

**ANNEX 2**  
**NATIONAL COMPOSITE POLICY INDEX QUESTIONNAIRE**

## Strategic plan

1. Has your country developed multisectoral strategies to combat HIV/AIDS? (Multisectoral strategies should include, but not be limited to, the health, education, labour, and agriculture sectors)

Yes X	No	N/A
<p>Comments:</p> <p><b>Health/Education:</b> introducing into the school curriculum subjects relating to human sexuality, STD and HIV/AIDS prevention and drug abuse prevention;</p> <p><b>Health/Justice:</b> STD and HIV/AIDS prevention and drug abuse prevention among prison inmates;</p> <p><b>Health/Defence:</b> STD and HIV/AIDS prevention and drug abuse prevention among members of the Brazilian Army</p> <p><b>Health/Work:</b> STD and HIV/AIDS prevention in the workplace and protection of the rights of people with HIV/AIDS</p>		

2. Has your country integrated HIV/AIDS into its general development plans (such as its National Development Plans, United Nations Development Assistance Framework, Poverty Reduction Strategy Papers and Common Country Assessments)?

Yes X	No	N/A
<p>Comments:</p> <p>Pluri-annual Development Plan (PPA)</p>		

3. Does your country have a functional national multisectoral HIV/AIDS management/coordination body? (Such a body must have terms of reference or equivalent, defined membership, action plans and staffing support, and should have met at least once in the last 12 months.)

Yes X	No	N/A
<p>Comments:</p> <p>National Aids Commission (CNAIDS), which fulfils all the requirements stipulated above.</p> <p>Management Commission. (COGE)</p>		

4. Does your country have a functional national HIV/AIDS body that promotes interaction among government, the private sector and civil society? (Such a body must have terms of reference or equivalent, defined membership, action plans and staffing support, and should have met at least once in the last 12 months.)

Yes X	No	N/A
Comments: <b>Advisory Committees (of women, sex workers and men who have sex with men)</b>  <b>Business Council</b> (representing Brazil's large firms)  <b>Technical Advisory Committees</b> (Epidemiology, Research, Vaccines, Laboratory, STD, Therapy Consensus)		

5. Does your country have a functional HIV/AIDS body that assists in the coordination of civil society organizations? (Such a body must have terms of reference or equivalent, defined membership, action plans and staffing support, and should have met at least once in the last 12 months.)

Yes X	No	N/A
Comments: NGO forums at individual State level and the annual National NGO Meeting (ENONG)		

6. Has your country evaluated the impact of HIV/AIDS on its socioeconomic status for planning purposes?

Yes X	No	N/A
Comments: Impact of Aids is monitored on life expectancy at birth and in respect of AIDS patients survival rates and the National HIV/AIDS Accounts. In addition, the evolution of AIDS cases according to occupation, as well as schooling levels, is monitored		

7. Does your country have a strategy that addresses HIV/AIDS issues among its national uniformed services, including armed forces and civil defence forces?

Yes X	No	N/A
Comments:  Since 1996, the Ministries of Health and Defence have been involved in the setting up and development of a strategic plan for the prevention and control of HIV and AIDS for members of the Brazilian Army.		

## Prevention

1. Does your country have a general policy or strategy to promote information, education and communication (IEC) on HIV/AIDS?

<b>Yes</b> <input checked="" type="checkbox"/>	<b>No</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comments:</b> The National STD/AIDS Programme carries out mass campaigns and IEC activities targeted on the most vulnerable population groups.		

2. Does your country have a policy or strategy promoting reproductive and sexual health education for young people?

<b>Yes</b> <input checked="" type="checkbox"/>	<b>No</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comments:</b> A specific sexual and reproductive health programme exists. This programme develops activities in partnership with the STD/ AIDS programme.		

3. Does your country have a policy or strategy that promotes IEC and other health interventions for groups with high or increasing rates of HIV infection? (Such groups include, but are not limited to, IDUs, MSM, sex workers, youth, mobile populations and prison inmates.)

<b>Yes</b> <input checked="" type="checkbox"/>	<b>No</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comments:</b> IEC activities are carried out for the most highly vulnerable groups and in particular for MSM, sex professionals, young people and IDU. IEC policies are developed, as and where appropriate, aimed at indigenous peoples, mobile population groups and the populations residing in the border areas of the country.		

4. Does your country have a policy or strategy that promotes IEC and other health interventions for cross-border migrants?

<b>Yes</b> <input checked="" type="checkbox"/>	<b>No</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comments:</b> The National Coordination carries out IEC and behavioural intervention activities jointly with other countries in IEC aimed at border (frontier) populations. These partnerships are supported by UNAIDS, USAID and PAHO.		

5. Does your country have a policy or strategy to expand access, including among vulnerable groups, to essential preventative commodities? (These commodities include, but are not limited to, condoms, sterile needles and HIV tests.)

Yes	X	No	N/A
If yes, please list:			
Groups: Entire population (universal access)		Commodities: male condom	
Sex professionals		female condom	
IDU		condom and needles	
Entire population		HIV tests	
MSM		condom and gel	
PWA		CD4 viral load tests	
		ARV	
Comments: Access to the male condom is free of charge for the whole population. This is obtainable from the health services and NGOs . HIV diagnostic testing is available for the entire population, especially for pregnant women. CD4 and viral load tests are available for those living with HIV and AIDS.			

6. Does your country have a policy or strategy to reduce mother-to-child HIV transmission?

Yes	X	No	N/A
Comments: the National STD/AIDS Coordination has developed a specific programme (“ <i>Projeto Nascer</i> ”) for mothers and makes artificial milk available for meeting the needs of babies born to HIV positive mothers.			

## Human rights

1. Does your country have laws and regulations that protect against discrimination of people living with HIV/AIDS (such as general non-discrimination provisions and those that focus on schooling, housing, employment, etc.)?

Comments:

**Art. 1 of CR / 1988**, emphasizes that Democratic Rule of Law is based upon citizenship and the personal dignity of the individual (clauses I and II). These precepts form part of the principles and values that ensure, together with other basic rights and guarantees, non-discrimination of HIV-positive persons. **Art. 3** sets forth, among the fundamental objectives of the Federal Republic of Brazil, the promotion of the wellbeing of all citizens, without prejudice to origin, race, sex, colour, age and any other form of discrimination. **Art. 5 of CR/88** lays down that the rights and individual guarantees are based upon, *inter alia*: the inviolability of people's intimate and private lives and of their reputation and character, and that people will be ensured the right to be indemnified for any material or moral damages arising from violations of the foregoing. This constitutional ruling is particularly valuable for ensuring the right to confidentiality and adherence to ethical standards in respect of HIV screening, and takes into account the right to be indemnified for moral damages in the event of noncompliance. This strengthens the rules governing medical ethics in such cases. **Art. 6 of CR/88** guarantees, among other social rights, the access to health. **Art. 7 (Clause I)** covers the issue of job protection against arbitrary dismissal or without just cause, and ensures *inter alia* the right to compensation. This constitutional measure furthermore guarantees that HIV positive workers are not discriminated against on account of their condition in matters of recruitment to, tenure in or termination of employment, and that in cases where such abuses are proven, employees will have the right to compensation and/or reinstatement in their previous posts. State Legislature of the State of São Paulo, 19 June, 2002.

- **State Law 641/00 of the State of São Paulo**, sets forth measures concerning discrimination against carriers of the HIV virus.
- **INTERMINISTERIAL DECREE 3.195 of 10 AUGUST 1988** (Ministries of Health and Labour), established at countrywide level the Domestic Aids Prevention Campaign – CIPAS. The aim of this decree was to disseminate knowledge and to encourage in all workplaces and firms the adoption of preventive measures against Aids.
- As regards anti-discriminatory measures to protect people living with Aids in the workplace, the *National Seminar on HIV/AIDS* was held in the city of São Paulo (14/05/2002). At this seminar the implementation in Brazil of “Practical Recommendations for dealing with HIV and Aids in the World of Work”(ILO) was debated. A ongoing effort is being made by the Brazilian Government, based on a number of joint initiatives spearheaded by the Ministries of Health and Labour. This concerns implementaton of the 3<sup>rd</sup> ILO Convention outlawing discrimination on the basis of gender and race in the workplace, and which *inter alia* places the terms *sexual orientation*, *pathologies*, and the *generational issue* on the ILO agenda with a view to addressing these subjects within the ambit of this international organisation.

- **LAW 9.029 OF 13 APRIL 1995** prohibiting the requirement for pregnancy certificates and sterilization and other discriminatory practices as a prerequisite for admission to employment or in the context of legal employment contracts. The law is widely used in cases of discrimination against HIV positive persons.
- As regards questions of medical ethics and establishments such as hospitals, prisons and schools, the following legal norms apply to non-discrimination against people living with Aids:

**LEGAL OPINION CFM No. 14/88 of 20 May 1988** - drafted by Counsellor Antonio Ozório Leme de Barros jointly with Counsellor Guido Carlos Levi - was approved in the 1295th Plenary Meeting of Cremesp (3 May 1988) and approved by the Federal Medical Council (CFM) on 20/05/88. This analyzes ethical aspects of Aids insofar as concerns discrimination in the doctor-patient relationship, institutions, occupational medicine and research.

**LEGAL OPINION Nº 05/89 of 18 February 1989** – testing for Aids as a prerequisite for employment is a violation of the workers’ rights, is contrary to the CLT and furthermore lacks any scientific, technical or ethical basis in law. Any information referring to involvement of the employer in recruiting the employee should be restricted to the employee’s ability to do the job required. (Reporter: Antônio Rafael de Silva, approved by the National Medical Council on 18/02/89).

**LEGAL OPINION 11/92 of 14 February 1992** – supplements opinion CFM14/88 regarding ethical aspects of Aids. (Reporter: Gabriel Wolf Oselka and Guido Carlos Levi, , approved by the National Medical Council on 14/02/92).

**CFM 1.359 of 11 November 1992** vetoes compulsory testing for HIV, especially as a precondition for admission to hospital, and in the case of pre-operative procedures , pre-admission or periodic tests and in penal establishments.

**CFM 1.484 of 11 September 1997** regarding patients’ medical condition displayed on medical certificates.

**The Code of Medical Ethics (approved by Resolution CFM no. 1.246/88)** deals with the compulsory nature of professional confidentiality and safeguards (Arts. 11,12, 102 ,105 107 and 108).

**INTERMINISTERIAL DECREE No 796, of 29 May 1992** - recommends the observance of certain norms and procedures for carrying out HIV testing, prohibiting compulsory testing and setting forth other measures.

**INTERMINISTERIAL DECREE No 1.094 of 5 September 1997** - Establishes a group of activities under the rubric *Health at School*.

**LAW 7.210 of 11 July 1984** - institutes the Law of Penal Execution, covering the issue of care for prison populations.

**INTERMINISTERIAL DECREE No 400 of 20 October 1993.** The

Ministers of Justice and Health introduce the Interministerial Commission with the aim of proceeding with studies focused on designing a programme to combat Aids and STD in the National Prison System.

**RESOLUTION No. 01 of 30 March 1999** - recommends the State Penitentiary Departments or similar bodies to ensure the right of “intimate visits” to prisoners of both sexes.

2. Does your country have laws and regulations that protect against discrimination of groups of people identified as being especially vulnerable to HIV/AIDS discrimination (i.e., groups such IDUs, MSM, sex workers, youth, mobile populations, and prison inmates)?

Yes X	In the	N/A
If yes, please list groups:		
<p>Comments:</p> <p>2.1 IDU</p> <p>* <b>Law No. 6.368/76</b> deals with drug trafficking</p> <p>* <b>Law No. 10.409 of 11 January 2002</b> refers in part to the policy on drugs which are classified as illegal. A bill issued by the Executive Power (<b>No. 6.108/02</b>) will, if it becomes law, lead to the repeal of <b>Law No. 6.368/76</b>.</p> <p>2.2 Homoeroticism</p> <p>* There is no specific Federal legislation prohibiting discrimination on account of sexual orientation. <b>Art. No 1 of CR/88</b> guarantees citizenship and human dignity etc (Clauses I and II), as constituting some of the principles and values that are basic, among other rights and fundamental guarantees, to ensuring non-discrimination of homosexuals. The CR furthermore outlaws discrimination on grounds of sex, (<b>Art. 3 CR/88</b>). This measure has been frequently employed, with positive results, as a basis for judicial requests to recognize stable unions between homosexuals.</p> <p>In the context of protection against discrimination on grounds of sexual orientation, the wide application of the constitutional principle of equality has made it possible for example to enable homosexual couples to receive welfare benefits (pensions paid on death or assistance in cases where partners have been incarcerated). A final judicial decision in this respect was recently handed down by the Federal Supreme Court (Public Civil Suit No. 2000.71.00.009347-0).</p> <p>Moreover, certain State and Municipal laws expressly prohibit discrimination of population groups most vulnerable to contamination by HIV. These measures have a powerful impact on responses to the epidemic. For example, Rio Grande do Sul State Law No. 11.872 of 19/12/2002 lays down “the promotion and recognition of freedom of orientation, practice, identity and sexual preference, and sets forth other measures”. The following Municipal</p>		

Ordinances: **Municipal Ordinance 9.791 of 2000** – initiatives taken by the municipal district to combat discriminatory practices in its jurisdiction on grounds of sexual orientation - Juiz de Fora (MG). **Municipal Ordinance 2.615/2000** – lays down sanctions to be applied in cases of discriminatory practices on grounds of sexual orientation -Brasília (DF); **Law 3406/00** - establishes penalties to be applied to premises that discriminate against persons on the grounds of sexual orientation - Rio of Janeiro/RJ; **Law 4.667/97** – provides for sanctions against commercial and industrial establishments that discriminate individuals on account of their sexual orientation - Maceió (AL). **Law 5275/97** lays down penalties for those who practice discrimination on the grounds of sexual orientation - Salvador (BA)

\* **Bill No 05/03**, presented by Federal Deputy Iara Bernardi (PT/SP), is on the forward agenda of the Chamber of Deputies. The purpose of this Bill is to modify measures laid down under the Brazilian Penal Code and Law 7.716/89 and aims to incorporate types of discrimination on the list of those liable to sanctions on grounds of race, colour, ethnic type, religion or origin discrimination.

3. Does your country have a policy to ensure equal access, for men and women, to prevention and care, with emphasis on vulnerable populations?

Yes X	In the	N/A
<p>Comments:</p> <p>3.1. <b>Art 5 clause I of CR/88</b> sets forth that there shall be equality without distinction of any kind and in gender terms before the law insofar as rights and obligations are concerned. Furthermore, <b>Art. 196</b> lays down that health is a right to be enjoyed by all and is a duty of the State to provide.</p> <p><b>CONSTITUTIONAL AMENDMENT 29 of 13 September 2000</b> modified Arts. 34, 35, 156, 160, 167 and 198 of the Federal Constitution and appended an article to the Act of Transitory Constitutional Measures to ensure minimum resources to be made available to finance health and public service activities.</p> <p><b>Federal Law 8.080 of 19 September 1990</b> and <b>Law 9.313/96</b>, still apply. These set forth measures for health promotion, protection and rehabilitation.</p>		

Does your country have a policy to ensure that HIV/AIDS research protocols involving human subjects are reviewed and approved by an ethics committee?

Yes X	In the	N/A
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Comments:

**4.1. RESOLUTION N° 196/96 ON RESEARCH INVOLVING HUMANS.** The National Health Council, in compliance with its mandate, sets forth in Decree No.93933 of 14 January 1987 measures to approve guidelines and regulations governing research on human subjects.

**RESOLUTION No. 292, of 8 July 1999** of the National Health Council supplements Resolution CNS No. 196/96 (Guidelines and Regulations regarding Research Involving Human Subjects), insofar as it deals with the special thematic area *“research coordinated from abroad or with foreign participation and research involving dispatch of biological material abroad”*.

## Care and support

1. Does your country have a policy or strategy to promote comprehensive HIV/AIDS care and support, with emphasis on vulnerable groups? (Comprehensive care includes, but is not limited to, VCT, psychosocial care, access to medicines, and home and community-based care.)

Yes X	No	N/A
If yes, please list		
Groups: Persons at risk from HIV Persons living with HIV/Aids	Commodities: CTA Treatment at home/palliative care Day-Hospital	
Comments: All activities reflect a balance between care, prevention and human rights, together with a high level of social participation.		

2. Does your country have a policy or strategy to ensure or improve access to HIV/AIDS-related medicines, with emphasis on vulnerable groups? (HIV/AIDS-related medicines include antiretrovirals and drugs for the prevention and treatment of opportunistic infections and palliative care.)

Yes X	No	N/A
If yes, please list		
Groups: HIV positive persons  HIV positive women  Health workers One partner HIV+/ other partner HIV negative Rape victims	Commodities: Universal access to ARV  Prevention of Vertical Transmission  Post-exposure prophylaxis  Post-exposure prophylaxis Post-exposure prophylaxis	
Comments: Local production of ARV and differentiated negotiation on prices of imported drugs ensure that sufficient drugs are available to guarantee universal access to ARV.		

3. Does your country have a policy or strategy to address the additional needs of orphans and other vulnerable children?

Yes X	No	N/A
Comments: Special refuges( <i>Casas de apoio</i> ) to care for children affected by HIV/Aids Availability of milk formulas for infants who have been vertically exposed to HIV. Specific intervention projects for street children and incarcerated adolescents.		

