Commercial Transactions in the nations legal framework.
- The sanction specified in both cases is imprisonment, with a stipulated penalty of 1 to 8 years in the former case and 2 to 5 years in the latter case.
- That same statute has also modified the Money Laundering Law (Law no. 9,613/98) in order to include the abovementioned crimes in the list of precursor crimes to that of money laundering.

- In compliance with the recommendations of the first stage of the evaluation of Brazil's implementation of the Convention, last January our President has submitted a bill to the Congress increasing the punishment for the crime of Active Corruption in International Commercial Transactions, to 2 to 12 years. This will make the punishment for this offense the same as for domestic Corruption.

Presently, our country is taking new measures in order to meet other requirements of OECD, brought about during the recent evaluation process. As an example, concerning the liability of legal persons, it was included among the priorities of next year's version of the National Strategy to Combat Corruption and Money Laundering, *"the elaboration of a Bill Project about the liability of legal persons in order to apply more effectiveness to the liability of legal persons that are offenders of transnational corruption acts."*

Concerning the issue of whistleblower protection, we have also decided to include the preparations of a Bill Project as another priority in the 2008 Strategy, which will be discussed next month.

There are other mechanisms worth mentioning in the administrative and criminal spheres, which ensure that Brazilian companies, accountants and administrators operate in compliance with the provisions of the 1997 Recommendations of OECD, such as imprisonment for anybody who maintains or transfers money violating legal requirements, or who forges accounting documents or company books, by means of introducing incorrect items or omitting information about certain transactions or income.

Brazilian Government has also adopted a number of measures to ensure widespread publicity to the OECD Convention. Information folders and primers, containing guidelines to the Convention, have been prepared for distribution at seminars and training courses, as well as to be mailed to companies, businessmen, congressmen, judges, attorneys, lawyers, accountants and professional bodies. This material is also available at the website created by CGU (The Office of the Comptroller General) for the specific purpose of publicizing the Convention (www.cgu.gov.br/ocde), as well as at the websites of the Ministry of Industry and Foreign Trade, at the Exporter's Portal, and at the main agencies that deal with promoting exports from Brazil, and also at the sites of entities that represent companies and non-governmental organizations.

Alongside the above-mentioned measures, we have established, at CGU, a strong partnership with the Ethos Institute for Corporate Social Responsibility. This partnership has made possible the promotion of seminars and workshops with companies, corporations and representative entities from all over Brazil, aiming at fostering broader understanding and awareness of the objectives of the Convention in the Brazilian private sector. The Ethos Institute also contributes towards publicizing the OECD Convention by distributing the CGU-produced folders and primers at events promoted by the organization.

On the other hand, it is important to emphasize that, along with these measures directly related to the implementation of the OECD Convention on “Foreign Bribery”, our country has been putting, in the last five years, a lot of work in the fight against any type of corruption. It is worth highlighting the creation of the Controller General's Office (in 2003) and its Corruption Prevention Secretariat (in 2005), which carries out actions and functions typical of an anti-corruption agency. The creation, in 2004, of a Department for the Recovery of Assets and International Legal Cooperation (in the Ministry of Justice), which is also responsible for formulating policies for combating money laundering and increasing international legal cooperation. And the strengthening of the Brazilian Financial Intelligence Unit (COAF).

In the other units within the CGU – those in charge of auditing functions and administrative prosecution – the progress is still more visible, either because of the notorious search and seizure operations with the Federal Police following the audit investigations, either because of the growing numbers of public agents we have excluded, every year, from the public service, after a disciplinary process, without having to wait for the judicial process – over 1.500 such penalties applied cases in less than five years.

Moreover, it is worth highlighting the integrated way in which corruption is now being confronted in Brazil, by coordinating and combining the actions of the different state agencies that have some kind of role to play in that matter. As a result of this coordination, the country has succeeded in formulating, in a yearly basis, since 2004, a National Strategy to Combat Corruption and Money Laundering (ENCCLA), with the participation and involvement of about fifty federal agencies.

In the Transparency front, Brazil has made huge progress in the last few years. In the Internet, the Transparency Portal (www.portaldatransparencia.gov.br) exhibits, for anyone that may

want to know, all the federal public expenses, program by program, action by action, city by city where the money is applied. We give the complete information, including the name of the person or the company that receives every cent of the public money. Besides, every ministry or agency is obliged to publish, also in the Web, the summary of every procurement process and every contract, among other information.

As far as the Judicial Branch is concerned, the Federal Courts have been setting up specialized courts to judge crimes against the Banking System and the Laundering or Concealment of Assets. These specialized Federal Justice Units are also charged with judging crimes of transnational bribery when they are linked to the above. This can actually make prosecution of these offenses more effective.

Yet, we still have a long way ahead in the judicial area, as we got very few cases being actually investigated and prosecuted. But I have no doubt we are going in the right direction and with increasing speed.

In conclusion, I can say we are sure that a lot has already been done, and that the Brazilian Government has taken unprecedented steps forward in the fight against corruption, as a result of the serious, committed and competent work put in by the agencies involved. At the same time, we know very well that this is a war that will never be completely finished. We will have to be continuously aware and alert, in order to make further and always more intense and effective progress to suffocate corruption, inside and outside our borders, since it is a global problem and a global challenge.

For all those reasons, I congratulate OECD and the Italian Government for the initiative of this Conference, that provided a very special opportunity to celebrate the progress of the Convention, a real milestone in this global fight for building a new and fair environment not only for international commerce, but also for international relations between countries that, inside their borders as well, want to guarantee a clean, fair and democratic society.