CONSTITUTION OF THE FEDERATIVE REPUBLIC OF BRAZIL
3nd Edition

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3rd Edition
2010

CHAMBER OF DEPUTIES

Constitutional text of October 5, 1988, with the alterations introduced by Constitutional Amendments No. 1/1992 through 64/2010 and by Revision Constitutional Amendments No. 1/1994 through 6/1994.

CONSTITUTION

of the Federative Republic of Brazil

Chamber of Deputies Directing Board

53rd Congress – 4th Session

2010

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OF THE FEDERATIVE REPUBLIC OF BRAZIL

Chamber of Deputies

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Brasília – 2010

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TRANSLATION HISTORY:

Original text, Constitutional Amendments No. 1/92 through 9/95, and Revision Constitutional Amendments No. 1/94 through 6/94: translated by Istvan Vajda, Patricia de Queiroz Carvalho Zimbres, Vanira Tavares de Souza. Constitutional Amendments No. 10/96 through 15/96: translated by Istvan Vajda. Constitutional Amendments No. 16/97 through 64/07: translated by Vanira Tavares de Souza. Translation Service of the Secretariat of Information and Documentation of the Federal Senate.

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edicoes.cedi@camara.gov.br

SERIE
Textos básicos
n. 57

Dados Internacionais de Catalogação-na-publicação (CIP)
Coordenação de Biblioteca. Seção de Catalogação.

Brasil. [Constituição (1988)].
Constitution of the Federative Republic of Brazil : constitutional text of October 5, 1988, with the alterations introduced by Constitucional Amendments no. 1/1992 through 64/2010 and by Revision Constitutional Amendments no. 1/1994 through 6/1994. – 3. ed. – Brasília : Chamber of Deputies, Documentation and Information Center, 2010.
435 p. – (Série textos básicos ; n. 57)

ISBN 978-85-736-5736-4

1. Constituição, Brasil, 1988. 2. Emenda Constitucional, Brasil. I. Título. II. Série.

CDU 342.4(81)”1988”

ISBN 978-85-736-5736-4 (brochura) ISBN 978-85-736-5737-1 (e-book)

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EDITOR'S NOTE

The alterations deriving from the Constitutional Amendments and from the Revision Constitutional Amendments have already been incorporated into the main text. The modifying amendments are mentioned in parentheses at the end of the head paragraph of altered articles. Other pieces of information are indicated by numbered footnotes.

CONSTITUTION
of the Federative Republic of Brazil

PREAMBLE

We, the representatives of the Brazilian People, convened in the National Constituent Assembly to institute a democratic state for the purpose of ensuring the exercise of social and individual rights, liberty, security, well-being, development, equality and justice as supreme values of a fraternal, pluralist and unprejudiced society, founded on social harmony and committed, in the internal and international orders, to the peaceful settlement of disputes, promulgate, under the protection of God, this Constitution of the Federative Republic of Brazil.

TITLE I
Fundamental Principles

Article 1. The Federative Republic of Brazil, formed by the indissoluble union of the states and municipalities and of the Federal District, is a legal democratic state and is founded on:

I – sovereignty;

II – citizenship;

III – the dignity of the human person;

IV – the social values of labour and of the free enterprise;

V – political pluralism.

Sole paragraph. All power emanates from the people, who exercise it by means of elected representatives or directly, as provided by this Constitution.

Article 2. The Legislative, the Executive and the Judicial, independent and harmonious among themselves, are the powers of the Union.

Article 3. The fundamental objectives of the Federative Republic of Brazil are:

I – to build a free, just and solidary society;

II – to guarantee national development;

III – to eradicate poverty and substandard living conditions and to reduce social and regional inequalities;

IV – to promote the well-being of all, without prejudice as to origin, race, sex, colour, age and any other forms of discrimination.

Article 4. The international relations of the Federative Republic of Brazil are governed by the following principles:

I – national independence;

II – prevalence of human rights;

III – self-determination of the peoples;

IV – non-intervention;

V – equality among the states;

VI – defense of peace;

VII – peaceful settlement of conflicts;

VIII – repudiation of terrorism and racism;

IX – cooperation among peoples for the progress of mankind;

X – granting of political asylum.

Sole paragraph. The Federative Republic of Brazil shall seek the economic, political, social and cultural integration of the peoples of Latin America, viewing the formation of a Latin-American community of nations.

TITLE II
Fundamental Rights and Guarantees

CHAPTER I
Individual and Collective Rights and Duties

Article 5. All persons are equal before the law, without any distinction whatsoever, Brazilians and foreigners residing in the country being ensured of inviolability of the right to life, to liberty, to equality, to security and to property, on the following terms: (CA No. 45, 2004)

I – men and women have equal rights and duties under the terms of this Constitution;

II – no one shall be obliged to do or refrain from doing something except by virtue of law;

III – no one shall be submitted to torture or to inhuman or degrading treatment;

IV – the expression of thought is free, and anonymity is forbidden;

V – the right of reply is ensured, in proportion to the offense, as well as compensation for property or moral damages or for damages to the image;

VI – freedom of conscience and of belief is inviolable, the free exercise of religious cults being ensured and, under the terms of the law, the protection of places of worship and their rites being guaranteed;

VII – under the terms of the law, the rendering of religious assistance in civil and military establishments of collective confinement is ensured;

VIII – no one shall be deprived of any rights by reason of religious belief or philosophical or political conviction, unless he invokes it to exempt himself from a legal obligation required of all and refuses to perform an alternative obligation established by law;

IX – the expression of intellectual, artistic, scientific, and communications activities is free, independently of censorship or license;

X – the privacy, private life, honour and image of persons are inviolable, and the right to compensation for property or moral damages resulting from their violation is ensured;

XI – the home is the inviolable refuge of the individual, and no one may enter therein without the consent of the dweller, except in the event of *flagrante delicto* or disaster, or to give help, or, during the day, by court order;

XII – the secrecy of correspondence and of telegraphic, data and telephone communications is inviolable, except, in the latter case, by court order, in the cases and in the manner prescribed by law for the purposes of criminal investigation or criminal procedural finding of facts;

XIII – the practice of any work, trade or profession is free, observing the professional qualifications which the law shall establish;

XIV – access to information is ensured to everyone and the confidentiality of the source shall be safeguarded, whenever necessary to the professional activity;

XV – locomotion within the national territory is free in time of peace, and any person may, under the terms of the law, enter it, remain therein or leave it with his assets;

XVI – all persons may hold peaceful meetings, without weapons, in places open to the public, regardless of authorization provided that they do not frustrate another meeting previously called for the same place, subject only to prior notice to the competent authority;

XVII – freedom of association for lawful purposes is fully guaranteed, any paramilitary association being forbidden;

XVIII – the creation of associations and, under the terms of the law, that of cooperatives is not subject to authorization, and State interference in their operation is forbidden;

XIX – associations may only be compulsorily dissolved or have their activities suspended by a judicial decision, and a final and unappealable decision is required in the first case;

XX – no one shall be compelled to become associated or to remain associated;

XXI – when expressly authorized, associations shall have the legitimacy to represent their members either judicially or extrajudicially;

XXII – the right of property is guaranteed;

XXIII – property shall observe its social function;

XXIV – the law shall establish the procedure for expropriation for public necessity or use, or for social interest, with fair and previous pecuniary compensation, except for the cases provided in this Constitution;

XXV – in case of imminent public danger, the competent authority may make use of private property, provided that, in case of damage, subsequent compensation is ensured to the owner;

XXVI – the small rural property, as defined by law, provided that it is exploited by the family, shall not be subject to attachment for the payment of debts incurred by reason of its productive activities, and the law shall establish the means to finance its development;

XXVII – the exclusive right of use, publication or reproduction of works rests upon their authors and is transmissible to their heirs for the time the law shall establish;

XXVIII – under the terms of the law, the following are ensured:

a) protection of individual participation in collective works and of reproduction of the human image and voice, sports activities included;

b) the right to authors, interpreters, and respective unions and associations to monitor the economic exploitation of the works which they create or in which they participate;

XXIX – the law shall ensure the authors of industrial inventions of a temporary privilege for their use, as well as protection of industrial creations, property of trademarks, names of companies and other distinctive signs, viewing the social interest and the technological and economic development of the country;

XXX – the right to inheritance is guaranteed;

XXXI – succession to the estate of foreigners which is located in Brazil shall be regulated by the Brazilian law in favour of the Brazilian spouse or children, whenever the personal law of the deceased is not more favourable to them;

XXXII – the State shall provide, as set forth by law, for the defense of consumers;

XXXIII – all persons have the right to receive, from the public agencies, information of private interest to such persons, or of collective or general interest, which shall be provided within the period established by law, subject to liability, except for the information whose secrecy is essential to the security of society and of the State;

XXXIV – the following are ensured to everyone, without any payment of fees:

a) the right to petition the Government in defense of rights or against illegal acts or abuse of power;

b) the obtaining of certificates from government offices, for the defense of rights and clarification of situations of personal interest;

XXXV – the law shall not exclude any injury or threat to a right from the consideration of the Judicial Power;

XXXVI – the law shall not injure the vested right, the perfect juridical act and the *res judicata*;

XXXVII – there shall be no exceptional tribunal or court;

XXXVIII – the institution of the jury is recognized, according to the organization which the law shall establish, and the following are ensured:

a) full defense;

b) secrecy of voting;

c) sovereignty of verdicts;

d) power to judge willful crimes against life;

XXXIX – there is no crime without a previous law to define it, nor a punishment without a previous legal commination;

XL – penal law shall not be retroactive, except to benefit the defendant;

XLI – the law shall punish any discrimination which may attempt against fundamental rights and liberties;

XLII – the practice of racism is a non-bailable crime, with no limitation, subject to the penalty of confinement, under the terms of the law;

XLIII – the practice of torture, the illicit traffic of narcotics and related drugs, as well as terrorism, and crimes defined as heinous crimes shall be considered by law as non-bailable and not subject to grace or amnesty, and their principals, agents, and those who omit themselves while being able to avoid such crimes shall be held liable;

XLIV – the action of armed groups, either civil or military, against the constitutional order and the democratic state is a non-bailable crime, with no limitation;

XLV – no punishment shall go beyond the person of the convict, and the obligation to compensate for the damage, as well as the decreeing of loss of assets may, under the terms of the law, be extended to the successors and executed against them, up to the limit of the value of the assets transferred;

XLVI – the law shall regulate the individualization of punishment and shall adopt the following, among others:

a) deprivation or restriction of freedom;

b) loss of assets;

c) fine;

d) alternative rendering of social service;

e) suspension or deprivation of rights;

XLVII – there shall be no punishment:

a) of death, save in case of declared war, under the terms of article 84, XIX;

b) of life imprisonment;

c) of hard labour;

d) of banishment;

e) which is cruel;

XLVIII – the sentence shall be served in separate establishments, according to the nature of the offense, the age and the sex of the convict;

XLIX – prisoners are ensured of respect to their physical and moral integrity;

L – female prisoners shall be ensured of adequate conditions to stay with their children during the nursing period;

LI – no Brazilian shall be extradited, except the naturalized ones in the case of a common crime committed before naturalization, or in the case there is sufficient evidence of participation in the illicit traffic of narcotics and related drugs, under the terms of the law;

LII – extradiction of a foreigner on the basis of political or ideological crime shall not be granted;

LIII – no one shall undergo legal proceeding or sentencing save by the competent authority;

LIV – no one shall be deprived of freedom or of his assets without the due process of law;

LV – litigants, in judicial or administrative processes, as well as defendants in general are ensured of the adversary system and of full defense, with the means and resources inherent to it;

LVI – evidence obtained through illicit means are unacceptable in the process;

LVII – no one shall be considered guilty before the issuing of a final and unappealable penal sentence;

LVIII – no one who has undergone civil identification shall be submitted to criminal identification, save in the cases provided by law;

LIX – private prosecution in the cases of crimes subject to public prosecution shall be admitted, whenever the latter is not filed within the period established by law;

LX – the law may only restrict the publicity of procedural acts when the defense of privacy or the social interest require it;

LXI – no one shall be arrested unless in *flagrante delicto* or by a written and justified order of a competent judicial authority, save in the cases of military transgression or specific military crime, as defined in law;

LXII – the arrest of any person as well as the place where he is being held shall be immediately informed to the competent judge and to the family of the person arrested or to the person indicated by him;

LXIII – the arrested person shall be informed of his rights, among which the right to remain silent, and he shall be ensured of assistance by his family and a lawyer;

LXIV – the arrested person is entitled to identification of those responsible for his arrest or for his police questioning;

LXV – illegal arrest shall be immediately remitted by the judicial authority;

LXVI – no one shall be taken to prison or held therein, when the law admits release on own recognizance, subject or not to bail;

LXVII – there shall be no civil imprisonment for indebtedness except in the case of a person responsible for voluntary and inexcusable default of alimony obligation and in the case of an unfaithful trustee;

LXVIII – *habeas corpus* shall be granted whenever a person suffers or is in danger of suffering violence or coercion against his freedom of locomotion, on account of illegal actions or abuse of power;

LXIX – a writ of mandamus shall be issued to protect a clear and perfect right, not covered by *habeas corpus* or *habeas data*, whenever the party responsible for the illegal actions or abuse of power is a public official or an agent of a corporate legal entity exercising duties of the Government;

LXX – a collective writ of mandamus may be filed by:

a) a political party represented in the National Congress;

b) a union, a professional association or an association legally constituted and in operation for at least one year, to defend the interests of its members or associates;

LXXI – a writ of injunction shall be granted whenever the absence of a regulatory provision disables the exercise of constitutional rights and liberties, as well as the prerogatives inherent to nationality, sovereignty and citizenship;

LXXII – *habeas data* shall be granted:

a) to ensure the knowledge of information related to the person of the petitioner, contained in records or data banks of government agencies or of agencies of a public character;

b) for the correction of data, when the petitioner does not prefer to do so through a confidential process, either judicial or administrative;

LXXIII – any citizen is a legitimate party to file a people's legal action with a view to nullifying an act injurious to the public property or to the property of an entity in which the State participates, to the administrative morality, to the environment, and to the historic and cultural heritage, and the author shall, save in the case of proven bad faith, be exempt from judicial costs and from the burden of defeat;

LXXIV – the State shall provide full and free-of-charge legal assistance to all who prove insufficiency of funds;

LXXV – the State shall compensate a convict for judicial error, as well as a person who remains imprisoned for a period longer than the one established by the sentence;

LXXVI – for all who are acknowledgedly poor, the following is free of charge, under the terms of the law:

a) civil birth certificate;

b) death certificate;

LXXVII – *habeas corpus* and *habeas data* proceedings and, under the terms of the law, the acts necessary to the exercise of citizenship are free of charge;

LXXVIII – a reasonable length of proceedings and the means to guarantee their expeditious consideration are ensured to everyone, both in the judicial and administrative spheres.

Paragraph 1. The provisions defining fundamental rights and guarantees are immediately applicable.

Paragraph 2. The rights and guarantees expressed in this Constitution do not exclude others deriving from the regime and from the principles adopted by it, or from the international treaties in which the Federative Republic of Brazil is a party.

Paragraph 3. International human rights treaties and conventions which are approved in each House of the National Congress, in two rounds of voting, by three fifths of the votes of the respective members shall be equivalent to constitutional amendments.[1]

[1] See International Acts equivalent to Constitutional Amendments.

Paragraph 4. Brazil accepts the jurisdiction of an International Criminal Court to whose creation it has expressed its adhesion.

CHAPTER II
Social Rights

Article 6. Education, health, food, work, housing, leisure, security, social security, protection of motherhood and childhood, and assistance to the destitute are social rights, as set forth by this Constitution. (CA No. 26, 2000; CA No. 64, 2010)

Article 7. The following are rights of urban and rural workers, among others that aim to improve their social conditions: (CA No. 20, 1998; CA No. 28, 2000; CA No. 53, 2006)

I – employment protected against arbitrary dismissal or against dismissal without just cause, in accordance with a supplementary law which shall establish severance-pay, among other rights;

II – unemployment insurance, in the event of involuntary unemployment;

III – severance-pay fund;

IV – nationally unified minimum monthly wage, established by law, capable of satisfying their basic living needs and those of their families with housing, food, education, health, leisure, clothing, hygiene, transportation, and social security, with periodical adjustments to maintain its purchasing power, it being forbidden to use it as an index for any purpose;

V – a salary floor in proportion to the extent and complexity of the work;

VI – irreducibility of the wages, except when established in collective agreement or covenant;

VII – guarantee of wages never below the minimum one, for those receiving variable pay;

VIII – year-end one-salary bonus based on the full pay or on the amount of the pension;

IX – payrate for night-shift work higher than that for daytime work;

X – wage protection, as provided by law, with felonious withholding of wages being a crime;

XI – participation in the profits or results, independent of wages, and, exceptionally, participation in the management of the company, as defined by law;

XII – family allowance paid to each dependent of low-income workers, under the terms of the law;

XIII – normal working hours not exceeding eight hours per day and forty-four hours per week, with the option of compensating working hours and reducing the length of the workday through an agreement or a collective bargaining covenant;

XIV – a workday of six hours for work carried out in continuous shifts, unless otherwise established by collective bargaining;

XV – paid weekly leave, preferably on Sundays;

XVI – rate of pay for overtime at least fifty per cent higher than that of normal work;

XVII – annual vacation with remuneration at least one third higher than the normal salary;

XVIII – maternity leave without loss of job and of salary, for a period of one hundred and twenty days;

XIX – paternity leave, under the terms established by law;

XX – protection of the labour market for women through specific incentives, as provided by law;

XXI – advance notice of dismissal in proportion to the length of service, of at least thirty days, as provided by law;

XXII – reduction of employment related risks by means of health, hygiene and safety rules;

XXIII – additional remuneration for strenuous, unhealthy or dangerous work, as established by law;

XXIV – retirement pension;

XXV – free assistance for children and dependents of up to five years of age, in day-care centres and pre-school facilities;

XXVI – recognition of collective bargaining agreements and covenants;

XXVII – protection on account of automation, as established by law;

XXVIII – occupational accident insurance, to be paid for by the employer, without excluding the employer's liability for indemnity in the event of malice or fault;

XXIX – legal action, with respect to credits arising from employment relationships, with a limitation of five years for urban and rural workers, up to the limit of two years after the end of the employment contract;

a) (revoked);

b) (revoked);

XXX – prohibition of any difference in wages, in the performance of duties and in hiring criteria by reason of sex, age, colour or marital status;

XXXI – prohibition of any discrimination with respect to wages and hiring criteria of handicapped workers;

XXXII – prohibition of any distinction between manual, technical, and intellectual work or among the respective professionals;

XXXIII – prohibition of night, dangerous, or unhealthy work for minors under eighteen years of age, and of any work for minors under sixteen years of age, except as an apprentice, for minors above fourteen years of age;

XXXIV – equal rights for workers with a permanent employment bond and for sporadic workers.

Sole paragraph. The category of domestic servants is ensured of the rights set forth in items IV, VI, VIII, XV, XVII, XVIII, XIX, XXI and XXIV, as well as of integration in the social security system.

Article 8. Professional or union association is free, with regard for the following:

I – the law may not require authorization of the State for a union to be founded, except for authorization for registration with the competent agency, it being forbidden to the Government the interference and the intervention in the union;

II – it is forbidden to create more than one union, at any level, representing a professional or economic category, in the same territorial base, which shall be defined by the workers or employers concerned, which base may not cover less than the area of one municipality;

III – it falls to the union to defend the collective or individual rights and interests of the category, including legal or administrative disputes;

IV – the general assembly shall establish the contribution which, in the case of a professional category, shall be discounted from the payroll, to support the confederative system of the respective union representation, regardless of the contribution set forth by law;

V – no one shall be required to join or to remain a member of a union;

VI – the collective labour bargainings must be held with the participation of unions;

VII – retired members shall be entitled to vote and be voted on in unions;

VIII – the dismissal of a unionised employee is forbidden from the moment of the registration of his candidacy to a position of union direction or representation and, if elected, even if as a substitute, up to one year after the end of his term in office, unless he commits a serious fault as established by law.

Sole paragraph. The provisions of this article apply to the organization of rural unions and those of fishing communities, with due regard for the conditions established by law.

Article 9. The right to strike is guaranteed, it being the competence of the workers to decide on the advisability of exercising it and on the interests to be defended thereby.

Paragraph 1. The law shall define the essential services or activities and shall provide with respect to the satisfaction of the community's undelayable needs.

Paragraph 2. The abuses committed shall subject those responsible to the penalties of the law.

Article 10. The participation of workers and employers is ensured in the collegiate bodies of government agencies in which their professional or social security interests are subject of discussion and resolution.

Article 11. It is ensured, in companies with more than 200 employees, the election of a representative of the employees for the exclusive purpose of furthering direct negotiations with the employers.

CHAPTER III
Nationality

Article 12. The following are Brazilians: (RCA No. 3, 1994; CA No. 23, 1999; CA No. 54, 2007)

I – by birth:

a) those born in the Federative Republic of Brazil, even if of foreign parents, provided that they are not at the service of their country;

b) those born abroad, of a Brazilian father or a Brazilian mother, provided that either of them is at the service of the Federative Republic of Brazil;

c) those born abroad, to a Brazilian father or a Brazilian mother, provided that they are registered with a competent Brazilian authority, or come to reside in the Federative Republic of Brazil, and opt for the Brazilian nationality at any time after reaching majority;

II – naturalized:

a) those who, as set forth by law, acquire Brazilian nationality, it being the only requirement for persons originating from Portuguese-speaking countries the residence for one uninterrupted year and good moral repute;

b) foreigners of any nationality, resident in the Federative Republic of Brazil for over fifteen uninterrupted years and without criminal conviction, provided that they apply for the Brazilian nationality.

Paragraph 1. The rights inherent to Brazilians shall be attributed to Portuguese citizens with permanent residence in Brazil, if there is reciprocity in favour of Brazilians, except in the cases stated in this Constitution.

Paragraph 2. The law may not establish any distinction between born and naturalized Brazilians, except in the cases stated in this Constitution.

Paragraph 3. The following offices are exclusive for born Brazilians:

I – those of President and Vice-President of the Republic;

II – that of President of the Chamber of Deputies;

III – that of President of the Federal Senate;

IV – that of Justice of the Supreme Federal Court;

V – those of the diplomatic career;

VI – that of officer of the Armed Forces;

VII – that of Minister of Defense.

Paragraph 4. Loss of nationality shall be declared for a Brazilian who:

I – has his naturalization cancelled by court decision on account of an activity harmful to the national interests;

II – acquires another nationality, save in the cases:

a) of recognition of the original nationality by the foreign law;

b) of imposition of naturalization, under the foreign rules, to the Brazilian resident in a foreign State, as a condition for permanence in its territory, or for the exercise of civil rights.

Article 13. Portuguese is the official language of the Federative Republic of Brazil.

Paragraph 1. The national flag, anthem, coat of arms and seal are the symbols of the Federative Republic of Brazil.

Paragraph 2. The states, the Federal District and the municipalities may have symbols of their own.

CHAPTER IV
Political Rights

Article 14. The sovereignty of the people shall be exercised by universal suffrage and by the direct and secret voting, with equal value for all, and, according to the law, by means of: (RCA No. 4, 1993; CA No. 16, 1997)

I – plebiscite;

II – referendum;

III – people's initiative.

Paragraph 1. Electoral enrollment and voting are:

I – mandatory for persons over eighteen years of age;

II – optional for:

a) the illiterate;

b) those over seventy years of age;

c) those over sixteen and under eighteen years of age.

Paragraph 2. Foreigners cannot register as voters and neither can conscripts during their period of compulsory military service;

Paragraph 3. The conditions for eligibility, according to the law, are:

I – the Brazilian nationality;

II – the full exercise of the political rights;

III – the electoral enrollment;

IV – the electoral domicile in the electoral district;

V – the membership in a political party;

VI – the minimum age of:

a) thirty-five years for President and Vice-President of the Republic and Senator;

b) thirty years for Governor and Vice-Governor of a state and of the Federal District;

c) twenty-one years for Federal Deputy, State or District Deputy, Mayor, Vice-Mayor, and justice of the peace;

d) eighteen years for City Councilman.

Paragraph 4. The illiterate and those that cannot be registered as voters are not eligible.

Paragraph 5. The President of the Republic, the State and Federal District Governors, the Mayors and those who have succeeded or replaced them during their terms of office may be reelected for only one subsequent term.

Paragraph 6. In order to run for other offices, the President of the Republic, the State and Federal District Governors and the Mayors have to resign from their respective offices at least six months in advance of the election.

Paragraph 7. The spouse and relatives by blood or marriage, up to the second degree or by adoption, of the President of the Republic, of the Governor of a State or Territory or of the Federal District, of a Mayor or of those who have replaced them within the six months preceding the election, are not eligible in the jurisdiction of the incumbent, unless they already hold an elective office and are candidates for re-election.

Paragraph 8. A member of the Armed Forces that can be registered as voter is eligible if the following conditions are met:

I – if he has less than ten years of service, he shall have to take leave from military activities;

II – if he has more than ten years of service, he shall be discharged of military duties by his superiors and, if elected, he shall automatically pass into retirement upon the issuing of the official certificate of electoral victory.

Paragraph 9. In order to protect the administrative probity, the morality for the exercise of the office, the previous life of the candidate being considered, and the normality and legitimacy of the elections against the influence of the economic power or of the abuse in the holding of office, position or job in the direct or indirect public administration, a supplementary law shall establish other cases of ineligibility and the periods for such ineligibilities to cease.

Paragraph 10. The exercise of an elective mandate may be impugned before the Electoral Courts within a period of fifteen days after the date of the issuing of the official certificate of electoral victory, substantiating the suit with evidence of abuse of economic power, corruption or fraud.

Paragraph 11. The procedure of the suit impugning the office shall be secret, and the plaintiff shall be liable under the law if the suit is reckless or involves manifest bad faith.

Article 15. Disfranchisement of political rights is forbidden, the loss or suspension of which rights shall apply only in the event of:

I – cancellation of naturalization by a final and unappealable judgement;

II – absolute civil incapacity;

III – final and unappealable criminal sentence, for as long as its effects last;

IV – refusal to comply with an obligation imposed upon everyone or to render an alternative service, according to article 5, VIII;

V – administrative dishonesty, according to article 37, paragraph 4.

Article 16. The law that alters the electoral procedure shall come into force on the date of its publication, and shall not apply to the elections that take place within one year of it being in force. (CA No. 4, 1993)

CHAPTER V
Political Parties

Article 17. The creation, amalgamation, merger and extinction of political parties is free, with due regard for national sovereignty, the democratic regime, the plurality of political parties, the fundamental rights of the individual, and observing the following precepts: (CA No. 52, 2006)

I – national character;

II – prohibition from receiving financial assistance from a foreign entity or government or from subordination to same;

III – rendering of accounts to the Electoral Courts;

IV – operation in the National Congress in accordance with the law.

Paragraph 1. Political parties are ensured of autonomy to define their internal structure, organization, and operation, and to adopt the selection criteria and the composition of their electoral coalitions, without being required to follow the same party alliances at the national, state, Federal District, or municipal levels, and their by-laws shall establish rules of party loyalty and discipline.

Paragraph 2. After acquiring corporate legal status under civil law, political parties shall register their by-laws at the Superior Electoral Court.

Paragraph 3. Political parties are entitled to monies from the party fund and to free-of-charge access to radio and television, as established by law.

Paragraph 4. Political parties are forbidden to use paramilitary organizations.

TITLE III
The Organization of the State

CHAPTER I
The Political and Administrative Organization

Article 18. The political and administrative organization of the Federative Republic of Brazil comprises the Union, the states, the Federal District and the municipalities, all of them autonomous, as this Constitution provides. (CA No. 15, 1996)

Paragraph 1. Brasília is the federal capital.

Paragraph 2. The federal territories are part of the Union and their establishment, transformation into states or reintegration into the state of origin shall be regulated by a supplementary law.

Paragraph 3. The states may merge into each other, subdivide or dismember to be annexed to others or to form new states or federal territories, subject to the approval of the population directly concerned, by means of a plebiscite, and of the National Congress, by means of a supplementary law.

Paragraph 4. The establishment, merger, fusion and dismemberment of municipalities shall be effected through state law, within the period set forth by supplementary federal law, and shall depend on prior consultation, by means of a plebiscite, of the population of the municipalities concerned, after the publication of Municipal Feasibility Studies, presented and published as set forth by law.

Article 19. The Union, the states, the Federal District and the municipalities are forbidden to:

I – establish religious sects or churches, subsidize them, hinder their activities, or maintain relationships of dependence or alliance with them or their representatives, without prejudice to collaboration in the public interest in the manner set forth by law;

II – refuse to honour public documents;

III – create distinctions between Brazilians or preferences favouring some.

CHAPTER II
The Union

Article 20. The following are property of the Union: (CA No. 46, 2005)

I – the property which presently belongs to it as well as that which may be attributed to it;

II – the unoccupied lands essential to the defense of the boundaries, the fortifications and military constructions, the federal routes of communication and the preservation of the environment, as defined by law;

III – the lakes, rivers and any watercourses in lands within its domain, or that wash more than one state, that serve as boundaries with other countries, or that extend into foreign territory or proceed therefrom, as well as bank lands and river beaches;

IV – the river and lake islands in zones bordering with other countries; sea beaches; ocean and off-shore islands, excluding those which are the seat of Municipalities, with the exception of areas assigned to public services and to federal environmental units, and those referred to in article 26, II;

V – the natural resources of the continental shelf and of the exclusive economic zone;

VI – the territorial sea;

VII – tide lands and those added to them;

VIII – the hydraulic energy potentials;

IX – the mineral resources, including those of the subsoil;

X – the natural underground cavities and the archaeological and pre-historic sites;

XI – those lands traditionally occupied by the Indians.

Paragraph 1. In accordance with the law, the participation in the results of the exploitation of petroleum or natural gas, hydric resources for the purpose of generation of electric power and other mineral resources in the respective territory, continental shelf, territorial sea or exclusive economic zone, or financial compensation for the exploitation thereof, is assured to the states, the Federal District and the municipalities, as well as to agencies of the direct administration of the Union.

Paragraph 2. The strip of land up to a hundred and fifty kilometers in width alongside the terrestrial boundaries, designated as boundary zone, is considered essential to the defense of the national territory and its occupation and utilization shall be regulated by law.

Article 21. The Union shall have the power to: (CA No. 8, 995; CA No. 19, 1998; CA No. 49, 2006)

I – maintain relations with foreign states and participate in international organizations;

II – declare war and make peace;

III – ensure national defense;

IV – allow foreign forces, in the cases provided for in a supplementary law, to pass through the national territory or to remain therein temporarily;

V – declare a state of siege, a state of defense and federal intervention;

VI – authorize and control the production and trade of military matériel;

VII – issue currency;

VIII – manage the foreign exchange reserves of the country and control financial operations, especially those of credit, exchange and capitalization, as well as insurance and private security;

IX – prepare and carry out national and regional plans for the ordaining of the territory and for economic and social development;

X – maintain the postal service and the national air mail;

XI – operate, directly or through authorization, concession or permission, the telecommunications services, as set forth by law, which law shall provide for the organization of the services, the establishment of a regulatory agency and other institutional issues;

XII – operate, directly or through authorization, concession or permission:

a) the services of sound broadcasting and of sound and image broadcasting;

b) the electric power services and facilities and the energetic exploitation of watercourses, jointly with the states wherein those hydroenergetic potentials are located;

c) air and aerospace navigation and airport infrastructure;

d) railway and waterway services between seaports and national borders or which cross the boundary of a state or territory;

e) interstate and international highway passenger transportation services;

f) sea, river and lake ports;

XIII – organize and maintain the Judicial Power, the Public Prosecution and the Public Legal Defense of the Federal District and territories;

XIV – organize and maintain the plainclothes police, the uniformed police force, and the uniformed fire brigade of the Federal District, as well as to provide financial support to the Federal District for the carrying out of public services by means of a specific fund;

XV – organize and maintain the official services of statistics, geography, geology and cartography of national scope;

XVI – classify, for indicative purposes, public entertainment and radio and television programs;

XVII – grant amnesty;

XVIII – plan and promote permanent defense against public disasters, especially droughts and floods;

XIX – establish a national system for the management of hydric resources and define criteria for the concession of the right to their use;

XX – establish directives for urban development, including housing, basic sanitation and urban transportation;

XXI – establish principles and directives for the national transportation system;

XXII – perform the services of maritime, airport, and border police;

XXIII – operate nuclear energy services and facilities of any nature and exercise state monopoly over research, mining, enrichment and reprocessing, industrialization and trade in nuclear ores and their by-products, taking into account the following principles and conditions:

a) all nuclear activity within the national territory shall only be admitted for peaceful purposes and subject to approval by the National Congress;

b) under a permission, authorization is granted for the sale and use of radioisotopes in research and for medical, agricultural, and industrial purposes;

c) under a permission, authorization is granted for the production, sale, and use of radioisotopes with a half-life lower than two hours;

d) civil liability for nuclear damages does not depend on the existence of fault;

XXIV – organize, maintain and carry out inspection of working conditions;

XXV – establish the areas and conditions for the exercise of placer mining activities in associative form.

Article 22. The Union has the exclusive power to legislate on: (CA No. 19, 1998)

I – civil, commercial, criminal, procedural, electoral, agrarian, maritime, aeronautical, space and labour law;

II – expropriation;

III – civil and military requisitioning, in case of imminent danger or in times of war;

IV – waters, energy, informatics, telecommunications and radio broadcasting;

V – the postal service;

VI – the monetary and measures systems, metal certificates and guarantees;

VII – policies for credit, foreign exchange, insurance and transfer of values;

VIII – foreign and interstate trade;

IX – guidelines for the national transportation policy;

X – the regime of the ports and lake, river, ocean, air and aerospace navigation;

XI – traffic and transportation;

XII – beds of ore, mines, other mineral resources and metallurgy;

XIII – nationality, citizenship and naturalization;

XIV – Indian populations;

XV – emigration, immigration, entry, extradition and expulsion of foreigners;

XVI – the organization of the national employment system and conditions for the practice of professions;

XVII – the judicial organization of the Public Prosecution and of the Public Legal Defense of the Federal District and of the territories, as well as their administrative organization;

XVIII – the national statistical, cartographic and geological systems;

XIX – systems of savings, as well as of obtaining and guaranteeing popular savings;

XX – consortium and lottery systems;

XXI – general organization rules, troops, matériel, guarantees, drafting and mobilization of the military police and military fire brigades;

XXII – the jurisdiction of the federal police and of the federal highway and military polices;

XXIII – social security;

XXIV – directives and bases of the national education;

XXV – public registers;

XXVI – nuclear activities of any nature;

XXVII – general rules for all types of bidding and contracting for governmental entities, associate government agencies, and foundations of the Union, the States, the Federal District, and the Municipalities, in accordance with article 37, XXI, and for public enterprises and joint stock companies, under the terms of article 173, paragraph 1, III;

XXVIII – territorial defense, aerospace defense, maritime defense, civil defense, and national mobilization;

XXIX – commercial advertising.

Sole paragraph. A supplementary law may authorize the states to legislate upon specific questions related to the matters listed in this article.

Article 23. The Union, the states, the Federal District and the municipalities, in common, have the power: (CA No. 53, 2006)

I – to ensure that the Constitution, the laws and the democratic institutions are respected and that public property is preserved;

II – to provide for health and public assistance, for the protection and safeguard of handicapped persons;

III – to protect the documents, works and other assets of historical, artistic or cultural value, the monuments, the remarkable landscapes and the archaeological sites;

IV – to prevent works of art and other assets of historical, artistic and cultural value from being taken out of the country, destroyed or from being deprived of their original characteristics;

V – to provide the means of access to culture, education and science;

VI – to protect the environment and to fight pollution in any of its forms;

VII – to preserve the forests, fauna and flora;

VIII – to promote agriculture and organize the supply of foodstuff;

IX – to promote housing construction programs and the improvement of housing and basic sanitation conditions;

X – to fight the causes of poverty and the factors leading to substandard living conditions, promoting the social integration of the unpriviledged sectors of the population;

XI – to register, monitor and control the concessions of rights to research and exploit hydric and mineral resources within their territories;

XII – to establish and to implement an educational policy for traffic safety.

Sole paragraph. Supplementary laws shall establish rules for the cooperation between the Federal Government and the states, the Federal District, and the municipalities, aiming at the attainment of balanced development and well-being on a nationwide scope.

Article 24. The Union, the states and the Federal District have the power to legislate concurrently on:

I – tax, financial, penitentiary, economic and urbanistic law;

II – budget;

III – trade boards;

IV – costs of forensic services;

V – production and consumption;

VI – forests, hunting, fishing, fauna, preservation of nature, defense of the soil and natural resources, protection of the environment and control of pollution;

VII – protection of the historic, cultural and artistic heritage, as well as of assets of touristic interest and landscapes of outstanding beauty;

VIII – liability for damages to the environment, to consumers, to assets and rights of artistic, aesthetic, historical, and touristic value, as well as to remarkable landscapes;

IX – education, culture, teaching and sports;

X – establishment, operation and procedures of small claims courts;

XI – judicial procedures;

XII – social security, protection and defense of health;

XIII – legal assistance and public defense;

XIV – protection and social integration of handicapped persons;

XV – protection of childhood and youth;

XVI – organization, guarantees, rights and duties of the civil polices.

Paragraph 1. Within the scope of concurrent legislation, the competence of the Union shall be limited to the establishment of general rules.

Paragraph 2. The competence of the Union to legislate upon general rules does not exclude the supplementary competence of the states.

Paragraph 3. If there is no federal law on general rules, the states shall exercise full legislative competence to provide for their peculiarities.

Paragraph 4. The supervenience of a federal law over general rules suspends the effectiveness of a state law to the extent that the two are contrary.

CHAPTER III
The Federated States

Article 25. The states are organized and governed by the Constitutions and laws they may adopt, in accordance with the principles of this Constitution. (CA No. 5, 1995)

Paragraph 1. All powers that this Constitution does not prohibit the states from exercising shall be conferred upon them.

Paragraph 2. The states shall have the power to operate, directly or by means of concession, the local services of piped gas, as provided for by law, it being forbidden to issue any provisional measure for its regulation.

Paragraph 3. The states may, by means of a supplementary law, establish metropolitan regions, urban agglomerations and microregions, formed by the grouping of adjacent municipalities, in order to integrate the organization, the planning and the operation of public functions of common interest.

Article 26. The property of the states includes:

I – surface or subterranean waters, flowing, emerging or in deposit, with the exception, in this case, of those resulting from work carried out by the Union, as provided by law;

II – the areas, on ocean and coastal islands, which are within their domain, excluding those under the domain of the Union, the municipalities or third parties;

III – the river and lake islands which do not belong to the Union;

IV – the unoccupied lands not included among those belonging to the Union.

Article 27. The number of Deputies in the Legislative Assembly shall correspond to three times the representation of the state in the Chamber of Deputies and, when the number of thirty-six has been reached, it shall be increased by as many members as the number of Federal Deputies exceeding twelve. (CA No. 19, 1998)

Paragraph 1. The term of office of the State Deputies shall be four years and the provisions of this Constitution shall be applied to them in what refers to the electoral system, inviolability, immunities, remuneration, loss of office, leave of absence, impediments, and incorporation into the Armed Forces.

Paragraph 2. The compensation of State Deputies shall be established by an act of the State Legislative Assembly, in the proportion of seventy-five percent, at most, of the compensation established, in legal tender, for Federal Deputies, as provided by articles 39, paragraph 4; 57, paragraph 7; 150, II; 153, III; and 153, paragraph 2, I.

Paragraph 3. The Legislative Assemblies shall have the power to provide upon their internal regulations, police, and the administrative services of their Secretariat and to fill in the respective offices.

Paragraph 4. The law shall provide for the people's initiative in the state legislative process.

Article 28. The election of the Governor and the Vice-Governor of a state, for a term of office of four years, shall be held on the first Sunday of October, in the first round, and on the last Sunday of October, in the second round, as the case may be, of the year preceding the one in which the term of office of their predecessors ends, and they shall take office on January 1 of the following year, in accordance, otherwise, with the provisions of article 77. (CA No. 16, 1997; CA No. 19, 1998)

Paragraph 1. The Governor who takes another post or function in governmental entities or entities owned by the Government shall lose his office, with the exception of the taking of office by virtue of a public sector entrance examination, and with due regard for the provisions in article 38, I, IV, and V.

Paragraph 2. The compensation of the Governor, the Vice-Governor, and of the State Cabinet Members shall be established by an act of the State Legislative Assembly, as provided by articles 37, XI, 39, paragraph 4, 150, II, 153, III, and 153, paragraph 2, I.

CHAPTER IV
The Municipalities

Article 29. Municipalities shall be governed by organic law, voted in two readings, with a minimum interval of ten days between the readings, and approved by two-thirds of the members of the Municipal Chamber, which shall promulgate it, observing the principles established in this Constitution, in the Constitution of the respective state and the following precepts: (CA No. 1, 1992; CA No. 16, 1997; CA No. 19, 1998; CA No. 25, 2000; CA No. 58, 2009)

I – election of the Mayor, Vice-Mayor and Councilmen for a term of office of four years, by means of direct election held simultaneously throughout the country;

II – election of the Mayor and Vice-Mayor on the first Sunday of October of the year preceding the end of the term of office of those they are to succeed, subject, in the case of municipalities with over two hundred thousand voters, to the provisions set forth in article 77;

III – investiture of the Mayor and Vice-Mayor on January 1 of the year subsequent to the year of the election;

IV – the following limits shall apply to the composition of Municipal Chambers:

a) 9 (nine) councilmen, in Municipalities with up to 15,000 (fifteen thousand) inhabitants;

b) 11 (eleven) councilmen, in Municipalities with over 15,000 (fifteen thousand) inhabitants and with up to 30,000 (thirty thousand) inhabitants;

c) 13 (thirteen) councilmen, in Municipalities with over 30,000 (thirty thousand) inhabitants and with up to 50,000 (fifty thousand) inhabitants;

d) 15 (fifteen) councilmen, in Municipalities with over 50,000 (fifty thousand) inhabitants and with up to 80,000 (eighty thousand) inhabitants;

e) 17 (seventeen) councilmen, in Municipalities with over 80,000 (eighty thousand) inhabitants and with up to 120,000 (one hundred and twenty thousand) inhabitants;

f) 19 (nineteen) councilmen, in Municipalities with over 120,000 (one hundred and twenty thousand) inhabitants and with up to 160,000 (one hundred and sixty thousand) inhabitants;

g) 21 (twenty-one) councilmen, in Municipalities with over 160,000 (one hundred and sixty thousand) inhabitants and with up to 300,000 (three hundred thousand) inhabitants;

h) 23 (twenty-three) councilmen, in Municipalities with over 300,000 (three hundred thousand) inhabitants and with up to 450,000 (four hundred and fifty thousand) inhabitants;

i) 25 (twenty-five) councilmen, in Municipalities with over 450,000 (four hundred and fifty thousand) inhabitants and with up to 600,000 (six hundred thousand) inhabitants;

j) 27 (twenty-seven) councilmen, in Municipalities with over 600,000 (six hundred thousand) inhabitants and with up to 750,000 (seven hundred thousand) inhabitants;

k) 29 (twenty-nine) councilmen, in Municipalities with over 750,000 (seven hundred thousand) inhabitants and with up to 900,000 (nine hundred thousand) inhabitants;

l) 31 (thirty-one) councilmen, in Municipalities with over 900,000 (nine hundred thousand) inhabitants and with up to 1,050,000 (one million and fifty thousand) inhabitants;

m) 33 (thirty-three) councilmen, in Municipalities with over 1,050,000 (one million and fifty thousand) inhabitants and with up to 1,200,000 (one million and two hundred thousand) inhabitants;

n) 35 (thirty-five) councilmen, in Municipalities with over 1,200,000 (one million and two hundred thousand) inhabitants and with up to 1,350,000 (one million three hundred and fifty thousand) inhabitants;

o) 37 (thirty-seven) councilmen, in Municipalities with 1,350,000 (one million three hundred and fifty thousand) inhabitants and with up to 1,500,000 (one million five hundred thousand) inhabitants;

p) 39 (thirty-nine) councilmen, in Municipalities with over 1,500,000 (one million five hundred thousand) inhabitants and with up to 1,800,000 (one million eight hundred thousand) inhabitants;

q) 41 (forty-one) councilmen, in Municipalities with over 1,800,000 (one million eight hundred thousand) inhabitants and with up to 2,400,000 (two million four hundred thousand) inhabitants;

r) 43 (forty-three) councilmen, in Municipalities with over 2,400,000 (two million four hundred thousand) inhabitants and with up to 3,000,000 (three million) inhabitants;

s) 45 (forty-five) councilmen, in Municipalities with over 3,000,000 (three million) inhabitants and with up to 4,000,000 (four million) inhabitants;

t) 47 (forty-seven) councilmen, in Municipalities with over 4,000,000 (four million) inhabitants and with up to 5,000,000 (five million) inhabitants;

u) 49 (forty-nine) councilmen, in Municipalities with over 5,000,000 (five million) inhabitants and with up to 6,000,000 (six million) inhabitants;

v) 51 (fifty-one) councilmen, in Municipalities with over 6,000,000 (six million) inhabitants and with up to 7,000,000 (seven million) inhabitants;

w) 53 (fifty-three) councilmen, in Municipalities with over 7,000,000 (seven million) inhabitants and with up to 8,000,000 (eight million) inhabitants; and

x) 55 (fifty-five) councilmen, in Municipalities with over 8,000,000 (eight million) inhabitants;

V – compensation of the Mayor, the Vice-Mayor, and the Local Cabinet Members established by an act of the Town Council, as provided by articles 37, XI, 39, paragraph 4, 150, II, 153, III, and 153, paragraph 2, I;

VI – the compensation of Local Councilmen shall be stipulated by their respective Town Councils in each legislative term for the subsequent one, with due regard for the provisions of this Constitution, in accordance with the criteria set forth in the respective Organic Law and the following maximum limits:

a) In Municipalities having up to ten thousand inhabitants, the compensation of Local Councilmen shall correspond, at the most, to twenty percent of the compensation of State Deputies;

b) in Municipalities having between ten thousand and fifty thousand inhabitants, the compensation of Local Councilmen shall correspond, at the most, to thirty percent of the compensation of State Deputies;

c) in Municipalities having between fifty thousand and one inhabitants and one hundred thousand inhabitants, the compensation of Local Councilmen shall correspond, at the most, to forty percent of the compensation of State Deputies;

d) in Municipalities having between one hundred thousand and one inhabitants and three hundred thousand inhabitants, the compensation of Local Councilmen shall correspond, at the most, to fifty percent of the compensation of State Deputies;

e) in Municipalities having between three hundred thousand and one inhabitants and five hundred thousand inhabitants, the compensation of Local Councilmen shall correspond, at the most, to sixty percent of the compensation of State Deputies;

f) in Municipalities having over five hundred thousand inhabitants, the compensation of Local Councilmen shall correspond, at the most, to seventy-five percent of the compensation of State Deputies;

VII – the total expenditure with the remuneration of the City Councilmen may not exceed the amount of five percent of the revenue of the Municipality;

VIII – inviolability of the Councilmen on account of their opinions, words and votes while in office and within the jurisdiction of the municipality;

IX – prohibitions and incompatibilities, while in the exercise of the office of City Councilman, similar, where applicable, to the provisions of this Constitution for the members of the National Congress and of the Constitution of the respective state for the members of the Legislative Assembly;

X – trial of the Mayor before the Court of Justice;

XI – organization of the legislative and supervisory functions of the Municipal Chamber;

XII – cooperation of the representative associations in municipal planning;

XIII – public initiative in the presenting of bills of specific interest to the municipality, the city or the neighborhoods, by means of the manifestation of at least five percent of the electorate;

XIV – loss of the office of mayor, as provided in article 28, sole paragraph.[2]

Article 29-A. The total expenditures of the Municipal Legislative Branch, including the compensation of Local Councilmen and excluding outlays on retired personnel, may not exceed the following percentages, related to the total amount, effectively realized in the prior year, of tax revenues and the transfers set forth in paragraph 5 of article 153, and in articles 158 and 159: (CA No. 25, 2000; CA No. 58, 2009)

I – 7% (seven percent) in the case of Municipalities having up to 100,000 (one hundred thousand) inhabitants;

II – 6% (six percent) in the case of Municipalities having between 100,000 (one hundred thousand) and 300,000 (three hundred thousand) inhabitants;

III – 5% (five percent) in the case of Municipalities having between 300,001 (three hundred thousand and one) inhabitants and 500,000 (five hundred thousand) inhabitants;

IV – 4.5% (four and five tenths per cent) in the case of Municipalities having between 500,001 (five hundred thousand and one) and 3,000,000 (three million) inhabitants;

V – 4% (four percent) in the case of Municipalities having between 3,000,001 (three million and one) and 8,000,000 (eight million) inhabitants;

VI – 3.5% (three and five tenths per cent) in the case of Municipalities having over 8,000,001 (eight million and one) inhabitants.

Paragraph 1. The Town Council shall not spend more than seventy percent of its allocation on the payroll, including expenses on the compensation of its member councilmen.

[2] Should read as "paragraph 1", by virtue of the provisions of Article 2 of CA no. 19/1998.

Paragraph 2. The following acts of the Municipal Mayor are crimes of malversation:

I – to effect a remittance in excess of the limits stipulated in this article;

II – not to effect a remittance before the twentieth day of each month;

III – to effect a remittance below the proportion stipulated in the Budgetary Law.

Paragraph 3. It shall be a crime of malversation for the President of the Town Council to disobey paragraph 1 of this article.

Article 30. The municipalities have the power to: (CA No. 53, 2006)

I – legislate upon matters of local interest;

II – supplement federal and state legislations where pertinent;

III – institute and collect taxes within their jurisdiction, as well as to apply their revenues, without prejudice to the obligation of rendering accounts and publishing balance sheets within the periods established by law;

IV – create, organize and suppress districts, with due regard for the state legislation;

V – organize and render, directly or by concession or permission, the public services of local interest, including mass-transportation, which is of essential nature;

VI – maintain, with the technical and financial cooperation of the Federal Government and the state, programs of infant and elementary school education;

VII – provide, with the technical and financial cooperation of the Union and the state, health services to the population;

VIII – promote, wherever pertinent, adequate territorial ordaining, by means of planning and control of use, apportionment and occupation of the urban soil;

IX – promote the protection of the local historic and cultural heritage, with due regard for federal and state legislation and supervision.

Article 31. Supervision of the municipality shall be exercised by the municipal legislature, through outside control, and by the internal control systems of the municipal executive branch, in the manner called for by law.

Paragraph 1. Outside control of the Municipal Chamber shall be exercised with the assistance of the state or municipal Audit Court, or of the Municipal Audit Councils or Courts, where they exist.

Paragraph 2. The prior report, issued by the competent agency, on the accounts to be rendered annually by the Mayor, shall not prevail only by a decision of two-thirds of the members of the City Council.

Paragraph 3. The accounts of the municipalities shall remain, for sixty days annually, at the disposal, for examination and consideration, of any taxpayer, who may question their legitimacy, as the law provides.

Paragraph 4. The creation of municipal courts, councils or agencies of accounts is forbidden.

CHAPTER V
The Federal District and the Territories

SECTION I
The Federal District

Article 32. The Federal District, which may not be divided into municipalities, shall be governed by an organic law, voted in two readings, with a minimum interval of ten days, and approved by two-thirds of the Legislative Chamber, which shall enact it, in accordance with the principles set forth in this Constitution.

Paragraph 1. The legislative powers reserved to the states and municipalities are attributed to the Federal District.

Paragraph 2. The election of the Governor and the Vice-Governor, complying with the rules of article 77, and of the District Deputies shall coincide with that of the state Governors and Deputies, for a term of office of the same duration.

Paragraph 3. The provisions of article 27 apply to the District Deputies and the Legislative Chamber.

Paragraph 4. A federal law shall provide for the use, by the Government of the Federal District, of the civil and military polices and the military fire brigade.

SECTION II
The Territories

Article 33. The law shall provide for the administrative and judicial organization of the territories.

Paragraph 1. The territories may be divided into municipalities, to which the provisions of Chapter IV of this Title shall be applied, insofar as pertinent.

Paragraph 2. The accounts of the Government of the territory shall be submitted to the National Congress, with the prior opinion of the Federal Audit Court.

Paragraph 3. In the federal territories with over a hundred thousand inhabitants, in addition to the Governor, appointed as set forth in this Constitution, there shall be judicial agencies of first and second instances, members of the Public Prosecution and Federal Public Legal Defenders; the law shall provide for the elections to the Territory Chamber and its decision-making powers.

CHAPTER VI
Intervention

Article 34. The Union shall not intervene in the states or in the Federal District, except: (CA No. 14, 1996; CA No. 29, 2000)

I – to maintain national integrity;

II – to repel foreign invasion or that of one unit of the Federation into another;

III – to put an end to serious jeopardy to public order;

IV – to guarantee the free exercise of any of the powers of the units of the Federation;

V – to reorganize the finances of a unit of the Federation that:

a) stops the payment of its funded debt for more than two consecutive years, except for reasons of *force majeure*;

b) fails to deliver to the municipalities the tax revenues established in this Constitution, within the periods of time set forth by law;

VI – to provide for the enforcement of federal law, judicial order or decision;

VII – to ensure compliance with the following constitutional principles:

a) republican form, representative system and democratic regime;

b) rights of the human person;

c) municipal autonomy;

d) rendering of accounts of the direct and indirect public administration;

e) the application of the minimum required amount of the revenues resulting from state taxes, including revenues originating from transfers, to the maintenance and development of education and to health actions and public services.

Article 35. The state shall not intervene in its municipalities, neither the Union in the municipalities located in a federal territory, except when: (CA No. 29, 2000)

I – the funded debt is not paid for two consecutive years, without reasons of *force majeure*;

II – the due accounts are not rendered, in the manner prescribed by law;

III – the minimum required amount of the municipal revenues has not been applied to the maintenance and development of education and to health actions and public services;

IV – the Court of Justice grants a petition to ensure observance of the principles indicated in the state Constitution or to provide for the enforcement of the law, judicial order or decision.

Article 36. The issuance of a decree of intervention shall depend: (CA No. 45, 2004)

I – on a request from the coerced or impeded Legislative or Executive Power, or on a requisition from the Supreme Federal Court, if the coercion is exercised against the Judicial Power, in the case of article 34, IV;

II – in case of disobedience to a judicial order or decision, on a requisition from the Supreme Federal Court, the Superior Court of Justice or the Superior Electoral Court;

III – on the granting of a petition from the Attorney-General of the Republic by the Supreme Federal Court, in the case of article 34, VII, and in the case of refusal to enforce a federal law;

IV – (Revoked).

Paragraph 1. The decree of intervention, which shall specify the extent, the period and the conditions of enforcement and which, if pertinent, shall appoint the intervenor, shall be submitted to the National Congress or the State Legislative Assembly for consideration, within twenty-four hours.

Paragraph 2. If the National Congress or the Legislative Assembly are not in session, a special session shall be called within the same twenty-four hours.

Paragraph 3. In the case of article 34, VI and VII, or article 35, IV, when the consideration by the National Congress or the Legislative Assembly may be waived, the decree shall be limited to suspending the enforcement of the impugned act, if such measure suffices to restore normality.

Paragraph 4. Upon cessation of the reasons that caused the intervention, the authorities removed from their offices shall return to them, unless there is some legal impediment.

CHAPTER VII
Public Administration

SECTION I
General Provisions

Article 37. The governmental entities and entities owned by the Government in any of the powers of the Union, the states, the Federal District and the Municipalities shall obey the principles of lawfulness, impersonality, morality, publicity, and efficiency, and also the following: (CA No. 19, 1998; CA No. 20, 1998; CA No. 41, 2003; CA No. 42, 2003; CA No. 47, 2005)

I – public offices, positions and functions are accessible to all Brazilians who meet the requirements established by law, as well as to foreigners, under the terms of the law;

II – investiture in a public office or position depends on previously passing an entrance examination consisting of tests or tests and presentation of academic and professional credentials, according to the nature and the complexity of the office or position, as provided by law, except for appointment to a commission office declared by law as being of free appointment and discharge;

III – the period of validity of a public entrance examination shall be up to two years, extendable once for a like period of time;

IV – during the unextendable period established in the public call notice, a person who has passed a public entrance examination of tests, or of tests and presentation of academic and professional credentials, shall be called with priority over newly approved applicants, to take an office or position in the career;

V – positions of trust, exercised exclusively by public employees holding an effective post, and commission offices, to be exercised by career employees in the cases, under the conditions and within the minimum percentages established in law, are reserved exclusively for the duties of directors, chiefs of staff, and assistants;

VI – the right to free union association is guaranteed to civil servants;

VII – the right to strike shall be exercised in the manner and within the limits defined by a specific law;

VIII – the law shall reserve a percentage of public offices and positions for handicapped persons and shall define the criteria for their admittance;

IX – the law shall establish the cases of hiring for a limited period of time to meet a temporary need of exceptional public interest;

X – the remuneration of Government employees and the compensation referred to in paragraph 4 of article 39 may only be established or altered by means of a specific law, with due regard for the exclusive capacity to introduce a law in each case, an annual general review being ensured, always on the same date and without distinction between the indices;

XI – the remuneration and the compensation of the holders of public offices, functions, and positions in governmental entities, associate government agencies, and foundations; of the members of any of the Powers of the Union, of the States, the Federal District, and the Municipalities; of the holders of elective offices, and of any other political agent, as well as the pay, pension, or other type of remuneration, earned on a cumulative basis or not, including advantages of a personal nature or of any other nature, may not be higher than the monthly compensation, in legal tender, of the Justices of the Supreme Federal Court, and the following limits shall be applied: in Municipalities, the compensation of the Mayor; in the States and in the Federal District, the monthly compensation of the Governor in the sphere of the Executive Branch, the compensation of State and Federal District Deputies in the sphere of the Legislative Branch, and the compensation of the Judges of the State Court of Justice, limited to ninety and twenty-five hundredths percent of the monthly compensation, in legal tender, of the Justices of the Supreme Federal Court in the sphere of the Judicial Branch, this limit being applicable to the members of the Office of the Public Interest Attorney, to Prosecutors, and to Public Legal Defenders;

XII – the salaries for positions of the Legislative and Judicial Powers may not be higher than those paid by the Executive Power;

XIII – the linkage or equalization of any type of pay for purposes of the remuneration of the personnel in the public services is forbidden;

XIV – the pecuniary raises received by a government employee shall not be computed or accumulated for purposes of granting subsequent raises;

XV – the compensation and the salaries of holders of public offices and positions may not be reduced, except for the provisions of items XI and XIV of this article and of articles 39, paragraph 4, 150, II, 153, III, and 153, paragraph 2, I;

XVI – remunerated accumulation of public offices is forbidden, except, when there is compatibility of working hours, and with due regard, in any instance, for the provision of item XI:

a) of two teaching positions;

b) of one teaching position with another technical or scientific position;

c) of two positions or jobs which are exclusive for health professionals, with regulated professions;

XVII – the prohibition to accumulate extends to positions and functions and includes associate government agencies, foundations, public enterprises, joint stock companies, their subsidiary companies, and companies controlled either directly or indirectly by the Government;

XVIII – the financial administration and its revenue officers shall, within their spheres of authority and jurisdiction, have the right to precedence over the other administrative sectors, as the law provides;

XIX – the creation of an associate Government agency and the establishment of a public enterprise, a joint stock company, and a foundation may only take place by means of a specific law, and, in the latter case, a supplementary law shall specify the areas of operation;

XX – the creation of subsidiaries of the agencies mentioned in the preceding item depends on legislative authorization, in each case, as well as the participation by any of them in a private company;

XXI – with the exception of the cases specified in law, public works, services, purchases and disposals shall be contracted by public bidding proceedings that ensure equal conditions to all bidders, with clauses that establish payment obligations, maintaining the effective conditions of the bid, as the law provides, which shall only allow the requirements of technical and economic qualifications indispensable to guarantee the fulfilling of the obligations;

XXII – the tax administrations of the Union, of the States, the Federal District, and the Municipalities, whose activities are essential for the operation of the State and are exercised by employees of specific careers, shall have priority funds for the implementation of their activities and shall work in an integrated manner, including the sharing of tax rolls and fiscal information, under the terms of the law or of a covenant.

Paragraph 1. The publicity of the acts, programmes, public works, services and campaigns of Government agencies shall be of educational, informative or social orientation character, and shall not contain names, symbols or images that characterize personal propaganda of Government authorities or employees.

Paragraph 2. Non-compliance with the provisions of items II and III shall result in the nullity of the act and punishment of the responsible authority, as the law provides.

Paragraph 3. The law shall regulate the forms of participation of users in governmental entities and in entities owned by the Government, especially as regards:

I – claims relating to the rendering of public services in general, the provision of user services being ensured, as well as periodical assessment, both external and internal, of the quality of services;

II – the access of users to administrative records and to information about Government initiatives, with due regard for article 5, items X and XXXIII;

III – the rules of a complaint against negligence or abuse in the exercise of an office, position or function in government services.

Paragraph 4. Acts of administrative dishonesty shall result in the suspension of political rights, loss of public function, prohibition to transfer personal property and reimbursement to the Public Treasury, in the manner and grading established by law, without prejudice to the applicable criminal action.

Paragraph 5. The law shall establish the limitations for illicit acts, performed by any agent, whether or not a Government employee, which cause losses to the Public Treasury, without prejudice to the respective claims for reimbursement.

Paragraph 6. Public legal entities and private legal entities rendering public services shall be liable for damages that any of their agents, acting as such, cause to third parties, ensuring the right of recourse against the liable agent in cases of malice or fault.

Paragraph 7. The law shall establish the requirements and restrictions regarding the holder of an office or position, in governmental entities and entities owned by the government, which provides access to inside information.

Paragraph 8. The managerial, budgetary and financial autonomy of governmental agencies and entities, as well as of entities owned by the Government, may be extended by means of a contract, to be entered into by their administrators and the Government, with a view to the establishment of performance goals for the agency or entity, and the law shall provide for:

I – the term of the contract;

II – the controls and criteria for the appraisal of performance, rights, duties, and liability of managing officers;

III – the remuneration of the employees.

Paragraph 9. The provision of item XI applies to the public enterprises and to joint stock companies and their subsidiary companies which receive funds from the Union, the States, the Federal District, or the Municipalities for the payment of personnel expenditures or of general expenses.

Paragraph 10. Receiving retirement pensions arising from article 40 or from articles 42 and 142, while at the same time receiving the remuneration of a public office, position or function is forbidden, with the exception of offices that may be accumulated under the terms of this Constitution, elective offices, and commission offices declared by law as being of free appointment and discharge.

Paragraph 11. The compensatory amounts set forth in law shall not be computed for the purposes of the remuneration limits referred to in item XI of the head paragraph of this article.

Paragraph 12. For the purposes provided by item XI of the head paragraph of this article, the States and the Federal District may stipulate, within their own sphere, by means of an amendment to their respective Constitutions and Organic Law, as a single limit, the monthly compensation of the Judges of the respective State Court of Justice, limited to ninety and twenty-five hundredths percent of the monthly compensation

of the Justices of the Supreme Federal Court, and the provision of this paragraph shall not be applied to the compensation of State and Federal District Deputies and of City Councilmen.

Article 38. The following provisions are applicable to public employees holding elective offices in a governmental entity, an associate government agency, and a foundation: (CA No. 19, 1998)

I – in the case of a federal, state or district elective office, he shall leave his office, position or function;

II – if vested with the office of Mayor, he shall take leave from his post, position or function and he may opt for the corresponding remuneration;

III – if vested with the office of City Councilman, if there is compatibility of working hours, he shall receive the benefits of his post, position or function, without prejudice to the remuneration of his elective office and in the case there is no such compatibility, the provisions of the preceding item shall be applied;

IV – in any case requiring leave of absence for the exercise of an elective office, his time of service shall be counted in full, for all legal effects, except for promotion by merit;

V – for purposes of social security benefits, in the case of leave of absence, the amounts shall be established as if he were in activity.

SECTION II

Government Employees (CA No. 18, 1998)

Article 39. The Union, the States, the Federal District and the Municipalities shall institute a board of administration policy and personnel remuneration policy, composed of public employees appointed by the respective Branches. (CA No. 19, 1998)

Paragraph 1. The stipulation of pay levels and of other components of the remuneration system shall comply with:

I – the nature, the level of responsibility, and the complexity of the posts of each career;

II – the requirements for investiture;

III – the specific characteristics of each post.

Paragraph 2. The Union, the States, and the Federal District shall establish government schools for the education and further development of public employees, and participation in such courses shall be one of the requirements for promotion in the career, the signing of agreements or contracts among federated units being therefore allowed.

Paragraph 3. The provisions of article 7, IV, VII, VIII, IX, XII, XIII, XV, XVI, XVII, XVIII, XIX, XX, XXII, and XXX shall apply to employees holding public offices, and the law may stipulate differentiated requirements for admission when the nature of the office so demands.

Paragraph 4. A member of one of the Branches, the holder of an elective office, the Ministers of State, and the members of State and Local Cabinets shall be remunerated exclusively by means of a compensation consisting of one sole item, the addition of any extra benefit, additional pay, bonus, award, representation allowance, or other type of remuneration being forbidden, with due regard, in any of the cases, for the provisions of article 37, X and XI.

Paragraph 5. The legislation of the Union, the States, the Federal District, and the Municipalities may establish the proportion between the highest and the lowest remuneration of public employees, with due regard, in any of the cases, for the provision of article 37, XI.

Paragraph 6. The Executive, Legislative and Judicial Branches shall publish the amounts of the compensation and of the remuneration of public offices and positions each year.

Paragraph 7. The legislation of the Union, the States, the Federal District, and the Municipalities shall regulate the utilization of the budgetary funds deriving from savings in current expenditures in each agency, associate government agency and foundation, to be used in the development of programs of quality and productivity, training and development, modernization, re-equipping and rationalization of public services, including as additional pay or productivity award.

Paragraph 8. The remuneration of public employees organized in a career may be established under the terms of paragraph 4.

Article 40. Employees holding effective posts in the Union, the States, the Federal District, and the Municipalities, therein included their associate government agencies and foundations, are ensured of a social security scheme on a contributory and solidary basis, with contributions from the respective public entity, from the current employees, retired personnel, and pensioners, with due regard for criteria that preserve financial and actuarial balance and for the provisions of this article. (CA No. 20, 1998; CA No. 41, 2003; CA No. 47, 2005)

Paragraph 1. The employees covered by the social security scheme set forth in this article shall go into retirement, their pensions being calculated according to the amounts stipulated under the terms of paragraphs 3 and 17:

I – for permanent disability, with a pension in proportion to the period of contribution, except when such disability results from a work-related injury, a professional disease, or a serious, contagious, or incurable illness, under the terms of the law;

II – compulsorily, at seventy years of age, with a pension in proportion to the period of contribution;

III – voluntarily, upon completing at least ten years of effective exercise in public administration and five years in the effective post from which retirement is going to take place, with due regard for the following conditions:

a) sixty years of age and thirty-five of contribution, if a man, and fifty-five years of age and thirty of contribution, if a woman;

b) sixty-five years of age, if a man, and sixty, if a woman, with pay in proportion to the period of contribution.

Paragraph 2. At the time they are granted, retirement pensions and other pensions may not exceed the remuneration of the respective employee in the effective post from which he retired or which was taken as a parameter for the granting of the pension.

Paragraph 3. The calculation of the retirement pension, at the time retirement is granted, shall take into account the remunerations used as basis for the contributions of the employee to the social security schemes mentioned in this article and in article 201, under the terms of the law.

Paragraph 4. The adoption of differentiated requirements and criteria for the granting of retirement to those covered by the scheme set forth in this article is forbidden, with the exception of the cases, as defined by supplementary laws, of employees:

I – with disabilities;

II – engaged in hazardous activities;

III – engaged in activities carried out under special conditions which are harmful to health or to physical wholeness.

Paragraph 5. The requirements concerning age and period of contribution will be reduced by five years, as regards the provision of paragraph 1, item III, letter *a*, for teachers who document exclusively a period of effective exercise of teaching functions in children education and in elementary and secondary education.

Paragraph 6. With the exception of the cases of retirement from posts that can be accumulated under the terms of this Constitution, receiving more than one retirement pension charged to the social security scheme set forth in this article is forbidden.

Paragraph 7. The law shall provide for the granting of the benefit of a death pension, which will be equal to:

I – the total amount of the retirement pension of the deceased employee, up to the maximum limit established for the benefits of the general social security scheme referred to in article 201, increased by seventy percent of the amount in excess of this limit, if the employee had already retired on the date of his death; or

II – the total amount of the remuneration of the employee in the effective post he was holding on the date of his death, up to the maximum limit established for the benefits of the general social security scheme referred to in article 201, increased by seventy percent of the amount in excess of this limit, if the employee was in active service on the date of his death.

Paragraph 8. Readjustment of the benefits is ensured, to the end that their real value is permanently maintained, in accordance with criteria established by law.

Paragraph 9. The period of contribution in a federal, state, or municipal post shall be computed for the purpose of retirement, and the corresponding period of service shall be computed for the purpose of placement on paid availability.

Paragraph 10. The law may not establish any method of computation of fictitious periods of contribution.

Paragraph 11. The limit set forth in article 37, XI, applies to the total amount of the retirement pension and other pensions, including those resulting from the accumulation of public posts or positions, as well as from other activities which must contribute to

the general social security scheme, and to the amount resulting from the addition of pensions and the remuneration of a post which may be accumulated under the terms of this Constitution, a commission office declared by law as being of free appointment and discharge, and an elective office.

Paragraph 12. In addition to the provisions of this article, the social security scheme of government employees who hold effective posts shall comply, whenever appropriate, with the requirements and criteria stipulated for the general social security scheme.

Paragraph 13. The general social security scheme applies to employees who hold exclusively commission offices declared by law as being of free appointment and discharge, as well as other temporary posts or public positions.

Paragraph 14. The Union, the States, the Federal District, and the Municipalities, provided that they establish a complementary social security scheme for their respective employees who hold effective posts, may stipulate, for the amount of retirement pensions and other pensions to be granted by the scheme referred to in this article, the maximum limit set forth for the benefits of the general social security scheme referred to in article 201.

Paragraph 15. The complementary social security scheme referred to in paragraph 14 shall be instituted by an act of the respective Executive Power, with due regard for the provisions of article 202 and its paragraphs, insofar as pertinent, through closed private pension plan companies, of a public nature, which will offer to their respective participants benefit plans exclusively in the defined contribution mode.

Paragraph 16. The provisions of paragraphs 14 and 15 may be applied to an employee who has entered public administration on or before the date of publication of the act which instituted the corresponding complementary social security scheme only if such employee has previously expressed such option.

Paragraph 17. All remuneration amounts taken into account in the calculation of the benefit set forth in paragraph 3 shall be duly updated, under the terms of the law.

Paragraph 18. A contribution shall be levied on retirement pensions and other pensions granted by the scheme referred to in this article if such pensions exceed the maximum limit established for the benefits of the general social security scheme mentioned in article 201, at a percentage equal to the one established for employees holding effective posts.

Paragraph 19. Employees referred to in this article who have fulfilled the requirements for voluntary retirement stipulated in paragraph 1, III, *a*, and who choose to remain working shall be entitled to a continuous activity bonus equivalent to the amount of their social security contribution until such date as they fulfill the requirements for compulsory retirement set forth in paragraph 1, II.

Paragraph 20. The establishment of more than one special social security scheme for employees holding effective posts, and of more than one unit to manage the respective scheme in each state is forbidden, except for the provision of article 142, paragraph 3, X.

Paragraph 21. The contribution set forth in paragraph 18 of this article shall be levied only on the portions of retirement pensions and other pensions which exceed an amount equal to twice the maximum limit established for the benefits of the general

social security scheme mentioned in article 201 of this Constitution, if the beneficiaries, under the terms of the law, suffer from incapacitating diseases.

Article 41. Servants who, by virtue of public entrance examinations, are appointed to effective posts, acquire tenure after three years of actual service. (CA No. 19, 1998)

Paragraph 1. A tenured public employee shall only lose his office:

I – by virtue of a final and unappealable judicial decision;

II – by means of an administrative proceeding, in which he is assured of ample defense;

III – by means of a procedure of periodical appraisal of performance, under the terms of a supplementary law, ample defense being assured.

Paragraph 2. If the dismissal of a tenured public employee is voided by a judicial decision, he shall be reinstated, and the occupant of the vacancy, when tenured, shall be led back to his original office, with no right to indemnity, taken to another office or placed on paid availability with a remuneration proportional to his length of employment.

Paragraph 3. If the office is declared extinct or unnecessary, a tenured public employee shall remain on availability, with a remuneration proportional to his length of employment, until he is adequately placed in another office.

Paragraph 4. As a requirement to acquire tenure, a special appraisal of performance by a committee created for this purpose is mandatory.

SECTION III
The Military of the States, of the Federal District and of the Territories (CA No. 18, 1998)

Article 42. The members of the Military Police and of the Military Fire Brigades, institutions whose organization is based on hierarchy and discipline, are military of the States, of the Federal District and of the Territories. (CA No. 18, 1998; CA No. 20, 1998; CA No. 41, 2003)

Paragraph 1. The provisions of article 14, paragraph 8; article 40, paragraph 9; and of article 142, paragraphs 2 and 3, apply to the military of the States, of the Federal District, and of the Territories, in addition to other provisions that the law may establish, it being incumbent upon specific state legislation to provide for the matters of article 142, paragraph 3, item X, the ranks of the officers being awarded by the respective State Governors.

Paragraph 2. The provisions that may be established by a specific act of the respective state shall apply to the pensioners of the military of the States, of the Federal District, and of the Territories.

SECTION IV
The Regions

Article 43. For administrative purposes, the Union may coordinate its action in one same social and geoeconomic complex, seeking to attain its development and to reduce regional inequalities.

Paragraph 1. A supplementary law shall provide for:

I – the conditions for the integration of developing regions;

II – the composition of the regional agencies which shall carry out, as provided by law, the regional plans included in the national social and economic development plans approved concurrently.

Paragraph 2. The regional incentives shall include, besides others, as prescribed by law:

I – equality of tariffs, freight rates, insurance and other cost and price items which are within the responsibility of the Government;

II – favoured interest rates for the financing of priority activities;

III – exemptions, reductions or temporary deferment of federal taxes owed by individuals or by legal entities;

IV – priority in the economic and social use of rivers and dammed or dammable water masses in low-income regions subject to periodical droughts.

Paragraph 3. In the areas referred to in paragraph 2, IV, the Union shall grant incentives to the recovery of arid lands and shall cooperate with small and medium-size rural landowners in the implementing of water sources and small-scale irrigation in their tracts of land.

TITLE IV
The Organization of the Powers

CHAPTER I
The Legislative Power

SECTION I
The National Congress

Article 44. The Legislative Power is exercised by the National Congress, which is composed of the Chamber of Deputies and the Federal Senate.

Sole paragraph. Each legislative term shall have the duration of four years.

Article 45. The Chamber of Deputies is composed of representatives of the people, elected, by the proportional system, in each state, territory and in the Federal District.

Paragraph 1. The total number of Deputies, as well as the representation of the states and of the Federal District shall be established by a supplementary law, in proportion to the population, and the necessary adjustments shall be made in the year preceding the elections, so that none of those units of the Federation has less than eight or more than seventy Deputies.

Paragraph 2. Each territory shall elect four Deputies.

Article 46. The Federal Senate is composed of representatives of the states and of the Federal District, elected by a majority vote.

Paragraph 1. Each state and the Federal District shall elect three Senators for a term of office of eight years.

Paragraph 2. One-third and two-thirds of the representation of each state and of the Federal District shall be renewed every four years, alternately.

Paragraph 3. Each Senator shall be elected with two substitutes.

Article 47. Except where there is a constitutional provision to the contrary, the decisions of each House and of their committees shall be taken by a majority vote, when the absolute majority of its members is present.

SECTION II
Powers of the National Congress

Article 48. The National Congress shall have the power, with the sanction of the President of the Republic, which shall not be required for the matters specified in articles 49, 51 and 52, to provide for all the matters within the competence of the Union and especially on: (CA No. 19, 1998; CA No. 32, 2001; CA No. 41, 2003)

I – system of taxation, collection of taxes and income distribution;

II – pluriannual plan, budgetary directives, annual budget, credit transactions, public debt and issuance of currency;

III – establishment and modification of Armed Forces troops;

IV – national, regional and sectorial plans and programmes of development;

V – boundaries of the national territory, air and maritime space and property of the Union;

VI – incorporation, subdivision or dismemberment of areas of territories or states, after consulting with the respective Legislative Assembly;

VII – temporary transference of the seat of the Federal Government;

VIII – granting of amnesty;

IX – administrative and judicial organization of the Public Prosecution and the Public Legal Defense of the Union and of the territories, and judicial organization of the Public Prosecution and the Public Legal Defense of the Federal District;

X – creation, change, and abolishment of public offices, positions and functions, with due regard for article 84, VI, *b*;

XI – creation and abolishment of Ministries and Government bodies;

XII – telecommunications and radio broadcasting;

XIII – financial, foreign exchange and monetary matters, financial institutions and their operations;

XIV – currency, currency issuance limits, and amount of federal indebtedness;

XV – stipulation of the compensation for the Justices of the Supreme Federal Court, with due regard for articles 39, paragraph 4; 150, II; 153, III; and 153, paragraph 2, I.

Article 49. It is exclusively the competence of the National Congress: (CA No. 19, 1998)

I – to decide conclusively on international treaties, agreements or acts which result in charges or commitments that go against the national property;

II – to authorize the President of the Republic to declare war, to make peace and to permit foreign forces to pass through the national territory or remain therein temporarily, with the exception of the cases provided by a supplementary law;

III – to authorize the President and the Vice-President of the Republic to leave the country, when such absence exceeds fifteen days;

IV – to approve a state of defense and federal intervention, authorize a state of siege or suspend any of these measures;

V – to stop the normative acts of the Executive Power which exceed their regimental authority or the limits of legislative delegation;

VI – to transfer its seat temporarily;

VII – to establish identical compensation for Federal Deputies and Senators, taking into account the provisions of articles 37, XI, 39, paragraph 4, 150, II, 153, III, and 153, paragraph 2, I;

VIII – to establish the compensation of the President and the Vice-President of the Republic and of the Ministers of State, taking into account the provisions of articles 37, XI, 39, paragraph 4, 150, II, 153, III, and 153, paragraph 2, I;

IX – to examine each year the accounts rendered by the President of the Republic and to consider the reports on the execution of Government plans;

X – to supervise and control directly or through either of its Houses, the acts of the Executive Power, including those of the indirect administration;

XI – to ensure the preservation of legislative competence in the face of the normative incumbency of the other Powers;

XII – to consider the acts of concession and renewal of concession of radio and television stations;

XIII – to choose two-thirds of the members of the Federal Audit Court;

XIV – to approve initiatives of the Executive Power referring to nuclear activities;

XV – to authorize a referendum and to call a plebiscite;

XVI – to authorize, in Indian lands, the exploitation and use of hydric resources and the prospecting and mining of mineral resources;

XVII – to give prior approval to the disposal or concession of public lands with an area of over two thousand and five hundred hectares.

Article 50. The Chamber of Deputies and the Federal Senate, or any of their committees, may summon a Minister of State or any chief officers of agencies directly subordinate to the Presidency of the Republic to personally render information on a previoulsy determined matter, and this absence without adequate justification shall constitute a crime of malversation: (RCA No. 2, 1994)

Paragraph 1. The Ministers of State may attend the Federal Senate, the Chamber of Deputies or any of their committees, on their own initiative and by agreement with the respective Directing Board, to report on a matter of relevance to their Ministry.

Paragraph 2. The Directing Boards of the Chamber of Deputies and of the Federal Senate may forward to the Ministers of State, or any of the persons mentioned in the head paragraph of this article, written requests for information, and refusal or non-compliance, within a period of thirty days, as well as the rendering of false information, shall constitute a crime of malversation.

SECTION III
The Chamber of Deputies

Article 51. It is exclusively the competence of the Chamber of Deputies: (CA No. 19, 1998)

I – to authorize, by two-thirds of its members, legal proceeding to be initiated against the President and the Vice-President of the Republic and the Ministers of State;

II – to effect the taking of accounts of the President of the Republic, when they are not presented to the National Congress within sixty days of the opening of the legislative session;

III – to draw up its internal regulations;

IV – to provide for its organization, functioning, police, creation, change or abolishment of offices, positions and functions of its services, and the introduction of a law for the establishment of their respective remuneration, taking into account the guidelines set forth in the law of budgetary directives;

V – to elect the members of the Council of the Republic, in the manner prescribed by article 89, VII.

SECTION IV
The Federal Senate

Article 52. It is exclusively the competence of the Federal Senate: (CA No. 19, 1998; CA No. 23, 1999; CA No. 42, 2003; CA No. 45, 2004)

I – to effect the legal proceeding and trial of the President and Vice-President of the Republic for crime of malversation, and the Ministers of State and the Commanders of the Navy, the Army, and the Air Force for crimes of the same nature relating to those;

II – to effect the legal proceeding and trial of the Justices of the Supreme Federal Court, the members of the National Council of Justice and of the National Council of the Public Prosecution, the Attorney-General of the Republic, and the Advocate-General of the Union for crimes of malversation;

III – to give prior consent, by secret voting, after public hearing, on the selection of:

a) judges, in the cases established in this Constitution;

b) Justices of the Federal Audit Court appointed by the President of the Republic;

c) Governor of a territory;

d) president and directors of the Central Bank;

e) Attorney-General of the Republic;

f) holders of other offices, as the law may determine;

IV – to give prior approval, by secret voting, after closed hearing, on the selection of heads of permanent diplomatic missions;

V – to authorize foreign transactions of a financial nature, of the interest of the Union, the states, the Federal District, the territories and the municipalities;

VI – to establish, as proposed by the President of the Republic, total limits for the entire amount of the consolidated debt of the Union, the states, the Federal District and the municipalities;

VII – to provide for the total limits and conditions for foreign and domestic credit transactions of the Union, the states, the Federal District and the municipalities, of their autonomous Government entities and other entities controlled by the Federal Government;

VIII – to provide for limits and conditions for the concession of a guarantee by the Union in foreign and domestic credit transactions;

IX – to establish total limits and conditions for the entire amount of the debt of the states, the Federal District and the municipalities;

X – to stop the application, in full or in part, of a law declared unconstitutional by final decision of the Supreme Federal Court;

XI – to approve, by absolute majority and by secret voting, the removal from office of the Attorney-General of the Republic before the end of his term of office;

XII – to draw up its internal regulations;

XIII – to provide for its organization, functioning, police, creation, change or abolishment of offices, positions and functions of its services, and the introduction of a law for the establishment of their respective remuneration, taking into account the guidelines set forth in the law of budgetary directives;

XIV – to elect the members of the Council of the Republic, as established in article 89, VII.

XV – to carry out a regular assessment of the functionality of the National Tax System, as regards its structure and components, as well as the performance of the tax administrations of the Union, of the States, the Federal District, and the Municipalities.

Sole paragraph. In the cases provided for in items I and II, the Chief Justice of the Supreme Federal Court shall act as President and the sentence, which may only be issued by two-thirds of the votes of the Federal Senate, shall be limited to the loss of office with disqualification to hold any public office for a period of eight years, without prejudice to other applicable judicial sanctions.

SECTION V
Deputies and Senators

Article 53. Deputies and Senators enjoy civil and criminal inviolability on account of any of their opinions, words and votes. (CA No. 35, 2001)

Paragraph 1. Deputies and Senators, from the date of issuance of the certificate of election victory, shall be tried by the Supreme Federal Court.

Paragraph 2. From the date of issuance of the certificate of election victory, the members of the National Congress may not be arrested, except in *flagrante delicto* of a non-bailable offense. In such case, the case records shall be sent within twenty-four hours to the respective House, which, by the vote of the majority of its members, shall decide on the arrest.

Paragraph 3. Upon receiving an accusation against a Senator or Deputy, for an offense committed after the issuance of the certificate of election victory, the Supreme

Federal Court shall inform the respective House, which, by the initiative of a political party therein represented and by the vote of the majority of those House members, may, until such time as a final decision is issued, stay consideration of the action.

Paragraph 4. The request for stay shall be examined by the respective House within the unextendable period of forty-five days as from its receipt by the Directing Board.

Paragraph 5. The stay of proceedings shall suspend the limitation for the duration of the term of office.

Paragraph 6. Deputies and Senators shall not be compelled to render testimony on information received or given by virtue of the exercise of their mandate, nor on persons who rendered them information or received information from them.

Paragraph 7. Incorporation into the Armed Forces of Deputies and Senators, even if they hold military rank and even in time of war shall depend upon the prior granting of permission by the respective House.

Paragraph 8. The immunities of Deputies and Senators shall be maintained during a state of siege and may only be suspended by the vote of two-thirds of the members of the respective House, in the case of acts committed outside the premises of Congress, which are not compatible with the implementation of such measure.

Article 54. Deputies and Senators may not:

I – after the issuance of their certificate of electoral victory:

a) sign or maintain a contract with a public legal entity, autonomous Government agency, public company, mixed-capital company or public utility company, unless the contract is in accordance with uniform clauses;

b) accept or hold a paid office, function or position including those from which they may be dismissed *ad nutum* in the entities mentioned in the preceding subitem;

II – after taking office:

a) be the owners, controllers or directors of a company which enjoys benefits arising from a contract with a public legal entity or perform a remunerated position therein;

b) hold an office or function from which they may be dismissed *ad nutum*, in the entities mentioned in item I, *a*;

c) act as lawyer in a cause in which any of the entities referred to in item I, *a*, has an interest;

d) be the holders of more than one public elective position or office.

Article 55. A Deputy or Senator shall lose his office: (RCA No. 6, 1994)

I – if he violates any of the prohibitions established in the preceding article;

II – if his conduct is declared incompatible with parliamentary decorum;

III – if he fails to appear, in each legislative session, at one-third of the regular sessions of the House to which he belongs, except for a leave of absence or a mission authorized by the House concerned;

IV – if his political rights have been lost or suspended;

V – whenever decreed by the Electoral Courts, in the cases established in this Constitution;

VI – if he is criminally convicted by a final and unappealable sentence.

Paragraph 1. Abuse of the prerogatives ensured to a Congressman or the gaining of undue advantages, in addition to the cases defined in the internal regulations, is incompatible with parliamentary decorum.

Paragraph 2. In the cases of items I, II and VI, loss of office shall be declared by the Chamber of Deputies or the Federal Senate, by secret voting and absolute majority, on the initiative of the respective Directing Board or of a political party represented in the National Congress, full defense being ensured.

Paragraph 3. In the cases set forth in items III to V, the loss shall be declared by the Directing Board of the respective House, *ex officio* or upon the initiative of any of its members, or of a political party represented in the National Congress, full defense being ensured.

Paragraph 4. The resignation of a Congressman submitted to a legal suit that aims at or may lead to loss of mandate, under the provisions of this article, will have its effects suspended until the final deliberations mentioned in paragraphs 2 and 3.

Article 56. A Deputy or Senator shall not lose his office:

I – if vested with the office of Minister of State, Governor of a territory, Secretary of a state, of the Federal District, of a territory, of a state capital or head of a temporary diplomatic mission;

II – if on leave of absence from the respective House, by virtue of illness or, without remuneration, to attend to private matters, provided that, in this case, the absence does not exceed one hundred and twenty days per legislative session.

Paragraph 1. The substitute shall be called in cases of vacancy, of investiture in the functions set forth in this article or of leave of absence exceeding one hundred and twenty days.

Paragraph 2. Upon the occurrence of a vacancy and there being no substitute, if more than fifteen months remain before the end of the term of office, an election shall be held to fill it.

Paragraph 3. In the event of item I, the Deputy or Senator may opt for the remuneration of the elective office.

SECTION VI
The Sessions

Article 57. The National Congress shall meet each year in the Federal Capital, from February 2 to July 17 and from August 1 to December 22. (CA No. 32, 2001; CA No. 50, 2006)

Paragraph 1. If sessions scheduled for these dates fall on a Saturday, a Sunday or a holiday, they shall be transferred to the subsequent workday.

Paragraph 2. The legislative session shall not be interrupted before the approval of the bill of budgetary directives.

Paragraph 3. In addition to other cases provided for in this Constitution, the Chamber of Deputies and the Federal Senate shall meet in a joint session to:

I – inaugurate the legislative session;

II – draw up the common regulations and regulate the creation of services common to both Houses;

III – take the oath of the President and of the Vice-President of the Republic;

IV – acknowledge a veto and resolve thereon.

Paragraph 4. Both Houses shall meet in a preparatory session, beginning February 1 of the first year of the legislative term, for the installation of its members and the election of the respective Directing Boards, for a term of office of two years, the re-election to the same office in the immediately subsequent election being prohibited.

Paragraph 5. The Directing Board of the National Congress shall be presided by the President of the Federal Senate and the remaining offices shall be held, alternately, by the holders of equivalent offices in the Chamber of Deputies and in the Federal Senate.

Paragraph 6. Special sessions of the National Congress shall be called:

I – by the President of the Federal Senate, in the event of a decree of a state of defense or of federal intervention, of a demand for the authorization to decree a state of siege and the taking of oath and inauguration of the President and the Vice-President of the Republic;

II – by the President of the Republic, by the Presidents of the Chamber of Deputies and of the Federal Senate, or by request of the majority of the members of both Houses, in the event of urgency or important public interest, approval by the absolute majority of each House of the National Congress being required in all cases referred to in this item.

Paragraph 7. In a special legislative session, the National Congress shall deliberate only upon the matter for which it was called, exception being made for the event mentioned in paragraph 8 of this article, the payment of a compensatory amount by virtue of the special session being forbidden.

Paragraph 8. If there are provisional measures in effect on the date a special session of the National Congress is called, they shall be automatically included in the agenda of the session.

SECTION VII
The Committees

Article 58. The National Congress and both its Houses shall have permanent and temporary committees, established in the manner and with the incumbencies set forth in the respective regulations or in the act from which their creation resulted.

Paragraph 1. In the composition of the Directing Boards and of each committee, the proportional representation of the parties or the parliamentary groups which participate in the respective House shall be ensured to the extent possible.

Paragraph 2. The committees have the power, on account of the matter under their authority:

I – to debate and vote on bills of law which, in accordance with the regulations, are exempt from being submitted to the Plenary Assembly, except in the event of an appeal from one-tenth of the members of the respective House;

II – to hold public audiences with entities of civil society;

III – to summon Ministers of State to render information on matters inherent to their duties;

IV – to receive petitions, claims, statements or complaints from any person against acts or omissions of Government authorities or entities;

V – to request the testimony of any authority or citizen;

VI – to examine construction work programs and national, regional and sectorial development plans and to report thereupon.

Paragraph 3. Parliamentary inquiry committees, which shall have the powers of investigation inherent to the judicial authorities, in addition to other powers set forth in the regulations of the respective Houses, shall be created by the Chamber of Deputies and by the Federal Senate, jointly or separately, upon the request of one-third of its members, to investigate a given fact and for a certain period of time, and their conclusions shall, if the case may be, be forwarded to the Public Prosecution to determine the civil or criminal liability of the offenders.

Paragraph 4. During recess there shall be a committee to represent the National Congress, elected by both its Houses in the last regular session of the legislative session, with incumbencies defined in the common regulations, the composition of which shall repeat, to the extent possible, the proportional representation of the political parties.

SECTION VIII
The Legislative Process

SUBSECTION I
General Provision

Article 59. The legislative process comprises the preparation of:

I – amendments to the Constitution;

II – supplementary laws;

III – ordinary laws;

IV – delegated laws;

V – provisional measures;

VI – legislative decrees;

VII – resolutions.

Sole paragraph. A supplementary law shall provide for the preparation, drafting, amendment and consolidation of laws.

SUBSECTION II
Amendments to the Constitution

Article 60. The Constitution may be amended on the proposal of:

I – at least one-third of the members of the Chamber of Deputies or of the Federal Senate;

II – the President of the Republic;

III – more than one half of the Legislative Assemblies of the units of the Federation, each of them expressing itself by the relative majority of its members.

Paragraph 1. The Constitution shall not be amended while federal intervention, a state of defense or a state of siege is in force.

Paragraph 2. The proposal shall be discussed and voted upon in each House of the National Congress, in two readings, and it shall be considered approved if it obtains in both readings, three-fifths of the votes of the respective members.

Paragraph 3. An amendment to the Constitution shall be promulgated by the Directing Boards of the Chamber of Deputies and the Federal Senate with its respective sequence number.

Paragraph 4. No proposal of amendment shall be considered which is aimed at abolishing:

I – the federative form of State;

II – the direct, secret, universal and periodic vote;

III – the separation of the Government Powers;

IV – individual rights and guarantees.

Paragraph 5. The matter dealt with in a proposal of amendment that is rejected or considered impaired shall not be the subject of another proposal in the same legislative session.

SUBSECTION III
The Laws

Article 61. The initiative of supplementary and ordinary laws is within the competence of any member or committee of the Chamber of Deputies and the Federal Senate or the National Congress, the President of the Republic, the Supreme Federal Court, the Superior Courts, the Attorney-General of the Republic and the citizens, in the manner and in the cases provided for in this Constitution. (CA No. 18, 1998; CA No. 32, 2001)

Paragraph 1. It is the exclusive initiative of the President of the Republic to introduce laws that:

I – determine or modify the number of Armed Forces troops;

II – provide for:

a) creation of public offices, functions or positions in the direct administration and in autonomous Government agencies or increases in their salaries;

b) administrative and judicial organization, tax and budgetary matters, public services and administrative personnel of the territories;

c) government employees of the Union and Territories, their legal statute, appointment to offices, tenure and retirement;

d) organization of the Public Prosecution and of the Public Legal Defense of the Union, as well as general rules for the organization of the Public Prosecution and the Public Legal Defense of the states, the Federal District and the territories;

e) creation and abolishment of Ministries and Government bodies, with due regard for the provision of article 84, VI;

f) military of the Armed Forces, their legal statute, appointment to offices, promotions, tenure, remuneration, retirement, and transfer to the reserve.

Paragraph 2. The initiative of the people may be exercised by means of the presentation to the Chamber of Deputies of a bill of law subscribed by at least one percent of the national electorate, distributed throughout at least five states, with not less than three-tenths of one percent of the voters in each of them.

Article 62. In important and urgent cases, the President of the Republic may adopt provisional measures with the force of law and shall submit them to the National Congress immediately. (CA No. 32, 2001)

Paragraph 1. The issuance of provisional measures is forbidden when the matter involved:

I – deals with:

a) nationality, citizenship, political rights, political parties, and election law;

b) criminal law, criminal procedural law, and civil procedural law;

c) organization of the Judicial Branch and of the Public Prosecution, the career and guarantees of their members;

d) pluriannual plans, budgetary directives, budgets, and additional and supplementary credits, with the exception of the provision mentioned in article 167, paragraph 3;

II – aims at the detention or seizure of goods, people's savings, or any other financial asset;

III – is reserved for a supplementary law;

IV – has already been regulated by a bill of law passed by the National Congress which is awaiting sanction or veto by the President of the Republic.

Paragraph 2. A provisional measure to institute or increase taxes, with the exception of the taxes mentioned in articles 153, I, II, IV, V, and 154, II, shall only produce effects in the subsequent financial year if it has been converted into law before or on the last day of the financial year in which it was issued.

Paragraph 3. With the exception of the provisions mentioned in paragraphs 11 and 12, provisional measures shall lose effectiveness from the day of their issuance if they are not converted into law within a period of sixty days, which may be extended once for an identical period of time under the terms of paragraph 7, and the National Congress shall issue a legislative decree to regulate the legal relations arising therefrom.

Paragraph 4. The period mentioned in paragraph 3 shall be counted from the date of publication of the provisional measure and shall be interrupted while the National Congress is in recess.

Paragraph 5. Deliberation by each House of the National Congress upon the merits of provisional measures shall depend on prior determination of their compliance with the constitutional requirements.

Paragraph 6. If a provisional measure is not examined within forty-five days as of its date of publication, it shall subsequently be forwarded to urgent consideration in each House of the National Congress, and the deliberation of all other legislative matters shall be suspended in the House where it is under consideration, until such time as voting is concluded.

Paragraph 7. If the voting of a provisional measure is not concluded in both Houses of the National Congress within the period of sixty days as of its date of publication, its period of effectiveness may be extended once for an identical period of time.

Paragraph 8. The voting of provisional measures shall start in the House of Deputies.

Paragraph 9. It is incumbent upon the joint committee of Deputies and Senators to examine provisional measures and issue an opinion thereon, before they are submitted to floor action in each House of the National Congress in a separate session.

Paragraph 10. It is forbidden to reissue a provisional measure in the same legislative session in which it was rejected or lost its effectiveness due to lapse of time.

Paragraph 11. If the legislative decree mentioned in paragraph 3 is not issued within sixty days as of the date the provisional measure was rejected or lost its effectiveness, the legal relations constituted and arising from acts performed during its period of effectiveness shall still be regulated by such provisional measure.

Paragraph 12. Should a bill of law be passed that alters the original text of a provisional measure, the latter will remain effective in full until such date as the bill is sanctioned or vetoed.

Article 63. An increase in expenditure proposals shall not be admitted:

I – in bills of the exclusive initiative of the President of the Republic, except for the provisions of article 166, paragraphs 3 and 4;

II – in bills concerning the organization of the administrative services of the Chamber of Deputies, the Federal Senate, the Federal Courts and the Public Prosecution.

Article 64. The discussion and voting of the bills of law which are the initiative of the President of the Republic, the Supreme Federal Court and of the Superior Courts shall start in the Chamber of Deputies. (CA No. 32, 2001)

Paragraph 1. The President of the Republic may request urgency in the examination of bills of his own initiative.

Paragraph 2. If, in the event of paragraph 1, the Chamber of Deputies and the Federal Senate fail to act, each one, successively, on the proposition, within the period of forty-five days, deliberation on all other legislative matters shall be suspended in the respective House, save those which must be considered within a stipulated constitutional period, in order that the voting may be concluded.

Paragraph 3. Amendments of the Federal Senate shall be examined by the Chamber of Deputies within a period of ten days, in accordance, otherwise, with the provisions of the preceding paragraph.

Paragraph 4. The periods of time referred to in paragraph 2 shall not be counted while the Congress is in recess and shall not apply to the bills of codes.

Article 65. A bill of law approved by one House shall be reviewed by the other in a single reading of discussing and voting and sent for sanctioning or promulgation, if approved by the reviewing House, or it shall be dismissed, if rejected.

Sole paragraph. If the bill is amended, it shall return to the House where it was proposed.

Article 66. The House in which voting is concluded shall send the bill of law to the President of the Republic, who, if he concurs, shall sanction it. (CA No. 32, 2001)

Paragraph 1. If the President of the Republic considers the bill of law, wholly or in part, unconstitutional or contrary to public interest, he shall veto it, wholly or in part, within fifteen work days, counted from the date of receipt and he shall, within forty-eight hours, inform the President of the Senate of the reasons of his veto.

Paragraph 2. A partial veto shall only comprise the full text of an article, paragraph, item or subitem.

Paragraph 3. After a period of fifteen days, the silence of the President of the Republic shall be considered as sanctioning.

Paragraph 4. The veto shall be examined in a joint session, within thirty days, counted from the date of receipt, and may only be rejected by the absolute majority of the Deputies and Senators, by secret voting.

Paragraph 5. If the veto is not upheld, the bill shall be sent to the President of the Republic for promulgation.

Paragraph 6. If the period of time established in paragraph 4 elapses without a decision being reached, the veto shall be included in the order of the day of the subsequent session, and all other propositions shall be suspended until its final voting.

Paragraph 7. If, in the cases of paragraphs 3 and 5, the law is not promulgated within forty-eight hours by the President of the Republic, the President of the Senate

shall enact it and if the latter fails to do so within the same period, the Vice-President of the Senate shall do so.

Article 67. The matter dealt with in a rejected bill of law may only be the subject of a new bill during the same legislative session, upon proposal of the absolute majority of the members of either House of the National Congress.

Article 68. Delegated laws shall be drawn up by the President of the Republic, who shall request delegation from the National Congress.

Paragraph 1. There shall be no delegation of acts falling within the exclusive competence of the National Congress, of those within the exclusive competence of the Chamber of Deputies or the Federal Senate, of matters reserved for supplementary laws and of legislation on:

I – the organization of the Judicial Power and of the Public Prosecution, the career and guarantees of their members;

II – nationality, citizenship, individual, political and electoral rights;

III – pluriannual plans, budgetary directives and budgets.

Paragraph 2. The delegation to the President of the Republic shall take the form of a resolution of the National Congress, which shall specify its contents and the terms of its exercise.

Paragraph 3. If the resolution calls for consideration of the bill by the National Congress, the latter shall do so in a single voting, any amendment being forbidden.

Article 69. Supplementary laws shall be approved by absolute majority.

SECTION IX
Accounting, Financial and Budgetary Control

Article 70. Control of accounts, finances, budget, operations and property of the Union and of the agencies of the direct and indirect administration, as to lawfulness, legitimacy, economic efficiency, application of subsidies and waiver of revenues, shall be exercised by the National Congress, by means of external control and of the internal control system of each Power. (CA No. 19, 1998)

Sole paragraph. Accounts shall be rendered by any individual or corporation, public or private, which uses, collects, keeps, manages, or administers public monies, assets or values, or those for which the Union is responsible or which, on behalf of the Union, assumes obligations of a pecuniary nature.

Article 71. External control, incumbent on the National Congress, shall be exercised with the aid of the Federal Audit Court, which shall:

I – examine the accounts rendered annually by the President of the Republic, by means of a prior opinion which shall be prepared in sixty days counted from receipt;

II – evaluate the accounts of the administrators and other persons responsible for public monies, assets and values of the direct and indirect administration, including

foundations and companies instituted and maintained by the Federal Government as well as the accounts of those who have caused a loss, misplacement or other irregularity resulting in losses to the public treasury;

III – examine, for the purpose of registration, the lawfulness of acts of admission of personnel, on any account, in the direct and indirect administration, including the foundations instituted and maintained by the Federal Government, with the exception of the appointments to commission offices, as well as the granting of civil and military retirement and pensions, except for subsequent improvements which do not alter the legal fundaments of the conceding act;

IV – carry out, on its own initiative or on that of the Chamber of Deputies, of the Federal Senate, or of a technical or inquiry committee, inspection and audits of an accounting, financial, budgetary, operational or property nature in the administrative units of the Legislative, Executive and Judicial Powers and other entities referred to in item II;

V – control the national accounts of supranational companies in whose capital stock the Union holds a direct or indirect interest, as set forth in the acts of incorporation;

VI – control the use of any funds transferred by the Union, by means of an agreement, arrangement, adjustment or any other similar instrument, to a state, the Federal District or a municipality;

VII – render the information requested by the National Congress, by either of its Houses or by any of the respective committees concerning accounting, financial, budgetary, operational and property control and the results of audits and inspections made;

VIII – in case of illegal expenses or irregular accounts, apply to the responsible parties the sanctions provided by law, which shall establish, among other comminations, a fine proportional to the damages caused to the public treasury;

IX – determine a period of time for the agency or entity to take the necessary steps for the strict compliance with the law, if an illegality is established;

X – if not heeded, stop the execution of the impugned act, notifying the Chamber of Deputies and the Federal Senate of such decision;

XI – present a formal charge to the competent Power on any irregularities or abuses verified.

Paragraph 1. In the case of a contract, the restraining act shall be adopted directly by the National Congress, which shall immediately request the Executive Power to take the applicable measures.

Paragraph 2. If the National Congress or the Executive Power, within ninety days, do not take the measures provided for in the preceding paragraph, the Court shall decide on the matter.

Paragraph 3. Decisions of the Court resulting in the imposition of a debt or fine shall have the effectiveness of an execution instrument.

Paragraph 4. The Court shall, quarterly and annually, forward to the National Congress a report on its activities.

Article 72. In view of indications of unauthorized expenditure, even if in the form of non-programmed investments or non-approved subsidies, the permanent joint Committee referred to in article 166, paragraph 1, may request the responsible Government authority to render the necessary explanation, within five days.

Paragraph 1. If the explanations are not rendered or are considered insufficient, the Committee shall request the Court to make a conclusive statement on the matter within thirty days.

Paragraph 2. If the Court deems the expense to be irregular, the Committee shall, if it considers that the expenditure may cause irreparable damage or serious injury to the public economy, propose to the National Congress that it be suspended.

Article 73. The Federal Audit Court, formed by nine Justices, shall have its seat in the Federal District, its own staff and jurisdiction throughout the national territory, and shall exercise, insofar as pertinent, the incumbencies provided for in article 96. (CA No. 20, 1998)

Paragraph 1. The Justices of the Federal Audit Court shall be appointed from among Brazilians who meet the following requirements:

I – more than thirty-five and less than sixty-five years of age;

II – moral integrity and spotless reputation;

III – notable knowledge of the law, accounting, economics and finances or of public administration;

IV – more than ten years of exercise of office or of actual professional activity which requires the knowledge mentioned in the preceding item.

Paragraph 2. The Justices of the Federal Audit Court shall be chosen:

I – one-third by the President of the Republic with the approval of the Federal Senate, two of them being alternately chosen from among auditors and members of the Public Prosecution at the Court, as indicated in a triple list by the Court, in accordance with criteria of seniority and merit;

II – two-thirds by the National Congress.

Paragraph 3. The Justices of the Federal Audit Court shall have the same guarantees, prerogatives, impediments, remuneration, and advantages as the Justices of the Superior Court of Justice, their retirement pensions and other pensions being ruled by the provisions of article 40.

Paragraph 4. The auditor, when substituting for a Justice, shall have the same guarantees and impediments as the incumbent Justice, and, when in exercise of the other duties of the judicature, those of a Judge of a Federal Regional Court.

Article 74. The Legislative, Executive and Judicial Powers shall maintain an integrated system of internal control for the purpose of:

I – evaluating the attainment of the goals established in the pluriannual plan, the implementation of government programmes and of the budgets of the Union;

II – verifying the lawfulness and evaluating the results, as to effectiveness and efficiency, of the budgetary, financial and property management in the agencies and

entities of the federal administration, as well as the use of public funds by private legal entities;

III – exercising control over credit transactions, collateral signatures and guarantees, as well as over the rights and assets of the Union;

IV – supporting external control in the exercise of its institutional mission.

Paragraph 1. The persons responsible for internal control shall, upon learning of any irregularity or illegality, inform the Federal Audit Court about it, subject to joint liability.

Paragraph 2. Any citizen, political party, association or labour union has standing under the law to denounce irregularities or illegalities to the Federal Audit Court.

Article 75. The rules set forth in this section shall apply, where appropriate, to the organization, composition and control of the Audit Courts of the states and of the Federal District, as well as the Audit Courts and Councils of the municipalities.

Sole paragraph. The state Constitutions shall provide for the respective Audit Courts, which shall be formed by seven council members.

CHAPTER II
The Executive Power

SECTION I
The President and the Vice-President of the Republic

Article 76. The Executive Power is exercised by the President of the Republic, assisted by the Ministers of State.

Article 77. The election of the President and Vice-President of the Republic shall take place simultaneously, on the first Sunday of October, in the first round, and on the last Sunday of October, in the second round, as the case may be, of the year preceding the one in which the current presidential term of office ends. (CA No. 16, 1997)

Paragraph 1. The election of the President of the Republic shall imply the election of the Vice-President registered with him.

Paragraph 2. The candidate who, being registered by a political party, obtains an absolute majority of votes, not counting blank or void votes, shall be considered elected President.

Paragraph 3. If no candidate attains an absolute majority in the first voting, another election shall be held within twenty days from the announcement of the results, the competition being between the two candidates with the highest number of votes, and being considered elected the candidate with the majority of valid votes.

Paragraph 4. Should one of the candidates, before the second round of voting is held, die, withdraw or become legally impaired, the candidate with the highest number of votes among the remaining candidates shall be called.

Paragraph 5. If in the event of the preceding paragraphs, more than one candidate with an equal number of votes remain in second place, the eldest one shall qualify.

Article 78. The President and the Vice-President of the Republic shall take office in a session of the National Congress, pledging to maintain, defend and carry out the Constitution, obey the laws, promote the general well-being of the Brazilian people, sustain the union, the integrity and the independence of Brazil.

Sole paragraph. In the event that, after ten days from the date scheduled for the inauguration, the President or the Vice-President, except by reason of *force majeure*, has not taken office, the office shall be declared vacant.

Article 79. The Vice-President shall replace the President in the event of impediment and shall succeed him in the event of vacancy.

Sole paragraph. In addition to other duties attributed to him by a supplementary law, the Vice-President shall assist the President whenever summoned by him for special missions.

Article 80. In the event of impediment of the President and of the Vice-President, or of vacancy of the respective offices, the President of the Chamber of Deputies, the President of the Senate and the Chief Justice of the Supreme Federal Court shall be called successively to exercise the Presidency.

Article 81. In the event of vacancy of the offices of President and Vice-President of the Republic, elections shall be held ninety days after the occurrence of the last vacancy.

Paragraph 1. If the vacancy occurs during the last two years of the President's term of office, the National Congress shall hold elections for both offices thirty days after the last vacancy, as established by law.

Paragraph 2. In any of the cases, those elected shall complete the term of office of their predecessors.

Article 82. The term of office of the President of the Republic is four years, and it shall commence on January 1 of the year following the year of his election. (CA No. 16, 1997)

Article 83. The President and the Vice-President of the Republic may not, without authorization from the National Congress, leave the country for a period of more than fifteen days, subject to loss of office.

SECTION II
Duties of the President of the Republic

Article 84. The President of the Republic shall have the exclusive power to: (CA No. 23, 1999; CA No. 32, 2001)

I – appoint and dismiss the Ministers of State;

II – exercise, with the assistance of the Ministers of State, the higher management of the federal administration;

III – start the legislative procedure, in the manner and in the cases set forth in this Constitution;

IV – sanction, promulgate and order the publication of laws, as well as to issue decrees and regulations for the true enforcement thereof;

V – veto bills, wholly or in part;

VI – provide for the following, by means of a decree:

a) organization and operation of federal government services, whenever no augmentation of expenditures or creation or abolishment of government bodies is involved;

b) abolishment of public positions or posts, if vacant;

VII – maintain relations with foreign States and to accredit their diplomatic representatives;

VIII – conclude international treaties, conventions and acts, *ad referendum* of the National Congress;

IX – decree the state of defense and the state of siege;

X – decree and enforce federal intervention;

XI – upon the opening of the legislative session, send a government message and plan to the National Congress, describing the state of the nation and requesting the actions he deems necessary;

XII – grant pardons and reduce sentences, after hearing the entities instituted by law, if necessary;

XIII – exercise the supreme command of the Armed Forces, to appoint the Commanders of the Navy, the Army, and the Air Force, to promote general officers and to appoint them to the offices held exclusively by them;

XIV – appoint, after approval by the Senate, the Justices of the Supreme Federal Court and those of the superior courts, the Governors of the territories, the Attorney-General of the Republic, the President and the Directors of the Central Bank and other civil servants, when established by law;

XV – appoint, with due regard for the provisions of article 73, the Justices of the Federal Audit Court;

XVI – appoint judges in the events established by this Constitution and the Advocate-General of the Union;

XVII – appoint members of the Council of the Republic, in accordance with article 89, VII;

XVIII – call and preside over the Council of the Republic and the National Defense Council;

XIX – declare war, in the event of foreign aggression, authorized by the National Congress or confirmed by it, whenever it occurs between legislative sessions and, under the same conditions, to decree full or partial national mobilization;

XX – make peace, authorized or confirmed by the National Congress;

XXI – award decorations and honorary distinctions;

XXII – permit, in the cases set forth by supplementary law, foreign forces to pass through the national territory, or to remain temporarily therein;

XXIII – submit to the National Congress the pluriannual plan, the bill of budgetary directives and the budget proposals set forth in this Constitution;

XXIV – render, each year, accounts to the National Congress concerning the previous fiscal year, within sixty days of the opening of the legislative session;

XXV – fill and abolish federal government positions, as set forth by law;

XXVI – issue provisional measures, with force of law, according to article 62;

XXVII – perform other duties set forth in this Constitution.

Sole paragraph. The President of the Republic may delegate the duties mentioned in items VI, XII and XXV, first part, to the Ministers of State, to the Attorney-General of the Republic or to the Advocate-General of the Union, who shall observe the limitations established in the respective delegations.

SECTION III
Liability of the President of the Republic

Article 85. Those acts of the President of the Republic which attempt on the Federal Constitution and especially on the following, are crimes of malversation:

I – the existence of the Union;

II – the free exercise of the Legislative Power, the Judicial Power, the Public Prosecution and the constitutional Powers of the units of the Federation;

III – the exercise of political, individual and social rights;

IV – the internal security of the country;

V – probity in the administration;

VI – the budgetary law;

VII – compliance with the laws and with court decisions.

Sole paragraph. These crimes shall be defined in a special law, which shall establish the rules of procedure and trial.

Article 86. If charges against the President of the Republic are accepted by two-thirds of the Chamber of Deputies, he shall be submitted to trial before the Supreme Federal Court for common criminal offenses or before the Federal Senate for crimes of malversation.

Paragraph 1. The President shall be suspended from his functions:

I – in common criminal offenses, if the accusation or the complaint is received by the Federal Supreme Court;

II – in the event of crimes of malversation, after the proceeding is instituted by the Federal Senate.

Paragraph 2. If, after a period of one hundred and eighty days, the trial has not been concluded, the suspension of the President shall cease without prejudice to the normal progress of the proceeding.

Paragraph 3. In the event of common offenses, the President of the Republic shall not be subject to arrest as long as no sentence is rendered.

Paragraph 4. During his term of office, the President of the Republic may not be held liable to acts outside the performance of his functions.

SECTION IV
The Ministers of State

Article 87. The Ministers of State shall be chosen from among Brazilians over twenty-one years of age and in possession of their political rights.

Sole paragraph. The Minister of State, in addition to other duties established in this Constitution and in the law, has the power to:

I – exercise guidance, coordination and supervision of the agencies and entities of the federal administration in the area of his authority and to countersign acts and decrees signed by the President of the Republic;

II – issue instructions for the enforcement of laws, decrees and regulations;

III – submit to the President of the Republic an annual report on his administration of the Ministry;

IV – perform the acts pertinent to the duties assigned or delegated to him by the President of the Republic.

Article 88. The law shall provide for the creation and abolishment of Ministries and government bodies. (CA No. 32, 2001)

SECTION V
The Council of the Republic and the National Defense Council

SUBSECTION I
The Council of the Republic

Article 89. The Council of the Republic is a higher body for consultation by the President of the Republic, and its members are:

I – the Vice-President of the Republic;

II – the President of the Chamber of Deputies;

III – the President of the Federal Senate;

IV – the majority and the minority leaders in the Chamber of Deputies;

V – the majority and the minority leaders in the Federal Senate;

VI – the Minister of Justice;

VII – six born Brazilian citizens, with over thirty-five years of age, two of which appointed by the President of the Republic, two elected by the Federal Senate and two elected by the Chamber of Deputies, all with a term of office of three years, the re-appointment being prohibited.

Article 90. The Council of the Republic has the competence to express opinion on:

I – federal intervention, state of defense and state of siege;

II – matters relevant to the stability of the democratic institutions.

Paragraph 1. The President of the Republic may call a State Minister to participate in the Council meeting, when the agenda includes a matter related to the respective Ministry.

Paragraph 2. The organization and operation of the Council of the Republic shall be regulated by law.

SUBSECTION II
The National Defense Council

Article 91. The National Defense Council is a consultation body of the President of the Republic on matters related to national sovereignty and the defense of the democratic state, and the following participate in it as natural members: (CA No. 23, 1999)

I – the Vice-President of the Republic;

II – the President of the Chamber of Deputies;

III – the President of the Federal Senate;

IV – the Minister of Justice;

V – the Minister of Defense;

VI – the Minister of External Relations;

VII – the Minister of Planning;

VIII – the Commanders of the Navy, the Army, and the Air Force.

Paragraph 1. It is the competence of the National Defense Council:

I – to express opinion in the event of declaration of war and making of peace, as established in this Constitution;

II – to express opinion on the decreeing of state of defense, state of siege and federal intervention;

III – to propose the criteria and conditions for the use of areas which are indispensable to the security of the national territory and to express opinion on their actual use, especially on the boundary zone and on those related to the preservation and exploitation of natural resources of any kind;

IV – to study, propose and monitor the development of initiatives required to guarantee national independence and the defense of the democratic state.

Paragraph 2. The organization and the operation of the National Defense Council shall be regulated by law.

CHAPTER III
The Judicial Power

SECTION I
General Provisions

Article 92. The following are the bodies of the Judicial Power: (CA No. 45, 2004)

I – the Supreme Federal Court;

I-A – the National Council of Justice;

II – the Superior Court of Justice;

III – the Federal Regional Courts and the Federal Judges;

IV – the Labour Courts and Judges;

V – the Electoral Courts and Judges;

VI – the Military Courts and Judges;

VII – the Courts and Judges of the states, of the Federal District and of the territories.

Paragraph 1. The Supreme Federal Court, the National Council of Justice, and the Superior Courts have their seat in the Federal Capital.

Paragraph 2. The Supreme Federal Court and the Superior Courts have their jurisdiction over the entire Brazilian territory.

Article 93. A supplementary law, proposed by the Supreme Federal Court, shall provide for the Statute of the Judicature, observing the following principles: (CA No. 19, 1998; CA No. 20, 1998; CA No. 45, 2004)

I – admission into the career, with the initial post of substitute judge, by means of a civil service entrance examination of tests and presentation of academic and professional credentials, with the participation of the Brazilian Bar Association in all phases, at least three years of legal practice being required of holders of a B.A. in law, and obeying the order of classification for appointments;

II – promotion from level to level, based on seniority and merit, alternately, observing the following rules:

a) the promotion of a judge who has appeared in a merit list for three consecutive times or for five alternate times is mandatory;

b) merit promotion requires two years in office in the respective level and that the judge should appear in the top fifth part of the seniority list of such level, unless no one satisfying such requirements is willing to accept the vacant post;

c) appraisal of merit according to performance and to the objective criteria of productivity and promptness in the exercise of the jurisdictional function and according to attendance and achievement in official or recognized improvement courses;

d) in determining seniority, the court may only reject the judge with the longest service by the justified vote of two-thirds of its members, according to a specific procedure, full defense being ensured, the voting being repeated until the selection is concluded;

e) promotion shall not be granted to a judge who unjustifiably withholds case records beyond the legal deadline, and he may not return them to the court archives without providing the necessary disposition thereof or decision thereon;

III – access to the courts of second instance shall obey seniority and merit, alternately, as determined at the last or single level;

IV – provision of official courses for preparation, improvement, and promotion of judges, while the participation in an official course or in a course recognized by a national school for the education and further development of judges shall constitute a mandatory stage of the tenure acquisition process;

V – the compensation of the Justices of the Superior Courts shall correspond to ninety-five percent of the monthly compensation stipulated for the Justices of the Supreme Federal Court, and the compensation of the other judges shall be stipulated by law and distributed, at the federal and state levels, according to the respective categories of the national judiciary structure, and the difference between categories may not be higher than ten per cent or lower than five per cent, nor higher than ninety-five per cent of the monthly compensation of the Justices of the Superior Courts, with due regard, in any of the cases, for the provisions of articles 37, XI, and 39, paragraph 4;

VI – the retirement of judges as well as the granting of pensions for their dependents shall comply with the provisions of article 40;

VII – a permanent judge shall reside in the respective judicial district, except when otherwise authorized by the court;

VIII – the acts of removal, of placement on paid availability, and of retirement of a judge, for public interest, shall be based on a decision by the vote of the absolute majority of the respective court or of the National Council of Justice, full defense being ensured;

VIII-A – the removal upon request or the exchange of judges of same-level judicial districts shall obey, insofar as pertinent, the provisions of subitems *a*, *b*, *c*, and *e* of item II;

IX – all judgements of the bodies of the Judicial Power shall be public, and all decisions shall be justified, under penalty of nullity, but the law may limit attendance, in given acts, to the interested parties and to their lawyers, or only to the latter, whenever preservation of the right to privacy of the party interested in confidentiality will not harm the right of the public interest to information;

X – administrative decisions of courts shall be supported by a recital and shall be made in open session, and disciplinary decisions shall be taken by the vote of the absolute majority of their members;

XI – in courts with more than twenty-five judges, a special body may be constituted, with a minimum of eleven and a maximum of twenty-five members, to exercise delegated administrative and jurisdictional duties which are under the powers of the full court, half of the positions being filled according to seniority and the other half through election by the full court;

XII – courts will operate continuously, without interruption, collective vacation being forbidden for first instance judges and courts of second instance, and there must be judges on duty at all times on days in which courts are closed;

XIII – the number of judges in each court shall be proportional to the effective judicial demand and to the respective population;

XIV – court employees will receive delegation to carry out administrative acts and acts aimed at the mere disposition of matters, without a decisional nature;

XV – proceedings will be assigned immediately upon filing, at all levels of jurisdiction.

Article 94. One-fifth of the seats of the Federal Regional Courts, of the Courts of the States, and of the Federal District and the Territories shall be occupied by members of the Public Prosecution, with over ten years of office, and by lawyers of notable juridical learning and spotless reputation, with over ten years of effective professional activity, nominated in a list of six names by the entities representing the respective classes.

Sole paragraph. Upon receiving the nominations, the court shall organize a list of three names and shall send it to the Executive Power, which shall, within the subsequent twenty days, select one of the listed names for appointment.

Article 95. Judges enjoy the following guarantees: (CA No. 19, 1998; CA No. 45, 2004)

I – life tenure, which, at first instance, shall only be acquired after two years in office, loss of office being dependent, during this period, on deliberation of the court to which the judge is subject, and, in other cases, on a final and unappealable judicial decision;

II – irremovability, save for reason of public interest, under the terms of article 93, VIII;

III – irreducibility of compensation, except for the provisions of articles 37, X and XI, 39, paragraph 4, 150, II, 153, III, and 153, paragraph 2, I.

Sole paragraph. Judges are forbidden to:

I – hold, even when on paid availability, another office or position, except for a teaching position;

II – receive, on any account or for any reason, court costs or participation in a lawsuit;

III – engage in political or party activities;

IV – receive, on any account or for any reason, financial aid or contribution from individuals, and from public or private institutions, save for the exceptions set forth in law;

V – practice law in the court or tribunal on which they served as judges, for a period of three years following their retirement or discharge.

Article 96. It is of the exclusive competence of: (CA No. 41, 2003)

I – the courts:

a) to elect their directive bodies and to draw up their internal regulations, in compliance with the rules of proceedings and the procedural guarantees of the parties, and regulating the competence and the operation of the respective jurisdictional and administrative bodies;

b) to organize their secretariats and auxiliary services, as well as those of the tribunals connected with them, guaranteeing the exercise of the respective inspection activities;

c) to fill, under the terms of this Constitution, offices of career judges within their respective jurisdiction;

d) to propose the creation of new courts of first instance;

e) to fill, by means of a civil service entrance examination of tests, or of tests and presentation of academic and professional credentials, according to the provisions of article 169, sole paragraph[3], the offices required for the administration of justice, except for the positions of trust as defined in law;

f) to grant leave, vacations and other absences to their members and to the judges and employees who are immediately subordinated to them;

II – the Supreme Federal Court, the Superior Courts and the Courts of Justice, to propose to the respective Legislative Power, with due regard for the provisions of article 169:

a) alteration in the number of members of the lower courts;

b) creation and abolishment of offices and the remuneration of the auxiliary services and of the courts connected with them, as well as the establishment of the compensation for their members and for the judges, including those of the lower courts, if existing;

c) creation or abolishment of lower courts;

d) alteration of the judicial organization and division;

III – the Courts of Justice, to try judges of the states, of the Federal District and of the Territories, as well as members of the Public Prosecution, for common crimes and crimes of malversation, except in those cases within the competency of the Electoral Courts.

[3] Should read as "paragraph 1", by virtue of the provisions of CA no. 19/1998.

Article 97. The courts may declare a law or a normative act of the Government unconstitutional only by the vote of the absolute majority of their members or of the members of the respective special body.

Article 98. The Union, in the Federal District and in the territories, and the states shall create: (CA No. 22, 1999; CA No. 45, 2004)

I – special courts, filled by togated judges, or by togated and lay judges, with powers for conciliation, judgement and execution of civil suits of lesser complexity and criminal offenses of lower offensive potential, by oral and summary proceedings, allowing, in the cases established in law, the settlement and judgement of appeals by panels of judges of first instance;

II – remunerated justice of peace, formed by citizens elected by direct, universal and secret vote, with a term of office of four years and competence to, under the terms of the law, perform marriages, examine qualification proceedings, *ex officio* or in view of the presentation of a challenge, and exercise conciliatory functions, of a non-jurisdictional nature, besides others established by law.

Paragraph 1. Federal legislation shall provide for the establishment of special courts within Federal Justice.

Paragraph 2. Judicial costs and fees shall be assigned exclusively to fund services related to activities which are specific of Justice.

Article 99. The Judicial Power is ensured of administrative and financial autonomy. (CA No. 45, 2004)

Paragraph 1. The courts shall prepare their budget proposals, within the limits stipulated jointly with the other Powers in the law of budgetary directives.

Paragraph 2. The proposal shall, after hearing the other interested courts, be forwarded:

I – at the federal level, by the presidents of the Supreme Federal Court and of the Superior Courts, with the approval of the respective courts;

II – at the level of the states and of the Federal District and the territories, by the presidents of the Courts of Justice, with the approval of the respective courts.

Paragraph 3. If the government bodies referred to in paragraph 2 do not forward their respective budget proposals within the time period stipulated in the law of budgetary directives, the Executive Power shall, with a view to engrossing the annual budget proposal, take into account the figures approved in the current budgetary law, such figures adjusted in accordance with the limits stipulated under the terms of paragraph 1 of this article.

Paragraph 4. If the budget proposals referred to in this article and thus forwarded do not obey the limits stipulated under paragraph 1, the Executive Power shall effect the necessary adjustments with a view to engrossing the annual budget proposal.

Paragraph 5. In the implementation of the budget of a specific fiscal year, no expenses may be incurred and no obligations may be assumed that exceed the limits

stipulated in the law of budgetary directives, except when previously authorized, by opening supplementary or special credits.

Article 100. Payments owed by the federal, state, Federal District, or municipal treasuries, by virtue of a court decision, shall be made exclusively in chronological order of submission of court orders and charged to the respective credits, it being forbidden to designate cases or persons in the budgetary appropriations and in the additional credits opened for such purpose. (CA No. 20, 1998; CA No. 30, 2000; CA No. 37, 2002; CA No. 62, 2009)

Paragraph 1. Support-related debts include those arising from wages, salaries, pay, pensions, and their supplementations, social security benefits and compensation for death and disability, such compensation being based on civil liability, by virtue of a final and unappealable judicial decision, and shall be paid before any other debts, except those referred to in Paragraph 2 of this article.

Paragraph 2. Support-related debts owed to persons aged 60 (sixty) or over on the date the respective court order is issued, or to persons with serious diseases, as defined by law, shall be paid before any other debts, up to an amount equivalent to three times the amount stipulated by law for the purposes of Paragraph 3 of this article, parceling for such end being permitted, whereas the remaining amount shall be paid according to the chronological order of submission of respective court order.

Paragraph 3. The provision contained in the head paragraph of this article, regarding the issuance of court orders, does not apply to obligations defined by law as small amounts, which must be paid by the treasuries herein referred to by virtue of a final and unappealable court decision.

Paragraph 4. For the purposes of the provision of Paragraph 3, different amounts may be stipulated for the federating units through their own legislation and according to their various economic capabilities, whereas the minimum amount shall be equal to the amount of the highest benefit paid by the general Social Security scheme.

Paragraph 5. It is mandatory for the budgets of the federating units to include the funds required for payment of debts arising from final and unappealable judicial decisions, stated in court orders submitted until or on July 1, and payment shall be made before the close of the subsequent fiscal year, on which date their amounts shall be adjusted for inflation.

Paragraph 6. The budgetary allocations and the credits opened shall be assigned to the Judicial Power, it being within the competence of the Presiding Judge of the Court which rendered the decision of execution to determine full payment and to authorize – upon petition of a creditor and exclusively in the event that his right of precedence is not respected or that the amount necessary to satisfy the debt has not been set aside – attachment of the respective amount.

Paragraph 7. The Presiding Judge of the appropriate Court who, by means of an act or omission, delays or attempts to frustrate the regular payment of a court-ordered debt shall be liable to crime of malversation and shall also appear before the National Council of Justice.

Paragraph 8. The issuance of a court order as a supplementation to or in addition to an amount already paid, as well as the parceling, apportionment, or reduction of

the amount under execution – so that the provision of Paragraph 3 may be applied to a portion of the total amount – are forbidden.

Paragraph 9. At the time a court order is issued, irrespective of the relevant regulation, there shall be deducted from such court order, for the purpose of a set-off, an amount corresponding to clear legal debits, either registered or not under debts in execution and attributed to the original creditor by the Treasury in debt, including future accruing installments of parcelings, save for those whose execution has been stayed by virtue of administrative or judicial challenge.

Paragraph 10. Before a court order is issued, the relevant court shall request that the Treasury in debt must provide, within 30 (thirty) days, otherwise subject to loss of the right to offset, information on the debits which meet the conditions stipulated in Paragraph 9, for the purposes set forth in said Paragraph.

Paragraph 11. In accordance with legislation of the federating unit in debt, a creditor may employ court order credits to purchase public property belonging to the respective federating unit.

Paragraph 12. As from the date Constitutional Amendment no. 62 is enacted, the amounts stated in court orders, after such court orders are issued up until effective payment, irrespective of their nature, shall be adjusted according to the official rate applied to savings accounts, whereas, for the purpose of compensation of delay in the payment, simple interest will be applied at the same percentage of interest applied to savings accounts, the employment of compensatory interest being excluded.

Paragraph 13. Creditors may assign their court order credits, in whole or in part, to third parties, irrespective of consent by the debtor, and the provisions of Paragraphs 2 and 3 shall not be applied to the assignee.

Paragraph 14. Assignment of court order credits shall only produce effects after communication to the court of origin and to the federating unit in debt by filing a relevant petition.

Paragraph 15. Without prejudice to the provisions of this article, a supplementary law to this Federal Constitution may establish a special regime for the payment of court-ordered debts owed by States, the Federal District, and Municipalities, providing for earmarked net current revenues and for payment term and methods.

Paragraph 16. The Federal Government may, at its own discretion and under the terms of relevant law, take on debts resulting from court orders issued against a State, the Federal District, or a Municipality, and refinance them directly.

SECTION II
The Supreme Federal Court

Article 101. The Supreme Federal Court is composed of eleven Justices, chosen from among citizens over thirty-five and under sixty-five years of age, of notable juridical learning and spotless reputation.

Sole paragraph. The Justices of the Supreme Federal Court shall be appointed by the President of the Republic, after their nomination has been approved by the absolute majority of the Federal Senate.

Article 102. The Supreme Federal Court is responsible, essentially, for safeguarding the Constitution, and it is within its competence: (CA No. 3, 1993; CA No. 22, 1999; CA No. 23, 1999; CA No. 45, 2004)

I – to institute legal proceeding and trial, in the first instance, of:

a) direct actions of unconstitutionality of a federal or state law or normative act, and declaratory actions of constitutionality of a federal law or normative act;

b) in common criminal offenses, the President of the Republic, the Vice-President, the members of the National Congress, its own Justices and the Attorney-General of the Republic;

c) in common criminal offenses and crimes of malversation, the Ministers of State and the Commanders of the Navy, the Army, and the Air Force, except as provided in article 52, I, the members of the Superior Courts, those of the Federal Audit Court and the heads of permanent diplomatic missions;

d) *habeas corpus*, when the petitioner is any one of the persons referred to in the preceding subitems; the writ of mandamus and *habeas data* against acts of the President of the Republic, of the Directing Boards of the Chamber of Deputies and of the Federal Senate, of the Federal Audit Court, of the Attorney-General of the Republic and of the Supreme Federal Court itself;

e) litigation between a foreign State or an international organization and the Union, a state, the Federal District or a territory;

f) disputes and conflicts between the Union and the states, the Union and the Federal District, or between one another, including the respective indirect administration bodies;

g) extradition requested by a foreign state;

h) (revoked);

i) *habeas corpus*, when the constraining party is a Superior Court, or when the constraining party or the petitioner is an authority or employee whose acts are directly subject to the jurisdiction of the Supreme Federal Court, or in the case of a crime, subject to the same jurisdiction in one sole instance;

j) criminal review of and actions to overrule its final judgements;

l) claims for the preservation of its powers and guarantee of the authority of its decisions;

m) enforcement of court decisions in the cases where it has original competence, the delegation of duties to perform procedural acts being allowed;

n) a suit in which all members of the judicature are directly or indirectly involved, and a suit in which more than half of the members of the court of origin are disqualified or have a direct or indirect interest;

o) conflicts of powers between the Superior Court of Justice and any other courts, between Superior Courts, or betweeen the latter and any other court;

p) petitions of provisional remedy in direct actions of unconstitutionality;

q) writs of injunction, when drawing up of the regulation is the responsibility of the President of the Republic, of the National Congress, of the Chamber of Deputies, of the Federal Senate, of the Directing Boards of one of these legislative houses, of the Federal Audit Court, of one of the Superior Courts, or of the Supreme Federal Court itself;

r) lawsuits against the National Council of Justice and against the National Council of the Public Prosecution;

II – to judge on ordinary appeal:

a) *habeas corpus*, writs of mandamus, *habeas data* and writs of injunction decided in a sole instance by the Superior Courts, in the event of a denial;

b) political crimes;

III – to judge, on extraordinary appeal, cases decided in a sole or last instance, when the decision appealed:

a) is contrary to a provision of this Constitution;

b) declares a treaty or a federal law unconstitutional;

c) considers valid a law or act of a local government contested in the light of this Constitution;

d) considers valid a local law challenged in the light of a federal law.

Paragraph 1. A claim of non-compliance with a fundamental precept deriving from this Constitution shall be examined by the Supreme Federal Court, under the terms of the law.

Paragraph 2. Final decisions on merits, pronounced by the Supreme Federal Court, in direct actions of unconstitutionality and declaratory actions of constitutionality shall have force against all, as well as a binding effect, as regards the other bodies of the Judicial Power and the governmental entities and entities owned by the Federal Government, in the federal, state, and local levels.

Paragraph 3. In an extraordinary appeal, the appealing party must demonstrate the general repercussion of the constitutional issues discussed in the case, under the terms of the law, so that the Court may examine the possibility of accepting the appeal, and it may only reject it through the opinion of two thirds of its members.

Article 103. The following may file direct actions of unconstitutionality and declaratory actions of constitutionality: (CA No. 3, 1993; CA No. 45, 2004)

I – the President of the Republic;

II – the directing board of the Federal Senate;

III – the directing board of the Chamber of Deputies;

IV – the Directing Board of a State Legislative Assembly or of the Federal District Legislative Chamber;

V – a State Governor or the Federal District Governor;

VI – the Attorney-General of the Republic;

VII – the Federal Council of the Brazilian Bar Association;

VIII – a political party represented in the National Congress;

IX – a confederation of labour unions or a professional association of a nationwide nature.

Paragraph 1. The Attorney-General of the Republic shall be previously heard in actions of unconstitutionality and in all suits under the power of the Supreme Federal Court.

Paragraph 2. When unconstitutionality is declared on account of lack of a measure to render a constitutional provision effective, the competent Power shall be notified for the adoption of the necessary actions and, in the case of an administrative body, to do so within thirty days.

Paragraph 3. When the Supreme Federal Court examines the unconstitutionality in abstract of a legal provision or normative act, it shall first summon the Advocate-General of the Union, who shall defend the impugned act or text.

Paragraph 4. (Revoked).

Article 103-A. The Federal Supreme Court may, *ex-officio* or upon request, upon decision of two thirds of its members, and following reiterated judicial decisions on constitutional matter, issue a summula (restatement of case law) which, as from publication in the official press, shall have a binding effect upon the lower bodies of the Judicial Power and the direct and indirect public administration, in the federal, state, and local levels, and which may also be reviewed or revoked, as set forth in law. (CA No. 45, 2004)

Paragraph 1. The purpose of a summula is to validate, construe, and impart effectiveness to some rules about which there is a current controversy among judicial bodies or among such bodies and the public administration, and such controversy brings about serious juridical insecurity and the filing of multiple lawsuits involving similar issues.

Paragraph 2. Without prejudice to the provisions the law may establish, the issuance, review, or revocation of a summula may be requested by those who may file a direct action of unconstitutionality.

Paragraph 3. An administrative act or judicial decision which contradicts the applicable summula or which unduly applies a summula may be appealed to the Supreme Federal Court, and if the appeal is granted, such Court shall declare the administrative act null and void or overrule the appealed judicial decision, ordering that a new judicial decision be issued, with or without applying the summula, as the case may be.

Article 103-B. The National Council of Justice is composed of 15 (fifteen) members appointed for a two-year term of office, one reappointment being permitted, as follows: (CA No. 45, 2004; CA No. 61, 2009)

I – the Chief Justice of the Supreme Federal Court;

II – a Justice of the Superior Court of Justice, nominated by said Court;

III – a Justice of the Superior Labour Court, nominated by said Court;

IV – a judge of a State Court of Justice, nominated by the Supreme Federal Court;

V – a state judge, nominated by the Supreme Federal Court;

VI – a judge of a Federal Regional Court, nominated by the Superior Court of Justice;

VII – a federal judge, nominated by the Superior Court of Justice;

VIII – a judge of a Regional Labour Court, nominated by the Superior Labour Court;

IX – a labour judge, nominated by the Superior Labour Court;

X – a member of the Public Prosecution of the Union, nominated by the Attorney-General of the Republic;

XI – a member of a state Public Prosecution, chosen by the Attorney-General of the Republic from among the names indicated by the competent body of each state institution;

XII – two lawyers, nominated by the Federal Board of the Brazilian Bar Association;

XIII – two citizens of notable juridical learning and spotless reputation, one of whom nominated by the Chamber of Deputies and the other one by the Federal Senate.

Paragraph 1. The Council shall be presided over by the Chief Justice of the Supreme Federal Court and, in the event of his absence or impediment, by the most senior Associate Justice of the Supreme Federal Court.

Paragraph 2. The other members of the Council shall be appointed by the President of the Republic, after their nomination has been approved by the absolute majority of the Federal Senate.

Paragraph 3. If the nominations set forth in this article are not effected within the legal deadline, selection shall be incumbent upon the Federal Supreme Court.

Paragraph 4. It is incumbent upon the Council to control the administrative and financial operation of the Judicial Branch and the proper discharge of official duties by judges, and it shall, in addition to other duties that the Statute of the Judicature may confer upon it:

I – ensure that the Judicial Branch is autonomous and that the Statute of the Judicature is complied with, and it may issue regulatory acts within its jurisdiction, or recommend measures;

II – ensure that article 37 is complied with, and examine, *ex-officio* or upon request, the legality of administrative acts carried out by members or bodies of the Judicial Branch, and it may revoke or review them, or stipulate a deadline for the adoption of the necessary measures to achieve due execution of the law, without prejudice to the powers of the Federal Audit Court;

III – receive and examine complaints against members or bodies of the Judicial Branch, including against its ancillary services, clerical offices, and bodies in charge of notary and registration services which operate by virtue of Government delegation or have been made official, without prejudice to the courts' disciplinary competence and their power to correct administrative acts, and it may order that pending disciplinary proceedings be forwarded to the National Council of Justice, determine the removal, placement on paid availability, or retirement with compensation or pension in proportion to the length of service, and enforce other administrative sanctions, full defense being ensured;

IV – present a formal charge to the Public Prosecution, in the case of crime against public administration or abuse of authority;

V – review, *ex-officio* or upon request, disciplinary proceedings against judges and members of courts tried in the preceding twelve months;

VI – prepare a twice-a-year statistical report on proceedings and judgements rendered per unit of the Federation in the various bodies of the Judicial Branch;

VII – prepare a yearly report, including the measures it deems necessary, on the state of the Judicial Branch in the Country and on the Council's activities, which report must be an integral part of a message to be forwarded by the Chief Justice of the Supreme Federal Court to the National Congress upon the opening of the legislative session.

Paragraph 5. The Justice of the Superior Court of Justice shall occupy the position of Corregidor-Justice, in charge of internal affairs, and he shall be excluded from the assignment of proceedings in said Court, the following duties being incumbent upon him, in addition to those that may be conferred upon him by the Statute of the Judicature:

I – to receive complaints and accusations from any interested party regarding judges and judiciary services;

II – to exercise executive functions of the Council concerning inspection and general correction;

III – to requisition and appoint judges, charging them with specific duties, and to requisition court employees, including in the States, the Federal District, and the Territories.

Paragraph 6. The Attorney General of the Republic and the Chairman of the Federal Board of the Brazilian Bar Association shall be competent to petition before the Council.

Paragraph 7. The Union shall establish Justice ombudsman's offices, including in the Federal District and in the Territories, with powers to receive complaints and accusations from any interested party against members or bodies of the Judicial Branch, or against their ancillary services, thus presenting formal charges directly to the National Council of Justice.

SECTION III
The Superior Court of Justice

Article 104. The Superior Court of Justice is composed of a minimum of thirty-three Justices. (CA No. 45, 2004)

Sole paragraph. The Justices of the Superior Court of Justice shall be appointed by the President of the Republic chosen from among Brazilians over thirty-five and under sixty-five years of age, of notable juridical learning and spotless reputation, after the nomination has been approved by the absolute majority of the Federal Senate, as follows:

I – one-third shall be chosen from among judges of the Federal Regional Courts and one-third from among judges of the Courts of Justice, nominated in a list of three names prepared by the Court itself;

II – one-third, in equal parts, shall be chosen from among lawyers and members of the Federal Public Prosecution, the Public Prosecution of the states, the Public Prosecution of the Federal District and the Territories, alternately, nominated under the terms of article 94.

Article 105. The Superior Court of Justice has the competence to: (CA No. 23, 1999; CA No. 45, 2004)

I – institute legal proceeding and trial, in the first instance, of:

a) in common crimes, the Governors of the states and of the Federal District, and, in such crimes and in crimes of malversation, the judges of the Courts of Justice of the states and of the Federal District, the members of the Audit Courts of the states and of the Federal District, those of the Federal Regional Courts, of the Regional Electoral and Labour Courts, the members of Audit Councils or Courts of the municipalities and the members of the Public Prosecution of the Union who act before courts;

b) writs of mandamus and *habeas data* against an act of a Minister of State, of the Commanders of the Navy, the Army, and the Air Force, or of the Court itself;

c) *habeas corpus*, when the constraining party or the petitioner is any of the persons mentioned in subitem *a*, or when the constraining party is a court subject to its jurisdiction, a Minister of State or Commander of the Navy, the Army, or the Air Force, except for the competence of the Electoral Courts;

d) conflicts of competence between any courts, except as provided in article 102, I, *o*, as well as between a court and the judges not subject to it and between judges subject to different courts;

e) criminal review of and actions to overrule its final judgements;

f) claims for the preservation of its competence and guarantee of the authority of its decisions;

g) conflicts of duties between administrative and judicial authorities of the Union, or between judicial authorities of one state and administrative authorities of another or of the Federal District, or between those of the latter and those of the Union;

h) writs of injunction, when the drawing up of a regulation is the responsibility of a federal body, entity, or authority, of the direct or indirect administration, with the exception of the cases within the competence of the Supreme Federal Court and of the bodies of the Military Justice, of the Electoral Justice, of the Labour Justice and of the Federal Justice;

i) the homologation of foreign court decisions and the granting of exequatur to letters rogatory;

II – judge, on ordinary appeal:

a) *habeas corpus* decided in a sole or last instance by the Federal Regional Courts or by the courts of the states, of the Federal District and the Territories, in the event of a denial;

b) writs of mandamus decided in a sole instance by the Federal Regional Courts or by the courts of the states, of the Federal District and the Territories, in the event of a denial;

c) cases in which the parties are a foreign state or international organization, on the one part, and a municipality or a person residing or domiciled in the country, on the other part;

III – judge, on special appeal, the cases decided, in a sole or last instance, by the Federal Regional Courts or by the courts of the states, of the Federal District and the Territories, when the decision appealed:

a) is contrary to a treaty or a federal law, or denies it effectiveness;

b) considers valid an act of a local government challenged in the light of a federal law;

c) confers upon a federal law an interpretation different from that which has been conferred upon it by another court.

Sole paragraph. The following shall operate in conjunction with the Superior Court of Justice:

I – the National School for the Education and Further Development of Judges, which shall be in charge, among other duties, of regulating the official courses for admission into and promotion in the career;

II – the Council of Federal Justice, which shall, under the terms of the law, exercise administrative and budgetary supervision over the Federal Courts of first and second instances, in the quality of the main body of the system, having powers to correct administrative acts, and whose decisions shall have a binding nature.

SECTION IV
The Federal Regional Courts and the Federal Judges

Article 106. The following are the bodies of Federal Justice:

I – the Federal Regional Courts;

II – the Federal Judges.

Article 107. The Federal Regional Courts are composed of a minimum of seven judges, selected, whenever possible, in the respective region and nominated by the President of the Republic from among Brazilians over thirty and under sixty-five years of age, as follows: (CA No. 45, 2004)

I – one-fifth shall be chosen from among lawyers effectively practicing their professional activity for more than ten years and from among members of the Federal Public Prosecution, with over ten years of service;

II – the others, by means of promotion of federal judges with over five years in office, for seniority and merit, alternately.

Paragraph 1. A law shall regulate the removal or exchange of judges of the Federal Regional Courts and shall determine their jurisdiction and seat.

Paragraph 2. The Federal Regional Courts shall install an itinerant justice system, carrying out hearings and other functions typical of the operation of justice, within the territorial limits of the respective jurisdiction, and making use of public and community facilities.

Paragraph 3. The Federal Regional Courts may operate in a decentralized mode, by creating regional Divisions, with a view to affording claimants full access to justice in all stages of the judicial action.

Article 108. The Federal Regional Courts have the competence to:

I – institute legal proceeding and trial, in the first instance, of:

a) federal judges within the area of their jurisdiction, including those of the Military and Labour Courts, in common crimes and crimes of malversation, and the members of the Public Prosecution of the Union, except for the competence of the Electoral Courts;

b) criminal reviews of and actions to overrule their final judgements or those of the federal judges of the region;

c) writs of mandamus and *habeas data* against an act of the Court itself or of a federal judge;

d) *habeas corpus*, when the constraining authority is a federal judge;

e) conflicts of competence between federal judges subject to the Court;

II – judge, at the level of appeal, cases decided by federal judges and by state judges in the exercise of the federal competence within the area of their jurisdiction.

Article 109. The federal judges have the competence to institute legal proceeding and trial of: (CA No. 45, 2004)

I – cases in which the Union, an autonomous government agency or a federal public company have an interest as plaintiffs, defendants, privies or interveners, with the exception of cases of bankruptcy, of job-related accidents, and of those subject to the Electoral and Labour Courts;

II – cases between a foreign state or international organization and a municipality or a person domiciled or residing in the country;

III – cases based on a treaty or a contract between the Union and a foreign State or international organization;

IV – political crimes and criminal offenses committed against the assets, services or an interest of the Union or of its autonomous agencies or public companies, excluding misdemeanours and excepting the competence of the Military and Electoral Courts;

V – crimes covered by an international treaty or convention, when, the prosecution having started in the country, the result has taken place or should have taken place abroad, or conversely;

V-A – cases regarding human rights referred to in paragraph 5 of this article;

VI – crimes against the organization of labour and, in the cases determined by law, those against the financial system and the economic and financial order;

VII – *habeas corpus*, in criminal matters within their competence or when the coercion is exercised by an authority whose acts are not directly subject to another jurisdiction;

VIII – writs of mandamus and *habeas data* against an act of a federal authority, except for the cases within the competence of the federal courts;

IX – crimes committed aboard ships or aircrafts, excepting the competence of the Military Courts;

X – crimes or irregular entry or stay of a foreigner, execution of letters rogatory, after *exequatur*, and of foreign court decisions, after homologation, cases related to nationality, including the respective option, and to naturalization;

XI – disputes over the rights of Indians.

Paragraph 1. Cases in which the Union is the plaintiff shall be instituted in the judicial section where the other party is domiciled.

Paragraph 2. Cases brought against the Union may be instituted in the judicial section where the plaintiff is domiciled, or where the act or fact giving rise to the suit occurred or where the item is located, or further, in the Federal District.

Paragraph 3. Cases in which the parties are a social security institution and its beneficiary shall undergo legal proceeding and trial in the state courts, in the forum of the domicile of the beneficiaries or insured participants, whenever the district is not the seat of a federal court of first instance, in which case the law may allow other cases to be also processed and judged by the state courts.

Paragraph 4. In the event of the preceding paragraph, the appropriate appeal shall always be taken to the Federal Regional Court within the area of jurisdiction of a judge of first instance.

Paragraph 5. In cases of serious human rights violations, and with a view to ensuring compliance with obligations deriving from international human rights treaties to which Brazil is a party, the Attorney-General of the Republic may request, before the Superior Court of Justice, and in the course of any of the stages of the inquiry or judicial action, that jurisdiction on the matter be taken to Federal Justice.

Article 110. Each state, as well as the Federal District, shall be a judicial section, which shall have its seat in the respective capital, and there shall be courts of first instance located where established in law.

Sole paragraph. In the Federal Territories, the jurisdiction and duties attributed to federal judges shall be within the competence of the judges of the local justice, under the terms of the law.

SECTION V
Labour Courts and Judges

Article 111. The following are the bodies of Labour Justice: (CA No. 24, 1999; CA No. 45, 2004)

I – the Superior Labour Court;

II – the Regional Labour Courts;

III – Labour Judges.

Paragraph 1. (Revoked).

Paragraph 2. (Revoked).

Paragraph 3. (Revoked).

Article 111-A. The Superior Labour Court shall be composed of twenty-seven Justices, chosen from among Brazilians over thirty-five and under sixty-five years of age, appointed by the President of the Republic after approval by the absolute majority of the Federal Senate, as follows: (CA No. 45, 2004)

I – one-fifth from among lawyers effectively practicing their professional activity for more than ten years and from among members of the Labour Public Prosecution with over ten years of effective exercise, with due regard for the provisions of article 94;

II – the others, from among career judges of the Regional Labour Courts, nominated by the Superior Labour Court.

Paragraph 1. The law shall make provisions for the powers of the Superior Labour Court.

Paragraph 2. The following shall operate in conjunction with the Superior Labour Court:

I – the National School for the Education and Further Development of Labour Judges, which shall have the duty, among others, to regulate the official courses for admission into and promotion in the career;

II – the Higher Council of Labour Justice, which shall, under the terms of the law, exercise administrative, budgetary, financial, and property supervision over Labour Courts of first and second instances, in the quality of central body of the system, whose decisions shall have a binding effect.

Article 112. The law shall establish Labour Courts of first instance, allowing, in districts not covered by their jurisdiction, for the attribution of such jurisdiction to judges, appeals being admissible to the respective Regional Labour Court. (CA No. 45, 2004)

Article 113. The law shall regulate the constitution, installation, jurisdiction, powers, guarantees, and conditions of exercise of the bodies of Labour Justice. (CA No. 24, 1999)

Article 114. Labour Justice has the power to hear and try: (CA No. 20, 1998; CA No. 45, 2004)

I – judicial actions arising from labour relations, comprising entities of public international law and of the direct and indirect public administration of the Union, the states, the Federal District, and the municipalities;

II – judicial actions involving the exercise of the right to strike;

III – judicial actions regarding union representation, when the opposing parties are trade unions, or trade unions and workers, or trade unions and employers;

IV – writs of mandamus, *habeas corpus*, and *habeas data*, when the action being challenged involves matter under the jurisdiction of Labour Justice;

V – conflicts of powers between bodies having jurisdiction over labour issues, except as provided under article 102, I, *o*;

VI – judicial actions arising from labour relations which seek compensation for moral or property damages;

VII – judicial actions regarding administrative penalties imposed upon employers by the bodies charged with supervising labour relations;

VIII – *ex-officio* enforcement of the welfare contributions set forth in article 195, I, *a*, and II, and their legal raises, arising from the judgments it pronounces;

IX – other disagreements arising from labour relations, under the terms of the law.

Paragraph 1. If collective negotiations are unsuccessful, the parties may elect arbitrators.

Paragraph 2. If any of the parties refuses collective negotiation or arbitration, they may file a collective labour suit of an economic nature, by mutual agreement, and Labour Courts may settle the conflict, respecting the minimum legal provisions for the protection of labour, as well as any provisions previously agreed upon.

Paragraph 3. In the event of a strike in an essential activity which may possibly injure the public interest, the Labour Public Prosecution may file a collective labour suit, and it is incumbent upon Labour Courts to settle the conflict.

Article 115. The Regional Labour Courts are composed of a minimum of seven judges, selected, whenever possible, in the respective region and appointed by the President of the Republic from among Brazilians over thirty and under sixty-five years of age, as follows: (CA No. 45, 2004)

I – one-fifth shall be chosen from among lawyers effectively practicing their professional activity for more than ten years and from among members of the Labour Public Prosecution with over ten years of effective service, with due regard for the provisions of article 94;

II – the others, by means of promotion of labour judges for seniority and merit, alternately.

Paragraph 1. The Regional Labour Courts shall install an itinerant justice system, carrying out hearings and other functions typical of the operation of justice, within the territorial limits of the respective jurisdiction, and making use of public and community facilities.

Paragraph 2. The Regional Labour Courts may operate in a decentralized mode, by creating regional Divisions, with a view to affording claimants full access to justice in all stages of the judicial action.

Article 116. In the Labour Courts of first instance, jurisdiction shall be exercised by a single judge. (CA No. 24, 1999)

Sole paragraph. (Revoked).

Article 117. (Revoked). (CA No. 24, 1999)

SECTION VI
Electoral Courts and Judges

Article 118. The following are the bodies of Electoral Justice:

I – the Superior Electoral Court;

II – the Regional Electoral Courts;

III – the Electoral Judges;

IV – the Electoral Boards.

Article 119. The Superior Electoral Court shall be composed of a minimum of seven members chosen:

I – through election, by secret vote:

a) three judges from among the Justices of the Supreme Federal Court;

b) two judges from among the Justices of the Superior Court of Justice;

II – through appointment by the President of the Republic, two judges from among six lawyers of notable juridical learning and good moral repute, nominated by the Supreme Federal Court.

Sole paragraph. The Superior Electoral Court shall elect its President and Vice-President from among the Justices of the Supreme Federal Court, and its Electoral Corregidor from among the Justices of the Superior Court of Justice.

Article 120. There shall be a Regional Electoral Court in the capital of each state and in the Federal District.

Paragraph 1. The Regional Electoral Courts shall be composed:

I – through election, by secret vote:

a) of two judges chosen from among the judges of the Court of Justice;

b) of two judges chosen by the Court of Justice from among court judges;

II – of a judge of the Federal Regional Court with its seat in the capital of a state or in the Federal District, or, in the absence thereof, of a federal judge chosen in any case by the respective Federal Regional Court;

III – through appointment by the President of the Republic, of two judges nominated by the Court of Justice from among six lawyers of notable juridical learning and good moral repute.

Paragraph 2. The Regional Electoral Court shall elect its President and Vice-President from among its judges.

Article 121. A supplementary law shall provide for the organization and competence of the electoral courts, judges and boards.

Paragraph 1. The members of the courts, the court judges and the members of the electoral boards, while in office and insofar as applicable to them, shall enjoy full guarantees and shall be non-removable.

Paragraph 2. The Judges of the Electoral Courts, except for a justified reason, shall serve for a minimum of two years, and never for more than two consecutive two-year periods, and their substitutes shall be chosen at the same time and through the same procedure, in equal numbers for each category.

Paragraph 3. The decisions of the Superior Electoral Court are unappealable, save those which are contrary to this Constitution and those denying *habeas corpus* or writs of mandamus.

Paragraph 4. Decisions of the Regional Electoral Courts may only be appealed against when:

I – they are rendered against an express provision of this Constitution or of a law;

II – there is a divergence in the interpretation of a law between two or more electoral courts;

III – they relate to ineligibility or issuance of certificates of electoral victory in federal or state elections;

IV – they annul certificates of electoral victory or decree the loss of federal or state elective offices;

V – they deny *habeas corpus*, writs of mandamus, *habeas data* or writs of injunction.

SECTION VII
Military Courts and Judges

Article 122. The following are the bodies of Military Justice:

I – the Superior Military Court;

II – the Military Courts and Judges instituted by law.

Article 123. The Superior Military Court shall be composed of fifteen life Justices, appointed by the President of the Republic, after their nomination has been approved by the Federal Senate, three of which shall be chosen from among General officers of the Navy, four from among General officers of the Army, three from among General officers of the Air Force, all of them in active service and in the highest rank of the career, and five from among civilians.

Sole paragraph. The civil justices shall be chosen by the President of the Republic from among Brazilians over thirty-five years of age, as follows:

I – three from among lawyers of notable juridical learning and spotless conduct, with over ten years of effective professional activity;

II – two, by equal choice, from among auditor judges and members of the Public Prosecution of the Military Justice.

Article 124. The Military Courts have the competence to carry out legal proceeding and trial of the military crimes defined by law.

Sole paragraph. The law shall make provisions for the organization, operation and competence of the Military Courts.

SECTION VIII
Courts and Judges of the States

Article 125. The states shall organize their judicial system, observing the principles established in this Constitution. (CA No. 45, 2004)

Paragraph 1. The competence of the courts shall be defined in the Constitution of the state, and the law of judicial organization shall be the initiative of the Court of Justice.

Paragraph 2. The states have the competence to institute actions of unconstitutionality of state or municipal laws or normative acts in the light of the Constitution of the state, it being forbidden to attribute legitimation to act to a sole body.

Paragraph 3. By proposal of the Court of Justice, a state law may create the State Military Justice, constituted, at first instance, by judges and by the Councils of Justice and, at second instance, by the Court of Justice itself, or by the Court of Military Justice in those states in which the military troops count more than twenty thousand members.

Paragraph 4. The State Military Justice has the competence to institute legal proceeding and trial of the military of the states for military crimes defined in law, as well as to hear and try judicial actions against military disciplinary measures, with due regard for the competence of the jury when the victim is a civilian, and the competent court shall decide upon the loss of post or rank of officers and of the grade of servicemen.

Paragraph 5. The judges of the military justice system have the competence, in the quality of single-judge courts, to institute legal proceeding and trial of military crimes committed against civilians and to hear and try judicial actions against military disciplinary measures, and it is incumbent upon the Council of Justice, presided over by a judge, to institute legal proceeding and trial of other military crimes.

Paragraph 6. The Court of Justice may operate in a decentralized mode, by creating regional Divisions, with a view to affording claimants full access to justice in all stages of the judicial action.

Paragraph 7. The Court of Justice shall install an itinerant justice system, carrying out hearings and other functions typical of the operation of justice, within the territorial limits of the respective jurisdiction, and making use of public and community facilities.

Article 126. For the settlement of conflicts relating to land property, the Court of Justice shall propose the creation of specialized single-judge courts, with exclusive competence for agrarian matters. (CA No. 45, 2004)

Sole paragraph. Whenever efficient jurisdictional service requires it, the judge shall go personally to the site of the litigation.

CHAPTER IV
The Functions Essential to Justice

SECTION I
The Public Prosecution

Article 127. The Public Prosecution is a permanent institution, essential to the jurisdictional function of the State, and it is its duty to defend the juridical order, the democratic regime and the inalienable social and individual interests. (CA No. 19, 1998; CA No. 45, 2004)

Paragraph 1. Unity, indivisibility and functional independence are institutional principles of the Public Prosecution.

Paragraph 2. The Public Prosecution is ensured of functional and administrative autonomy, and it may, observing the provisions of article 169, propose to the Legislative Power the creation and abolishment of its offices and auxiliary services, filling them through a civil service entrance examination of tests or of tests and presentation of academic and professional credentials, the remuneration policies, and the career plans; the law shall provide for its organization and operation.

Paragraph 3. The Public Prosecution shall prepare its budget proposal within the limits established in the law of budgetary directives.

Paragraph 4. If the Public Prosecution does not forward its respective budget proposal within the time period stipulated in the law of budgetary directives, the Executive Power shall, with a view to engrossing the annual budget proposal, take into account the figures approved in the current budgetary law, such figures adjusted in accordance with the limits stipulated under the terms of paragraph 3.

Paragraph 5. If the budget proposal referred to in this article and thus forwarded does not obey the limits stipulated under paragraph 3, the Executive Power shall effect the necessary adjustments with a view to engrossing the annual budget proposal.

Paragraph 6. In the implementation of the budget of a specific fiscal year, no expenses may be incurred and no obligations may be assumed that exceed the limits stipulated in the law of budgetary directives, except when previously authorized, by opening supplementary or special credits.

Article 128. The Public Prosecution comprises: (CA No. 19, 1998; CA No. 45, 2004)

I – the Public Prosecution of the Union, which includes:

a) the Federal Public Prosecution;

b) the Labour Public Prosecution;

c) the Military Public Prosecution;

d) the Public Prosecution of the Federal District and the Territories;

II – the Public Prosecutions of the states.

Paragraph 1. The head of the Public Prosecution of the Union is the Attorney-General of the Republic, appointed by the President of the Republic from among career members over thirty-five years of age, after his name has been approved by the absolute majority of the members of the Federal Senate, for a term of office of two years, reappointment being allowed.

Paragraph 2. The removal of the Attorney-General of the Republic, on the initiative of the President of the Republic, shall be subject to prior authorization by the absolute majority of the Federal Senate.

Paragraph 3. The Public Prosecutions of the states, of the Federal District and the Territories shall prepare a list of three names from among career members, under the terms of the respective law, for the selection of their Attorney-General, who shall be appointed by the Head of the Executive Power for a term of office of two years, one reappointment being allowed.

Paragraph 4. The Attorneys-General in the states, in the Federal District and the Territories may be removed from office by deliberation of the absolute majority of the Legislative Power, under the terms of the respective supplementary law.

Paragraph 5. Supplementary laws of the Union and of the states, which may be proposed by the respective Attorneys-General, shall establish the organization, the duties and the statute of each Public Prosecution, observing, as regards their members:

I – the following guarantees:

a) life tenure, after two years in office, with loss of office only by a final and unappealable judicial decision;

b) irremovability, save for reason of public interest, through decision of the competent collegiate body of the Public Prosecution, by the vote of the absolute majority of its members, full defense being ensured;

c) irreducibility of compensation, stipulated according to article 39, paragraph 4, and with due regard for the provisions of articles 37, X and XI, 150, II, 153, III, 153, paragraph 2, I;

II – the following prohibitions:

a) receiving, on any account or for any reason, fees, percentages or court costs;

b) practicing the legal profession;

c) participating in a commercial company, under the terms of the law;

d) exercising, even when on paid availability, any other public function, except for a teaching position;

e) engaging in political or party activities;

f) receiving, on any account or for any reason, financial aid or contribution from individuals, and from public or private institutions, save for the exceptions set forth in law.

Paragraph 6. The provisions of article 95, sole paragraph, V, shall apply to the members of Public Prosecution.

Article 129. The following are institutional functions of the Public Prosecution: (CA No. 45, 2004)

I – to initiate, exclusively, public criminal prosecution, under the terms of the law;

II – to ensure effective respect by the Public Authorities and by the services of public relevance for the rights guaranteed in this Constitution, taking the action required to guarantee such rights;

III – to institute civil investigation and public civil suit to protect public and social property, the environment and other diffuse and collective interests;

IV – to institute action of unconstitutionality or representation for purposes of intervention by the Union or by the states, in the cases established in this Constitution;

V – to defend judicially the rights and interests of the Indian populations;

VI – to issue notifications in administrative procedures within its competence, requesting information and documents to support them, under the terms of the respective supplementary law;

VII – to exercise external control over police activities, under the terms of the supplementary law mentioned in the previous article;

VIII – to request investigatory procedures and the institution of police investigation, indicating the legal grounds of its procedural acts;

IX – to exercise other functions which may be conferred upon it, provided that they are compatible with its purpose, with judicial representation and judicial consultation for public entities being forbidden.

Paragraph 1. Legitimation by the Public Prosecution for the civil actions set forth in this article shall not preclude those of third parties in the same cases, according to the provisions of this Constitution and of the law.

Paragraph 2. The functions of Public Prosecution may only be exercised by career members, who must reside in the judicial district of their respective assignment, save when otherwise authorized by the head of the institution.

Paragraph 3. Admission into the career of Public Prosecution shall take place by means of a civil service entrance examination of tests and presentation of academic and professional credentials, ensuring participation by the Brazilian Bar Association in such examination, at least three years of legal practice being required of holders of a B.A. in law, and observing, for appointment, the order of classification.

Paragraph 4. The provisions of article 93 shall apply to the Public Prosecution, where appropriate.

Paragraph 5. In the Public Prosecution, proceedings will be assigned immediately upon filing.

Article 130. The provisions of this section concerning rights, prohibitions and form of investitute apply to the members of the Public Prosecution before the Audit Courts.

Article 130-A. The National Council of the Public Prosecution is composed of fourteen members appointed by the President of the Republic, after their nomination has been approved by the absolute majority of the Federal Senate, for a two-year term of office, one reappointment being permitted, as follows. (CA No. 45, 2004)

I – the Attorney-General of the Republic, who chairs the Council;

II – four members of the Public Prosecution of the Union, representing each one of its careers;

III – three members of the Public Prosecution of the States;

IV – two judges, one of whom nominated by the Supreme Federal Court and the other one by the Superior Court of Justice;

V – two lawyers, nominated by the Federal Board of the Brazilian Bar Association;

VI – two citizens of notable juridical learning and spotless reputation, one of whom nominated by the Chamber of Deputies and the other one by the Federal Senate.

Paragraph 1. The members of the Council who are members of the Public Prosecution shall be nominated by their respective bodies, under the terms of the law.

Paragraph 2. It is incumbent upon the National Council of the Public Prosecution to control the administrative and financial operation of the Public Prosecution and the proper discharge of official duties by its members, and it shall:

I – ensure that the Public Prosecution is autonomous in its operation and administration, and it may issue regulatory acts within its jurisdiction, or recommend measures;

II – ensure that article 37 is complied with, and examine, *ex-officio* or upon request, the legality of administrative acts carried out by members or bodies of the Public Prosecution of the Union and of the States, and it may revoke or review them, or stipulate a deadline for the adoption of the necessary measures to achieve due execution of the law, without prejudice to the powers of Audit Courts;

III – receive and examine complaints against members or bodies of the Public Prosecution of the Union or of the States, including against their ancillary services, without prejudice to such institutions' disciplinary competence and their power to correct administrative acts, and it may order that pending disciplinary proceedings be forwarded to the National Council of the Public Prosecution, determine the removal, placement on paid availability, or retirement with compensation or pension in proportion to the length of service, and enforce other administrative sanctions, full defense being ensured;

IV – review, *ex-officio* or upon request, disciplinary proceedings against members of the Public Prosecution of the Union or of the States tried in the preceding twelve months;

V – prepare a yearly report, including the measures it deems necessary, on the state of the Public Prosecution in the Country and on the Council's activities, which report must be an integral part of the message referred to in article 84, XI.

Paragraph 3. The Council shall, by means of secret voting, choose a national Corregidor, from among the members of the Public Prosecution who compose the Council, reappointment being forbidden, and the following duties shall be incumbent upon him, in addition to those that may be conferred upon him by law:

I – to receive complaints and accusations from any interested party regarding members of the Public Prosecution and its ancillary services;

II – to exercise executive functions of the Council concerning inspection and general correction;

III – to requisition and appoint members of the Public Prosecution, delegating specific duties to such members, and to requisition employees of Public Prosecution bodies.

Paragraph 4. The Chairman of the Federal Board of the Brazilian Bar Association shall be competent to petition before the Council.

Paragraph 5. Federal and state legislation shall establish ombudsman's offices for the Public Prosecution, with powers to receive complaints and accusations from any interested party against members or bodies of the Public Prosecution, including against their ancillary services, thus presenting formal charges directly to the National Council of the Public Prosecution.

SECTION II
The Public Advocacy (CA No. 19, 1998)

Article 131. The Advocacy-General of the Union is the institution which, either directly or through a subordinated agency, represents the Union judicially or extrajudicially, and it is responsible, under the terms of the supplementary law which provides for its organization and operation, for the activities of judicial consultation and assistance to the Executive Power.

Paragraph 1. The Advocacy-General of the Union is headed by the Advocate-General of the Union, freely appointed by the President of the Republic from among citizens over thirty-five years of age, of notable juridical learning and spotless reputation.

Paragraph 2. Admission into the initial classes of the careers of the institution dealt with in this article shall take place by means of a civil service entrance examination of tests and presentation of academic and professional credentials.

Paragraph 3. In the execution of receivable taxes of a tributary nature, the Union shall be represented by the office of the Attorney-General of the Public Finances, observing the provisions of the law.

Article 132. The Prosecutors of the states and of the Federal District, organized in a career, admission into which shall depend on a civil service entrance examination of tests and presentation of academic and professional credentials, with the participation of the Brazilian Bar Association in all of its stages, shall exercise judicial representation and judicial consultation for their respective federated units. (CA No. 19, 1998)

Sole paragraph. The Prosecutors referred to in this article are entitled to acquire tenure after three years of effective exercise, by means of a performance appraisal carried out by the relevant agencies, following a detailed report issued by the corregidors.

SECTION III
The Legal Profession and the Public Legal Defense

Article 133. The lawyer is indispensable to the administration of justice and is inviolable for his acts or manifestations in the exercise of his profession, within the limits of the law.

Article 134. The Public Legal Defense is an essential institution to the jurisdictional function of the State and is responsible for the judicial guidance and the defense, in all levels, of the needy, under the terms of article 5, LXXIV. (CA No. 45, 2004)

Paragraph 1. A supplementary law shall organize the Public Legal Defense of the Union, of the Federal District and the Territories and shall prescribe general rules for its organization in the states, into career offices filled, in the initial class, by means of a civil service entrance examination of tests and presentation of academic and professional credentials, with the guarantee of irremovability being ensured to its members and the practice of the legal profession beyond the institutional attributions being forbidden.

Paragraph 2. The Public Legal Defense of each state shall be ensured of functional and administrative autonomy, as well as the prerogative to present its budget proposal within the limits set forth in the law of budgetary directives and in due compliance with the provisions of article 99, paragraph 2.

Article 135. Servants in the careers regulated in Sections II and III of this Chapter shall be remunerated according to article 39, paragraph 4. (CA No. 19, 1998)

TITLE V
The Defense of the State and of the Democratic Institutions

CHAPTER I
The State of Defense and the State of Siege

SECTION I
The State of Defense

Article 136. The President of the Republic may, after hearing the Council of the Republic and the National Defense Council, decree a state of defense to preserve or to promptly re-establish, in specific and restricted locations, the public order or the social peace threatened by serious and imminent institutional instability or affected by major natural calamities.

Paragraph 1. The decree instituting the state of defense shall determine the period of its duration, shall specify the areas to be encompassed and shall indicate, within the terms and limitations of the law, the coercive measures to be in force from among the following:

I – restrictions to the rights of:

a) assembly, even if held within associations;

b) secrecy of correspondence;

c) secrecy of telegraph and telephone communication;

II – in the event of a public calamity, occupation and temporary use of public property and services, the Union being liable for the resulting damages and costs.

Paragraph 2. The state of defense shall not exceed thirty days and it may be extended once for an identical period if the reasons that justified its decreeing persist.

Paragraph 3. During the period in which the state of defense is in force:

I – arrest for a crime against the State, determined by the party executing the measure, shall be immediately communicated by such party to the competent judge, who shall remit it if it is illegal, it being the arrested person's choice to request examination of *corpus delicti* from the police authority;

II – the communication shall be accompanied by a statement by the authority as to the physical and mental state of the arrested person at the time of the filing of the charges;

III – the imprisonment or detention of any person shall not exceed ten days, unless authorized by the Judicial Power;

IV – incommunicability of the arrested person is forbidden.

Paragraph 4. Upon decreeing a state of defense or extension thereof, the President of the Republic shall, within twenty-four hours, submit the act with the respective justification to the National Congress, which shall decide by absolute majority.

Paragraph 5. If the National Congress is in recess, it shall be called extraordinarily within five days.

Paragraph 6. The National Congress shall examine the decree within ten days as from receipt thereof, and shall remain in operation as long as the state of defense is in force.

Paragraph 7. If the decree is rejected, the state of defense shall cease immediately.

SECTION II
The State of Siege

Article 137. The President of the Republic may, after hearing the Council of the Republic and the National Defense Council, request authorization from the National Congress to decree the state of siege in the event of:

I – serious disturbance with nationwide effects or ocurrence of facts that evidence the innefectiveness of a measure taken during the state of defense;

II – declaration of state of war or response to foreign armed agression.

Sole paragraph. The President of the Republic shall, on requesting authorization to decree the state of siege or to extend it, submit the reasons that determine such request, and the National Congress shall decide by absolute majority.

Article 138. The decree of the state of siege shall specify the period of its duration, the rules required to implement it and the constitutional guarantees that are to be suspended and, after it is published, the President of the Republic shall designate the executor of the specific measures and the areas encompassed.

Paragraph 1. In the event of article 137, I, the state of siege may not be decreed for more than thirty days nor may each extension exceed such period; in the event of item II, it may be decreed for the entire period of the war or foreign armed aggression.

Paragraph 2. If authorization to decree the state of siege is requested during parliamentary recess, the President of the Federal Senate shall immediately summon an extraordinary session of the National Congress to convene within five days in order to examine the act.

Paragraph 3. The National Congress shall remain in session until the end of the coercive measures.

Article 139. During the period in which the state of siege decreed under article 137, I, is in force, only the following measures may be taken against persons:

I – obligation to remain at a specific place;

II – detention in a building not intended for persons accused of or convicted for common crimes;

III – restrictions regarding the inviolability of correspondence, the secrecy of communications, the rendering of information and the freedom of press, radio broadcasting and television, as established by law;

IV – suspension of freedom of assembly;

V – home search and seizure;

VI – intervention in public utility companies;

VII – requisitioning of property.

Sole paragraph. The broadcasting of speeches made by Congressmen in their Legislative Houses is not included in the restrictions of item III, if authorized by the respective Directing Board.

SECTION III
General Provisions

Article 140. The Directing Board of the National Congress shall, after hearing the party leaders, designate a Committee comprised of five of its members to monitor and supervise the implementation of the measures concerning the state of defense and the state of siege.

Article 141. Once the state of defense or the state of siege ceases, its effects shall also cease, without prejudice to liability for illicit acts performed by the executors or agents thereof.

Sole paragraph. As soon as the state of defense or the state of siege ceases, the measures applied during the period while it is in force shall be reported by the President of the Republic in a message to the National Congress, with specification and justification of the actions taken, with the listing of the names of those affected and indication of the restrictions applied.

CHAPTER II
The Armed Forces

Article 142. The Armed Forces, comprised of the Navy, the Army and the Air Force, are permanent and regular national institutions, organized on the basis of hierarchy and discipline, under the supreme authority of the President of the Republic, and are intended for the defense of the Country, for the guarantee of the constitutional powers, and, on the initiative of any of these, of law and order. (CA No. 18, 1998; CA No. 41, 2003)

Paragraph 1. A supplementary law shall establish the general rules to be adopted in the organization, training and use of the Armed Forces.

Paragraph 2. *Habeas corpus* shall not apply to military disciplinary punishments.

Paragraph 3. The members of the Armed Forces are called military, and the following provisions apply to them, in addition to other provisions that the law may establish:

I – the ranks, with the prerogatives, rights and duties inherent to them, are awarded by the President of the Republic and are guaranteed in full to officers in active service, those of the reserve or in retirement, and such officers have exclusive

rights to military titles and posts, and, together with the other members, to the use of the uniforms of the Armed Forces;

II – a military in active service who takes office in a permanent civil public position or job shall be transferred to the reserve, under the terms of the law;

III – a military in active service who, under the terms of the law, takes office in a non-elective, temporary civil public position, job or function, even if in the indirect administration, shall be put on leave and, as long as he remains in this situation he may only be promoted by seniority and his period of service shall be counted only for that promotion and for transfer to the reserve, and after two years, whether continuous or not, away from active service, he shall be transferred to the reserve, under the terms of the law;

IV – the military are forbidden to join unions and to strike;

V – while in active service, the military are forbidden to belong to political parties;

VI – an officer shall only lose his post and rank if he is judged unworthy of or incompatible with the dignity of officership by decision of a permanent military court, in times of peace, or of a special court, in times of war;

VII – an officer sentenced in a common or military court by means of an unappealable judgment to imprisonment for more than two years shall be submitted to trial as provided in the preceding item;

VIII – the provisions of article 7, items VIII, XII, XVII, XVIII, XIX and XXV, and of article 37, items XI, XIII, XIV and XV, apply to the military;

IX – (revoked);

X – the law shall provide for admission to the Armed Forces, age limits, tenure, and other conditions for a military to be retired, the rights, duties, remuneration, prerogatives and other circumstances which are specific to the military, the special characteristics of their activities being taken into account, including those carried out by virtue of international agreements and of war.

Article 143. Military service is compulsory as set forth by law.

Paragraph 1. It is within the competence of the Armed Forces, according to the law, to assign an alternative service to those who, in times of peace, after being enlisted, claim imperative of conscience, which shall be understood as originating in religious creed and philosophical or political belief, for exemption from essentially military activities.

Paragraph 2. Women and clergymen are exempt from compulsory military service in times of peace, but are subject to other duties assigned to them by law.

CHAPTER III
Public Security

Article 144. Public security, the duty of the State and the right and responsibility of all, is exercised to preserve public order and the safety of persons and property, by means of the following agencies: (CA No. 19, 1998)

I – federal police;

II – federal highway police;

III – federal railway police;

IV – civil polices;

V – military polices and military fire brigades.

Paragraph 1. The federal police, instituted by law as a permanent body, organized and maintained by the Union and structured into a career, are intended to:

I – investigate criminal offenses against the political and the social order or to the detriment of property, services and interests of the Union and of its autonomous government entities and public companies, as well as other offenses with interstate or international effects and requiring uniform repression as the law shall establish;

II – to prevent and repress the illegal traffic of narcotics and like drugs, as well as smuggling, without prejudice to action by the treasury authorities and other government agencies in their respective areas of competence;

III – exercise the functions of maritime, airport and border police;

IV – to exercise, exclusively, the functions of criminal police of the Union.

Paragraph 2. The federal highway police are a permanent body organized and maintained by the Union, structured into a career, and intended, according to the law, to patrol ostensibly the federal highways.

Paragraph 3. The federal railway police are a permanent body organized and maintained by the Union, structured into a career, and intended, according to the law, to patrol ostensibly the federal railways.

Paragraph 4. It is incumbent upon the civil police, directed by career police comissioners and except for the competence of the Union, to exercise the functions of criminal police and to investigate criminal offenses, with the exception of the military ones.

Paragraph 5. It is within the competence of the military polices the ostensive policing and the maintenance of the public order; it is incumbent upon the military fire brigades, in addition to the duties defined by law, to carry out activities of civil defense.

Paragraph 6. The military polices and military fire brigades, ancillary forces and reserve of the Army, are subject, together with the civil police, to the Governors of the states, of the Federal District and of the territories.

Paragraph 7. The law shall regulate the organization and operation of the agencies responsible for public security in such a manner as to guarantee the efficiency of their activities.

Paragraph 8. The municipalities may organize municipal guards to protect their property, services and facilities, as the law shall establish.

Paragraph 9. The remuneration of the policemen who are members of the agencies mentioned in this article shall be stipulated according to paragraph 4 of article 39.

TITLE VI
Taxation and Budget

CHAPTER I
The National Tax System

SECTION I
General Principles

Article 145. The Union, the states, the Federal District and the municipalities may institute the following tributes:

I – taxes;

II – fees, by virtue of the exercise of police power or for the effective or potential use of specific and divisible public services, rendered to the taxpayer or made available to him;

III – benefit charges, resulting from public works.

Paragraph 1. Whenever possible, taxes shall have an individual character and shall be graded according to the economic capacity of the taxpayer, and the tax administration may, especially to confer effectiveness upon such objectives, with due respect to individual rights and under the terms of the law, identify the property, the incomes and the economic activities of the taxpayer.

Paragraph 2. Fees may not have the assessment basis reserved for taxes.

Article 146. A supplementary law shall: (CA No. 42, 2003)

I – provide for conflicts of competence concerning tax matters between the Union, the states, the Federal District and the municipalities;

II – regulate the constitutional limitations on the power to tax;

III – establish general rules concerning tax legislation, especially with regard to:

a) the definition of tributes and their types, as well as, regarding the taxes specified in this Constitution, the definition of the respective taxable events, assessment bases and taxpayers;

b) tax liability, assessment, credit, limitation and laches;

c) adequate tax treatment for the cooperative acts of cooperative associations.

d) the definition of a differentiated and favorable tax treatment to be given to micro and small businesses, including special or simplified tax regimes in the case of the tax set forth in article 155, II, the contributions set forth in article 195, I, and paragraphs 12 and 13, and the contribution referred to in article 239.

Sole paragraph. The supplementary law referred to in item III, *d*, may also establish a single regime for the collection of taxes and contributions owed to the Union, the States, the Federal District, and the Municipalities, with due regard for the following:

I – it shall be optional for the taxpayer;

II – different eligibility requirements may be established for each State;

III – payment of said tributes shall be unified and centralized, and the distribution of the share of funds belonging to the respective units of the Federation shall be immediate, any withholding or establishment of conditions being forbidden;

IV – collection, control, and claiming of payment may be shared by the units of the Federation, a single national roster of taxpayers being adopted.

Article 146-A. A supplementary law may establish special criteria for taxation, with a view to preventing imbalances in competition, without prejudice to the power of the Federal Government to establish, by law, rules for the same purpose. (CA No. 42, 2003)

Article 147. In a federal territory, state taxes are within the competence of the Union and, if the territory is not divided into municipalities, also municipal taxes; municipal taxes are within the competence of the Federal District.

Article 148. The Union may, by means of a supplementary law, institute compulsory loans:

I – to meet extraordinary expenses resulting from public calamity, foreign war or the imminence thereof;

II – in the case of public investment of an urgent nature and relevant national interest, observing the provisions of article 150, III, *b*.

Sole paragraph. The use of funds deriving from a compulsory loan shall be linked to the expense that justified the institution thereof.

Article 149. The Union shall have the exclusive competence to institute social contributions regarding intervention in the economic order and the interest of categories of employees or employers, as an instrument of its activity in the respective areas, observing the provisions of articles 146, III, and 150, I and III, and without prejudice to the provisions of article 195, paragraph 6, as regards the contributions mentioned in the latter article. (CA No. 33, 2001; CA No. 41, 2003; CA No. 42, 2003)

Paragraph 1. The states, the Federal District, and the municipalities shall institute a contribution payable by their employees to fund the social security scheme referred to in article 40, for the benefit of such employees, and the respective rate may not be lower than the rate of the contribution paid by employees holding effective posts in the Union.

Paragraph 2. The social contribution taxes mentioned in the head paragraph of this article, as well as the contribution taxes regarding intervention in the economic domain:

I – shall not be levied on export earnings;

II – shall be also levied on the importation of foreign products or services;

III – may have the following rates:

a) *ad valorem* rates, having as basis the proceeds, gross revenues, or the value of the transaction, and, in the case of importation, the customs value;

b) specific rates, having as basis the unit of measurement adopted.

Paragraph 3. A natural person who is the recipient in an import transaction may be held as equivalent to a corporate body, under the terms of the law.

Paragraph 4. The law shall establish the cases in which contributions will be levied only once.

Article 149-A. The Municipalities and the Federal District may establish a contribution, under the terms of their respective laws, to finance the public lighting service, with due regard for the provisions of article 150, I and III. (CA No. 39, 2002)

Sole paragraph. The contribution mentioned in the head paragraph of this article may be charged to the consumer's electricity bill.

SECTION II
Limitations on the Power to Tax

Article 150. Without prejudice to any other guarantees ensured to the taxpayers, the Union, the states, the Federal District and the municipalities are forbidden to: (CA No. 3, 1993; CA No. 42, 2003)

I – impose or increase a tribute without a law to establish it;

II – institute unequal treatment for taxpayers who are in an equivalent situation, it being forbidden to establish any distinction by reason of professional occupation or function performed by them, independently of the juridical designation of their incomes, titles or rights;

III – collect tributes:

a) for taxable events that occurred before the law which instituted or increased such tributes came into force;

b) in the same fiscal year in which the law which instituted or increased such tributes was published;

c) within the period of ninety days as from the date of publication of the law which instituted or raised such tributes, with due regard for the provision of letter *b*;

IV – use a tribute for the purpose of confiscation;

V – establish limitations on the circulation of persons or goods, by means of interstate or intermunicipal tributes, except for the collection of toll fees for the use of highways maintained by the Government;

VI – institute taxes on:

a) the property, income or services of one another;

b) temples of any denomination;

c) the property, income or services of political parties, including their foundations, of worker unions, of non-profit education and social assistance institutions, observing the requirements of the law;

d) books, newspapers, periodicals and the paper intended for the printing thereof.

Paragraph 1. The prohibition set forth in item III, *b*, shall not apply to the taxes provided upon in articles 148, I, 153, I, II, IV, and V; and 154, II; and the prohibition set forth in item III, *c*, shall not apply to the taxes provided upon in articles 148, I, 153, I, II, III, and V; and 154, II, nor to the stipulation of the assessment basis of the taxes provided upon in articles 155, III, and 156, I.

Paragraph 2. The prohibition set forth in item VI, *a*, extends to the autonomous government agencies and to the foundations instituted and maintained by the Government, as regards the property, income and services related to their essential purposes or resulting therefrom.

Paragraph 3. The prohibitions set forth in item VI, *a*, and in the preceding paragraph do not apply to the property, income and services related to the exploitation of economic activities governed by the regulations which apply to private undertakings, or in which users pay consideration or prices or tariffs, nor exempt a promissor purchaser of real property from the obligation to pay tax thereon.

Paragraph 4. The prohibitions set forth in item VI, subitems *b* and *c*, encompass only the property, income and services related to the essential purposes of the entities mentioned therein.

Paragraph 5. The law shall determine measures for consumers to be informed about taxes levied on goods and services.

Paragraph 6. Any subsidy or exemption, reduction of assessment basis, concession of presumed credit, amnesty or remission, related to taxes, fees or contributions, may only be granted by means of a specific federal, state or municipal law, which provides exclusively for the above-enumerated matters or the corresponding tax, fee or contribution, without prejudice to the provisions of article 155, paragraph 2, item XII, *g*.

Paragraph 7. The law may impose upon the taxpayer the burden of the payment of a tax or contribution, whose taxable event will occur later, the immediate and preferential restitution of the amount paid being ensured, in case the presumed taxable event does not occur.

Article 151. It is forbidden for the Union:

I – to institute a tribute which is not uniform throughout the entire national territory or which implies a distinction or preference regarding a state, the Federal District or a municipality to the detriment of another, it being allowed to grant tax incentives for the purpose of promoting the balanced social and economic development of the various regions of the country;

II – to tax income from public debt bonds of the states, of the Federal District and of the municipalities, as well as the remuneration and earnings of the respective public agents, at levels above those established for its own bonds and agents;

III – to institute exemptions from tributes within the powers of the states, of the Federal District or of the municipalities.

Article 152. The states, the Federal District and the municipalities are forbidden to establish a tax difference between goods and services of any nature, by reason of their origin or destination.

SECTION III
Federal Taxes

Article 153. The Union shall have the power to institute taxes on. (CA No. 20, 1998; CA No. 42, 2003)

I – importation of foreign products;

II – exportation to other countries of national or nationalized products;

III – income and earnings of any nature;

IV – industrialized products;

V – credit, foreign exchange and insurance transactions, or transactions relating to bonds or securities;

VI – rural property;

VII – large fortunes, under the terms of a supplementary law.

Paragraph 1. The Executive Power may, observing the conditions and the limits established in law, alter the rates of the taxes enumerated in items I, II, IV and V.

Paragraph 2. The tax established in item III:

I – shall be based on the criteria of generality, universality and progressiveness, under the terms of the law;

II – (revoked).

Paragraph 3. The tax established in item IV:

I – shall be selective, based on the essentiality of the product;

II – shall be non-cumulative, and the tax due in each transaction shall be compensated by the amount charged in previous transactions;

III – shall not be levied on industrialized products intended for export;

IV – shall have its impact reduced, as set forth by law, in the case of purchase of capital goods by a taxpayer who is liable to pay such tax.

Paragraph 4. The tax established in item VI of the head paragraph:

I – shall be progressive and its rates shall be determined in such a manner as to discourage the retention of unproductive real property;

II – shall not be levied on small tracts of land, as defined in law, when a proprietor who owns no other real property exploits them;

III – shall be controlled and collected by the Municipalities which opt to do so, under the terms of the law, provided that they do not reduce this tax or introduce any other type of fiscal waiver.

Paragraph 5. Gold, when defined in law as a financial asset or an exchange instrument, is subject exclusively to the tax established in item V of the head paragraph of the present article, due on the original transaction; the minimum rate shall be one per cent, and the transference of the amount collected is ensured under the following terms:

I – thirty per cent to the state, the Federal District or the territory, depending on the origin;

II – seventy per cent to the municipality of origin.

Article 154. The Union may institute:

I – by means of a supplementary law, taxes not instituted in the preceding article, provided that they are non-cumulative and not founded on a taxable event or an assessment basis reserved for the taxes specified in this Constitution;

II – in the imminence or in the event of foreign war, extraordinary taxes, encompassed or not by its power to tax, which shall be gradually suppressed when the causes for their institution have ceased.

SECTION IV
State and Federal District Taxes

Article 155. The states and the Federal District shall have the competence to institute taxes on: (CA No. 3, 1993; CA No. 33, 2001; CA No. 42, 2003)

I – transfer by death and donation of any property or rights;

II – transactions relating to the circulation of goods and to the rendering of interstate and intermunicipal transportation services and services of communication, even when such transactions and renderings begin abroad;

III – ownership of automotive vehicles.

Paragraph 1. The tax established in item I:

I – regarding real property and the respective rights, is within the competence of the state where the property is located, or of the Federal District;

II – regarding bonds, titles and credits, is within the competence of the Federal District or of the state where the probate or enrollment is processed, or where the donor is domiciled;

III – a suplementary law shall regulate the competence for the institution of such tax:

a) if the donor is domiciled or residing abroad;

b) if the deceased owned property, was resident or domiciled or had his probate processed abroad;

IV – the Federal Senate shall establish the maximum rates for such tax.

Paragraph 2. The tax established in item II shall observe the following:

I – it shall be non-cumulative, and the tax due in each transaction concerning the circulation of goods or rendering of services shall be compensated by the amount

charged in the previous transactions by the same or by another state or by the Federal District;

II – exemption or non-levy, except as otherwise determined in the law:

a) shall not imply credit for compensation relative to the amount due in the subsequent transactions or renderings of services;

b) shall cause the annulment of the credit for the previous transactions;

III – it may be selective, based on the essentiality of the goods or services;

IV – a resolution of the Federal Senate, on the initiative of the President of the Republic or of one-third of the Senators, approved by the absolute majority of its members, shall establish the rates that apply to interstate and export transactions and rendering of services;

V – the Federal Senate may:

a) establish minimum rates for domestic transactions, by means of a resolution on the initiative of one-third and approved by the absolute majority of its members;

b) establish maximum rates for the same transactions to settle a specific conflict involving the interest of the states, by means of a resolution on the initiative of the absolute majority and approved by two-thirds of its members;

VI – unless otherwise determined by the states and the Federal District, under the terms of the provisions of item XII, *g*, the domestic rates for transactions concerning the circulation of goods and the rendering of services may not be lower than those established for interstate transactions;

VII – the following shall be adopted for transactions and rendering of goods and services to end-users located in another state:

a) the interstate rate, when it is incumbent upon the recipient to pay that tax;

b) the internal rate, when it is not incumbent upon the recipient to pay that tax;

VIII – in the case of subitem *a* of the preceding item, the tax corresponding to the difference between the internal and the interstate rate shall be attributed to the state where the recipient is located;

IX – it shall also be levied:

a) on the entry of goods or products imported from abroad by an individual or corporate body, even in the case of a taxpayer who does not pay such tax on a regular basis, regardless of its purpose, as well as on services rendered abroad, and the tax shall be attributed to the state where the domicile or the establishment of the recipient of the product, good, or service is located;

b) on the total value of the transaction, when goods are supplied with services not included in the power to tax of the municipalities;

X – it shall not be levied:

a) on transactions involving goods to be shipped abroad, nor on services to be delivered to parties abroad, and tax charges and credits in preceding transactions involving such goods or services shall continue in effect;

b) on transactions transferring petroleum, including lubricants, liquid and gaseous fuels derived therefrom, and electric energy to other states;

c) on gold, in the cases defined in article 153, paragraph 5;

d) on communications services in the modes of sound broadcasting and sound and image broadcasting which are available for reception by the public free of charge;

XI – its assessment basis shall not include the amount of the tax on industrialized products when the transaction carried out between taxpayers and concerning a product intended for industrialization or sale represents a taxable event for both taxes;

XII – A supplementary law shall:

a) define its taxpayers;

b) provide for tax substitution;

c) regulate the system of tax compensation;

d) establish, for purposes of collection of the tax and definition of the responsible establishment, the location of the transactions concerning the circulation of goods and the rendering of services;

e) exclude from levy of the tax, in exports to other countries, services and other products other than those mentioned in item X, *a*;

f) provide for the event of maintenance of a credit for services and goods remitted to another state and exported to other countries;

g) regulate the manner in which, through deliberation by the states and the Federal District, tax exemptions, incentives and benefits shall be granted and revoked;

h) define the fuels and lubricants on which this tax shall be levied only once, regardless of its purpose, in which case the provision of item X, *b*, shall not apply;

i) stipulate the assessment basis so as to include the amount of the tax, also in the event of importation of goods, products, or services from abroad.

Paragraph 3. With the exception of the taxes mentioned in item II of the head paragraph of the present article, and article 153, I and II, no other tax may be levied on transactions concerning electric energy, telecommunications services, petroleum products, fuels, and minerals of the country.

Paragraph 4. In the event of item XII, *h*, the following shall apply:

I – in transactions involving lubricants and petroleum-derived fuels, the tax shall be attributed to the state where consumption takes place;

II – in interstate transactions among taxpayers involving natural gas and its by-products, and lubricants and fuels not included in item I of this paragraph, the tax shall be shared by the state of origin and the state of destination, and the proportion existing in transactions involving other goods shall be observed;

III – in interstate transactions involving natural gas and its by-products, and lubricants and fuels not included in item I of this paragraph, when it is not incumbent upon the recipient to pay the tax, such tax shall be attributed to the state of origin;

IV – the tax rates shall be defined by joint decision of states and the Federal District, under the terms of paragraph 2, XII, *g*, with due regard for the following:

a) they shall be uniform throughout the national territory, and they may be different for each product;

b) they may be specific, according to the unit of measurement adopted, or *ad valorem*, levied on the value of the transaction or on the price the product or a similar product would be sold for in free competition circumstances;

c) they may be lowered and restored to their original levels, and the provision of article 150, III, *b*, shall not apply thereto.

Paragraph 5. The rules for the enforcement of the provisions of paragraph 4, including those concerning the collection and assignment of the tax, shall be established by joint decision of states and the Federal District, under the terms of paragraph 2, XII, *g*.

Paragraph 6. The tax established in item III:

I – shall have its minimum rates stipulated by the Federal Senate;

II – may have different rates according to type and utilization.

SECTION V
Municipal Taxes

Article 156. The municipalities shall have the competence to institute taxes on: (CA No. 3, 1993; CA No. 29, 2000; CA No. 37, 2002)

I – urban buildings and urban land property;

II – *inter vivos* transfer, on any account, by onerous acts, of real property, by nature or physical accession, and of real rights to property, except for real security, as well as the assignment of rights to the purchase thereof;

III – services of any nature not included in article 155, II, as defined in a supplementary law;

IV – (Revoked).

Paragraph 1. Without prejudice to the progressiveness in time mentioned in article 182, paragraph 4, item II, the tax referred to in item I may:

I – be progressive according to the value of the property; and

II – have different rates according to the location and utilization of the property.

Paragraph 2. The tax set forth in item II:

I – shall not be levied on the transfer of goods or rights incorporated into the assets of a corporate body to pay up its capital, nor on the transfer of goods or rights

resulting from the merger, incorporation, division or dissolution of corporate bodies, unless, in such cases, the predominant activity of the purchaser is the purchase and sale of such goods or rights, the lease of real property or leasing;

II – is within the competence of the municipality where the property is located.

Paragraph 3. As regards the tax established in item III of the head paragraph of this article, a supplementary law shall:

I – establish its maximum and minimum rates;

II – exclude exportations of services to other countries from levy of the said tax;

III – regulate the manner and conditions for the granting and revocation of fiscal exemptions, incentives, and benefits.

Paragraph 4. (Revoked).

SECTION VI
Tax Revenue Sharing

Article 157. The following shall be assigned to the states and to the Federal District:

I – the proceeds from the collection of the federal tax on income and earnings of any nature, levied at source on income paid on any account by them, by their autonomous government entities and by the foundations they institute and maintain;

II – twenty per cent of the proceeds from the collection of the tax that the Union may institute in the exercise of the powers conferred on it by article 154, I.

Article 158. The following shall be assigned to the municipalities: (CA No. 42, 2003)

I – the proceeds from the collection of the federal tax on income and earnings of any nature, levied at source on income paid on any account by them, by their autonomous government entities and by the foundations they institute and maintain;

II – fifty per cent of the proceeds from the collection of the federal tax on rural property, concerning real property located in the municipalities, or one hundred per cent of such proceeds in the case of the option referred to in article 153, paragraph 4, III;

III – fifty per cent of the proceeds from the collection of the state tax on the ownership of automotive vehicles licensed in the municipalities;

IV – twenty-five per cent of the proceeds from the collection of the state tax on transactions regarding the circulation of goods and on rendering of interstate and intermunicipal transportation services and services of communication.

Sole paragraph. The revenue portions assigned to the municipalities, as mentioned in item IV, shall be credited in accordance with the following criteria:

I – at least three-fourths, in proportion to the value added in the transactions regarding the circulation of goods and the rendering of services carried out in the territory of the municipalities;

II – up to one-quarter, in accordance with the provisions of a state law or, in the case of the territories, of a federal law.

Article 159. The Union shall remit: (CA No. 42, 2003; CA No. 44, 2004; CA No. 55, 2007)

I – of the proceeds from the collection of the tax on income and earnings of any nature and of the tax on industrialized products, forty-eight per cent as follows:

a) twenty-one and a half of one per cent to the Revenue Sharing Fund of the States and of the Federal District;

b) twenty-two and a half of one per cent to the Revenue Sharing Fund of the Municipalities;

c) three per cent, for application in programs to finance the productive sector of the North, Northeast and Centre-West Regions, through their regional financial institutions, in accordance with regional development plans, the semi-arid area of the Northeast being ensured of half of the funds intended for that Region, as provided by law;

d) one per cent to the Revenue Sharing Fund of the Municipalities, to be remitted within the first ten days of the month of December of each year;

II – of the proceeds from the collection of the tax on industrialized products, ten per cent to the states and to the Federal District, in proportion to the value of the respective exportations of industrialized products;

III – of the proceeds from the collection of the contribution for intervention in the economic domain set forth in article 177, paragraph 4, twenty-nine per cent to the States and to the Federal District, distributed in accordance with the law, with due regard for the allocation referred to in item II, *c*, of said paragraph.

Paragraph 1. For purposes of calculating the amount to be remitted in accordance with the provisions in item I, the portion of the collected tax on income and earnings of any nature assigned to the states, to the Federal District and to the municipalities shall be excluded, as provided by articles 157, I, and 158, I.

Paragraph 2. No federated unit may be allocated a portion in excess of twenty per cent of the amount referred to in item II, and any excess shall be distributed among the other participants, maintaining, for the latter, the apportionment criterion established therein.

Paragraph 3. The states shall remit twenty-five per cent of the funds they may receive as provided by item II to the respective municipalities, observing the criteria established in article 158, sole paragraph, I and II.

Paragraph 4. Twenty-five per cent of the amount of monies referred to in item III and allocated to each State shall be assigned to its Municipalities, in accordance with the law referred to in said item.

Article 160. It is forbidden to withhold or to make any restriction to the remittance and use of the funds assigned in this section to the states, to the Federal District and to the municipalities, including any tax additions and increases. (CA No. 29, 2000)

Sole paragraph. The prohibition mentioned in the present article does not prevent the Union and the states from remitting the funds on condition of:

I – payment of their credits, including those of the associate government agencies;

II – compliance with the provisions of article 198, paragraph 2, items II and III.

Article 161. A supplementary law shall:

I – define the added value for the purposes provided by article 158, sole paragraph, I;

II – establish rules for the remittance of the funds referred to in article 159, especially the criteria for the sharing of the funds set forth in its item I, seeking to promote social and economic balance among states and among municipalities;

III – provide for the monitoring, by the beneficiaries, of the calculation of the quotas and release of the participations set forth in articles 157, 158 and 159.

Sole paragraph. The Federal Audit Court shall calculate the quotas referring to the participation funds mentioned in item II.

Article 162. The Union, the states, the Federal District and the municipalities shall announce, on or before the last day of the month following that of collection, the amounts of each of the tributes collected, the funds received, the tax sums remitted and to be remitted and the numerical expression of the apportionment criteria.

Sole paragraph. The data announced by the Union shall be discriminated by state and by municipality; those of the states, by municipality.

CHAPTER II
Public Finances

SECTION I
General Rules

Article 163. A supplementary law shall make provisions for: (CA No. 40, 2002)

I – public finances;

II – foreign and domestic public debt, including the debt of the autonomous government agencies, foundations and other entities controlled by the Government;

III – granting of guarantees by government entities;

IV – issuance and redemption of public debt bonds;

V – financial supervision of governmental entities and entities owned by the Federal Government;

VI – foreign exchange transactions carried out by bodies and agencies of the Union, of the states, of the Federal District and of the municipalities;

VII – compatibility of the functions of the official credit institutions of the Union, safeguarding all the characteristics and full operational conditions of those intended for regional development.

Article 164. The competence of the Union to issue currency shall be exercised exclusively by the central bank.

Paragraph 1. It is forbidden for the central bank to grant, either directly or indirectly, loans to the National Treasury and to any body or agency which is not a financial institution.

Paragraph 2. The central bank may purchase and sell bonds issued by the National Treasury, for the purpose of regulating the money supply or the interest rate.

Paragraph 3. The cash assets of the Union shall be deposited at the central bank; those of the states, of the Federal District, of the municipalities and of the bodies or agencies of the Government and of the companies controlled by the same, at official financial institutions, excepting the cases established in law.

SECTION II
Budgets

Article 165. Laws of the initiative of the Executive Power shall establish:

I – the pluriannual plan;

II – the budgetary directives;

III – the annual budgets.

Paragraph 1. The law which institutes the pluriannual plan shall establish, on a regional basis, the directives, objectives and targets of the federal public administration for the capital expenditures and other expenses resulting therefrom and for those regarding continuous programmes.

Paragraph 2. The law of budgetary directives shall comprise the targets and priorities of the federal public administration, including the capital expenditures for the subsequent fiscal year, shall guide the drawing up of the annual budget law, shall make provisions for alterations in tax legislation and shall establish the investment policy for the official development financing agencies.

Paragraph 3. The Executive Power shall, within thirty days after the closing of each two-month period, publish a summarized report on budget implementation.

Paragraph 4. The national, regional and sectorial plans and programmes set forth in this Constitution shall be drawn up in compliance with the pluriannual plan and shall be examined by the National Congress.

Paragraph 5. The annual budget law shall include:

I – the fiscal budget regarding the Powers of the Union, their funds, bodies and entities of the direct and indirect administration, including foundations instituted and maintained by the Government;

II – the investment budget of companies in which the Union directly or indirectly holds the majority of the voting capital;

III – the social welfare budget, comprising all direct and indirect administration entities or bodies connected with social security, as well as funds and foundations instituted and maintained by the Government.

Paragraph 6. The budget bill shall be accompanied by a regionalized statement on the effect on revenues and expenses, deriving from exemptions, amnesties, remissions, subsidies and benefits of a financial, tributary and credit nature.

Paragraph 7. The functions of the budgets set forth in paragraph 5, I and II, of the present article, compatible with the pluriannual plan, shall include the function of reducing interregional inequalities, according to populational criteria.

Paragraph 8. The annual budget law shall not contain any provision extraneous to a forecast of revenues and to the establishment of expenses, such prohibition not including authorization to open supplementary credits and to contract credit transactions, even if by advance of revenues, under the terms of the law.

Paragraph 9. A supplementary law shall:

I – make provisions for the fiscal year, effectiveness, terms, drawing up and organization of the pluriannual plan, of the law of budgetary directives and of the annual budget law;

II – establish rules for the financial and property management of the direct and indirect administration, as well as conditions for the institution and operation of funds.

Article 166. The bills regarding the pluriannual plan, the budgetary directives, the annual budget and the additional credits shall be examined by the two Houses of the National Congress, in accordance with their common regulations.

Paragraph 1. It is incumbent upon a permanent joint committee of Senators and Deputies to:

I – examine and issue its opinion on the bills referred to in the present article and on the accounts submitted annually by the President of the Republic;

II – examine and issue its opinion on the national, regional and sectorial plans and programmes established in this Constitution, and exercise budgetary monitoring and supervision, without affecting the operation of the other committees of the National Congress and of its Houses, created in accordance with article 58.

Paragraph 2. Amendments shall be submitted to the joint committee, which shall report on them, and shall be examined, in accordance with the regulations, by the Plenary Session of the two Houses of the National Congress.

Paragraph 3. Amendments to the bill of the annual budget or to the bills which modify it may only be approved if:

I – they are compatible with the pluriannual plan and with the law of budgetary directives;

II – they specify the necessary funds, allowing only those resulting from the annulment of expenses, and excluding those which apply to:

a) allocations for personnel and their charges;

b) debt servicing;

c) constitutional tax transfers to the states, the municipalities and the Federal District; or

III – they are related:

a) to the correction of errors or omissions; or

b) to the provisions of the text of the bill of law.

Paragraph 4. Amendments to the bill of budgetary directives may not be approved if they are incompatible with the pluriannual plan.

Paragraph 5. The President of the Republic may send a message to the National Congress to propose modifications in the bills referred to in the present article as long as the joint committee has not started to vote on the part for which an alteration is being proposed.

Paragraph 6. The bills of the pluriannual plan law, of the law of budgetary directives and of the annual budget law shall be forwarded by the President of the Republic to the National Congress, under the terms of the supplementary law referred to in article 165, paragraph 9.

Paragraph 7. The other rules regarding legislative procedure shall apply to the bills mentioned in this article, as long as they are not contrary to the provisions of this section.

Paragraph 8. Any funds which, as a result of a veto, amendment or rejection of the bill of the annual budget law, have no corresponding expenses, may be allocated, as the case may be, by means of special or supplementary credits, with prior and specific legislative authorization.

Article 167. The following are forbidden: (CA No. 3, 1993; CA No. 19, 1998; CA No. 20, 1998; CA No. 42, 2003)

I – to begin programmes or projects not included in the annual budget law;

II – to incur expenses or to assume direct obligations which exceed the budgetary or additional credits;

III – to carry out credit transactions, which exceed the amount of capital expenses, excepting those authorized by means of supplementary or special credits with a specific purpose and approved by an absolute majority of the Legislative Power;

IV – to bind tax revenues to an agency, fund or expense, excepting the sharing of the proceeds from the collection of the taxes referred to in articles 158 and 159, the allocation of funds for public health actions and services, for the maintenance and development of education, and for the implementation of tax administration activities, as determined, respectively, in article 198, paragraph 2, article 212, and article 37, item XXII, and the granting of guarantees on credit transactions by advance of revenues, as established in article 165, paragraph 8, as well as in paragraph 4 of the present article;

V – to open a supplementary or special credit without prior legislative authorization and without specification of the corresponding funds;

VI – to reassign, reallocate or transfer funds from one programming category to another or from one agency to another without prior legislative authorization;

VII – to grant or use unlimited credits;

VIII – to use, without specific legislative authorization, funds from the fiscal and social security budgets to supply a necessity or to cover a deficit of companies, foundations and funds, including those mentioned in article 165, paragraph 5;

IX – to institute funds of any nature without prior legislative authorization;

X – to transfer funds voluntarily and to grant loans, including by means of advancement of revenues, by the Federal Government, the Government of the States and their financial institutions, for the payment of expenditures related to active and retired personnel and pensioners, of the States, the Federal District, and the Municipalities;

XI – to use the funds arising from the welfare contributions set forth in article 195, I, *a*, and II, to defray expenses other than the payment of benefits of the general social security scheme referred to in article 201.

Paragraph 1. No investment whose execution exceeds one fiscal year may be implemented without prior inclusion in the pluriannual plan, or without a law to authorize such inclusion, subject to crime of malversation.

Paragraph 2. Special and extraordinary credits shall be effective in the fiscal year in which they are authorized, unless the authorization act is enacted during the last four months of that fiscal year, in which case, reopened within the limits of their balances, such credits shall be incorporated into the budget of the subsequent fiscal year.

Paragraph 3. The opening of extraordinary credit may only be allowed to meet unforeseeable and urgent expenses, such as those resulting from war, internal commotion or public calamity, observing the provisions in article 62.

Paragraph 4. It is permitted to bind proper revenues generated by the taxes referred to in articles 155 and 156, and the funds mentioned in articles 157, 158 and 159, I, *a* and *b*, and II, to the granting of a guarantee or a counterguarantee to the Union, and to the payment of debits owed to the same.

Article 168. Funds corresponding to budgetary allocations, including supplementary and special credits, intended for the bodies of the Legislative and Judicial Powers, the Public Prosecution, and the Public Legal Defense, shall be remitted to them on or before the twentieth of each month, in twelfths, as provided by the supplementary law referred to in article 165, paragraph 9. (CA No. 45, 2004)

Article 169. Expenditures on active and retired personnel of the Union, the states, the Federal District and the municipalities may not exceed the limits established in a supplementary law. (CA No. 19, 1998)

Paragraph 1. The granting of any advantage or increase of remuneration, the creation of posts, positions or functions, or alteration of career structures, as well as admission or hiring of personnel, on any account, by Government bodies and entities, or entities owned by the Government, including foundations instituted and maintained by the Government, may only be effected:

I – if there is a prior budgetary allocation sufficient to cover the estimated expenditure with personnel and the increases resulting therefrom;

II – if there is specific authorization in the law of budgetary directives, with the exception of government enterprises and joint stock companies.

Paragraph 2. Once finished the time limit established in the supplementary law referred to in this article for the adaptation to the standards therein stipulated, all remittances of federal or state funds shall be immediately suspended to the States, the Federal District, and the Municipalities which do not obey the said limits.

Paragraph 3. To comply with the limits established according to this article, within the time period stipulated in the supplementary law referred to in the head paragraph, the Union, the States, the Federal District, and the Municipalities shall adopt the following measures:

I – reduction of at least twenty percent of the expenditures on commission offices and positions of trust;

II – discharge of untenured servants.

Paragraph 4. If the measures adopted according to the preceding paragraph are not sufficient to guarantee compliance with the provision of the supplementary law referred to in this article, tenured servants may be dismissed, provided that a regulatory act justified by each of the Branches specifies the activity, the agency, or the administrative unit where reduction of personnel must be carried out.

Paragraph 5. A servant who is dismissed according to the preceding paragraph shall be entitled to compensation equivalent to one month of remuneration per year of service.

Paragraph 6. The post affected by the reduction mentioned in the preceding paragraphs shall be considered extinct, and the creation of a post, position, or function with equal or similar duties shall be forbidden for the period of four years.

Paragraph 7. A federal act shall provide for the general rules to be complied with in carrying out the provision of paragraph 4.

TITLE VII
The Economic and Financial Order

CHAPTER I
The General Principles of the Economic Activity

Article 170. The economic order, founded on the appreciation of the value of human work and on free enterprise, is intended to ensure everyone a life with dignity, in accordance with the dictates of social justice, with due regard for the following principles: (CA No. 6, 1995; CA No. 42, 2003)

I – national sovereignty;

II – private property;

III – the social function of property;

IV – free competition;

V – consumer protection;

VI – environment protection, which may include differentiated treatment in accordance with the environmental impact of goods and services and of their respective production and delivery processes;

VII – reduction of regional and social differences;

VIII – pursuit of full employment;

IX – preferential treatment for small enterprises organized under Brazilian laws and having their head-office and management in Brazil.

Sole paragraph. Free exercise of any economic activity is ensured to everyone, regardless of authorization from government agencies, except in the cases set forth by law.

Article 171. (Revoked). (CA No. 6, 1995)

Article 172. The law shall regulate, based on national interests, the foreign capital investments, shall encourage reinvestments and shall regulate the remittance of profits.

Article 173. With the exception of the cases set forth in this Constitution, the direct exploitation of an economic activity by the State shall only be allowed whenever needed to the imperative necessities of the national security or to a relevant collective interest, as defined by law. (CA No. 19, 1998)

Paragraph 1. The law shall establish the legal system of public companies, joint-stock companies and their subsidiary companies engaged in economic activities connected with the production or trading of goods, or with the rendering of services, providing upon:

I – their social function and the forms of control by the State and by society;

II – compliance with the specific legal system governing private companies, including civil, commercial, labour, and tax rights and liabilities;

III – bidding and contracting of works, services, purchases, and disposal, with due regard for the principles of government services;

IV – the establishment and operation of boards of directors and of boards of supervisors, with the participation of minority shareholders;

V – the terms of office, the performance appraisals, and the liability of administrators.

Paragraph 2. The public companies and the mixed-capital companies may not enjoy fiscal privileges which are not extended to companies of the private sector.

Paragraph 3. The law shall regulate the relationships of public companies with the State and society.

Paragraph 4. The law shall repress the abuse of economic power that aims at the domination of markets, the elimination of competition and the arbitrary increase of profits.

Paragraph 5. The law shall, without prejudice to the individual liability of the managing officers of a legal entity, establish the liability of the latter, subjecting it to punishments compatible with its nature, for acts performed against the economic and financial order and against the citizens' monies.

Article 174. As the normative and regulating agent of the economic activity, the State shall, in the manner set forth by law, perform the functions of control, incentive and planning, the latter being binding for the public sector and indicative for the private sector.

Paragraph 1. The law shall establish the guidelines and bases for planning of the balanced national development, which shall embody and make compatible the national and regional development plans.

Paragraph 2. The law shall support and encourage cooperative activity and other forms of association.

Paragraph 3. The State shall favour the organization of the placer-mining activity in cooperatives, taking into account the protection of the environment and the social-economic furthering of the placer-miners.

Paragraph 4. The cooperatives referred to in the preceding paragraph shall have priority in obtaining authorization or grant for prospecting and mining of placer resources and deposits in the areas where they are operating and in those established in accordance with article 21, XXV, as set forth by law.

Article 175. It is incumbent upon the Government, as set forth by law, to provide public utility services, either directly or by concession or permission, which will always be through public bidding.

Sole paragraph. The law shall provide for:

I – the operating rules for the public service concession- or permission-holding companies, the special nature of their contract and of the extension thereof,

as well as the conditions of forfeiture, control and termination of the concession or permission;

II – the rights of the users;

III – tariff policy;

IV – the obligation of maintaining adequate service.

Article 176. Mineral deposits, under exploitation or not, and other mineral resources and the hydraulic energy potentials form, for the purpose of exploitation or use, a property separate from that of the soil and belong to the Union, the concessionaire being guaranteed the ownership of the mined product. (CA No. 6, 1995)

Paragraph 1. The prospecting and mining of mineral resources and the utilization of the potentials mentioned in the head paragraph of this article may only take place with authorization or concession by the Union, in the national interest, by Brazilians or by a company organized under Brazilian laws and having its head-office and management in Brazil, in the manner set forth by law, which law shall establish specific conditions when such activities are to be conducted in the boundary zone or on Indian lands.

Paragraph 2. The owner of the soil is ensured of participation in the results of the mining operation, in the manner and amount as the law shall establish.

Paragraph 3. Authorization for prospecting shall always be for a set period of time and the authorization and concession set forth in this article may not be assigned or transferred, either in full or in part, without the prior consent of the conceding authority.

Paragraph 4. Exploitation of a renewable energy potential of small capacity shall not require an authorization or concession.

Article 177. The following are the monopoly of the Union: (CA No. 9, 1995; CA No. 33, 2001; CA No. 49, 2006)

I – prospecting and exploitation of deposits of petroleum and natural gas and of other fluid hydrocarbons;

II – refining of domestic or foreign petroleum;

III – import and export of the products and basic by-products resulting from the activities set forth in the preceding items;

IV – ocean transportation of crude petroleum of domestic origin or of basic petroleum by-products produced in the country, as well as pipeline transportation of crude petroleum, its by-products and natural gas of any origin;

V – prospecting, mining, enrichment, reprocessing, industrialization, and trading of nuclear mineral ores and minerals and their by-products, with the exception of radioisotopes whose production, sale, and use may be authorized under a permission, in accordance with letters *b* and *c* of item XXIII of the head paragraph of article 21 of this Federal Constitution.

Paragraph 1. The Union may contract with state-owned or with private enterprises for the execution of the activities provided for in items I through IV of this article, with due regard for the conditions set forth by law.

Paragraph 2. The law referred to in paragraph 1 shall provide for:

I – a guarantee of supply of petroleum products in the whole national territory;

II – the conditions of contracting;

III – the structure and duties of the regulatory agency of the monopoly of the Union.

Paragraph 3. The law shall provide with respect to the transportation and use of radioactive materials within the national territory.

Paragraph 4. The law which institutes a contribution tax of intervention in the economic domain regarding activities of importation or sale of petroleum and petroleum products, natural gas and its by-products, and fuel alcohol shall include the following requirements:

I – the contribution rate may be:

a) different for each product or use;

b) lowered and restored to its original level by an act of the Executive Branch, and the provision of Article 150, III, *b*, shall not apply thereto;

II – the proceeds from the collection of the contribution shall be allocated:

a) to the payment of price or transportation subsidies for fuel alcohol, natural gas and its by-products, and petroleum products;

b) to the financing of environmental projects related to the petroleum and gas industry;

c) to the financing of transportation infrastructure programs.

Article 178. The law shall provide for the regulation of air, water and ground transportation, and it shall, in respect to the regulation of international transportation, comply with the agreements entered into by the Union, with due regard to the principle of reciprocity. (CA No. 7, 1995)

Sole paragraph. In regulating water transportation, the law shall set forth the conditions in which the transportation of goods in coastal and internal navigation will be permitted to foreign vessels.

Article 179. The Union, the states, the Federal District and the municipalities shall afford micro-enterprises and small enterprises, as defined by law, differentiated legal treatment, seeking to further them through simplification of their administration, tax, social security and credit obligations or through elimination or reduction thereof by means of law.

Article 180. The Union, the states, the Federal District and the municipalities shall promote and further tourism as a factor of social and economic development.

Article 181. Compliance with request for a document or for information of commercial nature, made by a foreign administrative or judicial authority to an individual or legal entity residing or domiciled in the country shall depend upon authorization from the competent authority.

CHAPTER II
Urban Policy

Article 182. The urban development policy carried out by the municipal government, according to general guidelines set forth in the law, is aimed at ordaining the full development of the social functions of the city and ensuring the well-being of its inhabitants.

Paragraph 1. The master plan, approved by the City Council, which is compulsory for cities of over twenty thousand inhabitants, is the basic tool of the urban development and expansion policy.

Paragraph 2. Urban property performs its social function when it meets the fundamental requirements for the ordainment of the city as set forth in the master plan.

Paragraph 3. Expropriation of urban property shall be made against prior and fair compensation in cash.

Paragraph 4. The municipal government may, by means of a specific law, for an area included in the master plan, demand, according to federal law, that the owner of unbuilt, underused or unused urban soil provide for adequate use thereof, subject, sucessively, to:

I – compulsory parceling or construction;

II – rates of urban property and land tax that are progressive in time;

III – expropriation with payment in public debt bonds issued with the prior approval of the Federal Senate, redeemable within up to ten years, in equal and successive annual installments, ensuring the real value of the compensation and the legal interest.

Article 183. An individual who possesses an urban area of up to two hundred and fifty square meters, for five years, without interruption or opposition, using it as his or as his family's home, shall acquire domain of it, provided that he does not own any other urban or rural property.

Paragraph 1. The deed of domain and concession of use shall be granted to the man or woman, or both, regardless of their marital status.

Paragraph 2. This right shall not be recognized for the same holder more than once.

Paragraph 3. Public real estate shall not be acquired by prescription.

CHAPTER III
Agricultural and Land Policy and Agrarian Reform

Article 184. It is within the power of the Union to expropriate on account of social interest, for purposes of agrarian reform, the rural property which is not performing its social function, against prior and fair compensation in agrarian debt bonds with a clause providing for maintenance of the real value, redeemable within a period of up to twenty years computed as from the second year of issue, and the use of which shall be defined in the law.

Paragraph 1. Useful and necessary improvements shall be compensated in cash.

Paragraph 2. The decree declaring the property as being of social interest for agrarian reform purposes empowers the Union to start expropriation action.

Paragraph 3. It is incumbent upon a supplementary law to establish special summary adversary proceeding for expropriation action.

Paragraph 4. The budget shall determine each year the total volume of agrarian debt bonds, as well as the total amount of funds to meet the agrarian reform programme in the fiscal year.

Paragraph 5. The transactions of transfer of property expropriated for agrarian reform purposes are exempt from federal, state and municipal taxes.

Article 185. Expropriation of the following for agrarian reform purposes is not permitted:

I – small and medium-size rural property, as defined by law, provided its owner does not own other property;

II – productive property.

Sole paragraph. The law shall guarantee special treatment for the productive property and shall establish rules for the fulfillment of the requirements regarding its social function.

Article 186. The social function is met when the rural property complies simultaneously with, according to the criteria and standards prescribed by law, the following requirements:

I – rational and adequate use;

II – adequate use of available natural resources and preservation of the environment;

III – compliance with the provisions that regulate labour relations;

IV – exploitation that favours the well-being of the owners and labourers.

Article 187. The agricultural policy shall be planned and carried out as established by law, with the effective participation of the production sector, comprising producers and rural workers, as well as the marketing, storage and transportation sectors, with especial consideration for:

I – the credit and fiscal mechanisms;

II – prices compatible with production costs and the guarantee of marketing;

III – research and technology incentives;

IV – technical assistance and rural extension;

V – agricultural insurance;

VI – cooperative activity;

VII – rural electricity and irrigation systems;

VIII – housing for the rural workers.

Paragraph 1. Agricultural planning includes agroindustrial, stock raising, fishing and forestry activities.

Paragraph 2. Agricultural policy and agrarian reform actions shall be made compatible.

Article 188. The destination given to public and unoccupied lands shall be made compatible with the agricultural policy and the national agrarian reform plan.

Paragraph 1. The alienation or concession in any way of public lands with an area of more than two thousand and five hundred hectares to an individual or legal entity, even if through an intermediary, shall depend on the prior approval of the National Congress.

Paragraph 2. Alienations or concessions of public lands for agrarian reform purposes are excluded from the provisions of the preceding paragraph.

Article 189. The beneficiaries of distribution of rural land through agrarian reform shall receive title-deeds or concession of use which may not be transacted for a period of ten years.

Sole paragraph. The title-deed and the concession of use shall be granted to the man or the woman, or to both, irrespective of their marital status, according to the terms and conditions set forth by law.

Article 190. The law shall regulate and limit the acquisition or lease of rural property by a foreign individual or legal entity, and shall establish the cases that shall depend on authorization by the National Congress.

Article 191. The individual who, not being the owner of rural or urban property, holds as his own, for five uninterrupted years, without opposition, an area of land in the rural zone, not exceeding fifty hectares, making it productive with his labour or that of his family, and having his dwelling thereon, shall acquire ownership of the land.

Sole paragraph. The public real estate shall not be acquired by prescription.

CHAPTER IV
The National Financial System

Article 192. The national financial system, structured to promote the balanced development of the country and to serve the collective interests, in all of the component elements of the system, including credit cooperatives, shall be regulated by supplementary laws which shall also provide for the participation of foreign capital in the institutions that make up the said system. (CA No. 40, 2002)

I – (Revoked);

II – (Revoked);

III – (Revoked);

a) (Revoked);

b) (Revoked);

IV – (Revoked);

V – (Revoked);

VI – (Revoked);

VII – (Revoked);

VIII – (Revoked).

Paragraph 1. (Revoked).

Paragraph 2. (Revoked).

Paragraph 3. (Revoked).

TITLE VIII
The Social Order

CHAPTER I
General Provision

Article 193. The social order is based on the primacy of work and aimed at social well-being and justice.

CHAPTER II
Social Welfare

SECTION I
General Provisions

Article 194. Social welfare comprises an integrated whole of actions initiated by the Government and by society, with the purpose of ensuring the rights to health, social security and assistance. (CA No. 20, 1998)

Sole paragraph. It is incumbent upon the Government, as provided by law, to organize social welfare, based on the following objectives:

I – universality of coverage and service;

II – uniformity and equivalence of benefits and services for urban and rural populations;

III – selectivity and distributiveness in the provision of benefits and services;

IV – irreducibility of the value of the benefits;

V – equitable participation in funding;

VI – diversity of the financing basis;

VII – democratic and decentralized character of administration, by means of a quadripartite management, with the participation of workers, employers, retirees, and the Government in the collegiate bodies.

Article 195. Social welfare shall be financed by all of society, either directly or indirectly, as provided by law, with funds coming from the budgets of the Union, the states, the Federal District and the municipalities and from the following welfare contributions: (CA No. 20, de 1998; CA No. 42, de 2003; CA No. 47, de 2005)

I – of employers, companies, and entities defined by law as being comparable to companies, assessed on:

a) the payroll and other labour earnings paid or credited, on any account, to individuals who render services to them, even when there is no employment bond;

b) income or revenues;

c) profits;

II – of workers and other persons insured by social security, no contribution being assessed on retirement pensions and other pensions granted by the general social security scheme referred to in article 201;

III – on the revenues of lotteries;

IV – of importers of goods or services from other countries, or of other parties defined by law as being comparable to such importers.

Paragraph 1. The revenues of the states, the Federal District and the municipalities alloted to social welfare shall be included in the respective budgets, not being part of the budget of the Union.

Paragraph 2. The proposal for the social welfare budget shall be drawn up jointly by the agencies responsible for health, social security and social assistance, in accordance with the goals and priorities established in the law of budgetary directives, ensuring each area of the management of its funds.

Paragraph 3. A legal entity indebted to the social welfare system, as established in law, may not contract with the Government nor receive benefits or fiscal or credit incentives therefrom.

Paragraph 4. The law may institute other sources intended to guarantee the maintenance or expansion of social welfare, with due regard to the provisions of article 154, I.

Paragraph 5. No social welfare benefit or service may be created, increased or extended without a corresponding source of full funding.

Paragraph 6. The social contributions referred to in this article may only be collected ninety days after the publication of the law which instituted or modified them, the provisions of article 150, III, *b*, not applying thereto.

Paragraph 7. Benevolent entities of social assistance which meet the requirements established in law shall be exempt from contribution to social welfare.

Paragraph 8. Rural producers, sharecroppers, tenant farmers, and self-employed fishermen, as well as their spouses, who exercise their activities within a household system and without permanent employees shall contribute to social welfare by applying a rate to the proceeds from the sale of their production and shall be entitled to the benefits provided by law.

Paragraph 9. The welfare contributions set forth in item I of the head paragraph of this article may have differentiated rates or assessment bases, according to the economic activity, the intensive use of labour, the size of the company, or the structural situation of the labour market.

Paragraph 10. The law shall define the criteria for the transfer of funds allocated to the unified health system and for social assistance initiatives, from the Union to the States, the Federal District, and the Municipalities, and from the States to the Municipalities, with due regard for the respective transfer of funds.

Paragraph 11. It is forbidden to grant remission or pardon of the welfare contributions referred to in itens I, *a*, and II of this article, for debits which exceed the limit stipulated by a supplementary law.

Paragraph 12. The law shall define the sectors of economic activity for which the contributions stipulated under the terms of items I, *b*; and IV of the head paragraph, shall be non-cumulative.

Paragraph 13. The provision of paragraph 12 shall also apply in the case of gradual replacement, either total ou partial, of the contribution stipulated under the terms of item I, *a*, by the contribution due on income or revenues.

SECTION II
Health

Article 196. Health is a right of all and a duty of the State and shall be guaranteed by means of social and economic policies aimed at reducing the risk of illness and other hazards and at the universal and equal access to actions and services for its promotion, protection and recovery.

Article 197. Health actions and services are of public importance, and it is incumbent upon the Government to provide, in accordance with the law, for their regulation, supervision and control, and they shall be carried out directly or by third parties and also by individuals or private legal entities.

Article 198. Health actions and public services integrate a regionalized and hierarchical network and constitute a single system, organized according to the following directives: (CA No. 29, 2000; CA No. 51, 2006; CA No. 63, 2010)

I – decentralization, with a single management in each sphere of government;

II – full service, priority being given to preventive activities, without prejudice to assistance services;

III – participation of the community.

Paragraph 1. The unified health system shall be financed, as set forth in article 195, with funds from the social welfare budget of the Union, the states, the Federal District and the municipalities, as well as from other sources.

Paragraph 2. The Union, the States, the Federal District, and the Municipalities shall apply each year, to health actions and public services, a minimum amount of funds derived from the application of percentages calculated upon the following:

I – in the case of the Union, in the manner defined under the terms of the supplementary law provided for in paragraph 3;

II – in the case of the States and of the Federal District, the proceeds from the collection of the taxes mentioned in article 155 and of the funds mentioned in articles 157 and 159, item I, subitem *a*, and item II, after deducting the portions remitted to the respective Municipalities;

III – in the case of the Municipalities and of the Federal District, the proceeds from the collection of the taxes mentioned in article 156 and of the funds mentioned in articles 158 and 159, item I, subitem *b*, and paragraph 3.

Paragraph 3. A supplementary law to be revised at least every five years shall establish:

I – the percentages referred to in paragraph 2;

II – the criteria for the sharing of funds of the Union earmarked for health and assigned to the States, the Federal District, and the Municipalities, and of funds of the States assigned to their respective Municipalities, with a view to a progressive reduction of regional disparities;

III – the rules for supervision, assessment, and control of expenditures on health at the level of the Union, the States, the Federal District, and the Municipalities;

IV – the rules to calculate the amount to be applied by the Union.

Paragraph 4. The local managers of the unified health system may hire community health workers and endemic disease control agents by means of a public selection process, taking into account the nature and complexity of their duties and the specific requirements of their activity.

Paragraph 5. Federal legislation shall provide for the legal regime, a nationwide professional minimum salary, the guidelines for Career Schemes, and the regulation of activities of community health workers and endemic disease control agents, and it shall be incumbent upon the Federal Government, under the terms of the law, to provide supplementary financial support to the States, the Federal District, and Municipalities, to achieve compliance with said minimum salary.

Paragraph 6. In addition to the cases set forth in paragraph 1 of article 41 and in paragraph 4 of article 169 of the Federal Constitution, an employee whose activities are equivalent to those of a community health worker or an endemic disease control agent may be dismissed if he does not comply with the specific requirements stipulated by law for such activities.

Article 199. Health assistance is open to private enterprise.

Paragraph 1. Private institutions may participate in a supplementary manner in the unified health system, in accordance with the directives established by the latter, by means of public law contracts or agreements, preference being given to philanthropic and non-profit entities.

Paragraph 2. The allocation of public funds to aid or subsidize profit-oriented private institutions is forbidden.

Paragraph 3. Direct or indirect participation of foreign companies or capital in health assistance in the country is forbidden, except in cases provided by law.

Paragraph 4. The law shall provide for the conditions and requirements which facilitate the removal of organs, tissues and human substances for the purpose of transplants, research and treatment, as well as the collection, processing and transfusion of blood and its by-products, all kinds of sale being forbidden.

Article 200. It is incumbent upon the unified health system, in addition to other duties, as set forth by the law:

I – to supervise and control proceedings, products and substances of interest to health and to participate in the production of drugs, equipments, immunobiological products, blood products and other inputs;

II – to carry out actions of sanitary and epidemiologic vigilance as well as those relating to the health of workers;

III – to organize the training of personnel in the area of health;

IV – to participate in the definition of the policy and in the implementation of basic sanitation actions;

V – to foster, within its scope of action, scientific and technological development;

VI – to supervise and control foodstuffs, including their nutritional contents, as well as drinks and water for human consumption;

VII – to participate in the supervision and control of the production, transportation, storage and use of pschycoactive, toxic and radioactive substances and products;

VIII – to cooperate in the preservation of the environment, including that of the workplace.

SECTION III
Social Security

Article 201. The social security system shall be organized as a general scheme, of a contributory basis and mandatory participation, with due regard for criteria that preserve financial and actuarial balance, and shall provide for, in accordance with the law: (CA No. 20, 1998; CA No. 41, 2003; CA No. 47, 2005)

I – coverage for the events of illness, disability, death, and old age;

II – protection to maternity, especially to pregnant women;

III – protection to workers in a situation of involuntary unemployment;

IV – family allowance and confinement allowance for the dependents of the low-income insured;

V – pension for death of the insured, man or woman, to the spouse or companion, and dependents, complying with the provision of paragraph 2.

Paragraph 1. The adoption of differentiated requirements and criteria for the granting of retirement to the beneficiaries of the general social security scheme is forbidden, with the exception of the cases, as defined by a supplementary law, of activities carried out under special conditions which are harmful to health or to physical wholeness, and of cases in which the insured are persons with disabilities.

Paragraph 2. No benefit which replaces the contribution salary or labour earnings of the insured shall have a monthly amount lower than the minimum monthly wage.

Paragraph 3. All contribution salaries included in the calculation of the benefit shall be duly updated, under the terms of the law.

Paragraph 4. Readjustment of the benefits is ensured, to the end that their real value is permanently maintained, in accordance with criteria defined by law.

Paragraph 5. Participation in the general social security scheme, in the quality of an optional insured, is forbidden for a person who participates in a special social security scheme.

Paragraph 6. The Christmas bonus for retirees and pensioners shall be based on the amount of the earnings in the month of December of each year.

Paragraph 7. Retirement is ensured under the general social security scheme, in accordance with the law, upon compliance with the following conditions:

I – thirty-five years of contribution, if a man, and thirty years of contribution, if a woman;

II – sixty-five years of age, if a man, and sixty years, if a woman, this age limit being reduced by five years for rural workers of both sexes and for those who exercise their activities within a household system, therein included rural producers, placer miners, and self-employed fishermen.

Paragraph 8. The requirements referred to in item I of the preceding paragraph will be reduced by five years, for teachers who document exclusively a period of effective exercise of teaching functions in children education and in elementary and secondary education.

Paragraph 9. For purposes of retirement, the reciprocal computation of the period of contribution in government bodies and in private activity, either rural or urban, shall be ensured, in which case the various social security schemes shall offset each other financially, in accordance with criteria established by law.

Paragraph 10. The law shall regulate the coverage of employment-injury risks, and such coverage shall be provided both by the general social security scheme and the private sector.

Paragraph 11. The amounts habitually earned by an employee, on any account, shall be incorporated into his monthly salary for purposes of social security contribution and the resulting effects on benefits, in the cases and in the manner provided by law.

Paragraph 12. The law shall provide for a special system to include low-income workers in the social security system, as well as to include no-income persons who are engaged exclusively in household chores within their own homes, provided that they belong to low-income families, so that they have guaranteed access to benefits at an amount equal to one monthly minimum salary.

Paragraph 13. The rates and grace periods of the special system of inclusion in the social security system referred to in paragraph 12 of this article shall be lower than those in effect for other insured participants of the general social security scheme.

Article 202. The private social security scheme, of a complementary nature and organized on an autonomous basis as regards the general social security scheme, shall be optional, based on the formation of reserves which guarantee the contracted benefit, and regulated by a supplementary law. (CA No. 20, de 1998)

Paragraph 1. The supplementary law referred to in this article shall ensure that the participant in benefit plans of private pension plan companies is provided with full access to information regarding the management of their respective plans.

Paragraph 2. The contributions of employers, the benefits, and the terms of contracts set forth in the bylaws, regulations, and benefit plans of the private pension plan companies are neither an integral part of the employment contract of participants, nor, with the exception of the benefits granted, an integral part of the remuneration of participants, under the terms of the law.

Paragraph 3. The Union, the States, the Federal District, and the Municipalities, their associate government agencies, foundations, public enterprises, joint stock companies, and other public entities are forbidden to contribute funds to private pension plan companies, save in the quality of sponsors, in which case their standard contribution may not, under any circumstances, exceed that of the insured.

Paragraph 4. A supplementary law shall regulate the relationship between the Union, the States, the Federal District, or the Municipalities, including their associate government agencies, foundations, joint stock companies, and enterprises controlled either directly or indirectly, in the quality of sponsors of closed private pension plan companies, and their respective closed private pension plan companies.

Paragraph 5. The supplementary law referred to in the preceding paragraph shall apply, insofar as pertinent, to private companies holding a permission or concession to render public services, when such companies sponsor closed private pension plan companies.

Paragraph 6. The supplementary law referred to in paragraph 4 of this article shall establish the requirements for the appointment of board members of the closed private pension plan companies, and shall regulate the inclusion of participants in the collegiate bodies and decision-making bodies in which their interests are subject to discussion and decision.

SECTION IV
Social Assistance

Article 203. Social assistance shall be rendered to whomever may need it, regardless of contribution to social welfare and shall have as objectives:

I – the protection of the family, maternity, childhood, adolescence and old age;

II – the assistance to needy children and adolescents;

III – the promotion of the integration into the labour market;

IV – the habilitation and rehabilitation of the handicapped and their integration into community life;

V – the guarantee of a monthly benefit of one minimum wage to the handicapped and to the elderly who prove their incapability of providing for their own support or having it provided for by their families, as set forth by law.

Article 204. Government actions in the area of social assistance shall be implemented with funds from the social welfare budget, as provided for in article 195, in addition to other sources, and organized on the basis of the following directives: (CA No. 42, 2003)

I – political and administrative decentralization, the coordination and the general rules being incumbent upon the federal sphere, and the coordination and implementation of the respective programmes, upon the state and municipal spheres, as well as upon benevolent and social assistance entities;

II – participation of the population, by means of organizations representing them in the formulation of policies and in the control of actions taken at all levels.

Sole paragraph. The States and the Federal District may assign up to five tenths per cent of their net tax revenues to programs to support social inclusion and promotion, the utilization of such funds for the payment of the following items being forbidden:

I – personnel expenses and social charges;

II – debt servicing;

III – any other current expense not directly related to the investments or actions supported by said programs.

CHAPTER III
Education, Culture and Sports

SECTION I
Education

Article 205. Education, which is the right of all and duty of the State and of the family, shall be promoted and fostered with the cooperation of society, with a view to the full development of the person, his preparation for the exercise of citizenship and his qualification for work.

Article 206. Education shall be provided on the basis of the following principles: (CA No. 53, 2006)

I – equal conditions of access and permanence in school;

II – freedom to learn, teach, research and express thought, art and knowledge;

III – pluralism of pedagogic ideas and conceptions and coexistence of public and private teaching institutions;

IV – free public education in official schools;

V – appreciation of the value of school education professionals, guaranteeing, in accordance with the law, career schemes for public school teachers, with admittance exclusively by means of public entrance examinations consisting of tests and presentation of academic and professional credentials;

VI – democratic administration of public education, in the manner prescribed by law;

VII – guarantee of standards of quality;

VIII – a nationwide professional minimum salary for public school teachers, under the terms of a federal law.

Sole paragraph. The law shall provide for the classes of workers to be considered basic education professionals, as well as for the deadline for the preparation or adaptation of their career schemes, within the sphere of the Federal Government, the States, the Federal District, and the Municipalities.

Article 207. The universities shall have didactic, scientific, administrative, financial and property management autonomy and shall comply with the principle of non-dissociation of teaching, research and extension. (CA No. 11, 1996)

Paragraph 1. The universities are permitted to hire foreign professors, technicians and scientists as provided by law.

Paragraph 2. The provisions of this article apply to scientific and technological research institutions.

Article 208. The duty of the State towards education shall be fulfilled by ensuring the following: (CA No. 14, 1996; CA No. 53, 2006; CA No. 59, 2009)

I – mandatory basic education, free of charge, for every individual from the age of 4 (four) through the age of 17 (seventeen), including the assurance of its free offer to all those who did not have access to it at the proper age;

II – progressive universalization of the free high-school education;

III – specialized schooling for the handicapped, preferably in the regular school system;

IV – infant education to children of up to 5 (five) years of age in day-care centers and pre-schools;

V – access to higher levels of education, research and artistic creation according to individual capacity;

VI – provision of regular night courses adequate to the conditions of the student;

VII – assistance to students in all grades of basic education, by means of supplementary programmes providing school materials, transportation, food, and health care.

Paragraph 1. The access to compulsory and free education is a subjective public right.

Paragraph 2. The competent authority shall be liable for the failure of the Government in providing compulsory education, or providing it irregularly.

Paragraph 3. The Government has the power to take a census of elementary school students, call them for enrollment and ensure that parents or guardians see to their children's attendance to school.

Article 209. Teaching is open to private enterprise, provided that the following conditions are met:

I – compliance with the general rules of national education;

II – authorization and evaluation of quality by the Government.

Article 210. Minimum curricula shall be established for elementary schools in order to ensure a common basic education and respect for national and regional cultural and artistic values.

Paragraph 1. The teaching of religion is optional and shall be offered during the regular school hours of public elementary schools.

Paragraph 2. Regular elementary education shall be given in the Portuguese language and Indian communities shall also be ensured the use of their native tongues and their own learning methods.

Article 211. The Union, the states, the Federal District and the municipalities shall cooperate in the organization of their educational systems. (CA No. 14, 1996; CA No. 53, 2006; CA No. 59, 2009)

Paragraph 1. The Union shall organize the federal educational system and that of the Territories, shall finance the federal public educational institutions and shall have, in educational matters, a redistributive and supplementary function, so as to guarantee the equalization of the educational opportunities and a minimum standard of quality of education, through technical and financial assistance to the states, the Federal District and the municipalities.

Paragraph 2. The municipalities shall act on a priority basis in elementary education and in the education of children.

Paragraph 3. The states and the Federal District shall act on a priority basis in elementary and secondary education.

Paragraph 4. In the organization of respective educational systems, the Federal Government, the States, the Federal District, and the Municipalities shall establish forms of cooperation, so as to guarantee the universalization of mandatory education.

Paragraph 5. Public basic education shall give priority to regular education.

Article 212. The Union shall apply, annually, never less than eighteen percent, and the states, the Federal District, and the municipalities, at least twenty-five percent of the tax revenues, including those resulting from transfers, in the maintenance and development of education. (CA No. 53, 2006; CA No. 59, 2009)

Paragraph 1. The share of tax revenues, transferred by the Union to the states, the Federal District and the municipalities, or by the states to the respective municipalities, shall not be considered, for purposes of the calculation provided by this article, as revenues of the government which transfers it.

Paragraph 2. For purposes of compliance with the head paragraph of this article, the federal, state and municipal educational systems, as well as the funds applied in accordance with article 213 shall be taken into consideration.

Paragraph 3. In the distribution of public funds, priority shall be given to the providing for the needs of compulsory education, as regards universalization, assurance of quality standards, and equality, as set forth in the national education plan.

Paragraph 4. The supplementary food and health assistance programmes provided by article 208, VII, shall be financed with funds derived from social contributions and other budgetary funds.

Paragraph 5. Public basic education shall have, as an additional source of financing, the social contribution for education, a payroll tax levied on companies, as provided by law.

Paragraph 6. State and municipal quotas of the proceeds from the collection of the social contribution for education shall be distributed in proportion to the number of students enrolled in basic education in the respective public school systems.

Article 213. Public funds shall be allocated to public schools, and may be channelled to community, religious or philantropic schools, as defined by law, which:

I – prove that they do not seek profit and that they apply their surplus funds in education;

II – ensure that their assets shall be assigned to another community, religious or philantropic schools, or to the Government in case they cease their activities.

Paragraph 1. The funds provided by this article may be allocated to elementary and secondary school scholarships, as provided by law, for those who prove insufficiency of means, when there are no vacancies or no regular courses are offered in the public school system of the place where the student lives, the Government being placed under the obligation to invest, on a priority basis, in the expansion of the public system of the locality.

Paragraph 2. Research and extension activities at university level may receive financial support from the Government.

Article 214. The law shall establish a ten-year national education plan, with a view to organizing the national education system with the cooperation of states and municipalities, as well as to defining implementation directives, objectives, targets, and strategies so as to ensure maintenance and development of teaching, at its various levels, grades, and modalities, by means of integrated federal, state, and municipal government actions leading to: (CA No. 59, 2009)

I – eradication of illiteracy;

II – universalization of school assistance;

III – improvement of the quality of education;

IV – professional training;

V – humanistic, scientific and technological advancement of the country;

VI – stipulation of an amount of public funds to be invested in education as a proportion of the gross domestic product.

SECTION II
Culture

Article 215. The state shall ensure to all the full exercise of the cultural rights and access to the sources of national culture and shall support and foster the appreciation and diffusion of cultural expressions. (CA No. 48, 2005)

Paragraph 1. The State shall protect the expressions of popular, Indian and Afro-Brazilian cultures, as well as those of other groups participating in the national civilization process.

Paragraph 2. The law shall provide for the establishment of commemorative dates of high significance for the various national ethnic segments.

Paragraph 3. The law shall establish the National Culture Plan, in the form of a multiyear plan aimed at the cultural development of the country and the integration of government initiatives to attain the following:

I – protection and appreciation of the value of Brazil's cultural heritage;

II – production, promotion, and diffusion of cultural goods;

III – training of qualified personnel to manage culture in its multiple dimensions;

IV – democratization of access to cultural goods;

V – appreciation of the value of ethnic and regional diversity.

Article 216. The Brazilian cultural heritage consists of the assets of a material and immaterial nature, taken individually or as a whole, which bear reference to the identity, action and memory of the various groups that form the Brazilian society, therein included: (CA No. 42, 2003)

I – forms of expression;

II – ways of creating, making and living;

III – scientific, artistic and technological creations;

IV – works, objects, documents, buildings and other spaces intended for artistic and cultural expressions;

V – urban complexes and sites of historical, natural, artistic, archaeological, paleontological, ecological and scientific value.

Paragraph 1. The Government shall, with the cooperation of the community, promote and protect the Brazilian cultural heritage, by means of inventories, registers, vigilance, monument protection decrees, expropriation and other forms of precaution and preservation.

Paragraph 2. It is incumbent upon the Government, in accordance with the law, to manage the keeping of the governmental documents and to make them available for consultation to whomever may need to do so.

Paragraph 3. The law shall establish incentives for the production and knowledge of cultural assets and values.

Paragraph 4. Damages and threats to the cultural heritage shall be punished in accordance with the law.

Paragraph 5. All documents and sites bearing historical reminiscence to the ancient communities of runaway slaves are protected as national heritage.

Paragraph 6. The States and the Federal District may assign up to five tenths per cent of their net tax revenues to a state fund for the promotion of culture, for the

purpose of funding cultural programs and projects, the utilization of such funds for the payment of the following items being forbidden:

I – personnel expenses and social charges;

II – debt servicing;

III – any other current expense not directly related to the investments or actions supported by said programs.

SECTION III
Sports

Article 217. It is the duty of the State to foster the practice of formal and informal sports, as a right of each individual, with due regard for:

I – the autonomy of the directing sports entities and associations, as to their organization and operation;

II – the allocation of public funds with a view to promoting, on a priority basis, educational sports and, in specific cases, high performance sports;

III – differentiated treatment for professional and non-professional sports;

IV – the protection and fostering of sports created in the country.

Paragraph 1. The Judicial Power shall only accept legal actions related to sports discipline and competitions after the instances of the sports courts, as regulated by law, have been exhausted.

Paragraph 2. The sports courts shall render final judgement within sixty days, at the most, counted from the date of the filing of the action.

Paragraph 3. The Government shall encourage leisure, as a form of social promotion.

CHAPTER IV
Science and Technology

Article 218. The State shall promote and foster scientific development, research and technological expertise.

Paragraph 1. Basic scientific research shall receive preferential treatment from the State, with a view to public well-being and the advancement of science.

Paragraph 2. Technological research shall be directed mainly to the solution of Brazilian problems and to the development of the national and regional productive system.

Paragraph 3. The State shall support the training of human resources in the areas of science, research and technology and shall offer special work means and conditions to those engaged in such activities.

Paragraph 4. The law shall support and foster the companies which invest in research, creation of technology appropriate for the country, training and improvement of their human resources and those which adopt remuneration systems that ensure

employees a share of the economic earnings resulting from the productivity of their work, apart from the salary.

Paragraph 5. The states and the Federal District may allocate a share of their budgetary revenues to public entities which foster scientific and technological education and research.

Article 219. The domestic market is part of the national patrimony and shall be supported with a view to permitting cultural and socio-economic development, the well-being of the population and the technological autonomy of the country, as set forth in a federal law.

CHAPTER V
Social Communication

Article 220. The manifestation of thought, the creation, the expression and the information, in any form, process or medium shall not be subject to any restriction, with due regard to the provisions of this Constitution.

Paragraph 1. No law shall contain any provision which may represent a hindrance to full freedom of press in any medium of social communication, with due regard to the provisions of article 5, IV, V, X, XIII and XIV.

Paragraph 2. Any and all censorship of a political, ideological and artistic nature is forbidden.

Paragraph 3. It is within the competence of federal laws to:

I – regulate public entertainment and shows, it being incumbent upon the Government to inform on their nature, the age brackets they are not recommended for and places and times unsuitable for their exhibition;

II – establish legal means which afford persons and families the possibility of defending themselves against radio and television programmes and schedules which go contrary to the provisions of article 221, as well as against publicity of products, practices and services which may be harmful to health or to the environment.

Paragraph 4. Commercial advertising of tobacco, alcoholic beverages, pesticides, medicines and therapies shall be subject to legal restrictions, in accordance with item II of the preceding paragraph and shall contain, whenever necessary, a warning concerning the damages which may be caused by their use.

Paragraph 5. Social communication media may not, directly or indirectly, be subject to monopoly or oligopoly.

Paragraph 6. The publication of a printed social communication medium shall not depend on license from authorities.

Article 221. The production and programming of radio and television stations shall comply with the following principles:

I – preference to educational, artistic, cultural and informative purposes;

II – promotion of national and regional culture and fostering of independent productions aimed at their diffusion;

III – regional differentiation of cultural, artistic and press production, according to percentages established in law;

IV – respect for the ethical and social values of the person and the family.

Article 222. Newspaper companies, sound broadcasting companies, or sound and image broadcasting companies, shall be owned exclusively by native Brazilians or those naturalized for more than ten years, or by legal entities incorporated under Brazilian laws and headquartered in Brazil. (CA No. 36, 2002)

Paragraph 1. In all circumstances, at least seventy per cent of the total capital stock and of the voting capital of newspaper companies, sound broadcasting companies, or sound and image broadcasting companies, shall be owned directly or indirectly by native Brazilians or those naturalized for more than ten years, who shall mandatorily exercise the management of activities and shall define the content of programming.

Paragraph 2. Editorial responsibility and the activities regarding selection and management of the programming to be disseminated shall be carried out exclusively by native Brazilians or those naturalized for more than ten years, in any social communication medium.

Paragraph 3. Electronic social communication media, regardless of the technology used to deliver the service, shall comply with the principles stipulated in article 221, as provided by specific legislation, which shall also ensure priority to Brazilian professionals in the production of Brazilian programs.

Paragraph 4. Specific legislation shall regulate the participation of foreign capital in the companies mentioned in paragraph 1.

Paragraph 5. Any alterations in the corporate control of the companies mentioned in paragraph 1 must be communicated to the National Congress.

Article 223. The Executive Power has the authority to grant and renew concession, permission and authorization for radio broadcasting and sound and image broadcasting services with due regard to the principle of the complementary roles of private, public and state systems.

Paragraph 1. The National Congress shall consider such proposition in the period of time set forth in article 64, paragraphs 2 and 4, counted from the date of receipt of the message.

Paragraph 2. The non-renewal of the concession or permission shall depend on approval by at least two-fifths of the National Congress, in nominal voting.

Paragraph 3. The granting or renewal shall only produce legal effects after approval by the National Congress, as set forth in the preceding paragraphs.

Paragraph 4. Cancellation of a concession or permission prior to its expiring date shall depend on a court decision.

Paragraph 5. The term for a concession or permission shall be ten years for radio stations and fifteen years for television channels.

Article 224. For the purposes of the provisions of this chapter, the National Congress shall institute, as an auxiliary agency, the Social Communication Council, in the manner prescribed by law.

CHAPTER VI
Environment

Article 225. All have the right to an ecologically balanced environment, which is an asset of common use and essential to a healthy quality of life, and both the Government and the community shall have the duty to defend and preserve it for present and future generations.

Paragraph 1. In order to ensure the effectiveness of this right, it is incumbent upon the Government to:

I – preserve and restore the essential ecological processes and provide for the ecological treatment of species and ecosystems;

II – preserve the diversity and integrity of the genetic patrimony of the country and to control entities engaged in research and manipulation of genetic material;

III – define, in all units of the Federation, territorial spaces and their components which are to receive special protection, any alterations and suppressions being allowed only by means of law, and any use which may harm the integrity of the attributes which justify their protection being forbidden;

IV – demand, in the manner prescribed by law, for the installation of works and activities which may potentially cause significant degradation of the environment, a prior environmental impact study, which shall be made public;

V – control the production, sale and use of techniques, methods or substances which represent a risk to life, the quality of life and the environment;

VI – promote environment education in all school levels and public awareness of the need to preserve the environment;

VII – protect the fauna and the flora, with prohibition, in the manner prescribed by law, of all practices which represent a risk to their ecological function, cause the extinction of species or subject animals to cruelty.

Paragraph 2. Those who exploit mineral resources shall be required to restore the degraded environment, in accordance with the technical solutions demanded by the competent public agency, as provided by law.

Paragraph 3. Procedures and activities considered as harmful to the environment shall subject the infractors, be they individuals or legal entities, to penal and administrative sanctions, without prejudice to the obligation to repair the damages caused.

Paragraph 4. The Brazilian Amazonian Forest, the Atlantic Forest, the Serra do Mar, the Pantanal Mato-Grossense and the coastal zone are part of the national patrimony, and they shall be used, as provided by law, under conditions which ensure the preservation of the environment, therein included the use of mineral resources.

Paragraph 5. The unoccupied lands or lands seized by the states through discriminatory actions which are necessary to protect the natural ecosystems are inalienable.

Paragraph 6. Power plants operated by nuclear reactor shall have their location defined in federal law and may not otherwise be installed.

CHAPTER VII

Family, Children, Adolescents and the Elderly

Article 226. The family, which is the foundation of society, shall enjoy special protection from the State.

Paragraph 1. Marriage is civil and the marriage ceremony is free of charge.

Paragraph 2. Religious marriage has civil effects, in accordance with the law.

Paragraph 3. For purposes of protection by the State, the stable union between a man and a woman is recognized as a family entity, and the law shall facilitate the conversion of such entity into marriage.

Paragraph 4. The community formed by either parent and their descendants is also considered as a family entity.

Paragraph 5. The rights and the duties of marital society shall be exercised equally by the man and the woman.

Paragraph 6. Civil marriage may be dissolved by divorce, after prior legal separation for more than one year in the cases set forth by law, or after two years of proven *de facto* separation.

Paragraph 7. Based on the principles of human dignity and responsible parenthood, family planning is a free choice of the couple, it being within the competence of the State to provide educational and scientific resources for the exercise of this right, any coercion by official or private agencies being forbidden.

Paragraph 8. The State shall ensure assistance to the family in the person of each of its members, creating mechanisms to suppress violence within the family.

Article 227. It is the duty of the family, the society and the State to ensure children and adolescents, with absolute priority, the right to life, health, nourishment, education, leisure, professional training, culture, dignity, respect, freedom and family and community life, as well as to guard them from all forms of negligence, discrimination, exploitation, violence, cruelty and oppression.

Paragraph 1. The State shall promote full health assistance programmes for children and adolescents, the participation of non-governmental entities being allowed, and with due regard to the following precepts:

I – allocation of a percentage of public health care funds to mother and child assistance;

II – creation of preventive and specialized care programmes for the physically, sensorially or mentally handicapped, as well as programmes for the social integration of handicapped adolescents, by means of training for a profession and for community life, and by means of facilitating the access to communal facilities and services, by eliminating prejudices and architectonic obstacles.

Paragraph 2. The law shall regulate construction standards for public sites and buildings and for the manufacturing of public transportation vehicles, in order to ensure adequate access to the handicapped.

Paragraph 3. The right to special protection shall include the following aspects:

I – minimum age of fourteen years for admission to work, with due regard to the provisions of article 7, XXXIII;

II – guarantee of social security and labour rights;

III – guarantee of access to school for the adolescent worker;

IV – guarantee of full and formal knowledge of the determination of an offense, equal rights in the procedural relationships and technical defense by a qualified professional, in accordance with the provisions of the specific protection legislation;

V – compliance with the principles of brevity, exceptionality and respect to the peculiar conditions of the developing person, when applying any measures that restrain freedom;

VI – Government fostering, by means of legal assistance, tax incentives and subsidies, as provided by law, of the protection, through guardianship, of orphaned or abandoned children or adolescents;

VII – prevention and specialized assistance programmes for children and adolescents addicted to narcotics or related drugs.

Paragraph 4. The law shall severely punish abuse, violence and sexual exploitation of children and adolescents.

Paragraph 5. Adoption shall be assisted by the Government, as provided by law, which shall establish cases and conditions for adoption by foreigners.

Paragraph 6. Children born inside or outside wedlock or adopted shall have the same rights and qualifications, any discriminatory designation of their filiation being forbidden.

Paragraph 7. In attending to the rights of children and adolescents, the provisions of article 204 shall be taken into consideration.

Article 228. Minors under eighteen years of age may not be held criminally liable and shall be subject to the rules of the special legislation.

Article 229. It is the duty of parents to assist, raise and educate their under-age children and it is the duty of children of age to help and assist their parents in old-age, need or sickness.

Article 230. It is the duty of the family, society and the State, to assist the elderly, ensuring their participation in the community, defending their dignity and well-being and guaranteeing their right to life.

Paragraph 1. Assistance programmes for the elderly shall be carried out preferably within their homes.

Paragraph 2. Those over sixty-five years of age are guaranteed free urban public transportation.

CHAPTER VIII
Indians

Article 231. Indians shall have their social organization, customs, languages, creeds and traditions recognized, as well as their original rights to the lands they traditionally

occupy, it being incumbent upon the Union to demarcate them, protect and ensure respect for all of their property.

Paragraph 1. Lands traditionally occupied by Indians are those on which they live on a permanent basis, those used for their productive activities, those indispensable to the preservation of the environmental resources necessary for their well-being and for their physical and cultural reproduction, according to their uses, customs and traditions.

Paragraph 2. The lands traditionally occupied by Indians are intended for their permanent possession and they shall have the exclusive usufruct of the riches of the soil, the rivers and the lakes existing therein.

Paragraph 3. Hydric resources, including energetic potentials, may only be exploited, and mineral riches in Indian land may only be prospected and mined with the authorization of the National Congress, after hearing the communities involved, and the participation in the results of such mining shall be ensured to them, as set forth by law.

Paragraph 4. The lands referred to in this article are inalienable and indisposable and the rights thereto are not subject to limitation.

Paragraph 5. The removal of Indian groups from their lands is forbidden, except *ad referendum* of the National Congress, in case of a catastrophe or an epidemic which represents a risk to their population, or in the interest of the sovereignty of the country, after decision by the National Congress, it being guaranteed that, under any circumstances, the return shall be immediate as soon as the risk ceases.

Paragraph 6. Acts with a view to occupation, domain and possession of the lands referred to in this article or to the exploitation of the natural riches of the soil, rivers and lakes existing therein, are null and void, producing no legal effects, except in case of relevant public interest of the Union, as provided by a supplementary law and such nullity and voidness shall not create a right to indemnity or to sue the Union, except in what concerns improvements derived from occupation in good faith, in the manner prescribed by law.

Paragraph 7. The provisions of article 174, paragraphs 3 and 4, shall not apply to Indian lands.

Article 232. The Indians, their communities and organizations have standing under the law to sue to defend their rights and interests, the Public Prosecution intervening in all the procedural acts.

TITLE IX
General Constitutional Provisions

Article 233. (Revoked). (CA No. 28, 2000)

Article 234. It is forbidden for the Union to assume, directly or indirectly, as a result of the creation of a state, burdens related to expenses with inactive personnel and with charges and repayments of internal or foreign debt of the public administration, including those of the indirect administration.

Article 235. During the first ten years after the creation of a state the following basic rules shall be observed:

I – the Legislative Assembly shall be composed of seventeen Deputies if the population of the state is less than six hundred thousand inhabitants, and of twenty-four Deputies if it is equal to or greater than this number, up to one million and five hundred thousand inhabitants;

II – the Government shall have at most ten Secretariats;

III – the Audit Court shall have three members, appointed by the elected Governor, among Brazilians of proven good repute and notable knowledge;

IV – the Court of Justice shall have seven Judges;

V – the first Judges shall be appointed by the elected Governor, chosen in the following manner:

a) five of them from among judges with more than thirty-five years of age, in exercise within the area of the new state or of the original one;

b) two of them from among public prosecutors, under the same conditions, and from among attorneys of proven good repute and legal knowledge, with at least ten years of professional practice, complying with the procedures set forth in this Constitution;

VI – in the case of a state which originated from a federal territory, the first five Judges may be chosen from among judges from any part of the country;

VII – in each judicial district the first Judge, the first Public Prosecutor and the first Public Defender shall be appointed by the elected Governor after a public entrance examination of tests and presentation of academic and professional credentials;

VIII – until the promulgation of the state Constitution, the offices of Attorney-General, Advocate-General and Defender-General shall be held by lawyers of notable knowledge, with at least thirty-five years of age, appointed by the elected Governor and removable *ad nutum*;

IX – if the new state results from the transformation of a federal territory, the transfer of financial burden from the Union for payment of opting civil servants who belonged to the Federal Administration, shall take place as follows:

a) in the sixth year after its creation, the state shall assume twenty percent of the financial burden for the payment of the civil servants, the remainder continuing as a responsibility of the Union;

b) in the seventh year, thirty percent shall be added to the burden of the state and, in the eighth year, the remaining fifty percent;

X – the appointments subsequent to the first ones, for the offices mentioned in this article, shall be regulated by the state Constitution;

XI – the budgetary personnel expenses shall not exceed fifty percent of the revenues of the state.

Article 236. Notary and registration services shall be exercised by private entities by Government delegation.

Paragraph 1. The law shall regulate the activities, discipline the civil and criminal liability of notaries, registrars and their officials and define the supervision of their acts by the Judicial Power.

Paragraph 2. Federal law shall set forth general rules for the establishment of the fees for the acts performed by notary and registration services.

Paragraph 3. The entrance in notary and registration activities shall depend on a public entrance examination of tests and presentation of academic and professional credentials, and an office shall not be permitted to remain vacant for more than six months, without the opening of a public examination to fill it, either by appointment or transference.

Article 237. The supervision and control of foreign trade, which are essential to the defense of national financial interests, shall be exercised by the Ministry of Finance.

Article 238. The law shall organize the sale and resale of petroleum-derived fuels, fuel alcohol and other fuels derived from renewable raw-materials, respecting the principles of this Constitution.

Article 239. The revenues from contributions to the Social Integration Program, created by the Supplementary Law number 7 of September 7, 1970, and to the Civil Servants Asset Development Programme, created by the Supplementary Law number 8, of December 3, 1970, shall, from the date of the promulgation of this Constitution, fund the unemployment insurance programme and the bonus referred to in paragraph 3 of this article, in the manner prescribed by law.

Paragraph 1. At least forty percent of the funds mentioned in the head paragraph of this article shall be allocated to finance economic development programmes, through the National Economic and Social Development Bank, with remuneration criteria which preserve their value.

Paragraph 2. The accrued assets of the Social Integration Programme and of the Civil Servants Asset Development Programme shall be preserved, maintaining the criteria for withdrawal in the situations provided for in specific laws, with the exception of withdrawal by reason of marriage, it being forbidden the distribution of the revenues referred to in the head paragraph of this article, for deposit in the personnal accounts of the participants.

Paragraph 3. Employees who receive monthly remuneration of up to two minimum wages from employers who contribute to the Social Integration Programme and to the

Civil Servants Asset Development Programme shall be ensured the annual payment of one minimum wage, in which value the income of the individual accounts shall be computed, in the case of those who already participated in such programmes before the date of the promulgation of this Constitution.

Paragraph 4. Funding of the unemployment insurance programme shall receive an additional contribution from companies in which employee turnover exceeds the average turnover rate of the sector, in the manner established by law.

Article 240. The present compulsory contributions calculated on the payroll, made by employers, intended for private social service and professional training entities linked to the labour union system, are excluded from the provisions of article 195.

Article 241. The Union, the States, the Federal District, and the Municipalities shall issue legislation to regulate public syndicates and cooperation agreements between members of the Federation, authorizing the joint management of public services, as well as the transfer, in whole or in part, of charges, services, personnel, and goods essential to the continued rendering of the services transferred. (CA No. 19, 1998)

Article 242. The principle of article 206, IV, shall not apply to the official educational institutions created by state or municipal law and in existence on the date of the promulgation of this Constitution, which are not totally or predominantly maintained with public funds.

Paragraph 1. The teaching of Brazilian History shall take into account the contribution of the different cultures and ethnic groups to the formation of the Brazilian people.

Paragraph 2. The Pedro II School, located in the city of Rio de Janeiro, shall be maintained in the federal sphere.

Article 243. Tracts of land in any region of the country where illegal plantations of psychotropic plants are found shall be expropriated immediately and specifically assigned to the settlement of tenant farmers, to the culture of foodstuffs and medicinal products, with no indemnity to the owner and without prejudice to other sanctions set forth by law.

Sole paragraph. Any and all good of economic value seized as a result of illegal traffic or narcotics and similar drugs shall be confiscated and reverted to the benefit of institutions and personnel specialized in the treatment and cure of drug-addicts and in the equipping and funding of supervision, control, prevention and repression of drug traffic crime.

Article 244. The law shall provide for the adaptation of presently existing sites and buildings of public use and of the public transportation vehicles in order to guarantee adequate access to the handicapped, as set forth in article 227, paragraph 2.

Article 245. The law shall provide for the cases and conditions in which the Government shall give assistance to the needy heirs and dependents of victims of willful crimes, without prejudice to the civil responsibility of the perpetrator of the offense.

Article 246. The adoption of a provisional measure for the regulation of any article of the Constitution the wording of which has been altered by means of an amendment enacted between January 1, 1995 and the date of enactment of this amendment[4] is forbidden. (CA No. 6, 1995; CA No. 32, 2001)

Article 247. The laws provided for in item III of paragraph 1 of article 41, and in paragraph 7 of article 169, shall establish special criteria and guarantees for the loss of office of a tenured public employee who, by virtue of the duties of his effective post, performs exclusive activities of State. (CA No. 19, 1998)

Sole paragraph. In the event of insufficient performance, the loss of office shall only take place by means of an administrative proceeding in which the adversary system and ample defense are ensured.

Article 248. The benefits paid, under any auspices, by the agency in charge of the general social security scheme, even if they are financed by the National Treasury, and those benefits not subject to the maximum amount stipulated for benefits granted by such scheme shall comply with the limits set forth in article 37, XI. (CA No. 20, 1998)

Article 249. For the purpose of securing monies for the payment of retirement pensions and other pensions granted to their respective employees and their dependents, in addition to the monies of their respective treasuries, the Union, the States, the Federal District, and the Municipalities may establish funds, made up of monies arising from contributions, and of property, rights, and assets of any kind, by means of a law that shall provide for the nature and the management of such funds. (CA No. 20, 1998)

Article 250. For the purpose of securing monies for the payment of benefits granted by the general social security scheme, in addition to the monies arising from taxation, the Union may establish a fund made up of property, rights, and assets of any kind, by means of a law that shall provide for the nature and the management of such a fund. (CA No. 20, 1998)

Brasília, October 5, 1988.

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[4] Should read as "Constitutional Amendment no. 32/2001".

Saldanha – Aldo Arantes – Alércio Dias – Alexandre Costa – Alexandre Puzyna – Alfredo Campos – Almir Gabriel – Aloisio Vasconcelos – Aloysio Chaves – Aloysio Teixeira – Aluizio Bezerra – Aluízio Campos – Álvaro Antônio – Álvaro Pacheco – Álvaro Valle – Alysson Paulinelli – Amaral Netto – Amaury Müller – Amilcar Moreira – Ângelo Magalhães – Anna Maria Rattes – Annibal Barcellos – Antero de Barros – Antônio Câmara – Antônio Carlos Franco – Antonio Carlos Mendes Thame – Antônio de Jesus – Antonio Ferreira – Antonio Gaspar – Antonio Mariz – Antonio Perosa – Antônio Salim Curiati – Antonio Ueno – Arnaldo Martins – Arnaldo Moraes – Arnaldo Prieto – Arnold Fioravante – Arolde de Oliveira – Artenir Werner – Artur da Távola – Asdrubal Bentes – Assis Canuto – Átila Lira – Augusto Carvalho – Áureo Mello – Basílio Villani – Benedicto Monteiro – Benito Gama – Beth Azize – Bezerra de Melo – Bocayuva Cunha – Bonifácio de Andrada – Bosco França – Brandão Monteiro – Caio Pompeu – Carlos Alberto – Carlos Alberto Caó – Carlos Benevides – Carlos Cardinal – Carlos Chiarelli – Carlos Cotta – Carlos De'Carli – Carlos Mosconi – Carlos Sant'Anna – Carlos Vinagre – Carlos Virgílio – Carrel Benevides – Cássio Cunha Lima – Célio de Castro – Celso Dourado – César Cals Neto – César Maia – Chagas Duarte – Chagas Neto – Chagas Rodrigues – Chico Humberto – Christóvam Chiaradia – Cid Carvalho – Cid Sabóia de Carvalho – Cláudio Ávila – Cleonâncio Fonseca – Costa Ferreira – Cristina Tavares – Cunha Bueno – Dálton Canabrava – Darcy Deitos – Darcy Pozza – Daso Coimbra – Davi Alves Silva – Del Bosco Amaral – Delfim Netto – Délio Braz – Denisar Arneiro – Dionisio Dal Prá – Dionísio Hage – Dirce Tutu Quadros – Dirceu Carneiro – Divaldo Suruagy – Djenal Gonçalves – Domingos Juvenil – Domingos Leonelli – Doreto Campanari – Edésio Frias – Edison Lobão – Edivaldo Motta – Edme Tavares – Edmilson Valentim – Eduardo Bonfim – Eduardo Jorge – Eduardo Moreira – Egídio Ferreira Lima – Elias Murad – Eliel Rodrigues – Eliézer Moreira – Enoc Vieira – Eraldo Tinoco – Eraldo Trindade – Erico Pegoraro – Ervin Bonkoski – Etevaldo Nogueira – Euclides Scalco – Eunice Michiles – Evaldo Gonçalves – Expedito Machado – Ézio Ferreira – Fábio Feldmann – Fábio Raunheitti – Farabulini Júnior – Fausto Fernandes – Fausto Rocha – Felipe Mendes – Feres Nader – Fernando Bezerra Coelho – Fernando Cunha – Fernando Gasparian – Fernando Gomes – Fernando Henrique Cardoso – Fernando Lyra – Fernando Santana – Fernando Velasco – Firmo de Castro – Flavio Palmier da Veiga – Flávio Rocha – Florestan Fernandes – Floriceno Paixão – França Teixeira – Francisco Amaral – Francisco Benjamim – Francisco Carneiro – Francisco Coelho – Francisco Diógenes – Francisco Dornelles – Francisco Küster – Francisco Pinto – Francisco Rollemberg – Francisco Rossi – Francisco Sales – Furtado Leite – Gabriel Guerreiro – Gandi Jamil – Gastone Righi – Genebaldo Correia – Genésio Bernardino – Geovani Borges – Geraldo Alckmin Filho – Geraldo Bulhões – Geraldo Campos – Geraldo Fleming – Geraldo Melo – Gerson Camata – Gerson Marcondes – Gerson Peres – Gidel Dantas – Gil César – Gilson Machado – Gonzaga Patriota – Guilherme Palmeira – Gumercindo Milhomem – Gustavo de Faria – Harlan Gadelha – Haroldo Lima – Haroldo Sabóia – Hélio Costa – Hélio Duque – Hélio Manhães – Hélio Rosas – Henrique Córdova – Henrique Eduardo Alves – Heráclito Fortes – Hermes Zaneti – Hilário Braun – Homero Santos – Humberto Lucena – Humberto Souto – Iberê Ferreira – Ibsen Pinheiro – Inocêncio Oliveira – Irajá Rodrigues – Iram Saraiva – Irapuan Costa Júnior – Irma Passoni – Ismael Wanderley – Israel Pinheiro – Itamar Franco – Ivo Cersósimo – Ivo Lech – Ivo Mainardi – Ivo Vanderlinde – Jacy

Scanagatta – Jairo Azi – Jairo Carneiro – Jalles Fontoura – Jamil Haddad – Jarbas Passarinho – Jayme Paliarin – Jayme Santana – Jesualdo Cavalcanti – Jesus Tajra – Joaci Góes – João Agripino – João Alves – João Calmon – João Carlos Bacelar – João Castelo – João Cunha – João da Mata – João de Deus Antunes – João Herrmann Neto – João Lobo – João Machado Rollemberg – João Menezes – João Natal – João Paulo – João Rezek – Joaquim Bevilácqua – Joaquim Francisco – Joaquim Hayckel – Joaquim Sucena – Jofran Frejat – Jonas Pinheiro – Jonival Lucas – Jorge Bornhausen – Jorge Hage – Jorge Leite – Jorge Uequed – Jorge Vianna – José Agripino – José Camargo – José Carlos Coutinho – José Carlos Grecco – José Carlos Martinez – José Carlos Sabóia – José Carlos Vasconcelos – José Costa – José da Conceição – José Dutra – José Egreja – José Elias – José Fernandes – José Freire – José Genoíno – José Geraldo – José Guedes – José Ignácio Ferreira – José Jorge – José Lins – José Lourenço – José Luiz de Sá – José Luiz Maia – José Maranhão – José Maria Eymael – José Maurício – José Melo – José Mendonça Bezerra – José Moura – José Paulo Bisol – José Queiroz – José Richa – José Santana de Vasconcellos – José Serra – José Tavares – José Teixeira – José Thomaz Nonô – José Tinoco – José Ulísses de Oliveira – José Viana – José Yunes – Jovanni Masini – Juarez Antunes – Júlio Campos – Júlio Costamilan – Jutahy Júnior – Jutahy Magalhães – Koyu Iha – Lael Varella – Lavoisier Maia – Leite Chaves – Lélio Souza – Leopoldo Peres – Leur Lomanto – Levy Dias – Lézio Sathler – Lídice da Mata – Louremberg Nunes Rocha – Lourival Baptista – Lúcia Braga – Lúcia Vânia – Lúcio Alcântara – Luís Eduardo – Luís Roberto Ponte – Luiz Alberto Rodrigues – Luiz Freire – Luiz Gushiken – Luiz Henrique – Luiz Inácio Lula da Silva – Luiz Leal – Luiz Marques – Luiz Salomão – Luiz Viana – Luiz Viana Neto – Lysâneas Maciel – Maguito Vilela – Maluly Neto – Manoel Castro – Manoel Moreira – Manoel Ribeiro – Mansueto de Lavor – Manuel Viana – Márcia Kubitschek – Márcio Braga – Márcio Lacerda – Marco Maciel – Marcondes Gadelha – Marcos Lima – Marcos Queiroz – Maria de Lourdes Abadia – Maria Lúcia – Mário Assad – Mário Covas – Mário de Oliveira – Mário Lima – Marluce Pinto – Matheus Iensen – Mattos Leão – Maurício Campos – Maurício Correa – Maurício Fruet – Maurício Nasser – Maurício Pádua – Maurílio Ferreira Lima – Mauro Borges – Mauro Campos – Mauro Miranda – Mauro Sampaio – Max Rosenmann – Meira Filho – Melo Freire – Mello Reis – Mendes Botelho – Mendes Canale – Mendes Ribeiro – Messias Góis – Messias Soares – Michel Temer – Milton Barbosa – Milton Lima – Milton Reis – Miraldo Gomes – Miro Teixeira – Moema São Thiago – Moysés Pimentel – Mozarildo Cavalcanti – Mussa Demes – Myrian Portella – Nabor Júnior – Naphtali Alves de Souza – Narciso Mendes – Nelson Aguiar – Nelson Carneiro – Nelson Jobim – Nelson Sabrá – Nelson Seixas – Nelson Wedekin – Nelton Friedrich – Nestor Duarte – Ney Maranhão – Nilso Sguarezi – Nilson Gibson – Nion Albernaz – Noel de Carvalho – Nyder Barbosa – Octávio Elísio – Odacir Soares – Olavo Pires – Olívio Dutra – Onofre Corrêa – Orlando Bezerra – Orlando Pacheco – Oscar Corrêa – Osmar Leitão – Osmir Lima – Osmundo Rebouças – Osvaldo Bender – Osvaldo Coelho – Osvaldo Macedo – Osvaldo Sobrinho – Oswaldo Almeida – Oswaldo Trevisan – Ottomar Pinto – Paes de Andrade – Paes Landim – Paulo Delgado – Paulo Macarini – Paulo Marques – Paulo Mincarone – Paulo Paim – Paulo Pimentel – Paulo Ramos – Paulo Roberto – Paulo Roberto Cunha – Paulo Silva – Paulo Zarzur – Pedro Canedo – Pedro Ceolin – Percival Muniz – Pimenta da Veiga – Plínio Arruda Sampaio – Plínio Martins – Pompeu de Sousa – Rachid

Saldanha Derzi – Raimundo Bezerra – Raimundo Lira – Raimundo Rezende – Raquel Cândido – Raquel Capiberibe – Raul Belém – Raul Ferraz – Renan Calheiros – Renato Bernardi – Renato Johnsson – Renato Vianna – Ricardo Fiuza – Ricardo Izar – Rita Camata – Rita Furtado – Roberto Augusto – Roberto Balestra – Roberto Brant – Roberto Campos – Roberto D'Ávila – Roberto Freire – Roberto Jefferson – Roberto Rollemberg – Roberto Torres – Roberto Vital – Robson Marinho – Rodrigues Palma – Ronaldo Aragão – Ronaldo Carvalho – Ronaldo Cezar Coelho – Ronan Tito – Ronaro Corrêa – Rosa Prata – Rose de Freitas – Rospide Netto – Rubem Branquinho – Rubem Medina – Ruben Figueiró – Ruberval Pilotto – Ruy Bacelar – Ruy Nedel – Sadie Hauache – Salatiel Carvalho – Samir Achôa – Sandra Cavalcanti – Santinho Furtado – Sarney Filho – Saulo Queiroz – Sérgio Brito – Sérgio Spada – Sérgio Werneck – Severo Gomes – Sigmaringa Seixas – Sílvio Abreu – Simão Sessim – Siqueira Campos – Sólon Borges dos Reis – Stélio Dias – Tadeu França – Telmo Kirst – Teotonio Vilela Filho – Theodoro Mendes – Tito Costa – Ubiratan Aguiar – Ubiratan Spinelli – Uldurico Pinto – Valmir Campelo – Valter Pereira – Vasco Alves – Vicente Bogo – Victor Faccioni – Victor Fontana – Victor Trovão – Vieira da Silva – Vilson Souza – Vingt Rosado – Vinicius Cansanção – Virgildásio de Senna – Virgílio Galassi – Virgílio Guimarães – Vitor Buaiz – Vivaldo Barbosa – Vladimir Palmeira – Wagner Lago – Waldec Ornélas – Waldyr Pugliesi – Walmor de Luca – Wilma Maia – Wilson Campos – Wilson Martins – Ziza Valadares.

PARTICIPANTS: *Álvaro Dias – Antônio Britto – Bete Mendes – Borges da Silveira – Cardoso Alves – Edivaldo Holanda – Expedito Júnior – Fadah Gattass – Francisco Dias – Geovah Amarante – Hélio Gueiros – Horácio Ferraz – Hugo Napoleão – Iturival Nascimento – Ivan Bonato – Jorge Medauar – José Mendonça de Morais – Leopoldo Bessone – Marcelo Miranda – Mauro Fecury – Neuto de Conto – Nivaldo Machado – Oswaldo Lima Filho – Paulo Almada – Prisco Viana – Ralph Biasi – Rosário Congro Neto – Sérgio Naya – Tidei de Lima.*

IN MEMORIAM: *Alair Ferreira – Antônio Farias – Fábio Lucena – Norberto Schwantes – Virgílio Távora*.

TEMPORARY CONSTITUTIONAL PROVISIONS ACT

Article 1. The President of the Republic, the President of the Supreme Federal Court and the members of the National Congress shall take an oath to maintain, defend and comply with the Constitution, upon and on the date of the promulgation thereof.

Article 2. On September 7, 1993, the voters shall define, through a plebiscite, the form (republic or constitutional monarchy) and system of government (parliamentary or presidential) to be in force in Brazil.[5]

Paragraph 1. The free diffusion of these forms and systems through public utility mass communication vehicles shall be free of charge.

Paragraph 2. The Superior Electoral Court shall, upon promulgation of the Constitution, issue the regulatory rules for this article.

Article 3. The revision of the Constitution shall be effected after five years as of its promulgation, by the vote of the absolute majority of the members of the National Congress in a unicameral session.

Article 4. The term of office of the incumbent President of the Republic shall end on March 15, 1990.

Paragraph 1. The first election for President of the Republic after promulgation of the Constitution shall be held on November 15, 1989, and the provisions of article 16 of the Constitution shall not apply thereto.

Paragraph 2. The irreducibility of the present representation of the states and the Federal District in the Chamber of Deputies is ensured.

Paragraph 3. The terms of office of the Governors and of the Vice-Governors elected on November 15, 1986 shall end on March 15, 1991.

Paragraph 4. The terms of office of the present Mayors, Vice-Mayors and City Councilmen shall end on January 1, 1989, with the inauguration of those elected.

Article 5. The provisions of article 16 and the rules of article 77 of the Constitution do not apply to the elections scheduled for November 15, 1988.

Paragraph 1. For the elections of November 15, 1988, an electoral domicile in the electoral district of at least four months prior to the election shall be required, and the candidates who fulfill this requirement and satisfy the other legal requisites may register with the Electoral Courts after the Constitution is promulgated.

Paragraph 2. In the absence of a specific legal rule, it shall be incumbent upon the Superior Electoral Court to issue the rules required to hold the 1988 elections, with due regard for the laws in force.

[5] Please refer to CA no. 2/1992.

Paragraph 3. Present Federal Congressmen and State Representatives elected for the office of Vice-Mayor, if called to exercise the office of Mayor, shall not lose their parliamentary office.

Paragraph 4. The number of Councilmen per municipality shall be determined, for the representation to be elected in 1988, by the respective Regional Electoral Court, with due regard for the limits established in article 29, IV, of the Constitution.

Paragraph 5. For the elections to be held on November 15, 1988, except for those who already hold an elective office, the spouse and relatives by blood or marriage up to the second degree or relatives by adoption of the President of the Republic, of a State Governor, or the Governor of the Federal District and of a Mayor who have served more than half of their term of office, are ineligible for any office within the jurisdiction of the office holder.

Article 6. Federal Congressmen may, during the six months following the promulgation of the Constitution, and forming a group of at least thirty, request from the Superior Electoral Court the registration of a new political party, the petition to be accompanied by the respective manifest, the by-laws and the programme duly signed by the petitioners.

Paragraph 1. The provisional registration, which shall be promptly granted by the Superior Electoral Court, according to this article, grants to the new party all rights, duties and prerogatives of the existing parties, among which the right to take part, under its own name, in the elections to be held during the twelve months following its formation.

Paragraph 2. The new party shall automatically lose its provisional registration if, within twenty-four months of its formation, it fails to obtain the final registration at the Superior Electoral Court, as established by law.

Article 7. Brazil shall strive for the creation of an international court of human rights.

Article 8. Amnesty is granted to those who, during the period from September 18, 1946, to the date the Constitution is promulgated, have been affected, exclusively for political reasons, by institutional or supplementary acts of exception, to those encompassed in Legislative Decree no. 18, of December 15, 1961, and to those affected by Decree-Law no. 846, of September 12, 1969, ensuring the promotions, in their inactivity, to the office, position or rank to which they would be entitled if they were in active service, with due regard for the periods of continuous activity set forth in laws and regulations in force, respecting the characteristics and peculiarities of the careers of civil and military public servants and complying with the respective legal regimes.

Paragraph 1. The provisions of this article shall only generate financial effects as from the promulgation of the Constitution, any kind of retroactive compensation being forbidden.

Paragraph 2. The benefits established in this article are ensured to workers of the private sector, union officers and representatives who, for exclusively political reasons,

have been punished, dismissed or compelled to leave the remunerated activities they had been performing, as well as to those who have been prevented from performing their professional activities by virtue of ostensive pressures or secret official procedures.

Paragraph 3. Reparation of economic nature shall be granted, as set forth by a law to be proposed by the National Congress and to become effective within twelve months counted from the promulgation of the Constitution, to citizens who were prevented from performing, as civilians, a specific professional activity by virtue of Reserved Ordinances of the Ministry of the Air Force no. S-50-GM5 of June 19, 1964, and no. S-285-GM5.

Paragraph 4. To those who, by virtue of institutional acts, have gratuitously exercised elective offices of city councilmen, the respective periods shall be computed for purposes of social security and retirement from civil service.

Paragraph 5. The amnesty granted under this article applies to civil servants and to employees at all levels of government or at its foundations, state-owned companies or mixed-capital companies under state control, except in the military Ministries, who have been punished or dismissed from professional activities interrupted by decision of their employees, as well as by virtue of Decree-Law no. 1,632, of August 4, 1978, or for exclusively political reasons, the readmission of those affected as from 1979 being ensured, with due regard for the provisions of paragraph 1.

Article 9. Those who, for exclusively political reasons, were disfranchised or had their political rights suspended during the period from July 15 to December 31, 1969, by an act of the then President of the Republic, may request the Supreme Federal Court to acknowledge the rights and advantages interrupted by the punitive acts, provided that they prove that such acts were marked by gross flaws.

Sole paragraph. The Supreme Federal Court shall pronounce its decision within one hundred and twenty days as from the request of the interested party.

Article 10. Until the supplementary law referred to in article 7, I, of the Constitution is promulgated:

I – the protection referred to therein is limited to the increase, to four times, of the percentage set forth in article 6, head paragraph and paragraph 1, of the Law no. 5,107[6] of September 13, 1966;

II – arbitrary dismissal or dismissal without just cause is prohibited:

a) of an employee elected to an executive office of internal accident prevention committees, from the date of the registration of his candidacy to one year after the end of his term of office;

b) of a pregnant employee, from the date the pregnancy is confirmed to five months after delivery.

Paragraph 1. Until such time as the law shall regulate the provisions of article 7, XIX, of the Constitution, the period of paternity leave referred to in the item is of five days.

[6] Revoked by Act no. 7,839/89, which was in turn revoked by Act no. 8,036/1990.

Paragraph 2. Until further legal provisions are established, the contributions to fund the activities of rural unions shall be collected together with the rural property tax, by the same collecting agency.

Paragraph 3. Upon the first proof of fulfillment of labour obligations by rural employers, as established by article 233[7], after the promulgation of the Constitution, the conformity of the contract to the law and of the correction of the labour obligations over the entire period shall be certified before the Labour Courts.

Article 11. Each Legislative Assembly endowed with constituent powers, shall draft the State Constitution within one year as from the promulgation of the Federal Constitution, with due regard for the principles of the latter.

Sole paragraph. After the promulgation of the State Constitution, it shall be incumbent upon the City Council, within six months, to vote the respective Organic Law, in two rounds of discussion and voting, with due regard for the provisions of the Federal and state Constitutions.

Article 12. Within ninety days of the promulgation of the Constitution, a Land Studies Committee shall be created, with ten members nominated by the National Congress and five members by the Executive Power, for the purpose of submitting studies concerning the national territory and draft bills regarding new territorial units, particularly in the Legal Amazonian Region and in areas pending solution.

Paragraph 1. Within one year the Committee shall submit the results of its studies to the National Congress so that, in accordance with the Constitution, such studies may be examined during the twelve subsequent months, the committee being dissolved shortly thereafter.

Paragraph 2. The states and the municipalities shall, within three years of the promulgation of the Constitution, provide, by agreement or adjustment, for the demarcation of their borders presently in litigation, and they may for such purpose effect area alterations and compensations which allow for natural features, historical criteria, administrative ease and convenience of the bordering populations.

Paragraph 3. At the request of the interested states and municipalities, the Union may undertake the demarcation work.

Paragraph 4. If, three years after the promulgation of the Constitution, the demarcation work has not been completed, the Union shall determine the borders of the areas under litigation.

Paragraph 5. The present borders of the state of Acre with the states of Amazonas and Rondonia are hereby recognized and ratified according to cartographic and geodesic surveys conducted by the Tripartite Committee formed by representatives of the states and of the specialized technical services of the Brazilian Institute of Geography and Statistics.

Article 13. The state of Tocantins is created by separation of the area described in this article and its installation shall occur on the forty-sixth day after the election provided for in paragraph 3, but not before January 1, 1989.

[7] Article 233 was revoked by CA no. 28/2000.

Paragraph 1. The state of Tocantins is part of the Northern Region and borders with the state of Goiás along the northern boundaries of the municipalities of São Miguel do Araguaia, Porangatu, Formoso, Minaçu, Cavalcante, Monte Alegre de Goiás and Campos Belos, maintaining the present eastern, northern and western borders of Goiás with the states of Bahia, Piauí, Maranhão, Pará and Mato Grosso.

Paragraph 2. The Executive Power shall designate one of the cities of the state as its provisional capital until such time as the final seat of government is approved by the Constituent Assembly.

Paragraph 3. The Governor, the Vice-Governor, the Senators and the Federal and State Deputies shall be elected, in a single voting, within seventy-five days after the promulgation of the Constitution, but not before November 15, 1988, at the discretion of the Superior Electoral Court, with due regard, among others, for the following rules:

I – the deadline for affiliation of the candidates to the parties shall end seventy-five days prior to the date of the elections;

II – the dates for the regional party conventions for the purpose of deciding upon coalitions and choice of candidates, for the presentation of the application for registration of the candidates chosen and for the other legal procedures shall be determined by the Electoral Courts in a special schedule;

III – the holders of state or municipal offices who have not left such offices on a definitive basis seventy-five days prior to the date of the elections provided for in this paragraph shall be ineligible;

IV – the present regional committees of the political parties of the state of Goiás are maintained, it being incumbent upon the national executive committees to appoint provisional committees for the state of Tocantins, in accordance with and for the purposes established by law.

Paragraph 4. The terms of office of Governor, Vice-Governor and Federal and State Deputies elected in accordance with the preceding paragraph shall end concurrently with those of the other units of the Federation; the term of office of the least voted elected Senator shall end on the same occasion and the terms of office of the other two Senators shall end together with those of the Senators elected in 1986 in the other states.

Paragraph 5. The State Constituent Assembly shall be installed on the forty-sixth day as from the election of its members, but not before January 1, 1989, under the chairmanship of the President of the Regional Electoral Court of the state of Goiás, and shall on the same date inaugurate the elected Governor and Vice-Governor.

Paragraph 6. The legal rules regulating the division of the state of Mato Grosso shall apply, where appropriate, to the creation and installation of the state of Tocantins with due regard for the provisions of article 234 of the Constitution.

Paragraph 7. The state of Goiás shall be released from debts and burdens resulting from undertakings within the territory of the new state, and the Union is authorized, at its discretion, to take over such debts.

Article 14. The federal territories of Roraima and of Amapá are transformed into federated states, their present geographic borders being maintained.

Paragraph 1. The installation of the states shall occur upon the inauguration of the governors elected in 1990.

Paragraph 2. The rules and criteria adopted for the creation of the state of Rondônia shall apply to the transformation and installation of the states of Roraima and Amapá, with due regard for the provisions of the Constitution and of this Act.

Paragraph 3. The President of the Republic shall, within forty-five days of the promulgation of the Constitution, submit for examination by the Federal Senate the names of the governors of the states of Roraima and Amapá who shall exercise the Executive Power until the new states are installed with the inauguration of the elected governors.

Paragraph 4. Until the transformation into states is effected according to this article, the federal territories of Roraima and Amapá shall enjoy the benefits of transfer of funds provided for in article 159, I, *a*, of the Constitution and article 34, paragraph 2, II, of this Act.

Article 15. The Federal Territory of Fernando de Noronha is extinguished and its area reincorporated into the state of Pernambuco.

Article 16. Until the provisions of article 32, paragraph 2, of the Constitution are implemented, it shall be incumbent upon the President of the Republic, with the approval of the Federal Senate, to appoint the Governor and Vice-Governor of the Federal District.

Paragraph 1. The authority of the Legislative Chamber of the Federal District shall, until such time as it is installed, be exercised by the Federal Senate.

Paragraph 2. The accounting, financial, budgetary, operational and property supervision of the Federal District shall, until such time as the Legislative Chamber is installed, be carried out by the Federal Senate, by means of external control, with the assistance of the Audit Court of the Federal District, with due regard for the provisions of article 72 of the Constitution.

Paragraph 3. The assets of the Federal District shall include those which may be assigned to it by the Union as established by law.

Article 17. Earnings, compensation, advantages and additional pay, as well as retirement pensions which are being received in disagreement with this Constitution, shall be reduced immediately to the limits arising therefrom, it not being allowed, in this case, to invoke a vested right or receipt of excess on any account.

Paragraph 1. It is ensured the cumulative occupation of two medical offices or jobs that are held by a military physician in the direct or indirect government administration.

Paragraph 2. The cumulative occupation of two offices or jobs reserved for health professionals is ensured if held in the direct or indirect government administration.

Article 18. The legal effects of any legislative or administrative act drawn up as of the installation of the National Constituent Assembly, with the objective of granting tenure to a public servant admitted without a public entrance examination to the direct or indirect administration, including the foundations instituted and maintained by the Government, shall be extinguished.

Article 19. Civil public servants of the Union, the states, the Federal District and the municipalities, of the direct administration, autonomous government entities and government foundations, who, on the date of promulgation of the Constitution, have been in office for at least five continuous years, and who have not been admitted as established in article 37 of the Constitution, are deemed to have tenure in the public service.

Paragraph 1. The period of service of the civil servants referred to in this article shall be considered as a credential when they take a competitive examination for the purpose of acquiring tenure, as set forth by law.

Paragraph 2. The provisions of this article do not apply to the holders of trust or commission functions and jobs nor to those who are legally subject to free discharge, whose period of service shall not be computed for the purposes of the head paragraph of this article, exception being made for public servants.

Paragraph 3. The provisions of this article shall not apply to higher education professors as set forth by law.

Article 20. Within one hundred and eighty days, the rights of inactive public servants and pensioners shall be revised and the income and pensions owed to them shall be updated in order to adjust them to the provisions of the Constitution.

Article 21. Judges vested in office for a limited period of time, who have been admitted by means of a public entrance examination of tests and presentation of academic and professional credentials and who are in office on the date this Constitution is promulgated, shall achieve tenure with due regard for the probation period and they shall be included in a special job class to be terminated, maintaining the authority, prerogatives and restrictions of the laws to which they were subject, except for those inherent to the temporary nature of their investiture.

Sole paragraph. The retirement of the judges referred to in this article shall be regulated by the rules established for other state judges.

Article 22. Public defenders vested in office before the date of installation of the National Constituent Assembly are ensured the right to opt for the career, complying with the guarantees and prohibitions set forth in article 134, sole paragraph[8], of the Constitution.

Article 23. Until such time as the regulations of article 21, XVI, of the Constitution are issued, the present holders of the office of federal censor shall continue to exercise functions compatible with such office in the Federal Police Department, with due regard for the constitutional provisions.

Sole paragraph. Such law shall provide for the reassignment of the Federal Censors as set forth in this article.

Article 24. The Union, the states, the Federal District and the municipalities shall issue laws establishing criteria to make their staffs compatible with the provisions

[8] Should read as "paragraph 1", by virtue of the provisions of CA no. 45/2004.

of article 39 of the Constitution and with the administrative reorganization resulting therefrom, within eighteen months as from the promulgation of the Constitution.

Article 25. As of one hundred and eighty days after the promulgation of the Constitution, such period being subject to extension by law, all legal provisions which confer on or delegate to an agency of the Executive Power authority assigned to the National Congress by the Constitution shall be revoked, especially those referring to:

I – normative action;

II – allocation or transfer of funds of any kind.

Paragraph 1. The decree-laws pending before the National Congress and not examined by it before the Constitution is promulgated shall have their effects regulated as follows:

I – if issued up to September 2, 1988, they shall be examined by the National Congress within one hundred and eighty days as from the date of the promulgation of the Constitution, not counting the parliamentary recess;

II – if the time limit defined in the preceding item elapses without the decree-laws mentioned therein having been examined, they shall be considered rejected;

III – in the cases defined in items I and II, the acts performed during the effectiveness of the respective decree-laws shall be fully valid and the National Congress may, if necessary, legislate on their remaining effects.

Paragraph 2. The decree-laws issued between September 3, 1988 and the date of the promulgation of the Constitution shall be converted on such date into provisional measures, with the rules established in article 62, sole paragraph[9], being applied thereto.

Article 26. Within one year of promulgation of the Constitution, the National Congress shall effect, through a joint committee, an analytical and expert examination of the acts and facts which generate the Brazilian foreign indebtedness.

Paragraph 1. The Committee shall have the legal authority of a parliamentary investigation committee for purposes of requisition and summons, and shall act with the assistance of the Federal Audit Court.

Paragraph 2. If irregularities are found, the National Congress shall propose that the Executive Power declare the act null and void and shall forward the case to the Federal Public Prosecution, which shall take the appropriate action within sixty days.

Article 27. The Superior Court of Justice shall be installed under the Presidency of the Supreme Federal Court.

Paragraph 1. Until such time as the Superior Court of Justice is installed, the Supreme Federal Court shall perform the duties and responsibilities defined in the previous constitutional order.

Paragraph 2. The initial composition of the Superior Court of Justice shall be obtained:

[9] Should read as "paragraphs 3 and 7", by virtue of the provisions of CA no. 32/2001.

I – by reassignment of Justices of the Federal Court of Appeals;

II – by appointment of the Justices required to complete the number established in the Constitution.

Paragraph 3. For the purposes of the Constitution, the present Justices of the Federal Court of Appeals shall be considered as belonging to the class they came from at the time of their appointment.

Paragraph 4. Once the Court has been installed, the retired Justices of the Federal Court of Appeals shall automatically become retired Justices of the Superior Court of Justice.

Paragraph 5. The Justices referred to in paragraph 2, II, shall be nominated in a triple list by the Federal Court of Appeals, with due regard for the provisions of article 104, sole paragraph, of the Constitution.

Paragraph 6. Five Federal Regional Courts of Justice are hereby created, to be installed within six months of the promulgation of the Constitution, with the jurisdiction and seat assigned to them by the Federal Court of Appeals, taking into account the number of lawsuits and their geographical location.

Paragraph 7. Until such time as the Federal Regional Courts of Justice are installed, the Federal Court of Appeals shall exercise the authority attributed to them throughout the national territory, it being incumbent upon it their installation and nomination of candidates for all initial offices by means of a triple list which may include federal judges of any region, with due regard for the provisions of paragraph 9.

Paragraph 8. As from promulgation of the Constitution, it is forbidden to fill vacant offices of Justices of the Federal Court of Appeals.

Paragraph 9. If there is no federal judge with the minimum period of service set forth in article 107, II, of the Constitution, the promotion may be granted to a judge with less than five years of office.

Paragraph 10. It is incumbent upon the Federal Courts to judge the lawsuits filed therein until such time as the Constitution is promulgated, and the Federal Regional Courts as well as the Superior Court of Justice shall judge the actions to overrule the final judgements rendered until then by the Federal Courts, including those which refer to matters for which competence has been transferred to another branch of the Judicial Power.

Article 28. The federal judges referred to in article 123, paragraph 2, of the Constitution of 1967, with the wording given by the Constitutional Amendment no. 7 of 1977, shall be vested in office in courts of the judiciary section for which they were appointed or designated; if there are no vacancies, the existing courts shall be divided.

Sole paragraph. For purposes of promotion for seniority, the period of service of such judges shall be computed as from the day of their taking of office.

Article 29. Until such time as the supplementary laws relating to the Public Prosecution and to the Advocacy-General of the Union are approved, the Federal Public Prosecution, the Office of the Attorney-General of the National Treasury, the

Legal Consultancies of the Ministries, the Prosecution and Legal Departments of the federal autonomous government agencies having their own representation, and the members of the Prosecution Offices of public foundation universities shall continue to conduct their activities within their respective incumbencies.

Paragraph 1. The President of the Republic shall, within one hundred and twenty days, submit to the National Congress a bill of supplementary law dealing with the organization and operation of the Advocacy-General of the Union.

Paragraph 2. The present Prosecutors of the Republic may, in accordance with the supplementary law, opt irrevocably between the careers of the Federal Public Prosecution and of the Advocacy-General of the Union.

Paragraph 3. A member of the Public Prosecution admitted prior to the promulgation of the Constitution may opt for the previous regime insofar as guarantees and advantages are concerned, with due regard, as to prohibitions, for the legal status on the date of such promulgation.

Paragraph 4. The present members of the supplementary staff of the Labour and Military Public Prosecutions, who have acquired tenure in these functions, shall belong to the staff of the respective career.

Paragraph 5. It is incumbent upon the present Office of the Attorney-General of the National Treasury, directly or by delegation, which may be made to the State Public Prosecution, to represent the Union in court in lawsuits of a fiscal nature, in their respective spheres of authority, until such time as the supplementary laws set forth in this article are promulgated.

Article 30. The legislation which creates the justiceship of the peace shall maintain the present judges of the peace until the new judges take office, ensuring them the rights and duties conferred on the latter and shall establish the date for the election provided for in article 98, II, of this Constitution.

Article 31. The clerical offices of the judicial courts, as defined in law, shall be brought under state control, with due regard for the rights of the present clerks.

Article 32. The provisions of article 236 shall not apply to notary and registration services which have already been made official by the Government, with due regard for the rights of their servants.

Article 33. With the exception of credits for alimony, the amount due by virtue of court orders for which payment is outstanding on the date of the promulgation of the Constitution, therein included remaining interests and adjustment for inflation, may be paid in legal tender, with readjustments, in equal and successive annual installments, within eight years at the most, counted from July 1, 1989, in accordance with a decision by the Executive Power within one hundred and eighty days of the promulgation of the Constitution.

Sole paragraph. In order to comply with the provisions of this article, the debtor entities may issue, each year, for the exact amount of the expenditure, public debt bonds which shall not be computed for purposes of determining the total limit of indebtedness.

Article 34. The national tax system shall become effective on the first day of the fifth month following the promulgation of the Constitution, and until then, the system set forth in the 1967 Constitution, with the wording provided by Amendment number 1 of 1969 and by the subsequent ones, shall be maintained.

Paragraph 1. With the promulgation of this Constitution, articles 148, 149, 150, 154, I, 156, III and 159, I, *c*, shall become effective, with all provisions to the contrary in the 1967 Constitution and in the amendments which modified it, especially its article 25, III, being revoked.

Paragraph 2. The Participation Fund of the States and the Federal District, and the Revenue Sharing Fund of the Municipalities shall obey the following determinations:

I – from the date of the promulgation of the Constitution, the percentages shall be, respectively, of eighteen percent and twenty percent, calculated on the proceeds from the collection of the taxes referred to in article 153, III and IV, the present apportionment criteria being maintained until the supplementary law referred to in article 161, II becomes effective;

II – the percentage referring to the Participation Fund of the States and the Federal District shall be increased by one percent in the fiscal year of 1989 and, as from and including 1990, by one half of one percent per fiscal year until and including 1992, reaching in 1993 the percentage established in article 159, I, *a*;

III – the percentage referring to the Participation Fund of the Municipalities, as from and including 1989 shall be increased by one half of one percent per fiscal year until it reaches the limit established in article 159, I, *b*.

Paragraph 3. Upon the promulgation of this Constitution, the Union, the states, the Federal District and the municipalities may issue the laws which are necessary for the application of the national tax system established therein.

Paragraph 4. The laws issued in accordance with the preceding paragraph produce effects as from the date the national tax system set forth in the Constitution becomes effective.

Paragraph 5. Once the new national tax system is in force, the application of the preceding legislation shall be ensured in that in which it is not incompatible with the new system and with the legislation referred to in paragraphs 3 and 4.

Paragraph 6. Until December 31, 1989, the provisions of article 150, III, *b*, shall not apply to the taxes referred to in articles 155, I, *a* and *b*[10], and 156, II and III, which may be collected thirty days after the publication of the law which has instituted or increased them.

Paragraph 7. Until the maximum rates of the municipal tax on retail sales of liquid and gaseous fuels have been established in a supplementary law, such rates shall not exceed three percent.

Paragraph 8. If, within sixty days counted from the promulgation of the Constitution, the supplementary law required for the institution of the tax referred to

[10] These subitems were revoked by CA no. 3/1993.

in article 155, I, *b*[11], has not been issued, the states and the Federal District, by means of an agreement concluded in the manner set forth in Supplementary Law number 24 of January 7, 1975, shall establish the rules to regulate the matter provisionally.

Paragraph 9. Until a supplementary law provides for the matter, electric power distribution companies, in the capacity of taxpayers or of substitute taxpayers, shall be liable, when the product leaves their facilities, even if the destination is another unit of the federation, for the payment of the tax on the circulation of goods levied on electric power, from production or importation to the last operation, such tax being calculated on the price charged on the occasion of the final operation, its collection being ensured to the state or the Federal District, depending on the place where such operation occurs.

Paragraph 10. Until the law provided by article 159, I, *c*, which shall be promulgated by December 31, 1989, becomes effective, the application of the funds set forth in that provision shall be ensured in the following manner:

I – six-tenths of one percent in the Northern Region, through the Banco da Amazônia S.A.;

II – one and eight-tenths percent in the Northeastern Region, through the Banco do Nordeste do Brasil S.A.;

III – six-tenths of one percent in the Centre-West Region, through the Banco do Brasil S.A.

Paragraph 11. The Centre-West Development Bank is hereby created, in the manner established by law, in order to comply, within that region, with the provisions of articles 159, I, *c* and 192, paragraph 2, of the Constitution.

Paragraph 12. The urgency provided by article 148, II, shall not preclude the collection of the compulsory loan instituted for the benefit of the Centrais Elétricas Brasileiras S.A. (Eletrobrás) by Law number 4,156 of November 28, 1962, with the subsequent amendments.

Article 35. The provisions of article 165, paragraph 7, shall be complied with progressively, over a period of ten years, the funds being distributed among the macro-economic regions in proportion to their population, based on the situation verified for the 1986-87 period.

Paragraph 1. In the application of the criteria referred to in this article, the total expenses shall exclude expenses for:

I – projects considered as priorities in the pluriannual plan;

II – national security and defense;

III – maintenance of the federal agencies in the Federal District;

IV – the National Congress, the Federal Audit Court and the Judicial Power;

V – the servicing of the debt of the direct and indirect administration of the Union, including foundations instituted and maintained by the Federal Government.

[11] This subitem was revoked by CA no. 3/1993.

Paragraph 2. Until the supplementary law referred to in article 165, paragraph 9, I and II, comes into force, the following rules shall be complied with:

I – the project of the pluriannual plan, to be in force until the end of the first fiscal year of the subsequent presidential term of office, shall be forwarded not less than four months before the end of the first fiscal year and returned for sanction before the end of the legislative session;

II – the bill of budgetary directives shall be forwarded not less than eight and a half months before the end of the fiscal year and returned for sanction before the end of the first period of the legislative session;

III – the budget bill of the Union shall be forwarded not less than four months before the end of the fiscal year, and returned for sanction before the end of the legislative session.

Article 36. The funds existing on the day the Constitution is promulgated, except for those resulting from tax exemptions which become private property and those which are of interest to national defense, shall be extinguished if they are not ratified by the National Congress within two years.

Article 37. Adaptation to the provisions of article 167, III, shall be made within the period of five years, the excess being reduced at a rate of at least one-fifth per year.

Article 38. Until the promulgation of the supplementary law referred to in article 169, the Union, the states, the Federal District and the municipalities shall not spend more than sixty-five percent of the amount of the respective current revenues on personnel.

Sole paragraph. The Union, the states, the Federal District and the municipalities, whenever the respective expenditure with personnel exceeds the limit established in this article, shall return to such limit, reducing the excess percentage at a rate of one-fifth per year.

Article 39. For purposes of compliance with the constitutional provisions which involve variations of expenses and revenues of the Union, after the promulgation of the Constitution, the Executive Power shall draw up and the Legislative Power shall examine a bill of review of the budgetary law referring to the fiscal year of 1989.

Sole paragraph. The National Congress shall vote within twelve months the supplementary law provided by article 161, II.

Article 40. The Free-Trade Zone of Manaus, with its characteristics of free-trade, export and import and fiscal benefits, shall be maintained for a period of twenty-five years as from the promulgation of the Constitution.

Sole paragraph. The criteria which regulated or may come to regulate the approval of projects in the Free-Trade Zone of Manaus may only be modified by a federal law.

Article 41. The Executive Powers of the Union, the states, the Federal District and the municipalities shall reassess all sectorial tax incentives now in force and shall propose the appropriate measures to the respective Legislative Powers.

Paragraph 1. The incentives which are not confirmed by law within two years of the promulgation of the Constitution shall be considered revoked.

Paragraph 2. Revocation shall not preclude any rights which have become vested before that date, in relation to incentives granted under conditions and for a set period of time.

Paragraph 3. Incentives granted by means of agreements concluded between states, in accordance with article 23, paragraph 6 of the 1967 Constitution, with the wording of Amendment number 1, of October 17, 1969, shall also be reassessed and reconfirmed within the time limits set forth in this article.

Article 42. Of the funds intended for irrigation, during a period of 25 (twenty-five) years, the Union shall apply: (CA No. 43, 2004)

I – twenty percent in the Centre-West Region;

II – fifty percent in the Northeastern Region, preferably in the semi-arid region.

Article 43. On the date of the promulgation of the law regulating the prospecting and mining of mineral resources and beds of ore, or within one year counted from the date of the promulgation of the Constitution, the authorizations, grants and other deeds affording mining rights shall become ineffective, in case the prospecting or mining works have not provenly started in the legal time limits or are inactive.

Article 44. The Brazilian companies which presently hold valid prospecting authorizations and permits for the mining of mineral resources and the exploitation of hydraulic energy shall have four years, counted from the date of the promulgation of the Constitution, to comply with the requirements of article 176, paragraph 1.

Paragraph 1. Except for the provisions of national interest set forth in the constitutional text, Brazilian companies shall be exempt from compliance with the provisions of article 176, paragraph 1, provided that, within four years counted from the date of the promulgation of the Constitution they have destined the product of their mining and processing activities to industrialization within the national territory, in their own facilities or in a controlling or controlled industrial company.

Paragraph 2. Brazilian companies which hold a hydraulic energy concession for use in their industrial processes shall also be exempted from compliance with the provisions of article 176, paragraph 1.

Paragraph 3. The Brazilian companies referred to in paragraph 1 may only be granted prospecting authorizations or concessions to mine or exploit hydraulic energy potentials provided that the energy and the mining product are used in their respective industrial processes.

Article 45. Refineries which operate in the country under article 43 and under the conditions of article 45 of Law number 2,004 of October 3, 1953[12], are excluded from the monopoly established by article 177, II, of the Constitution.

[12] Revoked by Act no. 9,478/1997.

Sole paragraph. Risk contracts entered into with Petróleo Brasileiro S.A. (Petrobrás) for petroleum prospecting, which are effective on the date of the promulgation of the Constitution are exempted from the prohibition of article 177, paragraph 1.

Article 46. Credits with institutions under intervention or extra-judicial liquidation, even when such proceedings are converted into bankruptcy, are subject to adjustment for inflation from the date of maturity to the date of actual payment, with no interruption or suspension.

Sole paragraph. The provisions of this article shall also apply to:

I – transactions made after the proceedings referred to in the head paragraph of this article have been decreed;

II – loan, financing and refinancing transactions, transactions of financial assistance for liquidity purposes, assignment or subrogation of credits or mortgage bonds, guarantee of deposits made by the public, or of purchase of liabilities, including those carried out with funds intended for such purposes;

III – credits existing prior to the promulgation of this Constitution;

IV – credits held by public administration entities before the promulgation of this Constitution and not settled by January 1, 1988.

Article 47. In the settlement of debts, including their subsequent renegotiation and composition, even when taken to court, arising out of any loans granted by banks and by financial institutions, there shall be no adjustment for inflation, provided that the loan has been granted:

I – to micro and small businessmen or to their businesses in the period from February 28, 1986, to February 28, 1987;

II – to mini, small and medium rural producers in the period from February 28, 1986, to December 31, 1987, provided that it refers to rural credit.

Paragraph 1. For the purposes of this article, micro-enterprises shall be considered as the legal entities and individual firms with annual income of up to ten thousand National Treasury Bonds, and small enterprises as the legal entities and individual firms with annual income of up to twenty-five thousand National Treasury Bonds.

Paragraph 2. Classification as a mini, small or medium rural producer shall be made in accordance with the rural credit rules in force at the time of the contract.

Paragraph 3. Exemption from adjustment for inflation referred to in this article shall only be granted in the following cases:

I – if the initial debt, plus legal interests and judicial fees, are settled within ninety days of promulgation of this Constitution;

II – if the application of the funds is not contrary to the purpose of the financing, the burden of proof lying with the creditor institution;

III – if the creditor institution does not show that the borrower has the means to pay his debt, such means excluding the business of the borrower, the house where he lives, as well as his work and production instruments;

IV – if the initial financing does not exceed the limit of five thousand National Treasury Bonds;

V – if the beneficiary is not the owner of more than five rural modules.

Paragraph 4. The benefits referred to in this article shall not be extended to the debts which have already been paid and to debtors who are members of the Constituent Assembly.

Paragraph 5. In the event of transactions maturing after the deadline for settlement of the debt, should the borrower be interested, the banks and the financial institutions shall effect, by a specific instrument, an amendment to the original conditions of the contract so as to adjust them to this benefit.

Paragraph 6. The granting of this benefit by private commercial banks shall not, under any circumstances, entail a burden to the Government, even if made by refinancing and on-lending of funds by the central bank.

Paragraph 7. In the case of on-lending to official financial agents or credit cooperatives, the burden shall fall upon the original source of funds.

Article 48. The National Congress, within one hundred and twenty days of the promulgation of this Constitution, shall draw up a consumer defense code.

Article 49. The law shall provide for the institution of emphyteusis concerning urban real property, the tenants having the option, in the event of extinction, of redemption of the emphyteusis, by acquisition of direct title in accordance with the provisions contained in the respective contracts.

Paragraph 1. In the absence of a contractual clause, the criteria and bases currently in force in the special legislation on real estate of the Union shall be adopted.

Paragraph 2. The rights of present registered occupants shall be ensured by application of another kind of contract.

Paragraph 3. Emphyteusis shall continue to be applied to tide lands and those lands added to them, which are located within the security strip extending from the coast line.

Paragraph 4. After redemption of the emphyteusis, the former holder of direct title shall, within ninety days, subject to liability, entrust all documents related to such title to the custody of the competent real estate registry.

Article 50. An agricultural law to be promulgated within one year shall provide, in accordance with this Constitution, for the objectives and instruments of agricultural policy, priorities, crop planning, marketing, internal supply, foreign market and institution of agrarian credit.

Article 51. All donations, sales and concessions of public land with an area of more than three thousand hectares, made in the period from January 1, 1962, to December 31, 1987, shall be reviewed by the National Congress, by a joint committee, during the three years following the promulgation of the Constitution.

Paragraph 1. Insofar as sales are concerned, the review shall be based exclusively on the criterion of lawfulness of the transaction.

Paragraph 2. In the case of concessions and donations, the review shall comply with the criteria of lawfulness and of convenience of public interest.

Paragraph 3. In the cases set forth in the preceding paragraphs, if illegality is proven or if there is public interest, the lands shall revert to the ownership of the Union, of the states, of the Federal District or of the municipalities.

Article 52. Until such time as the conditions referred to in article 192 are established, the following are forbidden: (CA No. 40, 2002)

I – the installation, in the country, of new branches of financial institutions domiciled abroad;

II – increase of percentual participation of individuals and legal entities resident or domiciled abroad in the capital of financial institutions with headquarters in Brazil.

Sole paragraph. The prohibition referred to in this article does not apply to the authorizations resulting from international agreements, from reciprocity or from interest of the Brazilian Government.

Article 53. Veterans who have actually participated in war operations during the Second World War, in accordance with Law number 5,315 of September 12, 1967, shall be ensured the following rights:

I – admission to public service without being required to undergo a public entrance examination, with tenure;

II – special pension corresponding to that of Second Lieutenant of the Armed Forces, which may be applied for at any time and may not be accumulated with any other earnings received from the public treasury, except for social security benefits, the right to opt being ensured;

III – in case of death, proportional pension to the widow, companion or dependent, in an amount equal to that of the preceding item;

IV – free medical, hospital and educational assistance extending to dependents;

V – retirement with full pay after twenty-five years of actual service, under any juridical system;

VI – priority in the acquisition of a home for those who do not own one or for their widows or companions.

Sole paragraph. The concession of the special pension referred to in item II replaces, for all legal effects, any other pension already granted to the veteran.

Article 54. Rubber-tappers recruited in accordance with Decree-Law number 5,813 of September 14, 1943, and protected by Decree-Law number 9,882 of September 16, 1946, shall receive, when needy, a monthly pension for life in the amount of two minimum wages.

Paragraph 1. The benefit extends to rubber-tappers who, at the request of the Brazilian Government, contributed to the war effort by working in rubber production in the Amazonian Region during the Second World War.

Paragraph 2. The benefits established in this article may be transferred to dependents who are provenly needy.

Paragraph 3. The concession of the benefit shall be done in accordance with the law to be proposed by the Executive Power within one hundred and fifty days of the promulgation of the Constitution.

Article 55. Until such time as the law of budgetary directives is approved, at least thirty percent of the social welfare budget, excluding unemployment insurance, shall be allocated to the health sector.

Article 56. Until such time as the law regulates article 195, I, the revenues resulting from at least five of the six tenths of one percent corresponding to the rate of the contribution referred to in Decree-Law number 1940 of May 25, 1982, as amended by Decree-Law number 2,049 of August 1, 1983, by Decree number 91,236 of May 8, 1985, and by Law number 7,611 of July 8, 1987, shall become part of the social welfare revenues, excepting, exclusively in the fiscal year of 1988, commitments assumed for ongoing programmes and projects.

Article 57. The debts of the states and municipalities related to social security contributions up to June 30, 1988, shall be settled, with adjustment for inflation, in one hundred and twenty monthly installments, with the waiver of the interests and penalties applicable thereto, provided the debtors request installment payment and begin such payment within one hundred and eighty days of the promulgation of this Constitution.

Paragraph 1. The amount to be paid in each of the first two years shall not be less than five percent of the total consolidated and updated debt, the balance to be divided into equal monthly installments.

Paragraph 2. Settlement may include payments by assignment of assets and rendering of services, as set forth in Law number 7,578 of December 23, 1986.

Paragraph 3. As guarantee for the payment of the installments, the states and municipalities shall each year consign in their respective budgets the appropriations required for the payment of their debts.

Paragraph 4. If any of the conditions established for the concession of installment payment are not met, the debt shall be considered as due and payable in full and liable for default interest; in such case, the portion of the funds corresponding to the Participation Funds intended for the debtor states and municipalities shall be blocked and transferred to the social security for payment of their debts.

Article 58. Benefits paid on a continuous basis and maintained by social security on the date of the promulgation of the Constitution shall have their values reviewed so as to re-establish their purchasing power expressed in terms of the numbers of minimum wages they represented on the date on which they were granted, such updating criterion to be adopted until the plan of funding and benefits referred to in the following article is implemented.

Sole paragraph. The monthly benefit payments updated in accordance with this article shall be due and paid as from the seventh month after the promulgation of the Constitution.

Article 59. The bills of law for the organization of social welfare and for the plan of funding and benefits shall be submitted, not more than six months after the promulgation of the Constitution, to the National Congress, which shall have six months to examine them.

Sole paragraph. Upon approval by the National Congress, the plans shall be implemented progressively in the following eighteen months.

Article 60. In the 14 (fourteen) years following the promulgation of this Constitutional Amendment[13], the States, the Federal District, and the Municipalities shall allocate a portion of the monies referred to in the head paragraph of article 212 of the Federal Constitution, to the maintenance and development of basic education and to the payment of appropriate salaries to education workers, with due regard for the following provisions: (CA No. 53, 2006)

I – the distribution of monies and responsibilities among the Federal District, the States, and their Municipalities is assured through the establishment, within each State and the Federal District, of a Fund for the Maintenance and Development of Basic Education and for the Appreciation of Education Professionals – FUNDEB, of a financial nature;

II – the Funds referred to in item I of the head paragraph of this article shall be made up of 20% (twenty percent) of the resources referred to in items I, II, and III of article 155; item II of the head paragraph of article 157; items II, III, and IV of the head paragraph of article 158; and subitems *a* and *b* of item I, and item II of the head paragraph of article 159, of the Federal Constitution, and shall be distributed among each State and its municipalities, in proportion to the number of students in the various grades and modalities of on-site basic education, enrolled in the respective school systems, within the respective scope of priority action as established by paragraphs 2 and 3 of article 211 of the Federal Constitution;

III – with due regard for the guarantees established in items I, II, III, and IV of the head paragraph of article 208 of the Federal Constitution, as well as for the basic education universalization goals established in the National Education Plan, the law shall provide for:

a) the organization of the Funds, the proportional distribution of their resources, the differences and weightings regarding the annual value per student among the various grades and modalities of basic education and types of schools;

b) the form of calculation of the minimum annual value per student;

c) the maximum percentages for the allocation of fund resources to the various grades and modalities of basic education, with due regard for articles 208 and 214 of the Federal Constitution, as well as for the National Education Plan goals;

d) oversight and control of the Funds;

e) a deadline to stipulate, by means of a specific law, a nationwide professional minimum salary for public school teachers of basic education;

[13] Should read as "Constitutional Amendment no. 53/2006".

IV – the resources transferred to the Funds established under the terms of item I of the head paragraph of this article shall be applied by the States and Municipalities exclusively within the scope of their priority actions, as established by paragraphs 2 and 3 of article 211 of the Federal Constitution;

V – the Federal Government shall supplement the resources of the Funds referred to in item II of the head paragraph of this article, whenever in the Federal District and in each State, the value per student does not reach the nationally set minimum value, stipulated in accordance with the provisions of item VII of the head paragraph of this article, and use of the resources referred to in paragraph 5 of article 212 of the Federal Constitution is forbidden;

VI – up to 10% (ten percent) of the resources supplemented by the Federal Government as set forth in item V of the head paragraph of this article may be distributed to the Funds by means of programs aimed at improving the quality of education, under the terms of the law referred to in item III of the head paragraph of this article;

VII – the minimum amount of resources supplemented by the Federal Government as set forth in item V of the head paragraph of this article shall be equal to:

a) R$ 2,000,000,000.00 (two billion reais), in the first year the Funds are in force;

b) R$ 3,000,000,000.00 (three billion reais), in the second year the Funds are in force;

c) R$ 4,500,000,000.00 (four billion and five hundred million reais), in the third year the Funds are in force;

d) 10% (ten percent) of the total amount of resources referred to in item II of the head paragraph of this article, as from the fourth year the Funds are in force;

VIII – the resources earmarked for the maintenance and development of education as established in article 212 of the Federal Constitution may cover a maximum amount of 30% (thirty percent) of the resources supplemented by the Federal Government, taking into consideration, for the purposes of this item, the amounts set forth in item VII of the head paragraph of this article;

IX – the amounts referred to in subitems *a*, *b*, and *c* of item VII of the head paragraph of this article shall be adjusted every year as from the promulgation of this Constitutional Amendment[14], so that the real value of the supplementation provided by the Federal Government is permanently preserved;

X – the supplementation provided by the Federal Government shall comply with the provisions of article 160 of the Federal Constitution;

XI – the competent authority shall be held liable for crime of malversation in case of non-compliance with the provisions of items V and VII of the head paragraph of this article;

XII – a share of not less than 60% (sixty percent) of the resources of each Fund referred to in item I of the head paragraph of this article shall be used for the payment of basic education teachers who are actually teaching.

[14] Should read as "Constitutional Amendment no. 53/2006".

Paragraph 1. When financing basic education, the Federal Government, the States, the Federal District, and the Municipalities shall ensure that the quality of education will be improved, so as to guarantee a nationally set minimum standard.

Paragraph 2. The value per elementary school student, within each State Fund and the Federal District Fund, may not be lower than the value prescribed by the Fund for the Maintenance and Development of Elementary Education and for the Appreciation of the Teaching Profession – FUNDEF, in the year preceding the coming into force of this Constitutional Amendment[15].

Paragraph 3. The minimum annual value per elementary school student, within the Fund for the Maintenance and Development of Basic Education and for the Appreciation of Education Professionals – FUNDEB, may not be lower than the minimum value stipulated for the entire country in the year preceding the year in which this Constitutional Amendment[16] comes into force.

Paragraph 4. For the purposes of distribution of the resources of the Funds referred to in item I of the head paragraph of this article, the total number of students enrolled in elementary education will be taken into account, and, as regards infant education, high school, and the education of young people and adults, 1/3 (one third) of the total number of students enrolled in the first year, 2/3 (two thirds) in the second year, and the total number as from the third year shall be taken into consideration.

Paragraph 5. The percentage of resources to constitute the Funds, in accordance with item II of the head paragraph of this article, shall be gradually achieved over the first 3 (three) years the Funds are in force, as follows:

I – as to the taxes and transfers mentioned in item II of the head paragraph of article 155; item IV of the head paragraph of article 158; and subitems *a* and *b* of item I and item II of the head paragraph of article 159 of the Federal Constitution:

a) 16.66% (sixteen and sixty-six hundredths of one percent), in the first year;

b) 18.33% (eighteen and thirty-three hundredths of one percent), in the second year;

c) 20% (twenty percent), as from the third year;

II – as to the taxes and transfers mentioned in items I and III of the head paragraph of article 155; item II of the head paragraph of article 157; and items II and III of the head paragraph of article 158 of the Federal Constitution:

a) 6.66% (six and sixty-six hundredths of one percent), in the first year;

b) 13.33% (thirteen and thirty-three hundredths of one percent), in the second year;

c) 20% (twenty percent), as from the third year.

Paragraph 6. (Revoked).

Paragraph 7. (Revoked).

[15] Should read as "Constitutional Amendment no. 53/2006".
[16] Should read as "Constitutional Amendment no. 53/2006".

Article 61. The educational entities referred to in article 213, as well as the educational and research foundations whose creation has been authorized by law, which meet the requirements of items I and II of such article and which have, in the last three years, received public funds, may continue to receive such funds, unless otherwise established by law.

Article 62. The law shall create the National Rural Apprenticeship Service (SENAR), based on the legislation for the National Industrial Apprenticeship Service (SENAI), and the National Commercial Apprenticeship Service (SENAC), without prejudice to the incumbencies of the government agencies engaged in the area.

Article 63. A Committee composed of nine members is hereby created, three of them from the Legislative Power, three from the Judicial Power and three from the Executive Power, to promote the commemorations of the centennial of the proclamation of the Republic and of the promulgation of the first republican Constitution of the country, and such committee may, at its discretion, be subdivided into as many subcommittees as may be necessary.

Sole paragraph. In the carrying out of its duties the Committee shall conduct studies, debates and assessments of the political, social, economic and cultural development of the country, and may join efforts with state and municipal governments and with public and private institutions desiring to take part in the events.

Article 64. The National Press and other printing departments of the Union, the states, the Federal District and the municipalities, of the direct or indirect administration, including foundations instituted and maintained by the Government, shall provide for a popular edition of the full text of the Constitution, which shall be made available free of charge, to schools and public registry offices, to unions, military barracks, churches and other community organizations, in order that each Brazilian citizen may receive from the State a copy of the Brazilian Constitution.

Article 65. The Legislative Power shall, within twelve months, regulate the article 220, paragraph 4.

Article 66. The public telecommunications utility concessions presently in force shall be maintained, as established by law.

Article 67. The Union shall conclude the demarcation of the Indian lands within five years of the promulgation of the Constitution.

Article 68. Final ownership shall be recognized for the remaining members of the ancient runaway slave communities who are occupying their lands and the State shall grant them the respective title deeds.

Article 69. The states shall be allowed to maintain legal consultancy offices independent from their Attorney-General Offices or Advocacy-General Offices, provided that they have separate agencies for the respective functions on the date of the promulgation of this Constitution.

Article 70. The present competence of the state courts shall be maintained until it is defined in the State Constitution, as established in article 125, paragraph 1, of the Constitution.

Article 71. The Emergency Social Fund is hereby instituted for the fiscal years of 1994 and 1995, as well as for the periods from January 1, 1996 through June 30, 1997, and from July 1, 1997 through December 31, 1999, aiming at the financial recuperation of the Federal Public Finances and the economic stabilization, the resources of which shall be applied primarily to the actions of the health and education systems, including the supplementation of resources set forth in paragraph 3 of article 60 of the Temporary Constitutional Provisions Act, the welfare benefits and welfare assistance of a permanent nature, including the payment of welfare debts and budgetary expenditures associated to programs of great economic and social interest. (RCA No. 1, 1994; CA No. 10, 1996; CA No. 17, 1997)

Paragraph 1. The provision of the final part of item II of paragraph 9 of article 165 of the Constitution shall not apply to the Fund established by this article.

Paragraph 2. From the beginning of the 1996 fiscal year on, the Fund established by this article shall be called Fiscal Stabilization Fund.

Paragraph 3. The Executive Power shall publish, on a bimonthly basis, a budget execution statement, which statement shall list the sources and applications of the Fund established by this article.

Article 72. The Emergency Social Fund is comprised of: (RCA No. 1, 1994; CA No. 10, 1996; CA No. 17, 1997)

I – the proceeds from the collection of the tax on income and earnings of any nature to be levied at source on payments of any nature effected by the Union, including its autonomous government agencies and foundations;

II – the part of the proceeds from the collection of the tax on income and earnings of any nature, and of the tax on credit, foreign exchange and insurance transactions, or transactions relating to bonds and securities, resulting from the changes generated by Law 8,894 of June 21, 1994, and by Laws 8,849 and 8,848, both dated January 28, 1994 and further modifications;

III – the part of the proceeds from the collection due to the increase of the rate of welfare contribution on the profit of taxpayers mentioned in paragraph 1 of article 22 of Law 8,212 of July 24, 1991, which, in the fiscal years of 1994 and 1995, as well as in the period from January 1, 1996 through June 30, 1997, shall be of 30 percent, subject to modification by ordinary law, the other stipulations of Law 7,869 of December 15, 1988 remaining unchanged;

IV – twenty percent of the proceeds from the collection of all taxes and contributions to the Union, already instituted or to be instituted, except those provided by items I, II and III, with due regard to the provisions of paragraphs 3 and 4;

V – the part of the proceeds from the collection of the contribution mentioned in Supplementary Law no. 7, of September 7, 1970, owed by the juridical entities referred to in item III of this article, which will be calculated, in the fiscal years of

1994 and 1995, as well as in the periods from January 1, 1996 through June 30, 1997, and from July 1, 1997 through December 31, 1999, through the employment of a rate of seventy-five hundredths of one percent, subject to modification by subsequent ordinary law, on the gross operating income, as defined in the legislation of income tax and earnings of any nature;

VI – other incomes defined in specific legislation.

Paragraph 1. The rates and calculation base defined in items III and V shall be applied as from the first day of the month following the ninetieth day after the promulgation of this Amendment[17].

Paragraph 2. The parts referred to in items I, II, III and V shall be previously deducted from the calculation base of any legal or constitutional designation or participation, and the provisions of articles 159, 212 and 239 of the Constitution shall not apply to them.

Paragraph 3. The part referred to in item IV shall be previously deducted from the calculation base of any constitutional or legal designation or participation stipulated by articles 153, paragraph 5, 157, II, 212 and 239 of the Constitution.

Paragraph 4. The provision of the former paragraph shall not apply to the resources provided by articles 158, II and 159 of the Constitution.

Paragraph 5. The part of the resources originating from the tax on income and earnings of any nature, designated for the Emergency Social Fund, as provided by item II of this article, shall not exceed five and six-tenths of one percent of the total proceeds from its collection.

Article 73. In the regulation of the Emergency Social Fund, the instrument provided by item V of article 59 of the Constitution may not be applied. (RCA No. 1, 1994)

Article 74. The Union may establish provisional contribution on the movement or transmission of monies and of credits and rights of financial nature. (CA No. 12, 1996)

Paragraph 1. The rate of the contribution mentioned in this article shall not exceed twenty-five hundredths of one percent, and the Executive Power may reduce it or reestablish it, in whole or in part, in the conditions and limits provided for by law.

Paragraph 2. The provisions of articles 153, paragraph 5, and 154, I, of the Constitution shall not apply to the contribution mentioned in this article.

Paragraph 3. The whole of the proceeds from the collection of the contribution mentioned in this article shall be allocated to the National Health Foundation for the financing of health actions and services.

Paragraph 4. The liability for the contribution mentioned in this article shall be governed by the provisions of article 195, paragraph 6, of the Constitution, and it shall not be collected for longer than two years.

Article 75. The collection of the provisional contribution on the movement or transmission of monies and of credits and rights of financial nature mentioned in article 74, established by Law no. 9,311, of October 24, 1996, is extended for thirty-six

[17] Should read as "Revision Constitutional Amendment no. 1/1994".

months, and the same extension applies to the effect of Law no. 9,539, of December 12, 1997, which modified Law no. 9,311. (CA No. 21, 1999)

Paragraph 1. With due regard for paragraph 6 of article 195 of the Federal Constitution, the rate of the contribution shall be thirty-eight hundredths of one percent, in the first twelve months, and thirty hundredths in the subsequent months, and the Executive Power may reduce it, in whole or in part, in the limits hereby stipulated.

Paragraph 2. The proceeds from increased collection of the contribution, resulting from the alteration of the rate, during the financial years of 1999, 2000, and 2001, shall be allocated to the financing of social security.

Paragraph 3. The Union is authorized to issue domestic public debt bonds, whose resources shall be allocated to the financing of health services and social security, in an amount equivalent to the proceeds of the collection of the contribution, estimated but not achieved in 1999.

Article 76. Twenty percent of the proceeds from the collection by the Union of taxes, social contributions, and contributions for intervention in the economic domain, already instituted or that may be instituted by December 31, 2011, as well as their additional taxes and respective legal increases, shall not be earmarked to any agency, fund, or expense in the said period. (CA No. 27, 2000; CA No. 42, 2003; CA No. 56, 2007; CA No. 59, 2009)

Paragraph 1. The provision of the head paragraph of this article shall not reduce the assessment basis of the transfers to the States, the Federal District, and the Municipalities under the terms of articles 153, paragraph 5; 157, item I; 158, items I and II; and 159, item I, letters *a* and *b*; and item II, of the Constitution, neither the assessment basis of the remittances mentioned in article 159, I, *c*, of the Constitution.

Paragraph 2. The proceeds from the collection of the social contribution for education mentioned in article 212, paragraph 5, of the Constitution, shall be excepted from the provision of the head paragraph of this article.

Paragraph 3. For purposes of calculating the funds for maintenance and development of education referred to in Article 212 of the Constitution, the percentage mentioned in the head paragraph of this article shall be 12.5% (twelve and five tenths percent) in fiscal year 2009, 5% (five percent) in fiscal year 2010, and zero in fiscal year 2011.

Article 77. Until the financial year of 2004, the minimum amount of funds applied to health actions and public services shall be equivalent to: (CA No. 29, 2000)

I – in the case of the Union:

a) in the year 2000, the amount of checks issued to health actions and public services during the financial year of 1999, plus at least five percent;

b) from the year 2001 through the year 2004, the amount expended in the previous year, restated according to the nominal changes of the Gross Domestic Product – GDP;

II – in the case of the States and of the Federal District, twelve percent of the proceeds from the collection of the taxes referred to in article 155 and of the funds

mentioned in articles 157 and 159, item I, subitem *a*, and item II, after deducting the portions transferred to the respective Municipalities;

III – in the case of the Municipalities and of the Federal District, fifteen percent of the proceeds from the collection of the taxes mentioned in article 156 and of the funds mentioned in articles 158 and 159, item I, subitem *b*, and paragraph 3.

Paragraph 1. The States, the Federal District, and the Municipalities which apply percentages lower than those stipulated in items II and III shall raise them gradually, until the financial year of 2004, the difference being reduced at the rate of at least one fifth per year, and the application shall consist of at least seven percent as of the year 2000.

Paragraph 2. At least fifteen percent of the funds of the Union expended under the terms of this article shall be applied in the Municipalities, according to the populational criterion, to health actions and public services, in accordance with the law.

Paragraph 3. The funds of the States, the Federal District, and the Municipalities assigned for health actions and public services, as well as those transferred by the Union for the same purpose, shall be applied by means of the Health Fund, to be monitored and supervised by the Health Board, without prejudice to the provisions of article 74 of the Federal Constitution.

Paragraph 4. In the absence of the supplementary law referred to in article 198, paragraph 3, the provisions of this article shall apply to the Union, the States, the Federal District, and the Municipalities as of the financial year of 2005.

Article 78. With the exception of credits defined by law as being of a small amount, credits for alimony, and credits stated in article 33 of this Temporary Constitutional Provisions Act and their supplementations, as well as those credits whose respective funds have already been released or paid into court, the court order debts for which payment is outstanding on the date of promulgation of this Amendment[18] and those deriving from actions commenced before or on December 31, 1999, shall be settled according to their real value, in legal tender, including legal interests, in equal and successive annual installments, within ten years at the most, the assignment of credits being permitted. (CA No. 30, 2000)

Paragraph 1. The division of installments is permitted, at the discretion of the creditor.

Paragraph 2. In the event the annual installments referred to in the head paragraph of this article have not been paid before the end of the relevant fiscal year, they shall be deducted from the taxes owed to the debtor entity.

Paragraph 3. The period of time referred to in the head paragraph of this article is reduced to two years, in the case of court order debts deriving from the expropriation of a creditor's residential property, provided that such property is proven to be the creditor's only residential property at the time of emission of a writ of ejectment.

Paragraph 4. If the time limit has elapsed, or in the case of omission in the budget, or in the event the right of precedence is not respected, the President of the appropriate

[18] Should read as "Constitutional Amendment no. 30/2000".

Court shall, upon petition of a creditor, requisition or order the seizure of funds of the debtor entity, at an amount sufficient to pay the installment.

Article 79. The Fund to Fight and Eradicate Poverty, hereby instituted within the sphere of the Federal Executive Branch, shall be in force through the year 2010 and shall be regulated by a supplementary law, aiming at enabling all Brazilians to have access to adequate subsistence levels, and its resources shall be applied to supplementary initiatives regarding nutrition, housing, education, health, a complementary family income, and other programs of relevant social interest oriented towards the improvement of the quality of life. (CA No. 31, 2000)

Sole paragraph. The Fund set forth in this article shall have an Advisory and Monitoring Board that must include representatives of civil society, under the terms of the law.

Article 80. The Fund to Fight and Eradicate Poverty is comprised of: (CA No. 31, 2000)

I – the part of the proceeds from the collection corresponding to additional eight hundredths of one percent, applicable from June 18, 2000, through June 17, 2002, to the rate of the social contribution referred to in article 75 of the Temporary Constitutional Provisions Act;

II – the part of the proceeds from the collection corresponding to additional five percent on the rate of the federal VAT [IPI], or of the tax that may eventually replace it, levied on luxury goods and applicable while the Fund is in force;

III – the proceeds from the collection of the tax referred to in article 153, item VII, of the Constitution;

IV – budgetary appropriations;

V – donations, of any nature, by individuals or corporations established in Brazil or abroad;

VI – other revenues, to be defined by the legislation that regulates the Fund.

Paragraph 1. The provisions of articles 159 and 167, item IV, of the Constitution, are not applicable to the resources that make up the Fund, neither is any disconnection of budgetary resources.

Paragraph 2. The proceeds from the collection of the resources referred to in item I of this article, during the period from June 18, 2000 through the date the supplementary law mentioned in article 79 becomes effective, shall be remitted in full to the Fund, their real value being preserved, in federal government securities, progressively redeemable after June 18, 2002, under the terms of the law.

Article 81. A Fund is hereby instituted, to be comprised of the resources received by the Federal Government as a result of divestiture of government-controlled corporations and public entreprises controlled either directly or indirectly by the Federal Government, when such operation involves the divestment of the respective controlling interest to an individual or entity not belonging to the government bodies, or of any remaining equity interest following such divestment, and the income thereof,

generated as from June 18, 2002, shall be transferred to the Fund to Fight and Eradicate Poverty. (CA No. 31, 2000)

Paragraph 1. In case the yearly amount of income to be transferred to the Fund to Fight and Eradicate Poverty, as set forth in this article, does not add up to the total of four billion reais, it shall be supplemented according to article 80, item IV, of the Temporary Constitutional Provisions Act.

Paragraph 2. Without prejudice to the provision of paragraph 1, the Executive Branch may allocate other revenues deriving from the sale of Federal Government assets to the Fund mentioned in this article.

Paragraph 3. The resources that make up the Fund referred to in the head paragraph of this article, the transfer of said resources to the Fund to Fight and Eradicate Poverty, and the other provisions concerning paragraph 1 of this article shall be regulated by law, and the provision of article 165, paragraph 9, item II of the Constitution shall not be applicable.

Article 82. The States, the Federal District, and the Municipalities shall institute Funds to Fight Poverty, comprised of the resources referred to in this article and other resources that may eventually be allocated for this purpose, and the said Funds shall be managed by entities which include the participation of civil society. (CA No. 31, 2000; CA No. 42, 2003)

Paragraph 1. With a view to financing the State Funds and the Federal District Fund, an additional tax of up to two percent may be created, to raise the rate of the State VAT [ICMS], due on luxury goods and services and observing the conditions defined in the supplementary law referred to in article 155, paragraph 2, XII, of the Constitution, and the provision of article 158, IV, of the Constitution shall not be applicable to such percentage.

Paragraph 2. With a view to financing the Municipal Funds, an additional tax of up to half of one percent may be created, to raise the rate of the local service tax [ISS], or the rate of the tax that may eventually replace it, levied on luxury services.

Article 83. A federal law shall define the luxury goods and services referred to in articles 80, item II, and 82, paragraph 2. (CA No. 42, 2003)

Article 84. The provisional contribution on the movement or transmission of monies and of credits and rights of a financial nature, set forth in articles 74, 75, and 80, I, of this Temporary Constitutional Provisions Act, shall be collected through December 31, 2004. (CA No. 37, 2002; CA No. 42, 2003)

Paragraph 1. The effect of Law no. 9,311, of October 24, 1996, as well as of its alterations, is hereby extended through the date mentioned in the head paragraph of this article.

Paragraph 2. Of the proceeds from collection of the social contribution mentioned in this article, the portion corresponding to the following rates shall be allocated to the purposes herein stated:

I – twenty hundredths percent to the National Health Fund, for the financing of health actions and services;

II – ten hundredths percent to the financing of social security;

III – eight hundredths percent to the Fund to Fight and Eradicate Poverty, set forth in articles 80 and 81 of this Temporary Constitutional Provisions Act.

Paragraph 3. The rate of the contribution mentioned in this article shall be equal to:

I – thirty-eight hundredths percent in the financial years of 2002 and 2003;

II – (revoked).

Article 85. The contribution mentioned in article 84 of this Temporary Constitutional Provisions Act shall not be levied, as from the thirtieth day after the publication of this Constitutional Amendment, on entries concerning: (CA No. 37, 2002)

I – current deposit accounts especially opened and exclusively used for transactions carried out by:

a) clearinghouses and providers of clearing and settlement services referred to in article 2, sole paragraph, of Law no. 10,214, of March 27, 2001;

b) securitization companies referred to in Law no. 9,514, of November 20, 1997;

c) business corporations whose exclusive purpose is to purchase credits originating from transactions carried out in the financial market;

II – current deposit accounts, when such entries are related to:

a) stock purchase and sale transactions, effected within stock exchange trading floors or electronic systems, and in the organized over-the-counter market;

b) contracts written on stocks or stock indices, in their various modes, negotiated in stock exchanges, commodities and futures exchanges;

III – foreign investors' accounts, regarding entries into and remittances from Brazil of funds employed exclusively in transactions and contracts referred to in item II of this article.

Paragraph 1. The Executive Branch shall regulate the provisions of this article within thirty days as of the date of publication of this Constitutional Amendment[19].

Paragraph 2. The provisions of item I of this article apply only to the transactions specified in an act issued by the Executive Branch, from among the transactions that constitute the purpose of said entities.

Paragraph 3. The provisions of item II of this article apply only to transactions and contracts effected through financial institutions, securities brokerage houses, securities distribution companies, and commodities brokerage houses.

Article 86. Debts that must be paid by the Federal, State, Federal District, or Municipal Tax Authorities by virtue of final and unappealable judicial decisions shall be paid in accordance with the provisions of article 100 of the Federal Constitution, the parceling rule established in the head paragraph of article 78 of this Temporary

[19] Should read as "Constitutional Amendment no. 37/2002".

Constitutional Provisions Act not being applicable, if such debts meet the following cumulative conditions: (CA No. 37, 2002)

I – having been the subject of a court order;

II – having been defined as small amount debts by the law referred to in paragraph 3 of article 100 of the Federal Constitution, or by article 87 of this Temporary Constitutional Provisions Act;

III – their payment being outstanding, in whole or in part, on the date of publication of this Constitutional Amendment[20].

Paragraph 1. The debts referred to in the head paragraph of this article, or their respective balances, shall be paid in chronological order of presentation of the respective court orders, with precedence over debts of a higher amount.

Paragraph 2. If the debts referred to in the head paragraph of this article have not been subject to partial payment yet, under the terms of article 78 of this Temporary Constitutional Provisions Act, they may be paid in two annual installments, as the law provides.

Paragraph 3. The payment of the alimony debts referred to in this article, with due respect for the chronological order of their presentation, shall take precedence over the payment of all other debts.

Article 87. For purposes of the provisions set forth in paragraph 3 of article 100 of the Federal Constitution, and in article 78 of this Temporary Constitutional Provisions Act, and until such time as the official publication of the respective defining acts by the units of the Federation is effected, the debts or bonds stated in court orders shall be considered as being of a small amount, with due regard for paragraph 4 of article 100 of the Federal Constitution, if their amount is equal to or lesser than: (CA No. 37, 2002)

I – forty minimum monthly wages, in the case of debts owed by the Tax Authorities of the States and of the Federal District;

II – thirty minimum monthly wages, in the case of debts owed by the Tax Authorities of the Municipalities.

Sole paragraph. Should the amount under execution exceed the amount stipulated in this article, payment shall always be made by means of a court order, the execution creditor being entitled to waiving the credit of the excess amount, so that he may opt to receive the balance without the emission of a court order, in the manner set forth in paragraph 3 of article 100.

Article 88. Until such time as a supplementary law regulates the provisions of items I and III of paragraph 3 of article 156 of the Federal Constitution, the tax referred to in item III of the head paragraph of said article shall: (CA No. 37, 2002)

I – have a minimum rate of two percent, save for the services referred to in items 32, 33, and 34 of the List of Services appended to Decree-Law no. 406, of December 31, 1968;

[20] Should read as "Constitutional Amendment no. 37/2002".

II – not be subject to the granting of fiscal exemptions, incentives, and benefits, should the direct or indirect result of such granting be the reduction of the minimum rate stipulated in item I.

Article 89. The members of the uniformed police force and local administration employees of the former Federal Territory of Rondônia, who, in accordance with official documents, were regularly exercising their functions and rendering services to such former Territory at the time it was transformed into a State, as well as the employees and uniformed police officers covered by the provisions of article 36 of Supplementary Law no. 41, December 22, 1981, and those who were legally included in the Rondônia State Government personnel up until March 15, 1987, that is, the date the first elected governor took office, shall be included, at their option, in a special job class to be eventually terminated within the federal government services, being ensured of their specific rights and advantages, whereas the payment, under any circumstances, of remuneration differences shall be forbidden. (CA No. 38, 2002; CA No. 60, 2009)

Paragraph 1. The members of the uniformed police force shall continue rendering services to the State of Rondônia, in the quality of detailed personnel, subject to their respective uniformed police forces, with due regard for the compatibility between the duties of their function and their rank in the hierarchy.

Paragraph 2. The employees referred to in the head paragraph shall continue rendering services to the State of Rondônia, in the quality of detailed personnel, up until they are placed in a federal government entity, associate government agency, or foundation.

Article 90. The time limit set forth in the head paragraph of article 84 of this Temporary Constitutional Provisions Act is hereby extended through December 31, 2007. (CA No. 42, 2003)

Paragraph 1. The effect of Law no. 9,311, of October 24, 1996, as well as of its alterations, is hereby extended through the date mentioned in the head paragraph of this article.

Paragraph 2. The rate of the contribution referred to in article 84 of this Temporary Constitutional Provisions Act shall be equal to thirty-eight hundredths per cent through the date referred to in the head paragraph of this article.

Article 91. The Union shall remit to the States and to the Federal District the amount defined by a supplementary law, in accordance with the criteria, time limits, and terms therein determined, taking into consideration exports of primary commodities and semi-manufactured products to other countries, the import-export ratio, credits deriving from purchases intended for the permanent assets, and the effective maintenance and utilization of the tax credits referred to in article 155, paragraph 2, X, *a*. (CA No. 42, 2003)

Paragraph 1. As to the amount of funds to be remitted to each State, seventy-five percent of such amount shall be assigned to the State itself, and twenty-five percent to its Municipalities, such percentage being distributed in accordance with the criteria referred to in article 158, sole paragraph, of the Constitution.

Paragraph 2. The remittance of funds set forth in this article shall prevail, as defined in a supplementary law, until such time as the proceeds from the collection of the tax referred to in article 155, II, are predominantly assigned, in a proportion not below eighty per cent, to the State where consumption of the products, goods, or services takes place.

Paragraph 3. Until such time as the supplementary law referred to in the head paragraph is enacted, and so as to replace the system of remittance of funds set forth therein, there shall remain in force the system of remittance of funds set forth in article 31 and Schedule of Supplementary Law no. 87, of September 13, 1996, with the wording provided by Supplementary Law no. 115, of December 26, 2002.

Paragraph 4. The States and the Federal District shall present to the Federal Government, under the terms of instructions issued by the Finance Ministry, information regarding the tax referred to in article 155, II, supplied by the taxpayers who carry out transactions involving goods to be shipped abroad or services to be delivered to foreign parties.

Article 92. A period of ten years shall be added to the period of time set forth in article 40 of this Temporary Constitutional Provisions Act. (CA No. 42, 2003)

Article 93. The provisions of article 159, III, and paragraph 4 shall only come into force after the promulgation of the law referred to in said item III. (CA No. 42, 2003)

Article 94. The special tax regimes for micro and small businesses which are specific of the Union, the States, the Federal District, and the Municipalities shall be discontinued as from the date the regime set forth in article 146, III, *d*, of the Constitution comes into force. (CA No. 42, 2003)

Article 95. Persons born abroad between June 7, 1994, and the date of enactment of this Constitutional Amendment[21], to a Brazilian father or a Brazilian mother, may be registered with a Brazilian diplomatic or consular authority, or with an official registry if they come to reside in the Federative Republic of Brazil. (CA No. 54, 2007)

Article 96. Acts aimed at the establishment, fusion, merger, and dismemberment of municipalities, whose act of creation was published on or before December 31, 2006, are hereby confirmed, provided that the requirements set forth in the legislation of the respective state at the time of establishment of said municipalities have been fulfilled. (CA No. 57, 2008)

Article 97. Up until the supplementary law referred to in Paragraph 15 of Article 100 of the Federal Constitution is enacted, the States, the Federal District, and Municipalities which, on the date of enactment of Constitutional Amendment no. 62, have not yet effected payment of past due court-ordered debts regarding their respective direct and indirect administration, including court orders issued during the period the special regime instituted by this article is in force, shall effect such payments in accordance with the rules set forth in this article, whereas the provisions of Article 100 of this

[21] Should read as "Constitutional Amendment no. 54/2007".

Federal Constitution shall not be applicable, save for its Paragraphs 2, 3, 9, 10, 11, 12, 13, and 14, and without prejudice to conciliation agreements already formalized by the date of publication of Constitutional Amendment no. 62. (CA No. 62, 2009)

Paragraph 1. The States, the Federal District, and Municipalities subject to the special regime set forth in this article shall, by means of an Executive Power act, opt for either:

I – depositing the amount referred to in Paragraph 2 of this article into a special account; or

II – adopting the special regime for a period of up to 15 (fifteen) years, in which case the percentage to be deposited into the special account referred to in Paragraph 2 of this article shall be equivalent to the total yearly balance of court-ordered debts, increased by the official rate applied to savings accounts and by simple interest applied at the same percentage of interest applied to savings accounts for the purpose of compensation of delay in the payment – the employment of compensatory interest being excluded, reduced by any paid amount, and divided by the remaining number of years in the special regime of payment.

Paragraph 2. In order to pay up both its past due and future accruing court-ordered debts through the special regime, the States, the Federal District, and Municipalities in debt shall effect a monthly deposit into a special account created for such purpose, of 1/12 (one twelfth) of the amount calculated as a percentage of the respective net current revenues, as computed in the second month preceding the month of payment, whereas such percentage, calculated at the time of opting for the special regime and kept unchanged through the end of the period referred to in Paragraph 14 of this article, shall be equal to:

I – in the case of the States and of the Federal District:

a) at least 1.5% (one whole and five tenths per cent), for the States of the North, Northeast, and Centre-West regions, in addition to the Federal District, or for those States where the backlog of court orders owed by their respective direct and indirect administration corresponds to up to 35% (thirty-five per cent) of the total net current revenues;

b) at least 2% (two per cent), for the States of the South and Southeast Regions, where the backlog of court orders owed by their respective direct and indirect administration corresponds to over 35% (thirty-five per cent) of the net current revenues;

II – in the case of Municipalities:

a) at least 1% (one per cent), for Municipalities of the North, Northeast, and Centre-West regions, or for those Municipalities where the backlog of court orders owed by their respective direct and indirect administration corresponds to up to 35% (thirty-five per cent) of the net current revenues;

b) at least 1.5% (one whole and five tenths per cent), for Municipalities of the South and Southeast Regions, where the backlog of court orders owed by their respective direct and indirect administration corresponds to over 35% (thirty-five per cent) of the net current revenues.

Paragraph 3. For the purposes of this article, net current revenues mean the total sum of tax, industry, and agriculture revenues, property income, revenues from contributions and from services, current transfers, and other current revenues, including those deriving from Paragraph 1 of Article 20 of the Federal Constitution, such total sum being computed in the period including the reference month and the 11 (eleven) preceding months, excluding any double counting but at the same time deducting:

I – in the case of the States, the portions remitted to the Municipalities as set forth by the Constitution;

II – in the case of the States, the Federal District, and Municipalities, the contribution paid by respective employees to fund their own social security and social assistance system, as well as revenues deriving from the financial offsetting referred to in Paragraph 9 of Article 201 of the Federal Constitution.

Paragraph 4. The special accounts referred to in Paragraphs 1 and 2 shall be managed by the respective Court of Justice, for payment of judicial orders issued by courts.

Paragraph 5. The funds deposited into the special accounts referred to in Paragraphs 1 and 2 of this article may not be returned to the States, the Federal District, and Municipalities in debt.

Paragraph 6. At least 50% (fifty per cent) of the funds referred to in Paragraphs 1 and 2 of this article shall be used to pay court orders according to their chronological order of submission, with due regard for the priorities defined in Paragraph 1 of Article 100 – in the case of court orders of one same year, and in Paragraph 2 – in the case of court orders of all years.

Paragraph 7. If it is not possible to ascertain the chronological priority between 2 (two) court orders, the court order stating the smallest amount shall be paid first.

Paragraph 8. The employment of the remaining funds shall depend on option to be effected by the States, the Federal District, and Municipalities in debt, through an Executive Power act, in accordance with the following modes, which may be applied either separately or simultaneously:

I – payment of court orders by means of auctions;

II – payment in cash of court orders not paid up under the terms of Paragraph 6 and of Item I, in a single, increasing order of respective amounts;

III – payment through direct agreement with creditors, under the terms of law specific to each federating unit in debt, which may provide for the establishment and mode of operation of conciliation panels.

Paragraph 9. The following shall apply to the auctions referred to in Item I of Paragraph 8 of this article:

I – auctions shall be carried out through an electronic system managed by an entity authorized by the Brazilian Securities and Exchange Commission (CVM) or by the Central Bank of Brazil;

II – court orders – or a installment of a court order amount as designated by its holder – with respect to which no appeal or challenge of any nature whatsoever is

pending within the Judicial Power shall be qualified to take part in an auction, whereas, at the initiative of the Executive Power, it will be permitted to offset court-order debt payments against clear legal debits, either registered or not under debts in execution and attributed to the original debtor by the Treasury in debt up to the date of issuance of respective court order, save for those whose enforceability has been stayed under the terms of the law, or which have already been subject to deduction under the terms of Paragraph 9 of Article 100 of the Federal Constitution;

III – auctions will be effected through public offer to all creditors qualified by the respective federating unit in debt;

IV – any creditor who meets the requirements of Item II shall be considered automatically qualified;

V – auctions shall be carried out as many times as necessary to meet the available amount;

VI – inclusion of an installment of the total amount in an auction will be effected at the discretion of respective creditor, at an abatement in the amount of the installment;

VII – auctions shall take the form of debt abatement, associated with the largest volume offered – either cumulated or not with the highest percentage of abatement, according to the highest percentage of abatement, in which case the maximum amount per creditor may be stipulated, or according to another criterion to be defined in a public call notice;

VIII – the price formation mechanism shall be stated in the public call notices issued for each auction;

IX – the payment in part of a court order shall be ratified by the court which issued said court order.

Paragraph 10. Should the funds referred to in Item II of Paragraph 1 and in Paragraphs 2 and 6 of this article not be made available in due time:

I – there shall be effected attachment of the relevant amount in the accounts belonging to the States, the Federal District, and Municipalities in debt, by order of the Presiding Judge of the Court referred to in Paragraph 4, up to the limit of the amount not made available;

II – there shall be established, as an alternative, by order of the Presiding Judge of the relevant Court, in favor of creditors of court orders, against the States, the Federal District, and Municipalities in debt, a clear legal right – self-enforceable and irrespective of regulation – to automatic offsetting against clear debits attributed to said creditors by such debtors, whereas, there being a balance in favor of a creditor, such amount shall automatically be deductible from the taxes owed to the States, the Federal District, and Municipalities in debt, up to the offsetting limits;

III – the head of respective Executive Power shall be held liable under the terms of the legislation on fiscal responsibility and administrative dishonesty;

IV – for as long as non-compliance prevails, the federating unit in debt:

a) shall not be allowed to raise loans at home or abroad;

b) shall not be entitled to receive voluntary transfers;

V – the Federal Government shall not effect the remittances regarding the Revenue Sharing Fund of the States and the Federal District and the Revenue Sharing Fund of Municipalities, depositing them instead into the special accounts referred to in Paragraph 1 of this article, whereas the employment of such amounts must comply with Paragraph 5 of this article.

Paragraph 11. As regards a court order concerning several creditors in a joinder of parties, the court of origin of said court order may dismember the total amount per creditor, and each creditor may participate in an auction with the total amount such creditor is entitled to, the rule set forth in Paragraph 3 of Article 100 of the Federal Constitution not being applicable to such case.

Paragraph 12. Should the legislation referred to in Paragraph 4 of Article 100 not be enacted within 180 (one hundred and eighty) days as from the date of enactment of Constitutional Amendment no. 62, the following amounts shall prevail for the relevant purposes, for the States, the Federal District, and Municipalities in debt which have failed to regulate the matter:

I – 40 (forty) monthly minimum wages in the case of States and the Federal District;

II – 30 (thirty) monthly minimum wages in the case of Municipalities.

Paragraph 13. During the period in which the States, the Federal District, and Municipalities in debt are effecting payment of court orders through the special regime, they may not be subject to attachment of amounts, except when the funds referred to in Item II of Paragraph 1 and in Paragraph 2 of this article are not made available in due time.

Paragraph 14. The special regime for payment of court orders set forth in Item I of Paragraph 1 of this article shall be in force for as long as the amount of court-ordered debts is higher than the amount of funds earmarked under the terms of Paragraph 2 of this article, or for a fixed period of 15 (fifteen) years in the case of the option referred to in Item II of Paragraph 1.

Paragraph 15. Court-ordered debts divided into installments under the terms of Article 33 or Article 78 of this Temporary Constitutional Provisions Act and whose payment is still pending shall be included in the special regime with the amount of all pending installments being updated, whereas the balance of any judicial and extrajudicial agreements shall also be included in the special regime.

Paragraph 16. As from the date Constitutional Amendment no. 62 is enacted, the amounts stated in court orders, up until effective payment, irrespective of their nature, shall be adjusted according to the official rate applied to savings accounts, whereas, for the purpose of compensation of delay in the payment, simple interest will be applied at the same percentage of interest applied to savings accounts, the employment of compensatory interest being excluded.

Paragraph 17. While the special regime is in force, any amount in excess of the limit set forth in Paragraph 2 of Article 100 of the Federal Constitution shall be paid in accordance with Paragraphs 6 and 7 or with Items I, II, and III of Paragraph 8 of

this article, whereas the amounts used to meet the provision of Paragraph 2 of Article 100 of the Federal Constitution shall be computed for the purposes of Paragraph 6 of this article.

Paragraph 18. While the special regime referred to in this article is in effect, the original holders of court orders who have reached the age of 60 (sixty) years old by the date of enactment of Constitutional Amendment no. 62 shall also be entitled to the priority referred to in Paragraph 6.

Brasília, October 5, 1988.

Ulysses Guimarães, President – *Mauro Benevides*, First Vice-President – *Jorge Arbage*, Second Vice-President – *Marcelo Cordeiro*, First Secretary – *Mário Maia*, Second Secretary – *Arnaldo Faria de Sá*, Third Secretary – *Benedita da Silva*, First Substitute Secretary – *Luiz Soyer*, Second Substitute Secretary – *Sotero Cunha*, Third Substitute Secretary – *Bernardo Cabral*, Reporter-General – *Adolfo Oliveira*, Adjunct Reporter – *Antonio Carlos Konder Reis*, Adjunct Reporter – *José Fogaça*, Adjunct Reporter.

Abigail Feitosa – Acival Gomes – Adauto Pereira – Ademir Andrade – Adhemar de Barros Filho – Adroaldo Streck – Adylson Motta – Aécio de Borba – Aécio Neves – Affonso Camargo – Afif Domingos – Afonso Arinos – Afonso Sancho – Agassiz Almeida – Agripino de Oliveira Lima – Airton Cordeiro – Airton Sandoval – Alarico Abib – Albano Franco – Albérico Cordeiro – Albérico Filho – Alceni Guerra – Alcides Saldanha – Aldo Arantes – Alércio Dias – Alexandre Costa – Alexandre Puzyna – Alfredo Campos – Almir Gabriel – Aloisio Vasconcelos – Aloysio Chaves – Aloysio Teixeira – Aluizio Bezerra – Aluízio Campos – Álvaro Antônio – Álvaro Pacheco – Álvaro Valle – Alysson Paulinelli – Amaral Netto – Amaury Müller – Amilcar Moreira – Ângelo Magalhães – Anna Maria Rattes – Annibal Barcellos – Antero de Barros – Antônio Câmara – Antônio Carlos Franco – Antonio Carlos Mendes Thame – Antônio de Jesus – Antonio Ferreira – Antonio Gaspar – Antonio Mariz – Antonio Perosa – Antônio Salim Curiati – Antonio Ueno – Arnaldo Martins – Arnaldo Moraes – Arnaldo Prieto – Arnold Fioravante – Arolde de Oliveira – Artenir Werner – Artur da Távola – Asdrubal Bentes – Assis Canuto – Átila Lira – Augusto Carvalho – Áureo Mello – Basílio Villani – Benedicto Monteiro – Benito Gama – Beth Azize – Bezerra de Melo – Bocayuva Cunha – Bonifácio de Andrada – Bosco França – Brandão Monteiro – Caio Pompeu – Carlos Alberto – Carlos Alberto Caó – Carlos Benevides – Carlos Cardinal – Carlos Chiarelli – Carlos Cotta – Carlos De'Carli – Carlos Mosconi – Carlos Sant'Anna – Carlos Vinagre – Carlos Virgílio – Carrel Benevides – Cássio Cunha Lima – Célio de Castro – Celso Dourado – César Cals Neto – César Maia – Chagas Duarte – Chagas Neto – Chagas Rodrigues – Chico Humberto – Christóvam Chiaradia – Cid Carvalho – Cid Sabóia de Carvalho – Cláudio Ávila – Cleonâncio Fonseca – Costa Ferreira – Cristina Tavares – Cunha Bueno – Dálton Canabrava – Darcy Deitos – Darcy Pozza – Daso Coimbra – Davi Alves Silva – Del Bosco Amaral – Delfim Netto – Délio Braz – Denisar Arneiro – Dionisio Dal Prá – Dionísio Hage – Dirce Tutu Quadros – Dirceu Carneiro – Divaldo Suruagy – Djenal Gonçalves – Domingos Juvenil – Domingos Leonelli – Doreto Campanari – Edésio Frias – Edison Lobão – Edivaldo Motta – Edme Tavares – Edmilson Valentim – Eduardo Bonfim –

Eduardo Jorge – Eduardo Moreira – Egídio Ferreira Lima – Elias Murad – Eliel Rodrigues – Eliézer Moreira – Enoc Vieira – Eraldo Tinoco – Eraldo Trindade – Erico Pegoraro – Ervin Bonkoski – Etevaldo Nogueira – Euclides Scalco – Eunice Michiles – Evaldo Gonçalves – Expedito Machado – Ézio Ferreira – Fábio Feldmann – Fábio Raunheitti – Farabulini Júnior – Fausto Fernandes – Fausto Rocha – Felipe Mendes – Feres Nader – Fernando Bezerra Coelho – Fernando Cunha – Fernando Gasparian – Fernando Gomes – Fernando Henrique Cardoso – Fernando Lyra – Fernando Santana – Fernando Velasco – Firmo de Castro – Flavio Palmier da Veiga – Flávio Rocha – Florestan Fernandes – Floriceno Paixão – França Teixeira – Francisco Amaral – Francisco Benjamim – Francisco Carneiro – Francisco Coelho – Francisco Diógenes – Francisco Dornelles – Francisco Küster – Francisco Pinto – Francisco Rollemberg – Francisco Rossi – Francisco Sales – Furtado Leite – Gabriel Guerreiro – Gandi Jamil – Gastone Righi – Genebaldo Correia – Genésio Bernardino – Geovani Borges – Geraldo Alckmin Filho – Geraldo Bulhões – Geraldo Campos – Geraldo Fleming – Geraldo Melo – Gerson Camata – Gerson Marcondes – Gerson Peres – Gidel Dantas – Gil César – Gilson Machado – Gonzaga Patriota – Guilherme Palmeira – Gumercindo Milhomem – Gustavo de Faria – Harlan Gadelha – Haroldo Lima – Haroldo Sabóia – Hélio Costa – Hélio Duque – Hélio Manhães – Hélio Rosas – Henrique Córdova – Henrique Eduardo Alves – Heráclito Fortes – Hermes Zaneti – Hilário Braun – Homero Santos – Humberto Lucena – Humberto Souto – Iberê Ferreira – Ibsen Pinheiro – Inocêncio Oliveira – Irajá Rodrigues – Iram Saraiva – Irapuan Costa Júnior – Irma Passoni – Ismael Wanderley – Israel Pinheiro – Itamar Franco – Ivo Cersósimo – Ivo Lech – Ivo Mainardi – Ivo Vanderlinde – Jacy Scanagatta – Jairo Azi – Jairo Carneiro – Jalles Fontoura – Jamil Haddad – Jarbas Passarinho – Jayme Paliarin – Jayme Santana – Jesualdo Cavalcanti – Jesus Tajra – Joaci Góes – João Agripino – João Alves – João Calmon – João Carlos Bacelar – João Castelo – João Cunha – João da Mata – João de Deus Antunes – João Herrmann Neto – João Lobo – João Machado Rollemberg – João Menezes – João Natal – João Paulo – João Rezek – Joaquim Bevilácqua – Joaquim Francisco – Joaquim Hayckel – Joaquim Sucena – Jofran Frejat – Jonas Pinheiro – Jonival Lucas – Jorge Bornhausen – Jorge Hage – Jorge Leite – Jorge Uequed – Jorge Vianna – José Agripino – José Camargo – José Carlos Coutinho – José Carlos Grecco – José Carlos Martinez – José Carlos Sabóia – José Carlos Vasconcelos – José Costa – José da Conceição – José Dutra – José Egreja – José Elias – José Fernandes – José Freire – José Genoíno – José Geraldo – José Guedes – José Ignácio Ferreira – José Jorge – José Lins – José Lourenço – José Luiz de Sá – José Luiz Maia – José Maranhão – José Maria Eymael – José Maurício – José Melo – José Mendonça Bezerra – José Moura – José Paulo Bisol – José Queiroz – José Richa – José Santana de Vasconcellos – José Serra – José Tavares – José Teixeira – José Thomaz Nonô – José Tinoco – José Ulísses de Oliveira – José Viana – José Yunes – Jovanni Masini – Juarez Antunes – Júlio Campos – Júlio Costamilan – Jutahy Júnior – Jutahy Magalhães – Koyu Iha – Lael Varella – Lavoisier Maia – Leite Chaves – Lélio Souza – Leopoldo Peres – Leur Lomanto – Levy Dias – Lézio Sathler – Lídice da Mata – Louremberg Nunes Rocha – Lourival Baptista – Lúcia Braga – Lúcia Vânia – Lúcio Alcântara – Luís Eduardo – Luís Roberto Ponte – Luiz Alberto Rodrigues – Luiz Freire – Luiz Gushiken – Luiz Henrique – Luiz Inácio Lula da Silva – Luiz Leal – Luiz Marques – Luiz Salomão – Luiz Viana – Luiz Viana Neto – Lysâneas Maciel – Maguito Vilela – Maluly Neto –

Manoel Castro – Manoel Moreira – Manoel Ribeiro – Mansueto de Lavor – Manuel Viana – Márcia Kubitschek – Márcio Braga – Márcio Lacerda – Marco Maciel – Marcondes Gadelha – Marcos Lima – Marcos Queiroz – Maria de Lourdes Abadia – Maria Lúcia – Mário Assad – Mário Covas – Mário de Oliveira – Mário Lima – Marluce Pinto – Matheus Iensen – Mattos Leão – Maurício Campos – Maurício Correa – Maurício Fruet – Maurício Nasser – Maurício Pádua – Maurílio Ferreira Lima – Mauro Borges – Mauro Campos – Mauro Miranda – Mauro Sampaio – Max Rosenmann – Meira Filho – Melo Freire – Mello Reis – Mendes Botelho – Mendes Canale – Mendes Ribeiro – Messias Góis – Messias Soares – Michel Temer – Milton Barbosa – Milton Lima – Milton Reis – Miraldo Gomes – Miro Teixeira – Moema São Thiago – Moysés Pimentel – Mozarildo Cavalcanti – Mussa Demes – Myrian Portella – Nabor Júnior – Naphtali Alves de Souza – Narciso Mendes – Nelson Aguiar – Nelson Carneiro – Nelson Jobim – Nelson Sabrá – Nelson Seixas – Nelson Wedekin – Nelton Friedrich – Nestor Duarte – Ney Maranhão – Nilso Sguarezi – Nilson Gibson – Nion Albernaz – Noel de Carvalho – Nyder Barbosa – Octávio Elísio – Odacir Soares – Olavo Pires – Olívio Dutra – Onofre Corrêa – Orlando Bezerra – Orlando Pacheco – Oscar Corrêa – Osmar Leitão – Osmir Lima – Osmundo Rebouças – Osvaldo Bender – Osvaldo Coelho – Osvaldo Macedo – Osvaldo Sobrinho – Oswaldo Almeida – Oswaldo Trevisan – Ottomar Pinto – Paes de Andrade – Paes Landim – Paulo Delgado – Paulo Macarini – Paulo Marques – Paulo Mincarone – Paulo Paim – Paulo Pimentel – Paulo Ramos – Paulo Roberto – Paulo Roberto Cunha – Paulo Silva – Paulo Zarzur – Pedro Canedo – Pedro Ceolin – Percival Muniz – Pimenta da Veiga – Plínio Arruda Sampaio – Plínio Martins – Pompeu de Sousa – Rachid Saldanha Derzi – Raimundo Bezerra – Raimundo Lira – Raimundo Rezende – Raquel Cândido – Raquel Capiberibe – Raul Belém – Raul Ferraz – Renan Calheiros – Renato Bernardi – Renato Johnsson – Renato Vianna – Ricardo Fiuza – Ricardo Izar – Rita Camata – Rita Furtado – Roberto Augusto – Roberto Balestra – Roberto Brant – Roberto Campos – Roberto D'Ávila – Roberto Freire – Roberto Jefferson – Roberto Rollemberg – Roberto Torres – Roberto Vital – Robson Marinho – Rodrigues Palma – Ronaldo Aragão – Ronaldo Carvalho – Ronaldo Cezar Coelho – Ronan Tito – Ronaro Corrêa – Rosa Prata – Rose de Freitas – Rospide Netto – Rubem Branquinho – Rubem Medina – Ruben Figueiró – Ruberval Pilotto – Ruy Bacelar – Ruy Nedel – Sadie Hauache – Salatiel Carvalho – Samir Achôa – Sandra Cavalcanti – Santinho Furtado – Sarney Filho – Saulo Queiroz – Sérgio Brito – Sérgio Spada – Sérgio Werneck – Severo Gomes – Sigmaringa Seixas – Sílvio Abreu – Simão Sessim – Siqueira Campos – Sólon Borges dos Reis – Stélio Dias – Tadeu França – Telmo Kirst – Teotonio Vilela Filho – Theodoro Mendes – Tito Costa – Ubiratan Aguiar – Ubiratan Spinelli – Uldurico Pinto – Valmir Campelo – Valter Pereira – Vasco Alves – Vicente Bogo – Victor Faccioni – Victor Fontana – Victor Trovão – Vieira da Silva – Vilson Souza – Vingt Rosado – Vinicius Cansanção – Virgildásio de Senna – Virgílio Galassi – Virgílio Guimarães – Vitor Buaiz – Vivaldo Barbosa – Vladimir Palmeira – Wagner Lago – Waldec Ornélas – Waldyr Pugliesi – Walmor de Luca – Wilma Maia – Wilson Campos – Wilson Martins – Ziza Valadares.

PARTICIPANTS: *Álvaro Dias – Antônio Britto – Bete Mendes – Borges da Silveira – Cardoso Alves – Edivaldo Holanda – Expedito Júnior – Fadah Gattass – Francisco Dias – Geovah Amarante – Hélio Gueiros – Horácio Ferraz – Hugo Napoleão –*

Iturival Nascimento – Ivan Bonato – Jorge Medauar – José Mendonça de Morais – Leopoldo Bessone – Marcelo Miranda – Mauro Fecury – Neuto de Conto – Nivaldo Machado – Oswaldo Lima Filho – Paulo Almada – Prisco Viana – Ralph Biasi – Rosário Congro Neto – Sérgio Naya – Tidei de Lima.

IN MEMORIAM: *Alair Ferreira – Antônio Farias – Fábio Lucena – Norberto Schwantes – Virgílio Távora*.

Published in the *Official Journal*, October 5, 1988.

Constitutional Amendments

CONSTITUTIONAL AMENDMENT No. 1, 1992

Provides for the remuneration of State Deputies and City Councilmen.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60, of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Paragraph 2 of article 27 of the Constitution shall henceforth be in force with the following wording:

> "Article 27 .....
> .....
> Paragraph 2. The remuneration of the State Deputies shall be established in each legislative term, for the subsequent one, by the Legislative Assembly, as provided by articles 150, II, 153, III, and 153, paragraph 2, I, in the proportion of seventy-five percent, at most, of the remuneration established, in legal tender, for the Federal Deputies.
> ....."

Article 2. The following items VI and VII are added to article 29 of the Constitution, the subsequent ones being renumbered:

> "Article 29 .....
> .....
> VI – the remuneration of the City Councilmen shall correspond, at the most, to seventy-five percent of the remuneration established, in legal tender, for the State Deputies, except for the provisions of article 37, XI;
> .....
> VII – the total expenditure with the remuneration of the City Councilmen may not exceed the amount of five percent of the revenue of the Municipality;
> ....."

Article 3. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, March 31, 1992.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Ibsen Pinheiro*, President – Deputy *Waldir Pires*, Second Vice-President – Deputy *Cunha Bueno*, Third Secretary – Deputy *Max Rosenmann*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *Mauro Benevides*, President – Senator *Alexandre Costa*, First Vice-President – Senator *Carlos De'Carli*, Second Vice-President – Senator *Dirceu Carneiro*, First Secretary – Senator *Márcio Lacerda*, Second Secretary – Senator *Iram Saraiva*, Fourth Secretary.

Published in the *Official Journal*, April 6, 1992.

CONSTITUTIONAL AMENDMENT No. 2, 1992

Provides for the plebiscite set forth in article 2 of the Temporary Constitutional Provisions Act.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60, of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Sole article. The plebiscite mentioned in article 2 of the Temporary Constitutional Provisions Act shall be held on April 21, 1993.

Paragraph 1. The form and system of government defined by the plebiscite shall become effective on January 1, 1995.

Paragraph 2. The law may provide for the holding of the plebiscite, including provisions for the free divulgation, free of charge, of the forms and systems of government, through public utility mass communication vehicles, equal allotment of time and parity of scheduling being ensured.

Paragraph 3. The rule set forth in the preceding paragraph does not preclude the competence of the Superior Electoral Court to issue instructions necessary to the holding of the plebiscite.

Brasília, August 25, 1992.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Ibsen Pinheiro*, President – Deputy *Genésio Bernardino*, First Vice-President – Deputy *Waldir Pires*, Second Vice-President – Deputy *Inocêncio Oliveira*, First Secretary – Deputy *Etevaldo Nogueira*, Second Secretary – Deputy *Cunha Bueno*, Third Secretary – Deputy *Max Rosenmann*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *Mauro Benevides*, President – Senator *Alexandre Costa*, First Vice-President – Senator *Carlos De'Carli*, Second Vice-President – Senator *Dirceu Carneiro*, First Secretary – Senator *Márcio Lacerda*, Second Secretary – Senator *Rachid Saldanha Derzi*, Third Secretary – Senator *Iram Saraiva*, Fourth Secretary.

Published in the *Official Journal*, September 1, 1992.

CONSTITUTIONAL AMENDMENT No. 3, 1993

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60, of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. The provisions of the Federal Constitution enumerated below shall henceforth be in force with the following alterations:

"Article 40. .....

.....

Paragraph 6. The retirement and pension benefits of the federal civil servants shall be financed by resources originating from the Union and from the contributions of the civil servants, under the terms of the law."

"Article 42. .....

.....

Paragraph 10. The provisions in article 40, paragraphs 4, 5, and 6 apply to the servicemen referred to in this article and to their pensioners.

....."

"Article 102. .....

.....

I – .....

a) direct actions of unconstitutionality of a federal or state law or normative act, and declaratory actions of constitutionality of a federal law or normative act;

.....

Paragraph 1. A claim of non-compliance with a fundamental precept deriving from this Constitution shall be examined by the Supreme Federal Court, under the terms of the law.

Paragraph 2. Final decisions on merits, pronounced by the Supreme Federal Court, in declaratory actions of constitutionality of a federal law or normative act, shall have force against all, as well as a binding effect, as regards the other bodies of the Judicial Power, as well as the Executive Power."

"Article 103. .....

.....

Paragraph 4. A declaratory action of constitutionality may be filed by the President of the Republic, the directing board of the Federal Senate, the directing board of The Chamber of the Deputies or by the Attorney-General of the Republic."

"Article 150. .....

.....

Paragraph 6. Any subsidy or exemption, reduction of assessment basis, concession of presumed credit, amnesty or remission, related to taxes, fees or contributions, may only be granted by means of a specific federal, state or municipal law, which provides exclusively for the above-enumerated matters or the corresponding tax, fee or contribution, without prejudice to the provisions of article 155, paragraph 2, item XII, *g*.

Paragraph 7. The law may impose upon the taxpayer the burden of the payment of a tax or contribution, whose taxable event will occur later, the immediate and preferential restitution of the amount paid being ensured, in case the presumed taxable event does not occur."

"Article 155. The states and the Federal District shall have the power to institute taxes on:

I – transfer by death and donation of any property or rights;

II – transactions relating to the circulation of goods and to the rendering of interstate and intermunicipal transportation services and services of communication, even when such transactions and renderings begin abroad;

III – ownership of automotive vehicles.

Paragraph 1. The tax established in item I:

.....

Paragraph 2. The tax established in item II shall observe the following:

.....

Paragraph 3. With the exception of the taxes mentioned in item II of the head paragraph of the present article, and article 153, I and II, no other tribute may be levied on transactions concerning electric energy, telecommunications services, petroleum by-products, fuels and minerals of the country."

"Article 156. .....

.....

III – services of any nature not included in article 155, II, as defined in a supplementary law.

.....

Paragraph 3. As regards the tax established in item III, a supplementary law shall:

I – establish its maximum rates;

II – exclude exportations of services to other countries from levy of the said tax."

"Article 160. .....

Sole paragraph. The prohibition mentioned in the present article does not prevent the Union and the states from remitting the funds on condition of payment of their credits, including those of the autonomous government agencies."

"Article 167. .....

.....

IV – to bind tax revenues to an agency, fund or expense, excepting the sharing of the proceeds from the collection of the taxes referred to in articles 158 and 159, the allocation of funds for the maintenance and development of education, as determined in article 212, and the granting of guarantees on credit transactions by advance of revenues, as established in article 165, paragraph 8, as well as in paragraph 4 of the present article;

.....

Paragraph 4. It is permitted to bind proper revenues generated by the taxes referred to in articles 155 and 156, and the funds mentioned in articles 157, 158 and 159, I, *a* and *b*, and II, to the granting of a guarantee or a counterguarantee to the Union, and to the payment of debits owed to the same."

Article 2. The Union may institute, under the terms of a supplementary law, effective until December 31, 1994, a tax on the transaction or transfer of securities and of credits and rights of a financial nature.

Paragraph 1. The rate of the tax mentioned in the present article shall not exceed twenty-five hundredths percent, and the Executive Power may reduce it or re-establish it, in whole or in part, under the conditions and limits set forth in law.

Paragraph 2. Article 150, III, *b*, and VI, and the provisions of paragraph 5 of article 153 of this Constitution do not apply to the tax mentioned in the present article.

Paragraph 3. The proceeds from the collection of the tax mentioned in the present article are not subject to any mode of sharing with another unit of the federation.

Paragraph 4. (Revoked).[22]

Article 3. The elimination of the tax additional to income tax, within the competence of the states, deriving from the present Constitutional Amendment, shall only become effective as of January 1, 1996, the corresponding rate being reduced to at least two and a half percent in the fiscal year of 1995.

[22] Original wording revoked by RCA no. 1/1994: "Paragraph 4. Of the proceeds from the collection of the tax mentioned in the present article, twenty percent shall be assigned to the funding of low-income housing programs."

Article 4. The elimination of the tax on the retail sales of liquid and gaseous fuels, within the competence of the municipalities, deriving from the present Constitutional Amendment, shall only become effective as of January 1, 1996, the corresponding rate being reduced to at least one and a half percent in the fiscal year of 1995.

Article 5. Until December 31, 1999, the states, the Federal District and the municipalities may only issue public debt bonds up to the amount necessary to refinance the principal, adequately updated, of its liabilities, represented by that type of bonds, with the exception of the provisions of article 33, sole paragraph, of the Temporary Constitutional Provisions Act.

Article 6. Item IV and paragraph 4 of article 156 of the Federal Constitution are hereby revoked.

Brasília, March 17, 1993.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Inocêncio Oliveira*, President – Deputy *Adylson Motta*, First Vice-President – Deputy *Fernando Lyra*, Second Vice-President – Deputy *Wilson Campos*, First Secretary – Deputy *Cardoso Alves*, Second Secretary – Deputy *B. Sá*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *Humberto Lucena*, President – Senator *Chagas Rodrigues*, First Vice-President – Senator *Levy Dias*, Second Vice-President – Senator *Júlio Campos*, First Secretary – Senator *Nabor Júnior*, Second Secretary – Senator *Júnia Marise*, Third Secretary – Senator *Nelson Wedekin*, Fourth Secretary.

Published in the *Official Journal*, March 18, 1993.

CONSTITUTIONAL AMENDMENT No. 4, 1993

Gives new wording to article 16 of the Federal Constitution.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Sole article. Article 16 of the Federal Constitution shall henceforth be in force with the following wording:

> "Article 16. The law that alters the electoral procedure shall come into force on the date of its publication, and shall not apply to the elections that take place within one year of it being in force."

Brasília, September 14, 1993.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Inocêncio Oliveira*, President – Deputy *Wilson Campos*, First Secretary – Deputy *Cardoso Alves*, Second Secretary – Deputy *B. Sá*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *Humberto Lucena*, President – Senator *Chagas Rodrigues*, First Vice-President – Senator *Levy Dias*, Second Vice-President – Senator *Júlio Campos*, First Secretary – Senator *Nabor Júnior*, Second Secretary.

Published in the *Official Journal*, September 15, 1993.

CONSTITUTIONAL AMENDMENT No. 5, 1995

Alters paragraph 2 of article 25 of the Federal Constitution.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Sole article. Paragraph 2 of article 25 of the Federal Constitution shall henceforth be in force with the following wording:

> "The states shall have the power to operate, directly or by means of concession, the local services of piped gas, as provided for by law, it being forbidden to issue any provisional measure for its regulation."

Brasília, August 15, 1995.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Luís Eduardo*, President – *Ronaldo Perim*, First Vice-President – *Beto Mansur*, Second Vice-President – *Wilson Campos*, First Secretary – *Leopoldo Bessone*, Second Secretary – *Benedito Domingos*, Third Secretary – *João Henrique*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *José Sarney*, President – *Teotonio Vilela Filho*, First Vice-President – *Júlio Campos*, Second Vice-President – *Odacir Soares*, First Secretary – *Renan Calheiros*, Second Secretary – *Levy Dias*, Third Secretary – *Ernandes Amorim*, Fourth Secretary.

Published in the *Official Journal*, August 16, 1995.

CONSTITUTIONAL AMENDMENT No. 6, 1995

Alters item IX of article 170, article 171, and paragraph 1 of article 176 of the Federal Constitution.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Item IX of article 170 and paragraph 1 of article 176 of the Federal Constitution shall henceforth be in force with the following wording:

> "Article 170. .....
> .....
> IX – preferential treatment for small entreprises organized under Brazilian laws and having their head-office and management in Brazil."
> "Article 176. .....
> Paragraph 1. The prospecting and mining of mineral resources and the utilization of the potentials mentioned in the head paragraph of this article may only take place with authorization or concession by the Union, in the national interest, by Brazilians or by a company organized under Brazilian laws and having its head-office and management in Brazil, in the manner set forth by law, which law shall establish specific conditions when such activities are to be conducted in the boundary zone or on Indian lands."

Article 2. The following article 246 shall be included in Title IX – "General Constitutional Provisions":

> "Article 246. The adoption of any provisional measure for the regulation of any article of the Constitution the wording of which has been altered by means of an amendment enacted as of 1995 is forbidden."[23]

Article 3. Article 171 of the Federal Constitution is hereby revoked.

Brasília, August 15, 1995.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Luís Eduardo*, President – *Ronaldo Perim*, First Vice-President – *Beto Mansur*, Second Vice-President – *Wilson Campos*, First Secretary – *Leopoldo Bessone*, Second Secretary – *Benedito Domingos*, Third Secretary – *João Henrique*, Fourth Secretary.

[23] This article was repeated in CA no. 7/1995.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *José Sarney*, President – *Teotonio Vilela Filho*, First Vice-President – *Júlio Campos*, Second Vice-President – *Odacir Soares*, First Secretary – *Renan Calheiros*, Second Secretary – *Levy Dias*, Third Secretary – *Ernandes Amorim*, Fourth Secretary.

Published in the *Official Journal*, August 16, 1995.

CONSTITUTIONAL AMENDMENT No. 7, 1995

Alters article 178 of the Federal Constitution and provides for the adoption of Provisional Measures.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Article 178 of the Federal Constitution shall henceforth be in force with the following wording:

> "Article 178. The law shall provide for the regulation of air, water and ground transportation, and it shall, in respect to the regulation of international transportation, comply with the agreements entered into by the Union, with due regard to the principle of reciprocity.
>
> *Sole paragraph.* In regulating water transportation, the law shall set forth the conditions in which the transportation of goods in coastal and internal navigation will be permitted to foreign vessels."

Article 2. The following article 246 shall be included in Title IX – "General Constitutional Provisions":

> "Article 246. The adoption of any provisional measure for the regulation of any article of the Constitution the wording of which has been altered by means of an amendment enacted as of 1995 is forbidden."[24]

Brasília, August 15, 1995.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Luís Eduardo*, President – *Ronaldo Perim*, First Vice-President – *Beto Mansur*, Second Vice-President – *Wilson Campos*, First Secretary – *Leopoldo Bessone*, Second Secretary – *Benedito Domingos*, Third Secretary – *João Henrique*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *José Sarney*, President – *Teotonio Vilela Filho*, First Vice-President – *Júlio Campos*, Second Vice-President – *Odacir Soares*, First Secretary – *Renan Calheiros*, Second Secretary – *Levy Dias*, Third Secretary – *Ernandes Amorim*, Fourth Secretary.

Published in the *Official Journal*, August 16, 1995.

[24] This article had already been added to the Constitution by CA no. 6/1995.

CONSTITUTIONAL AMENDMENT No. 8, 1995

Alters item XI and subitem "a" of item XII of article 21 of the Federal Constitution.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Item XI and subitem *a* of item XII of article 21 of the Federal Constitution shall henceforth be in force with the following wording:

> "Article 21. The Union shall have the power to:
>
> .....
>
> XI – operate, directly or through authorization, concession or permission, the telecommunications services, as set forth by law, which law shall provide for the organization of the services, the establishment of a regulatory agency and other institutional issues;
>
> XII – operate, directly or through authorization, concession or permission:
>
> a) the services of sound broadcasting and of sound and image broadcasting;
>
> ....."

Article 2. The adoption of any Provisional Measure for the regulation of the matter set forth in item XI of article 21 with the wording given by this constitutional amendment is forbidden.

Brasília, August 15, 1995.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Luís Eduardo*, President – *Ronaldo Perim*, First Vice-President – *Beto Mansur*, Second Vice-President – *Wilson Campos*, First Secretary – *Leopoldo Bessone*, Second Secretary – *Benedito Domingos*, Third Secretary – *João Henrique*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *José Sarney*, President – *Teotonio Vilela Filho*, First Vice-President – *Júlio Campos*, Second Vice-President – *Odacir Soares*, First Secretary – *Renan Calheiros*, Second Secretary – *Levy Dias*, Third Secretary – *Ernandes Amorim*, Fourth Secretary.

Published in the *Official Journal*, August 16, 1995.

CONSTITUTIONAL AMENDMENT No. 9, 1995

Gives new wording to article 177 of the Federal Constitution, altering and inserting paragraphs.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Paragraph 1 of article 177 of the Federal Constitution shall henceforth be in force with the following wording:

> "Article 177. .....
>
> .....
>
> Paragraph 1. The Union may contract with state-owned or with private enterprises for the execution of the activities provided for in items I through IV of this article, with due regard for the conditions set forth by law."

Article 2. A paragraph shall be included, to be numbered as paragraph 2, with the following wording, the present paragraph 2 becoming paragraph 3, in article 177 of the Federal Constitution:

> "Article 177. .....
>
> .....
>
> Paragraph 2. The law referred to in paragraph 1 shall provide for:
>
> I – a guarantee of supply of petroleum products in the whole national territory;
>
> II – the conditions of contracting;
>
> III – the structure and duties of the regulatory agency of the monopoly of the Union."

Article 3. The issuing of any provisional measure for the regulation of the matter set forth in items I through IV and in paragraphs 1 and 2 of article 177 of the Federal Constitution is forbidden.

Brasília, November 9, 1995.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Luís Eduardo*, President – *Ronaldo Perim*, First Vice-President – *Beto Mansur*, Second Vice-President – *Wilson Campos*, First Secretary – *Leopoldo Bessone*, Second Secretary – *Benedito Domingos*, Third Secretary – *João Henrique*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *José Sarney*, President – *Teotonio Vilela Filho*, First Vice-President – *Júlio Campos*, Second Vice-President

– *Odacir Soares*, First Secretary – *Renan Calheiros*, Second Secretary – *Levy Dias*, Third Secretary – *Ernandes Amorim*, Fourth Secretary.

Published in the *Official Journal*, November 10, 1995.

CONSTITUTIONAL AMENDMENT No. 10, 1996

Alters articles 71 and 72 of the Temporary Constitutional Provisions Act, introduced by the Revision Constitutional Amendment no.1 of 1994.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Article 71 of the Temporary Constitutional Provisions Act shall henceforth be in force with the following wording:

> "Article 71. The Emergency Social Fund is hereby instituted for the fiscal years of 1994 and 1995, as well as for the period from January 1, 1996 through June 30, 1997, aiming at the financial recuperation of the Federal Public Finances and the economic stabilization, the resources of which shall be applied primarily to the actions of the health and education systems, the welfare benefits and welfare assistance of permanent nature, including the payment of welfare debts and budgetary expenditures associated to programs of great economic and social interest.
>
> Paragraph 1. The provision of the final part of item II of paragraph 9 of article 165 of the Constitution shall not apply to the Fund established by this article.
>
> Paragraph 2. From the beginning of the 1996 fiscal year on, the Fund established by this article shall be called Fiscal Stabilization Fund.
>
> Paragraph 3. The Executive Power shall publish, on a bimonthly basis, a budget execution statement, which statement shall list the sources and applications of the Fund established by this article."

Article 2. Article 72 of the Temporary Constitutional Provisions Act shall henceforth be in force with the following wording:

> "Article 72. The Emergency Social Fund is comprised of:
>
> I – .....;
>
> II – the part of the proceeds from the collection of the tax on income and earnings of any nature, and of the tax on credit, foreign exchange and insurance transactions, or transactions relating to bonds and securities, resulting from the changes generated by Law 8,894 of June 21, 1994, and by Laws 8,849 and 8,848, both dated January 28, 1994 and further modifications;

III – the part of the proceeds from the collection due to the increase of the rate of welfare contribution on the profit of taxpayers mentioned in paragraph 1 of article 22 of Law 8,212 of July 24, 1991, which, in the fiscal years of 1994 and 1995, as well as in the period from January 1, 1996 through June 30, 1997, shall be of 30 percent, subject to modification by ordinary law, the other stipulations of Law 7,689 of December 15, 1988 remaining unchanged;

IV – twenty percent of the proceeds from the collection of all taxes and contributions to the Union, already instituted or to be instituted, except those provided by items I, II and III, with due regard to the provisions of paragraphs 3 and 4;

V – the part of the proceeds from the collection of the contribution mentioned in Supplementary Law 7, of September 7, 1970, owed by the juridical entities referred to in item III of this article, which will be calculated, in the fiscal years of 1994 and 1995, as well as in the period from January 1, 1996 through June 30, 1997, through the employment of a rate of seventy five hundredths of one percent, subject to modification by ordinary law, on the gross operating income, as defined in the legislation of income tax and earnings of any nature; and

VI – .....

Paragraph 1. .....

Paragraph 2. The parts referred to in items I, II, III and V shall be previously deducted from the calculation base of any legal or constitutional designation or participation, and the provisions of articles 159, 212 and 239 of the Constitution shall not apply to them.

Paragraph 3. The part referred to in item IV shall be previously deducted from the calculation base of any constitutional or legal designation or participation stipulated by articles 153, paragraph 5, 157, II, 212 and 239 of the Constitution.

Paragraph 4. The provision of the former paragraph shall not apply to the resources provided by articles 158, II, and 159 of the Constitution.

Paragraph 5. The part of the resources originating from the tax on income and earnings of any nature, designated for the Emergency Social Fund, as provided by item II of this article, shall not exceed five and six-tenths of one percent of the total proceeds from its collection."

Article 3. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, March 4, 1996.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Luís Eduardo*, President – *Ronaldo Perim*, First Vice-President – *Beto Mansur*, Second Vice-President – *Wilson Campos*, First Secretary – *Leopoldo Bessone*, Second Secretary – *Benedito Domingos*, Third Secretary – *João Henrique*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *José Sarney*, President – *Teotonio Vilela Filho*, First Vice-President – *Júlio Campos*, Second Vice-President – *Odacir Soares*, First Secretary – *Renan Calheiros*, Second Secretary – *Levy Dias*, Third Secretary – *Ernandes Amorim*, Fourth Secretary.

Published in the *Official Journal*, March 7, 1996.

CONSTITUTIONAL AMENDMENT No. 11, 1996

Allows the hiring of foreign professors, technicians and scientists by the Brazilian universities and grants autonomy to the scientific and technological research institutions.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Two paragraphs are added to article 207 of the Federal Constitution, with the following wording:

"Article 207. .....

.....

Paragraph 1. The universities are permitted to hire foreign professors, technicians and scientists as provided by law.

Paragraph 2. The provisions of this article apply to scientific and technological research institutions."

Article 2. This Amendment shall come into force on the date of its publication.

Brasília, April 30, 1996.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Luís Eduardo*, President – *Ronaldo Perim*, First Vice-President – *Beto Mansur*, Second Vice-President – *Wilson Campos*, First Secretary – *Leopoldo Bessone*, Second Secretary – *Benedito Domingos*, Third Secretary – *João Henrique*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *José Sarney*, President – *Teotonio Vilela*, First Vice-President – *Júlio Campos*, Second Vice-President – *Odacir Soares*, First Secretary – *Renan Calheiros*, Second Secretary – *Levy Dias*, Third Secretary – *Ernandes Amorim*, Fourth Secretary.

Published in the *Official Journal*, May 2, 1996.

CONSTITUTIONAL AMENDMENT No. 12, 1996

Grants competency to the Union to establish: provisional contribution on the movement or transmission of monies and of credits and rights of financial nature.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, promulgate, under the terms of paragraph 3 of article 60 of the Federal Constitution, the following Amendment to the constitutional text:

Sole article. Article 74 is included in the Temporary Constitutional Provisions Act, with the following wording:

> "Article 74. The Union may establish provisional contribution on the movement or transmission of monies and of credits and rights of financial nature.
>
> Paragraph 1. The rate of the contribution mentioned in this article shall not exceed twenty-five hundredths of one percent, and the Executive Power may reduce it or reestablish it, in whole or in part, in the conditions and limits provided for by law.
>
> Paragraph 2. The provisions of articles 153, paragraph 5, and 154, I, of the Constitution shall not apply to the contribution mentioned in this article.
>
> Paragraph 3. The whole of the proceeds from the collection of the contribution mentioned in this article shall be allocated to the National Health Foundation for the financing of health actions and services.
>
> Paragraph 4. The liability for the contribution mentioned in this article shall be governed by the provisions of article 195, paragraph 6, of the Constitution, and it shall not be collected for longer than two years."

Brasília, August 15, 1996.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Luís Eduardo*, President – *Ronaldo Perim*, First Vice-President – *Beto Mansur*, Second Vice-President – *Wilson Campos*, First Secretary – *Leopoldo Bessone*, Second Secretary – *Benedito Domingos*, Third Secretary – *João Henrique*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *José Sarney*, President – *Teotonio Vilela Filho*, First Vice-President – *Júlio Campos*, Second Vice-President – *Odacir Soares*, First Secretary – *Renan Calheiros*, Second Secretary – *Ernandes Amorim*, Fourth Secretary – *Eduardo Suplicy*, Substitute Secretary.

Published in the *Official Journal*, August 16, 1996.

CONSTITUTIONAL AMENDMENT No. 13, 1996

Gives new wording to item II of article 192 of the Federal Constitution.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Sole article. Item II of article 192 of the Federal Constitution shall be in force with the following wording:

> "Article 192. .....
>
> II – authorization and operation of insurance, reinsurance, social security and capitalization companies, as well as of the supervising agency;"

Brasília, August 21, 1996.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Luís Eduardo*, President – *Ronaldo Perim*, First Vice-President – *Beto Mansur*, Second Vice-President – *Wilson Campos*, First Secretary – *Leopoldo Bessone*, Second Secretary – *Benedito Domingos*, Third Secretary – *João Henrique*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *José Sarney*, President – *Teotonio Vilela Filho*, First Vice-President – *Júlio Campos*, Second Vice-President – *Odacir Soares*, First Secretary – *Renan Calheiros*, Second Secretary – *Ernandes Amorim*, Fourth Secretary – *Eduardo Suplicy* – Substitute Secretary.

Published in the *Official Journal*, August 22, 1996.

CONSTITUTIONAL AMENDMENT No. 14, 1996

Alters articles 34, 208, 211 and 212 of the Federal Constitution and gives new wording to article 60 of the Temporary Constitutional Provisions Act.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Subitem *e* is added to item VII of article 34 of the Federal Constitution, with the following wording:

> "e) the application of the mandatory minimum of the income resulting from state taxes, including those originating from transfers, to the maintenance and development of education."

Article 2. New wording is given to items I and II of article 208 of the Federal Constitution, as follows:

> "I – mandatory and free elementary education, including the assurance of its free offer to all those who did not have access to it at the proper age;
>
> II – progressive universalization of the free high-school education;"

Article 3. New wording is given to paragraphs 1 and 2 of article 211 of the Federal Constitution, and two additional paragraphs are inserted in this article, to read as follows:

> "Article 211. .....
>
> .....
>
> Paragraph 1. The Union shall organize the federal educational system and that of the Territories, shall finance the federal public educational institutions and shall have, in educational matters, a redistributive and supplementary function, so as to guarantee the equalization of the educational opportunities and a minimum standard of quality of education, through technical and financial assistance to the States, the Federal District and the Municipalities.
>
> Paragraph 2. The Municipalities shall act on a priority basis in elementary education and in the education of children.
>
> Paragraph 3. The States and the Federal District shall act on a priority basis in elementary and secondary education.

Paragraph 4. In the organization of their educational systems, the States and Municipalities shall establish forms of cooperation, so as to guarantee the universalization of the mandatory education."

Article 4. New wording is given to paragraph 5 of article 212 of the Federal Constitution, as follows:

"Paragraph 5. The public elementary education shall have, as an additional source of financing, the social contribution for education, collected from companies, as provided by law."

Article 5. Article 60 of the Temporary Constitutional Provisions Act is hereby altered and new paragraphs are inserted into it, with the article having the following wording:

"Article 60. In the first ten years after the promulgation of this Amendment, the States, the Federal District and the Municipalities shall allocate no less than 60% of the funds referred to in the head paragraph of article 212 of the Federal Constitution, to the maintenance and development of elementary education, aiming at the assurance of the universalization of the service and the payment of appropriate salaries to the teachers.

Paragraph 1. The distribution of responsibilities and resources between the States and their Municipalities, to be effected with part of the resources defined in this article, as set forth in article 211 of the Federal Constitution, is assured through the establishment, within each State and the Federal District, of a Fund for the Maintenance and Development of the Elementary Education and for the Increase of the Worth of the Teaching Profession, of a financial nature.

Paragraph 2. The Fund referred to in the preceding paragraph shall be made up by, at least, fifteen percent of the resources referred to in articles 155, item II; 158, item IV; and 159, item I, subitems *a* and *b*; and item II, of the Federal Constitution, and shall be distributed among each State and its Municipalities, in proportion to the number of students in the respective elementary education networks.

Paragraph 3. The Union shall supplement the resources of the Funds referred to in paragraph 1, whenever in each State and in the Federal District its value per student does not reach the nationally set minimum.

Paragraph 4. The Union, the States, the Federal District and the Municipalities shall effect, during a period of five years, progressive adjustments of their contributions to the Fund, so

as to guarantee a value per student corresponding to a minimum quality standard of education, defined at the national level.

Paragraph 5. A share of not less than 60% of the resources of each Fund referred to in paragraph 1 shall be used for the payment of elementary education teachers actually teaching.

Paragraph 6. The Union shall apply never less than 30 percent of the resources referred to in the head paragraph of article 212 of the Federal Constitution to the eradication of illiteracy and to the maintenance and development of the elementary education, including the supplementation referred to in paragraph 3.

Paragraph 7. The law shall provide for the organization of the Funds, the proportional distribution of its resources, its oversight and control, as well as for the way to calculate the national minimum value per student."

Article 6. This Amendment shall come into force on January 1 of the year subsequent to that of its promulgation.

Brasília, September 12, 1996.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Luís Eduardo*, President – *Ronaldo Perim*, First Vice-President – *Beto Mansur*, Second Vice-President – *Wilson Campos*, First Secretary – *Leopoldo Bessone*, Second Secretary – *Benedito Domingos*, Third Secretary – *João Henrique*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *José Sarney*, President – *Teotonio Vilela Filho*, First Vice-President – *Júlio Campos*, Second Vice-President – *Odacir Soares*, First Secretary – *Renan Calheiros*, Second Secretary – *Ernandes Amorim*, Fourth Secretary – *Eduardo Suplicy*, Substitute Secretary.

Published in the *Official Journal*, September 13, 1996.

CONSTITUTIONAL AMENDMENT No. 15, 1996

Gives new wording to paragraph 4 of article 18 of the Federal Constitution.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Sole Article. Paragraph 4 of article 18 of the Federal Constitution shall henceforth be in force with the following wording:

> "Article 18. .....
>
> .....
>
> Paragraph 4. The establishment, merger, fusion and dismemberment of municipalities shall be effected through state law, within the period set forth by supplementary federal law, and shall depend on prior consultation, by means of a plebiscite, of the population of the municipalities concerned, after the publication of Municipal Feasibility Studies, presented and published as set forth by law."

Brasília, September 12, 1996.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Luís Eduardo*, President – *Ronaldo Perim*, First Vice-President – *Beto Mansur*, Second Vice-President – *Wilson Campos*, First Secretary – *Leopoldo Bessone*, Second Secretary – *Benedito Domingos*, Third Secretary – *João Henrique*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *José Sarney*, President – *Teotonio Vilela Filho*, First Vice-President – *Júlio Campos*, Second Vice-President – *Odacir Soares*, First Secretary – *Renan Calheiros*, Second Secretary – *Ernandes Amorim*, Fourth Secretary – *Eduardo Suplicy*, Substitute Secretary.

Published in the *Official Journal*, September 13, 1996.

CONSTITUTIONAL AMENDMENT No. 16, 1997

Gives new wording to paragraph 5 of article 14, to the head paragraph of article 28, to item II of article 29, to the head paragraph of article 77, and to article 82 of the Federal Constitution.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Paragraph 5 of article 14, the head paragraph of article 28, item II of article 29, the head paragraph of article 77, and article 82 of the Federal Constitution shall henceforth be in force with the following wording:

"Article 14. .....

.....

Paragraph 5. The President of the Republic, the State and Federal District Governors, the Mayors and those who have succeeded or replaced them during their terms of office may be reelected for only one subsequent term.

....."

"Article 28. The election of the Governor and the Vice-Governor of a state, for a term of office of four years, shall be held on the first Sunday of October, in the first round, and on the last Sunday of October, in the second round, as the case may be, of the year preceding the one in which the term of office of their predecessors ends, and they shall take office on January 1 of the following year, in accordance, otherwise, with the provisions of article 77.

....."

"Article 29. .....

.....

II – election of the Mayor and Vice-Mayor on the first Sunday of October of the year preceding the end of the term of office of those they are to succeed, subject, in the case of municipalities with over two hundred thousand voters, to the provisions set forth in article 77.

....."

"Article 77. The election of the President and Vice-President of the Republic shall take place simultaneously, on the first Sunday of October, in the first round, and on the last Sunday of October,

in the second round, as the case may be, of the year preceding the one in which the current presidential term of office ends.

..... "

"Article 82. The term of office of the President of the Republic is four years, and it shall commence on January 1 of the year following the year of his election."

Article 2. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, June 4, 1997.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Michel Temer*, President – *Heráclito Fortes*, First Vice-President – *Severino Cavalcanti*, Second Vice-President – *Ubiratan Aguiar*, First Secretary – *Nelson Trad*, Second Secretary – *Efraim Morais*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Antonio Carlos Magalhães*, President – *Geraldo Melo*, First Vice-President – *Ronaldo Cunha Lima*, First Secretary – *Carlos Patrocínio*, Second Secretary – *Flaviano Melo*, Third Secretary – *Lucídio Portella*, Fourth Secretary.

Published in the *Official Journal*, June 5, 1997.

CONSTITUTIONAL AMENDMENT No. 17, 1997

Alters provisions of articles 71 and 72 of the Temporary Constitutional Provisions Act, introduced by the Revision Constitutional Amendment no. 1 of 1994.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. The head paragraph of article 71 of the Temporary Constitutional Provisions Act shall henceforth be in force with the following wording:

> "Article 71. The Emergency Social Fund is hereby instituted for the fiscal years of 1994 and 1995, as well as for the periods from January 1, 1996 through June 30, 1997, and from July 1, 1997 through December 31, 1999, aiming at the financial recuperation of the Federal Public Finances and the economic stabilization, the resources of which shall be applied primarily to the actions of the health and education systems, including the supplementation of resources set forth in paragraph 3 of article 60, of the Temporary Constitutional Provisions Act, the welfare benefits and welfare assistance of a permanent nature, including the payment of welfare debts and budgetary expenditures associated to programs of great economic and social interest."

Article 2. Item V of article 72, of the Temporary Constitutional Provisions Act, shall henceforth be in force with the following wording:

> "V – the part of the proceeds from the collection of the contribution mentioned in Supplementary Law no. 7, of September 7, 1970, owed by the juridical entities referred to in item III of this article, which will be calculated, in the fiscal years of 1994 and 1995, as well as in the periods from January 1, 1996 through June 30, 1997, and from July 1, 1997 through December 31, 1999, through the employment of a rate of seventy-five hundredths of one percent, subject to modification by subsequent ordinary law, on the gross operating income, as defined in the legislation of income tax and earnings of any nature;"

Article 3. The Union shall remit to the Municipalities, out of the proceeds from the collection of the Tax on Income and Earnings of Any Nature, as stipulated for the formation of the funds set forth in item I of article 159, of the Constitution, excluding the part mentioned in item I of article 72, of the Temporary Constitutional Provisions Act, the following percentages:

I – one and fifty-six hundredths of one per cent, in the period from July 1, 1997 through December 31, 1997;

II – one and eight hundred and seventy-five thousandths of one per cent, in the period from January 1, 1998 through December 31, 1998; and

III – two and a half of one per cent, in the period from January 1, 1999 through December 31, 1999.

Sole paragraph. The remittance of funds established in this article shall comply with the same periodic intervals and the same sharing criteria and rules adopted in the Revenue Sharing Fund of the Municipalities, with due regard for the provision of article 160 of the Constitution.

Article 4. The effects of the provisions of articles 71 and 72 of the Temporary Constitutional Provisions Act, with the wording determined by articles 1 and 2 of this Amendment, shall be retroactive to July 1, 1997.

Sole paragraph. The portions of funds assigned to the Fiscal Stabilization Fund and remitted according to article 159, item I, of the Constitution, in the period from July 1, 1997, to the date of promulgation of this Amendment, shall be deducted from the subsequent quotas, the deduction being limited to one tenth of the total amount remitted each month.

Article 5. The Union shall apply the provisions of article 3 of this Amendment retroactively as of July 1, 1997, with due regard for the provisions of the previous article.

Article 6. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, November 22, 1997.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Michel Temer*, President – *Heráclito Fortes*, First Vice-President – *Severino Cavalcanti*, Second Vice-President – *Ubiratan Aguiar*, First Secretary – *Nelson Trad*, Second Secretary – *Paulo Paim*, Third Secretary – *Efraim Morais*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Antonio Carlos Magalhães*, President – *Geraldo Melo*, First Vice-President – *Júnia Marise*, Second Vice-President – *Ronaldo Cunha Lima*, First Secretary – *Carlos Patrocínio*, Second Secretary – *Flaviano Melo*, Third Secretary.

Published in the *Official Journal*, November 25, 1997.

CONSTITUTIONAL AMENDMENT No. 18, 1998

Establishes the constitutional rules for the military.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Item XV of article 37 of the Federal Constitution shall henceforth be in force with the following wording:

> "Article 37. .....
>
> .....
>
> XV – the salaries of government employees may not be reduced, and their remuneration shall comply with the provisions of article 37, XI and XII, 150, II, 153, III and paragraph 2, I;
>
> ....."

Article 2. Section II, of Chapter VII, of Title III of the Constitution shall henceforth be entitled "Government Employees", and Section III, of Chapter VII, of Title III of the Federal Constitution shall henceforth be entitled "The Military of the States, of the Federal District and of the Territories", and article 42 shall have the following wording:

> "Article 42. The members of the Military Police and of the Military Fire Brigades, institutions whose organization is based on hierarchy and discipline, are military of the States, of the Federal District and of the Territories.
>
> Paragraph 1. The provisions of article 14, paragraph 8; article 40, paragraph 3; and of article 142, paragraphs 2 and 3 apply to the military of the States, of the Federal District and of the Territories, in addition to other provisions that the law may establish, it being incumbent upon specific state legislation to provide for the matters of article 142, paragraph 3, item X, the ranks of the officers being awarded by the respective State Governors.
>
> Paragraph 2. The provisions of article 40, paragraphs 4 and 5 apply to the military of the States, of the Federal District and of the Territories, and to their pensioners, and the provision of article 40, paragraph 6 applies to the military of the Federal District and of the Territories."

Article 3. Item II of paragraph 1 of article 61 of the Constitution shall henceforth be in force with the following alterations:

> "Article 61. .....

Paragraph 1. .....

II – .....

c) government employees of the Union and Territories, their legal statute, appointment to offices, tenure and retirement;

.....

f) military of the Armed Forces, their legal statute, appointment to offices, promotions, tenure, remuneration, retirement, and transfer to the reserve."

Article 4. The following paragraph 3 shall be added to article 142 of the Constitution:

"Article 142. .....

.....

Paragraph 3. The members of the Armed Forces are called military, and the following provisions apply to them, in addition to other provisions that the law may establish:

I – the ranks, with the prerogatives, rights and duties inherent to them, are awarded by the President of the Republic and are guaranteed in full to officers in active service, those of the reserve or in retirement, and such officers have exclusive rights to military titles and posts, and, together with the other members, to the use of the uniforms of the Armed Forces;

II – a military in active service who takes office in a permanent civil public position or job shall be transferred to the reserve, under the terms of the law;

III – a military in active service who, under the terms of the law, takes office in a non-elective, temporary civil public position, job or function, even if in the indirect administration, shall be put on leave and, as long as he remains in this situation he may only be promoted by seniority, and his period of service shall be counted only for that promotion and for transfer to the reserve, and after two years, whether continuous or not, away from active service, he shall be transferred to the reserve, under the terms of the law;

IV – the military are forbidden to join unions and to strike;

V – while in actual service, the military are forbidden to belong to political parties;

VI – an officer shall only lose his post and rank if he is judged unworthy of or incompatible with the dignity of officership by decision of a permanent military court, in times of peace, or of a special court, in times of war;

VII – an officer sentenced in a common or military court by means of an unappealable judgment to imprisonment for more

than two years shall be submitted to trial as provided in the preceding item;

VIII – the provisions of article 7, items VIII, XII, XVII, XVIII, XIX and XXV, and of article 37, items XI, XIII, XIV and XV, apply to the military;

IX – the provisions of article 40, paragraphs 4, 5 and 6 apply to the military and to their pensioners;

X – the law shall provide for admission to the Armed Forces, age limits, tenure, and other conditions for a military to be retired, the rights, duties, remuneration, prerogatives and other circumstances which are specific to the military, the special characteristics of their activities being taken into account, including those carried out by virtue of international agreements and of war."

Article 5. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, February 5, 1998.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Michel Temer*, President – *Heráclito Fortes*, First Vice-President – *Severino Cavalcanti*, Second Vice-President – *Ubiratan Aguiar*, First Secretary – *Nelson Trad*, Second Secretary – *Paulo Paim*, Third Secretary – *Efraim Morais*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Antonio Carlos Magalhães*, President – *Geraldo Melo*, First Vice-President – *Júnia Marise*, Second Vice-President – *Ronaldo Cunha Lima*, First Secretary – *Carlos Patrocínio*, Second Secretary – *Flaviano Melo*, Third Secretary – *Lucídio Portella*, Fourth Secretary.

Published in the *Official Journal*, February 6, 1998.

CONSTITUTIONAL AMENDMENT No. 19, 1998

Alters the regime of and provides for the principles and rules of Government Services, employees and political agents, the control of expenditures and government finance, and the financing of activities incumbent upon the Federal District, and makes other provisions.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Items XIV and XXII of article 21, and item XXVII of article 22 of the Federal Constitution shall henceforth read as follows:

"Article 21. The Union shall have the power to:

.....

XIV – organize and maintain the plainclothes police, the uniformed police force, and the uniformed fire brigade of the Federal District, as well as to provide financial support to the Federal District for the carrying out of public services by means of a specific fund;

.....

XXII – perform the services of maritime, airport, and border police;

....."

"Article 22. The Union has the exclusive power to legislate on:

.....

XXVII – general rules for all types of bidding and contracting, for governmental entities, associate government agencies, and foundations of the Union, the States, the Federal District, and the Municipalities, in accordance with article 37, XXI, and for public enterprises and joint stock companies, under the terms of article 173, paragraph 1, III;

....."

Article 2. Paragraph 2 of article 27, and items V and VI of article 29 of the Federal Constitution shall henceforth read as follows, with a paragraph 2 being inserted in article 28, and the current sole paragraph being renumbered as paragraph 1:

"Article 27. .....

.....

Paragraph 2. The compensation of State Deputies shall be established by an act of the State Legislative Assembly, in the proportion of seventy-five percent, at most, of the compensation established, in legal tender, for Federal Deputies, as provided by articles 39, paragraph 4, 57, paragraph 7, 150, II, 153, III, and 153, paragraph 2, I.

..... "

"Article 28. .....

.....

Paragraph 1. The Governor who takes another post or function in governmental entities or entities owned by the Government shall lose his office, with the exception of the taking of office by virtue of a public sector entrance examination, and with due regard for the provisions in article 38, I, IV, and V.

Paragraph 2. The compensation of the Governor, the Vice-Governor, and of the State Cabinet Members shall be established by an act of the State Legislative Assembly, as provided by articles 37, XI, 39, paragraph 4, 150, II, 153, III, and 153, paragraph 2, I."

"Article 29. .....

.....

V – compensation of the Mayor, the Vice-Mayor, and the Local Cabinet Members established by an act of the Town Council, as provided by articles 37, XI, 39, paragraph 4, 150, II, 153, III, and 153, paragraph 2, I;

VI – compensation of Local Councilmen established by an act of the Town Council, in the proportion of seventy-five percent, at most, of the compensation established, in legal tender, for State Deputies, as provided by articles 39, paragraph 4, 57, paragraph 7, 150, II, 153, III, and 153, paragraph 2, I;

..... "

Article 3. The head paragraph, items I, II, V, VII, X, XI, XIII, XIV, XV, XVI, XVII, and XIX, and paragraph 3 of article 37 of the Federal Constitution shall henceforth read as follows, paragraphs 7 through 9 being added to the said article:

"Article 37. The governmental entities and entities owned by the Government in any of the powers of the Union, the states, the Federal District and the Municipalities shall obey the principles of lawfulness, impersonality, morality, publicity, and efficiency, and also the following:

I – public offices, positions and functions are accessible to all Brazilians who meet the requirements established by law, as well as to foreigners, under the terms of the law;

II – investiture in a public office or position depends on previously passing an entrance examination consisting of tests or tests and presentation of academic and professional credentials, according to the nature and the complexity of the office or position, as provided by law, except for appointment to a commission office declared by law as being of free appointment and discharge;

.....

V – positions of trust, exercised exclusively by public employees holding an effective post, and commission offices, to be exercised by career employees in the cases, under the conditions and within the minimum percentages established in law, are reserved exclusively for the duties of directors, chiefs of staff, and assistants;

.....

VII – the right to strike shall be exercised in the manner and within the limits defined by a specific law;

.....

X – the remuneration of Government employees and the compensation referred to in paragraph 4 of article 39 may only be established or altered by means of a specific law, with due regard for the exclusive capacity to introduce a law in each case, an annual general review being ensured, always on the same date and without distinction between the indices;

XI – the remuneration and the compensation of the holders of public offices, functions and positions in governmental entities, associate government agencies, and in foundations; of the members of any of the Powers of the Union, of the States, the Federal District, and the Municipalities; of the holders of elective offices, and of any other political agent, as well as the pay, pension, or other type of remuneration, earned on a cumulative basis or not, including advantages of a personal nature or of any other nature, may not be higher than the monthly compensation, in legal tender, of the Justices of the Supreme Federal Court;

.....

XIII – the linkage or equalization of any type of pay for purposes of the remuneration of the personnel in the public services is forbidden;

XIV – the pecuniary raises received by a government employee shall not be computed or accumulated for purposes of granting subsequent raises;

XV – the compensation and the salaries of holders of public offices and positions may not be reduced, except for the

provisions of items XI and XIV of this article and of articles 39, paragraph 4, 150, II, 153, III, and 153, paragraph 2, I;

XVI – remunerated accumulation of public offices is forbidden, except, when there is compatibility of working hours, and with due regard, in any instance, for the provision of item XI:

a) of two teaching positions;

b) of one teaching position with another technical or scientific position;

c) of two exclusively medical positions;

XVII – the prohibition to accumulate extends to positions and functions and includes associate government agencies, foundations, public enterprises, joint stock companies, their subsidiary companies, and companies controlled either directly or indirectly by the Government;

.....

XIX – the creation of an associate Government agency and the establishment of a public enterprise, a joint stock company, and a foundation may only take place by means of a specific law, and, in the latter case, a supplementary law shall specify the areas of operation;

.....

Paragraph 3. The law shall regulate the forms of participation of users in governmental entities and in entities owned by the Government, especially as regards:

I – claims relating to the rendering of public services in general, the provision of user services being ensured, as well as periodical assessment, both external and internal, of the quality of services;

II – the access of users to administrative records and to information about Government initiatives, with due regard for article 5, items X and XXXIII;

III – the rules of a complaint against negligence or abuse in the exercise of an office, position or function in government services.

.....

Paragraph 7. The law shall establish the requirements and restrictions regarding the holder of an office or position, in governmental entities and entities owned by the government, which provides access to inside information.

Paragraph 8. The managerial, budgetary and financial autonomy of governmental agencies and entities, as well as of entities

owned by the Government, may be extended by means of a contract, to be entered into by their administrators and the Government, with a view to the establishment of performance goals for the agency or entity, and the law shall provide for:

I – the term of the contract;

II – the controls and criteria for the appraisal of performance, rights, duties, and liability of managing officers;

III – the remuneration of the employees.

Paragraph 9. The provision of item XI applies to the public enterprises and to joint stock companies and their subsidiary companies which receive funds from the Union, the States, the Federal District, or the Municipalities for the payment of personnel expenditures or of general expenses."

Article 4. The head paragraph of article 38 of the Federal Constitution shall henceforth read as follows:

"Article 38. The following provisions are applicable to public employees holding elective offices in a governmental entity, an associate government agency, and a foundation:

....."

Article 5. Article 39 of the Federal Constitution shall henceforth read as follows:

"Article 39. The Union, the States, the Federal District and the Municipalities shall institute a board of administration policy and personnel remuneration policy, composed of public employees appointed by the respective Branches.

Paragraph 1. The stipulation of pay levels and of other components of the remuneration system shall comply with:

I – the nature, the level of responsibility, and the complexity of the posts of each career;

II – the requirements for investiture;

III – the specific characteristics of each post.

Paragraph 2. The Union, the States, and the Federal District shall establish government schools for the education and further development of public employees, and participation in such courses shall be one of the requirements for promotion in the career, the signing of agreements or contracts among federated units being therefore allowed.

Paragraph 3. The provisions of article 7, IV, VII, VIII, IX, XII, XIII, XV, XVI, XVII, XVIII, XIX, XX, XXII, and XXX shall apply to employees holding public offices, and the law may stipulate differentiated requirements for admission when the nature of the office so demands.

Paragraph 4. A member of one of the Branches, the holder of an elective office, the Ministers of State, and the members of State and Local Cabinets shall be remunerated exclusively by means of a compensation consisting of one sole item, the addition of any extra benefit, additional pay, bonus, award, representation allowance, or other type of remuneration being forbidden, with due regard, in any of the cases, for the provisions of article 37, X and XI.

Paragraph 5. The legislation of the Union, the States, the Federal District, and the Municipalities may establish the proportion between the highest and the lowest remuneration of public employees, with due regard, in any of the cases, for the provision of article 37, XI.

Paragraph 6. The Executive, Legislative and Judicial Branches shall publish the amounts of the compensation and of the remuneration of public offices and positions each year.

Paragraph 7. The legislation of the Union, the States, the Federal District, and the Municipalities shall regulate the utilization of the budgetary funds deriving from savings in current expenditures in each agency, associate government agency and foundation, to be used in the development of programs of quality and productivity, training and development, modernization, re-equipping and rationalization of public services, including as additional pay or productivity award.

Paragraph 8. The remuneration of public employees organized in a career may be established under the terms of paragraph 4."

Article 6. Article 41 of the Federal Constitution shall henceforth read as follows:

"Article 41. Servants who, by virtue of public entrance examinations, are appointed to effective posts, acquire tenure after three years of actual service.

Paragraph 1. A tenured public employee shall only lose his office:

I – by virtue of a final and unappealable judicial decision;

II – by means of an administrative proceeding, in which he is assured of ample defense;

III – by means of a procedure of periodical appraisal of performance, under the terms of a supplementary law, ample defense being assured.

Paragraph 2. If the dismissal of a tenured public employee is voided by a judicial decision, he shall be reinstated, and the occupant of the vacancy, when tenured, shall be led back to his original office, with no right to indemnity, taken to another office

or placed on paid availability with a remuneration proportional to his length of employment.

Paragraph 3. If the office is declared extinct or unnecessary, a tenured public employee shall remain on availability, with a remuneration proportional to his length of employment, until he is adequately placed in another office.

Paragraph 4. As a requirement to acquire tenure, a special appraisal of performance by a committee created for this purpose is mandatory."

Article 7. Article 48 of the Federal Constitution shall henceforth include the following item XV:

"Article 48. The National Congress shall have the power, with the sanction of the President of the Republic, which shall not be required for the matters specified in articles 49, 51 and 52, to provide for all the matters within the competence of the Union and especially on:

.....

XV – stipulation of the compensation for the Justices of the Supreme Federal Court, by means of a law introduced jointly by the Presidents of the Republic, the Chamber of Deputies, the Federal Senate, and the Supreme Federal Court, with due regard for articles 39, paragraph 4, 150, II, 153, III, and 153, paragraph 2, I."

Article 8. Items VII and VIII of article 49 of the Federal Constitution shall henceforth read as follows:

"Article 49. It is exclusively the competence of the National Congress:

.....

VII – to establish identical compensation for Federal Deputies and Senators, taking into account the provisions of articles 37, XI, 39, paragraph 4, 150, II, 153, III, and 153, paragraph 2, I;

VIII – to establish the compensation of the President and the Vice-President of the Republic and of the Ministers of State, taking into account the provisions of articles 37, XI, 39, paragraph 4, 150, II, 153, III, and 153, paragraph 2, I;

....."

Article 9. Item IV of article 51 of the Federal Constitution shall henceforth read as follows:

"Article 51. It is exclusively the competence of the Chamber of Deputies:

.....

IV – to provide for its organization, functioning, police, creation, change or abolishment of offices, positions and functions of its services, and the introduction of a law for the establishment of their respective remuneration, taking into account the guidelines set forth in the law of budgetary directives;

..... "

Article 10. Item XIII of article 52 of the Federal Constitution shall henceforth read as follows:

"Article 52. It is exclusively the competence of the Federal Senate:

.....

XIII – to provide for its organization, functioning, police, creation, change or abolishment of offices, positions and functions of its services, and the introduction of a law for the establishment of their respective remuneration, taking into account the guidelines set forth in the law of budgetary directives;

..... "

Article 11. Paragraph 7 of article 57 of the Federal Constitution shall henceforth read as follows:

"Article 57. .....

Paragraph 7. In a special legislative session, the National Congress shall deliberate only upon the matter for which it was called, the payment of a compensatory amount in excess of the monthly compensation being forbidden."

Article 12. The sole paragraph of article 70 of the Federal Constitution shall henceforth read as follows:

"Article 70. .....

Sole paragraph. Accounts shall be rendered by any individual or corporation, public or private, which uses, collects, keeps, manages, or administers public monies, assets or values, or those for which the Union is responsible or which, on behalf of the Union, assumes obligations of a pecuniary nature."

Article 13. Item V of article 93, item III of article 95, and subitem *b* of item II of article 96, of the Federal Constitution, shall henceforth read as follows:

"Article 93. .....

.....

V – the compensation of the Justices of the Superior Courts shall correspond to ninety-five percent of the monthly compensation

stipulated for the Justices of the Supreme Federal Court, and the compensation of the other judges shall be stipulated by law and distributed, at the federal and state levels, according to the respective categories of the national judiciary structure, and the difference between categories may not be higher than ten per cent or lower than five per cent, nor higher than ninety-five per cent of the monthly compensation of the Justices of the Superior Courts, with due regard, in any of the cases, for the provisions of articles 37, XI, and 39, paragraph 4;

....."

"Article 95. Judges enjoy the following guarantees:

.....

III – irreducibility of compensation, except for the provisions of articles 37, X and XI, 39, paragraph 4, 150, II, 153, III, and 153, paragraph 2, I.

....."

"Article 96. It is the exclusive competence of:

.....

II – the Supreme Federal Court, the Superior Courts and the Courts of Justice, to propose to the respective Legislative Power, with due regard for the provisions of article 169:

.....

b) creation and abolishment of offices and the remuneration of the auxiliary services and of the courts connected with them, as well as the establishment of the compensation for their members and for the judges, including those of the lower courts, if existing, except for the provision of article 48, XV;

....."

Article 14. Paragraph 2 of article 127 of the Federal Constitution shall henceforth read as follows:

"Article 127. .....

.....

Paragraph 2. The Public Prosecution is ensured of functional and administrative autonomy, and it may, observing the provisions of article 169, propose to the Legislative Power the creation and abolishment of its offices and auxiliary services, filling them through a civil service entrance examination of tests or of tests and presentation of academic and professional credentials, the remuneration policies, and the career plans; the law shall provide for its organization and operation.

....."

Article 15. Subitem *c* of item I, of paragraph 5 of article 128, of the Federal Constitution, shall henceforth read as follows:

> "Article 128. .....
>
> Paragraph 5. Supplementary laws of the Union and of the states, which may be proposed by the respective Attorneys-General, shall establish the organization, the duties and the statute of each Public Prosecution, observing, as regards their members:
>
> I – the following guarantees:
>
> .....
>
> c) irreducibility of compensation, stipulated according to article 39, paragraph 4, and with due regard for the provisions of articles 37, X and XI, 150, II, 153, III, 153, paragraph 2, I;
>
> ....."

Article 16. Section II of Chapter IV of Title IV of the Federal Constitution shall henceforth be entitled "The Public Advocacy".

Article 17. Article 132 of the Federal Constitution shall henceforth read as follows:

> "Article 132. The Prosecutors of the states and of the Federal District, organized in a career, admission into which shall depend on a civil service entrance examination of tests and presentation of academic and professional credentials, with the participation of the Brazilian Bar Association in all of its stages, shall exercise judicial representation and judicial consultation for their respective federated units.
>
> *Sole paragraph.* The Prosecutors referred to in this article are entitled to acquire tenure after three years of effective exercise, by means of a performance appraisal carried out by the relevant agencies, following a detailed report issued by the corregidors."

Article 18. Article 135 of the Federal Constitution shall henceforth read as follows:

> "Article 135. Servants in the careers regulated in Sections II and III of this Chapter shall be remunerated according to article 39, paragraph 4."

Article 19. Paragraph 1 and its item III, and paragraphs 2 and 3 of article 144 of the Federal Constitution shall henceforth read as follows, a paragraph 9 being inserted in such article:

> "Article 144. .....
>
> Paragraph 1. The federal police, instituted by law as a permanent body, organized and maintained by the Union and structured into a career, are intended to:

.....

III – exercise the functions of maritime, airport and border police;

.....

Paragraph 2. The federal highway police are a permanent body organized and maintained by the Union, structured into a career, and intended, according to the law, to patrol ostensibly the federal highways.

Paragraph 3. The federal railway police are a permanent body organized and maintained by the Union, structured into a career, and intended, according to the law, to patrol ostensibly the federal railways.

.....

Paragraph 9. The remuneration of the policemen who are members of the agencies mentioned in this article shall be stipulated according to paragraph 4 of article 39."

Article 20. The head paragraph of article 167 of the Federal Constitution shall henceforth be in force with the addition of item X, which reads as follows:

"Article 167. The following are forbidden:

.....

X – to transfer funds voluntarily and to grant loans, including by means of advancement of revenues, by the Federal Government, the Government of the States and their financial institutions, for the payment of expenditures related to active and retired personnel and pensioners, of the States, the Federal District, and the Municipalities.

....."

Article 21. Article 169 of the Federal Constitution shall henceforth read as follows:

"Article 169. Expenditures with active and retired personnel of the Union, the states, the Federal District and the municipalities may not exceed the limits established in a supplementary law.

Paragraph 1. The granting of any advantage or increase of remuneration, the creation of posts, positions or functions, or alteration of career structures, as well as admission or hiring of personnel, on any account, by Government bodies and entities, or entities owned by the Government, including foundations instituted and maintained by the Government, may only be effected:

I – if there is a prior budgetary allocation sufficient to cover the estimated expenditure with personnel and the increases resulting therefrom;

II – if there is specific authorization in the law of budgetary directives, with the exception of government enterprises and joint stock companies.

Paragraph 2. Once finished the time limit established in the supplementary law referred to in this article for the adaptation to the standards therein stipulated, all remittances of federal or state funds shall be immediately suspended to the States, the Federal District, and the Municipalities which do not obey the said limits.

Paragraph 3. To comply with the limits established according to this article, within the time period stipulated in the supplementary law referred to in the head paragraph, the Union, the States, the Federal District, and the Municipalities shall adopt the following measures:

I – reduction of at least twenty percent of the expenditures with commission offices and positions of trust;

II – discharge of untenured servants.

Paragraph 4. If the measures adopted according to the preceding paragraph are not sufficient to guarantee compliance with the provision of the supplementary law referred to in this article, tenured servants may be dismissed, provided that a regulatory act justified by each of the Branches specifies the activity, the agency, or the administrative unit where reduction of personnel must be carried out.

Paragraph 5. A servant who is dismissed according to the preceding paragraph shall be entitled to compensation equivalent to one month of remuneration per year of service.

Paragraph 6. The post affected by the reduction mentioned in the preceding paragraphs shall be considered extinct, and the creation of a post, position, or function with equal or similar duties shall be forbidden for the period of four years.

Paragraph 7. A federal act shall provide for the general rules to be complied with in carrying out the provision of paragraph 4."

Article 22. Paragraph 1 of article 173 of the Federal Constitution shall henceforth read as follows:

"Article 173. .....

.....

Paragraph 1. The law shall establish the legal system of public companies, joint-stock companies and their subsidiary companies engaged in economic activities connected with the production or trading of goods, or with the rendering of services, providing upon:

I – their social function and the forms of control by the State and by society;

II – compliance with the specific legal system governing private companies, including civil, commercial, labour, and tax rights and liabilities;

III – bidding and contracting of works, services, purchases, and disposal, with due regard for the principles of government services;

IV – the establishment and operation of boards of directors and of boards of supervisors, with the participation of minority shareholders;

V – the terms of office, the performance appraisals, and the liability of administrators.

....."

Article 23. Item V of article 206 of the Federal Constitution shall henceforth read as follows:

"Article 206. Education shall be provided on the basis of the following principles:

.....

V – appreciation of the value of teaching professionals, guaranteeing, in accordance with the law, career plans for public school teachers, with a professional minimum salary and admittance exclusively by means of public entrance examinations consisting of tests and presentation of academic and professional credentials;

....."

Article 24. Article 241 of the Federal Constitution shall henceforth read as follows:

"Article 241. The Union, the States, the Federal District, and the Municipalities shall issue legislation to regulate public syndicates and cooperation agreements between members of the Federation, authorizing the joint management of public services, as well as the transfer, in whole or in part, of charges, services, personnel, and goods essential to the continued rendering of the services transferred."

Article 25. It is incumbent upon the Union to honor the current financial commitments with the rendering of public services in the Federal District until such time as the fund referred to in item XIV of article 21 of the Federal Constitution is established.

Article 26. Within two years of the promulgation of this Amendment, the entities owned by the Government shall have their by-laws revised regarding their respective legal nature, taking into account the purpose and the actual duties carried out.

Article 27. The National Congress, within one hundred and twenty days of the promulgation of this Amendment, shall draft legislation for the protection of public service users.

Article 28. The current public employees on probation are ensured of the period of two years of effective exercise to acquire tenure, without prejudice to the assessment referred to in paragraph 4 of article 41 of the Federal Constitution.

Article 29. As of the promulgation of this Amendment, the compensation, salaries, remuneration, retirement pay, pensions, and any other types of remuneration shall comply with the limits arising from the Federal Constitution, receipt of excess being forbidden under any circumstances.

Article 30. The bill of supplementary law mentioned in article 163 of the Federal Constitution shall be submitted by the Executive Branch to the National Congress within one hundred and eighty days, at most, of the promulgation of this Amendment.

Article 31. The public employees of federal governmental entities and of entities owned by the Federal Government, the local administration employees, and the members of the uniformed police force of the former Federal Territories of Amapá and Roraima, who, subject to the presentation of proof, were regularly exercising their functions and rendering services to those former Territories at the time they were transformed into States; the uniformed policemen who were appointed by virtue of a federal law, and paid by the Union; furthermore, the civil servants in these States whose employment status has already been acknowledged by the Union shall be included in a special job class to be terminated within the federal government services, being ensured of their specific rights and advantages, and the payment of remuneration differences, under any circumstances, being forbidden.

Paragraph 1. The members of the uniformed police force shall go on rendering services to their respective States, in the quality of detailed personnel, subject to the legal and regulatory provisions which govern the corps of their respective uniformed police forces, with due regard for the compatibility between the duties of their function and their rank in the hierarchy.

Paragraph 2. The civil servants shall go on rendering services to their respective States, in the quality of detailed personnel, until they are placed in a federal governmental agency.

Article 32. The Federal Constitution shall henceforth include the following article:

> "Article 247. The laws provided for in item III of paragraph 1 of article 41, and in paragraph 7 of article 169, shall establish special criteria and guarantees for the loss of office of a tenured public employee who, by virtue of the duties of his effective post, performs exclusive activities of State.
>
> *Sole paragraph.* In the event of insufficient performance, the loss of office shall only take place by means of an administrative proceeding in which the adversary system and ample defense are ensured."

Article 33. For the purposes of article 169, paragraph 3, II, of the Federal Constitution, untenured servants are those who were admitted into a governmental entity, an associate government agency, or a foundation, without having taken an entrance examination consisting of tests, or tests and presentation of academic and professional credentials, after the 5th of October, 1983.

Article 34. This Constitutional Amendment shall come into force on the date of its promulgation.

Brasília, June 4, 1998.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Michel Temer*, President – *Heráclito Fortes*, First Vice-President – *Severino Cavalcanti*, Second Vice-President – *Ubiratan Aguiar*, First Secretary – *Nelson Trad*, Second Secretary – *Paulo Paim*, Third Secretary – *Efraim Morais*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Antônio Carlos Magalhães*, President – *Geraldo Melo*, First Vice-President – *Júnia Marise*, Second Vice-President – *Ronaldo Cunha Lima*, First Secretary – *Carlos Patrocínio*, Second Secretary – *Flaviano Melo*, Third Secretary – *Lucídio Portella*, Fourth Secretary.

Published in the *Official Journal*, June 5, 1998.

CONSTITUTIONAL AMENDMENT No. 20, 1998

Alters the social security system, establishes rules for the transitional period, and makes other provisions.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. The Federal Constitution shall henceforth be in force with the following alterations:

"Article 7. .....

.....

XII – family allowance paid to each dependent of low-income workers, under the terms of the law;

.....

XXXIII – prohibition of night, dangerous, or unhealthy work for minors under eighteen years of age, and of any work for minors under sixteen years of age, except as an apprentice, for minors above fourteen years of age;

....."

"Article 37. .....

.....

Paragraph 10. Receiving retirement pensions arising from article 40 or from articles 42 and 142, while at the same time receiving the remuneration of a public office, position or function is forbidden, with the exception of offices that may be accumulated under the terms of this Constitution, elective offices, and commission offices declared by law as being of free appointment and discharge."

"Article 40. Employees holding effective posts in the Union, the States, the Federal District, and the Municipalities, therein included their associate government agencies and foundations, are ensured of a social security scheme on a contributory basis, with due regard for criteria that preserve financial and actuarial balance and for the provisions of this article.

Paragraph 1. The employees covered by the social security scheme set forth in this article shall go into retirement, their pensions being calculated according to the amounts stipulated under the terms of paragraph 3:

I – for permanent disability, with a pension in proportion to the period of contribution, except when such disability results from a work injury, a professional disease, or a serious, contagious, or incurable illness, as specified by law;

II – compulsorily, at seventy years of age, with a pension in proportion to the period of contribution;

III – voluntarily, upon completing at least ten years of effective exercise in public administration and five years in the effective post from which retirement is going to take place, with due regard for the following conditions:

a) sixty years of age and thirty-five of contribution, if a man, and fifty-five years of age and thirty of contribution, if a woman;

b) sixty-five years of age, if a man, and sixty, if a woman, with pay in proportion to the period of contribution.

Paragraph 2. At the time they are granted, retirement pensions and other pensions may not exceed the remuneration of the respective employee in the effective post from which he retired or which was taken as a parameter for the granting of the pension.

Paragraph 3. At the time it is granted, the retirement pension will be calculated according to the remuneration of the employee in the effective post from which he is retiring and will be equivalent to the total remuneration, under the terms of the law.

Paragraph 4. The adoption of differentiated requirements and criteria for the granting of retirement to those covered by the scheme set forth in this article is forbidden, with the exception of the cases, as defined by a supplementary law, of activities carried out exclusively under special conditions which are harmful to health or to physical wholeness.

Paragraph 5. The requirements concerning age and period of contribution will be reduced by five years, as regards the provision of paragraph 1, item III, letter *a*, for teachers who document exclusively a period of effective exercise of teaching functions in children education and in elementary and secondary education.

Paragraph 6. With the exception of the cases of retirement from posts that can be accumulated under the terms of this Constitution, receiving more than one retirement pension charged to the social security scheme set forth in this article is forbidden.

Paragraph 7. The law shall provide for the granting of the benefit of a death pension, which will be equal to the retirement pension of the deceased employee, or to the remuneration that the employee in active service would be entitled to at the date of his death, with due regard for the provision of paragraph 3.

Paragraph 8. With due regard for the provision of article 37, XI, retirement pensions and other pensions shall be revised in the same proportion and on the same date, whenever the remuneration of employees in active service is changed, and any benefits or advantages subsequently granted to employees in active service shall also be extended to retirees and to pensioners, including those arising from the transformation or reclassification of the post or function from which retirement was taken, or which was taken as a parameter for the granting of a pension, as the law provides.

Paragraph 9. The period of contribution in a federal, state, or municipal post shall be computed for the purpose of retirement, and the corresponding period of service shall be computed for the purpose of placement on paid availability.

Paragraph 10. The law may not establish any method of computation of fictitious periods of contribution.

Paragraph 11. The limit set forth in article 37, XI, applies to the total amount of the retirement pension and other pensions, including those resulting from the accumulation of public posts or positions, as well as from other activities which must contribute to the general social security scheme, and to the amount resulting from the addition of pensions and the remuneration of a post which may be accumulated under the terms of this Constitution, a commission office declared by law as being of free appointment and discharge, and an elective office.

Paragraph 12. In addition to the provisions of this article, the social security scheme of government employees who hold effective posts shall comply, whenever appropriate, with the requirements and criteria stipulated for the general social security scheme.

Paragraph 13. The general social security scheme applies to employees who hold exclusively commission offices declared by law as being of free appointment and discharge, as well as other temporary posts or public positions.

Paragraph 14. The Union, the States, the Federal District, and the Municipalities, provided that they establish a complementary social security scheme for their respective employees who hold effective posts, may stipulate, for the amount of retirement pensions and other pensions to be granted by the scheme referred to in this article, the maximum limit set forth for the benefits of the general social security scheme referred to in article 201.

Paragraph 15. With due regard for the provisions of article 202, a supplementary law shall provide for the general rules for the establishment of a complementary social security scheme by the

Union, the States, the Federal District, and the Municipalities, to serve their respective employees who hold effective posts.

Paragraph 16. The provisions of paragraphs 14 and 15 may be applied to an employee who has entered public administration on or before the date of publication of the act which instituted the corresponding complementary social security scheme only if such employee has previously expressed such option."

"Article 42. .....

.....

Paragraph 1. The provisions of article 14, paragraph 8; article 40, paragraph 9; and of article 142, paragraphs 2 and 3, apply to the military of the States, of the Federal District, and of the Territories, in addition to other provisions that the law may establish, it being incumbent upon specific state legislation to provide for the matters of article 142, paragraph 3, item X, the ranks of the officers being awarded by the respective State Governors.

Paragraph 2. The provisions of article 40, paragraphs 7 and 8, apply to the military of the States, of the Federal District, and of the Territories, and to their pensioners."

"Article 73. .....

.....

Paragraph 3. The Justices of the Federal Audit Court shall have the same guarantees, prerogatives, impediments, remuneration, and advantages as the Justices of the Superior Court of Justice, their retirement pensions and other pensions being ruled by the provisions of article 40.

....."

"Article 93. .....

.....

VI – the retirement of judges as well as the pensions for their dependents shall comply with the provisions of article 40;

....."

"Article 100. .....

Paragraph 3. The provision contained in the head paragraph of this article, regarding the emission of court orders, does not apply to bonds defined by law as being of a small amount, which must be paid by the federal, state, or municipal finance authorities by virtue of a final and unappealable court decision."

"Article 114. .....

.....

Paragraph 3. It is also incumbent upon the Labour Justice to enforce, ex officio, the welfare contributions set forth in article 195, I, a, and II, and their legal raises, arising from the judgments it pronounces."

"Article 142. .....

.....

Paragraph 3. .....

IX – the provisions of article 40, paragraphs 7 and 8, apply to the military and to their pensioners;

....."

"Article 167. .....

.....

XI – to use the funds arising from the welfare contributions set forth in article 195, I, *a*, and II, to defray expenses other than the payment of benefits of the general social security scheme referred to in article 201.

....."

"Article 194. .....

.....

Sole paragraph. .....

VII – democratic and decentralized character of administration, by means of a quadripartite management, with the participation of workers, employers, retirees, and the Government in the collegiate bodies."

"Article 195. .....

.....

I – of employers, companies, and entities defined by law as being comparable to companies, assessed on:

a) the payroll and other labour earnings paid or credited, on any account, to individuals who render services to them, even when there is no employment bond;

b) income or revenues;

c) profits;

II – of workers and other persons insured by social security, no contribution being assessed on retirement pensions and other pensions granted by the general social security scheme referred to in article 201;

.....

Paragraph 8. Rural producers, sharecroppers, tenant farmers, and self-employed fishermen, as well as their spouses, who exercise their activities within a household system and without permanent employees shall contribute to social welfare by applying a rate to the proceeds from the sale of their production and shall be entitled to the benefits provided by law.

Paragraph 9. The welfare contributions set forth in item I of this article may have differentiated rates or assessment bases, according to the economic activity or the intensive use of labour.

Paragraph 10. The law shall define the criteria for the transfer of funds allocated to the unified health system and for social assistance initiatives, from the Union to the States, the Federal District, and the Municipalities, and from the States to the Municipalities, with due regard for the respective transfer of funds.

Paragraph 11. It is forbidden to grant remission or pardon of the welfare contributions referred to in itens I, *a*, and II of this article, for debits which exceed the limit stipulated by a supplementary law."

"Article 201. The social security system shall be organized as a general scheme, of a contributory basis and mandatory participation, with due regard for criteria that preserve financial and actuarial balance, and shall provide for, in accordance with the law:

I – coverage for the events of illness, disability, death, and old age;

II – protection to maternity, especially to pregnant women;

III – protection to workers in a situation of involuntary unemployment;

IV – family allowance and confinement allowance for the dependents of the low-income insured;

V – pension for death of the insured, man or woman, to the spouse or companion, and dependents, complying with the provision of paragraph 2.

Paragraph 1. The adoption of differentiated requirements and criteria for the granting of retirement to the beneficiaries of the general social security scheme is forbidden, with the exception of the cases, as defined by a supplementary law, of activities carried out under special conditions which are harmful to health or to physical wholeness.

Paragraph 2. No benefit which replaces the contribution salary or labour earnings of the insured shall have a monthly amount lower than the minimum monthly wage.

Paragraph 3. All contribution salaries included in the calculation of the benefit shall be duly updated, under the terms of the law.

Paragraph 4. Adjustment of the benefits is ensured, to the end that their real value is permanently maintained, in accordance with criteria defined by law.

Paragraph 5. Participation in the general social security scheme, in the quality of an optional insured, is forbidden for a person who participates in a special social security scheme.

Paragraph 6. The Christmas bonus for retirees and pensioners shall be based on the amount of the earnings in the month of December of each year.

Paragraph 7. Retirement is ensured under the general social security scheme, in accordance with the law, upon compliance with the following conditions:

I – thirty-five years of contribution, if a man, and thirty years of contribution, if a woman;

II – sixty-five years of age, if a man, and sixty years, if a woman, this age limit being reduced by five years for rural workers of both sexes and for those who exercise their activities within a household system, therein included rural producers, placer miners, and self-employed fishermen.

Paragraph 8. The requirements referred to in item I of the preceding paragraph will be reduced by five years, for teachers who document exclusively a period of effective exercise of teaching functions in children education and in elementary and secondary education.

Paragraph 9. For purposes of retirement, the reciprocal computation of the period of contribution in government bodies and in private activity, either rural or urban, shall be ensured, in which case the various social security schemes shall offset each other financially, in accordance with criteria established by law.

Paragraph 10. The law shall regulate the coverage of employment-injury risks, and such coverage shall be provided both by the general social security scheme and the private sector.

Paragraph 11. The amounts habitually earned by an employee, on any account, shall be incorporated into his monthly salary for purposes of social security contribution and the resulting effects on benefits, in the cases and in the manner provided by law."

"Article 202. The private social security scheme, of a complementary nature and organized on an autonomous basis as regards the general social security scheme, shall be optional,

based on the formation of reserves which guarantee the contracted benefit, and regulated by a supplementary law.

Paragraph 1. The supplementary law referred to in this article shall ensure that the participant in benefit plans of private pension plan companies is provided with full access to information regarding the management of their respective plans.

Paragraph 2. The contributions of employers, the benefits, and the terms of contracts set forth in the bylaws, regulations, and benefit plans of the private pension plan companies are neither an integral part of the employment contract of participants, nor, with the exception of the benefits granted, an integral part of the remuneration of participants, under the terms of the law.

Paragraph 3. The Union, the States, the Federal District, and the Municipalities, their associate government agencies, foundations, public enterprises, joint stock companies, and other public entities are forbidden to contribute funds to private pension plan companies, save in the quality of sponsors, in which case their standard contribution may not, under any circumstances, exceed that of the insured.

Paragraph 4. A supplementary law shall regulate the relationship between the Union, the States, the Federal District, or the Municipalities, including their associate government agencies, foundations, joint stock companies, and enterprises controlled either directly or indirectly, in the quality of sponsors of closed private pension plan companies, and their respective closed private pension plan companies.

Paragraph 5. The supplementary law referred to in the preceding paragraph shall apply, insofar as pertinent, to private companies holding a permission or concession to render public services, when such companies sponsor closed private pension plan companies.

Paragraph 6. The supplementary law referred to in paragraph 4 of this article shall establish the requirements for the appointment of board members of the closed private pension plan companies, and shall regulate the inclusion of participants in the collegiate bodies and decision-making bodies in which their interests are subject to discussion and decision."

Article 2. The following articles are added to the General Constitutional Provisions of the Federal Constitution:

"Article 248. The benefits paid, under any auspices, by the agency in charge of the general social security scheme, even if they are financed by the National Treasury, and those benefits not subject to the maximum amount stipulated for benefits

granted by such scheme shall comply with the limits set forth in article 37, XI.

Article 249. For the purpose of securing monies for the payment of retirement pensions and other pensions granted to their respective employees and their dependents, in addition to the monies of their respective treasuries, the Union, the States, the Federal District, and the Municipalities may establish funds, made up of monies arising from contributions, and of property, rights, and assets of any kind, by means of a law that shall provide for the nature and the management of such funds.

Article 250. For the purpose of securing monies for the payment of benefits granted by the general social security scheme, in addition to the monies arising from taxation, the Union may establish a fund made up of property, rights, and assets of any kind, by means of a law that shall provide for the nature and the management of such a fund."

Article 3. The granting of retirement pensions and other pensions is ensured, at any time, to public employees and to participants in the general social security scheme, as well as to their dependents, who, by the date of publication of this Amendment, have complied with the requirements to be entitled to such benefits, in accordance with the criteria of the legislation in effect at that time.

Paragraph 1. The public employee referred to in this article, who has met the requirements for retirement with full pay and who chooses to remain in active service, shall be entitled to exemption from social security contribution until he meets the requirements for retirement set forth in article 40, paragraph 1, III, *a*, of the Federal Constitution.

Paragraph 2. The retirement pay to be granted to the public employees referred to in the head paragraph of this article, either in full or in proportion to the period of service completed by the date of publication of this Amendment, as well as the pensions for their dependents, shall be calculated in accordance with the legislation in effect at the time the requirements therein contained for the granting of such benefits were met, or with the terms of the current legislation.

Paragraph 3. All rights and guarantees ensured by constitutional provisions in effect at the date of publication of this Amendment, to civil servants and military, retirees and pensioners, amnestied persons and war veterans, as well as to those who, by such date, have met the requirements to be entitled to such rights, with due regard for the provision of article 37, XI, of the Federal Constitution, shall be maintained.

Article 4. With due regard for article 40, paragraph 10, of the Federal Constitution, the period of service taken into account by the current legislation for the purpose of retirement, and completed by the time the law regulates the matter, shall be computed as a period of contribution.

Article 5. The provision of article 202, paragraph 3, of the Federal Constitution, regarding the requirement of parity between the contribution of the sponsor and

that of the insured, shall come into force two years as from the publication of this Amendment, or on the date of publication of the supplementary law mentioned in paragraph 4 of the same article, if such publication takes place first.

Article 6. The closed private pension plan companies sponsored by public entities, including public enterprises and joint stock companies, must review, two years as from the publication of this Amendment, their benefit and service plans, so as to adjust them to their assets in terms of actuarial calculations, otherwise subject to intervention, and their managers as well as those of their respective sponsors shall bear civil and criminal liability for non-compliance with the provision of this article.

Article 7. The bills of supplementary laws stated in article 202 of the Federal Constitution shall be presented to the National Congress within ninety days as from the publication of this Amendment.

Article 8. (Revoked). (CA No. 41, 2003)

Article 9. With due regard for the provision of article 4 of this Amendment, and excepting the right to opt for retirement under the terms established by this Amendment for the general social security scheme, the right to retirement is ensured to participants who join the general social security scheme, before the date of publication of this Amendment, when they meet the following cumulative conditions:

I – fifty-three years of age, if a man, and forty-eight, if a woman;

II – a period of contribution equal to at least the sum of:

a) thirty-five years, if a man, and thirty, if a woman; and

b) an additional period of contribution equivalent to twenty percent of the period which, at the date of publication of this Amendment, would still be necessary to reach the limit set forth in the preceding letter.

Paragraph 1. The participants mentioned in this article, with due regard for its item I, and in accordance with article 4 of this Amendment, may go into retirement with pay in proportion to the period of contribution, if they meet the following conditions:

I – a period of contribution equal to at least the sum of:

a) thirty years, if a man, and twenty-five years, if a woman; and

b) an additional period of contribution equivalent to forty percent of the period which, at the date of publication of this Amendment, would still be necessary to reach the limit set forth in the preceding letter;

II – the proportional retirement pay shall be equivalent to seventy percent of the retirement pay referred to in the head paragraph of this article, increased by the addition of five percent per year of contribution which exceeds the sum referred to in the preceding item, up to the limit of one hundred percent.

Paragraph 2. The period of service performed until the publication of this Amendment shall be increased by the addition of seventeen percent, for a male teacher, and twenty percent, for a female teacher, who, until the date of publication of this Amendment, has exercised teaching activities and opts to retire under the terms of

the head paragraph of this article, provided that such retirement is based exclusively on the period of effective exercise of a teaching function.

Article 10. The complementary social security scheme referred to in article 40, paragraphs 14, 15, and 16, of the Federal Constitution, may only be instituted after the publication of the supplementary law set forth in paragraph 15 of the same article.

Article 11. The prohibition set forth in article 37, paragraph 10, of the Federal Constitution, is not applicable to members of government branches and to retired employees, both civil and military, who, until the publication of this Amendment, have reentered public administration by means of a public sector competitive examination consisting of tests, or of tests and presentation of academic and professional credentials, and by other means set forth in the Federal Constitution, and they are forbidden to receive more than one retirement pay under the social security scheme referred to in article 40 of the Federal Constitution, the limitation mentioned in paragraph 11 of the same article being applicable to them under any circumstances.

Article 12. Until such time as the laws providing for the contributions set forth in article 195 of the Federal Constitution come into force, the contributions established by law to fund social welfare and the various social security schemes shall be collected.

Article 13. Until such time as the law regulates the access to family allowance and to confinement allowance for employees, participants, and their dependents, such benefits shall be granted only to those who earn a monthly gross income equal to or lower than R$ 360.00 (three hundred and sixty reais), which, until the publication of the law, shall be adjusted according to the same indices applicable to the benefits of the general social security scheme.

Article 14. The maximum limit for the amount of benefits of the general social security scheme referred to in article 201 of the Federal Constitution is defined as R$ 1,200.00 (one thousand and two hundred reais), and it shall be adjusted, as from the date of publication of this Amendment, to the end that its real value is permanently maintained, updated according to the same indices applicable to the benefits of the general social security scheme.

Article 15. Until such time as the supplementary law referred to in article 201, paragraph 1, of the Federal Constitution, is published, the provisions of articles 57 and 58 of Law no. 8,213, of July 24, 1991, remain effective, with the wording in force at the date of publication of this Amendment.

Article 16. This Constitutional Amendment shall come into force on the date of its publication.

Article 17. Item II of paragraph 2 of article 153 of the Federal Constitution is hereby revoked.

Brasília, December 15, 1998.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Michel Temer*, President – *Heráclito Fortes*, First Vice-President – *Severino Cavalcanti*, Second Vice-President – *Ubiratan Aguiar*, First Secretary – *Nelson Trad*, Second Secretary – *Paulo Paim*, Third Secretary – *Efraim Morais*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Antônio Carlos Magalhães*, President – *Geraldo Melo*, First Vice-President – *Júnia Marise*, Second Vice-President – *Ronaldo Cunha Lima*, First Secretary – *Carlos Patrocínio*, Second Secretary – *Flaviano Melo*, Third Secretary – *Lucídio Portella*, Fourth Secretary.

Published in the *Official Journal*, December 16, 1998.

CONSTITUTIONAL AMENDMENT No. 21, 1999

Extends the provisional contribution on the movement or transmission of monies and of credits and rights of a financial nature, referred to in article 74 of the Temporary Constitutional Provisions Act, and alters its rate.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Article 75 is included in the Temporary Constitutional Provisions Act, with the following wording:

> "Article 75. The collection of the provisional contribution on the movement or transmission of monies and of credits and rights of a financial nature mentioned in article 74, established by Law no. 9,311, of October 24, 1996, is extended for thirty-six months, and the same extension applies to the effect of Law no. 9,539, of December 12, 1997, which modified Law no. 9,311.
>
> Paragraph 1. With due regard for paragraph 6 of article 195 of the Federal Constitution, the rate of the contribution shall be thirty-eight hundredths of one percent, in the first twelve months, and thirty hundredths in the subsequent months, and the Executive Power may reduce it, in whole or in part, in the limits hereby stipulated.
>
> Paragraph 2. The proceeds from increased collection of the contribution, resulting from the alteration of the rate, during the financial years of 1999, 2000, and 2001, shall be allocated to the financing of social security.
>
> Paragraph 3. The Union is authorized to issue domestic public debt bonds, whose resources shall be allocated to the financing of health services and social security, in an amount equivalent to the proceeds of the collection of the contribution, estimated but not achieved in 1999."

Article 2. This Amendment shall come into force on the date of its publication.

Brasília, March 18, 1999.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Michel Temer*, President – *Heráclito Fortes*, First Vice-President – *Severino Cavalcanti*, Second Vice-President – *Ubiratan Aguiar*, First Secretary – *Nelson Trad*, Second Secretary – *Efraim Morais*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Antônio Carlos Magalhães*, President – *Geraldo Melo*, First Vice-President – *Ronaldo Cunha Lima*, First Secretary – *Carlos Patrocínio*, Second Secretary – *Nabor Júnior*, Third Secretary – *Casildo Maldaner*, Fourth Secretary.

Published in the *Official Journal*, March 19, 1999.

CONSTITUTIONAL AMENDMENT No. 22, 1999

Adds a single paragraph to article 98 and alters subitem "i" of item I of article 102, and subitem "c" of item I of article 105 of the Federal Constitution.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. The following single paragraph is added to article 98 of the Federal Constitution:

"Article 98. .....

.....

Sole paragraph. Federal legislation shall provide for the establishment of special courts within Federal Justice."

Article 2. Subitem *i* of item I of article 102 of the Federal Constitution shall be in force with the following wording:

"Article 102. .....

.....

I – .....

i) *habeas corpus*, when the constraining party is a Superior Court, or when the constraining party or the petitioner is an authority or employee whose acts are directly subject to the jurisdiction of the Supreme Federal Court, or in the case of a crime, subject to the same jurisdiction in one sole instance;

....."

Article 3. Subitem *c* of item I of article 105 of the Federal Constitution shall be in force with the following wording:

"Article 105. .....

.....

I – .....

c) *habeas corpus*, when the constraining party or the petitioner is any of the persons mentioned in subitem *a*, when the constraining party is a court, subject to its jurisdiction, or a Minister of State, except for the competence of the Electoral Courts;

....."

Article 4. This Amendment shall come into force on the date of its publication.

Brasília, March 18, 1999.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Michel Temer*, President – *Heráclito Fortes*, First Vice-President – *Severino Cavalcanti*, Second Vice-President – *Ubiratan Aguiar*, First Secretary – *Nelson Trad*, Second Secretary – *Efraim Morais*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Antônio Carlos Magalhães*, President – *Geraldo Melo*, First Vice-President – *Ronaldo Cunha Lima*, First Secretary – *Carlos Patrocínio*, Second Secretary – *Nabor Júnior*, Third Secretary – *Casildo Maldaner*, Fourth Secretary.

Published in the *Official Journal*, March 19, 1999.

CONSTITUTIONAL AMENDMENT No. 23, 1999

Alters articles 12, 52, 84, 91, 102, and 105 of the Federal Constitution (establishment of the Ministry of Defense).

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Articles 12, 52, 84, 91, 102, and 105 of the Federal Constitution shall henceforth be in force with the following alterations:

"Article 12. .....

.....

Paragraph 3. .....

VII – that of Minister of Defense."

"Article 52.....

.....

I – to effect the legal proceeding and trial of the President and Vice-President of the Republic for crime of malversation, and the Ministers of State and the Commanders of the Navy, the Army, and the Air Force for crimes of the same nature relating to those;

....."

"Article 84. .....

.....

XIII – exercise the supreme command of the Armed Forces, to appoint the Commanders of the Navy, the Army, and the Air Force, to promote general officers and to appoint them to the offices held exclusively by them;

....."

"Article 91. .....

.....

V – the Minister of Defense;

.....

VIII – the Commanders of the Navy, the Army, and the Air Force.

....."

"Article 102. .....

.....

I – .....

c) in common criminal offenses and crimes of malversation, the Ministers of State and the Commanders of the Navy, the Army, and the Air Force, except as provided in article 52, I, the members of the Superior Courts, those of the Federal Audit Court and the heads of permanent diplomatic missions;

....."

"Article 105. .....

.....

I – .....

b) writs of mandamus and *habeas data* against an act of a Minister of State, of the Commanders of the Navy, the Army, and the Air Force, or of the Court itself;

c) *habeas corpus*, when the constraining party or the petitioner is any of the persons mentioned in subitem *a*, or when the constraining party is a court subject to its jurisdiction, a Minister of State or Commander of the Navy, the Army, or the Air Force, except for the competence of the Electoral Courts;

....."

Article 2. This Amendment shall come into force on the date of its publication.

Brasília, September 2, 1999.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Michel Temer*, President – *Heráclito Fortes*, First Vice-President – *Severino Cavalcanti*, Second Vice-President – *Ubiratan Aguiar*, First Secretary – *Nelson Trad*, Second Secretary – *Jaques Wagner*, Third Secretary – *Efraim Morais*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Antônio Carlos Magalhães*, President – *Geraldo Melo*, First Vice-President – *Ademir Andrade*, Second Vice-President – *Carlos Patrocínio*, Second Secretary, Acting First Secretary – *Nabor Júnior*, Third Secretary – *Casildo Maldaner*, Fourth Secretary.

Published in the *Official Journal*, September 3, 1999.

CONSTITUTIONAL AMENDMENT No. 24, 1999

Alters provisions of the Federal Constitution regarding temporary judges who represent professional categories in Labour Courts.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Articles 111, 112, 113, 115, and 116 of the Federal Constitution shall henceforth be in force with the following wording:

"Article 111.[25] .....

.....

III – Labour Judges.

Paragraph 1. The Superior Labour Court shall be composed of seventeen tenured law justices, chosen from among Brazilians over thirty-five and under sixty-five years of age, appointed by the President of the Republic after approval by the Federal Senate, of which eleven shall be chosen from among judges of the Regional Labour Courts who are members of the Labour Justice career, three from among lawyers, and three from among members of the Labour Public Prosecution.

I – (Revoked);

II – (Revoked).

Paragraph 2. The Court shall forward lists of three names to the President of the Republic, observing, as regards the vacancies intended for lawyers and for members of the Public Prosecution, the provisions of article 94; the lists of three names for the filling of the offices intended for career labour judges shall be prepared by the tenured law Justices.

....."

"Article 112. There shall be at least one Regional Labour Court in each state and in the Federal District, and the law shall institute Labour Courts of first instance, allowing, in districts where such courts are not instituted, for the attribution of their jurisdiction to judges."

"Article 113. The law shall regulate the constitution, installation, jurisdiction, powers, guarantees, and conditions of exercise of the bodies of Labour Justice."

[25] Paragraphs 1 and 2 were revoked by CA no. 45/2004.

"Article 115. The Regional Labour Courts shall be composed of judges appointed by the President of the Republic, observing the proportions established in article 111, paragraph 2.

Sole paragraph. .....

III – (Revoked)."

"Article 116. In the Labour Courts of first instance, jurisdiction shall be exercised by a single judge.

Sole paragraph. (Revoked)."

Article 2. The current temporary justices of the Superior Labour Court and the current temporary judges of the Regional Labour Courts and Boards of Conciliation and Judgement are ensured of the right to complete their terms of office.

Article 3. This Amendment shall come into force on the date of its publication.

Article 4. Article 117 of the Federal Constitution is hereby revoked.

Brasília, December 9, 1999.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Michel Temer*, President – *Heráclito Fortes*, First Vice-President – *Severino Cavalcanti*, Second Vice-President – *Ubiratan Aguiar*, First Secretary – *Nelson Trad*, Second Secretary – *Jaques Wagner*, Third Secretary – *Efraim Morais*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Antônio Carlos Magalhães*, President – *Geraldo Melo*, First Vice-President – *Ademir Andrade*, Second Vice-President – *Ronaldo Cunha Lima*, First Secretary – *Carlos Patrocínio*, Second Secretary – *Nabor Júnior*, Third Secretary – *Casildo Maldaner*, Fourth Secretary.

Published in the *Official Journal*, December 10, 1999.

CONSTITUTIONAL AMENDMENT No. 25, 2000

Alters item VI of article 29 and adds article 29-A to the Federal Constitution, regarding limits on expenditures on the Municipal Legislative Power.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Item VI of article 29 of the Federal Constitution shall henceforth be in force with the following wording:

"Article 29. .....

.....

VI – the compensation of Local Councilmen shall be stipulated by their respective Town Councils in each legislative term for the subsequent one, with due regard for the provisions of this Constitution, in accordance with the criteria set forth in the respective Organic Law and the following maximum limits:"

"a) In Municipalities having up to ten thousand inhabitants, the compensation of Local Councilmen shall correspond, at the most, to twenty percent of the compensation of State Deputies;"

"b) in Municipalities having between ten thousand and fifty thousand inhabitants, the compensation of Local Councilmen shall correspond, at the most, to thirty percent of the compensation of State Deputies;"

"c) in Municipalities having between fifty thousand and one inhabitants and one hundred thousand inhabitants, the compensation of Local Councilmen shall correspond, at the most, to forty percent of the compensation of State Deputies;"

"d) in Municipalities having between one hundred thousand and one inhabitants and three hundred thousand inhabitants, the compensation of Local Councilmen shall correspond, at the most, to fifty percent of the compensation of State Deputies;"

"e) in Municipalities having between three hundred thousand and one inhabitants and five hundred thousand inhabitants, the compensation of Local Councilmen shall correspond, at the most, to sixty percent of the compensation of State Deputies;"

"f) in Municipalities having over five hundred thousand inhabitants, the compensation of Local Councilmen shall correspond, at the most, to seventy-five percent of the compensation of State Deputies;

..... ”

Article 2. The Federal Constitution shall henceforth include the following article 29-A:

> “Article 29-A. The total expenditures of the Municipal Legislative Branch, including the compensation of Local Councilmen and excluding outlays on retired personnel, may not exceed the following percentages, related to the total amount, effectively realized in the prior year, of tax revenues and the transfers set forth in paragraph 5 of article 153, and in articles 158 and 159:”
>
> “I – eight percent to Municipalities having up to one hundred thousand inhabitants;”
>
> “II – seven percent to Municipalities having between one hundred thousand and one inhabitants and three hundred thousand inhabitants;”
>
> “III – six percent to Municipalities having between three hundred thousand and one inhabitants and five hundred thousand inhabitants;”
>
> “IV – five percent to Municipalities having over five hundred thousand inhabitants.”
>
> *“*Paragraph 1. The Town Council shall not spend more than seventy percent of its allocation on the payroll, including expenses on the compensation of its member councilmen.”
>
> *“*Paragraph 2. The following acts of the Municipal Mayor are crimes of malversation:”
>
> “I – to effect a remittance in excess of the limits stipulated in this article;”
>
> “II – not to effect a remittance before the twentieth day of each month;”
>
> “III – to effect a remittance below the proportion stipulated in the Budgetary Law.”
>
> *“*Paragraph 3. It shall be a crime of malversation for the President of the Town Council to disobey paragraph 1 of this article.”

Article 3. This Amendment shall come into force on January 1, 2001.

Brasília, February 14, 2000.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Michel Temer*, President – *Heráclito Fortes*, First Vice-President – *Severino Cavalcanti*, Second Vice-President – *Ubiratan Aguiar*, First Secretary – *Nelson Trad*, Second Secretary – *Jaques Wagner*, Third Secretary – *Efraim Morais*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Antônio Carlos Magalhães*, President – *Geraldo Melo*, First Vice-President – *Ademir Andrade*, Second Vice-President – *Ronaldo Cunha Lima*, First Secretary – *Carlos Patrocínio*, Second Secretary – *Nabor Júnior*, Third Secretary – *Casildo Maldaner*, Fourth Secretary.

Published in the *Official Journal*, February 15, 2000.

CONSTITUTIONAL AMENDMENT No. 26, 2000

Alters the wording of article 6 of the Federal Constitution.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Article 6 of the Federal Constitution shall henceforth be in force with the following wording:

> "Article 6. Education, health, work, housing, leisure, security, social security, protection of motherhood and childhood, and assistance to the destitute, are social rights, as set forth by this Constitution."

Article 2. This Amendment shall come into force on the date of its publication.

Brasília, February 14, 2000.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Michel Temer*, President – *Heráclito Fortes*, First Vice-President – *Severino Cavalcanti*, Second Vice-President – *Ubiratan Aguiar*, First Secretary – *Nelson Trad*, Second Secretary – *Jaques Wagner*, Third Secretary – *Efraim Morais*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Antônio Carlos Magalhães*, President – *Geraldo Melo*, First Vice-President – *Ademir Andrade*, Second Vice-President – *Ronaldo Cunha Lima*, First Secretary – *Carlos Patrocínio*, Second Secretary – *Nabor Júnior*, Third Secretary – *Casildo Maldaner*, Fourth Secretary.

Published in the *Official Journal*, February 15, 2000.

CONSTITUTIONAL AMENDMENT No. 27, 2000

Adds article 76 to the Temporary Constitutional Provisions Act, providing that a certain amount of the proceeds from the collection of Federal taxes and social contributions shall be free from earmarking.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Article 76 is included in the Temporary Constitutional Provisions Act, with the following wording:

> "Article 76. Twenty percent of the proceeds from the collection of Federal taxes and social contributions, already instituted or to be instituted in the period of 2000 to 2003, as well as their additional taxes and respective legal increases, shall not be earmarked to any agency, fund, or expense in the said period."
>
> *"*Paragraph 1. The provision of the head paragraph of this article shall not reduce the assesment basis of the transfers to the States, the Federal District, and the Municipalities under the terms of articles 153, paragraph 5; 157, I; 158, I and II; and 159, I, *a* and *b*, and II, of the Constitution, neither the assesment basis of the applications in programs to finance the productive sector of the North, Northeast, and Centre-West Regions mentioned in article 159, I, *c*, of the Constitution."
>
> *"*Paragraph 2. The proceeds from the collection of the social contribution for education mentioned in article 212, paragraph 5, of the Constitution, shall be excepted from the provision of the head paragraph of this article."

Article 2. This Amendment shall come into force on the date of its publication.

Brasília, March 21, 2000.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Michel Temer*, President – *Heráclito Fortes*, First Vice-President – *Severino Cavalcanti*, Second Vice-President – *Ubiratan Aguiar*, First Secretary – *Nelson Trad*, Second Secretary – *Jaques Wagner*, Third Secretary – *Efraim Morais*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Antônio Carlos Magalhães*, President – *Geraldo Melo*, First Vice-President – *Ademir Andrade*, Second Vice-President – *Ronaldo Cunha Lima*, First Secretary – *Carlos Patrocínio*, Second Secretary – *Nabor Júnior*, Third Secretary – *Casildo Maldaner*, Fourth Secretary.

Published in the *Official Journal*, March 22, 2000.

CONSTITUTIONAL AMENDMENT No. 28, 2000

Gives new wording to item XXIX of article 7 and revokes article 233 of the Federal Constitution.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Item XXIX of article 7 of the Federal Constitution shall henceforth read as follows:

> "XXIX – legal action, with respect to credits arising from employment relationships, with a limitation of five years for urban and rural workers, up to the limit of two years after the end of the employment contract;"
>
> "a) (Revoked);"
>
> "b) (Revoked);"

Article 2. Article 233 of the Federal Constitution is hereby revoked.

Article 3. This Amendment shall come into force on the date of its publication.

Brasília, May 25, 2000.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Michel Temer*, President – *Heráclito Fortes*, First Vice-President – *Severino Cavalcanti*, Second Vice-President – *Ubiratan Aguiar*, First Secretary – *Nelson Trad*, Second Secretary – *Jaques Wagner*, Third Secretary – *Efraim Morais*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Antônio Carlos Magalhães*, President – *Geraldo Melo*, First Vice-President – *Ademir Andrade*, Second Vice-President – *Ronaldo Cunha Lima*, First Secretary – *Carlos Patrocínio*, Second Secretary – *Casildo Maldaner*, Fourth Secretary.

Published in the *Official Journal*, May 26, 2000, rectified on May 29, 2000.

CONSTITUTIONAL AMENDMENT No. 29, 2000

Alters articles 34, 35, 156, 160, 167, and 198 of the Federal Constitution, and adds an article to the Temporary Constitutional Provisions Act, to guarantee a minimum amount of funds to finance health actions and public services.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Subitem *e* of item VII of article 34 shall henceforth read as follows:

"Article 34. .....

.....

VII – .....

e) the application of the minimum required amount of the revenues resulting from state taxes, including revenues originating from transfers, to the maintenance and development of education and to health actions and public services."

Article 2. Item III of article 35 shall henceforth read as follows:

"Article 35. .....

.....

III – the minimum required amount of the municipal revenues has not been applied to the maintenance and development of education and to health actions and public services;"

Article 3. Paragraph 1 of article 156 of the Federal Constitution shall henceforth read as follows:

"Article 156. .....

.....

Paragraph 1. Without prejudice to the progressiveness in time mentioned in article 182, paragraph 4, item II, the tax referred to in item I may:"

"I – be progressive according to the value of the property; and"

"II – have different rates according to the location and utilization of the property.

....."

Article 4. The sole paragraph of article 160 shall henceforth read as follows:

"Article 160. .....

.....

Sole paragraph. The prohibition mentioned in the present article does not prevent the Union and the states from remitting the funds on condition of:"

"I – payment of their credits, including those of the associate government agencies;"

"II – compliance with the provisions of article 198, paragraph 2, items II and III."

Article 5. Item IV of article 167 shall henceforth read as follows:

"Article 167. .....

.....

IV – to bind tax revenues to an agency, fund or expense, excepting the sharing of the proceeds from the collection of the taxes referred to in articles 158 and 159, the allocation of funds for health actions and public services and for the maintenance and development of education, as determined, respectively, in article 198, paragraph 2, and article 212, and the granting of guarantees on credit transactions by advance of revenues, as established in article 165, paragraph 8, as well as in paragraph 4 of the present article;

....."

Article 6. Article 198 shall henceforth include the following paragraphs 2 and 3, and the current sole paragraph shall be renumbered as paragraph 1:

"Article 198. .....

.....

Paragraph 1 (original sole paragraph) .....

Paragraph 2. The Union, the States, the Federal District, and the Municipalities shall apply each year, to health actions and public services, a minimum amount of funds derived from the application of percentages calculated upon the following:"

"I – in the case of the Union, in the manner defined under the terms of the supplementary law provided for in paragraph 3;"

"II – in the case of the States and of the Federal District, the proceeds from the collection of the taxes mentioned in article 155 and of the funds mentioned in articles 157 and 159, item I, subitem *a*, and item II, after deducting the portions remitted to the respective Municipalities;"

"III – in the case of the Municipalities and of the Federal District, the proceeds from the collection of the taxes mentioned in article

156 and of the funds mentioned in articles 158 and 159, item I, subitem *b*, and paragraph 3."

"Paragraph 3. A supplementary law to be revised at least every five years shall establish:"

"I – the percentages referred to in paragraph 2;"

"II – the criteria for the sharing of funds of the Union earmarked for health and assigned to the States, the Federal District, and the Municipalities, and of funds of the States assigned to their respective Municipalities, with a view to a progressive reduction of regional disparities;"

"III – the rules for supervision, assessment, and control of expenditures on health at the level of the Union, the States, the Federal District, and the Municipalities;"

"IV – the rules to calculate the amount to be applied by the Union."

Article 7. The Temporary Constitutional Provisions Act shall henceforth include the following article 77:

"Article 77. Until the financial year of 2004, the minimum amount of funds applied to health actions and public services shall be equivalent to:"

"I – in the case of the Union:"

"a) in the year 2000, the amount of checks issued to health actions and public services during the financial year of 1999, plus at least five percent;"

"b) from the year 2001 through the year 2004, the amount expended in the previous year, restated according to the nominal changes of the Gross Domestic Product – GDP;"

"II – in the case of the States and of the Federal District, twelve percent of the proceeds from the collection of the taxes referred to in article 155 and of the funds mentioned in articles 157 and 159, item I, subitem *a*, and item II, after deducting the portions transferred to the respective Municipalities;"

"III – in the case of the Municipalities and of the Federal District, fifteen percent of the proceeds from the collection of the taxes mentioned in article 156 and of the funds mentioned in articles 158 and 159, item I, subitem *b*, and paragraph 3."

"Paragraph 1. The States, the Federal District, and the Municipalities which apply percentages lower than those stipulated in items II and III shall raise them gradually, until the financial year of 2004, the difference being reduced at the rate of at least one fifth per year, and the application shall consist of at least seven percent as of the year 2000."

"Paragraph 2. At least fifteen percent of the funds of the Union expended under the terms of this article shall be applied in the Municipalities, according to the populational criterion, to health actions and public services, in accordance with the law."

"Paragraph 3. The funds of the States, the Federal District, and the Municipalities assigned for health actions and public services, as well as those transferred by the Union for the same purpose, shall be applied by means of the Health Fund, to be monitored and supervised by the Health Board, without prejudice to the provisions of article 74 of the Federal Constitution."

"Paragraph 4. In the absence of the supplementary law referred to in article 198, paragraph 3, the provisions of this article shall apply to the Union, the States, the Federal District, and the Municipalities as of the financial year of 2005."

Article 8. This Amendment shall come into force on the date of its publication.

Brasília, September 13, 2000.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Michel Temer*, President – *Heráclito Fortes*, First Vice-President – *Severino Cavalcanti*, Second Vice-President – *Ubiratan Aguiar*, First Secretary – *Nelson Trad*, Second Secretary – *Jaques Wagner*, Third Secretary – *Efraim Morais*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Antônio Carlos Magalhães*, President – *Geraldo Melo*, First Vice-President – *Ademir Andrade*, Second Vice-President – *Ronaldo Cunha Lima*, First Secretary – *Carlos Patrocínio*, Second Secretary – *Nabor Júnior*, Third Secretary.

Published in the *Official Journal*, September 14, 2000.

CONSTITUTIONAL AMENDMENT No. 30, 2000

Alters the wording of article 100 of the Federal Constitution, and adds article 78 to the Temporary Constitutional Provisions Act, regarding the payment of court order debts.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Article 100 of the Federal Constitution shall henceforth read as follows:

"Article 100. .....

.....

Paragraph 1. It is mandatory for the budgets of public entities to include the funds required for the payment of debts arising from final and unappealable judicial decisions, stated in court orders presented until or on July 1, and the payment shall be made before the close of the subsequent fiscal year, on which date their amounts shall be adjusted for inflation."

"Paragraph 1-A. Alimony debts include those arising from salaries, remuneration, pay, pensions, and their supplementations, social security benefits and compensation for death and disability, such compensation being based on civil liability, by virtue of a final and unappealable judicial decision."

"Paragraph 2. The budgetary allocations and the credits opened shall be assigned directly to the Judicial Power, it being within the competence of the President of the Court which rendered the decision of execution to determine payment, according to the possibilities of the deposit, and to authorize, upon petition of a creditor and exclusively in the event that his right of precedence is not respected, seizure of the amount required to satisfy the debt."

"Paragraph 3. The provision contained in the head paragraph of this article, regarding the emission of court orders, does not apply to bonds defined by law as being of a small amount, which must be paid by the Federal, State, or Municipal tax authorities by virtue of a final and unappealable judicial decision."

"Paragraph 4. The law may stipulate different amounts for the purpose set forth in paragraph 3 of this article, according to the different capacities of public entities."

"Paragraph 5. The President of the appropriate Court who, by means of an act or omission, delays or attempts to frustrate the regular payment of a court order debt shall be liable to crime of malversation."

Article 2. Article 78 is added to the Temporary Constitutional Provisions Act, with the following wording:

"Article 78. With the exception of credits defined by law as being of a small amount, credits for alimony, and credits stated in article 33 of this Temporary Constitutional Provisions Act and their supplementations, as well as those credits whose respective funds have already been released or paid into court, the court order debts for which payment is outstanding on the date of promulgation of this Amendment and those deriving from actions commenced before or on December 31, 1999, shall be settled according to their real value, in legal tender, including legal interests, in equal and successive annual installments, within ten years at the most, the assignment of credits being permitted."

"Paragraph 1. The division of installments is permitted, at the discretion of the creditor."

"Paragraph 2. In the event the annual installments referred to in the head paragraph of this article have not been paid before the end of the relevant fiscal year, they shall be deducted from the taxes owed to the debtor entity."

"Paragraph 3. The period of time referred to in the head paragraph of this article is reduced to two years, in the case of court order debts deriving from the expropriation of a creditor's residential property, provided that such property is proven to be the creditor's only residential property at the time of emission of a writ of ejectment."

"Paragraph 4. If the time limit has elapsed, or in the case of omission in the budget, or in the event the right of precedence is not respected, the President of the appropriate Court shall, upon petition of a creditor, requisition or order the seizure of funds of the debtor entity, at an amount sufficient to pay the installment."

Article 3. This Amendment shall come into force on the date of its publication.

Brasília, September 13, 2000.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Michel Temer*, President – *Heráclito Fortes*, First Vice-President – *Severino Cavalcanti*, Second Vice-President – *Ubiratan Aguiar*, First Secretary – *Nelson Trad*, Second Secretary – *Jaques Wagner*, Third Secretary – *Efraim Morais*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Antônio Carlos Magalhães*, President – *Geraldo Melo*, First Vice-President – *Ademir Andrade*, Second Vice-President – *Ronaldo Cunha Lima*, First Secretary – *Carlos Patrocínio*, Second Secretary – *Nabor Júnior*, Third Secretary.

Published in the *Official Journal*, September 14, 2000.

CONSTITUTIONAL AMENDMENT No. 31, 2000

Alters the Temporary Constitutional Provisions Act, introducing articles that establish the Fund to Fight and Eradicate Poverty.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. The following articles are added to the Temporary Constitutional Provisions Act of the Federal Constitution:

> "Article 79. The Fund to Fight and Eradicate Poverty, hereby instituted within the sphere of the Federal Executive Branch, shall be in force through the year 2010 and shall be regulated by a supplementary law, aiming at enabling all Brazilians to have access to adequate subsistence levels, and its resources shall be applied to supplementary initiatives regarding nutrition, housing, education, health, a complementary family income, and other programs of relevant social interest oriented towards the improvement of the quality of life.
>
> *Sole paragraph.* The Fund set forth in this article shall have an Advisory and Monitoring Board that must include representatives of civil society, under the terms of the law.
>
> Article 80. The Fund to Fight and Eradicate Poverty is comprised of:
>
> I – the part of the proceeds from the collection corresponding to additional eight hundredths of one percent, applicable from June 18, 2000, through June 17, 2002, to the rate of the social contribution referred to in article 75 of the Temporary Constitutional Provisions Act;
>
> II – the part of the proceeds from the collection corresponding to additional five percent on the rate of the federal VAT [IPI], or of the tax that may eventually replace it, levied on luxury goods and applicable while the Fund is in force;
>
> III – the proceeds from the collection of the tax referred to in article 153, item VII, of the Constitution;
>
> IV – budgetary appropriations;
>
> V – donations, of any nature, by individuals or corporations established in Brazil or abroad;
>
> VI – other revenues, to be defined by the legislation that regulates the Fund.

Paragraph 1. The provisions of articles 159 and 167, item IV, of the Constitution, are not applicable to the resources that make up the Fund, neither is any disconnection of budgetary resources.

Paragraph 2. The proceeds from the collection of the resources referred to in item I of this article, during the period from June 18, 2000 through the date the supplementary law mentioned in article 79 becomes effective, shall be remitted in full to the Fund, their real value being preserved, in federal government securities, progressively redeemable after June 18, 2002, under the terms of the law.

Article 81. A Fund is hereby instituted, to be comprised of the resources received by the Federal Government as a result of divestiture of government-controlled corporations and public entreprises controlled either directly or indirectly by the Federal Government, when such operation involves the divestment of the respective controlling interest to an individual or entity not belonging to the government bodies, or of any remaining equity interest following such divestment, and the income thereof, generated as from June 18, 2002, shall be transferred to the Fund to Fight and Eradicate Poverty.

Paragraph 1. In case the yearly amount of income to be transferred to the Fund to Fight and Eradicate Poverty, as set forth in this article, does not add up to the total of four billion reais, it shall be supplemented according to article 80, item IV, of the Temporary Constitutional Provisions Act.

Paragraph 2. Without prejudice to the provision of paragraph 1, the Executive Branch may allocate other revenues deriving from the sale of Federal Government assets to the Fund mentioned in this article.

Paragraph 3. The resources that make up the Fund referred to in the head paragraph of this article, the transfer of said resources to the Fund to Fight and Eradicate Poverty, and the other provisions concerning paragraph 1 of this article shall be regulated by law, and the provision of article 165, paragraph 9, item II of the Constitution shall not be applicable.

Article 82. The States, the Federal District, and the Municipalities shall institute Funds to Fight Poverty, comprised of the resources referred to in this article and other resources that may eventually be allocated for this purpose, and the said Funds shall be managed by entities which include the participation of civil society.

Paragraph 1. With a view to financing the State Funds and the Federal District Fund, an additional tax of up to two percent may be created, to raise the rate of the State VAT [ICMS], or the rate of the tax that may eventually replace it, levied on luxury goods

and services, and the provision of article 158, item IV, of the Constitution shall not be applicable to such additional tax.

Paragraph 2. With a view to financing the Municipal Funds, an additional tax of up to half of one percent may be created, to raise the rate of the local service tax [ISS], or the rate of the tax that may eventually replace it, levied on luxury services.

Article 83. A federal law shall define the luxury goods and services referred to in articles 80, item II, and 82, paragraphs 1 and 2."

Article 2. This Amendment shall come into force on the date of its publication.

Brasília, December 14, 2000.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Michel Temer*, President – *Heráclito Fortes*, First Vice-President – *Severino Cavalcanti*, Second Vice-President – *Ubiratan Aguiar*, First Secretary – *Nelson Trad*, Second Secretary – *Jaques Wagner*, Third Secretary – *Efraim Morais*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Antônio Carlos Magalhães*, President – *Geraldo Melo*, First Vice-President – *Ademir Andrade*, Second Vice-President – *Ronaldo Cunha Lima*, First Secretary – *Carlos Patrocínio*, Second Secretary – *Nabor Júnior*, Third Secretary.

Published in the *Official Journal*, December 18, 2000.

CONSTITUTIONAL AMENDMENT No. 32, 2001

Alters provisions of articles 48, 57, 61, 62, 64, 66, 84, 88, and 246 of the Federal Constitution, and makes other provisions.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Articles 48, 57, 61, 62, 64, 66, 84, 88, and 246 of the Federal Constitution shall henceforth read as follows:

"Article 48. .....

.....

X – creation, change, and abolishment of public offices, positions and functions, with due regard for article 84, VI, *b*;

XI – creation and abolishment of Ministries and Government bodies;

....."

"Article 57. .....

.....

Paragraph 7. In a special legislative session, the National Congress shall deliberate only upon the matter for which it was called, exception being made for the event mentioned in paragraph 8, the payment of a compensatory amount in excess of the monthly compensation being forbidden.

Paragraph 8. If there are provisional measures in effect on the date a special session of the National Congress is called, they shall be automatically included in the agenda of the session."

"Article 61. .....

.....

Paragraph 1. .....

II – .....

e) creation and abolishment of Ministries and Government bodies, with due regard for the provision of article 84, VI;

....."

"Article 62. In important and urgent cases, the President of the Republic may adopt provisional measures with the force of law and shall submit them to the National Congress immediately.

Paragraph 1. The issuance of provisional measures is forbidden when the matter involved:

I – deals with:

a) nationality, citizenship, political rights, political parties, and election law;

b) criminal law, criminal procedural law, and civil procedural law;

c) organization of the Judicial Branch and of the Public Prosecution, the career and guarantees of their members;

d) pluriannual plans, budgetary directives, budgets, and additional and supplementary credits, with the exception of the provision mentioned in article 167, paragraph 3;

II – aims at the detention or seizure of goods, people's savings, or any other financial asset;

III – is reserved for a supplementary law;

IV – has already been regulated by a bill of law passed by the National Congress which is awaiting sanction or veto by the President of the Republic.

Paragraph 2. A provisional measure to institute or increase taxes, with the exception of the taxes mentioned in articles 153, I, II, IV, V, and 154, II, shall only produce effects in the subsequent financial year if it has been converted into law before or on the last day of the financial year in which it was issued.

Paragraph 3. With the exception of the provisions mentioned in paragraphs 11 and 12, provisional measures shall lose effectiveness from the day of their issuance if they are not converted into law within a period of sixty days, which may be extended once for an identical period of time under the terms of paragraph 7, and the National Congress shall issue a legislative decree to regulate the legal relations arising therefrom.

Paragraph 4. The period mentioned in paragraph 3 shall be counted from the date of publication of the provisional measure and shall be interrupted while the National Congress is in recess.

Paragraph 5. Deliberation by each House of the National Congress upon the merits of provisional measures shall depend on prior determination of their compliance with the constitutional requirements.

Paragraph 6. If a provisional measure is not examined within forty-five days as of its date of publication, it shall subsequently be forwarded to urgent consideration in each House of the National Congress, and the deliberation of all other legislative

matters shall be suspended in the House where it is under consideration, until such time as voting is concluded.

Paragraph 7. If the voting of a provisional measure is not concluded in both Houses of the National Congress within the period of sixty days as of its date of publication, its period of effectiveness may be extended once for an identical period of time.

Paragraph 8. The voting of provisional measures shall start in the House of Deputies.

Paragraph 9. It is incumbent upon the joint committee of Deputies and Senators to examine provisional measures and issue an opinion thereon, before they are submitted to floor action in each House of the National Congress in a separate session.

Paragraph 10. It is forbidden to reissue a provisional measure in the same legislative session in which it was rejected or lost its effectiveness due to lapse of time.

Paragraph 11. If the legislative decree mentioned in paragraph 3 is not issued within sixty days as of the date the provisional measure was rejected or lost its effectiveness, the legal relations constituted and arising from acts performed during its period of effectiveness shall still be regulated by such provisional measure.

Paragraph 12. Should a bill of law be passed that alters the original text of a provisional measure, the latter will remain effective in full until such date as the bill is sanctioned or vetoed."

"Article 64. .....

Paragraph 2. If, in the event of paragraph 1, the Chamber of Deputies and the Federal Senate fail to act, each one, sucessively, on the proposition, within the period of forty-five days, deliberation on all other legislative matters shall be suspended in the respective House, save those which must be considered within a stipulated constitutional period, in order that the voting may be concluded.

....."

"Article 66. .....

Paragraph 6. If the period of time established in paragraph 4 elapses without a decision being reached, the veto shall be included in the order of the day of the subsequent session, and all other propositions shall be suspended until its final voting.

....."

"Article 84. .....

VI – provide for the following, by means of a decree:

a) organization and operation of federal government services, whenever no augmentation of expenditures or creation or abolishment of government bodies is involved;

b) abolishment of public positions or posts, if vacant;

..... "

"Article 88. The law shall provide for the creation and abolishment of Ministries and government bodies."

"Article 246. The adoption of a provisional measure for the regulation of any article of the Constitution the wording of which has been altered by means of an amendment enacted between January 1, 1995 and the date of enactment of this amendment is forbidden."

Article 2. Any provisional measures issued on a date prior to the date of publication of this amendment shall remain in force until such time as a subsequent provisional measure explicitly revokes them or until final deliberation by the National Congress.

Article 3. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, September 11, 2001.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Aécio Neves*, President – *Efraim Morais*, First Vice-President – *Barbosa Neto*, Second Vice-President – *Nilton Capixaba*, Second Secretary – *Paulo Rocha*, Third Secretary – *Ciro Nogueira*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Edison Lobão*, President Pro-Tempore – *Antonio Carlos Valadares*, Second Vice-President – *Carlos Wilson*, First Secretary – *Antero Paes de Barros*, Second Secretary – *Ronaldo Cunha Lima*, Third Secretary – *Mozarildo Cavalcanti*, Fourth Secretary.

Published in the *Official Journal*, September 12, 2001.

CONSTITUTIONAL AMENDMENT No. 33, 2001

Alters articles 149, 155, and 177 of the Federal Constitution.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Article 149 of the Federal Constitution shall henceforth be in force with the addition of the following paragraphs, and the current sole paragraph shall be renumbered as paragraph 1:

"Article 149. .....

.....

Paragraph 1. .....

Paragraph 2. The social contribution taxes mentioned in the head paragraph of this article, as well as the contribution taxes regarding intervention in the economic domain:

I – shall not be levied on export earnings;

II – may be levied on the importation of petroleum and petroleum products, natural gas and its by-products, and fuel alcohol;

III – may have the following rates:

a) *ad valorem* rates, having as basis the proceeds, gross revenues, or the value of the transaction, and, in the case of importation, the customs value;

b) specific rates, having as basis the unit of measurement adopted.

Paragraph 3. A natural person who is the recipient in an import transaction may be held as equivalent to a corporate body, under the terms of the law.

Paragraph 4. The law shall establish the cases in which contributions will be levied only once."

Article 2. Article 155 of the Federal Constitution shall henceforth be in force with the following alterations:

"Article 155. .....

.....

Paragraph 2. .....

IX – .....

a) on the entry of goods or products imported from abroad by an individual or corporate body, even in the case of a taxpayer who does not pay such tax on a regular basis, regardless of its purpose, as well as on services rendered abroad, and the tax shall be attributed to the state where the domicile or the establishment of the recipient of the product, good, or service is located;

.....

XII – .....

h) define the fuels and lubricants on which this tax shall be levied only once, regardless of its purpose, in which case the provision of item X, *b*, shall not apply;

i) stipulate the assessment basis so as to include the amount of the tax, also in the event of importation of goods, products, or services from abroad.

Paragraph 3. With the exception of the taxes mentioned in item II of the head paragraph of the present article, and article 153, I and II, no other tax may be levied on transactions concerning electric energy, telecommunications services, petroleum products, fuels, and minerals of the country.

Paragraph 4. In the event of item XII, *h*, the following shall apply:

I – in transactions involving lubricants and petroleum-derived fuels, the tax shall be attributed to the state where consumption takes place;

II – in interstate transactions among taxpayers involving natural gas and its by-products, and lubricants and fuels not included in item I of this paragraph, the tax shall be shared by the state of origin and the state of destination, and the proportion existing in transactions involving other goods shall be observed;

III – in interstate transactions involving natural gas and its by-products, and lubricants and fuels not included in item I of this paragraph, when it is not incumbent upon the recipient to pay the tax, such tax shall be attributed to the state of origin;

IV – the tax rates shall be defined by joint decision of states and the Federal District, under the terms of paragraph 2, XII, *g*, with due regard for the following:

a) they shall be uniform throughout the national territory, and they may be different for each product;

b) they may be specific, according to the unit of measurement adopted, or *ad valorem*, levied on the value of the transaction or on the price the product or a similar product would be sold for in free competition circumstances;

c) they may be lowered and restored to their original levels, and the provision of article 150, III, *b*, shall not apply thereto.

Paragraph 5. The rules for the enforcement of the provisions of paragraph 4, including those concerning the collection and assignment of the tax, shall be established by joint decision of states and the Federal District, under the terms of paragraph 2, XII, *g*."

Article 3. Article 177 of the Federal Constitution shall henceforth include the following paragraph:

"Article 177. .....

.....

Paragraph 4. The law which institutes a contribution tax of intervention in the economic domain regarding activities of importation or sale of petroleum and petroleum products, natural gas and its by-products, and fuel alcohol shall include the following requirements:

I – the contribution rate may be:

a) different for each product or use;

b) lowered and restored to its original level by an act of the Executive Branch, and the provision of article 150, III, *b*, shall not apply thereto;

II – the proceeds from the collection of the contribution shall be allocated:

a) to the payment of price or transportation subsidies for fuel alcohol, natural gas and its by-products, and petroleum products;

b) to the financing of environmental projects related to the petroleum and gas industry;

c) to the financing of transportation infrastructure programs."

Article 4. Until such time as the supplementary law mentioned in article 155, paragraph 2, XII, *h*, of the Federal Constitution, comes into force, the states and the Federal District, by means of an agreement entered into under the terms of paragraph 2, XII, *g*, of the said article, shall establish provisional rules to regulate the matter.

Article 5. This Constitutional Amendment shall come into force on the date of its promulgation.

Brasília, December 11, 2001.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Aécio Neves*, President – *Efraim Morais*, First Vice-President – *Barbosa Neto*, Second Vice-

President – *Severino Cavalcanti*, First Secretary – *Nilton Capixaba*, Second Secretary – *Paulo Rocha*, Third Secretary – *Ciro Nogueira*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Ramez Tebet*, President – *Edison Lobão*, First Vice-President – *Antonio Carlos Valadares*, Second Vice-President – *Carlos Wilson*, First Secretary – *Antero Paes de Barros*, Second Secretary – *Ronaldo Cunha Lima*, Third Secretary – *Mozarildo Cavalcanti*, Fourth Secretary.

Published in the *Official Journal*, December 12, 2001.

CONSTITUTIONAL AMENDMENT No. 34, 2001

Gives new wording to subitem "c" of item XVI of article 37 of the Federal Constitution.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Subitem *c* of item XVI of article 37 of the Federal Constitution shall henceforth read as follows:

"Article 37. .....

.....

XVI – .....

c) of two positions or jobs which are exclusive for health professionals, with regulated professions;

....."

Article 2. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, December 13, 2001.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Aécio Neves*, President – *Barbosa Neto*, Second Vice-President – *Nilton Capixaba*, Second Secretary – *Paulo Rocha*, Third Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Ramez Tebet*, President – *Edison Lobão*, First Vice-President – *Antonio Carlos Valadares*, Second Vice-President – *Carlos Wilson*, First Secretary – *Antero Paes de Barros*, Second Secretary – *Ronaldo Cunha Lima*, Third Secretary – *Mozarildo Cavalcanti*, Fourth Secretary.

Published in the *Official Journal*, December 14, 2001.

CONSTITUTIONAL AMENDMENT No. 35, 2001

Gives new wording to article 53 of the Federal Constitution.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Article 53 of the Federal Constitution shall henceforth be in force with the following alterations:

> "Article 53. Deputies and Senators enjoy civil and criminal inviolability on account of any of their opinions, words and votes.
>
> Paragraph 1. Deputies and Senators, from the date of issuance of the certificate of election victory, shall be tried by the Supreme Federal Court.
>
> Paragraph 2. From the date of issuance of the certificate of election victory, the members of the National Congress may not be arrested, except in *flagrante delicto* of a non-bailable offense. In such case, the case records shall be sent within twenty-four hours to the respective House, which, by the vote of the majority of its members, shall decide on the arrest.
>
> Paragraph 3. Upon receiving an accusation against a Senator or Deputy, for an offense committed after the issuance of the certificate of election victory, the Supreme Federal Court shall inform the respective House, which, by the initiative of a political party therein represented and by the vote of the majority of those House members, may, until such time as a final decision is issued, stay consideration of the action.
>
> Paragraph 4. The request for stay shall be examined by the respective House within the unextendable period of forty-five days as from its receipt by the Directing Board.
>
> Paragraph 5. The stay of proceedings shall suspend the limitation for the duration of the term of office.
>
> Paragraph 6. Deputies and Senators shall not be compelled to render testimony on information received or given by virtue of the exercise of their mandate, nor on persons who rendered them information or received information from them.
>
> Paragraph 7. Incorporation into the Armed Forces of Deputies and Senators, even if they hold military rank and even in time of war shall depend upon the prior granting of permission by the respective House.

Paragraph 8. The immunities of Deputies and Senators shall be maintained during a state of siege and may only be suspended by the vote of two-thirds of the members of the respective House, in the case of acts committed outside the premises of Congress, which are not compatible with the implementation of such measure."

Article 2. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, December 20, 2001.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Aécio Neves*, President – *Efraim Morais*, First Vice-President – *Barbosa Neto*, Second Vice-President – *Severino Cavalcanti*, First Secretary – *Nilton Capixaba*, Second Secretary – *Paulo Rocha*, Third Secretary – *Ciro Nogueira*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Ramez Tebet*, President – *Edison Lobão*, First Vice-President – *Antonio Carlos Valadares*, Second Vice-President – *Carlos Wilson*, First Secretary – *Antero Paes de Barros*, Second Secretary – *Ronaldo Cunha Lima*, Third Secretary – *Mozarildo Cavalcanti*, Fourth Secretary.

Published in the *Official Journal*, December 21, 2001.

CONSTITUTIONAL AMENDMENT No. 36, 2002

Gives new wording to article 222 of the Federal Constitution, to allow the participation of legal entities in the capital stock of newspaper companies, sound broadcasting companies, and sound and image broadcasting companies, under the conditions herein stipulated.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Article 222 of the Federal Constitution shall henceforth read as follows:

> "Article 222. Newspaper companies, sound broadcasting companies, or sound and image broadcasting companies, shall be owned exclusively by native Brazilians or those naturalized for more than ten years, or by legal entities incorporated under Brazilian laws and headquartered in Brazil.
>
> Paragraph 1. In all circumstances, at least seventy per cent of the total capital stock and of the voting capital of newspaper companies, sound broadcasting companies, or sound and image broadcasting companies, shall be owned directly or indirectly by native Brazilians or those naturalized for more than ten years, who shall mandatorily exercise the management of activities and shall define the content of programming.
>
> Paragraph 2. Editorial responsibility and the activities regarding selection and management of the programming to be disseminated shall be carried out exclusively by native Brazilians or those naturalized for more than ten years, in any social communication medium.
>
> Paragraph 3. Electronic social communication media, regardless of the technology used to deliver the service, shall comply with the principles stipulated in article 221, as provided by specific legislation, which shall also ensure priority to Brazilian professionals in the production of Brazilian programs.
>
> Paragraph 4. Specific legislation shall regulate the participation of foreign capital in the companies mentioned in paragraph 1.
>
> Paragraph 5. Any alterations in the corporate control of the companies mentioned in paragraph 1 must be communicated to the National Congress."

Article 2. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, May 28, 2002.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Aécio Neves*, President – *Barbosa Neto*, Second Vice-President – *Severino Cavalcanti*, First Secretary – *Nilton Capixaba*, Second Secretary – *Paulo Rocha*, Third Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Ramez Tebet*, President – *Edison Lobão*, First Vice-President – *Antonio Carlos Valadares*, Second Vice-President – *Carlos Wilson*, First Secretary – *Antero Paes de Barros*, Second Secretary – *Mozarildo Cavalcanti*, Fourth Secretary.

Published in the *Official Journal*, May 29, 2002.

CONSTITUTIONAL AMENDMENT No. 37, 2002

Alters articles 100 and 156 of the Federal Constitution and adds articles 84, 85, 86, 87, and 88 to the Temporary Constitutional Provisions Act.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Article 100 of the Federal Constitution shall henceforth be in force with the addition of the following paragraph 4, and the subsequent paragraphs shall be renumbered:

> "Article 100. .....
>
> .....
>
> Paragraph 4. The issuance of a court order as a supplementation to or in addition to an amount to be paid, as well as the parceling, apportionment, or reduction of the amount under execution are forbidden, so that payment will not be made, in part, as stipulated in paragraph 3 of this article, and, in part, by means of the issuance of a court order.
>
> ....."

Article 2. Paragraph 3 of article 156 of the Federal Constitution shall henceforth read as follows:

> "Article 156. .....
>
> .....
>
> Paragraph 3. As regards the tax established in item III of the head paragraph of this article, a supplementary law shall:
>
> I – establish its maximum and minimum rates;
>
> .....
>
> III – regulate the manner and conditions for the granting and revocation of fiscal exemptions, incentives, and benefits.
>
> ....."

Article 3. The Temporary Constitutional Provisions Act shall henceforth be in force with the addition of the following articles 84, 85, 86, 87, and 88:

> "Article 84. The provisional contribution on the movement or transmission of monies and of credits and rights of a financial nature, set forth in articles 74, 75, and 80, I, of this Temporary

Constitutional Provisions Act, shall be collected through December 31, 2004.

Paragraph 1. The effect of Law no. 9,311, of October 24, 1996, as well as of its alterations, is hereby extended through the date mentioned in the head paragraph of this article.

Paragraph 2. Of the proceeds from collection of the social contribution mentioned in this article, the portion corresponding to the following rates shall be allocated to the purposes herein stated:

I – twenty hundredths percent to the National Health Fund, for the financing of health actions and services;

II – ten hundredths percent to the financing of social security;

III – eight hundredths percent to the Fund to Fight and Eradicate Poverty, set forth in articles 80 and 81 of this Temporary Constitutional Provisions Act.

Paragraph 3. The rate of the contribution mentioned in this article shall be equal to:

I – thirty-eight hundredths percent in the financial years of 2002 and 2003;

II – eight hundredths percent in the financial year of 2004, and it shall be wholly allocated to the Fund to Fight and Eradicate Poverty, set forth in articles 80 and 81 of this Temporary Constitutional Provisions Act.

Article 85. The contribution mentioned in article 84 of this Temporary Constitutional Provisions Act shall not be levied, as from the thirtieth day after the publication of this Constitutional Amendment, on entries concerning:

I – current deposit accounts especially opened and exclusively used for transactions carried out by:

a) clearinghouses and providers of clearing and settlement services referred to in article 2, sole paragraph, of Law no. 10,214, of March 27, 2001;

b) securitization companies referred to in Law no. 9,514, of November 20, 1997;

c) business corporations whose exclusive purpose is to purchase credits originating from transactions carried out in the financial market;

II – current deposit accounts, when such entries are related to:

a) stock purchase and sale transactions, effected within stock exchange trading floors or electronic systems, and in the organized over-the-counter market;

b) contracts written on stocks or stock indices, in their various modes, negotiated in stock exchanges, commodities and futures exchanges;

III – foreign investors' accounts, regarding entries into and remittances from Brazil of funds employed exclusively in transactions and contracts referred to in item II of this article.

Paragraph 1. The Executive Branch shall regulate the provisions of this article within thirty days as of the date of publication of this Constitutional Amendment.

Paragraph 2. The provisions of item I of this article apply only to the transactions specified in an act issued by the Executive Branch, from among the transactions that constitute the purpose of said entities.

Paragraph 3. The provisions of item II of this article apply only to transactions and contracts effected through financial institutions, securities brokerage houses, securities distribution companies, and commodities brokerage houses.

Article 86. Debts that must be paid by the Federal, State, Federal District, or Municipal Tax Authorities by virtue of final and unappealable judicial decisions shall be paid in accordance with the provisions of article 100 of the Federal Constitution, the parceling rule established in the head paragraph of article 78 of this Temporary Constitutional Provisions Act not being applicable, if such debts meet the following cumulative conditions:

I – having been the subject of a court order;

II – having been defined as small amount debts by the law referred to in paragraph 3 of article 100 of the Federal Constitution, or by article 87 of this Temporary Constitutional Provisions Act;

III – their payment being outstanding, in whole or in part, on the date of publication of this Constitutional Amendment.

Paragraph 1. The debts referred to in the head paragraph of this article, or their respective balances, shall be paid in chronological order of presentation of the respective court orders, with precedence over debts of a higher amount.

Paragraph 2. If the debts referred to in the head paragraph of this article have not been subject to partial payment yet, under the terms of article 78 of this Temporary Constitutional Provisions Act, they may be paid in two annual installments, as the law provides.

Paragraph 3. The payment of the alimony debts referred to in this article, with due respect for the chronological order of their presentation, shall take precedence over the payment of all other debts.

Article 87. For purposes of the provisions set forth in paragraph 3 of article 100 of the Federal Constitution, and in article 78 of this Temporary Constitutional Provisions Act, and until such time as the official publication of the respective defining acts by the units of the Federation is effected, the debts or bonds stated in court orders shall be considered as being of a small amount, with due regard for paragraph 4 of article 100 of the Federal Constitution, if their amount is equal to or lesser than:

I – forty minimum monthly wages, in the case of debts owed by the Tax Authorities of the States and of the Federal District;

II – thirty minimum monthly wages, in the case of debts owed by the Tax Authorities of the Municipalities.

Sole paragraph. Should the amount under execution exceed the amount stipulated in this article, payment shall always be made by means of a court order, the execution creditor being entitled to waiving the credit of the excess amount, so that he may opt to receive the balance without the emission of a court order, in the manner set forth in paragraph 3 of article 100.

Article 88. Until such time as a supplementary law regulates the provisions of items I and III of paragraph 3 of article 156 of the Federal Constitution, the tax referred to in item III of the head paragraph of said article shall:

I – have a minimum rate of two percent, save for the services referred to in items 32, 33, and 34 of the List of Services appended to Decree-Law no. 406, of December 31, 1968;

II – not be subject to the granting of fiscal exemptions, incentives, and benefits, should the direct or indirect result of such granting be the reduction of the minimum rate stipulated in item I."

Article 4. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, June 12, 2002.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Aécio Neves*, President – *Barbosa Neto*, Second Vice-President – *Nilton Capixaba*, Second Secretary – *Paulo Rocha*, Third Secretary – *Ciro Nogueira*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Ramez Tebet*, President – *Edison Lobão*, First Vice-President – *Carlos Wilson*, First Secretary – *Antero Paes de Barros*, Second Secretary – *Ronaldo Cunha Lima*, Third Secretary – *Mozarildo Cavalcanti*, Fourth Secretary.

Published in the *Official Journal*, June 13, 2002.

CONSTITUTIONAL AMENDMENT No. 38, 2002

Adds article 89 to the Temporary Constitutional Provisions Act, to include the Uniformed Police Force of the former Federal Territory of Rondônia in the Personnel Cadre of the Union.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. The Temporary Constitutional Provisions Act shall henceforth include the following article 89:

> "Article 89. The members of the uniformed police force of the former Federal Territory of Rondônia, who, in accordance with official documents, were regularly exercising their functions and rendering services to such former Territory at the time it was transformed into a State, as well as the uniformed police officers who were appointed by virtue of a federal law and are paid by the Union, shall be included in a special job class to be eventually terminated within the federal government services, being ensured of their specific rights and advantages, whereas the payment, under any circumstances, of remuneration differences, as well as reimbursement or compensation of any nature, prior to the promulgation of this Amendment, shall be forbidden.
>
> *Sole paragraph.* The members of the uniformed police force shall go on rendering services to the State of Rondônia in the quality of detailed personnel, subject to the legal and regulatory provisions which govern the corps of their respective uniformed police force, with due regard for compatibility between the duties of their function and their rank in the hierarchy."

Article 2. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, June 12, 2002.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Aécio Neves*, President – *Barbosa Neto*, Second Vice-President – *Nilton Capixaba*, Second Secretary – *Paulo Rocha*, Third Secretary – *Ciro Nogueira*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Ramez Tebet*, President – *Edison Lobão*, First Vice-President – *Carlos Wilson*, First Secretary – *Antero Paes de Barros*, Second Secretary – *Ronaldo Cunha Lima*, Third Secretary – *Mozarildo Cavalcanti*, Fourth Secretary.

Published in the *Official Journal*, June 13, 2002.

CONSTITUTIONAL AMENDMENT No. 39, 2002

Adds article 149-A to the Federal Constitution (creates a contribution to finance public lighting services in the Municipalities and in the Federal District).

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. The Federal Constitution shall henceforth include the following article 149-A:

> "Article 149-A. The Municipalities and the Federal District may establish a contribution, under the terms of their respective laws, to finance the public lighting service, with due regard for the provisions of article 150, I and III.
>
> *Sole paragraph.* The contribution mentioned in the head paragraph of this article may be charged to the consumer's electricity bill."

Article 2. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, December 19, 2002.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *Efraim Morais*, President – *Barbosa Neto*, Second Vice-President – *Severino Cavalcanti*, First Secretary – *Nilton Capixaba*, Second Secretary – *Paulo Rocha*, Third Secretary – *Ciro Nogueira*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *Ramez Tebet*, President – *Edison Lobão*, First Vice-President – *Antonio Carlos Valadares*, Second Vice-President – *Carlos Wilson*, First Secretary – *Mozarildo Cavalcanti*, Fourth Secretary.

Published in the *Official Journal*, December 20, 2002.

CONSTITUTIONAL AMENDMENT No. 40, 2003

Alters item V of article 163 and article 192 of the Federal Constitution, and the head paragraph of article 52 of the Temporary Constitutional Provisions Act.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Item V of article 163 of the Federal Constitution shall henceforth read as follows:

> "Article 163. .....
>
> .....
>
> V – financial supervision of governmental entities and entities owned by the Federal Government;
>
> ....."

Article 2. Article 192 of the Federal Constitution shall henceforth read as follows:

> "Article 192. The national financial system, structured to promote the balanced development of the country and to serve the collective interests, in all of the component elements of the system, including credit cooperatives, shall be regulated by supplementary laws which shall also provide for the participation of foreign capital in the institutions that make up the said system.
>
> I – (Revoked);
>
> II – (Revoked);
>
> III – (Revoked);
>
> a) (Revoked);
>
> b) (Revoked);
>
> IV – (Revoked);
>
> V – (Revoked);
>
> VI – (Revoked);
>
> VII – (Revoked);
>
> VIII – (Revoked).
>
> Paragraph 1. (Revoked).

Paragraph 2. (Revoked).

Paragraph 3. (Revoked)."

Article 3. The head paragraph of article 52 of the Temporary Constitutional Provisions Act shall henceforth read as follows:

"Article 52. Until such time as the conditions referred to in article 192 are established, the following are forbidden:

....."

Article 4. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, May 29, 2003.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: *João Paulo Cunha*, President – *Inocêncio de Oliveira*, First Vice-President – *Luiz Piauhylino*, Second Vice-President – *Geddel Vieira Lima*, First Secretary – *Severino Cavalcanti*, Second Secretary – *Nilton Capixaba*, Third Secretary – *Ciro Nogueira*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: *José Sarney*, President – *Paulo Paim*, First Vice-President – *Eduardo Siqueira Campos*, Second Vice-President – *Romeu Tuma*, First Secretary – *Alberto Silva*, Second Secretary – *Heráclito Fortes*, Third Secretary – *Sérgio Zambiasi*, Fourth Secretary.

Published in the *Official Journal*, May 30, 2003.

CONSTITUTIONAL AMENDMENT No. 41, 2003

Alters articles 37, 40, 42, 48, 96, 149, and 201 of the Federal Constitution, revokes item IX of paragraph 3 of article 142 of the Federal Constitution and provisions of Constitutional Amendment no. 20, of December 15, 1998, and makes further provisions.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60, of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. The Federal Constitution shall henceforth read as follows:

"Article 37. .....

.....

XI – the remuneration and the compensation of the holders of public offices, functions, and positions in governmental entities, associate government agencies, and foundations; of the members of any of the Powers of the Union, of the States, the Federal District, and the Municipalities; of the holders of elective offices, and of any other political agent, as well as the pay, pension, or other type of remuneration, earned on a cumulative basis or not, including advantages of a personal nature or of any other nature, may not be higher than the monthly compensation, in legal tender, of the Justices of the Supreme Federal Court, and the following limits shall be applied: in Municipalities, the compensation of the Mayor; in the States and in the Federal District, the monthly compensation of the Governor in the sphere of the Executive Branch, the compensation of State and Federal District Deputies in the sphere of the Legislative Branch, and the compensation of the Judges of the State Court of Justice, limited to ninety and twenty-five hundredths percent of the monthly compensation, in legal tender, of the Justices of the Supreme Federal Court in the sphere of the Judicial Branch, this limit being applicable to the members of the Office of the Public Interest Attorney, to Prosecutors, and to Public Legal Defenders;

....."

"Article 40. Employees holding effective posts in the Union, the States, the Federal District, and the Municipalities, therein included their associate government agencies and foundations,

are ensured of a social security scheme on a contributory and solidary basis, with contributions from the respective public entity, from the current employees, retired personnel, and pensioners, with due regard for criteria that preserve financial and actuarial balance and for the provisions of this article.

Paragraph 1. The employees covered by the social security scheme set forth in this article shall go into retirement, their pensions being calculated according to the amounts stipulated under the terms of paragraphs 3 and 17:

I – for permanent disability, with a pension in proportion to the period of contribution, except when such disability results from a work-related injury, a professional disease, or a serious, contagious, or incurable illness, under the terms of the law;

.....

Paragraph 3. The calculation of the retirement pension, at the time retirement is granted, shall take into account the remunerations used as basis for the contributions of the employee to the social security schemes mentioned in this article and in article 201, under the terms of the law.

.....

Paragraph 7. The law shall provide for the granting of the benefit of a death pension, which will be equal to:

I – the total amount of the retirement pension of the deceased employee, up to the maximum limit established for the benefits of the general social security scheme referred to in article 201, increased by seventy percent of the amount in excess of this limit, if the employee had already retired on the date of his death; or

II – the total amount of the remuneration of the employee in the effective post he was holding on the date of his death, up to the maximum limit established for the benefits of the general social security scheme referred to in article 201, increased by seventy percent of the amount in excess of this limit, if the employee was in active service on the date of his death.

Paragraph 8. Readjustment of the benefits is ensured, to the end that their real value is permanently maintained, in accordance with criteria established by law.

.....

Paragraph 15. The complementary social security scheme referred to in paragraph 14 shall be instituted by an act of the respective Executive Power, with due regard for the provisions of article 202 and its paragraphs, insofar as pertinent, through closed private pension plan companies, of a public nature, which

will offer to their respective participants benefit plans exclusively in the defined contribution mode.

.....

Paragraph 17. All remuneration amounts taken into account in the calculation of the benefit set forth in paragraph 3 shall be duly updated, under the terms of the law.

Paragraph 18. A contribution shall be levied on retirement pensions and other pensions granted by the scheme referred to in this article if such pensions exceed the maximum limit established for the benefits of the general social security scheme mentioned in article 201, at a percentage equal to the one established for employees holding effective posts.

Paragraph 19. Employees referred to in this article who have fulfilled the requirements for voluntary retirement stipulated in paragraph 1, III, *a*, and who choose to remain working shall be entitled to a continuous activity bonus equivalent to the amount of their social security contribution until such date as they fulfill the requirements for compulsory retirement set forth in paragraph 1, II.

Paragraph 20. The establishment of more than one special social security scheme for employees holding effective posts, and of more than one unit to manage the respective scheme in each state is forbidden, except for the provision of article 142, paragraph 3, X."

"Article 42. .....

Paragraph 2. The provisions that may be established by a specific act of the respective state shall apply to the pensioners of the military of the States, of the Federal District, and of the Territories."

"Article 48. .....

XV – stipulation of the compensation for the Justices of the Supreme Federal Court, with due regard for articles 39, paragraph 4; 150, II; 153, III; and 153, paragraph 2, I."

"Article 96. .....

II – .....

b) creation and abolishment of offices and the remuneration of the auxiliary services and of the courts connected with them, as well as the establishment of the compensation for their members and for the judges, including those of the lower courts, if existing;

....."

"Article 149. .....

.....

Paragraph 1. The states, the Federal District, and the municipalities shall institute a contribution payable by their employees to fund the social security scheme referred to in article 40, for the benefit of such employees, and the respective rate may not be lower than the rate of the contribution paid by employees holding effective posts in the Union.

....." "Article 201. .....

.....

Paragraph 12. The law shall provide for a special system to include low-income workers in the social security system, so that they have guaranteed access to benefits at an amount equal to a monthly minimum salary, except for retirement benefits due to contribution period."

Article 2. With due regard for the provision of article 4 of Constitutional Amendment no. 20, December 15, 1998, the right to opt for voluntary retirement with pay calculated according to article 40, paragraphs 3 and 17, of the Federal Constitution, is ensured to employees who have properly taken effective posts in government services, associate government agencies, and foundations, before the date of publication of said Amendment, when such employees meet the following cumulative conditions:

I – fifty-three years of age, if a man, and forty-eight, if a woman;

II – five years of effective exercise in the post from which retirement takes place;

III – a period of contribution equal to at least the sum of:

a) thirty-five years, if a man, and thirty years, if a woman; and

b) an additional period of contribution equivalent to twenty percent of the period which, at the date of publication of said Amendment, would still be necessary to reach the limit set forth in letter *a* of this item.

Paragraph 1. The employees mentioned in this article who meet the requirements for retirement under the terms of the head paragraph shall have their retirement pay reduced for each year their retirement is brought forward as regards the age limits established by article 40, paragraph 1, III, *a*, and paragraph 5, of the Federal Constitution, according to the following proportion:

I – three and five tenths per cent, for employees who meet the requirements for retirement under the terms of the head paragraph by December 31, 2005;

II – five per cent, for employees who meet the requirements for retirement under the terms of the head paragraph as from January 1, 2006.

Paragraph 2. The provisions of this article are applicable to judges and to members of the Office of the Public Interest Attorney and of audit courts.

Paragraph 3. When the provisions of paragraph 2 of this article are applied, the period of service performed until the publication of Constitutional Amendment no. 20, December 15, 1998, shall be increased by the addition of seventeen percent for a judge or a member of the Office of the Public Interest Attorney and of audit courts, if a man.

Paragraph 4. The period of service performed until the publication of Constitutional Amendment no. 20, December 15, 1998, shall be increased by the addition of seventeen percent, for a male teacher, and twenty percent, for a female teacher, who is an employee of the Union, the States, the Federal District, and the Municipalities, including their associate government agencies and foundations, and who, until the date of publication of said Amendment, has properly taken an effective teaching post and opts to retire under the terms of the head paragraph, provided that such retirement is based exclusively on the period of effective exercise of a teaching function, with due regard for paragraph 1.

Paragraph 5. The employee referred to in this article, who has met the requirements for voluntary retirement as set forth in the head paragraph and chooses to remain in active service, shall be entitled to a continuous activity bonus equivalent to the amount of his social security contribution until such date as he meets the requirements for compulsory retirement as set forth in article 40, paragraph 1, II, of the Federal Constitution.

Paragraph 6. The provisions of article 40, paragraph 8, of the Federal Constitution, shall apply to retirement pensions granted under the terms of this article.

Article 3. The granting of retirement pensions to public employees, as well as pensions to their dependents, is ensured, at any time, if, by the date of publication of this Amendment, they have complied with the requirements to be entitled to such benefits, in accordance with the criteria of the legislation in effect at that time.

Paragraph 1. The employee referred to in this article, who chooses to remain in active service after having met the requirements for voluntary retirement, and who has, at least, twenty-five years of contribution, if a woman, or thirty years of contribution, if a man, shall be entitled to a continuous activity bonus equivalent to the amount of her or his social security contribution until such date as she or he meets the requirements for compulsory retirement as set forth in article 40, paragraph 1, II, of the Federal Constitution.

Paragraph 2. The retirement pay to be granted to the public employees referred to in the head paragraph, either in full or in proportion to the period of contribution completed by the date of publication of this Amendment, as well as the pensions for their dependents, shall be calculated in accordance with the legislation in effect at the time the requirements therein contained for the granting of such benefits were met, or with the terms of the current legislation.

Article 4. Retired employees and pensioners of the Union, the States, the Federal District, and the Municipalities, including their associate government agencies and foundations, who are regularly receiving benefits on the date of publication of this Amendment, as well as public employees covered by the provisions of its article 3, shall contribute to the funding of the scheme referred to in article 40 of the Federal Constitution at the same percentage stipulated for employees holding effective posts.

Sole paragraph. The social security contribution referred to in the head paragraph shall be levied only on the portion of the retirement pensions and other pensions which exceeds:

I – fifty per cent of the maximum limit stipulated for the benefits of the general social security scheme referred to in article 201 of the Federal Constitution, for retired employees and pensioners of the States, the Federal District, and the Municipalities;

II – sixty per cent of the maximum limit for the benefits of the general social security scheme referred to in article 201 of the Federal Constitution, for retired employees and pensioners of the Union.

Article 5. The maximum limit for the amount of benefits of the general social security scheme referred to in article 201 of the Federal Constitution is defined as R$ 2,400.00 (two thousand and four hundred reais), and it shall be adjusted, as from the date of publication of this Amendment, to the end that its real value is permanently maintained and updated according to the same indices applicable to the benefits of the general social security scheme.

Article 6. Without prejudice to the right to opt for retirement in accordance with the rules established by article 40 of the Federal Constitution or the rules established by article 2 of this Amendment, an employee of the Union, the States, the Federal District, and the Municipalities, including their associate government agencies and foundations, who has entered public administration before the date of publication of this Amendment may go into retirement with full pay, equivalent to the total remuneration of such employee in the effective post from which he retires, under the terms of the law, when, with due regard for the reductions on account of age and contribution period contained in paragraph 5 of article 40 of the Federal Constitution, such employee meets the following cumulative conditions:

I – sixty years of age, if a man, and fifty-five years of age, if a woman;

II – thirty-five years of contribution, if a man, and thirty years of contribution, if a woman;

III – twenty years of effective exercise in public administration; and

IV – ten years in the career and five years in the effective post from which retirement is going to take place.

Sole paragraph. Retirement pensions granted as per this article shall be revised in the same proportion and on the same date, whenever the remuneration of employees in active service is changed, under the terms of the law, with due regard for article 37, XI, of the Federal Constitution.

Article 7. With due regard for the provision of article 37, XI, of the Federal Constitution, retirement pensions of government employees who hold effective posts and the pensions for their dependents, paid by the Union, the States, the Federal District, and the Municipalities, including their associate government agencies and foundations, and being received on the date of publication of this Amendment, as well as the retirement

pensions of employees and the pensions for their dependents covered by article 3 of this Amendment, shall be revised in the same proportion and on the same date, whenever the remuneration of employees in active service is altered, and any benefits or advantages subsequently granted to employees in active service shall also be extended to retirees and to pensioners, including those benefits and advantages arising from the transformation or reclassification of the post or function from which retirement was taken, or which was taken as a parameter for the granting of a pension, as the law provides.

Article 8. Until such time as the amount of the compensation referred to in article 37, item XI, of the Federal Constitution is stipulated, the amount of the highest remuneration assigned by law to a Justice of the Supreme Federal Court on the date of publication of this Amendment, on account of pay, monthly representation allowance, and sum received by virtue of period of service, shall be taken into consideration for the purposes of the limit stipulated in the said item XI, and the following limits shall be applied: in Municipalities, the compensation of the Mayor; in the States and in the Federal District, the monthly compensation of the Governor in the sphere of the Executive Branch, the compensation of State and Federal District Deputies in the sphere of the Legislative Branch, and the compensation of the Judges of the State Court of Justice, limited to ninety and twenty-five hundredths percent of the highest monthly remuneration of a Justice of the Supreme Federal Court referred to in this article in the sphere of the Judicial Branch, this limit being applicable to the members of the Office of the Public Interest Attorney, to Prosecutors, and to Public Legal Defenders.

Article 9. The provisions of article 17 of the Temporary Constitutional Provisions Act shall apply to the pay, the remunerations, and the compensation of the holders of public offices, functions and positions in governmental entities, associate government agencies, and foundations; of the members of any of the Powers of the Union, of the States, the Federal District, and the Municipalities; of the holders of elective offices, and of any other political agent, as well as the retirement pay, pensions, or other type of remuneration, earned on a cumulative basis or not, including advantages of a personal nature or of any other nature.

Article 10. Item IX of paragraph 3 of article 142 of the Federal Constitution, as well as articles 8 and 10 of Constitutional Amendment no. 20, December 15, 1998, are hereby revoked.

Article 11. This Amendment shall come into force on the date of its publication.

Brasília, December 19, 2003.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *João Paulo Cunha*, President – Deputy *Inocêncio Oliveira*, First Vice-President – Deputy *Luiz Pianhylino*, Second Vice-President – Deputy *Geddel Vieira Lima*, First Secretary – Deputy *Severino Cavalcanti*, Second Secretary – Deputy *Nilton Capixaba*, Third Secretary – Deputy *Ciro Nogueira*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *José Sarney*, President – Senator *Paulo Paim*, First Vice-President – Senator *Eduardo Siqueira*

Campos, Second Vice-President – Senator *Romeu Tuma*, First Secretary – Senator *Alberto Silva*, Second Secretary – Senator *Heráclito Fortes*, Third Secretary – Senator *Sérgio Zambiasi*, Fourth Secretary.

Published in the *Official Journal*, December 31, 2003.

CONSTITUTIONAL AMENDMENT No. 42, 2003

Alters the National Tax System and makes further provisions.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60, of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. The following articles of the Constitution shall henceforth read as follows:

"Article 37. .....

.....

XXII – the tax administrations of the Union, of the States, the Federal District, and the Municipalities, whose activities are essential for the operation of the State and are exercised by employees of specific careers, shall have priority funds for the implementation of their activities and shall work in an integrated manner, including the sharing of tax rolls and fiscal information, under the terms of the law or of a covenant.

....."

"Article 52. .....

.....

XV – to carry out a regular assessment of the functionality of the National Tax System, as regards its structure and components, as well as the performance of the tax administrations of the Union, of the States, the Federal District, and the Municipalities.

....."

"Article 146. .....

.....

III – .....

d) the definition of a differentiated and favorable tax treatment to be given to micro and small businesses, including special or simplified tax regimes in the case of the tax set forth in article 155, II, the contributions set forth in article 195, I, and paragraphs 12 and 13, and the contribution referred to in article 239.

Sole paragraph. The supplementary law referred to in item III, *d*, may also establish a single regime for the collection

of taxes and contributions owed to the Union, the States, the Federal District, and the Municipalities, with due regard for the following:

I – it shall be optional for the taxpayer;

II – different eligibility requirements may be established for each State;

III – payment of said tributes shall be unified and centralized, and the distribution of the share of funds belonging to the respective units of the Federation shall be immediate, any withholding or establishment of conditions being forbidden;

IV – collection, control, and claiming of payment may be shared by the units of the Federation, a single national roster of taxpayers being adopted."

"Article 146-A. A supplementary law may establish special criteria for taxation, with a view to preventing imbalances in competition, without prejudice to the power of the Federal Government to establish, by law, rules for the same purpose."

"Article 149. .....

.....

Paragraph 2. .....

II – shall be also levied on the importation of foreign products or services;

....."

"Article 150. .....

.....

III – .....

c) within the period of ninety days as from the date of publication of the law which instituted or raised such tributes, with due regard for the provision of letter *b*;

.....

Paragraph 1. The prohibition set forth in item III, *b*, shall not apply to the taxes provided upon in articles 148, I, 153, I, II, IV, and V; and 154, II; and the prohibition set forth in item III, *c*, shall not apply to the taxes provided upon in articles 148, I, 153, I, II, III, and V; and 154, II, nor to the stipulation of the assessment basis of the taxes provided upon in articles 155, III, and 156, I.

....."

"Article 153. .....

.....

Paragraph 3. .....

IV – shall have its impact reduced, as set forth by law, in the case of purchase of capital goods by a taxpayer who is liable to pay such tax.

Paragraph 4. The tax established in item VI of the head paragraph:

I – shall be progressive and its rates shall be determined in such a manner as to discourage the retention of unproductive real property;

II – shall not be levied on small tracts of land, as defined in law, when a proprietor who owns no other real property exploits them;

III – shall be controlled and collected by the Municipalities which opt to do so, under the terms of the law, provided that they do not reduce this tax or introduce any other type of fiscal waiver.

....."

"Article 155. .....

.....

Paragraph 2. .....

X – .....

a) on transactions involving goods to be shipped abroad, nor on services to be delivered to parties abroad, and tax charges and credits in preceding transactions involving such goods or services shall continue in effect;

.....

d) on communications services in the modes of sound broadcasting and sound and image broadcasting which are available for reception by the public free of charge;

.....

Paragraph 6. The tax established in item III:

I – shall have its minimum rates stipulated by the Federal Senate;

II – may have different rates according to type and utilization."

"Article 158. .....

.....

II – fifty per cent of the proceeds from the collection of the federal tax on rural property, concerning real property located in the

municipalities, or one hundred per cent of such proceeds in the case of the option referred to in article 153, paragraph 4, III;

..... ”

“Article 159. .....

.....

III – of the proceeds from the collection of the contribution for intervention in the economic domain set forth in article 177, paragraph 4, twenty-five per cent to the States and to the Federal District, distributed in accordance with the law, with due regard for the allocation referred to in item II, *c*, of said paragraph.

.....

Paragraph 4. Twenty-five per cent of the amount of monies referred to in item III and allocated to each State shall be assigned to its Municipalities, in accordance with the law referred to in said item.”

“Article 167. .....

.....

IV – to bind tax revenues to an agency, fund or expense, excepting the sharing of the proceeds from the collection of the taxes referred to in articles 158 and 159, the allocation of funds for public health actions and services, for the maintenance and development of education, and for the implementation of tax administration activities, as determined, respectively, in article 198, paragraph 2, article 212, and article 37, item XXII, and the granting of guarantees on credit transactions by advance of revenues, as established in article 165, paragraph 8, as well as in paragraph 4 of the present article;

..... ”

“Article 170. .....

.....

VI – environment protection, which may include differentiated treatment in accordance with the environmental impact of goods and services and of their respective production and delivery processes;

..... ”

“Article 195. .....

.....

IV – of importers of goods or services from other countries, or of other parties defined by law as being comparable to such importers.

.....

Paragraph 12. The law shall define the sectors of economic activity for which the contributions stipulated under the terms of items I, *b*; and IV of the head paragraph, shall be non-cumulative.

Paragraph 13. The provision of paragraph 12 shall also apply in the case of gradual replacement, either total ou partial, of the contribution stipulated under the terms of item I, *a*, by the contribution due on income or revenues."

"Article 204. .....

.....

Sole paragraph. The States and the Federal District may assign up to five tenths per cent of their net tax revenues to programs to support social inclusion and promotion, the utilization of such funds for the payment of the following items being forbidden:

I – personnel expenses and social charges;

II – debt servicing;

III – any other current expense not directly related to the investments or actions supported by said programs."

"Article 216. .....

.....

Paragraph 6. The States and the Federal District may assign up to five tenths per cent of their net tax revenues to a state fund for the promotion of culture, for the purpose of funding cultural programs and projects, the utilization of such funds for the payment of the following items being forbidden:

I – personnel expenses and social charges;

II – debt servicing;

III – any other current expense not directly related to the investments or actions supported by said programs."

Article 2. The following articles of the Temporary Constitutional Provisions Act shall henceforth read as follows:

"Article 76. Twenty percent of the proceeds from the collection by the Union of taxes, social contributions, and contributions for intervention in the economic domain, already instituted or to be instituted in the period of 2003 to 2007, as well as their additional taxes and respective legal increases, shall not be earmarked to any agency, fund, or expense in the said period.

Paragraph 1. The provision of the head paragraph of this article shall not reduce the assessment basis of the transfers to the States,

the Federal District, and the Municipalities under the terms of articles 153, paragraph 5; 157, item I; 158, items I and II; and 159, item I, letters *a* and *b*; and item II, of the Constitution, neither the assessment basis of the remittances mentioned in article 159, I, *c*, of the Constitution.

..... "

"Article 82. .....

.....

Paragraph 1. With a view to financing the State Funds and the Federal District Fund, an additional tax of up to two percent may be created, to raise the rate of the State VAT [ICMS], due on luxury goods and services and observing the conditions defined in the supplementary law referred to in article 155, paragraph 2, XII, of the Constitution, and the provision of article 158, IV, of the Constitution shall not be applicable to such percentage.

..... "

"Article 83. A federal law shall define the luxury goods and services referred to in articles 80, item II, and 82, paragraph 2."

Article 3. The Temporary Constitutional Provisions Act shall henceforth include the following articles:

"Article 90. The time limit set forth in the head paragraph of article 84 of this Temporary Constitutional Provisions Act is hereby extended through December 31, 2007.

Paragraph 1. The effect of Law no. 9,311, of October 24, 1996, as well as of its alterations, is hereby extended through the date mentioned in the head paragraph of this article.

Paragraph 2. The rate of the contribution referred to in article 84 of this Temporary Constitutional Provisions Act shall be equal to thirty-eight hundredths per cent through the date referred to in the head paragraph of this article."

"Article 91. The Union shall remit to the States and to the Federal District the amount defined by a supplementary law, in accordance with the criteria, time limits, and terms therein determined, taking into consideration exports of primary commodities and semi-manufactured products to other countries, the import-export ratio, credits deriving from purchases intended for the permanent assets, and the effective maintenance and utilization of the tax credits referred to in article 155, paragraph 2, X, *a*.

Paragraph 1. As to the amount of funds to be remitted to each State, seventy-five percent of such amount shall be assigned to the State itself, and twenty-five percent to its Municipalities,

such percentage being distributed in accordance with the criteria referred to in article 158, sole paragraph, of the Constitution.

Paragraph 2. The remittance of funds set forth in this article shall prevail, as defined in a supplementary law, until such time as the proceeds from the collection of the tax referred to in article 155, II, are predominantly assigned, in a proportion not below eighty per cent, to the State where consumption of the products, goods, or services takes place.

Paragraph 3. Until such time as the supplementary law referred to in the head paragraph is enacted, and so as to replace the system of remittance of funds set forth therein, there shall remain in force the system of remittance of funds set forth in article 31 and Schedule of Supplementary Law no. 87, of September 13, 1996, with the wording provided by Supplementary Law no. 115, of December 26, 2002.

Paragraph 4. The States and the Federal District shall present to the Federal Government, under the terms of instructions issued by the Finance Ministry, information regarding the tax referred to in article 155, II, supplied by the taxpayers who carry out transactions involving goods to be shipped abroad or services to be delivered to foreign parties."

"Article 92. A period of ten years shall be added to the period of time set forth in article 40 of this Temporary Constitutional Provisions Act."

"Article 93. The provisions of article 159, III, and paragraph 4 shall only come into force after the promulgation of the law referred to in said item III."

"Article 94. The special tax regimes for micro and small businesses which are specific of the Union, the States, the Federal District, and the Municipalities shall be discontinued as from the date the regime set forth in article 146, III, *d*, of the Constitution comes into force."

Article 4. Any additional amounts introduced by the States and the Federal District up to the date of promulgation of this Amendment which do not comply with the provisions of this Constitutional Amendment, of Constitutional Amendment no. 31, of December 14, 2000, or of the supplementary law referred to in article 155, paragraph 2, XII, of the Constitution, shall be in force, at the most, through the time limit set forth in article 79 of the Temporary Constitutional Provisions Act.

Article 5. Within sixty days as from the date of promulgation of this Amendment, the Executive Branch shall forward to the National Congress a bill of law, under expedited procedures, to regulate tax benefits for capacity-building in the information technology industry, and such benefits shall be in force through 2019 under the conditions in effect upon approval of this Amendment.

Article 6. Item II of paragraph 3 of article 84 of the Temporary Constitutional Provisions Act is hereby revoked.

Brasília, December 19, 2003.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *João Paulo Cunha*, President – Deputy *Inocêncio Oliveira*, First Vice-President – Deputy *Luiz Piauhylino*, Second Vice-President – Deputy *Geddel Vieira Lima*, First Secretary – Deputy *Severino Cavalcanti*, Second Secretary – Deputy *Nilton Capixaba*, Third Secretary – Deputy *Ciro Nogueira*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *José Sarney*, President – Senator *Paulo Paim*, First Vice-President – Senator *Eduardo Siqueira Campos*, Second Vice-President – Senator *Romeu Tuma*, First Secretary – Senator *Alberto Silva*, Second Secretary – Senator *Heráclito Fortes*, Third Secretary – Senator *Sérgio Zambiasi*, Fourth Secretary.

Published in the *Official Journal*, December 31, 2003.

CONSTITUTIONAL AMENDMENT No. 43, 2004

Alters article 42 of the Temporary Constitutional Provisions Act, extending, for 10 (ten) years, application by the Union of minimum percentages of the total amount of funds intended for irrigation in the Center-West and Northeast Regions.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60, of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. The head paragraph of article 42 of the Temporary Constitutional Provisions Act shall henceforth be in force with the following wording:

> "Article 42. Of the funds intended for irrigation, during a period of 25 (twenty-five) years, the Union shall apply:
> ....."

Article 2. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, April 15, 2004.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *João Paulo Cunha*, President – Deputy *Inocêncio Oliveira*, First Vice-President – Deputy *Luiz Piauhylino*, Second Vice-President – Deputy *Geddel Vieira Lima*, First Secretary – Deputy *Nilton Capixaba*, Third Secretary – Deputy *Ciro Nogueira*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *José Sarney*, President – Senator *Paulo Paim*, First Vice-President – Senator *Eduardo Siqueira Campos*, Second Vice-President – Senator *Romeu Tuma*, First Secretary – Senator *Alberto Silva*, Second Secretary – Senator *Heráclito Fortes*, Third Secretary – Senator *Sérgio Zambiasi*, Fourth Secretary.

Published in the *Official Journal*, April 16, 2004.

CONSTITUTIONAL AMENDMENT No. 44, 2004

Alters the National Tax System and makes further provisions.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Item III of article 159 of the Constitution shall henceforth be in force with the following wording:

> "Article 159. .....
>
> .....
>
> III – of the proceeds from the collection of the contribution for intervention in the economic domain set forth in article 177, paragraph 4, twenty-nine per cent to the States and to the Federal District, distributed in accordance with the law, with due regard for the allocation referred to in item II, *c*, of said paragraph.
>
> ....."

Article 2. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, June 30, 2004.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *João Paulo Cunha*, President – Deputy *Inocêncio Oliveira*, First Vice-President – Deputy *Luiz Piauhylino*, Second Vice-President – Deputy *Geddel Vieira Lima*, First Secretary – Deputy *Severino Cavalcanti*, Second Secretary – Deputy *Nilton Capixaba*, Third Secretary – Deputy *Ciro Nogueira*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *José Sarney*, President – Senator *Paulo Paim*, First Vice-President – Senator *Eduardo Siqueira Campos*, Second Vice-President – Senator *Romeu Tuma*, First Secretary – Senator *Alberto Silva*, Second Secretary – Senator *Heráclito Fortes*, Third Secretary – Senator *Sérgio Zambiasi*, Fourth Secretary.

Published in the *Official Journal*, July 1, 2004.

CONSTITUTIONAL AMENDMENT No. 45, 2004

Alters provisions of articles 5, 36, 52, 92, 93, 95, 98, 99, 102, 103, 104, 105, 107, 109, 111, 112, 114, 115, 125, 126, 127, 128, 129, 134, and 168 of the Federal Constitution, and adds articles 103-A, 103-B, 111-A, and 130-A, and makes further provisions.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60, of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Articles 5, 36, 52, 92, 93, 95, 98, 99, 102, 103, 104, 105, 107, 109, 111, 112, 114, 115, 125, 126, 127, 128, 129, 134, and 168 of the Federal Constitution shall henceforth read as follows:

"Article 5. .....

.....

LXXVIII – a reasonable length of proceedings and the means to guarantee their expeditious consideration are ensured to everyone, both in the judicial and administrative spheres.

.....

Paragraph 3. International human rights treaties and conventions which are approved in each House of the National Congress, in two rounds of voting, by three fifths of the votes of the respective members shall be equivalent to constitutional amendments.

Paragraph 4. Brazil accepts the jurisdiction of an International Criminal Court to whose creation it has expressed its adhesion."

"Article 36. .....

.....

III – on the granting of a petition from the Attorney-General of the Republic by the Supreme Federal Court, in the case of article 34, VII, and in the case of refusal to enforce a federal law.

IV – (Revoked).

....."

"Article 52. .....

.....

II – to effect the legal proceeding and trial of the Justices of the Supreme Federal Court, the members of the National Council

of Justice and of the National Council of the Public Prosecution, the Attorney-General of the Republic, and the Advocate-General of the Union for crimes of malversation;

....."

"Article 92. .....

.....

I-A – the National Council of Justice;

.....

Paragraph 1. The Supreme Federal Court, the National Council of Justice, and the Superior Courts have their seat in the Federal Capital.

Paragraph 2. The Supreme Federal Court and the Superior Courts have their jurisdiction over the entire Brazilian territory."

"Article 93. .....

I – admission into the career, with the initial post of substitute judge, by means of a civil service entrance examination of tests and presentation of academic and professional credentials, with the participation of the Brazilian Bar Association in all phases, at least three years of legal practice being required of holders of a B.A. in law, and obeying the order of classification for appointments;

II – .....

c) appraisal of merit according to performance and to the objective criteria of productivity and promptness in the exercise of the jurisdictional function and according to attendance and achievement in official or recognized improvement courses;

d) in determining seniority, the court may only reject the judge with the longest service by the justified vote of two-thirds of its members, according to a specific procedure, full defense being ensured, the voting being repeated until the selection is concluded;

e) promotion shall not be granted to a judge who unjustifiably withholds case records beyond the legal deadline, and he may not return them to the court archives without providing the necessary disposition thereof or decision thereon;

III – access to the courts of second instance shall obey seniority and merit, alternately, as determined at the last or single level;

IV – provision of official courses for preparation, improvement, and promotion of judges, while the participation in an official course or in a course recognized by a national school for the

education and further development of judges shall constitute a mandatory stage of the tenure acquisition process;

.....

VII – a permanent judge shall reside in the respective judicial district, except when otherwise authorized by the court;

VIII – the acts of removal, of placement on paid availability, and of retirement of a judge, for public interest, shall be based on a decision by the vote of the absolute majority of the respective court or of the National Council of Justice, full defense being ensured;

VIII-A – the removal upon request or the exchange of judges of same-level judicial districts shall obey, insofar as pertinent, the provisions of subitems *a*, *b*, *c*, and *e* of item II;

IX – all judgements of the bodies of the Judicial Power shall be public, and all decisions shall be justified, under penalty of nullity, but the law may limit attendance, in given acts, to the interested parties and to their lawyers, or only to the latter, whenever preservation of the right to privacy of the party interested in confidentiality will not harm the right of the public interest to information;

X – administrative decisions of courts shall be supported by a recital and shall be made in open session, and disciplinary decisions shall be taken by the vote of the absolute majority of their members;

XI – in courts with more than twenty-five judges, a special body may be constituted, with a minimum of eleven and a maximum of twenty-five members, to exercise delegated administrative and jurisdictional duties which are under the powers of the full court, half of the positions being filled according to seniority and the other half through election by the full court;

XII – courts will operate continuously, without interruption, collective vacation being forbidden for first instance judges and courts of second instance, and there must be judges on duty at all times on days in which courts are closed;

XIII – the number of judges in each court shall be proportional to the effective judicial demand and to the respective population;

XIV – court employees will receive delegation to carry out administrative acts and acts aimed at the mere disposition of matters, without a decisional nature;

XV – proceedings will be assigned immediately upon filing, at all levels of jurisdiction."

"Article 95. .....

Sole paragraph. Judges are forbidden to:

.....

IV – receive, on any account or for any reason, financial aid or contribution from individuals, and from public or private institutions, save for the exceptions set forth in law;

V – practice law in the court or tribunal on which they served as judges, for a period of three years following their retirement or discharge."

"Article 98. .....

.....

Paragraph 1. (former sole paragraph) .....

Paragraph 2. Judicial costs and fees shall be assigned exclusively to fund services related to activities which are specific of Justice."

"Article 99. .....

.....

Paragraph 3. If the government bodies referred to in paragraph 2 do not forward their respective budget proposals within the time period stipulated in the law of budgetary directives, the Executive Power shall, with a view to engrossing the annual budget proposal, take into account the figures approved in the current budgetary law, such figures adjusted in accordance with the limits stipulated under the terms of paragraph 1 of this article.

Paragraph 4. If the budget proposals referred to in this article and thus forwarded do not obey the limits stipulated under paragraph 1, the Executive Power shall effect the necessary adjustments with a view to engrossing the annual budget proposal.

Paragraph 5. In the implementation of the budget of a specific fiscal year, no expenses may be incurred and no obligations may be assumed that exceed the limits stipulated in the law of budgetary directives, except when previously authorized, by opening supplementary or special credits."

"Article 102. .....

.....

I – .....

h) (revoked);

.....

r) lawsuits against the National Council of Justice and against the National Council of the Public Prosecution;

.....

III – .....

d) considers valid a local law challenged in the light of a federal law.

.....

Paragraph 2. Final decisions on merits, pronounced by the Supreme Federal Court, in direct actions of unconstitutionality and declaratory actions of constitutionality shall have force against all, as well as a binding effect, as regards the other bodies of the Judicial Power and the governmental entities and entities owned by the Federal Government, in the federal, state, and local levels.

Paragraph 3. In an extraordinary appeal, the appealing party must demonstrate the general repercussion of the constitutional issues discussed in the case, under the terms of the law, so that the Court may examine the possibility of accepting the appeal, and it may only reject it through the opinion of two thirds of its members."

"Article 103. The following may file direct actions of unconstitutionality and declaratory actions of constitutionality:

.....

IV – the Directing Board of a State Legislative Assembly or of the Federal District Legislative Chamber;

V – a State Governor or the Federal District Governor;

.....

Paragraph 4. (Revoked)."

"Article 104. .....

.....

Sole paragraph. The Justices of the Superior Court of Justice shall be appointed by the President of the Republic, chosen from among Brazilians over thirty-five and under sixty-five years of age, of notable juridical learning and spotless reputation, after the nomination has been approved by the absolute majority of the Federal Senate, as follows:

....."

"Article 105. .....

.....

I – .....

i) the homologation of foreign court decisions and the granting of exequatur to letters rogatory;

.....

III – .....

b) considers valid an act of a local government challenged in the light of a federal law;

.....

Sole paragraph. The following shall operate in conjunction with the Superior Court of Justice:

I – the National School for the Education and Further Development of Judges, which shall be in charge, among other duties, of regulating the official courses for admission into and promotion in the career;

II – the Council of Federal Justice, which shall, under the terms of the law, exercise administrative and budgetary supervision over the Federal Courts of first and second instances, in the quality of the main body of the system, having powers to correct administrative acts, and whose decisions shall have a binding nature."

"Article 107. .....

Paragraph 1. (former sole paragraph) .....

Paragraph 2. The Federal Regional Courts shall install an itinerant justice system, carrying out hearings and other functions typical of the operation of justice, within the territorial limits of the respective jurisdiction, and making use of public and community facilities.

Paragraph 3. The Federal Regional Courts may operate in a decentralized mode, by creating regional Divisions, with a view to affording claimants full access to justice in all stages of the judicial action."

"Article 109. .....

.....

V-A. cases regarding human rights referred to in paragraph 5 of this article;

.....

Paragraph 5. In cases of serious human rights violations, and with a view to ensuring compliance with obligations deriving from international human rights treaties to which Brazil is a party, the Attorney-General of the Republic may request, before the Superior Court of Justice, and in the course of any of the stages of the inquiry or judicial action, that jurisdiction on the matter be taken to Federal Justice."

"Article 111. .....

Paragraph 1. (Revoked).

Paragraph 2. (Revoked).

Paragraph 3. (Revoked)."

"Article 112. The law shall establish Labour Courts of first instance, allowing, in districts not covered by their jurisdiction, for the attribution of such jurisdiction to judges, appeals being admissible to the respective Regional Labour Court."

"Article 114. Labour Justice has the power to hear and try:

I – judicial actions arising from labour relations, comprising entities of public international law and of the direct and indirect public administration of the Union, the states, the Federal District, and the municipalities;

II – judicial actions involving the exercise of the right to strike;

III – judicial actions regarding union representation, when the opposing parties are trade unions, or trade unions and workers, or trade unions and employers;

IV – writs of mandamus, *habeas corpus*, and *habeas data*, when the action being challenged involves matter under the jurisdiction of Labour Justice;

V – conflicts of powers between bodies having jurisdiction over labour issues, except as provided under article 102, I, *o*;

VI – judicial actions arising from labour relations which seek compensation for moral or property damages;

VII – judicial actions regarding administrative penalties imposed upon employers by the bodies charged with supervising labour relations;

VIII – *ex-officio* enforcement of the welfare contributions set forth in article 195, I, *a*, and II, and their legal raises, arising from the judgments it pronounces;

IX – other disagreements arising from labour relations, under the terms of the law.

Paragraph 1. .....

Paragraph 2. If any of the parties refuses collective negotiation or arbitration, they may file a collective labour suit of an economic nature, by mutual agreement, and Labour Courts may settle the conflict, respecting the minimum legal provisions for the protection of labour, as well as any provisions previously agreed upon.

Paragraph 3. In the event of a strike in an essential activity which may possibly injure the public interest, the Labour Public Prosecution may file a collective labour suit, and it is incumbent upon Labour Courts to settle the conflict."

"Article 115. The Regional Labour Courts are composed of a minimum of seven judges, selected, whenever possible, in the respective region and appointed by the President of the Republic from among Brazilians over thirty and under sixty-five years of age, as follows:

I – one-fifth shall be chosen from among lawyers effectively practicing their professional activity for more than ten years and from among members of the Labour Public Prosecution with over ten years of effective service, with due regard for the provisions of article 94;

II – the others, by means of promotion of labour judges for seniority and merit, alternately.

Paragraph 1. The Regional Labour Courts shall install an itinerant justice system, carrying out hearings and other functions typical of the operation of justice, within the territorial limits of the respective jurisdiction, and making use of public and community facilities.

Paragraph 2. The Regional Labour Courts may operate in a decentralized mode, by creating regional Divisions, with a view to affording claimants full access to justice in all stages of the judicial action."

"Article 125. .....

Paragraph 3. By proposal of the Court of Justice, a state law may create the State Military Justice, constituted, at first instance, by judges and by the Councils of Justice and, at second instance, by the Court of Justice itself, or by the Court of Military Justice in those states in which the military troops count more than twenty thousand members.

Paragraph 4. The State Military Justice has the competence to institute legal proceeding and trial of the military of the states for military crimes defined in law, as well as to hear and try judicial actions against military disciplinary measures, with due regard for the competence of the jury when the victim is a civilian, and the competent court shall decide upon the loss of post or rank of officers and of the grade of servicemen.

Paragraph 5. The judges of the military justice system have the competence, in the quality of single-judge courts, to institute legal proceeding and trial of military crimes committed against civilians and to hear and try judicial actions against military disciplinary measures, and it is incumbent upon the Council of Justice, presided over by a judge, to institute legal proceeding and trial of other military crimes.

Paragraph 6. The Court of Justice may operate in a decentralized mode, by creating regional Divisions, with a view to affording

claimants full access to justice in all stages of the judicial action.

Paragraph 7. The Court of Justice shall install an itinerant justice system, carrying out hearings and other functions typical of the operation of justice, within the territorial limits of the respective jurisdiction, and making use of public and community facilities."

"Article 126. For the settlement of conflicts relating to land property, the Court of Justice shall propose the creation of specialized single-judge courts, with exclusive competence for agrarian matters.

....."

"Article 127. .....

.....

Paragraph 4. If the Public Prosecution does not forward its respective budget proposal within the time period stipulated in the law of budgetary directives, the Executive Power shall, with a view to engrossing the annual budget proposal, take into account the figures approved in the current budgetary law, such figures adjusted in accordance with the limits stipulated under the terms of paragraph 3.

Paragraph 5. If the budget proposal referred to in this article and thus forwarded does not obey the limits stipulated under paragraph 3, the Executive Power shall effect the necessary adjustments with a view to engrossing the annual budget proposal.

Paragraph 6. In the implementation of the budget of a specific fiscal year, no expenses may be incurred and no obligations may be assumed that exceed the limits stipulated in the law of budgetary directives, except when previously authorized, by opening supplementary or special credits."

"Article 128. .....

.....

Paragraph 5. .....

I – .....

b) irremovability, save for reason of public interest, through decision of the competent collegiate body of the Public Prosecution, by the vote of the absolute majority of its members, full defense being ensured;

.....

II – .....

e) engaging in political or party activities;

f) receiving, on any account or for any reason, financial aid or contribution from individuals, and from public or private institutions, save for the exceptions set forth in law.

Paragraph 6. The provisions of article 95, sole paragraph, V, shall apply to the members of Public Prosecution."

"Article 129. .....

Paragraph 2. The functions of Public Prosecution may only be exercised by career members, who must reside in the judicial district of their respective assignment, save when otherwise authorized by the head of the institution.

Paragraph 3. Admission into the career of Public Prosecution shall take place by means of a civil service entrance examination of tests and presentation of academic and professional credentials, ensuring participation by the Brazilian Bar Association in such examination, at least three years of legal practice being required of holders of a B.A. in law, and observing, for appointment, the order of classification.

Paragraph 4. The provisions of article 93 shall apply to the Public Prosecution, where appropriate.

Paragraph 5. In the Public Prosecution, proceedings will be assigned immediately upon filing."

"Article 134. .....

Paragraph 1. (former sole paragraph) .....

Paragraph 2. The Public Legal Defense of each state shall be ensured of functional and administrative autonomy, as well as the prerogative to present its budget proposal within the limits set forth in the law of budgetary directives and in due compliance with the provisions of article 99, paragraph 2."

"Article 168. Funds corresponding to budgetary allocations, including supplementary and special credits, intended for the bodies of the Legislative and Judicial Powers, the Public Prosecution, and the Public Legal Defense, shall be remitted to them on or before the twentieth of each month, in twelfths, as provided by the supplementary law referred to in article 165, paragraph 9."

Article 2. The Federal Constitution shall henceforth include the following articles 103-A, 103-B, 111-A, and 130-A:

"Article 103-A. The Federal Supreme Court may, *ex-officio* or upon request, upon decision of two thirds of its members, and following reiterated judicial decisions on constitutional matter, issue a summula (restatement of case law) which, as from publication in the official press, shall have a binding effect upon

the lower bodies of the Judicial Power and the direct and indirect public administration, in the federal, state, and local levels, and which may also be reviewed or revoked, as set forth in law.

Paragraph 1. The purpose of a summula is to validate, construe, and impart effectiveness to some rules about which there is a current controversy among judicial bodies or among such bodies and the public administration, and such controversy brings about serious juridical insecurity and the filing of multiple lawsuits involving similar issues.

Paragraph 2. Without prejudice to the provisions the law may establish, the issuance, review, or revocation of a summula may be requested by those who may file a direct action of unconstitutionality.

Paragraph 3. An administrative act or judicial decision which contradicts the applicable summula or which unduly applies a summula may be appealed to the Supreme Federal Court, and if the appeal is granted, such Court shall declare the administrative act null and void or overrule the appealed judicial decision, ordering that a new judicial decision be issued, with or without applying the summula, as the case may be."

"Article 103-B. The National Council of Justice is composed of fifteen members over thirty-five and under sixty-six years of age, appointed for a two-year term of office, one reappointment being permitted, as follows:

I – a Justice of the Supreme Federal Court, nominated by said Court;

II – a Justice of the Superior Court of Justice, nominated by said Court;

III – a Justice of the Superior Labour Court, nominated by said Court;

IV – a judge of a State Court of Justice, nominated by the Supreme Federal Court;

V – a state judge, nominated by the Supreme Federal Court;

VI – a judge of a Federal Regional Court, nominated by the Superior Court of Justice;

VII – a federal judge, nominated by the Superior Court of Justice;

VIII – a judge of a Regional Labour Court, nominated by the Superior Labour Court;

IX – a labour judge, nominated by the Superior Labour Court;

X – a member of the Public Prosecution of the Union, nominated by the Attorney-General of the Republic;

XI – a member of a state Public Prosecution, chosen by the Attorney-General of the Republic from among the names indicated by the competent body of each state institution;

XII – two lawyers, nominated by the Federal Board of the Brazilian Bar Association;

XIII – two citizens of notable juridical learning and spotless reputation, one of whom nominated by the Chamber of Deputies and the other one by the Federal Senate.

Paragraph 1. The Council shall be presided over by the Justice of the Supreme Federal Court, who shall vote in the event of tied voting, and he shall be excluded from the assignment of proceedings in said Court.

Paragraph 2. The members of the Council shall be appointed by the President of the Republic, after their nomination has been approved by the absolute majority of the Federal Senate.

Paragraph 3. If the nominations set forth in this article are not effected within the legal deadline, selection shall be incumbent upon the Federal Supreme Court.

Paragraph 4. It is incumbent upon the Council to control the administrative and financial operation of the Judicial Branch and the proper discharge of official duties by judges, and it shall, in addition to other duties that the Statute of the Judicature may confer upon it:

I – ensure that the Judicial Branch is autonomous and that the Statute of the Judicature is complied with, and it may issue regulatory acts within its jurisdiction, or recommend measures;

II – ensure that article 37 is complied with, and examine, *ex-officio* or upon request, the legality of administrative acts carried out by members or bodies of the Judicial Branch, and it may revoke or review them, or stipulate a deadline for the adoption of the necessary measures to achieve due execution of the law, without prejudice to the powers of the Federal Audit Court;

III – receive and examine complaints against members or bodies of the Judicial Branch, including against its ancillary services, clerical offices, and bodies in charge of notary and registration services which operate by virtue of Government delegation or have been made official, without prejudice to the courts' disciplinary competence and their power to correct administrative acts, and it may order that pending disciplinary proceedings be forwarded to the National Council of Justice, determine the removal, placement on paid availability, or retirement with compensation or pension in proportion to the length of service, and enforce other administrative sanctions, full defense being ensured;

IV – present a formal charge to the Public Prosecution, in the case of crime against public administration or abuse of authority;

V – review, *ex-officio* or upon request, disciplinary proceedings against judges and members of courts tried in the preceding twelve months;

VI – prepare a twice-a-year statistical report on proceedings and judgements rendered per unit of the Federation in the various bodies of the Judicial Branch;

VII – prepare a yearly report, including the measures it deems necessary, on the state of the Judicial Branch in the Country and on the Council's activities, which report must be an integral part of a message to be forwarded by the Chief Justice of the Supreme Federal Court to the National Congress upon the opening of the legislative session.

Paragraph 5. The Justice of the Superior Court of Justice shall occupy the position of Corregidor-Justice, in charge of internal affairs, and he shall be excluded from the assignment of proceedings in said Court, the following duties being incumbent upon him, in addition to those that may be conferred upon him by the Statute of the Judicature:

I – to receive complaints and accusations from any interested party regarding judges and judiciary services;

II – to exercise executive functions of the Council concerning inspection and general correction;

III – to requisition and appoint judges, charging them with specific duties, and to requisition court employees, including in the States, the Federal District, and the Territories.

Paragraph 6. The Attorney General of the Republic and the Chairman of the Federal Board of the Brazilian Bar Association shall be competent to petition before the Council.

Paragraph 7. The Union shall establish Justice ombudsman's offices, including in the Federal District and in the Territories, with powers to receive complaints and accusations from any interested party against members or bodies of the Judicial Branch, or against their ancillary services, thus presenting formal charges directly to the National Council of Justice."

"Article 111-A. The Superior Labour Court shall be composed of twenty-seven Justices, chosen from among Brazilians over thirty-five and under sixty-five years of age, appointed by the President of the Republic after approval by the absolute majority of the Federal Senate, as follows:

I – one-fifth from among lawyers effectively practicing their professional activity for more than ten years and from among

members of the Labour Public Prosecution with over ten years of effective exercise, with due regard for the provisions of article 94;

II – the others, from among career judges of the Regional Labour Courts, nominated by the Superior Labour Court.

Paragraph 1. The law shall make provisions for the powers of the Superior Labour Court.

Paragraph 2. The following shall operate in conjunction with the Superior Labour Court:

I – the National School for the Education and Further Development of Labour Judges, which shall have the duty, among others, to regulate the official courses for admission into and promotion in the career;

II – the Higher Council of Labour Justice, which shall, under the terms of the law, exercise administrative, budgetary, financial, and property supervision over Labour Courts of first and second instances, in the quality of central body of the system, whose decisions shall have a binding effect."

"Article 130-A. The National Council of the Public Prosecution is composed of fourteen members appointed by the President of the Republic, after their nomination has been approved by the absolute majority of the Federal Senate, for a two-year term of office, one reappointment being permitted, as follows:

I – the Attorney-General of the Republic, who chairs the Council;

II – four members of the Public Prosecution of the Union, representing each one of its careers;

III – three members of the Public Prosecution of the States;

IV – two judges, one of whom nominated by the Supreme Federal Court and the other one by the Superior Court of Justice;

V – two lawyers, nominated by the Federal Board of the Brazilian Bar Association;

VI – two citizens of notable juridical learning and spotless reputation, one of whom nominated by the Chamber of Deputies and the other one by the Federal Senate.

Paragraph 1. The members of the Council who are members of the Public Prosecution shall be nominated by their respective bodies, under the terms of the law.

Paragraph 2. It is incumbent upon the National Council of the Public Prosecution to control the administrative and financial operation of the Public Prosecution and the proper discharge of official duties by its members, and it shall:

I – ensure that the Public Prosecution is autonomous in its operation and administration, and it may issue regulatory acts within its jurisdiction, or recommend measures;

II – ensure that article 37 is complied with, and examine, *ex-officio* or upon request, the legality of administrative acts carried out by members or bodies of the Public Prosecution of the Union and of the States, and it may revoke or review them, or stipulate a deadline for the adoption of the necessary measures to achieve due execution of the law, without prejudice to the powers of Audit Courts;

III – receive and examine complaints against members or bodies of the Public Prosecution of the Union or of the States, including against their ancillary services, without prejudice to such institutions' disciplinary competence and their power to correct administrative acts, and it may order that pending disciplinary proceedings be forwarded to the National Council of the Public Prosecution, determine the removal, placement on paid availability, or retirement with compensation or pension in proportion to the length of service, and enforce other administrative sanctions, full defense being ensured;

IV – review, *ex-officio* or upon request, disciplinary proceedings against members of the Public Prosecution of the Union or of the States tried in the preceding twelve months;

V – prepare a yearly report, including the measures it deems necessary, on the state of the Public Prosecution in the Country and on the Council's activities, which report must be an integral part of the message referred to in article 84, XI.

Paragraph 3. The Council shall, by means of secret voting, choose a national Corregidor, from among the members of the Public Prosecution who compose the Council, reappointment being forbidden, and the following duties shall be incumbent upon him, in addition to those that may be conferred upon him by law:

I – to receive complaints and accusations from any interested party regarding members of the Public Prosecution and its ancillary services;

II – to exercise executive functions of the Council concerning inspection and general correction;

III – to requisition and appoint members of the Public Prosecution, delegating specific duties to such members, and to requisition employees of Public Prosecution bodies.

Paragraph 4. The Chairman of the Federal Board of the Brazilian Bar Association shall be competent to petition before the Council.

Paragraph 5. Federal and state legislation shall establish ombudsman's offices for the Public Prosecution, with powers to receive complaints and accusations from any interested party against members or bodies of the Public Prosecution, including against their ancillary services, thus presenting formal charges directly to the National Council of the Public Prosecution."

Article 3. The law shall establish the Fund to Guarantee the Execution of Labour Claims, made up of fines imposed by labour and administrative judgements arising from the supervision of labour relations, in addition to other revenues.

Article 4. Existing State Courts of Appeals are hereby abolished, and their members shall henceforth become members of the Courts of Justice of their respective States, with due regard for their seniority and original class.

Sole paragraph. The Courts of Justice shall, within one hundred and eighty days as from the date this Amendment is enacted, effect the integration of members of abolished courts into their own staff, by means of an administrative act, stipulating their duties and forwarding to the Legislative Branch, within the same time period, a proposal to alter the corresponding judiciary organization and division, with due regard for the rights of retirees and pensioners and for the reassignment of civil servants to the state Judicial Branch.

Article 5. The National Council of Justice and the National Council of the Public Prosecution shall be installed within one hundred and eighty days as from the date this Amendment is enacted, and the nomination or appointment of their members must be effected no later than thirty days before such deadline.

Paragraph 1. If the nominations and appointments for the National Council of Justice and the National Council of the Public Prosecution are not effected within the time period set forth in the head paragraph of this article, it shall be incumbent upon the Supreme Federal Court and the Federal Public Prosecution, respectively, to effect such nominations and appointments.

Paragraph 2. Until such time as the Statute of the Judicature comes into force, the National Council of Justice shall, by means of a resolution, regulate its own operation and define the duties of the Corregidor-Justice.

Article 6. The Higher Council of Labour Justice shall be installed within one hundred and eighty days, and it shall be incumbent upon the Superior Labour Court to regulate its operation by means of a resolution, until such time as the law referred to in article 111-A, paragraph 2, II, is promulgated.

Article 7. Immediately after this Constitutional Amendment is enacted, the National Congress shall install a joint special committee for the purpose of preparing, within one hundred and eighty days, the bills necessary to regulate the matter dealt with in this Amendment, and of effecting alterations in federal legislation with a view to expanding access to Justice and to expediting judicial services.

Article 8. The current summulas of the Supreme Federal Court shall only have a binding effect after they are confirmed by two thirds of the members of said Court and published in the official press.

Article 9. The following are hereby revoked: item IV of article 36; letter *h* of item I of article 102; paragraph 4 of article 103; and paragraphs 1 to 3 of article 111.

Article 10. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, December 8, 2004.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *João Paulo Cunha*, President – Deputy *Inocêncio Oliveira*, First Vice-President – Deputy *Luiz Piauhylino*, Second Vice-President – Deputy *Geddel Vieira Lima*, First Secretary – Deputy *Severino Cavalcanti*, Second Secretary – Deputy *Nilton Capixaba*, Third Secretary – Deputy *Ciro Nogueira*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *José Sarney*, President – Senator *Paulo Paim*, First Vice-President – Senator *Eduardo Siqueira Campos*, Second Vice-President – Senator *Romeu Tuma*, First Secretary – Senator *Alberto Silva*, Second Secretary – Senator *Heráclito Fortes*, Third Secretary – Senator *Sérgio Zambiasi*, Fourth Secretary.

Published in the *Official Journal*, December 31, 2004.

CONSTITUTIONAL AMENDMENT No. 46, 2005

Alters item IV of article 20 of the Federal Constitution.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Item IV of article 20 of the Federal Constitution shall henceforth read as follows:

> "Article 20. .....
>
> .....
>
> IV – the river and lake islands in zones bordering with other countries; sea beaches; ocean and off-shore islands, excluding those which are the seat of Municipalities, with the exception of areas assigned to public services and to federal environmental units, and those referred to in article 26, II;
>
> ....."

Article 2. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, May 5, 2005.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Severino Cavalcanti*, President – Deputy *José Thomaz Nonô*, First Vice-President – Deputy *Ciro Nogueira*, Second Vice-President – Deputy *Inocêncio Oliveira*, First Secretary – Deputy *Nilton Capixaba*, Second Secretary – Deputy *Eduardo Gomes*, Third Secretary – Deputy *João Caldas*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *Renan Calheiros*, President – Senator *Tião Viana*, First Vice-President – *Antero Paes de Barros*, Second Vice-President – Senator *Efraim Morais*, First Secretary – Senator *João Alberto Souza*, Second Secretary – Senator *Paulo Octávio*, Third Secretary – Senator *Eduardo Siqueira Campos*, Fourth Secretary.

Published in the *Official Journal*, May 6, 2005.

CONSTITUTIONAL AMENDMENT No. 47, 2005

Alters articles 37, 40, 195, and 201 of the Federal Constitution, to provide for social security, and makes further provisions.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60, of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Articles 37, 40, 195, and 201 of the Federal Constitution shall henceforth read as follows:

"Article 37. .....

.....

Paragraph 11. The compensatory amounts set forth in law shall not be computed for the purposes of the remuneration limits referred to in item XI of the head paragraph of this article.

Paragraph 12. For the purposes provided by item XI of the head paragraph of this article, the States and the Federal District may stipulate, within their own sphere, by means of an amendment to their respective Constitutions and Organic Law, as a single limit, the monthly compensation of the Judges of the respective State Court of Justice, limited to ninety and twenty-five hundredths percent of the monthly compensation of the Justices of the Supreme Federal Court, and the provision of this paragraph shall not be applied to the compensation of State and Federal District Deputies and of City Councilmen."

"Article 40. .....

Paragraph 4. The adoption of differentiated requirements and criteria for the granting of retirement to those covered by the scheme set forth in this article is forbidden, with the exception of the cases, as defined by supplementary laws, of employees:

I – with disabilities;

II – engaged in hazardous activities;

III – engaged in activities carried out under special conditions which are harmful to health or to physical wholeness.

.....

Paragraph 21. The contribution set forth in paragraph 18 of this article shall be levied only on the portions of retirement pensions and other pensions which exceed an amount equal to twice the maximum limit established for the benefits of the general social

security scheme mentioned in article 201 of this Constitution, if the beneficiaries, under the terms of the law, suffer from incapacitating diseases."

"Article 195. .....

.....

Paragraph 9. The welfare contributions set forth in item I of the head paragraph of this article may have differentiated rates or assessment bases, according to the economic activity, the intensive use of labour, the size of the company, or the structural situation of the labour market.

....." "

"Article 201. .....

Paragraph 1. The adoption of differentiated requirements and criteria for the granting of retirement to the beneficiaries of the general social security scheme is forbidden, with the exception of the cases, as defined by a supplementary law, of activities carried out under special conditions which are harmful to health or to physical wholeness, and of cases in which the insured are persons with disabilities.

.....

Paragraph 12. The law shall provide for a special system to include low-income workers in the social security system, as well as to include no-income persons who are engaged exclusively in household chores within their own homes, provided that they belong to low-income families, so that they have guaranteed access to benefits at an amount equal to one monthly minimum salary.

Paragraph 13. The rates and grace periods of the special system of inclusion in the social security system referred to in paragraph 12 of this article shall be lower than those in effect for other insured participants of the general social security scheme."

Article 2. The provisions of article 7 of Constitutional Amendment no. 41, 2003, shall apply to the retirement pensions of government employees who go into retirement pursuant to the head paragraph of article 6 of said Amendment.

Article 3. Without prejudice to the right to opt for retirement in accordance with the rules established by article 40 of the Federal Constitution or the rules established by articles 2 and 6 of Constitutional Amendment no. 41, 2003, an employee of the Union, the States, the Federal District, and the Municipalities, including their associate government agencies and foundations, who has entered public administration on or before December 16, 1998, may go into retirement with full pay, provided that such employee meets the following cumulative conditions:

I – thirty-five years of contribution, if a man, and thirty years of contribution, if a woman;

II – twenty-five years of effective exercise in public administration, fifteen years in the career, and five years in the effective post from which retirement is going to take place;

III – a minimum age resulting from the reduction, as regards the limits set forth by article 40, paragraph 1, item III, letter "a", of the Federal Constitution, of one year of age for each year of contribution which exceeds the condition set forth in item I of the head paragraph of this article.

Sole paragraph. The provisions of article 7 of Constitutional Amendment no. 41, 2003, shall apply to the retirement pensions granted pursuant to this article, and such revision criterion shall also be applied to pensions deriving from the retirement pensions of deceased employees who went into retirement pursuant to this article.

Article 4. Until such time as the law referred to in paragraph 11 of article 37 of the Federal Constitution is enacted, no compensatory amount as defined by the legislation in effect on the date of publication of Constitutional Amendment no. 41, 2003, shall be computed for the purposes of the remuneration limits set forth in item XI of the head paragraph of said article.

Article 5. The sole paragraph of article 6 of Constitutional Amendment no. 41, December 19, 2003, is hereby revoked.

Article 6. This Constitutional Amendment shall come into force on the date of its publication, and its effects shall be retroactive to the date Constitutional Amendment no. 41, 2003, came into force.

Brasília, July 5, 2005.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Severino Cavalcanti*, President – Deputy *José Thomaz Nonô*, First Vice-President – Deputy *Ciro Nogueira*, Second Vice-President – Deputy *Inocêncio Oliveira*, First Secretary – Deputy *Eduardo Gomes*, Third Secretary – Deputy *João Caldas*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *Renan Calheiros*, President – Senator *Tião Viana*, First Vice-President – Senator *Efraim Morais*, First Secretary – Senator *Paulo Octávio*, Third Secretary – Senator *Eduardo Siqueira Campos*, Fourth Secretary.

Published in the *Official Journal*, July 6, 2005.

CONSTITUTIONAL AMENDMENT No. 48, 2005

Adds paragraph 3 to article 215 of the Federal Constitution, to institute the National Culture Plan.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of article 60, of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Article 215 of the Federal Constitution shall henceforth include the following paragraph 3:

"Article 215. .....

.....

Paragraph 3. The law shall establish the National Culture Plan, in the form of a multiyear plan aimed at the cultural development of the country and the integration of government initiatives to attain the following:

I – protection and appreciation of the value of Brazil's cultural heritage;

II – production, promotion, and diffusion of cultural goods;

III – training of qualified personnel to manage culture in its multiple dimensions;

IV – democratization of access to cultural goods;

V – appreciation of the value of ethnic and regional diversity."

Article 2. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, August 10, 2005.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Severino Cavalcanti*, President – Deputy *José Thomaz Nonô*, First Vice-President – Deputy *Ciro Nogueira*, Second Vice-President – Deputy *Inocêncio Oliveira*, First Secretary – Deputy *Nilton Capixaba*, Second Secretary – Deputy *Eduardo Gomes*, Third Secretary – Deputy *João Caldas*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *Renan Calheiros*, President – Senator *Tião Viana*, First Vice-President – Senator *Efraim Morais*, First Secretary – Senator *Paulo Octávio*, Third Secretary – Senator *Eduardo Siqueira Campos*, Fourth Secretary.

Published in the *Official Journal*, August 11, 2005.

CONSTITUTIONAL AMENDMENT No. 49, 2006

Alters the wording of letter "b" and adds letter "c" to item XXIII of the head paragraph of article 21, and alters the wording of item V of the head paragraph of article 177 of the Federal Constitution so as to exclude the production, sale, and use of short-lived radioisotopes for medical, agricultural, and industrial purposes from the monopoly of the Union.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of article 60 of the Federal Constitution, enact the following Amendment to the constitutional text:

Article 1. Item XXIII of article 21 of the Federal Constitution shall henceforth read as follows:

"Article 21. .....

.....

XXIII – .....

b) under a permission, authorization is granted for the sale and use of radioisotopes in research and for medical, agricultural, and industrial purposes;

c) under a permission, authorization is granted for the production, sale, and use of radioisotopes with a half-life lower than two hours;

d) civil liability for nuclear damages does not depend on the existence of fault;

....."

Article 2. Item V of the head paragraph of article 177 of the Federal Constitution shall henceforth read as follows:

"Article 177. .....

.....

V – prospecting, mining, enrichment, reprocessing, industrialization, and trading of nuclear mineral ores and minerals and their by-products, with the exception of radioisotopes whose production, sale, and use may be authorized under a permission, in accordance with letters *b* and *c* of item XXIII of the head paragraph of article 21 of this Federal Constitution.

....."

Article 3. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, February 8, 2006.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Aldo Rebelo*, President – Deputy *José Thomaz Nonô*, First Vice-President – Deputy *Ciro Nogueira*, Second Vice-President – Deputy *Inocêncio Oliveira*, First Secretary – Deputy *Nilton Capixaba*, Second Secretary – Deputy *João Caldas*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *Renan Calheiros*, President – Senator *Tião Viana*, First Vice-President – Senator *Antero Paes de Barros*, Second Vice-President – Senator *Efraim Morais*, First Secretary – Senator *João Alberto Souza*, Second Secretary – Senator *Paulo Octávio*, Third Secretary – Senator *Eduardo Siqueira Campos*, Fourth Secretary.

Published in the *Official Journal*, February 9, 2006.

CONSTITUTIONAL AMENDMENT No. 50, 2006

Alters article 57 of the Federal Constitution.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of article 60 of the Federal Constitution, enact the following Amendment to the constitutional text:

Article 1. Article 57 of the Federal Constitution shall henceforth read as follows:

> "Article 57. The National Congress shall meet each year in the Federal Capital, from February 2 to July 17 and from August 1 to December 22.
>
> .....
>
> Paragraph 4. Both Houses shall meet in a preparatory session, beginning February 1 of the first year of the legislative term, for the installation of its members and the election of the respective Directing Boards, for a term of office of two years, the re-election to the same office in the immediately subsequent election being prohibited.
>
> .....
>
> Paragraph 6. Special sessions of the National Congress shall be called:
>
> .....
>
> II – by the President of the Republic, by the Presidents of the Chamber of Deputies and of the Federal Senate, or by request of the majority of the members of both Houses, in the event of urgency or important public interest, approval by the absolute majority of each House of the National Congress being required in all cases referred to in this item.
>
> Paragraph 7. In a special legislative session, the National Congress shall deliberate only upon the matter for which it was called, exception being made for the event mentioned in paragraph 8 of this article, the payment of a compensatory amount by virtue of the special session being forbidden.
>
> ....."

Article 2. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, February 14, 2006.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Aldo Rebelo*, President – Deputy *José Thomaz Nonô*, First Vice-President – Deputy *Ciro*

Nogueira, Second Vice-President – Deputy *Inocêncio Oliveira*, First Secretary – Deputy *Nilton Capixaba*, Second Secretary – Deputy *João Caldas*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *Renan Calheiros*, President – Senator *Tião Viana*, First Vice-President – Senator *Antero Paes de Barros*, Second Vice-President – Senator *Efraim Morais*, First Secretary – Senator *João Alberto Souza*, Second Secretary – Senator *Paulo Octávio*, Third Secretary – Senator *Eduardo Siqueira Campos*, Fourth Secretary.

Published in the *Official Journal*, February 15, 2006.

CONSTITUTIONAL AMENDMENT No. 51, 2006

Adds paragraphs 4, 5, and 6 to article 198 of the Federal Constitution.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of article 60 of the Federal Constitution, enact the following Amendment to the constitutional text:

Article 1. Article 198 of the Federal Constitution shall henceforth include the following paragraphs 4, 5, and 6:

> "Article 198. .....
>
> Paragraph 4. The local managers of the unified health system may hire community health workers and endemic disease control agents by means of a public selection process, taking into account the nature and complexity of their duties and the specific requirements of their activity.
>
> Paragraph 5. Federal legislation shall provide for the legal regime and the regulation of the activities of community health workers and endemic disease control agents.
>
> Paragraph 6. In addition to the cases set forth in paragraph 1 of article 41 and in paragraph 4 of article 169 of the Federal Constitution, an employee whose activities are equivalent to those of a community health worker or an endemic disease control agent may be dismissed if he does not comply with the specific requirements stipulated by law for such activities."

Article 2. As from the enactment of this Constitutional Amendment, community health workers and endemic disease control agents may only be hired directly by the States, the Federal District, or the Municipalities under the terms of paragraph 4 of article 198 of the Federal Constitution, with due regard for the spending limits stipulated by the Supplementary Law referred to in article 169 of the Federal Constitution.

Sole paragraph. Workers who, on the date of enactment of this Amendment, and on any account, are carrying out the activities of community health workers or endemic disease control agents, in accordance with the law, are not required to undergo the public selection process referred to in paragraph 4 of article 198 of the Federal Constitution, provided that they have been hired via a previous public selection process carried out by bodies or entities of the direct or indirect administration of a State, the Federal District, or a Municipality, or by other institutions, under the effective supervision and authorization of the direct administration of the units of the Federation.

Article 3. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, February 14, 2006.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Aldo Rebelo*, President – Deputy *José Thomaz Nonô*, First Vice-President – Deputy *Ciro Nogueira*, Second Vice-President – Deputy *Inocêncio Oliveira*, First Secretary – Deputy *Nilton Capixaba*, Second Secretary – Deputy *João Caldas*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *Renan Calheiros*, President – Senator *Tião Viana*, First Vice-President – Senator *Antero Paes de Barros*, Second Vice-President – Senator *Efraim Morais*, First Secretary – Senator *João Alberto Souza*, Second Secretary – Senator *Paulo Octávio*, Third Secretary – Senator *Eduardo Siqueira Campos*, Fourth Secretary.

Published in the *Official Journal*, February 15, 2006.

CONSTITUTIONAL AMENDMENT No. 52, 2006

Gives new wording to paragraph 1 of article 17 of the Federal Constitution to regulate electoral coalitions.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, enact the following Amendment to the constitutional text:

Article 1. Paragraph 1 of article 17 of the Federal Constitution shall henceforth read as follows:

> "Article 17. .....
>
> .....
>
> Paragraph 1. Political parties are ensured of autonomy to define their internal structure, organization, and operation, and to adopt the selection criteria and the composition of their electoral coalitions, without being required to follow the same party alliances at the national, state, Federal District, or municipal levels, and their by-laws shall establish rules of party loyalty and discipline.
>
> ....."

Article 2. This Constitutional Amendment shall come into force on the date of its publication, and shall apply to the elections to be held in the year 2002.[26]

Brasília, March 8, 2006.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Aldo Rebelo*, President – Deputy *José Thomaz Nonô*, First Vice-President – Deputy *Ciro Nogueira*, Second Vice-President – Deputy *Inocêncio Oliveira*, First Secretary – Deputy *Nilton Capixaba*, Second Secretary – Deputy *João Caldas*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *Renan Calheiros*, President – Senator *Tião Viana*, First Vice-President – Senator *Antero Paes de Barros*, Second Vice-President – Senator *Efraim Morais*, First Secretary – Senator *João Alberto Souza*, Second Secretary – Senator *Paulo Octávio*, Third Secretary – Senator *Eduardo Siqueira Campos*, Fourth Secretary.

Published in the *Official Journal*, March 9, 2006.

[26] By virtue of a decision of the Supreme Federal Court, on March 23, 2006, which declared Direct Action of Unconstitutionality – ADIN no. 3,685 to be valid, the provisions of this Constitutional Amendment shall be effective as from the 2010 elections.

CONSTITUTIONAL AMENDMENT No. 53, 2006

Gives new wording to articles 7, 23, 30, 206, 208, 211, and 212 of the Federal Constitution and to article 60 of the Temporary Constitutional Provisions Act.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, enact the following Amendment to the constitutional text:

Article 1. The Federal Constitution shall henceforth read as follows:

"Article 7. .....

.....

XXV – free assistance for children and dependents of up to five years of age, in day-care centres and pre-school facilities;

....."

"Article 23.....

.....

Sole paragraph. Supplementary laws shall establish rules for the cooperation between the Federal Government and the states, the Federal District, and the municipalities, aiming at the attainment of balanced development and well-being on a nationwide scope."

"Article 30. .....

.....

VI – maintain, with the technical and financial cooperation of the Federal Government and the state, programs of infant and elementary school education;

....."

"Article 206. .....

.....

V – appreciation of the value of school education professionals, guaranteeing, in accordance with the law, career schemes for public school teachers, with admittance exclusively by means of public entrance examinations consisting of tests and presentation of academic and professional credentials;

.....

VIII – a nationwide professional minimum salary for public school teachers, under the terms of a federal law.

Sole paragraph. The law shall provide for the classes of workers to be considered basic education professionals, as well as for the deadline for the preparation or adaptation of their career schemes, within the sphere of the Federal Government, the States, the Federal District, and the Municipalities."

"Article 208. .....

.....

IV – infant education to children of up to 5 (five) years of age in day-care centers and pre-schools;

....."

"Article 211. .....

.....

Paragraph 5. Public basic education shall give priority to regular education."

"Article 212. .....

.....

Paragraph 5. Public basic education shall have, as an additional source of financing, the social contribution for education, a payroll tax levied on companies, as provided by law.

Paragraph 6. State and municipal quotas of the proceeds from the collection of the social contribution for education shall be distributed in proportion to the number of students enrolled in basic education in the respective public school systems."

Article 2. Article 60 of the Temporary Constitutional Provisions Act shall henceforth read as follows:

"Article 60. In the 14 (fourteen) years following the promulgation of this Constitutional Amendment, the States, the Federal District, and the Municipalities shall allocate a portion of the monies referred to in the head paragraph of article 212 of the Federal Constitution, to the maintenance and development of basic education and to the payment of appropriate salaries to education workers, with due regard for the following provisions:

I – the distribution of monies and responsibilities among the Federal District, the States, and their Municipalities is assured through the establishment, within each State and the Federal District, of a Fund for the Maintenance and Development of Basic Education and for the Appreciation of Education Professionals – FUNDEB, of a financial nature;

II – the Funds referred to in item I of the head paragraph of this article shall be made up of 20% (twenty percent) of the

resources referred to in items I, II, and III of article 155; item II of the head paragraph of article 157; items II, III, and IV of the head paragraph of article 158; and subitems *a* and *b* of item I, and item II of the head paragraph of article 159, of the Federal Constitution, and shall be distributed among each State and its municipalities, in proportion to the number of students in the various grades and modalities of on-site basic education, enrolled in the respective school systems, within the respective scope of priority action as established by paragraphs 2 and 3 of article 211 of the Federal Constitution;

III – with due regard for the guarantees established in items I, II, III, and IV of the head paragraph of article 208 of the Federal Constitution, as well as for the basic education universalization goals established in the National Education Plan, the law shall provide for:

a) the organization of the Funds, the proportional distribution of their resources, the differences and weightings regarding the annual value per student among the various grades and modalities of basic education and types of schools;

b) the form of calculation of the minimum annual value per student;

c) the maximum percentages for the allocation of fund resources to the various grades and modalities of basic education, with due regard for articles 208 and 214 of the Federal Constitution, as well as for the National Education Plan goals;

d) oversight and control of the Funds;

e) a deadline to stipulate, by means of a specific law, a nationwide professional minimum salary for public school teachers of basic education;

IV – the resources transferred to the Funds established under the terms of item I of the head paragraph of this article shall be applied by the States and Municipalities exclusively within the scope of their priority actions, as established by paragraphs 2 and 3 of article 211 of the Federal Constitution;

V – the Federal Government shall supplement the resources of the Funds referred to in item II of the head paragraph of this article, whenever in the Federal District and in each State, the value per student does not reach the nationally set minimum value, stipulated in accordance with the provisions of item VII of the head paragraph of this article, and use of the resources referred to in paragraph 5 of article 212 of the Federal Constitution is forbidden;

VI – up to 10% (ten percent) of the resources supplemented by the Federal Government as set forth in item V of the head

paragraph of this article may be distributed to the Funds by means of programs aimed at improving the quality of education, under the terms of the law referred to in item III of the head paragraph of this article;

VII – the minimum amount of resources supplemented by the Federal Government as set forth in item V of the head paragraph of this article shall be equal to:

a) R$ 2,000,000,000.00 (two billion reais), in the first year the Funds are in force;

b) R$ 3,000,000,000.00 (three billion reais), in the second year the Funds are in force;

c) R$ 4,500,000,000.00 (four billion and five hundred million reais), in the third year the Funds are in force;

d) 10% (ten percent) of the total amount of resources referred to in item II of the head paragraph of this article, as from the fourth year the Funds are in force;

VIII – the resources earmarked for the maintenance and development of education as established in article 212 of the Federal Constitution may cover a maximum amount of 30% (thirty percent) of the resources supplemented by the Federal Government, taking into consideration, for the purposes of this item, the amounts set forth in item VII of the head paragraph of this article;

IX – the amounts referred to in subitems *a*, *b*, and *c* of item VII of the head paragraph of this article shall be adjusted every year as from the promulgation of this Constitutional Amendment, so that the real value of the supplementation provided by the Federal Government is permanently preserved;

X – the supplementation provided by the Federal Government shall comply with the provisions of article 160 of the Federal Constitution;

XI – the competent authority shall be held liable for crime of malversation in case of non-compliance with the provisions of items V and VII of the head paragraph of this article;

XII – a share of not less than 60% (sixty percent) of the resources of each Fund referred to in item I of the head paragraph of this article shall be used for the payment of basic education teachers who are actually teaching.

Paragraph 1. When financing basic education, the Federal Government, the States, the Federal District, and the Municipalities shall ensure that the quality of education will be improved, so as to guarantee a nationally set minimum standard.

Paragraph 2. The value per elementary school student, within each State Fund and the Federal District Fund, may not be lower than the value prescribed by the Fund for the Maintenance and Development of Elementary Education and for the Appreciation of the Teaching Profession – FUNDEF, in the year preceding the coming into force of this Constitutional Amendment.

Paragraph 3. The minimum annual value per elementary school student, within the Fund for the Maintenance and Development of Basic Education and for the Appreciation of Education Professionals – FUNDEB, may not be lower than the minimum value stipulated for the entire country in the year preceding the year in which this Constitutional Amendment comes into force.

Paragraph 4. For the purposes of distribution of the resources of the Funds referred to in item I of the head paragraph of this article, the total number of students enrolled in elementary education will be taken into account, and, as regards infant education, high school, and the education of young people and adults, 1/3 (one third) of the total number of students enrolled in the first year, 2/3 (two thirds) in the second year, and the total number as from the third year shall be taken into consideration.

Paragraph 5. The percentage of resources to constitute the Funds, in accordance with item II of the head paragraph of this article, shall be gradually achieved over the first 3 (three) years the Funds are in force, as follows:

I – as to the taxes and transfers mentioned in item II of the head paragraph of article 155; item IV of the head paragraph of article 158; and subitems *a* and *b* of item I and item II of the head paragraph of article 159 of the Federal Constitution:

a) 16.66% (sixteen and sixty-six hundredths of one percent), in the first year;

b) 18.33% (eighteen and thirty-three hundredths of one percent), in the second year;

c) 20% (twenty percent), as from the third year;

II – as to the taxes and transfers mentioned in items I and III of the head paragraph of article 155; item II of the head paragraph of article 157; and items II and III of the head paragraph of article 158 of the Federal Constitution:

a) 6.66% (six and sixty-six hundredths of one percent), in the first year;

b) 13.33% (thirteen and thirty-three hundredths of one percent), in the second year;

c) 20% (twenty percent), as from the third year.

Paragraph 6. (Revoked).

Paragraph 7. (Revoked)."

Article 3. This Constitutional Amendment shall come into force on the date of its publication, and article 60 of the Temporary Constitutional Provisions Act, as established by Constitutional Amendment no. 14, September 12, 1996, shall remain in effect until the Funds come into force, under the terms of this Constitutional Amendment.

Brasília, December 19, 2006.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Aldo Rebelo*, President – Deputy *José Thomaz Nonô*, First Vice-President – Deputy *Ciro Nogueira*, Second Vice-President – Deputy *Inocêncio Oliveira*, First Secretary – Deputy *Nilton Capixaba*, Second Secretary – Deputy *Eduardo Gomes*, Third Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *Renan Calheiros*, President – Senator *Tião Viana*, First Vice-President – Senator *Antero Paes de Barros*, Second Vice-President – Senator *Efraim Morais*, First Secretary – Senator *João Alberto Souza*, Second Secretary – Senator *Paulo Octávio*, Third Secretary – Senator *Eduardo Siqueira Campos*, Fourth Secretary.

Published in the *Official Journal*, December 20, 2006.

CONSTITUTIONAL AMENDMENT No. 54, 2007

Gives new wording to letter c of Item I of article 12 of the Federal Constitution and adds article 95 to the Temporary Constitutional Provisions Act, to ensure that Brazilians born abroad may be registered with Brazilian consulates.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, promulgate the following Amendment to the constitutional text:

Article 1. Letter *c* of item I of article 12 of the Federal Constitution shall henceforth read as follows:

> "Article 12. .....
>
> .....
>
> I – .....
>
> c) those born abroad, to a Brazilian father or a Brazilian mother, provided that they are registered with a competent Brazilian authority, or come to reside in the Federative Republic of Brazil, and opt for the Brazilian nationality at any time after reaching majority;
>
> ....."

Article 2. The Temporary Constitutional Provisions Act shall henceforth include the following article 95:

> "Article 95. Persons born abroad between June 7, 1994, and the date of enactment of this Constitutional Amendment, to a Brazilian father or a Brazilian mother, may be registered with a Brazilian diplomatic or consular authority, or with an official registry if they come to reside in the Federative Republic of Brazil."

Article 3. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, September 20, 2007.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Arlindo Chinaglia*, President – Deputy *Narcio Rodrigues*, First Vice-President – Deputy *Inocêncio Oliveira*, Second Vice-President – Deputy *Osmar Serraglio*, First Secretary – Deputy *Ciro Nogueira*, Second Secretary – Deputy *Waldemir Moka*, Third Secretary – Deputy *José Carlos Machado*, Fourth Secretary

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *Renan Calheiros*, President – Senator *Tião Viana*, First Vice-President – Senator *Alvaro Dias*, Second Vice-President – Senator *Efraim Morais*, First Secretary – Senator *Gerson Camata*, Second Secretary – Senator *César Borges*, Third Secretary – Senator *Magno Malta*, Fourth Secretary.

Published in the *Official Journal*, September 21, 2007.

CONSTITUTIONAL AMENDMENT No. 55, 2007

Alters article 159 of the Federal Constitution, to increase the amount of funds remitted by the Federal Government to the Revenue Sharing Fund of the Municipalities.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, enact the following Amendment to the constitutional text:

Article 1. Article 159 of the Federal Constitution shall henceforth read as follows:

"Article 159. .....

.....

I – of the proceeds from the collection of the tax on income and earnings of any nature and of the tax on industrialized products, forty-eight per cent as follows:

.....

d) one per cent to the Revenue Sharing Fund of the Municipalities, to be remitted within the first ten days of the month of December of each year;

....."

Article 2. In fiscal year 2007, the alterations introduced by this Constitutional Amendment to article 159 of the Federal Constitution shall apply only to the collection of the tax on income and earnings of any nature and of the tax on industrialized products carried out as from September 1, 2007.

Article 3. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, September 20, 2007.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Arlindo Chinaglia*, President – Deputy *Narcio Rodrigues*, First Vice-President – Deputy *Inocêncio Oliveira*, Second Vice-President – Deputy *Osmar Serraglio*, First Secretary – Deputy *Ciro Nogueira*, Second Secretary – Deputy *Waldemir Moka*, Third Secretary – Deputy *José Carlos Machado*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *Renan Calheiros*, President – Senator *Tião Viana*, First Vice-President – Senator *Alvaro Dias*, Second Vice-President – Senator *Efraim Morais*, First Secretary – Senator *Gerson Camata*, Second Secretary – Senator *César Borges*, Third Secretary – Senator *Magno Malta*, Fourth Secretary.

Published in the *Official Journal*, September 21, 2007.

CONSTITUTIONAL AMENDMENT No. 56, 2007

Extends the period of time stipulated in the head paragraph of article 76 of the Temporary Constitutional Provisions Act and makes further provisions.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, enact the following Amendment to the constitutional text:

Article 1. The head paragraph of article 76 of the Temporary Constitutional Provisions Act shall henceforth read as follows:

> "Article 76. Twenty percent of the proceeds from the collection by the Union of taxes, social contributions, and contributions for intervention in the economic domain, already instituted or that may be instituted by December 31, 2011, as well as their additional taxes and respective legal increases, shall not be earmarked to any agency, fund, or expense in the said period.
> ....."

Article 2. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, December 20, 2007.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Arlindo Chinaglia*, President – Deputy *Narcio Rodrigues*, First Vice-President – Deputy *Inocêncio Oliveira*, Second Vice-President – Deputy *Osmar Serraglio*, First Secretary – Deputy *Ciro Nogueira*, Second Secretary – Deputy *Waldemir Moka*, Third Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *Garibaldi Alves Filho*, President – Senator *Alvaro Dias*, Second Vice-President – Senator *Efraim Morais*, First Secretary – Senator *Gerson Camata*, Second Secretary – Senator *César Borges*, Third Secretary – Senator *Magno Malta*, Fourth Secretary.

Published in the *Official Journal*, December 21, 2007.

CONSTITUTIONAL AMENDMENT No. 57, 2008

Adds an article to the Temporary Constitutional Provisions Act with a view to confirming acts aimed at the establishment, fusion, merger, and dismemberment of municipalities.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, enact the following Amendment to the constitutional text:

Article 1. The Temporary Constitutional Provisions Act shall henceforth include the following Article 96:

> "Article 96. Acts aimed at the establishment, fusion, merger, and dismemberment of municipalities, whose act of creation was published on or before December 31, 2006, are hereby confirmed, provided that the requirements set forth in the legislation of the respective state at the time of establishment of said municipalities have been fulfilled."

Article 2. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, December 18, 2008.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Arlindo Chinaglia*, President – Deputy *Narcio Rodrigues*, First Vice-President – Deputy *Inocêncio Oliveira*, Second Vice-President – Deputy *Osmar Serraglio*, First Secretary – Deputy *Ciro Nogueira*, Second Secretary – Deputy *Waldemir Moka*, Third Secretary – Deputy *José Carlos Machado*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *Garibaldi Alves Filho*, President – Senator *Tião Viana*, First Vice-President – Senator *Alvaro Dias*, Second Vice-President – Senator *Gerson Camata*, Second Secretary – Senator *César Borges*, Third Secretary – Senator *Magno Malta*, Fourth Secretary.

Published in the *Official Journal*, December 18, 2008.

CONSTITUTIONAL AMENDMENT No. 58, 2009

Alters the wording of item IV of the head paragraph of article 29 and the wording of Article 29-A of the Federal Constitution, establishing provisions for the composition of Municipal Chambers.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, enact the following Amendment to the constitutional text:

Article 1. Item IV of the head paragraph of article 29 of the Federal Constitution shall henceforth read as follows:

"Article 29 .....

.....

IV – the following limits shall apply to the composition of Municipal Chambers:

a) 9 (nine) councilmen, in Municipalities with up to 15,000 (fifteen thousand) inhabitants;

b) 11 (eleven) councilmen, in Municipalities with over 15,000 (fifteen thousand) inhabitants and with up to 30,000 (thirty thousand) inhabitants;

c) 13 (thirteen) councilmen, in Municipalities with over 30,000 (thirty thousand) inhabitants and with up to 50,000 (fifty thousand) inhabitants;

d) 15 (fifteen) councilmen, in Municipalities with over 50,000 (fifty thousand) inhabitants and with up to 80,000 (eighty thousand) inhabitants;

e) 17 (seventeen) councilmen, in Municipalities with over 80,000 (eighty thousand) inhabitants and with up to 120,000 (one hundred and twenty thousand) inhabitants;

f) 19 (nineteen) councilmen, in Municipalities with over 120,000 (one hundred and twenty thousand) inhabitants and with up to 160,000 (one hundred and sixty thousand) inhabitants;

g) 21 (twenty-one) councilmen, in Municipalities with over 160,000 (one hundred and sixty thousand) inhabitants and with up to 300,000 (three hundred thousand) inhabitants;

h) 23 (twenty-three) councilmen, in Municipalities with over 300,000 (three hundred thousand) inhabitants and with up to 450,000 (four hundred and fifty thousand) inhabitants;

i) 25 (twenty-five) councilmen, in Municipalities with over 450,000 (four hundred and fifty thousand) inhabitants and with up to 600,000 (six hundred thousand) inhabitants;

j) 27 (twenty-seven) councilmen, in Municipalities with over 600,000 (six hundred thousand) inhabitants and with up to 750,000 (seven hundred thousand) inhabitants;

k) 29 (twenty-nine) councilmen, in Municipalities with over 750,000 (seven hundred thousand) inhabitants and with up to 900,000 (nine hundred thousand) inhabitants;

l) 31 (thirty-one) councilmen, in Municipalities with over 900,000 (nine hundred thousand) inhabitants and with up to 1,050,000 (one million and fifty thousand) inhabitants;

m) 33 (thirty-three) councilmen, in Municipalities with over 1,050,000 (one million and fifty thousand) inhabitants and with up to 1,200,000 (one million and two hundred thousand) inhabitants;

n) 35 (thirty-five) councilmen, in Municipalities with over 1,200,000 (one million and two hundred thousand) inhabitants and with up to 1,350,000 (one million three hundred and fifty thousand) inhabitants;

o) 37 (thirty-seven) councilmen, in Municipalities with 1,350,000 (one million three hundred and fifty thousand) inhabitants and with up to 1,500,000 (one million five hundred thousand) inhabitants;

p) 39 (thirty-nine) councilmen, in Municipalities with over 1,500,000 (one million five hundred thousand) inhabitants and with up to 1,800,000 (one million eight hundred thousand) inhabitants;

q) 41 (forty-one) councilmen, in Municipalities with over 1,800,000 (one million eight hundred thousand) inhabitants and with up to 2,400,000 (two million four hundred thousand) inhabitants;

r) 43 (forty-three) councilmen, in Municipalities with over 2,400,000 (two million four hundred thousand) inhabitants and with up to 3,000,000 (three million) inhabitants;

s) 45 (forty-five) councilmen, in Municipalities with over 3,000,000 (three million) inhabitants and with up to 4,000,000 (four million) inhabitants;

t) 47 (forty-seven) councilmen, in Municipalities with over 4,000,000 (four million) inhabitants and with up to 5,000,000 (five million) inhabitants;

u) 49 (forty-nine) councilmen, in Municipalities with over 5,000,000 (five million) inhabitants and with up to 6,000,000 (six million) inhabitants;

v) 51 (fifty-one) councilmen, in Municipalities with over 6,000,000 (six million) inhabitants and with up to 7,000,000 (seven million) inhabitants;

w) 53 (fifty-three) councilmen, in Municipalities with over 7,000,000 (seven million) inhabitants and with up to 8,000,000 (eight million) inhabitants; and

x) 55 (fifty-five) councilmen, in Municipalities with over 8,000,000 (eight million) inhabitants;

....."

Article 2. Article 29-A of the Federal Constitution shall henceforth read as follows:

"Article 29-A .....

I – 7% (seven percent) in the case of Municipalities having up to 100,000 (one hundred thousand) inhabitants;

II – 6% (six percent) in the case of Municipalities having between 100,000 (one hundred thousand) and 300,000 (three hundred thousand) inhabitants;

III – 5% (five percent) in the case of Municipalities having between 300,001 (three hundred thousand and one) inhabitants and 500,000 (five hundred thousand) inhabitants;

IV – 4.5% (four and five tenths per cent) in the case of Municipalities having between 500,001 (five hundred thousand and one) and 3,000,000 (three million) inhabitants;

V – 4% (four percent) in the case of Municipalities having between 3,000,001 (three million and one) and 8,000,000 (eight million) inhabitants;

VI – 3.5% (three and five tenths per cent) in the case of Municipalities having over 8,000,001 (eight million and one) inhabitants.

....."

Article 3. This Constitutional Amendment shall come into force on the date of its publication, as follows:

I – the provisions of Article 1 shall be effective as from the 2008 elections; and

II – the provisions of Article 2 shall be effective as from January 1 of the year following the year this amendment is published.

Brasília, December 23, 2009.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Michel Temer*, Speaker – Deputy *Marco Maia*, First Vice-President – Deputy *Antônio Carlos*

Magalhães Neto, Second Vice-President – Deputy *Rafael Guerra*, First Secretary – Deputy *Inocêncio Oliveira*, Second Secretary – Deputy *Odair Cunha*, Third Secretary – Deputy *Nelson Marquezelli*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *José Sarney*, President – Senator *Marconi Perillo*, First Vice-President – Senator *Heráclito Fortes*, Second Vice-President – Senator *Mão Santa*, Second Secretary – Senator *César Borges*, Acting Fourth Secretary.

Published in the *Official Journal*, September 24, 2009.

CONSTITUTIONAL AMENDMENT No. 59, 2009

Adds Paragragh 3 to Article 76 of the Temporary Constitutional Provisions Act, in order to effect a yearly reduction, as from fiscal year 2009, of the percentage of the DRU mechanism to de-earmark federal revenues calculated on the funds assigned to maintenance and development of education referred to in Article 212 of the Federal Constitution; gives new wording to items I and VII of Article 208, so as to make basic education mandatory for every individual from the age of four through the age of seventeen, and to extend supplementary programs to all grades of basic education; and gives new wording to Paragraph 4 of Article 211, to Paragraph 3 of Article 212, and to the head paragraph of Article 214, also adding item VI to Article 214.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, enact the following Amendment to the constitutional text:

Article 1. Items I and VII of Article 208 of the Federal Constitution shall henceforth read as follows:

> "Article 208. .....
>
> I – mandatory basic education, free of charge, for every individual from the age of 4 (four) through the age of 17 (seventeen), including the assurance of its free offer to all those who did not have access to it at the proper age;
>
> .....
>
> VII – assistance to students in all grades of basic education, by means of supplementary programmes providing school materials, transportation, food, and health care."

Article 2. Paragraph 4 of Article 211 of the Federal Constitution shall henceforth read as follows:

> "Article 211. .....
>
> .....
>
> Paragraph 4. In the organization of respective educational systems, the Federal Government, the States, the Federal District, and the Municipalities shall establish forms of cooperation, so as to guarantee the universalization of mandatory education."

Article 3. Paragraph 3 of Article 212 of the Federal Constitution shall henceforth read as follows:

> "Article 212. .....
>
> .....
>
> Paragraph 3. In the distribution of public funds, priority shall be given to the providing for the needs of compulsory education, as regards universalization, assurance of quality standards, and equality, as set forth in the national education plan."

Article 4. The head paragraph of article 214 of the Federal Constitution shall henceforth read as follows, and shall include item VI:

> "Article 214. The law shall establish a ten-year national education plan, with a view to organizing the national education system with the cooperation of states and municipalities, as well as to defining implementation directives, objectives, targets, and strategies so as to ensure maintenance and development of teaching, at its various levels, grades, and modalities, by means of integrated federal, state, and municipal government actions leading to
>
> .....
>
> VI – stipulation of an amount of public funds to be invested in education as a proportion of the gross domestic product."

Article 5. Article 76 of the Temporary Constitutional Provisions Act shall henceforth include the following Paragraph 3:

> "Article 76. .....
>
> .....
>
> Paragraph 3. For purposes of calculating the funds for maintenance and development of education referred to in Article 212 of the Constitution, the percentage mentioned in the head paragraph of this article shall be 12.5% (twelve and five tenths percent) in fiscal year 2009, 5% (five percent) in fiscal year 2010, and zero in fiscal year 2011."

Article 6. The provisions of item I of Article 208 of the Federal Constitution shall be progressively implemented through the year 2016, under the terms of the National Education Plan, with technical and financial support from the Federal Government.

Article 7. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, November 11, 2009.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Michel Temer*, Speaker – Deputy *Marco Maia*, First Vice-President – Deputy *Antônio Carlos*

Magalhães Neto, Second Vice-President – Deputy *Rafael Guerra*, First Secretary – Deputy *Inocêncio Oliveira*, Second Secretary – Deputy *Odair Cunha*, Third Secretary – Deputy *Nelson Marquezelli*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *José Sarney*, President – Senator *Marconi Perillo*, First Vice-President – Senator *Serys Slhessarenko*, Second Vice-President – Senator *Heráclito Fortes*, First Secretary – Senator *João Vicente Claudino*, Second Secretary – Senator *Mão Santa*, Third Secretary – Senator *César Borges*, Acting Fourth Secretary.

Published in the *Official Journal*, November 12, 2009.

CONSTITUTIONAL AMENDMENT No. 60, 2009

Alters Article 89 of the Temporary Constitutional Provisions Act to provide for the civil servants and members of the uniformed police force of the former Federal Territory of Rondônia.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, enact the following Amendment to the constitutional text:

Article 1. Article 89 of the Temporary Constitutional Provisions Act shall henceforth read as follows, whereas the payment, on any account, resulting from such alteration, of reimbursements or compensation of any nature regarding periods of time preceding the date of publication of this Constitutional Amendment shall be forbidden:

> "Article 89. The members of the uniformed police force and local administration employees of the former Federal Territory of Rondônia, who, in accordance with official documents, were regularly exercising their functions and rendering services to such former Territory at the time it was transformed into a State, as well as the employees and uniformed police officers covered by the provisions of article 36 of Supplementary Law no. 41, December 22, 1981, and those who were legally included in the Rondônia State Government personnel up until March 15, 1987, that is, the date the first elected governor took office, shall be included, at their option, in a special job class to be eventually terminated within the federal government services, being ensured of their specific rights and advantages, whereas the payment, under any circumstances, of remuneration differences shall be forbidden.
>
> Paragraph 1. The members of the uniformed police force shall continue rendering services to the State of Rondônia, in the quality of detailed personnel, subject to their respective uniformed police forces, with due regard for the compatibility between the duties of their function and their rank in the hierarchy.
>
> Paragraph 2. The employees referred to in the head paragraph shall continue rendering services to the State of Rondônia, in the quality of detailed personnel, up until they are placed in a federal government entity, associate government agency, or foundation."

Article 2. This Constitutional Amendment shall come into force on the date of its publication, any kind of retroactive effects being forbidden.

Brasília, November 11, 2009.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Michel Temer*, Speaker – Deputy *Marco Maia*, First Vice-President – Deputy *Antônio Carlos Magalhães Neto*, Second Vice-President – Deputy *Rafael Guerra*, First Secretary – Deputy *Inocêncio Oliveira*, Second Secretary – Deputy *Odair Cunha*, Third Secretary – Deputy *Nelson Marquezelli*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *José Sarney*, President – Senator *Marconi Perillo*, First Vice-President – Senator *Serys Slhessarenko*, Second Vice-President – Senator *Heráclito Fortes*, First Secretary – Senator *João Vicente Claudino*, Second Secretary – Senator *Mão Santa*, Third Secretary – Senator *César Borges*, Acting Fourth Secretary.

Published in the *Official Journal*, November 12, 2009.

CONSTITUTIONAL AMENDMENT No. 61, 2009

Alters Article 103-B of the Federal Constitution, to modify the membership of the National Council of Justice.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, enact the following Amendment to the constitutional text:

Article 1. Article 103-B of the Federal Constitution shall henceforth read as follows:

> "Article 103-B. The National Council of Justice is composed of 15 (fifteen) members appointed for a two-year term of office, one reappointment being permitted, as follows:
>
> I – the Chief Justice of the Supreme Federal Court;
>
> .....
>
> Paragraph 1. The Council shall be presided over by the Chief Justice of the Supreme Federal Court and, in the event of his absence or impediment, by the most senior Associate Justice of the Supreme Federal Court.
>
> Paragraph 2. The other members of the Council shall be appointed by the President of the Republic, after their nomination has been approved by the absolute majority of the Federal Senate.
>
> ....."

Article 2. This Amendment shall come into force on the date of its publication.

Brasília, November 11, 2009.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Michel Temer*, Speaker – Deputy *Marco Maia*, First Vice-President – Deputy *Antônio Carlos Magalhães Neto*, Second Vice-President – Deputy *Rafael Guerra*, First Secretary – Deputy *Inocêncio Oliveira*, Second Secretary – Deputy *Odair Cunha*, Third Secretary – Deputy *Nelson Marquezelli*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *José Sarney*, President – Senator *Marconi Perillo*, First Vice-President – Senator *Serys Slhessarenko*, Second Vice-President – Senator *Heráclito Fortes*, First Secretary – Senator *João Vicente Claudino*, Second Secretary – Senator *Mão Santa*, Third Secretary – Senator *César Borges*, Acting Fourth Secretary.

Published in the *Official Journal*, November 12, 2009.

CONSTITUTIONAL AMENDMENT No. 62, 2009

Alters Article 100 of the Federal Constitution and adds Article 97 to the Temporary Constitutional Provisions Act, to establish a special regime for States, the Federal District, and Municipalities to effect court-ordered debt payments.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, enact the following Amendment to the constitutional text:

Article 1. Article 100 of the Federal Constitution shall henceforth read as follows:

"Article 100. Payments owed by the federal, state, Federal District, or municipal treasuries, by virtue of a court decision, shall be made exclusively in chronological order of submission of court orders and charged to the respective credits, it being forbidden to designate cases or persons in the budgetary appropriations and in the additional credits opened for such purpose.

Paragraph 1. Support-related debts include those arising from wages, salaries, pay, pensions, and their supplementations, social security benefits and compensation for death and disability, such compensation being based on civil liability, by virtue of a final and unappealable judicial decision, and shall be paid before any other debts, except those referred to in Paragraph 2 of this article.

Paragraph 2. Support-related debts owed to persons aged 60 (sixty) or over on the date the respective court order is issued, or to persons with serious diseases, as defined by law, shall be paid before any other debts, up to an amount equivalent to three times the amount stipulated by law for the purposes of Paragraph 3 of this article, parceling for such end being permitted, whereas the remaining amount shall be paid according to the chronological order of submission of respective court order.

Paragraph 3. The provision contained in the head paragraph of this article, regarding the issuance of court orders, does not apply to obligations defined by law as small amounts, which must be paid by the treasuries herein referred to by virtue of a final and unappealable court decision.

Paragraph 4. For the purposes of the provision of Paragraph 3, different amounts may be stipulated for the federating units through their own legislation and according to their various economic capabilities, whereas the minimum amount shall be

equal to the amount of the highest benefit paid by the general Social Security scheme.

Paragraph 5. It is mandatory for the budgets of the federating units to include the funds required for payment of debts arising from final and unappealable judicial decisions, stated in court orders submitted until or on July 1, and payment shall be made before the close of the subsequent fiscal year, on which date their amounts shall be adjusted for inflation.

Paragraph 6. The budgetary allocations and the credits opened shall be assigned to the Judicial Power, it being within the competence of the Presiding Judge of the Court which rendered the decision of execution to determine full payment and to authorize – upon petition of a creditor and exclusively in the event that his right of precedence is not respected or that the amount necessary to satisfy the debt has not been set aside – attachment of the respective amount.

Paragraph 7. The Presiding Judge of the appropriate Court who, by means of an act or omission, delays or attempts to frustrate the regular payment of a court-ordered debt shall be liable to crime of malversation and shall also appear before the National Council of Justice.

Paragraph 8. The issuance of a court order as a supplementation to or in addition to an amount already paid, as well as the parceling, apportionment, or reduction of the amount under execution - so that the provision of Paragraph 3 may be applied to a portion of the total amount – are forbidden.

Paragraph 9. At the time a court order is issued, irrespective of the relevant regulation, there shall be deducted from such court order, for the purpose of a set-off, an amount corresponding to clear legal debits, either registered or not under debts in execution and attributed to the original creditor by the Treasury in debt, including future accruing installments of parcelings, save for those whose execution has been stayed by virtue of administrative or judicial challenge.

Paragraph 10. Before a court order is issued, the relevant court shall request that the Treasury in debt must provide, within 30 (thirty) days, otherwise subject to loss of the right to offset, information on the debits which meet the conditions stipulated in Paragraph 9, for the purposes set forth in said Paragraph.

Paragraph 11. In accordance with legislation of the federating unit in debt, a creditor may employ court order credits to purchase public property belonging to the respective federating unit.

Paragraph 12. As from the date Constitutional Amendment no. 62 is enacted, the amounts stated in court orders, after such court

orders are issued up until effective payment, irrespective of their nature, shall be adjusted according to the official rate applied to savings accounts, whereas, for the purpose of compensation of delay in the payment, simple interest will be applied at the same percentage of interest applied to savings accounts, the employment of compensatory interest being excluded.

Paragraph 13. Creditors may assign their court order credits, in whole or in part, to third parties, irrespective of consent by the debtor, and the provisions of Paragraphs 2 and 3 shall not be applied to the assignee.

Paragraph 14. Assignment of court order credits shall only produce effects after communication to the court of origin and to the federating unit in debt by filing a relevant petition.

Paragraph 15. Without prejudice to the provisions of this article, a supplementary law to this Federal Constitution may establish a special regime for the payment of court-ordered debts owed by States, the Federal District, and Municipalities, providing for earmarked net current revenues and for payment term and methods.

Paragraph 16. The Federal Government may, at its own discretion and under the terms of relevant law, take on debts resulting from court orders issued against a State, the Federal District, or a Municipality, and refinance them directly."

Article 2. The Temporary Constitutional Provisions Act shall henceforth include the following Article 97:

"Article 97. Up until the supplementary law referred to in Paragraph 15 of Article 100 of the Federal Constitution is enacted, the States, the Federal District, and Municipalities which, on the date of enactment of Constitutional Amendment no. 62, have not yet effected payment of past due court-ordered debts regarding their respective direct and indirect administration, including court orders issued during the period the special regime instituted by this article is in force, shall effect such payments in accordance with the rules set forth in this article, whereas the provisions of Article 100 of this Federal Constitution shall not be applicable, save for its Paragraphs 2, 3, 9, 10, 11, 12, 13, and 14, and without prejudice to conciliation agreements already formalized by the date of publication of Constitutional Amendment no. 62.

Paragraph 1. The States, the Federal District, and Municipalities subject to the special regime set forth in this article shall, by means of an Executive Power act, opt for either:

I – depositing the amount referred to in Paragraph 2 of this article into a special account; or

II – adopting the special regime for a period of up to 15 (fifteen) years, in which case the percentage to be deposited into the special account referred to in Paragraph 2 of this article shall be equivalent to the total yearly balance of court-ordered debts, increased by the official rate applied to savings accounts and by simple interest applied at the same percentage of interest applied to savings accounts for the purpose of compensation of delay in the payment – the employment of compensatory interest being excluded, reduced by any paid amount, and divided by the remaining number of years in the special regime of payment.

Paragraph 2. In order to pay up both its past due and future accruing court-ordered debts through the special regime, the States, the Federal District, and Municipalities in debt shall effect a monthly deposit into a special account created for such purpose, of 1/12 (one twelfth) of the amount calculated as a percentage of the respective net current revenues, as computed in the second month preceding the month of payment, whereas such percentage, calculated at the time of opting for the special regime and kept unchanged through the end of the period referred to in Paragraph 14 of this article, shall be equal to:

I – in the case of the States and of the Federal District:

a) at least 1.5% (one whole and five tenths per cent), for the States of the North, Northeast, and Centre-West regions, in addition to the Federal District, or for those States where the backlog of court orders owed by their respective direct and indirect administration corresponds to up to 35% (thirty-five per cent) of the total net current revenues;

b) at least 2% (two per cent), for the States of the South and Southeast Regions, where the backlog of court orders owed by their respective direct and indirect administration corresponds to over 35% (thirty-five per cent) of the net current revenues;

II – in the case of Municipalities:

a) at least 1% (one per cent), for Municipalities of the North, Northeast, and Centre-West regions, or for those Municipalities where the backlog of court orders owed by their respective direct and indirect administration corresponds to up to 35% (thirty-five per cent) of the net current revenues;

b) at least 1.5% (one whole and five tenths per cent), for Municipalities of the South and Southeast Regions, where the backlog of court orders owed by their respective direct and indirect administration corresponds to over 35% (thirty-five per cent) of the net current revenues.

Paragraph 3. For the purposes of this article, net current revenues mean the total sum of tax, industry, and agriculture

revenues, property income, revenues from contributions and from services, current transfers, and other current revenues, including those deriving from Paragraph 1 of Article 20 of the Federal Constitution, such total sum being computed in the period including the reference month and the 11 (eleven) preceding months, excluding any double counting but at the same time deducting:

I – in the case of the States, the portions remitted to the Municipalities as set forth by the Constitution;

II – in the case of the States, the Federal District, and Municipalities, the contribution paid by respective employees to fund their own social security and social assistance system, as well as revenues deriving from the financial offsetting referred to in Paragraph 9 of Article 201 of the Federal Constitution.

Paragraph 4. The special accounts referred to in Paragraphs 1 and 2 shall be managed by the respective Court of Justice, for payment of judicial orders issued by courts.

Paragraph 5. The funds deposited into the special accounts referred to in Paragraphs 1 and 2 of this article may not be returned to the States, the Federal District, and Municipalities in debt.

Paragraph 6. At least 50% (fifty per cent) of the funds referred to in Paragraphs 1 and 2 of this article shall be used to pay court orders according to their chronological order of submission, with due regard for the priorities defined in Paragraph 1 of Article 100 – in the case of court orders of one same year, and in Paragraph 2 – in the case of court orders of all years.

Paragraph 7. If it is not possible to ascertain the chronological priority between 2 (two) court orders, the court order stating the smallest amount shall be paid first.

Paragraph 8. The employment of the remaining funds shall depend on option to be effected by the States, the Federal District, and Municipalities in debt, through an Executive Power act, in accordance with the following modes, which may be applied either separately or simultaneously:

I – payment of court orders by means of auctions;

II – payment in cash of court orders not paid up under the terms of Paragraph 6 and of Item I, in a single, increasing order of respective amounts;

III – payment through direct agreement with creditors, under the terms of law specific to each federating unit in debt, which may provide for the establishment and mode of operation of conciliation panels.

Paragraph 9. The following shall apply to the auctions referred to in Item I of Paragraph 8 of this article:

I – auctions shall be carried out through an electronic system managed by an entity authorized by the Brazilian Securities and Exchange Commission (CVM) or by the Central Bank of Brazil;

II – court orders – or a installment of a court order amount as designated by its holder – with respect to which no appeal or challenge of any nature whatsoever is pending within the Judicial Power shall be qualified to take part in an auction, whereas, at the initiative of the Executive Power, it will be permitted to offset court-order debt payments against clear legal debits, either registered or not under debts in execution and attributed to the original debtor by the Treasury in debt up to the date of issuance of respective court order, save for those whose enforceability has been stayed under the terms of the law, or which have already been subject to deduction under the terms of Paragraph 9 of Article 100 of the Federal Constitution;

III – auctions will be effected through public offer to all creditors qualified by the respective federating unit in debt;

IV – any creditor who meets the requirements of Item II shall be considered automatically qualified;

V – auctions shall be carried out as many times as necessary to meet the available amount;

VI – inclusion of an installment of the total amount in an auction will be effected at the discretion of respective creditor, at an abatement in the amount of the installment;

VII – auctions shall take the form of debt abatement, associated with the largest volume offered – either cumulated or not with the highest percentage of abatement, according to the highest percentage of abatement, in which case the maximum amount per creditor may be stipulated, or according to another criterion to be defined in a public call notice;

VIII – the price formation mechanism shall be stated in the public call notices issued for each auction;

IX – the payment in part of a court order shall be ratified by the court which issued said court order.

Paragraph 10. Should the funds referred to in Item II of Paragraph 1 and in Paragraphs 2 and 6 of this article not be made available in due time:

I – there shall be effected attachment of the relevant amount in the accounts belonging to the States, the Federal District, and Municipalities in debt, by order of the Presiding Judge of the

Court referred to in Paragraph 4, up to the limit of the amount not made available;

II – there shall be established, as an alternative, by order of the Presiding Judge of the relevant Court, in favor of creditors of court orders, against the States, the Federal District, and Municipalities in debt, a clear legal right – self-enforceable and irrespective of regulation – to automatic offsetting against clear debits attributed to said creditors by such debtors, whereas, there being a balance in favor of a creditor, such amount shall automatically be deductible from the taxes owed to the States, the Federal District, and Municipalities in debt, up to the offsetting limits;

III – the head of respective Executive Power shall be held liable under the terms of the legislation on fiscal responsibility and administrative dishonesty;

IV – for as long as non-compliance prevails, the federating unit in debt:

a) shall not be allowed to raise loans at home or abroad;

b) shall not be entitled to receive voluntary transfers;

V – the Federal Government shall not effect the remittances regarding the Revenue Sharing Fund of the States and the Federal District and the Revenue Sharing Fund of Municipalities, depositing them instead into the special accounts referred to in Paragraph 1 of this article, whereas the employment of such amounts must comply with Paragraph 5 of this article.

Paragraph 11. As regards a court order concerning several creditors in a joinder of parties, the court of origin of said court order may dismember the total amount per creditor, and each creditor may participate in an auction with the total amount such creditor is entitled to, the rule set forth in Paragraph 3 of Article 100 of the Federal Constitution not being applicable to such case.

Paragraph 12. Should the legislation referred to in Paragraph 4 of Article 100 not be enacted within 180 (one hundred and eighty) days as from the date of enactment of Constitutional Amendment no. 62, the following amounts shall prevail for the relevant purposes, for the States, the Federal District, and Municipalities in debt which have failed to regulate the matter:

I – 40 (forty) monthly minimum wages in the case of States and the Federal District;

II – 30 (thirty) monthly minimum wages in the case of Municipalities.

Paragraph 13. During the period in which the States, the Federal District, and Municipalities in debt are effecting payment of court orders through the special regime, they may not be subject

to attachment of amounts, except when the funds referred to in Item II of Paragraph 1 and in Paragraph 2 of this article are not made available in due time.

Paragraph 14. The special regime for payment of court orders set forth in Item I of Paragraph 1 of this article shall be in force for as long as the amount of court-ordered debts is higher than the amount of funds earmarked under the terms of Paragraph 2 of this article, or for a fixed period of 15 (fifteen) years in the case of the option referred to in Item II of Paragraph 1.

Paragraph 15. Court-ordered debts divided into installments under the terms of Article 33 or Article 78 of this Temporary Constitutional Provisions Act and whose payment is still pending shall be included in the special regime with the amount of all pending installments being updated, whereas the balance of any judicial and extrajudicial agreements shall also be included in the special regime.

Paragraph 16. As from the date Constitutional Amendment no. 62 is enacted, the amounts stated in court orders, up until effective payment, irrespective of their nature, shall be adjusted according to the official rate applied to savings accounts, whereas, for the purpose of compensation of delay in the payment, simple interest will be applied at the same percentage of interest applied to savings accounts, the employment of compensatory interest being excluded.

Paragraph 17. While the special regime is in force, any amount in excess of the limit set forth in Paragraph 2 of Article 100 of the Federal Constitution shall be paid in accordance with Paragraphs 6 and 7 or with Items I, II, and III of Paragraph 8 of this article, whereas the amounts used to meet the provision of Paragraph 2 of Article 100 of the Federal Constitution shall be computed for the purposes of Paragraph 6 of this article.

Paragraph 18. While the special regime referred to in this article is in effect, the original holders of court orders who have reached the age of 60 (sixty) years old by the date of enactment of Constitutional Amendment no. 62 shall also be entitled to the priority referred to in Paragraph 6."

Article 3. The payment regime created by Article 97 of the Temporary Constitutional Provisions Act shall be implemented within 90 (ninety days) as from the date of enactment of this Constitutional Amendment no. 62.

Article 4. A federating unit shall obey only the provisions of Article 100 of the Federal Constitution:

I – in the case of option for the system set forth in Item I of Paragraph 1 of Article 97 of the Temporary Constitutional Provisions Act, should the amount of court-ordered debts be lower than the amount of funds earmarked to pay them;

II – in the case of option for the system set forth in Item II of Paragraph 1 of Article 97 of the Temporary Constitutional Provisions Act, upon expiration of relevant period.

Article 5. Any assignment of court order credits effected before the enactment of this Constitutional Amendment no. 62, irrespective of consent by the federating unit in debt, is hereby confirmed.

Article 6. Any offsetting of court-ordered debt payments against taxes owed to a debtor federating unit and due up to October 31, 2009, effected under the terms of Paragraph 2 of Article 78 of the Temporary Constitutional Provisions Act, and before the enactment of this Constitutional Amendment no. 62, is hereby confirmed.

Article 7. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, December 9, 2009.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Michel Temer*, Speaker – Deputy *Marco Maia*, First Vice-President – Deputy *Antônio Carlos Magalhães Neto*, Second Vice-President – Deputy *Rafael Guerra*, First Secretary – Deputy *Inocêncio Oliveira*, Second Secretary – Deputy *Odair Cunha*, Third Secretary – Deputy *Nelson Marquezelli*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *Marconi Perillo*, First Vice-President, Acting President – Senator *Serys Slhessarenko*, Second Vice-President – Senator *Heráclito Fortes*, First Secretary – Senator *João Vicente Claudino*, Second Secretary – Senator *Mão Santa*, Third Secretary – Senator *Patrícia Saboya*, Acting Fourth Secretary.

Published in the *Official Journal*, December 10, 2009.

CONSTITUTIONAL AMENDMENT No. 63, 2010

Alters Paragraph 5 of Article 198 of the Federal Constitution, to provide for a nationwide professional minimum salary and guidelines for the Career Schemes of community health workers and endemic disease control agents.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, enact the following Amendment to the constitutional text:

Article 1. Paragraph 5 of Article 198 of the Federal Constitution shall henceforth read as follows:

"Article 198. .....

.....

Paragraph 5. Federal legislation shall provide for the legal regime, a nationwide professional minimum salary, the guidelines for Career Schemes, and the regulation of activities of community health workers and endemic disease control agents, and it shall be incumbent upon the Federal Government, under the terms of the law, to provide supplementary financial support to the States, the Federal District, and Municipalities, to achieve compliance with said minimum salary.

....."

Article 2. This Amendment shall come into force on the date of its publication.

Brasília, February 4, 2010.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Michel Temer*, Speaker – Deputy *Marco Maia*, First Vice-President – Deputy *Antônio Carlos Magalhães Neto*, Second Vice-President – Deputy *Rafael Guerra*, First Secretary – Deputy *Inocêncio Oliveira*, Second Secretary – Deputy *Odair Cunha*, Third Secretary – Deputy *Nelson Marquezelli*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *José Sarney*, President – Senator *Marconi Perillo*, First Vice-President – Senator *Serys Slhessarenko*, Second Vice-President – Senator *Heráclito Fortes*, First Secretary – Senator *João Vicente Claudino*, Second Secretary – Senator *Mão Santa*, Third Secretary – Senator *Patrícia Saboya*, Acting Fourth Secretary.

Published in the *Official Journal*, February 5, 2010.

CONSTITUTIONAL AMENDMENT No. 64, 2010

Changes the wording of Article 6 of the Federal Constitution, to include food as a social right.

The Directing Boards of the Chamber of Deputies and of the Federal Senate, under the terms of paragraph 3 of article 60 of the Federal Constitution, enact the following Amendment to the constitutional text:

Article 1. Article 6 of the Federal Constitution shall henceforth read as follows:

> "Article 6. Education, health, food, work, housing, leisure, security, social security, protection of motherhood and childhood, and assistance to the destitute are social rights, as set forth by this Constitution."

Article 2. This Amendment shall come into force on the date of its publication.

Brasília, February 4, 2010.

THE DIRECTING BOARD OF THE CHAMBER OF DEPUTIES: Deputy *Michel Temer*, Speaker – Deputy *Marco Maia*, First Vice-President – Deputy *Antônio Carlos Magalhães Neto*, Second Vice-President – Deputy *Rafael Guerra*, First Secretary – Deputy *Inocêncio Oliveira*, Second Secretary – Deputy *Odair Cunha*, Third Secretary – Deputy *Nelson Marquezelli*, Fourth Secretary.

THE DIRECTING BOARD OF THE FEDERAL SENATE: Senator *José Sarney*, President – Senator *Marconi Perillo*, First Vice-President – Senator *Serys Slhessarenko*, Second Vice-President – Senator *Heráclito Fortes*, First Secretary – Senator *João Vicente Claudino*, Second Secretary – Senator *Mão Santa*, Third Secretary – Senator *Patrícia Saboya*, Acting Fourth Secretary.

Published in the *Official Journal*, February 5, 2010.

International Acts Equivalent to Constitutional Amendments

LEGISLATIVE DECREE No. 186
JULY 9, 2008
(Published in the *Official Journal*, July 10, 2008)[27]

Be it known to all that the National Congress has approved, and I, Garibaldi Alves Filho, President of the Federal Senate, under the terms of Article 5, paragraph 3, of the Federal Constitution, and under the terms of Article 48, Item XXVIII, of the Standing Rules, enact the following

LEGISLATIVE DECREE No. 186, 2008

To approve the text of the Convention on the Rights of Persons with Disabilities and of its Optional Protocol, signed in New York on March 30, 2007.

The National Congress decrees the following:

Article 1. The text of the Convention on the Rights of Persons with Disabilities and of its Optional Protocol, signed in New York on March 30, 2007, is hereby approved, under the terms of paragraph 3 of Article 5 of the Federal Constitution.

Sole paragraph. Any acts that alter the above-mentioned Convention and its Optional Protocol, as well as any other complementary adjustments that, under the terms of item I of the head paragraph of article 49 of the Federal Constitution, entail charges or commitments encumbering the national property, are subject to approval by the National Congress.

Article 2. This Legislative Decree shall come into force on the date of its publication.

Federal Senate, July 9, 2008.

SENATOR GARIBALDI ALVES FILHO – President of the Federal Senate.

[27] Republished in the *Official Journal*, August 20, 2008.

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

PREAMBLE

The States Parties to the present Convention,

a. Recalling the principles proclaimed in the Charter of the United Nations which recognize the inherent dignity and worth and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world,

b. Recognizing that the United Nations, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, has proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind,

c. Reaffirming the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms and the need for persons with disabilities to be guaranteed their full enjoyment without discrimination,

d. Recalling the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,

e. Recognizing that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others,

f. Recognizing the importance of the principles and policy guidelines contained in the World Programme of Action concerning Disabled Persons and in the Standard Rules on the Equalization of Opportunities for Persons with Disabilities in influencing the promotion, formulation and evaluation of the policies, plans, programmes and actions at the national, regional and international levels to further equalize opportunities for persons with disabilities,

g. Emphasizing the importance of mainstreaming disability issues as an integral part of relevant strategies of sustainable development,

h. Recognizing also that discrimination against any person on the basis of disability is a violation of the inherent dignity and worth of the human person,

i. Recognizing further the diversity of persons with disabilities,

j. Recognizing the need to promote and protect the human rights of all persons with disabilities, including those who require more intensive support,

k. Concerned that, despite these various instruments and undertakings, persons with disabilities continue to face barriers in their participation as equal members of society and violations of their human rights in all parts of the world,

l. Recognizing the importance of international cooperation for improving the living conditions of persons with disabilities in every country, particularly in developing countries,

m. Recognizing the valued existing and potential contributions made by persons with disabilities to the overall well-being and diversity of their communities, and that the promotion of the full enjoyment by persons with disabilities of their human rights and fundamental freedoms and of full participation by persons with disabilities will result in their enhanced sense of belonging and in significant advances in the human, social and economic development of society and the eradication of poverty,

n. Recognizing the importance for persons with disabilities of their individual autonomy and independence, including the freedom to make their own choices,

o. Considering that persons with disabilities should have the opportunity to be actively involved in decision-making processes about policies and programmes, including those directly concerning them,

p. Concerned about the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status,

q. Recognizing that women and girls with disabilities are often at greater risk, both within and outside the home of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation,

r. Recognizing that children with disabilities should have full enjoyment of all human rights and fundamental freedoms on an equal basis with other children, and recalling obligations to that end undertaken by States Parties to the Convention on the Rights of the Child,

s. Emphasizing the need to incorporate a gender perspective in all efforts to promote the full enjoyment of human rights and fundamental freedoms by persons with disabilities,

t. Highlighting the fact that the majority of persons with disabilities live in conditions of poverty, and in this regard recognizing the critical need to address the negative impact of poverty on persons with disabilities,

u. Bearing in mind that conditions of peace and security based on full respect for the purposes and principles contained in the Charter of the United Nations and observance of

applicable human rights instruments are indispensable for the full protection of persons with disabilities, in particular during armed conflicts and foreign occupation,

v. Recognizing the importance of accessibility to the physical, social, economic and cultural environment, to health and education and to information and communication, in enabling persons with disabilities to fully enjoy all human rights and fundamental freedoms,

w. Realizing that the individual, having duties to other individuals and to the community to which he or she belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the International Bill of Human Rights,

x. Convinced that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, and that persons with disabilities and their family members should receive the necessary protection and assistance to enable families to contribute towards the full and equal enjoyment of the rights of persons with disabilities,

y. Convinced that a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities will make a significant contribution to redressing the profound social disadvantage of persons with disabilities and promote their participation in the civil, political, economic, social and cultural spheres with equal opportunities, in both developing and developed countries,

Have agreed as follows:

ARTICLE 1
Purpose

The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

ARTICLE 2
Definitions

For the purposes of the present Convention:

"Communication" includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;

"Language" includes spoken and signed languages and other forms of non spoken languages;

"Discrimination on the basis of disability" means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation;

"Reasonable accommodation" means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;

"Universal design" means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. "Universal design" shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

ARTICLE 3
General principles

The principles of the present Convention shall be:

a. Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;

b. Non-discrimination;

c. Full and effective participation and inclusion in society;

d. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;

e. Equality of opportunity;

f. Accessibility;

g. Equality between men and women;

h. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

ARTICLE 4
General obligations

1. States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:

a. To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention;

b. To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;

c. To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;

d. To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention;

e. To take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise;

f. To undertake or promote research and development of universally designed goods, services, equipment and facilities, as defined in article 2 of the present Convention, which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development of standards and guidelines;

g. To undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost;

h. To provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities;

i. To promote the training of professionals and staff working with persons with disabilities in the rights recognized in this Convention so as to better provide the assistance and services guaranteed by those rights.

2. With regard to economic, social and cultural rights, each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these rights, without prejudice to those obligations contained in the present Convention that are immediately applicable according to international law.

3. In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.

4. Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of persons with disabilities and which may be contained in the law of a State Party or international law in force for that State. There shall be no restriction upon or derogation from any of the human rights

and fundamental freedoms recognized or existing in any State Party to the present Convention pursuant to law, conventions, regulation or custom on the pretext that the present Convention does not recognize such rights or freedoms or that it recognizes them to a lesser extent.

5. The provisions of the present Convention shall extend to all parts of federal states without any limitations or exceptions.

ARTICLE 5
Equality and non-discrimination

1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.

2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.

3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.

4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

ARTICLE 6
Women with disabilities

1. States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.

2. States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

ARTICLE 7
Children with disabilities

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.

2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.

3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight

in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

ARTICLE 8
Awareness-raising

1. States Parties undertake to adopt immediate, effective and appropriate measures:

a. To raise awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities;

b. To combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life;

c. To promote awareness of the capabilities and contributions of persons with disabilities.

Measures to this end include:

a. Initiating and maintaining effective public awareness campaigns designed:

i. To nurture receptiveness to the rights of persons with disabilities;

ii. To promote positive perceptions and greater social awareness towards persons with disabilities;

iii. To promote recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to the workplace and the labour market;

b. Fostering at all levels of the education system, including in all children from an early age, an attitude of respect for the rights of persons with disabilities;

c. Encouraging all organs of the media to portray persons with disabilities in a manner consistent with the purpose of the present Convention;

d. Promoting awareness-training programmes regarding persons with disabilities and the rights of persons with disabilities.

ARTICLE 9
Accessibility

1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:

a. Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;

b. Information, communications and other services, including electronic services and emergency services.

2. States Parties shall also take appropriate measures to:

a. Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;

b. Ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;

c. Provide training for stakeholders on accessibility issues facing persons with disabilities;

d. Provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;

e. Provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;

f. Promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;

g. Promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;

h. Promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

ARTICLE 10
Right to life

States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.

ARTICLE 11
Situations of risk and humanitarian emergencies

States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

ARTICLE 12
Equal recognition before the law

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.

2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.

3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.

4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.

5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.

ARTICLE 13
Access to justice

1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.

2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.

ARTICLE 14
Liberty and security of the person

1. States Parties shall ensure that persons with disabilities, on an equal basis with others:

a. Enjoy the right to liberty and security of person;

b. Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.

2. States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of this Convention, including by provision of reasonable accommodation.

ARTICLE 15

Freedom from torture or cruel, inhuman or degrading treatment or punishment

1. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation.

2. States Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

ARTICLE 16

Freedom from exploitation, violence and abuse

1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.

2. States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. States Parties shall ensure that protection services are age-, gender- and disability-sensitive.

3. In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.

4. States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.

5. States Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation,

violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

ARTICLE 17
Protecting the integrity of the person

Every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others.

ARTICLE 18
Liberty of movement and nationality

1. States Parties shall recognize the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others, including by ensuring that persons with disabilities:

a. Have the right to acquire and change a nationality and are not deprived of their nationality arbitrarily or on the basis of disability;

b. Are not deprived, on the basis of disability, of their ability to obtain, possess and utilize documentation of their nationality or other documentation of identification, or to utilize relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement;

c. Are free to leave any country, including their own;

d. Are not deprived, arbitrarily or on the basis of disability, of the right to enter their own country.

2. Children with disabilities shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by their parents.

ARTICLE 19
Living independently and being included in the community

States Parties to this Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:

a. Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;

b. Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support

living and inclusion in the community, and to prevent isolation or segregation from the community;

c. Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

ARTICLE 20
Personal mobility

States Parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities, including by:

a. Facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at affordable cost;

b. Facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable cost;

c. Providing training in mobility skills to persons with disabilities and to specialist staff working with persons with disabilities;

d. Encouraging entities that produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for persons with disabilities.

ARTICLE 21
Freedom of expression and opinion, and access to information

States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by:

a. Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;

b. Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;

c. Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;

d. Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;

e. Recognizing and promoting the use of sign languages.

ARTICLE 22
Respect for privacy

1. No person with disabilities, regardless of place of residence or living arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation. Persons with disabilities have the right to the protection of the law against such interference or attacks.

2. States Parties shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others.

ARTICLE 23
Respect for home and the family

1. States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:

a. The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;

b. The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;

c. Persons with disabilities, including children, retain their fertility on an equal basis with others.

2. States Parties shall ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation; in all cases the best interests of the child shall be paramount. States Parties shall render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.

3. States Parties shall ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.

4. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.

5. States Parties shall, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.

ARTICLE 24
Education

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and life long learning directed to:

a. The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;

b. The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;

c. Enabling persons with disabilities to participate effectively in a free society.

2. In realizing this right, States Parties shall ensure that:

a. Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;

b. Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;

c. Reasonable accommodation of the individual's requirements is provided;

d. Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;

e. Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.

3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:

a. Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;

b. Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;

c. Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.

4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.

5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

ARTICLE 25
Health

States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

a. Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;

b. Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;

c. Provide these health services as close as possible to people's own communities, including in rural areas;

d. Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;

e. Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;

f. Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

ARTICLE 26
Habilitation and rehabilitation

1. States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. To that end, States Parties shall organize, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services, in such a way that these services and programmes:

a. Begin at the earliest possible stage, and are based on the multidisciplinary assessment of individual needs and strengths;

b. Support participation and inclusion in the community and all aspects of society, are voluntary, and are available to persons with disabilities as close as possible to their own communities, including in rural areas.

2. States Parties shall promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.

3. States Parties shall promote the availability, knowledge and use of assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation.

ARTICLE 27
Work and employment

1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:

a. Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;

b. Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;

c. Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;

d. Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;

e. Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;

f. Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;

g. Employ persons with disabilities in the public sector;

h. Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;

i. Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;

j. Promote the acquisition by persons with disabilities of work experience in the open labour market;

k. Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.

2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

ARTICLE 28

Adequate standard of living and social protection

1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.

2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability,

and shall take appropriate steps to safeguard and promote the realization of this right, including measures:

a. To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;

b. To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;

c. To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance and respite care;

d. To ensure access by persons with disabilities to public housing programmes;

e. To ensure equal access by persons with disabilities to retirement benefits and programmes.

ARTICLE 29
Participation in political and public life

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:

a. Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:

i. Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;

ii. Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;

iii. Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;

b. Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:

i. Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;

ii. Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

ARTICLE 30
Participation in cultural life, recreation, leisure and sport

1. States Parties recognize the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:

a. Enjoy access to cultural materials in accessible formats;

b. Enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats;

c. Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.

2. States Parties shall take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.

3. States Parties shall take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.

4. Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.

5. With a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures:

a. To encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;

b. To ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;

c. To ensure that persons with disabilities have access to sporting, recreational and tourism venues;

d. To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;

e. To ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities.

ARTICLE 31
Statistics and data collection

1. States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention. The process of collecting and maintaining this information shall:

a. Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of persons with disabilities;

b. Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.

2. The information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the implementation of States Parties' obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights.

3. States Parties shall assume responsibility for the dissemination of these statistics and ensure their accessibility to persons with disabilities and others.

ARTICLE 32
International cooperation

1. States Parties recognize the importance of international cooperation and its promotion, in support of national efforts for the realization of the purpose and objectives of the present Convention, and will undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of persons with disabilities. Such measures could include, inter alia:

a. Ensuring that international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities;

b. Facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices;

c. Facilitating cooperation in research and access to scientific and technical knowledge;

d. Providing, as appropriate, technical and economic assistance, including by facilitating access to and sharing of accessible and assistive technologies, and through the transfer of technologies.

2. The provisions of this article are without prejudice to the obligations of each State Party to fulfil its obligations under the present Convention.

ARTICLE 33
National implementation and monitoring

1. States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels.

2. States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.

3. Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.

ARTICLE 34
Committee on the Rights of Persons with Disabilities

1. There shall be established a Committee on the Rights of Persons with Disabilities (hereafter referred to as "the Committee"), which shall carry out the functions hereinafter provided.

2. The Committee shall consist, at the time of entry into force of the present Convention, of twelve experts. After an additional sixty ratifications or accessions to the Convention, the membership of the Committee shall increase by six members, attaining a maximum number of eighteen members.

3. The members of the Committee shall serve in their personal capacity and shall be of high moral standing and recognized competence and experience in the field covered by the present Convention. When nominating their candidates, States Parties are invited to give due consideration to the provision set out in article 4.3 of the present Convention.

4. The members of the Committee shall be elected by States Parties, consideration being given to equitable geographical distribution, representation of the different forms of civilization and of the principal legal systems, balanced gender representation and participation of experts with disabilities.

5. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties from among their nationals at meetings of the Conference of States Parties. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The initial election shall be held no later than six months after the date of entry into force of the present Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit the nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating the State Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

7. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election once. However, the term of six of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these six members shall be chosen by lot by the chairperson of the meeting referred to in paragraph 5 of this article.

8. The election of the six additional members of the Committee shall be held on the occasion of regular elections, in accordance with the relevant provisions of this article.

9. If a member of the Committee dies or resigns or declares that for any other cause she or he can no longer perform her or his duties, the State Party which nominated the member shall appoint another expert possessing the qualifications and meeting the requirements set out in the relevant provisions of this article, to serve for the remainder of the term.

10. The Committee shall establish its own rules of procedure.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention, and shall convene its initial meeting.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.

13. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

ARTICLE 35
Reports by States Parties

1. Each State Party shall submit to the Committee, through the Secretary-General of the United Nations, a comprehensive report on measures taken to give effect to its obligations under the present Convention and on the progress made in that regard, within two years after the entry into force of the present Convention for the State Party concerned.

2. Thereafter, States Parties shall submit subsequent reports at least every four years and further whenever the Committee so requests.

3. The Committee shall decide any guidelines applicable to the content of the reports.

4. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports, repeat information previously provided. When preparing reports to the Committee, States Parties are invited to consider doing so in an open and transparent process and to give due consideration to the provision set out in article 4.3 of the present Convention.

5. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

ARTICLE 36
Consideration of reports

1. Each report shall be considered by the Committee, which shall make such suggestions and general recommendations on the report as it may consider appropriate and shall forward these to the State Party concerned. The State Party may respond with any information it chooses to the Committee. The Committee may request further information from States Parties relevant to the implementation of the present Convention.

2. If a State Party is significantly overdue in the submission of a report, the Committee may notify the State Party concerned of the need to examine the implementation of the present Convention in that State Party, on the basis of reliable information available to the Committee, if the relevant report is not submitted within three months following the notification. The Committee shall invite the State Party concerned to participate in such examination. Should the State Party respond by submitting the relevant report, the provisions of paragraph 1 of this article will apply.

3. The Secretary-General of the United Nations shall make available the reports to all States Parties.

4. States Parties shall make their reports widely available to the public in their own countries and facilitate access to the suggestions and general recommendations relating to these reports.

5. The Committee shall transmit, as it may consider appropriate, to the specialized agencies, funds and programmes of the United Nations, and other competent bodies, reports from States Parties in order to address a request or indication of a need for technical advice or assistance contained therein, along with the Committee's observations and recommendations, if any, on these requests or indications.

ARTICLE 37
Cooperation between States Parties and the Committee

1. Each State Party shall cooperate with the Committee and assist its members in the fulfilment of their mandate.

2. In its relationship with States Parties, the Committee shall give due consideration to ways and means of enhancing national capacities for the implementation of the present Convention, including through international cooperation.

ARTICLE 38

Relationship of the Committee with other bodies

In order to foster the effective implementation of the present Convention and to encourage international cooperation in the field covered by the present Convention:

a. The specialized agencies and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite specialized agencies and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

b. The Committee, as it discharges its mandate, shall consult, as appropriate, other relevant bodies instituted by international human rights treaties, with a view to ensuring the consistency of their respective reporting guidelines, suggestions and general recommendations, and avoiding duplication and overlap in the performance of their functions.

ARTICLE 39

Report of the Committee

The Committee shall report every two years to the General Assembly and to the Economic and Social Council on its activities, and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

ARTICLE 40

Conference of States Parties

1. The States Parties shall meet regularly in a Conference of States Parties in order to consider any matter with regard to the implementation of the present Convention.

2. No later than six months after the entry into force of the present Convention, the Conference of the States Parties shall be convened by the Secretary-General of the United Nations. The subsequent meetings shall be convened by the Secretary-General of the United Nations biennially or upon the decision of the Conference of States Parties.

ARTICLE 41
Depositary

The Secretary-General of the United Nations shall be the depositary of the present Convention.

ARTICLE 42
Signature

The present Convention shall be open for signature by all States and by regional integration organizations at United Nations Headquarters in New York as of 30 March 2007.

ARTICLE 43
Consent to be bound

The present Convention shall be subject to ratification by signatory States and to formal confirmation by signatory regional integration organizations. It shall be open for accession by any State or regional integration organization which has not signed the Convention.

ARTICLE 44
Regional integration organizations

1. "Regional integration organization" shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention. Such organizations shall declare, in their instruments of formal confirmation or accession, the extent of their competence with respect to matters governed by this Convention. Subsequently, they shall inform the depositary of any substantial modification in the extent of their competence.

2. References to "States Parties" in the present Convention shall apply to such organizations within the limits of their competence.

3. For the purposes of article 45, paragraph 1, and article 47, paragraphs 2 and 3, any instrument deposited by a regional integration organization shall not be counted.

4. Regional integration organizations, in matters within their competence, may exercise their right to vote in the Conference of States Parties, with a number of votes equal to the number of their member States that are Parties to this Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

ARTICLE 45
Entry into force

1. The present Convention shall enter into force on the thirtieth day after the deposit of the twentieth instrument of ratification or accession.

2. For each State or regional integration organization ratifying, formally confirming or acceding to the Convention after the deposit of the twentieth such instrument, the Convention shall enter into force on the thirtieth day after the deposit of its own such instrument.

ARTICLE 46
Reservations

1. Reservations incompatible with the object and purpose of the present Convention shall not be permitted.

2. Reservations may be withdrawn at any time.

ARTICLE 47
Amendments

1. Any State Party may propose an amendment to the present Convention and submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed amendments to States Parties, with a request to be notified whether they favour a conference of States Parties for the purpose of considering and deciding upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting shall be submitted by the Secretary-General to the General Assembly for approval and thereafter to all States Parties for acceptance.

2. An amendment adopted and approved in accordance with paragraph 1 of this article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States Parties which have accepted it.

3. If so decided by the Conference of States Parties by consensus, an amendment adopted and approved in accordance with paragraph 1 of this article which relates exclusively to articles 34, 38, 39 and 40 shall enter into force for all States Parties on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment.

ARTICLE 48
Denunciation

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. The denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

ARTICLE 49
Accessible format

The text of the present Convention shall be made available in accessible formats.

ARTICLE 50
Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of the present Convention shall be equally authentic.

In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

Source: Annex 1, Final report of the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities

OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

The States Parties to the present Protocol have agreed as follows :

ARTICLE 1

1. A State Party to the present Protocol ("State Party") recognizes the competence of the Committee on the Rights of Persons with Disabilities ("the Committee") to receive and consider communications from or on behalf of individuals or groups of individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of the provisions of the Convention.

2. No communication shall be received by the Committee if it concerns a State Party to the Convention that is not a party to the present Protocol.

ARTICLE 2

The Committee shall consider a communication inadmissible when:

(a) The communication is anonymous;

(b) The communication constitutes an abuse of the right of submission of such communications or is incompatible with the provisions of the Convention;

(c) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;

(d) All available domestic remedies have not been exhausted. This shall not be the rule where the application of the remedies is unreasonably prolonged or unlikely to bring effective relief;

(e) It is manifestly ill-founded or not sufficiently substantiated; or when

(f) The facts that are the subject of the communication occurred prior to the entry into force of the present Protocol for the State Party concerned unless those facts continued after that date.

ARTICLE 3

Subject to the provisions of article 2 of the present Protocol, the Committee shall bring any communications submitted to it confidentially to the attention of the State Party. Within six months, the receiving State shall submit to the Committee written

explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

ARTICLE 4

1. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its urgent consideration a request that the State Party take such interim measures as may be necessary to avoid possible irreparable damage to the victim or victims of the alleged violation.

2. Where the Committee exercises its discretion under paragraph 1 of this article, this does not imply a determination on admissibility or on the merits of the communication.

ARTICLE 5

The Committee shall hold closed meetings when examining communications under the present Protocol. After examining a communication, the Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.

ARTICLE 6

1. If the Committee receives reliable information indicating grave or systematic violations by a State Party of rights set forth in the Convention, the Committee shall invite that State Party to cooperate in the examination of the information and to this end submit observations with regard to the information concerned.

2. Taking into account any observations that may have been submitted by the State Party concerned as well as any other reliable information available to it, the Committee may designate one or more of its members to conduct an inquiry and to report urgently to the Committee. Where warranted and with the consent of the State Party, the inquiry may include a visit to its territory.

3. After examining the findings of such an inquiry, the Committee shall transmit these findings to the State Party concerned together with any comments and recommendations.

4. The State Party concerned shall, within six months of receiving the findings, comments and recommendations transmitted by the Committee, submit its observations to the Committee.

5. Such an inquiry shall be conducted confidentially and the cooperation of the State Party shall be sought at all stages of the proceedings.

ARTICLE 7

1. The Committee may invite the State Party concerned to include in its report under article 35 of the Convention details of any measures taken in response to an inquiry conducted under article 6 of the present Protocol.

2. The Committee may, if necessary, after the end of the period of six months referred to in article 6.4, invite the State Party concerned to inform it of the measures taken in response to such an inquiry.

ARTICLE 8

Each State Party may, at the time of signature or ratification of the present Protocol or accession thereto, declare that it does not recognize the competence of the Committee provided for in articles 6 and 7.

ARTICLE 9

The Secretary-General of the United Nations shall be the depositary of the present Protocol.

ARTICLE 10

The present Protocol shall be open for signature by signatory States and regional integration organizations of the Convention at United Nations Headquarters in New York as of 30 March 2007.

ARTICLE 11

The present Protocol shall be subject to ratification by signatory States of this Protocol which have ratified or acceded to the Convention. It shall be subject to formal confirmation by signatory regional integration organizations of this Protocol which have formally confirmed or acceded to the Convention. It shall be open for accession by any State or regional integration organization which has ratified, formally confirmed or acceded to the Convention and which has not signed the Protocol.

ARTICLE 12

1. "Regional integration organization" shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by the Convention and this Protocol. Such organizations shall declare, in their instruments of formal confirmation or accession, the extent of their competence with respect to matters governed by the Convention and this Protocol. Subsequently, they shall inform the depositary of any substantial modification in the extent of their competence.

2. References to "States Parties" in the present Protocol shall apply to such organizations within the limits of their competence.

3. For the purposes of article 13, paragraph 1, and article 15, paragraph 2, any instrument deposited by a regional integration organization shall not be counted.

4. Regional integration organizations, in matters within their competence, may exercise their right to vote in the meeting of States Parties, with a number of votes equal to the number of their member States that are Parties to this Protocol. Such an

organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

ARTICLE 13

1. Subject to the entry into force of the Convention, the present Protocol shall enter into force on the thirtieth day after the deposit of the tenth instrument of ratification or accession.

2. For each State or regional integration organization ratifying, formally confirming or acceding to the Protocol after the deposit of the tenth such instrument, the Protocol shall enter into force on the thirtieth day after the deposit of its own such instrument.

ARTICLE 14

1. Reservations incompatible with the object and purpose of the present Protocol shall not be permitted.

2. Reservations may be withdrawn at any time.

ARTICLE 15

1. Any State Party may propose an amendment to the present Protocol and submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed amendments to States Parties, with a request to be notified whether they favour a meeting of States Parties for the purpose of considering and deciding upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a meeting, the Secretary-General shall convene the meeting under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting shall be submitted by the Secretary-General to the General Assembly for approval and thereafter to all States Parties for acceptance.

2. An amendment adopted and approved in accordance with paragraph 1 of this article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States Parties which have accepted it.

ARTICLE 16

A State Party may denounce the present Protocol by written notification to the Secretary-General of the United Nations. The denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

ARTICLE 17

The text of the present Protocol shall be made available in accessible formats.

ARTICLE 18

The Arabic, Chinese, English, French, Russian and Spanish texts of the present Protocol shall be equally authentic.

In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Protocol.

Revision Constitutional Amendments

REVISION CONSTITUTIONAL AMENDMENT No. 1, 1994

The Directing Board of the National Congress, under the terms of article 60 of the Federal Constitution, combined with article 3 of the Temporary Constitutional Provisions Act, promulgates the following Constitutional Amendment:

Article 1. Articles 71, 72 and 73, with the following wording, are hereby added to the Temporary Constitutional Provisions Act:

> "Article 71. The Emergency Social Fund is hereby instituted for the fiscal years of 1994 and 1995, aiming at the financial recuperation of the Federal Public Finances and the economic stabilization, the resources of which shall be applied to the actions of the health and education systems, the welfare benefits and welfare assistance of permanent nature, including the payment of welfare debts, as well as other programs of great social and economic interest.
>
> *Sole paragraph.* The provision of the final part of item II of paragraph 9 of article 165 of the Constitution shall not apply, in the 1994 fiscal year, to the the Fund established by this article.
>
> Article 72. The Emergency Social Fund is comprised of:
>
> I – the proceeds from the collection of the tax on income and earnings of any nature to be levied at source on payments of any nature effected by the Union, including its autonomous government agencies and foundations;
>
> II – the part of the proceeds from the collection of the tax on rural property, of the tax on income and earnings of any nature, and of the tax on credit, foreign exchange and insurance transactions, or transactions relating to bonds and securities, resulting from the changes generated by Provisional Measure 419 and from Laws 8,847, 8,849 and 8,848, all dated January 28, 1994, the period in force of the latter being extended to December 31, 1995;
>
> III – the part of the proceeds from the collection due to the increase of the rate of welfare contribution on the profit of taxpayers mentioned in paragraph 1 of article 22 of Law 8,212 of July 24, 1991, which, in the fiscal years of 1994 and 1995 shall be of 30 percent, the other stipulations of Law 7,869 of December 15, 1988 remaining unchanged;
>
> IV – twenty percent of the proceeds from the collection of all taxes and contributions to the Union, except those provided by items I, II and III;

V – the part of the proceeds from the collection of the contribution mentioned in Supplementary Law 7, of September 7, 1970, owed by the juridical entities referred to in item III of this article, which will be calculated, in the fiscal years of 1994 and 1995, through the employment of a rate of seventy five hundredths of one percent on the gross operating income, as defined in the legislation of income tax and earnings of any nature;

VI – other incomes defined in specific legislation.

Paragraph 1. The rates and calculation base defined in items III and V shall be applied as from the first day of the month following the ninetieth day after the promulgation of this amendment.

Paragraph 2. The parts referred to in items I, II, III and V shall be previously deducted of the calculation base of any legal or constitutional designation or participation, and the provisions of articles 158, II, 159, 212 and 239 of the Constitution shall not apply to them.

Paragraph 3. The part referred to in item IV shall be previously deducted from the calculation base of any constitutional or legal designation or participation stipulated by articles 153, paragraph 5, 157, II, 158, II, 212 and 239 of the Constitution.

Paragraph 4. The provision of the former paragraph shall not apply to the resources provided by article 159 of the Constitution.

Paragraph 5. The part of the resources originating from the tax on rural property and from the tax on income and earnings of any nature, designated for the Emergency Social Fund, as provided by item II of this article, shall not exceed:

I – in the case of the tax on rural property, eighty six and two-tenths of one percent of the total proceeds from its collection;

II – in the case of the tax on income and earnings of any nature, five and six-tenths of one percent of the total proceeds from its collection.

Article 73. In the regulation of the Emergency Social Fund, the instrument provided by item V of article 59 of the Constitution may not be applied."

Article 2. Paragraph 4 of article 2 of the Constitutional Amendment no. 3 of 1993 is hereby revoked.

Article 3. This amendment shall come into force on the date of its publication.

Brasília, March 1, 1994.

THE DIRECTING BOARD OF THE NATIONAL CONGRESS: *Humberto Lucena*, President – *Adylson Motta*, First Vice-President – *Levy Dias*, Second Vice-President

– *Wilson Campos*, First Secretary – *Nabor Júnior*, Second Secretary – *Aécio Neves*, Third Secretary – *Nelson Wedekin*, Fourth Secretary.

Published in the *Official Journal*, March 2, 1994.

REVISION CONSTITUTIONAL AMENDMENT No. 2, 1994

The Directing Board of the National Congress, under the provisions of article 60 of the Federal Constitution, combined with article 3 of the Temporary Constitutional Provisions Act, promulgates the following Constitutional Amendment:

Article 1. The expression "or any chief officers of agencies directly subordinate to the Presidency of the Republic" is added to the text of article 50 of the Constitution, which shall henceforth be in force with the following wording:

> "Article 50. The Chamber of Deputies and the Federal Senate, or any of their committees, may summon a Minister of State or any chief officers of agencies directly subordinate to the Presidency of the Republic to personally render information on a previoulsy determined matter, and this absence without adequate justification shall constitute a crime of malversation."

Article 2. The expression "or any of the persons mentioned in the caption of this article" is added to paragraph 2 of article 50, which shall henceforth be in force with the following wording:

> "Article 50. .....
>
> .....
>
> Paragraph 2. The Directing Boards of the Chamber of Deputies and of the Federal Senate may forward to the Ministers of State, or any of the persons mentioned in the head paragraph of this article, written requests for information, and refusal or non-compliance, within a period of thirty days, as well as the rendering of false information, shall constitute a crime of malversation."

Article 3. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, June 7, 1994.

THE DIRECTING BOARD OF THE NATIONAL CONGRESS: *Humberto Lucena*, President – *Adylson Motta*, First Vice-President – *Levy Dias*, Second Vice-President – *Wilson Campos*, First Secretary – *Nabor Junior*, Second Secretary – *Aécio Neves*, Third Secretary – *Nelson Wedekin*, Fourth Secretary.

Published in the *Official Journal*, June 9, 1994.

REVISION CONSTITUTIONAL AMENDMENT No. 3, 1994

The Directing Board of the National Congress, under the terms of article 60 of the Federal Constitution, combined with article 3 of the Temporary Constitutional Provisions Act, promulgates the following Constitutional Amendment:

Article 1. Subitem *c* of item I, subitem *b* of item II, paragraph 1 and item II of paragraph 4 of article 12 of the Federal Constitution shall henceforth be in force with the following wording:

"Article 12. .....

.....

I – .....

a) .....

b) .....

c) Those born abroad, of a Brazilian father or a Brazilian mother, provided that they come to reside in the Federative Republic of Brazil and opt for the Brazilian nationality at any time;

II – .....

a) .....

b) foreigners of any nationality, resident in the Federative Republic of Brazil for over fifteen uninterrupted years and without criminal conviction, provided that they apply for the Brazilian nationality.

Paragraph 1. The rights inherent to Brazilians shall be attributed to Portuguese citizens with permanent residence in Brazil, if there is reciprocity in favour of Brazilians, except in the cases stated in the Constitution.

Paragraph 2. .....

Paragraph 3. .....

Paragraph 4. .....

I – .....

II – acquires another nationality, save in the cases:

a) of recognition of the original nationality by the foreign law;

b) of imposition of naturalization, under the foreign rules, to the Brazilian resident in a foreign State, as a condition for permanence in its territory, or for the exercise of civil rights."

Article 2. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, June 7, 1994.

THE DIRECTING BOARD OF THE NATIONAL CONGRESS: *Humberto Lucena*, President – *Adylson Motta*, First Vice-President – *Levy Dias*, Second Vice-President – *Wilson Campos*, First Secretary – *Nabor Junior*, Second Secretary – *Aécio Neves*, Third Secretary – *Nelson Wedekin*, Fourth Secretary.

Published in the *Official Journal*, June 9,1994.

REVISION CONSTITUTIONAL AMENDMENT No. 4, 1994

The Directing Board of the National Congress, under the terms of article 60 of the Federal Constitution, combined with article 3 of the Temporary Constitutional Provisions Act, promulgates the following Constitutional Amendment:

Article 1. The expressions: "administrative probity, morality for the exercise of the office, the previous life of the candidate being considered, and", are added to paragraph 9 of article 14 of the Constitution, after the expression "in order to protect", the provision being henceforth in force with the following wording:

> "Article 14. .....
>
> Paragraph 9. In order to protect the administrative probity, morality for the exercise of the office, the previous life of the candidate being considered, and the normality and legitimacy of the elections against the influence of the economic power or of the abuse in the holding of office, position or job in the direct or indirect public administration, a supplementary law shall establish other cases of ineligibility and the periods for such ineligibilities to cease.
>
> ....."

Article 2. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, June 7, 1994.

THE DIRECTING BOARD OF THE NATIONAL CONGRESS: *Humberto Lucena*, President – *Adylson Motta*, First Vice-President – *Levy Dias*, Second Vice-President – *Wilson Campos*, First Secretary – *Nabor Junior*, Second Secretary – *Aécio Neves*, Third Secretary – *Nelson Wedekin*, Fourth Secretary.

Published in the *Official Journal*, June 9, 1994.

REVISION CONSTITUTIONAL AMENDMENT No. 5, 1994

The Directing Board of the National Congress, under the terms of article 60 of the Federal Constitution, combined with article 3 of the Temporary Constitutional Provisions Act, promulgates the following Constitutional Amendment:

Article 1. In article 82, the expression "five years" is replaced by "four years".

Article 2. This Constitutional Amendment shall come into force on January 1, 1995.

Brasília, June 7, 1994.

THE DIRECTING BOARD OF THE NATIONAL CONGRESS: *Humberto Lucena*, President – *Adylson Motta*, First Vice-President – *Levy Dias*, Second Vice-President – *Wilson Campos*, First Secretary – *Nabor Junior*, Second Secretary – *Aécio Neves*, Third Secretary – *Nelson Wedekin*, Fourth Secretary.

Published in the *Official Journal*, June 9, 1994.

REVISION CONSTITUTIONAL AMENDMENT No. 6, 1994

The Directing Board of the National Congress, under the terms of article 60 of the Federal Constitution, combined with article 3 of the Temporary Constitutional Provisions Act, promulgates the following Constitutional Amendment:

Article 1. Paragraph 4 is added to article 55, with the following wording:

> "Article 55. .....
>
> .....
>
> Paragraph 4. The resignation of a Congressman submitted to a legal suit that aims at or may lead to loss of mandate, under the provisions of this article, will have its effects suspended until the final deliberations mentioned in paragraphs 2 and 3."

Article 2. This Constitutional Amendment shall come into force on the date of its publication.

Brasília, June 7, 1994.

THE DIRECTING BOARD OF THE NATIONAL CONGRESS: *Humberto Lucena*, President – *Adylson Motta*, First Vice-President – *Levy Dias*, Second Vice-President – *Wilson Campos*, First Secretary – *Nabor Junior*, Second Secretary – *Aécio Neves*, Third Secretary – *Nelson Wedekin*, Fourth Secretary.

Published in the *Official Journal*, June 9,1994.

CÂMARA DOS DEPUTADOS

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ISBN 978-85-736-5736-4