

INTERNATIONAL BUSINESS

Brazil Opens Investigation Into McDonald's

By **STEPHANIE STROM** and **VINOD SREEHARSHA** MARCH 3, 2016

A federal prosecutor in Brazil on Thursday opened a criminal investigation into McDonald's and its Latin American master franchise owner, Arcos Dorados Holdings, saying that they and related entities may have engaged in "fiscal and economic crimes."

The prosecutor, Marcos José Gomes Corrêa, is looking into whether McDonald's and Arcos, which subfranchises McDonald's restaurants in Latin America, have failed to comply with tax and other laws in Brazil, in addition to possible violations of the country's franchise law.

The possible tax law violations include accusations made by Brazilian labor unions that Arcos paid bribes to government officials in return for favors from Brazil's tax collection regulator.

The investigation will also look into whether the company paid bribes to public officials in 2002 that resulted in the enactment of a new regulation that helped reduce the company's tax burden.

McDonald's referred questions to Arcos. Arcos declined to comment because it had not been officially notified of the inquiry.

Last summer, labor unions filed a petition, charging that Arcos had structured its operations to reduce its tax burden, ruled its own franchisees with an iron fist and gained unfair advantages through its real estate practices.

In December, the European Commission opened an investigation into whether Luxembourg had offered McDonald's overly generous tax breaks. The commission said it would look into two tax rulings by the Luxembourg authorities in 2009 that enabled a unit of McDonald's to pay no corporation tax in Luxembourg thereafter, in spite of record profits. That investigation is pending.

The Brazilian prosecutor is making an allegation, similar to one made in the European case, that McDonald's and Arcos made inflated royalty payments as a means of reducing their taxes.

"Subsidiaries in jurisdictions with high tax burdens pay royalties to registered companies that hold intellectual property in tax havens," the prosecutor's statement said. "The royalties are treated as tax-deductible expenses in the operating country, reducing the tax burden there. Those same royalties then receive favorable tax treatment in the country they are sent to."

The accusations also include what is described as the "onerous practice" of requiring all franchisees to buy ingredients exclusively from one provider, Brapelco, which may violate Brazil's business laws. The unions said that Arcos and McDonald's exercise control over subfranchises that "exceeds what is common in franchising contracts" in Brazil.

McDonald's American franchises also must buy all ingredients from designated suppliers.

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