Fight against foreign bribery
The Brazilian experience
In Brazil

Criminal

Art. 337- B Active bribery in international business transactions

Art. 337-C Trafficking in influence in international business transactions

Authorities:

Federal Police

Federal Prosecution Service
Liability of legal persons

Administrative and Civil

Civil Sanctions
Judicial Measures

Administrative Sanctions
Administrative Proceedings

Disgorgement
Dissolution of the company

Monetary Fine
Extraordinary publication
Debarment*
Leniency agreements

Authorities:
Office of the Comptroller General
Attorney General’s Office
Federal Prosecution Service
Fine

R$ 734mi fines
(USD 145mi)

R$ 15bi NTRs
(USD 3bi)
Extraordinary publication
Leniency agreements
(non-trial resolutions)
Assessment of Integrity Programs in Leniency Agreements

**Reduction in fines**: reduction of up to 5% of gross revenue for legal entities that demonstrate having and applying an integrity program

**Definition of the integrity clause/ integrity obligations**: The leniency agreement will contain, among other provisions, clauses that concern: the adoption, application or improvement of an integrity program
Assessment Methodology

1. Analysis of the characteristics of the illicit act
2. Analysis of the root cause of the illicit act
3. Analysis of the characteristics/profile of the legal entity
4. Assessment of the response of the legal entity to the illicit act
5. Assessment of the Integrity Program
Integrity Obligations

**Remediation**
- Removal of implicated persons from their positions
- Termination of contracts with suppliers
- Internal or external communications about the illicit act
- Internal investigations
- Submission to external audit

**Changes in Corporate Governance**
- Institution a Board of Directors
- Creation of an Internal Audit function
- Segregation of duties (Legal x Compliance)

**Improvement of the Integrity Program**
- Adoption of policies and controls
- Improvement of available training
- Adapting the program to Brazil
Monitoring the Integrity Program

Monitoring methodology:

**Improvement Plan:**
- Integrity obligations
- Definition of priorities and calendar
- Responsible persons/departments

**Biannual Reports**
- All elements of the Program
- Existence and enforcement
- Improvements
- Evidence

**Technical visits/meetings**
- Interviews
- Sample-based verification of the practical application of policies and use of systems

Approval by CGU is mandatory
CEIS

12,518 debarred

http://www.portaltransparencia.gov.br/sancoes/ceis
Cooperation challenges

- Poor communication between law enforcement agents
- Difficulties to obtain effective MLA
- Different legal systems and standards
International cooperation

Active engagement in specialized cooperation networks

Latin America & Caribbean Anti-Corruption Law Enforcement Network (LAC LEN)

Global Law Enforcement Network against Transnational Bribery (GLEN)

Global Operational Law Enforcement Network (GlobE)
Multijurisdictional cases

Samsung Heavy Industries entered into a Leniency Agreement with the CGU, AGU and MPF, in a two-step global resolution involving the United States Department of Justice.

By Saud Advogados on April 5, 2021
POSTED IN ARTICLES

Samsung Heavy Industries (SHI), one of the largest companies in the world in the shipbuilding market, entered into a leniency agreement with the Office of the Comptroller General (CGU), Office of the Attorney General (AGU) and the Federal Prosecutor’s Office (MPF) on February 22, 2021, for bribery and money laundering misconducts in connection with Petrobras’ agreements.

Son of Congo-Brazzaville president accused of siphoning off $50m

DENIS CHRISTEL SASOU-NGUESSO allegedly used money-laundering scheme spanning six European countries.

The son of Congo-Brazzaville’s president has misappropriated $50m (€41m) of public money by routing it through shell companies and secrecy jurisdictions, according to a new investigation.

Telefônica é condenada a pagar R$ 45,7 milhões por dar ingressos a agentes públicos

Em nota, a empresa alegou que a doação dos ingressos ocorreu no contexto de ações de marketing e de promoção institucional da companhia.

Por G1
16/10/2020 09:06 - Atualizado há 4 semanas

A Telefônica Brasil foi sancionada administrativamente pela Controladoria-Geral da União.
First, do the homework domestically
Anticorruption Plan 2020-2025

Strengthen mechanisms to prevent, detect and sanction acts of corruption

Constant update to face new challenges

Legal and institutional reforms
Anticorruption Plan 2020-2025

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