

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

FINAL REPORT

(Approved in the plenary session held on March 11, 2005)

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

**REPORT ON THE IMPLEMENTATION IN
MEXICO
OF THE PROVISIONS OF THE CONVENTION SELECTED FOR REVIEW IN THE FIRST
ROUND¹**

INTRODUCTION

1. Legal-institutional framework²

Mexico's supreme legal instrument is the Political Constitution of the United Mexican States (referred to hereinafter by the Spanish-language acronym "CPEUM"). According to this document, it is the will of the Mexican people to establish a representative, democratic, federal Republic, comprising of states that are free and sovereign internally but united in a Federation created according to the principles of the Constitution. The basis for the territorial division of the states and of their political and administrative organization is the "free municipality".

With respect to the federal order, the Supreme Power of the Federation is divided, for its exercise, into:

- The Legislative Branch, comprising of a bicameral General Congress – Chamber of Deputies and Chamber of Senators. Because of its importance to the subject matter of this report, special mention is made of the office of the Higher Auditor of the Federation (ASF), which is the Federation's top ranking oversight agency, governed by the Chamber of Deputies (Articles 50 and 79, CPEUM).

- The Executive Branch, in the person of the President of the United Mexican States, is responsible for executing the laws enacted by the Congress of the Union and ensuring their due observance in the administrative arena and for matters of an administrative nature, is supported by the agencies of the Centralized Public Administration – Secretariats of State, Administrative Departments, and legal advisories – as well as the assistance of the entities that make up the Parastate Public Administration – decentralized bodies, corporations with state participation, national credit institutions, national insurance and guarantee institutions, and public trusts (Articles 80, 89:I, and 90, CPEUM). For the purposes of this report, it should be noted that the Centralized Public Federal Administration includes the Civil Service Secretariat (SFP), which is the agency responsible for preventing, detecting, identifying and punishing acts of corruption within the Federal Public Administration, applying to that end the provisions contained in the Federal Law on the Administrative Responsibilities of Civil Servants (LFRASP).

¹ This report was adopted by the Committee in accordance with the provisions of Article 3(g) and 26 of its Rules of Procedure and Other Provisions, at the plenary session held on March 11, 2005, at its seventh meeting, held at OAS Headquarters in Washington D.C., United States, March 7 to 12, 2005.

² Mexico's updated response to the questionnaire; Introduction.

At the request of Mexico, its response to the questionnaire, together with the corresponding annexes, in accordance with the *Rules of Procedure and Other Provisions*, can be found on the following webpage on the internet: www.oas.org/juridico/Spanish/corresp.htm

- The Judicial Branch is represented by a Supreme Court of Justice, an Electoral Tribunal, single- and multi-member circuit courts and district courts. The judiciary's function is to resolve disputes in the terms set forth in the Constitution and to interpret the laws enacted by Congress. The administration, oversight, and disciplining of the Judicial Branch of the Federation with the exception of the nation's Supreme Court of Justice, is the responsibility of the Federal Judicature Council (CPEUM, Article 94).

The Mexican State also has public bodies that, because of the tasks they perform, are granted autonomy under the Federal Constitution. These bodies are not a part of the branches of government. Nevertheless, on account of their public nature, they are subject to the legal framework applicable thereto. This is the case of the Federal Electoral Institute (CPEUM, Article 41(III)), the National Human Rights Commission (CPEUM, Article 102(B)), and the Bank of Mexico (CPEUM, Article 28).

With respect to the normative framework, the Government of the Republic permanently strives to ensure that the mechanisms for preventing and combating corruption are kept up-to-date. Of particular note in this regard is the new Federal Law on the Administrative Responsibilities of Civil Servants (LFRASP), the basic purpose of which is to strengthen the prevention of administrative infractions and which offers a series of innovations over the previous Federal Law of Responsibilities. The law also provides the authorities with new legal instruments whereby they can exercise their disciplinary powers more effectively.

Mexico also has a Federal Law on Transparency and Access to Governmental Public Information (LFTAIPG), together with its corresponding Regulations. Its main objective is to implement a powerful tool for combating corruption by strengthening the system of public responsibilities; this is because the principles of transparency and public openness set out in its provisions are intended to counteract anonymity in the exercise of state functions and help identify the authorities' actions, providing what is necessary in guaranteeing access by all persons to information held by the government's different Branches, autonomous constitutional bodies, and any other federal agencies.

Based on Article 33 of the Federal Law on Transparency and Access to Governmental Public Information (LFTAIPG), the Federal Institute for Access to Public Information (IFAI) was established as a body of the Federal Public Administration, enjoying autonomy in its operations, budget, and decision-making and charged with promoting and disseminating the right of access to information at the federal level, resolving refusals to furnish access to information and protecting personal data held by the offices and entities of the Federal Public Administration. Its nature and specific functions are described in a later section.

Also worthy of note is the recent enactment of the Law on the Professional Career Service in the Federal Public Administration (LSPCAPF). Article 2 of this law provides for the existence of a professional career service as a mechanism to guarantee equal opportunities of access to the civil service based on merit, with the aim of encouraging the development of the civil service for the benefit of society. Thus, the law defines legality, efficiency, objectivity, quality, impartiality, equality and merit-based competence as the basic principles of the professional career service, seeking the professionalization of the civil service in order to secure more capable and suitable civil servants for performing the tasks they are assigned to under their positions.

2. Ratification of the Convention and adherence to the Mechanism

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

In addition, Mexico signed the Declaration on the Follow-up Mechanism for the Implementation of the Inter-American Convention against Corruption on June, 4, 2001, during the OAS General Assembly in San José, Costa Rica.

I. SUMMARY OF THE INFORMATION RECEIVED

Response from Mexico

The Committee would like to note the collaboration received from Mexico throughout the process of analysis and, in particular, from the Civil Service Secretariat, evidenced, *inter alia*, in its response to the questionnaire and in the constant willingness to clarify or complete its contents. Mexico sent the provisions and documents it considered pertinent, a list of which is attached to this report, along with its response.

For its analysis, the Committee took into account the information provided by Mexico up to August 30, 2004, and that which was requested by the Secretariat and the members of the subgroup for analysis, to carry out its functions in keeping with its Rules of Procedure and Other Provisions.

It should be noted that the response submitted by Mexico does not make particular reference to the states that make up the Federation; for that reason, the analysis will be restricted to the Federal level, save when explicit reference is made to the Federal States when the information provided makes mention of them.

No documents or information from civil society were received before the deadline set by Article 33(b) of the Committee's Rules of Procedure.

II. REVIEW OF THE IMPLEMENTATION OF THE SELECTED PROVISIONS BY MEXICO

A. CONSIDERATIONS ON THE SCOPE OF REVIEW IN THE CASE OF MEXICO

Taking into consideration what is noted at Section I of this report, with respect to the summary of the information received, in the sense that the response sent by Mexico does not specifically refer to the States that make up the Federation, the Committee will formulate a recommendation suggesting that the country under review consider promoting, with respect to the State Entities, the cooperation mechanisms that are relevant for obtaining information on the issues corresponding to the Convention, within the ambit of the State governments, as well as provide technical assistance for the effective implementation of the Convention.

B. REVIEW OF THE IMPLEMENTATION OF THE SELECTED PROVISIONS IN THE FEDERAL GOVERNMENT OF MEXICO

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

1.1. CONFLICTS OF INTEREST

1.1.1. Existence of provisions in the legal framework and/or other measures and enforcement mechanisms

Mexico has a set of provisions related to the standards of conduct, among which special note should be made of the following:

– Provisions at the constitutional level applicable to certain public officials, such as those set out in Articles 62 and 101 of the Mexican Constitution (CPEUM). The first of these prevents a Deputy or Senator from holding any other Federal or State position or commission for which a salary is paid, without first securing the prior permission of the corresponding Legislative chamber and ceasing from his/her legislative duties for the time the new position is held. The second sets out limitations on the performance of jobs or positions by the Justices of the Supreme Court, Circuit Magistrates, District Judges, the corresponding Secretaries, members of the Federal Judicature Council, and Magistrates of the Upper Chamber of the Electoral Tribunal.

– Legal provisions intended to prevent conflicts of interest applicable to federal civil servants in general and to anyone who manages or spends federal public funds,³ such as those contained in the Federal Law on the Administrative Responsibilities of Civil Servants (LFRASP), of which Article 8 establishes specific obligations to be observed by public employees during the performance of their duties; Article 9 which establishes explicit limitations for when they no longer occupy their positions, posts or commissions; Article 13 which establishes sanctions for administrative infractions that may lead to disqualification from public service; Article 48 which provides as a responsibility of agencies and bodies, considering the functions assigned to each and following an analysis conducted for the purpose, establish permanent actions to define the conduct to be followed in specific situations by their employees in discharging their positions, posts, and commissions, in line with the general guidelines set by the Civil Service Secretariat; and Article 49 which states that the agency will issue, in accordance with the terms set in Article 48, a Code of Ethics containing clear rules so that the actions of civil servants are at all times characterized by worthy conduct that responds to society's needs and guiding their behavior in specific situations, thus promoting a full vocation toward public service for the benefit of the community.

³ Article 2 of the Federal Law on the Administrative Responsibilities of Civil Servants (LFRASP) states that its provisions apply to the federal civil servants listed in the first paragraph of Article 108 of the Constitution and all other persons who manage or spend federal public funds. The first paragraph of Article 108 of the Constitution indicates that for the purposes of the Title of the Constitution of which it is a part, "civil servants" shall be read as including popularly elected representatives, members of the federal judiciary and of the judiciary of the Federal District, functionaries and employees, and, in general, all persons who hold a position, post, or commission of any nature within the Federal Public Administration or the Federal District, together with the employees of the Federal Electoral Institute, who shall be responsible for their actions or omissions in the performance of their respective functions.

- The Code of Ethics of Federal Public Administration Civil Servants, issued by the Civil Service Secretariat (SFP) on July 31, 2002, which contains general rules for behavior based on the guiding principles of public service that orient actions intended to meet society's demands under the leadership and coordination of the institutions of government.

- The Federal Administrative Procedure Law (LFPA), Articles 21 to 27, which regulate the situations in which civil servants are disqualified from hearing or intervening in administrative proceedings on account of personal, family, or business interests, as well as the manner in which they are to excuse themselves from participating therein and how, should they fail to do so, they may be subject to recusal by the private parties involved in the proceedings.

- The Law on the Professional Career Service in the Federal Public Administration (LSPCAPF), in force since October 7, 2003, of which Article 2 states that merit is to be the basis for access to the civil service; Article 21 of which establishes entry requirements intended to prevent access by those who are disqualified or legally barred; Article 11(X) of which establishes the obligation of civil servants to refrain from hearing matters that could entail conflicts of interest; and Article 9 which establishes the incompatibility of public service with the holding of any other post, position or commission that hinders or undermines performance of the duties of a career civil servant.

- The Regulations to the Law on the Professional Career Service in the Federal Public Administration (RLSPCAPF), published in the Official Journal of the Federation on April 2, 2004, of which Article 7 states that the aforesaid incompatibility applies to public positions and even to jobs in the social and private sectors and establishes the rules to be followed in order to authorize, when applicable, jobs that are compatible in those cases in which performance thereof does not hinder or undermine the strict performance of public functions or their work schedule and does not and cannot give rise to conflicts of interest.

- Provisions related to preventing conflicts of interest are also found in the Federal Law on Transparency and Access to Governmental Public Information (LFTAIPG), in the Law on Public Sector Purchases, Leases and Services (LAASSP), in the Law on Public Works and Related Services (LOPSRM), and the General Law on National Property.

Mexico also has mechanisms for enforcing these standards of conduct, including:

- Title Four of the Mexican Constitution (CPEUM), Articles 108 to 114, which identify the norms to which civil servants are subject, distinguishing the types of responsibility that exist (political, administrative, civil, criminal), set the general basis under which they operate and granting to the States that make up the Federation the power to issue their own legislation on responsibilities.

- Chapter II of the Federal Law on the Administrative Responsibilities of Civil Servants (LFRASP), Articles 10 to 34, which regulates the cases of noncompliance with the law's provisions, establishing administrative sanctions and procedures for the enforcement thereof, and identifying the authorities with competence to carry out these functions.

- The 2001-2006 National Program to Combat Corruption and Promote Transparency and Administrative Development, Action Line 1.3.4, titled “Introduction and Voluntary Adoption of the Civil Servants’ Code of Ethics,”⁴ which provides as an objective the “spreading and promoting the voluntary observance by all the civil servants of the Federal Public Administration (FPA) of a set of ethical values and a catalogue of desirable conduct in discharging the public functions for which they are responsible” and sets, as its main objectives, “ensuring that all civil servants in the agencies and departments of the FPA are aware of, understand and follow the Federal Government Code of Ethics in their daily actions” and “establishing a specific and updated Code of Conduct for each agency and department of the FPA, with the drafting thereof involving the civil servants attached to each, in order to regulate their conduct in compliance with said codes.”

- Circular No. SP/100/0762/02 (publishing the Code of Ethics of Federal Public Administration Civil Servants), which states that “according to the strategic lines set out in the 2001-2006 National Program to Combat Corruption and Promote Transparency and Administrative Development, each of its public institutions must, based on the Code of Ethics, develop and issue a specific Code of Conduct, defining the actions of its civil servants in particular situations they face in accordance with the functions and activities inherent to each institution.”⁵

- The Federal Criminal Code (CPF), which contains specific provisions setting out criminal sanctions for inappropriate behavior related to conflicts of interest, such as Improper Exercise of Public Service (Art. 214(IV)), abuse of authority (Art. 215(X)), Improper Use of Authority and Powers (Art. 217), Abusive Exercise of Functions (Art. 220), Influence Peddling (Art. 221), Bribery (Art. 222), Bribery of Foreign Civil Servants (Art. 222 bis), Embezzlement (Art. 223), and Crimes Against the Administration of Justice (Art. 225).

- Provisions empowering different bodies and agencies to oversee compliance with the aforesaid standards of conduct, such as the Higher Auditor of the Federation, the Civil Service Secretariat, the Office of the Attorney General of the Republic, internal oversight bodies and the oversight bodies of the Federal Judiciary, the Federal Legislature, and the autonomous constitutional bodies identified in Chapter II, section 3, of this report.

1.1.2. Adequacy of the legal framework and/or other measures and enforcement mechanisms

The constitutional and legal provisions in relation to standards of conduct aimed at preventing conflicts of interest and the mechanisms for their enforcement, which the Committee has examined by means of the information made available to it, make up a harmonious body of pertinent measures for promoting the purposes of the Convention.

These measures apply to all federal civil servants and to anyone who manages or spends federal public funds and they also contain provisions for special cases such as senior State officials – such as Senators and Deputies, Ministers of the Supreme Court, Circuit Magistrates and District Judges, of the Advisors of the Federal Judicature Council, and Magistrates of the Electoral Tribunal’s Upper Chamber.

⁴ 2001-2006 National Program to Combat Corruption and Promote Transparency and Administrative Development (Annex 12), p. 40.

⁵ Circular No. SP/100/0762/02, publication of the Code of Ethics of Federal Public Administration Civil Servants (Annex No. 10), p. 2.

These rules also contain precise and detailed provisions regarding the different times at which conflicts of interest may arise or be detected: prior to the commencement of employment in the civil service, during such employment, and subsequent to its termination. They also identify the competent authorities for overseeing compliance therewith and indicate the steps that may be taken to that end, such as the application of sanctions on those who fail to observe them.

Nevertheless, the Committee believes that it is appropriate to make some observations regarding the advisability of adoption of their respective Codes of Conduct by the departments and agencies of the Federal Public Administration, as an additional tool to prevent conflicts of interests.

One of the legal instruments with the broadest scope regarding standards of conduct for preventing conflicts of interest is the Federal Law on the Administrative Responsibilities of Civil Servants (LFRASP), given its direct relationship with the issue and because it is applicable to all public employees at the federal level. This law clearly aims to create, preserve, and strengthen those standards, as set out in Article III of the Inter-American Convention against Corruption, and it is clearly relevant for attaining those purposes. The following comments, however, should be made:

- Article 48 of this law (LFRASP) states that it is a responsibility of the departments and agencies, in consideration of the functions of each and following an analysis conducted for this purpose, to determine permanent actions in order to define the conduct to be observed in specific situations by their employees in the performance of their positions, posts or commissions, pursuant to the general guidelines set by the Civil Service Secretariat.

Although the Civil Service Secretariat has already published (July 31, 2002) the Code of Ethics of Federal Public Administration Civil Servants and the 2001-2006 National Program to Combat Corruption and Promote Transparency and Administrative Development (PNC), in accordance with Circular No. SP/100/0762/02 (publishing the aforementioned Code of Ethics), it ordered that based on them, each department and agency of the Federal Public Administration had to draw up and issue a specific Code of Conduct, no deadline has been set for this process, which makes it advisable to take the measures considered necessary to promote their elaboration and issuance.

Although in its response the country under analysis attached the Code of Conduct of one agency, (the Secretariat of the Comptroller's Office and Administrative Development –SECODAM, since renamed the Civil Service Secretariat –SFP), no information was provided on the compliance with this requirement by other agencies.

Mindful of the importance of having each department and agency of the Federal Public Administration adopt specific codes of conduct on account of their usefulness as tools to prevent conflicts of interest, the Committee believes that Mexico should consider promoting the adoption of such codes, pursuant to the 2001-2006 National Program to Combat Corruption and Promote Transparency and Administrative Development.

The Committee applauds, as a good example of relevant regulation on this matter, the Code of Conduct of the Secretariat of the Comptroller's Office and Administrative Development (SECODAM; currently the Civil Service Secretariat, SFP) submitted by the country under analysis in its updated response. This code contains provisions for preventing conflicts of interest.⁶

⁶ Code of Conduct of the Civil Servants of the Secretariat of the Comptroller's Office and Administrative Development (Annex No. 12), p. 6.

Mindful of the foregoing considerations, the Committee will formulate recommendations in this regard.

1.1.3. Results of the legal framework and/or other measures and enforcement mechanisms

In the response by Mexico in this matter,⁷ it is noted that the implementation of these provisions made it possible to exercise control so as to prevent civil servants from committing illegal acts. In this sense, the indicators relating to the implementation of these provisions coincide with those indicated in 1, paragraph c).⁸

In this regard, we note that although this information is not broken down in such a way as to indicate which figures refer specifically to the standards for preventing conflicts of interest, the Committee believes that it does show that the bodies and agencies that oversee compliance with those standards have been working actively, judging by the number of sanctions they have imposed, the number of audits and on-site visits they have carried out, the number of challenges to bid processes that have been resolved, the number of institutions that, in line with the efforts of the Interagency Commission for Transparency and Combating Corruption in the Federal Public Administration, have implemented anticorruption programs, among other things. This can be seen in detail in the figures for the period from January 1, 1998, to June 2004, and in the estimated figures up to August 2004, as provided in that part of the response.

It is also noted that in the response by Mexico on the results obtained in this regard, , with respect to the tasks assigned to the Legal Affairs Unit of the Civil Service Secretariat (SFP) under Article 11 of its Internal Regulations – on setting, systematizing, unifying, and disseminating guidelines for interpreting and enforcing the legal provisions within its legal framework of competence, including the Federal Law on the Administrative Responsibilities of Civil Servants (LFRASP) – during the current administration this Unit “has handled a total of 72 consultations advising high-ranking civil servants responsible for management and decision-making on how to avoid conflicts of interest in discharging their positions, posts, and commissions.”

In this connection the Committee stresses the importance, in preventing conflicts of interest, of providing timely advice and training for high-ranking civil servants regarding the currently applicable standards, and it acknowledges the work done in this regard by the Legal Affairs Unit of the Civil Service Secretariat (SFP). The Committee also believes that it is advisable that training in these standards should be given to civil servants of other rank; taking into account the relatively recent enactment of some of these provisions and that in order to achieve their aims, civil servants should be aware of them and able to interpret them in full. The Committee will formulate a recommendation in this regard.

The Committee does not fail to notice the organization of “Combating Corruption: An Overview” courses for citizens, emphasizing the participation of civil servants in middle and senior management levels, emphasizing the importance of ethical conduct in civil service in order to build a culture of integrity and combat corruption in the country.

⁷ Mexico’s updated response to the questionnaire, pp. 18 and 19.

⁸ Mexico’s updated response to the questionnaire, pp. 9 to 13.

In addition, considering that the Committee does not have additional information other than that referred above that might enable it to make a comprehensive evaluation of the results of the standards and mechanisms in this area, it will offer a recommendation in this regard.

1.2. STANDARDS OF CONDUCT AND MECHANISMS TO ENSURE THE PROPER CONSERVATION AND USE OF RESOURCES ENTRUSTED TO GOVERNMENT OFFICIALS

1.2.1. Existence and provisions in the legal framework and/or other measures and enforcement mechanisms

Mexico has a set of provisions regarding the standards of conduct referred to, including the following:

- Constitutional provisions, such as Article 134 of the Mexican Constitution (CPEUM), which stipulates that funds made available to the federal government shall be managed efficiently, effectively, and honestly in order to satisfy the purposes for which they are intended and that civil servants shall be responsible for complying with those principles, in accordance with the terms of Title Four of the Constitution.
- Legal provisions applicable to the majority of federal civil servants and to anyone who manages or spends federal public funds, such as those found in the Federal Law on the Administrative Responsibilities of Civil Servants (LFRASP), Article 8, sections II, III and IV, which require civil servants to formulate and execute the plans, programs, and budgets for which they are responsible and to comply with the laws and rules governing the handling of public funds; to use the resources assigned to them for discharging their positions, posts or commissions solely for the purposes intended; and to provide full account on the performance of their duties and to assist in rendering due account of the Federal Public Administration, providing such documents and information as may be required of them.
- The Code of Ethics of Federal Public Administration Civil Servants, issued by the Civil Service Secretariat (SFP) on July 31, 2002, which contains general rules of conduct based on the guiding principles of public service that orient actions intended to meet society's demands under the leadership and coordination of the institutions of government.
- The Federal Revenue Law for Fiscal Year 2004 (LIF), Articles 1 and 13, which indicates the sources (taxes, contributions, fees, interest, proceeds, income from finance, etc.) and the amounts thereof that the federal government expects to receive, and which stipulates that those revenues shall be handed over to the Federal Treasury for accounting and subsequent administration by those responsible for government spending.
- The Budget, Accounting, and Federal Public Spending Law (LPCGPF) (Articles 1 and 45) and its Regulations (Articles 1 and 156), which sets out the norms that regulate the planning, budgeting, disbursement, accounting, oversight, and evaluation of public spending of the departments and agencies of the Federal Public Administration. It also regulates the responsibility attributable to civil servants involved in the handling of State resources.

- The Decree on the Federal Expenditure Budget, issued annually by the federal Chamber of Deputies, Article 1, which regulates the disbursement, oversight, and evaluation of federal public spending by the departments and agencies of the Federal Public Administration, requiring them to act in compliance with the objectives, strategies and priorities set in the National Development Plan as well as the objectives and goals of the programs approved in the budget itself.
- The Federal Treasury Service Law (LSTF), Articles 89, 99, 101, 109, and 117, which contain standards intended to ensure the proper conservation and use of government funds and revenue by those public institutions responsible for their keeping, handling, oversight or collection.
- The Law on Public Sector Purchases, Leases, and Services (LAASSP), Article 1, which regulates activities related to the planning, programming, budgeting, hiring, spending and oversight of purchases and leases of movable property and of the rendering of services of any nature.
- The Law on Public Works and Related Services (LOPSRM), Article 1, which regulates actions related to the planning, programming, budgeting, hiring, spending, carrying out and oversight of public works and of services related thereto.
- Other legal provisions related to the proper conservation and use of public resources are found in the General Law on Public Debt (LGDP) and in the General Law on National Property (LGBN). There are also administrative provisions such as those in the Manual of Budget Standards of the Federal Public Administration, in the Executive Order issuing the purpose-based classification of Federal Public Administration spending, in the Standards for the Administration and Disposal of Property belonging to Agencies of the Federal Public Administration in the Manual of Earnings of the Federal Public Administration, and in the Executive Order creating, as a permanent body, the Interagency Commission for Finance Spending for the Office of Public Spending Issues and the funding thereof, as well as programs assigned to the competency of the Secretariat of Planning and Budget (SPP) and the Secretariat of the Treasury and Public Credit (SHCP).

Mexico also has mechanisms to enforce the standards of conduct referred to, which include:

- Provisions related to the formulation, drafting, presentation, approval, disbursement and oversight of the Expenditure Budget of the Federation for the relevant fiscal year, set forth in the Mexican Constitution (CPEUM), such as Article 74(IV), together with various legal provisions such as the Law on the Budget, Accounts and Federal Public Spending (LPCGPF), Articles 17 to 43; that law's Regulations, Articles 134 to 150 and 156 to 186; the current Expenditure Budget of the Federation; the Federal Law on Transparency and Access to Governmental Public Information (LFTAIPG), Articles 7 and 12; and the Organic Law of the Federal Public Administration (LOAPF), Articles 26 and 37.
- The Federal Law on the Administrative Responsibilities of Civil Servants (LFRASP), Articles 10 to 34, which regulate failures to comply with the obligations that law establishes and provides sanctions for the removal or inappropriate use of public resources – an offense that can give rise to political, administrative, criminal or civil responsibility.

- The Law on Public Sector Purchases, Leases, and Services (LAASSP), Article 56, which requires all departments and agencies to send information on the agreements and contracts entered into by authority of this law to the Civil Service Secretariat or the Secretariat of the Treasury and Public Credit and the Secretariat of the Economy. Additionally, the Civil Service Secretariat imposes sanctions on those civil servants who fail to observe the provisions of this law (Article 62).

- The Law on Public Works and Related Services (LOPSRM), Article 74, which requires all departments and agencies to send information on the agreements and contracts entered into by authority of this law to the Civil Service Secretariat or the Secretariat of the Treasury and Public Credit and the Secretariat of the Economy. Additionally, the Civil Service Secretariat imposes sanctions on those civil servants who fail to observe the provisions of this law (Article 80).

- Article 65 of the Law on Public Sector Purchases, Leases, and Services (LAASSP) and Article 83 of the Law on Public Works and Related Services (LOPSRM), the first paragraphs of which establish a mechanism for challenging public contracting processes, stipulating that: "Interested individuals may lodge challenges with the Comptrollers' Office in connection with any step in the contracting process that is in breach of the provisions governing the subject matter of this Law."

The laws cited in the preceding paragraph also provide that, without having to dissent, any party may point out to the Civil Service Secretariat any irregularities that have in their judgment occurred in the contracting procedure, so that those irregularities can be corrected.

- The Agreement setting provisions for the use of remote electronic communications in submitting proposals for the public bids held by the departments and agencies of the Federal Public Administration, as well as for lodging challenges through the same channels, using the Electronic Government Procurement System (COMPRANET), which is a mechanism for disseminating, streamlining, and enhancing the transparency of the contracts entered into by the Federal Public Administration with respect to purchases, services and public works. This system also allows bidders to submit their offers through remote electronic communications channels, without having to visit the offices responsible for the bid in question and to lodge challenges with the Internal Oversight Bodies of the Federal Public Administration in the same fashion.

- The Federal Treasury Service Law (LSTF), Article 55, which provides for the creation of a Guarantee Fund for refunds or reimbursements to the Federal Treasury. This serves two basic purposes: (a) providing surety for the actions of civil servants who collect, handle, keep or administer federal funds, valuables and property or of those persons who are responsible to those civil servants and of those who are involved in deciding on, authorizing and entering into loans on behalf of or against the government, and (b) restoring to the Federal Treasury the amount of damages and losses it suffers as a result of responsibilities incurred by civil servants whose actions are guaranteed by the Fund.

- The Organic Law of the Federal Public Administration (LOAPF), Articles 31 and 37, which grant to the Secretariat of the Treasury and Public Credit and the Civil Service Secretariat (SFP) a series of powers regarding the verification and auditing of public spending.

- The Federal Criminal Code (CPF), which establishes sanctions for such individuals who commit crimes against public property, such as embezzlement (Art. 217) and the improper use of powers and functions (Art. 223).

- Provisions empowering different bodies and agencies to oversee compliance with these standards of conduct, such as the Higher Auditor of the Federation, the Civil Service Secretariat, the Office of the Attorney General of the Republic, internal oversight bodies and the oversight bodies of the Judiciary, the Legislature, and the autonomous constitutional bodies referred to in Chapter II, section 3, of this report.

1.2.2. Adequacy of the legal framework and/or other measures and enforcement mechanisms

The standards and mechanisms for preserving and ensuring proper use of public resources that the Committee has examined, based on the information available to it, are relevant for promoting the purposes of the Convention.

Thus, the country under analysis has standards that regulate this matter in detail, set out responsibilities of a political, administrative, criminal and civil nature for breaches thereof, and allocates powers and establishes procedures for enforcing those responsibilities, thereby providing ideal mechanisms for ensuring compliance with those standards.

Also of relevance is the existence of mechanisms intended to secure the return to the Federal Treasury, damages and losses suffered as a result of responsibilities incurred by civil servants, together with the use of modern communications technologies that enable greater controls to be kept over government procurement, which is an area of great importance for the conservation of public resources.

Irrespective of the above, the Committee believes Mexico would do well to promote, pursuant to the 2001-2006 National Program to Combat Corruption and Promote Transparency and Administrative Development, the adoption of the specific codes of conduct referred to in that Program, in federal public administration, taking into account the specific characteristics of each institution, as well as its internal organization.

The Committee considers it advisable to disseminate the provisions of the country under review with respect to the preservation and proper use of public resources. This should be done despite the fact that this issue may be included within the regulatory sphere of the specific codes of conduct that must be adopted by the public agencies referred to in the aforementioned Code of Ethics of Federal Public Administration Civil Servants. The Committee applauds, as a good example of regulation on this matter, the Code of Conduct of the Secretariat of the Comptroller's Office and Administrative Development (SECODAM; currently the Civil Service Secretariat, SFP) submitted by the country under review in its updated response; this code contains provisions applicable to the proper conservation and use of public resources.⁹

Mindful of the foregoing considerations, the Committee will formulate recommendations in this respect.

⁹ Code of Conduct of the Civil Servants of the Secretariat of the Comptroller's Office and Administrative Development (Annex No. 12), pp. 4 and 5.

1.2.3. Results of the legal framework and/or other measures and enforcement mechanisms

The response¹⁰ by Mexico on this point states that with the oversight afforded by these legal instruments, from the planning stage to the auditing of public spending, it is possible to prevent illegal acts by the civil servants involved in the disbursement thereof; it also refers to the different kinds of punishment that apply to any diversion of public resources.

The section of the response by Mexico dealing with this topic also indicates that the Civil Service Secretariat (SFP; previously the Secretariat of the Comptroller's Office and Administrative Development, SECODAM) has entered into, with the governments of 28 of the nation's Federal Entities (which represents 87% of all Mexican States), Cooperation Agreements for promoting the a program titled "Strengthening the State System for Oversight and Evaluation of the Public Administration and Cooperation on Transparency and Fighting Corruption"; highlighting that under the current administration, 13 of these agreements have been updated.

Regarding the purpose of these Cooperation Agreements, the response states that, "in general terms, the Federal Executive and the State Executive agree to pursue joint actions aimed at strengthening the systems for oversight and evaluation of State and Municipal Administrations, in order to guarantee the efficient, timely and honest disbursement of the resources assigned, reassigned or transferred by the Federal Government through the Departments and Agencies of the FPA, to the State Governments, pursuant to the Federal Budget for the corresponding fiscal year, setting the bases for tasks aimed at overseeing and evaluating compliance with goals and commitments with respect to the spending of federal resources and thereby increasing government transparency and combating corruption."¹¹

Although the response furnishes no further information about the results of these Cooperation Agreements, the Committee believes they reflect the coordination efforts that the Civil Service Secretariat (SFP) has pursued with the Federal Entities vis-à-vis oversight of the federal public resources assigned to them.

The Committee believes that the information contained in the section of the response dealing with the results of the standards of conduct and mechanisms in general should also be taken into account in connection with this topic.¹² This is because although that information is not broken down in such a way as to indicate which data refer specifically to the standards for the proper conservation and use of public resources, it does indicate that the bodies and agencies responsible for overseeing compliance with those standards have been working actively, judging by the number of sanctions they have imposed, the number of audits and on-site visits they have carried out, the number of challenges to bid processes that have been resolved, the number of institutions that, in line with the efforts of the Interagency Commission for Transparency and Combating Corruption in the Federal Public Administration, have implemented anticorruption programs, among other things. This can be seen in detail in the figures for the period from January 1, 1998 to June 2004, and in the estimated figures as of August of that year, as provided in that part of the response.

¹⁰ Mexico's updated response to the questionnaire, pp. 27 and 28.

¹¹ Mexico's updated response to the questionnaire, p. 28.

¹² Mexico's updated response to the questionnaire, pp. 9 to 13.

In addition, considering that the Committee does not have additional information other than that referred above that might enable it to make a comprehensive evaluation of the results of the standards and mechanisms in this area, it will offer a recommendation in this regard.

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

1.3.1. Existence and provisions in the legal framework and/or other measures and enforcement mechanisms

Mexico has a set of provisions regarding the standards of conduct and mechanisms referred to, including the following:

- The Federal Law on the Administrative Responsibilities of Civil Servants (LFRASP), Article 8(XVIII), which requires civil servants to report, in writing, to the Secretariat (SFP) or to the internal comptroller (internal oversight bodies – OICs) of each institution, such acts or omissions that they detect in the performance of other civil servant that could give rise to administrative responsibility under the terms of the Law and other applicable provisions.
- The Federal Code of Criminal Procedure (CFPP), Article 117, which stipulates that any person, who, in performance of their public functions, becomes aware of the probable existence of a crime that is pursuable on an ex officio basis, must report it immediately to the Public Ministry.
- The Organic Law of the Federal Public Administration (LOAPF), Article 37(XVII), which empowers the Civil Service Secretariat (SFP) to receive and investigate conduct by civil servants that could give rise to administrative responsibilities, impose the sanctions applicable by law and, if appropriate, lodge the corresponding complaints with the Public Prosecution Service and provide it with the assistance it requests.
- The Federal Law on the Administrative Responsibilities of Civil Servants (LFRASP), Article 8, sections XVII and XXI, which requires civil servants to ensure that the employees under them comply with the provisions established under that article, which include refraining from hindering possible complainants so as to prevent the lodging of complaints or, in connection therewith, performing any act or omission that would jeopardize the interests of those formulating or lodging complaints.
- Article 10 of the same law, which states that departments and agencies will have specific units, to which the public will enjoy easy access, for the presentation of complaints or accusations involving civil servants' failures to meet their obligations, provided that the information contains data or evidence that tends to indicate the responsibility of the civil servant involved.

1.3.2. Adequacy of the legal framework and/or other measures and enforcement mechanisms

The standards and mechanisms in relation to the measures and systems requiring public officials to report acts of corruption in government service to the appropriate authorities that the Committee has examined, based on the information available to it, are relevant for promoting the purposes of the Convention.

Nevertheless, the Committee believes Mexico would do well to consider strengthening its current mechanisms in this area.

To achieve the above, the Committee believes it would be advisable for Mexico to consider promoting the adoption of the specific codes of conduct in Federal Public Administration, taking into account the importance of establishing them in accordance with the internal organization of each institution.

The Committee considers it advisable to establish dissemination of the provisions of the country under analysis relating to the measures and systems for requiring civil servants to report to the competent authorities regarding acts of corruption in civil service of which they are aware. This, despite the fact that such material may be included within the sphere of regulation of the specific codes of conduct that the government agencies referred to in the aforementioned Code of Ethics of Federal Public Administration Civil Servants must adopt pursuant to the 2001-2006 National Program to Combat Corruption and Promote Transparency and Administrative Development. The Committee recognizes, as a good example of relevant regulation, the Code of Conduct of the Secretariat of the Comptroller's Office and Administrative Development (SECODAM; currently the Civil Service Secretariat, SFP) submitted by the country under analysis in its updated response; one of the sections of this document (Relations between civil servants and SECODAM) contains the instruction to "Report to the competent bodies all breaches of the Law, of the Internal Regulations of SECODAM and of this Code of Conduct."¹³

Secondly, the Committee believes it would be useful to encourage civil servants to comply with the duty of reporting, and to adopt and implement protective measures for those lodging complaints, to protect them from such threats or retaliations that they might face as a result of their compliance with that obligation.

Mindful of the foregoing considerations, the Committee will formulate recommendations in this regard.

1.3.3. Results of the legal framework and/or other measures and enforcement mechanisms

In the response¹⁴ by Mexico, it is stated that the implementation of these standards of conduct has served as a preventive measure within the Federal Public Administration (FPA), by operating as a mechanism whereby the civil servants themselves report the improper actions of which they become aware and thus perform as a control and oversight function within the government administration. It goes on to say that the introduction of this mechanism has allowed illicit conduct to be detected even within the FPA itself, since it is the civil servants themselves who are most aware of how the administration works and what sort of irregular behavior takes place within it.

¹³ Code of Conduct of the Civil Servants of the Secretariat of the Comptroller's Office and Administrative Development (Annex No. 12), p. 8.

¹⁴ Mexico's updated response to the questionnaire, p. 30.

The section of Mexico's response dealing with this question further states, "since the current mechanism allows complaints to be lodged anonymously, as noted above, and over electronic channels, the existing results reflect the overall complaints received. Thus, between January 2001 and July 2004, a total of 29,410 accusations, 24,252 complaints, 5,927 requests, 7,647 suggestions, 2,764 acknowledgements, and 18,614 follow-up actions on irregularities were presented. These have been processed to their conclusion by means of the mechanisms described in Chapter Four, section 1, of this document."

The Committee believes that although this information is not broken down in such a way as to separate accusations and complaints lodged by civil servants in compliance with their duty from those presented by the public, it does indicate that there has been widespread use, by the general population, of the mechanisms that exist for denouncing irregularities within the public administration.

In addition, considering that the Committee does not have additional information other than that referred above that might enable it to make a comprehensive evaluation of the results of the standards and mechanisms in this area, it will offer a recommendation in this regard.

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

2.1. EXISTENCE OF PROVISIONS IN THE LEGAL FRAMEWORK AND/OR OTHER MEASURES

Mexico has a set of provisions relating to the systems referred to, including the following:

- The Federal Law on the Administrative Responsibilities of Civil Servants (LFRASP), Article 8(XV), which establishes the obligation of submitting timely and truthful declarations of net worth; Article 36, which identifies those civil servants in the federal government (Executive, Legislative and Judicial branches) and in the autonomous constitutional bodies who are required to do so; Article 37, which provides the times at which declarations are to be made and provides sanctions for failing to meet the deadline and for failing to report truthfully; and Article 38, which requires that the Secretariat (SFP) issue printed forms and magnetic and electronic media for their presentation and the processing of their contents.

- Articles 40, 41, 43, and 46 of this same law, which, respectively, order the Secretariat (SFP) to keep a register of civil servants, including information about their declarations of net worth, publication of which is permissible provided that the civil servant in question has given his/her prior, specific permission; empower the Secretariat to conduct investigations or audits to monitor the evolution of civil servants' net worth; require public agencies to provide it with fiscal, property, and other forms of information related to civil servants, their spouses or common-law partners, and their direct economic dependents, so that the authorities can monitor the evolution of their net worth; and order the Secretariat to report to the Public Ministry, as appropriate, when the person whose net worth's evolution is being monitored cannot justify the legal origin of a substantial increase therein, as reflected in his or her assets, those of the individuals identified above, and those with respect to which he or she acts as owner, during the time the position is held or as a result thereof.

- The Executive Order identifying those civil servants who must provide a statement of net worth, in addition to those indicated in the applicable legislation (Federal Law on the Administrative Responsibilities of Civil Servants, LFRASP), Article 36, which states that such declarations must also be provided by civil servants in the departments, offices, and agencies identified by the head of the Secretariat (SFP) in duly explained and grounded general provisions.
- The Executive Order establishing standards requiring civil servants to submit declarations of their net worth through electronic means of communication, published in the Official Journal of the Federation on April 19, 2002, which states that as of the year 2002, all Federal Public Administration civil servants required to provide declarations of net worth must do so through remote electronic means of communication, using the *Declaranet* computer program.
- The forms for the declarations of net worth, issued by the Secretariat (SFP), are divided into two parts: in the first part, the civil servant's personal information, is to be declared, indicating his or her station, position and the amount earned from that post, together with other income received; and in the second part the property, real and otherwise, making up the civil servant's net worth – including his/her own, and those of his/her spouse and economic dependants – liens (specifying source and destination), and other information on investments, bank accounts, and all operations involving banking and security institutions are to be declared

2.2. ADEQUACY OF THE LEGAL FRAMEWORK AND/OR OTHER MEASURES

The standards in relation to the systems for the declaration of income, assets and liabilities that the Committee has examined, based on the information available to it, are pertinent for promoting the purposes of the Convention.

Nonetheless, the Committee is of the view that it would be useful for Mexico consider strengthening the provisions regarding the SFP's verification of the contents of the declarations of net worth as set forth in Article 41 of Federal Law on the Administrative Responsibilities of Civil Servants (LFRASP), putting into place systems for encouraging and carrying out, on a timely basis, such verifications, firstly as regards the initial information provided by the civil servant and, secondly, to monitor the evolution of his/her net worth, using methods such as sampling, and setting goals and deadlines for that purpose.

In addition, the Committee believes that it might be useful for Mexico to consider regulating 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.

Finally, the Committee considers it advisable for Mexico to optimize the systems for analyzing the content of the statements of income, assets, and liabilities for the purpose of strengthening them so that they serve as a useful tool for the detection of possible cases of unjust enrichment, and when appropriate, of conflicts of interest.

Mindful of the foregoing considerations, the Committee will formulate recommendations in this regard.

2.3. RESULTS OF THE LEGAL FRAMEWORK AND/OR OTHER MEASURES

On this matter, the response¹⁵ from Mexico notes that “enforcement of these standards has helped prevent illegalities and has promoted government transparency and due public accountability, with the resultant improvement in the provision of public services.” It then adds that, “a register has been drawn up, identifying all the civil servants who are required to submit declarations of net worth.”

This same section of the response also states that “the civil servants’ net worth monitoring program is essentially preventive in nature, in that it indicates that a civil servant’s net worth is commensurate with his/her earnings” and goes on to supply figures on the numbers of federal civil servants required to file such declarations and the numbers that did so between 1998 and July 2004.

It also says that “the declaration of net worth is an instrument that helps detect potential crimes of illicit enrichment.”

Although the information supplied reflects a good level of compliance with the obligation of presenting declarations of net worth and supports the claim, made by the country under analysis in its response, that it has obtained “a favorable reply from civil servants as a consequence of the computerization employed whereby the declarations are submitted by means of the internet,”¹⁶ there is no additional information that would allow the Committee to offer a comprehensive assessment of the results of the standards and mechanisms in this area; consequently, it will make a recommendation in this regard.

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

3.1. EXISTENCE OF PROVISIONS IN THE LEGAL FRAMEWORK AND/OR OTHER MEASURES

Mexico has a set of standards with respect to the high-level oversight bodies responsible for performing the functions in carrying out the measures described in sections 1, 2, 4 and 11 of Article III of the Convention, among which special mention of the following bodies:

– The Higher Auditor of the Federation (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 verify compliance with the budgetary and financial obligations of the three Branches of the Federal Government and the autonomous federal agencies, and which is also empowered to impose compensatory sanctions.

– The Civil Service Secretariat (SFP), which is an agency of the Centralized Public Administration of the Federal Executive Branch. Under Article 90 of the Mexican Constitution (CPEUM) and Article 37 of the Organic Law of the Federal Public Administration (LOAPF), it serves as an oversight body within the Executive Branch, with respect to financial, material and human resources, to detect and correct shortcomings within the administration. In addition, by virtue of other provisions – such as

¹⁵ Mexico’s updated response to the questionnaire, pp. 33 and 34.

¹⁶ Mexico’s updated response to the questionnaire, p. 33.

the Federal Law on the Administrative Responsibilities of Civil Servants (LFRASP) – it is also empowered to receive and record civil servants' declarations of net worth and to hear and investigate their conduct that could give rise to administrative responsibilities and apply the corresponding sanctions, as well as, when applicable, to present the respective denunciation with the Public Ministry. 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 bodies (OICs) of each department and agency of the Federal Public Administration.

This Secretariat is also charged, pursuant to Article 5, sections XIV and XV, Article 17, Sections I, II, IV, VI, VII and VIII and other related provisions, with important responsibilities related to the participation of civil society and non-governmental organizations in efforts aimed at preventing corruption. These functions will be specifically referred to in Section 4.1.1 of Chapter II of this report.

- The Federal Public Ministry which, pursuant to Article 102 of the Mexican Constitution (CPEUM), is headed by the Attorney General of the Republic and is responsible for prosecuting, before the courts, all federal crimes, as indicated in the Constitution and in the Organic Law of the Office of the Attorney General of the Republic (LOPGR) and the Regulations thereto.

- The oversight bodies of the Federal Legislative Branch, as provided for in Article 70 of the Mexican Constitution (CPEUM) and in Articles 53, 112 and 113 of the Organic Law of the General Congress of the United Mexican States (LOCGEUM), which establish the Internal Comptrollership of the Chamber of Deputies and the Internal Comptrollership of the Senate.

- The oversight bodies of the Federal Judicial Branch, as provided for in Article 100 of the Mexican Constitution (CPEUM), in Articles 81, 98-104 and 122-140 of the Organic Law of the Judicial Branch of the Federation (LOPJF), which addresses the Superior Council of the Federal Judiciary, in Article 11 of the same Law, as regards to the Plenary of the Supreme Court of Justice, and in Article 102 of the same Law, with respect to the Comptroller's Office of the Judicial Branch of the Federation.

- The oversight bodies of the Autonomous Constitutional Bodies, as provided for in Article 61 of the Law on the Bank of Mexico; in Article 38 of the Internal Regulations of the National Human Rights Commission; and in the Agreement of the General Council of the Federal Electoral Institute of October 21, 2002.

- The oversight bodies of the Federal Entities, pursuant to the provisions of Articles 108, 109, and 113 of the Mexican Constitution (CPEUM), which addresses the responsibility of those entities' civil servants for violations of the Constitution and federal law as well as for the improper administration of federal funds and resources. These also empower the State Legislatures to issue laws on the responsibilities of civil servants and other provisions aimed at punishing public employees who incur political, criminal, or administrative responsibility, and state that the laws on the administrative responsibilities of civil servants shall determine their obligations, to ensure legality, honesty, loyalty, impartiality and efficiency in the performance of their duties, posts, positions and commissions, the sanctions applicable for such actions or omissions as they may commit, as well as the procedures and authorities for the enforcement thereof.

3.2. ADEQUACY OF THE LEGAL FRAMEWORK AND/OR OTHER MEASURES

The set of standards that Mexico has in the area of high-level oversight bodies responsible for ensuring compliance with the provisions in sections 1, 2, 4 and 11 of Article III of the Convention covers those provisions, if one bears in mind that there are such bodies with general or specific jurisdiction to oversee such compliance, which constitutes progress in its implementation.

There is external oversight – exercised by the Higher Auditor of the Federation (ASF) – which covers the three Branches of the Federal Government and the autonomous federal organs, together with oversight mechanisms within those branches of government and autonomous bodies; in addition, on account of the Federal Regime adopted by the Mexican Republic, the Federal Entities are empowered to establish their own forms of oversight.

With respect to the internal oversight system of the Federal Public Administration, it should be noted that the internal oversight bodies (OICs) of each Administration department and agency are answerable, in terms of both hierarchy and functions, to the Civil Service Secretariat (SFP) and not to the agency being audited; with the purpose of which is to guarantee the autonomy and independence of their work.

On the basis of the information that it has had available, the Committee notes that Mexico has, in this regard, pertinent rules for the promotion of the purposes of the Convention.

3.3. RESULTS OF THE LEGAL FRAMEWORK AND/OR OTHER MEASURES

In the response¹⁷ of Mexico in this respect, it states that “exercise of their functions by these oversight bodies has prevented illicit acts, as can be seen in the statistical information set out in Chapter One of this document” (referring to the response). It goes on to say that “appropriate legal instruments for correcting and sanctioning improper conduct by civil servants do exist” and that “transparency in the business of government and due civic accountability has been encouraged, with the consequent improvement in the provision of public services.” It then provides information on the numbers and kinds of audits carried out by the Higher Auditor of the Federation (ASF), on the occasion of the review of the Public Treasury Account for fiscal year 2002; and by the Civil Service Secretariat (SFP) between 1998 and 2004.

The section of Mexico’s response addressing this topic also refers to the launch, by the Civil Service Secretariat (SFP), in March 2004, of operations by the Evaluation Model for the Performance of Oversight and Control Bodies (MIDO), with the aim of guiding the work of the internal oversight bodies of each department and agency of the Federal Public Administration such as that of the public Delegates and Commissioners, in order to support the work of the different departments and agencies in accordance with given strategic guidelines for tackling corruption; the results of the first evaluation (covering the year 2004) are expected in the first half of March 2005.

¹⁷ Mexico’s updated response to the questionnaire, pp. 40 to 42.

Finally, it reports that within the Federal Public Administration, as a result of irregular acts and omissions by civil servants, between January 2002 and June 2004, a total of 15,194 administrative sanctions were imposed and 13,375 audits were carried out, including those performed by the Civil Service Secretariat (SFP), the internal oversight bodies (OICs), and the external auditors, according to the detailed figures provided in section 1(c) of Chapter One of the response.

The Committee is of the view that the information referred to in the country's response does not make it possible to evaluate comprehensively the results obtained by each of the high-level oversight bodies with respect to the provisions of sections 1, 2, 4 and 11 of Article III of the Convention, considered individually, because they are not sufficiently broken down. Consequently, the Committee will formulate a recommendation in this regard.

Nonetheless, the Committee does believe that this information indicates that the identified oversight bodies have actively pursued auditing tasks in respect of the matters over which they have authority and have imposed sanctions for breaches thereof; consequently, it deems it appropriate to offer its recognition in this regard.

Furthermore, with respect to the information contained in section 1(c) of Chapter One of the country's response, indicating that the Civil Service Secretariat (SFP; previously SECODAM) entered into, with the Governors of 28 of the nation's Federal Entities, Cooperation Agreements for promoting the program titled "Strengthening the State System for Oversight and Evaluation of the Public Administration and Cooperation on Transparency and Fighting Corruption," of which 13 have been updated under the current administration, the Committee believes, as it has already stated in section 1.2.3 of this report, that this reflects the efforts on coordination in the field of oversight that have taken place between the federal and State level, and it would like to highlight the usefulness of continuing that coordination and implementing it among the different oversight agencies that operate within the different levels, branches, and autonomous constitutional bodies of the state. Taking these comments into account, the Committee will formulate a recommendation in this regard.

4. MECHANISMS TO PROMOTE THE PARTICIPATION OF CIVIL SOCIETY AND NON-GOVERNMENTAL ORGANIZATIONS IN EFFORTS TO PREVENT CORRUPTION (ART. III, PARAGRAPH 11)

4.1. GENERAL PARTICIPATION MECHANISMS

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

Mexico has a set of provisions and measures with regard to the standards of conduct and mechanisms referred to, notably:

- The Constitution of the United Mexican States (CPEUM), Article 26(3), which provides for the establishment of procedures for participation and popular consultation in the National Democratic Planning System.
- The Planning Law (LP), Article 20, which provides that the National Democratic Planning System will allow the participation of and consultation with diverse social groups, in order to enable the population to express its opinions in the drafting, updating and execution of the Plan and the programs referred to in that Law.

- The Organic Law of the Federal Public Administration (LOAPF), Article 37(XXV), which empowers the Civil Service Secretariat (SFP) to devise and conduct the general policies of the Federal Public Administration in establishing actions to promote transparency in the business of government and the rendering of accounts, as well as access by private citizens to the information that it generates.

- The Internal Regulations of the Civil Service Secretariat (SFP), which in Article 5, sections XIV and XV, and Article 17, sections I, II, IV, VI, VII, VIII, authorizes the Secretariat to enter into agreements with other departments and entities, and with state and municipal governments; to devise policies and strategies to encourage participation by society as well as by different public, private, national, and foreign institutions in the SFP's objectives, goals, priorities and programs vis-à-vis integrity and transparency in the government's business and the fight against corruption; to assist the private and social sectors in implementing strategies for promoting transparency and integrity in those arenas and in their relations with the government; to promote the production and dissemination of awareness-building materials and programs in the fields of transparency, integrity and anticorruption, in accordance with the policies established by the Secretariat; to encourage institutional relations with groups and opinion leaders vis-à-vis transparency, integrity, and anticorruption; to work for the execution of cooperation agreements with the public, private and social sectors in the fields of transparency and anticorruption; and to carry out publicity campaigns and produce publicity materials regarding its powers on the prevention and elimination of corruption.

– The 2001-2006 National Program to Combat Corruption and Promote Transparency and Administrative Development, which, based on the 2001 – 2006 National Plan for Development and following consultation with the public, has been prepared by the Secretariat of the Comptroller's Office and Administrative Development, (currently the Civil Service Secretariat) and which, in several of its sections, addresses the importance of social participation in anticorruption efforts and specifically states, in one of those sections, that “in this context, the challenge of ensuring citizen participation in efforts to combat corruption and to increase the transparency of government business is an indispensable requirement.”¹⁸

– The programs based on the above provisions and measures have been implemented within the Federal Government, the aims and features of which are indicated in the country's response,¹⁹ as indicated below: Electronic Citizen Attention System (SEAC); Citizen's Portal of the Federal Government; National Complaints, Accusations and Citizen Attention System; Citizens' Telephone Attention System (SACTEL); Citizens' Direction Attention and Management; Information Access Requests; Electronic Government Procurement System (Compranet); Integral Social Comptrollership System (SICS); Integral Service Center (CIS); simulated user Program; Focus Groups; on-line Officials; webpage for children; “No More Trickery”; Transparent Company Program; “Reading about Transparency” Gazette.

¹⁸ 2001-2006 National Program to Combat Corruption and Promote Transparency and Administrative Development (Annex 11), p. 14.

¹⁹ Mexico's updated response to the questionnaire, pp. 44 to 46.

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

Based on the information available to it, the Committee notes that Mexico has standards and measures such as those highlighted in the previous section, regarding the participation of civil society and nongovernmental organizations in public activities, which, seek to encourage or have the effect, direct or indirect, of facilitating corruption prevention and avoiding impunity.

The Civil Service Secretariat has carried out actions seeking the participation of various groups of society to strengthen a culture of integrity, transparency and respect for the law in Mexico. With these actions, strong ties have been established between society and the Federal Government's anti-corruption strategies.

Despite the above, and bearing in mind the classification referred to by the methodology for the review of the implementation of Article III, paragraph 11 of the Convention,²⁰ in each of the corresponding sections, the Committee will express some considerations and in the final Chapter, will formulate specific recommendations in connection with this matter.

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

In the response²¹ by Mexico on this matter, it states first of all, that the following results have been attained with the implementation of the mechanisms in question: preventing acts of corruption, by improving public services and processes; implementing controls in areas of the Federal Public Administration vulnerable to corruption; research and compilation of basic information on the actions of the institutions in taking steps to improve their performance; disciplinary actions, applying the corresponding sanctions to improper acts; improved quality in public service; transparency in the public administration.

This section of the response also contains information about the results obtained by the various federal government programs identified in the last paragraph of section 4.1.1 of this report; this indicates that the programs in question have been actively used by their target audiences (civil servants and the general public) for the purposes defined for each.

4.2. MECHANISMS FOR ACCESS TO INFORMATION

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

Mexico has a set of provisions and measures regarding the mechanisms referred to, notably:

– The Constitution of the United Mexican States (CPEUM), Article 69, which requires the President of the Republic to submit to Congress an annual report indicating the general situation of the country's public administration, and Article 93, which empowers either Chamber of Congress to summon Secretaries of State, the Attorney General of the Republic, the Heads of the Administrative Departments and the directors and administrators of the decentralized federal agencies and state-controlled companies, to report when a law is being discussed or the chamber's business concerns their activities or fields.

²⁰ Methodology for analyzing implementation of the Convention provisions selected as a part of the first round of analysis, Chapter V.D (Document SG/MESICIC/doc. 21/02).

²¹ Mexico's updated response to the questionnaire, p. 33.

- The Federal Law on Transparency and Access to Governmental Public Information (LFTAIPG), in force as of June 12, 2002, Title One, Article 1, which states its goal as taking the necessary steps to guarantee access by all persons to information held by the government's different Branches, autonomous constitutional bodies or those with legal autonomy and any other federal organs; Chapter II, which establishes as "obligations of transparency," incumbent on those branches of government, bodies and agencies, the to make available to the public any given information on their organization and functions through remote or local electronic communications channels; and Chapter III, which sets provisions governing restricted and confidential information.

Title Two of this same law also regulates access to information in the Federal Executive Branch, with Chapter One providing for the establishment of liaison units and information committees within each agency; with Chapter II creating the Federal Institute for Access to Public Information (IFAI) as a body of the Federal Public Administration, enjoying autonomy in its operations, budget and decision-making and charged with promoting and disseminating the right to and access to information, resolving denials to requests for access to information, and protecting personal data held by the government offices and bodies; with Chapter III setting a procedure for access to information held by the corresponding department or agency; and with Chapter IV providing a procedure for lodging review appeals with the Institute should the request for access to information be denied.

Finally, Title Three of this Law, with respect to the Branches of government, bodies and entities other than the Federal Executive Branch bound thereto, sets the requirement of establishing, by means of regulations or general agreements, guidelines and procedures for providing private citizens with access to information pursuant to the terms of the Law; and Title Four defines specific causes for the administrative responsibility of civil servants for failures to comply with the obligations contained therein, to be punished under the terms of the Federal Law on the Administrative Responsibilities of Civil Servants (LFRASP), irrespective of any civil or criminal sanctions that may also apply.

- The Regulations of the Federal Law on Transparency and Access to Governmental Public Information (LFTAIPG), issued on June 10, 2003, which, according to Article 1, serves to regulate the provisions of the Law with respect to the Federal Executive Branch, its departments and agencies, and, in general, all other bodies of the Federal Public Administration.

- The computer program called the Information Request System (SISI), the purpose of which is to assist private citizens in presenting requests for access to public information, in following up on those requests, and in securing a response, through internet-based remote communications means.

- Provisions and measures governing access to information are also to be found in the Federal Administrative Procedure Law (LFPA); in the Planning Law (LP); in the 2001-2006 National Development Plan; in the Decree on the Expenditure Budget of the Federation; and in the Agreement establishing general guidelines for the direction, planning, authorization, coordination, supervision and evaluation of the social communication strategies, programs and campaigns of the departments and agencies of the Federal Public Administration, issued on December 24, 2003.

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

The standards and measures regarding access to information that the Committee has examined, based on the information available to it, are relevant for promoting the purposes of the Convention.

The Committee believes it appropriate to note the existence of recently issued standards governing access to information and the possibilities they offer for using new communications technologies to facilitate the supply of information. This circumstance reflects the modernization that the country under analysis has pursued in this area, and it makes it advisable for it to consider implementing training and dissemination programs in order to increase understanding among civil servants and the citizenry alike and to optimize the use of the available technology. Taking these comments into account, the Committee will formulate an appropriate recommendation in this regard.

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

In the response by Mexico in this regard, the following is noted:²²

“Enforcement of the above mechanisms has propitiated greater transparency in the business of government and real accountability on the part of civil servants, and it has provided an effective tool for fighting corruption.

“The LFTAIPG was published in the Official Journal of the Federation on June 11, 2002; its Transitory Article 8 stipulated that citizens could present requests for access to information one year after its enactment – that is, as of June 12, 2003.

“By June 2004, 39,902 electronic requests and 3,268 written requests had been received, for a total of 40,170. Additionally, 32,928 electronic replies and 2,472 written replies have been issued, for a total of 35,400. Finally, the IFAI has received 1,171 appeals.

“At the same time, and as a result of an agreement reached within the Interagency Commission for Transparency and Combating Corruption in the Federal Public Administration, as of June 2002, the 33 departments and agencies of the Federal Government that comprise that Commission are required to publish, on their official webpages, information on their organizational structure, powers, directory, goals and objectives, services and procedures, regulatory framework, contracts, frequently asked questions, official reports, budget, subsidy programs, concessions and permits. Furthermore, the obligation to publish that information was bolstered with the enactment of the LFTAIPG, Article 7, which requires all persons subject to its provisions to publish the information specified in that Agreement; the aim of this is to increase governmental transparency and render due account of the business of government.

“The departments and agencies of the FPA publish on their webpages the requirements to be met in requesting information, as set forth in Article 7 of the LFTAIPG. In addition, 15 of the federal entities already have transparency laws, and the number is sure to increase.

²² Mexico’s updated response to the questionnaire, pp. 52 and 53.

“Fifteen of the federal entities of the Mexican Republic have drawn up Transparency Laws, and it is possible that in the future, the other states will also enact the relevant legislation in this area.”

The figures for the number of requests made, the Committee believes, indicate that information requests are being dealt with; and, secondly, they indicate the good reception that the mechanisms for electronic access made available to the public for obtaining information have had in the short time since their introduction. In this regard, so further use can be made of the advantages of this new communication technology, the Committee believes both the civil service and the citizenry in general should be given the necessary training. The Committee believes that in this regard, notice should be taken of the information contained in the document “Report to Congress, 2003-2004” of the Federal Institute for Access to Public Information (IFAI),²³ which states that: “approximately 56% of the applicants are aged between 20 and 34 years; and, in terms of their occupations, can be broken down as follows: 30% academic; 22% business sector; 12% government sector; 10% media; and 22% others.” This indicates that the use of these mechanisms is concentrated in the more highly educated population segments. Bearing in mind that other sections of the aforesaid document²⁴ report on the training and dissemination programs carried out in connection with this area, the Committee believes it behooves it to merely recommend that the country under analysis continue to pursue those training efforts.

As regards compliance with the “obligations of transparency” established by Article 7 of the Federal Law on Transparency and Access to Governmental Public Information (LFTAIPG), the Committee believes reference should be made to the aforesaid IFAI report, one of the annexes of which (Annex II, section VII) contains the results of an evaluation (conducted between February 23 and April 20, 2004) of the departments and agencies of the Federal Public Administration, indicating a low level of compliance in some offices. Bearing in mind that another section of the aforesaid document²⁵ describes the creation of a “a permanent program to assess compliance with the transparency obligations, in order to monitor the progress made by the Federal Public Administration and to correct any deficiencies that may arise,” the Committee believes it should merely recommend that the country under analysis continue with its efforts to ensure full compliance with those obligations on the part of all the aforesaid departments and agencies.

With respect to the statement in the response to the effect that “fifteen federal entities of the Mexican Republic have drawn up Transparency Laws, and it is possible that in the future, the other states will also enact the legislation on this matter,” the Committee also refers back to the IFAI report quoted above, one part of which²⁶ states that “so the citizens can, on a timely basis, monitor public spending and thus demand that accountability becomes a reality, there is a need that all States and Municipalities draft laws and regulations to guarantee access to public information through simple, streamlined mechanisms. Subject strictly to the autonomy of the local and municipal governments

²³ “Report to the Congress of the Union, 2003-2004,” IFAI (published on the internet at www.ifai.org.mx), p. 27. This information was collected by the Secretariat in accordance with the methodology for analyzing implementation of the Convention’s provisions selected for the first round of analysis, Chapter VI (Document SG/MESICIC/doc.21/02).

²⁴ “Report to the Congress of the Union, 2003-2004,” IFAI (published on the internet at www.ifai.org.mx), p. 24, 25, 52, 53, and 60 to 64.

²⁵ “Report to the Congress of the Union, 2003/2004,” IFAI (published on the internet at www.ifai.org.mx), p.

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²⁶ “Report to the Congress of the Union, 2003-2004,” IFAI (published on the internet at www.ifai.org.mx), p.

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and its own regulatory framework, the IFAI will work to ensure that legislation on this point is extended throughout the country.” Bearing in mind the information provided by the country under analysis, the Committee believes it would do well to consider working for the adoption of such legislation by its States and Municipalities, in compliance with their autonomy, in the fashion outlined by the Institute.

Finally, we note that the IFAI document states the need to optimize the archives systems of the public institutions in order to facilitate access to public information, stating in one of its sections²⁷ that: “Due the absence of a coherent set of regulations to set a basis for the correct administration of these archives, for a long time the organization within the departments and agencies of the Federal Public Administration of these archives has been deficient. At best, they are not organized in a uniform fashion, do not permit the rapid location of documents and do not set parameters for their conservation.” Bearing in mind that another section of the aforesaid document²⁸ also reports on the publication, in the Official Journal of the Federation, on February 20, 2004, of a set of “General Guidelines for the organization and conservation of the archives of departments and agencies of the Federal Public Administration,” which established fixed deadlines for the departments and agencies to comply with its provisions, the Committee believes that it should merely recommend that the country under analysis continue with its efforts toward optimizing these archives.

Mindful of the foregoing considerations, the Committee will formulate recommendations in this regard.

4.3. CONSULTATIVE MECHANISMS

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

Mexico has a set of provisions and measures with regards to the mechanisms mentioned, notably:

- The Constitution of the United Mexican States (CPEUM), Article 26, third paragraph, which provides for the establishment of procedures for participation and popular consultation in the National Democratic Planning System.
- The Planning Law (LP), Article 20, which provides that the National Democratic Planning System will allow the participation of and consultation with diverse social groups, in order to enable the population to express its opinions for the drafting, updating and execution of the Plan and the programs referred to in that Law.
- The 2001-2006 National Program to Combat Corruption and Promote Transparency and Administrative Development, which, prior to its enactment, according to section I(b) of its Introduction underwent a process of civic consultation, which indicated the need to tackle the following issues: corruption, the quality of public services, citizen participation and transparency.

²⁷ “Report to the Congress of the Union, 2003-2004,” IFAI (published on the internet at www.ifai.org.mx), pp. 56 and 57

²⁸ “Report to the Congress of the Union, 2003-2004,” IFAI (published on the internet at www.ifai.org.mx), pp. 57 and 58.

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

The standards and provisions in relation to the mechanisms of consultation that the Committee has examined, based on the information available to it, are pertinent for pursuing the purposes of the Convention.

The Committee recognizes the efforts made by Mexico in this regard, and it sees as positive the fact that prior to the adoption of the 2001-2006 National Program to Combat Corruption and Promote Transparency and Administrative Development, of the Law, and the draft laws identified in its response,²⁹ it carried out consultations with society in general in order to hear the public's opinions and demands.

However, the Committee deems it appropriate for the country under analysis to consider supplementing the existing consultation mechanisms and, when appropriate, establishing procedures that will enable public consultations to be held prior to the design of public policies and the final adoption of legal provisions.

This is because since the Committee notes that the provisions mentioned in section 4.3.1 of this report (Article 26 of the CPEUM, and Article 20 of the LP) specifically refer to the National Democratic Planning System, and while not ignoring the importance of including consultation mechanisms in those areas, the Committee believes it appropriate to provide such mechanisms for other areas of general interest, such as the design of public policies and the approval of legal provisions.

At the same time, the Committee considers that although the public has been consulted prior to the adoption of programs and legal provisions, the consultation mechanisms used for that should be institutionalized and regulated, and that appropriate methods should be used to consult the community's opinions.

The Committee also believes, as the country under review mentions in its response,³⁰ that the mechanisms described throughout Chapter IV on the participation of civil society, would also be relevant for the purposes of the convention on this subject if they could be used as consultation mechanisms to the extent allowed by their characteristics.

Mindful of the foregoing considerations, the Committee will formulate recommendations in this regard.

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

In the response³¹ from Mexico in this respect, it is noted that "implementing the above mechanisms has strengthened transparency and accountability in the public administration, and it has allowed for the adoption of government strategies aimed at satisfying the interests of society"; it then goes on to provide figures for citizen participation in the consultation processes for the drafting of the 2001-

²⁹ Mexico's updated response to the questionnaire, pp. 53 and 54.

³⁰ Mexico's updated response to the questionnaire, p. 54.

³¹ Mexico's updated response to the questionnaire, p. 54.

2006 National Development Plan and the 2001-2006 National Program to Combat Corruption and Promote Transparency and Administrative Development, in the consultation forums for the drafting of the Federal Law on Transparency and Access to Governmental Public Information (LFTAIPG), and in a National Survey on Public Perceptions and Attitudes that was conducted to reveal citizens' views on corruption, who they believed should tackle the problem and the impact to date of the relevant publicity and awareness-building programs. This survey has been used to adapt and improve the Mexican Government's campaigns to create greater awareness of the importance of citizen participation in the fight against corruption and promoting transparency.

As noted in section 4.3.2 of this report, the Committee sees as positive the holding of citizen consultations prior to the adoption of programs and legal provisions and prior to the drafting of the Plan referred to above, and the survey referred to, and it applauds the active participation of the citizens in those consultation processes; thus it reiterates that it would be advisable to continue promoting these mechanisms for consulting the community's opinion, and will offer a recommendation in this regard.

In addition, considering that the Committee does not have additional information other than that referred above that might enable it to make a comprehensive evaluation of the results of the standards and mechanisms in this area, it will offer a recommendation in this regard.

4.4. MECHANISMS TO ENCOURAGE PARTICIPATION IN PUBLIC ADMINISTRATION

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

Mexico has a set of provisions and measures regarding the mechanisms referred to, notably:

– The Federal Law on Transparency and Access to Governmental Public Information (LFTAIPG), Article 10, which states that departments and agencies must publish, either directly or through the Legal Advisory of the Federal Executive or the Federal Commission for Regulatory Improvements, in the terms established by the Regulations and at least 20 days prior to the planned publication or submission for signature by the President of the Republic, preliminary drafts of those laws and general administrative provisions referred to in Article 4³² of the Federal Administrative Procedure Law, except if the Advisory of the Federal Commission for Regulatory Improvements, when applicable, decides that publication thereof could compromise the effects sought with the provision or it addresses emergency situations, in accordance with that Law.

- Title 3:A, Articles 69(A) to 69(Q) of the Federal Administrative Procedure Law (LFPA) contains provisions related to “Regulatory Improvements”; particularly noteworthy among them is the first paragraph of Article 69:E, which creates the Federal Commission for Regulatory Improvements (COFEMER), the purpose of which is to promote transparency in the drafting and enforcement of

³² Article 4 of the Federal Administrative Procedure Law (LFPA) provides that general administrative provisions – such as regulations, decrees, agreements, official Mexican standards, circulars, forms, guidelines, criteria, methodologies, instructions, directives, rules, manuals, and provisions aimed at establishing specific obligations for private citizens when there are no conditions referring to competence or any other analogous to the above provisions – issued by the departments and decentralized organs of the Federal Public Administration, shall be published in the Official Journal of the Federation in order for them to have full legal effect.

regulations (laws, legislative decrees and documents referred to in Article 4 of the Law, including those on which formalities are based)³³ and to ensure that these generate benefits in excess of their costs and the maximum benefit for society.

Particularly noteworthy among this law's provisions is Article 69(F), which states that this Commission will have a Council, comprising representatives of various offices and agencies of the Federal Public Administration, with no fewer than five representatives of the business sector, and one representative each from the nation's academic, labor and agricultural sectors. Its powers include acting as a liaison between the public, social, and private sectors in gathering those sectors' opinions about regulatory issues.

Another noteworthy provision of this law is Article 69(J), which states that the COFEMER's rulings on the draft regulations and documents sent by the departments and decentralized bodies of the Federal Public Administration in compliance with Article 69(H)³⁴ shall take into consideration the opinions received by the Commission from the interested sectors and shall include, *inter alia*, an appraisal of whether the actions proposed in the draft are justified, in compliance with the terms of the first paragraph of Article 69(E) referred to above.

- The Federal Metrology and Standardization Law (LFSMN), Article 47, which requires that the drafts of provisions of this kind are to be published in full in the Official Journal of the Federation so that, during the following 60 calendar days, interested parties can submit comments thereon to the corresponding national standardization consultative committee; and that the responses to the comments received, together with the amendments to the drafts, are to be published in the Official Journal of the Federation at least 15 calendar days prior to the publication of the official Mexican standard and, once approved by the corresponding standardization committee, are published in the Official Journal of the Federation.

- The General Law on Ecological Balance and Environmental Protection (LGEEPA), Title Five, ("Social Participation"), which states that the Federal Government must encourage the participation of society in planning, executing, assessing and overseeing environmental and natural resource policy.

- The Federal Law to Promote the Activities of Civil Society Organizations (LFFAROSC), Article 5, which includes, among the activities of civil society organizations it is intended to encourage, civic actions aimed at promoting citizen participation in matters of public interest; and Article 6, sections II and X respectively, empower it to join the participation and consultation bodies established by the Federal Public Administration, in areas relating to the activities described in Article 5, set up or

³³ Article 4 of the LFPA appears transcribed in the previous footnote. Article 69-M provides that the COFEMER shall keep a Federal Register of Proceedings and Services, to be public in nature and to contain information on each formality. Article 69-O states that the information referred to in the previous article, in sections III to X, must be contained in laws, regulations, decrees, or presidential agreements, or, when applicable in official Mexican standards or in general agreements issued by the departments and decentralized organs of the Federal Public Administration that enforce those formalities.

³⁴ Article 69-H of the LFPA requires departments and decentralized organs of the Federal Public Administration that prepare draft laws, legislative decrees, and documents as described in Article 4 above to submit the same to the COFEMER, together with a statement of regulatory impact addressing those issues that the Commission deems relevant. The Commission shall publish those documents upon receipt thereof, as stipulated in Article 69-K.

operated by the departments or agencies, and to receive advice, training and assistance from them in order to better pursue its goals and activities, within the framework of the programs devised to that end by those departments and agencies.

- The Internal Regulations of the Civil Service Secretariat (SFP), Article 17, which grants its Liaison for Transparency Unit powers for establishing strategies and policies and for entering into agreements to encourage participation by society and by different public, private, national and foreign institutions in the fields of integrity, governmental transparency and anticorruption efforts; and Article 36(VII), which empowers its General Directorate of Regional Operations and Social Comptrollership to encourage citizen participation in the implementation of federal programs and in overseeing their execution.

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

The standards and provisions with respect to the above-referenced mechanisms that the Committee has examined, based on the information available to it, are relevant for promoting the purposes of the Convention.

Nonetheless, the Committee considers it advisable for Mexico to consider strengthening and continuing to implement mechanisms that encourage civil society and nongovernmental organizations to participate in the conduct of public affairs.

This is because the Committee notes that the mechanisms provided for in Title Three of the Federal Administrative Procedure Law (LFPA) refer to the purview of the Federal Executive (centralized public federal administration and its decentralized bodies³⁵); and that those set out in the two legal instruments referred to therein (the Federal Metrology and Standardization Law, LFPMN, and the General Law on Ecological Balance and Environmental Protection, LGEEPA) are restricted to the specific areas overseen by those laws' provisions.

The Committee acknowledges that the country under analysis has appropriate mechanisms for encouraging civil society participation in the business of government, and it notes that both the Federal Law to Promote the Activities of Civil Society Organizations (LFFAROSC) and the Internal Regulations of the Civil Service Secretariat (SFP) explicitly provide mechanisms to promote such participation. It believes, however, that it would be useful to complement those mechanisms with other instruments similarly intended to bolster participation in additional areas and topics.

Mindful of the foregoing considerations, the Committee will formulate recommendations in this regard.

³⁵ According to Article 69-A of the Federal Administrative Procedure Law (LFPA), the provisions of its Title Three apply to acts, procedures, and resolutions of the centralized public federal administration and of the decentralized organs of the Federal Public Administration under the terms of the second paragraph of Article 1 of the Law, with the exception of acts, procedures, and resolutions of the Secretariat of National Defense or the Secretariat of the Navy.

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

In the response³⁶ by Mexico in this respect, it is noted that: “The implementation of the above mechanisms has enabled improvements in the business of government, together with greater transparency for the citizenry with respect to the actions taken by the government. Most noteworthy of the mechanisms described above, on account of its relevance, is the regulatory improvement process overseen by the COFEMER. Nevertheless, it should be noted that in light of the nature and scope of the participation mechanism that the regulatory improvement process offers the citizenry in public policy decision-making in the field of anticorruption efforts, it is technically difficult to assess the degree of impact that citizen consultation has had on the enactment of anti corruption regulations. In any event, the results will have to be analyzed from the viewpoint of the quality of the regulation issued, reviewing whether they were addressed by opinions and, if so, whether the opinions offered by private citizens modified the final versions of the corresponding provisions in the terms indicated.”

The same section of the response also reports that, “between July 1, 2002, and July 20, 2004, the COFEMER received 2108 draft provision documents, of which 436 came in during the second half of 2002, 1086 during 2003, and 586 during the first half of 2004.” It then presents a chart indicating the drafts received during this period, broken down by type. It goes on to say that, “with regard to the replies to consultation and opinions received by the COFEMER over the internet and via e-mail regarding preliminary drafts of federal legal provisions and requirements for the presentation of formalities before the federal government, during the period July 1, 2002 to July 20, 2004, the COFEMER responded to 7662 requests, which can be broken down into those received over the internet and those received by e-mail.”

The Committee believes that the information supplied reflects the active use made of the Commission (COFEMER) by the departments and agencies of the Federal Government required to submit to it the preliminary drafts of their regulations and by the private citizens, whose consultations and opinions have received proper replies. This deserves recognition.

Given the importance of the regulatory improvement process being pursued by COFEMER, the Committee believes it would be advisable for Mexico to consider establishing quantitative and qualitative indicators that will help determine the impact of citizen participation on the final legislative draft. The review subgroup will offer a recommendation in this regard.

In addition, considering that the Committee does not have additional information other than that referred above that might enable it to make a comprehensive evaluation of the results of the standards and mechanisms in this area, it will offer a recommendation in this regard.

4.5. PARTICIPATION MECHANISMS IN THE FOLLOW-UP OF PUBLIC ADMINISTRATION

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

Mexico has a set of provisions and measures regarding these mechanisms, notably:

³⁶ Mexico’s updated response to the questionnaire, pp. 57 and 58.

- The General Law on Social Development (LGDS), Article 69, which recognizes the Social Comptrollership as the mechanism whereby beneficiaries may, in an organized fashion, check compliance with the objectives of and the correct use of public funds assigned to social development programs; Article 70, which states that the Federal Government will support that Comptrollership and facilitate its access to the information needed to perform its duties; and Article 70, which sets out those duties.

- The Federal Law to Promote the Activities of Civil Society Organizations (LFFAROSC), Article 5, which includes, among the activities of civil society organizations it is intended to encourage civic actions aimed at and promoting citizen participation in matters of public interest; Article 6, sections III and X, respectively, state that its rights include participation in the Social Comptrollership mechanisms established or operated by departments and offices, in compliance with the applicable legal and administrative regulations, and to receive advice, training, and assistance from them in order to better pursue its goals and activities, within the framework of the programs devised to that end by those departments and agencies.

- The Organic Law of the Federal Public Administration (LOAPF), Article 37(XXV), which empowers the Civil Service Secretariat (SFP) to devise and conduct the general policies of the Federal Public Administration in order to establish actions that promote transparency in the business of government and access by private citizens to the information that it generates.

- The Internal Regulations of the Civil Service Secretariat (SFP), which gives some of its administrative units the power to encourage participation by the citizenry (Articles 17 and 36(VII), *inter alia*).

- The 2001-2006 National Development Plan, which sets the national objectives, strategies and priorities for the country's comprehensive development. One of the strategies it gives for pursuing goal No. 6, "lowering corruption levels," entails increasing the transparency of the public administration and encouraging the participation of society through the use of measurement systems that provide more precise indications of public perceptions of the corruption phenomenon, as well as with entering into agreements with society for tackling corruption through specific actions that bear witness to its jointly responsible participation in this national task.³⁷

- The 2001-2006 National Program to Combat Corruption and Promote Transparency and Administrative Development, which, in line with the above Plan, sets itself the goal of ensuring society's participation by means of three strategic lines of action: provide quality and transparency of the business of government, entering into agreements with society, and creating a new social culture of anticorruption efforts.³⁸

- The Integral Social Comptrollership System (SICS), the components of which include: public information programs; forms of social organization for control and oversight; forums for communications between the government and society; training programs; systems for attending to complaints, accusations and suggestions; and a system for the social evaluation of the government.³⁹

³⁷ 2001-2006 National Development Plan (Annex 28), Key Goal No. 6, pp. 97 and 98.

³⁸ 2001-2006 National Program to Combat Corruption and Promote Transparency and Administrative Development (Annex 11), p. 22.

³⁹ Mexico's updated response to the questionnaire, pp. 59 and 60.

- The agreements, conventions and pacts entered into by government agencies with public and private institutions with the aim of promoting citizen participation in anticorruption efforts; training different social sectors toward that end; and encouraging a culture of transparency and ethics, together with the campaigns carried out in the mass media toward those goals.⁴⁰

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

The standards and provisions related to the mechanisms that the Committee has examined, based on the information available to it, are pertinent for promoting the purposes of the Convention.

Nonetheless, the Committee considers it advisable to continue implementing mechanisms to encourage civil society and nongovernmental organizations to participate in monitoring the business of government and, in that undertaking, to consider using new forms of social oversight – such as civic observatories for the supervision of public activities and works – and providing civil society with training and advice for making proper use thereof.

The Committee also considers it useful for the competent authorities to raise awareness of the mechanisms that constitute the Integral Social Comptrollership System (SICS) and continue implementing existing plans.

Mindful of the foregoing considerations, the Committee will formulate recommendations in this regard.

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

The response⁴¹ from Mexico on this point states “the mechanisms identified in this section have enabled us to correct and punish improper behavior on the part of civil servants, thereby promoting greater transparency in the public administration and due accountability vis-à-vis the citizenry, with the resultant improvement in the provision of public services.” It then refers to the results of the agreements, conventions, pacts and campaigns in this area, most notably those reached under the aegis of the Integral Social Comptrollership System (SICS).⁴²

The Committee believes that the results referred to above reflect the active development of the agreements, conventions, pacts and campaigns in question, which, as already noted, pursue goals that are in accord with the Convention’s objectives in this regard.

The Committee also believes that the results obtained under the aegis of the Integral Social Comptrollership System (SICS) reflect an active development of their components; it further holds that in connection with this, the comments offered by the country under analysis in another section of the report should be borne in mind,⁴³ stating that “SICS has been implemented in the nation’s 31

⁴⁰ Pages 60 and 61 of Mexico’s updated response to the questionnaire list these agreements, conventions, pacts, and campaigns, and they also detail their objectives and characteristics.

⁴¹ Mexico’s updated response to the questionnaire, pp. 62 to 66.

⁴² Pages 62 to 66 of Mexico’s updated response to the questionnaire list those agreements, conventions, pacts, and campaigns, and they list the results of those efforts and those of the Integral Social Comptrollership System (SICS).

⁴³ Mexico’s updated response to the questionnaire, p. 59.

federal entities, constituting national coverage, and in six offices of the Federal Public Administration responsible for the following programs: Agricultural Day Laborers, Micro-Regions, Opportunities (Secretariat of Social Development), Employment Support (Secretariat of Labor and Social Welfare), Quality Schools (Secretariat of Public Education) and the Mexican Social Security Institute's "Opportunities" program (Secretariat of Health)."

Bearing in mind the progress with implementing the Integral Social Comptrollership System (SICS) described in the above information, the Committee believes it only remains for it to encourage the country under analysis to forge ahead with its implementation, putting it into practice in a larger number of offices and programs of the Federal Public Administration. Mindful of the foregoing considerations, the Committee will formulate recommendations in this regard.

5. ASSISTANCE AND COOPERATION (ARTICLE XIV)

5.1. MUTUAL ASSISTANCE

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

Mexico has a set of measures in this area: the bilateral mutual legal assistance agreements it has entered into with other States, listed in its response;⁴⁴ and the international instruments referred to therein, including the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the Inter-American Convention against Corruption, the Inter-American Convention on Mutual Assistance in Criminal Matters of Nassau, Bahamas, the United Nations Convention Against Transnational Organized Crime and the United Nations Convention against Corruption.

Under Article 133 of the Constitution of the United Mexican States (CPEUM), the treaties entered into by Mexico constitute supreme law for the entire federation; consequently, those bilateral and multilateral treaties that contain provisions on mutual legal assistance constitute the legal framework applicable for making and responding to requests in this regard. In the absence of a treaty, Mexico attends to requests on the basis of international reciprocity.⁴⁵

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

The provisions listed by Mexico in its response are capable of attaining the purposes of the Convention of promoting and facilitating mutual assistance among the States Parties, and may serve its specific purposes with respect to the investigation and prosecution of acts of corruption, to the extent that they are used for this purpose.

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

The response⁴⁶ by Mexico states that the country has received no requests for legal assistance based on the Inter-American Convention against Corruption, but that it has formulated requests for assistance in accordance with its terms.

⁴⁴ Mexico's updated response to the questionnaire, pp. 66 and 67.

⁴⁵ Mexico's updated response to the questionnaire, p. 67.

⁴⁶ Mexico's updated response to the questionnaire, pp. 67 and 68.

The Committee notes that, among the results attained in this regard, Mexico has invoked the Convention to request legal assistance.

5.2. MUTUAL TECHNICAL COOPERATION

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

The response⁴⁷ from Mexico in this respect notes that “the federal office specializing in anticorruption efforts – the Civil Service Secretariat – has developed various mechanisms for encouraging cooperation with its counterparts in the Americas in the fight against this scourge.” It then goes on to identify anticorruption agreements entered into with other Convention States Parties.

The response also notes⁴⁸ the hosting, in 2003, of a conference titled “Mexico against Corruption,” supported by Mexican corporations and institutes and by international organizations and cooperation agencies such as the World Bank, the OAS, USAID, etc. It also notes Mexico’s participation in creating the Network of Government Institutions of Public Ethics in the Americas and in the multilateral agreement dealing with that network that was signed at the Summit of the Americas.

Mexico’s response also notes that⁴⁹ that “the SFP (Civil Service Secretariat) participates in the group of experts against corruption and financial crime, which is a part of the Binational Commission of the cooperation regime that exists between the United States and Mexico on Legal Matters and Combating Organized Crime. The aim of this group is to create a binational mechanism for collaboration and exchanges of information to develop and strengthen instruments for preventing, detecting and punishing corruption and for promoting the training of human resources in that field.”

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

The Committee considers it positive that Mexico, as stated in its response, has entered into technical cooperation agreements and activities related to combating corruption and that, to that end, it has partnered itself with international organizations, cooperation agencies and other State Parties to the Convention; which it considers relevant for the purposes provided for by the Convention in this regard.

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

Bearing in mind the developments indicated by Mexico in its response⁵⁰ with respect to agreements entered into with other Convention State Parties for mutual cooperation in the fight against corruption, the Committee believes it only remains to encourage Mexico to continue with these cooperation efforts and, in that regard, it will issue a recommendation.

At the same time, the Committee applauds Mexico’s organization of a major conference on fighting corruption, with the support of international organizations and cooperation agencies, and it believes Mexico would do well to identify specific areas in which it would be useful to receive cooperation toward that end and seek out the support it requires from those institutions or from other countries. The Committee will make a recommendation on this point.

⁴⁷ Mexico’s updated response to the questionnaire, pp. 68 and 69.

⁴⁸ Mexico’s updated response to the questionnaire, p. 69.

⁴⁹ Mexico’s updated response to the questionnaire, p. 70.

⁵⁰ Mexico’s updated response to the questionnaire, pp. 68 and 69.

6. CENTRAL AUTHORITIES (ART. XVIII)

6.1. EXISTENCE OF PROVISIONS IN THE LEGAL FRAMEWORK AND/OR OTHER MEASURES

With respect to the questionnaire's inquiry into the appointment of a Central Authority for handling the mutual assistance provided for under the Convention, Mexico's response⁵¹ states "the General Directorate of Legal Affairs of the Secretariat of Foreign Affairs has been appointed the central authority for the purpose of channeling the mutual assistance provided for by the Convention. However, with respect to corruption, such assistance can also be channeled through the treaties establishing mutual legal assistance in criminal matters that Mexico has entered into with other countries and for which the Office of the Attorney General of the Republic has been appointed the central authority. These matters are handled through the Office of Extraditions and Legal Assistance. Similarly, the General Directorate for Global Issues of the Secretariat of Foreign Affairs is the administrative unit that coordinates and manages Mexico's position on corruption affairs in multilateral forums."

The response also points out,⁵² with respect to the appointment of the central authority for dealing with the mutual technical cooperation provided for in the Convention that "said responsibility is incumbent on the Secretariat of Foreign Affairs All requests for technical cooperation must be addressed to the foreign ministry's General Directorate of Legal Affairs, which will notify the General Directorate for Global Issues for the purposes of follow-up."

Furthermore, by means of a communication, OEA02284, dated October 25, 2004, the Permanent Mission of Mexico to the OAS informed the General Secretariat of the Organization of the appointment of Secretariat of Foreign Affairs as the central authority for the assistance and international cooperation purposes provided for in the Convention.

6.2. ADEQUACY OF THE LEGAL FRAMEWORK AND/OR OTHER MEASURES

As indicated by the country under analysis in its response, and irrespective of the powers granted to the other offices referred to therein, the Committee believes that Mexico's Secretariat of Foreign Affairs has been appointed the central authority for handling both the mutual assistance and mutual technical cooperation as provided for under the Convention; additionally, it sees that appointment as being appropriate for those purposes, bearing in mind that the response also indicates that "the Secretariat of Foreign Affairs has sufficient resources to cover the requests for assistance and cooperation referred to in the Convention. This Secretariat keeps in close contact with the competent agencies of the federal government specializing in anticorruption efforts and, in turn, it channels requests for assistance and cooperation through Mexico's embassies and consulates across the American continent."⁵³

⁵¹ Mexico's updated response to the questionnaire, p. 70, and the document titled "Comments on the draft preliminary report of Mexico, as well as observations made by the analysis subgroup in the context of the Inter-American Convention against Corruption." (p.47)

⁵² Mexico's updated response to the questionnaire, p. 70.

⁵³ Mexico's updated response to the questionnaire, p. 71.

6.3. RESULTS OF THE LEGAL FRAMEWORK AND/OR OTHER MEASURES

Mexico's response⁵⁴ refers back to its comments made in connection with the two requests for legal assistance that Mexico made, pursuant to the Convention, with the Government of Ecuador, which were duly answered. It goes on to say that: "it should be noted that these requests were processed by the Office of the Attorney General of the Republic, prior to the appointment of the central authorities."

III. CONCLUSIONS AND RECOMMENDATIONS

Based on the analysis conducted in Chapter II of this report, the Committee offers the following conclusions and makes the following recommendations regarding the implementation, in Mexico of the provisions contained in Articles III, (1) and (2), (standards of conduct and mechanisms to enforce them), Article III (4) (systems for registering income, assets and liabilities), Article III (9) (oversight bodies, exclusively in relation to their performance of functions in relation to compliance with the provisions provided for in paragraphs 1, 2, 4 and 11 of Article III of the Convention), Article III (11) (mechanisms for encouraging the participation of civil society and nongovernmental organizations in efforts to prevent corruption), Article XIV (assistance and cooperation), and Article XVIII (central authorities) of the Convention, all of which were selected within the framework of the first round.

A. COOPERATION OF AUTHORITIES FROM THE FEDERAL GOVERNMENT WITH FEDERAL ENTITIES

In accordance with what is provided at Section A of Chapter II of this report, the Committee recommends that the country under review consider having the federal authorities promote the relevant cooperation mechanisms with State Entities, in order to obtain information on the issues corresponding to the Convention within the scope of the State governments, as well as provide technical assistance for the effective implementation of the Convention.

B. CONCLUSIONS AND RECOMMENDATIONS AT THE FEDERAL LEVEL

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

Mexico has considered and adopted measures to create, maintain, and strengthen standards of conduct to prevent conflicts of interest and mechanisms to enforce compliance, as indicated in Chapter II, section 1.1 of this report.

In view of the comments made in that section, the Committee suggests that Mexico consider the following recommendation:

⁵⁴ Mexico's updated response to the questionnaire, p. 71.

Strengthen the implementation of laws and codes of conduct concerning conflicts of interest. To carry out this recommendation, Mexico could consider the following measures:

- a. Based on the Code of Ethics of Federal Public Administration Civil Servants, encourage each of the departments and agencies 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 (see section 1.1.2 of Chapter II of this report).
- b. Provide all civil servants with training in the standards of conduct and the mechanisms for preventing conflicts of interest and carry out a widespread dissemination of those standards and mechanisms.

1.2. Standards of conduct and mechanisms to ensure the conservation and proper use of resources entrusted to public officials

Mexico has considered and adopted measures aimed at creating, maintaining and strengthening standards of conduct geared to ensuring the proper conservation and use of resources entrusted to public officials in the performance of their functions, as stated in Chapter II, section 1.2, of this report.

In view of the comments made in that section, the Committee suggests that Mexico consider the following recommendation:

Strengthen the implementation of legal provisions and codes of conduct with respect to the proper conservations and use of public resources. To comply with this recommendation, Mexico could take into account the following measures:

- a. Based on the Code of Ethics of Federal Public Administration Civil Servants, encourage each of the departments and agencies 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 (see section 1.2.2 of Chapter II of this report).
- b. Disseminate the provisions related to the conservations and use of public resources.

1.3. Standards of conduct and mechanisms concerning measures and system requiring public officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware

Mexico has considered and adopted measures intended to create, maintain and strengthen standards of conduct and mechanisms relating to measures and systems that require public officials to report to the appropriate authorities regarding acts of corruption in public office of which they are aware, in accordance with the comments in Chapter II, section 1.3 of this report.

In view of the comments made in that section, the Committee suggests that Mexico consider the following 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. To comply with this recommendation, Mexico could give consideration to the following measures:

- a. Based on the Code of Ethics of Federal Public Administration Civil Servants, encourage each of the departments and agencies 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 (see section 1.3.2 of Chapter II of this report).
- b. 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.
- 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)

Mexico has considered and adopted measures to establish, maintain and strengthen systems for registering income, assets and liabilities by those persons who perform public functions in certain posts as specified by law and, where appropriate, for making such registrations public, as stated in Chapter II, section 2, of this report.

In view of the comments made in that section, the Committee suggests that Mexico consider the following recommendation:

Strengthen the systems for registration of income, assets and liabilities. To carry out this recommendation, Mexico could give consideration to the following measures:

- a. 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 (see section 2.2 of Chapter II of this report).
- b. 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.
- c. Strengthen the strategic plans for verifying and analyzing the statements of net worth presented.
- d. 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.
- e. Continue the awareness campaigns for public officials about their legal and ethical duty to report truthful data on their statements of net worth.

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

Mexico has considered and adopted measures intended to establish, maintain and strengthen oversight bodies for effective compliance with the provisions selected for analysis within the framework of the first round (Article III, paragraphs 1, 2, 4 and 11, of the Convention), in keeping with the provisions in Chapter II, section 3 of this report.

In view of the comments made in that section, the Committee suggests that Mexico consider continuing the coordination between its oversight bodies with respect to their functions relating to oversight of effective compliance with the provisions of paragraphs 1, 2, 4 and 11 of the Convention, in order to ensure the effectiveness of that oversight and of the mechanisms that allow for institutional coordination of their actions and ensure an ongoing evaluation and follow-up thereof.

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

Mexico has considered and adopted measures intended to establish, maintain and strengthen mechanisms to encourage the participation of civil society and nongovernmental organizations in efforts aimed at preventing corruption, in keeping with Chapter II, section 4 of this report.

In view of the comments made in that section, the Committee suggests that Mexico consider the following recommendations:

4.1 General participation mechanisms

No recommendations are formulated by the Committee in this section.

4.2 Mechanisms for access to information

Strengthen the mechanisms for ensuring access to public information. To carry out this recommendation, Mexico could give consideration to the following measures:

- a. Continue with its efforts to ensure that those departments and agencies 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 (see section 4.2.3 of Chapter II of this report).
- b. Continue encouraging, subject to the autonomy of the local and municipal governments, the adoption by the nation's States and Municipalities legislation to guarantee access to public information.
- c. Continue to take steps to optimize the archive systems of the departments and agencies identified in section 4.2.3 of Chapter II of this report, to facilitate access to public information.
- d. Continue developing training and dissemination programs dealing with the mechanisms for public information access, in order to help civil servants and citizens understand them and to optimize the use of available technology to that end.

4.3 Consultative Mechanisms

Complement existing mechanisms of consultation, establishing procedures, when appropriate, so as to allow for making public consultations prior to designing public policies and prior to the final adoption of legal provisions. To carry out this recommendation, Mexico could give consideration to the following measure:

Continue consultation with interested sectors of civil society and non-governmental organizations regarding the design of public policies and the drafting of laws, decrees and resolutions by the Executive Branch.

4.4 Mechanisms to encourage participation in public administration

Strengthen and continue implementing mechanisms that encourage civil society organizations and nongovernmental organizations to participate in the public administration. To carry out this recommendation, Mexico could give consideration to the following measures:

- a. Continue to adopt mechanisms that strengthen the participation of civil society and nongovernmental organizations in anticorruption efforts.

- b. Set quantitative and qualitative indicators that will help determine the impact of citizen participation on the final legislative draft.

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

Strengthen and continue implementing mechanisms that encourage civil society and nongovernmental organizations to participate in the monitoring of public administration. To carry out this recommendation, Mexico could give consideration to the following measures:

- a. Promote new forms of social oversight – such as citizen oversight groups for the supervision of public activities and projects – and providing civil society with training and advice for making proper use thereof.
- b. Continue work on implementing the Integral Social Comptrollership System (SICS), expanding it into a larger number of offices and programs of the Federal Public Administration.
- c. The competent authorities should raise awareness of the mechanisms that make up the Integral Social Comptrollership System (SICS) disseminate a mechanism for setting up the Social Comptrollerships and continue implementing existing plans.

5. ASSISTANCE AND COOPERATION (ARTICLE XIV)

Mexico has adopted measures in relation to mutual assistance and technical cooperation, in accordance with the provisions of Article XIV of the Convention, as described and analyzed in Chapter II, section 5 of this report.

In view of the comments made in that section, the Committee suggests that Mexico consider the following recommendations:

- 5.1. Identify and prioritize specific areas in which Mexico considers that it needs the technical cooperation of other State Parties and international cooperation agencies in order to strengthen its capacity to prevent, detect, investigate and punish acts of corruption.
- 5.2. Continue its efforts to exchange technical cooperation with other State Parties regarding the most effective ways and methods for preventing, detecting, investigating and punishing acts of corruption.

6. CENTRAL AUTHORITIES (ARTICLE XVIII)

Mexico has complied with Article XVIII of the Convention by designating the Secretariat of Foreign Affairs as the central authority for the purposes of international assistance and cooperation provided for in the Convention, as indicated in Chapter II, section 6 of this Report.

7. GENERAL RECOMMENDATIONS

Based on the analysis and the contributions that appear throughout this report, the Committee suggests that Mexico give due consideration to the following recommendations:

- 7.1 Design and implement, when appropriate, programs to train civil servants responsible for implementing the systems, standards, measures and mechanisms considered in this report, for the purpose of guaranteeing that they are adequately understood, managed and implemented.
- 7.2 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.
- 7.3 Develop, when appropriate and where they do not yet exist, procedures for analyzing the mechanisms mentioned in this report, as well as the recommendations contained herein.

8. FOLLOW-UP

The Committee will consider the periodical reports from Mexico on progress in implementing the foregoing recommendations, in the context of its plenary meetings, in accordance with the provisions of Article 30 of the Rules of Procedure.

In addition, the Committee will analyze the progress made in implementing the recommendations made in this Report, in accordance with the provisions of Article 31 and, whenever appropriate, Article 32 of the Rules of Procedure.

The Committee wishes to place on record the request made by Mexico to the Secretariat to publish this report on the Mechanism's webpage and by any other means of communication, in accordance with the provisions of Article 25(g) of the Rules of Procedure and Other Provisions

ANNEX TO THE REPORT ON THE IMPLEMENTATION IN MEXICO OF THE CONVENTION PROVISIONS SELECTED FOR ANALYSIS IN THE FIRST ROUND

Mexico submitted, along with its response, annexes containing the following provisions and documents:

A) ANNEXES IN SPANISH

1. Political Constitution of the United Mexican States (CPEUM)
2. Organic Law of the Federal Public Administration (LOAPF)
3. Organic Law of the Judicial Branch of the Federation (LOPJF)
4. Federal Law on the Administrative Responsibilities of Civil Servants (LRSP)
5. Organic Law of the General Congress of the United Mexican States (LOCGEUM)
6. Federal Law on Transparency and Access to Governmental Public Information (LFTAIPG)
7. Regulations to the Federal Law on Transparency and Access to Governmental Public Information (RLFTAIPG)
8. Law on the Professional Career Service in the Federal Public Administration (LSPCAPF)
9. Federal Law on the Administrative Responsibilities of Civil Servants (LFRASP)
10. Circular publishing the Code of Ethics of Federal Public Administration Civil Servants
11. 2001-2006 National Program to Combat Corruption and Promote Transparency and Administrative Development
12. Code of Conduct of the Public Servants of the Secretariat of the Comptroller's Office and Administrative Development
13. Budget, Accounting, and Federal Public Spending Law (LPCGPF)
14. Regulations of the Budget, Accounting, and Federal Public Spending Law (RLPCGPF)
15. Federal Treasury Service Law (LSTF)
16. Federal Law on Parastate Entities (LFEP)
17. Regulations to the Federal Law on Parastate Entities (LFEP)
18. Planning Law (LP)
19. Federal Administrative Procedure Law (LFPA)
20. Law on Public Sector Purchases, Leases, and Services (LAASSP)
21. Regulations of the Law on Public Sector Purchases, Leases, and Services (RLAASSP)
22. Regulations of the Law on the Professional Career Service in the Federal Public Administration (LSPCAPF)
23. Law on Public Works and Related Services (LOPSRM)
24. Regulations of the Law on Public Works and Related Services (LOPSRM)
25. Credit Institutions Law (LIC)
26. Federal Higher Oversight Law (LFSF)
27. Federal Criminal Code (CPF)
28. 2001-2006 National Development Plan (PND)
29. Internal Regulations of the Civil Service Secretariat (RISFP)
30. Agreement creating the Interagency Commission for Transparency and Combating Corruption in the Federal Public Administration (CITCC)
31. Circular publishing the Guidelines and Procedures for Control, Monitoring, and Collection of Fines, Economic Penalties, and Lists of Responsibilities
32. Decree on the Expenditure Budget of the Federation for fiscal year 2004 (PEF)
33. General Law on Public Debt (LGDP)
34. General Law on National Property (LGBN)

35. Agreement issuing the Manual of Budget Standards of the Federal Public Administration
36. Agreement issuing the Purpose-based Classification of Federal Public Administration Spending
37. Agreement issuing the Manual of Earnings of the Federal Public Administration
38. Agreement creating, as a permanent body, the Interagency Commission for Finance Spending for the Office of Public Spending Issues and the funding thereof, together with the programs assigned to the purview of the Secretariat of Planning and Budget and the Secretariat of the Treasury and Public Credit
39. Agreement establishing provisions for the use of remote electronic communications channels for submitting bids to public auctions held by the departments and agencies of the Federal Public Administration, and for lodging complaints through the same channels (COMPRANET)
40. Standards for the Administration and Disposal of Property belonging to Agencies of the Federal Public Administration
41. Federal Revenue Law for fiscal year 2004 (LIF)
42. Agreement on Strengthening the State System for Oversight and Evaluation of the Public Administration and Cooperation on Transparency and Fighting Corruption
43. Federal Code of Criminal Procedure
- 43 bis. Draft amendment on International Legal Assistance to the Federal Code of Criminal Procedure
44. Agreement identifying those civil servants required to file statements of net worth, in addition to those listed in the applicable law
45. Agreement setting the rules requiring statements of net worth to be presented by civil servants, using electronic communications channels
46. Law on the Bank of Mexico (LBM)
47. Internal Regulations of the National Human Rights Commission (RICNDH)
48. Agreement in which the Federal Electoral Institute sets the powers of its Internal Comptroller's Office
49. Federal Metrology and Standardization Law (LFSMN)
50. General Law on Ecological Balance and Environmental Protection (LGEEPA)
51. General Law on Social Development (LGDS)
52. Federal Law to Promote the Activities of Civil Society Organizations (LFFAROSC)
53. Form for initial or final statements of net worth
54. Form for modifying statements of net worth
55. Agreement establishing general guidelines for the direction, planning, authorization, coordination, supervision, and evaluation of the social communication strategies, programs, and campaigns of the departments and agencies of the Federal Public Administration
56. Agreements Nos. A/106/04 and A/107/04 of the Attorney General of the Republic, creating, respectively, the office of the Special Prosecutor for Fighting Corruption in the Institution and the office of the Special Prosecutor for Fighting Corruption in the Public Federal Service
57. International Extradition Law
58. Organic Law of the Office of the Attorney General of the Republic
59. Regulations to the Organic Law of the Office of the Attorney General of the Republic

B) ANNEXES IN ENGLISH

1. *Constitución Política de los Estados Unidos Mexicanos (CPEUM);*
Political Constitution of the United Mexican States
2. *Ley Orgánica de la Administración Pública Federal (LOAPF);*
Organic Law of the Federal Public Administration
6. *Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental (LFTAIPG);*
Federal Law of Transparency and Access to Public Government Information
9. *Ley Federal de Responsabilidades Administrativas de los Servidores Públicos (LFRASP);*
Federal Law of Administrative, Accountability of Public Servants
10. *Oficio-Circular por el que se da a conocer el Código de Ética de los Servidores Públicos de la Administración Pública Federal;*
Circular regarding the Code of Ethics of the Public Servants of the Federal Public Administration
11. *Programa Nacional de Combate a la Corrupción y Fomento a la Transparencia y el Desarrollo Administrativo 2001-2006;*
Anticorruption Program and Promotion for the Administrative Transparency and Development 2001-2006
12. *Código de Conducta de los Servidores Públicos de la Secretaría de Contraloría y Desarrollo Administrativo;*
Code of Conduct of the Public Servant of SECODAM
13. *Ley de Presupuesto, Contabilidad y Gasto Público Federal (LPCGPF);*
Law on Budget, Accounting and Federal Public Cost
14. *Reglamento de la Ley de Presupuesto, Contabilidad y Gasto Público Federal (RLPCGPF);*
Law on Budget, Accounting and Federal Public Cost
15. *Ley del Servicio de Tesorería de la Federación (LSTF);*
Law of Service provided by the Federal Exchequer
18. *Ley de Planeación (LP);*
Law on Planning
27. *Código Penal Federal (CPF);*
Federal Criminal Code
29. *Reglamento Interior de la Secretaría de la Función Pública (RISFP);*
Internal Regulation of the Ministry of Public Surveillance.
30. *Acuerdo por el que se crea la Comisión Intersecretarial para la Transparencia y el Combate a la Corrupción en la Administración Pública Federal (CITCC);*
Resolution creating the Commission on Transparency and Fighting Corruption in the Federal Public Administration
40. *Normas para la Administración y Baja de Bienes Muebles de las Dependencias de la Administración Pública Federal;*
Norms for the Administration and Disposal of Portable Assets of Federal Public Administration Dependencies
44. *Acuerdo por el que se determinan los servidores públicos que deberán presentar declaración de situación patrimonial, en adición a los que se señalan en la Ley de la materia;*
Ministry of Controller and Administrative Development Resolution determining the Public Servants that must file a disclosure of net worth in addition to those indicated in the applicable Law

45. *Acuerdo que establece las Normas que determinan como obligatoria la presentación de las declaraciones de situación patrimonial de los servidores públicos, a través de medios de comunicación electrónica;*

Resolution establishing the standards determining as obligatory, the filing of statements of net worth of Public Servant, through the electronic communication media
National resolution on transparency and the fighting against corruption.