



MEXICO: FOLLOW-UP TO THE PHASE 3 REPORT & RECOMMENDATIONS

June 2014

This report, submitted by Mexico, provides information on the progress made by Mexico in implementing the recommendations of its Phase 3 report. The OECD Working Group on Bribery's summary of and conclusions to the report were adopted on 16 June 2014.

The Phase 3 report evaluated Mexico's implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 2009 Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions.

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SUMMARY AND CONCLUSIONS BY THE WORKING GROUP ON BRIBERY

Summary of Findings

1. In March 2014, Mexico presented a Written Follow-Up Report on the Recommendations and Follow-Up Issues described in the Working Group on Bribery's Phase 3 Report dated October 2011. The Working Group concludes that Mexico has fully implemented 4 out of the 22 Phase 3 Recommendations, 10 Recommendations were partially implemented and 8 were not implemented. Mexico still does not have any prosecutions or convictions for foreign bribery. The two foreign bribery investigations described in the Phase 3 Report have resulted in domestic and not foreign bribery charges. A third investigation began very recently in early 2014 and is ongoing.

2. According to Working Group practice, draft legislation or Bills are not sufficient to implement a Phase 3 Recommendation; the relevant law must be enacted. In Mexico's case, legislation relevant to Recommendation 1 (foreign bribery offence) was submitted to Congress on 4 March 2014. A decree on whistleblowing (Recommendation 15) was drafted in 2010 and submitted to Congress on the same day. A Bill purporting to address Recommendation 3(a) has been in Congress since 2011 (before the Phase 3 Report was adopted). These three Recommendations thus remain unimplemented.

3. Mexico has not taken action to implement Recommendations 2, 3(b), 9 and 11. Mexico advanced arguments disagreeing with these Recommendations, many of which had already been rejected by the Working Group when the Phase 3 Report was adopted. In particular, Recommendation 2 related to the Working Group's concern that Mexico's territorial jurisdiction to prosecute foreign bribery may be too narrow. This concern originated from statements made by Mexican judges and prosecutors during the on-site visit in 2011. In its Follow-Up Report and during the Working Group meeting to discuss the Report, the Mexican government restates its position expressed during the Phase 3 evaluation contradicting the view of the law expressed by the judges and prosecutors. In the government's view, the position of the judges and prosecutors was incorrectly based on non-binding jurisprudence. However, Working Group members observed that the Mexican government did not cite legislation or jurisprudence that was developed after the Phase 3 Report's adoption. The situation on this issue therefore has not changed since the Working Group made its Recommendation. Furthermore, the concern about the territorial jurisdiction issue was raised by judges and prosecutors. These are the individuals who ultimately apply the law. As well, the Working Group has not had the benefit of their views when assessing Mexico's Follow-Up Report. While the position of the Mexican government on this very technical issue might be correct, it cannot be accepted before further discussion with Mexican judges and prosecutors. Recommendation 2 thus remains unimplemented and should be followed up in future evaluations of Mexico.

4. Efforts to use the 2012 Federal Anti-Corruption Law in Public Procurement to implement the Phase 3 Recommendations are not fully successful. The Law creates a regime of administrative liability of legal persons for foreign bribery that operates alongside Mexico's existing scheme of criminal liability. The Law does not employ the fine day system that was the subject of Recommendation 4. It also does not, however, expressly address the issue in Recommendation 3(c), namely the jurisdiction to prosecute legal persons incorporated or headquartered in Mexico for extraterritorial foreign bribery. Furthermore, the Law contains shortcomings as described in the Phase 3 Report (para. 9) which considered the Law in draft form. These concerns include an inadequate definition of a "foreign public official"; non-coverage of foreign companies operating in Mexico; and omission of some types of foreign bribery. The creation of parallel criminal and administrative enforcement regimes raises further questions about co-ordination, since multiple bodies could be involved in the investigation of the same case. Another question is whether the body responsible for administrative investigations, which is not a criminal law enforcement body, has sufficient enforcement expertise. Given these concerns, the new Law does not resolve the issues that continue to exist under Mexico's criminal foreign bribery enforcement regime. As well, during the

Working Group meeting to discuss the Follow-Up Report, the Mexican authorities read out jurisprudence arguing that the principle of *non bis in idem* does not preclude sanctions under both the Law and the Penal Code against an entity for the same conduct. The Working Group will consider this information in greater detail in future evaluations, including by soliciting the views of Mexican judges, prosecutors and lawyers on the jurisprudence. Recommendations 3(c) and 4 are partially implemented.

5. Recommendation 5 concerning confiscation is partially implemented. A new National Code of Criminal Procedure (NCCP) was enacted on 5 February 2014. Article 249 provides value confiscation and will enter into force before June 2016. The Working Group commends Mexico for its efforts in this regard. However, Recommendation 5 also asked Mexico to clarify that confiscation may be ordered against legal persons. There continues to be an absence of legislation that expressly addresses this issue. Mexico states that the absence of such legislation does not exclude the possibility of imposing confiscation against legal persons. But there is no case law in support of Mexico's position, especially since the new NCCP provision is not yet in force. Recommendation 5 also asked Mexico to take steps to ensure confiscation is routinely ordered in practice. No information was provided in this regard.

6. Recommendations 6(a) and 6(b) relating to enforcement are partially implemented. In October 2013, the Attorney General's Office provided foreign bribery-related training to the Special Prosecutor's Office for the Combat against Corruption within the Federal Public Service (SPOCC); Specialised Investigative Unit of Crimes Committed Abroad; and the General Direction of Extraditions and Mutual Legal Assistance. However, as mentioned above, the level of actual foreign bribery enforcement in Mexico remains very low. The Ministry of Foreign Affairs informed Mexican law enforcement authorities of a foreign bribery allegation implicating a Mexican national that had been reported in the foreign media. This prompt reaction by Mexican authorities is encouraging. However, the investigation is in its very early stages, and the Working Group will need to follow up Mexico's efforts to investigate this matter. On an institutional level, a Decree entered into force on 12 March 2014 to replace the Attorney General's Office (*Procuraduría General de la República*; PGR) with the *Fiscalía General de la República* (FGR). A new Specialised Prosecution Office against Corruption was also created. These were significant developments. Mexico states that the new FGR would have legal and financial autonomy. However, Mexico could not provide information on matters such as the new FGR's available financial and human resources, who would head the body, or when it would be operational. Mexico has increased the staffing levels of (SPOCC). Mexico stated that the government was in the process of determining these matters. But the level of resources remains inadequate given SPOCC's extremely wide remit.

7. Recommendations 6(c) and 7 have been fully implemented. Articles 251-252 and 291 of the new NCCP make special investigative techniques (e.g. undercover operations, controlled deliveries and wiretapping) available in foreign bribery investigations. Mexico has adopted an email system for transmitting mutual legal assistance (MLA) requests and trained prosecutors on international co-operation. The NCCP also sets out the procedure for executing MLA requests, though the relevant provisions were not provided to the Working Group. The Working Group will follow up how Mexico seeks and provides MLA.

8. Recommendation 8 concerning money laundering is partially implemented. Mexico has issued and amended many laws and regulations concerning anti-money laundering (AML), including a new AML Law in 2012 and subsidiary legislation under the Law in 2013. Measures have been taken to further improve the effectiveness of law enforcement bodies and the Financial Intelligence Unit (UIF). The UIF's staff organised and attended AML courses that covered foreign bribery. AML training was also provided to officials from the National Banking and Securities Commission (CNBV). However, this training did not specifically address foreign bribery. There also continues to be no typologies on money laundering predicated on corruption offences. The Mexican authorities expressed that they would focus on addressing these matters.

9. Recommendation 10 is partially implemented since the statistics provided by Mexico were not fully satisfactory. For instance, statistics on the convictions and sanctions for domestic bribery were incomplete. One of the tables on the false accounting offence does not clearly explain whether the data relate to investigations, prosecutions or convictions. Statistics on the sanctions imposed for false accounting were based on a limited sampling of cases and are thus of uncertain reliability.

10. Concerning external auditing and corporate compliance measures, Mexico did not describe efforts to engage the audit profession. It also has not amended its legislation to clearly require external auditors to report foreign bribery to competent authorities, but restates its position from Phase 3. Recommendation 11 is thus not implemented. Mexico has created a database of enterprises (including SMEs). The National Institute for Entrepreneurs (INADEM) engaged in awareness-raising activities, including for SMEs. However, Mexico's efforts relate to corporate social responsibility generally and do not specifically address corruption prevention, or compliance with criminal law. Recommendation 12 is therefore partially implemented.

11. Regarding the tax deductibility of bribes, Mexico's tax administration (SAT) adopted a "normative criterion" entitled "bribes to public officials are not deductible for income tax purposes" on 23 July 2012. According to SAT, the normative criterion is legally binding on all taxpayers. However, Mexico did not provide information showing that SAT actually verifies in practice whether a taxpayer who has been found to have committed domestic or foreign bribery has claimed a tax deduction for bribe payments. Recommendation 13(a) is accordingly partially implemented.

12. Recommendation 13(b) and 14 are fully implemented. Following an analysis, the Audits Monitoring System of the Control Strategy for Auditors was amended to ensure tax auditors regularly look for evidence of bribery. A tool entitled "Procedures for Detection of Bribery" was incorporated into the system. Tax officials were trained on bribery detection. The Ministry of Foreign Affairs and ProMéxico have engaged in awareness-raising activities. The Working Group welcomed Mexico's statement that these awareness-raising activities have led to the referral of the foreign bribery allegation to Mexican law enforcement officials described above.

13. Regarding public advantages, Mexico did not provide information on debarment from public procurement as a sanction for foreign bribery. Recommendation 16(a) is thus not implemented. Bancomext has amended its contracts to provide for termination in cases of foreign bribery before or after the agreement's execution. However, Bancomext provided annual training to its staff which focused on money laundering and not foreign bribery. It still does not provide its debarment policy in writing in a specific section of the lending or guarantee contract. Mexico's Written Follow-Up Report does not explain whether Bancomext requires clients to provide details of agent commissions and fees. Recommendation 16(b) is partially implemented.

Conclusions of the Working Group

8. The Working Group concludes that Mexico has satisfactorily implemented Recommendations 6(c), 7, 13(b) and 14; partially implemented Recommendations 3(c), 4, 5, 6(a), 6(b), 8, 10, 12, 13(a) and 16(b); and not implemented Recommendations 1, 2, 3(a), 3(b), 9, 11, 15 and 16(a). Follow-up Issues 17(a)-(d) remain outstanding since there have not been foreign bribery cases in Mexico. In its future evaluations of Mexico, the Working Group will revisit the outstanding Recommendations, Follow-up Issues, and Mexico's system of seeking and providing MLA.

PHASE 3 EVALUATION OF MEXICO: WRITTEN FOLLOW-UP REPORT

Name of country: Mexico
Date of approval of Phase 3 evaluation report: 14 October 2011
Date of information: 12 March 2014

PART I: RECOMMENDATIONS FOR ACTION

Recommendations for ensuring effective investigation, prosecution and sanctioning of foreign bribery

Text of recommendation 1:

1. Regarding the offence of foreign bribery, the Working Group recommends that Mexico amend Article 222bis to cover bribes given, offered or promised to a third party beneficiary regardless of whether the beneficiary is determined by a foreign public official (Convention, Article 1(1)).

Action taken as of the date of the follow-up report to implement this recommendation:

The Attorney General's Office (hereinafter PGR) prepared a draft legislative amendment to article 222 bis of the Federal Criminal Code (FCC), with the purpose of punishing bribery when the benefit obtained due to its commission may fall to a foreign public official or a third party, even if the aforementioned third person is not necessarily determined by the public official.

Furthermore, it includes an amendment proposal to the hypothesis in Section II of the aforementioned article, making it unnecessary to prove that the foreign public official processed a matter outside the scope of their official duties, rather it will suffice that the official processed the matter. Thus, said amendment would also be perfectly synchronized with Section I.

I.- Draft reform to the article 222 Bis of the Federal Criminal Code:

Article 222bis.

The sanctions contemplated in the last article will be imposed to any person who in order to gain or maintain unlawful advantages for himself or any other person during the execution or conduction of international business transactions offers, promises, or gives, directly or through others, money or any other form of gift in goods or services:

- I. To a foreign public official or a third party ~~determined by him~~, for his own benefit or for that of a third party, in order for such public official to arrange, or abstain from arranging, the proceedings or the resolution of matters related to the inherent functions of his job, position, or commission.*

To a foreign public official ~~determined by him~~, for his own benefit or for that of a third party, in order for this public official ~~to do~~ to arrange the proceedings or achieve a resolution in any matters not related to the inherent functions of his job, position or commission, or....

This draft amendment was presented before the Mexican Congress on March 4th 2014.

If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 2:

2. Regarding territorial jurisdiction and the statute of limitations in cases where a bribe is given or sent to a foreign public official in Mexico after it is offered or promised abroad, the Working Group recommends that Mexico review and undertake the necessary changes to rectify any shortcomings. (Convention, Articles 4 and 6).

Action taken as of the date of the follow-up report to implement this recommendation:

Mexico has reviewed the scope that has been expressed previously to the OECD and the pertinence and necessity of amending legal provisions related to jurisdiction, statute of limitation and commission of the offence of foreign bribery. However, the conclusion is that is not foreseeable to process an amending since our legal system has already specific applicable provisions, as it will be demonstrated.

In first place it should be pointed out that the federal jurisdiction foreseen by Mexican Law is completely in accordance with article 4 of the Convention. There are no loopholes or contradictions in Mexican criminal legislation in reference to what the international instrument establishes. It appears that the problem lies in the lack of preciseness of some questions and the corresponding answers posed and given during the evaluation process.

The Federal Criminal Code establishes jurisdiction for “all” the offences committed “wholly or partially” in Mexican territory. There are no exceptions. The first three articles of the above referred Code read as follows:

“Article 1.- This Code shall apply to federal crimes throughout the Republic.

Article 20.- Likewise, it shall apply to:

I. Crimes which are initiated, prepared or committed abroad when they have or they are intended to have effects in the Republic territory; or to those crimes initiated, prepared or committed abroad, provided that a treaty binding Mexico stipulates an obligation to extradite or prosecute, the requirements provided for in article 4 of this Code are satisfied, and the person probably responsible is not extradited to the requesting state, and

II. Crimes committed in Mexican consulates or their personnel if the perpetrators are not prosecuted in the country in which the crime is committed.

Article 30.- Those continuous crimes which are committed abroad, and which commission continues in the Republic shall be prosecuted in accordance to the laws of the Republic, regardless of whether the perpetrators are Mexican or foreigners.

The same rule shall apply to continuing crimes.”

As it can be appreciated from the aforementioned articles, the Federal Criminal Code foresees for Mexican federal jurisdiction if a “federal offence” is committed in the Republic’s territory. At the same time, it should be pointed out that this same Code typifies the offence of foreign bribery as a “federal offence”. Therefore, it will suffice that a single element of the criminal definition is committed in

Mexican territory in order for Mexican jurisdiction to be applied. The Code goes even further and estates Mexican jurisdiction in those cases in which the offences are initiated, prepared or committed abroad when they produce or are intended to have effects in Mexican territory. Consequently, if a bribery is delivered “in Mexico” to a foreign public official, there is no doubt that Mexican jurisdiction shall proceed.

Due to the above, the evaluators’ statement is misleading when it indicates that in Mexico there is “limited” jurisdictional scope in the investigation of foreign bribery offences.

Mexico would definitely have jurisdiction in case that the bribe is sent abroad from Mexico, as well as in the case in which the foreign public official comes to Mexico to receive a bribe. Any of these cases would be a common example of the application of Mexican federal jurisdiction, since one of the elements of the criminally defined conduct took place in national territory.

This confusion is originated from some statements expressed by the interviewed attorneys or judges, because they mentioned that the offence would be consummated abroad as soon as the promise or offer of the bribe was offered. However, the explanation of this confusion is very simple:

Two different issues are being discussed. The criminal definition established in the Convention, as well as the criminal definition set forth in the Mexican legislation, is a perfect example of an “alternative” criminal definition. In other words, the criminal definition allows a variety of possibilities of consummation of the offence, since it uses the conjunction “or”. The “or” represents a coordinating conjunction that has a disjunctive value, expressing an alternative between two options. Therefore, the definition of the offence itself allows the materialization of any of the behaviors described alternatively: 1) the promise, 2) the offer, or 3) the delivery. Then, it is correct to affirm that the criminal conduct may be considered consummated from the moment of the “promise” or of the “offer”. However, this does not mean that in those cases where “delivery” is completed; the offence is considered consummated at the moment of the “delivery”. It will depend on the formal accusation made by the prosecutor before the judge, which will be determined according to the facts of the specific case and the evidence that the prosecutor managed to collect.

There may be cases in which there was neither “offer” nor a “promise” by the perpetrator, but that was the bribe directly delivered by the perpetrator. But there also may be cases in which, in spite of the previous “offer” or “promise”, the “delivery” had been carried-out, and the prosecutor, with the purpose of obtaining a higher penalty for the defendant, decides to accuse them for the “delivery” of the bribe. In such case, the previous “offer” or “promise” shall be preparatory acts for the “delivery” and will serve to prove the bribe, as well as to prove the accused’s responsibility. Likewise, there may be cases in which the prosecutor has not gathered conclusive evidence of the “promise” or of the “offer”, but does have a variety of evidence that proves “delivery”; therefore, the prosecutor will accuse the perpetrator for the “delivery of the bribe”. In both of these hypothesis, the “promise” or “offer” is considered merged into the criminal conduct of the “delivery”.

In this regard, it is worth clarifying two aspects related to the 1985 sole non-binding legal precedent referred to by the evaluators to make their observations both in the Phase 2 Final Report and in the Phase 3 2011 Report:

It is not “binding legal precedent”, but a “sole non-binding legal precedent”, which does not constitute a mandatory and/or binding criteria pursuant to which the offence of foreign bribery must be interpreted. Instead it is a legal reasoning issued by the jurisdictional authorities, whose main purpose is to interpret a legal provision, in order to guide the work of the trier of fact (judge), which means that its application neither obligates them nor binds them; nevertheless the judge may exercise judicial discretion implement such non-binding legal precedent to prevail in their resolutions.

A non-binding legal precedent establishes that the offence of bribery materializes upon the request of a bribe, regardless that the victims of the crime delivered or not in cash what was requested. The

aforementioned non-binding legal precedent establishes that such offence foresees the same three predicates previously referred to and materializing the offence of bribery:

1. - The request of a bribe ;
2. - The receipt of any good,
3. - The acceptance of a promise.

In conclusion, provided that any of the elements defining the crime takes place in national territory, the Mexican authority shall have jurisdiction to investigate and prosecute the person responsible, and the offence of bribery of public officials is no exception. It must also be considered that it is an alternative criminal definition that allows the consummation of the offence by means of different kinds of conducts.

Secondly, based on the previous explanation the existing confusion regarding the statute of limitations may be solved. The statute of limitations will begin from the moment in which the offence is consummated. This is the rule established in the Federal Criminal Code for instantaneous offences. (In continuous or continuing offences there is taken into account the last act or conduct executed, allowing an even longer term of the statute of limitations). Thus, if the prosecutor formally accuses the perpetrator of making the “offer” of the bribe, the statute of limitations will start to count from the moment in which the “offer” was made. But if the prosecutor formally accuses the perpetrator of “delivering” the bribe, the statute of limitations will start running from the moment of the “delivery”, because that would be the moment in which the offence in question was consummated. The statute of limitations is simply considered as commenced from the moment of the act (immediate) on which the prosecutor grounds their accusation of this alternative criminal definition.

As indicated on other occasions, according to what is established in the Federal Criminal Code, the statute of limitations shall not be less than 3 years.

“**Article 105.-** The Statute of Limitations of the criminal action shall be equal to the term of the imprisonment penalty corresponding to the crime; but in no case shall it be less than three years.”

It is worth noting that according to article 101 of the aforementioned Code, the statute of limitations will be doubled concerning those persons who are outside the national territory.

“**Article 101.-** Statute of limitations is a personal right; the simple passage of time, as indicated by law, shall be enough to cause Statute of limitations”.

Statute of limitations terms shall be doubled for those persons out of the national territory, if due to this fact; it is not possible to carry out a preliminary investigation to conclude a proceeding or to impose a penalty.

Likewise, the criminal legislation provides for the interruption of the statute of limitations if the Public Prosecutor effectuates investigative proceedings regarding the offence or the perpetrator. The interruption consists in cancelling the elapsed time and starting again.

“**Article 110.-** Statute of limitations of criminal actions shall be interrupted by those proceedings that are related to the investigation of the crime and the offenders, even though these proceedings are not carried out against any specified person.

If the proceedings are suspended, statute of limitations shall begin count again on the day following the day the last proceeding took place.

[...]

Lastly, what is related to the second paragraph of article 4 of the Convention, which regulates jurisdiction, based on the nationality principle needs to be clarified. The applicable jurisdiction is foreseen in article 4

of the Federal Criminal Code. But before explaining functioning of this article, it should be underlined that As explained, for the abovementioned cases the territoriality principle will suffice to justify the use of the analogous enforcement of the jurisdiction.

It is clear that Mexican criminal legislation fully obeys with what is established in the second paragraph of the aforementioned article 4 of the Convention.

"Article 4.- Crimes committed in a foreign territory, by a Mexican against Mexicans or against a foreigner, or by a foreigner against a Mexican, shall be punished in the Republic of Mexico, in accordance with federal law, if the following requirements are met:

I.- That the accused be in the Republic of Mexico;

II.- The accused has not been finally sentenced for the offense in the country where they committed the crime; and

III.- That the offense charged be a crime both in the country where it was committed and in the Republic of Mexico.”

Said article establishes jurisdiction based on the principle of nationality and sets forth the basic requisites for its application. On the basis of such principle, the Mexican Government has jurisdiction to investigate and penalize the crimes totally committed abroad, even when they do not produce or are intended to have any effect in Mexican territory (unlike the provisions set forth in article 2 of the Federal Criminal Code).

If no action has been taken to implement recommendation 2, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3(a):

3. Regarding the liability of legal persons for foreign bribery, the Working Group recommends that Mexico amend its Federal Penal Code without delay so that:

- a. liability may be imposed without the prior identification or conviction of the relevant natural person(s), and without proof that the bribery was committed with the means of the legal person (Convention Article 2);

Action taken as of the date of the follow-up report to implement this recommendation:

On September 6th 2011 it was submitted before Congress a Bill amending certain provisions of the Federal Criminal Code, which aims to prosecute and sanction legal persons that are responsible for committing a crime on their own or on behalf of a legal entity, their agents, legal representatives, managers, partners or stockholders, with independence of the responsibility that would apply according to what is stated in the criminal law to the natural person. This applies to the natural person that commits a crime as a legal person.

The approval of this Bill is still pending before the Congress.

If no action has been taken to implement recommendation 3(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3(b):

3. Regarding the liability of legal persons for foreign bribery, the Working Group recommends that Mexico amend its Federal Penal Code without delay so that:

- b. state-owned and state-controlled enterprises can be sanctioned for foreign bribery other than by dissolution of the legal person (Convention Article 2); and

Action taken as of the date of the follow-up report to implement this recommendation:

Regarding recommendation 3 b) referring to corporate responsibility/liability for foreign bribery may be imposed upon all State-owned or State-controlled Mexican companies, it is considered important to reiterate to the evaluators the argument expressed by Mexico since the Phase 2 evaluations. In that regard, it is necessary to state that it is unconstitutional for the Mexican State to comply with this recommendation

In this particular case, the State-owned or State-controlled companies are responsible for attending and developing activities related with strategic areas and that are a priority to the national economy which due to their economic and social importance are essential for the country's development and therefore, cannot be subject to an ordinary criminal liability ordinance, and much less to the imposition of penalties such as dissolution or liquidation thereof, since considerable damage may be caused to the country's economic stability.

In that regard, the Mexican State's inalienable obligation to supervise these companies' transactions is emphasized, and to this end the criminal and administrative liability of the companies' partners, employees and legal representatives is determined as set forth in the Federal Criminal Code and in the Federal Law of Administrative Responsibilities of Public Officials. At no time may it be concluded that the commission of an illicit activity committed by a public official will go unpunished, since administrative and criminal penalties may be imposed upon this conduct.

This argument is grounded in article 3.2 of the OECD Anti-bribery Convention, in as much as in the Mexican legal system, criminal responsibility does not apply to the Mexican State-owned or State-controlled companies, due to its basis on the constitutional principle of the Mexican State's steering of its economic activities.

If no action has been taken to implement recommendation 3(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3(c):

3. Regarding the liability of legal persons for foreign bribery, the Working Group recommends that Mexico amend its Federal Penal Code without delay so that:

- c. companies incorporated or headquartered in Mexico can be liable for foreign bribery

(Convention Article 2).

Action taken as of the date of the follow-up report to implement this recommendation:

With reference to Recommendation 3 c) concerning liability for foreign bribery of the companies incorporated in Mexico, it should be specified that current criminal legislation allows imposing corporate liability on legal persons for the purpose of redress of damages. This means that company owners, in charge of any commercial negotiation or establishments are liable for the crimes committed by their workers, day laborers or employees, due to the performance of their duties. Likewise, the business associations or groups may be considered liable for paying redress of damages for the offences committed by their partners or managers/directors.

Furthermore, the Federal Anti-Corruption Law in Public Procurement, published in June 2012, sets out provisions complying with this recommendation, by establishing administrative penalties upon natural and legal persons of Mexican nationality that incur in foreign bribery.

If no action has been taken to implement recommendation 3(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 4:

4. Regarding sanctions for foreign bribery, the Working Group recommends that Mexico, in cases where an offender does not have a net income at the time of the offence or where the net income cannot be ascertained, establish a system allowing a court to impose an appropriate fine after the court gives detailed reasons on why the net income cannot be determined (Convention, Article 3(1) and (2)).

Action taken as of the date of the follow-up report to implement this recommendation:

It is considered that there are 2 hypotheses:

1) when a penalty is imposed on a natural person, and) when it is imposed on a legal person.

In the first hypothesis, paragraphs second and third of article 29 of the FCC foresees:

“Article 29. A fine is the payment of a monetary amount to the State, determined by the number of days of fine and which shall not exceed a thousand days, except for the cases set forth in the law itself. A day of fine is equivalent to the daily net income of the person sentenced at the time the crime is committed, considering all of his/her income.

For the purposes of this Code, the lower limit of the day of fine shall be equal to the minimum daily wage in effect where the crime was perpetrated. Concerning the continuing crime, there shall apply the minimum daily wage in force at the moment in which the crime ceased.”

It is important to point out that the term “minimum daily wage in force” was changed to “day of fine”, so that the fine is applied taking as a reference the total daily income earned by the perpetrator. This is a more efficient and proportional method than any other, since as it generates real unconstitutional of the forbidden conduct, avoiding the application of an excessive or laughable penalty. The possible difficulties of identifying the convicted person’s income are surmountable. Moreover, such difficulties are preferable to the use of fixed parameters that do not consider the offender’s real income. Also, it should not be

overlooked that the judge has at his/her disposal the necessary means to remedy the lack of information, whether with the tax returns of the person involved, bank statements, or other documentation. If the basic premise is that the person in question does not adequately declare his/her income, then this is a problem that surpasses the analysis in question and, undoubtedly, it implies the commission of a different crime, which is why there should be understood that this other criminal penalization is enough to discourage such conduct.

On the other hand, the examiners' statement of the uncertainty in determining the moment in which the crime of bribery has been perpetrated so as to calculate the perpetrator's income is inaccurate. As it was previously explained, there is no doubt about the moment the crime was perpetrated and article 29 CPF specifies that the perpetrator's income at the moment of the crime shall be taken into account.

Likewise, there is no reason why the calculation of a legal entity's income is more complicated to obtain than that of an individual. The same procedure shall be applied in both cases. The judge shall determine whether the whole conglomerates or only the corresponding subsidiary income will be considered. The previous would be carried-out based on a logical analysis of the case, taking into account, among other things, who provided the means used or who obtained the benefit, just as it is described in the article 11 of the Federal Criminal Code in order to determine the liability of the legal entity.

Also, as it may be noted in the aforementioned provision, it is considered by our legal system that when fine days cannot be calculated for the criminal perpetrator, the penalty shall be established on the basis of minimum daily wages, method that would be applied as a last resort.

Additionally, on June 11, 2012, considering the figure functional equivalence recognized in the "Commentaries on the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions", Mexico enacted the Anticorruption Federal Law on Public Procurement (Anticorruption Law).

Foreign bribery is regulate in the Mexican legal order in terms of the provisions of Article 222 BIS of the Criminal Federal Code Federal, but it is also punishable according to the Article 9 of the Anticorruption Law.

In regard of the sanction of foreign bribery, it is noteworthy that the Anticorruption Law establish rules in which the authority must follow to impose a fine. Thereby, once proven the guilt of the offender, the public servant proceeds to evaluate the particularly circumstances of the case, just like the seriousness of the conduct, economic status, background and participation of the individual, reoccurrence and the profit, the damage or injury caused; that is, elements which allow assessing the facts for imposing effective, proportionate and dissuasive sanctions.

Also, the Anticorruption Law stipulate a system of fines based on minimum and maximum parameters, using the current general minimum daily wage for the Federal District as the unit of measurement. This measure is define as the minimum allowable compensation that is entitled to a worker, which increases annually by taking into account the increase in the cost of living. Thereby, these rules are according to the Mexican legal system as well as international standards.

Thus, the unit of measure that the Mexican legal system provides for fines, allows the authority to impose the appropriate penalty for each case, safeguards the principle of equality of the governed against authority. This guarantees that the imposition of fines is not an arbitrary decision.

In sum, the system of fines based on the current general minimum daily wage for the Federal District, allows the authority to impose fines pursuant to a unit of measurement, not the net income of the offender at the time of committing the offence. Therefore, if at the time of commission, the offender does not have a net income, this does not prevent the authority impose the sanction. In contrast, consider that fines are set taking into account the income of the offender, lead us to the imposition of sanctions arbitrarily, because the authority would analyzed elements outside the commission of the offence.

In this regard, it is reiterated that establishing a minimum and maximum range, allows the judge impose sanctions appropriate to the case, taking into account the objective factors that have been mentioned.

If no action has been taken to implement recommendation 4, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 5:

5. Regarding confiscation, the Working Group recommends that Mexico enact appropriate legislation without delay to provide for confiscation of property of equivalent value and confiscation against legal persons, and ensure that the bribe, the proceeds of bribery or their equivalent are routinely confiscated in practice (Convention, Article 3(3)).

Action taken as of the date of the follow-up report to implement this recommendation:

On March 4th 2014 it was enacted the “National Code of Criminal Procedures” in which Article 249, foresees the seizure of property of equivalent value. According to the temporary articles, this national legislation shall gradually come into force on the federal level, no later than June 18th, 2016, in the terms of the Declaration issued by the Congress for that effect, upon the joint request of the Federal Judicial Authority, the Ministry of Interiors and the Attorney General’s Office.

Article 249. Seizure of Property of Equivalent Value

In case that the proceeds, instruments or objects of an offence had disappeared or cannot be tracked down for a cause attributable to the defendant, the Public Prosecutor shall decree or request to the corresponding jurisdictional organ the precautionary embargo, the seizure and, where applicable, the forfeiture of assets property of the defendants, as well as the forfeiture of the assets in respect of which they conduct themselves as owners, whose value corresponds to that of the aforementioned proceeds, without prejudice to the applicable provisions concerning non-conviction based forfeiture.

Regarding the application of the definition of forfeiture for legal entities, article 40 of the Federal Criminal Code in which it is stipulated, refers to the necessity of knowing the lawfulness or unlawfulness of the use of the properties, instrumentalities, objects or proceeds of the crime, as an indispensable element to determine the pertinence of their forfeiture.

The concerned provision does not impose any limitation for the application thereof on individuals or legal entities; therefore, the forfeiture established in the aforementioned article may become effective upon any person regardless of the person’s nature, provided that there is an order issued by a judge. Thus, the statement made by the evaluators of the impossibility of applying forfeiture against legal entities is inaccurate.

Additionally, it should be stressed that an action with similar effects to forfeiture could be claimed through an action for redress of damage pursuant to articles 32 (sections IV, V and VII), 37, 38 and 39 of the Federal Criminal Code, as well as article 489 of the Federal Code of Criminal Procedure. In this subject area, the civil law may be alternatively applied by setting forth precautionary measures such as the attachment of property to ensure redress of the damages.

If no action has been taken to implement recommendation 5, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 6(a):

6. Regarding the investigation and prosecution of the foreign bribery offence, the Working Group recommends that Mexico:

- a. give greater priority to the criminal enforcement of its bribery laws, and take steps to ensure that its criminal law enforcement authorities seriously investigate all allegations of foreign bribery (Convention, Article 5);

Action taken as of the date of the follow-up report to implement this recommendation:

The Office of the Attorney General of the Republic as the Agency responsible for the investigation and prosecution of criminal conduct, has specifically addressed its efforts in exhausting any legal remedy that allows it to fight crimes committed under its jurisdiction, such as bribery of foreign public officials.

In this regard, recently (19 Dec. 2013) the PGR was informed by the Ministry of Foreign Affairs of news published in La Habana, Cuba's local media alleging the participation of a Mexican citizen in facts that possibly define the crime of bribery (articles 222 and/or 222bis of the Mexican Federal Criminal Code).

Confronted with this supposition, this Agency, making use of the available international cooperation tools such as Mutual Legal Assistance requested through Diplomatic Note on January, requested that the Cuban authorities provide diverse information containing sufficient elements to continue with the investigation.

If no action has been taken to implement recommendation 6(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 6(b):

6. Regarding the investigation and prosecution of the foreign bribery offence, the Working Group recommends that Mexico:

- b. take further steps to ensure that adequate human and financial resources are devoted to investigating and prosecuting bribery of foreign public officials, including by providing SPOCC prosecutors and SIU investigators with adequate training in foreign bribery and complex financial investigations (Convention, Article 5);

Action taken as of the date of the follow-up report to implement this recommendation:

During October 29 and 30, 2013, the PGR carried out the "Training Course on Foreign Bribery" principally aimed at the agents of the Federal Public Prosecutor (hereinafter AMPF) assigned to the Specialized Investigative Unit of Crimes perpetrated by Public Officials and against the Administration of Justice (hereinafter UEIDCSPCAJ), under the Office of the Deputy Attorney General for Specialized Investigation of Federal Crimes.

It was given by national (PGR, the Ministry of Public Oversight) and international experts (OECD Anti-corruption Division, U.S. Department of Justice, and the National Bureau of Investigation of Finland).

The specific topics on which training was provided were: 1) Introduction to international anti-corruption conventions signed by Mexico, particularly the Convention on Combating Bribery of Foreign Public Officials in International Commercial Transactions, 2) Bribery of Foreign Public Officials, 3) Legal Persons' Responsibility (Criminal and Administrative Matters), 4) Legal Persons' responsibility in Practical Cases (presentation of cases investigated in the United States of America and Finland), 5) Detection, 6) Investigation and Seizure Techniques, and 7) Mutual Legal Assistance and Informal International Cooperation and Information exchange.

The main objectives of this course were providing the 43 AMPF's from UEIDCSPCAJ and 15 additional officials, belonging to other areas with competence in subject area, with theoretical and practical tools to improve their detecting, investigating and prosecuting skills for the adequate crime of foreign bribery; raising awareness of relevance of detection, investigation and prosecution of crime of foreign bribery, and informing of cases of successful foreign bribery investigations, particularly the investigation techniques used, whose methodology may serve as reference for the AMPF's investigations, should these arise, may be carried out.

On the other hand, on February 20th 2014, the amendment on several multiple articles of the Federal Political Constitution of Mexico has been enacted. Such amendment creates the new *Fiscalia General de la República* (General Prosecutor's Office of the Republic), whose main progress, in relation to the actual Attorney General's Office, consists on budgetary and functional autonomy, empowered straight from the Constitution. This was made with the objective to guarantee it as an impartial, objective and technical institution, isolated from changes in the administration and political pressure.

As part of this General Prosecutor's Office of the Republic, the Mexican Congress established the creation of the Specialized Prosecution Office against Corruption, which is unprecedented in Mexico and constitutes an effort completely directed to fight corruption. This office will be competent to investigate cases of foreign bribery.

If no action has been taken to implement recommendation 6(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 6(c):

6. Regarding the investigation and prosecution of the foreign bribery offence, the Working Group recommends that Mexico:

- c. make special investigative techniques available in foreign bribery cases (Convention, Article 5).

Action taken as of the date of the follow-up report to implement this recommendation:

The aforementioned "National Code of Criminal Procedures" enacted on March 4th 2014, foresees a special chapter regarding the investigation techniques (Articles 251 and 252). In this regard, the investigation techniques requested for the OECD Secretariat, such as, wiretapping, controlled deliveries and undercover operations are referred in this legislation, and they will be available for all the offences,

including domestic and foreign bribery.

Article 251. The following investigation proceedings do not require prior approval of the Supervisory Judge:

I. ...

IX. Controlled deliveries and undercover operations as a part of an investigation and under the terms established in the protocols issued for that purpose by the Attorney General.

In the cases of Section IX, such actions must be authorized by the Attorney General or the public official to whom the Attorney General delegates said authority.

Article 252. Investigation proceedings that require prior approval of the Supervisory Judge.

Excluding the investigative proceedings mentioned in the previous article, require prior authorization of the Supervisory Judge all the investigation proceedings that may cause damages to the rights enshrined in the Constitution, such as the following:

I. ...

II. Search warrants;

III. Interception of private communications (wiretapping) and correspondence...

Article 291. Interception of private communications (wiretapping)

When in the investigation the Federal Public Prosecutor deems necessary the interception of private communications, the Attorney General or the public officials with such authority in terms of its Organic Law, well as the Attorneys of the federative entities, may apply to the competent Federal Supervisory Judge, by any means, the authorization to execute the intervention, stating its purpose and need.

The Interception of private communications, covers a whole communication system, or programs that are the result of technological developments, allowing the exchange of data, information, audio, video, messages and electronic files, to record, maintain the content of conversations or record information that identify the communication, which can occur in real time or after the moment in which the communication process occurs....

If no action has been taken to implement recommendation 6(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 7:

7. Regarding mutual legal assistance (MLA), the Working Group recommends that Mexico continue to improve the level and speed of its responsiveness to MLA requests involving foreign bribery-related cases.

Action taken as of the date of the follow-up report to implement this recommendation:

Additionally, the General Division of International Proceedings (hereinafter DGPI) of the PGR has made efforts to expedite the processing and response time for assistance requests formulated by other States. The foregoing has been achieved by favoring e-mail use as an immediate communication channel to answer consultations prior to the presentation of a request by Mexican and foreign authorities. Said prior consultation is related to the request's contents or requisites so as to prevent imprecise or incomplete information be provided, resulting in additional requirements delaying the processing of said assistance. Likewise, DGPI accepts e-mail requests and begins to process the assistance's fulfillment before it is formalized.

During 2011 and 2012, the Agents of the Public Prosecutor assigned to the International Legal Assistance Division took the course "*Proyecto Diamante* (Diamond Project)", whereby they received training regarding our country's transition towards the new criminal legal system. The new National Code of Criminal Procedures (NCCP) in its chapter XI (from articles 433 to 455) establishes provisions regarding international legal cooperation and, particularly, on legal assistance. The foregoing seeks to establish the domestic procedures for the processing and fulfillment of a legal assistance request.

Specifically, in August 2012 the DGPI's public officials, as well as representatives of the States' Attorney General's Offices working on international cooperation matters, received within the Merida Initiative framework, update courses in Extradition and Legal Assistance. The courses were in collaboration with the representatives of the U.S. Department of Justice (Office of Overseas Prosecutorial Development, Assistance and Training).

If no action has been taken to implement recommendation 7, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 8:

8. Regarding money laundering, the Working Group recommends that Mexico develop bribery-related AML measures, including typologies on the laundering of bribes and the proceeds of bribery; train CNBV officials and reporting entities on money laundering predicated on bribery; and train UIF officials on detecting and reporting bribery-related money laundering cases, and on reporting such cases to law enforcement authorities (2009 Anti-Bribery Recommendation IX(i) and (ii)).

Action taken as of the date of the follow-up report to implement this recommendation:

The Working Group on Bribery in International Business Transactions (WGB) of the OECD established in its report "Phase 3: Mexico's Report on the Implementation and application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 2009 Recommendation on Further Combating Bribery", dated October 2011, that during the last years the Government of Mexico (GOM) has taken several actions in order to strengthen its Anti-Money Laundering (AML) regime, and consolidate as a relevant actor at different AML international bodies, including the Financial Action Task Force (FATF).

However, the WGBIBT also mentioned in said report that the GOM can further improve the fight against money laundering that is specifically related to bribery, and identifies three main areas of opportunity for that purpose:

- Development of additional AML measures related to preventing and combating bribery;
- Training of Financial Intelligence Unit (FIU) officials; and
- Training of National Banking and Securities Commission (CNBV) officials and financial institutions.

Taking the WGBIBT recommendation into account, as well as the international standards set by other competent international bodies, the GOM has adopted a series of major legal and institutional AML measures, and undertaken the training of FIU and CNBV officers, and financial institutions.

(1) Development of additional AML measures

It is important to begin by highlighting that the Federal Criminal Code applies the crime of money laundering to all serious offenses (including bribery), as recommended by old recommendation 1 and current recommendation 3 of the FATF. In this sense, the criminalization of money laundering related to bribery is fully covered. Furthermore, it is relevant to mention that on 11 February 2014, Congress adopted an amendment to the country's Federal Criminal Code in order to cover a few details that had been observed by the FATF in relation to the criminalisation of money laundering. Such amendment allowed the GOM to finalize addressing all core and key FATF recommendations with a rating of at least Largely Compliant and therefore having the FATF Plenary held from 10 to 14 February 2014 recognize this important achievement.

Additionally, all efforts to prevent and combat money laundering in general are in benefit of preventing and combating money laundering specifically related to bribery. We therefore provide an explanation of the AML efforts that have been made most recently by the GOM in general, and when applicable, point out the AML efforts specifically related to fighting bribery.

- Most recent AML legislation

Since 2008, the GOM, through the Executive or Congress, as applicable, have issued or amended laws, regulations and binding documents that are directly or indirectly relevant for AML matters. Among these, are the following:

- National Agreement for Security, Justice and Legality (made public on 25 August 2008) [*Acuerdo Nacional por la Seguridad, la Justicia y la Legalidad*];
- General Law of the National System of Public Security (enacted on 2 January 2009) [*Ley General del Sistema Nacional de Seguridad Pública*]
- Federal Law of Assets Forfeiture (enacted on 29 May 2009) [*Ley Federal de extincion de Dominio*];
- Organic Law of the Office of the Attorney General (enacted on 29 May 2009) [*Ley Orgánica de la Procuraduría General de la República*];
- Law of the Federal Police (enacted on 1 June 2009) [*Ley de la Policía Federal*];
- Regulations of the Law of the Federal Police (enacted on 17 May 2010) [*Reglamento de la Ley de la Policía Federal*];
- National Strategy for Preventing and Combating Money Laundering and Terrorist Financing (made public on 26 August 2010) [*Estrategía Nacional para la Prevención y el Combate al Lavado de Dinero y el Financiamiento al Terrorismo*];
- Amendments to the General Law of Auxiliary Credit Organizations and Activities (enacted on 3 August 2011) [*DECRETO por el que se reforman, adicionan y derogan diversas disposiciones de la Ley General de Organizaciones y Actividades Auxiliares del Crédito*];
- Federal Law for the Protection of Persons that Intervene in Criminal Procedures (enacted on 8 June 2012) [*Ley Federal para la Protección a Personas que Intervienen en el Procedimiento Penal*];
- Federal Law Against Corruption in Government Contracting (enacted on 11 June 2012) [*Ley*

Federal Anticorrupción en Contrataciones Públicas];

- Regulations of the Organic Law of the Office of the Attorney General (enacted on 23 July 2012) [*Reglamento de la Ley Orgánica de la Procuraduría General de la República*];
- Federal Law for the Prevention and Identification of Operations with Illicit Proceeds (enacted on 17 October 2012) [*Ley Federal para la Prevención e Identificación de Operaciones con Recursos de Procedencia Ilícita*];
- Regulations of the Law for the Prevention and Identification of Operations with Illicit Proceeds (enacted on 16 August 2013) [*Reglas de Caracter General a que se refiere la Ley Federal para la Prevención e Identificación de Operaciones con Recursos de Procedencia Ilícita*];
- General Rules of the Law for the Prevention and Identification of Operations with Illicit Proceeds (enacted on 23 August 2013) [*Ley Federal para la Prevención e Identificación de Operaciones con Recursos de Procedencia Ilícita*]; and
- AML and Counter-Terrorism Financing (CFT) General Provisions applicable to each financial sector (enacted in several dates, as detailed further below) [*Disposiciones de Caracter General en material de Lavado de Dinero y Financiamiento al Terrorismo, aplicables a cada sector financiero*].
- Decree to amend and incorporate several articles within the Federal Criminal Code; the Federal Criminal Procedures Code; the Federal Law against Organized Crime; the Federal Tax Code, and the Federal Law of Assets Forfeiture, which regulates Article 22 of the Political Constitution of the United Mexican States (approved on 10 February 2014) [*Decreto por el que se reforman y adicionan diversas disposiciones del Código Penal Federal; del Código Federal de Procedimientos Penales; de la Ley Federal contra la Delincuencia Organizada; del Código Fiscal de la Federación, y de la Ley Federal de Extinción de Dominio, Reglamentaria del Artículo 22 de la Constitución Política de los Estados Unidos Mexicanos*]

For the purposes of this report, we focus in the Federal Law for the Prevention and Identification of Operations with Illicit Proceeds, its secondary regulation, as well as the AML/CFT General Provisions applicable to each financial sector.

AML/CFT Law

On 17 October 2012, the GOM enacted the “Federal Law for the Prevention and Identification of Operations with Illicit Proceeds” (the “AML/CFT Law”), which entered into force on 17 July 2013. The AML/CFT Law has three main purposes: (i) to reiterate that all financial institutions are subject to an AML/CFT regime in terms of their specific regulation, (ii) to incorporate all DNFBPs and other risk sectors into an AML/CFT regime in terms of the AML/CFT Law, as recommended by old recommendations 12 and 20 of FATF, and (iii) to establish restrictions to certain cash-based transactions.

The DNFBPs and other risk sectors that now have AML/CFT obligations, which include identifying their clients and occasional customers, as well as sending to the Ministry of Finance certain transaction notices, are the following:

- ✓ Gambling and lotteries;
- ✓ Issuance and distribution by non-financial entities of credit and services cards;
- ✓ Issuance and distribution by non-financial entities of prepaid cards;
- ✓ Issuance and distribution by non-financial entities of traveler checks;
- ✓ Granting or offering by non-financial entities of loans or credits;
- ✓ Provision of construction and real estate;
- ✓ Commercialization of precious metals and stones;
- ✓ Auction and commercialization of works of art;
- ✓ Distribution and commercialization of all types of motor vehicles, aircraft or vessels;
- ✓ Provision of armoring services;
- ✓ Transportation and custody of cash and valuables;

- ✓ Professional services;
- ✓ Notaries;
- ✓ Customs services;
- ✓ Rental of Real Estate; and
- ✓ Donations received by NPO's.

The restrictions to the use of cash apply to the following transactions:

- ✓ Construction and Real Estate for an amount equal to or in excess of approximately 41,431 USD;
- ✓ Transfer of property of new and used motor vehicles, aircraft or vessels for an amount equal to or in excess of approximately 16 572 USD;
- ✓ Transfer of property of precious metals and stones, jewelry, watches or works of art for an amount equal to or in excess of approximately 16,572 USD;
- ✓ Purchase of tickets for gambling and lotteries, and deliverance of prizes related to the these, for an amount equal to or in excess of approximately 16,572 USD;
- ✓ Armoring services for an amount equal to or in excess of approximately 16,572 USD;
- ✓ Establishment or transfer of property over shares for an amount equal to or in excess of approximately 16,572 USD; and
- ✓ Establishment of personal rights over real estate and the other assets mentioned above (e.g. vehicles) for an amount equal to or in excess of approximately 16 000 USD.

Regulations and General Rules of the AML/CFT Law

The Regulations and General Rules of the AML/CFT Law were enacted on 16 August 2013 and 23 August 2013, respectively, and both regulations entered into force on 1 September 2013. These regulations establish into further detail the new obligations set in the AML/CFT Law.

AML/CFT General Provisions

Most of the AML/CFT regulation applicable to financial institutions takes the form of General Provisions for each financial sector. Since October 2008, the following AML/CFT General Provisions have been adopted and amended:

- ✓ For banks (issued on 20 April 2009, and amended on 16 June 2010, 9 September 2010, 20 December 2010, 12 August 2011, and 13 March 2013);
- ✓ For foreign exchange houses (issued on 25 September 2009, and amended on 9 September 2010, and 20 December 2010);
- ✓ For foreign exchange centres (issued on 25 September 2009, and amended on 10 April 2012);
- ✓ For money remitters (issued on 17 December 2009 and amended on 10 April 2012);
- ✓ For brokerage firms (issued on 9 September 2010, and amended on 20 December 2010);
- ✓ For retirement funds administration companies and investment companies (issued on 14 May, 2004);
- ✓ For popular savings and credit entities (issued on 28 November, 2006);
- ✓ For multiple purpose financial entities (Regulated and Unregulated Sofomes) (issued on 17 March 2011, and amended on 23 December 2011);
- ✓ For general deposit warehouses (issued on 31 May 2011);
- ✓ For insurance companies (issued on 19 July 2012);
- ✓ For bonding companies (issued on 19 July 2012);and
- ✓ For credit unions (issued on 26 October 2012).

The content of these AML/CFT General Provisions is in consistency with the FATF recommendations related to the due diligence, monitoring and reporting that is expected from financial institutions with

regards to their transactions with clients or occasional customers (including, developing transactional profiles and obtaining information on the origin and destination of funds). In this sense, these are comprehensive and detailed regulations that fully comply with the international standards.

List of Politically Exposed Persons

In terms of the FATF recommendations and the U.N. Convention Against Corruption, one of the most effective ways to prevent and combat money laundering related to corruption and bribery is to have Reporting Entities establish enhanced AML/CFT measures for those clients or occasional customers they identify as politically exposed persons (PEPs). In order to make this possible, the authorities of each country are expected to identify their own PEPs and make that information available.

In the case of Mexico, we have complied with this relevant international standard. On 30 November 2011, the GOM issued a public list of prominent government positions that should be considered domestic PEPs. The list takes into account positions from the executive, legislative and judicial powers, at national, state and municipal levels. Additionally, it incorporates candidates to President, governors, majors, members of national and local congresses, and members of political parties, among other.

In terms of Mexican law, the list must be considered by all Reporting Entities, when opening accounts and during the monitoring of clients and occasional customers. Furthermore, any transactions with PEPs cannot take place unless a senior manager authorizes it.

- *Most recent AML institutional actions*

Coordination and cooperation efforts

The GOM is convinced that in order to better prevent and combat money laundering, all its relevant agencies must work in coordination and cooperation. In this sense, several institutional efforts have been made, taking the form of regulations or other measures.

As an example, the Federal Police Law (published on 1 June 2009), the Regulations of the Federal Police Law (published on 17 May 2010), and the Internal Law of the General Attorney's Office (PGR) (published on 29 May 2010), were amended to clarify the responsibilities of both key agencies in the investigation of money laundering cases. Also, the FIU has executed coordination protocols with the PGR, the Tax Revenue Service (SAT) and the National Immigration Institute (INAMI).

This has led to better coordination and cooperation, and more effective results. The focus has been an integrated one, where the supervision and identification of money laundering cases (including those related with bribery), their investigation and prosecution, and finally, their successful conviction have to be understood as an interrelated process.

Supervision

All Reporting Entities are adequately supervised on AML/CFT matters by their competent supervisory bodies. The financial institutions, depending on the sector to which they belong, can be supervised by the National Banking and Securities Commission (CNBV), the National Insurance and Bonding Commission (CNSF) or the National Retirement Savings System Commission (CONSAR). The DNFBPs and other risk sectors are supervised by the SAT. Most of the financial sectors, including banks, are supervised by the CNBV and we therefore focus our attention on the supervision executed by this body during the past years. The supervision of DNFBPs and other risk sectors by the SAT is very recent; however, important efforts have also been made.

After the adoption of the Phase 3 Mexico Report in 2008, the CNBV developed, together with the International Monetary Fund (IMF), a new AML/CFT supervision methodology, focused on a risk-based

approach. The new methodology, finalized in March 2011, has allowed for a better planning and targeting of onsite inspections, based on a comprehensive understanding of the relevant financial sectors and specific actors. The new approach includes a diagnosis of the relevant entities, including their background, corporate structure and governance, as well as the products they provide and the profile of their clients. This assessment allows the CNBV to rate the entities and their sectors in different money laundering levels of risk, and focus its supervision authority in consistency.

The CNBV has also established new criteria for its sanctions to financial entities, which includes an increase in the amount of its fines. For example, in June 2012, the CNBV sanctioned one of Mexico's most relevant banks with a fine of 27 million U.S. dollars.

Also relevant, is the fact that the CNBV is now the supervisor of currency exchange centers, money remitters and multiple purpose financial institutions (SOFOMES E.N.R.), in terms of amendments to the General Law of Auxiliary Credit Organizations and Activities.

Finally, in order to effectively implement its new responsibilities, the CNBV has increased its budget and human resources. The CNBV has created an AML/CFT Vice-presidency (second level within the organization) and the number of employees in the AML/CFT area has increased from 41 in January 2008 to 104 in February 2012.

Financial intelligence

The analysis of financial information is also a key stage for identifying money laundering cases and building successful requests for prosecutions. The FIU is responsible of this stage. The FIU receives different types of reports from financial institutions and, more recently, from DNFBPs and other risk sectors. The FIU then analyses this information and, if there are enough elements, proceeds with a request for prosecution, which must be adequately supported.

The FIU has established several measures in recent years in order to carry out a more effective work, focused on the following:

Strengthening the technical and operational capacity of the FIU

- New criteria has been established for the selection, hiring and evaluation of FIU employees, for assuring that all of them have the necessary levels of expertise and reliability. The new criteria includes specialized-knowledge exams and psychological, socio-economic, polygraph and drug tests;
- An IT and Communications Strategic Plan has been developed, allowing for a more efficient and secure reception, analysis and dissemination of financial intelligence information; and
- The FIU has made all the necessary to guarantee the reception of reports from Reporting Entities financial entities and, more recently, DNFBPs and other risk sectors, on a systematic basis and through electronic means.

Increasing the feedback provided to Reporting Entities, which has enabled them to improve their monitoring and the quality of their reports

- The FIU has analyzed 100% of the reports in its database, which has in consequence allowed for a stronger understanding of the areas of improvement in the reporting of different sectors;
- The FIU has elaborated individual feedback reports for specific entities and more general reports for different sectors with regards to the quality of their reporting; and
- The FIU has identified 43 specific indicators to be considered within its risk-based approach model. Many of them have been shared with financial entities for their own analysis of operations.

Developing strategic studies

- The FIU has developed several studies for understanding better the reception and flow of U.S. dollars in cash within Mexico, as well as other strategic studies;
- The FIU has developed a “digital map” that allows measuring the vulnerability to money laundering of the country’s states and municipalities, taking into account a diverse range of indicators. The map has allowed for a better prioritization in the FIU’s analysis of reports, and
- The FIU is currently developing a national risk assessment that comprehends all the financial sectors, DNFBPs and other risk sectors. The project is intended to provide a complete diagnose that allows measuring the vulnerability to money laundering of specific types of clients, operations, products and services.

Increasing the number and relevance of money laundering cases

- The FIU, together with the PGR, have worked in increasing the number and relevance of money laundering cases.
- Table 1 shows that the number of money laundering prosecutions initiated from 2011 to 2013 represent more than 50% of the total number of money laundering prosecutions initiated in the past 8 years;
- Table 2 shows that the amounts of Mexican Pesos (MXP) that were seized in relation to ML cases have increased over the last two years. More specifically, in 2013, the amount increased by 132% compared to 2012, and by 286% in comparison with the average amounts seized during 2009 – 2012. Also, as can be seen, the amounts of dollars seized in relation to ML cases have increased substantially as well.

Table 1: number of prosecutions, convictions and acquittals related to money laundering cases 2006 – 2013

| Year | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
|--------------|------|------|------|------|------|------|------|-----------------|
| Prosecutions | 36 | 45 | 61 | 45 | 70 | 108 | 128 | 84 ¹ |
| Convictions | 21 | 18 | 29 | 21 | 27 | 33 | 8 | 15 |
| Acquittals | 6 | 8 | 8 | 4 | 5 | 5 | 4 | 5 |

Table 2: amounts that were seized related to money laundering cases 2006 – 2013

| Year | 2009 | 2010 | 2011 | 2012 | 2013 |
|---|-------------------------------------|-----------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| Amounts of MXP seized (in MXP and USD) ² | MXP 247 337 523 (USD 18 499 440) | MXP 67 824 599 (USD 5 072 894) | MXP 179 968 165 (USD 13 460 595) | MXP 354 210 379 (USD 26 492 922) | MXP 820 412 363 (USD 61 362 181) |

¹In 2013 the FIU made 84 requests for money laundering prosecutions directed to the Federal Prosecutor. In addition, the Federal Prosecutor could have initiated other money laundering prosecutions. However, at the time of this follow-up report, with regards to data of 2013, the information for those potential additional cases is yet not available.

²The conversion from MXP to USD for all amounts was made with the official exchange rate of 5th February 2014.

| | | | | | |
|---------------------------------|---------------|-------------|-------------|------------|---------------|
| Amounts of USD that were seized | USD 1 192 548 | USD 522 044 | USD 368 343 | USD 39 448 | USD 8 450 770 |
|---------------------------------|---------------|-------------|-------------|------------|---------------|

Prosecutions and convictions

As mentioned above, over the last years there has been an important increase in the number of requests for prosecution related to money laundering cases, several of which have been related to major corruption/bribery crimes. In addition, there has also been an increase in the number of convictions for money laundering cases. Whereas prior to 2008, there were in average 7 convictions per year for money laundering cases, from 2008 – 2012, there were in average 24 convictions per year for the same crime. The number of convictions is expected to further increase moving forward, provided (1) the increase in requests for prosecutions in the most recent years, and (2) the adoption of a major legal reform which is in process of implementation to make a more efficient national and local criminal justice system. The first point has been explained above, and we therefore focus in further detail on the second point.

Indeed, the GOM drafted a major legal reform which was adopted by Congress in June 2008, in which it was determined that the inquisitorial justice system which was at the time in place in the entire country should be substituted within eight years by an adversarial justice system. By the end of 2013, 16 out of 32 states had already adopted the adversarial system and the statistics of these states indicate that the adversarial system allows for more efficient procedures: In the states where the adversarial system has entered into effect, a judicial resolution is obtained in average 152 days after a money laundering trial began; whereas in the states in which the inquisitorial system is still applicable, a judicial resolution is obtained in average 543 days after the relevant trial initiated. As more or all states adopt the adversarial system, it is reasonable to believe that criminal trials, including those related to money laundering cases, will be resolved consistently in a more expedite manner.

2) Training of FIU officials

The FIU pays special attention to the technical skills of its employees and therefore organizes training or sponsors the participation of its employees in training organized by international bodies or foreign governments in money laundering matters. The training can be very specific, such as in the case of money laundering related to bribery:

In March 2012, four FIU officers attended the workshop entitled “International Legislations and Best Practices on Anti-corruption and Anti-bribery”, which was delivered by the British Embassy in Mexico and the UK Trade and Investment Department.

Later, on October 29–30, 2013, three FIU officers attended a course entitled “International Bribery”, which was organized by PGR. The approach of this course was a “train the trainers”, it had the participation of different agencies, and its agenda included the following modules: foreign bribery, responsibility of legal persons, case detection, use of investigative techniques, confiscation and mutual legal assistance.

More recently, the FIU has developed a presentation that has been distributed to all its analysts and other relevant employees, which seeks to provide a comprehensive explanation on the scope and importance of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, as well as typologies and other documents issued by the OECD, the FATF, other international bodies and foreign countries, including the following:

- ✓ Bribery in Public Procurement - Methods, Actors and Counter-Measures (OECD)
- ✓ Typologies on the Role of Intermediaries in International Business Transactions (OECD)
- ✓ Identification and Quantification of the Proceeds of Bribery (OECD)

- ✓ Typology on Mutual Legal Assistance in Foreign Bribery Cases (OECD)
- ✓ Laundering the Proceeds of Corruption (FATF)
- ✓ Specific Risk Factors in Laundering the Proceeds of Corruption (FATF)
- ✓ APG Yearly Typologies Report 2012 (APG)
- ✓ Cases Forwarded with Regard to Corruption (CTIF-CFI, Belgium)

In the next few weeks, the presentation which has been distributed will be used for a workshop, in order for the FIU employees that might have any questions or concerns, can receive clarification in detail.

Finally, regarding AML training, it is worth mentioning that between 2011 and 2013, 72 seminars were attended by more than 95% of the FIU staff, provided by national authorities, private sector entities, international organizations and other foreign countries. These seminars are listed below:

| Seminar | Year | Number of FIU officers attending |
|---|------|----------------------------------|
| 1. Master of National Security | 2011 | 1 |
| 2. Using the TTU System | 2011 | 12 |
| 3. Criteria when rating reports | 2011 | 7 |
| 4. Advanced Money Laundering | 2011 | 6 |
| 5. Transactions with illegal proceeds | 2011 | 12 |
| 6. No safe havens: Global Forum on Stolen Asset Recovery and Development | 2011 | 1 |
| 7. Course on Macroeconomic Management and issues related to the Financial Sector | 2011 | 1 |
| 8. Transactions with illegal proceeds | 2011 | 5 |
| 9. ACAMS Seminar | 2011 | 1 |
| 10. Tactical Analysis Course | 2011 | 15 |
| 11. Tactical Analysis Course | 2011 | 22 |
| 12. Techniques of Financial Analysis (FATC) | 2011 | 9 |
| 13. Techniques of Advanced Financial Analysis (FATC) | 2011 | 8 |
| 14. Transactions with illegal proceeds | 2011 | 5 |
| 15. Transactions with illegal proceeds | 2011 | 4 |
| 16. Tactical Analysis Course | 2011 | 2 |
| 17. Seminar Series on Current and Emerging Trends in Money Laundering and Terrorism Financing | 2011 | 1 |
| 18. Techniques of Advanced Financial Analysis (AFATC) | 2011 | 14 |
| 19. International Seminar on National Security Law | 2011 | 1 |
| 20. Advanced Training for Assessors (GAFISUD) | 2011 | 1 |
| 21. AML/CFT Information Technology Workshop For Financial Intelligence Units | 2011 | 2 |
| 22. Advanced Analysis of Money Laundering | 2011 | 6 |
| 23. Transactions with illegal proceeds | 2011 | 6 |
| 24. Training About Intellectual Property Crimes (Interpol) | 2011 | 3 |

| | | |
|---|-------------|---|
| 25. Transactions with illegal proceeds | 2011 | 3 |
| 26. FIU International Meeting: "Advances and challenges of financial intelligence in Colombia" | 2011 | 1 |
| 27. Tax Fraud and Money Laundering Seminar | 2011 | 1 |
| 28. Workshop on Money Laundering and Terrorist Financing for Non-Financial Activities and Professions Designated | 2011 | 11 |
| 29. Course: Phase 2 on the Prevention and combating money laundering and terrorist financing funded by the government of UK | 2011 | 14 |
| 30. Anti-terrorism / Discussion Group on transactions illegal proceeds | 2011 | 8 |
| 31. Financial Analysis | 2011 | 1 |
| 32. Anti-terrorism / Discussion Group on transactions illegal proceeds | 2011 | 8 |
| 33. Financial Analysis | 2011 | 1 |
| Seminar | Year | Number of FIU officers attending |
| 34. ITILv3 Foundation | 2012 | 10 |
| 35. Nationlab | 2012 | 1 |
| 36. Second phase course on prevention and combat money laundering and terrorist financing | 2012 | 15 |
| 37. Money Laundering course | 2012 | 10 |
| 38. Course Transactions with illegal proceeds | 2012 | 7 |
| 39. Course Transactions with illegal proceeds | 2012 | 9 |
| 40. Analyst's Notebook Level 1 Course | 2012 | 9 |
| 41. Analyst's Notebook Level 2 Course | | 4 |
| 42. Analyst's Notebook Level 2 Course | | 7 |
| 43. Analyst's Notebook Level 2 Course | 2012 | 5 |
| 44. Money Laundering-Global Financial System | 2012 | 11 |
| 45. Analyst's Notebook Level 1 Course | | 11 |
| 46. Analyst's Notebook Level 1 Course | 2012 | 7 |
| 47. iBASE Course | | 7 |
| 48. iBASE Course | | 6 |
| 49. iBASE Course | 2012 | 4 |
| 50. Workshop on Forfeiture and Anti- Money Laundering | 2012 | 1 |
| 51. Workshop of Risk Analysis on Money Laundering an Terrorism Financing | 2012 | 2 |
| 52. Development of inspection visits on measures against money laundering and terrorist financing | 2012 | 18 |

| | | |
|--|-------------|---|
| 53. National Convention of Prospecting on foreign exchange centers and money remitters | 2012 | 1 |
| 54. Seminar on Methodology of Financial Intelligence Analysis | 2012 | 2 |
| 55. Jointly meeting on typologies GAFISUD- Egmont Group | 2012 | 2 |
| 56. International Seminar on the National Security Law | 2012 | 2 |
| 57. Legal-Tax Implications of Anti-Money Laundering Law | 2012 | 1 |
| 58. International Seminar on Money Laundering and Terrorist Financing | 2012 | 1 |
| 59. Seminar on Methodology of Financial Intelligence Analysis | 2012 | 11 |
| 60. Basic Workshop on Digital Maps for Desktop | 2012 | 4 |
| 61. Techniques of Financial Research | 2012 | 6 |
| Seminar | 2013 | Number of FIU officers attending |
| 62. Financial Intelligence Analysis on Money Laundering | 2013 | 7 |
| 63. Analyst's Notebook Level 1 | 2013 | 7 |
| 64. Symposium on the entry into force of the Federal Law for the prevention and identification of operations with illicit origin | 2013 | 2 |
| 65. Seminar: Exchange of experiences with the Israel Money Laundering and Terror Financing Prohibition Authority (IMPA) to combat ML and FT. | 2013 | 2 |
| 66. Tax Procedural Law | 2013 | 1 |
| 67. Exercise of the Rights and Access to Information and Data Protection in the Constitutional Reform | 2013 | 1 |
| 68. Tax Reforms in 2014 | 2013 | 1 |
| 69. 15th International Seminar on Prevention of Money Laundering and Terrorist Financing | 2013 | 1 |
| 70. Basic Course in National Security to officials of the Federal Public Administration | 2013 | 16 |
| 71. Prevention Regimen of Transactions with Illicit Proceeds in Foreign Trade | 2013 | 60 |
| 72. First International Seminar on Strategic Intelligence | 2013 | 14 |

(3) Training of CNBV officials and financial institutions

CNBV officials from the AML/CFT Vicepresidency have also received a copy of the presentation that was developed by the FIU, which seeks to provide a comprehensive explanation on the scope and importance of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, as well as typologies and other documents issued by the OECD, the FATF, other international bodies and foreign countries

In the next few weeks, CNBV officials will also be invited to participate in the workshop to be organized by the FIU, to which reference was made above.

In addition, the CNBV conducted and/or provided 27 AML seminars for 351 CNBV officers during the years 2011 - 2013. These seminars, which addressed a diverse range of aspects related to AML, not necessarily directly related to bribery, are listed below:

| Seminar | Year | Organization |
|--|-------------|--|
| 1. 5th Annual Latin American Conference on Money Laundering ACAMS. | 2011 | Association of Certified Anti-Money Laundering Specialists (ACAMS) |
| 2. Schemes of money laundering through trusts. | 2011 | ACAMS |
| 3. 2011 National Seminar on Prevention of Money Laundering and Terrorist Financing. | 2011 | Asociación de Almacenes de Depósito, A.C. |
| 4. Anti-Money Laundering. | 2011 | Bank for International Settlements (BIS) |
| 5. Monitoring methodology in preventing money laundering and terrorist financing. | 2011 | CNBV |
| Seminar | Year | Organization |
| 6. Prevention of money laundering - Criminal Miscellaneous I and II. Last Opinion of the Federal Anti-Money. | 2012 | Riskmathics Financial Innovation, S.C. |
| 7. 14th International Seminar on Prevention of Money Laundering and Terrorist Financing. | 2012 | Asociación de Bancos de México, A.C. |
| 8. 6th Annual Latin American Conference on Money Laundering ACAMS. | 2012 | ACAMS |
| 9. Basic course for combating transactions with illegal proceeds. | 2012 | United States Embassy at Mexico |
| 10. Essential elements of prevention of money laundering and terrorist financing. | 2012 | XOPANTECH |
| 11. Money laundering - Global financial system, financial products and services and their regulation. | 2012 | United States Embassy in Mexico |
| 12. Methodology for analyzing financial intelligence. | 2012 | United States Embassy in Mexico |
| 13. Transactions with illegal proceeds / money laundering. | 2012 | United States Embassy in Mexico |
| 14. Web seminar on FATF 40 recommendations. | 2012 | Lavado de Dinero.com |
| 15. 5th National Seminar on Prevention of Fraud. | 2012 | Association of Certified Fraud Examiners (ACFE) |
| 2013 | Year | Organization |
| 16. Financial analysis of intelligence on money laundering. | 2013 | United States Embassy in |

| | | |
|--|------|--|
| | | Mexico |
| 17.15th International Seminar on Prevention of Money Laundering and Terrorist Financing. | 2013 | Asociación de Bancos de México, A.C. |
| 18.1st Meeting on Prevention of Money Laundering | 2013 | Trust Management Sourcing S.A.P.I. de C.V. |
| 19.7th Annual Latin American Conference on Money Laundering ACAMS. | 2013 | ACAMS |
| 20.6th National Seminar on Prevention and deterrence of fraud. | 2013 | ACFE |
| 21.Practical analysis of the scope of anti-money laundering standards in Mexico. | 2013 | Instituto Tecnológico Autónomo de México (ITAM) |
| 22.Anti-money laundering. | 2013 | Asociación de Supervisores Bancarios de las Américas (ASBA) |
| 23.Relevant aspects on supervision of the prevention of money laundering. | 2013 | CNBV |
| 24.Prevention of money laundering to finance popular organizations. | 2013 | Consortio Latinoamericano para Capacitación en Microfinanciamiento, S.C. |
| 25.Reforms 2013: fiscal, labor, money laundering, and local reforms. | 2013 | Corporativo Fiscal Década, S.C. |
| 26.Typologies on money laundering. | 2013 | Mefintax Mexico, s.c. |
| 27.Using IBM/I2 Analysts notebook software Level 1 with focus on money laundering supervision. | | Cuatro Networks s. De R.L. De C.V. |

Moving forward, the CNBV will be conducting two AML training programs for its officers during 2014. One of them will be provided by the Securities and Exchange Commission of the United States of the America (SEC) and the other one shall represent a joint effort of the International Monetary Fund (IMF), the World Bank and the Board of Governors of the Federal Reserve System of the United States of America (FED).

With regards to training provided to financial institutions, please note that the FIU and the supervisory bodies (CNBV, CNSF and CONSAR) have made important efforts to provide training and feedback to financial institutions, through their national associations, and focusing on their obligations to identify and report suspicious transactions (including those of money laundering related to bribery). This training takes place on an ongoing basis and with a practical approach. In addition, the FIU has provided financial entities with specific indicators (again, including some that are relevant for money laundering related to bribery) to be considered in their risk-based models.

In this sense, the GOM considers that it has taken several major legal and institutional measures in order to establish a comprehensive and solid AML/CFT regime. This has been recognized by other international bodies, such as the FATF. In the prevention and combating of money laundering, a special attention is given to those cases that are related to corruption in all its forms, including bribery. There has been an increase in the number of investigations and prosecutions in relation to this specific crime and officials from the FIU and CNBV (and other agencies), as well as the financial institutions, have received

specialized training on the matter.

Taking into account these actions, the GOM considers it has provided enough elements to conclude that Mexico has complied with Recommendation 8 of the report entitled “Phase 3: Mexico’s Report on the Implementation and application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 2009 Recommendation on Further Combating Bribery”, dated October 2011.

Additionally, the General Administration of Federal Tax Audit (hereinafter AGAFF) is empowered under fraction XXX article 17 of the Rules and Procedures of the Tax Administration Service (Reglamento Interior del Servicio de Administración Tributaria - RISAT) to “report to the Financial Intelligence Unit (UIF) from the Ministry of Finance and Public Credit (Secretaría de Hacienda y Crédito Público, SHCP) the issues identified in the performance of its duties of scrutiny and supervision, which are or could be related to the financing, contribution or fund raising -of economic or any other form- to support terrorist individuals or organizations operating or committing acts of terrorism in national soil, operating in a foreign country, or engaging in international terrorist activities; so as operations related with illegal proceeds, as established in the Federal Penal Code.”

Likewise, in part A, fraction III article 19 of RISAT the same authority to the Local Tax Audit Administrations is established. However, these administrations must report through the AGAFF. Reports shall be subject to the provisions established in article 69 of the Federal Tax Code (Código Fiscal de la Federación, CFF), which regulates the privacy on tax information (tax secrecy), and stipulates in its second paragraph the following:

“Provision mentioned in the preceding paragraph shall not apply when related to investigations, conducted by the SHCP, of criminal conducts provided in article 400 Bis of the Federal Penal Code.”

Furthermore, Article 117 of the Federal Code of Criminal Procedure states that “any person exercising public functions who is aware of the probable existence of an offense that must be prosecuted without requiring a complaint, is obliged to immediately report to a public prosecutor, handing all the information available, and bringing in the accused, if it has been detained.”

Additionally, in October 17th 2012, the Federal Law on the Prevention and Identification of Operations with Illegal Proceeds (Anti Money Laundering Law) came into force. The Rules and Procedures of the Law (published on August 16th 2013) in its article 4 stipulates:

The Tax Administration Service (hereinafter Servicio de Administración Tributaria, SAT), in addition to the powers conferred upon the law, this Regulation, its Rules of Procedures and other applicable legal provisions, shall:

- I. Integrate and keep updated the list of persons performing vulnerable activities established in Article 17 of the Law, pursuant to Chapter Three of this Regulation;
- II. Receive the reports of those persons conducting vulnerable activities set out in Article 17 and refer them to the UIF;
- III. Perform verification visits referred in Chapter V of the Law and, where appropriate, require information, documents, data or images to confirm the compliance with the Law, this Regulation, and the General Rules.
- IV. Monitor the compliance of the obligation to issue warnings for persons who perform vulnerable activities established in Article 17 of the Law and, where needed, require its presentation by the obligated parties that do not meet the deadlines established in Law, this Regulation, and other legal provisions;

- V. When requested, issue an opinion on the General Rules and the official forms to be issued by the Secretariat;
- VI. Participate, jointly with the UIF, in the subscription of the agreements referred in Article 32 of this Regulation;
- VII. Enforce administrative sanctions provided under the Law; and
- VIII. Inform the competent authorities when the cases provided in articles 56, 57, 58 and 59 have been updated, so that these proceed to impose appropriate sanctions.

As a result of the recently published Anti Money Laundering Law Rules and Procedures, several reforms to the RISAT were carried out (published on the Official Gazette on December 13, 2013). As a noteworthy addition to RISAT is the creation of a Central Administration of Legal Affairs and Vulnerable Activities, as part of the Legal General Administration (Administración General Jurídica, AGJ), which has, among other responsibilities, to impose sanctions for breaching the Law, and to report to relevant authorities the offences committed by persons performing vulnerable activities (RISAT Article 44).

Also, the Taxpayers Services General Administration (Administración General de Servicios al Contribuyente AGSC) is entrusted with the responsibility to integrate and keep updated the census of persons performing vulnerable activities. Likewise, it has been attributed to sanction persons failing to fulfill the requirements stated in Law, e.g. the failure to report timely and according to Law (RISAT Article 40)

Finally, AGAFF has the authority to require, from those performing vulnerable activities, information and documents of their operations, as well as information that can be used to identify their customers and users (RISAT Article 42).

If no action has been taken to implement recommendation 8, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 9:

9. Regarding false accounting offences, the Working Group recommends that Mexico amend its legislation to increase the maximum sanctions available (Convention, Article 8(2)).

Action taken as of the date of the follow-up report to implement this recommendation:

Articles 83 and 84 of the CFF regulate accounting related offences and sanctions. Although such offences are similar to crimes stipulated in articles 108, 111, and 113 of the same code, both have key differences which are described in the following table:

Table 1. Offences and Crimes Related to Accounting

| Accounting offences under article 83 of the CFF | Accounting Crimes under articles 108, 111 and 113 of the CFF |
|--|--|
| Must be sanctioned by an administrative and subordinated authority. | Must be sanctioned by Judiciary Branch through its courts which are independent. |
| The act or refrain from acting violates administrative dispositions. | The crime violates penal norms (of public order). |

| | |
|---|---|
| The offence can be attributed to natural or legal persons. | Tax crime can only be committed by natural persons. |
| Deceit and guilt are elements that may not be present in order for the administrative offence to exist. | Crime requires such elements to exist. |
| Applicable sanctions are in form of fines or other administrative measures. | Sanctions are mainly imprisonment, with Independence of the economic applicable sanction. |

From Table 1 we can conclude that when referring to sanctions on accounting, the Mexican legislation stipulates sanctions to offences (primarily contained in articles 83 and 84) and sanctions to crimes. The latter sanctions found in articles 111 and 108 of the CFF. Also the Penal Code stipulates offences that can be related to Article 8(1) of the Convention which will be mentioned later in this document.

Accounting crimes stipulated in Article 111 do not require tax evasion in order to be sanctioned; it only requires one of the following conducts to occur: the making of off-the-books accounts, hiding, altering, or destroying books, among others.

Unlike crimes established in article 111, article 108 regulates tax fraud which does require a partial or complete tax evasion in order to be sanctioned. Main elements of tax fraud are deception or deliberately use of loopholes. Tax fraud is sanctioned with imprisonment ranging from three months to nine years and can be raised (50%) if using false documents or not keeping accounting records.

Also, article 113 of the CFF regulates tax crimes related to accounting misconducts when a taxpayer incurs in one of the following conducts: issue, obtain or acquire tax documents supporting false or inexistent operations, or simulates legal acts, among others.

Furthermore, according to article 76 of the CFF if a tax evasion is uncovered by fiscal authorities in the exercise of its duties, a fine of 55% and up to 75% of the evaded contributions is to be imposed.

An offence regarding false accounting which implies a tax evasion or undue advantage ~~or~~ causing a loss to the treasury is therefore considered as tax fraud, consequently sanctioned with imprisonment.

Falsifying documents is considered a crime under article 243 of the Penal Code which is sanctioned with imprisonment of 4 to 8 years and a fine ranging from 200 to 360 days³ for public document, and from 6 months to 5 years and a fine ranging 180 to 360 days for private documents. If the forgery is committed by a public official the sanction raises up to 50%.

Table 2 lists the elements or activities contained in article 8(1) of the Convention compared to the sanctions available in the Mexican regulation.

Table 2 Convention elements and its available sanctions in Mexican regulation

| Elements of Art. 8 (1) | Regulation Art. 83/Sanction Art. 84 |
|--|---|
| 1. Maintenance of books and records | Regulation: CFF Art. 83 Fracc. I Sanction: fine of \$1,200 to \$11,960 MXP Regulation: CFF Art. 108, paragraph seven, letter d) Sanction: CFF Art. 108, paragraph eight, related to fractions I, II y III, from 4 months 15 days to 13 years 6 months. |
| 2. Establishment of off-the-books accounts | Regulation: CFF Art. 111 Fracc. III |

³ One fine day corresponds to \$67.29 MXP (current minimum salary)

| | |
|---|---|
| 3. Making of off-the-books transactions | Sanction: 3 months to 3 years of imprisonment Regulation: CFF Art. 111. Fracc. II |
| 4. Inadequately identified transactions | Sanction: 3 months to 3 years of imprisonment Regulation: CFF Art. 83 Fracc. IV |
| 5. Recording of non-existent expenditures | Sanction: fine de \$260 a \$4,790 MXP Regulation: CFF Art. 83 Fracc. III and IV |
| 6. The entry of liabilities with incorrect identification of their object | Sanction: fine of \$260 to \$5,980 MXP Regulation: CFF Art. 108, paragraph seven, letter c) Sanction: CFF Art. 108, paragraph eight, related to fractions I, II y III, from 4 months 15 days to 13 years 6 months. |
| 7. Use of false documents | Regulation: CFF Art. 83 Fracc. XVIII Sanction: fine of \$12,070 to \$69,000 MXP Regulation: CPF Art. 243 Sanction: 4 to 8 years of imprisonment + fine of 200-360 days (public documents); and 6 months to 5 years + fine of 180-360 days (private documents) ⁴ Regulation: CFF Art. 108, paragraph seven, letter a) Sanction: CFF Art. 108, paragraph eight, from 4 months 15 days to 13 years 6 months. |

From Table 2 we can conclude that elements contained in numbers 2, 3 and 7 are sanctioned with imprisonment, therefore they can be considered as equitable, proportionated and dissuasive. For the elements contained in numbers 1, 4, 5 and 6, if proved they generate a loss to the treasury will be considered as tax fraud and hence sanctioned with imprisonment.

In order to comply with OECD recommendation to this regard, the SAT sent to the ULT a proposal to amend article 84 of the CFF increasing the maximum sanctions for the false accounting offences.

The ULT responded the following:

“Offences and sanctions established in the CFF are designed to be applicable within a tax context, so to say, to sanction the failure to comply with formal obligations or the payments established in fiscal dispositions. Given the nature of this regulation, both, offences and sanctions applicable to accounting misconducts take into consideration the obligations established in the fiscal regulations”

The ULT also considered that “if it is required to establish criminal, civil or administrative measures to inhibit and combat bribery for accounting omissions and falsifications, such measures must be established in the Penal Code, which sanctions the crime of bribery (articles 222 and 222 bis)”

In such regard, the ULT recommended analyzing the possibility for the accounting misconducts related to bribery to be considered as crimes and hence to be incorporated in the Penal Code or in a different legal provision.

Additionally, the Mexican financial system, as a wide scheme of several actors and supervisors, has a determined law for each sector: Savings and Loan Associations Law, Credit Institutions Law, Investment Funds Law, General Law of Insurance Institutions, Retirement Savings System Law, Credit Unions Law,

⁴ OCDE Phase 3 report (pg. 24) mistakenly mentions that sanctions provided in article 243 of the Penal Code apply solely to public documents.

Bonding Companies Law, Law to Regulate the activities of Savings and Credit Cooperative Societies, General Law of Mutual Insurance Companies and Institutions, Securities Market Law and Law of Credit Organizations and Auxiliary Activities.

The Credit Institutions Law has been the basis for the elaboration of all others. In order to avoid repetition we will use the aforementioned law and the Securities Market Law as examples to analyze if Article 8 of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions may be considered as accomplished in terms of the Mexican financial framework regulations.

Throughout the following articles the Mexican Government is developing a preventive regime that includes accounting standard obligations and a dissuasive regime that includes effective administrative and criminal penalties.

The preventive regime aims to homologate all procedures which involve the maintenance of books and records, accounting standards and financial statement disclosures. With this regime, all business transactions, including all international, are transparent so supervisory entities can follow-up all the financial and accounting transactions and as a result, unusual operations such as bribery could be easily identified.

On the other hand, the dissuasive regime aims to be an effective and proportional criminal policy as it protects the financial framework from all illegal operations which include bribery, comprising criminal penalties that go up to 15 years of imprisonment and administrative penalties that go up to 100,000 fine days (approximately 6,729,000.00 Mexican pesos)

So even though the following articles are not limited to combating bribery of foreign public officials, with these rules the Mexican Government considers having the enough preventive, dissuasive and identification measures in order to identify and avoid not only international bribery but also illegal operations which can pollute the Mexican economy.

To provide a more complete analysis, we are also including articles of the two exemplary laws that punish national bribery and articles of the Federal Tax Code that also punish with prison of up to 3 years acts such as concealment, destruction or modification of accounting data and having double accountability. It must be insisted that not all of the criminal offenses of the Federal Tax Code establish the necessity to prove a prejudice to the Treasury; this only applies to the “fiscal fraud offense”. The offenses regulated in article 111 of the Federal Tax Code do not, in any manner, require such element. They are independent of the fiscal fraud offense.

Maintenance of Books and Records and Accounting Standards

These articles objective is mainly preventive, as they establish accounting standard obligations so that unusual operations such as bribery, could be identify by authorities. They also have a dissuasive objective as they contain a criminal penalty for concealment, destruction or modification of accounting data.

Credit Institutions Law

Article 99. - Any act or agreement which implies a variation in the assets or liabilities of a credit institution, or which involves a direct or contingent obligation, must be recorded in the accounting on the same day it is affected. Such accounting, the books and documents corresponding thereto, and the time period in which they must be preserved, shall be regulated by the general provisions issued by the National Banking and Securities Commission tending to secure the reliability, timeliness and transparency of the accounting and financial information of the institutions.

Article 100.- Credit institutions may microfilm or record on optical disks, or any other means authorized by the National Banking and Securities Commission, all those books, records and documents in general, in their possession, related to the activities of the institution, that the National Banking and Securities Commission may provide through general provisions, in accordance with the technical regulations for

microfilming or recording on optical disks, handling and preservation, as the same Commission may establish.

The original camera negatives obtained through the microfilming system and images recorded through the optical disk system or any other means authorized by the National Banking and Securities Commission indicated in the preceding paragraph, as well as any prints obtained from such systems or media, duly certified by an authorized officer of the credit institution, shall have in any lawsuit the same probative value as any books, records or documents which are microfilmed or recorded on optical disks, or preserved through any other authorized means.

Once that the term in which the credit institutions are obliged to keep the accounting, books and other documents has elapsed according to article 99 of this Law and to the provisions issued by the National Banking and Securities Commission, the records that appear in the accounting of the institution shall be proof, except in the presence of evidence to the contrary, in the respective actions for the determination of the resulting balances of the transactions set forth in subsections I and II of article 46 of this Law.

Article 113.- A two to ten years prison term and a fine of five hundred to fifty thousand times the daily minimum wage shall be imposed to directors, officers or employees of credit institutions or to whoever intervenes directly in the extension of the credit:

I. Who omit or order to omit registering in terms of article 99 of this Law, the transactions carried out by the institution in question, or who alter or order to alter the books to hide the true nature of the transactions carried out, affecting the composition of the assets, liabilities and contingent accounts or earnings;

II. Who submit to the National Banking and Securities Commission false or altered data, reports or documents on the debtor's solvency or on the value of the guarantees protecting such credits;

III. Who, knowing of the untruthfulness on the amounts of the assets or liabilities, grant the credit;

IV. Who, knowing of the flaws stated in subsection II of article 112 of this Law, grant the credit, if the amount of the alteration would have been determinant to grant such credit;

V. Who provide or allow that false data be included in the documents, reports, certificates, opinions, surveys or credit rating, that must be submitted to the National Banking and Securities Commission in compliance with the provisions of this Law;

VI. Who destroy or order to destroy total or partially, the accounting systems or records or the supporting documents giving rise to the respective accounting entries, prior to the expiration of the conservation legal periods, and

VII. Who destroy or order to destroy, total or partially, the information, documents or files, even electronic, with the purpose of preventing or obstructing the supervision and surveillance actions of the National Banking and Securities Commission.

Securities Market Law

Article 205.- Any acts or agreements that involve any variation or change in the assets, liabilities, capital or which imply a direct or contingent obligation, even in their memorandum accounts, of a securities firm, must be recorded in the accounting on the same day they are carried out.

The corresponding accounting, the books and documents and the term they must be kept, shall be regulated by general provisions issued by the Commission.

Article 208. - The documents, voice recording or electronic or digital means concerning the instructions

of customers shall be kept during a term of at least five years as an integral part of the accounting of the securities firm, in addition to the provisions of the last paragraph of subsection III of article 212 of this Law.

Article 209. - The securities firms may microfilm, record in a digital format, through optical or magnetic means or in any other means authorized by the Commission, the books, records and documents in general, that they are obliged to carry in accordance with the laws and established through general provisions by the Commission, pursuant to the technical basis established for their handling and preservation by such Commission.

The original negatives of the cameras obtained by the microfilm system and the first copy obtained from the optic and magnetic disks with digitalized images, as well as the printings obtained based on this technology, duly certified by the authorized personnel of the respective securities firm, shall have the same weight as evidence in court than the original books, records and documents.

Financial Statement Disclosure

These articles establish the obligation and requirements for the financial statements disclosure. They also included the administrative penalties that go up to 5,000 fine days (approximately 336,450.00 Mexican pesos).

Credit Institutions Law

Article 101.- The National Banking and Securities Commission, through general rules furthering transparency and reliability in the financial information of credit institutions, shall set forth the requirements to which the approval of the financial statements by the managers of credit institutions shall be subject to; their release through any means of communication, including electronic or optic means or any other technology; as well as the procedure to which the review of the financial statements that the Commission carries out shall conform to.

The Commission shall establish, through general provisions promoting transparency and reliability in the financial information of credit institutions, the terms and contents that the financial statements of the credit institutions shall have; in like manner it may order that the financial statements be released with the relevant modifications and in the time periods established for that purpose by such Commission.

Credit institutions as an exception to the provisions of article 177 of the General Corporations Law must publish their financial statements in the terms and through the means set forth through the general provisions established in the first paragraph of this article.

The annual financial statements shall be accompanied by the opinion of an independent external auditor who shall be appointed directly by the board of directors of the institution in question.

The Commission may establish through general provisions promoting transparency and reliability on the financial information of the credit institutions, the characteristics and requirements that shall be met by the independent external auditors, determine the content of their opinions and other reports, issue measures to ensure the adequate alternation of such auditors in the credit institutions, as well as establish the information that their opinions shall disclose, regarding other services, and in general, of the professional or business relations that they provide or maintain with the credit institutions that they audit or with related companies.

Article 108. - The infractions to this Law or to the provisions issued based on it by the Secretariat of Finance and Public Credit or the National Banking and Securities Commission shall be penalized with an administrative fine that shall be imposed by the aforesaid Commission, at a rate of the daily minimum wage in force in the Federal District, according to the following provisions:

- I. Fine from 2,000 to 5,000 times the daily minimum wage

a) To any credit institutions, public trusts constituted for economic promotion by the Federal Government, as well as to the persons set forth in articles 7th, 88, 89 and 92 of this Law, who do not provide, within the terms established for such purposes, the information or documents set forth in this Law or in the provisions arising therefrom, as well as for not providing the information required by the Secretariat of Finance and Public Credit or by the National Banking and Securities Commission.

b) To credit institutions or the persons set forth in article 88 of this Law, for not providing the monthly, quarterly or annual financial statements, within the terms established in this Law or in the provisions arising therefrom for such purposes. Furthermore, to the aforementioned institutions, for failing to publish the quarterly or annual financial statements, within the periods established in this Law, or in the provisions arising therefrom for such purposes.

c) To legal entities that fail to perform the obligations set forth in article 96 bis of this Law or in the provisions set forth in such article.

II. Fine from 3,000 to 15,000 times the daily minimum wage

a) To shareholders of commercial banks that, in violation of the provisions of article 12 of this Law, fail to pay in cash the shares of commercial banks that they subscribe.

b) To commercial banks that fail to submit to approval, their articles of incorporation or any amendment thereof. To any persons who fail to comply with the provisions of article 14 of this Law. To the commercial banks that fail to inform with respect to the acquisition of shares set forth in articles 13, 17, 45-G and 45-H of this Law, in violation of the provisions of article 18 of such legal statute.

c) To credit institutions that fail to perform the obligations set forth in article 95 of this Law or in the provisions set forth in such article.

d) To credit institutions that fail to perform the obligations set forth in article 96 of this Law or in the provisions set forth in such article.

e) To credit institutions that fail to perform the obligations set forth in article 96 bis of this Law or in the provisions set forth in such article.

f) To credit institutions that fail to comply with the provisions of article 101 of this Law or the provisions referred in such article.

g) To credit institutions for not providing the monthly, quarterly or annual financial statements, within the terms established in this Law or in the provisions arising therefrom for such purposes.

Securities Market Law

Article 210. - The Commission shall establish, through general provisions, the basis to which the approval of the financial statements of the administrators of the securities firms shall abide by; their disclosure through any mass media including electronic, optical or any other technology means, as well as the procedure to which the review of such means by the Commission shall adjust to.

The Commission shall establish through general provisions, the form and content that financial statements of the securities firms must submit, it may likewise order that the financial statements be released with the relevant changes when they have errors or alterations and within the terms established for such purposes.

The securities firms shall be exempted from the requirement of publishing their financial statements according to the provisions of article 177 of the General Corporations Law.

Annual financial statements must be certified by an independent external auditor who shall be directly appointed by the board of directors of the securities firm in question.

The Commission may establish, through general provisions, the characteristics and qualifications that must be met by independent external auditors; determine the content of their opinions and other reports; issue measures to ensure the adequate alternation of such auditors in the securities firms, as well as the information that must be disclosed in their reports, regarding other services and, in general, the professional or business relationships that they provide or maintain with the securities firms that they audit or with related companies.

Maintenance of True Expenditures and Liabilities in Books

The articles here mentioned have a preventive objective as they establish the requirements of registration of liabilities and a dissuasive objective as they include administrative penalties and imprisonment penalties for counting out credits, operations or true data.

Credit Institutions Law

Article 99. - Any act or agreement which implies a variation in the assets or liabilities of a credit institution, or which involves a direct or contingent obligation, must be recorded in the accounting on the same day it is affected. Such accounting, the books and documents corresponding thereto, and the time period in which they must be preserved, shall be regulated by the general provisions issued by the National Banking and Securities Commission tending to secure the reliability, timeliness and transparency of the accounting and financial information of the institutions.

Article 108. - The infractions to this Law or to the provisions issued based on it by the Secretariat of Finance and Public Credit or the National Banking and Securities Commission shall be penalized with an administrative fine that shall be imposed by the aforesaid Commission, at a rate of the daily minimum wage in force in the Federal District, according to the following provisions:

...

II. Fine from 3,000 to 15,000 times the daily minimum wage:

...

g) To credit institutions for not providing the monthly, quarterly or annual financial statements, within the terms established in this Law or in the provisions arising therefrom for such purposes.

V. Fine from 30,000 to 100,000 times the daily minimum wage:

...

q) To credit institutions that provide, in a fraudulent manner, false, inexact or incomplete information to the financial authorities, which results in not reflecting the actual financial, administrative, economic or legal condition of such institution, provided that it is proved that the chief executive officer or any member of the board of directors of the relevant institution had knowledge of such action.

Article 112.- When the amount of the operation, loss or patrimonial damage, as the case may be, does not exceed the equivalent of two thousand times the daily minimum wage the penalty shall be a prison term of three months to two years and a fine of thirty to two thousand times the daily minimum wage.

When the amount of the operation, loss or patrimonial damage, as the case maybe, exceeds the equivalent of two thousand and not fifty thousand times the daily minimum wage; the penalty shall be a two to five

year prison term and a fine of two thousand to fifty thousand times the daily minimum wage.

When the amount of the operation, loss or patrimonial damage, as the case maybe, exceeds the equivalent of fifty thousand but not three hundred and fifty thousand times the daily minimum wage, the penalty shall be a five to eight year prison term and a of fifty thousand to two hundred and fifty thousand times the daily minimum wage.

When the amount of the operation, loss or pecuniary damage, as the case maybe, exceeds the equivalent of three hundred and fifty thousand times the daily minimum wage, the penalty shall be a prison term from eight to fifteen years and a fine of two hundred and fifty thousand to three hundred and fifty thousand times the daily minimum wage.

Considering the amount of the operation, loss or pecuniary damage, the penalties established in this article shall be imposed to:

I. Persons who for purposes of obtaining a credit, provide to a credit institution false data concerning the amount of assets or liabilities of an entity, individual or corporate entity, if as a consequence thereof there is a loss or pecuniary damage for the institution; Those officers, employees or commission agents of third party intermediaries or of construction companies, real estate developers and/or real estate or commercial agents, who participate in the application and/or processing for the granting of the credit, and who know of the falsehood of the data concerning the amount of the assets or liabilities of the borrowers, or who directly or indirectly alter or substitute the information mentioned to hide the real data concerning such assets or liabilities, shall be penalized with up to an additional half of the penalties set forth in this article.

II. Persons that to obtain credits from a credit institution, submit appraisals that do not correspond to reality, resulting in loss or pecuniary damage to the institution as a consequence thereof;

III. The directors, officers, employees of the credit institution or those who directly intervene in the authorization or carrying out of operations, knowing that such operations shall result in loss or patrimonial damage for the institution.

Shall be considered included within the provisions of the preceding paragraph and, consequently, shall be subject to the same penalties, any directors, officers, employees of institutions or those persons, who intervene in the following:

a) Those who grant credits to companies organized for the purpose of obtaining financing from credit institutions, knowing that such companies have not contributed the capital stated in the corresponding articles of incorporation;

b) Those who grant credits to one or several individuals or entities in order to release a debtor who has become insolvent, by replacing in the books of the relevant institution certain assets for others;

c) Those who grant credits to individuals or entities knowing of their insolvency, if it was foreseeable, at the time the operation was carried, that they lacked the economic capacity to pay or to respond for the sum of the amounts borrowed, resulting in loss or pecuniary damage for the institution;

d) Those who renew credits, which are due in whole or in part to the individuals or entities referred in the preceding paragraph, if it was foreseeable at the time the transaction was carried out, that they lacked the economic capability to pay or to respond for the sum of the amounts borrowed, resulting in loss or pecuniary damage for the institution, and

e) Those who knowingly allow a debtor to divert the amount of the credit in its own benefit or to the benefit of third parties, and which result in loss or patrimonial damage to the institution;

For purposes of the provisions of the first paragraph of this subsection, it shall not be considered that transactions carried out, as part of payment operations restructuring processes carried out in terms of article 65 of this Law, cause a loss or pecuniary damage to the institution.

IV. The debtors who do not apply the amount of the credit to the purposes agreed, and as a consequence thereof, a loss or pecuniary damage is caused to the institution, and

V. The borrowers who divest a credit granted by any other credit institution to purposes other than those for which it was granted, if such purpose was determinant for the granting of the credit preferential conditions.

Article 113.- A two to ten years prison term and a fine of five hundred to fifty thousand times the daily minimum wage shall be imposed to directors, officers or employees of credit institutions or to whoever intervenes directly in the extension of the credit:

I. Who omit or order to omit registering in terms of article 99 of this Law, the transactions carried out by the institution in question, or who alter or order to alter the books to hide the true nature of the transactions carried out, affecting the composition of the assets, liabilities and contingent accounts or earnings;

II. Who submit to the National Banking and Securities Commission false or altered data, reports or documents on the debtor's solvency or on the value of the guarantees protecting such credits;

III. Who, knowing of the untruthfulness on the amounts of the assets or liabilities, grant the credit;

IV. Who, knowing of the flaws stated in subsection II of article 112 of this Law, grant the credit, if the amount of the alteration would have been determinant to grant such credit;

V. Who provide or allow that false data be included in the documents, reports, certificates, opinions, surveys or credit rating, that must be submitted to the National Banking and Securities Commission in compliance with the provisions of this Law;

VI. Who destroy or order to destroy total or partially, the accounting systems or records or the supporting documents giving rise to the respective accounting entries, prior to the expiration of the conservation legal periods, and

VII. Who destroy or order to destroy, total or partially, the information, documents or files, even electronic, with the purpose of preventing or obstructing the supervision and surveillance actions of the National Banking and Securities Commission.

Article 114 Bis 3.- A four to eight prison term shall be imposed to officers or employees of multipurpose banks which authorization to operate has not been rescinded and is currently in process of liquidation in accordance with the Second Section of Chapter II of the Seventh Title of the present Law, and with the purpose of hiding the true nature of the transactions carried out, affecting the composition of the assets, liabilities and contingent accounts or earnings:

I. Omit registering in terms of article 99 of this Law, the transactions carried out by the institution in question.

II. Alters, hide, falsify or destroy assets or documents.

Securities Market Law.

Article 205.- Any acts or agreements that involve any variation or change in the assets, liabilities, capital or which imply a direct or contingent obligation, even in their memorandum accounts, of a securities firm, must be recorded in the accounting on the same day they are carried out.

The corresponding accounting, the books and documents and the term they must be kept, shall be regulated by general provisions issued by the Commission.

Article 376.- The members of the board of directors, the executive officers, officers, employees, agents authorized to enter into transactions with the public, examiners or external auditors of an intermediary of the securities market, the stock exchange, securities depository institutions, securities clearance counterparties or issuers, who incur in any of the following behaviors, shall be punished with a penalty of two to ten years of prison:

I. Fail to record in the accounting books any transactions made or alter the accounting records or artificially increase or decrease the assets, liabilities, memorandum accounts, capital accounts or the results of the aforementioned entities, to conceal the actual nature of the transactions made or their accounting records.

II. Enter or order the entry, of any false data in the accounting books or else, provide any false data in the documents, reports, certified reports, opinions, surveys or credit ratings that must be filed with the Commission in compliance of the provisions of this Law.

III. Destroy or order the destruction, in whole or in part, of the accounting systems or accounting records or the supporting document which are the source of the corresponding accounting entries, before the expiration of the legal terms established for the preservation thereof and with the purpose of concealing their records.

IV. Destroy or order the destruction, in whole or in part, of any information, documents or files, even electronic ones, with the purpose of preventing or hindering the supervision duties of the Commission.

V. Destroy or order the destruction, in whole or in part, of any information, documents or files, even the electronic ones, with the purpose of manipulating or concealing from those having a legal interest in knowing the relevant data or information of the company, which, had it been known, it would have prevented an impairment by fact or law, to such corporate entity, its partners or to third parties.

VI. Submit to the Commission any false or altered information or documents in order to conceal their true content or context, or else, enter or declare before such Commission any false facts.

Article 387.- The shareholders, directors and executive officers ordering or soliciting officers or employees of a securities market intermediary, the commission of any criminal offenses contained in articles 375 to 378 and 384 of this Law, shall be penalized with an increase of up to fifty percent over the penalty corresponding to the criminal offenses provided in the aforementioned legal provisions.

NATIONAL BRIBERY

Credit Institutions Law

Article 113 Bis 3. - A three to fifteen years prison term shall be applied to the member of the board of directors, officer or employee of a credit institution who offers on his own or through an undisclosed agent money or anything else to a public officer of the National Banking and Securities Commission, to do or to omit a specific act pertaining to his duties.

The same penalty shall be imposed on the public officer of the National Banking and Securities Commission, who on his own or through an undisclosed agent requests for itself or anyone else money or

anything else, to carry out or to omit carrying out any act pertaining to his duties.

Article 114.- The directors, officers or employees of credit institutions that, regardless of the charges and interest set by the institution, on their own or through an undisclosed agent, unduly receive from customers any benefit to enter into any operation, shall be penalized with a three month to three years prison term and a fine of thirty to five hundred times the daily minimum wage, when it is not subject to valuation or the amount of the benefit does not exceeds the equivalent of five hundred times the daily minimum wage, at the time that the offense is committed; when the benefit exceeds such amount they shall be penalized with a two to ten year prison term and a fine of five hundred to fifty thousand times the daily minimum wage.

Federal Tax Code

Article 110.- A three months to three years prison term shall be impose to whoever:

...

III. Intentionally use more than one code of the Federal Tax Registry.

Article 111.- A three months to three years prison term shall be impose to whoever:

...

II. Record the accounting, tax or social operations in two or more accounting books or in two or more accounting systems with different data.

III. Conceal, alter or destroy, totally o partially the accounting systems or books, or any related document that according to the tax laws must be recorded.

IV. Determine false losses.

Finally, it is essential to consider that this type of crimes is not only punished in Mexico by rules of tax nature but also by financial laws since its commitment through financial institutions threatens not only the financial institution used for this purpose or the others within any interaction, but the entire financial system as a whole, along with the financial loss of the institution or of the involved economic actors such as creditors, suppliers, etc.

It is therefore that since 1990 and through various amendments that stem from Mexican State learning from the financial crisis throughout its recent history in which emergency measures have been implemented with a high economic and social cost, that the Mexican legislator established various measures in the financial legislation aimed to prevent behaviors that undermine the confidence and security of the financial system, of its component entities and consequently of the public user thereof. Likewise, the legislator imposed administrative and criminal sanctions like heavy fines and prison for those who locate in the course of law.

Therefore, the preventive regime has the objective of standardizing all procedures involving book and record keeping, accounting standards and financial statement disclosure. With this regime, all commercial transactions, including foreign transactions, will become transparent so supervising entities may follow-up all financial and accounting information to easily identify any unusual operation.

On the other hand, the dissuasive regime has the objective of being an effective and proportional criminal policy, upon protecting the financial system from illegal operations involving bribery, including penalties ranging from 15 years of prison and administrative penalties around 100,000 days of minimum salary (approximately \$6,729,000.00 Mexican pesos).

Even though, the articles which will be exemplified are not limited to the engagement of foreign bribery, the Mexican State considers that with these rules it has preventive measures, dissuasive enough to

identify and ban not only foreign bribery but also illegal operations which may pollute the Mexican economy.

Under this perspective, it is clear that the Mexican State seeks upon implementing this kind of penalties to dissuade criminal conducts and safeguard the reputation and confidence of the financial system where the affected legal rights are of collective character, different from the individual financial loss which may detract the economic or social policy objectives in a foreign level.

To provide a more thorough analysis on this subject, we are also including two articles which example the punishment on domestic bribery and also articles from the Federal Tax Code which from the tax regime also punish with prison acts as concealment, destruction or amendment of accounting information, as well as keeping double set of books.

As an example of the previously stated, the federal financial legislation defines the following behaviors:

Law: Article 113 of the Financial Institutions Law and 376 of the Securities Market Law

Subjects: directors, officers or employees of credit institutions.

Sentence: two to ten years and a fine of fifty thousand days salary.

Behaviors:

- Skip accounting records by hiding the true nature of transactions, affecting the composition of assets, liabilities, contingent accounts or results.
- File to the appropriate authorities false or altered information on the creditworthiness of an obligor on the value of credit guarantees protecting data.
- Fully aware of the falsity of the amounts of assets or liabilities the financial institution grants credit.
- Destroy or order to destroy all or part of the information, documents or files in order to block acts of supervision and surveillance of the responsible authorities.
- Register or order to post false information in accounting records, or provide false information in documents, reports, opinions, reviews or credit rating, to be filed to the corresponding authorities.

As evidenced, in Mexican law penalties that seek to protect the reliability of accounting information are not limited to Mexican people (physical or legal) but, as aforementioned, aim to protect the whole financial system and country development, having also jurisdiction over foreign people as long as these have used the Mexican financial system to commit this kind of crimes, whether it is on foreign clients using a Mexican financial entity or carried out through the entities branches incorporated abroad.

If no action has been taken to implement recommendation 9, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 10:

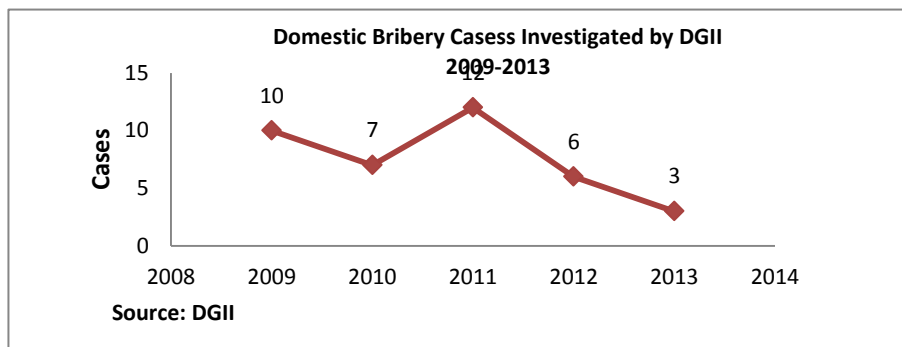
10. Regarding statistics, the Working Group recommends that Mexico maintain statistics on the number of investigations, prosecutions, convictions and sanctions of natural and legal persons for the offences of domestic bribery, foreign bribery, and false accounting (Convention, Articles 3, 5 and 8).

Action taken as of the date of the follow-up report to implement this recommendation:

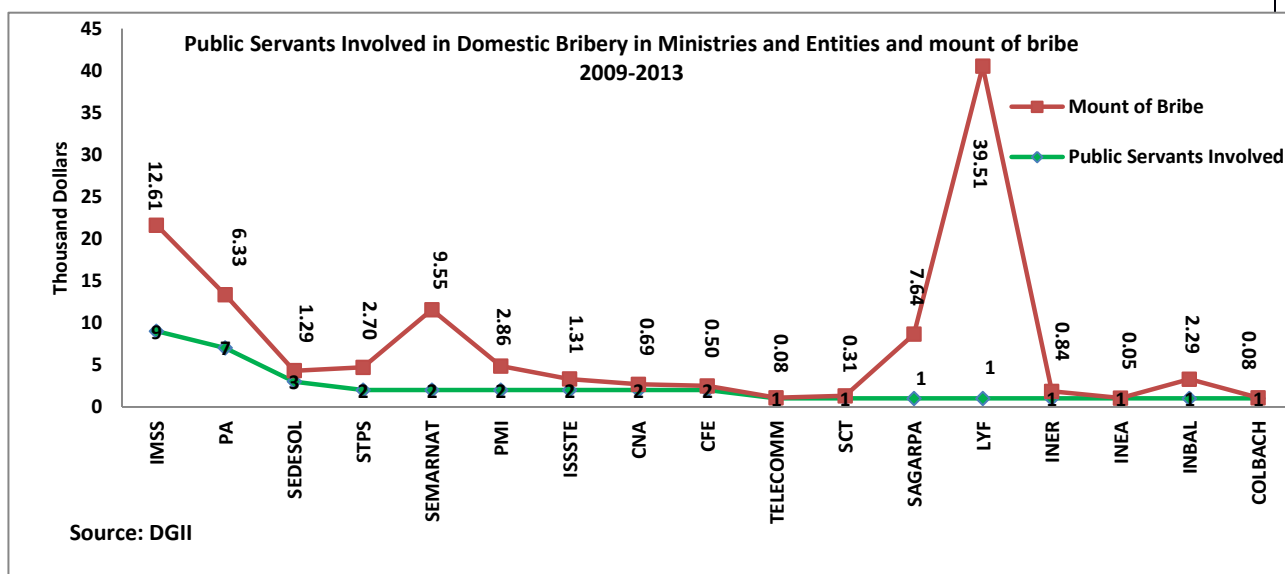
The Ministry of Public Administration (hereinafter SFP) established the Integral Citizen Attention System (SIAC), which operates through the internal oversight bodies of the ministries and entities of the Federal

Public Administration since 2012, with the sole purpose of attracting the complaints caused by violations of the Anti-Corruption Law and identifying 'domestic bribery'.

Also the SFP investigates the possible misbehaviors of public servants while they're exercising their functions so that other instances can have enough elements to penalize those who fail to comply with their duties. By the strategy "Mystery Client" the Ministry has detected and caught public servants in flagrante offences, such as bribery or corruption acts against other public servants, citizens or enterprises.



There has been several investigative cases developed by the SFP among 17 Ministries and Entities of the Federal Public Administration. 38 Mystery Client strategies have been operated from 2009 to December 2013, with results involving domestic bribery rising up to 88,622 USD.



There was only one investigation that involved foreign public officials in an international business transaction, which took place in 2010. Chinese public officials offered money (about 6,000 USD monthly) to public servants of a PEMEX Branch office, PMI, so that they would accept signing a contract with them.

Nowadays, challenges are increasing. The combat against bribery needs continuous efforts in order to effectively defeat this sort of practices.

Statistics provided by PGR

PRELIMINARY INVESTIGATION (NATURAL PERSONS)
PERIOD FROM 01/01/2011 TO 30/09/2013

LAW: FEDERAL CRIMINAL CODE- CRIMES COMMITTED BY PUBLIC OFFICIALS: **BRIBERY (ART. 222)**

| YEARS | PRELIMINARY INVESTIGATIONS INITIATED | P.Ls PROCESSED | | | | | | TOTAL |
|------------------------|--------------------------------------|----------------|----------|----------------------|----------|-------------------|----------|-------|
| | | JOINED | RESERVED | LACK OF JURISDICTION | N.E.C.A. | FILING OF CHARGES | | |
| | | | | | | W/DET. | W/O DET. | |
| 2011 | 88 | 3 | 31 | 22 | 42 | 3 | 24 | 125 |
| 2012 | 142 | 7 | 34 | 15 | 37 | 4 | 44 | 141 |
| Jan - Sept 2013 | 120 | 6 | 21 | 22 | 34 | 6 | 41 | 130 |
| TOTAL 2011 - Sept 2013 | 350 | 16 | 86 | 59 | 113 | 13 | 109 | 396 |

SOURCE: Institutional System of Statistical Information (SIIIE).
Shutdown Server 2013 Consultation date: Jan/23/2014

Note: The preliminary investigations processed do not necessarily correspond to those initiated in the year, are also considered those are pending, which were initiated in past years.

**SENTENCES FOR BRIBERY OFFENSE
2011 - SEPTEMBER 2013**

Bribery, Art. 222

| DELEGATION | Sentences for Bribery, Art. 222 FCC | |
|---------------------|-------------------------------------|-----------|
| | Conviction | Acquittal |
| AGUASCALIENTES | 0 | 0 |
| BAJA CALIFORNIA | 2 | 0 |
| BAJA CALIFORNIA SUR | 0 | 0 |
| CAMPECHE | 1 | 0 |
| COAHUILA | 0 | 0 |
| COLIMA | 1 | 0 |
| CHIAPAS | 8 | 6 |
| CHIHUAHUA | 0 | 0 |
| DISTRITO FEDERAL | 8 | 1 |
| DURANGO | 0 | 0 |
| GUANAJUATO | 2 | 0 |
| GUERRERO | 1 | 0 |
| HIDALGO | 0 | 0 |
| JALISCO | 3 | 0 |
| MEXICO | 0 | 0 |
| MICHOACAN | 7 | 1 |
| MORELOS | 1 | 0 |
| NAYARIT | 0 | 0 |
| NUEVO LEON | 4 | 1 |
| OAXACA | 1 | 0 |
| PUEBLA | 0 | 0 |
| QUERETARO | 1 | 0 |

| | | | |
|---------------------|-----------|-----------|--|
| QUINTANA ROO | 1 | 0 | |
| SAN LUIS POTOSI | 1 | 1 | |
| SINALOA | 1 | 0 | |
| SONORA | 0 | 0 | |
| TABASCO | 2 | 0 | |
| TAMAULIPAS | 1 | 0 | |
| TLAXCALA | 6 | 0 | |
| VERACRUZ | 1 | 0 | |
| YUCATAN | 0 | 3 | |
| ZACATECAS | 1 | 0 | |
| TOTAL SCRPPA | 54 | 13 | |

Source: Deputy Attorney General for Regional Control, Criminal Proceedings and *Amparo* (SCRPPA)

Note: This information was provided by each delegation and shortly will be registered in the SIIIE.

Statistics provided by AGAFF

The AGAFF manages a system in which auditors register and report the information derived from the audits results, the “Integral Information System” (*Sistema Único de Información Integral, SUII*). The system has a field where fiscal auditors record the main irregularities and has a catalog of concepts for those irregularities.

The catalogue considers relevant concepts related to the accounting offences stated in article 83, specifically regarding improper deductions, such as: the use of forged documents, the absence of supporting documentation, and/or documents without tax requirements.

In 2012 AGAFF obtained statistics from the SUII, where a total of 4,465 improper deductions were identified -which does not imply that all to be related to the crime of bribery.

Out of the 4,465 improper deductions, 4,455 were found by the ALAF’s:

- 128 covered with forged documents
- 1914 without supporting documentation
- 2413 without tax requirements

At a central level 10 improper deductions were found:

- 0 covered with forged documents
- 8 without supporting documentation
- 2 without tax requirements

Statistics provided by AGR

Likewise, AGR has a general database where keeps record of fines related to offenses to tax provisions - other than the payment provisions- issued by AGAFF and ALAF’s in accordance with Articles 83 and 84 of the CFF.

Data mining was performed on the following concepts:

- a) 100019 – Fines arising from payment issued by AGAFF
- b) 100018 – Fines arising from payment issued by ALAF
- c) 100013 – Fines imposed for noncompliance of Federal Tax Laws

A universe of 98,409 tax credits was obtained out of 77,054 determinant documents. To that universe a second filter was used with those resolutions beginning with the number 500, filtering self-determinations and other concepts for the Local Audit Administrations.

- 69,619 fiscal credits out of 55,350 determinant documents

A third filter used narrowed the amounts ranging from \$180.00 MXP (fraction II) to \$109,790.00 MXP (fraction IX), to equal the amounts to those considered in Article 84 of the CFF, obtaining the following results:

- 48,150 fiscal credits out of 43,168 determinant documents.

Then, the statute of limitation was considered, narrowing the sample to documents dated as of June 2009 to November 2013, what resulted in the following outcome.

- 44,353 fiscal credits out of 39,611 determinant documents

A sample of 22 determinant documents from the Local Administration of Tax Collection in the Federal District (*Centro del D.F.*) was extracted. Original documents were consulted on site, obtaining the following outcome:

- 19 fines related to Articles 81 and 82 of the CFF
- 1 fine related to Articles 85 and 86 of the CFF
- 2 fines related to Article 83 fraction VII of the CFF (both of \$12,070.00 Mexican Pesos) which states the following: “Not issuing, delivering or sending the tax receipts for their activities, or sending them without the requirements outlined in this Code, its regulations or the general rules issued by the Tax Administration Service.”

Also, a filter was applied to extract only large taxpayers, obtaining the following data:

- 1,234 fiscal credits out of 1,141 determinant documents

From these results, it was requested to 26 Tax Collection Local Administrations the analysis of the records and report feedback indicating the legal provision by which the fines were imposed.

Only 3 out of 108 fines were imposed related to Article 83 fraction X of the CFF, which states: “Not reporting their financial statements in accordance with the provisions of Article 32-A of this Code, or not presenting the report within the deadline provided by the tax laws.”

Summarizing the information, out of 44,353 fiscal credits, a sample of 22 determinant documents was taken, resulting in 2 fines related to Articles 83 and 84. Therefore we can estimate a total number of 1,008 fines related to these articles.

Statistics provided by the AGJ

AGJ provided national statistics regarding the criminal offences contained in Article 111 of the CFF:

| Offence | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | Total |
|---|-------------|-------------|-------------|-------------|-------------|-------------|--------------|
| Fraction II. Register accounting operations in two or more books or in different accounting systems | 3 | 0 | 3 | 2 | 1 | 2 | 11 |
| Fraction III. Totally or partially hide, change or destroy accounting systems and books | 74 | 91 | 93 | 102 | 152 | 85 | 597 |

| | | | | | | | |
|------------------------------------|---|---|---|---|---|---|---|
| Fraction IV. Falsely report losses | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
|------------------------------------|---|---|---|---|---|---|---|

AGJ also provided statistics related to Article 243 of the Federal Penal Code on falsification of documents, for the period 2008 – 2013.

| | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | Total |
|----------------|------|------|------|------|------|------|-------|
| Investigations | 5 | 13 | 15 | 17 | 25 | 20 | 95 |
| Sentenced | 6 | 6 | 6 | 2 | 0 | 0 | 20 |
| Closed* | 52 | 29 | 26 | 25 | 33 | 2 | 167 |

*Refer to cases under the status of: no criminal action, release order, acquittal, or remitted to the General Administration of Evaluation (AGE) due to lack of competence.

Statistics provided by AGE

AGE provided the following statistics on bribery related complaints:

| Year | Complaints | Provided by |
|-------|------------|---|
| 2006 | 8 | ACAPE |
| 2007 | 7 | ACAPE |
| 2008 | 7 | ACAPE |
| 2009 | 5 | ACAPE |
| 2010 | 1 | ACAPE |
| 2011 | 3 | ACAPE |
| 2012 | 4 | ACAPE |
| 2013 | 2 | Criminal Proceedings Coordination (COPP) |
| TOTAL | 37 | |

Also provided statistics on SAT's public officials convictions:

| Date of complaint | Date of conviction | of Assignment | Detection Area | Sentenced to |
|-------------------|--------------------|------------------|----------------|--|
| 15-Jan-07 | 17-Dec-08 | AGA ¹ | Northwest | 3 months in prison and fine of \$1,516.00 MXP; Dismissal and 3 months of ineligibility |
| 15-Jan-07 | 09-Nov-09 | AGA | Northwest | 3 months in prison and fine of \$1,516.00 MXP; Dismissal and 3 months of ineligibility |
| 30-May-12 | 24-Apr-13 | AGR | West | 3 months in prison and fine of \$1,869.00 MXP; Dismissal and compensation of \$5,000.00 MXP |
| 25-Mar-11 | 11-Jun-13 | AGR | Pacific Center | 11 months in prison and fine of \$8,044.00; Dismissal and ineligibility; and compensation of \$5000.00 MXP |

The AGR developed the catalogue of “procedural fines” to be incorporated in both systems, the SUII of the AGGC and the SIAT (Institutional System) of AGR. The main purpose is to keep more accurate statistics related to sanctions derived from article 83 infractions of false accounting -as those stated in

article 8(1) of the Convention. The catalogue includes, among others, the following infractions:

- Not keeping accounts (fraction I)
- Not keeping the books or special registers (fraction II)
- Keeping the accounts differently from the provisions of the CFF or other laws (fraction III)
- Keeping the accounts in places other than specified in the CFF (fraction III)
- Incomplete, inaccurate or extemporaneous entries of the transactions (fraction IV)
- Not keeping the accounts for the statutory period (fraction VI)
- Infringe provisions on tax receipts (fraction VII, IX and XI)
- Keep magnetic documentation and information without complying with tax requirements (fraction VIII)
- Not delivering the financial statements (fraction X)
- Failure to submit the report of article 86 fraction XX of the Law of Income Tax (LISR) (fraction XVI)

AGR informed that the implementation of the system including the field “procedural fines” will begin in April 2014.

If no action has been taken to implement recommendation 10, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Recommendations for ensuring effective prevention and detection of foreign bribery

Text of recommendation 11:

11. Regarding accounting and auditing, the Working Group recommends that Mexico encourage the auditing profession to develop courses on foreign bribery; detect foreign bribery; and take the necessary measures, including amendment of CFPP Article 116 and other relevant legislation, to clarify that the reporting obligation in this article overrides any professional obligations of an auditor towards his/her client (2009 Anti-Bribery Recommendation X(B)(i) and (v)).

Action taken as of the date of the follow-up report to implement this recommendation:

Article 222 of the National Code of Criminal Procedures, enacted on March 4th 2014, sets forth the obligation to report:

Article 222. Any person that is aware of the commission of a fact that probably constitutes and offence is obliged to report it to the Public Prosecutor and in case of emergency, to any police agent.

Who in the exercise of public functions is aware of the probable existence of a fact that the law defines as an offence, is obliged to report it immediately to the Public Prosecutor, providing it with all the possible information, putting the accused at its disposal, were they caught in flagrante. Whoever that having the legal duty to report does not do it, shall receive the corresponding sanctions.

They are not obliges to report who at the moment of the comission of the offence have the quality of

tutor, curator, ward, spouse, concubine or concubinary, partner of the accused, the parents by blood of affinity in straight line ascendant or descendent until the fourth grade and in collateral by blood of affinity until the second grade.”

This article does not limit the persons that must observe it, since it establishes that every person is obligated to report an offence. Thanks to that wording, no one may abstain or be excluded from observing this provision, regardless of the professional activity that he/she practices.

The existence of professional confidentiality that binds, accountants and auditors, is not overlooked. Nevertheless it must be considered that such confidentiality consists essentially of a professional rule, which is forestalled by what federal law determines. (e.g., the National Code of Criminal Procedures) Although, auditors and accountants may execute a confidentiality contract, the latter contract cannot be interpreted as excluding or legally prevailing over the legal obligation to report offences. Moreover, civil legislation explicitly forbids the execution of contracts contrary to the law. In this regard, the Federal Civil Code establishes that:

“Article 1795.- The contract may be void:

[...]

III. If its subject matter, motive or purpose is unlawful;”

“Article 1830.- Any act that is contrary to public law or norms of governing custom is unlawful.”

Thus, article 222 of the National Code of Criminal Procedures respects the confidentiality commitment of auditors and accountants regarding the information they obtain during the performance of their profession, only if that information is not related to the practice or suspicion of illicit activities.

Therefore an accountant or auditor is obligated to report any offence or possible commission of an offence that of which he/she has knowledge, including bribery of public foreign officials.

If no action has been taken to implement recommendation 11, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 12:

12. Regarding corporate compliance, internal controls and ethics programmes, the Working Group recommends that Mexico continue to promote corporate compliance measures, with emphasis on Mexican companies, including SMEs, that are active internationally but are not subject to FCPA jurisdiction, and that Mexico measure the impact of these efforts (2009 Anti-Bribery Recommendation X(C)(i) and (ii)).

Action taken as of the date of the follow-up report to implement this recommendation:

Ministry of Economy continues encouraging Corporate Social Responsibility Program Certification and Consulting (CSR) through ministerial leadership; stimulating new and existing business associations; subsidizing CSR activities and organizations. Civil Society Organizations (NGOs) in alliance with Chambers and Entrepreneurial Associations are critical actors in the advancement of universal values around human rights, the environment, labor standards and anti-corruption. Their role has gained particular importance in aligning economic activities with social and environmental priorities.

As a part of the strategies to promote Ethics and business transparency, Ministry of Economy communicates the Declaration of validity of the standard Mexican NMX-SAST-26000-IMNC-2011 Guidance on social responsibility and published it in the Federal Official Gazette on June 9, 2012. This Mexican standard coincides fully with the international standard ISO 26000:2010.

This Mexican standard aims to help organizations to contribute to sustainable development. It aims to encourage organizations to go beyond legal compliance, recognizing that compliance with the law is a fundamental obligation for any organization and an essential part of their social responsibility. Every organization is encouraged to become more socially responsible by using this International Standard, including taking into account the interests of stakeholders, complying with applicable law, and respecting international norms of behavior.

Standard provides a list of voluntary initiatives and tools related to social responsibility that address aspects of one or more core subjects or the integration of social responsibility throughout an organization.

Ministry of Economy through recently created National Institute for Entrepreneurs (hereinafter INADEM) , have undertaken several initiatives to raise awareness of foreign bribery in international business transactions among private sector focused on small and medium enterprises in coordination with civil society organizations (NGO's), business chambers and entrepreneurial associations, universities and companies to promote a Corporate Social Responsibility culture.

Today in México, we have strong and well known organizations; their perspectives, expertise and partnership-building capabilities are indispensable to create good practices guide on Controls, Ethics and Compliance. Ministry of Economy is directly participating as member of theirs Board of Directors to support strategies for small and medium enterprises.

NGO's

1. National Committee for Productivity and Technological Innovation (COMPITE,A.C.)
2. Mexican Center for Philanthropy (CEMEFI, A.C)
3. Alliance for Corporate Social Responsibility (AliaRSE)
4. Social Union of Mexican Businessmen (USEM, A.C.)
1. Center for Corporate Sustainability and Responsibility.-Anahuac University
2. IDEARSE

Business Chambers

3. Confederation of Industrial Chambers (CONCACMIN)
4. Confederation of Commerce Chambers (CONCANACO)
5. Employers Confederation of Mexico (COPARMEX)

Since last report (2011), we can noted an incremental participation of small and medium enterprises in

Corporate Social Responsibility programs, workshops, congress, etc; in other hand, big companies have been awarded for encouraging business integrity in its SME 's value chain. Besides, more than 1,000 Universities are adopting Corporate Social Responsibility Models.

| Organizations | CSR Program (companies) |
|---------------|-------------------------|
| COPARMEX | 6,000 |
| USEM | 2,000 |
| CEMEFI | 1,570 |
| COMPITE | 6,000 |
| CONCANACO | 27,900 |
| CONCAMIN | 1,000 |
| TOTAL | 34,470 |

Data: ALIARSE 2012-2013

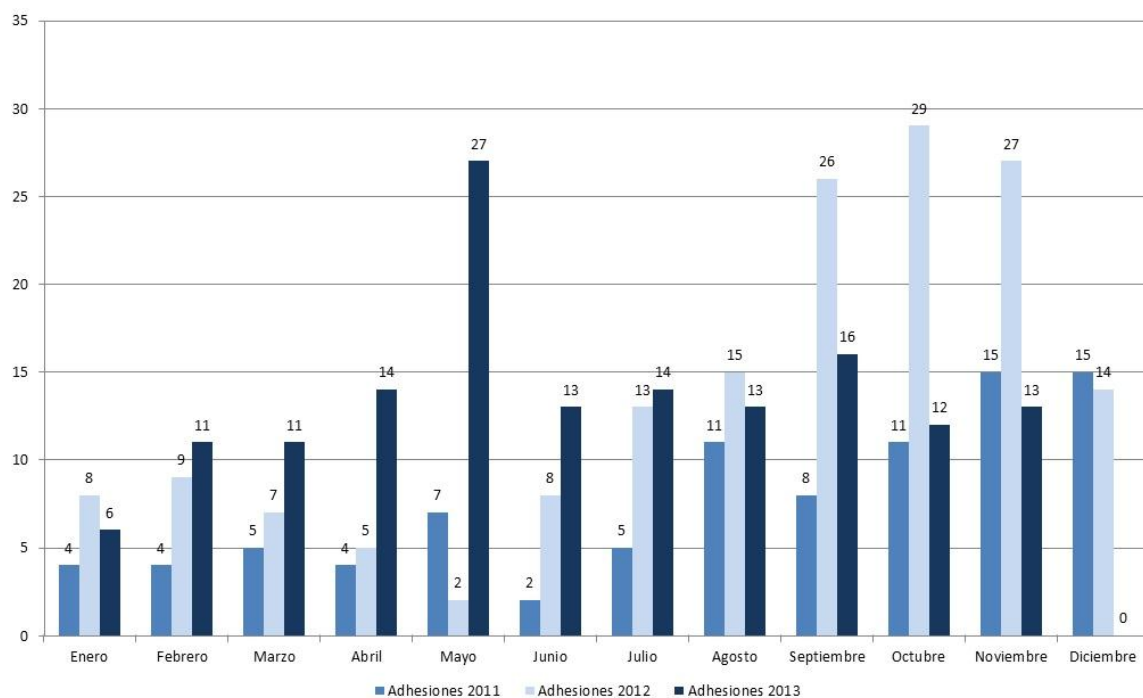
CEMEFI reported in 2012, that 688 companies were awarded with Social Responsibility Distinctive and 784 in 2013, pointed that more than a half are small and medium enterprises.

All companies awarded have attended a compliance methodology based on 500 indicators and demonstrates the existence of internal regulation, Codes of conduct, contracts, suppliers, accountability and finance reports.

In regards corruption indicators refer to corruption risk, employees involved in anti-corruption training program and follow up after corruption cases.

The Global Compact

Since its official launch in México (2005), the initiative has grown to more than 586 participants. In the last two years, 261 new companies are participating in The Global Compact.



The Center for Corporate Sustainability and Responsibility.-Anahuac University IDEARSE carried out the first business ranking in Mexico, based on the international standard ISO 26000, considered one of the main references in Corporate Social responsibility. IdeaRSE used a numerical scale which allowed to measure the progress in the integration of these core subjects in the companies, and in addition discussed the management and transversal practices of the companies.

The ranking companies with greater Social responsibility in Mexico, which evaluated to 24 medium-sized and large companies, ranked the Spanish BBVA Bancomer - with 12 years of operation in Mexico - as the toe, with an overall rating of 98.06 points (of a possible 100). In second place was the Mexican Cemex, which has 106 years, reaching an overall rating of 96.43 points; While the third site the American Coca-Cola got it, he was 86 years old in the country, with an overall rating of 95.76 points. These evaluation contributes to spread a Corporate Social Responsibility culture and generating knowledge in the matters.

Follow-up with promotion, Ministry of Economy developed a micro-website to delivered information for SME in regards anti-corruption initiatives and legal framework issues, particularly international Conventions. This information was attached to the website of Mexican Entrepreneurial Information System (SIEM) www.siem.gob.mx in order to reach a data base of more than 700,000 enterprises registered.

SIEM is composed mainly of data from commercial firms, Industrial and service sectors. The information contained in the SIEM may be used only to promote business, development of statistics or add value information. (<http://www.contactopyme.gob.mx/anticohecho/>)

Finally , through the SMES FUND created by INADEM grants resources are available to support companies and organizations to develop and trigger actions to contribute to the inclusion of ethical values, within the management of the organization in order to adopt responsible management practices towards society, the environment, employees, customers, suppliers and government.

If no action has been taken to implement recommendation 12, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 13(a):

13. Regarding tax measures to combat foreign bribery, the Working Group recommends that Mexico:

- a. clarify explicitly by law or by any other binding means that bribes to foreign public officials are not deductible for any tax purposes, and verify that a taxpayer who has been found to have committed domestic or foreign bribery has not claimed a tax deduction for bribe payments (2009 Anti-Bribery Recommendation VIII(i)).

Action taken as of the date of the follow-up report to implement this recommendation:

To comply with the 2009 OECD Recommendation on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions, which urges State parties to explicitly prohibit the deductibility of bribes, on July 23rd 2012 the SAT's Regulations Committee approved a

normative criterion that states that bribes to foreign public officials are not deductible for tax purposes. This criterion is entitled: “Bribes to public officials are not deductible for income tax purposes” (Dádivas a servidores públicos no son deducibles para los efectos del impuesto sobre la renta).

The normative criterion was communicated to public officials, through the official letter number 600-04-02-2012-57567. This document is also available on SAT’s website, as stated by Article 33 of the CFF and rule number 1.2.14.3 of the 2012 Tax Rules and Procedures. The criterion is considered of public domain as stated in Article 14 Section VI of the Federal Law of Transparency and Access to Government Information.

In this context, in October 2012 AGAFF sent an electronic communication to the Tax Audit General Directors of all Federal States requiring them to publicize the normative criteria issued by AGJ, including the aforementioned criterion.

Additionally, the criterion was published in the Regulations Unique System (Sistema Único de Normatividad, SUN), available to 35,000 SAT’s public officials. The SUN integrates the tax law and regulations, in accordance with Article 6 of the RISAT.

At the request of the Ministry of Foreign Affairs, the normative criterion was translated to English in order to be disseminated through its missions abroad, the Chambers of Commerce, and the Mexican companies based in other countries.

The criterion was issued by the tax authority for the proper compliance with tax and customs legislation, which must be observed by all SAT’s administrative units.

Moreover, the statement COM1399 dated June 5, 2013 was disseminated through the AGAFF announcement system. Central and Local Administrations were informed of the update of PART III, Unit N. Strategies to detect National and International Bribery, II. Main applicable tax dispositions for Auditor Control Strategies. This update included the normative criterion on the non-deductibility of bribes.

Regarding the second part of Recommendation 13(a), were the lead examiners urge the Mexican authorities to “verify that a taxpayer who has been found to have committed domestic or foreign bribery has not claimed a tax deduction for bribe payments (2009 Anti-Bribery Recommendation VIII(i))”, the AGGC analysed whether the information on convictions of bribery could be sufficient evidence to drive a tax audit.

The analysis concluded that the information regarding convictions of foreign bribery can constitute sufficient grounds to initiate audits, as tax authorities have discretionary powers to verify if taxpayers comply with their obligations. If the regulatory authority deems necessary to corroborate the compliance of a legal obligation of a taxpayer, it can trigger the audit.

Furthermore, after a tax inspection concludes if a taxpayer is found guilty of bribery, the authority can perform a new tax inspection, as the new fact (conviction of bribery) enables tax authorities to initiate an investigation with respect to the same fiscal year and concepts.

According to the AGGC Handbook of Procedures, Sub-process 6.1.2 “Tax Audit Programming” (numbers 3 and 4 of letter v. “sub-process operation policies” pg. 10) identifies among its reasons to program an audit to large taxpayers the following:

- Complaints (considers all the information proceeding from bribery convictions)

As noted before, AGAFF and AGGC verify the compliance of tax provisions when performing their inspection duties, outlined in Article 42 of the CFF. As off today, no taxpayer accused of foreign or domestic bribery has claimed a tax deduction for the payment of the supposed bribe. Also, there has not been a report of irregularities related to offenses mentioned in Article 83 of the CFF.

If no action has been taken to implement recommendation 13(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 13(b):

13. Regarding tax measures to combat foreign bribery, the Working Group recommends that Mexico:

- b. improve detection of domestic and foreign bribery cases by analysing why the Strategies for Identifying National and International Bribery have not led to the detection of cases; continuing its regular training programmes for tax auditors and examiners; and including bribery in risk assessments and audits (2009 Anti-Bribery Recommendation VIII(i)).

Action taken as of the date of the follow-up report to implement this recommendation:

To this regard, the Control Strategy for Auditors (Estrategia de Fiscalización para el Auditor, EFA) of AGAFF, obliges fiscal auditors to seek for evidence of possible bribery in the same way they will do it for tax irregularities. Notwithstanding this obligation, the Central Administrations of AGAFF detected that in the course of an examination, which is reported in the Audits Monitoring System (Sistema de Monitoreo de Auditorías, SIMA), there was no specific section to report suspicions of bribery, therefore the auditors were focused solely in detecting tax irregularities.

In order to strengthen the capacities of the auditing staff to detect bribery cases, it was incorporated in the Control Strategy for Auditors that is part of the SIMA, a tool called “PROCEDURES FOR DETECTION OF BRIBERY”. This was informed to the central and regional administrations through the statement COM-1301 dated February 12, 2013 and the official letter No. 500-01-2013-06206 dated February 11, 2013 disseminated through the AGAFF announcement system. Statement and official letter attached (See Annex 1).

Finally, one of the main purposes of the Annual Work Program (Programa Operativo Anual, POA) of the ALAF’s, is the detection of evidence that could reveal bribery.

2. Training to detect national and international bribery.

To comply with the recommendation of the Working Group on Bribery, related to the training of tax auditors, several administrative areas of SAT carry out commendable efforts to train relevant public officials. For instance, AGAFF broadened the training developed in 2008 (1,994 public officials) on detection of foreign and domestic bribery, instructing 3545, 2212, and 3389 public officials in 2011, 2012 and 2013 respectively. The latter included the new OECD Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors (published in 2013), and for the first time AGE public officials participated in the training.

The OECD Handbook was translated to Spanish in order to be distributed among tax auditors from AGAFF and AGGC.

Finally, during 2012, the AGGC instructed public officials from its relevant Central Administrations (Auditing, Regulation, Litigation, and Strategic Coordination) on “Detection of Domestic and Foreign Bribery”. The aim was to inform the obligation to report acts of domestic or foreign bribery; to generate awareness on the foreign bribery crime; and to teach applicable techniques on detection of bribery cases. The total of public officials trained was of 811. The same training was instructed in August 2013 to 151 new employees.

If no action has been taken to implement recommendation 13(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 14:

14. Regarding awareness raising, the Working Group recommends that Mexican foreign embassies and export promotion agencies assist and inform internationally active Mexican businesses to combat foreign bribery (2009 Anti-Bribery Recommendation X(C)(i); Annex II).

Action taken as of the date of the follow-up report to implement this recommendation:

The Ministry of Foreign Affairs (hereinafter SRE) in the framework of its obligations continued with the task of raising awareness of Mexico's representations abroad, on the importance of the implementation of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

In the same way continued with the diffusion of actions taken by Mexico in compliance with the provisions of the Convention.

Mexico has highlighted to its diplomatic representations abroad the relevance to support Mexican entrepreneurs and investors in different countries, as well as chambers of commerce and business associations to effectively combat corruption.

Mexico promotes this initiative in all events organized to attract foreign investment and look for export opportunities of Mexican products, together with its diplomatic representations abroad.

In 2013, SRE provided support and advice against corruption practices to both Mexican and foreign businessmen. Multiple activities were recorded with the business component in the context of official visits made by both the President of Mexico and foreign leaders and officials to our country.

Also, the Mexican Government, through ProMéxico (a government institution in charge of promoting the international participation of Mexican companies, together with the attraction of foreign investment to Mexico), have been taking actions to prevent and combat foreign bribery by designing an electronic media campaign. The Human Resources department sent electronic communications to all the foreign offices to inform about the importance of investigate, prosecute and sanction foreign bribery.

ProMéxico is committed to combat foreign bribery by publishing this electronic media campaign every three months.

With regards to activities of the Ministry of Foreign Affairs (SRE) and export promotion agencies in combating foreign bribery, Mexico was asked to provide details of the following by the lead examiners in a supplemental question: "Since Phase 3, the dates (between 2011-2014) of any communications or instructions sent to diplomatic representations abroad, regarding informing internationally active Mexican business about the importance of fighting foreign bribery."

The Ministry of Foreign Affairs (SRE) provides the following information:

21 July, 2011

24 June, 2012

7 December, 2012 (in occasion of the international day against corruption)

2 October, 2013

27 February, 2014

If no action has been taken to implement recommendation 14, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 15:

15. Regarding whistleblower protection, the Working Group recommends that Mexico enact specific legislation to ensure that public and private sector employees, and auditors who report in good faith and on reasonable grounds suspected acts of foreign bribery to competent authorities are protected from discriminatory or disciplinary action, and raise awareness of this measure (2009 Recommendation IX(iii), X(B)(i) and (v)).

Action taken as of the date of the follow-up report to implement this recommendation:

In November 2010, Mexico provided the Ministry with an outline of two bills to strengthen the administrative legal framework to prevent and fight corruption, one of these related to the issue of public sector whistleblower protection (Ley de Responsabilidades Administrativas de los Servidores Públicos).

It must be pointed out that in 2010, the Head of the Federal Executive Branch prepared the Decree project whereby different provisions pertaining to the Federal Act of Administrative Responsibilities regarding Public Officials are amended and this paper shall be submitted to the Congress shortly.

The aforementioned Decree project has the purpose and feature of protecting administrative informants who report issues to the corresponding authorities and it includes the following:

- Strengthening public officials' obligations, in order to protect informants and individuals reporting information regarding alleged irregularities, such as including non-compliance as a severe violation, which would lead to destitution and suspension of responsible public officials for a period of 10 to 20 years.
- Conditions leading to the implementation of efficient systems facilitating the accusation of acts against principles ruling Public Service exercise by the corresponding authorities are included.
- The possibility of filing anonymous accusations or complaints becomes explicit.
- Since reporting acts of corruption is considered one of the most successful strategies for combating the above, specific protective measures are established in favor of informants and of every individual contributing valuable information regarding the commission of irregularities.
- Assumptions are included in order to strengthen the obligation stipulated in Article 8, Section XXI of the Federal Act of Administrative Responsibilities regarding Public Officials, so that the Ministry of Public Administration makes sure that procedures, paperwork and services where informants participate, are developed abiding by the corresponding legislation, or else, that informing public officials are not damaged anyway in their working environment.
- An incentive system for promoting reporting and cooperation in investigations is included: economic benefits, incentives and rewards, as well as the reduction of sanctions for public officials who even when they participate in irregularities, cooperate with the authorities by reporting and verifying the aforementioned acts and by the same token, non-economic rewards for public officials reporting corruption acts, shall be provided.
- Citizens shall obtain direct benefits from protective measures being established; in the event of informants who are public officials, it shall be guaranteed that they will not be affected in their working environment with losing their job or with any type of harassment while complying with their

responsibilities; if informants are not public officials, the proceedings or paperwork they participate in, shall not be hindered.

The approval of this Bill is still pending before the Congress.

Concerning to the Anti-corruption Law, Article 33 establishes the possibility for the Ministry of Public Service to enter into cooperation agreements with individuals or entities, chambers of commerce and industry or organizations with the intention of instrumented internal controls and integrity programs that would ensure the development of an ethical culture in your organization.

In addition, the same article states that such mechanisms should consider international best practice and should be designed to promote compliance with integrity programs between partners, managers and employees of companies. They must contain reporting tools and instruments that protect whistleblowers so that they are not be repressed through discriminatory or disciplinary behaviors.

Additionally, PGR is proposing a legislative amendment to *article 13 of the Federal Law for the Protection of Persons involved in Criminal Proceedings* so that it applies not only in cases of serious or organized crimes. This initiative would be applicable to provisions in the international treaties to which the Mexican State is a Party where it is established or estimated those cases where the protection of this law is required. The abovementioned is so because the persons involved in these procedures are at risk due to their direct or indirect participation in such criminal proceeding. The proposed legislative initiative would cover the various hypotheses foreseen by the content of these international provisions.

The current Federal Law for the protection of people involved in criminal procedures:

Article 13.

This Program shall apply solely in cases involving persons in a risk situation due to their direct or indirect participation in a criminal proceeding involving serious offenses or organized crime.

In all other cases, the Public Prosecutor and their auxiliary personnel shall be responsible for issuance and enforcement of the protection measures other than those exclusively enforced by the Center's Director, intended to ensure the security of the persons in a risk situation due to their participation in any of the stages of the criminal procedure, among which it may be considered those established in Article 17, Sections I, II and V, and Article 18, sections I, paragraphs a) and b), Sections II, IV, V, VIII, paragraphs a), b) and c) and Section X of this law; and others deemed advisable or established in applicable ordinances.

Draft reform to the article 13 of the Federal Law for the protection of people involved in criminal procedures:

Article 13

The "Federal Programme for Protection of Individuals" will exclusively apply to those cases in which individuals that are at risk for their direct or indirect participation in a criminal procedure related to severe crimes, organized crime **or when the provisions of the corresponding international treaties in which Mexico is a State party establish or set forth cases where such necessary protection measures.**

This draft amendment was presented before the Mexican Congress on March 4th 2014.

If no action has been taken to implement recommendation 15, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 16(a):

16. Regarding public advantages, the Working Group recommends that Mexico:

- a. amend its legislation to make debarment available as a sanction in all cases of foreign bribery in the context of international business, and extend its blacklist to cover enterprises that are determined under Mexican law to have committed foreign bribery (Convention, Article 3(4); 2009 Anti-Bribery Recommendation XI(i)).

Action taken as of the date of the follow-up report to implement this recommendation:

The Banco Nacional de Comercio Exterior, S.N.C. (BANCOMEXT), as an entity forming part of the Mexican government, is governed by legal standards that initially seek to avoid, and in its case detect, process and sanction, activities that could constitute bribery acts, since it is subject to the legal provisions such as the Federal Criminal Code (“Código Penal Federal”) in force, which includes a specific chapter regarding Bribery, as well as to the Public Officials’ Liabilities Federal Act (“Ley Federal de Responsabilidades de los Servidores Públicos”). Likewise, it is subject to the Public Bids’ Anticorruption Federal Act (“Ley Federal Anticorrupción en Contrataciones Públicas”).

Currently, and following the recommendations made on May 2011 by the OECD’s Working Group on Bribery (WGB), seeking to ensure the effectiveness in the investigation, processing and sanctioning of international bribery, and specially observing the recommendation referring to the provisions that Bancomext includes in its loan agreements in order to avoid bribery, we proceeded to broaden the text of the representation and covenant that were already and previously included within such loan agreements.

In addition, BANCOMEXT’s loaning activity is performed through a process governed by its Loaning Guidelines, which contains goals, standards and policies in matters of loans’ granting and managing, as well as by the corporate governance bodies involved in loaning decisions making.

The Loaning Guidelines contains due diligence measures that include eligibility criteria for verification of loan applicants against external information sources that are able to provide further backgrounds regarding the prospect, and therefore credit bureaus, legal ban lists and lists issued by local or foreign authorities are consulted in connection with the individuals or corporations that have been convicted as a consequence of having committed a felony.

If no action has been taken to implement recommendation 16(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 16(b):

16. Regarding public advantages, the Working Group recommends that Mexico:

- b. ensure that Bancomext stipulate its debarment policy in writing in a specific section of its lending or guarantee contract; extend the anti-corruption declaration in its credit agreement to cover

foreign bribery that occurs both before and after the agreement is signed; train its staff on the policies on and procedures for debarment, reporting foreign bribery, and detecting foreign bribery; and require clients to provide further details of agent commissions and fees (2009 Anti-Bribery Recommendation XII(ii)).

Action taken as of the date of the follow-up report to implement this recommendation:

Bancomext's present agreements include a specific representation and covenant that cover international and domestic bribery acts issues that could occur before or after the execution of the loan agreement. Likewise, its scope was also extended in order to make such representation and covenant's enforceability extensive to those third parties with which the debtor had direct relationship and assisted it in the formalities for obtaining a loan. In such regard, the present text included in Bancomext's loan agreements is as follows:

-Within the representations contained in the agreement, the client warrants:

"That it has not incurred in any bribery acts involving any public official of the country in which it conducts its business, or in any other country in which it performs its activities, and that it is not aware that any third party directly related to it, and that had assisted it in the obtaining of the loan, had committed any bribery act for the execution of this agreement or for the obtainment of the requested funds. Such warranty is in force in all its terms as to the date hereof."

-Within the early termination events provided in the agreement's sections, the following is included:

"Should "DEBTOR" or anyone acting on its behalf, or any third party with which it has a direct relationship that assisted it in the formalities related with the obtainment of the "LOAN", incurred or has incurred in any bribery act towards any public official in the country in which "DEBTOR" performs its activities or in any other country in which it conducts its business, in case that any bribery act was committed pursuant to the terms provided in this section, will be enough cause to deny the disposal of the "LOAN", or an early termination event in case of having disposed of it".

We should mention that the warranty included in Bancomext's loan agreement, is a relevant representation that client has to make, and a necessary condition for BANCOMEXT to be willing to enter into the relevant loan agreement, whereas the text currently included in the loan agreement related with the loan's early termination events, protects the possibility of finding bribery acts committed internationally or domestically after having executed the agreement, and during the term of the loan.

We have to address that during the loan agreement's negotiation stage, clients normally ask about the scope and extent of such warranty and of the early termination event, which we explain from a legal perspective of bribery and international bribery concepts, its consequences and penalties, and such covenants are thereafter accepted.

Preventive elements in bribery matters included within the Loaning Process

In addition, BANCOMEXT's loaning activity is performed through a process governed by its Loaning Guidelines, which contains goals, standards and policies in matters of loans' granting and managing, as well as by the corporate governance bodies involved in loaning decisions making.

In particular, we have drafted admission proceedings by means of which prospects that could be subject to the granting of any loan are evaluated. Such proceedings contain due diligence measures that additionally include a financial and legal analysis, the verification of loan applicants against external information sources that are able to provide further backgrounds regarding the prospect, and therefore credit bureaus, legal ban lists and lists issued by local or foreign authorities are consulted in connection with the individuals or corporations that have been convicted as a consequence of having committed a

felony.

In observance to the recommendations, as first stage of the broadcasting and training process of BANCOMEXT, an annual preventing, detecting and reporting of transactions with funds of unlawful source program was incorporated for 2013, including a chapter with information related to the international bribery crime, in order for BANCOMEXT'S business and client assistance departments employees to acknowledge OECD's Anti-Bribery Convention, identify its goals, the relevance of combating international bribery practices, and avoid aiding corporations incurring upon such crime.

With the purpose of strengthening training thereof, BANCOMEXT continues developing its training programs, allowing it to deepen in mechanisms for detecting, excluding and reporting clients or prospects linked with possible bribery acts.

If no action has been taken to implement recommendation 16(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

PART II: ISSUES FOR FOLLOW-UP BY THE WORKING GROUP

Text of issue for follow-up:

17. The Working Group will follow up the issues below as case law and practice develops:

- a. The interpretation of "foreign public official" as defined in Article 222bis;

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Text of issue for follow-up:

17. The Working Group will follow up the issues below as case law and practice develops:

- b. Whether sanctions imposed in foreign bribery cases are effective, proportionate and dissuasive;

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

The enactment of the Anti-Corruption Federal Public Procurement (Anticorruption Law) represents a breakthrough in the combat against corruption. With the involvement of the private sector, the law seeks to prevent, detect and punish these kind of acts by regulating new offenses, more severe, dissuasive, proportionate and effective economic and disqualification sanctions, reducing penalties when the offender assists with the authority to identify new improper conducts, and the extension of the period of prescription.

Regarding the sanctions, in comparison with the laws of public procurement, Anticorruption Law provides severe, proportionate and effective penalties, in order to prevent and deter the commission of any offense. The examples of this are the number of years a persons could be punish with suspension to participate in the public procurement, the amount of fines and ability to obtain grants, gifts or any other benefit of a fiscal nature.

The laws of public procurement contemplated the fines between USD\$7,764.23 and USD\$155,284.61 and a suspension to participate in public procurement of 3 months to 5 years. Otherwise, the Anticorruption Law provides two assumptions, natural and legal persons. If an individual performs an act of corruption, the authority may impose a fine between USD\$5,176.15 and USD\$258,807.69, and a suspension to participate in the public procurement of 3 months to 8 years. In the case a legal person commits one, the sanctions would be between USD\$51,761.53 and USD\$10'352,307.69, and a suspension of 3 months to 10 years.

In conclusion, it is emphasize that the foreign bribery is punish with fine and suspension, sanctions that results in a detriment of the patrimony of the offender, because in addition to paying the fine, the disqualification represents an impediment to participate in public procurements and in the subscriptions of contracts made by the Federal Government. Therefore, the sanctions of the Anticorruption Law are dissuasive, proportionate and effective to prevent and combat domestic and foreign bribery.

Text of issue for follow-up:

17. The Working Group will follow up the issues below as case law and practice develops:

- c. Confiscation of the bribe, its proceeds, or their equivalent; and

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Text of issue for follow-up:

17. The Working Group will follow up the issues below as case law and practice develops:

- d. Anti-corruption measures in Mexico's ODA programme.

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Law of International Co-operation for Development (LCID) deals with Official Development Assistance projects funded by Mexico and establishes an Programme of International Cooperation for Development (PROCID), and creates the Mexican Agency of International Cooperation for Development (AMEXCID) to oversee the Programme.

The PROCID is framed and responds to the principle of Transparency and Accountability established by the Federal Government of Mexico and international agreements on international cooperation for development

The PROCID is only the programmatic instrument for planning and cooperation activities, but it is not the instrument that manages the resources of cooperation.

The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, specifies its sphere of influence in international business transactions, which are not the subject or object of PROCID.

The purpose of the International Cooperation for Development Law (LCID) is to provide the Federal Executive Branch the necessary tools for programming, promotion, coordination, development, coordination, implementation, quantification, assessment and control of actions of Programmes for the International Cooperation for development between the United Mexican States and the governments of other countries and with international agencies for the transfer, receipt and exchange of resources, goods, knowledge and educational, cultural, technical, scientific, economic and financial experiences.

Although the LCID does not have as a mandate to establish specific anti-corruption measures on international cooperation for development, as every legal instrument is interrelated with other provisions both of legal and administrative nature.

Such guidelines are identifiable in principle in Articles 19, Fractions XII, XIII and XIV, 29, 30, 37, 39 and 42. In particular, Articles 37 and 39, stating that the funds established under the LCID are administered by the figure of trust in terms of the Federal Law of Budget and Fiscal Responsibility (LFPRH) are subject to control mechanisms and accountability established in the LFPRH not only in itself but also in the laws of Acquisitions, Administrative accountability, Transparency and Access to Information, Control and Accountability, among the most relevant.

In terms of bribery and bribery of foreign public officials are included in the Mexican Federal Penal Code, in its article 222 and 222 bis.

Furthermore, Article 42 of the the Law on International Cooperation for Development (LCID), empowers the Ministries of Finance and Civil Service to assess and monitor the "financial flows" made by the AMEXCID and trusts created under the LCID.

¹ General Administration of Customs (*Administración General de Aduanas*, AGA)