

MECHANISM FOR FOLLOW-UP ON THE
IMPLEMENTATION OF THE INTER-AMERICAN
CONVENTION AGAINST CORRUPTION
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MEXICO

FINAL REPORT

(Adopted at the September 14, 2012 Plenary Session)

SUMMARY OF THE REPORT

This report contains the comprehensive review of the implementation in Mexico of Article III, paragraph 9, of the Inter-American Convention against Corruption, covering “oversight bodies, with a view to implementing modern mechanisms for preventing, detecting, punishing, and eradicating corrupt acts,” which was selected by the MESICIC Committee of Experts for the Fourth Round; of the best practices reported by those bodies; and of the follow-up of the implementation of the recommendations formulated to Mexico during the First Round.

The review was conducted in accordance with the Convention, the Report of Buenos Aires, the Committee’s Rules of Procedure, and the methodologies it has adopted for conducting on-site visits and for the Fourth Round, including the criteria set out therein for guiding the review based on equal treatment for all the 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 taking into account Mexico’s response to the questionnaire, information provided by civil society organizations, information gathered by the Technical Secretariat, and, as a new and important source of information, the on-site visit conducted between March 21 and 23, 2012, by the members of the review subgroup for Mexico, comprising Canada and Peru, with the support of the Technical Secretariat. During that visit, the information furnished by Mexico was clarified and expanded and the opinions of civil society organizations, the private sector, professional associations, academics, and researchers on issues of relevance to the review were heard. This provided the Committee with objective and complete information on those topics, assisting with the gathering of information on practices, and providing Mexico with the opportunity to offer and/or request technical assistance for the purposes of the Convention.

The review of the oversight bodies was intended, in accordance with the terms of the methodology for the Fourth Round, to determine whether they have a legal framework, whether that framework is suitable for the purposes of the Convention, and whether there are any objective results; then, taking those observations into account, the relevant recommendations were issued to the country under review.

The following oversight bodies in Mexico are reviewed in this report: the Civil Service Secretariat (SFP), the Internal Oversight Organs (OICs), the office of the Senior Auditor of the Federation (ASF), the office of the Attorney General of the Republic (PGR), and the Federal Judicature Council (CJF).

The recommendations formulated for Mexico’s consideration, in connection with the aforementioned bodies, address issues such as the following:

With respect to the SFP and the OICs: strengthening inter-institutional coordination; agreeing on mutual cooperation activities in areas where interest in offering and receiving such cooperation has been expressed; overcoming the OICs’ difficulties with the internal legal framework of the agencies under their jurisdiction, with following up on the recommendations served on those agencies, and with the lack of an established culture of respect for and protection of public assets and interests.

With respect to the ASF: strengthening inter-institutional coordination; streamlining the taking of decisions in relation to the administrative responsibility punishment processes carried out by the ASF, by the competent audit and oversight entities; speeding up the conclusion, by the competent authority, of preliminary investigations into complaints formulated by the ASF; speeding up the conclusion of the redress procedures initiated by the ASF and the recovery, by the Federal Treasury, of the funds arising from the liabilities for property damages established by the ASF.

With respect to the PGR: speeding up the issuing of the regulatory provisions of the Professional Service of the Ministerial, Police, and Expert Career; ensuring the enforcement of the protocols for preparing preliminary inquiries, criminal trials, and constitutional relief applications; resolving the difficulties in implementing the “Risk Administration Strategy”; strengthening the units responsible for the criminal investigation and prosecution of acts of corruption; preventing staff rotation programs from affecting proper fulfillment of this function; and concluding implementation of the “Program of Effective Justice for All” project.

With respect to the CJF: adopting a regulation to fill, through merit-based competition, the CJF’s middle-management and operational positions that are not covered by the Judicial Career regime; establishing a technological platform for analyzing data from statements of net worth submitted electronically, in such a way as to produce indicators for investigations into possible irregularities; increasing the number of studies into changes in net worth; and concluding the updating of the CJF’s organizational and procedural manuals.

The best practices regarding which Mexico provided information dealt basically with the SFP’s “Simulated User” strategy for detecting corrupt public officials *in flagrante*; an SFP strategy for timely, automatic identification of possible substantial, unjustified in public servants’ net worth, known as “Investigations of Equity Evolutions”; a “System for Real-time Monitoring of Contracting Events” known as “SISEC,” in the PEMEX–PETROQUÍMICA OIC; and a PGR project to reduce the margins for discretion and interpretation and to increase mechanisms for accountability and transparency in the actions of agents of the Public Prosecution Service of the Federation, called protocols for preparing preliminary inquiries, criminal trials, and constitutional relief applications.

With regard to follow-up on the recommendations formulated to Mexico in the First Round and with respect to which, the Committee, in the Second and Third Round reports, found required additional attention, based on the methodology for the Fourth Round and bearing in mind the information provided by Mexico in its response to the questionnaire and during the on-site visit, a determination was made as to which of those recommendations had been satisfactorily implemented, which required additional attention, and which required reformulation. A list of those still pending was also prepared, and has been included in Annex 1 of the report.

Among the progress related to the implementation of those recommendations, the following is noted: the Federal Anticorruption in Public Procurement Law, in relation to anonymous whistleblowing and the confidentiality of the identity of the whistleblower; the Federal Archive Law, in relation to access to public information; the strengthening of the verification of the contents of statements of net worth, through the intelligent computer tools known as the Alert System and OMEXT and the Equity Evolution Procedure; and a considerable increase in Federal Public Administration (APF) programs with social control schemes.

Some of the recommendations formulated to Mexico in the First Round that remain pending or that have been reformulated address such issues as: adopting a system to evaluate and monitor compliance by the federal public administration's with the obligation of adopting a Code of Conduct; guaranteeing the sustainability of training and dissemination programs related to provisions on the obligation to report acts of corruption, and adopting protective measures for those who report such acts; regulating the disclosure of statements of net worth and optimizing their analysis so they are of use in detecting conflicts of interest; and ensuring that departments and agencies comply with the obligations that regulate the right of access to information and that they identify, publish, and disseminate socially useful or focused information.

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

**REPORT ON IMPLEMENTATION IN MEXICO OF THE CONVENTION PROVISION
SELECTED FOR REVIEW IN THE FOURTH ROUND, AND ON FOLLOW-UP TO THE
RECOMMENDATIONS FORMULATED TO THAT COUNTRY IN THE FIRST ROUND¹**

INTRODUCTION

1. Content of the Report

[1] This report presents, first, a comprehensive review of Mexico's implementation of the provision of the Inter-American Convention against Corruption that was selected for review by the Committee of Experts of the Follow-up Mechanism (MESICIC) for the Fourth Round. That provision appears in Article III (9) of the Convention, pertaining to "Oversight bodies with a view to implementing modern mechanisms for preventing, detecting, punishing and eradicating corrupt acts."

[2] Second, the report will examine the best practices that Mexico has voluntarily expressed its wish to share in regard to the oversight bodies under review in this report.

[3] Third, as agreed by the Committee of Experts of the MESICIC at its Eighteenth Meeting, in compliance with recommendation 9(a) of the Third Meeting of the Conference of States Parties to the MESICIC, this report will address the follow-up of implementation of the recommendations that the Committee of Experts of MESICIC formulated to Mexico in the First Round and that it deemed to require additional attention in the reports it adopted for that country in the Second and Third Rounds, which may be consulted at the following webpage: <http://www.oas.org/juridico/english/mex.htm>

2. Ratification of the Convention and adherence to the Mechanism

[4] According to the official records of the OAS General Secretariat, Mexico ratified the Inter-American Convention against Corruption on May 27, 1997, and deposited the instrument of ratification on June 2, 1997.

[5] 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 THE INFORMATION RECEIVED

1. Response of Mexico

[6] The Committee wishes to acknowledge the cooperation that it received, throughout the review process, from Mexico and in particular from the Secretariat of the Civil Service, which was evidenced, *inter alia*, in the response to the Questionnaire and in the constant willingness to clarify or complete its contents, and in the support for the on-site visit to which the following paragraph of this report refers. Together with its response, Mexico sent the provisions and documents it considered pertinent. That

1. This report was adopted by the Committee in accordance with the provisions of Articles 3 (g) and 25 of the Committee's Rules of Procedure, at the September 14, 2012 plenary session, within the framework of the Twentieth Meeting of the Committee, held at OAS headquarters in Washington, D.C., from September 10 to 14, 2012.

response and the provisions and documents may be consulted at the following webpage: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

[7] The Committee also notes that the country under review gave its consent for the on-site visit, in accordance with provision 5 of the *Methodology for Conducting On-Site Visits*.² As members of the preliminary review subgroup, the representatives of Canada and Peru conducted the on-site visit from March 21 through 23, 2012, 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 thereto, in keeping with provision 34 of the *Methodology for Conducting On-Site Visits*.

[8] For its review, the Committee took into account the information provided by Mexico up to March 23, 2012, the date on which the on-site visit ended, as well as that furnished and requested by the Secretariat and the members of the review subgroup to carry out its functions, in keeping with the *Rules of Procedure and Other Provisions*; the *Methodology for the Review of the Implementation of the Provision of the Inter-American Convention against Corruption Selected in the Fourth Round*; and the *Methodology for Conducting On-Site Visits*. This information may be consulted at the following webpage: http://www.oas.org/juridico/english/mesicic_rounds.htm

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

[9] The Committee also received, within the deadline set by the Committee in the Schedule adopted for the Fourth Round, a number of documents that “*Transparencia Mexicana*” –the national chapter of Transparency International- furnished pursuant to Article 34.b of the Committee’s *Rules of Procedure*.³

[10] On the occasion of the on-site visit to Mexico from March 21 to 23, 2012, information was also gathered from other 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 has been annexed to this report. This information is reflected in the appropriate sections of this report, as appropriate.

II. REVIEW, CONCLUSIONS AND RECOMMENDATIONS ON IMPLEMENTATION BY THE STATE PARTY OF THE CONVENTION PROVISION SELECTED FOR THE FOURTH ROUND⁴

OVERSIGHT BODIES WITH A VIEW TO IMPLEMENTING MODERN MECHANISMS FOR PREVENTING, DETECTING, PUNISHING AND ERADICATING CORRUPT ACTS (ARTICLE III (9) OF THE CONVENTION)

[11] Mexico has a set of oversight bodies with a view to implementing modern mechanisms for preventing, detecting, punishing and eradicating corrupt acts. Prominent among these are following: the

2. Document SG/MESICIC/doc.276/11 rev. 2, which may be consulted at: www.oas.org/juridico/english/met_onsite.pdf

3. These documents were received electronically on January 16, 2012 and may be consulted at: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

4. This report refers to oversight bodies and provisions at the federal level, based on the understanding that the states and the Federal District and municipalities may have similar oversight bodies and provisions.

Secretariat of the Civil Service and Internal Oversight Bodies; the Office of the Federation's Auditor-in-Chief; the Office of the Attorney General of the Republic; the Superior Council of the Federal Judiciary; the Supreme Court of Justice; the Office of the Comptroller of the Federal Judiciary; the Office of the In-House Comptroller of the Senate; and the Office of the In-House Comptroller of the Chamber of Deputies.

[12]The following paragraphs offer a brief description of the purposes and functions of the four agencies selected by Mexico that are to be examined in this report:

[13]- The Secretariat of the Civil Service (SFP), which is an agency of the central public administration of the federal executive branch and which, under Article 90 of the Constitution of the United Mexican States (CPEUM) and Article 37 of the Organic Law of the Federal Public Administration (LOAPF), serves as an oversight body within the federal executive branch, with authority over financial, material, and human resources, to detect and correct shortcomings within the administration. In addition, under other provisions – such as the Federal Law on the Administrative Responsibilities of Civil Servants (LFRASP) – it is also empowered to receive and record civil servants' statements of net worth and to hear and investigate acts by civil servants that could give rise to administrative responsibilities, to impose the corresponding penalties, and, when applicable, to lodge the corresponding complaints with the Public Prosecution Service (MP). The Secretariat performs its functions vis-à-vis complaints, responsibilities, and audits in two ways: (a) through its central administrative units, and (b) through the internal oversight organs (OICs) of each department and agency of the federal public administration. According to Article 5, sections XIV and XV, Article 17, sections I, II, IV, VI, VII, and VIII, and other related provisions of its Internal Regulations, this Secretariat is responsible for important duties related to participation by civil society and nongovernmental organizations in efforts to prevent corruption.

[14]- The Office of the Federation's Auditor-in-Chief (ASF) of the Chamber of Deputies, established as an external oversight body, with technical and administrative autonomy in the performance of the functions granted to it by Article 79 of the Mexican Constitution (CPEUM) and by the Federal Higher Oversight Law (LFSF). This is an oversight body of the legislative branch that conducts subsequent supervision to check compliance with the budgetary and financial obligations of the three branches of the federal government and the autonomous federal organs, and which is also empowered to impose compensatory sanctions.

[15]- The Office of the Attorney General of the Republic (PGR), the purpose of which is to deal with the matters assigned to the Federal Public Prosecution Service (MP) and to Attorney General of the Republic by the Constitution (Articles 21 and 102-A), the Organic Law of the Office of the Attorney General of the Republic, the Organic Law of the Federal Public Administration, (Article 30-bis, sections XV and XXII; Article 37, section XII; and Transitory Article Five), the General Law of the National Public Security System (Article 12, section VI; Article 23, and Transitory Article Six), and other applicable provisions. Its functions include investigating federal crimes and prosecuting them before the courts (Articles 21 and 102-A of the Constitution), as provided for by Articles 1, 2, 3, 113, 121, 123, 168, 180, 181, and other related and applicable provisions of the Federal Code of Criminal Procedure, Articles 1, 4, and other related articles of its Organic Law, Articles 1, 4, 5, 7, 13, 14, and other related articles of the Federal Criminal Code.

[16]- The Council of the Federal Judiciary (CJF), the purpose of which, under Article 94 of the Constitution and Article 68 of the Organic Law of the Judicial Branch of the Federation, and in accordance with the General Agreement of the Plenary of the Council of the Federal Judiciary

Regulating that Council's Organization and Functioning, is the administration, oversight, discipline, and judicial career of the Federal Judiciary, with the exception of the Supreme Court of Justice of the Nation and the Electoral Court. Article 100 of the Constitution provides, *inter alia*, that the CJF shall be an agency of the Federal Judiciary, with technical, administrative, and resolute independence.

1. THE SECRETARIAT OF THE CIVIL SERVICE (SFP) AND THE INTERNAL OVERSIGHT BODIES (OIC)

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

[17] The Secretariat of the Civil Service (SFP) and the Internal Oversight Bodies (OIC) have a set of provisions that make up their legal framework, as well as other measures that refer, *inter alia*, to the following:

[18] The Secretariat of the Civil Service (SFP) is an office in the Federal Executive Branch of the central government, as the latter is defined in Article 90 of the Political Constitution of the United Mexican States (hereinafter, Constitution). The SFP's purpose is to serve as an internal oversight body within the Federal Executive Branch, under the terms of Article 37 of the Organic Law of the Federal Government, the Federal Law on Administrative Responsibilities of Civil Servants, and other laws, such as the Federal Anti-corruption in Government Contracting Law.

[19] With respect to the SFP's functions, Article 37 of the Organic Law of the Federal Government, contemplates the following: organizing and coordinating the government oversight and evaluation system and checking federal government spending to ensure that it matches the budget of expenditures (section I); receiving and recording the asset disclosure statements filed by federal government employees and checking the disclosures by conducting the investigations called for under the pertinent provisions (section XV); investigating conduct by public servants that may trigger administrative responsibility; enforcing the sanctions that the law dictates and, when appropriate, filing the necessary complaints with the Public Prosecutor's Office and providing whatever cooperation may be requested of it in that regard (section XVII).

[20] Furthermore, the Federal Law on Administrative Responsibilities of Civil Servants establishes who the subjects of the law are, the duties of civil service, administrative responsibilities and attendant sanctions, the authorities competent to impose sanctions and the procedures to be followed when imposing sanctions and when recording public servants' assets. Under Article 3, section II of that law, the SFP is given the authority to enforce this law within its area of competence.

[21] In addition, Mexico's newly enacted Federal Anti-corruption in Government Contracting Law⁵ gives the SFP jurisdiction for purposes of ascertaining whether responsibility has been incurred and the sanctions that apply to natural or legal persons –be they national or foreign- who engage in the federal government contracting practices prohibited under the new law; it also has jurisdiction to ascertain responsibility and the sanctions that apply in the case of natural and legal persons that engage in unlawful practices in international commercial transactions.

[22] Under its own Internal Regulations (Article 17, sections I, II, IV, VI, VII, and VIII) the SFP is charged with functions related to the prevention of corruption and the participation of civil society and nongovernmental organizations in anti-corruption efforts.

5. Available at: http://dof.gob.mx/nota_detalle.php?codigo=5251641&fecha=11%2F06%2F2012

[23] Under its Internal Regulations, the SFP is to perform its functions through its central administrative units (Article 3) and the internal oversight bodies (OIC) set up within every federal government office or agency (articles 79 to 82).

[24] The SFP's Internal Regulations describe each administrative unit's functions and provide that some units may deal with matters that are the purview of the OIC when the Secretary of the Civil Service "asserts jurisdiction"⁶ (for example, Article 51, section III, which concerns the Office of the Director General of Responsibilities and Financial Standing, provides that this office is authorized to act "in proceedings conducted on cases in which jurisdiction has been asserted so that the cases may be heard directly in the Secretariat if the Secretary so agrees; when the proceedings establish that administrative responsibility has been incurred, the Office has the authority to order the same sanctions that the Secretariat has the power to impose."

[25] The SFP's Internal Regulations also describe the functions of the heads of the OIC (Article 79)⁷, and those of the heads of the auditing, complaints and responsibilities areas of the OIC (Article 80). Under Article 37 of the Organic Law of the Federal Government (section XII), the OIC are hierarchically and functionally subordinate to the SFP.

[26] The role of the SFP's Office of the General Coordinator of Monitoring and Oversight Bodies is to coordinate the heads of the OIC and serve as liaison between them and the Secretary.

[27] In relation to the coordination mechanisms by which its functions are harmonized with those of other State agencies and entities, on the occasion of the on-site visit, SFP representatives reported that cooperation and coordination agreements had been concluded with other oversight bodies, such as the Office of the Federation's Auditor-in-Chief and agencies such as the Tax Administration Service (SAT) and the Secretariat of the Treasury and Public Credit (its Financial Intelligence Unit); the Secretariat of

6. On August 9, 2012, the country under review furnished jurisprudence from the federal judiciary regarding the exercise of discretionary powers by the administrative authorities, stating, inter alia, that: "...discretion exists when, once the conditions of the provision have been met, the administrative authority has the freedom to choose the option which it feels best serves the public interest from among several possibilities. In other words, the provision establishes merely the elements of validity of the act related to competence, method, and end, but not the contents; that, instead, is to be determined by the Administration in accordance with considerations of usefulness." (COLLEGIATE ADMINISTRATIVE COURT OF THE FIRST CIRCUIT. Direct amparo 297/86. Recuperadora de Limas de Acero, S. A. April 15, 1986. Unanimous. Prepared by: Genaro David Góngora Pimentel. Secretary: Adriana Leticia Campuzano Gallegos). On that same date, the country under review also furnished clarifying information, specifying, inter alia, that the power to take control over matters is admissible in cases that, by their nature and characteristics, may have a considerable impact on the provision of a public service, on specific groups within society, or even on the perceptions of public opinion, on account of the type of public servants involved, the operations detected, or the seriousness of the acts committed, and that that power may be exercised on a discretionary basis by the Secretary of the Civil Service, or by certain administrative units, in strict compliance with the principles of legality and legal security enshrined in the Constitution and in applicable statutes, with the sole purpose of ensuring continuity in the provision of the public service. On September 7, 2012, the country under review noted that this jurisprudence had served as a starting point for later, similar jurisprudence.

7. Among these functions, section I of Article 79 of the SFP's Internal Regulations provides that the SFP shall "receive complaints and grievances alleging failure to comply with the duties of civil servants and shall follow up on those complaints and grievances, investigate them, establish any responsibility that may have been incurred and impose the sanctions that the legal system prescribes, with the exception of those that are the purview of the Office of the Director General of Responsibilities and Financial Standing. The SFP may order that the persons alleged to be responsible be temporarily suspended from their jobs, posts or commissions if their temporary suspension is in the investigation's best interests, as the legal system determines; when called for, it shall take the measures that the law on the subject prescribes, in order to be in a position to take steps to collect any pecuniary sanctions that civil servants are ordered to pay for any wrongdoing committed."

Government and the Secretariat of Public Security.⁸ It was also reported that cooperation and coordination agreements had been signed to work in conjunction and in concert with the 32 states of the Union; that the states serve on a permanent States-Federation committee where the state comptrollers are represented by one of their peers, whom they elect for that purpose.⁹

[28] With respect to the adoption of decisions, Article 5 of the SFP's Internal Regulations states that representation of the SFP rests first and foremost with the Secretary of the Civil Service, as do decisions on matters within the SFP's purview. Article 5 also provides that to better distribute and carry out the SFP's workload, the Secretary of the Civil Service may delegate functions to his or her subordinate public servants. Article 6 of the Regulations lists the functions that the Secretary shall not delegate. Articles 79 and 80 list the decisions that the heads of the OIC and of their auditing, complaints and responsibilities areas are authorized to take vis-à-vis the federal government office or entity that each OIC oversees.

[29] In relation to the remedies that exist to challenge decisions adopted by the SFP or the OIC with respect to the administrative responsibility of public servants, articles 25 and 26 of the Federal Law on Administrative Responsibilities of Civil Servants provide that public servants may either file a challenge with the authority that issued the decision seeking the decision's reversal, or take their challenge directly to the Federal Court of Fiscal and Administrative Justice. The law adds that the decisions issued regarding the challenge filed seeking reversal of the original decision may also be appealed before the Federal Court of Fiscal and Administrative Justice.

[30] As for the manner in which senior officers are selected, Article 89, section II of the Constitution provides that the Secretary of the Civil Service shall be appointed by the President and removed at the President's discretion. Under Article 6 of the SFP's Internal Regulations, the Secretary of the Civil Service appoints and removes the Secretariat's delegates and deputy delegates to the government offices and to the Attorney General's Office, the government commissioners in the entities, and the heads of the OIC and of their responsibilities, auditing and complaints areas (section XVIII).

[31] Under the SFP's Internal Regulations, the Secretary of the Civil Service shall also "determine the terms of appointment of Secretariat personnel and order the chief federal administrative officer to publish them; the Secretary of the Civil Service shall also decide on the suggestions that public servants make for the creation of posts and appointment or removal of cabinet support staff and personnel in positions of trust who are not subject to the Law on the Federal Government Professional Career Service." (section XXI).¹⁰

8. These agreements are available in the file on "information requested of the SFP on the occasion of the on-site visit," which is at: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

9. These agreements may be consulted at: <http://www.funcionpublica.gob.mx/index.php/entidades-federativas.html>

10. Article 8 of this law excludes the following from the government career services: under secretaries, senior officers, unit chiefs or heads and similar posts, and those who provide their services on a contract basis and whose fees are paid by the office or unit. Similarly, Article 6 of that law's Regulations provides that the Secretariat shall authorize, through the Unit, the structures of the Support Cabinets referred to in Article 7 thereof, in consideration of the functions to be performed by the freely appointed public servants appointed to them, subject to the prior rationale provided by the hierarchical superior, and provided that those structures have previously received a favorable budgetary ruling from the Secretariat of the Treasury and Public Credit. Article 7 also states that the Support Cabinet is the administrative unit attached to secretaries, deputy secretaries, senior clerks, unit heads, directors of decentralized agencies, and the equivalents thereof, to perform a specific task or function in offices of private secretaries, coordinators of advisors, coordinators of social communication and support services, at any level, in accordance with the authorized budget; it further provides that the public servants assigned to Support Cabinets shall be freely appointed and removable by the immediate hierarchical superior.

[32] As for the requirements that must be met to qualify for positions, Article 5 of the aforementioned Law provides that persons designated to posts through discretionary appointments must meet the pre-established requirements for the post in question. Article 21 spells out the requirements that must be met to qualify for posts in the Professional Career Service System.

[33] With regard to the OIC's support personnel, Article 82 of the SFP's Internal Regulations provides that to handle the affairs and conduct the proceedings assigned to them, the heads of the OIC and of their auditing, complaints, and responsibilities areas shall be assisted by OIC in-house personnel.¹¹

[34] With respect to the bodies with the authority to demand that the Secretary of the Civil Service account for his or her actions, the Secretary of the Civil Service is subject to impeachment under articles 109¹² and 110 of the Constitution. The proceedings and the decision are the exclusive purview of the Congress of the Union. The penalty is removal from office and disqualification for functions, employment, posts or service on committees of any kind in the civil service.

[35] As for the regime of disqualifications, incompatibilities and responsibility of the personnel of the SFP and the OIC, personnel are subject to the Federal Law on Administrative Responsibilities of Civil Servants. Article 12 of that law provides that if SFP public servants incur responsibility for failure to comply with the obligations set forth in Article 8 of the law, the Secretariat's Office of the Internal Comptroller shall order the sanctions that the law prescribes. The Office of its Deputy Director General for Grievances, Complaints and Investigations even has a data processing system to receive grievances and complaints, called the Comprehensive Citizen Response System (*Sistema Integral de Atención Ciudadana* [SIAC]).¹³

[36] In relation to the manner in which the budgetary resources needed for operations are ensured, under Article 74, section IV of the Constitution, read in conjunction with the final paragraph of Article 100 thereof, the resources earmarked for the SFP are determined in the Federation's Budget of Expenditures, which is approved by the Chamber of Deputies of the Congress of the Union.

[37] With respect to any documented procedures, manuals, and institutional strengthening measures, the SFP has, *inter alia*, a General Organization Manual.¹⁴ As a result of a strategy for "cutting back regulations," launched in 2009 and intended "to make life easier for the citizenry, increase competitiveness and enable the country's economic and social development,"¹⁵ both the SFP and the OIC have 9 General Application Manuals, dealing with auditing, procurements, public works, internal oversight, financial resources, material resources, transparency, human resources and information technologies.¹⁶ Other manuals include a guide for financial management of projects funded by

11. On the occasion of the on-site visit, OIC representatives observed that it would be better if payment of salaries and assignment of support personnel were not done by the entities that supervise them; however, they also pointed out how difficult it would be to transfer, in the budget, 7,765 employees from the OIC to the SFP.

12. As provided in paragraph I of this article, "The public servants mentioned in Article 110 shall be impeached and face the punishments indicated therein when, in the exercise of their functions, they commit acts or omissions that are prejudicial to the basic public interests or do not serve those interests properly. Expression of one's ideas shall not be grounds for impeachment."

13. Response from Mexico concerning the Secretariat of the Civil Service (pp. 22 and 23)

14. Available at: <http://www.funcionpublica.gob.mx/index.php/conoce-la-sfp.html>

15. Response from Mexico concerning the Secretariat of the Civil Service (pp. 19 - 21). The document also states that this strategy began with an inventory of the government provisions currently in force; working from that inventory, the federal government set about the task of identifying duplicated provisions, inefficient procedures and activities, excessive costs and the bureaucratic red tape that represents so much needless expense for the public.

16. Available at: <http://www.funcionpublica.gob.mx/index.php/programas/manuales>

international financial agencies and a manual of general terms of reference for audits of projects financed by those agencies.¹⁷

[38] For staff training, under Article 72, section I of the SFP's Internal Regulations, the functions of the Office of the Director General of Human Resources include that of proposing and implementing the process and programs by which to train Secretariat personnel. There is also an Annual Training Program for the SFP and for the OIC.¹⁸

[39] In relation to the ways in which the support of other authorities and of the citizenry is enlisted to accomplish the SFP's functions, the SFP has concluded cooperation agreements with other state organs and entities, as mentioned previously. Also, the objectives established in the "National Accountability, Transparency and Anti-Corruption Program 2008-2012"¹⁹ include "institutionalizing mechanisms for citizen partnership and participation in combating corruption and improving transparency and legality." The response from the country under review describes the measures taken with that objective in mind.²⁰ On the occasion of the on-site visit, information was furnished on mechanisms for enabling civil society's participation, such as the "social comptrollership" and the "social witnesses." Reference was also made to agreements concluded with civil society organizations.

[40] To disseminate information to the public, a Transparency Obligations Portal²¹ is available at the SFP's website. The portal was created pursuant to Article 7, section VI of the Federal Transparency and Access to Public Information Act. The public can consult the portal for information about the SFP's objectives and functions; the procedures, requirements and formats used within the SFP, and the vehicles of citizen participation. Through that webpage, the public also has access to information on the OIC,²² some of which also have their own dedicated websites.²³

[41] With respect to accountability mechanisms, the way in which information is made available and how it can be accessed by the public, it should be noted that on the SFP website, information is published on the "National Accountability, Transparency and Anti-Corruption Program 2008-2012" and its annual follow-up reports (for the years 2009 and 2010), evaluations (for years 2009 to 2011)²⁴ and the activities

17. Available at the file on "information requested of the SFP on the occasion of the on-site visit," which is available at: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

18. The content and history of this program are described in the response from Mexico concerning the Secretariat of the Civil Service (pp. 17 - 19); the content and history of the OIC are available in Mexico's response concerning the SFP - OIC (pp. 9 and 10).

19. May be consulted by way of the following link:

<http://www.funcionpublica.gob.mx/index.php/transparencia/normatividad-en-materia-de-transparencia.html>

20. Response from Mexico concerning the Secretariat of the Civil Service (pp. 29 to 41)

21. That portal may be consulted at the following link:

http://portaltransparencia.gob.mx/pot/dependencia/showDependencia.do?method=begin&redireccionado=true&_idDependencia=00027

22. May be consulted at: <http://www.funcionpublica.gob.mx/directorio>

23. Response from Mexico concerning the SFP - OIC, p. 11. On August 9, 2012, the country under review reported that: "The SFP also has a transparency-focused microsite that is updated quarterly. Its purpose is accountability and to provide the public with sound, up-to-date, and socially useful information that can be used in decision-making. At the present time the site is used to publish statistics on government procurement, savings generated by the federal government's contracting systems (framework contracts, bid improvements and consolidating purchases), enhancement measures determined by the internal oversight bodies, cost recoveries and the savings thereby generated, procedures for filing a complaint and relevant information on national and international indices, studies and surveys on transparency and combating corruption." (<http://www.funcionpublica.gob.mx/index.php/transparencia/transparencia-focalizada.html>)

24. May be consulted by way of the following link:

<http://www.funcionpublica.gob.mx/index.php/transparencia/normatividad-en-materia-de-transparencia.html>

reports²⁵ that the SFP prepares each year pursuant to articles 93 of the Constitution, 23 of the Organic Law of the Federal Government and 8 of the Planning Act. These reports also cover the activities of the OIC.²⁶

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

[42] The Secretariat of the Civil Service (SFP) and the Internal Oversight Bodies (OIC) have a set of provisions and/or other measures relevant to the purposes of the Convention, some of which were briefly described in section 1.1 of this report. Nonetheless, the Committee considers it appropriate to formulate certain observations in relation thereto:

[43] First, in the response from the country under review and on the occasion of the on-site visit, comments were made to the effect that the SFP has concluded cooperation and coordination agreements with other oversight and state agencies and with the 32 states of the Union. However, the need to strengthen the inter-institutional coordination mechanisms was also mentioned.

[44] It should be noted in relation to the foregoing, that the response from the country under review notes the following: “the inter-institutional coordination mechanisms need to be reinforced in order to strengthen the actions, programs and policies intended to prevent and combat corruption. Specifically, the sharing of information should be facilitated and efforts should be better coordinated among the agencies whose mission is to prevent, detect and punish corrupt practices that trigger administrative and criminal responsibility, and with the State’s tax and intelligence agencies.”²⁷ Given the importance of that kind of coordination, the Committee will formulate a recommendation to that effect to the country under review (see recommendation 1.4.1. of Chapter II of this report).

[45] On the occasion of the on-site visit, allusion was made to the existing cooperation and coordination agreements and to the fact that objective 5 of the National Accountability, Transparency and Anti-Corruption Program 2008-2012” calls for the establishment of coordination mechanisms. However, the SFP representatives also observed that further coordination is needed and that three task forces are currently working on the National Auditing System, which will involve amendments to the laws now in force.

[46] With respect to the above topic, on the occasion of the on-site visit the civil society organization *Transparencia Mexicana* observed that a National Oversight System was needed in which all the oversight bodies would participate. It also said that all federal, state and local actors would have to be involved for a truly nationwide anti-corruption policy. *Transparencia Mexicana* also noted that while formal cooperation agreements have been concluded at the federal level, such as the agreement between the Office of the Federation’s Auditor-in-Chief and the Secretariat of the Civil Service and the latter’s agreement with the 32 states of the Union, much remains to be done in the area of inter-institutional coordination.

[47] During the on-site visit, another civil society organization, called “*México Evalúa*,” mentioned the importance of inter-institutional coordination and spoke about the problem of institutional fragmentation.

25. May be consulted by way of the following link:

<http://www.funcionpublica.gob.mx/index.php/transparencia/informacion-diversa/informes-de-labores-y-de-ejecucion.html>

26. Response from Mexico concerning the SFP – OIC, p. 14

27. Response from Mexico concerning the Secretariat of the Civil Service , p. 50

[48] Second, in the section on technical cooperation needs, the response from the country under review²⁸ identified the following areas: sharing of best practices; mutual judicial assistance; joint investigations, and special investigative techniques. On the occasion of the on-site visit, it was explained that in those areas Mexico could both receive and provide cooperation, as these were issues of mutual concern to the States. Agreements with certain countries were mentioned. In this regard, the Committee notes the importance of the areas of mutual cooperation that Mexico cited and believes that Mexico could consider promoting the necessary overtures to other countries with a view to agreeing upon mutual cooperation activities in those areas. The Committee invites those member states that are interested in providing or receiving cooperation in those areas to agree upon terms with Mexico so that the cooperation can materialize. The Committee will formulate a recommendation to that effect (see recommendation 1.4.2 of Chapter II of this report).

[49] Third, in the section on the difficulties encountered in accomplishing the purposes of the OIC, the response from the country under review²⁹ mentions “gaps and contradictions in the legal framework” and the “absence of uniformity in the criteria applied by the courts.”

[50] On the occasion of the on-site visit, OIC representatives cited an example of the first type of problem, involving a weakness in the internal regulations of the agencies and entities with respect to which the OIC are charged with overseeing and, where necessary, ordering sanctions.³⁰ They observed that the provisions concerning matters that fall within the OIC purview need to be improved and that gaps like the one mentioned lead to court decisions with which they are not in agreement. Compounding the problem is the fact that the courts with which the remedies seeking review are filed are not versed in the specifics of these provisions, with the result that there are no uniform criteria for interpreting the provisions. Therefore, the OIC need to be able to share the criteria that they use to interpret those provisions with the courts.³¹

[51] With respect to the foregoing, and taking into account the importance of correcting the problems described above, which concern the internal regulations of the agencies and entities that the OIC are called upon to oversee and how those regulations are interpreted by the courts with jurisdiction, the Committee will formulate a recommendation to the country under review (see recommendation 1.4.3 of Chapter II of this report).

[52] Fourth, in the chapter on the difficulties encountered in accomplishing the OIC objectives, the response from the country under review³² mentions the following:

[53] a) A lack of support for prompt executive-level follow-up of the OIC recommendations, which makes it less likely that problems will be corrected and that the oversight function will develop as it should.

28. Response from Mexico concerning the Secretariat of the Civil Service, p. 51

29. Response from Mexico concerning the SFP – OIC, p. 26

30. The example was that some courts take the position that the internal rules of the entities that the OIC supervise and whose violation trigger sanctions that the OIC must impose should be published in the Official Gazette. The OIC do not agree with the courts' interpretation; instead, they believe this is a matter of regulatory gaps.

31. While Mexico's response concerning the SFP – OIC (pp. 9 and 10) reported that the SFP had a cooperation agreement with the National School of Circuit Magistrates and Judges in the Federal Judicial Branch to conduct courses on interpreting the law and legal argument, on the occasion of the on-site visit the OIC representatives emphasized the importance of sharing criteria of interpretation with the courts. They also observed that while there has been some contact for that purpose, this should be an ongoing activity.

32. Response from Mexico concerning the SFP –OIC, p. 26

[54] b) The absence of a risk-management culture among an agency's executives, the kind of culture that would put together strategies and measures for better oversight and to ensure that the goals and objectives are achieved.

[55] c) As for the deregulation policy and the institution's process culture notwithstanding, some areas still operate as functional silos, a problem that has to be corrected as it inhibits full implementation of the administrative manuals produced by the SFP, leads to shallow analysis and impairs the ability to detect critical junctures and gaps that need to be addressed if administrative functions are to be properly performed.

[56] d) There are no evaluation mechanisms with which to systematically and objectively measure the relevance, efficacy, efficiency and impact of the budget based on outcomes produced.

[57] During the on-site visit, OIC representatives sought to clarify the first of these difficulties and observed that in some agencies and entities, the follow-up of OIC recommendations is handled by lower-level officials and are therefore not given much attention. They made the case that the follow-up should be done by high-level officials. With regard to the last of these difficulties –the lack of evaluation mechanisms-, the indicators used by the entities that the OIC supervise often do not focus on measuring outcomes, even though the budget is planned in such a way that the assessment of their performance will be determined by outcomes.

[58] With respect to the foregoing, and taking into account the importance of correcting the problems mentioned above, which are related to the way in which the OIC interact with the agencies that they supervise and oversee, the Committee will formulate a recommendation to the country under review (see recommendation 1.4.4 of Chapter II of this report).

[59] Fifth, the chapter of the response of the country under review devoted to problems that hinder the OIC' accomplishment of their goals,³³ mentions that civil servants do not have within them a deeply ingrained culture that puts a premium on respecting and protecting public assets and interests and are not interested in participating in systems whose purpose is to prevent acts of corruption. The Committee, taking into consideration how imperative it is that these problems be corrected, will formulate a recommendation to the country under review (see recommendation 1.4.5 of Chapter II of this report).

[60] Sixth, the chapter of the response of the country under review on the difficulties encountered in accomplishing the OIC' purposes,³⁴ mentions "the sophisticated structure of organized crime groups that recruit members of the civil service." It is imperative that this problem be corrected, as the comment appears to suggest that criminal groups are encumbering the OIC' ability to perform their oversight and supervision functions to the fullest. Detecting the presence and influence of these criminal groups is a complex undertaking that requires special knowledge and skills. Therefore, the Committee will formulate a recommendation to the country under review (see recommendation 1.4.6 of Chapter II of this report).

[61] Seventh, the chapter of the response of the country under review on the difficulties encountered in accomplishing the SFP's purposes,³⁵ mentions the need to strengthen the framework of laws to protect whistleblowers and any other persons who provide information that is valuable to an

33. Response from Mexico concerning the SFP – OIC, p. 26

34. Response from Mexico concerning the SFP – OIC, p. 26

35. Response from Mexico concerning the Secretariat of the Civil Service, pp. 49 and 50

investigation, an audit or disciplinary proceedings. It also mentions how important the passage of a bill that is now in Congress will be in this regard.

[62] On the occasion of the on-site visit, SFP representatives explained that the purpose of the bill then in the Chamber of Deputies was to amend the Federal Law on Administrative Responsibilities of Civil Servants so as to introduce incentives and protective measures for federal civil servants and private citizens who report corrupt acts; under the bill the SFP would be the government's enforcement agency.

[63] The Committee appreciates that stronger laws to protect those whistleblowers and who provide information of value to the investigations, audits or disciplinary proceedings that are the purview of the SFP, is important for the fulfillment of its functions. However, during the first two rounds of review, recommendations were formulated to the country under review on how to protect persons who report corrupt acts. Therefore, this matter will be addressed in the chapter of this report that concerns the follow-up of the recommendations made in the First Round of Review.

[64] It should be noted with respect to the protection of persons who report corrupt acts, that on the occasion of the on-site visit the "Anti-Corruption Commission of the International Chamber of Commerce –Mexico Chapter" –a private sector organization- underscored how vital it was to persuade the private sector to support anti-corruption efforts, mainly through encouraging reporting acts of corruption.

1.3. Results of the legal framework and/or other measures

[65] Based on the response to the questionnaire of the country under review and the on-site visit, information was gathered regarding the results obtained by the Secretariat of the Civil Service (SFP) and the Internal Oversight Bodies (OIC), including the following:

[66] First, the response from the country under review³⁶ reports the results of the SFP's functions associated with corruption prevention and enlistment of civil society in efforts to achieve that end. Examples were the anti-corruption measures carried out under the "National Accountability, Transparency and Anti-Corruption Program 2008-2012,"³⁷ which featured campaigns to promote a culture of lawfulness and anti-corruption; preparation of manuals or handbooks to provide public servants and private citizens with guidance on ethical conduct in their relations with the State, which involved, *inter alia*, updating and implementing institutional codes of conduct based of the Code of Ethics of Public Servants in the Federal Government and documents prepared in partnership with the private sector pursuant to agreements such as those concluded with the Association of Guarantor Companies of Mexico (AFIANZA), and the International Chamber of Commerce-Mexico Chapter (ICC Mexico), and actions to encourage civil society's participation in the fight against corruption, which included, *inter alia*, accountability exercises, social witnesses and the office of the social comptroller.

[67] The response from the country under review concerning the OIC³⁸ alludes to the SFP corruption-prevention programs in which the OIC participate. By way of example, it mentions various activities of that kind conducted by the OIC in the PPQ (PEMEX Petrochemical); FOVISSSTE, and the SCT (Secretariat of Communications and Transportation).

36. Response from Mexico concerning the Secretariat of the Civil Service, pp. 28 - 41

37. May be consulted at the following link:

<http://www.funcionpublica.gob.mx/index.php/transparencia/normatividad-en-materia-de-transparencia.html>

38. Response from Mexico concerning the SFP –OIC, pp. 14 to 21.

[68] In the Committee's view, the above information demonstrates that within both the SFP and the OIC, corruption-prevention activities have been conducted in furtherance of their functions in this area.

[69] Second, 6 appendices attached to the response from the country under review³⁹ report on the SFP and OIC results for the functions they performed in the 2007 – 2011 period to detect and punish corrupt acts that trigger administrative responsibility. They are as follows: Appendix 1 (Fifth Activities Report): (a) number of administrative sanctions imposed on public servants, by office and by type of sanction; (b) number of administrative sanctions imposed on public servants, by office and origin; (c) number of sanctions that are final, by office and type of sanction; (d) number of criminal complaints, by office and entity and by the number of persons and amounts involved; Appendix 2: number of cases investigated and decisions taken in proceedings conducted to establish administrative responsibility; Appendix 3: number of sanctions imposed by the SFP, its Office of the Internal Comptroller and the OIC; Appendix 4: amount involved in the economic sanctions imposed by the SFP, its Office of the Internal Comptroller and the OIC; Appendix 5: the amounts recovered annually; Appendix 6: number of cases investigated and decisions taken upon verification of asset performance.

[70] The response from the country under review concerning the OIC⁴⁰ furnishes information on the results achieved in the 2007 – 2011 period for the functions of detecting and punishing corrupt acts that trigger administrative responsibility, specifically the OIC in the PPQ (PEMEX Petrochemical); FOVISSSTE, and the SCT (Secretariat of Communications and Transportation).

[71] The Committee observes that the figures in Appendix 3 and Appendix 4 are the total number of sanctions imposed by the SFP, its Office of the Internal Comptroller and the OIC. Those figures are itemized in Appendix 1 by (a) office and type of sanction, and (b) office and origin. Accordingly, the Committee will begin by focusing on Appendix 3, from which the following can be established:

[72] Over the 2007 – 2011 period, the SFP, its Office of the Internal Comptroller and the OIC imposed 43,122 sanctions for administrative responsibility, involving disqualification, suspension, private or public reprimand, public or private warning, and pecuniary sanctions (in the amount of \$ 22,615,906.869 Mexican pesos) for the reasons indicated in that Appendix.⁴¹ This demonstrates that investigations have been conducted and sanctions imposed for corrupt acts, in keeping with the functions assigned to the SFP, its Office of the Comptroller and the OIC in this regard. Nevertheless, no data was provided on important aspects of the investigations conducted into corrupt acts, such as how many of them were suspended, how many were closed by the statute of limitations, or how many were filed without any decision on the merits being adopted. The Committee will, therefore, formulate a recommendation in this regard (see recommendation 1.4.7 of Chapter II of this report).

[73] Concerning the data contained in Appendix 1 (c)⁴² on the number of sanctions that have become final, by office and type of sanction, the Committee observes that the data does not indicate what percentage of the sanctions reviewed became final and what percentage were overturned upon review. However, on the occasion of the on-site visit SFP representatives reported that 91% of the sanctions became final, which would appear to indicate efficacy of the punitive function, as was observed during the visit.

39. Response from Mexico concerning the Secretariat of the Civil Service (pp. 41 - 49) and appendices 1 to 6, available at: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

40. Response from Mexico concerning the SFP –OIC, pp. 14 - 21

41. Available at: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

42. Available at: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

[74] The figures reported in Appendix 1 (d)⁴³ on the number of criminal complaints brought by the SFP and the OIC were updated on the occasion of the on-site visit⁴⁴ to cover the period from 2006 to March 31, 2012. The Committee observes that within that period, 400 criminal complaints were brought, which may demonstrate that the SFP and the OIC have filed the necessary complaints with the Public Prosecutor's Office.

[75] It should be noted that in reporting the number of criminal complaints brought, an observation is made to the effect that the SFP's obligations do not end with the filing of the complaint; instead, for the duration of the proceedings that following, the SFP collaborates with the Public Prosecutor's Office to keep the case moving forward until a final verdict has been delivered. The reporting also indicates that 86 verdicts have been delivered on the complaints brought: 62 were convictions and 24 were acquittals.

[76] With respect to the information reported in Appendix 2⁴⁵ in connection with the number of cases investigated and decisions adopted in proceedings conducted by the SFP to establish administrative responsibility, the Committee observes that if the annual figures for the period 2007 to 2011 are combined, the total number of cases investigated would be 144; the total number of cases in which decisions were adopted was 129; 71 decisions resulted in sanctions; 58 decisions either acquitted or cleared the accused of any blame; and none of the decisions delivered extinguished blame or proscribed punishment because the statute of extinguishment or statute of limitations had expired.

[77] In connection with the number of decisions delivered concerning the statute of limitations or statute of extinguishment (0), a footnote in Appendix 2 states the following:

[78] "The information requested included figures on the number of decisions pertaining to the statute of limitations. This report, however, contains no such figures. While in some cases the statute of limitations has been updated, in none of those cases was the statute cited as the reason why no punishment was ordered; instead, any references that those decisions made to the statute of limitations concerned the time periods at the end of which the authorities would be time barred." On the occasion of the on-site visit, SFP representatives explained that this footnote refers to cases in which the conduct of a public servant under investigation occurred on successive dates; while the authority to investigate one or some of those events may have expired under the statute of extinguishment because the allegations were not investigated within the time period prescribed in the Federal Law on Administrative Responsibilities of Civil Servants, the accused was punished for those events that were not yet time barred by either the statute of extinguishment or the statute of limitations.

[79] In this regard and without dismissing the explanation given by the SFP representatives, the Committee considers that any and all acts that may trigger administrative responsibility and that are part of a pattern of conduct that happened on successive dates, must be investigated and punished. It will therefore formulate a recommendation to that effect to the country under review (see recommendation 1.4.8 of Chapter II of this report).

[80] In relation to the data contained in Appendix 5⁴⁶ concerning the amounts recovered each year, the Committee observes that if the figures for the period from 2007 to September 2011 are combined, a total

43. Available at: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

44. Available in the file "information requested of the SFP on the occasion of the on-site visit", available at: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

45. Available at: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

46. Available at: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

of \$ 65,313.256.68 Mexican pesos have been recovered, based on “figures taken from the data supplied by the SAT’s Central Bureau for Planning and Collection Strategies.”⁴⁷

[81] As for the information in Appendix 6⁴⁸ concerning the number of cases investigated and the number of decisions adopted with respect to verification of asset performance, the Committee observes that when the annual figures for the period 2007 to August 3, 2011 are combined, a total of 444 cases were investigated; decisions were adopted in 227 cases; 5 cases involved elements of criminal presumption (which were referred to the Legal Affairs Unit)⁴⁹; one decision involved elements that would trigger punishable administrative responsibility; 3 decisions involved elements of criminal presumption (which were referred to the Public Prosecutor’s Office); 176 decisions resulted in either no accusation or a finding of no wrongdoing; not one decision found that the statute of limitations or statute of extinguishment had expired; and 261 cases were “being put together.”

[82] In connection with the foregoing information the Committee observes that a considerable percentage of cases investigated (261 out of 444) are “being put together”, which means that they are still in progress and further inquiries are needed before any determination can be made.⁵⁰ Given the importance of hastening decisions in such cases, the Committee will formulate a recommendation in this regard to the country under review (see recommendation 1.4.11 of Chapter II of this report).

1.4. Conclusions and recommendations

[83] Based on the comprehensive review of the Secretariat of the Civil Service (SFP) and the Internal Oversight Bodies (OIC) in the foregoing sections, the Committee formulates the following conclusions and recommendations:

[84] Mexico has considered and adopted measures intended to maintain and strengthen the Secretariat of the Civil Service (SFP) and the Internal Oversight Bodies (OIC) as oversight bodies as indicated in section 1 of Chapter II of this report.

[85] In view of the comments made in that section, the Committee suggests that the country under review consider the following recommendations:

- 1.4.1 Where appropriate, strengthen the inter-institutional mechanisms for coordination with other oversight bodies, state entities or authorities at all levels and spheres of government with which the SFP must interact in order to fully discharge its functions, through such measures as it deems appropriate, such as adoption and implementation of the National Auditing System (see section 1.2 of chapter II of this report).

47. According to the explanation given by the country under review, these sums are the economic penalties that the SFP imposed. However, since those sanctions become, in effect, federal tax revenues, under Article 30 of the Federal Law on the Administrative Responsibilities of Civil Servants, collection of those economic penalties is the purview of the Federal Treasury, which it does through the Tax Administration Service by way of its local tax-collection offices.

48. Available at: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

49 On August 9, 2012, the country under review clarified that this is statistical data related to actions that probably constitute offenses.

50. According to the explanation that the country under review gave in this regard.

- 1.4.2 Promote the appropriate arrangements with other States Parties with a view to agreeing upon mutual cooperation activities to share best practices, mutual legal assistance, joint investigations, and special investigative techniques, where it has indicated it can either offer or receive such cooperation (see section 1.2 of Chapter II of this report).
- 1.4.3 Take the appropriate measures to identify and correct gaps and contradictions in the internal legal framework of the agencies and entities which the OIC are charged with overseeing and to be able to regularly share with the courts the criteria by which those regulations are enforced (see section 1.2 of Chapter II of this report).
- 1.4.4 Make the appropriate arrangements with the high-level authorities of the agencies and entities in which the OIC perform their oversight functions, with a view to correcting the problems created by the lack of support for the follow-up of OIC recommendations, the absence of a risk-management culture, the difficulties inhibiting full implementation of the administrative handbooks published by the SFP, and the lack of mechanisms for a results-based evaluation of budget execution (see section 1.2 of Chapter II of this report).
- 1.4.5 Adopt the appropriate measures to promote a culture of respect for public assets and interests, through the holding of awareness campaigns (see section 1.2 of Chapter II of this report).
- 1.4.6 Conduct training activities for OIC officers, focused on best practices for the fight against corruption (see section 1.2 of Chapter II of this report).
- 1.4.7 Prepare more detailed statistical data on the investigations opened by the SFP and the OICs, indicating how many have been suspended, in how many statutory limitations have been triggered, how many have been archived, how many are being processed, and how many have been referred to the competent area for disposition, in order to identify challenges and recommend corrective measures (see section 1.3 of Chapter II of this report.)
- 1.4.8 Take the appropriate measures to avoid the statute of limitations becoming a factor preventing investigation or punishment of acts that are part of a pattern of conduct perpetrated over a series of events and that may trigger administrative responsibility (see section 1.3 of Chapter II of this report).
- 1.4.9 Take the appropriate measures to complete ongoing investigations in a timely manner and thereby speed up decisions in cases involving verification of asset performance (see section 1.3 of Chapter II of this report).

2. OFFICE OF THE FEDERATION'S AUDITOR-IN-CHIEF (ASF)

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

[86] The Office of the Federation's Auditor-in-Chief (ASF) has a set of provisions that make up its legal framework, as well as other measures that refer, *inter alia*, to the following:

[87] The objective of the Office is to review the Federal Public Accounts, as provided in Article 74 (Section VI) of the Constitution, which states that the Chamber of Deputies has sole authority to review the Federal Public Accounts, which it does by way of the Federation's oversight body; further, under Article 79 of the Constitution, said oversight body shall have technical autonomy and autonomy in performing its functions and in deciding its internal structure, operation and resolutions, in the terms that the law prescribes. The Constitution states further that the audit shall be performed on an annual basis to review the previous year's public accounts, and shall be informed by the principles of legality, definitiveness, impartiality and credibility.

[88] Under Article 79 of the Constitution,⁵¹ the ASF's functions include *ex post facto* examination of income and spending; management, custody and earmarking of the funds and resources of the three branches of the government and of the federal government agencies, and performance of audits to ensure that the federal programs' established objectives are being achieved. Under the Constitution, these functions shall be discharged by filing reports in accordance with the terms that the law establishes (section I); investigating any acts or omissions that may involve some irregularity or unlawful conduct in the spending, management, custody and earmarking of federal funds and resources (section III); determining any harm and adverse consequences that the federal public coffers or the assets of federal public agencies may have suffered, directly assessing the pecuniary damages and fines that those responsible are to pay, and filing cases with the competent authorities to determine any other blame; instituting actions to assign and assess blame, referenced in Title Four of the Constitution, filing criminal complaints, and playing its legally-prescribed role in the corresponding proceedings (section IV).

[89] In relation to the entities audited by the ASF, Article 2 (section IX) of the Federation Accounts Auditing and Accountability Act [*Ley de Fiscalización y Rendición de Cuentas de la Federación*]⁵² provides that the ASF shall audit the following: the branches of government of the Union, federal government agencies and jurisdictional bodies that do not belong to the Federation's Judicial Branch; federal entities, municipalities and political-administrative organs of the Federal District's territorial units and that administer or spend federal public funds, including their respective offices and para-state and para-municipal entities; public interest entities other than political parties; clients, representatives, trustors (settlers), trusts, trustees or any other analogous legal institution, and the mandates, funds or trusts –public or private- that have received, in whatever capacity, federal public resources, even when the law does not regard them as para-state entities and even when they belong to the private or social sector; and, in general, any entity, natural or legal person –public or private- that has received, collected, administered, managed or spent federal public resources, including those private-law legal persons authorized to issue receipts for tax-deductible contributions made to them to help them accomplish their aims.

[90] Under Article 12 of the aforementioned law, public accounts may be audited to assign and assess any blame there may be and to order the fines and damages that the law prescribes (section IV). Article 15 sets out the ASF's functions and authorities in conducting an audit. These include assigning responsibility and imposing the corresponding sanctions on those parties responsible for failure to comply with reporting requirements in the case of revisions that may have been ordered in the exceptional cases that the law prescribes (section XVII); and taking under consideration and deciding appeals filed seeking review of decisions and sanctions ordered, as well as total or partial forgiveness of the fines imposed (section XVIII).

51. Available at: <http://www.diputados.gob.mx/LeyesBiblio/pdf/1.pdf>

52. Available at: <http://www.diputados.gob.mx/LeyesBiblio/pdf/LFRCF.pdf>

[91] During the on-site visit, ASF representatives provided some clarifications regarding the ASF's functions and made the point that while prevention and detection of corrupt practices are not the main focus of its responsibility, the audits it conducts may uncover information that serves that purpose. They pointed out that during the audits, recommendations and suggestions are made to help prevent corruption and when the audits expose facts that may constitute administrative misdemeanors or crimes, the competent authority is so informed so that it may undertake the necessary investigation and, if appropriate, order punishment; administrative misdemeanors are the purview of the internal oversight organ [OIC], while crimes are the purview of the PGR.⁵³

[92] During the on-site visit, the ASF representatives made the point that the ASF does not have the authority to punish corrupt acts; what it does is assign responsibility when assets have been misused, mismanaged or otherwise impaired, so that the losses may be covered; the rare case in which the ASF imposes fines is when the information it requires to perform its work is not provided. It was also observed that once liability for damages has been assessed, the competent authority to recover the damages is the Treasury of the Federation.

[93] With respect to the coordination of its functions, Article 20 of the Law states that when the law prescribes that "the competent oversight bodies are to collaborate with the ASF in matters pertaining to the review of the Public Accounts, coordination must be established to ensure a proper exchange of the information requested, and the assistance must be extended to enable the auditors to perform their functions. The cooperating oversight bodies are to provide any documentation that the Office of the Federation's Auditor-in-Chief may request concerning the findings of the audits they conduct or any other information required of them."

[94] In relation to the manner in which decisions are adopted, the Federation Accounts Auditing and Accountability Act spells out the functions and authorities of the Federation's Auditor-in-Chief and specifies those that shall not be delegated (Article 85); the law also provides that the Auditor-in-Chief shall be assisted by special auditors and by unit chiefs, directors general, auditors and other public servants named in the ASF's Internal Regulations. Those Internal Regulations apportion the functions and authorities specified in the Federation Accounts Auditing and Accountability Act among the ASF's officers and units.

[95] Concerning the means available for challenging ASF decisions, Article 69 of the aforementioned law provides for reconsideration by the ASF itself and an appeal filed with the Federal Court of Fiscal and Administrative Justice seeking reversal of an ASF decision.

[96] With regard to the manner in which its senior officers and personnel are selected, Article 79 of the Constitution provides that the Federation's Auditor-in-Chief shall be elected by a vote of two thirds of the Chamber of Deputies and shall serve an 8-year term. Under Article 85 of the Federation Accounts Auditing and Accountability Act, the Auditor-in-Chief appoints the ASF's senior officers. Career staff

53. On August 9, 2012, the country under review provided the following clarification: "Corruption is a multifactor phenomenon and can only be defeated through the combined effort of multiple agencies and entities in the public and private sectors. While the detection and prevention of corrupt practices is not one of an audit's core functions, within its area of competence the ASF uncovers information that serves to reduce the recurrence of these practices in the public administration, by singling out those areas that tend to be opaque and prone to excessive discretionary authority." – "Working from this perspective, review and improvement of internal oversight among the audited entities is one of the functions that the ASF is strengthening, while it also plans and carries out concerted efforts with the pertinent administrative and judicial bodies for a combined response to the phenomenon." – "The ASF will transmit the real value of auditing and oversight in the battle against corruption and will point to its specific contributions, whose effectiveness is not measured by corruption perception indicators in the country."

are governed by the Statute of the ASF Auditing Career Service, which provides that staff are selected via merit-based competition.

[97] Regarding the requirements that must be met to qualify for positions in the ASF, Article 84 of the aforementioned law lists the requirements for the office of the Federation's Auditor-in-Chief. The ASF has a catalog of posts setting out the requirements for the various positions within the ASF's organic structure (Article 31 of the Statute of the ASF Auditing Career Service). The ASF has a Supreme Auditing Training and Development Institute to train its personnel.⁵⁴

[98] With respect to the body authorized to demand responsibility⁵⁵ on the part of the Office of the Federation's Auditor-in-Chief, Article 93 of the aforementioned law states that the Chamber of Deputies shall determine whether there is serious cause to seek the Auditor-in-Chief's removal and must give the Auditor-in-Chief the right to a hearing. Article 94 adds that a vote of two thirds of the members present shall be required for removal.

[99] In relation to the regime of disqualifications and incompatibilities and of accountability for ASF personnel, the latter are governed by the Federal Law on Administrative Responsibilities of Public Servants, which the ASF may enforce pursuant to Article 3, section VII thereof. The ASF also has a Code of Ethics⁵⁶ setting out certain guidelines to avoid conflicts of interests;⁵⁷ it also has a specialized internal coordination mechanism to check the performance of all areas of the institution and address complaints or grievances resulting from the audits it performs.⁵⁸ The ASF has a Guide for Recommendations, Complaints and Suggestions, which sets out the method to be followed when receiving, processing and answering comments from users and from the audited institutions.⁵⁹

[100] The Office of the Federation's Auditor-in-Chief is subject to evaluation and coordination by the Chamber of Deputies' Supreme Audit Surveillance Committee (as stipulated in Article 2, section IV of the Federation Accounts Auditing and Accountability Act), which in turn has a unit charged with monitoring to ensure that the functions assigned to the ASF's public servants are rigorously performed. Where appropriate, that unit may apply the disciplinary measures and administrative sanctions that the law prescribes and provide technical support to the Surveillance Committee in evaluating the ASF's performance (Article 102 of the Federation Accounts Auditing and Accountability Act).

[101] Concerning the existence of documented procedures or manuals, institutional strengthening or quality improvement actions and modern technologies, the ASF has technical documents, such as the

54. During the on-site visit, ASF representatives reported that the Office is preparing an annual training program for ASF personnel; that auditors will receive at least 40 hours' training. ASF auditors are members of organizations like the OLACEFS and have training exchanges with Latin American countries and the United States.

55. The circumstances that constitute serious cause for removal appear in Article 92 of that law, and include the following: using confidential documentation or information for one's personal gain or that of third parties; without justified cause, failing to assess the damages or apply the pecuniary penalties that are within his or her competence and in the cases that the law requires, when blame has been duly established and the responsible party identified through the checks and investigations that he or she performs in the exercise of his or her authorities; refraining from filing the performance report within the corresponding year and in the terms prescribed by law; and allowing oneself to be influenced by political parties in discharging one's functions and, in so doing, allowing oneself to be biased in the review of the Public Accounts, in the auditing procedures and in imposing the penalties that the law prescribes.

56. Available at: http://www.asf.gob.mx/uploads/58_/Codigo_etica.pdf

57. Available at: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

58. Mexico's response concerning the Office of the Federation's Auditor-in-Chief, p. 6

59. Available at the file named "additional information requested of the ASF", which is available at: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

one titled “Supreme Auditing Standards.”⁶⁰ The “best practices in auditing established by the International Organization of Supreme Audit Institutions (INTOSAI) in its international standards (ISSAI) are part of the ASF’s institutional standards.”⁶¹ It also has a Quality Control Committee and in 2009 secured re-certification of all the procedures included in the ASF’s Quality Control System (SGC). Furthermore, “it has the modern technologies needed to fully perform its auditing function”⁶² and a strategic plan for the 2011 – 2017 period.⁶³

[102] As for the manner in which the budgetary resources needed for its operations are ensured, Article 97 of the Federation Accounts Auditing and Accountability Act provides that the ASF shall prepare a proposed annual budget that, based on anticipated spending, will provide the resources needed to discharge its mandate. That proposal shall be forwarded to the Commission for inclusion in the Federation’s proposed spending budget.

[103] As for the mechanisms through which the ASF enlists the support of other authorities and the public with a view to discharging its duties to the fullest, the authorities given to the Federation’s Auditor-in-Chief in Article 85 of the aforementioned law include the authority to conclude cooperative agreements with national and international organizations composed of like supreme auditing institutions, or directly with the institutions themselves, the private sector or professional associations, academic institutions, and prestigious multinational institutions (section XVII) and to file a request with the appropriate authorities asking them to collect the fines and damages it has ordered (section XIX).⁶⁴

[104] As to how the citizenry is provided with information, every year, the ASF publishes the Report on the Results of the Supreme Audit of the Public Account, a document that may be consulted at its webpage.⁶⁵ At that same webpage, information is available concerning the ASF’s functions, objectives and procedures.⁶⁶ The ASF has various means of communicating with the public and responding to inquiries, such as a telephone number at which citizens can file complaints; it also has email addresses, posted at the ASF webpage, where the public’s comments and suggestions are received and answered.⁶⁷

[105] On the matter of accountability mechanisms, under Articles 74, section VI, and 79 of the Constitution, and articles 28, 29, 30 and 85, section XV, of the Federation Accounts Auditing and Accountability Act, every year the ASF is required to submit to the Chamber of Deputies its Report on the Results of the Supreme Audit of the Public Account. As previously observed, the general public may consult these reports online at the ASF’s webpage.

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

[106] The Office of the Federation’s Auditor-in-Chief (ASF) has a set of provisions and/or other measures relevant to the purposes of the Convention, some of which were briefly described in section 1.1

60. Available at the file named “additional information requested of the ASF”, which is available at:

http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

61. Report on the Results of the Supreme Audit of the Public Account 2012 (p. 225), available at:

http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

62. Mexico’s response concerning the Office of the Federation’s Auditor-in-Chief, p. 5

63. Available in print

64. Article 6 of the Federation Accounts Auditing and Accountability Act entrusts the Federal Treasury with the task of collecting these fines.

65. Through the following link: http://www.asf.gob.mx/Section/46_Informes_y_publicaciones

66. Through the following link: http://www.asf.gob.mx/Section/45_Acerca_de_la_ASF

67. At the link: <http://www.asf.gob.mx:8086/>

of this report. Nonetheless, the Committee considers it appropriate to formulate certain observations in relation thereto:

[107] First, under Article 15, section XVIII of the Federation Accounts Auditing and Accountability Act, which establishes the functions and authorities of the ASF for auditing the Public Account, it has the authority to forgive, either in whole or in part, the fines imposed. At the time of the on-site visit, ASF representatives explained that the only fines that the ASF could forgive are those it ordered for failure to provide information the ASF needed to perform its work, and that the ASF had never exercised that authority. Nevertheless, the Committee is of the view that the country under review should consider establishing a set of standards to regulate the exercise of this authority (see recommendation 2.4.1 of Chapter II of this report).

[108] Second, although the response received from the country under review states that coordination agreements have been concluded with all the supreme auditing bodies of the states and with various governmental agencies, it also observed that greater coordination among federal government agencies was needed. During the on-site visit, ASF representatives explained why the need for greater coordination: the auditing agencies were so numerous that ideas on how best to effectively coordinate were needed, such as creation of a national auditing system, which would mean reviewing the legal authorities of the various oversight bodies and reconciling their standards of ethical conduct and working techniques.

[109] In this same vein, the following observation is made in the response from the country under review: “in recent years, the review of the Public Accounts has detected multiple problems, attributable to the absence of coordinated actions among the federal government agencies, a problem exacerbated when the involvement of other levels of government is needed. This has become apparent when several programs run by the same office or agency are underway in certain places, and even more so when a number of them are involved. This problem persists despite the increasing investments in technologies and data systems that make it easier to compile, process and disseminate data, but have not been very effective in avoiding the duplications and omissions evident in the beneficiary rolls, the inventories of medications and the interconnection of public safety systems, to name some of the most obvious examples.”⁶⁸

[110] On the matter of the aforementioned national auditing system, during the on-site visit, ASF representatives observed that although such a system will require amendments to the existing laws, the SFP, the ASF and the States’ Comptrollers are already holding joint meetings and that the national auditing system is included in a bill of amendment currently before the Chamber of Deputies. They also noted that the country under review has prior experience in this regard, as in the case of the National Accounting System. Given the importance of the inter-institutional coordination, the Committee will formulate a recommendation in that regard to the country under review (see recommendation 2.4.2 of Chapter II of this report).

2.3. Results of the legal framework and/or other measures

[111] Based on the response to the questionnaire of the country under review and the on-site visit, information was gathered regarding the results obtained by the Office of the Federation’s Auditor-in-Chief (ASF), including the following:

68. Mexico’s response concerning the Office of the Federation’s Auditor-in-Chief, pp. 13 and 14.

[112] First, the response from the country under review⁶⁹ states that while detection and prevention of corrupt practices are not a central aspect of its audit function, the ASF provides information within its area of competence that may be helpful in reducing the recurrence of these practices in government. The response also states that the supreme auditing process detects those areas that tend to be less transparent and where excessive degrees of discretion are exercised. This is reflected in the Report on the Results of the Supreme Audit of the Public Account, which is submitted to the Chamber of Deputies each year, published on the ASF's webpage,⁷⁰ and widely circulated among institutions, researchers, analysts, journalists, civil society organizations and public actors involved in government affairs.

[113] Second, the response from the country under review⁷¹ provided information on the measures undertaken by the ASF in connection with the Public Accounts for 2006 to 2009, the cutoff date being September 30, 2011. The information was drawn from a report submitted to the Chamber of Deputies.⁷² The most recent report submitted to the Chamber of Deputies, dated February 2012,⁷³ was furnished at the time of the on-site visit. In addition to containing information on the Public Accounts, the latest report adds information for the 2010 Public Account; the cutoff date being December 31, 2011. Because the information in this latest report is more current, it will be the focus of the Committee's analysis, which follows:

[114] Chapter 5.1 of that report, which concerns "Observations – Actions in connection with the Supreme Audit of the 2010 Public Account," states that 9,039 advisory notices were prepared, resulting in 10,778 actions, which break down as follows: recommendations (5,734); performance-related recommendations (1,201); reports in which the ASF informs the tax authority of possible tax evasion on the part of an audited entity [*Promoción del Ejercicio de la Facultad de Comprobación Fiscal*] (100); requests seeking clarification (439); actions through which the ASF recommends administrative sanctions [*Promoción de Responsabilidad Administrativa Sancionatoria*] (1,893); notification that the ASF makes to the audited entity advising it of potential impairment or damage done to the federal public coffers or assets of a federal public agency, indicating the suspected offending party [*Pliego de Observaciones*] (1,296); actions in which the ASF advises the federal public prosecutor's office that in its audit of a public entity, it detected an irregularity that may constitute a federal offense [*Denuncia de Hechos*] (98), and fines (17). The Committee is of the view that this information demonstrates that the ASF has taken measures to review the Federation's Public Account, thereby discharging its assigned functions in this regard.

[115] Chapter 5.4 of that report, titled "Status of the Observations – Actions Taken on the Occasion of the Supreme Audit of Public Accounts for Previous Fiscal Periods," at section 5.4.1 titled "Recommendations and Performance-related Recommendations" states that "as of December 31, 2011, a total of 26,509 recommendations and performance-related recommendations have been issued in connection with the review of the Public Account for the 2006 – 2009 fiscal periods; of these 26,246 (99.0%) have been addressed; 260 (1%) have been replaced, gone unaddressed, or eliminated by order of a competent authority; only 3 (a trifling percentage) are in the process of being addressed." In the Committee's view, this information demonstrates that the ASF's recommendations have largely been followed.

69. Mexico's response concerning the Office of the Federation's Auditor-in-Chief, p. 8

70. Link: http://www.asf.gob.mx/Section/58_Informes_de_auditoria

71. Mexico's response concerning the Office of the Federation's Auditor-in-Chief, pp. 10 to 13.

72. Available at: http://www.asf.gob.mx/Trans/Informes/Camara_Diputados/2011/300911/index.html

73. Available at: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

[116] Chapter 5.4 of that report, section 5.4.3 titled “*Solicitudes de Clarificación*” concerns requests seeking clarification. That section states that of the 1,334 clarification requests issued, a total of 1,269 (95.1%) had been either addressed, replaced by another action or combined with others; 65 (4.9%) are in process. In the Committee’s view, this information would lead us to conclude that, to a very great extent, these requests have been heeded.

[117] Chapter 5.4 of that report, at section 5.4.3, titled “*Promociones del Ejercicio de la Facultad de la Comprobación Fiscal*”, indicates that as a result of the audit of the Public Accounts for 2006 to 2009, 246 reports were filed in which the ASF alerted the competent tax authority of potential cases of tax evasion, in order for the tax authority to take the necessary steps. As of December 31, 2011, the ASF had completed its follow-up of 96.3% of these reports. The Committee therefore deems that this information would appear to indicate that the ASF is executing its follow-up at a very high rate.

[118] Chapter 5.4 of the report in question, at section 5.4.4, titled “*Promociones de Responsabilidad Sancionatoria*” concerns notifications of sanctionable administrative responsibility. It states that “as a result of the audit of the Public Accounts for 2006 to 2009, the ASF issued 4,691 notifications of potentially sanctionable administrative responsibility, in order for the competent audit and oversight bodies to set proceedings in motion and, where appropriate, enforce the proper sanctions. As of December 31, 2011, decisions had been handed down in 600 cases (24%), whereas the competent oversight bodies had still not issued decisions in the remaining 1,897 cases (76%).” In the Committee’s view, a high percentage of the notifications of potentially sanctionable administrative responsibility have not been settled by the competent oversight body. It will, therefore, formulate a recommendation in that regard to the country under review (see recommendation 2.4.3 of Chapter II of this report).

[119] Chapter 5.4 of that report, at section 5.4.5, titled “*Denuncias de Hechos*”, consists of reports of possible crimes. It states that “as a result of the audit of the Public Accounts for 2006 to 2009, 50 notifications were sent to the Federal Public Prosecutor’s Office alerting it to irregularities discovered in the audit process that may constitute federal offenses; of those, 45 (90.0%) are still in the preliminary inquiry phase, and the remaining 5 (10%) are with the corresponding jurisdictional body.” In the Committee’s view, the percentage of these criminal complaints that are still in the preliminary inquiry phase is very high, and only a small percentage of them have actually made their way to the corresponding jurisdictional body. It will therefore formulate a recommendation in this regard for the country under review (see recommendation 2.4.4 of Chapter II of this report).

[120] Chapter 5.4 of the report, at section 5.4.6 titled “*Pliegos de Observaciones*,” consists of notifications that the ASF sends to the audited entity advising it of the possibility that funds in the Federal Public Treasury or assets of a federal public agency may have been misused, mismanaged or otherwise impaired. The section states that “at the time of the review of the Public Accounts for 2006 to 2009, a total of 3,635 notifications had been sent to audited entities advising them of potential damage or other impairment to the Federal Public Treasury or the assets of a federal agency and naming the suspected offending party or parties”: of these, 2,330 (64.1%) were settled by the audited entity and 1,305 (35.9%) are still in process. Of the notifications settled, 2,123 (91.1%) were settled in full; in the remaining 207 cases (8.9%), the amounts in question were either not paid or only partially paid, with the result that the ASF instituted a proceeding seeking payment of damages by the offending civil servant.” In the Committee’s view, this information would appear to indicate that the ASF’s notifications have been very successful in bringing about the desired result.

[121] Chapter 5.4 of the report, at section 5.4.7 -“Summary of Observations-Actions”- provides as follows: “Summarizing, out of a total of 36,688 observations-actions issued on the supreme audit of the Public Accounts for 2006-2009, classified in the corresponding tables according to the type of action taken, a total of 35,306 have been completed (addressed, settled, recommended action taken, not addressed, eliminated by court order or replaced), which is 96.2% of the total; 1,382 (3.8%) are in process.” In the Committee’s view, this information would suggest that a high percentage of the ASF’s observations-actions have been concluded.

[122] Chapter 5.5 of that report concerns “*Responsabilidades Resarcitorias*”, which is liability for damages. It states that “the proceeding begins when the audited entity does not settle the matter in full or settles only part thereof either by means of an explanation or by restoring the amounts that the ASAF questioned.” The report then describes the status of the actions that the ASF instituted seeking damages on the occasion of the supreme audit of the Public Accounts from 2001 to 2009, which reveals the following cumulative data corresponding to the 2001 - 2009 Public Accounts: actions instituted, 403; actions in the evidentiary phase of the proceedings, 243 (60.3%); actions where a decision has been handed down by the ASF, 160 (39.7%); decisions being challenged, 99. The Committee considers that a considerable percentage of the cases are still in the evidentiary phase, and will therefore formulate a recommendation in this regard to the country under review (see recommendation 2.4.5 of Chapter II of this report).

[123] Chapter 5.6 of the report in question -a “Summary of the Cumulative Amounts Recovered from the Supreme Audit of the Public Accounts of Years Past”- states that as of December 31, 2011, the amounts recovered by the ASF on the occasion of the supreme audit of Public Accounts 2001 – 2009 are the following: amount determined: \$ 268,433.9 mdp⁷⁴ (100%); amount explained: \$ 195,667.8 mdp (72.9%); amount recovered: \$ 50,023.0 mdp (18.6%); balance to be recovered or explained: \$22,743.1 mdp (8.5%). During the on-site visit, the ASF representatives observed that the Federal Treasury has been slow in recovering the damages assessed by the ASF for the liabilities incurred for impaired assets. Given how important it is that the recovery of those resources be expedited, the Committee will formulate a recommendation in that regard to the country under review (see recommendation 2.4.6 of Chapter II of this report).

[124] Finally, it should be noted that Chapter 5.6 of the report also states that “the amount of the recoveries in 2011 was 5,191.8 mdp; if this figure is added to the 6,351.1 mdp recovered in the course of auditing the 2010 Public Account, the total is 11,542.9 mdp, which is 8.7 times the ASF’s 2011 budget.”

2.4. Conclusions and recommendations

[125] Based on the comprehensive review of the Office of the Federation’s Auditor-in-Chief (ASF) in the foregoing sections, the Committee formulates the following conclusions and recommendations:

[126] Mexico has considered and adopted measures intended to maintain and strengthen the Office of the Federation’s Auditor-in-Chief (ASF) as an oversight body, as indicated in section 2 of Chapter II of this report.

[127] In view of the comments made in that section, the Committee suggests that the country under review consider the following recommendations:

74. Millions of Mexican pesos.

- 2.4.1 Consider introducing a provision regulating the criteria for exercising the authority to forgive, either in whole or in part, the fines imposed, which authority is given to the ASF in Article 15, section XVIII of the Federation Accounts Auditing and Accountability Act (see section 2.2 of Chapter II of this report).
- 2.4.2 Where appropriate, strengthen coordination with other oversight bodies, state entities or authorities at all levels and spheres of government and with which the ASF must interact in order to fully discharge its functions, through such measures as it deems appropriate, such as the adoption and implementation of the National Auditing System (see section 2.2 of Chapter II of this report).
- 2.4.3 Adopt the appropriate measures to expedite decision-making on the part of the oversight and auditing bodies that have authority to institute proceedings in connection with the ASF's notifications of sanctionable administrative responsibility, as a result of the audit of the Public Accounts for 2006 to 2009 (see section 2.3 of Chapter II of this report).
- 2.4.4 Adopt the appropriate measures to expedite the completion by competent authority, of the preliminary inquiries into complaints brought by the ASF as a result of the review of the Public Accounts for 2006 to 2009 (see section 2.3 of Chapter II of this report).
- 2.4.5 Adopt the appropriate measures to speed up the culmination of the actions seeking damages, brought by the ASF on the occasion of the supreme audit of the Public Accounts for 2001 to 2009 (see section 2.3 of Chapter II of this report).
- 2.4.6 Adopt the appropriate measures to expedite the Federal Treasury's recovery of the damages assessed by the ASF for the liabilities incurred by reason of mismanaged, misused or otherwise impaired assets (see section 3.3 of Chapter II of this report).

3. OFFICE OF THE ATTORNEY GENERAL OF THE REPUBLIC (PGR)

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

[128] The Office of the Attorney General of the Republic (PGR) has a set of provisions that make up its legal framework, as well as other measures that refer, *inter alia*, to the following:

[129] The purpose of the PGR is to perform the duties and functions of Public Prosecutor of the Federation and of Attorney General of the Republic, which duties and functions are conferred upon it in the Constitution (articles 21 and 102, section A); the Organic Law of the Office of the Attorney General of the Republic; the Organic Law of the Federal Government (articles 30 bis, subparagraphs XV and XXII; 37, subparagraph XII; and Transitory Article Five); the General Law of the National Public Security System (articles 12, subparagraph VI; 23, and Transitory Article Six), and other applicable provisions.

[130] It also investigates and prosecutes federal crimes (articles 21 and 102, Section A of the Constitution), in accordance with articles 1, 2, 3, 113, 121, 123, 168, 180, 181 and other relevant and applicable provisions of the Federal Code of Criminal Procedure; 1, 4 and other relevant provisions of its Organic Law; and articles 1, 4, 5, 7, 13, 14 and other relevant provisions of the Federal Criminal Code.

[131] In order to address corrupt acts, the Office of the Attorney General has administrative units, among them the Office of the Special Prosecutor to Combat Corruption in the Federal Public Service, created under Agreement A/107/04 issued by the Attorney General of the Republic. Under that agreement, this Special Prosecutor's Office is given the authority to investigate and prosecute crimes associated with those corrupt acts in federal public service that are criminalized in the Federal Criminal Code and whose intent or effect is to gain some undue benefit or advantage for the author of the crime or for a third party, which include those related to bribery of foreign public officials, as provided for in Article 222 bis of the Federal Criminal Code.⁷⁵ That office also has the authority to conduct investigations into federal crimes within its jurisdiction, and common crimes over which it asserts jurisdiction on the basis of related causes of action.

[132] The PGR also has an Office of the Director General for Crime Prevention and Community Services whose functions include that of developing permanent programs and campaigns aimed at preventing the commission of federal offenses (Article 64 of the Regulations Governing the Organic Law of the Office of the Attorney General of the Republic).⁷⁶

[133] Under Article 1 of its Organic Law, the PGR is part of the executive branch of the federal government; it shall perform its functions by serving the public interests and the common good; the conduct of the civil servants in the PGR shall be governed by the principles of, *inter alia*, legality, objectivity and impartiality.

[134] The Organic Law of the Office of the Attorney General (Article 14) authorizes it to create, in keeping with its budgetary provisions, specialized administrative units other than those specified in the Regulations governing this Law. The purpose of these specialized administrative units is to investigate and prosecute classes of crimes and to exercise the federal prosecutorial, police and expert functions that the service needs dictate. The law also authorizes the Attorney General to create special prosecutorial offices to take reports of, address and prosecute specific crimes of such magnitude, of such concern and of such a nature as to warrant special treatment.

[135] The Organic Law contains specific provisions relative to the coordination of the functions of the Office of the Attorney General of the Republic, such as those that provide that the Attorney General shall participate in the National Public Safety System (Article 5.I) and implement and apply systems enabling it to coordinate with the Secretariat of Public Safety and with other public safety institutions attached to the federal and municipal agencies tasked with investigating crime (Article 5.III). Another provision states that the PGR shall operate on the basis of a regional system of general coordination and decentralization by way of administrative units that shall perform their functions in the territorial districts established (Article 11.II.a).

[136] Articles 13 and 61 of the Constitution establish the military jurisdiction (for those accused of violations of military discipline) and the constitutional jurisdiction (for high-ranking officials in the

75. Abuse of Functions or Office (Article 220); Influence Peddling (Article 221); Bribery (Article 222); Bribery of Foreign Public Officials (Article 222 bis); Embezzlement (Article 223); Illicit Enrichment (Article 224).

76. The Regulations Governing the Organic Law of the Office of the Attorney General of the Republic published in the July 23, 2012 issues of the DOF. The functions of this Office are spelled out in Article 64, which will take effect on September 20, 2012. This information was provided by the country under review on August 9, 2012.

executive, legislative and judicial branches of federal and state government).⁷⁷ The PGR does not have authority over these two jurisdictions.

[137] In the case of the constitutional jurisdiction, Article 111 of the Constitution provides that the Chamber of Deputies may issue a declaration withdrawing the constitutional privilege of the public officials named in the declaration, thus paving the way for them to be criminally prosecuted for any crimes they may have committed while in office.

[138] On the matter of decision-making, Article 6 of the Organic Law of the PGR specifies which powers the Attorney General of the Republic shall not delegate. Article 7 of that same law states that the public servants specified therein shall have the authority to issue or sign the legal instruments that are within their competence and that serve to facilitate the functioning of the PGR, provided those instruments are not among the powers identified in the preceding article. Article 8 provides that the Attorney General of the Republic and the public servants to whom he or she delegates authority and those to whom authority is given in the Regulations Governing this Law, shall make the final decisions on the issues therein mentioned.

[139] With regard to the method used to fill the posts of the highest-ranking officials, under Article 102, section A of the Constitution, the Office of Prosecutor General of the Federation is headed by the Attorney General of the Republic, who is appointed by the President of the Republic. The Senate must ratify the appointment. The incumbent may be removed from office at the President's discretion.

[140] Article 18 of the Organic Law of the PGR states that the Attorney General of the Republic shall be assisted, in order of rank, by the Deputy Attorneys General; a Senior Official and Inspector General, who are proposed by the Attorney General but appointed and removed at the discretion of the President of the Republic. Article 19 of the Organic Law of the PGR provides that the coordinators, heads of specialized units, directors general, delegates, heads of decentralized bodies and regional attachés shall be appointed and removed at the discretion of the Attorney General of the Republic.

[141] In relation to the other public servants attached to the PGR, Article 13 of its Organic Law establishes the Professional Career Service⁷⁸ for agents of the Public Prosecutor's Office of the Federation, agents of the Federal Ministerial Police, and experts. It provides that all rank-and-file personnel of the PGR must undergo and pass the screening procedures, performance evaluations and evaluations of professional competence that this law requires and shall be subject to the professional standards system established under the applicable provisions. It also provides that the positions of all staff other than the prosecutorial, police, expert, specialists and other personnel mentioned above shall be positions of trust for all legal effects.

[142] With respect to the requirements that must be met to qualify for positions in the PGR, Article 102 of the Constitution sets out the requirements for the office of Attorney General. The Organic Law of the PGR provides that the deputy attorneys general must meet the same requirements (Article 18). It also

77. The President of the Republic, the deputies and senators to the Congress of the Union, the justices on the Supreme Court of Justice of the Nation, the magistrates serving in the Upper Chamber of the Electoral Tribunal, the members of Council of the Federal Judiciary, the cabinet secretaries, the deputies to the Federal District Assembly, the Head of Government of the Federal District, the Attorney General of the Republic and the Attorney General of the Federal District, the Advisor to the President and the members of the General Council of the Federal Electoral Institute, state governors, local deputies, magistrates on the state superior courts and, if appropriate, members of the Councils of the Local Judiciary.

78. Transitory Article Seven of the Organic Law of the PGR provides that "until such time as the regulations of the Prosecutorial, Police and Expert Professional Career Service are issued, the Professional Standards Board shall be authorized to issue general provisions relative to the development and operation of that service."

establishes the qualifications that agents of the Public Prosecutor's Office of the Federation (Article 23), the career agents of the Public Prosecutor's Office (Article 34) and career experts and specialists (Article 36) must meet. It also stipulates that in addition to the requirements established in this law and other applicable provisions, before applicants can join the PGR, background checks will be run through the National Public Safety System.

[143] Under Article 69 of the Regulations Governing the Organic Law, the Office of the Director General of Professional Training shall be responsible for providing PGR staff training.

[144] As for disqualifications and incompatibilities for PGR personnel and their responsibility, chapters VIII and IX of its Organic Law contain specific provisions on this subject for agents of the Public Prosecutor's Office of the Federation, agents of the Federal Ministerial Police and experts and specialists. Article 79 provides that public servants with the PGR and in general any person who performs any kind of office, commission or job in the PGR shall be subject to the Federal Law on Administrative Responsibilities of Public Servants.

[145] To receive complaints, the PGR's webpage has an e-mail service as well as the 01800 telephone numbers at which corrupt acts by public servants of the PGR can be reported.

[146] As for oversight and auditing mechanisms, the PGR has the Office of the Inspector General as well as the PGR's Internal Oversight Body,⁷⁹ which depend, hierarchically and functionally on the Secretariat of the Civil Service and is subject to auditing by the Office of the Auditor-in-Chief of the Federation, to check the administration of its resources.

[147] In relation to the way in which its budgetary resources are guaranteed, it should be noted that the PGR draws up its budget of outlays for each fiscal period, which is then incorporated into the Proposed Spending Budget of the Federation that the Federal Executive presents to the Chamber of Deputies in compliance with articles 74 and 75 of the Constitution.

[148] Regarding documented procedures or manuals, the structure, organization and functions of the PGR's various administrative units are established in its Organic Law and the Regulations governing that law. Furthermore, the PGR has a "General Organization Handbook" that spells out the specific functions of each area of the PGR. It also has Agreement A/100/03 from 2003, published in the Official Gazette of the Federation on October 29, 2003, which establishes the standards of technical and legal assessments and the principles that the public servants attached to the administrative units of the Office of the Inspector General must observe when performing their functions.

[149] With respect to institutional strengthening, according to what was reported in the response of the country under review,⁸⁰ on July 7, 2011 the "Risk Management Strategy" was presented to the PGR's Oversight and Institutional Performance Committee. Through 25 improvement measures, the Strategy's

79. Under Article 21 of the Organic Law of the PGR, the Office of the Inspector General is charged with conducting and supervising technical and legal assessments, inspections, audits, and oversight of the agents of the Office of the Public Prosecutor of the Federation, agents of the Federal Ministerial Police, prosecutorial personnel, experts and other public servants working in the PGR to check the functions they are performing as subordinates in the Office of the Public Prosecutor of the Federation, and to investigate any crimes they may commit, notwithstanding the authorities given to the PGR's internal oversight body under this law and other applicable provisions.

80. Response of Mexico concerning the Office of the Attorney General of the Republic (PGR), p. 15. The paragraph to which this note refers was expanded with information furnished by the country under review on August 9, 2012.

purpose is to identify, evaluate, rank, control and monitor the risks that might obstruct or thwart accomplishment of the institution's goals and objectives.

[150] The response of the country under review⁸¹ also reported that “at the present time a technological platform is being put into place as part of the effort to modernize and overhaul the PGR. It is called the *Effective Justice for All Program* (whose *Advisory Committee* was created through circular number C/001/11, published in the Official Gazette of the Federation on March 15, 2011, by the Attorney General of the Republic. This program will introduce a new *modus operandi* for core procedures, a new technological platform of operations, and a strategy for developing a new organizational culture.”

[151] Regarding mechanisms through which the PGR enlists support from other authorities and the citizenry to discharge its functions, Article 6 of the Organic Law of the PGR sets forth the Attorney General's authorities, one of which is to enter into cooperation agreements for such purposes.⁸² The response of the country under review includes examples of such agreements signed by the PGR.⁸³

[152] To disseminate information to the public, the PGR has a Transparency Obligations Portal (POT) at its webpage (www.pgr.gob.mx). The portal was established pursuant to Article 7 subparagraph VI, of the Federal Transparency and Access to Public Government Information Act. There, it explains, *inter alia*, its objectives and functions; the procedures, requirements and formats in use at the PGR, and the vehicles for citizen participation.

[153] With regard to accountability, the information published for that purpose and the way in which that information can be accessed, the Transparency Obligations Portal features, *inter alia*, the reports on the work of the PGR for the years 2007 to 2011. By way of example, the introduction to the 2011 report states that it is being submitted to the Congress of the Union pursuant to Article 93 of the Constitution; Article 23 of the Organic Law of the Federal Public Administration; Article 8 of the Planning Act; Article 4, subparagraphs II and IV of the Federal Transparency and Access to Public Government Information Act, and in keeping with Strategy 5.2 of the 2007-2012 National Development Plan (PND), which concerns transparency and accountability by authorities charged with fighting crime.

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

[154] The Office of the Attorney General of the Republic (PGR) has a set of provisions and/or other measures relevant to the purposes of the Convention, some of which were briefly described in section 1.1

81. Response of Mexico concerning the Office of the Attorney General of the Republic (PGR), p. 15.

82. Paragraphs IX and X of Article 6 of the Organic Law of the PGR read as follows: “IX. To enter into cooperation agreements with the governments of the Federal District and of the states of the Federation, pursuant to Article 119 of the Constitution of the United Mexican States, as well as inter-institutional agreements with foreign government agencies or international organizations, under the terms of the Law on Conclusion of Treaties”; “X. To enter into agreements, terms of cooperation, conventions and other legal instruments with federal authorities and with the governments of the Federal District, of the states of the Federation, and municipal governments, autonomous public agencies and constitutional bodies, and with organizations in the social and private sectors...”

83. Response of Mexico concerning the Office of the Attorney General of the Republic (PGR), p. 19: -The PGR's 2007 Agreement with the Office of the Attorney General of Military Justice, the Office of the Attorney General of the Federal District and the Offices of the Attorneys General of the 31 states of the Federation, establishing the systems by which federal and state authorities are to collaborate, and the terms of coordination in order to adopt a comprehensive policy that enables them to devise and execute joint strategies to combat crime. – The Collaborative Agreement with the PGR's Council for Citizen Participation, signed in 2008, which establishes the terms under which the citizenry, through the Council and its state committees, will participate in the regular visits made by the Office of the Inspector General to the PGR's administrative units and organs for purposes of technical and legal assessment, inspection, and supervision.

of this report. Nonetheless, the Committee considers it appropriate to formulate certain observations in relation thereto:

[155] First, , although the new Organic Law of the Office of the Attorney General of the Republic was issued in 2009, the “regulatory provisions for the Professional Career Service for agents of the Public Prosecutor’s Office of the Federation, agents of the Federal Ministerial Police and experts” to which Transitory Article Seven of that law refers have not yet been issued.⁸⁴

[156] With regard to the foregoing, during the on-site visit, PGR representatives reported that the draft of that regulatory provision is still in very rudimentary form. Therefore, given how important for the PGR to have the regulation promptly, the Committee will formulate a recommendation to the country under review, to the effect that it consider expediting their issuance (see recommendation 3.4.1 of Chapter II of this report).

[157] Second, although the section on “best practices” in the response of the country under review⁸⁵ makes reference to the “Protocols for conducting a preliminary inquiry, criminal proceeding and an *amparo* appeal,” which are intended “to reduce the margin of discretion and interpretation and reinforce the mechanisms for accountability and transparency in the conduct of an agent from the Office of the Public Prosecutor of the Federation (MFP),” the inference of the comment made in the response is that as of January 16, 2012, those protocols had not been fully implemented. The response also stated that there was a lag in the implementation process owing in large part to the workload of those involved in the process and the changes that have been introduced in the various offices of the deputy attorneys general.

[158] During the on-site visit (March 21 to 23, 2012), PGR representatives reported that the implementation of this “best practice” was more advanced than it had been on the date the response was submitted; that on June 15, 2012, the various PGR offices would have to submit the 168 protocols to the Attorney General; she, in turn, would formally adopt the protocols by an agreement that is currently undergoing review for her signature; the activities to prepare the training programs for these protocols and for monitoring their application would begin on August 6 of this year.⁸⁶

[159] Considering how important it is for the country under review that the PGR be able to fully implement this “best practice” and deliver the training mentioned in the preceding paragraph, the Committee will formulate a recommendation in this regard (see recommendation 3.4.2. of Chapter II of this report).

[160] Third, in connection with the “Risk Management Strategy” adopted in July 2011 the Committee notes that in its response⁸⁷ the country under review describes certain difficulties encountered with its implementation which were a function of a number of variables, among them the fact that a new operations model was being introduced, necessitating reorganization of the Police operation and an expenditure of financial and human resources; it was also a function of the fact that the public had very little involvement in the evaluation of each of the PGR delegations, purportedly because in some parts of

84. On August 9, 2012, the country under review reported that: “...the PGR representatives reported that the Service continues to function based on the Regulations Governing the Federal Justice System’s Career Service, which are still in effect pursuant to SECOND Transitory Article and based on the agreements issued by the Professional Standards Board, which is the ranking organ on this subject matter. Therefore, the entry, development and termination phases of the Service have not been affected. They also reported that the draft Regulations were 80% complete as of July 2012, and the various observations offered by the PGR’s administrative units have been received and answered.”

85. Response of Mexico concerning the Office of the Attorney General of the Republic (PGR), pp. 25-28.

86. This paragraph was expanded with clarifying information furnished by the country under review on August 9, 2012.

87. Response of Mexico concerning the Office of the Attorney General of the Republic (PGR), pp. 23 and 24.

the country the public is reluctant to risk one's own safety or the safety of one's family by becoming involved in projects that identify them with the PGR.

[161] During the on-site visit, PGR representatives reported on the delays associated with the Risk Management Strategy, caused by the constant reorganization process that the institution has been undergoing for the last two years and the frequent staffing changes there, which are expected to be completed once the new heads of the units and offices where changes have been introduced become familiar with the Risk Management Strategy.

[162] Taking the foregoing into account, the Committee will formulate a recommendation to the country under view to the effect that it consider adopting the measures necessary to correct the difficulties reported in the response and during the on-site visit in connection with the Strategy's implementation (see recommendation 3.4.3. of chapter II of this report).

[163] Fourth, bearing in mind the importance of ensuring that the frequent personnel changes within the PGR referred to previously do not affect the proper fulfillment of its functions related to the investigation and prosecution of acts of corruption, the Committee will formulate a recommendation in this regard to the country under review (see recommendation 3.4.4 in Chapter II of this report).

[164] Fifth, the Committee observes that although the response of the country under review indicates that "at the present time a technological platform is being put into place as part of the effort to modernize and overhaul the PGR [and is] [...] called the *Effective Justice for All Program*," during the on-site visit, PGR representatives observed that the platform was put into place during the present administration and underscored how important it was that the change of administration not compromise its implementation, given its benefits and the resources invested in it.

[165] A document that the PGR provided during the on-site visit⁸⁸ explained that the objective of the Program is to establish "a new *modus operandi* in the work undertaken to secure justice, achieved by immersing the PGR in the digital age and radically transforming its current procedures through the use of cutting-edge tools and technology." Therefore, in view of the observations made in the preceding paragraph and given how important the *Effective Justice for All Program* is to the PGR, the Committee will formulate a recommendation to the country under review to the effect that it consider taking the measures necessary to complete the Program's implementation (see recommendation 3.4.5. of Chapter II of this report).

[166] Sixth, during the on-site visit, the Senator who is Chair of the "Global Organization of Parliamentarians against Corruption (GOPAC) – Mexican Chapter" described a bill proposing the creation of a National Anti-corruption Prosecutor's Office as a necessary measure because Mexico needed an institution with sufficient power to investigate corrupt acts at all levels and spheres of government. He also mentioned that the Senate had already unanimously approved the bill and that passage in the Chamber of Deputies required approval by 32 states of the Union, as a constitutional amendment would be required.

[167] When this bill came up in the discussions that the on-site visit had with PGR representatives, the latter stated that the creation of that Prosecutor's Office, as proposed in the bill in question, would face constitutional difficulties, as it would involve a violation of the authority to prosecute crime, which the Constitution confers upon the Public Prosecutor's Office, through the PGR. The PGR representatives

88. Document titled "*Effective Justice for All*": *Status of implementation of the JET*," available in print.

observed that changes would have to be introduced in the bill to make that authority constitutional and that they would explain their objections to the Chamber of Deputies.

[168] During the on-site visit, the PGR representatives also observed that although its Office of the Special Prosecutor to Combat Corruption in Federal Public Service does not have the same hierarchy within the PGR's structure as the Office of the Special Prosecutor for Electoral Crimes, the latter was created by the Organic Law of the PGR, whereas the Office of the Special Prosecutor to Combat Corruption in Federal Public Service was created in 2004 by an Agreement issued by the Attorney General. Even so, they argued that this does not affect the performance of its functions and efforts are underway inside this Prosecutor's Office to strengthen prosecution of corruption and introduce the accusatory system.

[169] As this is a constitutional matter, the Committee will not formulate any recommendation on the subject to the country under review, but bearing in mind the need to strengthen the prosecution of corruption underscored by the debate, it will formulate a recommendation in this regard (see recommendation 3.4.6 in Chapter II of this report).

[170] During the on-site visit, the following civil society organization, professional association and academic institution made the observations that appear below in this regard:

[171] - "*Transparencia Mexicana*": Creation of a National Anti-Corruption Prosecutor's Office is a reform in the offing; however, an anti-corruption prosecutor's office already exists within the PGR and the figure of an "anti-corruption tsar" would be a step backward.

[172] - Mexican Bar Association: In criminal justice, the main problem is the "sprawling machinery of justice" which it said cannot be corrected by creating even more organs, more courts and more resources; instead, what was needed was a change in the legal culture; professional ethics; mechanisms for swifter justice; and judges with greater latitude to move cases through the system.

[173] - Center for Economic Research and Teaching: Having a National Prosecutor's Office specializing in anti-corruption would be a positive development, provided it has the necessary constitutional guarantees and is able to function independently. However, if its creation is merely for the sake of "cosmetic changes," then it must be stopped.

3.3. Results of the legal framework and/or other measures

[174] Based on the response to the questionnaire of the country under review and the on-site visit, information was gathered regarding the results obtained by the Office of the Attorney General of the Republic (PGR), including the following:

[175] First, with respect to the PGR's functions in preventing the commission of federal offenses, the response of the country under review⁸⁹ reports activities conducted to foster a culture in which people report wrongdoing. In 2007 and 2009, these activities included publicizing the 01800 telephone numbers that the PGR has to report federal offenses; in 2010, 5,000 copies of a poster were distributed showing the telephone numbers and e-mail addresses of the Office of the Inspector General, the National Citizen Response Center, and the PGR's Council for Citizen Participation. That information was also listed on the PGR's website.

89. Response of Mexico concerning the Office of the Attorney General of the Republic (PGR), pp. 23 and 24.

[176] During the on-site visit, PGR representatives reported that under Article 43 of the Regulations Governing the Organic Law of the PGR, the Office of the Director General for Crime Prevention and Community Services is assigned functions involved in preventing the commission of federal offenses. In discharging those functions, that Office has held forums on prevention of federal offenses, as well as meetings in secondary schools and with the community; educational materials have been printed up and campaigns have been waged to encourage whistleblowers to report federal offenses. The PGR representatives also mentioned that data on those activities was published in a document that they furnished subsequent to the visit.⁹⁰ That document contains the 2006 to 2011 statistics on those activities, including the number of events held, the number of those who attended, the issues discussed, the amount of literature produced and the topics the literature addressed.

[177] While the above information is helpful in illustrating that the PGR has engaged in activities to prevent the commission of federal offenses in general, the Committee considers that the information is not itemized to show which specific activities concern the prevention of corrupt acts criminalized under the Federal Criminal Code, such as abuse of functions or office, influence peddling, bribery, bribery of foreign public officials, embezzlement and illicit enrichment. The Committee will, therefore, formulate a recommendation on this point to the country under review (see recommendation 3.4.7. of Chapter II of this report).

[178] Second, regarding the PGR's functions in investigating corrupt acts that constitute federal offenses and then prosecuting them in court, with its response the country under review supplied statistical tables on "preliminary inquiries" between 2006 and 2011 in connection with such crimes (with the exception of bribery of foreign public officials). Subsequent to the on-site visit, the country under review furnished those same statistical tables, updated as of February 2012.⁹¹

[179] The Committee notes that the statistical tables contain data on the "preliminary inquiries" conducted into the above-mentioned offenses between 2006 and February 2012 and that are currently "in progress"⁹², have been "concluded"⁹³ or are "pending." Those tables illustrate the action that the PGR has taken in connection with those inquiries. However, the Committee observes that the data in question fails to reveal important information, such as how many of these preliminary inquiries were suspended, how many were time-barred by the statute of limitations, and how many were filed before a decision on the merits could be adopted.

[180] The Committee also notes that the following notation appears on the statistical tables: "The number of preliminary inquiries concluded does not necessarily match the number of inquiries undertaken that year, as it may also include inquiries already in progress from previous years. The Statistical Information System (SIIE) does not have sufficient data to factor in the statute of limitations for the crime in question and cannot, therefore, show the number of preliminary inquiries that closed because the statute of limitations expired. Because of changes that the delegations and/or central units made to the figures in the different years, pending inquiries are not, strictly speaking, a function of the difference between the number of inquiries 'in progress' and the number of inquiries concluded."

90. Available in the file for "information requested of the PGR during the on-site visit" (p.4), which may be consulted at the following webpage: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

91. Available in the file for "information requested of the PGR during the on-site visit" (pp. 4-5), which may be consulted at the following webpage: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

92. This category is broken down into "carry-overs", "initiated" and "re-entered".

93. This category is broken down into: "joined", "confidential", "lack of jurisdiction", "N.E.A.P." and "remands" "with a suspect in custody" and "with no suspect in custody."

[181] With this in mind, the Committee will formulate a recommendation to the country under review to the effect that it consider putting together information on the action the PGR has taken with respect to the criminal behaviors referred to above. The information provided for each of those criminal behaviors should make clear how many investigations are still in progress, how many have been closed, how many are time barred by the statute of limitations, how many of the investigations have advanced to the point that a decision on the merits of the case under investigation can be adopted; and how many have been referred to the competent body for a decision (see recommendation 3.4.8. of Chapter II of this report).

[182] Third, concerning the functions that the Organic Law of the PGR assigns to its Office of the Inspector General to conduct and issue a decision in administrative proceedings in which core PGR personnel are accused of serious wrongdoing (agents of the Office of the Public Prosecutor of the Federation, agents of the Federal Ministerial Police, and experts and specialists), during the on-site visit, and in a document supplied subsequent thereto,⁹⁴ PGR representatives indicated that in the period from October 11, 2010 to March 5, 2012, 195 procedures were in progress in which an agent's or expert's dismissal was sought⁹⁵; dismissal was ordered in 21 cases; 6 cases were time barred because the statute of limitations had expired.

[183] The examination of the above information has established that some administrative proceedings conducted by the PGR's Office of the Inspector General into alleged serious wrongdoing on the part of core PGR personnel have been time barred. The Committee will therefore formulate a recommendation to the country under review to the effect that it consider the measures necessary to prevent this from happening (see recommendation 3.4.9 of Chapter II of this report).

3.3. Conclusions and recommendations

[184] Based on the comprehensive review of the Office of the Attorney General of the Republic (PGR) in the foregoing sections, the Committee formulates the following conclusions and recommendations:

[185] **Mexico has considered and adopted measures intended to maintain and strengthen the Office of the Attorney General of the Republic (PGR) as an oversight body, as indicated in section 2 of Chapter II of this report.**

[186] In view of the comments made in that section, the Committee suggests that the country under review consider the following recommendations:

- 3.4.1 Speed up the issuance of the "regulatory provisions of the Professional Career Service for agents of the Public Prosecutor's Office of the Federation, agents of the Federal Ministerial Police and experts" which, under the new Organic Law of the Office of the Attorney General of the Republic, shall be adopted (see section 3.2 of Chapter II of this report).
- 3.4.2 Adopt the appropriate measures so that the "best practice" concerning the protocols for all substantive personnel (this includes conducting the preliminary inquiry, the criminal proceeding *amparo* appeal and interventions by police and experts) can be

94. Available in the file for "information requested of the PGR during the on-site visit" (p. 2), which may be consulted at the following webpage: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

95. The above document states that this function had "been the purview of the PGR's Professional Standards Board; therefore, since October 2010, the PGR has been conducting the dismissal proceedings."

fully enforced, and so that the necessary training in the protocols provided and their application properly monitored (see section 3.2 of Chapter II of this report).

- 3.4.3 Adopt the appropriate measures to correct the difficulties encountered in implementing the PGR's "Risk Management Strategy" (see section 3.2 of Chapter II of this report).
- 3.4.4 Adopt the appropriate measures to ensure that the PGR's personnel rotation programs do not affect the proper fulfillment of its functions of investigating and criminally prosecuting acts of corruption (see section 3.2 of Chapter II of this report).
- 3.4.5 Adopt the appropriate measures to complete the PGR's implementation of the project called the "Effective Justice for All Program" (see section 3.2 of Chapter II of this report).
- 3.4.6 Adopt the appropriate measures to strengthen those units of the PGR that are responsible for the investigation and criminal prosecution of acts of corruption (see section 3.2 of Chapter II of this report).
- 3.4.7 Break down the statistical data developed by the PGR on the activities it conducts to prevent the commission of federal offenses, so as to clearly define which of these activities are to prevent the commission of corrupt acts that are federal offenses over which it has jurisdiction (see section 3.3 of Chapter II of this report).
- 3.4.8 Prepare or provide in more detail, as applicable, statistical data on the investigations opened, clearly indicating how many have been suspended, in how many statutory limitations have been triggered, how many have been archived, how many are being processed, and how many have been referred to the competent area for disposition, in order to identify challenges and recommend corrective measures (see section 3.3 of Chapter II of this report).
- 3.4.9 Adopt the measures necessary to prevent cases under the jurisdiction of the PGR's Office of the Inspector General and involving serious wrongdoing on the part of core PGR personnel from becoming time-barred because the statute of limitations expires (see section 3.3. of Chapter II of this report).

4. COUNCIL OF THE FEDERAL JUDICIARY (CJF)

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

[187] The Council of the Federal Judiciary (CJF) has a set of provisions that make up its legal framework, as well as other measures that refer, *inter alia*, to the following:

[188] With respect to its purpose, under Article 94 of the Constitution, Article 68 of the Organic Law of the Judicial Branch of the Federation, and the General Agreement of the Plenary of the Council of the Federal Judiciary Governing the Council's Organization and Operation, the CJF is responsible for the administration, oversight, discipline and judicial career service in the Judicial Branch of the Federation, with the exception of the Supreme Court of Justice of the Nation and the Electoral Tribunal.

[189] Article 100 of the Constitution provides, *inter alia*, that the CJF shall be an organ of the Judicial Branch of the Federation and shall enjoy technical independence and independence in the administration of its own affairs and in issuing its rulings.

[190] Article 81 of the Organic Law of the Judicial Branch of the Federation provides that the CJF's functions include that of issuing internal administrative regulations, rules to govern the judicial career service, promotional ladder and the disciplinary system of the Judicial Branch of the Federation (paragraph II); appointing circuit magistrates and district judges and deciding the matter of their confirmation, assignment and removal from the bench (paragraph VII); suspending from the bench any circuit magistrates and district judges who appear to be implicated in the commission of a crime and bringing a complaint against them when appropriate (paragraph XI); settling administrative complaints and the culpability of the public servants under the terms of this law, including complaints alleging violation of the impediments stipulated in Article 101 of the Constitution, except those that refer to the justices on the Supreme Court (paragraph XII); investigating, establishing liability and determining the sanctions that will be enforced in the case of civil servants and employees of the CJF and of the circuit and district courts, all in accordance with the provisions and by the procedures established in the law, regulations and agreements that the CJF issues in disciplinary matters (paragraph XXVI).

[191] Furthermore, Article 3, paragraph II of the Federal Law on Administrative Responsibilities of Public Servants—establishing who the subjects of the law are, the duties of public service, administrative responsibilities and sanctions, the competent authorities and the procedure for imposing sanctions and for recording public servants' assets—authorizes the CJF to enforce this law within its area of competence.

[192] Under Article 94, paragraph two of the Constitution and Article 68 of the Organic Law of the Judicial Branch of the Federation, the CJF does not have oversight or disciplinary authority over public servants of the Supreme Court of Justice of the Nation and of the Electoral Tribunal.

[193] In addition, the CJF 10/2011 General Agreement of the Plenary of the CJF, concerning verification of the financial standing of public servants in the Judicial Branch of the Federation—except those of the Supreme Court of the Nation and of the Electoral Tribunal—regulates the CJF's functions in this regard, which include confirmation of compliance with the provisions regarding those public servants' registration and disclosure of their assets and financial standing, tracking their performance, and changes in their assets and financial standing.

[194] With regard to decision making, Article 100 of the Constitution provides that the CJF will function either in plenary or in committee. It further stipulates that the Plenary shall decide the appointment, assignment, confirmation and removal of magistrates and judges, and those other matters that the law determines. It adds that the CJF's decisions shall be final and not subject to challenge; hence, no judgment or appeal against the CJF's decisions shall be permissible, except judgments and appeals that concern its decisions regarding the appointment, assignment, confirmation and removal of magistrates and judges, which may be reviewed by the Supreme Court, but only to confirm that they were adopted according to the rules established in the respective organic law.⁹⁶

[195] Under articles 76 and 81, paragraph XII of the Organic Law of the Judicial Branch of the Federation, decisions of the Plenary of the CJF are adopted by a supermajority of 5 votes when deciding administrative complaints and ascertaining the blame of public servants; under article 78 of that law, decisions by the CJF functioning in committee are taken by a majority vote of its members.

96. Recourse to administrative review is permitted under Article 122 of the Organic Law of the Judicial Branch of the Federation.

[196] Under Article 88 of the aforementioned Organic Law, the CJF has the following bodies to ensure that it functions properly: the Judiciary Institute, the Office of the Inspector General of the Judiciary, the Office of the Comptroller of the Federal Judiciary, the Federal Institute of Public Defenders and the Federal Institute of Bankruptcy Specialists.

[197] In relation to the way in which the positions of the highest-ranking authorities are filled, under Article 100, paragraphs two, three and five of the Constitution, the CJF is composed of seven members: one is the Chief Justice of the Supreme Court of the Nation, who is also Chair of the CJF; three members are appointed by the Supreme Court *en banc* from among the circuit magistrates and district judges; two members are appointed by the Senate and one by the President of the Republic. With the exception of its Chair, members of the CJF have five-year terms and may not be appointed to a second term. Members of the CJF must meet the same requirements that Article 95 of the Constitution establishes for justices on the Supreme Court.

[198] With respect to the bodies with authority to demand that members of the CJF account for their actions and to demand their removal, under articles 109 and 110 of the Constitution, members of the CJF are subject to impeachment. The Congress of the Union has exclusive competence to determine whether the grounds for impeachment exist and then to try the accused and decide their guilt. The penalty is removal from office and disqualification to perform functions, be employed, or serve in posts or on committees of any kind in the civil service. Furthermore, under Article 111 of the Constitution, criminal proceedings against members of the CJF may be opened once the Chamber of Deputies has declared that there are grounds to proceed against the accused.

[199] Concerning the other public servants of the CJF, under the Organic Law of the Judicial Branch of the Federation, executive secretaries are appointed by the Plenary from candidates proposed by the Chair (Article 81, paragraph XVI); each committee designates the technical secretaries and subordinate personnel provided for in the budget (Article 84). The requirements of the posts are set out in the Organic Law, in the General Agreement of the Council of the Federal Judiciary Governing the Council's Organization and Operation, and in the Handbook of Posts in the respective areas.⁹⁷

[200] With regard to the regime of disqualifications, incompatibilities and responsibility, all public servants within the CJF are subject to the Federal Law on Administrative Responsibilities of Public Servants, which the Council enforces pursuant to Article 3, paragraph II of that law and the General Agreement of the Council of the Federal Judiciary governing the procedure for administrative accountability and the system for tracking civil servants' assets and financial standing. Article 101 of the Constitution also spells out incompatibilities specific to members of the CJF.⁹⁸

[201] The CJF has a Comptroller's Office which serves as an internal oversight mechanism and processes complaints made against public servants attached to the CJF. It also proposes draft resolutions

97. In the response of Mexico concerning the Council of the Federal Judiciary (p. 4), the following observation is made: "Mid-level management and operational staff are proposed by the heads of the executive secretariats provided they fulfill the requirements and the profile that the Handbook of Posts for the area concerned requires. Although at the present time there is no provision or guideline in the Council that would allow public servants to be selected by merit-based competition, the Administrative Commission has issued decisions calling for merit-based competitions to be held."

98. Article 101 of the Constitution provides that the members of the Council of the Federal Judiciary may neither accept nor perform employment or any function in the federal government, state government, the government of the Federal District or from private parties; the only exceptions are unremunerated posts with scientific, teaching, literary or charitable associations. For a period of two years following their retirement, those who have served as members of the Council of the Federal Judiciary shall not serve as counsel, attorney or representative in any proceeding before the Judicial Branch of the Federation.

for the Council members who will make the final decision on a complaint. Furthermore, pursuant to General Agreement 10/2011 of the Plenary of the Council of the Federal Judiciary, e-mail boxes were introduced at the CJF's website that are specifically for the purpose of taking complaints or grievances.⁹⁹

[202] In relation to the way in which the CJF's budgetary resources are ensured, under Article 74, paragraph IV of the Constitution, read in conjunction with the final paragraph of Article 100 thereof, the resources earmarked for the CJF are determined in the Federation's Budget of Expenditures, which is approved by the Chamber of Deputies of the Congress of the Union.

[203] With respect to the existence of manuals, the CJF has, among others, the General Manual of Posts in the Council of the Federal Judiciary, which establishes such matters as the purpose, functions, responsibilities and requirements of each post. It also has General Organization Manuals; Specific Organization Manuals, and Procedural Handbooks for each area.¹⁰⁰ The CJF also has documented procedures for conducting its business, as well as information management and applications programs for its affairs. These include the data programs associated with the Asset Disclosure System.¹⁰¹

[204] Under Article 92 of the Organic Law of the Judicial Branch of the Federation and Article 91 of the General Agreement of the Plenary of the Council of the Federal Judiciary Governing the Council's Organization and Operation, the CJF has the Federal Judiciary Institute to train CJF personnel.

[205] As for institutional strengthening, during the on-site visit, CJF representatives reported that with the February 3, 2012 issuance of the new General Agreement of the Plenary of the Council of the Federal Judiciary, which governs the Council's own organization and operation, the goal was, *inter alia*, to improve the configuration and apportionment of the CJF's units while placing emphasis on planning and the merger of functions that had theretofore been divided up among separate units.

[206] In relation to the coordination mechanisms for harmonizing their functions with those of other oversight bodies or branches of government, as well as for securing assistance from other authorities and from the public, the CJF concludes cooperation agreements with other oversight bodies and with civil society organizations.¹⁰²

[207] To disseminate information to the public, the CJF has a webpage (www.cjf.gob.mx) that contains its areas and departments, and that allows access to information on each specific (area and department) webpage. At the same time, it has a Transparency portal where interested parties can get information about the CJF and which, under the Federal Transparency and Access to Public Information Act, it is required to make available.¹⁰³

[208] With respect to accountability mechanisms for the performance of functions, the information made public to that end and the way in which members of the public may access that information, the response

99. Response of Mexico concerning the Council of the Federal Judiciary, p. 7.

100. An observation is made in the response of Mexico concerning the Council of the Federal Judiciary (p. 5) to the effect that "... every year, or every time a substantial change is introduced in the organizational or operational structure, a new organization or flow chart is prepared to update each of the aforementioned manuals; in this connection, in order to be able to keep those manuals current, courses and advisory services are provided at the start of each fiscal period or as needed to train the personnel in each area."

101. Response of Mexico concerning the Council of the Federal Judiciary, pp. 5-7.

102. The response of Mexico concerning the Council of the Federal Judiciary (p. 8) mentions the agreements concluded with the Secretariat of the Civil Service, the National Banking and Securities Commission, the Federal Institute of Access to Information, and "*Transparencia Mexicana*", a civil society organization, and the specific purposes of the cooperation that those agreements concern.

103. This obligation is regulated in Article 7, paragraph VI of this Law.

of the country under review¹⁰⁴ states that, under the Constitution, the CJF enjoys technical independence and independence in the administration of its own affairs and in issuing its rulings; therefore, it does not answer to any higher body. It adds, nevertheless, that the internal oversight bodies deliver monthly and annual reports to the Plenary of the CJF; the Chair, in turn, presents an annual report of the CJF's activities. For purposes of accessibility, those reports are published at the webpage of the Council of the Federal Judiciary, which may be consulted at the following web address: <http://www.cjf.gob.mx/documentos/InformeAnualLabor>.¹⁰⁵

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

[209] The Council of the Federal Judiciary (CJF) has a set of provisions and/or other measures relevant to the purposes of the Convention, some of which were briefly described in section 1.1 of this report. Nonetheless, the Committee considers it appropriate to formulate certain observations in relation thereto:

[210] First, the Committee observes that there is no legal regulation stating that the posts in the CJF that are not Judicial Career Service positions are to be awarded through merit-based competition.

[211] The Committee also notes that the response of the country under review¹⁰⁶ states that “Mid-level management and operational staff are proposed by the heads of the executive secretariats provided they fulfill the requirements and the profile that the Handbook of Posts of the area concerned requires” and that “[a]lthough at the present time there is no provision or guideline in the Council that would allow public servants to be selected by merit-based competition, the Administrative Commission has issued decisions calling for merit-based competitions to be held.” However, during the on-site visit CJF representatives observed that “ideally, a merit-based system should be in place to select public servants not covered by the judicial career system, and that hopefully legislation will be passed to introduce such a system.”

[212] Taking the foregoing into account, the Committee will formulate a recommendation to the country under review to the effect that it consider adopting a regulation requiring merit-based competitions to fill mid-level management and operational positions within the CJF that are not covered by the judicial career system (see recommendation 4.4.1 of Chapter II of this report).

[213] Second, the Committee observes that although the CJF has data processing applications pertaining to the Asset Disclosure System, during the on-site visit, representatives of the CJF commented that it does not have the kind of technology platform needed to examine the information reported in the asset-disclosure e-filings and to detect the indicators that trigger investigations. Given this circumstance, the Committee will formulate a recommendation in this regard to the country under review (see recommendation 4.4.2. of Chapter II of this report).

[214] Third, the Committee observes that the new “General Agreement of the Plenary of the Council of the Federal Judiciary Governing Its Organization and Operation” was adopted on February 3, 2012. In its response, the country under review¹⁰⁷ commented that every time a substantial change is introduced in the organizational and operational structure, the General Organization Manuals, the Specific Manuals on Organization and Posts, and the Area Procedural Handbooks have to be updated. According to what the

104. Response of Mexico concerning the Council of the Federal Judiciary, p. 8.

105. The CJF furnished documents in electronic format. They were the reports of the Office of the Comptroller of the Judicial Branch of the Federation for the years 2007, 2008, 2010, and 2011, and the reports of the CJF Chair for 2007 to 2011. These reports may be consulted at: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

106. Response of Mexico concerning the Council of the Federal Judiciary, p. 4.

107. Response of Mexico concerning the Council of the Federal Judiciary, p. 5

CJF representatives reported during the on-site visit, this work is 85% complete. Given how important it is to bring the manuals current, the Committee will formulate a recommendation to this effect for the country under review (see recommendation 4.4.3 of Chapter II of this report).

4.3. Results of the legal framework and/or other measures

[215] Based on the response to the questionnaire of the country under review and the on-site visit, information was gathered regarding the results obtained by the Council of the Federal Judiciary (CJF), including the following:

[216] First, in the response of the country under review,¹⁰⁸ information was furnished pertaining to the 176 asset-performance studies done in 2007. During the on-site visit, additional information¹⁰⁹ was provided from the studies done in the subsequent years. Those figures were as follows: 51 asset-performance studies were done in 2008, 50 in 2009, 42 in 2010, and 48 in 2011. Here it should be noted that during the on-site visit, the CJF representatives explained that the reason why the figures declined in the years following 2007 was that since 2008 the process of deciding whether to undertake an asset-performance study had become more rigorous. They explained that a report of this nature is done when there is serious cause to presume some irregularity.

[217] Without dismissing the explanation given by the CJF representatives during the on-site visit in connection with the decline in the number of asset-performance studies since 2007, the Committee is of the view that given how important such studies are in detecting possible irregularities and in view of the observations made in the previous section of this report concerning the lack of a technology platform with which to examine the information reported in the asset-disclosure e-filings and to detect the indicators that trigger investigations, the Committee will formulate a recommendation to the country under review to the effect that it consider increasing the number of such studies conducted, to which end it might consider the possibility of availing itself of the technological tools that will facilitate such studies (see recommendation 4.4.4 of Chapter II of this report).

[218] Second, in the response of the country under review¹¹⁰ one of the difficulties that the CJF cited was the fact that some 65% of the asset-disclosures are filed electronically. It attributed this to the following: “a significant percentage of public servants are still reluctant to use such electronic means.” It went on to observe that “mandatory e-filing through the Asset Disclosure System is under consideration.” During the on-site visit, CJF representatives explained that the reluctance may be attributable to a generation gap in the use of technology.

[219] Therefore, because electronic filing of the asset disclosure statements would greatly facilitate analysis of the information those disclosure statements contain, the Committee will formulate a recommendation in this regard for the country under review (see recommendation 4.4.5 of Chapter II of this report).

[220] Third, the response of the country under review¹¹¹ furnished information concerning the cases conducted in the last five years in which corrupt acts were alleged and sanctions imposed on public servants attached to jurisdictional entities: number of investigations launched (9); in progress (3); suspended (0); closed by virtue of the statute of limitations (0); number of cases investigated (6); number

108. Response of Mexico concerning the Council of the Federal Judiciary, p. 9

109. The CJF representatives delivered this information in writing during the on-site visit.

110. Response of Mexico concerning the Council of the Federal Judiciary, p. 12

111. Response of Mexico concerning the Council of the Federal Judiciary, pp. 10 and 11.

of decisions taken (6); number of decisions that involved a sanction (6); number of decisions that did not involve any sanction (0); number of decisions pertaining to the statute of limitations (0); number of decisions pending (3); and number of fines ordered (0).

[221] The Committee considers that this information demonstrates that the CJF has performed its function of investigating and punishing corrupt acts by public servants attached to jurisdictional entities, with the results indicated above.

[222] Fourth, information was furnished in the response of the country under review¹¹² concerning the cases instituted in the last five years in which corrupt acts were charged and in which public servants attached to the administrative areas of the CJF were sanctioned, as follows: number of investigations undertaken (11), in progress (3), suspended (0), closed by virtue of the statute of limitations (0); number of cases investigated (11), number of decisions delivered (8); number of decisions that involved some sanction (8); number of decisions that did not involve any sanction (0); number of decisions pertaining to the statute of limitations (0); number of decisions pending (3); number of decisions that levied fines (8).

[223] The Committee considers that the foregoing information demonstrates that the CJF has served its purpose of investigating and punishing corrupt acts committed by public servants attached to the CJF's administrative areas, with the results indicated above.

[224] Fifth, the response of the country under review¹¹³ furnished information on the proceedings instituted in the last five years in which CJF defenders and legal advisors were charged with corrupt acts and the sanctions imposed, as follows: number of investigations instituted (22); in progress (2); suspended (0), closed by virtue of the statute of limitations (0); number of cases investigated (22); number of decisions delivered (20); number of decisions that resulted in some sanction (8); number of decisions that did not result in any sanction (12); number of decisions pertaining to the statute of limitations (0); number of decisions pending (2); number of decisions that levied fines (0).

[225] The Committee considers that the above information demonstrates that the CJF has served its purpose of investigating and punishing corrupt acts on the part of CJF defenders and legal advisors, with the results indicated above.

4.4. Conclusions and recommendations

[226] Based on the comprehensive review of the Council of the Federal Judiciary (CJF) in the foregoing sections, the Committee formulates the following conclusions and recommendations:

[227] **Mexico has considered and adopted measures intended to maintain and strengthen the Council of the Federal Judiciary as an oversight body, as indicated in section 4 of chapter II of this report.**

[228] In view of the comments made in that section, the Committee suggests that the country under review consider the following recommendations:

- 4.4.1 Consider adopting a regulation providing for merit-based competitions to fill posts of CJF mid-level management and operational personnel not covered by the Judiciary Career system (see section 4.2 of Chapter II of this report).

112. Response of Mexico concerning the Council of the Federal Judiciary, p. 11

113. Response of Mexico concerning the Council of the Federal Judiciary, pp. 11 and 12.

- 4.4.2 Implement a technological platform that will allow examination of the information reported in the asset-disclosure e-filings and detect those indicators that trigger investigations into possible irregularities (see section 4.2. of Chapter II of this report).
- 4.4.3 Complete the updating of the General Organization Manuals; the Specific Manuals of Organization and Posts, and the Area Procedural Handbooks that the CJF has (see section 4.2 of Chapter II of this report).
- 4.4.4 Take the appropriate measures to increase the number of studies done to track asset performance (see section 4.3. of Chapter II of this report).
- 4.4.5 Adopt such measures as it deems appropriate to resolve the difficulty associated with the fact that a significant number of public servants are reluctant to file their asset disclosure statements electronically; mandatory e-filing might be considered (see section 4.3 of Chapter II of this report).

III. BEST PRACTICES

[229] In keeping with section V of the *Methodology for the Review of the Implementation of the Provision of the Inter-American Convention against Corruption selected in the Fourth Round and for Follow-Up on the Recommendations Formulated in the First Round* and following the *Structure* adopted by the Committee for the reports in this Round, the following are the best practices that the country under review identified and which it wished to share with the other member countries of the MESICIC, in the belief that they might be helpful to them:

[230] **1. In connection with the Secretariat of the Civil Service (SFP):**

[231] - “Undercover Client”: a strategy for catching *en flagrante* and punishing, both criminally and administratively, any public servant at any level of the federal government who uses his or her position to obtain some economic or personal advantage, thereby abusing his or her functions and in so doing inflicting injury upon the institutions of the Mexican State and the public interest.¹¹⁴

[232] - “Investigations of Asset Performance”: a strategy that relies on data processing tools to quickly spot substantial increases in a civil servant’s assets.¹¹⁵

[233] For more information on the above-mentioned best practices, interested parties may consult the response from the country under review concerning the SFP, pp. 53 – 58.¹¹⁶

[234] **2. Concerning the Internal Oversight Bodies (OIC):**

[235] - “System for Monitoring Contracting Events in Real Time (SISEC)”: a computer program to track contracting events, set up in the OIC that oversees Pemex - Petrochemical. The program keeps a

¹¹⁴ Further information may be found on the internet at

<http://www.funcionpublica.gob.mx/index.php/programas/usuario-simulado.html>

¹¹⁵ Further information may be found on the internet at <http://declaranet.gob.mx/>

¹¹⁶ Available at: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

record of any businesses that sell to Pemex; which of them have been penalized in some way; who the business' partners are, and up-to-date information from the cumulative database on file.¹¹⁷

[236] For more information on this matter, interested parties may consult the response from the country under review concerning the SFP – OIC, pp. 27 to 32.¹¹⁸

[237] **3. Concerning the Office of the Attorney General of the Republic (PGR):**

[238] - Protocols for conducting a preliminary inquiry, criminal proceeding and an *amparo* appeal, (apart from those of the Federal Agency of Investigation and Forensics Services) which are intended “to reduce the margin of discretion and interpretation and reinforce the mechanisms for accountability and transparency in the conduct of an agent from the Office of the Public Prosecutor of the Federation (MFP).”¹¹⁹

[239] For more information on this matter, interested parties may consult the response from the country under review concerning the Office of the Attorney General of the Republic (PGR), pp. 25 to 28.¹²⁰

IV. FOLLOW-UP ON NEW AND RELEVANT INFORMATION AND DEVELOPMENTS WITH REGARD TO IMPLEMENTATION OF RECOMMENDATIONS FORMULATED IN THE COUNTRY REPORT IN THE FIRST ROUND OF REVIEW¹²¹

[240] This section of the report refers to progress, information, and new developments in Mexico in connection with the recommendations and measures suggested by the Committee in the reports of the First Round that were deemed to require additional attention in the reports of the Second and Third Rounds,¹²² and it will proceed to take note of those that have been satisfactorily considered and those that require additional attention from the country under review. In addition, where appropriate, it will address the continued validity of those recommendations and measures and, as applicable, restate or reformulate them, in accordance with provisions contained in section VI of the methodology adopted by the Committee for the Fourth Round.

[241] This section also takes note of any difficulties in implementing the above recommendations and measures to which the country under review may have drawn attention, as well as of technical cooperation it may have requested to that end.

¹¹⁷ Further information may be found on the internet at

http://www.oas.org/juridico/PDFs/mesicic4_mex_OIC_anexII.pdf

¹¹⁸ Available at: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

¹¹⁹ Further information may be found on the internet at

http://www.oas.org/juridico/PDFs/mesicic4_mex_PGR_anexII.pdf

¹²⁰ Available at: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

¹²¹ The list of recommendations that still require additional attention or which have been reformulated following this analysis, have been included as Annex 1 to this report.

¹²² Available at: <http://www.oas.org/juridico/spanish/mex.htm>

1. STANDARDS OF CONDUCT AND MECHANISMS TO ENFORCE THEM (ARTICLE III, PARAGRAPHS 1 AND 2 OF THE CONVENTION)

1.1. Standards of conduct intended to prevent conflicts of interest and enforcement mechanisms

Recommendation:

Strengthen the implementation of laws and codes of conduct concerning conflicts of interest.

Measure a) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

- *Based on the Code of Ethics of Federal Public Administration Civil Servants, encourage each of the agencies and entities of the Federal Public Administration to devise and issue a specific Code of Conduct defining the actions of its public employees in concrete situations, in accordance with the functions and activities inherent to each institution, as provided for in the relevant provisions (the rationale for this measure is in section 1.1.2 of Chapter II of the report from the First Round).*

[242] In its response,¹²³ the country under review presents information and new developments with regard to the above measure. The Committee notes the following as steps that contribute to progress in its implementation:

[243] - The National Accountability, Transparency and Anti-Corruption Program 2008-2012 (PNRCTCC),¹²⁴ which is mandatory for the offices and entities in the federal public administration, the PGR and the administrative units of the Office of the President of the Republic. Objective 3 of this program is the “commitment to cultivate a culture of legality, ethics and public responsibility.” The lines of action to be pursued under this objective are as follows: “evaluate adherence to the principles and values established in the Code of Ethics of Federal Public Administration Civil Servants, through a system of indicators and evaluation” (3.2.2) and “update and implement the codes of conduct of the offices and entities of the federal public administration based on the principles and values established in the Code of Ethics of Federal Public Administration Civil Servants” (3.2.3).

[244] - The decision published on July 12, 2010, issuing the oversight provisions and the Administrative Manual for General Application of Internal Oversight.¹²⁵ It provides that as part of the institutional oversight system, the offices and entities of the federal public administration must have, update and disseminate their own Codes of Conduct to conform to the Code of Ethics of the Federal Public Administration.

[245] - The “General guidelines for the establishment of permanent measures that ensure integrity and ethical conduct on the part of public servants in the performance of their jobs, positions or commissions,”¹²⁶ which the SFP issued in March 2012 and which provides, *inter alia*, that an Ethics

123. Mexico’s response concerning the follow-up to the recommendations formulated in the First Round, pp. 1 to 7.

124. May be consulted by way of the following link:

<http://www.funcionpublica.gob.mx/index.php/transparencia/normatividad-en-materia-de-transparencia.html>

125. May be consulted by way of the following link:

<http://www.funcionpublica.gob.mx/index.php/programas/manuales>

126. Available in the file on “information requested of the SFP on the occasion of the on-site visit” at:

http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

Committee shall be established in the agencies of the federal public administration and in the PGR to help issue, apply and enforce the Code of Conduct.

[246] - The degree of progress made toward preparation and adoption of the institutional codes of conduct, as determined by a 2008 diagnostic survey that the SFP conducted among the 270 offices and entities of the federal public administration, and which 210 of those institutions answered. The survey shows that 203 of the offices and entities of the federal public administration prepared and published their respective codes of conduct, 86% of which contain conflict-of-interest provisions.

[247] On the occasion of the on-site visit, SFP representatives indicated that, based on the above-mentioned general guidelines, a timetable of activities and deadlines was established for the entities, which will help them all adopt and update their codes of conduct.

[248] Furthermore, in the response from the country under review¹²⁷ the following observation was made concerning difficulties that arise when the time comes to implement measure a) under the recommendation in section 1.1 of Chapter IV of this report:

[249] “One of the difficulties we have encountered is in being able to keep track of the updated or new versions of the institutions’ codes of conduct, because we do not have a system for evaluating and tracking this information. We have been unable to ascertain how the institutional codes of conduct that have already been issued were put together. What we want to know is whether they were assembled through a deliberative process that included all the employees, and the extent to which the specific functions and activities of each institution were taken into account.”

[250] On the occasion of the on-site visit, representatives of the SFP made an observation in connection with the difficulties described above, to the effect that although the aforementioned general guidelines are available, the system mentioned in the comment was not yet in place, although the plan continues to be to work on the system.

[251] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure (a) of the recommendation in section 1.1 of Chapter IV of this report, which indicate that it has taken actions to promote the drafting and issuance of the Codes of Conduct referred to therein, but bearing in mind the importance of overcoming the difficulty indicated by the country under review regarding the need for a system to evaluate and monitor compliance with the rules governing the drafting, issuance, and contents of those Codes, it believes it should be restated in the following terms:

[252] - Adopt a system to evaluate and monitor compliance with the rules governing the drafting, issuance, and contents of the specific Codes of Conduct to be adopted by the departments and agencies of the federal public administration, and to assist in their adoption in the terms set in the guidelines issued for the purpose by the SFP (see sole measure in section 1.1 of Annex I to this report).

[253] The Committee also takes note of the information furnished by the country under review in its response¹²⁸ concerning the internal organs and organizations that have been instrumental in the implementation of measure a) under the recommendation in section 1.1 of Chapter IV of this report.

127. Mexico’s response concerning the follow-up to the recommendations formulated in the First Round, p. 6

128. Mexico’s response concerning the follow-up to the recommendations formulated in the First Round, p. 6

1.2. Standards of conduct to ensure the proper conservation and use of resources entrusted to government officials in the performance of their functions and enforcement mechanisms

Recommendation:

Strengthen the implementation of legal provisions and codes of conduct with respect to the proper conservation and use of public resources.

Measure a) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

- *Based on the Code of Ethics of Federal Public Administration Civil Servants, encourage each of the agencies and entities of the Federal Public Administration to devise and issue a specific Code of Conduct defining the actions of its public employees in concrete situations, in accordance with the functions and activities inherent to each institution, as provided for in the relevant provisions (the rationale for this measure is in section 1.2.2 of Chapter II of the report from the First Round).*

[254] In its response,¹²⁹ the country under review presents information and new developments with regard to the above measure. The Committee notes, as steps that contribute to progress in its implementation, those already described in paragraphs 239 to 243 of section 1.1 of Chapter IV of this report, which also apply to this measure. The only detail to be considered in relation to paragraph 242 is that 95% of the institutional codes of conduct that have been adopted, do have standards on the preservation and use of public resources.

[255] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure (a) of the recommendation in section 1.2 of Chapter IV of this report, which indicate that it has taken actions to promote the drafting and issuance of the codes of conduct referred to therein.

[256] Equally applicable as far as this measure is concerned is the observation made in paragraph 247 of section 1.1 of Chapter IV of this report concerning the difficulty mentioned in the response of the country under review with respect to its implementation,¹³⁰ which is the same as the one already transcribed in paragraph 245 of that section. Therefore, given the importance of correcting the problem, the Committee believes that measure a) of the recommendation in section 1.2 of Chapter IV of this report should be reformulated as follows:

[257] - Adopt a system to evaluate and monitor compliance with the rules governing the drafting, issuance, and contents of the specific Codes of Conduct to be adopted by the departments and agencies of the federal public administration, and to assist in their adoption in the terms set in the guidelines issued for the purpose by the SFP (see sole measure in section 1.2 of Annex I to this report).

[258] The Committee also takes note of the information furnished by the country under review in its response¹³¹ concerning the internal organs and organizations that have been instrumental in the implementation of measure a) of the recommendation in section 1.1 of Chapter IV of this report.

129. Mexico's response concerning the follow-up to the recommendations formulated in the First Round, pp. 7 to 12

130. Mexico's response concerning the follow-up to the recommendations formulated in the First Round, p. 12.

131. Mexico's response concerning the follow-up to the recommendations formulated in the First Round, p. 12.

1.3. Measures and systems requiring public officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware.

Recommendation:

Strengthen the mechanisms Mexico has to require public officials to report acts of corruption in public office of which they are aware to the appropriate authorities.

Measure a) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

- *Based on the Code of Ethics of Federal Public Administration Civil Servants, encourage each of the agencies and entities of the Federal Public Administration to devise and issue a specific Code of Conduct defining the actions of its public employees in concrete situations, in accordance with the functions and activities inherent to each institution, as provided for in the relevant provisions (the rationale for this measure is in section 1.3.2 of Chapter II of the report from the First Round).*

[259] In its response,¹³² the country under review presents information and new developments with regard to the above measure. The Committee notes, as steps that contribute to progress in its implementation, those already described in paragraphs 239 to 243 of section 1.1 of Chapter IV of this report, which apply equally to this measure. The only detail to be considered in relation to paragraph 242 is that 72% of the Institutional Codes of Conduct adopted contain standards requiring reporting of acts of corruption.

[260] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure (a) of the recommendation in section 1.3 of Chapter IV of this report, which indicate that it has taken actions to promote the drafting and issuance of the codes of conduct referred to therein.

[261] The observation noted in paragraph 247 of section 1.1 of Chapter IV of this report, concerning the difficulty with implementation cited in the response from the country under review¹³³ -which is the same comment that appears in paragraph 245 of that section- is equally relevant to this measure. Therefore, given the importance of correcting the problem, the Committee believes that measure a) of the recommendation in section 1.3 of Chapter IV of this report should be reformulated as follows:

[262] - Adopt a system to evaluate and monitor compliance with the rules governing the drafting, issuance, and contents of the specific Codes of Conduct to be adopted by the departments and agencies of the federal public administration, and to assist in their adoption in the terms set in the guidelines issued for the purpose by the SFP (see measure (a) in section 1.3 of Annex I to this report).

[263] The Committee also takes note of the information furnished by the country under review in its response¹³⁴ concerning the internal organs and organizations that have been instrumental in the implementation of measure a) under the recommendation in section 1.1 of Chapter IV of this report.

132. Mexico's response concerning the follow-up to the recommendations formulated in the First Round, pp. 12 to 18.

133. Mexico's response concerning the follow-up to the recommendations formulated in the First Round, p. 18.

134. Mexico's response concerning the follow-up to the recommendations formulated in the First Round, p. 18.

Measure b) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

- *Disseminate the provisions related to the measures and systems that require public officials to report acts of corruption in public office of which they are aware* (the rationale for this measure is explained in section 1.3.2 of Chapter II of the report from the First Round).

[264] In its response,¹³⁵ the country under review presents information and new developments with regard to the above measure. The Committee notes the following as steps that contribute to progress in its implementation:

[265] - The August 3, 2011 enactment of a decree that amends, adds and strikes down various provisions of the SFP's Internal Regulations, among them, the regulation establishing the Office of the Director General of Complaints and Integration (DGDI), whose functions include that of receiving, investigating and resolving complaints alleging possible noncompliance with the obligations of civil servants in the agencies, entities and the PGR, and all those persons who manage or administer federal public resources.

[266] - Design of a new data processing system that the SFP's DGDI will implement in 2012 to function online and in real time with all the internal oversight bodies of the Federal Public Administration. The following are among the system's objectives: swift and simple retrieval of citizen complaints and grievances, expedited data entry and generating data that will be of strategic importance in the decisions taken to fight corruption.

[267] The Course on the Culture of Legality for public servants of the federal public administration, scheduled under the cooperation agreement signed by the Civil Service Secretariat and the National Strategy Information Center (NSIC), the aims of which include raising awareness about the importance of the rule of law and the culture of legality and developing skills for decision making, problem solving, and legal and moral reasoning to identify and satisfactorily resolve challenging ethical dilemmas. Module One of this course (Why is the rule of law important to me, my family, and society?) and Lesson 4 (What rules, laws, and codes must I observe?) include, among their objectives, identifying the specific actions prohibited by each law, code, international convention, and treaty and describing the impact of the international conventions on the actions of public servants.¹³⁶

[268] Furthermore, on the occasion of the on-site visit, SFP representatives observed that campaigns have been waged over the mass media, such as radio and television, and the entities' websites have space dedicated to encouraging the public to file complaints. They noted that to encourage this kind of reporting, the results of the complaints are made public. They observed that the new Federal Anti-Corruption in Public Contracting Law¹³⁷ will help in this regard and that efforts should continue to cultivate, within the public, a culture of reporting corruption.

[269] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure (b) of the recommendation in section 1.3 of Chapter IV of this report, which indicate that training on the provisions to which it refers has been given to public servants, but

135. Mexico's response concerning the follow-up to the recommendations formulated in the First Round, pp. 1 to 7.

136 Information on the Course on the Culture of Legality may be found directly at the following address: <http://www.programaanticorrupcion.gob.mx/index.php/integridad-y-legalidad/curso-de-cultura-de-la-legalidad-en-la-sfp.html>. This link was furnished by the State under review on August 9, 2012.

137. Available at: http://dof.gob.mx/nota_detalle.php?codigo=5251641&fecha=11%2F06%2F2012

bearing in mind the remarks made during the on-site visit regarding the need for continued efforts to promote a culture of reporting corruption, and also taking into consideration that rules and measures on this topic have been recently adopted which, by reason of their importance, warrant specific communication to public officials, believes it would be appropriate to restate that measure in the following terms:

[270] - Guarantee the sustainability of programs for disseminating the rules related to the measures and systems requiring public officials to report acts of corruption in the performance of public functions of which they are aware to the appropriate authorities, together with that of programs for providing training on such matters to those officials (see measure (b) in section 1.3 of Annex I to this report).

Measure c) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

- *Adopt and implement protective measures for civil servants who report acts of corruption, thus safeguarding them from the threats or retaliation that might be directed at them on account of having complied with that obligation* (the rationale for this measure is explained in section 1.3.2 of Chapter II of the report from the First Round).

[271] In its response,¹³⁸ the country under review presents information and new developments with regard to the above measure. The Committee notes the following as steps that contribute to progress in its implementation:

[272] - In March 2011, the Federal Executive sent the Chamber of Deputies a bill to amend the Federal Law on the Administrative Responsibilities of Civil Servants, which contains provisions on protecting whistleblowers; once approved by the Chamber of Senators, it was sent to the House of Deputies on April 12, 2011, for its approval.

[273] - Article 10 of the new Federal Anti-corruption in Government Contracting Law¹³⁹ provides for a number of measures related to administrative investigation, among them anonymous complaints and the confidentiality of the complainant's identity.

[274] Furthermore, on the occasion of the on-site visit, SFP representatives indicated that the bill originally sent to the Chamber of Deputies is still under consideration there. That bill contains incentives and protections for federal civil servants and for private citizens who report acts of corruption; these incentives and protections include a reduction of any sanction that a federal civil servant might face if he or she is reporting acts of corruption in which he or she is implicated, and a guarantee that they will keep their employment; and financial rewards to private citizens who supply accurate, relevant and sufficient information on acts of corruption.

[275] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure c) of the recommendation in section 1.3 of Chapter IV of this report, and the need for it to continue to give attention to the measure, considering that the bill in question has not yet been enacted into law.

138. Mexico's response concerning the follow-up to the recommendations formulated in the First Round, p. 20.

139. The country under review provided the following link, where the full text of this law may be seen: http://dof.gob.mx/nota_detalle.php?codigo=5251641&fecha=11%2F06%2F2012

2. SYSTEMS FOR REGISTRATION OF INCOME, ASSETS AND LIABILITIES (ARTICLE III, PARAGRAPH 4 OF THE CONVENTION)

Recommendation:

Strengthen the systems for registration of income, assets and liabilities.

Measure a) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

- *Strengthen the mechanisms whereby the competent authority can verify the content of statements of net worth, as set forth in Federal Law on the Administrative Responsibilities of Civil Servants (LFRASP), establishing systems to facilitate and perform such verification on a timely basis (the rationale for this measure is in section 2.2 of Chapter II of the report from the First Round).*

[276] In its response,¹⁴⁰ the country under review presents information and new developments with regard to the above measure. The Committee notes the following as steps that allow it to determine that it has been satisfactorily considered:

[277] - "... through the Secretariat of the Civil Service, the Federal Government has a data processing tool called the Alert System, which enables it to conduct a systematic and focused examination of the statements of net worth that public servants file through DeclaraNet (Ref: <http://declaranet.gob.mx>), whose end product is a much effective and efficient verification."¹⁴¹

[278] - "As another measure to strengthen verification of changes in net worth, the Federal Government now has a data processing system in its Secretariat of the Civil Service, known as OMEXT. The purpose of this tool is to keep a record of the filing of statements of net worth and monitor those civil servants who either failed to file a statement of net worth or filed it late. While the DeclaraNet system can show who filed their statements, the filing date is vital information that makes the system work; in other words, a determination can be made as to whether the statement of net worth was filed within the deadline prescribed in the Federal Law on Administrative Responsibilities of Civil Servants."¹⁴²

[279] - The Financial Intelligence Unit (UIF) of the Secretariat of the Treasury and Public Credit is still in negotiations with the Secretariat of the Civil Service over various aspects of what would become the Terms for Coordination of the Collaboration project that will enable them to share financial information that will be useful in detecting irregular financial transactions by civil servants. This instrument will only be applied in the case of civil servants of the Federal Public Administration, thereby facilitating the prevention, detection and punishment of any corrupt practices in which persons serving in the Federal Public Administration may engage and, where called for, eradicating those practices.¹⁴³

140. Mexico's response concerning the follow-up to the recommendations formulated to Mexico in the first Round, pp. 21 and 22.

141. For more information on this system, see Mexico's response concerning the follow-up to the recommendations formulated in the First Round, pp. 21 and 22

142. For more information on this tool see Mexico's response concerning the follow-up to the recommendations formulated in the First Round, pp. 21 and 22

143 The paragraph to which this note refers was expanded with clarifying information furnished by the country under review on August 9, 2012.

[280] On the occasion of the on-site visit, SFP representatives reported that the agreement between the Secretariat of the Civil Service and the Financial Intelligence Unit (UIF) of the Secretariat of the Treasury and Public Credit concerning this project has already been signed.¹⁴⁴

[281] The Committee takes note of the satisfactory consideration of measure a) of the recommendation in section 2 of Chapter IV of this report.

Measure b) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

- *Regulate the conditions, procedures, and other aspects relating to the public disclosure, as appropriate, of declarations of income, assets and liabilities, subject to the Constitution and the fundamental principles of law* (the rationale for this measure is in section 2.2 of Chapter II of the report from the First Round).

[282] In its response,¹⁴⁵ the country under review presents information and new developments with regard to the above measure. The Committee notes the following as steps that contribute to progress in its implementation:

[283] - The design of forms for filing statements of net worth so that the information pertaining to net worth can be made public, provided the civil servant in question has given his or her consent; any confidential data shall not be disclosed.

[284] - The “Decision establishing the provision concerning the list of persons required to file statements of net worth in the institutions of the Federal Government,” issued by the SFP in 2010, creates the list and thereby provides an efficient, ongoing and dynamic means of compiling preserving and, where necessary, processing information supplied by persons serving in the Federal Government, using technological devices in order to form a single database.

[285] - Civil servants who do not know whether they are required to file a statement of net worth will be able to consult this list and fulfill their obligation on time and in the proper manner.

[286] The SFP’s 2009 “Decision requiring federal civil servants to file statements of net worth electronically using the advanced electronic signature,” is a reliable means of verifying that the civil servant filing the statement is doing so of his or her own free will.

[287] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure b) of the recommendation in section 2 of Chapter IV of this report, and the need for it to continue to give attention to the measure considering that, although according to the terms of the above referenced measures , information pertaining to net worth can be made public, the person filing the statement must give his or her consent; there is still no regulation on the books on the circumstances, procedures and other aspects that would have to be observed in order to make statements of net worth public.

144. Available at: http://www.oas.org/juridico/spanish/mesicic4_mex_sp.htm

145. Mexico’s response concerning the follow-up to the recommendations formulated in the First Round, pp. 23 and 24.

Measure c) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

- *Strengthen the strategic plans for verifying and analyzing the statements of net worth presented* (the rationale for this measure is in section 2.2 of Chapter II of the report from the First Round).

[288] In its response,¹⁴⁶ the country under review presents information and new developments with regard to the above measure. The Committee notes the following as steps that allow it to determine that it has been satisfactorily considered:

[289] - As a result of the amendment to the SFP's Internal Regulations decreed in August 2011 and the redesign of the procedure for verification of changes in net worth to make it less cumbersome and more efficient, that procedure can be instituted either *ex officio* or pursuant to a complaint. The Office of the Director General of Information and Integration (DGII) is the area that coordinates and orders investigations or audits of civil servants' net worth. Using an Alerts System, if inconsistencies that represent a substantial increase over the legitimately earned income are picked up, it orders that the files assembled in the investigations conducted in connection with the analyses of the statements of net worth be sent to the Office of the Director General of Responsibilities and Net Worth where the information compiled is analyzed and the corresponding clarification procedure launched. The goal is a thorough analysis from the legal and accounting-financial standpoints. Or, failing that, if nothing is uncovered to suggest a substantially greater amount, the investigation shall be closed and the corresponding decision issued.

[290] This procedure also affords the persons involved an opportunity to explain any inconsistencies detected. For a comprehensive, efficient and effective verification process and to ascertain the truth, the Deputy Director General for Verification of Net Worth (DGAVP) may conduct investigations of a civil servant's explanation of any inconsistencies detected, to check what assets the civil servant owns. Once the necessary inquiries have been conducted and based on the information thereby obtained, if alleged administrative responsibilities are uncovered the Office of the (DGAVP) may notify the Office of the Deputy Director General for Responsibilities and, if criminal irregularities are detected, the Legal Affairs Unit. It can also declare the investigation concluded upon notification of missing information, since the goal is a correct and objective analysis of changes in a public servant's net worth.

[291] On the occasion of the on-site visit, SFP representatives reported that the procedure for verification of changes in net worth, described above, has already been implemented, and needs to be improved and published.

[292] The Committee takes note of the satisfactory consideration of measure c) of the recommendation in section 2 of Chapter IV of this report.

Measure d) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

- *Maximize the use of the systems for analyzing the content of the statements of income, assets, and liabilities for the purpose of strengthening them, as a useful tool for the detection of possible cases, of unjust enrichment, and when appropriate, of conflicts of interest* (the rationale for this measure is in section 2.2 of Chapter II of the report from the First Round).

146. Mexico's response concerning the follow-up to the recommendations formulated in the First Round, pp. 25 and 26.

[293] In its response,¹⁴⁷ the country under review presents information and new developments with regard to the above measure. The Committee notes the following as steps that contribute to progress in its implementation:

[294] - The changes made to the forms used for the three different statements of net worth (the original statement, the amended statement and the conclusion), intended to make the statement a tool that can be used to detect possible cases of unlawful enrichment. One such change was the inclusion of the term “common-law wife or common-law husband,” so that the person filing the statement cannot conceal information regarding his or her common-law spouse. These terms were also included in reference to net earnings, bank accounts, investments, debts, and movable and immovable properties; another change is that when indicating the location of the investments made by the person filing the statement and by his or her spouse, common-law spouse and/or economic dependant, the person filing the statement of net worth must indicate the country in which the investments are located.

[295] On the occasion of the on-site visit, SFP representatives explained that although the new forms require additional information, under Mexican law the system for declaring net worth is geared, first and foremost, toward detecting unlawful enrichment, although it might eventually be used to detect conflicts of interest as well. They indicated that the possibility of requiring information related to conflicts of interest is being considered; if no legal impediment is found, new forms will be developed.

[296] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure d) of the recommendation in section 2 of Chapter IV of this report, related to the strengthening of the systems for statements of net worth as a useful tool in detecting possible cases of illicit enrichment, but bearing in mind that elements for detecting, when appropriate, conflicts of interest have not yet been included, believes the measure should be restated in the following terms:

[297] - Optimize the systems for analyzing the contents of statements of net worth, in order to strengthen them as a useful tool for detecting, when appropriate, possible cases of conflicts of interest (see measure (b) in section 2 of Annex I to this report).

3. OVERSIGHT BODIES FOR THE SELECTED PROVISIONS (ARTICLE III, PARAGRAPHS 1, 2, 4, AND 11 OF THE CONVENTION)

[298] The country under review has given satisfactory consideration to the recommendation made in connection with this section.

4. MECHANISMS TO ENCOURAGE PARTICIPATION BY CIVIL SOCIETY AND NONGOVERNMENTAL ORGANIZATIONS IN EFFORTS TO PREVENT CORRUPTION (ARTICLE III, PARAGRAPH 11, OF THE CONVENTION)

4.1. General participation mechanisms

[299] No recommendations were formulated by the Committee in this section.

147. Mexico's response concerning the follow-up to the recommendations formulated in the First Round, pp. 26 and 27

4.2. Mechanisms for access to information

Recommendation:

Strengthen the mechanisms for ensuring access to public information.

Measure a) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

- *Continue with its efforts to ensure that those agencies and entities that are required to do so by the provisions governing the right of public information publish on their WebPages, the information indicated as obligatory in those provisions (the rationale for this measure is in section 4.2.3 of Chapter II of the report from the First Round).*

[300] In its response,¹⁴⁸ the country under review presents information and new developments with regard to the above measure. The Committee notes the following as steps that contribute to progress in its implementation:

[301] - The progress made in the level of compliance with the transparency obligations set forth in Article 7 of the Federal Law on Transparency and Access to Governmental Public Information, starting with the launch of the Transparency Obligations Portal (POT) in 2007. This progress is reflected in the following bi-annual results of the evaluation that the Federal Institute for Access to Public Information and Data Protection (IFAI) conducted of the Transparency Obligations Portals of the Federal Public Administration:

INDICATOR TRANSPARENCY OBLIGATIONS (ODT)	
CHANGE IN THE AVERAGE COMPLIANCE RATE AMONG THE OFFICES AND ENTITIES OF THE FEDERAL PUBLIC ADMINISTRATION (APF)	
APF Average, FIRST HALF 2009	81.71
APF Average, SECOND HALF 2009	82.77
APF Average, FIRST HALF 2010	84.64
APF Average, SECOND HALF 2010	85.45

Source: IFAI, 2011.¹⁴⁹

[302] The actions taken by the SFP to evolve from a first-generation (reactive) transparency policy to a second-generation (active) one, on the basis of the commitments set out in the 2007-2012 National Development Plan and of Objective 1 of the 2008-2012 National Accountability, Transparency, and Anticorruption Program, which encouraged the departments and agencies of the federal public administration to conduct an exercise of reflection in order to identify information of this kind and to make it available to the public through their institutional web sites.

148. Mexico's response concerning the follow-up to the recommendations formulated in the First Round, pp. 28 to 34 and p. 27.

149. The compliance rate achieved for the first and second halves of 2011 may be consulted at the following web address: <http://www.ifai.org.mx/Estadisticas/#indicadores>

[303] - The publication in July 2010 of the General Administrative Manual on Transparency (Transparency Manual) in order to set standardized, uniform procedures that, in line with the Federal Law on Transparency and Access to Governmental Public Information, will encourage and strengthen an organizational culture in favor of transparency and accountability in the federal public administration and improve the government's internal processes for ensuring the right of access to public information. This Manual includes a procedure called Socially Useful or Focused Information, which sets obligatory activities for departments and offices in order to process, summarize and disseminate focused information to enable members of the public to take better informed decisions regarding formalities and services, or about issues affecting their everyday lives; of these, No. 13 states that departments and offices must ensure that their institutional web sites offer socially useful or focused information that is user-friendly and accessible to interested parties and further requires that this information be analytical, exact, truthful, and based on the existence of documents, actions, and results.

[304] - The establishment of a working group made up by the SFP, the Federal Institute for Information Access and Data Protection, and the Secretariat of the Interior through the General Archive of the Nation, and the publication of the 2011 update to the Transparency Manual, currently known as the General Administrative Manual on Transparency.

[305] - The issuing by the SFP of the document "Considerations for the publication of information," which establishes actions and compliance dates for the agencies of the federal government to standardize the transparency sections of their institutional web pages and to publish new focused information.

[306] - The results the above actions, seen in the fact that at present 96.29% of the departments and agencies of the federal government (234 institutions) have Focused Transparency microsites, where the public can consult socially useful information on more than 500 topics of interest.¹⁵⁰

[307] - "The Federal Institute for Access to Governmental Public Information sent the Chamber of Deputies a bill to amend the Federal Law on Transparency and Access to Governmental Public Information. That bill expands and elaborates upon, *inter alia*, the obligation of the offices and entities of the Federal Public Administration (FPA) to supply relevant information concerning their activities. That information is to be furnished electronically, especially via the internet. It is an automatic obligation and is not done at the request of a private citizen. The bill of amendment is awaiting passage."

[308] In addition, on the occasion of the on-site visit, IFAI representatives explained that the aforementioned bill was introduced by a Senator. They said that the IFAI was invited to participate in the discussion. The bill has positive features, such as the amplification of the information that the offices and entities must provide at their own initiative.

[309] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure (a) of recommendation in section 4.2 of Chapter IV of this report, which indicate that it has continued with its efforts to ensure that those departments and agencies required to do so by the rules governing the right to public information are publishing, on their web pages, the information required to appear on those web sites; however, bearing in mind the importance placed

150. The country under review updated the information in this paragraph on August 9, 2012, stating that "... 244 institutions of the federal government (99.1%) have microsites on their institutional web pages for publishing socially useful or focused information; with these, the public currently have more than 500 topics available for consultation, which are updated on a quarterly basis."

by the country under review on those departments and agencies identifying, publishing, and disseminating socially useful or focused information, in addition to meeting that obligation, it believes the measure in question should be reformulated as follows:

[310] - Ensure that departments and agencies strictly comply with the obligations regulating the right of access to information and that they identify, publish, and disseminate socially useful or focused information,¹⁵¹ and develop procedures and indicators to improve the quality, accessibility, and relevance of that information (see measure (a) in section 4.2 of Annex I to this report).

[311] The Committee also takes note of the information that the country under review supplied in its response¹⁵² concerning the internal agencies and organizations that have been instrumental in the implementation of measure a) of the recommendation in section 4.2 of Chapter IV of this report.

[312] Furthermore, during the on-site visit, the civil society organization called “*Artículo XIX*” underscored the importance of the amendment described above. In its view, the bill of amendment covers important issues such as the fact that public trusts must be open and visible to the public; that IFAI resolutions were final and not subject to review; and the fact that the Institute may order a public entity to produce information about itself, even information not already on file. “*Artículo XIX*” felt that the amendment should include a provision on access to information about private parties when some public interest involving acts of corruption was at stake; mechanisms to ensure that autonomous bodies comply with the Law on Access to Information, since the IFAI is only for the Federal Public Administration; and more effective penalties in the event of noncompliance with the Institute’s resolutions.

[313] During the on-site visit, the civil society organizations called “*Centro de Investigación para el Desarrollo (CIDAC)*” and “*México Evalúa*” said it was important for civil society to have ample access to information and that the information supplied by public entities is not clear.

Measure c) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

- *Continue to take steps to optimize the archive systems of the agencies and entities identified in section 4.2.3 of Chapter II of this report, to facilitate access to public information (the rationale for this measure is in section 4.2.3 of Chapter II of the report from the First Round, which is the section being referred to in the measure).*

[314] In its response,¹⁵³ the country under review presents information and new developments with regard to the above measure. The Committee notes the following as steps that contribute to progress in its implementation:

[315] The implementation of a survey on the culture of public servants regarding transparency and access to information, which was given to middle-level and senior staff within the federal public

151. Information of use to members of the public in order to take better informed decisions on public and private goods and services, emphasizing the use of statistical and comparative data; or information that assists departments and agencies in rendering due account regarding one or more specific topics.

152. Mexico’s response concerning the follow-up to the recommendations formulated in the First Round, pp. 32 to 34.

153. Mexico’s response concerning the follow-up to the recommendations formulated in the First Round, pp. 34 to 37

administration and which revealed the areas of opportunity where efforts should be targeted and where archive training needed to be provided.¹⁵⁴

[316] - The diagnostic assessment of the archive situation, which, inter alia, sought to reveal the level of compliance with the general guidelines for the organization and conservation of the archives of the departments and agencies of the federal public administration. “The data obtained regarding the complexity of the archives – size of the agency or office in terms of the number of its administrative units; number and type of archives; volume of documents handled; and the proportion of nonpublic information contained in the archive – indicated a wide diversity within the centralized and decentralized sectors and a notably asymmetrical distribution, due to the differences observed between the participating offices and agencies.”¹⁵⁵

[317] - Publication in the February 10, 2009 edition of the Federal Gazette [*Diario Oficial de la Federación*] of the recommendations on how to organize and preserve e-mails sent and received by the institutions in the Federal Public Administration (APF). The recommendations were intended to encourage proper organization and preservation of those e-mails as a means to ensure full compliance with the Federal Law on Transparency and Access to Governmental Public Information and other provisions that apply to access to public information.

[318] - The preparation by IFAI and the General Archives of the Nation of five handbooks on the methods of documents and archives management, which were presented on March 22, 2012.¹⁵⁶

[319] - The December 8, 2011 approval of the Federal Archives Law, published in the Official Gazette of Federation on January 23, 2012, whose purpose is to regulate the organization and conservation of the archives and records of the institutions bound by the law, to ensure that they keep their records up-to-date so that information on their performance indicators and administration of public resources and information of importance to society can be made public via the electronic media.

[320] - The Computerized System for Integration of Archive Management and Consultation Instruments (SICCA), created in February 2004 to develop a data-processing solution for consulting and organizing archives and records in accordance with the IFAI’s General Guidelines for the Organization and Conservation of the Archives of the Offices and Entities of the APF, and the General Archives of the Nation (AGN). The SICCA enabled development of the principal instruments for archival management and consultation: the General Archives Classification System; the Index of Document Classification; the Simple Guide to Archives, and the Inventory of Documents. It also makes it possible to log existing files into the Archives.

[321] Furthermore, in its response, the country under review¹⁵⁷ notes the following in connection with the eventual difficulties that implementation of measure c) under the recommendation in section 4.2 of Chapter IV of this report might pose:

[322] – The difficulties that implementation of the Computerized System for Integration of Archives Management and Consultation Instruments (SICCA) might pose are mainly that there are no updated

154. On August 9, 2012, the country under review reported that “...it was noted that 19 percent of the respondents said they did not use rules for archiving or were not aware of the rules, while 65 percent replied that archiving was concentrated in a single area; this enabled the identification of those areas of opportunity where efforts should be targeted and where archive training needed to be provided.”

155. Document containing Mexico’s reply on follow-up to the first-round recommendations, p. 35

156. This paragraph was expanded with information furnished by the country under review on August 9, 2012.

157. Mexico’s response concerning the follow-up to the recommendations formulated in the First Round, pp. 37 and 38.

versions of the system or versions that could be changed and the system's interoperability with other systems is not considered. This situation will be corrected by establishing the Guidelines that lay the groundwork for creating and using computerized documents management and control systems. Pursuant to Article 21 of the Federal Archives Law, those guidelines, which will be published by the General Archives of the Nation in coordination with the IFAI and the Secretariat of the Civil Service, will bring enhancements to the existing systems, thereby allowing for swifter access to public information and ensuring proper handling of documents throughout their life cycle.¹⁵⁸

[323] Furthermore, on the occasion of the on-site visit, representatives of the General Archives of the Nation underscored the importance of the Federal Archives Law approved in December 2011 and published in the Official Gazette of the Federation on January 23, 2012. Its implementation will pose challenges, among them the lack of sufficient personnel with the necessary training on the subject.

[324] The Committee takes note of the steps taken by the country under review to advance in its implementation of measure c) of the recommendation in section 4.2 of Chapter IV of this report, and the need for it to continue to give attention to the measure, bearing in mind the necessity of surmounting the difficulties mentioned in connection with the Computerized System for Integration of Archives Management and Consultation Instruments (SICCA) and the challenges that must met to implement the Federal Archives Law (see measure b) in section 1.3 of Appendix I of the report).

[325] The Committee also takes note of the information supplied by the country under review in its response¹⁵⁹ concerning the internal agencies and organizations that have been instrumental in the implementation of measure c) of the recommendation in section 4.2 of Chapter IV of this report.

4.3. Consultation mechanisms

[326] The country under review has given satisfactory consideration to the recommendation made in connection with this section.

4.4. Mechanisms to encourage participation in public administration

Recommendation:

Strengthen and continue implementing mechanisms that encourage civil society organizations and nongovernmental organizations to participate in the public administration.

Measure b) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

- *Set quantitative and qualitative indicators that will help determine the impact of citizen participation on the final proposed law (the rationale for this measure is in section 4.4.3 of Chapter II of the report from the First Round).*

[327] In that section of its response that concerns the above measure,¹⁶⁰ the country under review presents pertinent information and new developments, among which the Committee notes the following:

158 This paragraph was expanded with clarifying information furnished by the country under review on August 9, 2012.

159. Mexico's response concerning the follow-up to the recommendations formulated in the First Round, p. 38

160. Mexico's response concerning the follow-up to the recommendations formulated in the First Round, pp. 39 and 40

[328] The National Accountability, Transparency and Anti-Corruption Program 2008-2012 (PNRCTCC), which establishes three indicators for evaluating the extent to which mechanisms of citizen participation in fight against corruption and to improve transparency and legality have become institutionalized. The indicators are as follows:

Indicator	Unit of Measure	Baseline	2012 Goal
Compliance with the guidelines for ensuring citizen participation in efforts to prevent and combat corruption in the APF.	Percentage of APF offices and entities that comply with the guidelines for ensuring citizen participation in efforts to prevent and combat corruption in the APF.	N.E.	100%
Federal programs that introduce Social Comptrollership systems.	Percentage of federal programs that introduce Social Comptrollership systems.	15% (2008)	50%
Civil society organizations that help monitor public management for the sake of improving transparency and combating corruption 1/.	Percentage of civil society organizations that help monitor public management for the sake of improving transparency and combating corruption.	N.E.	50%

N.E. Non-existent, since this is a new unit of measurement.

1/ The organizations counted will be those listed in the Federal Registry of Civil Society Organizations focusing on civic activities pursuant to the Federal Law on Promotion of the Activities of Civil Society Organizations.

[329] - The “Decision establishing the Interoperable-Open-Data System of the Federal Public Administration,” issued in 2011, whose purpose is to determine the terms, principles and policies that the offices and entities of APF and the PGR must observe when integrating processes related to digital services, and when sharing and re-utilizing technological platforms and data systems, in order to increase the APF’s operating efficiency and its relationship to society.¹⁶¹

[330] On the occasion of the on-site visit, SFP representatives explained that the above-mentioned indicators are geared toward a reformulation of the above-cited measure suggested by the Committee, inasmuch as the indicators mentioned in the response are those whose application is feasible.

[331] Without dismissing the explanation given by the country under review on the occasion of the on-site visit or minimizing how useful the indicators it mentions are in determining civil society’s participation in the APF in the terms indicated therein, the Committee takes note of the need for the country under review to continue to give attention to measure b) of the recommendation in section 4.3 of Chapter IV of this report, bearing in mind that, as noted in section 4.4.3 of the report from the First Round in explaining the reasoning behind the measure,¹⁶² the indicators mentioned in that report have a direct and specific relationship to the function of Federal Commission for Regulatory Improvements (COFEMER). COFEMER issues opinions on the preliminary draft regulations that the offices of the

161. May be consulted at: http://www.dof.gob.mx/nota_detalle.php?codigo=5208001&fecha=06/09/2011

162. See pages 34 and 35 of this report, available at: <http://www.oas.org/juridico/spanish/mex.htm>

APF send to COFEMER pursuant to Article 69-H of the Federal Administrative Procedure Law.¹⁶³ In arriving at its opinion, COFEMER must consider the views it receives from the interested sectors. The response from the country under review makes no reference to these indicators (see the single measure in section 4.4 of Appendix I of this report).

4.5. Mechanisms for participation in the follow-up of public administration

Recommendation:

Strengthen and continue implementing mechanisms that encourage civil society and nongovernmental organizations to participate in the monitoring of public administration.

Measure b) suggested by the Committee that requires additional attention within the Framework of the Second and Third Rounds:

- *Continue work on implementing the Integral Societal Oversight System (SICS), expanding it into a larger number of offices and programs of the Federal Public Administration (the rationale for this measure is in section 4.5.3 of Chapter II of the report from the First Round).*

[332] In its response,¹⁶⁴ the country under review presents information and new developments with regard to the above measure. The Committee notes the following as steps that allow it to determine that it has been satisfactorily considered:

[333] - The April 2008 edition of the *Diario Oficial de la Federación* published the “Decision establishing the Guidelines for promoting and operating the Social Comptrollership systems in federal social development programs”. As of November 2011, a total of 62 federal social development programs had a Social Comptrollership system certified by the Secretariat of the Civil Service.

[334] - By 2010, 38,724 Social Comptrollership Committees had been formed under 54 federal social development programs in which 153,539 program beneficiaries participated.

[335] - Activities have been undertaken with other entities not bound by the aforementioned guidelines for implementing social comptrollership systems. One example is that institutions like *Financiera Rural*, the Secretariat of the Environment and Natural Resources and the National Women’s Institute have social comptrollership systems within their programs.

[336] - At the present time, one of every two federal programs has a social comptrollership system.

[337] In the Committee’s view, the above information indicates that the number of programs in the Federal Public Administration that currently feature a social comptrollership system has increased considerably over the 6 programs that had such systems in March 2005,¹⁶⁵ the date on which the Committee formulated the recommendation in question. Furthermore, with that increase, the country under review has met the 2012 goal of the National Accountability, Transparency and Anticorruption Program 2008-2012 (PNRCTCC), whose indicators in this area were described in the previous section of this report (4.4, Chapter IV).

163. Article 69-H of the LFPA provides that when the centralized offices and entities of the federal public administration prepare preliminary draft laws, legislative decrees and administrative acts of a general nature, they shall submit them to COFEMER, together with a regulatory impact statement covering the issues that COFEMER specifies.

164. Mexico’s response concerning the follow-up to the recommendations formulated in the First Round, pp. 41 to 43

165. Report of the First Round (p. 37). Available at: <http://www.oas.org/juridico/spanish/mex.htm>

[338] The Committee takes note of the satisfactory consideration by the country under review of measure b) of the recommendation in section 4.5 of Chapter IV of this report.

5. ASSISTANCE AND COOPERATION (ARTICLE XIV OF THE CONVENTION)

[339] The country under review has given satisfactory consideration to the recommendations made in connection with this section.

6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

[340] No recommendations were formulated by the Committee in this section.

7. GENERAL RECOMMENDATIONS

Recommendation 7.2, that requires additional attention within the Framework of the Second and Third Rounds:

- *Select and develop procedures and indicators, when appropriate, that make it possible to verify follow-up on the recommendations made in this report, and report back to the Committee, through the Technical Secretariat, in this regard. For the purposes indicated, Mexico could consider taking into account the list of the most widely used indicators, applicable in the Inter-American system that were available for the selection indicated by the country under analysis, which has been published on the OAS website by the Technical Secretariat of the Committee, as well as information derived from the analysis of the mechanisms developed in accordance with recommendation 7.3, which follows.*

[341] In its response, the country under review does not present any information in connection with the above recommendation. Therefore, the Committee takes note of the need for the country under review to devote additional attention thereto (see the sole recommendation in section 7 of Appendix I of this report).

ANNEX I

OUTSTANDING AND REFORMULATED RECOMMENDATIONS REGARDING THE TOPICS REVIEWED IN THE FIRST ROUND

1. STANDARDS OF CONDUCT AND MECHANISMS TO ENFORCE THEM (ARTICLE III, PARAGRAPHS 1 AND 2 OF THE CONVENTION)

1.1. Standards of conduct intended to prevent conflicts of interest and enforcement mechanisms

Recommendation:

Strengthen the implementation of laws and codes of conduct concerning conflicts of interest.

Measure suggested by the Committee:

1.2. Standards of conduct to ensure the proper conservation and use of resources entrusted to government officials in the performance of their functions and enforcement mechanisms

- Adopt a system to evaluate and monitor compliance with the rules governing the drafting, issuance, and contents of the specific Codes of Conduct to be adopted by the departments and agencies of the federal public administration, and to assist in their adoption in the terms set in the guidelines issued for the purpose by the SFP.

Recommendation:

Strengthen the implementation of legal provisions and codes of conduct with respect to the proper conservation and use of public resources.

Measure suggested by the Committee:

- Adopt a system to evaluate and monitor compliance with the rules governing the drafting, issuance, and contents of the specific Codes of Conduct to be adopted by the departments and agencies of the federal public administration, and to assist in their adoption in the terms set in the guidelines issued for the purpose by the SFP.

1.3. Measures and systems requiring public officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware

Recommendation:

Strengthen the mechanisms Mexico has to require public officials to report acts of corruption in public office of which they are aware to the appropriate authorities.

Measures suggested by the Committee:

- a) Adopt a system to evaluate and monitor compliance with the rules governing the drafting, issuance, and contents of the specific Codes of Conduct to be adopted by the departments and agencies of the federal public administration, and to assist in their adoption in the terms set in the guidelines issued for the purpose by the SFP.
- b) Guarantee the sustainability of programs for disseminating the rules related to the measures and systems requiring public officials to report acts of corruption in the performance of public functions of which they are aware to the appropriate authorities, together with that of programs for providing training on such matters to those officials.
- c) Adopt and implement protective measures for civil servants who report acts of corruption, thus safeguarding them from the threats or retaliation that might be directed at them on account of having complied with that obligation.

**2. SYSTEMS FOR REGISTRATION OF INCOME, ASSETS AND LIABILITIES
(ARTICLE III, PARAGRAPH 4 OF THE CONVENTION)**

Recommendation:

Strengthen the systems for registration of income, assets and liabilities.

Measures suggested by the Committee:

- a) Regulate the conditions, procedures, and other aspects relating to the public disclosure, as appropriate, of declarations of income, assets and liabilities, subject to the Constitution and the fundamental principles of law
- b) Optimize the systems for analyzing the contents of statements of net worth, in order to strengthen them as a useful tool for detecting, when appropriate, possible cases of conflicts of interest.

**3. OVERSIGHT BODIES FOR THE SELECTED PROVISIONS (ARTICLE III,
PARAGRAPHS 1, 2, 4, AND 11 OF THE CONVENTION)**

The country under review has given satisfactory consideration to the recommendation made in connection with this section.

**4. MECHANISMS TO ENCOURAGE PARTICIPATION BY CIVIL SOCIETY AND
NONGOVERNMENTAL ORGANIZATIONS IN EFFORTS TO PREVENT
CORRUPTION (ARTICLE III, PARAGRAPH 11, OF THE CONVENTION)**

4.1. General participation mechanisms

No recommendations were formulated by the Committee in this section.

4.2. Mechanisms for access to information

Recommendation:

Strengthen the mechanisms for ensuring access to public information.

Measures suggested by the Committee:

- a) Ensure that departments and agencies strictly comply with the obligations regulating the right of access to information and that they identify, publish, and disseminate socially useful or focused information,¹⁶⁶ and develop procedures and indicators to improve the quality, accessibility, and relevance of that information.
- b) Continue to take steps to optimize the archive systems of the agencies and entities identified in section 4.2.3 of Chapter II of this report, to facilitate access to public information (The section being referred to in the measure).

4.3. Consultation mechanisms

The country under review has given satisfactory consideration to the recommendation made in connection with this section.

4.4. Mechanisms to encourage participation in public administration

Recommendation:

Strengthen and continue implementing mechanisms that encourage civil society organizations and nongovernmental organizations to participate in the public administration.

Measure suggested by the Committee:

- Set quantitative and qualitative indicators that will help determine the impact of citizen participation on the final proposed law.

4.5. Mechanisms for participation in the follow-up of public administration

The country under review has given satisfactory consideration to the recommendation made in connection with this section. Therefore, no additional attention need to be paid.

5. ASSISTANCE AND COOPERATION (ARTICLE XIV OF THE CONVENTION)

The country under review has given satisfactory consideration to the recommendations made in connection with this section.

6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)

No recommendations were formulated by the Committee in this section.

166. Information of use to members of the public in order to take better informed decisions on public and private goods and services, emphasizing the use of statistical and comparative data; or information that assists departments and agencies in rendering due account regarding one or more specific topics.

7. GENERAL RECOMMENDATIONS

Recommendation:

- Select and develop procedures and indicators, when appropriate, that make it possible to verify follow-up on the recommendations made in this report, and report back to the Committee, through the Technical Secretariat, in this regard. For the purposes indicated, Mexico could consider taking into account the list of the most widely used indicators, applicable in the Inter-American system that were available for the selection indicated by the country under analysis, which has been published on the OAS website by the Technical Secretariat of the Committee, as well as information derived from the analysis of the mechanisms developed in accordance with recommendation 7.3, which follows.

ANNEX II

**AGENDA OF THE ON-SITE VISIT TO
MEXICO***

<u>Tuesday, March 20, 2012</u>	
17:00 hrs. – 18:15 hrs.	Coordination meeting between representatives of the members states of the subgroup and the Technical Secretariat
18:15 hrs. – 19:30 hrs.	Coordination meeting of representatives of the state under review, the members states of the subgroup, and the Technical Secretariat
DAY 1: <u>Wednesday, March 21, 2012</u>	
9:00 hrs. – 10:00 hrs.	Introduction and opening
	<ul style="list-style-type: none">• Presentation of the Mexican authorities, the members of the review subgroup and Technical Secretariat of the MESICIC• Introductory comments by the Technical Secretariat of the MESICIC on the nature and purposes of the visit• Opening remarks by the Secretary of the Civil Service, Mr. Rafael Morgan
	<p><i>Secretaría de la Función Pública</i></p> <ol style="list-style-type: none">1. Rafael Morgan Ríos, <i>Secretario</i>2. Elizabeth Yáñez, <i>Subsecretaria de Responsabilidades Administrativas y Contrataciones Públicas</i>3. Max Kaiser, <i>Coordinador de Asesores del Secretario</i>4. Moisés Herrera Solís, <i>Titular de la Unidad de Asuntos Jurídicos</i>5. Héctor Acosta Félix, <i>Coordinador General de Órganos de Vigilancia y Control</i>6. Joel Salas, <i>Titular de la Unidad de Políticas de Transparencia y Cooperación Internacional</i>7. Alfredo Esparza, <i>Director General Adjunto de Estudios y Políticas y Experto Titular de México ante el MESICIC.</i> <p><i>Procuraduría General de la República</i></p> <ol style="list-style-type: none">8. Alejandro Flores Ramos, <i>Subprocurador Jurídico y de Asuntos</i>

* This s agenda has been agreed to in accordance with provisions 13 and 14 of the *Methodology for Conducting On-Site Visits* (document SG/MESICIC/doc.276/11 rev. 2) available at: www.oas.org/juridico/english/met_onsite.pdf

	<p><i>Internacionales</i></p> <p>Secretaría de Relaciones Exteriores</p> <p>9. Emb. Ernesto Céspedes, Director General para Temas Globales.</p> <p>Instituto Federal de Acceso a la Información y Protección de Datos</p> <p>10. Mauricio Farah, <i>Comisionado</i></p> <p>Poder Judicial</p> <p>11. Magistrado Juan Carlos Cruz Razo, <i>Consejo de la Judicatura</i></p> <p>Archivo General de la Nación</p> <p>12. Aurora Gomez, <i>Directora General del Archivo General de la Nación</i></p>
10:00 hrs. – 10:15 hrs.	Break
10:15 hrs. – 11:45 hrs.	Meetings with civil society organizations and/or, <i>inter alia</i>, private sector organizations, professional associations, academics, or researchers^{167/}
	<p>Topics:</p> <ul style="list-style-type: none"> • Co-responsibility in the prevention and combating of corruption in Mexico from the point of view of civil society • Cooperation between civil society and oversight bodies • Transparency in oversight bodies • Proposed Reform of the Federal Law on Transparency and Access to Public Information in the Possession of the Government <p>1. Marco Cancino, <i>Centro de Investigaciones para el Desarrollo - CIDAC</i></p> <p>2. Mariana García, <i>México Evalúa</i></p> <p>3. Eduardo Bohorquez, <i>Director Ejecutivo de Transparencia Mexicana</i></p> <p>4. Paulina Gutiérrez, <i>Oficial del Programa de Acceso a la Información y Transparencia de Artículo XIX</i></p>
11:45 hrs. – 13:45 hrs.	Meetings with civil society organizations and/or, <i>inter alia</i>, private sector organizations, professional associations, academics, or researchers (Continued)
	Topics:

167. The civil society organization “*Transparencia Mexicana* – National Chapter of Transparency International” participates in these meetings pursuant to the provisions of item 26 of the Methodology for Conducting On-Site Visits, inasmuch as it presented a document related to the questionnaire for the fourth review round, as provided in Article 34 b) of the Committee’s Rules of Procedure. It is suggested that other organizations and individuals be invited to attend, as envisaged in item 27 of the above Methodology, which permits the invitation to these meetings of civil society organizations and/or, *inter alia*, private sector organizations, professional associations, academics, or researchers.

	<ul style="list-style-type: none"> • Co-responsibility in the prevention and combating of corruption in Mexico from the point of view of the private sector • Cooperation between the private sector and oversight bodies • Delimitation of the powers of oversight bodies • Delimitation of the powers of oversight bodies • Criminal law enforcement
	<ol style="list-style-type: none"> 1. Luis Vite, <i>Comité Anticorrupción de la Cámara Internacional de Comercio (ICC-México)</i> 2. Luis Graham, <i>Barra Mexicana de Abogados</i> 3. Dr. José Roldan Xopa, <i>Centro de Investigación y Docencia Económica</i> 4. Eduardo Bohórquez, <i>Director Ejecutivo Transparencia Mexicana</i>
13:45 hrs. – 15:00 hrs.	Lunch
15:00 hrs. – 18:00 hrs.	Civil Service Secretariat and Internal Control Bodies
15:00 hrs. – 15:30 hrs.	<p>Panel 1:</p> <ul style="list-style-type: none"> • Results in the performance of their duties. <ol style="list-style-type: none"> 1. Elizabeth Yáñez, <i>Subsecretaria de Responsabilidades Administrativas y Contrataciones Públicas</i> 2. Max Kaiser, <i>Coordinador de Asesores del Secretario</i> 3. Joel Salas, <i>Titular de la Unidad de Políticas de Transparencia y Cooperación Internacional</i> 4. Moisés Herrera Solís, <i>Titular de la Unidad de Asuntos Jurídicos</i> 5. Héctor Acosta Félix, <i>Coordinador General de Órganos de Vigilancia y Control</i> 6. Alfonso Sáenz, <i>Director General de Responsabilidades Administrativas y Situación Patrimonial</i>
15:30 hrs. – 17:00 hrs.	<p>Panel 2:</p> <ul style="list-style-type: none"> • Co-responsibility of the different branches of government, local government, and civil society in the consolidation of a state policy to prevent and combat corruption • Coordination of responsibilities with other organs • Exceptions to the area of responsibility of the Civil Service Secretariat <ol style="list-style-type: none"> 1. Joel Salas, <i>Titular de la Unidad de Políticas de Transparencia y</i>

	<p><i>Cooperación Internacional</i></p> <ol style="list-style-type: none">2. Moisés Herrera, <i>Titular de la Unidad de Asuntos Jurídicos</i>3. Ana Laura Arratia Pineda, <i>Directora General Adjunta de Mejora de la Gestión Pública Estatal.</i>4. Juan Pablo Yamuni, <i>Secretario (titular) Unidad de Transparencia y Rendición de Cuentas de Culiacán</i>5. Oscar E. Navar García, <i>Titular Secretaría de Contraloría de Durango</i>
17:00 hrs. – 17:30 hrs.	<p>Panel 3:</p> <ul style="list-style-type: none">• Technical cooperation on exchange of best practices, mutual legal assistance, joint investigations, and special investigation techniques <ol style="list-style-type: none">1. Joel Salas, <i>Titular de la Unidad de Políticas de Transparencia y Cooperación Internacional</i>2. Moisés Herrera, <i>Titular de la Unidad de Asuntos Jurídicos</i>3. Carlos Flores, <i>Director General de Información e Integración</i>4. Miguel Aragón, <i>Director General de Denuncias e Investigaciones</i>5. Rogelio Aldaz, <i>Director General de Controversias y Sanciones.</i>
17:30 hrs. – 18:00 hrs.	<p>Panel 4:</p> <ul style="list-style-type: none">• Strengthening of the legal framework for protection of whistleblowers• Strengthening of the legal framework on liability, applicable penalties, and the authority responsible for their application (Civil Service Secretariat) on government procurement infractions and irregular conduct in international commercial transactions <ol style="list-style-type: none">1. Elizabeth Yáñez, <i>Subsecretaria de Responsabilidades Administrativas y Contrataciones Públicas</i>2. Moisés Herrera, <i>Titular de la Unidad de Asuntos Jurídicos</i>3. Carlos Flores, <i>Director General de Información e Integración</i>4. Miguel Aragón, <i>Director General de Denuncias e Investigaciones</i>5. Rogelio Aldaz, <i>Director General de Controversias y Sanciones</i>6. Senador Ricardo García Cervantes, <i>Presidente del Grupo de</i>

	<i>Parlamentarios contra la Corrupción (GOPAC) – Capítulo México</i>
19:00 hrs.	Informal Meeting ^{168/} of representatives of the members states of the subgroup and the Technical Secretariat
DAY 2: <u>Thursday, March 22, 2012</u>	
09:00 hrs. – 13:00 hrs.	Civil Service Secretariat (Continued) and topics related to follow-up of the recommendations from the First Round of Review
09:00 hrs. – 09:45 hrs.	<p>Panel 5:</p> <ul style="list-style-type: none"> • Institutional strengthening of the Civil Service Secretariat and internal control organs <ol style="list-style-type: none"> 1. Max Kaiser, <i>Coordinador de Asesores del Secretario</i> 2. Héctor Acosta, <i>Coordinador General de Órganos de Vigilancia y Control</i> 3. Matilde Saldaña, <i>Contralora Interna SFP</i> 4. Oswaldo Reyes López, <i>Comisario Suplente SFP</i> 5. Jaime Hurtado, <i>OIC - Secretaría de Comunicaciones y transporte (SCT)</i> 6. Gaelia Amezcua Esparza, <i>OIC –TAADMGP – SCT</i> 7. Luis Guillermo Pineda, <i>OIC - PEMEX – PETROQUÍMICA</i> 8. Rosario Elba López, <i>OIC – PEMEX - PETROQUÍMICA</i>
09:45 hrs. – 10:30 hrs.	<p>Panel 6:</p> <ul style="list-style-type: none"> • Prevention of conflict of interests, preservation of public resources, and duty to report acts of corruption <ol style="list-style-type: none"> 1. Joel Salas, <i>Titular de la Unidad de Políticas de Transparencia y Cooperación Internacional</i> 2. Alfonso Sáenz, <i>Director General de Responsabilidades Administrativas y Situación Patrimonial</i> 3. Moisés Herrera, <i>Titular de la Unidad de Asuntos Jurídicos</i> 4. Miguel Aragón, <i>Director General de Denuncias e Investigaciones</i> 5. Mariela Vallejo Paz, <i>Directora de Vinculación Gobierno y Sociedad</i>
10:30 hrs. – 11:15 hrs.	<p>Panel 7:</p> <ul style="list-style-type: none"> • Declaration of income, assets, and liabilities, and good practices in

168. The second paragraph of item 20 of the *Methodology for Conducting On-Site Visits* states, “At the conclusion of the meetings on each day of the on-site visit, the Technical Secretariat shall organize an informal meeting with the members of the Subgroup, to exchange preliminary points of view on the topics addressed at those meetings.”

	<p>investigations of changes in net worth</p> <ol style="list-style-type: none"> 1. Alfonso Sáenz, <i>Director General de Responsabilidades Administrativas y Situación Patrimonial</i> 2. Carlos Flores, <i>Director General de Información e Integración</i> 3. Karina Barrera Ortiz, <i>Directora General Adjunta, Dirección General de Responsabilidades y Situación Patrimonial</i> 4. Moisés Herrera, <i>Titular de la Unidad de Asuntos Jurídicos</i>
11:15 hrs. – 13:00 hrs.	<p>Panel 8:</p> <ul style="list-style-type: none"> • Mechanisms for civil society participation: access to information and indicators on participation in public administration <p><i>Secretaría de la Función Pública</i></p> <ol style="list-style-type: none"> 1. Joel Salas, <i>Titular de la Unidad de Políticas de Transparencia y Cooperación Internacional</i> 2. Víctor M. Pérez Castro, <i>Director General Adjunto de Contraloría</i> 3. Alejandro Durán Zárate, <i>Director General Adjunto de Servicios e Innovación Jurídicos</i> <p><i>Instituto Federal de Acceso a la Información y Protección de Datos</i></p> <ol style="list-style-type: none"> 4. Cecilia Azuara Arai, <i>Secretaria de Acceso a la Información</i> 5. Enrique González Tiburcio, <i>Director General de Capacitación, Promoción y Relaciones Institucionales</i> 6. Manuel Matus, <i>Director General de Gestión, Información y Estadística</i> 7. María Laura Castelazo <p><i>Archivo General de la Nación</i></p> <ol style="list-style-type: none"> 8. Aurora Gomez, <i>Directora General del Archivo General de la Nación</i>
13:00 hrs. – 14:30 hrs.	Lunch
14:30 hrs. – 18:00 hrs.	Office of the Prosecutor General
14:30 hrs. – 15:15 hrs.	<p>Panel 9:</p> <ul style="list-style-type: none"> • Results in the performance of its duties <ol style="list-style-type: none"> 1. Víctor M. Guerra Enríquez, <i>Titular de la UEIDCSPCAJ</i> 2. Carlos Rivera Márquez, <i>Fiscal Especial Titular de FECCI</i> 3. Sofía A. López López, <i>Directora de estadística</i> 4. Edmundo Saúl Ortega, <i>Jefe Departamento DGPDSC</i>

	<ol style="list-style-type: none"> 5. Federico Dominguez, <i>Titular OIC – PGR</i> 6. Rodrigo Brena, <i>Director de Área</i> 7. Juan Carlos Díaz, <i>Director General Adjunto</i> 8. Ulises Suárez S., <i>Director de Control del Registro del Personal Sustantivo</i> 9. Horacio Pérez, <i>Director General de Normatividad</i>
15:15 hrs. – 15:45 hrs.	<p>Panel 10:</p> <ul style="list-style-type: none"> • Coordination of responsibilities between the internal control organ and the Office of the Inspector General
	- <i>Same participants as panel 9</i>
15:45 hrs. – 18:00 hrs.	<p>Panel 11:</p> <ul style="list-style-type: none"> • Update of the domestic standards on the performance of their duties • Hiring regime • Good practice in protocols for the integration of the preliminary inquiry, criminal trial, and amparo. • Institutional strengthening
	- <i>Same participants as panel 19</i>
19:00 hrs.	Informal meeting with representatives of the members states of the subgroup and the Technical Secretariat
DAY 3: <u>Friday, March 23, 2012</u>	
09:00 hrs. – 13:00 hrs.	Office of the Auditor General
09:00 hrs. – 09:45 hrs.	<p>Panel 12:</p> <ul style="list-style-type: none"> • Scope of responsibility of Office of the Auditor General and exceptions to that scope • Exercise of its punitive powers • Update of the domestic standards on the performance of its duties • Training programs for its employees • Institutional strengthening
	<ol style="list-style-type: none"> 1. CP. Javier Pérez Saavedra, <i>Auditor Especial de Cumplimiento Financiero</i> 2. Lic. Víctor Manuel Andrade Martínez, <i>Titular de la Unidad de Asuntos</i>

	<p><i>Jurídicos</i></p> <p>3. Lic. Muna Dora Buchahin, <i>Directora General de Auditoría Forense</i></p>
09:45 hrs. – 10:30 hrs.	<p>Panel 13:</p> <ul style="list-style-type: none"> • Results in the performance of their duties. <p>- <i>Same participants as panel 12</i></p>
10:30 hrs. – 13:00 hrs.	<p>Panel 14:</p> <p>Coordination of responsibilities with other organs</p> <p>- <i>Same participants as panel 12</i></p>
13:00 hrs. – 14:30 hrs.	Lunch
14:30 hrs. – 16:45 hrs.	Federal Judicature Council
14:30 hrs. – 15:15 hrs.	<p>Panel 15:</p> <ul style="list-style-type: none"> • Results in the performance of their duties.
	<p>1. Lic. Juan Carlos Cruz R., <i>Consejero de la Judicatura</i></p> <p>2. Lic. Jaime Contreras Jaramillo, <i>Contralor del Poder Judicial de la Federación</i></p> <p>3. Lic. Patricio Ballados Villagomez, <i>Director General de Derechos Humanos, Equidad de Género y Asuntos Internacionales</i></p> <p>4. Lic. Carlos PadillaPérez Vertti, <i>Secretario Ejecutivo de Disciplina</i></p>
15:15 hrs. – 15:45 hrs.	<p>Panel 16:</p> <ul style="list-style-type: none"> • Electronic filing of declarations of net worth <p>- <i>Same participants as panel 15</i></p>
15:45 hrs. – 16:30 hrs.	<p>Panel 17:</p> <ul style="list-style-type: none"> • Implementation of the new domestic standards on the performance of its duties. • Hiring regime • Institutional strengthening <p>- <i>Same participants as panel 15</i></p>
16:30 hrs. – 17:00 hrs.	Informal meeting with representatives of the members states of the subgroup and the Technical Secretariat

17:00 hrs. – 18:00 hrs.	Final Meeting ¹⁶⁹ with representatives of the state under review, the members states of the subgroup, and the Technical Secretariat
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169. The third paragraph of item 20 of the *Methodology for Conducting On-Site Visits* states, “At the end of the on-site visit, a meeting shall be held, to be attended by the Subgroup experts, the Technical Secretariat, and the Lead Expert of the country under review and/or the official appointed in his place in accordance with provision 10, second paragraph, of this Methodology. That meeting shall identify, if necessary, the information that, exceptionally, the country under review is still to submit through the Technical Secretariat and the deadline within which it is to do so, and it shall also coordinate any other pending matters arising from the on-site visit.”

**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

Joel Salas Suárez

Chief of the Unit of Transparency Policy and International Cooperation
Secretariat of the Civil Service

Alfredo Esparza Jaime

Lead Expert to the Committee of Experts of the MESICIC
Assistant General Director of Studies and Policy
Unit of Transparency Policy and International Cooperation
Secretariat of the Civil Service

Iliana Sánchez Hernández

Director of International Anticorruption Conventions
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MEMBER STATES OF THE PRELIMINARY REVIEW SUBGROUP:

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Lead Expert to the Committee of Experts of the MESICIC
Legal Counsel /Security, Terrorism and Governance/ Criminal Law Policy Section
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PERU

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TECHNICAL SECRETARIAT OF THE MESICIC

Jorge García González

Director of the Department of Legal Cooperation
OAS Secretariat for Legal Affairs

Enrique Martínez

Principal Legal Officer, Department of Legal Cooperation
OAS Secretariat for Legal Affairs

Michael Thomas
Legal Officer, Department of Legal Cooperation
OAS Secretariat for Legal Affairs