

# ORGANIZATION OF AMERICAN STATES



**SYMPOSIUM ON ENHANCEMENT OF  
PROBITY IN THE HEMISPHERE**  
November 4-6, 1998  
Santiago, Chile

**OAS/Ser.K/XXXII**  
**SIMPRO/doc.8/99**  
21 January 1999  
Original: Spanish

**FINALREPORT**

## FINAL REPORT

### I. BACKGROUND

At the twenty-seventh regular session of the OAS General Assembly, which met in Lima Peru, the Inter-American Program for Cooperation in the Fight Against Corruption was adopted by resolution **AG/RES. 1477 (XXVII-O/97)**, along with a Tentative Plan of Activities for 1997 and 1998.

Two meetings were contemplated in that plan. The first reference was to “a meeting of national institutions in charge of combating corruption, to provide an opportunity for exchanging experiences and planning the joint action needed to implement the preventive measures envisaged in \*Article III of the Inter-American Convention against Corruption and model legislation on illicit enrichment and **transnational** bribery, as well as to offer an occasion to assess what these institutions require to better perform their work” The second meeting was to be a “seminar with international organizations involved in anti-corruption efforts, to lay the groundwork for coordination of their work.”

On February 4, 1998, the Government of the Republic of Chile, through its mission to the OAS, sent a letter to the Permanent **Council**,<sup>1/</sup> offering to host these meetings. The Permanent Council referred this offer to the Committee on Juridical and Political Affairs for its consideration.

The heads of state and government, who gathered at the Second Summit of the Americas in Santiago, Chile in April 1998, indicated in their Plan of Action that they were in favor of ensuring an adequate follow-up on the progress of the Inter-American Convention against Corruption, to be provided in the context of the OAS, in accordance with the mandate contained in the Inter-American Program for Cooperation in the Fight against Corruption. They further decided to support a Symposium on Enhancing Probity in the Hemisphere, to be held in Santiago, Chile.

#### 1. Meeting and agenda

At its twenty-eighth regular session, the General Assembly decided to convene the Symposium on Enhancing Probity in the Hemisphere, and approved the agenda for the **Symposium**.<sup>2/</sup>

#### 2. Participation of experts

Representatives of national institutions and international organizations involved in **anti**-corruption activities, along with representatives of institutions in civil society, participated in the Symposium Their names appear on the list of participants which is attached to this report as Appendix **B**.<sup>3/</sup>

#### 3. List of documents

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1. See **CP/doc.3004/98**.

2. See resolution **AG/RES. 1552 (XXVIII-O/98)**, “Enhancement of Probity in the Hemisphere.”

3. See document **SIMPRO/INF.4/98**.

The General Secretariat distributed the documents appearing in Appendix C, attached to this report, for the Symposium on Enhancement of Probity in the Hemisphere.<sup>4</sup>

## II. DEVELOPMENT OF THE WORK

### 1. Opening session

The opening session was held at the United Nations building in the city of Santiago, Chile, on November 4, 1998, at **10:00** a.m. **César** Gaviria, Secretary General of the Organization of American States, and **José** Miguel **Insulza**, Minister of Foreign Affairs of Chile, gave the opening addresses. Dr. **Insulza** also requested the participants to observe a minute of silence as a token of their solidarity with the residents of Central America who were victims of hurricane "Mitch."

The **officers** of the meeting were elected at that session as well. Ambassador Carlos **Portales** Cifuentes, the Permanent Representative of Chile to the Organization of American States, was elected to chair the Symposium, Gary Davis, head of the United States delegation, was elected as vice-chairman, and Luis **Nicolás** Ferreira, head of the Argentine delegation, Howard Wilson, head of the Canadian delegation, and Roque **Díaz** Borge, head of the Venezuelan Delegation, were elected to serve as rapporteurs.

### 2. Working sessions

#### a. *First pan: National institutions and regulations*

The first part of the working sessions began on November 4 at **10:45 a.m.**, and ended *on* November 5 at **1:00** p.m. During these meetings, the national **officials** discussed the work performed by their institutions, the legal foundation for that work, their powers and functions, and the existing arrangements for coordination with other national institutions involved in anti-corruption activities and in enhancing probity.

#### b. *Second part: Experience of international organizations in combating corruption and strengthening probity*

The second part of the working sessions, which dealt with the experience of international organizations in combating corruption and enhancing probity, began on Thursday, November 5 at **11:15 a.m.**, and covered the following three areas: presentations by specialists from the participating international organizations, an exchange of experiences and appropriate practices among national **officials**, and, civil society and its contributions to the **anti-corruption** effort.

The text of these important contributions will be appended to this report, which will be published shortly in a bound version.

## III. CONCLUSIONS AND RECOMMENDATIONS

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4. See document **SIMPRO/doc.1/98**.

## Conclusions

Based on the productive exchange of views which took place at this Symposium on Enhancement of Probity in the Hemisphere and the information provided in the Report of the Rapporteurs, the following conclusions can be drawn:

1. It is essential to reinforce ethical values in order to improve democratic systems in the region. In this regard, specific consideration should be given to the measures and means required to strengthen probity in the Hemisphere, as this responds to a need in our society and enhances the prospects that steps will be taken in this field to combat corruption, a scourge which, as we have said repeatedly, undermines democratic institutions, weakens the rule of law, and poses a serious threat to peaceful coexistence and economic development.
2. It is important to take note of the progress made by OAS member states in their efforts to enhance probity and fight corruption, especially with regard to **institution-building** and improving their body of laws on both a national and an international level. It is therefore critical that all OAS member countries ratify the Inter-American Convention against Corruption before the twenty-first century and that they initiate vigorous efforts to implement the steps set forth in the Inter-American Program for Cooperation in the Fight against Corruption adopted by the OAS.
3. In this regard, it is important for the OAS Working Group on Probity and Public Ethics to resume its work so that it can follow up on the steps taken under the **Program**. Ways should also be explored for including international organizations and civil society institutions in the Working Group's work. This would pave the way for a new stage involving coordination among government institutions, international organizations, and institutions in civil society, so that more specific goals could be set and concrete action taken.
4. It is important to circulate the valuable material provided by the persons attending the Symposium, which showed the activities undertaken to enhance probity and combat corruption in their countries and gave the point of view of the various actors involved, namely government agencies, international organizations, and civil society institutions, regarding the action to be taken and the objectives to be attained. It was therefore felt that publication of this valuable material provided by the participants would be extremely useful for the activities to be developed in future.
5. It is particularly important to take an integral approach to the phenomenon of enhancing probity and public ethics and preventing and combating corruption, as it includes cultural, social, political, economic, legal, and institutional aspects. Preventive and corrective measures to reduce corrupt practices inasmuch as possible should be part of any action taken under this integral approach. Moreover, consideration should be given to the conduct of both public officials and individual persons and agents in the private sector, who are the necessary counterpart for illicit acts contrary to ethical practices.

6. Private sector agents have a special interest in enhancing ethics in their operations, since this leads the way to improving the work of economic operators and the economic system as a whole.
7. Efforts to modernize the government apparatus should be pursued, with a view to reducing its size, **transferring** activities to the private sector, and simplifying administrative procedures, and to developing training programs that will strengthen probity and eliminate opportunities for corruption.
8. Efforts to improve regulations to combat corruption should be continued. This is an important part of the cooperation effort and the exchange of information and experiences **under** the Inter-American Program for Cooperation in the Fight against Corruption. To this end, work to compile national legislation should continue, and these laws should be made available to interested parties on computer.
9. There is a **wide variety** of organizations involved in efforts to enhance probity and combat corruption. There is a special interest in creating an institutional **environment** in which these organizations can discuss what their requirements are to fulfill **their** functions and attain the objectives for which they were created.
10. Emphasis is **placed** on the importance of educating the people in general and of training public officials both in technical matters and in ethical practices, with a view to **strengthening** probity and preventing corruption.
11. To **enhance** efforts to strengthen probity and fight corruption, it is of key importance to ensure **adequate** coordination between the institutions recently created for this purpose and the institutions traditionally involved in combating corruption, such as the Judiciary and regulatory agencies, in keeping with the constitutional practices of each member country.
12. A special focus should be given to exchanging experiences with regard to specific plans and programs geared to enhancing probity and public ethics, as this will be a productive exercise and lead to the development of horizontal cooperation activities.
13. The legal aspects of the practices of illicit enrichment **and** transnational bribery, as discussed in the Inter-American Convention against Corruption, should be further analyzed, so that the commitments assumed in signing that international **instrument** can be promptly met.
14. Government institutions, international organizations, and institutions in civil society should maintain close contact. Moreover, in view of the different initiatives being taken in the region, any duplication of effort should be avoided, and ways should be found to harmonize and coordinate the various existing initiatives and projects.
15. Further work should focus on setting specific targets and objectives in **anti-**corruption efforts. This should include recourse to the institutional mechanism in the OAS Permanent Council, which contemplates ways of including the participation

of all the agencies and institutions involved in enhancing probity and combating corruption.

### Recommendations

On the basis of these conclusions, the Symposium decided to make the following recommendations:

1. An exchange of experiences and information among public institutions, international organizations, and institutions in civil society involved in efforts to enhance probity in the Hemisphere and combat corruption should continue, and this exchange of experiences and information should focus on specific areas to be identified.
2. The Working Group on Probity and Public Ethics should resume its work and ensure the follow-up on the activities proposed in this paper and included under the **Inter-American Program for Cooperation in the Fight against Corruption**, and it should receive inputs from international organizations and institutions in civil society.
3. The Working Group on Probity and Public Ethics should gather the opinions of member countries as to how to attain the objective of ensuring that all member states have ratified the Inter-American Convention against Corruption before the **twenty-first** century.
4. The measures and means by which the societies of the OAS member states can enhance probity and public ethics should be identified. To this end, a focus should be placed on education, an exchange of experiences regarding the best practices of public institutions, and on training of both public **officials** and agents in the private sector.
5. Efforts to compile legal information on the structure and functions of the national institutions in charge of enhancing probity should be pursued, as should efforts to compile laws covering the corrupt practices referred to in the Inter-American Convention against Corruption, and especially the articles referring to illicit enrichment, transnational bribery, and progressive development. The legal information compiled should be made available to interested parties, to be accessed by computer if possible.
6. Efforts to compile information and provide advisory services on codes of conduct for public **officials** should continue to be provided to government institutions that so request.
7. The areas in which the various national institutions, including regulatory agencies, need to be strengthened, and the means required to overcome current shortcomings, should be identified. To this end, the **Legal** Affairs Department of the Organization of American States will request the pertinent information.

8. Action to implement the preventive measures referred to in Article **III** of the Convention should be pursued. These measures should include presentation of sworn statements of assets and their publication, when appropriate.
9. Transparency and integrity should be fostered in government contracts and in public bidding at national, regional, and international levels.
10. Progress should be made in coordinating and harmonizing the various existing initiatives to develop a network linking institutions involved in enhancing probity and combating corruption.
11. Ways of obtaining the resources needed to develop the activities proposed by the Symposium and included in the Inter-American Program for Cooperation in the Fight against Corruption should be explored.
12. A publication should be produced, to include the papers presented at the Symposium, the report of the rapporteurs, and the conclusions and recommendations.

REPORT BY THE GROUP OF RAPPORTEURS  
(CONSISTING OF THE DELEGATIONS OF ARGENTINA, CANADA, AND VENEZUELA)

REPORT BY THE GROUP OF RAPORTEURS

(CONSISTING OF THE DELEGATIONS OF ARGENTINA, CANADA AND VENEZUELA)

The papers presented during this Symposium on the Enhancement of Probity in the Hemisphere have underscored the importance of consolidating ethical values in national societies if democratic systems are to be strengthened. Thus the papers highlighted the importance of specifically focussing on measures and means of strengthening probity and civic ethics in the Hemisphere, because they consider that this concern reflects a deep-seated need in our societies and enhances the prospects of actions to be undertaken in this field. Likewise, it was also pointed out that, conversely, corruption **undermines** democratic institutions, weakens the rule of law, and represents a serious threat to social harmony and economic development. It was noted that it is universal and under no circumstance may it be considered as restricted to a particular group of societies. Also, that in spite of the gravity of the phenomenon in many instances, progress made in recent years confirms that it is possible to control and curb its negative effects substantially. Furthermore, it was remarked that much of the progress has been achieved in Latin American countries, where the number of institutions tackling these issues has increased significantly, and major efforts have been made to strengthen existing institutions and develop a domestic and international regulatory system; all of which creates positive expectations with regard to the prevention and punishment of conduct that is incompatible with probity and civic ethics. In this respect, the adoption of the Inter-American Convention against Corruption was considered a true landmark in the juridical development of the Americas as well as a major boost in the attention paid to a previously underrated topic. It was suggested that the member states of the OAS should make it a collective goal to ratify the Convention by the start of the twenty-first century.

Nevertheless, it was observed that in many countries of the region worrying situations persist with regard to the seriousness and scope of these problems and require the adoption of decisive measures. In the opinion of various participants, it was evident that both the progress as well as the serious deficiencies called for a new stage of concerted efforts by public institutions, international organizations and civil society institutions to establish more specific goals and carry out concrete actions. It was suggested that this Symposium should provide an opportunity to implement activities of this kind, taking advantage of the framework offered by the Inter-American Program for Cooperation in the Fight against Corruption.

The statements by the State representatives-both those on the progress of general programs and those on the experience acquired in implementing specific institutions or research with considerable social impact, due to their complexity and dimensions-pointed to the absolute necessity of steadfast political support at the highest level. In this respect, they mentioned the commitments and personal support offered by the heads of state and government for specific activities.

The national authorities also provided a complete description of the actions undertaken in order to strengthen probity and combat the illicit behavior occurring in that regard in their countries. In some cases, the presentations included the definitions used under the different systems to define the concepts of ethics and corruption. There was general assent in pointing out that the enhancement of probity and public ethics are essential in order to tackle a comprehensive phenomenon encompassing different spheres of social life, including cultural, social, political, economic, juridical and institutional aspects. In this connection, the philosophic and religious dimension, which in

certain **environments** shapes the conception of ethics and morality, should not be disregarded. Likewise, it was considered that this comprehensive conception of the problem has a direct bearing on the preventive and corrective aspects that should govern the activities designed to reduce this social scourge to a minimum. With regard to the preventive aspects, it was noted that the main instrument is education, **formal** and informal. Its task is to create ethical awareness and to enhance probity among citizens in general and in children and youth in particular. The corrective aspects, which are closely linked to problems of criminal and administrative law, were considered in connection with the need to eliminate impunity which, in this matter, constitutes an incentive and exacerbates the problem.

Moreover, it was remarked that the comprehensive approach to the phenomenon implies consideration not only of civil servants' conduct but also the behavior of those who, as individuals, are the necessary counterpart in illicit acts that run counter to the standards required by probity and civic ethics. In this connection, special mention was made of the private sector, with references to recent experience with **measures** taken by business organizations to strengthen the ethical dimension of their members' **activities; the idea** being both to **reaffirm** important social values and to optimize conditions for business growth. It was stated that, given the pace of globalization and economic integration in the region, it was **extremely** important to adopt joint measures in this area among the entrepreneurial sectors of **the different** countries, civil society institutions and the States, with the support of international organizations, especially the development banks.

Likewise, it was **emphasized** that, in certain societies, corruption has become systemic and that is why efforts to combat such illicit acts and to enhance probity and ethics have **focussed** on that aspect. Speakers also pointed out that the fight against corruption has been facilitated as progress has been made in the modernization and pruning of the State apparatus, with the transfer of many of its activities to the private **sector**. The simplification of administrative red tape has also reduced the scope for corruption. Such modernization also implied higher training levels for civil servants, improving the professional quality of the services they provided, facilitating transparency in the hiring of outside services, and emphasizing the prevention of corrupt conduct.

As regards legal aspects, the national authorities pointed out the importance of having adequate juridical instruments to strengthen probity standards and to establish mechanisms designed to punish illicit acts, which meant the enactment of rules to attack the phenomenon in its general aspects, or the drafting of laws geared to the punishment of certain specific forms of conduct. It was also pointed out that in this process distortions or inadequacies have occurred, since legal reform does not always keep pace with the modernization of productive activities or changes in the way the State operates. In most cases, the national authorities were at pains to list the new legal instruments generated in the different fields of State activity. This highly valuable background information is to be found in the various papers that will be compiled and published as a product of this Symposium. Also stressed was the desire of the people and institutions involved in this area to have electronic access to legal information. To this end, the continuation of the compilation and publication of legal instruments was encouraged, bearing in mind that this is an activity carried out by the Secretariat for Legal Affairs of the OAS. Particular importance was attached to the drafting of ethics codes for civil servants since they clarify specific aspects of how they are expected to behave.

With regard to institutional aspects, the speakers pointed to the wide range of bodies entrusted with the fight against **corruption**. Comparison of different countries' experience revealed

that, in some, institutions were created for the specific purpose of fostering probity and civic ethics, while others had used existing institutions to which new functions to that effect were assigned. Moreover, other countries reported that they had dealt with the matter by strengthening existing institutions and the functions they already performed. **In** this respect, major efforts were made to clarify the scope and functions of the administrative reforms undertaken, stressing the need to grant such institutions the independence and the resources required for the adequate fulfillment of their functions. Attention was also drawn to the importance of training for civil servants both **technically**—which makes it possible to improve contracting systems and introduce more transparent recruitment procedures—and with regard to ethical standards designed to prevent acts at variance with the requirements of probity and ethics. Speakers pointed to the need for careful review of the notion that civil servants' low wages are the main cause of the increase in illicit behavior in public service.

Also in connection with institutional aspects, the speakers underscored the importance of achieving adequate coordination with institutions traditionally involved in controlling and repressing corrupt acts, such as the Judiciary and Offices of the Comptroller, within the constitutional order of each State. It was unanimously agreed that repression of illicit conduct is impracticable without a stronger Judiciary purged of the serious irregularities it suffers from in some areas. Information was also provided on experience in this field acquired by specific sectors of Public Administration, such as migrations, prisons and customs administrations, police and security forces, the labor sector and social security, including a company inspection system. Special importance was attached to tax collection and to the efforts made to eliminate and punish evasion and other illicit forms of conduct frequently **occurring** in this sector. The speakers pointed out that special offices had been created in this important area of public administration.

Particularly significant were the remarks with regard to the experiment of establishing internal auditing units within the different government departments, a topic that had brought about an interesting exchange of experiences between two members States of the Organization. It was reported that such auditing units had been empowered to investigate, inspect and evaluate policies in addition to their training and prevention functions.

Together with the legal and administrative reforms, abundant information was provided on concrete plans and programs designed to prevent and punish practices or acts at variance with probity and civic ethics. It was pointed out that in some national systems, there were specific mechanisms encouraging and facilitating denunciations by members of the public. There were differing views, though, with regard to the possibility of processing anonymous tip-offs, which were accepted in some systems and rejected by others. Information was also provided on the setting up of mechanisms of information for the users of certain services in order to simplify the paperwork and make procedures more transparent, thereby making it more difficult for illicit acts to be committed.. Abundant information was presented, also, about new ways of incorporating civil society institutions at the municipal, regional and provincial or state levels in order to integrate them in the strategic plans to fight against corruption, setting up committees and voluntary associations, made up of independent recognized figures, whose function is both to disseminate a culture based on honesty and ethical values and to serve as a point of contact between the general public and the State agencies in charge of preventing and punishing conduct at variance with the demands of probity and ethics. Some speakers referred to initiatives such as a “anti-corruption mail boxes” to receive complaints and the setting up of free telephone lines for the same purpose.

Numerous references were made to the elaboration of codes of ethics for public officials, some of which have been adapted to the realities of different state agencies. This was considered an advance toward adopting these types of instruments in line with the commitments undertaken in the Inter-American Convention against **Corruption**. In respect of certain legal concepts included in the Convention, substantial legal presentations were made with regard to illicit enrichment and international bribery. In connection with the former, the countries which have defined the offense were listed and mention was made of the deficiencies in some national legislations; deficiencies that have made it in practice impossible to exercise judicial controls in that area. Reference was made to the close relationship between this concept and the requirement that exists in some national systems and in the Inter-American Convention against Corruption that civil servants present sworn affidavits declaring their assets. Several participants argued that those sworn statements should be public.

As for international bribery, attention was drawn to the novel features of this criminal law concept and the papers written by the Inter-American Juridical Committee to define the different elements which it involves were presented. Participants acknowledged that adoption of the respective Convention by the Organization for Economic Cooperation and Development (OECD) was a sign of progress. It was generally agreed that the activities aimed at incorporating the legal concepts contemplated in the Inter-American Convention against Corruption in national legislation must go on and that there was a need to exchange experiences and information in this regard within the Inter-American Program for Cooperation to Fight Corruption.

During the discussions, references were also made to the consolidation of the institutional relationships among the control agencies of the MERCOSUR countries.

In the context of concrete cases of improvement of administrative practices in this area and in relation to experiences of internal audits, participants were informed of a complex investigation into the generalized commission of acts of corruption in the customs administration of country in the region. The speech revealed the legal and factual complexity of an investigation on this scale and the sheer volume of human and material resources required to clarify a situation in which corruption had become systemic.

The representatives of international organizations explained their idea of the role those organizations can play in struggles geared to enhancing probity and civic ethics, and told participants what they were doing in this area. Thus, as regards the World Bank, participants were informed about the Bank's efforts to include the topic in public sector reform projects, specifically those having to do with privatization, **decentralization, financial** and tax administration, judicial reform and strengthening of civil servant career opportunities. Participants were told that the World Bank had been developing schemes to prevent inappropriate conduct in its own projects, assisting in the implementation of economic and institutional reforms in countries requesting such assistance, taking explicit account of the corruption phenomenon in Bank strategy, and contributing to international initiatives aimed at reducing it.

As for the Inter-American Development Bank, participants were told that the enhancement of probity and struggle against corruption is being handled as part of the reform of the State programs, along with governability, bearing in mind the need to strengthen public institutions and civil society **from** a long-term perspective. Attention was drawn to **the** need for a competent, well-paid, and politically independent civil service. It was pointed out that the Bank has given specific assistance to

the institutions most directly associated with efforts to enhance probity and public ethics and that training programs are under way for the staff of several of these key institutions for the prevention of corrupt conduct. Mention was also made of the start of a cooperation project with the OAS.

Some speeches pointed to the need to introduce objective and impartial norms regarding corruption in the classification of loans by development banks to countries in the region.

The representative of the Latin-American Management for Development Center (CLAD) reported the setting up of a net of governmental and non-governmental institutions interested in enhancing probity and civic ethics and in rescuing ethical principles in the exercise of public office (**RICOIREP**), pursuant to a decision adopted in timely fashion by the Ibero-American Forum for the Fight Against Corruption. The need to avoid duplication of efforts was pointed out together with the need and to harmonize already existing initiatives, including that of the OAS Secretary General. The representative also provided information about projects under way designed to train civil servants in the areas of probity and public ethics and to follow up on the activities that those civil servants then undertake.

The civil institutions coincided in pointing out the need to forge ahead and set specific targets and objectives with regard to the prevention and punishment of acts of corruption and the enhancement of probity and civic ethics. In that context, it was proposed to establish within the OAS an institutional mechanism which would make it possible to follow up on the actions undertaken in compliance with the commitments made by the states parties to the Inter-American Convention against Corruption and to facilitate the adoption of measures to that end. It was considered that said follow up should give rise to the preparation of periodical reports on the matter, which would be the basis for the presentation before the Ministers of Foreign Affairs at the General Assembly of OAS. It was considered that this would facilitate compliance with the provisions of the Convention and establish a Forum for consultation and exchange of, ideas based on the experiences gradually acquired by governments, international organizations-including development banks-and the institutions of civil society. This follow-up mechanism would allow the mobilization of material and human resources in order to assist efforts to strengthen institutions, improve norms, and channel the resources urgently needed for efforts to prevent and eliminate corruption. In addition, that mechanism, which should contemplate participation by institutions in civil society, would serve as an institutional memory which easing exchanges among people and interested institutions.

SIMPOSIO SOBRE EL FORTALECIMIENTO  
DE LA PROBIDAD EN EL HEMISFERIO  
4-6 noviembre 1998  
Santiago, Chile

APPENDIX B

**OEA/Ser.K/XXXII**  
**SIMPRO/INF.4/98** rev. 1  
5 noviembre 1998  
Original: **español**

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SIMPOSIO SOBRE EL FORTALECIMIENTO  
DE LA PROBIIDAD EN EL HEMISFERIO  
4 - 6 noviembre 1998  
Santiago, Chile

OEA/Ser.K/XXXII  
SIMPRO/doc. 1/98 rev. 2  
21 enero 1999  
Original: **español**

LISTA DE DOCUMENTOS REGISTRADOS POR LA SECRET-  
HASTA EL 21 DE ENERO DE 1999

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5. Título registrado en el idioma original.

6. E = español, I = inglés, P = portugués

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