

MECHANISM FOR FOLLOW-UP ON THE
IMPLEMENTATION OF THE INTER-AMERICAN
CONVENTION AGAINST CORRUPTION
Thirty-Sixth Meeting of the Committee of Experts
September 13 – 16, 2021
Washington, D.C.

OEA/Ser.L.
SG/MESICIC/doc.594/21 rev.4
16 September 2021
Original: Spanish

MEXICO

PLENARY SESSION VERSION

FINAL VERSION

SUMMARY

This Report contains a comprehensive review of the implementation in Mexico of Article XVI of the Inter-American Convention against Corruption, on bank secrecy, which was selected by the Committee of Experts of the MESICIC for the Sixth Round; and follow-up on implementation of the recommendations formulated to Mexico in the Third Round, which refer respectively to: Denial or Prevention of Favorable Tax Treatment for Expenditures Made in Violation of the Anticorruption Laws (Article III (7) of the Convention); Prevention of Bribery of Domestic and Foreign Government Officials (Article III (10) of the Convention); Transnational Bribery (Article VIII of the Convention); Illicit Enrichment Article IX of the Convention); Notification of the defining of transnational bribery and illicit enrichment as crimes (Article X of the Convention); and Extradition (Article XIII of the Convention).

The review was conducted in accordance with the Convention, the Report of Buenos Aires, the Committee's Rules of Procedure, and the methodologies adopted for conducting on-site visits and for the Sixth Round, including the criteria set out therein for guiding the review based on equal treatment for all states parties, functional equivalence, and the common purpose of both the Convention and the MESICIC of promoting, facilitating, and strengthening cooperation among the states parties in the prevention, detection, punishment, and eradication of corruption.

The review was carried out mainly taking into account Mexico's Response to the Questionnaire and information gathered during the virtual on-site visit conducted between April 26th to the 30th, 2021 by representatives of Nicaragua and Paraguay, with the support of the Technical Secretariat. During that visit, the information furnished by Mexico was clarified and supplemented with the opinions of civil society organizations.

With regard to the implementation of the recommendations that were formulated to Mexico in the Report from the Third Round, based on the Methodology for the Sixth Round, and bearing in mind the information provided in the Response to the Questionnaire and during the on-site visit, the Committee made a determination as to which of those recommendations had been satisfactorily implemented, which required additional attention, which should be reformulated, and which were no longer valid.

Some of the recommendations formulated in the Third Round that remain valid or have been reformulated regarding the **Denial or Prevention of Favorable Tax Treatment for Expenditures Made in Violation of the Anticorruption Laws** seek, for instance, to: strengthen the existing measures by adopting a legal provision that expressly prohibits any natural person or legal entity from enjoying favorable tax treatment in violation of domestic anticorruption laws; and improve electronic services, platforms, and digital tools that facilitate the crosschecking of information to identify sums paid for corrupt purposes intended to be used to obtain favorable tax treatment.

Furthermore, based on the review of new developments in Mexico in the implementation of the Convention provisions selected for the Third Round, the Committee formulated recommendations on aspects such as compiling detailed annual statistics on the action taken by the Tax Administration Service (SAT) to prevent, investigate, and punish conduct intended at obtaining favorable tax treatment for expenditures made in violation of anticorruption laws. This information can include, *inter alia*, number of verifications effected by the authorities responsible for processing said applications; the number of criminal and/or administrative investigations for violating those provisions and/or other measures initiated or completed; and the number of sanctions imposed as a result thereof, with a view to identifying challenges and adopting corrective measures, where necessary.

Some of the recommendations formulated in the Third Round that remain valid or have been reformulated regarding **the Prevention of Bribery of Domestic and Foreign Government Officials** include strengthening standards and measures on prevention of bribery of domestic and foreign government officials, so that “*professional secrecy*” does not pose an obstacle for those professionals whose activities from reporting to the competent authorities, any acts of corruption they detect in their professional practice, or bribes disguised to domestic and foreign government officials; adopting measures to facilitate the detection, by the agencies or bodies charged with preventing and/or investigating noncompliance with measures intended to ensure the accuracy of accounting records, of amounts paid for corruption concealed in those records; and prepare and publish through the organs and entities charged with preventing and/or investigating violations of the measures intended to ensure the accuracy of accounting records and with overseeing that commercial companies and other types of associations required to establish internal accounting controls, detailed annual statistics on the activities of these organs and entities, such as the number of inspections, or periodic or sample reviews of companies' accounts; the number of criminal and/or administrative investigations into breaches of the rules, and/or other measures initiated and completed; and the number of sanctions imposed as a result thereof, with a view to identifying challenges and adopting corrective measures, where necessary.

Based on the review of new developments in Mexico in the implementation of the Convention provisions selected for the Third Round, the Committee also formulated recommendations that include strengthening SAT information systems, in particular those necessary for its Business Integrity Register to function properly, ensuring its sustainability and proper operation and provide sufficient economic, human, and technical resources, within available resources; and prepare and publish, in a user-friendly and easily understandable format, detailed annual statistics on the action taken to prevent, investigate, and punish noncompliance, with a view to identifying challenges and adopting corrective measures, where necessary.

Some of the recommendations formulated in the Third Round that remains valid or have been reformulated regarding the **prevention of transnational bribery** include: fill the vacancies for agents from the Federal Prosecution Service for the *Special Prosecutor's Office for Combating Corruption* and hold the pending entrance exams, as soon as the current health crisis permits; and improve and strengthen the computer equipment and technical personnel required for proper operation of the *Citizens' Anticorruption Platform for Domestic and Foreign Whistleblowers*.

Based on the review of new developments in Mexico in the implementation of the Convention provisions selected for the Third Round, the Committee also formulated recommendations that include strengthening public awareness measures targeting public officials and the general public on the importance of reporting acts of corruption, especially those related to the bribery of foreign government officials.

Some of the recommendations formulated in the Third Round that remain valid or have been reformulated regarding **illicit enrichment** include: finish, launch, and disseminate the indicators for analyzing the results obtained by applying the regulations relating to illicit enrichment; and ensuring that the *Special Prosecutor's Office for Combating Corruption* and other bodies charged with investigating and/or prosecuting the crime of illicit enrichment have the human and financial resources they need to fully exercise their responsibilities.

Based on the review of new developments in Mexico in the implementation of the Convention provisions selected for the Third Round, the Committee also formulated recommendations that include:

prepare and disseminate, through the organs or agencies charged with the investigation and/or prosecution of the offense of illicit enrichment, detailed annual statistics on the number of investigations initiated, in user-friendly and easily accessed and understood formats to determine how many were suspended; in how many the statute of limitations had run out; how many were archived; how many were in progress; and how many were referred to the appropriate authority for resolution, in order to identify challenges and, where necessary, recommend corrective measures.

Some of the recommendations in the Third Round that remain valid or have been reformulated regarding **extradition** include: continue to make use of the Convention, in addition to the applicable bilateral treaties, as the legal basis for extradition requests it sends, as well as design and offer continuous systematic outreach and training programs for judges, prosecutors, other justice personnel, and administrative authorities with competencies in extradition, to inform them of the advantages of the Convention and promote its use in the formulation and consideration of extradition requests.

Based on the review of new developments in Mexico in the implementation of the Convention provisions selected for the Third Round, the Committee also formulated recommendations that include strengthening, within available resources, the computer, technological, and communications equipment needed by the Secretariat of Foreign Affairs and FGR to fully exercise their responsibilities with regard to extradition, ensuring its sustainability and proper operation.

For the review of the provision selected in the Sixth Round referring to **bank secrecy**, some of the recommendations formulated for Mexico are geared to adopting appropriate measures to define and specify the concepts of “*public order*” and “*national security*,” when used as grounds for denying a request to lift bank security in such a way that they do not constitute an obstacle to lifting bank secrecy in accordance with Article XVI of the Convention; and promote greater use of the Convention as one of the legal bases for requests to lift bank secrecy it submits with other States Parties to the Convention, including a comprehensive dissemination and training program for competent authorities and civil servants, so that they can familiarize themselves with, and apply, mutual legal assistance provisions for the investigation or prosecution of acts of corruption envisaged under the Convention and in other treaties to which is party, as well as other agreements on the subject to which the State is a party.

Finally, the best practices that Mexico provided information refer, in synthesis, to the **Anticorruption Guide** of the Attorney General’s Office, a project aimed at prioritizing the prevention of acts of corruption in the Office; and the Secretariat of Public Service’s **Business Integrity Register for Ethics and Integrity**, a program designed to increase synergy between the Government and the business sector, as well as societal engagement, through the promotion of business integrity and ethics policies.

**COMMITTEE OF EXPERTS OF THE FOLLOW-UP MECHANISM ON THE
IMPLEMENTATION OF THE INTER-AMERICAN CONVENTION
AGAINST CORRUPTION**

**REPORT ON FOLLOW-UP ON IMPLEMENTATION IN MEXICO OF THE
RECOMMENDATIONS FORMULATED AND PROVISIONS REVIEWED IN THE
THIRD ROUND, AND ON THE PROVISION OF THE CONVENTION SELECTED
FOR REVIEW IN THE SIXTH ROUND¹**

FINAL VERSION

INTRODUCTION

1. Content of the Report

[1] As agreed, upon by the Committee of Experts (hereinafter “Committee”) of the Follow-Up Mechanism for the Implementation of the Inter-American Convention against Corruption (MESICIC) at its Thirty-Fourth Meeting of the Committee of Experts,² this Report will first refer to follow up on implementation of the recommendations formulated to Mexico in the Report of the Third Round.³

[2] Second, where applicable, it will refer to new developments in Mexico with regard to the provisions of the Inter-American Convention against Corruption (hereinafter “Convention”) selected for the Third Round, and regarding such matters as the legal framework, technological developments, and results, and, if applicable, appropriate observations and recommendations will be formulated.

[3] Third, it will address implementation of the Convention provisions selected by the Committee of Experts of the Mechanism for the Follow-up of Implementation of the same (MESICIC) for the Sixth Round of review. That provision corresponds to Article XVI of the Convention on Bank Secrecy, which reads: “1. *The Requested State shall not invoke bank secrecy as a basis for refusal to provide the assistance sought by the Requesting State. The Requested State shall apply this article in accordance with its domestic law, its procedural provisions, or bilateral or multilateral agreements with the Requesting State.* 2. *The Requesting State shall be obligated not to use any information received that is protected by bank secrecy for any purpose other than the proceeding for which that information was requested, unless authorized by the Requested State.*”⁴

[4] Fourth, it will refer to best practices, where applicable, that the country under review has wished to voluntarily share regarding implementation of the Convention provisions selected for the Third and Sixth Rounds.

¹ This report was approved by the Committee on September 16, 2021, in accordance with Articles 3 g) and 25 of the Committee’s Rules of Procedure, during the 37th Plenary Meeting of Experts held virtually from September 13to 16, 2021.

² See the Minutes of the 36th Meeting of the Committee, available at:
http://www.oas.org/es/sla/dlc/mesicic/docs/36reunion_acta_esp.pdf

³ Available at: http://www.oas.org/juridico/spanish/mesicic_III_inf_mex.pdf

⁴ Inter-American Convention Against Corruption, Article XVI, available at:
http://www.oas.org/es/sla/ddi/docs/tratados_multilaterales_interamericanos_B-58_contra_Corrupcion.pdf.

2. Ratification of the Convention and adherence to the Mechanism

[5] According to the official records of the OAS General Secretariat, Mexico ratified the Inter-American Convention against Corruption on June 2, 1997.

[6] In addition, Mexico signed the Declaration on the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption on June 4, 2001.

I. SUMMARY OF INFORMATION RECEIVED

1. Response of Mexico.

[7] The Committee wishes to acknowledge the cooperation that it received throughout the review process from Mexico, and in particular, from the Civil Service Secretariat, the Secretariat of Foreign Affairs, the Office of the Attorney General (*Fiscalía General de la República*), the Tax Administration Service and its Internal Oversight Body, the National Banking and Securities Commission, and the Secretariat of Finance and Public Credit, which was evidenced, *inter alia*, in the Response to the Questionnaire and in the constant willingness to clarify or complete its contents. Together with its Response, Mexico sent the provisions and documents it considered pertinent. That Response, and those provisions and documents may be consulted at: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=Mexico&r=6>.

[8] The Committee also notes that Mexico gave its consent for the on-site visit, in accordance with item 5 of the *Methodology for Conducting On-Site Visits*.⁵ As members of the preliminary review subgroup, the representatives of Nicaragua and Paraguay conducted the on-site visit virtually from April 26-30, 2021, with the support of the MESICIC Technical Secretariat. The information obtained during that visit is included in the appropriate sections of this Report, and the agenda of meetings is attached hereto, in keeping with provision 34 of the above-mentioned *Methodology*

[9] For its review, the Committee took into account the information provided by Mexico until April 30, 2021; which was requested by the Secretariat and by the members of the review subgroup to carry out their functions in keeping with the Rules of Procedure and Other Provisions; the Methodology for Review of the Implementation of the Recommendations Formulated and the Provisions Examined in the Third Round and the provisions selected for the Sixth Round⁶; and the Methodology for Conducting On-Site Visits.⁷

2. Documents and information received from civil society organizations and/or, *inter alia*, private sector organizations, professional associations, academics, and researchers.

[10] The Committee received documents and information from civil society organizations within the period established in the Schedule for the Sixth Round, in accordance with Article 34(b) of the

⁵ Methodology for Conducting On-site Visits, available at: http://www.oas.org/en/sla/dlc/mesicic/docs/met_onsite.pdf

⁶ Methodology for Conducting On-site Visits, available at: http://www.oas.org/en/sla/dlc/mesicic/docs/met_onsite.pdf

⁷ Methodology for Conducting On-site Visits, available at: http://www.oas.org/es/sla/dlc/mesicic/docs/met_onsite.pdf

Committee's Rules of Procedure. These organizations are Mexico-Transparency and the Industrial Unit Iztapalapa, A.C.⁸

[11] Additionally, during the on-site visit to the country under review, the Committee gathered information from civil society and private sector organizations, professional associations, academics, and researchers who were invited to participate in the meetings held for that purpose, pursuant to provision 27 of the Methodology for Conducting On-Site Visits. A list of invitees is included in the agenda of the on-site visit, which is annexed to this Report. This information is reflected in the appropriate sections of this Report.

II. FOLLOW UP ON IMPLEMENTATION OF THE RECOMMENDATIONS FORMULATED IN THE THIRD ROUND AND NEW DEVELOPMENTS WITH REGARD TO THE CONVENTION PROVISIONS SELECTED FOR REVIEW IN THAT ROUND

[12] First, the Committee will discuss progress, information, and new developments in Mexico in relation to the implementation of the recommendations formulated to them and the measures suggested to them by the Committee for implementation in the Report from the Third Round,⁹ and it will proceed to take note of those that received satisfactory treatment and those that require attention by the country under review. In addition, where appropriate, it will address the continued validity of those recommendations and, as applicable, restate or reformulate them, pursuant to the provisions of Section V of the Methodology adopted by the Committee for the Sixth Round.

[13] In this section, the Committee will also take note, where appropriate, of any difficulties in implementing the above recommendations and measures to which the country under review may have drawn attention, as well as of its technical cooperation needs to that end.

[14] Second, it will refer to new developments in Mexico in relation to the Convention provisions selected for the Third Round in such areas as legislative frameworks, technological developments, and results, and proceed to make any observations and recommendations that may be required.

1. DENIAL OR PREVENTION OF FAVORABLE TAX TREATMENT FOR EXPENDITURES MADE IN VIOLATION OF ANTICORRUPTION LAWS (ARTICLE III (7) OF THE CONVENTION)¹⁰

1.1. Follow up to the Implementation of the Recommendations Formulated in the Third Round.

Recommendation 1.1

Strengthen the standards and measures for the denial or prevention of favorable tax treatment for expenditures made in violation of the anticorruption laws. To comply with this recommendation, Mexico could take the following measures into account:

Measure a) i. suggested by the Committee:

⁸ Available at: http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_resp_transparenciamx.pdf y http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_resp_unidadindustrial.pdf

⁹ Available at: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹⁰ For the purposes of this Report, the MESICIC Committee of Experts has considered favorable tax treatment to be all tax exemptions and any item deductible for determining the tax base for income and other tax, that give rise to reductions in the amount of tax in the taxpayer's favor. See: http://www.oas.org/en/sla/dlc/mesicic/docs/mesicic6_metodologia_ing.pdf

a) Consider adopting the measures deemed appropriate to make it easier for the appropriate authorities to detect sums paid for corruption in the event that they are being used as grounds for obtaining such treatment, such as the following:

i. Continue to develop manuals, guidelines or directives that will guide them in reviewing procedures related to favorable tax treatment, so that they are able to verify that the applications contain the established requirements, to confirm the truthfulness of the information provided, and to confirm the origin of the expenditures or payment on which the claims are based.

[15] With respect the aforementioned measure, in its Response to the Questionnaire, the country under review did not present information or new developments.¹¹ However, during the on-site visit, the country under review presented information it considers related to implementation of measure a) i) of the foregoing recommendation:

[16] According to the information from the country under review, each administrative unit of the Tax Administration Service (SAT) has specific internal guidelines for the due exercise of its responsibilities:

“these are published on the SAT’s internal website for the knowledge and consultation of public servants assigned to them, to enable them to conduct verification according to the applicable regulations.

It should be noted that the criteria, guidelines, manuals, and guides are confidential, pursuant to Art. 110 of the Federal Transparency and Access to Public Information Law, as well as numerals IV, V, VI, VII, VIII, IX, Twenty-fourth; numerals III and IV, Twenty-fifth; and Thirty-third of the General Guidelines for the Classification and Declassification of Information, as long as their publication would pose a real risk, since their purpose is to make known the strategies that should be followed when conducting audits to verify due and timely compliance with federal tax obligations through the deployment of a tax inspector in order to thwart tax evasion and/or avoidance and increase collection levels.”¹²

[17] The country under review also identified the following “subprocesses” employed for executing the SAT’s audit function:

*“SUBPROCESS 6.1.1. STRATEGY FOR AUDITING OPERATIONS SUBPROCESS.
6.1.2. PROGRAMMING OF AUDITS SUBPROCESS.
6.2.1. CONDUCTING AUDITS SUBPROCESS.
6.1.1. CONCLUSION OF AUDITS SUBPROCESS.
6.1.1. MONITORING OF AUDITING STRATEGY IMPLEMENTATION.”¹³*

¹¹ Response of Mexico to the Questionnaire for the Sixth Round, pgs. 11 y 12. See: <https://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>.

¹² i. Strategy for Auditing Major Taxpayers; ii. Manual of procedures for subprocess 6.1.1; iii. Strategy for Auditing Operations; iv. Agreement between the General Administration for Federal Tax Auditing and the General Administration for Major Taxpayers, which establishes strategies for coordination and collaboration in the exercise of responsibilities with respect to Domestic Taxes; v. Manual of Procedures for Subprocess 6.2.1. Audits. “Request for Missing or Relevant Information or Documents in the Response to the Questionnaire Adopted for the VI Round. México.” Provided during the on-site visit to México conducted April 26-30, 2021, pg. 1.

¹³ The source of this document could not be accessed, because the link provided is not operational. See: <http://99.95.144.56/AGAFF/index.php/en/generalauditoria/alineacion>. Latest access: May 25, 2021.

[18] In this regard, the Committee notes the efforts made by the country under review to provide this Committee with indirect access to manuals that, due to their nature, have been classified as confidential, providing their tables of contents and certifications from authorities attesting to their existence.¹⁴ The information provided indicates that they are aimed at improving the execution of the oversight programs, for which reason the Committee considers the country under review to have satisfactorily implemented measure a) i) of this recommendation.

Measure a) ii. suggested by the Committee:

Continue to develop computer programs that facilitate data consultation and cross-checking of information whenever necessary for the purpose of fulfilling their functions.

[19] With respect the aforementioned measure, in its Response to the Questionnaire, the country under review did not present information or new developments.¹⁵ However, during the on-site visit, the country under review presented information it considers related to implementation of measure a) ii) of the foregoing recommendation. In this regard, the Committee notes, as a step that contributes to progress in the implementation of said measure, the following:

[20] – The SAT continued promoting taxpayer use of electronic services and digital tools, such as *SAT ID*, which allows natural persons to create or renew their password or renew their electronic signature.

[21] – In 2020, the *Billing Verification Service* was updated, enabling taxpayers to validate the records of their invoices and status and find out whether their supplier is published in the definitive list of Biller Companies of Simulated Operations (EFOS). “*This tool enables taxpayers to determine whether to include an expenditure as deductible, or whether to provide explanations to the tax authority. The intent of these actions is to reduce tax evasion and tax avoidance.*”

[22] – The *SAT ID* platform and tool continued to enable taxpayers to create or renew their passwords from their home and renew the e-signature for natural persons (if it expired less than a year ago).

[23] - In 2020, a monthly average of 36,000 requests for passwords and e-signatures were received and reviewed by SAT tax advisors to confirm the identity of the requestor. By the end of 2020, SAT ID had enabled 684,432 taxpayers to renew their password and 83,535 more to register their e-signature without leaving home. *Informe Tributario y de Gestión 2020 4T* (sat.gob.mx).¹⁶

[24] In this regard, the Committee observes that the aforementioned initiatives are relevant steps in the implementation of measure ii) of this recommendation. Nonetheless, based on the information provided, the Committee cannot ascertain whether the aforementioned databases communicate with each other or other, similar databases so that they can crosscheck the information when an audit requires it, as set out in the recommendation. The Committee therefore deems it necessary for the country under review to continue to give attention to the second part of this measure in regard to the

¹⁴ Information presented during the on-site visit. Annexes 2 al 7. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹⁵ Response of Mexico to the Questionnaire for the Sixth Round, pgs. 11 to 15. http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_respg.pdf.

¹⁶ See: http://omawww.sat.gob.mx/gobmxtransparencia/Paginas/documentos/itg/ITG_2020_4T.pdf, pg. 21

crosschecking or exchange of information (See Recommendation 1.4.1. in Chapter II, Section 1.4 of this Report.)

Measure a) iii suggested by the Committee:

Strengthen institutional coordination mechanisms that will provide the timely collaboration needed from other authorities, on such aspects as certifying the authenticity of the documents submitted in accordance with the procedures related to favorable tax treatment.

[25] With respect the aforementioned measure, in its Response to the Questionnaire, the country under review did not present information or new developments.¹⁷ However, during the on-site visit,¹⁸ the country under review presented information it considers related to implementation of measure a) ii) of the foregoing recommendation. In this regard, the Committee notes, as a step that contributes to progress in the implementation of said measure, the following:

[26] On August 31, 2018, a cooperation agreement was signed between the Attorney General’s Office, known then as *Procuraduría General de la República* (PGR) and today, as the *Fiscalía General de la República* (FGR)) and the Tax Administration Service, in which the parties agreed to exchange information in each entity’s purview. These exchanges include “*verification, review, or audit programs and mechanisms, technology transfer, and technical assistance to fully exercise their responsibilities, including those related to payment verification, collection of payments for royalties and benefits, and document authentication:* <http://aplicaciones.pgr.gob.mx/normatecasustantiva/Normateca%20Sustantiva/Convenio%20PGR-%20SAT.pdf>.”

[27] According to the information provided during the on-site visit,¹⁹ one example of the practical application of collaboration between the SAT and the Attorney General’s Office is the first exchange of information, which occurred during two investigations of potential transnational bribery (bribery of foreign government officials). “*As a result, the SAT shared information with the Attorney General’s Office on potential crimes of bribery of foreign government officials, thereby overcoming two existing obstacles to information sharing between investigations of crimes other than transactions with resources of illicit origin: the remission of information without violating its due confidentiality and the ability of the FGR to specify in its request to the SAT for information the crime for which the request is being made, without affecting the secrecy of the criminal investigation.*”²⁰

¹⁷ Response of Mexico to the Questionnaire for the Sixth Round, pgs. 11 to 15.

http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_per_resp.pdf

¹⁸ “Request for Missing or Relevant Information or Documents in the Response to the Questionnaire Adopted for the VI Round. México.” Provided during the on-site visit to México of April 26-30, 2021, pgs. 8-9. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹⁹ Information presented during the on-site visit, pgs. 8 y 9. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

²⁰ Information presented during the on-site visit, pgs. 8 y 9. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

[28] Another example of this collaboration, according to the information provided during the on-site visit,²¹ is the internal guidelines issued on March 4, 2021, by the General Judicial Administration of the Tax Administration Service, through official document 600-2021-023, for attention by the Federal Prosecution Service or Federal Police to requests for tax information.²²

[29] Furthermore, the *Agreement whereby the Federal Tax Audit Administration and the Major Taxpayers Administration adopt strategies for Coordination and Collaboration in the Exercise of their Domestic Taxation Powers* was presented during the on-site visit.²³

[30] In this respect, the country under review mentioned that among the critical aspects that could be modified to make this measure more effective was the fact that: “*on some occasions, the necessary information is not requested from the area with jurisdiction in the matter or through the appropriate channel. The information could be broadened, and the appropriate channels or entities identified to streamline attention to the respective requests.*”²⁴

[31] Considering the opportunity for improvement mentioned by the country under review, the Committee will reformulate this recommendation to address the challenge identified by Mexico with respect to this measure. The Committee therefore believes that Mexico could benefit from the adoption and wide dissemination of manuals, guides, or guidelines to inform the respective authorities on the best way to process their requests, with the support of training and dissemination programs, among the corresponding authorities, on the contents and scope of said instruments. (See Recommendations 1.4.2. and 1.4.3. in Chapter II, Section 1.4 of this Report.)

Measure a) iv. Suggested by the Committee:

Continue to develop training programs designed specifically to alert officials to the methods used to disguise payments for corruption and to instruct them in ways of detecting such payments in the procedures related to favorable tax treatment.

[32] In its Response to the Questionnaire, the country under review presented information and new developments with respect to the above measure. In this regard, the Committee highlights the following as steps that contribute to progress in its implementation:²⁵

[33] The Tax Administration Service, through the Central Administration of the Human Capital Cycle (ACCCH), offers ongoing training opportunities to its staff to improve their development and performance and acquire and/or improve their knowledge to facilitate their work and increase their ability to detect atypical transactions. According to the country under review “*as of September 2020, various courses programmed for the year had been offered, with the participation of the Federal Tax*

²¹ Information presented during the on-site visit, pgs. 8 y 9. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

²² Information presented during the on-site visit. Annex 3. See: http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_anex42.pdf.

²³ Information presented during the on-site visit, annex I. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

²⁴ Information presented during the on-site visit, pg. 9. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

²⁵ Response of Mexico to the Questionnaire for the Sixth Round, pg. 13. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

*Audit Administration on the following topics: Tax Fraud, with 235 participants; DTC Tax Fraud and Comparable Offenses, with 54 participants, and Tax Offenses, with 428 participants.”*²⁶

[34] In addition, the training programs developed to alert officials to the methods used to disguise payments for corrupt purposes include: Annex 20 version 3.3 Electronic Billing, with 1,416 participants; *verification of the emission of online digital invoices for tax purposes*, with 9 participants; Electronic Audits (My Accounting, Legal Entities), with 3,087 participants, and the National Anticorruption System, con 299 participants.²⁷

[35] During the on-site visit, the country under review also provided detailed information on the instructional materials produced in 2020 on topics such as the national anticorruption system, tax fraud, tax fraud and comparable offenses, and tax offenses. It indicated that training courses on these topics have been offered since October 2020. In this regard, it presented the following table of “*PAC topics*,” which includes topics related to domestic and international bribery and activities funded by illicit resources and money laundering:²⁸

Title	Objective	Summary	#
<i>Detection of Domestic and International Bribery</i>	At the conclusion of the Videoconference, the participant will: Identify the strategies for detecting domestic and international bribery to raise awareness about the obligation to report acts of bribery.	1. Auditor’s Strategies for the Detection of Domestic and International Bribery.	16
<i>Strategy for the Detection of Domestic and International Bribery</i>	At the end of the Tutorial, the participant will: -Be familiar with the updated Strategy for the Detection of National and International Bribery, as well as the new Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors. - Identify the techniques and tools for detecting cases of domestic and international bribery in the exercise of tax verification powers.	1. Strategy for the detection of domestic and international bribery. Block 1 2. Strategy for the detection of domestic and international bribery. Block 2 3. New OECD Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors. Block 3	200
<i>Transactions with Resources of Illicit Origin (Basic concepts)</i>	At the study’s conclusion, the participant will: - Have a general understanding of the phenomenon of money laundering. - Know where money laundering occurs, and the methods employed by criminals.	1. Money laundering. 2. Combating money laundering. 3. The 40 FATF recommendations. 4. Guidelines issued by the Financial Intelligence Unit	200

²⁶ Information presented during the on-site visit, pg. 13. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

²⁷ Response of Mexico to the Questionnaire for the Sixth Round, pg. 13. http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_per_resp.pdf

²⁸ Information presented during the on-site visit, pgs. 12 and 14. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

	<ul style="list-style-type: none"> - Know about international efforts to combat and prevent money laundering. - Identify the Financial Action Task Force (FATF) and its recommendations. - Know about national legislation to prevent money laundering. - Know the vulnerable activities cited in Mexican law and the penalties imposed for noncompliance. - Identify the Mexican authorities that participate in the supervision of regulated entities. 	<p>(UIF) of the Secretariat of Finance and Public Credit on unusual and suspicious operations.</p> <p>5. Federal Law for the Prevention and Identification of Transactions with Resources of Illicit Origin.</p>	
<i>Identification of Transactions with Resources of Illicit Origin</i>	At the study's conclusion, the participant will have a general understanding of the phenomenon of money laundering, knowing where it occurs and flourishes, as well as the international efforts to prevent and combat it, the domestic legislation enacted, vulnerable activities cited in Mexican law, and the penalties imposed for noncompliance.	<ol style="list-style-type: none"> 1. Federal Law for the Prevention and Identification of Transactions with Resources of Illicit Origin. 2. Powers of the authorities concerning transactions with resources of illicit origin. 3. Identification of transactions with resources of illicit origin. 	200
<i>Training in the information required from brokerage houses</i>	For staff who participate in audits of the operations of brokerage houses to know what type of information and documentation should be included in requests for information issued through the System for Processing Authority Requests (SIARA).	<ol style="list-style-type: none"> 1. Money laundering. 2. Transactions with resources of illicit origin. 3. The Phenomenon of Money Laundering 4. Securities Sector 5. Case studies 6. Q&A session 	200
<i>Prevention of Money Laundering. Prevention of Transactions with Resources of Illicit Origin.</i>	At the conclusion of the video course, the participant will identify the basic measures and procedures that vulnerable activities and regulated entities of the financial system should adopt to prevent and detect acts, omissions, or transactions that could promote, abet, aid, or cooperate in any way in the commission of crimes involving transactions with resources of illicit origin and the financing of PML/FT.	<ol style="list-style-type: none"> 1. Background 2. Prevention and combating of money laundering and transactions with resources of illicit origin in Mexico 3. Enforcement of system to prevent, detect, and combat money laundering and transactions with resources of illicit origin in Mexico 	200
<i>Federal Law for the Prevention and Identification of Transactions with Resources of Illicit Origin</i>	At the conclusion of the tutorial, the participant will: Have a general understanding of money laundering and know where it occurs and flourishes, as well as the international efforts to prevent and combat it, the national legislation enacted, and the vulnerable activities and penalties imposed in Mexican law for noncompliance in order to do his work.	<ol style="list-style-type: none"> 1. Regulatory Framework 2. Vulnerable Activities 3. Obligations 4. Notices 5. Alerts 6. Penalties and offenses 	200

<i>Workshop on the Prevention of Money Laundering in Vulnerable Activities</i>	At the conclusion of the video course study, the participant will: Emphasize the context in which the real estate business becomes vulnerable to money laundering operations, based on descriptions of professional experiences and regulatory activities that govern the mechanisms for action in the area. The participant will state the legal guidelines that regulate real estate activity, reviewing specific regulations to achieve uniform interpretation of the Federal Law for the Prevention and Identification of Transactions with Resources of Illicit Origin.	1. Actions for Preventing and Combating International Corruption and Money Laundering 2. Workshop on the Real Estate Sector 3. Handbook of Guidelines for Client and User Identification 4. Beneficiary Owner 5. Financial Action Task Force (FATF) 6. Cumulation Procedure in Vulnerable Activities. Communication Channels in the Prevention of Money Laundering and Vulnerable Activities.	200
--	---	---	-----

[36] According to the information provided to the Committee, the courses indicated in the table above were provided to SAT personnel, and their overall results as of March 31, 2021, by number of staff trained, are as follows:²⁹

No.	Code	Course	Certified
1	A0332	Annex 20 version 3.3 1.	1,306
2	A02154	E-billing.	21
3	A02967	Verification of the issue of online digital invoices for tax purposes	9
4	A00213	E-auditing (My Accounting, Legal Entities).	631
5	A01363	National Anticorruption System.	26,963
6	A03120	National Anticorruption System.	675
7	A03017	Tax Fraud.	465
8	A02833	Tax Fraud and Comparable Offenses.	51
9	A01895	Tax Offenses.	1,643
31,764			

[37] In light of the above, the Committee takes note of the information above and recognizes that the training courses offered represent important steps in advancing in the implementation of this measure of the recommendation. It observes, however, that the information provided by the country under review does not indicate the existence of permanent training programs designed “*designed specifically to alert officials to the methods used to disguise payments for corruption and to instruct them in ways of detecting such payments in the procedures related to favorable tax treatment,*” as set out in the measure. The Committee emphasizes the importance of making these programs permanent, since the methods used to disguise payments for corrupt purposes are constantly being reinvented and evolving.

[38] With this in mind, the Committee will reformulate this recommendation to underscore the importance of regularly offering these programs, within available resources, and designing them

²⁹ Information presented during the on-site visit, pg. 17. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

specifically for the tax authority staff who examine taxpayers' financial affairs, transactions, and records. A program of this nature should also cover the obligation of public officials involved in these activities to report any suspicion they have of potential acts of corruption and the consequences for failing to do so. The Committee therefore considers it important for the country under review give additional attention to the implementation of measure a) iv, which will be reformulated to clarify its scope and content. (See Recommendation 1.4.4. in Chapter II, Section 1.4 of this Report.)

Measure a) v. suggested by the Committee:

Continue to develop channels of communication permitting the prompt report of the anomalies detected or of any irregularity that could affect the decision to the authorities responsible for the procedures related to favorable tax treatment. (See section 1.2. of this Report).

[39] With respect the aforementioned measure, in its Response to the Questionnaire, the country under review did not present information or new developments.³⁰ However, during the on-site visit, the country under review presented information it considers related to implementation of measure a) v) of the foregoing recommendation. In this regard, the Committee notes the following as steps that lead it to conclude said measure has been satisfactorily considered:

[40] According to the information shared with the Committee during the on-site visit *“all SAT administrative units are required to report or notify the authorities of this type of irregularity, the General Administration for Legal Affairs being the appropriate channel for taxpayers, and the Internal Oversight Agency for public servants, pursuant to Art. 44, Sections III, IV, V, and X of the SAT’s Internal Regulations (RISAT).”*^{31 32}

[41] Likewise, Article 222 of the National Code of Criminal Procedure states that public servants who, in the course of their public responsibilities, have knowledge of acts that could constitute a crime, have the obligation to report it to the Federal Public Service, providing all the information they have and making it available to the individuals detained, if any.

[42] With regard to statistics related to the implementation of this measure, the country under review reported the following during the on-site visit:

“In 2020, the General Administration for Evaluation processed 2,583 reports, 1,943 of which were referred for review and investigation, representing a 4% increase over 2019. Furthermore, 263 complaints were lodged with the Internal Oversight Agency (OIC) against 654 public servants in the SAT and 49 with the Attorney General’s Office (FGR) against 90 public servants for alleged crimes, representing a 96% increase in the number of public servants reported in 2019. In addition, six matters were prosecuted by the FGR, and two judgments were issued against two public servants, one ending in a reparatory agreement and one in a guilty verdict. It should be pointed out that the activities coordinated by the different units of the SAT resulted in significant progress in combating corruption in the country’s customs offices, since of the public servants reported to the OIC and FGR, 75% and 53%, respectively, were employed by the Customs Administration. Furthermore, the SAT lodged

³⁰ Response of Mexico to the Questionnaire for the Sixth Round, pgs. 12 and 13.
<http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

³¹ See: <http://www.diputados.gob.mx/LeyesBiblio/regla/n154.doc>.

³² Information presented during the on-site visit, pg. 18. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

criminal complaints against 1,018 taxpayers, 514 of them natural persons and 504, legal entities. These complaints primarily involved false tax information, the falsification of documents, contraband, illegal receipts for tax purposes, and the abandonment of fiscal domiciles when audits began:
http://omawww.sat.gob.mx/gobmxtransparencia/Paginas/documentos/itg/ITG_2020_4T.pdf

[43] Consequently, the Committee considers the country under review to have satisfactorily implemented measure a) v) of this recommendation.

Measure b) suggested by the Committee:

Select and develop, through the tax authorities with jurisdiction in the matter, procedures and indicators, where applicable. and where they do not yet exist, to analyze the objective results obtained in this regard and to follow up on the recommendations made in this report in relation thereto.

[44] The country under review presented no information or new developments with respect to this measure. Thus, the Committee considers it necessary for the country under review to give additional attention to its implementation. (See Recommendation 1.4.5. in Chapter II, Section 1.4 of this Report.)

1.2. New Developments with respect to the provision of the Convention on Denial or Prevention of Favorable Tax Treatment for Expenditures made in Violation of the Anticorruption Laws.

1.2.1. New Developments with Respect to the Legal Framework.

a. Scope

[45] According to the Response to the Questionnaire, Mexico’s legal framework for the denial or prevention of favorable tax treatment for expenditures made in violation of anticorruption laws consists principally of the Political Constitution of the United Mexican States, the Federal Tax Code [CFF], the Annual Income Laws of the Federation, the Income Tax Law, the Value Added Tax Law, the Special Production and Services Law, the Foreign Trade Law, the Customs Law, the Tax Coordination Law, the Tax Administration Service Law, and different laws and regulations expressly indicating the objects, purpose, rate, and source of the levy of each of the established taxes.³³

[46] – Chapter II of the Income Tax Law³⁴ lists the authorized deductions for taxpayers (articles 25 et seq.). According to Article 27, the requirements that these deductions must meet include “*being supported by a receipt for tax purposes; electronic transfer of funds for payments in excess of \$2,000.00 from accounts opened in the taxpayer’s name at institutions that are part of the financial system and entities authorized to that effect by the Bank of Mexico; a nominative check from the taxpayer’s account, credit card, debit card, service card, or electronic wallets authorized by the Tax Administration Service.*”

³³ “Request for Missing or Relevant Information or Documents in the Response to the Questionnaire Adopted for the VI Round. México.” PowerPoint presentation. Juan Pedro Alcudia Vázquez. Provided during the on-site visit to Mexico of April 26-30, 2021. See: http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_anex37.pdf.

³⁴ See: http://www.diputados.gob.mx/LeyesBiblio/pdf/LISR_230421.pdf

[47] Article 69 b) of the Federal Tax Code lists the penalties imposed when the tax authority learns that a taxpayer has been issuing receipts for tax purposes without having the assets, staff, infrastructure, or material capacity, directly or indirectly, to provide the services or produce, market, or deliver the goods attested to in these receipts or that these taxpayers cannot be located, in which case the nonexistence of the transactions indicated in these receipts will be assumed; as well as other legal consequences based on the criminal administrative jurisdiction, admissibility requirements, statute of limitations, tax fraud, etc.

[48] – Article 222 of the National Code of Criminal Procedure³⁵ states that all persons are obligated to immediately report all the information they have to the Federal Prosecution Service, making it available to the accused if they have been detained *in flagrante*. Anyone with the legal duty to report that does not do so will be subject to the respective penalties.

[49] – Article 72 of the Federal Code states that, in the case of public officials and employees who, in the course of their duties, learn of acts or omissions that involve or may involve an infraction of the tax laws must communicate it to the competent tax authority to avoid incurring liability. As these are tax officials and employees, the communication referenced in the previous paragraph will be issued in the time and form established in the procedures to which their activities are subject.

[50] – To protect its legal interests (the tax and financial function), Mexico has defined the different conducts that affect it or contribute to eventual material harm to the public treasury (Art. 102 – 115 of the CFF), among them criminal acts, such as the trafficking and publication of receipts for nonexistent transactions, false or simulated legal acts (Art. 113 Bis), tax fraud (Arts. 108 and 109), and crimes against the veracity of accounting controls (Arts. 111 and 111 bis).³⁶

[51] – Chapter 27.3³⁷ of the trade agreement between Mexico, the United States, and Canada, which went into effect on November 30, 2018, states that: “*Each Party shall disallow the tax deductibility of bribes and, if appropriate, other expenses considered illegal by the Party incurred in furtherance of that conduct*”

[52] – The administrative system of the Mexican tax service also consists of the tax institutions and agencies that regulate and organize all fiscal activities of the Federal Government. Tax administration under the Secretariat of Finance and Public Credit (SHCP) is performed by the Tax Administration Service.

[53] -The SAT’s responsibilities include executing procedures designed to inhibit the dishonest practices employed by some taxpayers to evade their tax obligations. Worth noting, for example, is the addition of Art. 69-B to the Federal Tax Code³⁸, giving it new powers to investigate, neutralize, and punish schemes aimed at eroding the tax base through the use of receipts for tax purposes that support suspicious, irregular, and even nonexistent transactions.³⁹

³⁵ National Code of Criminal Procedure. Published in the Mexican Official Gazette, March 5, 2020, See:

http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_anex6.pdf

³⁶ Federal Tax Code. Last Reform. DOF 08-12-20. See: http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_anex5.pdf

³⁷ Chapter 27. Anticorruption. Section 27.3. See:

<https://www.gob.mx/cms/uploads/attachment/file/465809/27ESPAnticorrupcion.pdf>, consulted on May 17, 2021.

³⁸ Published in the Official Federal Gazette of December 9, 2013 and entered into force on January 1, 2014. See:

http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_anex5.pdf.

³⁹ “*Solicitud de Información y Documentos Faltantes o Relevantes en la Respuesta al Cuestionario adoptado para la VI Ronda de Análisis. México.*” On-site visit, PowerPoint Presentation by Juan Pedro Alcudia Vázquez. Presented in the framework of the onsite visit 26th to April 30th, 2021. See: http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_anex37.pdf

b. Observations

[54] The Committee wishes to acknowledge the new legal developments in the legal framework carried out by the country under review, that continue advancing in the creation of provisions regarding the denial or prevention of favorable tax treatment for expenditures made in violation of the anticorruption laws, as referred to in Article III (7) of the Convention.

[55] Having said that, it believes it useful to make a number of comments regarding the advisability of strengthening, developing, and/or adapting certain provisions regarding those new developments, notwithstanding the observations made by the Committee in Section 1.1 above in connection with the follow-up on implementation of the recommendations made to the country under review in the Report from the Third Round.

[56] The Committee takes note of the existence of provisions that indirectly prohibit tax deductions for expenditures made in violation of anticorruption laws. However, with the exception of the provision in the Mexico, United States, and Canada Trade Agreement, mentioned in the previous section, the Mexican legal system does not have a general regulation expressly prohibiting favorable tax treatment for expenditures made in violation of anticorruption laws. The Committee therefore considers the agreement an important precedent that can serve as the foundation for the adoption of a law or provision, such as the one mentioned in general.⁴⁰

[57] In this regard, the Committee will formulate three recommendations, one aimed at strengthening the existing norm by expressly establishing the aforementioned prohibition for any natural person or legal entity; the second at establishing the consequences in case of noncompliance by taxpayers; and a third for public servants who, having to apply the prohibition, do not. (See Recommendations 1.4.6., 1.4.7. and 1.4.8. in Chapter II, Section 1.2.1. b) of this Report.)

[58] Concerning the grounds for favorable tax treatment, the Committee observes that eligible tax deductions are spread out in the text of different types of regulations, which could make it hard for taxpayers who attempt to take advantage of them and the public servants who must determine their eligibility. The Committee acknowledges the SAT's work in the preparation of manuals and guides with different guidelines – for example, the one for natural persons found on its institutional website

⁴⁰ In relation to this issue, during the meeting of the review subgroup held on September 1, 2021, Mexico indicated that: *“Currently, Mexico expressly prohibits deduction of tax benefits in bribery cases through Regulatory Criterion 24-ISR-N, published in the Miscellaneous Fiscal Resolution, which directly provides that “outlays derived from providing, directly or via a third party, money, goods, or services to public servants, including foreigners or third parties, do not constitute authorized deductions for ISR purposes.”*

That provision is contained in the Miscellaneous Tax Resolution, a legal instrument that provides general rules, which is issued based on the provisions of Article 33, section I(g), of the Tax Code of the Federation in conjunction with Article 14, section III, of the Law of the Tax Administration Service.

It should also be noted that this criterion is issued in correlation with the provisions of Article 28, section III, of the Income Tax Law, which provides:

“Article 28. For the purposes of this Title, the following shall not be deductible:

(...)

III. Gifts, hospitality, and other expenses of a similar nature, with the exception of those that are directly related to the sale of products or the provision of services and that are offered to customers in general.”

Thus, under this criterion, taxpayers are disqualified from accruing tax benefits made in connection with gifts, hospitality, and other expenses of a similar nature, including those that are made in contravention of anticorruption laws.”

The country under review also provided the following links:

Miscellaneous Tax Resolution with its annexes: [https://www.sat.gob.mx/normatividad/58521/resolucion-miscelanea-fiscal-\(rmf\)-](https://www.sat.gob.mx/normatividad/58521/resolucion-miscelanea-fiscal-(rmf)-) and Federal Tax Code and Income Tax Law <https://www.sat.gob.mx/normatividad/27577/leyes-fiscales>.

under the heading “*know your personal deductions*”⁴¹. This document could serve as an example for the development of similar tools on other topics. In this regard, the Committee will formulate three recommendations to promote the adoption of similar instruments, their dissemination, and training for public servants charged with the application of these provisions. (See Recommendations 1.4.9., 1.4.10., and 1.4.11. in Chapter II, Section 1.4. of this Report.)

[59] The Committee likewise observes the lack of standards or regulations requiring that the competent authorities of third countries be informed of anomalies detected in relation to their taxpayers that could constitute a violation of the anticorruption laws or influence a decision on the granting favorable tax treatment in those countries. The Committee will formulate a recommendation in this regard. (See Recommendation 1.4.12. in Chapter II, Section 1.2.1. b) of this Report.)

1.2.2. New Developments with Respect to Technology.

a. Scope

[60] In the complement to its Response to the Questionnaire,⁴² the country under review presented new developments with respect to technology related to the denial or prevention of favorable tax treatment for expenditures made in violation of anticorruption laws. In the information provided, it reported the following:

“There is currently a legal tool for identifying some types of expenditures that taxpayers have used as tax deductions, consisting of the procedure regulated in Art. 69-B of the Federal Tax Code, whereby it is assumed that transactions supported by digital receipts for tax purposes issued by natural persons or legal entities that lack the assets, personnel, infrastructure, or material capacity, whether direct or indirect, to provide the services or products, market or deliver the goods that these receipts attest to, or for which the taxpayers cannot be located, do not exist.”

[61] The SAT has the *Mi Portal* [My Portal] platform where taxpayers can electronically access multiple services, make multiple requests, and prepare their annual tax return free of charge from their mobile phone, tablet, or computer via the Internet at sat.gob.mx.

[62] According to the information provided by the country under review “*in 2020, the Billing Verification Service was updated, allowing taxpayers to validate the record of their receipts, their status, and learn whether their supplier is published in the definitive list of Biller Companies of Simulated Operations (EFOS). ... this updated tool will enable taxpayers to determine whether to include an expenditure as deductible, or whether to provide explanations to the tax authority. The intent of these actions is to reduce tax evasion and tax avoidance*”⁴³.

[63] Another tool available to natural persons is the explanation of eligible personal deductions, which can be consulted at the following link: <https://www.sat.gob.mx/consulta/23972/conoce-las-deducciones-personales>.

⁴¹ See: <https://www.sat.gob.mx/consulta/23972/conoce-las-deducciones-personales>.

⁴² On-site visit to Mexico, from, pgs. 3 and 4. http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_resp_annex.pdf

⁴³ Complement to the Response of Mexico to the Questionnaire for the VI Ronda, pgs. 7 and 8. See: http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_resp_annex.pdf.

[64] With regard to operational functions, the SAT has gradually strengthened its tasks of auditing, collection, coercive collection, and prosecution of tax offenses through tools such as the updating of legal mechanisms for taxpayer oversight, among them, for example, electronic accounting and the digitalization of tax receipts; the automation of systems to collect and process information from taxpayers, third parties related to them, financial institutions, notaries and public securities brokers, suppliers, etc.; and the introduction of mechanisms for sharing banking and tax information with other national and foreign authorities.

b. Observations

[65] In light of the observations made in the foregoing section and notwithstanding that the Mexican authorities already have modern equipment and technology, the Committee considers that the country under review could consider benefiting from strengthening the platforms and the computer, technological, and communications equipment that the SAT requires for the due exercise of its responsibilities as a taxation oversight agency, promoting its sustainability and the continuous and proper operation of these systems, within available resources. The Committee will formulate a recommendation in this regard. (See Recommendation 1.4.13. in Chapter II, Section 1.4 of this Report.)

1.3. Results.

[66] In its Response to the Questionnaire, the country under review⁴⁴ presented no information on results. However, during the on-site visit, the SAT provided information as indicated in paragraph 67. In this regard, the Committee observes that the information provided does not make it possible to determine whether any of the criminal complaints lodged with the Federal Prosecution Service are related to the denial or prevention of favorable tax treatment for expenditures made in violation of anticorruption laws. Nor is it possible to discern how many of them are currently suspended; how many have prescribed; how many have been shelved; how many are being processed; and how many have been resolved, in order to identify challenges and, where necessary, recommend corrective measures.

[67] Given that it lacks additional information supplementing the above and processed in such a way as to permit a comprehensive evaluation of the results of applying the provisions and/or other measures relating to the denial of favorable tax treatment on account of payments made that contravene anticorruption laws, the Committee will make a recommendation. That recommendation will be geared to the country under review considering the compilation, every year, of detailed statistics on actions undertaken to prevent, investigate, and punish the aforementioned conduct, including such aspects as the number of verifications effected by the authorities responsible for processing applications for favorable tax treatment with a view to preventing such treatment being awarded for sums of money paid on account of acts of corruption; the number of criminal and/or administrative investigations for violating those provisions and/or other measures initiated or completed; and the number of sanctions imposed as a result thereof, with a view to identifying challenges and adopting corrective measures, where necessary. To this end, the country under review did provide the following during the on-site visit:

“Regarding the attention given to complaints from 2011 to April 2021: 4,351 case files were dealt with, of which 520 were resolved with sanctions imposing various punishments on 330 public servants and a total amount of \$1,189,911,224.25 pesos in economic sanctions. This showcases the work carried out administratively to punish acts of corruption

⁴⁴ Response of Mexico to the Questionnaire for the Sixth Round, pgs. 11 to 15. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

The SAT lodged criminal complaints against 1,018 taxpayers, 514 of them natural persons and 504, legal entities. The complaints primarily involved false tax information, falsification of documents, contraband, illegal receipts for tax purposes, and the abandonment of fiscal domiciles when audits began:
http://omawww.sat.gob.mx/gobmxtransparencia/Paginas/documentos/itg/ITG_2020_4T.pdf.”

[68] Given the foregoing, the Committee will formulate a recommendation. (See Recommendation 1.4.14. in Chapter II, Section 1.4 of this Report.)

1.4 Recommendations.

[69] In light of the observations formulated in Sections 1.1, 1.2. and 1.3 of Chapter II of this Report, the Committee suggests that the country under review consider adopting the recommendations it deems appropriate to make it easier for the competent authorities to detect sums paid for corruption in the event that they are being used as grounds for obtaining favorable tax treatment, bearing in mind the following:

- 1.4.1. Create and improve electronic services, platforms, and digital tools that facilitate the crosschecking of information to identify sums paid for corrupt purposes intended to be used to obtain favorable tax treatment. (See paragraphs 19-24 in Chapter II, Section 1.1 of this Report).
- 1.4.2. Develop and widely distribute, manuals, guidelines and directives on existing interinstitutional coordination mechanism to inform the respective authorities about the way to quickly and easily secure the collaboration they need from the Tax Administration Service on such aspects as certifying the authenticity of the documents submitted in accordance with the procedures related to favorable tax treatment, identifying the types of procedures and entities responsible for channeling and responding to these requests. (See paragraphs 25-31 in Chapter II, Section 1.1 of this Report).
- 1.4.3. Develop regular programs for training and information dissemination, within available resources, to guide and train the respective authorities in the interinstitutional coordination mechanisms referenced in the above recommendation. (See paragraphs 25-31 in Chapter II, Section 1.1 of this Report).
- 1.4.4. Promote regular training programs expressly targeting the staff in the tax authority who examine the financial affairs, transactions, and records of taxpayers, specifically designed to alert them to the methods used to disguise payments for corruption and to instruct them in ways of detecting such payments in the procedures related to favorable tax treatment. This program should also cover the obligation of these public servants to report any suspicion of potential acts of corruption that they identify, the proper channels for submitting these reports, and the consequences of neglecting this obligation. (See paragraphs 32-38 in Chapter II, Section 1.1 of this Report).
- 1.4.5. Select and develop, through the tax authorities with jurisdiction in the matter, procedures and indicators, where applicable. and where they do not yet exist, to analyze the objective results obtained in this regard and to follow up on the recommendations made in this report in relation thereto (See paragraph 44 in Chapter II, Section 1.1 of this Report).

- 1.4.6. Strengthen the existing measures by adopting a legal provision that expressly prohibits any natural person or legal entity from enjoying favorable tax treatment in violation of domestic anticorruption laws (See paragraphs 54-57 in Chapter II, Section 1.2.1 a) of this Report.)
- 1.4.7. Establish the appropriate penalties, if necessary, for taxpayers who ignore the legal provision that expressly prohibits any taxpayer, whether a natural person or legal entity, from enjoying favorable tax treatment in violation of domestic anticorruption laws, including administrative and criminal measures. (See paragraphs 54-57 in Chapter II, Section 1.2.1 b) of this Report.)
- 1.4.8. Establish the appropriate penalties, if necessary, for public servants who ignore the legal provision that expressly prohibits any taxpayer, whether a natural person or legal entity, from enjoying favorable tax treatment in violation of domestic anticorruption laws, including disciplinary and criminal measures. (See paragraphs 54-57 in Chapter II, Section 1.2.1 b) of this Report.)
- 1.4.9. Adopt and widely disseminate, in a user-friendly format, manuals, guidelines or directives, instructing taxpayers and Tax Administration authorities in how to review and verify requests for tax exemptions, including aspects such as eligibility criteria, the values allowed, the procedures that taxpayers should follow to obtain them, verification of the established requirements, verification of the veracity of the information, the origin of the expenditure or payment on which they are based, and the consequences for any person or business that includes expenditures in violation of anticorruption laws. (See paragraph 58 in Chapter II, Section 1.2.1 b) of this Report.)
- 1.4.10. Include the content of the aforementioned manuals, guidelines or directives in training, education, and updating programs for SAT staff responsible for processing applications for favorable tax treatment to instruct them in the proper application of these exemptions and tax benefits and the most common ways and methods of disguising expenditures for corrupt purposes. (See paragraph 58 in Chapter II, Section 1.2.1 b) of this Report.)
- 1.4.11. Develop indicators for analyzing and verifying the results of the education and training activities referenced in the preceding paragraph, keep them up-to-date, and disseminate them, including data such as the level and number of participants, the dates the activities are held, the names of participating staff and institutions, how often they are offered, and their content, and take the appropriate corrective action. (See paragraph 58 in Chapter II, Section 1.2.1 b) of this Report.)
- 1.4.12. Adopt the necessary measures requiring the administrative authorities responsible for processing requests for favorable tax treatment to report to the competent authorities of third countries any anomalies that could constitute a violation of anticorruption laws or a crime or could influence a decision regarding the granting of favorable tax treatment. (See paragraph 59 in Chapter II, Section 1.2.1 b) of this Report.)
- 1.4.13. Strengthen, within available resources, the computer, technological, and communications equipment that the SAT requires to properly exercise its responsibilities as the taxation oversight agency, ensuring their sustainability and proper operation. (See paragraph 65 in Chapter II, Section 1.2.2 b) of this Report.)

1.4.14. Compile detailed annual statistics on the SAT's activities to prevent, investigate, and punish conduct intended at obtaining favorable tax treatment for expenditures made in violation of anticorruption laws. That information may include such aspects as the number of verifications effected by the authorities responsible for processing said applications; the number of criminal and/or administrative investigations for violating those provisions and/or other measures initiated or completed; and the number of sanctions imposed as a result thereof, with a view to identifying challenges and adopting corrective measures, where necessary. (See paragraphs 66-68 in Chapter II, Section 1.3 of this Report.)

2. PREVENTION OF BRIBERY OF DOMESTIC AND FOREIGN GOVERNMENT OFFICIALS (ARTICLE III (10) OF THE CONVENTION).

2.1. Follow-Up to the Implementation of the formulated in the Third Round.

Recommendation 3.1:

Strengthen standards and measures on prevention of bribery of domestic and foreign government officials. To comply with this recommendation, Mexico could give consideration to the following measures:

Measure a):

Adopt, in accordance with its legal framework, through the means it deems appropriate, the relevant measures so that "professional secrecy" does not pose an obstacle for those professionals whose activities are regulated by the Code of Professional Ethics of the Mexican Institute of Public Accountants from reporting to the competent authorities, any acts of corruption they detect in their professional practice, or that could lead to possible criminal actions related to bribery.

[70] In its Response to the Questionnaire,⁴⁵ the country under review presented information that it considers related to the subject matter of the above measure, of which the Committee notes the following:

[71] -Provisions in the Federal Tax Code that "*establish specific procedures that public accountants must observe in regard to the tax decision that they might issue, that consider matters permitting regulation of the activities of such professionals, notwithstanding any penalties that the societies to which they belong and the codes of ethics governing them may impose, as well as the penalties for the infractions they commit.*"

[72] In this regard, the Committee observes that measure a) of this recommendation refers to public accountants whose activities are regulated in the College of Public Accounts' Code of Professional Ethics,⁴⁶ whose Section 140 states:

"The principle of confidentiality imposes the obligation on all Public Accountants to abstain from: a) Disclosing outside the firm or organization that employs them confidential information obtained as a result of professional and business relations without proper and

⁴⁵ Response of Mexico to the Questionnaire for the Sixth Round, pg. 21. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

⁴⁶ See: http://imcp.org.mx/wp-content/uploads/2015/12/Codigo_de_Etica_Profesional_10a_ed1.pdf

specific authorization, unless there is a legal or professional right or duty to disclose it and b) Using confidential information obtained as a result of professional or business relations for their own benefit or that of third parties.”

[73] Paragraph 140.7 of the Code states the circumstances in which Public Accountants could be required to disclose confidential information, which include: i) when that revelation is permitted by law and authorized by the client or entity they work for; ii) when required by law (for example: the preparation of documents or another type of evidence in the course of legal proceedings or the disclosure to public authorities of identified violations of the law); and iii) when there is a professional obligation or right to disclose, when not prohibited by law, in order to: a. conduct a quality review of an IMCP member agency or other professional agency; respond to a request from or investigation by an IMCP member agency or other professional agency; protect the professional interests of a Public Accountant subject to legal proceedings; or comply with professional standards and ethics requirements.

[74] Paragraph 140.8 of the aforementioned Code of Conduct indicates the following “*relevant factors to consider*” for determining the appropriateness of disclosing confidential information:

- a) Whether the interests of all parties, including those of third parties, could be affected and harmed if the client of the Public Accountant or the entity that employs him approves the disclosure of information;*
- b) Whether all the relevant information is known and substantiated to the degree that is feasible; when the situation involves unsupported facts, incomplete information, or unfounded conclusions, professional judgment shall be used to determine the type of disclosure that should be made, where appropriate;*
- c) The type of communication expected and to whom it is directed; and*
- d) Whether the parties to whom the communication is directed are the proper recipients.*

[75] The imposition of penalties is regulated by section 500 of the Code, which comments on and considers the seriousness of the violation committed, an evaluation of its seriousness based on the misconduct’s implications for the prestige and stability of the public accounting profession, and the liability to which the public accountant may be subject. Depending on the seriousness of the misconduct, the penalties include private reprimand, public reprimand, temporary suspension from his rights as a member, expulsion, referral to the competent authorities (section 500.3 of the Code of Ethics for Public Accountants).

[76] The Committee observes that paragraph 140 of the Code provides for an the exception to the principle of confidentiality when “there is a legal or professional right or duty” to disclose the information. Moreover, Article 222 of the National Code of Criminal Procedure provides that “*any person ascertaining the commission of an act that probably constitutes a crime is obliged to report it to the Federal Public Service and, in an emergency, to any police officer.*”

[77] In addition, the country under review notes that public accountants are considered public servants under Mexican law and are therefore subject to the *General Law on the Responsibilities of Public Servants*.⁴⁷ Accordingly, as indicated above, Articles 2, 4 and 7 of that law apply. In this regard, Article 7 provides:

⁴⁷See: http://www.diputados.gob.mx/LeyesBiblio/pdf/LGRA_200521.pdf .

Article 7. Public servants shall observe in the performance of their employment, position, or commission, the principles of discipline, legality, objectivity, professionalism, honesty, loyalty, impartiality, integrity, accountability, effectiveness, and efficiency that govern public service. For the effective enforcement of these principles, public servants shall observe the following guidelines:

I. Act in accordance with the laws, regulations, and other legal provisions applicable by their employment, position, or commission, for which reason they must be aware of and comply with the provisions governing the exercise of their functions, powers, and duties;

II. Conduct themselves with rectitude without using their employment, position, or commission to obtain or seek to obtain any benefit, profit, or advantage, either personally or in favor of third parties, nor seek or accept compensation, benefits, gifts, gifts, or presents from any person or organization;

III. Satisfy the higher interest of collective needs over particular or personal interests, or interests foreign to the general interest and wellbeing of the population;

IV. Treat all persons equally, thus not granting privileges or preferences to organizations or individuals, nor allowing undue influence, interests, or biases to affect their commitment to make decisions or exercise their functions objectively;

V. Act according to a culture of service geared to the achievement of results, seeking at all times a better performance of their functions in order to achieve institutional goals in accordance with their responsibilities;

VI. Manage public resources under their responsibility in accordance with the principles of austerity, efficiency, effectiveness, economy, transparency, and honesty, in order to meet the objectives for which they are intended;

VII. Promote, respect, protect, and guarantee the human rights enshrined in the Constitution;

VIII. Live up to the trust that society has placed in them, with an absolute vocation of service to society and preserving the higher interest of collective needs above particular or personal interests or interests foreign to the general interest;

IX. Avoid and report interests that might conflict with the responsible and objective performance of their powers and duties;

X. Refrain from associating with national or foreign investors, contractors, or businessmen to establish any type of private business that could affect the impartial and objective performance by reason of personal or family interests up to the fourth degree by blood or affinity;

XI. Legally divest themselves from assets and economic interests that could directly affect the exercise of their public service responsibilities and that could constitute a conflict of interest, in accordance with the provisions of this law, prior to assuming any employment, position or commission;

XII. Refrain from intervening in or promoting, by themselves or through intermediaries, the selection, appointment, or designation for public service of persons with whom they related by blood up to the fourth degree or by affinity up to the second degree; and

XIII. Refrain from making any private deal or promise that represents a commitment for the Mexican State.

The divestiture of assets and economic interests referred to in section XI of this article shall be proven by showing the relevant legal instruments, which must include a clause guaranteeing the validity of the divestiture during the time of holding office and for up to one year after having withdrawn from the employment, office, or commission.”

[78] Given the foregoing, the Committee considers the country under review to have satisfactorily implemented measure a) of this recommendation.

Measure b) i. suggested by the Committee:

Consider adopting the measures it deems appropriate to facilitate the detection, by the agencies or bodies charged with preventing and/or investigating noncompliance with measures intended to ensure the accuracy of accounting records, of amounts paid for corruption concealed in those records, such as the following:

i. Investigation tactics, such as follow-up on expenditures, crosschecking of information and accounts, and requests for information from financial entities in order to determine if such payments occurred.

[79] With respect the aforementioned measure, in its Response to the Questionnaire, the country under review did not present information or new developments.⁴⁸ However, during the on-site visit,⁴⁹ the country under review presented information it considers related to implementation of measure b) i) of the foregoing recommendation. In this regard, the Committee notes, as a step that contributes to progress in the implementation of said measure, the following:

[80] On January 1, 2014, the use of electronic receipts became compulsory for all taxpayers, regardless of the source of their income or type of activity. *“Mexico was one of the first countries in Latin America to adopt electronic receipts, whose importance lies in the validation of the information received through it, to improve monitoring and the generation of alerts and thereby strengthen the business continuity strategy and increase the value obtained from the information from its receipt to its availability, with a design geared to its use. The work, which begins with the validation of the data, permits the use of highly advanced tax control techniques such as the use of graphs to identify the highest taxpayers in a network, profile 29 different economic sectors, detect evasion communities, and predict future business relationships.”*⁵⁰

[81] The Committee considers Mexico’s use of electronic receipts as an instrument for monitoring and generating alerts an important step in the implementation of this measure. However, notwithstanding the recommendations that may be formulated from a comprehensive review of the provisions cited in the “new developments” section, the Committee considers it necessary for the country under review to continue give attention thereto, taking into account the different investigative tactics it includes into consideration. (See Recommendation 2.3.1. in Chapter II, Section 2.3 of this Report.)

Measure b) ii. suggested by the Committee:

Continue to develop strategies, which may include manuals, guidelines or directives for those control organs or entities, on how to review accounting records in order to detect sums paid for corruption.

⁴⁸ Response of Mexico to the Questionnaire for the Sixth Round, pgs. 16 to 19. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

⁴⁹ Information presented during the on-site visit, pgs. 28 and 29. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

⁵⁰ Information presented during the on-site visit, pg. 28. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

[82] With respect the aforementioned measure, in its Response to the Questionnaire, the country under review did not present information or new developments.⁵¹ However, during the on-site visit,⁵² the country under review presented information it considers related to implementation of measure b) ii) of the foregoing recommendation. In this regard, the Committee notes, as a step that contributes to progress in the implementation of said measure, the following:

[83] During the visit, the country under review submitted several manuals and guides used by administrative units of the Tax Administration Service to confirm or verify the veracity of the information submitted. As indicated, each administrative unit establishes the administrative provisions applicable to its activities, preparing operating instructions for the units under it. These are published on the SAT's internal website for the information of and consultation by authorized public servants. It also indicated that: *“the criteria, guidelines, manuals, and guides are confidential in nature...because their publication would pose a real risk, since their purpose is to indicate the strategies that must be followed in the audit process to verify proper and timely compliance with federal tax obligations.”*

[84] Despite the confidentiality protecting these documents, the Committee recognizes the efforts made by the country under review to offer general information about them, providing their front pages and contents. However, from the information to which this Committee has had access, it concludes that these instruments are designed to improve audit procedures and do not include *“manuals, guidelines or directives for those control organs or entities, on how to review accounting records in order to detect sums paid for corruption”* as set out in the measure.

[85] In this regard, the Committee believes that tax administrations play a critical role in fighting corruption. Tax examiners and auditors are very likely to detect indications of potential cases of corruption in accounting records. Generally, this should not create additional work for them, since these reviews are already part of their day-to-day activities to verify taxpayers' sources of income, profits, and non-deductible expenditures.

[86] In the course of their day-to-day activities, tax examiners and auditors are in a privileged position to identify indicators of potential acts of corruption. These professionals are highly trained experts qualified to examine the financial affairs, transactions, and records of all taxpayers, including natural persons and legal entities. Their comparative advantage represents a real opportunity to identify potential acts of bribery or corruption and plays an extremely important role in bringing their suspicions of potential cases of corruption to the attention of the competent authority or Federal Prosecution Service.

[87] The Committee observes that the OECD Working Group on bribery has produced manuals for tax examiners and auditors on the detection of bribery and other acts of corruption that could prove useful for the country under review in the implementation of this recommendation.⁵³

[88] In light of this, notwithstanding the recommendations that may be formulated from a comprehensive review of the provisions cited in the “new developments” section, the Committee

⁵¹ Response of Mexico to the Questionnaire for the Sixth Round, pgs. 12 and 13.
<http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

⁵² Information presented during the on-site visit, pgs. 28 and 29. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

⁵³ These documents include the Manual for the Detection of Bribery and Corruption for Tax Examiners and Auditors, translated by the Tax Administration Service (SAT) of the Secretariat of Finance and Public Credit (SHCP) of Mexico, which can be consulted at: <https://www.mpf.gob.ar/procelac-ap/files/2019/05/manual-deteccion-cohecho-inspectores-fiscales-audidores.pdf>.

considers it necessary for the country under review to continue give attention thereto. The recommendation will be reformulated to clarify its scope and emphasize the importance of providing training on these instruments to make tax examiners and auditors aware of their role in detecting potential acts of corruption; inform and update them about the most common ways of concealing these acts in accounting records; and make them aware of their duty to refer their suspicions of potential acts of corruption to the justice authorities or Federal Prosecution Service for their investigation and potential prosecution. (See Recommendations 2.3.2., 2.3.3., and 2.3.4. in Chapter II, Section 2.3. of this Report.)

Measure b) iii suggested by the Committee:

Computer programs that provide easy access to the necessary information to verify the veracity of accounting records and of the supporting documents on which they are based.

[89] With respect the aforementioned measure, in its Response to the Questionnaire, the country under review did not present information or new developments.⁵⁴ However, during the on-site visit,⁵⁵ the country under review presented information it considers related to implementation of measure b) iii) of the foregoing recommendation. In this regard, the Committee notes the following as steps that lead it to conclude said measure has been satisfactorily considered:

[90] The following are examples of software that, according to the information provided during the on-site visit, enable verification of the veracity of information in accounting records and the receipts on which they are based:

- Platform for inquiries about receipts for tax purposes (CFDI) provided by taxpayers: administrative units of the SAT can request access to the platform for inquiries about receipts for tax purposes provided by taxpayers.⁵⁶
- “*Receipts database*,” operated by the central administration for the management of services and procedures through electronic media (ACGSTME).
- “*Billing Verification Service*,” which enables taxpayers to validate records of their receipts, status, and know whether their supplier is published in the definitive list of Biller Companies of Simulated Operations (EFOS). Its recent update makes it easy for taxpayers to know whether they should include an expenditure as deductible, or whether they should provide explanations to the tax authority.
- SAT ID Platform and Tool, which enable taxpayers to generate or renew passwords from home, and natural persons to renew their e-signature (See: http://omawww.sat.gob.mx/gobmxtransparencia/Paginas/documentos/itg/ITG_2020_4T.pdf).

[91] With regard to the results obtained from the use of these tools, the country under review provided the following information:⁵⁷

⁵⁴ Response of Mexico to the Questionnaire for the Sixth Round, pgs. 16 to 19.

<http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

⁵⁵ Information presented during the on-site visit, pg. 30. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

⁵⁶ According to the information provided, this application is the responsibility of the SAT auditing area (AGAFF) and can be consulted at the following link: <https://cfdiau.sat.gob.mx/nidp/wsfed/ep?id=SATx509Emp&sid=0&option=credential&sid=0>. However, the Ministry was unable to access this link. Last consulted: June 25, 2021.

⁵⁷ Information presented during the on-site visit, pgs. 31 to 33. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

- The Tax Administration Service, through the General Administration for Legal Affairs, has issued the following reports to the Attorney General's Office, with the object of detecting conduct potentially involving a crime, based on the definitions of criminal conduct aimed at protecting tax accounting, found in Art. 111 of the Federal Tax Code:

ART. 111 C.F.F.	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	TOTAL
Section II. Recording accounting transactions in two or more different accounting systems.	0	0	1	0	0	2	0	1	1	6	1	0	1	13
Section III. Concealing, altering, or totally or partially destroying accounting systems and records	38	27	26	33	75	53	29	58	53	39	22	8	12	473
Section IV. Falsely calculating losses.	0	0	1	0	0	0	0	0	0	0	0	0		1
TOTAL														487

[92] The country under review also provided data on guilty verdicts related to the statement “*the criminal penalties imposed are the result of the reports filed by the General Administration for Legal Affairs, based on the criminal definitions found in Art. 111 of the Federal Tax Code.*”⁵⁸ However, it is unclear to the Committee that the 45 sentences imposed between 2008 and 2020 mentioned in the information provided are the result of the use of the platforms described.

[93] Bearing in mind the existence of the aforementioned databases, the Committee considers the country under review to have satisfactorily implemented measure b) iii of this recommendation. Since by nature, the recommendation requires continuity in its implementation, the Committee expects the country under review to report the action taken in the annual progress reports stipulated in Art. 32 of the Committee's Rules of Procedure.

Measure b) iv suggested by the Committee:

Institutional coordination mechanisms that enable those organs or entities to easily obtain the necessary collaboration from other institutions or authorities to verify the veracity of accounting records and of the supporting documents on which they are based or to establish their authenticity.

[94] With respect the aforementioned measure, in its Response to the Questionnaire, the country under review did not present information or new developments.⁵⁹ However, during the on-site visit, the country under review presented information it considers related to implementation of measure b) iv) of the foregoing recommendation. In this regard, the Committee notes the following as steps that lead it to conclude said measure has been satisfactorily considered:⁶⁰

[95] The SAT has signed a number of formal interinstitutional cooperation agreements, such as the *Agreement wherein the General Administration for Federal Tax Audits and the General Administration*

⁵⁸ Information presented during the on-site visit, pgs. 32 and 33. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

<http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>.

⁶⁰ Information presented during the on-site visit, pg. 33. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

*for Major Taxpayers establish Strategies for Coordinating the Exercise of Powers in Domestic Taxes, among other things.*⁶¹

[96] Since agreements such as the aforementioned are instruments that facilitate collaboration between the participating entities, establish mechanisms, and regulate spaces for general institutional collaboration that may well include collaboration “*to verify the veracity of accounting records and of the supporting documents on which they are based or to establish their authenticity,*” the Committee considers the country under review to have satisfactorily implemented measure b) iv of this recommendation. Since by nature, the recommendation requires continuity in its implementation, the Committee expects the country under review to report the action taken in the annual progress reports stipulated in Art. 32 of the Committee’s Rules of Procedure.

Measure b) v suggested by the Committee:

Training programs for the officials of these organs and entities, specifically designed to alert them to the methods used to disguise payments for corruption in those records and to instruct them on how to detect them.

[97] In its Response to the Questionnaire,⁶² the country under review presented information and new developments with respect to the above measure. In this regard, the Committee highlights the following as steps that contribute to progress in its implementation:

[98] – Course on the Institutional Integrity Policy: a total of 13,454 SAT employees took this course in the period January-September 2020.

[99] – Course on the National Anticorruption System, in which 299 employees had participated by the end of September 2020. This activity covered: i. the creation of the NAS and its regulatory framework; ii. the system’s objectives and governing principles; iii. the statute of limitations on administrative liability and penalties for administrative misconduct; iv. administrative and criminal liability; and v. integration, powers, and operations of local anticorruption systems.⁶³

[100] In this regard, the Committee believes it important for the country under review to consider giving additional attention to this measure, carefully observing the elements that comprise it, namely: i. that the targets of the training programs be “*employees of the agencies or bodies charged with preventing and/or investigating violations of the measures designed to guarantee the accuracy of accounting records*”; ii. that such programs be specifically “*designed to alert them to the methods used to disguise payments for corruption in those records and to instruct them on how to detect them*”; and iii. that their content includes the role they should play in conveying their suspicions about potential cases of corruption to the competent authority or Federal Prosecution Service. The Committee will reformulate the recommendation in this regard to clarify its scope and content (See Recommendation 2.3.5. in Chapter II, Section 2.3 of this Report.)

⁶¹ Information presented during the on-site visit, annex I. See:

http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_anex28.pdf

⁶² Response of Mexico to the Questionnaire for the Sixth Round, pg. 19.

http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_per_resp.pdf

⁶³ Response of Mexico to the Questionnaire for the Sixth Round, pg. 19.

http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_per_resp.pdf

Measure c) suggested by the Committee:

Continue to provide training to those persons responsible for accounting records and for verifying their accuracy, including awareness about the importance of abiding by the standards enacted to guarantee the truthfulness of those records and the consequences of violations.

[101] In its Response to the Questionnaire⁶⁴ and during the on-site visit,⁶⁵ the country under review provided information that it considers related to this measure. Among this information, the Committee highlights the following training activities: the course on the SAT's institutional policy, which covers the following topics: the SAT code of ethics and conduct, its human resource policies, institutional actions, the SAT ethics committee and committee for the prevention of conflicts of interest; and the course on the national anticorruption system, which covers the general context of the reforms to fight corruption, secondary laws, new aspects of the constitutional reform and the national anticorruption system.

[102] The Committee observes that despite the importance of the activities described by the country under review in relation to this measure, the information refers to actions and training courses intended to strengthen the commitment of the public servants working in the SAT to promote the integrity policy in that institution and the components of the National Anticorruption System. However, "*persons responsible for accounting records and for verifying their accuracy,*" who are those to whom this recommendation is directed, did not participate in them.

[103] In light of this, the Committee takes note of the need for Mexico to give additional attention to the implementation of measure c). (See Recommendation 2.3.6. in Chapter II, Section 2.3 of this Report.)

Measure d) suggested by the Committee:

Continue to organize awareness and integrity promotion campaigns targeting the private sector and consider adopting measures such as preparing manuals and guides to provide com launched the Business Integrity Register.

[104] In its Response to the Questionnaire⁶⁶, the country under review presented information and new developments with respect to the above measure. In this regard, the Committee notes the following as steps that lead it to conclude said measure has been satisfactorily considered:

[105] In August 2019, the Secretariat of Public Service launched the *Business Integrity Register*. This initiative seeks: i) "*to promote the adoption of international best business practices through the implementation of Codes of Conduct, Reporting Systems, Risk Management and Auditing Systems, evaluation of conflicts of interest, and anticorruption mechanisms, and to promote co-responsibility between the government and business sector;*"⁶⁷ and ii) to raise "*integrity and ethical standards in businesses, since it includes not only elements of regulatory compliance but human and labor rights,*

⁶⁴ Information presented during the on-site visit, pg. 34. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

⁶⁵ Information presented during the on-site visit, pg. 34. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

⁶⁶ Response of Mexico to the Questionnaire for the Sixth Round, pg. 21, <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

⁶⁷ Response of Mexico to the Questionnaire for the Sixth Round, pgs. 21 to 24, <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

*gender equality, inclusion, and non-discrimination, as well as the environment and sustainable development.”*⁶⁸

[106] The *Business Integrity Register* is under the Secretariat of Public Service’s Coordinating Office for Linkage with the Business Sector and is covered by Arts. 21, 22, and 25 of the General Law on Administrative Responsibilities⁶⁹ and the international commitments of the Government of Mexico in the fight against corruption.⁷⁰

[107] The *Business Integrity Register* promotes the adoption of integrity policies by businesses, is free, voluntary, and stratified according to the size of the business. Through this register, business can declare that they have an integrity policy consistent with Art. 25 of the General Law on Administrative Responsibilities and anticorruption mechanisms. In the event they do not have such a policy, the platform provides a series of instructions so that one can be implemented. Businesses also have an opportunity to share information about their social responsibility and environmental protection activities and gender equality policies. Once the authenticity of the information is validated, the business can be awarded the “*Business Integrity Label*.”

[108] This register went into effect in 2020. A preventive measure, it seeks to raise awareness in the private sector, providing SMEs with inputs and tools for the implementation, management, and promotion of practices that contribute to the fight against corruption and impunity.

[109] El *Business Integrity Register* has a digital platform where businesses can register. The platform provides access to services and materials, including guides and mentoring to facilitate registration and information gathering and has computer graphics and videos for the development of integrity policies. It also provides free training on business integrity.

[110] In an effort to increase the number of businesses in the Register, the country under review reports in its Response to the Questionnaire that “*as of October 2020, 3,986 webinars had been held with senior management and suppliers, more than 190 webinars and distance meetings with different chambers and associations of the information industry, and more than 20 webinars with domestic and international agencies.*”⁷¹

[111] While the register is open to all business, regardless of their size, the platform is designed especially for business that are or wish to become government suppliers.

[112] Furthermore, pursuant to Art. 25, Section IV of the General Law on Administrative Responsibilities, which calls for the implementation of adequate reporting systems, “*both within the organization and to the competent authorities, as well as disciplinary procedures and tangible consequences for those who violate internal rules or Mexican law.*” Listing in this Register is a requirement for eventually obtaining the *Business Integrity Label*. Reporting systems must meet

⁶⁸ Response of Mexico to the Questionnaire for the Sixth Round, pgs. 21 to 24, <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

⁶⁹ See: http://www.diputados.gob.mx/LeyesBiblio/pdf/LGRA_130420.pdf

⁷⁰ Inter-American Convention against Corruption, United Nations Convention against Corruption, the OECD Convention on Combating Bribery of Public Officials in International Business Transactions, the High-level Principles 2015 on Private Sector Transparency and Integrity, and the G20 Anticorruption Working Group (ACWG) Action Plan 2019-2021.

⁷¹ Response of Mexico to the Questionnaire for the Sixth Round, pg. 22. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

certain requirements for whistleblower protection, including the guarantee of anonymity, confidentiality, non-reprisal, etc.⁷²

[113] As the country under review mentions in its Response to the Questionnaire, “*the Business Integrity Register seeks to become a pioneering initiative that not only recognizes but rewards the adoption of best practices, transparency, and honesty in private enterprise.*”⁷³

[114] In light of this information, the Committee considers the country under review to have satisfactorily implemented measure d) of this recommendation. However, bearing in mind that by nature, the recommendation requires continuity in its implementation, the Committee expects the country under review to report on the action taken in the annual progress reports stipulated in Art. 32 of the Committee’s Rules of Procedure.

Measure e) suggested by the Committee:

Select and develop, through its organs and entities charged with preventing and/or investigating violations of the measures intended to ensure the accuracy of accounting records and with overseeing that commercial companies and other types of associations required to establish internal accounting controls do so in an appropriate fashion, procedures and indicators, where applicable. and where they do not yet exist, to analyze objective results obtained in this regard and to follow-up on the recommendations made in this report in relation thereto.

[115] In its Response to the Questionnaire,⁷⁴ the country under review presented information and new developments with respect to the above measure. In this regard, the Committee highlights the following as steps that contribute to progress in its implementation:

[116] -Provisions of the Tax Code governing the requirements, maintenance, and protection of accounting books, registers, and other records, the retention period, and electronic records requirements (Art. 30 A).

[117] As part of the results obtained by the SAT, the country under review describes the following:

“In 2020, the General Administration of Oversight processed 2,583 reports, 1,943 of which were referred for review and investigation, representing a 4% increase over 2019. In addition, 263 were lodged with the Internal Oversight Agency (OIC) complaints against 654 public servants in the SAT, and 49 with the Attorney General’s Office (FGR) against 90 public servants for alleged crimes, representing a 96% increase in the number of public servants reported in 2019. Furthermore, six matters were prosecuted by the FGR, and two judgments were issued against two public servants, one ending in a reparatory agreement and one in a guilty verdict. It should be pointed out that, the activities coordinated by the different units of the SAT resulted in significant progress in combating corruption in the country’s customs offices, since of the public servants reported to the OIC and FGR, 75% and 53%, respectively, were employed by the Customs Administration. Furthermore, the SAT lodged criminal

⁷² Response of Mexico to the Questionnaire for the Sixth Round, pg. 23. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

⁷³ Response of Mexico to the Questionnaire for the Sixth Round, pg. 24. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

⁷⁴ Response of Mexico to the Questionnaire for the Sixth Round, pg. 21. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

complaints against 1,018 taxpayers, 514 of them natural persons and 504, legal entities. These complaints primarily involved false tax information, the falsification of documents, contraband, illegal receipts for tax purposes, and the abandonment of fiscal domiciles when audits began:
http://omawww.sat.gob.mx/gobmxtransparencia/Paginas/documentos/itg/ITG_2020_4T.pdf⁷⁵

[118] In this regard, the Committee considers the aforementioned statistical data relevant a step in the implementation of the measures. However, from the information before it, the Committee is unable to determine whether the aforementioned reports and actions are directly related to the objective of measure e), which is: *“ensure the accuracy of accounting records and with overseeing that commercial companies and other types of associations required to establish internal accounting controls.”*

[119] The Committee also observes that the information provided by the country under review is limited to data for the year 2020⁷⁶ and does not include aspects such as the number of regular inspections or spot checks of the books of business and natural persons; the number of criminal and/or administrative investigations conducted for infractions of these regulations, and/or other measures initiated and concluded; and the number of penalties imposed as a result thereof, in order to identify challenges and, where necessary, recommend corrective measures.

[120] In its Response to the Questionnaire, the country under review also stated that *“it does not have the authority to develop indicators.”*⁷⁷

[121] With regard to the criteria used in the analysis and audit of accounting books and records, the country under review reported that *“while it is true that in the exercise of its verification responsibilities, the accounting records of taxpayers are verified, that verification is aimed at ensuring their consistency with tax regulations, not at detecting whether they are linked to acts of corruption.”*⁷⁸

[122] In light of this, the Committee takes note of Mexico’s need to give additional attention to the implementation of measure e) under review. Measure e) will be reformulated to clarify its scope, reflect the matters described in the preceding paragraphs, and include an additional recommendation aimed at expanding, if required by current regulations, the powers of *“its organs and entities charged with preventing and/or investigating violations of the measures intended to ensure the accuracy of accounting records and with overseeing that commercial companies and other types of associations required to establish internal accounting controls”* – to whom this recommendation is directed –to develop and apply indicators such as those cited in this measure. (See Recommendations 2.3.7. and 2.3.8. in Chapter II, Section 2.3 of this Report.)

⁷⁵ Complement to Mexico Response to the Questionnaire for the Sixth Round, pg. 41.

⁷⁶ Complement to Mexico Response to the Questionnaire for the Sixth Round, pg. 40.

⁷⁷ Response of Mexico to the Questionnaire for the Sixth Round, pg. 27. Response of Mexico to the Questionnaire for the Sixth Round, pg. 21. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

⁷⁸ Response of Mexico to the Questionnaire for the Sixth Round, pg. 27. Response of Mexico to the Questionnaire for the Sixth Round, pg. 21. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

2.2. New Developments with respect to the Provisions of the Convention on the Prevention of Bribery of Domestic and Foreign Government Officials (Article III (10) of the Convention).

2.2.1. Developments with Respect to the Legal Framework.

a. Scope.

[123] The country under review, in the “new developments” section of its Response to the Questionnaire,⁷⁹ did not include new developments related to the legal framework on preventing the bribery of domestic and foreign government officials. However, in section 2.1 thereof, dealing with follow-up on the recommendations formulated in the Third Round, and during the on-site visit,⁸⁰ it provided the following information:

[124] During the on-site visit, the country under review explained that the Law on the Office of the Attorney General of the Republic was approved April 20, 2021 and subsequently came into force May 21, 2021.⁸¹ Its debate in the legislature concluded on April 29, 2021, of which “*the Senate remitted the Bill to the Head of the Federal Executive Branch, who if he had no observations to make, would publish the Law, which would enter into force, as established in the Political Constitution of the United Mexican States (Art. 72, Sections A and E).*”⁸²

b. Observations

[125] Given that the draft Law on the Office of the Attorney General of the Republic, cited in the preceding section, was still pending approval, the Committee will not proceed to its review in keeping with its established practice.

2.2.2. New Developments with Respect to Technology.

[126] In its Response to the Questionnaire, the country under review presented no information on new developments with respect to technology.⁸³ However, during the on-site visit, it mentioned the programs and platforms described in measure b) iii of this Report. (See paragraphs 89 et seq. of this Report).

[127] Considering the importance of the work of the Secretariat of Public Service, as a Secretariat of the State of the Executive Branch, the Committee believes that Mexico could benefit from the continued maintenance or strengthening of the computer, technological, and communications

⁷⁹ Response of Mexico to the Questionnaire for the Sixth Round, pg. 27. Response of Mexico to the Questionnaire for the Sixth Round, pg. 21. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6f>

⁸⁰ On Site Visit to México from September 14-18, 2020. Presentation by the Ministry of Economics and Finance on the legal provisions in Peruvian law to guarantee that accounting books and records fully and accurately reflect the economic facts.

⁸¹ During the meeting of the review subgroup, Mexico reported that: “*The Law on the Office of the Attorney General of the Republic was published in the Official Gazette of the Federation on May 20, 2021 and can be found at: http://www.diputados.gob.mx/LevesBiblio/pdf/LFGR_200521.pdf That Law repealed the Organic Law of the Office of the Attorney General of the Republic, issued in 2018.*” The Law was passed on April 29, 2021, but did not come into force until May 20, 2021.

⁸² Information presented during the on-site visit. Annex 11. http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_anex50.pdf

⁸³ Response of Mexico to the Questionnaire for the Sixth Round, pg. 44. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

equipment it needs to properly do its work as an oversight body – in particular the equipment necessary for the proper operation of the Secretariat’s *Business Integrity Register*,⁸⁴ continuing with its task of ensuring the sustainability and proper operation of these systems, within available resources. The Committee will formulate a recommendation in this regard. (See Recommendation 2.3.9 in Chapter II, Section 2.3 of this Report.)

2.2.3. Results.

[128] In its Response to the Questionnaire, the country under review provided the following information, which it considers related to the results of implementing the norms and/or other measures to prevent or discourage the bribery of domestic and foreign government officials.

[129] *“Prior to the inauguration and administration of President López Obrador, there was no proposal specifically aimed at fighting corruption through the implementation of an Integrity Policy in the Business Sector; however, the launch of the Business Integrity Register in August 2019 has elicited a rather favorable response from businesses, resulting in the listing of more than 800 companies on the platform, as well as the participation of some 4,000 people in different meetings and webinars held to promote a culture of integrity and best practices in the business sector.”*⁸⁵

[130] Moreover, during the on-site visit, reference was made to the results described in the paragraphs corresponding to measures b) and e) of this Report (See paragraphs 78-99 and 114-121, respectively).

[131] Since the Committee does not have a great deal of information that would enable it to make a comprehensive review of the results in preventing the bribery of government officials, the Committee will make a recommendation to the country under review that it consider compiling and publishing, every year, detailed statistical information on the actions it undertakes to prevent, investigate, and punish noncompliance, such as the number of inspections, or periodic or sample reviews of companies’ accounts; the number of criminal and/or administrative investigations into breaches of the rules, and/or other measures initiated and completed; and the number of sanctions imposed as a result thereof, with a view to identifying challenges and adopting corrective measures, where necessary. (See Recommendation 2.3.10. in Chapter II, Section 2.3. of this Report.)

2.3. Recommendations.

[132] In light of the observations formulated in Sections 2.1 and 2.2 of Chapter II of this Report, the Committee suggests that the country under review consider the following recommendations:

- 2.3.1. Adopt the measures it deems appropriate to facilitate the detection, by the agencies or bodies charged with preventing and/or investigating noncompliance with measures intended to ensure the accuracy of accounting records, of amounts paid for corruption concealed in those records, such as investigation tactics, follow-up on expenditures, crosschecking of information and accounts, and requests for information from financial entities in order to determine if such payments occurred. (See paragraphs 79-81 in Chapter II, Section 2.2.1 of this Report.)
- 2.3.2. Develop strategies that include manuals, guidelines or directives for those control organs or entities, on how to review accounting records in order to detect sums paid for corruption. Such

⁸⁴ The Register in question is described in detail in Chapter IV of this Report.

⁸⁵ Response of Mexico to the Questionnaire for the Sixth Round, pg. 42. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

manuals, guidelines or directives should be geared at to raising awareness of their role in detecting potential acts of corruption; inform and update them about the most common ways of concealing these acts in accounting records; and make them aware of their duty to refer their suspicions of potential acts of corruption to the justice authorities or Federal Prosecution Service for their investigation and potential prosecution. (See paragraphs 82-88 in Chapter II, Section 2.2.1 of this Report.)

- 2.3.3. Provide training courses specifically designed to instruct tax examiners and auditors in the use of the manuals, guidelines or directives for those control organs or entities, on how to review accounting records in order to detect sums paid for corruption; and maintain indicators for analyzing and verifying the results of these activities, writhing available resources. (See paragraphs 82-88 in Chapter II, Section 2.1 of this Report.)
- 2.3.4. Prepare and publish, in a user-friendly and easily understandable format, detailed annual statistics on the activities of tax examiners and auditors to prevent, investigate, and punish acts of corruption that they detect in the course of their work, such as the number of inspections, or periodic or sample reviews of companies' accounts; the number of criminal and/or administrative investigations into breaches of the rules, and/or other measures initiated and completed; and the number of sanctions imposed as a result thereof, with a view to identifying challenges and adopting corrective measures, where necessary. (See paragraphs 82-88 in Chapter II, Section 2.2.1 of this Report.)
- 2.3.5. Promote, within available resources, periodic training programs specifically for employees of the agencies or bodies charged with preventing and/or investigating violations of the measures designed to guarantee the accuracy of accounting records, that are designed to alert them to the methods used to disguise payments for corruption in those records and to instruct them on how to detect them, and inform them of the most common indicators of potential acts of corruption and whose content includes the role that they should play in bringing their suspicions of potential cases of corruption to the attention of the competent authority or Federal Prosecution Service. (See paragraphs 97-100 in Chapter II, Section 2.2.1 of this Report.)
- 2.3.6. Provide training to those persons responsible for accounting records and for verifying their accuracy, including awareness about the importance of abiding by the standards enacted to guarantee the truthfulness of those records and the consequences of violations. (See paragraphs 101-103 in Chapter II, Section 2.2.1 of this Report.)
- 2.3.7. Prepare and publish through the organs and entities charged with preventing and/or investigating violations of the measures intended to ensure the accuracy of accounting records and with overseeing that commercial companies and other types of associations required to establish internal accounting controls, detailed annual statistics on the activities of these organs and entities, in a user-friendly and easily understandable format, such as the number of inspections, or periodic or sample reviews of companies' accounts; the number of criminal and/or administrative investigations into breaches of the rules, and/or other measures initiated and completed; and the number of sanctions imposed as a result thereof, with a view to identifying challenges and adopting corrective measures, where necessary. (See paragraphs 115-122 in Chapter II, Section 2.2.1 of this Report.)
- 2.3.8. Ensure that the organs and entities charged with preventing and/or investigating violations of the measures intended to ensure the accuracy of accounting records and with overseeing that

commercial companies and other types of associations required to establish internal accounting controls, have the authority to develop indicators in this area (See paragraphs 115-122 in Chapter II, Section 2.2.1. of this Report.)

- 2.3.9. Strengthen the information systems of the Secretariat of Public Service, in particular those necessary for its Business Integrity Register to function properly, ensuring its sustainability and proper operation and provide sufficient economic, human, and technical resources, within available resources. (See paragraphs 126 and 127 in Chapter II, Section 2.2.2 of this Report.)
- 2.3.10. Prepare and publish, in a user-friendly and easily understandable format, detailed annual statistics on the action taken to prevent, investigate, and punish noncompliance, such as the number of inspections, or periodic or sample reviews of companies' accounts; the number of criminal and/or administrative investigations into breaches of the rules, and/or other measures initiated and completed; and the number of sanctions imposed as a result thereof, with a view to identifying challenges and adopting corrective measures, where necessary. (See paragraphs 128-131 in Chapter II, Section 2.2.3. of this Report.)

3. TRANSNATIONAL BRIBERY (ARTICLE VIII OF THE CONVENTION).

3.1. Follow-up to the implementation of the recommendations formulated in the Third Round.

Recommendation suggested by the Committee:

Continue to pay attention to the detection and investigation of cases of transnational bribery, to work to strengthen the capacity of the agencies or bodies tasked with investigating and/or prosecuting the crime of transnational bribery, and to request and/or extend the assistance and cooperation provided in the Convention with respect thereto.

[133] In its Response to the Questionnaire, the country under review presented information and new developments with respect to the above measure. In this regard, the Committee highlights the following as steps that contribute to progress in its implementation:⁸⁶

[134] The Attorney General's Office (FGR) monitors conduct that can result in potential acts of transnational bribery through multiple means, for both investigations and case monitoring, among them risk matrixes, press releases, e-mails, and foreign press releases compiled by FGR Missions and diplomatic personnel of Mexico's Embassies, Consulates, Permanent Missions, and Offices.⁸⁷

[135] The Committee notes the importance of the reform of the organic structure of the current FGR in December 2018, with respect to the investigation and prosecution of federal crimes. This function was formerly exercised through the PGR, an entity that was part of and subordinate to the Federal Executive Branch. As of that month, the PGR became the FGR, an independent agency with legal status and its own budget, independent of the three branches of the Mexican State.⁸⁸

⁸⁶ Response of Mexico to the Questionnaire for the Sixth Round, pg. 28. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

⁸⁷ Response of Mexico to the Questionnaire for the Sixth Round, pg. 28 and 29. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

⁸⁸ Information giving during the on-site visit. Oral presentation by the Attorney General's Office (Fiscalía General de la República). April 29, 2021.

[136] Furthermore, the Response to the Questionnaire states that *“in all investigations opened for the likely prosecution of an act that the law considers the crime of bribery of foreign government officials (transnational bribery), requests have been made for international legal assistance, which (in the majority of cases) have been (fully or partially) honored.”*⁸⁹

[137] With regard to requests for international legal assistance, the FGR General Directorate for International Procedures is the entity responsible for addressing them. As the Response to the Questionnaire⁹⁰ notes, *“since 2015, the FGR has sent 29 (twenty-nine) (active) requests for international legal assistance involving the crime of transnational bribery to the authorities of different countries,⁹¹ 13 (thirteen) of which have been satisfactorily addressed by the requested authorities and 16 (sixteen) of which are pending a response.”*⁹²

[138] *“Furthermore, during that same period, Mexico has received 9 (nine) requests for legal assistance involving the crime of transnational bribery from the following countries: the United States of America, Guatemala, Spain, Italy, Germany, and Peru, 5 (five) of which have been satisfactorily addressed by the Mexican authorities and 4 (four) of which are pending resolution.”*⁹³

[139] As explained in the Response to the Questionnaire, *“the documentation and information obtained from the action requested by the investigative authority will serve as evidence for a criminal investigation or proceeding related to the criminal conduct in question.”*⁹⁴ It was also stated that: *“in the period covered by this Report, there is a record of 1 (one) (active) request from Mexico to the Government of Germany for international extradition involving the crime of transnational bribery, which is currently pending; however, during that same period, the Mexican Government did not receive any (passive) extradition requests involving transnational bribery.”*⁹⁵

[140] With regard to this recommendation, notwithstanding any observations on this matter that the Committee may have in the new developments section, the Committee takes note of the steps taken by the country under review in its implementation. Nonetheless, from the information reviewed by the Committee, especially on the results cited, the absence of convictions in cases of transnational bribery and of results in the recovery of assets diverted or the result of these potential illicit acts,⁹⁶ it cannot be determined whether, in practice, the reforms and initiatives promoted have actually contributed to strengthening *“the capacity of the agencies or bodies tasked with investigating and/or prosecuting the*

⁸⁹ Response of Mexico to the Questionnaire for the Sixth Round, pg. 28 and 29.

<http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

⁹⁰ Response of Mexico to the Questionnaire for the Sixth Round, pg. 29. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

⁹¹ The countries referred by Mexico are Germany, Argentina, Brazil, Canada, Chile, Colombia, Ecuador, Spain, United States, Guatemala, Honduras, US Virgin Islands, Liechtenstein, Monaco, Panama, Peru, Portugal, Dominican Republic, Switzerland, and Venezuela.

⁹² Response of Mexico to the Questionnaire for the Sixth Round, pg. 29. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

⁹³ Response of Mexico to the Questionnaire for the Sixth Round, pg. 29. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

⁹⁴ Response of Mexico to the Questionnaire for the Sixth Round, pg. 29. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

⁹⁵ Response of Mexico to the Questionnaire for the Sixth Round, pg. 29. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

⁹⁶ During the meeting with the review subgroup, Mexico indicated that the absence of convictions was due to the fact that the cases were not prosecuted because they were being carried out in the original jurisdiction.

crime of transnational bribery, and to request and/or extend the assistance and cooperation provided in the Convention with respect thereto,” as set out in the recommendation.

[141] Given the foregoing, the Committee considers it important for the country under review to continue giving attention to this recommendation, which will be reformulated to make it more specific and better guide the country under review in its implementation. To this end, it will refer to elements that contribute to institutional strengthening, as referenced in the recommendation, such as the need for continued human resources and the required trained technical staff, so that the two types of institutions, to which this recommendation is directed, are able to fully exercise their responsibilities. In this respect, they are the agencies or bodies charged with i) investigating and/or prosecuting the crime of transnational bribery and ii. requesting and/or providing the technical assistance and cooperation stipulated in the Convention in relation to the crime in question. In this regard, the Committee will formulate two recommendations addressing each of these aspects. (See Recommendations 3.3.1. and 3.3.2. in Chapter II, Section 3.3 of this Report.)

3.2. New Developments with respect to the Provision of the Convention on Transnational Bribery (Article VIII of the Convention).

3.2.1 Developments with Respect to the Legal Framework.

a. Scope

[142] Since the adoption of the Report of the Third Round by the Committee, there have been significant changes in the legal landscape of Mexico’s constitutional and criminal law that impact the criminalization and procedures related to transnational bribery, which are described below:

[143] - Art. 102 of the Political Constitution, which was amended in February 2014, provides for the creation of the *Special Prosecutor’s Office for Combating Corruption*, whose head is named by the Senate.⁹⁷

[144] – The Criminal Code of Procedure⁹⁸ was last reformed on February 19, 2021, and its main purpose was to transition from an inquisitorial system to an adversarial one, replacing a written documentary one for the logic and practice of oral proceedings, as the engine of the system.

[145] – Until December 2018, the investigation and prosecution of federal offenses was the purview of the Attorney General’s Office [then known as the *Procuraduría General de la República*], an entity that was part of and subordinate to the Federal Executive Branch. That month, the office became the *Fiscalía General* (still, the Attorney General’s Office), an independent entity with legal status with its own budget, independent of the three Branches of the Mexican State.

[146] – On December 14, 2018, The Organic Law of the Attorney General’s Office was published in the Daily Gazette,^{99,100} stating that the Office would be in charge of investigating, preventing, and prosecuting crimes related to acts of corruption, defined in Title Ten, Second Book of the Federal

⁹⁷ Constitution. See: http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_anex4.pdf

⁹⁸ See: http://www.diputados.gob.mx/LeyesBiblio/pdf/CNPP_190221.pdf.

⁹⁹ Organic Law of the Attorney General’s Office. See: http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_anex19.pdf

¹⁰⁰ The Organic Law of the Attorney General’s Office of the Republic, enacted in 2018, was repealed with the publication in the Official Gazette of the Federation on May 20, 2021 of the Law of the Office of the Attorney General of the Republic, which is available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/LFGR_200521.pdf.

Criminal Code, among them those included under Art. 222 bis on the bribery of foreign government officials.

[147] – The agreement of October 2018, whereby the Coordinating Committee of the National Anticorruption System approved dissemination of the *Protocol for the Prevention, Detection, Investigation, Prosecution, and Punishment of International Bribery in Any form*.¹⁰¹

[148] – On July 19, 2017, the *General Law on Administrative Responsibilities (LGRA)* went into effect, whose main objective is to distribute competences among government agencies in order to establish the administrative responsibilities of public servants, their obligations, the applicable penalties for acts or omissions for which they are liable and those corresponding to private citizens linked with serious administrative offenses, as well as the procedures for its application.¹⁰²

[149] – Article 25 of the *General Law on Administrative Responsibilities* provides for integrity policies overseen by the legal entities that will apply them in the event penalties are imposed; to this end, it establishes systems for reporting, both internally and to the appropriate authorities, as well as disciplinary procedures and tangible consequences for those who violate internal regulations or Mexican law.

[150] – In June 2016, the Criminal Code of Procedure was also amended, amending Chapter II on the procedure for legal entities, with Article 421 establishing that legal entities will be held criminally liable for crimes committed in their name, on their behalf, to their benefit, or through means that they provide, when a determination has been made that there was, moreover, a failure to exercise due oversight of their organization – the latter regardless of the criminal liability that their de facto or de jure representatives may incur.

[151] – Article 11 of the Criminal Code stipulates the possibility of indicting legal entities involved in the commission of international bribery and other crimes.¹⁰³

[152] – Article 222 bis of the Federal Criminal Code, which defines transnational bribery, was amended in December 2015¹⁰⁴ and states that “*the penalties stipulated in the preceding article shall be imposed on persons who, for the purpose of obtaining or retaining undue advantages for themselves or others in the course of international business transactions, offer, promise, or give, themselves or through a third party, money or any other gift, whether goods or services I. to a foreign government official ...*”¹⁰⁵

¹⁰¹ See: https://www.dof.gob.mx/nota_detalle.php?codigo=5541690&fecha=22/10/2018.

¹⁰² General Law on Administrative Responsibilities (LGRA) last reform published DOF 13-04-2020, http://www.diputados.gob.mx/LeyesBiblio/pdf/LGRA_130420.pdf

¹⁰³ Article 11 bis Federal Criminal Code. See: http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_anex7.pdf

¹⁰⁴ See: http://www.diputados.gob.mx/sedia/biblio/prog_leg/228_DOF_12mar15.pdf

¹⁰⁵ Article 222 bis: *The penalties provided for in the preceding article shall be imposed on persons who, for the purpose of obtaining or retaining undue advantages for themselves or others in the course of international business transactions, offer, promise, or give, themselves or through a third party, money, or any other gift, whether goods or services I. To a foreign government official or abstain from advancing or resolving matters related to the functions inherent to their employment, post, or commission.*

II. To a foreign government official, for his benefit or that of a third party, for that government official to advance or resolve any matter outside the sphere of the responsibilities inherent to his employment, post, or commission; or

III. To any person to approach a foreign government official and request or propose that he advance or resolve any matter related to the responsibilities inherent to his employment, post, or commission.

For the purposes of this article, “foreign government official” is understood as anyone who holds employment, a post, or a commission in the legislative, executive, or judicial branch of a foreign State, whether appointed or elected; any person performing a function for an authority, agency, or public enterprise or enterprise with state participation of a foreign country; and any employee or agent of a public international organization. When one of the offenses included in this article is

[153] – On February 10, 2014, the constitutional reform creating the *Special Prosecutor’s Office for Combating Corruption* (FECC) was published in the Official Federal Gazette. According to the Response to the Questionnaire, “on March 1, 2019, with the publication of Agreement A/003/2019 of the Attorney General’s Office in the Official Federal Gazette, establishing the FECC, this agency was formally constituted. It commenced operations on March 11, at the conclusion of the period for the Senate to issue objections, if any, to the appointment of the head of the FECC. The creation and launch of FECC operations spurred compliance with the recommendation, since with it, the Attorney General’s Office has a unit specializing in the criminal investigation and prosecution of crimes of corruption, among them transnational bribery.”¹⁰⁶

[154] – Also published in the Official Federal Gazette, on January 19, 2020, was the agreement creating the *Protocol for the Protection of Whistleblowers*,¹⁰⁷ which promoted five lines of action to fight corruption: “civic engagement in fighting corruption and impunity; the democratization of information technologies; the protection of whistleblowers; relaunch of the professional service career; and Republican austerity, audits, and evaluation of public administration.”¹⁰⁸

[155] – On May 27, 2015, the reform was published in the Political Constitution, creating the National Anticorruption System,¹⁰⁹ and subsequently, on July 18, 2016, the General Law on the National Anticorruption System (LGSNA) was published in the Official Gazette of the Federation. It provides for the establishment of a Coordinating Committee comprised of: I. One representative of the Citizen Participation Committee, II. The Head of the Higher Audit Office (*Auditoría Superior*) of the Federation, III. The Head of the Public Prosecutor’s Office specializing in Fighting Corruption, IV. The Head of the Civil Service Secretariat, V. One representative of the Federal Judicial Council, VI. The President of the National Institute of Transparency, Access to Information, and Protection of Personal Data, and VII. The Head of the Administrative Justice Tribunal. As established in the LGSNA, at a regular session held on January 29, 2020, the Coordinating Committee of the National Anticorruption System adopted the National Anticorruption Policy to be implemented by all branches of government at every level. Work is currently under way on developing an Implementation, Monitoring, and Evaluation Program.¹¹⁰

[156] – On August 30, 2013 the *Program for a Close and Modern Government 2013-2018 (PGCM)* was published, instrumenting the crosscutting strategy for a close and modern government established in the National Development Plan 2013-2018. This program instituted the Strategy to Promote a Culture of Legality that would increase Mexicans’ trust in government and prevent corruption.¹¹¹

[157] – On December 11, 2008, the *National Accountability, Transparency, and Anticorruption Program 2008-2012 (PNRCTCC)* was published in the Official Federal Gazette, using Vision Mexico 2030 and the National Development Plan 2007-2012 as its point of departure. “A variety of activities

committed in the scenarios referenced in Art. 11 of this Code, the judge shall impose a sentence on the legal entity of up to one thousand days’ fine and can decree its suspension or dissolution, taking into consideration the administrative body’s degree of knowledge about bribery in international transactions and the harm caused or benefit obtained by the legal entity.

¹⁰⁶ Response of Mexico to the Questionnaire for the Sixth Round, pg. 30. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>.

¹⁰⁷ See: https://dof.gob.mx/nota_detalle.php?codigo=5603032&fecha=19/10/2020

¹⁰⁸ Consideration. Protocol for the Protection of Whistleblowers.

¹⁰⁹ Constitutional reform creating the National Anticorruption System. See: http://dof.gob.mx/nota_detalle.php?codigo=5394003&fecha=27/05/2015.

¹¹⁰ See: <http://www.dof.gob.mx/2020/SESNA/PNA.pdf>.

¹¹¹ Response of Mexico to the Questionnaire for the Sixth Round, pg. 37. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>.

were implemented under the Program, among them trainings, forums, and seminars to promote a culture of integrity, devotion to legality, and rejection of corruption in the private sector.”¹¹²

b. Observations

[158] The Committee recognizes that the new legal developments in this area in Mexico are positive steps to strengthen penalties for transnational bribery, pursuant to Art. VIII of the Convention. Nevertheless, the Committee deems it appropriate to make the following observations:

[159] According to the Response to the Questionnaire, the 2020 health emergency led to the postponement of an open exam for the assignment of agents from the Federal Prosecution Service to the *Special Prosecutor’s Office for Combating Corruption*.¹¹³ Aware of the importance of that institution in guaranteeing the effectiveness of actions to punish and eradicate acts of corruption, the Committee will formulate a recommendation for the country under review to consider, insofar as the current health crisis permits, to fill these vacancies.¹¹⁴ The Committee will formulate a recommendation in this regard. (See Recommendation 3.3.3 in Chapter II, Section 3.3 of this Report.)

[160] Furthermore, given the critical role of prosecutors in fighting corruption, the Committee considers it important for the country under review to include these officials in systematic and continuous training programs. (See Recommendation 3.3.4. in Chapter II, Section 3.3 of this Report.)

[161] The Committee observes that there is a *Protocol for the Prevention, Detection, Investigation, Prosecution, and Punishment of International Bribery in Any form*, as well as an agreement in October 2018 where under the National Anticorruption System Coordinating Committee approved its dissemination.¹¹⁵

[162] According to paragraph 2 of that instrument: “*To pursue the object of the Protocol, the authorities involved in the prevention, detection, investigation, and punishment of Bribery of Foreign and Domestic Government Officials shall sign coordination agreements with the object of establishing mechanisms for cooperation and information exchange, as well as the design of training programs in this area, informing the National Anticorruption System Coordinating Committee of the action taken in this regard.*”¹¹⁶

[163] Paragraph 5 of the preambulatory section of the Protocol in question focuses on the recommendations issued by the OECD Working Group on Bribery in International Business in its reports from the evaluation of the *OECD Convention on Combating Bribery of Foreign Public Officials*

¹¹²Response of Mexico to the Questionnaire for the Sixth Round, pg. 37. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹¹³ Response of Mexico to the Questionnaire for the Sixth Round, pg. 33. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹¹⁴ In this respect, during the meeting of the subgroup, Mexico noted the following: “*Although the admission exam has not been conducted, the number of staff member of the Public Prosecutors’ Office forming part of the Special Prosecutor’s Office for Combating Corruption (FEMCC) has continued to grow. This information can be consulted in the two reports presented to the Senate of the Republic:*

2020: https://infosen.senado.gob.mx/sgsp/gaceta/64/2/2020-03-12-1/assets/documentos/Oficio_FECC.pdf.

2021: https://infosen.senado.gob.mx/sgsp/gaceta/64/3/2021-03-11-1/assets/documentos/INFORME_FISCALIA.pdf

This exam remains subject to parameters to be set by the FGR for the competitive entry of public servants to the ministerial career service for the institution as a whole.”

¹¹⁵ See: https://www.dof.gob.mx/nota_detalle.php?codigo=5541690&fecha=22/10/2018.

¹¹⁶ See: https://www.dof.gob.mx/nota_detalle.php?codigo=5541690&fecha=22/10/2018.

in International Business Transactions, to improve coordination among the agencies charged with investigating International Bribery cases.

[164] In light of the above, the Committee believes that the country under review could benefit from greater promotion of an instrument of this nature and scope. In this regard, the Committee will formulate a recommendation designed to strengthen its necessary dissemination among the authorities involved in the prevention, detection, investigation, prosecution, and punishment of bribery of foreign and domestic government officials, as well as the design and execution of training programs in this area. The Committee will formulate a recommendation in this regard. (See Recommendation 3.3.5. in Chapter II, Section 3.3 of this Report.)

[165] Furthermore, the information provided by *Transparencia Mexicana* in its Response to the Questionnaire in this regard indicates that “*there is no public evidence of its dissemination or implementation during the administration that began in December 2018.*”¹¹⁷

3.2.2 New Developments with Respect to Technology.

[166] In its Response to the Questionnaire,¹¹⁸ the country under review included no new developments with respect to technological advances in this area. However, it provided the following information during the on-site visit:¹¹⁹

[167] The *Citizens’ Anticorruption Platform for Domestic and Foreign Whistleblowers*¹²⁰ is administered by the Secretariat of Public Service, as provided for in the National Program to Fight Corruption and Impunity and Improve Public Administration 2019-2024, which “*establishes as a priority the promotion and operation of a System of Domestic and Foreign Whistleblowers to Fight Corruption, where serious acts of corruption can be reported. The System provides for the receipt of alerts about bribery, graft, and the diversion of public resources, guaranteeing the confidentiality of the information provided, disclosure for its monitoring, and measures for protection from potential reprisals.*”¹²¹

[168] The Committee acknowledges the potential for this type of tool in fighting corruption, monitoring the conduct of federal government officials, and punishing transnational bribery.

[169] Since the aforementioned platform is a mechanism for citizen participation to alert the authorities to serious acts of corruption, and at the same time guarantees confidentiality in communications, the Committee considers it necessary for the country under review to continue upgrading and strengthening the computer equipment and staff required for its operation. The Committee will formulate a recommendation in this regard (See Recommendation 3.3.6. in Chapter II, Section 3.3 of this Report).

[170] Taking into account the specific nature of the work and competences of the *Special Prosecutor’s Office for Combating Corruption*, the Committee believes that, if appropriate, the *Special Prosecutor’s Office* could benefit from the positive experience of the SFP’s *Citizens’ Anticorruption Platform for*

¹¹⁷ Mexican Transparency Response to the Questionnaire pg. 1. See:

http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_resp_transparenciamx.pdf

¹¹⁸ Response to the Questionnaire, pg. 44. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹¹⁹ On-site visit to México of September 14-18, 2020. Presentation by the Ministry of Economics and Finance on the legal provisions in Mexican law aimed at guaranteeing that accounting books and records fully and accurately reflect the economic facts.

¹²⁰ See: <https://alertadores.funcionpublica.gob.mx/>.

¹²¹ Consideration. Protocol for the Protection of Whistleblowers.

Domestic and Foreign Whistleblowers.¹²² The Committee will formulate a recommendation in this regard. (See Recommendation 3.3.7. in Chapter II, Section 3.3 of this Report).

[171] The Committee also believes that the country under review could benefit from the continued regular compilation of statistical data from the *Citizens' Anticorruption Platform for Domestic and Foreign Whistleblowers*. This will make it possible to know how frequently this platform is used, the number of reports filed with it, how many of them are investigated, how many have led to the opening of administrative or judicial cases, and how many have concluded with a sentence – guilty or not guilty – in order to identify challenges and, where necessary, recommend corrective measures. The Committee will formulate a recommendation in this regard. (See Recommendation 3.3.8. in Chapter II, Section 3.3 of this Report.)

[172] In addition, in order to help to increase public confidence in these tools, the Committee considers it useful for the country under review to widely and regularly disseminate the data referenced in the preceding paragraph.

[173] The Committee also considers it important for the country under review to increase, within available resources, the budget necessary to provide the Secretariat of Public Service with the personnel and computer, technological, and communications equipment they require for the maintenance of the *Citizens' Anticorruption Platform for Domestic and Foreign Whistleblowers*, and so that, if applicable, the *Special Prosecutor's Office for Combating Corruption* can take advantage of that experience. The Committee will formulate a recommendation in this regard (See Recommendation 3.3.9. in Chapter II, Section 3.3 of this Report.)

3.2.3 Results.

[174] In its Response to the Questionnaire¹²³ and during the on-site visit, the country under review presented information regarding the results obtained from implementation of the norms governing the bribery of foreign government officials, as set out below:

[175] From 2015 to 2020, the Attorney General's Office [*Procuraduría General de la República*, now *Fiscalía General de la República*] opened four investigations into possible bribery of foreign government officials (transnational bribery). According to the country under review: "*Relevant and useful evidence was obtained through the institutional proceedings to demonstrate the existence or nonexistence of the crime and the liability of the person or entity that committed it or participated in its commission. It therefore reports that none of the aforementioned investigations resulted in the opening of a judicial proceeding.*"¹²⁴

[176] In this regard, the information provided during the on-site visit indicated that "*the four investigations were launched on the basis of press reports on acts of corruption in Cuba, Spain, and Guatemala that probably involved Mexican citizens – investigations that had even already resulted in*

¹²² As indicated by the country under review during the meeting of the working subgroup, the Special Prosecutor's Office for Combating Corruption has an anonymous complaint mechanism. Accordingly, it is possible to file complaints anonymously with the Attorney General's Office by telephone or email. The pertinent information may be found at: <https://www.gob.mx/fgr/acciones-yprogramas/denuncias-fgr>.

¹²³ Response of Mexico to the Questionnaire for the Sixth Round, pg. 44. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>.

¹²⁴ Response of Mexico to the Questionnaire for the Sixth Round, pg. 44. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

a trial”¹²⁵ According to the information provided by the country under review, none of these investigations has resulted in a trial and only one has concluded, due to the decision not to criminally prosecute.¹²⁶

[177] In this regard, the country under review stated that: “*as it can be seen, up to now, none of the investigations has resulted in a trial, even though different investigatory action was taken from the start that would confirm the jurisdiction of the Mexican State to judge this conduct, as well as the existence of the acts and the probability that the accused committed them or participated in their commission; it must be considered, moreover, that even when Cuba, Spain, and Guatemala investigate and/or prosecute these acts, their legal definition of bribery of foreign government officials varies, even though they define domestic bribery, unlawful association, money laundering, or illegal electoral financing, thus exercising their sovereign authority.*”¹²⁷

[178] The Committee believes that Mexico could benefit from identifying, through the competent agencies, the reasons why neither citizens nor the government authorities charged with the prevention, investigation, and punishment of this offense, either through administrative or criminal channels, are not detecting and reporting this conduct more frequently, in order to take the appropriate corrective action, if necessary. It would also be beneficial for this effort to be accompanied by increased human and financial resources for proper implementation of the corrective action that it identifies and takes. The Committee will formulate two recommendations in this regard. (See Recommendations 3.3.10. and 3.3.11. in Chapter II, Section 3.3 of this Report.)

[179] The Committee, moreover, believes that the country under review could benefit from the launch of public awareness measures targeting public officials and the general public on the importance of reporting acts of corruption, especially those related to the bribery of domestic and foreign government officials. In addition to other topics, these measures could include information and access to the means and platforms for filing reports, granting the protection provided under current law to people who in good faith provide a report, further enabling them to do so anonymously and through the portals created for this purpose. The Committee will formulate two recommendations in this regard. (See Recommendations 3.3.12. and 3.3.13. in Chapter II, Section 3.3 of this Report.)

[180] Concerning government officials, the Committee believes that the country under review could benefit from intensifying training programs for those with responsibilities in the prevention, investigation, and punishment of bribery of domestic or foreign government officials, to enable them to properly carry out their duties, including in these programs topics such as investigative techniques applicable to the identification of domestic and transnational bribery and the use of tools and techniques for conducting complex financial investigations. The Committee will formulate a recommendation in this regard. (See Recommendation 3.3.14. in Chapter II, Section 3.3 of this Report.)

[181] In addition, in its Response to the Questionnaire, the country under review stated that the four inquiries conducted by the FGR “*were opened on the basis of press reports and a notitia criminis on the existence of diverse investigations or even criminal trials abroad.*”¹²⁸ In this regard, considering

¹²⁵ Information presented during the on-site visit, pg. 52. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹²⁶ Response of Mexico to the Questionnaire for the Sixth Round, pg. 55.
http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_per_resp.pdf

¹²⁷ Information presented during the on-site visit, pg. 52. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹²⁸ Information presented during the on-site visit, pg. 52. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

the positive experience that Mexico has already had with the use of the *notitia criminis* as a tool for reporting and investigation, the Committee believes that the country under review could benefit from greater involvement and assistance from Mexico's embassies abroad, government agencies charged with export and import promotion, and private exporters and importers in detecting transnational bribery. In this regard, the Committee will formulate a recommendation that the country under review promote programs and public awareness campaigns to encourage such engagement. (See Recommendation 3.3.15. in Chapter II, Section 3.3 of this Report.)

[182] With regard to requests or requirements for legal assistance and cooperation, the country under review indicated in its Response to the Questionnaire that from 2015 to the present:

“Mexico received 9 (nine) requests to the following countries for legal assistance related to the crime of transnational bribery: the United States of America, Guatemala, Spain, Italy, Germany, and Peru. Of these, 5 (five) were satisfactorily addressed by the Mexican authorities and 4 (four) are pending a response.

... there is a record of 1 (one) (active) request from the Government of Germany for international extradition from Mexico related to the crime of transnational bribery, for which action is currently proceeding; however, during that same period, the Mexican government received no (passive) requests for extradition involving transnational bribery.

... the FGR sent 29 (twenty-nine) (active) requests to for international legal assistance related to the crime of transnational bribery to the authorities of different countries,¹²⁹ 13 (thirteen) of which were satisfactorily addressed by the requested authorities and 16 (sixteen) of which are pending a response”¹³⁰

[183] The Committee believes that the country under review could benefit from the continued strengthening of the detailed annual statistics on the number of reciprocal assistance requests to other States Parties for the investigation and prosecution of transnational bribery; how many of them were granted and how many denied; and the number of requests sent to it for that same purpose by other States Parties and how many were granted and how many denied — and additionally including, if relevant, other data of interest — in order to identify challenges and, where necessary, recommend corrective measures. (See Recommendation 3.3.16. in Chapter II, Section 3.3. of this Report.)

3.3. Recommendations.

[184] In light of the observations formulated in Sections 3.1 and 3.2 of Chapter II of this Report, the Committee suggests that the country under review consider the following recommendations:

- 3.3.1. Adopt the pertinent measures to strengthen the agencies or bodies tasked with investigating and/or prosecuting the crime of transnational bribery, as well as requesting and/or extending the assistance and cooperation provided in the Convention, with human resources and with trained technical staff, so that they can continue properly carry out their duties. (See paragraphs 133-141 in Chapter II, Section 3.1. of this Report.)

¹²⁹Mexico sent requests to the following countries: Germany, Argentina, Brazil, Canada, Chile, Colombia, the Dominican Republic, Ecuador, Guatemala, Honduras, Liechtenstein, Monaco, Panama, Peru, Portugal, Spain, Switzerland, the United States of America, Venezuela, and the Virgin Islands.

¹³⁰ Response of Mexico to the Questionnaire for the Sixth Round, pg. 29. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

- 3.3.2. Strengthen the design and implementation of the systematic ongoing training programs for staff of the agencies or bodies tasked with investigating and/or prosecuting the crime of transnational bribery, as well as requesting and/or extending the assistance and cooperation provided in the Convention, so that they can properly carry out their duties. (See paragraphs 133-141 in Chapter II, Section 3.1. of this Report.)
- 3.3.3. Fill the vacancies for agents from the Federal Prosecution Service for the *Special Prosecutor's Office for Combating Corruption* and hold the pending entrance exams as soon as the current health crisis permits. (See paragraphs 158-159 in Chapter II, Section 3.2.1. of this Report.)
- 3.3.4. Include the staff from the *Special Prosecutor's Office for Combating Corruption* in the systematic ongoing training programs offered, especially those offered in recommendation 3.3.2. (See paragraph 160 in Chapter II, Section 3.2.1. of this Report.)
- 3.3.5. Strengthen the dissemination of the *Protocol for the Prevention, Detection, Prosecution, and Punishment of International Bribery in Any Form*, especially with regard to the implementation of mechanisms for cooperation and information exchange among the authorities involved in the prevention, detection, investigation, prosecution, and punishment of bribery of domestic and foreign government officials, and to the design and execution of training programs offered on this subject. (See paragraph 164 in Chapter II, Section 3.2.1. of this Report.)
- 3.3.6. Upgrade and strengthen the computer equipment and staff required for the proper operation of the *Citizens' Anticorruption Platform for Domestic and Foreign Whistleblowers*. (See paragraph 169 in Chapter II, Section 3.2.2 of this Report.)
- 3.3.7. Take advantage, if appropriate, the Secretariat of Public Service's positive experiences with the *Citizens' Anticorruption Platform for Domestic and Foreign Whistleblowers* in discharging the duties of the *Special Prosecutor's Office for Combating Corruption* relating to the reception of anonymous reports, especially with respect to transnational bribery, guaranteeing anonymity and the protection of whistleblowers. (See paragraph 170 in Chapter II, Section 3.2.2 of this Report.)
- 3.3.8. Strengthen the compilation and wide and regular dissemination of statistical data through modern, user-friendly, easily understandable electronic media, arising from the *Citizens' Anticorruption Platform for Domestic and Foreign Whistleblowers*, that will make it possible to measure how frequently they are used and know how many reports are filed with them, how many of them are investigated, how many have led to the opening of administrative or criminal cases, and how many have concluded with a sentence – guilty or not guilty –, in order to identify challenges and, where necessary, recommend corrective measures. (See paragraph 171 in Chapter II, Section 3.2.2 of this Report.)
- 3.3.9. Determine the financing needed so that the Secretariat of Public Service has the staff and the computer, technological, and communications equipment they require for the maintenance of the *Citizens' Anticorruption Platform for Domestic and Foreign Whistleblowers*, and so that, if applicable, the *Special Prosecutor's Office for Combating Corruption* can take advantage of that experience, within available resources. (See paragraph 173 in Chapter II, Section 3.2.2 of this Report.)

- 3.3.10. Determine, through the appropriate channels, why the public does not file more reports on conduct that could constitute the bribery of foreign government officials and why government authorities charged with preventing, investigating, and punishing this offense are not detecting and reporting such acts with greater frequency, in order to take the respective corrective action, if necessary. (See paragraphs 174-178 in Chapter II, Section 3.2.3 of this Report.)
- 3.3.11. Strengthen the human and financial resources needed to take the corrective action referenced in the preceding paragraph, within available resources. (See paragraphs 174-178 in Chapter II, Section 3.2.3 of this Report.)
- 3.3.12. Strengthen the public awareness measures targeting public officials and the general public on the importance of reporting acts of corruption, especially those related to the bribery of foreign government officials. (See paragraph 179 in Chapter II, Section 3.2.3 of this Report.)
- 3.3.13. Strengthen, in the the public awareness measures that target public officials and the general public on the importance of reporting acts of corruption, information and access to media and platforms for filing reports, including the possibility of doing so anonymously and being able to enjoy the protection offered by Mexican law to people who do so in good faith. (See paragraph 179 in Chapter II, Section 3.2.3. of this Report.)
- 3.3.14. Strengthen the design and implementation of the systematic and continuous training programs for the personnel of the organs or agencies responsible for investigating and/or prosecuting the offense of transnational bribery, as well as for requesting and/or providing the assistance and cooperation provided for in the Convention, so they may fully perform their functions, particularly those related to the detection, investigation, and prosecution of acts of corruption related to transnational bribery, including such topics as investigative techniques applicable to the identification of this offense, the use of tools, and conducting complex financial investigations. (See paragraph 180 in Chapter II, Section 3.2.3. of this Report.)
- 3.3.15. Conduct programs and public awareness campaigns aimed at encouraging Mexico's embassies abroad, government agencies charged with export and import promotion, and private-sector exporters and importers to participate in the detection of transnational bribery, so that the *notitia criminis* can be used more often in investigations of bribery of foreign government officials (See paragraph 181 in Chapter II, Section 3.2.3 of this Report.)
- 3.3.16. Strengthen the existing detailed annual statistics on the number of requests to other States Party for reciprocal assistance for the investigation or prosecution of transnational bribery; how many were granted and how many denied; and the number of requests to it by other States Parties for the same purpose and how many were granted and how many denied — and additionally including, if relevant, other data of interest — in order to identify challenges and, where necessary, recommend corrective measures. (See paragraphs 182-183 in Chapter II, Section 3.2.3 of this Report.)

4. ILLICIT ENRICHMENT (ARTICLE IX OF THE CONVENTION).

4.1. Follow-Up to the Implementation of the recommendations formulated in the Third Round.

Recommendation suggested by the Committee:

Select and develop, through the organs or agencies charged with the investigation and/or prosecution of the offense of illicit enrichment as well as with requesting and/or providing the related assistance and cooperation provided for in the Convention, procedures, and indicators, where applicable. and where they do not yet exist, to analyze the objective results obtained in this regard. (See Section 4.3 of Chapter II of this report.)

[185] In its Response to the Questionnaire,¹³¹ the country under review presented information that it considers related to the subject matter of the above measure, of which the Committee notes the following:

[186] The Attorney General's Office has two administrative units with the authority to investigate the crime of illicit enrichment: the *Special Prosecutor's Office for Combating Corruption* (FECC), which has the authority to investigate the acts of corruption spelled out in Title Ten of the Federal Criminal Code, among them illicit enrichment; and the *Special Prosecutor's Office for Internal Affairs* (FEAI), in charge of investigations and criminal proceeding in cases of crimes committed by staff of the substantive and administrative bodies of the FGR in the performance of their duties.¹³²

[187] According to the country under review in its Response to the Questionnaire, in investigations of crimes of illicit enrichment conducted by the FEAI in particular, the "*agents of the Federal Public Service rely on the System for Attention to Requests for Authority from the National Banking and Securities Commission, through which the banking and securities information of public servants suspected of acts that are considered illicit enrichment is requested.*"¹³³ Furthermore, there are two agencies and three possible ways for private citizens to report illicit enrichment: the Secretariat of Public Service and the Secretariat of Finance and Public Credit – in particular, the Financial Intelligence Unit – each through audits and investigations conducted in the area of their purview. In this regard, it states that "*the FGR has developed channels of communication in coordination with the SFP and UIF to assist the Agent of the Federal Public Service (AMPF) with the investigation of this crime. In that connection, the SFP and UIF will provide information and supporting documentation so that the AMPF can undertake a criminal prosecution. Once the FGR has obtained the necessary documentation, it will request the Forensic Services Coordinator to assign an accountant to issue an opinion in this regard and enable it to determine the amount of increase that the public servant in question must justify.*"¹³⁴

[188] With regard to reciprocal assistance, the country under review reported that the domestic legal system has procedures for requesting and providing international cooperation (extraditions and legal assistance) for investigating and prosecuting illicit enrichment beyond its borders. Requests for

¹³¹ Response of Mexico to the Questionnaire for the Sixth Round, pg. 30 to 35. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹³² Response of Mexico to the Questionnaire for the Sixth Round, pg. 31, <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹³³ Response of Mexico to the Questionnaire for the Sixth Round, pg. 32, <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹³⁴ Response of Mexico to the Questionnaire for the Sixth Round, pg. 32, <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

international cooperation are addressed and executed following the procedures established in the bilateral treaties and multilateral conventions applicable to the specific case.¹³⁵

[189] According to the country under review: “since 2015, Mexico has sent several countries¹³⁶ 18 (eighteen) requests for legal assistance related to the crime of illicit enrichment. Of these, 12 (twelve) are pending a response and 6 (six) were satisfactorily addressed by the foreign authorities.”¹³⁷

[190] “In addition, the Mexican authorities received 4 (four) requests for legal assistance related to illicit enrichment from Argentina, El Salvador, and Colombia, 3 (three) of which were favorably resolved by Mexico and 1 (one) is proceeding.”¹³⁸

[191] In this regard, since the agencies charged with investigating and/or prosecuting this crime did not provide any information about the indicators they use to analyze the objective results of the application in practice of the regulations governing this, and the Committee has no information other than that provided above, processed in a manner that would allow for a comprehensive evaluation of the results of their application in its investigation and prosecution, the Committee will reformulate this recommendation to make it more specific and better inform the country under review about its scope, including matters related to reciprocal assistance. (See Recommendation 4.3.1. in Chapter II, Section 4.3. of this Report.)

[192] Considering that the country under review reported that: “it continues working on the dashboards to develop procedures and indicators for analyzing the objective results obtained in this regard”¹³⁹ and that the creation and application of this tool can contribute to compliance with this recommendation, the Committee will formulate one aimed at concluding and implementing these indicators to analyze the objective results of the application of the measures and provisions on illicit enrichment, and that the indicators and elements referenced in the preceding recommendation are considered in its design (See Recommendation 4.3.2. in Chapter II, Section 4.3. of this Report.)

4.2. New Developments with respect to the Provisions of the Convention on illicit Enrichment Article IX of the Convention).

4.2.1. New developments with Respect to the Legal Framework.

a. Scope

[193] Regarding the progress related to new developments in illicit enrichment, in its Response to the Questionnaire, the country under review included the following table comparing the changes made

¹³⁵ Response of Mexico to the Questionnaire for the Sixth Round, pg. 32, <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹³⁶ Mexico sent requests to the following States: United States of America, Indonesia, Costa Rica, and Spain.

¹³⁷ Response of Mexico to the Questionnaire for the Sixth Round, pg. 32, <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>.

¹³⁸ Response of Mexico to the Questionnaire for the Sixth Round, pg. 32. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹³⁹ Response of Mexico to the Questionnaire for the Sixth Round, pg. 32. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

in the legislation in force in Mexico at the time the Report of the Third Round was adopted, with this present Round: ¹⁴⁰

Legal Framework at the time of the Third Round	Current Legal Framework
<p>Article 109, penultimate paragraph, of the Political Constitution of the United Mexican States (CPEUM) The laws shall establish the cases and circumstances in which criminal sanction shall proceed due to illicit enrichment to the public servants that during their term in office or because of it, by themselves or through another person, substantially increase their assets, acquire goods, and conduct themselves as their owners, and whose legal origin cannot be proved.</p>	<p>Article 109, Section II, paragraph 2 of the Political Constitution of the United Mexican States (CPEUM). The laws shall establish the cases and circumstances in which criminal sanction shall proceed due to illicit enrichment to the public servants that during their term in office, or because of it, by themselves or through another person, increase their assets, acquire goods, or conduct themselves as their owners, whose legal origin cannot be proved. The criminal laws shall sanction with forfeiture and deprivation of ownership of these goods, as well as the other respective penalties.</p>
<p>Article 224 of the Federal Criminal Code Those who commit illicit enrichment as a result of their employment, post, or commission in the public service, shall be punished. Illicit enrichment exists whenever the public servant cannot justify legitimate increase of his estate or the legitimate origin of the assets in his name or of those with respect to which he conducts himself as owner in terms of the Federal Law of Responsibilities of Public Servants. Likewise, criminal liability shall be imputed to anyone who causes assets to appear as his/her property, knowing that such assets have been</p>	<p>Article 224 of the Federal Criminal Code Those who commit illicit enrichment as a result of their employment, post, or commission in the public service shall be punished. Illicit enrichment exists whenever the public servant cannot justify the legitimate increase of his estate or the legitimate origin of the assets in his name or of those with respect to which he conducts himself as owner. For the purposes of the preceding paragraph, computed among the assets that public servants acquire or with respect to which they conduct themselves as owners, shall be those that they receive or those made available to their spouse and direct economic dependents, unless the public servant can prove that they acquired them on their own.</p>

¹⁴⁰ Response of Mexico to the Questionnaire for the Sixth Round, pg. 44 to 47. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

acquired by a public servant in contravention to what is provided by law.

Those who commit the crime of illicit enrichment shall be punished with the following penalties:

Forfeiture in benefit of the State of those assets whose origin cannot be demonstrated according to the Federal Law of Responsibilities of Public Servants.

Three months to up to two years of imprisonment when the amount of the illicit enrichment does not exceed the equivalent of five thousand times the current daily minimum wage for the Federal District, fine of thirty to up to three hundred times the daily minimum wage in the Federal District at the time of the commission of the crime and dismissal and disqualification from holding any other employment, post, or public commission for a term of three months to two years

Two to up to fourteen years of imprisonment, a fine of three hundred to five hundred times the daily minimum wage in the Federal District at the time of the commission of the crime, and dismissal and disqualification from holding any other employment, post, or public commission for two years to up to fourteen years, whenever the amount of illicit enrichment exceeds the equivalent of five thousand times the daily minimum wage in the Federal District.

Illicit enrichment shall not exist when the increase in the estate is the product of conduct under another presumption in this Title. In this case, the presumption and respective penalty shall be applied without giving rise to a concurrence of crimes.

Those who commit the crime of illicit enrichment shall be punished with the following penalties:

Forfeiture in benefit of the State of those assets whose origin cannot be proven.

Three months to up to two years of imprisonment and a fine of thirty to one hundred and one hundred fifty days when the amount of the illicit enrichment does not exceed the equivalent of five thousand times the daily value of the Unit of Measure and Update.

Two years to up to fourteen years of imprisonment and a fine of one hundred to up to one hundred fifty days when the amount of the illicit enrichment exceeds the equivalent of five thousand times the daily value of the Unit of Measure and Update.

[194] In addition to the aforementioned changes, the national legislation was updated in the following manner:¹⁴¹

¹⁴¹ Response of Mexico to the Questionnaire for the Sixth Round, pgs. 46 to 48.
<http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

[195] -Article 19, paragraph 2, of the Political Constitution,¹⁴² which provides that the Federal Prosecution Service may request a judge to order preventive detention only when other precautionary measures are not sufficient to guarantee the appearance of the accused at the trial; protection for the victim, witnesses, or the community and when the accused is on trial or has previously been judged guilty of committing an intentional crime. The judge may order preventive detention from the bench, among other things, in cases of corruption and hence, illicit enrichment.

[196] -Article 22, paragraph 2 of the Political Constitution,¹⁴³ which states that asset recovery can be exercised by the Federal Prosecution Service through a civil proceeding independent of the criminal proceeding when the goods subject to that action are related to investigations of acts of corruption, including illicit enrichment.

[197] Asset recovery is regulated in the National Asset Recovery Law,¹⁴⁴ published in the Official Federal Gazette of August 9, 2019, and can be applied to goods whose legitimate origin cannot be proven – in particular, goods that are the instrument, object, or product of illicit acts, regardless of where they occurred.

[198] – Federal Criminal Code: the heading of Title Tenth of the Federal Criminal Code, “*Crimes Committed by Public Servants*” was replaced with “*Crimes of Corruption*”. According to the Response to the Questionnaire, “*the reform has helped to lay the foundations for promoting the investigation and prosecution of the crime of illicit enrichment, as it is considered among the crimes of corruption.*”¹⁴⁵

[199] - Article 212 of the Federal Criminal Code¹⁴⁶ which refers to the following provisions, which indicate:

- i. Who are considered “*public servants.*”
- ii. The penalties applicable to the crimes enumerated in Title Ten of the Code, among them illicit enrichment, include imprisonment, fines, dismissal and/or disqualification from holding any employment, post, or public commission or participating in procurement, rentals, public services or works, concessions to provide public services or the exploitation, utilization, and use of Federation goods for a period of 1 to 20 years.
- iii. The severity of punishment for crimes of corruption shall be consistent with the financial losses caused, the socioeconomic circumstances of the party responsible, external conditions and means of execution, as well as the amount of the benefit accruing to the party responsible.
- iv. Penalties for private citizens who commit this crime, punishing them with disqualification from holding any public office or participating in procurement, rentals, concessions, or public services and public works.
- v. Aggravating circumstances, such as being a popularly elected official or one whose nomination is subject to approval by one of the Houses of Congress of the Union or holding a position of trust.

¹⁴² http://www.diputados.gob.mx/LeyesBiblio/pdf/1_080520.pdf

¹⁴³ http://www.diputados.gob.mx/LeyesBiblio/pdf/1_080520.pdf

¹⁴⁴ See: http://www.diputados.gob.mx/LeyesBiblio/pdf/LNED_220120.pdf

¹⁴⁵ Response of Mexico to the Questionnaire for the Sixth Round, pgs. 46 and 47.

<http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹⁴⁶ http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_anex7.pdf

- vi. That computed among the goods acquired by public servants or with respect to which they conduct themselves as owners are those received or made available to their spouse or direct economic dependents, unless the public servant proves that they acquired them on their own.
- vii. It is not considered illicit enrichment when the increase in assets is the product of another presumption in the Title in question, in which case the respective presumption and punishment shall be applied without elevating the offense to a crime.

b. Observations

[200] Considering the information in the preceding section, the Committee observes that the conduct of illicit enrichment is criminalized in the Mexican Criminal Code with respect to public servants; therefore, the country under review is in compliance with Article IX of the Convention.

[201] With regard to the penalties provided for illicit enrichment, as mentioned in the preceding section of this report, they consist of imprisonment, fines, dismissal and/or disqualification from employment, a post, or public commission or participating in procurement, rentals, public services or works, the concession of public services, or the exploitation, utilization, and use of Federation assets for a period of 1 to 20 years. As may be observed, these penalties are cumulative and may be severe, probably due to the moral nature of the crime that the legislator considered when drafting the reform of the Federal Criminal Code.

4.2.2 New Developments with Respect to Technology

[202] In its Response to the Questionnaire,¹⁴⁷ the country under review described the following new developments in technology related to illicit enrichment.

[203] On August 16, 2018, the PGR, today the FGR, launched the *Comprehensive Automated Support System for the Justice Sector (Justici@.Net)*, basic software that documents the follow-up given by agents of the federal Public Prosecution Service to investigation files opened for the alleged commission of a crime (including bribery of foreign public servants or transnational bribery) within the framework of the adversarial criminal justice system.

[204] The Committee, bearing in mind the importance of automating case files, the positive impact of technology on the administration of justice and the law, indicated the country under review indicated in its Response to the Questionnaire¹⁴⁸ on the use of electronic media, which has facilitated the storage of case files on investigations and communication with jurisdictional bodies, as well as the use of e-mail for the receipt of notifications and other judicial actions, considers it important for the country under review to continue strengthening the *Comprehensive Automated Support System for the Justice Sector* and upgrading the computer equipment and electronic and communication tools required by the *Special Prosecutor's Office for Combating Corruption* and other bodies charged with investigating and/or prosecuting this crime, as well as those charged with requesting and/or providing the assistance and cooperation stipulated in the Convention in relation thereto, so that they have the technological, budgetary, and human resources to properly exercise their responsibilities in the prosecution and

¹⁴⁷ Response of Mexico to the Questionnaire for the Sixth Round, pgs. 47 and 48.

<http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹⁴⁸ Response of Mexico to the Questionnaire for the Sixth Round, pg. 48. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

punishment of illicit enrichment, within available resources. In this regard, the Committee will make a recommendation. (See recommendation 4.3.3 in Chapter II, section 4.3. of this report.)

[205] Furthermore, as a result of the situation created by the COVID-19 pandemic, according to the country under review, extensive use has been made of technology such as videoconferencing for some judicial proceedings.¹⁴⁹ The Committee therefore believes that the use of these tools beyond the global COVID-19 pandemic can help to improve the management of court offices and the investigation and prosecution of the crime of illicit enrichment. The Committee will formulate a recommendation in this regard (See Recommendation 4.3.4. in Chapter II, Section 4.3. of this Report).

[206] Bearing in mind that effective implementation of the preceding recommendation requires technological, budgetary, and specialized human resources, the Committee believes that the country under review could benefit from adopting, within available resources, the measures it deems pertinent to strengthen these resources in both the *Special Prosecutor's Office for Combating Corruption* and other entities charged with investigating and/or prosecuting the crime of illicit enrichment, as well as those responsible for requesting and/or providing the assistance and cooperation as stipulated in the Convention in this regard. (See Recommendation 4.3.5 in Chapter II, Section 4.3. of this Report).

4.2.3 Results.

[207] With regard to the results of the legal framework on illicit enrichment, the country under review presented the following:¹⁵⁰

[208] – In 2020, a total of 1 case file for illicit enrichment and transactions with resources of illicit origin was opened and 1 is proceeding.¹⁵¹ In addition, two case files were opened for illicit enrichment and graft and two are proceeding.

[209] – In 2021, a total of 1 case file for illicit enrichment and abuse of office was opened, and 1 is also proceeding.

[210] – During the on-site visit, some results were presented on the number of reports referred by the General Administration for Evaluation (AGE) to the Tax Administration Service's Office of Internal Oversight and statistics on reports referred by the Tax Administration Service to the Office of Internal Oversight (OIC) and/or the Attorney General's Office from 2013 to 2020. However, these statistics do not distinguish among the types of reports, nor the alleged crime or misconduct. In particular, it cannot be determined how many of them involved illicit enrichment.¹⁵²

[211] – The country under review also provided the following data for case files on illicit enrichment investigations:

¹⁴⁹ Response of Mexico to the Questionnaire for the Sixth Round, pgs. 47 and 48.

<http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹⁵⁰ Information presented during the on-site visit. Annex 10. See:

http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_anex49.pdf

¹⁵¹ Information presented during the on-site visit. Annex 10. See:

http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_anex49.pdf

¹⁵² Information presented during the on-site visit. Annex 9 and 11. See:

http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_anex48.pdf y

http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_anex50.pdf

FOLDERS OF INVESTIGATIONS INITIATED BY POSSIBLE ILLEGAL ENRICHMENT BY THE PROSECUTOR'S OFFICE SPECIALIZED IN MATTERS OF COMBATING THE CORRUPTION OF THE ATTORNEY GENERAL'S OFFICE				
Status	2019	2020	2021	Totals
Files opened	59	40	8	107
Proceeding	53	37	8	98
Tried	3	0	0	3
No. subject to criminal sanction (NEAP)	3	1	0	4
Added to another case file	0	1	0	1
Lack of authority	0	1	0	1

[212] Regarding the statistics above, the Committee observes that the number of case files opened fell by 19% (19 cases) between 2019 and 2020 and by 7% (8 cases) during the course of 2021. The country under review also noted that since the *Special Prosecutor's Office for Combating Corruption* commenced operations in March: "8% of the reports it has received have been for probable illicit enrichment. The investigations continue to follow the investigation plans, and the first indictment hearings will soon be requested."¹⁵³

[213] In this respect, the Committee believes that the country under review could also benefit from the design and implementation of continuous systematic training programs for staff in the agencies or bodies charged with preventing, investigating, and/or prosecuting the crime of illicit enrichment, as well as those responsible for requesting and/or providing the assistance and cooperation stipulated in the Convention, so that they can fully exercise their responsibilities in the investigation and prosecution of this crime. (See Recommendation 4.3.6. in Chapter II, Section 4.3. of this Report).

[214] Likewise, since the Committee has no further information that would enable it to undertake a comprehensive evaluation of the results of prosecutions of the crime of illicit enrichment, it refers back to recommendation 4.3.1. in section 4.3. of this Report to the country under review to prepare and disseminate, in a user-friendly and easily accessible format, detailed annual statistics, in order to identify challenges and, where necessary, recommend corrective measures. (See Recommendation 4.3.1. in Chapter II, Section 4.3. of this Report).

4.3. Recommendations.

[215] In light of the observations formulated in Sections 4.1 and 4.2 of Chapter II of this Report, the Committee suggests that the country under review consider the following recommendations:

- 4.3.1. Prepare and disseminate, through the organs or agencies charged with the investigation and/or prosecution of the offense of illicit enrichment, detailed annual statistics on the number of investigations initiated, in user-friendly and easily accessed and understood formats to determine how many were suspended; in how many the statute of limitations had run out; how many were archived; how many were in progress; and how many were referred to the appropriate authority for resolution, in order to identify challenges and, where necessary, recommend corrective measures. (See paragraphs 185-191 in Chapter II, Section 4.1 of this Report.)

¹⁵³ Response of Mexico to the Questionnaire for the Sixth Round, pg. 48. <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

- 4.3.2. Finish, launch, and disseminate the indicators for analyzing the results obtained by applying the regulations relating to illicit enrichment, including the elements referenced in recommendation 4.3.1. in its design. (See paragraph 192 in Chapter II, Section 4.1 of this Report)
- 4.3.3. Strengthen the *Comprehensive Automated Support System for the Justice Sector* and the computer systems and electronic and communications tools required by the Special Prosecutor's Office for Combating Corruption and other agencies responsible for investigating and/or prosecuting such offenses, as well as those in charge of requesting and/or providing the assistance and cooperation provided for in the Convention in relation thereto, so that they have the appropriate technological, budgetary, and personnel resources for the full performance of their duties in the prosecution and punishment of illicit enrichment, within available resources. (See paragraph 204 in Chapter II, Section 4.2.2 of this Report.)
- 4.3.4. Use extensively technological tools, beyond the global COVID-19 pandemic, taking advantage of videoconferences for judicial proceedings and e-mail for sending and receiving notifications and communicating with the Federal Judiciary (See paragraph 205 in Chapter II, Section 4.2.2 of this Report.)
- 4.3.5. Adopt the pertinent measures to ensure that the *Special Prosecutor's Office for Combating Corruption* and other bodies charged with investigating and/or prosecuting the crime of illicit enrichment, as well as those responsible for requesting and/or providing the assistance and cooperation provided for in the Convention, have the technological, budgetary, and specialized human resources they need to fully exercise their responsibilities in the prosecution, investigation, and punishment of illicit enrichment, within available resources (See paragraph 206 in Chapter II, Section 4.2.2 of this Report.)
- 4.3.6. Strengthen the continuous systematic training programs for staff of the organs or agencies charged with the criminal investigation and/or prosecution of the crime of illicit enrichment, or with requesting and/or providing the assistance and cooperation provided in the Convention so that they can properly exercise their functions in the prevention, investigation, and prosecution of this crime (See paragraph 213 in Chapter II, Section 4.2.3 of this Report.)

5. NOTIFICATION OF CRIMINALIZATION OF TRANSNATIONAL BRIBERY AND ILLICIT ENRICHMENT (ARTICLE X OF THE CONVENTION)

[216] No recommendations were made to the country under review regarding this provision of the Convention.

6. EXTRADITION (ARTICLE XIII OF THE CONVENTION)

6.1. Follow-Up to the Implementation of the recommendations formulated in the Third Round.

Recommendation suggested by the Committee:

Consider the utility of the Inter-American Convention against Corruption for extradition purposes in corruption cases. This could consist, among other measures, in the implementation of training programs detailing the possibility of applying the Convention to extradition cases, specifically designed for the authorities with competence in this area.

[217] In its Response to the Questionnaire and during the on-site visit, the country under review presented information that it considers related to the subject matter of the above measure, of which the Committee notes the following:

[218] Mexico reported that: *“for the purposes of compliance with this recommendation, it is important to mention that Mexico considers the Inter-American Convention against Corruption (IACAC) an efficient and effective legal framework for providing international cooperation in extradition. Therefore, one of the measures adopted for this purpose is that in cases where a State or foreign authority requests the Mexican government to extradite a person and no bilateral treaty has been signed with that country, the Mexican authorities shall propose that the IACAC be invoked as the legal basis for extradition proceeding. However, during the period covered by this Report, the FGR neither received nor sent (passive and active) extradition requests invoking the Convention as the admissible grounds for its application.”*¹⁵⁴

[219] Since in the past 11 years, the FGR has neither received nor sent requests invoking the Convention for extradition purposes in cases of corruption and, since the Committee has no information other than the aforementioned, processed in a manner that would enable it to comprehensively evaluate the results of implementing this recommendation, it deems that the country under review should continue giving attention to it in regard to the use of the Convention for extradition purposes in cases of corruption.

[220] Concerning the implementation of training programs on the possibilities for application offered by the Convention, also referenced in this recommendation, the country under review reported that *“it will undertake to ensure that the syllabus of FGR training courses includes courses on extradition procedures and that information is disseminated on the scope and application of the Convention as the appropriate legal instrument for requesting and responding to extradition requests related to crimes of corruption.”*¹⁵⁵

[221] Since the Committee has no information other than the aforementioned, processed in a manner that would enable it to comprehensively evaluate the results of its implementation, it deems that country under review should continue giving attention to this element of the recommendation.

[222] The Committee will reformulate this recommendation to contribute to greater clarity and better guide the country under review in the two areas it addresses: consideration of the Convention for extradition purposes in cases of corruption, and the implementation of training programs on the possibilities for application that it offers, complementing it with the development and dissemination of procedures and indicators, in user-friendly and easily understandable formats, that will make it possible to obtain statistical information on the results of these programs. (See Recommendations 6.3.1., 6.3.2., and 6.3.3. in Chapter II, Section 4.6.3, of this Report.)

¹⁵⁴ Response of Mexico to the Questionnaire for the Sixth Round, pgs. 34-35. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹⁵⁵ Response of Mexico to the Questionnaire for the Sixth Round, pg. 35. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

6.2. New Developments with respect to the Provision of the Convention on extradition.

6.2.1 New Developments with respect to the legal framework.

a. Scope

[223] With regard to new developments in the legal framework, the country under review indicates that “*there have been no new developments in extradition.*”¹⁵⁶

[224] The Committee does observe that the International Extradition Law was partially amended in 2017 and 2021.¹⁵⁷ The reforms included a ban on extraditing an individual to another State when there are grounds to believe he would be in danger of torture or forced disappearance (Article 10 bis);¹⁵⁸ the possibility of adopting precautionary measures when a State indicates the intention of issuing a formal request for the extradition of a certain individual (Article 17);¹⁵⁹ and provisions authorizing the detention of the individual sought and the seizure of papers, money, or other objects found in his possession (Article 21). When the individual sought is Mexican, and his extradition is denied solely on that basis, the Secretariat of Foreign Affairs shall notify the detainee and the Attorney General of the respective agreement, making the individual available to him, and forwarding the case file so that the Federal Prosecution Service can refer the case to the competent court, if appropriate (Article 32);¹⁶⁰ and provisions for surrendering the individual sought (Article 34).¹⁶¹

b. Observations.

[225] Based on the information available to it, in particular considering the new provisions contained in the International Extradition Law of 2017 and 2021, the Committee notes that Article 32 of this body of law establishes the following: “*if the individual sought is Mexican and his extradition is denied solely on that basis, the Secretariat of Foreign Affairs shall notify the detainee and the Attorney General of the Republic about the respective agreement, making it available to them, and forwarding the case file so that the Federal Prosecution Service can refer the case to the competent court, if appropriate.*”

[226] The Committee observes that Article XIII, paragraph 6 of the Convention refers to the same circumstance as Article 32 of the aforementioned Law. This provision involves the obligation of requested State Party’s to inform the requesting State Party in a timely manner of the final outcome of criminal cases involving nationals who, because of their nationality, cannot be extradited.

6.2.2 New Developments with respect to technology.

[227] In its Response to the Questionnaire¹⁶² the country under review presented no new developments with respect to technology and extradition.

¹⁵⁶ Complement to the Response of Mexico to the Questionnaire for the Sixth Round, pg. 10. See:

http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_resp_annex.pdf

¹⁵⁷ See: http://www.diputados.gob.mx/LeyesBiblio/pdf_mov/Ley_de_Extradicion_Internacional.pdf.

¹⁵⁸ Article reformed el 26-06-2017.

¹⁵⁹ Paragraph reformed el 20-05-2021.

¹⁶⁰ Article reformed DOF 20-05-202.

¹⁶¹ Article reformed DOF 20-05-2021.

¹⁶² Response of Mexico to the Questionnaire for the Sixth Round, pg. 48. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

[228] Bearing in mind the essential role of the Secretariat of Foreign Affairs and FGR in extradition proceedings, the Committee believes that these two agencies could benefit from the use of computer, technological, and communications equipment needed to fully exercise their responsibilities related to extradition procedures, ensuring its sustainability and proper operation. The Committee will formulate a recommendation in this regard. (See Recommendation 6.3.5. in Chapter II, Section 6.3. of this Report.)

6.2.3. Results.

[229] During the on-site visit,¹⁶³ the country under review provided the following information: “As of April 21, 2021, there is a record of 2 (two) (active) international extradition requests sent by the Mexican Government in relation to the crimes defined in the current Convention. The first was sent to the Federal Republic of Germany for the crime of domestic bribery. And the second, to the United States of America for the crime of illicit enrichment. It should be noted, however, that neither of these two active extradition requests invoked the Inter-American Convention against Corruption (IACAC) – in the case of the request to Germany, because it is not a party to the Convention, and in the case of the United States of America, because it gives precedence to the bilateral agreement that we have signed. We likewise reiterate that Mexico has not received (passive) extradition requests related to the crimes enumerated in the IACAC.”¹⁶⁴

[230] With regard to the tendency to give precedence to application of the bilateral reciprocal judicial assistance treaties mentioned by the country under review in the preceding paragraph, the Committee believes that, in addition to the appropriate bilateral treaties, Mexico could benefit from invoking the Convention as the legal grounds for the extradition requests it sends and resolves.

[231] In this regard, the Committee refers back to the recommendations on the importance of: i) promoting the use of the Convention as a legal basis, even in the presence of bilateral treaties (recommendation 6.3.1.); ii) offering systematic and continuous training programs for judges, prosecutors, other justice personnel, and administrative authorities with competencies in this area to inform them of the advantages of the Convention and promote its use in the formulation and consideration of extradition requests related to acts of corruption (recommendation 6.3.2.); and iii) developing indicators, keeping them current, and widely disseminating them to examine and verify the results obtained during the outreach and training activities in question (recommendation 6.3.3.)

6.3. Recommendations.

[232] In light of the observations formulated in Sections 6.1 and 6.2 of Chapter II of this Report, the Committee suggests that the country under review consider the following recommendations

- 6.3.1. Promote the use of the Convention, in addition to the applicable bilateral treaties, as the legal basis for extradition requests it sends. (See paragraphs 217-222 in Chapter II, Section 6.1 of this Report.)
- 6.3.2. Design and offer continuous systematic outreach and training programs for judges, prosecutors, other justice personnel, and administrative authorities with competencies in

¹⁶³ Information presented during the on-site visit. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹⁶⁴ Information presented during the on-site visit. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

extradition, to inform them of the advantages of the Convention and promote its use in the formulation and consideration of extradition requests. (See paragraphs 217-222 in Chapter II, Section 6.1 of this Report.)

- 6.3.3. Develop, keep current, and widely disseminate indicators for analyzing and verifying the results obtained during the outreach and training activities referenced in the preceding recommendation, including the number of participants, the dates of the activities, the types of public servants and institutions that participate, and the frequency and content of training, etc. (See paragraphs 217-222 in Chapter II, Section 6.1 of this Report.)
- 6.3.4. Strengthen, within available resources, the computer, technological, and communications system needed by the Secretariat of Foreign Affairs and FGR to fully exercise their responsibilities with regard to extradition, ensuring its sustainability and proper operation. (See paragraphs 227-228 in Chapter II, Section 6.2.2 of this Report.)

III. ANALYSIS, CONCLUSIONS AND RECOMMENDATIONS ON IMPLEMENTATION BY THE COUNTRY UNDER REVIEW OF THE CONVENTION PROVISION SELECTED FOR THE SIXTH ROUND.

1. BANK SECRECY (ARTICLE XVI OF THE CONVENTION).

1.1. Existence of provisions in the legal framework and/or other measures.

[233] Mexico has a series of provisions regarding bank secrecy, including, notably:

[234] - Articles 142 and 143 of the Lending Institutions Act (Ley de Instituciones de Crédito¹⁶⁵ (LIC), which stipulate that information and documentation relating to transactions and services pertaining to operations that lending institutions can perform shall be confidential, so that under no circumstances may such institutions disclose or provide information concerning their customers' and users' deposits, operations, or services, unless one or more of the exceptions indicated is activated.

[235] As an exception to that principle, lending institutions are obliged to respond to requests for information filed by a judicial authority "*under a ruling issued in a trial in which the account holder or, where applicable, the trustor (fideicomitente), beneficiary (fideocomisario), trustee (fiduciario), principal (comitente), broker (comisionista), mandator (mandante), or authorized agent (mandatario) is a party or the accused*" (Article 142.2 of the LIC). In those cases, the judicial authority may file its request either directly with the credit institution or through the National Banking and Securities Commission (CNBV).

[236] - Article 142.2 and 142.3 of the LIC also provides for an exemption from credit institutions' obligation to keep their customers' and users' information confidential when such requests are filed by any of nine authorities, including the judiciary, the Attorney General's Office (now Attorney General of the Republic), the Secretariat of Finance and Public Credit, and the Secretariat of the Civil Service, in the exercise of their powers to investigate or audit changes in the net worth of federal civil servants.

¹⁶⁵ Lending Institutions Act of July 18, 1990. http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_anex12.pdf.

[237] The aforementioned authorities are required to channel their requests for information via the National Banking and Securities Commission. Public servants and authorized institutions, as well as the investigative unit, may opt to ask the judicial authority to order lending institutions to provide the information required (Article 142.16 of the LIC).

[238] Any public servant who improperly violates confidentiality rules, provides a copy of transactions or related documents, or, in any other manner, discloses information contained therein, shall be liable to the corresponding administrative, civil, or criminal sanctions (Article 142.6 of the LIC).

[239] Under its power to issue provisions pursuant to the last paragraph of Article 146 of the LIC, the CNBV issued the "*general provisions applicable to requests for information filed by the authorities referred to in Article 142 of the Lending Institutions Act, Article 34 of the People's Savings and Loans Act, Article 44 of the Credit Unions Act, Article 69 of the Law Governing the Activities of Savings and Loan Associations, Article 55 of the Investment Funds Act, and Article 73 of the Law Governing Financial Technology Institutions (Disposiciones)*,¹⁶⁶ the purpose of which is to establish the requirements to be met by requests for information and documentation filed with the CNBV by the authorities referred to in the articles on bank secrecy contained in the various laws mentioned under the Provisions (Disposiciones)¹⁶⁷ heading."

[240] The Lending Institutions Act was amended on the following occasions:

- On January 4, 2001, Article 117 bis was added, authorizing the CNBV to provide authorities abroad with information regarding the operations and services referred to in Article 117 and regarding trustee data (*información fiduciaria*) (Article 46.XV).

- On December 30, 2005, Article 117 was amended and Article 118 repealed. This amendment added a list of authorities to whom lending institutions must provide the information requested, without contravening the confidentiality rule with respect to information and documentation concerning their operations and services

- On February 1, 2008, Article 117 bis of the LIC was amended to require that, in order to exchange information protected under confidentiality provisions, an information-sharing agreement must be signed, based on the reciprocity principle.

- On July 1, 2008, Article 117 of the LIC was amended, adding the Unit for Auditing Political Party Funds to the list of authorities to which lending institutions may provide information, and establishing that the electoral authorities of federative entities shall request and obtain the information they need to perform their legal functions from said Unit.

- On January 10, 2014, the "*bank secrecy*" regulations are transferred to Articles 142, 143, and 143 bis. In addition, the law authorizes inspection visits by the CNBV at the request of authorities abroad.

¹⁶⁶ See:

<https://www.cnbv.gob.mx/Normatividad/Disposiciones%20de%20car%C3%A1cter%20general%20aplicables%20a%20los%20requerimientos%20de%20informaci%C3%B3n%20que%20formulen%20las%20autoridades%20a%20que%20se.pdf>

¹⁶⁷ Response of Mexico to the Questionnaire for the Sixth Round, pg. 48. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>, pg. 5.

[241] In its Response to the Questionnaire, Mexico cites the followings laws that also contain provisions on bank secrecy: “(i) *The People's Savings and Loans Act*¹⁶⁸, Article 34; (ii) *Credit Unions Act*¹⁶⁹, Article 44; (iii) *Law Governing the Activities of Savings and Loan Associations*¹⁷⁰, Article 69; (iv) *Investment Funds Act*¹⁷¹, Article 55, and (v) *Law Governing Financial Technology Institutions, Article 73.*”¹⁷²

[242] - Article 32-B.IV of the Tax Code of the Federation (CFF¹⁷³), establishes an exception, for financial institutions and savings and loan associations, to the procedure specified in Article 142 of the LIC, when it determines that the Tax Administration Service may directly contact financial institutions and savings and loan associations to request information regarding the accounts, deposits, services, trust funds, credits, or loans granted to individuals or legal entities, or regarding any kind of operation, as requested by the tax authorities via the same channel, when their request is made under the powers referred to in Articles 22 and 42 of the CFF, as part of the collection of definitive tax credits, or as part of the administrative execution process.

[243] -Article 142.5 of the LIC, regulating the way these requests should be filed. They should be channeled via the National Banking and Securities Commission. The corresponding institutions and the investigation unit may opt to ask the judicial authority to order the lending institution to deliver the information requested, provided that those public servants or authorities specify the data needed to correctly identify the information requested.

[244] -The employees and officers of the lending institutions shall be liable, under applicable provisions, for any violation of bank secrecy that is ascertained and, in cases of improper violations of secrecy, shall be obliged to make reparation for any harm or damages caused (Article 142.6 of the LIC).

[245] -Article 143 of the LIC, under which financial authorities, may also, within their respective spheres of competence, provide any kind of information to authorities abroad for the following purposes: “*the authorities need to have signed an information exchange agreement with the corresponding counterpart financial authorities abroad that observes the principle of reciprocity.*” As Mexico states in its Response to the Questionnaire: “*Mexico is a party to banking supervision cooperation instruments with the following States Parties to the Convention: Argentina, Brazil, Canada, Colombia, Ecuador, El Salvador, Guatemala, Panama, Peru, the United States, Uruguay, and Venezuela.*”¹⁷⁴

¹⁶⁸ The People's Savings and Loans Act. See: http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_anex15.pdf.

¹⁶⁹ Credit Unions Act <https://www.cnbv.gob.mx/Normatividad/Ley%20de%20Uniones%20de%20Cr%C3%A9dito.pdf>.

¹⁷⁰ Law Governing the Activities of Savings and Loan Associations <https://www.cnbv.gob.mx/Normatividad/Ley%20para%20Regular%20las%20Actividades%20de%20las%20Sociedades%20Cooperativas%20de%20Ahorro%20y%20Pr%C3%A9stamo.pdf>.

¹⁷¹ Investment Funds Act <https://www.cnbv.gob.mx/Normatividad/Ley%20de%20Fondos%20de%20Inversi%C3%B3n.pdf> <https://www.cnbv.gob.mx/Normatividad/Ley%20de%20Fondos%20de%20Inversi%C3%B3n.pdf>.

¹⁷² *Law Governing Financial Technology Institutions* <https://www.cnbv.gob.mx/Normatividad/Ley%20para%20Regular%20las%20Instituciones%20de%20Tecnolog%C3%ADa%20Financiera.pdf>.

¹⁷³ Tax Code of the Federation

http://www.oas.org/es/sla/dlc/mesicic/docs/mesicic6_mx_anex5.pdf.

¹⁷⁴ Response of Mexico to the Questionnaire for the Sixth Round, pg. 6.

[246] Lending institutions shall respond to requests filed by the National Banking and Securities Commission within the deadlines it sets. The Commission itself may penalize lending institutions that fail to meet the deadlines set or comply with established terms and conditions, pursuant to Articles 108 to 110 of the LIC.

[247] As regards information requested by financial authorities abroad, the Secretariat of Finance and Public Credit, the National Banking and Securities Commission, the Institute for the Protection of Bank Savings (IPAB), Banco de Mexico, and the National Commission for the Protection and Defense of Users of Financial Services are all authorized, within their respective spheres of competence, to furnish the information they deem fit to attend to said requests, in the form of documents, certifications, records, statements, and other pieces of evidence that those authorities possess as a result of the exercise of the powers vested in them. For these purposes, the authorities need to have signed an information exchange agreement with the corresponding counterpart financial authorities abroad that observes the principle of reciprocity (Article 143 of the LIC).

[248] – Article 143 (paragraphs 3, 4, and 5) of the LIC establishes that Banxico and the CNBV may refuse to furnish protected information "*when the intended use thereof differs from that stated in the request, contravenes public order or national security, or violates the terms agreed upon in the corresponding exchange of information agreement.*"

[249] The "*General Provisions applicable to requests for information filed by the authorities referred to in Article 142 of the Lending Institutions Act, Article 34 of the People's Savings and Loans Act, Article 44 of the Credit Unions Act, Article 69 of the Law Governing the Activities of Savings and Loan Associations, Article 55 of the Investment Funds Act, and Article 73 of the Law Governing Financial Technology Institutions*"¹⁷⁵ (Provisions) also contain regulations along similar lines. Article 17 establishes the cases in which the CNBV can refuse requests for access to information protected under bank secrecy rules, for instance when the request omits one or more formalities or requisites referred to in those rules; when the information and documentation requested is not related to the activities, operations, or services performed by financial institutions, corporations authorized to operate using novel procedures, or service providers; when the request does not fall within the remit of the CNBV; and cases in which the judicial, tax, federal, and administrative authorities entitled to request information fail to attach the necessary documentation.

[250] As regards the obligation to notify the competent authorities of a requesting State of the reasons for refusing its request, during the on-site visit, Mexico explained that: "*international treaties signed by the Mexican State relating to international legal assistance and the National Code of Criminal Procedure (Article 440) contain clauses that envisage this eventuality. Thus, in the event that the Mexican authorities should refuse to provide a foreign authority with information it has requested under a cooperation arrangement, it must inform that authority of the reasons for its refusal.*"¹⁷⁶

1.2 Adequacy of the legal framework and/or other measures.

[251] With respect to the provisions on bank secrecy that the Committee has reviewed on the basis of the information available to it, they constitute a set of measures that are pertinent for promoting the

¹⁷⁵See:

<https://www.cnbv.gob.mx/Normatividad/Disposiciones%20de%20car%C3%A1cter%20general%20aplicables%20a%20los%20requerimientos%20de%20informaci%C3%B3n%20que%20formulen%20las%20autoridades%20a%20que%20se.pdf>.

¹⁷⁶ Request for Missing or Relevant Information and Documentation in the Reply to the Questionnaire adopted for the Sixth Round of Review. Mexico. Delivered during the on-site visit to Mexico from April 26 to 30, 2021, pgs. 69 and 70.

purposes of the Convention. Nevertheless, the Committee deems it appropriate to make the following observations:

[252] According to information provided by the country under review regarding the administrative area, *"in Mexico there are no written guidelines or measures adopted, that can be consulted, for not refusing the assistance requested by other States Parties on bank secrecy grounds. However, when it negotiates instruments with States parties to the Convention, as a sound practice, the CNBV takes care to ensure that international cooperation and information-sharing are not impaired on bank secrecy grounds."*¹⁷⁷ This is also in accordance with the legal principle of Permission, whereby *"what is not prohibited is allowed."*

[253] However, the Committee notes the provisions of Articles 142 and 143 of the Lending Institutions Act, in particular, Article 143, which states:

"The Secretariat of Finance and Public Credit, the National Banking and Securities Commission, the Institute for the Protection of Bank Savings, the Bank of Mexico, and the National Commission for the Protection and Defense of Users of Financial Services, within the scope of their competence, shall be empowered to provide foreign financial authorities with all kinds of information they deem appropriate to meet the requests lodged with them, such as documents, certificates, records, declarations, and other evidence that such authorities have in their possession because they have obtained it in the exercise of their powers.

"For the purposes of the provisions of the preceding paragraph, the authorities must have signed an information exchange agreement providing for the principle of reciprocity with the foreign financial authorities in question."

[254] With respect to criminal legal assistance, the Committee notes that the grounds for refusal are expressly set out in Article 440 of the Code of Criminal Procedure, and they do not include the invocation of bank secrecy as a reason. As such, there would be no constraints, in the criminal sphere, for Mexico to provide the collaboration requested, following judicial authorization. This is also in accordance with the legal principle of Permission, whereby *"what is not prohibited is allowed."*

[255] The Committee notes the convergence of two procedures for processing requests to lift bank secrecy. The first is administered by the Attorney General's Office (FGR), while the second is handled by the National Banking and Securities Commission and other authorities.¹⁷⁸ Article 143 of the Lending Institutions Act regulates the power of those authorities to provide financial authorities abroad with any types of documents and evidence they may possess as a result of the performance of their functions.

[256] In this respect, paragraph 2 of the aforementioned Article states: *"for the purposes envisaged in the foregoing paragraph, the authorities need to have signed an information exchange agreement with the corresponding counterpart financial authorities abroad that observes the principle of reciprocity."* Accordingly, Mexico's Response to the Questionnaire explains that it is *"an essential prerequisite to have signed an information exchange agreement that observes the principle of reciprocity."*¹⁷⁹

¹⁷⁷ Response of Mexico to the Questionnaire for the Sixth Round, pg.7

¹⁷⁸ Secretariat of Finance and Public Credit (SHCP), National Banking and Securities Commission (CNBV), Institute for the Protection of Bank Savings (IPAB), Banco de México (Banxico), and National Commission for the Protection and Defense of Users of Financial Services (CONDUSEF.)

¹⁷⁹ Response of Mexico to the Questionnaire for the Sixth Round, pg. 66.

[257] The Committee acknowledges the relevance of the aforementioned provision in connection with bilateral treaties and the importance in that context of Article XX of the Convention, which establishes that "*No provision of this Convention shall be construed as preventing the States Parties from engaging in mutual cooperation within the framework of other international agreements, bilateral or multilateral, currently in force or concluded in the future, or pursuant to any other applicable arrangement or practice.*" Nevertheless, there is a noticeable possibility of the Convention being replaced, as the legal basis for lifting bank secrecy, by "*an information exchange agreement that observes the principle of reciprocity.*"

[258] The Committee further notes that application of the reciprocity agreement, in that context, goes beyond the requirements of Article XVI of the Convention for lifting bank secrecy. The Committee observes that the aforementioned Article, unlike Article 143 of the Lending Institutions Act, does not mention that principle, on bank secrecy grounds, as an essential (*sine qua non*) condition for providing the assistance requested by the requesting State.

[259] According to information provided by the Attorney General's Office during the on-site visit, the possible displacement of the Convention is not found in the case of requests for cooperation filed through the Attorney General's Office, in respect of which, as mentioned earlier, the Convention could indeed be invoked as the chief support for lifting bank secrecy.¹⁸⁰ Notwithstanding there is no specific provision in place, through the Constitution, the Convention can be utilized.

[260] Regarding the obligation of States Parties to the Convention not to use the information protected by banks secrecy for any purpose other than for the proceeding for which it was requested, unless authorized to do so by the Requested State, pursuant to Article XXVI.2 of the Convention, the Response of Mexico to the Questionnaire states as follows: "*Although Mexico has not explicitly adopted specific measures with respect to this provision of the Convention, the international legal instruments signed by Mexico include a provision in that regard: that information obtained through international legal assistance shall only be used for the specific case that gave rise to the legal assistance, and, if need be, the authorization of the Requested State shall be sought in order to use those data in a different case.*"¹⁸¹

[261] Additionally, the Committee observes that Article 444 of the National Code of Criminal Procedure provides, "*(...) The obtaining of information and evidence provided in response to a request for international legal assistance may only be used for the purpose for which it was requested and for the investigation or judicial proceeding in question, unless express consent in writing is obtained from the Requesting State or authority to its being used for other purposes.*" Based on these parameters, this provides for the responsibility of the Mexican authorities as a requesting or requested State.

[262] With respect to international criminal cooperation, the Committee notes that Article 444 of the National Code of Criminal Procedure also provides that:¹⁸² "*the Central Authority and other authorities that have knowledge of or participate in the execution and processing of a request for assistance shall*

¹⁸⁰ Information presented during the on-site visit. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹⁸¹ Information presented during the on-site visit. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹⁸² See:

https://www.gob.mx/cms/uploads/attachment/file/172681/CODIGO_NACIONAL_DE_PROCEDIMIENTOS_PENALES.pdf

be obliged to maintain confidentiality regarding the content of the request and the documents supporting it. The obtaining of information and evidence provided in response to a request for international legal assistance may only be used for the purpose for which it was requested and for the investigation or judicial proceeding in question, unless express consent in writing is obtained from the Requesting State or authority to its being used for other purposes.”

[263] Regarding the grounds for refusing a request to lift bank secrecy, Article 143.5 of the LIC establishes that Banxico and the CNBV may refuse to provide protected information, inter alia, when granting the request would contravene “*public order*” or “*national security*.” In this regard, the Committee considers that the vagueness and scope of those concepts may pose an obstacle to the widespread granting of international assistance and cooperation that States Parties are to provide under the Convention. In particular, they are very broad concepts that could be used to reject legitimate requests to lift bank secrecy. To this end, it is worth recalling that Article XVI of the Convention does not contemplate any exception with regard to those requests, so that the Committee considers that the country under review would do well to take such steps as it deems necessary to define those concepts, taking into account the content of the aforementioned Article of the Convention and the obligations of State Parties to the Convention to grant each other the broadest possible cooperation and assistance with preventing, detecting, punishing, and eradicating acts of corruption committed in the performance of public office and the acts of corruption associated with that exercise.¹⁸³ The Committee will make a recommendation in that regard. (See Recommendation 1.4.1. in Chapter III, Section 1.4. of this Report).

[264] Regarding the deadlines for the FGR to decide on these requests, the Response to the Questionnaire states that: “*Neither the international treaties nor the National Code of Criminal Procedure (CNPP), establish deadlines for resolving requests for legal assistance.*”¹⁸⁴ During the on-site visit, the Committee was told that when the Division of International Affairs of the CNBV receives a request for information, it takes between 20 and 48 hours first to determine whether a bilateral cooperation agreements exists that would allow the sharing of information; then, the institution it addresses has between 3 and 4 days to reply, depending on the complexity and volume of information requested; once the information has been obtained, the Division of International Affairs has three business days to review it and to reply.¹⁸⁵

[265] The Committee further observes a lack of appeal or recourse mechanism before an authority other than the one that originally denied the request to lift bank secrecy. In this regard, Mexico stated in its Response to the Questionnaire that “*only matters of form or style may be corrected, because if the CNBV finds in an analysis of the merits that there is a legal ground or impediment to providing the information, it cannot be provided.*”¹⁸⁶ The Committee considers that such remedies constitute not only a guarantee of due process in administrative proceedings; they also help ensure greater consistency in that proceeding and in the treatment given to bank secrecy requests. The Committee will make a recommendation in that regard. (See Recommendation 1.4.2. in Chapter III, Section 1.4. of this Report).

¹⁸³ During the meeting of the review subgroup, the country under review indicated that: “*the public order concept is defined in our legal system by the opinion issued by the judiciary in contradiction of Thesis 13/2017 published in the Judicial Weekly Bulletin of the Federation (Semanao Judicial de la Federación) No. 27673.*”

¹⁸⁴ Response of Mexico to the Questionnaire for the Sixth Round, pg. 8.

¹⁸⁵ Information presented during the on-site visit. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹⁸⁶ Information presented during the on-site visit. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

[266] Regarding the possibility of filing electronic requests to lift bank secrecy, the country under review indicated that “*Mexico has legal provisions in bilateral treaties on Mutual Legal Assistance in Criminal Matters and in the National Court of Criminal Procedure (Article 444) that provide for filing electronic request for legal assistance in urgent cases and, currently in the circumstances brought about by the SARS-COV2 pandemic, electronic transmission of requests has been encouraged, provided that the Requesting State asks to do so. Accordingly, it is a prerequisite that the foreign requesting authority physically remit its request for collaboration and supporting documents to the Mexican Central Authority or via diplomatic channels as soon as possible or within the deadline established in the applicable legal instrument.*”¹⁸⁷

[267] In this regard, the Committee recommends that the country under review continue encouraging greater use of modern digital technology when processing requests for assistance or information submitted by other States with a view to lifting bank secrecy and strengthen the allocation of human and financial resources for the correct and effective use of said technology. The Committee will make recommendations in this regard. (See Recommendation 1.4.3. in Chapter III, Section 1.4. of this Report).

1.3. Results.

[268] According to the information provided by the country under review, in its Response to the Questionnaire “*in the period covered by the review Mexico did not receive or send requests for legal assistance under the Convention*” Therefore, there are no examples that could be used to show the results of implementing Article XVI of the IACAC.”¹⁸⁸

[269] The country under review also indicated that “*given that States, including Mexico, prioritize the use of bilateral treaties to file requests for mutual legal assistance, the Inter-American Convention Against Corruption is not invoked to that end.*”¹⁸⁹

[270] During the on-site visit, Mexico also reported that, when no bilateral treaty is available, it initiates the process of establishing one so as to be able to provide the information. It also indicated that its participation in the International Organization of Securities Commissions (IOSCO) enables it to exchange information with 142 jurisdictions so that most information sharing was based on the memorandum of understanding signed with that Organization.¹⁹⁰

[271] In this regard the Committee considers that Mexico could benefit from adopting pertinent measures for using the Convention as one of the legal bases for requesting other States Parties to the Convention to lift bank secrecy, including the implementation of a comprehensive dissemination and training program for competent authorities and officials, with the view to raising their awareness and training them to use the provisions regarding reciprocal assistance with investigating and prosecuting acts of corruption contained in the Convention, in particular bank secrecy requests, as one of the legal

¹⁸⁷ Request for Missing or Relevant Information and Documentation in the Reply to the Questionnaire adopted for the Sixth Round of Review. Mexico. Delivered during the on-site visit to Mexico from April 26 to 30, 2021, pg. 70.

¹⁸⁸ Response of Mexico to the Questionnaire for the Sixth Round, pg. 9. See: <https://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>.

¹⁸⁹ Response of Mexico to the Questionnaire for the Sixth Round, pg. 10. See: <http://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=Mexico&r=6>

¹⁹⁰ Information presented during the on-site visit. Panel discussion 4

bases for requesting the lifting of bank secrecy by other States Parties to the Convention. (See Recommendation 1.4.4 in Chapter III, Section 1.4. of this Report).

[272] The country under review provided general data illustrating international cooperation by the Mexican State based on bilateral legal assistance treaties regarding the provision contained in the Convention article under review:

*“For the period between 2015 and October 30, 2020, the Attorney General's Office registered 182 requests to Mexican authorities for information protected under bank secrecy laws. Of those requests, none was refused by the Mexican Government on bank secrecy grounds. For its part, in the past 5 years, Mexico received 73 requests for assistance from States Parties. However, this does not necessarily mean that the information shared involved bank secrecy, given that the Commission's databases do not distinguish between requests based on the type of financial secrecy involved.”*¹⁹¹

[273] Regarding requests for assistance to other States Parties involving information protected under bank secrecy laws, for the purposes of Article XVI of the Convention, Mexico states that:

*“In the above-mentioned period, Mexico filed 178 requests for legal assistance with a variety of foreign authorities with the view to receiving information protected under bank secrecy rules. Of those petitions, none was denied by the Requested States on bank secrecy grounds. For its part, in the past 5 years, the CNVB filed 107 requests for assistance from States Parties. However, this does not necessarily mean that the information shared involved bank secrecy, given that the Commission's databases do not distinguish between requests based on the type of financial secrecy involved.”*¹⁹²

[274] Given that response, the Committee considers that the country under review could benefit from adopting measures it deems appropriate to ensure that it has at its disposal detailed statistical information compiled on an annual basis. The Committee will make a recommendation in that regard. (See Recommendation 1.4.5. in Chapter III, Section 1.4. of this Report).

[275] Regarding the number of penalties imposed on financial institutions for failure to comply with regulations governing the processing of assistance relating to bank secrecy for the purposes of Article XVI of the Convention, Mexico reported that *“the CNBV Office of the Director General for Attending to Authorities is currently processing 82 penalties. However, it is not possible to ascertain whether they relate to foreign governments... The penalties proposed by the Office of the Director General for Attending to Authorities in recent years are not related to requests by foreign governments.”*¹⁹³ Here, the Committee considers it important that the country under review adopt appropriate measures, in accordance with its domestic legal framework, for developing disaggregated, annual statistics on the number of penalties imposed on financial institutions for failure to comply with the regulations governing the processing of assistance related to bank secrecy, in order to identify challenges and, where necessary, recommend corrective measures, in accordance with the purposes established in Article XVI of the Convention. (See Recommendation 1.4.6. in Chapter III, Section 1.4. of this Report).

¹⁹¹Response of Mexico to the Questionnaire for the Sixth Round, pg. 9. See: <https://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹⁹²Response of Mexico to the Questionnaire for the Sixth Round, pg. 9. See: <https://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

¹⁹³ Request for Missing or Relevant Information and Documentation in the Reply to the Questionnaire adopted for the Sixth Round of Review. Mexico. Delivered during the on-site visit to Mexico from April 26 to 30, 2021, pg. 72.

1.4. Recommendations.

[276] Based on the review conducted in the above sections regarding the implementation by the country under review of Article XVI of the Convention, the Committee offers the following conclusions and recommendations:

[277] Mexico has adopted measures regarding assistance with respect to Bank Secrecy, as described in Chapter III, Section 1 of this Report.

[278] In light of the observations formulated in this section of the Report, the Committee suggests that the country under review consider the following recommendations:

- 1.4.1. Adopt appropriate measures to define and specify the concepts of “*public order*” and “*national security*,” when used as grounds for denying a request to lift bank secrecy in such a way that they do not constitute an obstacle to lifting bank secrecy in accordance with Article XVI of the Convention. (See paragraph 263 in Chapter III, Section 1.2 of this Report.)
- 1.4.2. Establish a measure that allows for the reconsideration, by a superior or different unit, of a decision taken by an authority that originally denied the request to lift bank secrecy, as a guarantee of due process in administrative proceedings and a means of promoting consistent treatment regarding requests to lift bank secrecy. (See paragraph 265 in Chapter III, Section 1.2 of this Report.)
- 1.4.3. Encourage greater use of modern digital technology when processing requests for assistance or information filed by other States with a view to lifting bank secrecy and assign sufficient human and financial resources for the correct and effective use of said technology. (See paragraph 267 in Chapter III, Section 1.2 of this Report.)
- 1.4.4. Adopt appropriate measures, subject to its domestic legal framework, that promote greater use of the Convention as one of the legal bases for requests to lift bank secrecy it submits with other States Parties to the Convention, including a comprehensive dissemination and training program for competent authorities and civil servants, so that they can familiarize themselves with, and apply, mutual legal assistance provisions for the investigation or prosecution of acts of corruption envisaged under the Convention and in other treaties to which is party, as well as other agreements on the subject to which the State is a party. (See paragraphs 268-271 in Chapter III, Section 1.3 of this Report.)
- 1.4.5. Implement the measures it deems appropriate to strengthen statistical mechanisms to ensure the availability of detailed statistics, compiled every year, on bank secrecy showing the number of requests filed by other States Parties that have been refused and the number of those accepted; in addition, inter alia, the name of the treaty invoked, the grounds mentioned in the request, and the reasons given substantiating the reply, with a view to identifying challenges and adopting, where necessary, corrective measures. (See paragraphs 272-274 in Chapter III, Section 1.3 of this Report.)
- 1.4.6. Adopt appropriate measures, subject to its domestic legal framework, for developing disaggregated, annual statistics on the number of penalties imposed on financial institutions for failure to comply with the regulations governing the processing of assistance related to

bank secrecy, in order to identify challenges and, where necessary, recommend corrective measures, in accordance with the purposes established in Article XVI of the Convention. (See paragraph 275 in Chapter III, Section 1.2 of this Report.)

IV. BEST PRACTICES

[279] In keeping with section VI of the Methodology for Follow-up of Implementation of the Recommendations formulated and provisions reviewed in the Third Round and for the review of the provision of the Convention selected for the Sixth Round, the following describes the best practices identified by the country under review that it has wished to share with the other member countries of the MESICIC in the belief that they could be of benefit to them:

[280] - Anticorruption Guide of the Attorney General's Office, through the Special Prosecutor's Office for Internal Affairs.

[281] The country under review indicated¹⁹⁴ that the Anticorruption Guide is a project designed to prioritize the prevention of acts of corruption in the FGR that consists of the following elements:

“-Main obligations of substantive personnel (agents of the Federal Public Service, Federal Ministerial Police, and Auditors) of the Institution.

- Definition of corruption and description of the conduct that constitutes the crime of corruption (covered in Title Tenth of the Federal Criminal Code).

- Methods for reporting crimes of corruption by public servants of the Attorney General's Office, in which reference is made to the Citizen Services System (VISITEL), through which citizens can report crimes of corruption potentially committed by public servants of the Institution to what is now the Special Prosecutor's Office for Internal Affairs, which is the competent authority for their investigation.”

[282] The Guide is designed to promote a culture of reporting in the face of potential acts of corruption committed by public servants of the Institution and includes a section containing a description of the conduct that constitutes the crime of corruption, including the crime of illicit enrichment, so that citizens know what such conduct consists of and are in a position to identify it should it occur. It is hoped that this Anticorruption Guide will enable the general public to know the acts of corruption that public servants of the institution might commit and will promote a culture of reporting, bringing the Federal Prosecution Service closer to citizens.

[283] The Anticorruption Guide is considered a best practice, since it is an informative and preventive document designed to inform FGR public servants about their obligations to the citizenry when performing their work, adhering to the principles of legality, honor, impartiality, efficiency, and limitless respect for the human rights that should govern their actions, in addition to informing citizens to make them aware of crimes of corruption that can be committed and provide them with channels for reporting it.

[284] - Business Integrity Register for Ethics and Integrity of the Secretariat of Public Service.¹⁹⁵

¹⁹⁴ Response of Mexico to the Questionnaire for the Sixth Round, pgs. 49 to 50. See: <https://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>.

¹⁹⁵ Response of Mexico to the Questionnaire for the Sixth Round, pgs. 54 to 59. See: <https://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

[285] The Business Integrity Register of the Secretariat of Public Service (SFP) is a program designed to improve synergy between the government and the business sector, as well as civil society engagement, by promoting business integrity and ethics policies.

[286] The primary objective of this program is: “to promote integrity, ethics, honesty, and legality between the Government and businesses, coordinating the registration of all businesses interested in fighting corruption, implementing ethics and integrity codes, a culture of legality, and the adoption of best practices in this area.”¹⁹⁶

[287] This Register seeks to set criteria for all businesses in the United Mexican States to obtain the *Integrity Label*. This Label is processed through a digital platform (*Plataforma*) in which the business must register its policies and measures with respect to: Code of Conduct; Oversight and Surveillance systems; Transparency and Openness Policies; Human Resource Policies; educational and training systems; Reporting (denunciation) Mechanisms; Procedures Manual.

[288] Its design is based on the international consensus on policies that discourage corruption, which advises a balance between coercive methods and incentives to recognize and reward those who make a commitment to following the law and avoiding corruption (United Nations, 2013).

[289] This is considered a best practice, since the *Business Integrity Label* will be issued within the framework of the Business Integrity Register. This label will recognize companies with best anticorruption practices, labor rights safeguards, gender equality, risk monitoring and surveillance, and good reporting channels, to name but a few aspects, through voluntary registration with a digital platform that will, in turn, contribute to prevention and the promotion of best practices through the eradication of acts of corruption and unethical practices. Furthermore, in collaboration with other agencies, international organizations, business associations, and academia, business evaluation mechanisms will be adopted for supervision, the production of forms and tools, and assistance to businesses, especially to ensure that the smallest ones have integrity protocols so that they can participate in the development of best practices and a culture of integrity.

¹⁹⁶ Response of Mexico to the Questionnaire for the Sixth Round, pg. 49. See: <https://www.oas.org/es/sla/dlc/mesicic/paises-rondas.html?c=México&r=6>

ANNEX

AGENDA FOR THE VIRTUAL ON-SITE VISIT TO MEXICO
-April 26-30, 2021-

Civil Society Organizations Meeting

<u>Monday, April 26</u>		
I Session		
Washington D.C./ Asuncion Mexico Managua	10:00 a.m. - 10:50 a.m. 9:00 a.m. - 9:50 a.m. 8:00 a.m. - 8:50 a.m.	Meeting with civil society organizations that responded to the Questionnaire. <ul style="list-style-type: none"> ▪ Mexican Transparency. ▪ Unidad Industrial Iztapalapa A.C.
Washington D.C. Mexico y Managua Asuncion	10:50 a.m. - 11:00 a.m. 9:50 a.m. - 10:00 a.m. 8:50 a.m. - 9:00 a.m.	Break
Washington D.C./ Asuncion Mexico Managua	11:00 a.m. – 11:45 a.m. 10:00 a.m. – 10:45 a.m. 9:00 a.m. - 9:45 a.m.	Denial or Prevention of Favorable Tax Treatment for Expenditures Made in Violation of Anticorruption Laws (Article III, Paragraph 7 of the Convention).
Washington D.C./ Asuncion Mexico Managua	11:45 a.m. – 12:00 p.m. 10:45 a.m. - 11:00 a.m. 9:45 a.m. - 10:00 a.m.	Break
II. Session		
Washington D.C./ Asuncion Mexico Managua	12:00 p.m.- 12:55 p.m. 11:00 a.m.- 11:55 a.m. 10:00 a.m.- 10:55 a.m.	Bank Secrecy (Article XVI of the Convention). <u>Participants:</u> <ul style="list-style-type: none"> ▪ Universidad Autónoma de México, Laboratory for Documenting and Analyzing Corruption and Transparency, Social Research Institute.
Washington D.C./ Asuncion Mexico Managua	12:55 p.m.- 2:00 p.m. 11:55 a.m.- 1:00 p.m. 10:55 a.m.- 12:00 p.m.	Break.
III. Session		
Washington D.C./ Asuncion Mexico Managua	2:00 p.m.- 3:00 p.m. 1:00 p.m.- 2:00 p.m. 12:00 p.m.- 1:00 p.m.	Prevention of bribery of domestic and foreign government officials (Article III, paragraph 10 of the Convention). <u>Participants:</u>

		<ul style="list-style-type: none"> ▪ Universidad Autónoma de México, Laboratory for Documenting and Analyzing Corruption and Transparency, Social Research Institute.
Washington D.C./ Asuncion Mexico Managua	3:00 p.m. – 3:15 p.m. 2:00 p.m. – 2:15 p.m. 1:00 p.m. – 1:15 p.m.	Break.
<u>IV Session</u>		
Washington D.C./ Asuncion Mexico Managua	3:15 p.m. – 4:15 p.m. 2:15 p.m. – 3:15 p.m. 1:15 p.m. – 2:15 p.m.	<p>-Illicit enrichment (Article IX of the Convention). -Extradition (Article XIII of the Convention). -Transnational bribery (Article VIII of the Convention).</p> <p><u>Participants:</u></p> <ul style="list-style-type: none"> ▪ Universidad Autónoma de México, Laboratory for Documenting and Analyzing Corruption and Transparency, Social Research Institute.
Washington D.C./ Asuncion Mexico Managua	4:15 p.m. - 4:30 p.m. 3:15 p.m. - 3:30 p.m. 2:15 p.m. - 2:30 p.m.	Informal meeting between representatives of the member States of the Subgroup and the Technical Secretariat.

Meeting with Government Authorities

<u>Tuesday, April 26</u>		
Washington D.C./ Asuncion Mexico Managua	10:00 a.m. - 10:45 a.m. 9:00 a.m. - 9:45 a.m. 8:00 a.m. - 8:45 a.m.	<p><u>Panel 1:</u> Denial or Prevention of Favorable Tax Treatment for Expenditures Made in Violation of Anticorruption Laws (Article III, Paragraph 7 of the Convention). Progress in the implementation of the recommendations of the Third Round, problems, new developments, and results.</p> <p><u>Presenter:</u></p> <ul style="list-style-type: none"> ▪ Tax Administration Service. (SAT). <p><u>Participants:</u> Representatives with first-hand knowledge and practical experience in the topics to be discussed:</p> <ul style="list-style-type: none"> ▪ Tax Administration Service (SAT).

		<ul style="list-style-type: none"> ○ General Administration for Legal Affairs. ○ Taxpayer Services Administration. ○ General Resources and Services Administration. ○ General Administration for Federal Tax Audits (to be confirmed).
Washington D.C./ Asuncion Mexico Managua	10:45 a.m. - 11:00 a.m. 9:45 a.m. - 10:00 a.m. 8:45 a.m. - 9:00 a.m.	Informal meeting between representatives of the member States of the Subgroup and the Technical Secretariat.

<u>Wednesday, April 28</u>		
Washington D.C./ Asuncion Mexico Managua	10:00 a.m. - 11:00 a.m. 9:00 a.m. - 10:00 a.m. 8:00 a.m. - 9:00 a.m.	<p><u>Panel 2:</u> Prevention of bribery of domestic and foreign government officials (Article III, Paragraph 10 of the Convention). Progress in the implementation of the recommendations formulated in the Third Round, problems, new developments, and results.</p> <p><u>Presenter:</u></p> <ul style="list-style-type: none"> ▪ Tax Administration Service. <p><u>Participants:</u> Representatives with first-hand knowledge and practical experience in the topics to be discussed:</p> <ul style="list-style-type: none"> ▪ Tax Administration Service (SAT) <ul style="list-style-type: none"> ○ General Administration for Legal Affairs. ○ Taxpayer Service Administration. ○ General Resources and Services Administration. ○ General Administration for Federal Tax Audits.

		<ul style="list-style-type: none"> ▪ Secretariat of Public Services <ul style="list-style-type: none"> ○ Transparency and Anticorruption Policy Unit. ○ General Administration for Civic Engagement and the Defense of Victims of Corruption ○ General Coordination Office for Supervision and Control Agencies. ○ Legal Affairs Unit. ○ Directorate-General for Reporting and Investigations ○ Directorate-General for Accountability and Asset Verification
Washington D.C./ Asuncion Mexico Managua	11:00 a.m. - 11:15 a.m. 10:00 a.m. - 10:15 a.m. 9:00 a.m. - 9:15 a.m.	Informal meeting between representatives of the member States of the Subgroup and the Technical Secretariat.

<u>Thursday, April 29</u>		
Washington D.C./ Asuncion Mexico Managua	10:00 a.m. - 11:30 a.m. 9:00 a.m. - 10:30 a.m. 8:00 a.m. - 9:30 a.m.	<p><u>Panel 3:</u> Progress in the implementation of the recommendations formulated in the Third Round, new developments, and results.</p> <p>-Definition of Transnational Bribery (Article VIII of the Convention). <u>Presenter:</u></p> <ul style="list-style-type: none"> ▪ Attorney General's Office – Special Unit for Crimes Committed Abroad <p>-Extradition (Article XIII of the Convention). <u>Presenters:</u></p>

		<ul style="list-style-type: none"> ▪ Attorney General’s Office – Directorate-General for International Procedures. <p><u>Participants:</u> Representatives with first-hand knowledge and practical experience in the topics to be discussed:</p> <ul style="list-style-type: none"> ▪ Attorney General’s Office <ul style="list-style-type: none"> ○ Special Unit for Crimes Committed Abroad. ○ Directorate-General for International Procedures. ○ Special Prosecutor to Fight Corruption. ○ Directorate-General for International Cooperation. ▪ Secretariat of Foreign Affairs <ul style="list-style-type: none"> ○ Directorate-General for Legal Affairs
Washington D.C./ Asuncion Mexico Managua	11:30 a.m. - 12:00 p.m. 10:30 a.m. - 11:00 a.m. 9:30 a.m. - 10:00 a.m.	<u>Break</u>
Washington D.C./ Asuncion Mexico Managua	12:00 p.m. - 1:00 p.m. 11:00 a.m. - 12:00 p.m. 10:00 a.m. - 11:00 a.m.	<p>-Definition of Illicit Enrichment (Article IX of the Convention).</p> <p><u>Presenter:</u></p> <ul style="list-style-type: none"> ▪ Attorney General’s Office – Special Prosecutor’s Office for Combating Corruption. <p><u>Participants:</u> Representatives with first-hand knowledge and practical experience in topics to be discussed:</p> <ul style="list-style-type: none"> ▪ Attorney General’s Office <ul style="list-style-type: none"> ○ Special Prosecutor’s Office for Internal Affairs.

		<ul style="list-style-type: none"> ○ Directorate-General for International Procedures. ○ Directorate-General for International Cooperation. ▪ Secretariat of Public Service. <ul style="list-style-type: none"> ○ General Coordination Office for Supervision and Control. ○ Legal Affairs Unit. ○ Directorate-General for Reporting and Investigations. ○ Directorate-General for Accountability and Asset Verification. ○ Directorate-General for Forensic Investigation. ▪ Secretariat of Finance and Public Credit <ul style="list-style-type: none"> ○ Financial Intelligence Unit.
Washington D.C./ Asuncion Mexico Managua	1:00 p.m. - 1:15 p.m. 12:00 p.m. - 12:15 p.m. 11:00 a.m. - 11:15 a.m.	Informal meeting between representatives of the member States of the Subgroup and the Technical Secretariat.

<u>Friday April 30</u>		
Washington D.C./ Asuncion Mexico Managua	10:00 a.m. - 11:00 a.m. 9:00 a.m. - 10:00 a.m. 8:00 a.m. - 9:00 a.m.	<p><u>Panel 4:</u> Bank Secrecy (Article XVI of the Convention).</p> <ul style="list-style-type: none"> ▪ Legal framework. ▪ Competent entities. ▪ Technology use. ▪ Results. <p><u>Presenter:</u></p>

		<ul style="list-style-type: none"> ▪ National Banking and Securities Commission – Office of the Vice President for Regulation. <p><u>Participants:</u></p> <ul style="list-style-type: none"> ▪ National Banking and Securities Commission <ul style="list-style-type: none"> ○ Office of the Vice President for Legal Affairs. ○ Office of the Vice President for Regulatory Policy. ○ Office of the Vice President for Preventive Proceedings. ▪ Secretariat of Finance and Public Credit. <ul style="list-style-type: none"> ○ Banking, Securities, and Savings Unit. ▪ Attorney General’s Office
Washington D.C./ Asuncion Mexico Managua	11:00 a.m. - 11:30 a.m. 10:00 a.m. - 10:30 a.m. 9:00 a.m. - 9:30 a.m.	Final meeting between the representatives of the country under review, the member States of the Subgroup, and the Technical Secretariat.
Washington D.C./ Asuncion Mexico Managua	11:30 a.m. - 11:45 p.m. 10:30 a.m. - 10:45 a.m. 9:30 a.m. - 9:45 a.m.	Informal meeting between representatives of the member States of the Subgroup and the Technical Secretariat.

**CONTACT AUTHORITY FROM THE COUNTRY UNDER REVIEW FOR
COORDINATION OF THE ON-SITE VISIT, AND REPRESENTATIVES OF THE
MEMBER STATES OF THE PRELIMINARY REVIEW SUBGROUP AND THE
TECHNICAL SECRETARIAT OF THE MESICIC**

COUNTRY UNDER REVIEW

MEXICO

Dálida Cleotilde Acosta Pimentel

Lead Expert on the Committee of Experts of the MESICIC
Head of the Unit for Transparency and Anticorruption Policies
Civil Service Secretariat

Martha Catalina Vázquez Vazquez

Lead Expert on the Committee of Experts of the MESICIC
Deputy Director for Drugs and Anticorruption
Directorate-General for the United Nations
Secretariat of Foreign Affairs

Gilles Rafael Lalo Molina

Alternate Expert on the Committee of Experts of the MESICIC
Director-General for International Corruption Awareness
Transparency and Anticorruption Policies
Secretariat of the Civil Service

MEMBER STATES OF THE PRELIMINARY REVIEW SUBGROUP

NICARAGUA

Hernaldo Chamorro Díaz Procurador Penal Nacional

Lead Expert on the Committee of Experts of the MESICIC
Secretary for Integrity and Transparency
National Criminal Prosecutor
Federal Attorney General's Office

Iván Lara Palacios

Vice Minister of Foreign Affairs
Ministry of Foreign Affairs

PARAGUAY

María Soledad Machuca Vidal

Public Prosecutor

Lead Expert on the Committee of Experts of the MESICIC
Economic Crimes and Anticorruption Unit
Public Prosecutor's Office

Miguel Angel Romero

Alternate Expert on the Committee of Experts of the MESICIC
Director-General
Anticorruption Unit, Ministry of Foreign Affairs

Rene Fernandez

Alternate Expert on the Committee of Experts of the MESICIC
Minister
National Anticorruption Secretariat (SENAC)

TECHNICAL SECRETARIAT OF THE MESICIC

Magaly McLean. Esq.

Senior Attorney

Department of Legal Cooperation
OAS Secretariat for Legal Affairs

Lili Romero-DeSimone

Legal Officer

Department of Legal Cooperation
OAS Secretariat for Legal Affairs

Alexsa McKenzie

Consultant

Department of Legal Cooperation
OAS Secretariat for Legal Affairs