

UNODC – Expert Group Meeting Corruption involving Vast Quantities of Assets

Case: CAR WASH (Lava Jato)

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LAVA JATO – what does it involve

- Initially focused on **contracts of Petrobras**, then to other public areas (Construction, Transport, Water and Sewage Systems, Energy, etc) - publicly tendered – **cartel of private companies agreed to overcharge the State owned company** diverting funds to:
 - **Bribe** people in public administration and within the public company,
 - **Finance parties** and candidates
 - **Bribe politicians to legislate** in favor of the private companies
 - Leaving a substantial **surcharge** to the benefit of the **companies involved**

Sophisticated Money laundering mechanisms (persons and fake companies served as a front, fake service agreements, fraudulent importations, Off Shore Companies and external undeclared bank accounts)

How was Lava Jato triggered? Cost to society

Outset: money laundering involving a Parliamentarian (who had previously been investigated under the “Mensalão” case)

Boom: interception of communication of a group who carried out the money laundering and illegal foreign exchange (“doleiros”) - found connection to a director of Petrobras

Cost to Brazilian Society: until May 2018, some **US\$ 10 billion** have been ordered to be reimbursed. Facts **are still being investigated** on a daily basis.

Reactions of the investigative authorities

Federal Prosecutor's Office (MPF) :

- | - Creation of **Task Forces** between Police, MPF and the Tax Office (Receita Federal) in Curitiba and before STF.

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- | - Later, Task Forces of Prosecutors were formed in Rio de Janeiro, Brasília and in Sao Paulo

- | (When the investigations were reaching authorities like the President of the Parliament and of the Senate and even the President of the Republic, the cooperational element with Police and Receita Federal were reduced)

Reactions of the Justice

First Instance

- Curitiba and Rio de Janeiro have **dedicated judges** who are dealing exclusively with Lava Jato cases

Supremo Tribunal Federal: a politically composed top-level Court

- As special **jurisdiction for politicians** - cases move extremely **slowly**
- **One of its two chambers** is composed majority by judges who consistently **liberate politicians in Habeas Corpus Procedures**; send crimes relating to electoral campaign financing to Electoral Courts.
- Positive: STF in plenary session has limited the “privilege” for politicians and had, until now, **allowed the imprisonment of people condemned in the 2nd instance.**

Reactions of the Congress

- - Attempts to **reduce the investigative powers of the MPF** (Project of Constitutional Amendment 37), abandoned due to pressure from demonstrations by the public
 - Law Project providing **amnesty for illegal donations in electoral campaigns**
 - Law Project to allow cases of **alleged “abuse of power” against Prosecutors and Judges** (clear attempt to intimidate them);
 - Law Projects to significantly **impair Plea Agreements and Leniency**
(prohibition to allow prisoners to conclude plea agreements; prohibition to order imprisonment before final exhaustion of all possibilities of appeals; prohibition of plea agreements for people with poor records; leniency agreements without participation of the MPF)

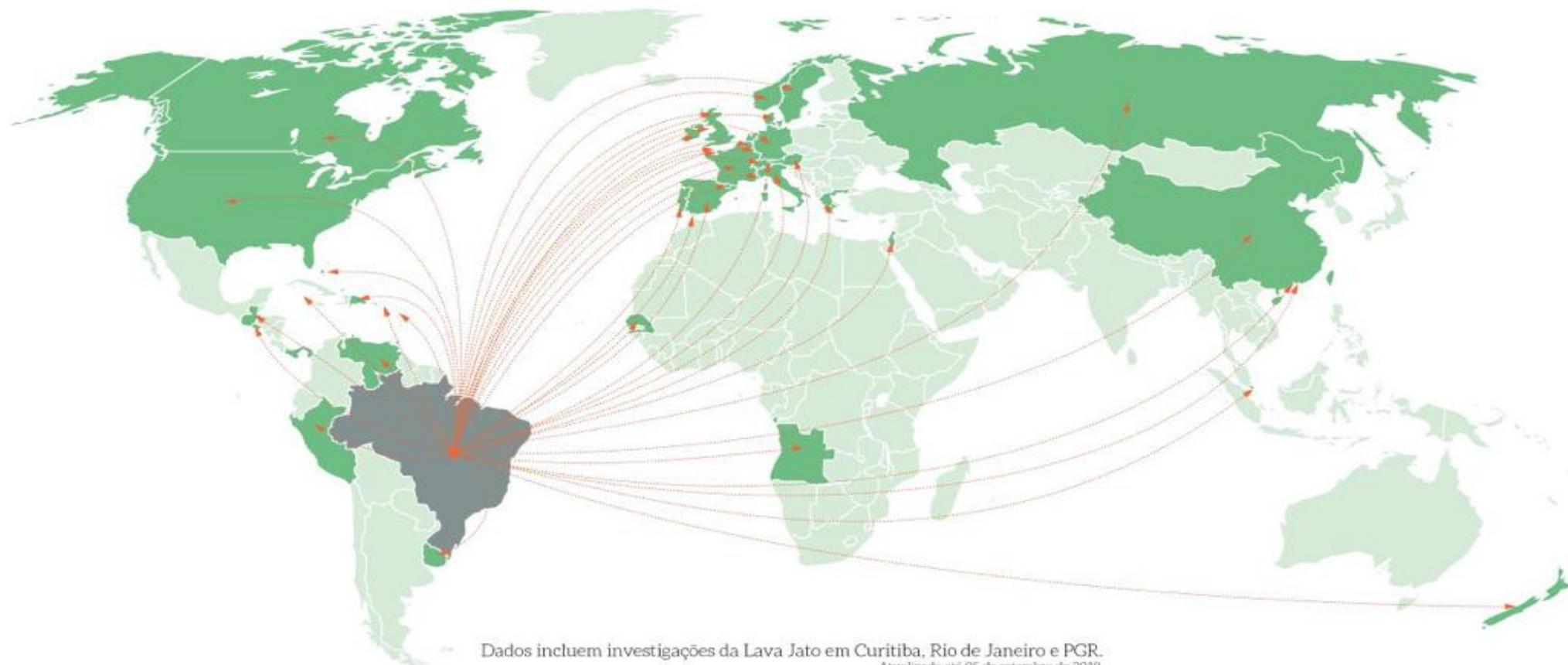
Some Statistics

- 953 search and seizure warrants
- 114 orders of preventive imprisonment
- 457 international cooperation requests (around 50 countries)
- 163 plea agreements concluded
- 11 leniency agreements
- 74 accusations against a total of 309 filed and accepted by the Courts
- 132 persons convicted to a total of 1,960 years of prison**
- U\$ 3 billions already recovered**

(all data of march/2018)

Cooperação ativa na Lava Jato

269 pedidos feitos a 45 países



Alemanha
Andorra
Angola
Antígua e Barbuda
Áustria
Bahamas
Bélgica

Canadá
China
Dinamarca
El Salvador
Espanha
EUA
França

Gibraltar
Grécia
Guatemala
Holanda
Hong Kong
Ilha de Jersey
Ilha de Man

Ilhas Cayman
Ilhas de Guernsey
Ilhas Virgens Britânicas
Irlanda
Israel
Itália
Liechtenstein

Luxemburgo
Macau
Mônaco
Noruega
Nova Zelândia
Panamá
Peru

Portugal
Reino Unido
República Dominicana
Rússia
Senegal
Singapura
Suécia

Suíça
Uruguai
Venezuela

Cooperação passiva na Lava Jato

279 pedidos recebidos de 36 países



Andorra
Antígua e Barbuda
Argentina
Áustria
Bahamas
Chile

Colômbia
Costa Rica
Dinamarca
El Salvador
Equador
Espanha

EUA
França
Grécia
Guatemala
Holanda
Honduras

Israel
Itália
Liechtenstein
México
Moçambique
Noruega

Panamá
Peru
Porto Rico
Portugal
Reino Unido
República Dominicana

Singapura
Suécia
Suíça
Ucrânia
Uruguai
Venezuela

What caused the cases

- Electoral campaign financing illegally by companies
- Lack of proper governance in State owned companies
- Manipulation of public tender procedures by public servants in the State owned companies + cartels on the side of the private companies
- Conviction that the most powerful persons would not be punished

How could the scheme have been prevented?

- Greater **Independence of public companies**, selection of leading personnel by technical competence (avoiding political appointment)
- **privatization**, combined with the **criminalization of corruption of private persons** (art. 21 of the Convention)
- Criminalization of **unjust enrichment** (Art. 20 of the Convention)
- **Lowering costs of election campaigns** (more debates, less free TV time, more use of social networks, district electoral system)
- **Private insurance in public works? International competition?**
- **Prevention of international Money laundering**

Thank you!

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