ANNEX 3: PRESENTATIONS FROM PLENARY SESSION 3

“What is Necessary to Prevent Corruption: the Brazilian Experience”
Mr. Horge Hage, Minister, Head of the Office of the Comptroller General, Brazil

Two levels:
- The broader, overarching context (level 1):
  • Political and constitutional reforms and adjustments
  • Cultural and educational changes and measures

The more practicable sphere (level 2):
• Approaches, tools and methods adopted in Brazil based on a set of guidelines:
  A) **Transparency** is the best antidote to corruption
  B) **Participation of citizens** is indispensable
  C) **Application of penalties** is vital to overcome the culture of impunity
  D) **Coordination and cooperation among public institutions** is imperative for success
  E) **Cooperation between the public and private sectors** is of utmost importance.
A Summary of what we have been doing in Brazil over the last few years:

The CGU as the Internal Audit Unit and the Anti-Corruption Agency of the Brazilian Federal Government implements the following actions:

- Internal Control
  - Guidance to Public Managers
  - Audits

- Referral of audit results to the agencies with responsibility for enforcement of the applicable sanctions

- Disciplinary Actions

- Corruption Prevention
Office of the Comptroller General of Brazil

Institutional Coordination

One of the guiding principles of the CGU since 2003 has been to foster cooperation and partnerships with the other control, investigation, and prosecution agencies of the State and to enhance public management.

INTERNAL CONTROL MEASURES
(GUIDANCE, AUDITS AND INSPECTIONS)

• Guidance to public managers
• Control the execution of government programs
• Oversee the application of federal resources by the states and municipalities
• Investigate and verify reports of wrongdoing
• Conduct special operations
• Evaluate the management performance of federal administrators
DISCIPLINARY MEASURES

• Recommend or implement Administrative Disciplinary Procedures and Asset Investigations;

• Review Administrative Disciplinary Procedures conducted outside the CGU;

• Investigate and verify notifications by the Financial Activities Control Board - COAF (CGU-COAF Partnership);

• Track growth in asset and property holdings (CGU-BRS Partnership)

• Co-ordinate the Disciplinary System of the Federal Executive Branch (Decree 5480/05);

• Rule on the Ineligibility and Suspension of Enterprises (Law 8666/93);
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Expulsion Penalties

<table>
<thead>
<tr>
<th>Penalties</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009*</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>264</td>
<td>292</td>
<td>272</td>
<td>357</td>
<td>437</td>
<td>347</td>
<td>274</td>
<td>2,243</td>
</tr>
</tbody>
</table>

*Up to August 2009

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Main Prevention Measures

- Increased Transparency
- E-procurement system
- Online monitoring of public expenditure
- List of Ineligible Firms - CEIS
- Incentive to Social Control
- Education for Ethics and Citizenship
- Implementation of International Conventions
- Public - Private Co-operation Against Corruption
- Studies and research on corruption
- Enhanced Legal Framework
International Anti-Corruption Conference, Astana, Kazakhstan, 16-18 September 2009

Office of the Comptroller General of Brazil

Public Transparency Pages:
One in Each Federal Body

- Public Procurement
- Public Agreements
- Budget Expenditure
- Contracts
- Per Diems and Travel Allowance

International Awards

UNODC Award
“Important work in promoting transparency in public spending”

UNCAC States Parties Conference
Bali 2008

One of the five best practices in the field of transparency and anti-corruption strategies worldwide
Comprasnet Portal

COMPRASNET is the access point to the Brazilian Federal Government's e-procurement system. The portal enables users to view information on all Federal Government purchases of goods and services and to participate in the e-procurement process.

Public Spending Observatory

data-matching and tracking system
1. COLLUSIVE BEHAVIOUR – BIDDER FIRMS
2. AMOUNTS BEYOND THE LEGAL THRESHOLD
3. MORE THAN ONE “SOLE SOURCE” SUPPLIER
4. INSUFFICIENT TIME FOR BID SUBMISSION
5. BIDS REGISTERED ON NON-BUSINESS DAYS
6. INAPPROPRIATE WAIVER OF PROCUREMENT
7. IMPROPER PROCUREMENT
8. BIDDERS WITH SAME ADDRESS
9. NEWBORN FIRMS
Fractioning of procurement

Amount: R$ 1,150,964,425.39
Proportion of total: 0.7%
Number of cases: 326,187
Period: 1998 → 2008 (April)

Fractioning of expenditure by area of business activity

- Other: 51%
- Construction Materials: 4%
- Outsourcing: 6%
- Computer Supplies and Services: 7%
- Construction and Public Works: 16%
- Medical and Hospital Equipment: 14%
Bidder Collusion by area of business activity

Construction and Public Works: 26%
Basic Materials: 14%
Computer Equipment and Services: 7%
Outsourcing: 6%
Construction Materials: 4%
Other: 43%

List of Ineligible Firms - CEIS

04.775.224/1999-26
BRASILTECNOLOGIA DA INFORMACAO LTDA
01/02/04
**
UNICAMP
SP
GOVERNO DO ESTADO DE SÃO PAULO
SP
01/02/04

272 ineligible firms; 1038 suspended

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The CGU developed the *Eagle Eye on the Public Money* programme, with a view to promoting change in society through education, access to information and social mobilisation.

To promote social control, the CGU developed the *CGU’s Online School*, offering course programs in: 1. Internal Control; 2. Social Control; 3. Social Control of the Government Education Programme; 4. Public Procurement and Contracts.

**Target Audience**

- Members of Municipal Policy Councils;
- Local Leaders;
- Municipal Officials;
- Educators and Students;
- General Public.
Implementing International Conventions against Corruption

The CGU prepared handbooks and booklets to disseminate the terms of the OECD Convention against Corruption. In addition, the agency developed a hotsite with information on the Convention.
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Promotion of Academic Studies and Research on Corruption

- CGU Journal
- Essay Contest
- Academic Debates
- Co-operation Agreements with Universities
- Online Library on Corruption

DEBATES ACADÊMICOS
PREVENÇÃO E COMBATE À CORRUPÇÃO

2º Concurso de Monografias da CGU
Centro de Estudos da União

Office of the Comptroller General of Brazil

Co-operation Agreements for Academic Research on Corruption

UK Embassy
Universidade do Estado de São Paulo
Universidade de Brasília

COLUMBIA UNIVERSITY
IN THE CITY OF NEW YORK

Transparência Brasil

FEA/USP
UNIR
UNIFAP
UFU
UFMS
UFC
UNIFAP

105
Legal Framework to Fight Corruption in Brazil  
prevention and enforcement
Anti-Corruption Legislation in Brazil

Penal Code:
- Active corruption of domestic officials (art. 333),
- Passive corruption of domestic officials (art. 317),
- Active bribery in international business transactions (art. 337 - B);
- Trafficking in influence in international business transactions (art. 337 – C).

- Money Laundering Law
- Official Misconduct Law
- Public Procurement Law
- Offences against the Economic Order Law
- Law on Internal Control of the Executive Branch
- Law governing the Office of the Comptroller General of Brazil
- Law governing the Brazilian Court of Accounts
- Law on the Liability of Mayors and City Council Members
Office of the Comptroller General of Brazil

- Law on asset and income reporting
- Law on preventing and suppressing organized crime
- Law on the Federal Victim and Witness Protection Program
- Fiscal Responsibility Law
- Regulation of PEPs

Strengthening the Legal Framework
Office of the Comptroller General of Brazil

- **Criminalization of illegal enrichment** (bill submitted to the National Congress in June 2005)
- **Conflicts of interest** (bill submitted to the National Congress in October 2006)
- **Access to information** (bill submitted to the National Congress in May 2009)
- **Liability of legal persons** (refers to acts of corruption against national and foreign Public Administrations)
- **Tackling nepotism**
- **Lobbying regulation**

“Prevention and enforcement are not antithetical; on the contrary, they are complementary”.
**My Conclusion:** I would like to emphasise the importance of having an agency or department (be it a ministry or any other kind of public body) specifically devoted to preventing and combating corruption,

An agency with primary responsibility for confronting corruption, and, as a result, undertaking initiatives, motivating partner institutions, coordinating the related efforts, and stimulating the participation of society in general and the private sector in particular, so as to ensure integrated action
CONTROLADORIA-GERAL DA UNIÃO
Setor de Autarquias Sul,
Quadra 1, Bloco A
Edifício Darcy Ribeiro
CEP: 70070-905
Tel: +55 61 2020 7241

Visit the Transparency Portal:
www.portaldatransparencia.gov.br

www.cgu.gov.br  cgu@cgu.gov.br
Complexity of corruption phenomenon

- Requires diverse prevention and combating approach
- Bursts into weak sections of the system:
  - Lack of objectives and achievable results
  - Lack of adequate capacity and supervision
- Nourished by dishonesty, non-ethical and undemocratic public administration

Ensuring efficient use of taxpayers resources (1)

- Clear objectives defined
- Achievable results and necessary resources
- According administration structure
- Responsibility and competences determined
Ensuring efficient use of taxpayers resources (2)

- Public sector as joint mechanism:
  - Precise performance of entrusted functions
  - Every component in the right place
  - Avoiding fancy decorations
- A clock displaying accurate time

Various faces of corruption

- Making use of State’s resources
  - Legal initiatives
  - Workplace and technical provision
  - Time for accomplishment of tasks
- “Creative” interpretation of prohibitions
- Unwillingness to eliminate “corruption black holes”
Fighting against corruption (1)

- Focus on prevention rather than combating the consequences
- Systemic approach to anti-corruption measures
- Withdrawal of unnecessary details from the mechanism of State’s clock
- Only by court precedents?

Fighting against corruption (2)

- Use of resources related to performance indicators
- Transparency in decision taking
- Transparent and unified accounting of financial resources
- Prevention of conflict of interest
- Involvement of sector experts and NGO’s
“Role of Education in Preventing Corruption”

Dr. Tünde Kovač–Cerović, State Secretary, Ministry of Education, Republic of Serbia

Adverse relationship between education and corruption:

• Conceptually:
  - Education is human capital development
  - Corruption creates the opposite - waste of human capital

• Procedurally:
  - Education is setting standards - corruption is breaking them
  - Education creates promotion based on merit – corruption diminishes the effects of merit-based promotion.

Easy solution: strengthen education

However, paradoxically:

Corruption in education

Is a major issue - it is pervasive, massive, but usually petty and unreported, not dealt with.

Many opportunities and niches for corruption in the education system.

Nice list of different types:

- Bribe, bypass of criteria, leakage, diversion of funds, embezzlement, misappropriation, favoritism, fraud, ghost workers, nepotism, influence peddling…

- It undermines school ethos, accountability, transparency, equity, efficiency, effectiveness, quality - diminishes what education could contribute

(UNESCO & IIEP 2007)
WHY?
WHAT SYSTEMIC CHARACTERISTICS OF EDUCATION CONTRIBUTE TO THIS?

the role of education in preventing corruption?
corruption in education?
Basic characteristics of education systems which make education vulnerable for corruption

1. Huge system - covers about 20% of the population in the country, but is fragmented into small and dispersed units.

   Example of country of 6mil

<table>
<thead>
<tr>
<th>No of schools</th>
<th>No of facilities</th>
<th>No of classes</th>
<th>No of teachers</th>
<th>No of students 61-612</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,800</td>
<td>4,500</td>
<td>40,000</td>
<td>70,000</td>
<td>1,100,000</td>
</tr>
</tbody>
</table>

Basic characteristics of education systems which make them vulnerable for corruption

2. Perceived as major mechanism for social/economic promotion - high motivation, high incentives.
Basic characteristics of education systems which make them vulnerable for corruption

3. Huge system of human interactions: interests, negotiations, conflicts, clans – all aspects of human nature present

4. Asymmetric relationships in its core: student-teacher, child-parent, parent-teacher (lack of voice, protectionism)
Basic characteristics of education systems which make them vulnerable for corruption

Main activity is hidden in the "black box" and should stay there - cannot be regulated in straightforward ways.

Niches of corruption in education

Place of human interaction:
- Teacher/student
- Student/student
- Teacher/teacher
- Teacher/parent
- Parent/parent

Place of intimate experience:
- Learning
- Deep understanding
- Creativity
- Respect
- Values

Place of development of the Self-concept:
- Self-regulation
- Self-efficacy
- Self-esteem
- Self-description/attribution

All depend on the quality of IA in school.
Niches for corruption at least in 4 of the 6 areas:
121
Assessing students
• Examinations frauds (entry/exit)
• Grading
• Promotion based on bribes
• Selling diplomas

Evaluating institutions
• Manipulating external evaluations
• Inspection

Accrediting institutions, programs

Major frauds: cases in Serbia:
Law School University of Kragujevac + Ministry, 2007
January
Enrolment exam for secondary education, 2008 June

Teacher management:
• Hiring/firing
• Deployment
• Licensing
• Promotion
• Training

Teachers’ responsibilities distorted:
• Undue reporting
• Private tutoring
• Absenteeism, use of sick leaves
• Accepting extra fees, gifts
• Biased grading

• Lack of professional norms, low salaries, weak regulations (in Serbia a new law adopted end of August)
Who is managing and overseeing the schools?
• Appointment of principals/deans/rectors
• Appointment of school boards
• Selecting the Inspection

Use of information systems:
• Withholding information,
• Changing, manipulating data,
• Not producing data.

Accountability to students, parents:
• Student placements
• Manipulating school boards
• Manipulating parent councils
• Not including students

Major area of protectionism: student placements – each September

What has proven effective in the education system?
• Participatory approaches
• Strengthening parents’ and students’ voices
• Internal evaluation in all 6 areas
• Strengthening professionalism among teachers
• Funds tracking exercises
• Clear focus on preventing corruption and clear consequences: Police, prosecution, judiciary
Education needs a conducive and rich context ...

... and strong anchors

Legal instruments

Research and monitoring

Developmental priorities

(equity and efficiency)

Anti-corruption solutions in other countries

What could be an effective contribution of education in preventing corruption at societal level?

- Curriculum enrichment (university and secondary education)
- Learning by doing (student involvement and actions)
- Good models + success

But please take care of the hidden curriculum as well!
Hence, the answer is:

YES, EDUCATION CAN BE A MAJOR CONTRIBUTOR, BUT ONLY IF IT IS STRENGTHENED ITSELF!
“Prevention of Corruption – the Comprehensive Approach of the Council of Europe”
Mr. Michael Janssen, Council of Europe, Secretariat of the Group of States against Corruption (GRECO)
Council of Europe
A pan-European organisation
47 member states

- To defend democracy
- To protect human rights
- To promote the rule of law
- To guarantee the social and economic development of European societies
- To consolidate democratic stability in Europe

Council of Europe and Corruption

Legal instruments:
- The Twenty Guiding Principles for the Fight against Corruption (1997)
- The Civil Law Convention on Corruption (1999)
- Codes of Conduct for Public Officials (2000)
- Funding of Political Parties and electoral campaigns (2003)
GRECO
Group of States against Corruption

- International monitoring mechanism
- Established in 1999
- 46 members (45 European States and the USA)
- Open to member and non-member States of the Council of Europe

The Council of Europe’s approach to the fight against corruption

- Multifaceted – 3 interrelated elements:
  - Standard setting
    - legal instruments (“soft” & “hard law”)
  - Monitoring
  - Technical assistance and co-operation
The 20 Guiding Principles for the Fight against Corruption

A catalogue of measures to be included in comprehensive national strategies against corruption:

- Awareness of corruption, transparency in public administration, independence and specialisation of authorities, criminalisation of corruption, proceeds of corruption, legal persons, immunity, media, research etc.

**Monitoring: GRECO**

[www.coe.int/greco](http://www.coe.int/greco)