

BRAZIL

The law 10.467 implementing the Convention amending the Brazilian Penal Code and provisions on corruption both on the domestic and on the international level, including any type of sanctions.

LAW NO. 10.467, OF JUNE 11, 2002 - Adds Chapter II-A to Section XI of Decree-Law No. 2,848, of December 7, 1940 – Penal Code, and a provision to Law No. 9,613, of March 3, 1998, which rules on the crimes of ‘money laundering’ or hiding assets, rights and securities; the prevention of the use of the Financial System for the illegal acts provided for in this Law, creates the Financial Activities Control Board (Coaf), and makes other provisions.

THE PRESIDENT OF THE REPUBLIC: I make it known that the National Congress has decreed and that I approve the following Law:

Article 1 The purpose of this Law is to put into effect Decree No. 3,678, of November 30, 2000, which enacts the Convention on Combating the Bribery of Foreign Public Officials in International Business Transactions, completed in Paris on December 17, 1997.

Article 2 Section XI of Decree-Law No. 2,848, of December 7, – Penal Code, now comes into effect with the addition of the following Chapter II-A:

"SECTION XI

.....
CHAPTER II-A

CRIMES COMMITTED BY A NATURAL PERSON AGAINST A FOREIGN PUBLIC ADMINISTRATION

Active bribery in an international business transaction

Article 337-B. Promising, offering, or giving, directly or indirectly, any improper advantage to a foreign public official or to a third person, in order for him or her to put into practice, to omit, or to delay any official act relating to an international business transaction.

Penalty – Deprivation of liberty of from 1 (one) year to 8 (eight) years plus a fine.

Sole paragraph. The penalty is increased by 1/3 (one third) if, because of the advantage or promise, the foreign public official actually delays or omits, or puts into practice the official act in breach of his or her functional duty.

The traffic of influence in an international business transaction

Article 337-C. Requesting, requiring, charging, or obtaining, for oneself or for another person, directly or indirectly, any advantage or promise of advantage in exchange for influencing an act carried out by a foreign public official in the exercise of his or her functions relating to an international business transaction:

Penalty – deprivation of liberty, of from 2 (two) to 5 (five) years, plus a fine.

Sole paragraph. The penalty is increased by half, if the perpetrator alleges or insinuates that the advantage is also intended for a foreign public official.

Foreign Public Official

Article 337-D. A foreign public official is deemed to be, for the purposes of the criminal law, anyone, even though temporarily or in an unpaid capacity, who holds a position, a job or a public function in state bodies or in diplomatic representations of a foreign country.

Sole paragraph. Anyone who holds a position, a job or function in an organisation or enterprise directly or indirectly controlled by the Public Authorities of the foreign country or in international public organisations is deemed to be equivalent to a foreign public official.

Article 3 Article 1 of Law No. 9,613, of March 3, 1998, now comes into effect with the addition of the following clause VIII:

"Article 1
.....
VIII – committed by a natural person against a foreign public administration (articles. 337-B, 337-C and 337-D of Decree-Law No. 2,848, of December 7, 1940 – Penal Code).
....."
(NR)

Article 4 This Law comes into effect on the date of its publication.

Brasília, 11 June 2002