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FIGHT AGAINST PIRACY AND COUNTERFEITING IN BRAZIL:  
PROGRESSES AND CHALLENGES

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\* The views expressed in the document are those of the author and not necessarily those of the Secretariat or of the Member States of WIPO.

1. In the context of the economic globalization and of the international trade's intensification, ideas and knowledge, which are the core of the intellectual property rights, have assumed a more and more important role, especially due to their contribution to the increase of welfare.
2. For this reason, since 2004, Brazil has initiated a paradigm shift in what concerns its fight against the infringement of intellectual property rights.
3. This paradigm shift became necessary due to piracy dynamism, which assumes different configurations in time and space related to technological progress and social contexts. Therefore, it imposes constantly new challenges in the fight against piracy to the whole of all countries.
4. We need to keep in mind that piracy and counterfeiting are global issues for which there is not a unique solution that could be applied universally to every country. There is no solution that can fit all the countries.
5. For those reasons, the National Council against Piracy and Intellectual Property Crimes (CNCP) was created by Decree n° 5.244, of October 14, 2004.
6. CNCP is a consultative collegiate body within the framework of the Ministry of Justice whose purpose is to elaborate guidelines to the formulation of the national plan against piracy, tax evasion and other intellectual property crimes.
7. CNCP presents a singular working method by joining efforts between the private and the public sectors. This is necessary in order to have an effective fight against piracy.
8. The present representatives of the public sector at the Council are: the Ministry of Justice; the Ministry of External Relations; the Ministry of Finance; the Ministry of Culture; the Ministry of Labour and Employment; the Ministry of Development, Industry and Foreign Trade; the Ministry of Science and Technology; the National Secretariat of Public Safety; the Federal Police; the Federal Highway Police; the Federal Revenue Secretariat; the Federal Senate; and the Chamber of Deputies.
9. The present representatives of the private sector at the Council are: the Brazilian Software Enterprises Association (ABES); the Brazilian Record Producers Association (ABDP); the Brazilian Ethical Competition Institute (ETCO); the National Confederation of Industry (CNI); and the National Confederation of Commerce (CNC).
10. The Counselors have a two-year term, which can be renewed. The Presidency and the Executive Secretariat of the Council are within the scope of the Ministry of Justice.
11. The Brazilian Government's initiative is unprecedented in two perspectives: first, it comprised the public and the private sectors in a Council with equal rights to vote and to speak. Additionally, the use of unique methodologies and approaches when dealing with piracy is another specificity of the Brazilian proposal.

12. The First National Plan on Combating Piracy, from 2005, established a body of 99 priority guidelines in three areas: deterrence, education and economy. It considered that piracy and counterfeiting, because of their complexity, demand coordinated efforts to contain the supply of and the demand for, illegal products, through law enforcement, educational and economic measures. This strategy was efficient and displayed remarkable results.

13. By means of operations carried out by the Federal Police, the Federal Highway Police, the Federal Revenue Secretariat and the National Sanitary Vigilance Agency, especially in border zones (ports, airports and boundaries), Brazil has obtained excellent results in the number of seizures of illegal products, of arrests and of investigations against those involved in piracy and counterfeiting.

14. However, despite the fact that the volume of seizures in the country has almost tripled since 2004, there is consensus among the entities of the CNCP, public and private, that only through extensive education, can we add something more to the combat against piracy and counterfeiting.

15. It should be noted that the global experience is full of examples demonstrating that it is impossible to successfully combat against piracy only by law enforcement, as is the case in drug trafficking.

16. The main challenge is, therefore, the gradual change of perception of society, by understanding the harmful effects of illegal products, and its high social costs. The aim is to replace the idea that piracy brings benefit and a cheap and alternative way to satisfy consumers' needs.

17. It is necessary to demystify the argument which defends the consumption of counterfeit and illegal products based on their low cost vis-à-vis the original product. There are, for example, important economic measures designed to reduce this price difference, which are a crucial source to discourage the consumption of illegal products. There is no intention to make prices equal, as the cost structures for producing them (pirated products and original products) are totally different. However, it is necessary to seek creative alternatives to encourage the consumption of original products instead of pirated ones, as for example by launching products affordable to the general public, by creating promotional campaigns and even by reducing taxes. To this end, the private and public sectors should work together, responsibly and transparently, to find such solutions, so as to minimize the piracy problem, thereby ensuring benefits to all – consumers, industry, and government.

18. Given these challenges, the CNCP established, at the end of 2008, a new strategic plan using the Balanced Scorecard Methodology (BSC), usually applied in private institutions, but that has also been successfully implemented in public organizations.

19. Through the BSC, the Council has built a strategic map which established projects to meet the present challenges that the country faces. With these initiatives, we expect to consolidate a national movement to fight piracy and other intellectual property crimes.

20. Therefore, it is necessary to involve society in this debate, involving consumers through information campaigns, knowledge generation and incentives to enhance the protection and enforcement intellectual property.

21. We also need to engage industry and commerce in this strategy, since they are important allies in showing the Brazilian consumers the harmful effects of the illegal commerce in counterfeit and pirated goods.

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