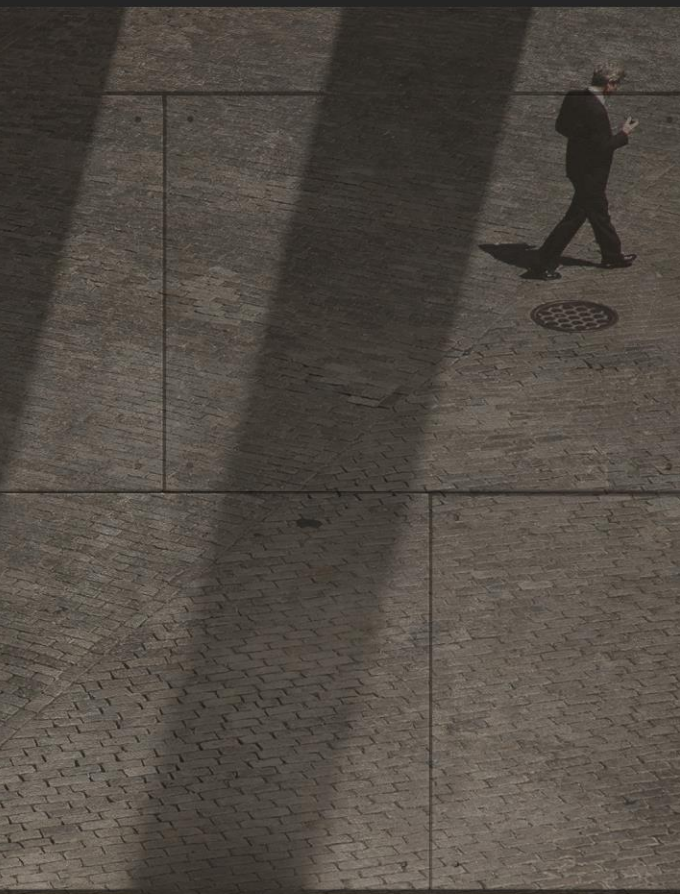




Implementing the OECD Anti-Bribery Convention



Phase 4 Two-Year Follow-Up Report: Mexico

Mexico – Phase 4

Two-Year Follow-Up Report

This report, submitted by Mexico, provides information on the progress made by Mexico in implementing the recommendations of its Phase 4 report. The OECD Working Group on Bribery's summary of and conclusions to the report were adopted on 12 March 2021.

The Phase 4 report evaluated and made recommendations on Mexico's implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 2009 Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions. It was adopted by the 44 members of the OECD Working Group on Bribery on 10 October 2018.

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SUMMARY AND CONCLUSIONS OF THE WORKING GROUP

Summary of findings¹

In October 2020, Mexico submitted its Phase 4 written follow-up report to the OECD Working Group on Bribery (Working Group). The report outlined Mexico's efforts to implement the 20 recommendations and to address the follow-up issues identified during its [Phase 4 evaluation](#) in October 2018. In light of the information provided, the Working Group concludes that Mexico partially implemented 11 recommendations, and did not implement 9 recommendations. Overall, the Working Group considers that Mexico did not deploy sufficient efforts to address Phase 4 recommendations, and is very concerned that Mexico has not fully implemented any of those recommendations. While the Working Group acknowledges that Mexico has engaged in large-scale legal and institutional reforms to enhance the fight against domestic bribery, it finds all the more regretful that measures to step up the fight against foreign bribery did not follow suit. Almost ten years after the Working Group's initial recommendation to strengthen whistleblower protection at the time of Phase 3, Mexico has still not enacted specific legislation to protect public and private sector employees who report suspicions of foreign bribery. Significant obstacles to reporting by government agencies also remain. As a result, Mexico has not detected one new foreign bribery case in the last two years. The Working Group welcomes Mexico's efforts to deploy the institutional framework to fight corruption initiated in 2016, although it is too early to measure its effect on foreign bribery enforcement. In particular, the Working Group will closely monitor how the nomination of a new special prosecutor will affect the investigation and prosecution of foreign bribery. Mexico's framework for the liability of legal persons for foreign bribery remains a source of concern to the Working Group. State-owned enterprises still cannot be held liable for foreign bribery, and the articulation of corporate liability standards found in three different laws remains unclear.

The Working Group is also highly concerned about the lack of foreign bribery enforcement in Mexico. Twenty years after the Convention's entry into force, Mexico has yet to successfully conclude its first foreign bribery case, not one foreign bribery case has moved past the investigative stage to date, and the number of investigations is lower than in Phase 4. At that time, investigations were ongoing against one natural and three legal persons, in four different cases. Since then:

- One investigation against a company was closed. Mexico established that it lacks jurisdiction over the case, even though the company at issue was wholly owned by a Mexican corporation.
- None of the three other investigations has proceeded to the prosecution stage. In Phase 4, Mexico had sent requests for legal assistance in the three countries where the bribery occurred. Those requests were reiterated, but Mexico took further investigative steps in only one case.

¹ The evaluation team for this Phase 4 two-year written follow-up evaluation of Mexico was composed of lead examiners from **Brazil** (*Ms. Elizabeth Cosmo*, Head of the Special Unit for International Affairs; *Mr. Marcelo Pontes Vianna*, Director of Law Enforcement of Legal Entities, *Mr. Renato Machado de Souza*, Director of Leniency Agreements; and *Mr. Ricardo Wagner de Araújo*, Special Advisor) and **Slovenia** (*Mr. Gregor Pirjevec*, Senior Advisor at the Commission for the Prevention of Corruption) as well as members of the **OECD Anti-Corruption Division** (*Ms. Elisabeth Danon*, *Ms. Maria Xernou*, and *Mr. Vitor Geromel*, Legal Analysts). See [Phase 4 Procedures](#), paras 54 et seq. on the role of Lead Examiners and the Secretariat in the context of two-year written follow-up reports.

- One allegation was known to Mexico but not investigated. A few days after the adoption of the Phase 4 report, Mexico declined to investigate, even though a Mexican company was at issue and foreign bribery proceedings are underway in another Member Country that has jurisdiction over the case.
- One new allegation has surfaced since Phase 4, but Mexico did not open an investigation.

The Working Group's summary and conclusions with respect to specific Phase 4 recommendations, which are presented below, were initially scheduled to be discussed and adopted by the Working Group at its December 2020 meeting. However, during that meeting, the Working Group took the exceptional decision to postpone the discussion to March 2021, in order to allow sufficient time for the evaluation team to review material submitted late by Mexico. The summary and conclusions reflect this material but, as agreed by the Working Group, no information or documents other than those submitted late in December 2020 by Mexico are accounted for in this current version. The summary and conclusions should be read in conjunction with the report prepared by Mexico.²

² DAF/WGB(2020)34

Regarding the detection of foreign bribery in the governmental sector:

- ◆ *Recommendation 1 (a) – Partially implemented:* Mexico took insufficient measures to raise public officials’ awareness of their obligation to report instances of foreign bribery that they detect in the course of carrying out their duties. The Ministry of Public Administration’s reporting system was designed to facilitate reporting of civil servants’ misconduct, rather than civil servants’ suspicions of foreign bribery. Similarly, the Federal Judicial Council (CJF)’s mailbox is irrelevant to the reporting of foreign bribery suspicions by public officials. The fact that the Office of the Prosecutor General of the Republic (FGR)’s “anti-corruption card” now includes foreign bribery in the list of corrupt conducts is positive, but further efforts should be made to ensure a broader distribution of the card.³ Additional steps, such as training and other proactive measures, should be taken to raise public officials’ awareness of their obligation to report.
- ◆ *Recommendation 1 (b) – Partially implemented:* Bancomext’s new Integrity Policy does not provide that reporting should be made to the FGR. As a result, foreign bribery suspicions may continue to be reported in an inconsistent manner. Regarding the second part of the recommendation, Bancomext delivered several presentations to its staff in 2019 and 2020, including two that made reference to foreign bribery and the OECD Anti-Bribery Convention, which is a step in the right direction.
- ◆ *Recommendation 1 (c) – Partially implemented:* The Mexican tax authorities are still not in a position to report suspicions of foreign bribery to the FGR or to share information in the context of a foreign bribery investigation. Indeed, Mexico failed to clarify that tax authorities can share suspicions of foreign bribery without violating the duty of confidentiality that apply when handling tax payers’ information. Mexico also failed to find a way to ensure that the FGR can communicate the ground of a request for information to the tax authorities. As a result, the FGR has sent several requests to the Tax Administration Service in the context of a foreign bribery investigation since Phase 4, without success. The draft reform to establish an explicit exception to fiscal secrecy to verify an act that may constitute a crime could be a step in the right direction, but there is no indication of when this reform should be expected, or whether it would in fact address the problem. The first two parts of the recommendation are thus not implemented. However, in December 2020, the Fiscal Prosecutor’s Office (PFF) adopted a protocol setting forth measures to facilitate the detection and referral of foreign bribery cases from the PFF to the FGR, including indicators of foreign bribery, which addresses the third part of the recommendation. The Working Group will follow up the application of the protocol in practice.
- ◆ *Recommendation 1 (d) – Partially implemented:* The Working Group welcomes the dissemination of the National Banking and Securities Commission’s (CNBV) guidelines on anti-corruption in February 2019, but regrets that they do not include specific guidance on how money laundering is predicated on foreign bribery. In Phase 4, the WGB considered that the publication and circulation of these guidelines should be sufficient to palliate the lack of foreign bribery typologies. However, the guidelines merely contain references to international materials on laundering of proceeds of corruption. In December 2020, Mexico

³ Since Phase 4, the Office of the Attorney General of the Republic (PGR) was replaced by the Office of the Prosecutor General of the Republic (FGR).

introduced new guidance on the detection of foreign bribery in financial operations and a case study that may serve as typology. The Working Group welcomes this initiative and will follow up the impact of these materials on Mexico's AML/CFT capacities to detect foreign bribery. The second part of the recommendation is not implemented, since not one suspicious transaction report (STR) received by the FIU since Phase 4 was based on a suspicion of money laundering predicated on foreign bribery. Therefore the FIU has not been in a position to provide feedback on such STRs.

- ◆ *Recommendation 1 (e) – Not implemented:* Mexico did not take measures to ensure that personnel dealing with incoming mutual legal assistance (MLA) requests within the FGR consistently submit information about foreign bribery allegations to the competent authority. The existence of a legal framework requiring authorities to report criminal offences to the competent law enforcement agencies was already in place at the time of Phase 4, and is insufficient to address the Working Group's concerns that called for this recommendation.

Regarding the detection of foreign bribery in the non-governmental sector:

- ◆ *Recommendation 2 (a) – Not implemented:* No concrete steps were taken to clarify that an external auditor who discovers indications of a suspected act of foreign bribery report this discovery to management, and, as appropriate, corporate monitoring bodies. While the training currently developed by the Tax Administration Service covers foreign bribery, it is still under development. It is thus too early to tell if it adequately addresses the WGB's concerns regarding reporting by external auditors. The "Report of Findings", in which the Federal Public Assets Control Office compiles the reports and observations of audit firms, is not new and, as already observed in Phase 4, applies to auditors of public entities.
- ◆ *Recommendation 2 (b) – Not implemented:* The Working Group is highly concerned that despite a recommendation dating back from Phase 3, Mexico has yet to adopt specific legislation to protect public and private sector employees that report in good faith and on reasonable grounds suspected acts of foreign bribery. Mexico took important measures to facilitate reporting of allegations of misconduct by Mexican government officials, including the establishment of an online platform. The Ministry of Public Administration (SFP) further introduced guidelines and a protocol setting forth protective measures for citizens reporting through the platform. Although commendable, none of these initiatives are relevant to foreign bribery reporting, nor do they amount to a legislation. In Phase 4, the Working Group considered that legislation was all the more needed given the newly-adopted provisions on legal person liability for foreign bribery, which set forth that the implementation of whistleblower protections and reporting channels can mitigate corporate liability. At the time, it was unsure how potential whistleblowers could be guaranteed effective protections through company whistleblower programmes in the absence of a supporting legislative framework that would protect them in the event of violations of company rules. Since then, Mexico reaffirmed the importance for private sector companies to develop internal whistleblower programmes within companies. In particular, the Business Integrity Register now includes protection of the rights of reporting persons as an element of effective corporate programmes. While acknowledging important developments in Mexico in the area of whistleblower protection hopefully leading to the adoption of a general legal framework, the WGB, having in mind very specific text of the recommendation, can only conclude that

it has not been implemented.

- ◆ *Recommendation 2 (c) – Partially implemented:* The fact that the staff of embassies and consulates were reminded to report suspicions of foreign bribery does not amount to a proactive measure to support monitoring of local media by staff posted abroad. Other measures reflected in Mexico’s report are not relevant to the recommendation.

Regarding the investigations and prosecution of foreign bribery:

- ◆ *Recommendation 3(a) – Not implemented:* The lack of proactive investigative measures in foreign bribery investigations remains a serious cause for concern. In Phase 4, investigative measures had been implemented in two of the then four ongoing investigations. The other two had been respectively archived and suspended pending responses to outgoing MLA requests. Two years later, none of these investigations proceeded to the prosecution stage, and only three remain ongoing, including one that is still archived. The now FGR has sent outgoing MLA requests in all three investigations. Further investigative measures were taken in only one of them since Phase 4, and they were limited to requests of pre-existing information from domestic public authorities. In the other two ongoing investigations, no measures were taken following outgoing MLA requests.
- ◆ *Recommendation 3(b) – Not implemented:* Mexico has taken no concrete steps to impose effective, proportionate and dissuasive penalties for foreign bribery where an offender did not have a net income, or where the net income could not be ascertained at the time of the offence. As a result, minimum wage still serves as a reference when the offender’s income was non-existent or unascertainable at the time of the offence. As already observed in Phase 4, general principles governing penalties and additional sanctions that may be imposed besides pecuniary ones do not alleviate the WGB’s concerns.
- ◆ *Recommendation 3(c) – Partially implemented:* The Working Group welcomes the appointment of the Head of the Special Prosecutor’s Office for Corruption-related Offences (FECC). Mexico has also taken significant measures to ensure that the National Anti-Corruption System (NACS) becomes fully functional, including the adoption of the National Anti-Corruption Policy (PNA) by the NACS Coordination Committee. However, additional measures are necessary for the NACS to become fully functional. Moreover, the General Law of Administrative Responsibilities (GLAR) coverage of foreign bribery cases has yet to be confirmed. Finally, additional steps are necessary to finalise the two other reforms. Despite efforts by the Mexican authorities, judges of the Federal Court of Administrative Justice (TFJA) have yet to be appointed. Review of the Anti-Bribery Protocol is pending to align with other ongoing anti-corruption reforms.
- ◆ *Recommendation 3 (d) – Partially implemented:* The Working Group welcomes the fact that the FECC is now operational. The FECC reportedly counted 56 staff and a budget of 110 million Mexican Pesos (approx. USD 5.2 million) for the year 2020. However, the number of public servants and the portion of the budget allocated to foreign bribery cases is unknown. Considering the extensive range of the FECC’s attributions, it remains uncertain whether resources are sufficient to adequately investigate and prosecute foreign bribery. Additionally, none of the trainings offered to the FECC personnel since it became operational focused on foreign bribery. Mexico initially did not share information on the

resources allocated to the investigation and prosecution of foreign bribery up until March 2019, but eventually reported that by March 2019, a total of six public officials were assigned to the investigation of foreign bribery cases.

- ◆ *Recommendation 3 (e) – Partially implemented:* The Working Group welcomes the organisation of the “Seminar on the crime of foreign bribery” and the trainings of Mexican judiciary staff to raise awareness of the National Anti-Corruption System. However, judges are not regularly trained on criminal liability of legal persons for foreign bribery.
- ◆ *Recommendation 3 (f) – Partially implemented:* While Mexico demonstrated that the PFF is aware of the links between foreign bribery, fiscal, and financial crimes, it failed to report measures taken to ensure that law enforcement authorities responsible for investigating transnational criminal organizations are aware of potential links with foreign bribery. In December 2020, the PFF adopted a protocol clarifying the competent authority’s obligations to coordinate and share information with the FGR regarding financial investigations that involve the proceeds of foreign bribery.
- ◆ *Recommendation 3 (g) – Partially implemented:* The Sole Service Window initiative and the publication of the Code of Ethics for the Public Officials of the FGR are relevant steps to increase trust in Mexico’s anti-corruption prosecutors and public servants. The Working Group welcomes these initiatives, which should contribute to addressing the first part of the recommendation. However, such measures do not fully alleviate the Working Group’s concerns regarding the risk of information on ongoing investigations being leaked to the press, which could have a chilling effect on reporting and voluntary disclosure. As regards the second part of the recommendation, the Working Group recommended that Mexico appoint the Head of the FECC, which was done in accordance with the new constitutional framework in January 2019 (see also recommendation 3(a)).

Regarding the liability of legal persons:

- ◆ *Recommendation 4 (a) – Not implemented:* Under Mexican Law, a company can be held criminally liable under Article 11 of the Federal Penal Code (CPF), which foresees corporate criminal liability, and under Article 421 of the National Code of Criminal Procedure (CNPP), which sets forth a foreign bribery offence for “failure to comply with internal controls”. Since 2017, a company can also be held liable under the GLAR, which establishes corporate administrative liability. In Phase 4, as standards on internal controls pursuant to the newly adopted Article 421 of the CNPP were unclear, the Working Group recommended that Mexico clarify that standards in Article 25 of the GLAR would be used to establish corporate liability under Article 421 of the CNPP. In the discussions leading up to the adoption of this report, Mexico explained that the standards under Article 25 of the GLAR aim to incentivise companies to develop internal controls and compliance systems, but do not interact with liability under Article 421 of the CNPP. Nonetheless, more than two years after its adoption, internal controls requirements under Article 421 of the CNPP remain unclear, which risks undermining Mexico’s efforts to incentivize compliance through the GLAR. Since Phase 4, Mexico has taken no concrete measures to clarify which standards apply when corporate criminal liability is imposed for failure to comply with internal controls. The resolution on administrative responsibilities adopted by the CJF does not provide any clarifications on that point and is limited to administrative liability under the

GLAR. Additionally, Mexico did not engage in adequate awareness-raising activities to clarify these standards among the private sector.

- ◆ *Recommendation 4(b) – Not implemented:* Mexico did not take measures to harmonise and consolidate Article 11 of the CPF and Article 421 of the CNPP regarding the criteria for triggering legal persons’ criminal liability for foreign bribery, and clarify that the consolidated provision is the basis for the criminal liability of legal persons for foreign bribery. As the requirements under the two provisions still differ substantially, the WGB remains concerned that their application could result in different outcomes for the same case.
- ◆ *Recommendation 4(c) – Not implemented:* The Working Group regrets that state-owned enterprises (SOEs) are still not liable under the Mexican legal framework for criminal (Article 11 CPF and Article 421 CNPP) and administrative corporate liability (Articles 24-25 GLAR). Sanctions imposed by SOEs against natural persons under the GLAR are not relevant to recommendation 4(c), as it targets the liability of the legal person.
- ◆ *Recommendation 4(d) – Not implemented:* Mexico did not take measures to routinely confiscate the bribe and its proceeds upon conviction for foreign bribery. In the absence of foreign bribery resolutions, there are no records of confiscation of the bribe and the proceeds of foreign bribery.
- ◆ *Recommendation 4 (e) – Partially implemented:* The Business Integrity Register has the potential to increase Mexico’s engagement with the private sector, including SMEs. However, it has not been operational long enough to allow an assessment of its results. Additionally, the Business Integrity Register was primarily designed for companies willing to do business with the Mexican government, rather than those operating or willing to operate abroad. Finally, Mexico did not take necessary actions to promote awareness of the new corporate liability regimes for foreign bribery, and effective compliance measures for complying with those regimes.

Dissemination of the Phase 4 report⁴

Mexico did not make efforts to publicise and disseminate the Mexico Phase 4 report.

⁴ The [Phase 4 procedures](#), para. 50, provide that “the evaluated country should make best efforts to publicise and disseminate the report and translated documents, for example, by making a public announcement, organising a press event, and translating the full report into the national language. In particular, the evaluated country should share the report and translated documents with relevant stakeholders, particularly those involved in the evaluation”.

Conclusions of the Working Group on Bribery

Based on these findings, the Working Group concludes that of Mexico's 20 recommendations, 11 have been partially implemented (recommendations 1(a), 1(b), 1(c), 1(d), 2(c), 3(c), 3(d), 3(e), 3(f), 3(g) and 4(e)); and 9 have not been implemented (recommendations 1(e), 2(a), 2(b), 3(a), 3(b), 4(a), 4(b), 4(c) and 4(d)). None of the recommendations have been fully implemented. The Working Group invites Mexico to report back in writing within one year (i.e. by March 2022) on outstanding recommendations 1(a), 1 (c), 1(d), 2(b), 3(a), 3 (f) and 4(a), as well as on the status of foreign bribery enforcement. As per the Phase 4 procedures (para. 60), Mexico may also ask for additional recommendations to be re-assessed at that time. The Working Group will continue to monitor follow-up issues as case law and practice develop. Mexico will also report to the Working Group on its foreign bribery enforcement actions in the context of its annual update.

ANNEX - WRITTEN FOLLOW-UP REPORT BY MEXICO

Instructions

This document seeks to obtain information on the progress each participating country has made in implementing the recommendations of its Phase 4 evaluation report. Countries are asked to answer all recommendations as completely as possible. Further details concerning the written follow-up process is in the [Phase 4 Evaluation Procedure](#) (paragraphs 51-59).

Responses to the first question should reflect the current situation in your country, not any future or desired situation or a situation based on conditions which have not yet been met. For each recommendation, separate space has been allocated for describing future situations or policy intentions.

*Please submit completed answers to the Secretariat on or before **18 September 2020**.*

Name of country: MEXICO

Date of approval of Phase 4 evaluation report: 10 October 2018

Date of information: 2 October 2020, with additional information on 23 and 27 October 2020

PART I: RECOMMENDATIONS FOR ACTION

Text of recommendation 1(a):

1. Regarding the detection of foreign bribery in the governmental sector, the Working Group recommends that Mexico:

a. Intensify efforts to raise awareness of all public officials of their obligation to report instances of foreign bribery that they detect in the course of carrying out their duties [2009 Anti-Bribery Recommendation III.i; IX.ii].

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

In order to intensify efforts to raise awareness of all public officials of their obligation to report instances of foreign bribery that they detect in the course of carrying out their duties, the Mexican authorities have adopted the following measures:

Office of the Prosecutor General of the Republic (FGR)

The Office of the Prosecutor General of the Republic has formulated the denominated “Anti-Corruption Card” a project developed for the purpose of prioritizing prevention of acts of corruption in institutions, into which the following elements were integrated:

- Principal obligations of the Institution’s decision-making personnel.
- Corruption definition and the description of conduct that constitutes corrupt conduct crimes.
- Channels to file accusations of corrupt conduct by public officials under the Office of the Prosecutor General of the Republic (including the Citizen Service system (VISITEL, due to its initials in Spanish).

The card is both informational and preventive in nature; it seeks to contribute to the Institution’s public officials, raising awareness regarding their obligations to the citizenry in the performance of their duties,

observing the principles of legality, honesty, impartiality, efficiency and the absolute respect for human rights that should govern their activities.

Likewise, it intends to promote the culture of reporting of possible acts of corruption by the Institution's public officials, integrating into a portion the description of the conduct which constitutes corruption crimes, so that the citizens know how said conducts are criminally defined and may identify them should they arise.

In this regard, it is important to mention that in this year, the Anti-Corruption Card was updated integrating into the criminally defined conduct portion the crime of Bribery of Foreign Public Officials (International Bribery) provided for and penalized by article 222 Bis of the Federal Criminal Code, for the purpose of preventing this crime in our country. Furthermore, information regarding the objective of the Anti-Corruption Convention was incorporated therein.

In the period from December 23, 2019 to January 7, 2020, 12,500 copies of the "Anti-Corruption Card" were distributed, throughout different zones of Mexico City and the metropolitan area of the Valle de Mexico. In addition, the Office of the Special Internal Affairs Prosecutor has 70,000 (seventy thousand) copies of the new version of the Anti-Corruption Card, that once the Coronavirus "COVID-19" epidemiological monitoring conditions permit ensuring the safety and protection of the health of the Institution's public officials, its dissemination campaign will continue at locations with large gatherings of people.

It should be mentioned that, in addition to physical distribution of the Card, its updated version is available to the public officials of the Office of the Prosecutor General through the portal <http://intranetpgr/>, and for the general public on the FGR web site http://www.transparencia.pgr.gob.mx/es/transparencia/transparencia_focalizada.

Ministry of Public Administration (MPA)

In accordance with the provisions of Article 49, section II of the General Law on Administrative Responsibilities (GLAR), public servants are obliged to report acts or omissions that they may notice in the exercise of their duties, which may constitute administrative faults, such as bribery and collusion referred to in Articles 66 and 70 of the aforementioned legislation, when they arise in international commercial transactions in which such public servants participate.

The administrative impunity in the Federal Government that was allowed to grow during the previous administrations generated a negative impact on civil society, by permeating the feeling of ineffectiveness of the authorities in imposing sanctions on all those public servants who committed acts of corruption. As a result, trust in the Government was very much damaged, which was reflected in the low rates of receipt of reports against this type of act, as well as the perception among the population that it is useless to report if the authorities do not do something about it.

In this sense, it is a priority of this Federal Government to carry out effective actions to stop corruption and impunity, in order to guarantee the citizenry an efficient and constantly evolving Federal Public Administration.

For this reason, in the present administration the MPA has carried out a forceful and accurate fight against corruption, stressing on the creation of communication channels between society and the government, taking advantage of the use of new technologies, and strengthening the mechanisms of reports against public servants for alleged irregularities committed in the exercise of their functions, linked to serious administrative offences.

In this sense, it is clear that citizen trust has been strengthened due to the actions that the MPA has undertaken in the fight against corruption. This can be seen in the substantial increase in the number of reports received for alleged serious administrative offences, which not only contain the desire of the citizenry to apply administrative sanctions in strict compliance with the provisions of the General Law of Administrative Responsibilities (LGRA), but also the trust that the MPA, through the General Directorate of Reports and Investigations (DGDI) and its Internal Control Bodies (ICO), will carry out the corresponding investigations to address, monitor and were applicable, sanction the reports received.

The reports received in the MPA from September 1, 2019 to July 27, 2020, amount to 22,411, of which 3,559 have been concluded.

Of the investigations carried out, the most recurrent offences for which investigations are being carried out are:

- Hidden enrichment or concealment of conflict of interest.
- Diversion of public resources
- Undue public procurement;
- Acting under conflict of interest; and,
- Abuse of functions.

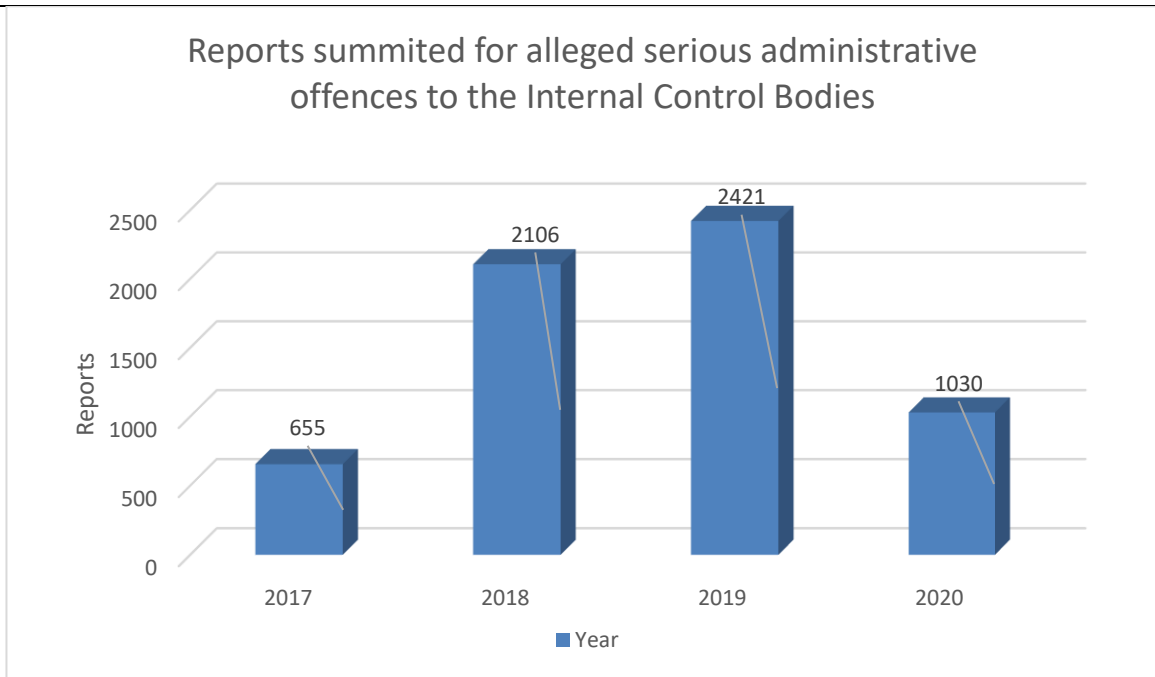
This year, during the pandemic, the DGDI, in only fifteen days, investigated and obtained the disqualification of four public servants for committing administrative offences for the acquisition of ventilators at extra cost.

Internal Control Bodies

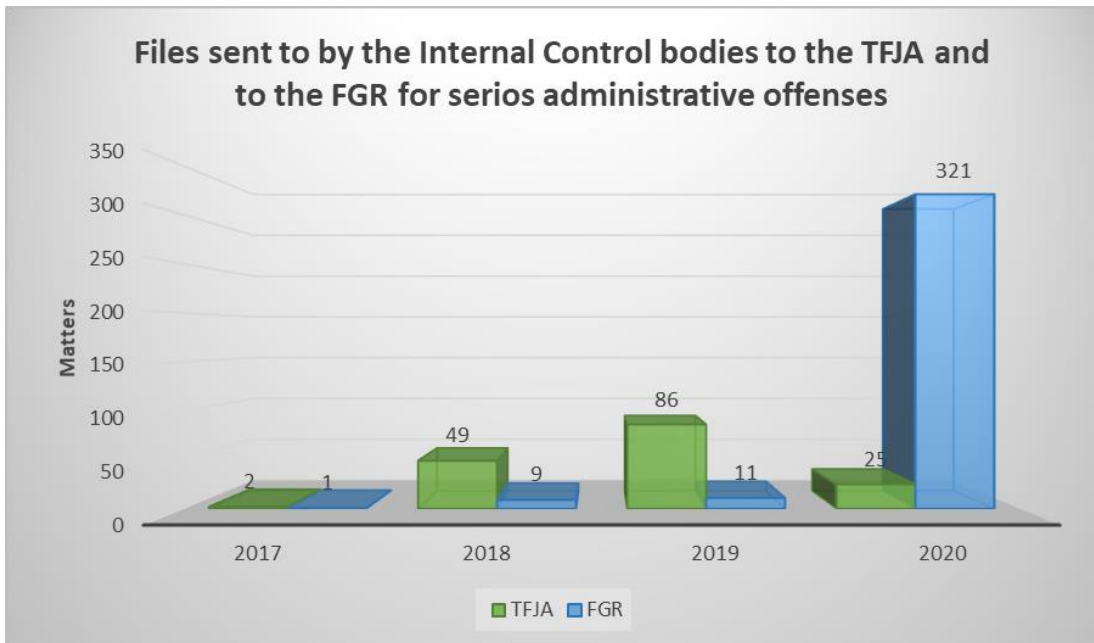
The internal control bodies are the administrative units of the MPA, in charge of promoting, evaluating and strengthening the proper functioning of the internal control in the Ministries, including their decentralized administrative bodies and entities.

The number of reports received by the Internal Control Bodies in their various branches of the Federal Public Administration for **alleged serious administrative offences**, during 2018, 2019 and August 2020, are the following: **2,106** reports received in 2018, **2,421** reports received in 2019 and **1,030** reports received up to August 2020. This generated a total of **5,557 reports**, which represents a growth of more than 100% in the number of reports received with respect to 2017, when only 655 reports were received for alleged serious administrative offences.

For greater clarity, below is a graph reflecting the evident growth in the number of reports received for alleged serious administrative infractions before the Internal Control Bodies of the MPA.

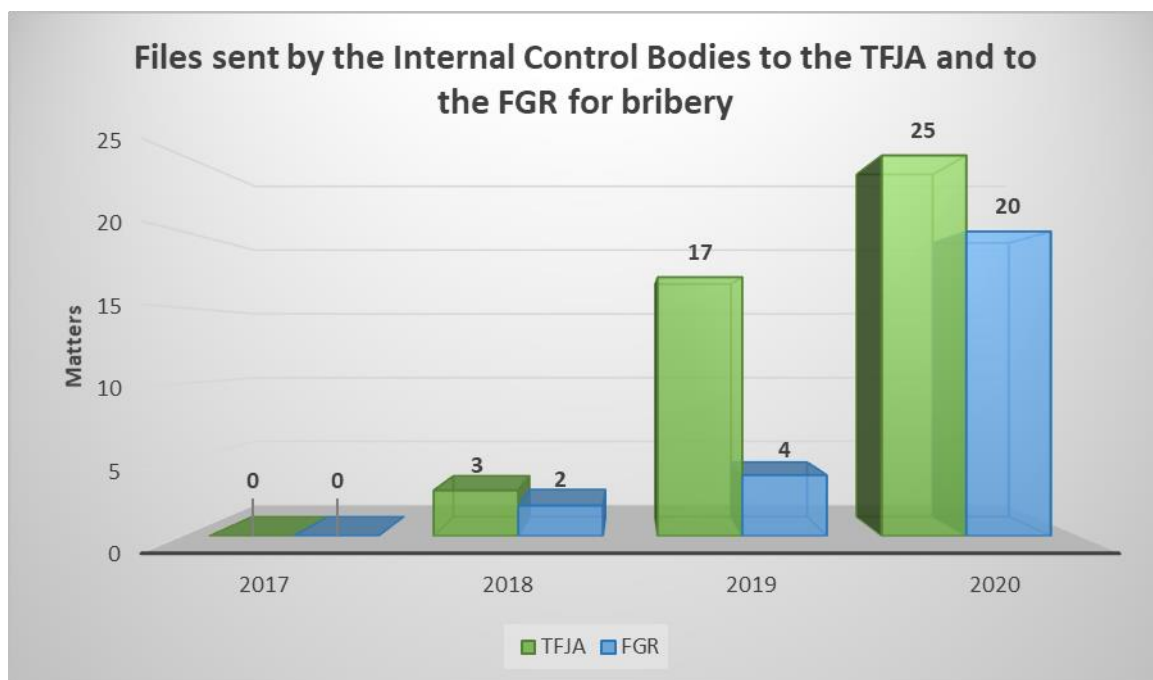


In addition, during 2018, 2019 and until August 2020, **160 files** related to serious administrative offenses have been sent to the Federal Court of Administrative Justice (TFJA), and likewise, the Office of the Prosecutor General of the Republic (FGR) has been notified of **321 matters**; which far exceeds the actions carried out in 2017, in which only 2 files were sent to the TFJA and one to the FGR, which is represented in the following chart.



However, with regard to irregular conduct consisting of the serious administrative offence established in Article 52 of the LGRA, that is, bribery, the MPA, through the ICOs in different ministries of the Federal Public Administration, has seen a considerable increase in the receipt of reports related to this conduct, since 321 reports were received in 2018, 804 reports in 2019, and 248 reports up to August 2020; this generated a total of 1,373 reports, in contrast to the 94 reports received in 2017.

Additionally, during 2018, 2019 and until August 2020, **45 files** related to the alleged serious administrative offences consisting of bribery by public servants have been sent to the TFJA, and likewise, the FGR has been notified on **26 matters** related to this conduct. This shows the interest and actions taken by this administration in the fight against bribery, since in 2017 no files were sent to the TFJA and none to the FGR related to investigations regarding alleged bribery as shown in the following graphic the number of files sent by the Internal Control Bodies to the TFJA and to the FGR for bribery from 2017-2020.



However, in order to ensure that the reports received lead to an administrative sanctions by the TFJA, or to criminal sanctions by the FGR, actions have been taken to improve the processes of the substantive authorities responsible for following them up, so that they have adequate and sufficient elements to prove the commission of the irregular conduct constituting a serious administrative offence.

Thus, the investigations carried out have administrative intelligence mechanisms that include innovative techniques, field research, and information analysis, for the development of networks that make it possible to detect links and networks of corruption carried out by public servants. Likewise, the use of administrative intelligence, information technologies, and the implementation of mechanisms already established in the regulations in force, such as verification visits, hearings, and interviews with citizens and public servants who have knowledge of acts of corruption, are used to promptly respond to citizen reports.

In short, the MPA, through the ICOs in the Federal Public Administration, has a clear and certain commitment to fight corruption vigorously, and to that end it is redoubling its efforts not only to encourage the filing of reports, but also to carry out the necessary investigations to ensure that the TFJA and the FGR, as appropriate, have sufficient elements to impose administrative or criminal sanctions, respectively, for acts of corruption that undermine the legality and rule of law in our country.

Financial Intelligence Unit (FIU)

Seeking continuous updating and awareness about the subject, detailed information regarding the content and scope of OECD's *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* and its relation with ML was disseminated to public officials working at México's FIU, especially those working at the areas of operations and strategic analysis.

Also, several documents published by the FATF and the OECD with a particular focus on ML related corruption were distributed:

- *Best Practices Paper: The Use of the FATF Recommendations to Combat Corruption*
- *Corruption. A reference Guide and Information Note on the use of the FATF Recommendations to support the fight against corruption.*
- *Specific Risk Factors in Laundering the Proceeds of Corruption: Assistance to Reporting Entities.*
- *Guidance on Politically Exposed Persons (Recommendations 12 and 22)*
- *Laundering the Proceeds of Corruption*
- *Identification and Quantification of the Proceeds of Bribery.*
- *Typology on Mutual Legal Assistance in Foreign Bribery Cases.*

Ministry of Foreign Affairs - AMEXCID

The Mexican Agency for International Development Cooperation (AMEXCID) regularly instructs Mexican embassies and consulates abroad to disseminate the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of the Organisation for Economic Co-operation and Development (OECD) between Mexican entrepreneurs and investors with activities abroad, as well as chambers of commerce and other business associations.

Since 2020, AMEXCID has been working with the Ministry of Foreign Affairs to report on the commitments and cross-cutting indicators to the entire Federal Public Administration of the National Program to Combat Corruption and Impunity and to Improve Public Management 2019-2024, led by the Ministry of Civil Service.

AMEXCID also requests the Mexican Foreign Offices to inform the General Directorate of Legal Affairs on a permanent basis of the tentative cases of international bribery detected, including those reported through the media involving Mexican companies or investors are involved. nationals with government agents abroad

Tax Administration Service (SAT)

On March 10, 2020, the Tax Administration Service (SAT), through its General Administration of Federal Fiscal Audit (AGAFF), held a face-to-face conference given jointly by members of the SAT, the United Nations Office on Drugs and Crime (UNODC) and the U.S. Embassy, among others, which addressed the topic "Prevention of Money Laundering in Vulnerable Activities", including within its content the aspect of national and international bribery.

Derived from this event, the Training Central Administration (ACCCH) produced a video that will serve to continue teaching the subject in the coming months within the SAT.

Additionally, the Digital Educational Collection has the following material: "Detection of National and International Bribery", which is available to all SAT personnel.

National Bank of Foreign Trade (Bancomext)

As a result of OECD's recommendations, Bancomext strengthened its Internal Control System, and it has developed and managed measures to set up an Anti-bribery culture in the Institution, such as:

Integrity Policy of National Bank of Foreign Trade, S.N.C. (Bancomext)

Bancomext developed an Integrity Policy of National Bank of Foreign Trade, S.N.C., to strengthen the ethical culture to detect, prevent, and report corruption acts, which is mandatory for all employees, clients, suppliers, and third parties that act on behalf of Bancomext.

Also, that Policy establishes the guidelines for all the Bank's public servants to identify acts of corruption and the measures to face, fight, and report them.

Finally, Bancomext states non-acceptance of corruption and express that the compliance of the Code of Conduct for employees, clients, and third parties, is an essential element to have trustful commercial relations, investments, and use of resources.

Strengthening of the controls in the loan origination process

In 2017, it was carried out a diagnostic in Bancomext that allowed to identify some opportunity areas related to anti-corruption; especially, in the loan origination process, in the stages of assessment of requirements, promotion management, borrowers assessment, and follow-up.

As a result, Bancomext, along with Ernst & Young consulting, strengthened the internal controls in the loan origination process to close the gaps identified in 2017 diagnostic and the OECD recommendations.

Additionally, Bancomext, as a financial institution, carries out the Due Diligence process to assess loan applicants. Always, Bancomext must fulfill with banking standards that regulate its acts and prevent possible credit and reputational risks that can occur, affecting the attainment of its goals, resources, and public image. In this sense, Bancomext encourages its clients to adopt acceptable corporate practices.

However, Bancomext has strengthened all its Agreements to consider the assumptions related to acts of bribery in Mexico or overseas.

Awareness

It is worth noting that Bancomext periodically trains all its employees in subjects related to the prevention, detection and reporting of transactions involving illegally-sources funds (Anti-Money Laundering) and Financing Terrorism and bribery.

Also, there is a Code of Conduct mandatory for all public servants, Board members, and third parties inside the Institution, no matter the contractual relationship. The Code sets up guidelines relating to ethical values, institutional principles, expected behaviors, conflicts of interest, integrity rules, and reports and claims attention measures. The Code is updated every year, approved by the Ethics Committee and Conflicts of Interest Prevention of Bancomext and the General Board of Directors. Later is publicity inside the Institution.

Additionally, it is worth noting that Bancomext trains all its employees in many related subjects through e-learning courses mandatory for all employees.

Finally, Bancomext developed an anti-corruption booklet for clients and potential clients to let them know about the local and international corruption environment, the guidelines and applicable regulation, and the possible sanctions for non-compliance of the firms with the anti-corruption laws. Also, It provides recommendations to build-up an effective compliance program against corruption. The booklet can be found at www.bancomext.com.

Federal Judiciary Council (CJF)

To date, the Federal Judiciary Council has implemented the following measures:

➤ **Council's electronic mailbox for the reception of reports and denunciations of the Council.**

One of the fundamental objectives of the CJF in the areas of surveillance and discipline is to detect, prevent, punish and eradicate conducts that damage the operation, image and institutional credibility of the Federal Judicial Branch (hereinafter, PJJ). Among the conducts to be prosecuted are bribery and any type of corruption, that may affect the public service of administration of justice.

In that sense, an electronic mailbox was created for public servants, as well as for the general public, which is available 24 hours a day, 365 days a year and can be reviewed at <http://www.cjf.gob.mx/buzondenuncia/>. In this link you can find the ways to submit a report, its minimum requirements, CJF's jurisdiction, as well as a telephone number, from Monday to Friday from 9:00 to 18:00. A new version of the mailbox will be completed in the coming months, focusing on preventing and combating nepotism, sexual harassment, and corruption in general within the PJJ.

➤ **Measures that ensure the continuous dissemination and knowledge of the Code of Ethics, which governs the activities of the public servants belonging to the PJJ.**

Since December 2004, the PJJ established a Code of Ethics, which can be reviewed by the three institutions that comprise it, namely the CJF⁵, the Supreme Court of Justice⁶, and the Federal Electoral Tribunal⁷, and each of them has its own link to be checked upon internally by its members.

This code aims to further the principles, rules and virtues inherent to the jurisdictional function, which define the constitutional principles of the judicial career whose principle trait is the judge's independence. It emphasizes the need to establish in a document, in a systematized manner, the guidelines that constitute an institutional reference to encourage and facilitate critical reflection by each judge on his or her conduct. Its structure is divided into five chapters: Independence, Impartiality, Objectivity, Professionalism and Excellence.

Likewise, since 2007, there is a National Code of Ethics for the United Mexican States Law Enforcement Officials⁸, prepared by the Mexican Association of Law Enforcement Officials (AMIJ).

In order to enhance the effects of both actions and give them renewed relevance in the current context, the Council, through the Institute of the Federal Judiciary (hereinafter, IJJ), its auxiliary body in the field of education, training and updating, has implemented some relevant measures in this regard, among which are the implementation of academic programs to strengthen the diffusion of ethical and value dimension

⁵ Available at: <http://portalconsejo.cjf.gob.mx/resources/documentos/codigoeticapjf.pdf>

⁶ Available at: www.scjn.gob.mx/sites/default/files/material_didactico/2016-11/codigo-de-etica.pdf

⁷ Available at: www.te.gob.mx/sites/default/files/page/2013/08/codigo_modelo_pdf_19937.pdf

⁸ Available at: <https://amij.org.mx/wp-content/uploads/2019/12/CodigoNacionalDeEtica.pdf>

that governs the activity of public servants belonging to the federal judiciary, such as the performance, in the period reported, of the lecture series "The influence of values in the Mexican Legal System"; This activity is aimed precisely at strengthening the dissemination of the principles and virtues contained in ethical standards, as well as the constitutional values that govern the judicial function.

Secondly, during the framework of the "Internal Control Work Program 2020. Administrative Area" and, as a result of the Evaluation of the Institutional Internal Control System of the CJF, a campaign was carried out to spread both, the Code of Ethics of the PJJ, and the General Law of the National Anti-Corruption System, by sending an e-mail with links to both documents to all the members of the Judicial Academy.

➤ **Draft of a new Code of Ethics for CJF Public Servants.**

The Comptroller's Office of the Federal Judiciary (hereinafter, CPJF) has prepared a project called "*General Agreement of the Plenary of the Federal Judiciary Council, by which the Code of Ethics for the Council's Public Servants is issued*", following the guidelines issued by the National Anti-Corruption System and according to the Federal Judiciary Council needs.

This project will soon be presented to the Plenary of the CJF for its approval, with the aim to provide a tool that will encourage the culture of legality, public ethics, and integrity, through the following objectives:

- Strengthen ethical and trustworthy public service, to establish the role of those who perform a public service and influence their behaviour and performance, with a sense of belonging.
- Implement the constitutional principles that govern public service within the Judicial Branch of the Federation, such as: legality, honesty, loyalty, impartiality, efficiency, economy, discipline, professionalism, objectivity, transparency, accountability, qualifications by achievements, effectiveness, integrity, and equity.
- Avoidance of conducts from the judicial public service that go against those values.
- Establish that no acts contrary to the principles already established will be allowed. If so, liability proceedings will be initiated.
- Profiling the behavior of the public servants of the PJJ in accordance with the established behaviour.
- Launching plans for training, in coordination with the Institute of the Federal Judiciary, in order to generate a culture of ethical and trustworthy public service.

On the other hand, within its jurisdiction, the Comptroller's Office and the Executive Secretariat of Discipline act within the legal framework on the subject of responsibilities applicable to public servants, in accordance with the provisions of the General Law of Administrative Responsibilities (hereinafter, LGRA). In that sense, in the cases where an illegal conduct is detected, after a Report of Alleged Administrative Responsibility is filed, they would be responsible of the proceedings of the administrative responsibility case, and propose to the decision-making bodies a resolution according to the law.

Independently of the above, in the last months, within the CPJF' attributions regarding the regulation of the Statements of Asset Status and Interests, registration and follow-up of the patrimonial evolution of the public servants of the CJF, it is being analyzed the possibility of applying "indicators" in the existing mechanisms and instruments, that allow to identify in the assets of public servants: unusual income; low amount disposition of resources, but systemic or significant in amount, which are the result of or proceed from the rendering of advisory or consultancy services, when the beneficiary is someone with full time responsibilities, with brief or null experience or skills; opening or closing of bank accounts, if applicable, investment or savings accounts, which for months maintain considerable balances and towards the end of the financial year end with no balance; or income from the leasing of goods, with characteristics that make this type of income implausible; management of cash or personal loans with third parties or family members, without specifying the destination of such resources and without applying the resources or

seeking payment of the debt; or disposal of cash for expenditures or for any other purpose, the origin of which does not correspond to the public remuneration or the income reported by the public servant for other concepts.

The application of these indicators, in accordance with Article 30 of the LGRA, and a random selection of public servants, whose assets will be studied, applying a methodology that considers the risk of acts of corruption, proposes to review the reliability between revenues and their application, in a given period, and if there is any anomaly to carry out the relevant investigation and, if appropriate, as a result of it, to submit a Report of Alleged Administrative Responsibility to the competent authority.

This methodology includes CJF public servants who have decision-making and management powers over public resources, whether they are from the jurisdictional bodies, auxiliary bodies, or administrative areas.

Although, the CJF has not detected a case according to the OECD Convention against International Bribery, the actions leading to its identification, within the scope of the powers of the CPJF, have not ceased to be exercised. In this regard, the audits carried out by the CPJF in bidding procedures, procurement or public works, and services in general, provide information needed to determine that participation of international companies located in the country in such procedures is minimal.

Thus, the CPJF according with its attributions, promotes and strengthen the supervision and internal control mechanisms for the improvement of operative and strategic processes, executed by the administrative areas of the CJF, in which risks of corruption are identified. This contributes to the activities related to the prevention, detection, deference, and disincentive acts of corruption, that may cause damages to CJF; which, if detected, with the participation of a third party, individual or legal entity, a corresponding report is filed to the competent authority.

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

Text of recommendation 1(b):

1. Regarding the detection of foreign bribery in the governmental sector, the Working Group recommends that Mexico:

- b. As a matter of priority ensure that Bancomext, Mexico's Official Export Credit Support agency:
 - i. report elements that may constitute the bribery of foreign public officials directly to PGR. This recommendation is not intended to affect any FATF recommendations regarding the obligation of financial institutions to refer STRs to FIU where foreign bribery is a predicate offence to money laundering [2006 Export Credit Recommendation]; and
 - ii. train its staff on the policies on and procedures for debarment, and detecting and reporting foreign bribery [2009 Anti-Bribery Recommendation XII.ii].

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

- i. **report elements that may constitute the bribery of foreign public officials directly to PGR. This recommendation is not intended to affect any FATF recommendations regarding the obligation of financial institutions to refer STRs to FIU where foreign bribery is a predicate offence to money laundering [2006 Export Credit Recommendation]; and**

Besides all the measures implemented by Bancomext informed in recommendation 1 (a) to strengthened our Internal Control System, and developed and managed measures to set up an Anti-bribery culture in the Institution, the following were also implemented:

AML/FT Manual

On August 31, 2020, the Auditing Committee of Bancomext approved the “Anti – Money Laundering and Countering of Terrorist Financing Compliance Manual”, to fulfill the Cayman Islands regulation.

That Manual sets up the Anti-Money Laundering and Countering of Terrorist Financing policies and procedures to be implemented when the Institution conducts its business in the Cayman Islands. The Manual covers only the Law that is applicable in the Cayman Islands.

For all Bancomext transactions under the Cayman Islands branch, the AML/FT Manual establishes the following:

Policies, procedures, and internal controls to Prevent and Detect Money Laundering, Terrorist Financing and Proliferation Financing, including appropriate compliance management agreements, the designation of a Compliance Officer, and an audit function to assess and test the AML/FT procedures.

- a) Adequate systems to identify Money Laundering and Terrorist and Proliferation Financing relating to persons, countries, and activities that should include checks against all applicable sanctions and prohibited lists.
- b) Procedures to ensure compliance with targeted financial sanctions obligations applicable in the Cayman Islands, including procedures allowing for the identification of assets subject to such targeted financial sanctions.
- c) Record-keeping procedures.
- d) Internal and external reporting procedures, including the designation of a Money Laundering Reporting Officer of the Branch (MLRO) and a Deputy Money Laundering Reporting Officer of the Branch (Deputy MLRO).
- e) Screening procedures to ensure high fitness and probity standards when hiring employees, and;
- f) An appropriate training program for Employees.

Anti-corruption Program Maturity Level Assessment Matrix

The Institution has enhanced the Anti-corruption measures during the originating loan process and Know Your Client stage (KYC). In this sense, before signing any loan agreement, Bancomext has included additional elements to identify any other risk relating to anti-corruption by using the “Client’ Anti-corruption Program Maturity Level Assessment Matrix.”

Bribery report of Employees to the FGR

Until today, Bancomext has not reported any employee to the FGR.

ii. train its staff on the policies on and procedures for debarment, and detecting and reporting foreign bribery [2009 Anti-Bribery Recommendation XII.ii].

Training Program

During 2019 and 2020, the Institution has carried out the following campaigns to publicize Ethical and Anti-corruption topics among its employees

Internal Communication Campaign relating to Ethics and Anti-corruption 2019-2020		
#	Name	Date
1	Fuel theft prevention campaign (Huachicoleo)	Mar-Dec 2019
2	Interest conflict infographic	Jun 2019
3	New Ethic Public pillars campaign	Jun-Oct 2019
4	Know your Code of Conduct campaign	Aug-Oct 2019
5	Code of Conduct publicity campaign	Oct 2019
6	Reporting culture campaign	Jan 2020
7	New Public Ethic campaign	Jun-Dec 2020
8	Interest Conflict campaign	Jun-Dec 2020
9	Administrative Offence campaign	Jun-Dec 2020
10	“Plataforma de Ciudadanos Alertadores Internos y Externos contra la corrupción” publicity campaign	Jun-Dec 2020
11	New Public Ethic Values campaign	Jun-Dec 2020
12	Ethic Code publicity campaign	Jul 2020
13	“Plataforma de Ciudadanos Alertadores Internos y Externos contra la corrupción” publicity campaign (supplied by SFP)	Aug 2020
14	No Impunity Commitments campaign third quarter	Aug-Sep 2020

Also, through the Institutional Training Program, Bancomext has offered the following courses

Anti-corruption courses 2019-2020				
#	Name	Start	Finish	Attendance
1	Code of Conduct	11/25/2019	12/20/2019	551
2	Anti-corruption measures talk	10/24/2019	10/29/2019	267
3	Anti-Money Laundering prevention (Advanced, specialized, and general)	09/30/2019	11/03/2019	561
4	Operational Risk	08/12/2019	08/30/2019	543
5	Information security 2019	11/11/2019	12/20/2019	551
6	Business Continuity Plan Management System (SG-PCN)	11/04/2019	11/06/2019	550
7	Prevention of Anti-Money Laundering and Countering of Terrorist Financing 21 International Seminar	10/03/2019	10/04/2019	6
8	Risk-based methodology to prevent Money Laundering Elaboration	06/14/2019	06/29/2019	2
9	Network for a transparency culture in the Federal Government Planning Workshop	05/15/2019	05/15/2019	1
10	Global trends in the fight against corruption and money laundering	02/13/2019	02/13/2019	2
11	Information security preventive measures	09/01/2020	09/30/2020	551

12	Anti-Money Laundering prevention (Advanced, specialized, and general)	Coming on Oct 2020		543
13	Operational Risk	06/15/2020	07/03/2020	550
14	Business Continuity Plan Management System (SG-PCN)	07/20/2020	08/21/2020	550
15	Development Banks, Business and Internal Control workshop	02/27/2020	02/28/2020	39
16	Know your Client documentation update workshop	02/20/2020	02/20/2020	21
17	Public Ethics	07/15/2020	07/15/2020	1
18	Open Government and proactive transparency	07/29/2020	07/29/2020	1
19	Internal conflicts in the public service	08/13/2020	09/18/2020	4
20	New Ethics and Integrity in the public service	06/06/2020	09/24/2020	3
21	Administrative liabilities of public servants	06/16/2020	07/23/2020	4
22	ALM 22° International online seminar	Coming on Oct 2020		1

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

Text of recommendation 1(c):

1. Regarding the detection of foreign bribery in the governmental sector, the Working Group recommends that Mexico:

c. Enhance its capacity to detect bribe payments to foreign public officials concealed as allowable expenses for tax purposes through the following measures:

i. PGR continue to proactively request information from SAT regarding taxpayers under investigation for foreign bribery, to determine whether bribes in such cases have been claimed as tax deductions, and to facilitate such requests, find a way that is appropriate and feasible in its legal system to permit PGR to inform SAT when the information sought relates to foreign bribery [2009 Tax Recommendation I.ii];

ii. SAT proactively detect the types of expenses deemed to constitute bribe payments concealed as allowable expenses for tax purposes, and report them without delay, and to facilitate such reporting, clarify the discrepancy between the obligation of secrecy regarding tax information with the obligation to report suspicions of crime pursuant to Article 222(2) CNPP [2009 Tax Recommendation II; 2009 Anti-Bribery Recommendation VIII.i]; and

iii. PFF report without delay to PGR suspicions of bribery related to fiscal offences under investigation [2009 Anti-Bribery Recommendation VIII.i].

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

i. PGR continue to proactively request information from SAT regarding taxpayers under investigation for foreign bribery, to determine whether bribes in such cases have been claimed as tax deductions, and to facilitate such requests, find a way that is appropriate and feasible in its legal system to permit PGR to inform SAT when the information sought relates to foreign bribery [2009 Tax Recommendation I.ii];

Office of the Prosecutor General of the Republic (FGR)

Since the publication of the Phase 4 Evaluation Report of Mexico to date, the Office of the Attorney General of the Republic (PGR, due to its initials in Spanish) and subsequently the Office of the Prosecutor General of the Republic (FGR, due to its initials in Spanish) has continued to present information requests to the Tax Administration Service (SAT, due to its initials in Spanish) within the framework of possible bribery of foreign public officials investigations.

During the time period indicated, the FGR presented information requests to the SAT in the framework of 2 investigations for possible international bribery, formally requesting any information in the registries, files and/or data bases of the SAT of any prior history and/or record of any fiscal record of the legal entities involved in the investigations.

It should be highlighted that the FGR has based its petitions on article 215 of the National Code of Criminal Procedure, that states:

Article 215. Obligation to Provide Information

Every person or public official is obligated to timely provide the information formally requested by the Public Prosecutor and the Police in the performance of their investigative duties of a specific materialized criminal conduct. Should it be the case that they are summoned to be interviewed by the Public Prosecutor or the Police, they are obligated to appear and may only be excused in those cases expressly provided for in the law.

Should they fail to provide the above, they shall be responsible and penalized pursuant to the applicable law.

ii. SAT proactively detect the types of expenses deemed to constitute bribe payments concealed as allowable expenses for tax purposes, and report them without delay, and to facilitate such reporting, clarify the discrepancy between the obligation of secrecy regarding tax information with the obligation to report suspicions of crime pursuant to Article 222(2) CNPP [2009 Tax Recommendation II; 2009 Anti-Bribery Recommendation VIII.i]; and

Tax Administration Service (SAT)

With the purpose of strengthen detection capacity, and as the case may be, report alleged cases of international bribery, the SAT through its General Administration of Federal Fiscal Audit (AGAFF), updated in 2019 the “Strategies for detection of National and International Bribery”, which are part of the “Audit Strategies for the Auditor” (EFA). However, by this time there isn’t any international bribery case identified under those strategies.

It’s important to note that due to the nature of its content, the EFA are confidential.

With respect to the alleged discrepancy between the obligation to keep secret the tax information and the obligation to report crime suspicions, it is important to point out that there’s no such discrepancy; in order to clarify this point, here is the explanation:

The obligation to report, provided in article 222 of the Criminal Procedures National Code, constitute that every public server has the obligation to report to prosecution authorities, if by its functions become aware of the probable existence of an act that the law points out as a crime, bringing all the data that would have, to such justice procurement agency.

In case that a public server wont comply with such obligation, he will be credited to the corresponding sanctions, which could be of crime nature if cover up or some degree of participation in the crime is established, and of administrative nature when no comply with the guideline set in article 7, first fraction of the General Law of Administrative Responsibilities:

Article 7. Public Servers will observe in their employment, charge or commission performance, principles of discipline, legality, objectivity, professionalism, honesty, loyalty, impartiality, integrity, accountability, efficacy and efficiency that rule the public service. For the effective application of such principles, Public Servers will follow the next guidelines:

I. Act in accordance with what laws, regulations and all other legal provisions attribute to their employment, charge or commission, so they have to know and comply with provisions that regulate the exercise of their functions, faculties and attributions;

In the same way, it is important to note that in the case that the General Prosecution of the Republic or the Prosecutions of the Federative Entities are integrating a criminal investigation concerning facts not known by the public server requested and demand tax information that the SAT has within its powers; based on what is established in article 120, paragraph 2, fraction V of the General Law of Transparency and Access to Public Information, it is possible to trade confidential information between obligated subjects, as long as the information is used for the exercise of their faculties, being the case that both, the SAT and justice procurement agencies are obligated subjects in terms of transparency and public information.

The obligation to provide information is set in article 215 of the Criminal Procedures National Code, and constitutes that every public server has the obligation to provide all the information that the prosecution authorities or the police requires them for the investigation of a concrete criminal act.

In addition, it is informed that on august 31, 2018, was signed a collaboration agreement for information exchange, between the actual General Prosecution of the Republic and the SAT, which objective is define the collaboration general bases and terms under which the parties within its respective powers, will implement and execute the information exchange that they have in their data bases or records, and that is necessary in the exercise of their attributions, as well as for the administrative cooperation in terms of investigation for fighting crimes, including those made through electronic means.

Additionally, the SAT has elaborated a draft that considers the reform of article 69 of the Federal Fiscal Code, in order to explicitly stablish as exception to fiscal secret, the information requirements made by justice procurement agencies to verify an act that the law points out as a crime or the probable responsibility of the defendant, privileging the obligation to provide information set in article 215 of the Criminal Procedures National Code. Such draft will have to pass for a review procedure within the Executive Power of the Federal Public Administration, prior to the legislative process of law construction.

iii. PFF report without delay to PGR suspicions of bribery related to fiscal offences under investigation [2009 Anti-Bribery Recommendation VIII.i].

Fiscal Prosecutor's Office (PFF)

Both the SAT and the FGR, in the use of their audit and investigation responsibilities, have the capacity to obtain the necessary data and information to bring a case to the PFF or to initiate a report. As a result, these authorities collaborate and share information with the PFF which in use of its responsibilities, may investigate and subsequently formulate the procedural requirement for the resulting tax crimes, crimes that are not necessarily or exclusively confined to this area, but which may precisely fall within the scope of crimes related to corruption (such as bribery). In this case, a corresponding report will be filed with the FGR. Currently, there is a broad and close collaboration with the FGR, which results in the prevention, detection, and sanction of administrative offences and corruption-related acts and crimes, within the framework of Mexico's National Anti-Corruption System.

Currently, the PFF has signed and is in the process of signing with each Mexican State Government, as well as with the National Conference of Governors (CONAGO), the corresponding Administrative Coordination Agreements on the Investigation of Facts Related to the Probable Commission of Fiscal and Financial Crimes. This Coordination Agreements are aimed at exchanging information to combat fiscal and financial crimes that are or have been committed in the Federal Entities and will allow the identification of cases of tax fraud and, if applicable, foreign bribery.

Without prejudice to the foregoing, the relevant analysis is being carried out to resolve the possible development of a guideline-protocol in this regard, which, while it will not replace the aforementioned constitutional or legal obligations, will serve as a basis for making the report procedures more effective.

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

Text of recommendation 1(d):

1. Regarding the detection of foreign bribery in the governmental sector, the Working Group recommends that Mexico:

d. Enhance its capacity to detect foreign bribery through its AML/CFT system through the following measures:

i. As a matter of priority CNBV disseminate guidance on identifying corruption as a predicate offence [Convention, Article 7; 2009 Anti-Bribery Recommendation III.i]; and

ii. FIU include general feedback on STRs where foreign bribery is the predicate offence, when providing feedback to financial institutions and DNFPBs on compliance with their STR obligations [Convention, Article 7].

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

i. As a matter of priority CNBV disseminate guidance on identifying corruption as a predicate offence [Convention, Article 7; 2009 Anti-Bribery Recommendation III.i]; and

National Banking and Securities Commission (CNBV)

The recent update (May 2020) of the Anti-Corruption Guidelines suggests that financial entities apply measures with respect to their relationship with Politically Exposed Persons (PEPs), defined as those individuals who have performed public functions in a foreign country or national territory and who, due to their condition, must have special treatment in the prevention of money laundering.

The importance of an anti-bribery policy is conveyed to financial institutions, a policy taking into account the risks that employees may receive bribes from a client to carry out operations related to money laundering or financing of terrorism.

In addition, for the report of the 1st quarter of 2020, the CNBV, through the corresponding Administrative Unit, presented the progress in the compliance of the commitments and indicators of the program applicable to the Commission. At the end of April 2020, the Quarterly Report was published with the progress of all the agencies and entities.

ii. FIU include general feedback on STRs where foreign bribery is the predicate offence, when providing feedback to financial institutions and DNFPBs on compliance with their STR obligations [Convention, Article 7].

Financial Intelligence Unit (FIU)

In accordance with the FIU's competencies and derived from a research carried out by its General Directorate for Strategic Analysis, no STRs have been detected in which foreign bribery is the predicate offence.

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

When received, the FIU will carry out a general feedback on STRs in which foreign bribery is the predicate offence.

Text of recommendation 1(e):

1. Regarding the detection of foreign bribery in the governmental sector, the Working Group recommends that Mexico:

e. Ensure that personnel in charge of dealing with incoming MLA requests within PGR consistently consider the possibility of submitting information to the investigative authority, about foreign bribery brought to their attention by the requesting state, in order for said authority to assess whether to initiate an investigation [Convention, Article 5].

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

Office of the Prosecutor General of the Republic

If from the factual narrative of the requesting authorities in the legal assistance request formulated to the Mexican Government, the General Division of International Proceedings (DGPI, due to its initials in Spanish) under the Office of the Prosecutor General of the Republic, discerns conduct that the law defines as a crime within Mexico's jurisdiction, it proceeds to file the corresponding criminal complaint before the competent ministerial authority so that the latter in accordance to its powers and attributes provided for in constitutional article 21, opens the investigation file.

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

Text of recommendation 2(a):

2. Regarding the detection of foreign bribery in the non-governmental sector, the Working Group recommends that Mexico:

a. Clarify that, in compliance with Paragraph X.B. (iii) of the 2009 Recommendation, the external auditor who discovers indications of a suspected act of bribery of a foreign public official report this discovery to management, and, as appropriate, corporate monitoring bodies, and take further measures to ensure that the auditing profession is aware of this requirement [2009 Anti-Bribery Recommendation X.B.iii].

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

Tax Administration Service (SAT)

The SAT has maintained contact with institutions that bring together the professionals in charge of the development of audits, in the non-governmental sector, in order to generate joint training schemes that allow this professional segment to be aware of the importance of reporting indications of alleged acts of international bribery, detected in the course of their activities.

Ministry of Public Administration (SFP)

The SFP, through the Federal Public Assets Control Office, requests, in the Terms of Reference for the Judgment of the States and the Financial, Accounting and Budgetary Information, the elaboration of the Report of Findings. This document concentrates all the observations determined in each of the different reports and opinions issued by the auditing firms, including those attended by the public entities during the development of the reviews. The report must include the results of the application of procedures related to possible breaches of internal control, the situations identified in the external audit that fall within the assumptions established in Chapter II *Principles and guidelines governing the actions of Public Servants*, of the General Law of Administrative Responsibilities (LGRA), the distortions, deviations or simulations caused in the recording of operations and financial information or intentional acts to manipulate or subtract assets or conceal liabilities that may have a significant impact on the information subject to examination, as well as, the results obtained from the application of International Standard on Auditing 240 Responsibilities of the auditor in relation to fraud in an audit of financial statements.

With respect to the 327 audits performed on Federal Public Administration entities in 2019, the external auditors did not report findings that fall within the above assumptions.

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

Ministry of Public Administration (SFP)

The inclusion in the Terms of Reference for the audits of the financial statements of the year 2020, the request to the audit firms that, in case they know of situations that could be framed as serious administrative offences (including bribery) of public servants in accordance with the LGRA, they should

be notified in the same Report of Findings as high-risk observations, in order to promote the corresponding responsibilities and, where appropriate, to report the facts to the competent authorities, is being evaluated.

Although the firms do not have the power to classify the administrative offences of public servants in accordance with the aforementioned Law, nor are they responsible for preventing or detecting cases of non-compliance with legal and regulatory provisions by public entities, they must apply auditing procedures that allow them to identify material misstatements in the financial statements due to non-compliance with such provisions, in accordance with International Standard on Auditing 250 *Consideration of Legal and Regulatory Provisions in the Audit of Financial Statements*.

Text of recommendation 2 (b):

2. Regarding the detection of foreign bribery in the non-governmental sector, the Working Group recommends that Mexico:

b. Urgently enact specific legislation to protect from discriminatory or disciplinary action public and private sector employees that report in good faith and on reasonable grounds suspected acts of foreign bribery to the competent authorities, and raise awareness of this measure [2009 AntiBribery Recommendation IX.iii].

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

Ministry of Public Administration (SFP)

In order to establish mechanisms to effectively and efficiently combat acts of corruption and consolidate a culture of reporting, the Ministry of Public Administration has implemented a series of measures aimed at achieving this purpose. With the restructuring of the SFP, the first Program of Internal and External Reporting Party of Corruption was strengthened, with the aim of promoting citizen reporting| and protecting the rights of those who warn of corruption. Likewise, the Citizen Reporting System (SIDE) was re-launched with improvements to make it a more citizen-friendly, as well as to improve the follow-up system by providing all the legal and administrative facilities for filing reports. Additionally, in May 2020, the Platform of the Business Integrity Register began its operation, whose purpose is to promote a culture of integrity within the business sector and to encourage companies and individuals who are currently or wish to become suppliers of the State.

Further details of each measure are provided below:

1. Program of Internal and External Reporting Party of Corruption

In accordance with the international conventions and treaties signed by the Mexican government regarding the protection of informants, the Ministry of Public Administration implemented the First System of Internal and External Reporting Party of Corruption, to promote citizen reports and protect the rights of people who warn of corruption, in case that they are in a situation of risk, making the System available to the public since July 26, 2019 through the website <https://alertadores.funcionpublica.gob.mx/>.

The platform works as a mechanism for citizen participation to alert of serious acts of corruption in which public servants at the federal level may be involved. It has high international security standards to protect the identity of the alerting individuals at all times through anonymity and confidentiality of communications.

On September 6, 2019, the Guidelines for the Promotion and Operation of the System of Internal and External Citizens Reporting Party of Corruption were published in the Official Gazette of the Federation. These guidelines have the normative strength of 5 concepts for the reception and attention of the alerts:

Anonymity, Due Reserve of Information, Chain of Custody, Protection Measures for the alerting persons and Coordination and Collaboration between the areas of the SFP, as well as with all the authorities of the Public Administration for the adequate attention of the alerts and implementation of the protection measures.

Since the launch of the program on July 26, 2019, to date, **4,606 alerts** have been received, related to serious acts of corruption for possible bribery, embezzlement, diversion of resources, abuse of functions, nepotism, conflict of interest, among others, of which **656 have** been determined to be granted and sent to the Internal Control Bodies or Responsibility Units for the initiation of the corresponding investigation. The cases are currently pending.

Protection of the reporting party

The protection of the reporting party is implemented from a human rights approach that respects the pro-person principle, so accompanying actions are carried out to safeguard the life and integrity, and the emotional and work stability of reporting persons.

In order to provide the broadest protection to reporting persons, collaborative links were established with national and international organizations, such as the United Nations Office on Drugs and Crime (UNODC), the Valencian Anti-Fraud Agency, the Executive Commission for Attention to Victims and the Ministry of Security and Citizen Protection. Particularly noteworthy is the videoconference from Vienna, Austria, given by Constanze Von Soehen, Crime Prevention and Criminal Justice Officer, and the working group with Louise Portas, specialist in whistleblowers protection.

In this sense, the Guidelines for the Promotion and Operation of the System of Internal and External Citizens Reporting Party on Corruption, provides protection measures that are granted to the reporting people who are at risk because of reporting about serious corruption offences, as well as to their **families, friends, cohabitants, their work and their assets**. This in turn has generated public trust in the institutions.

The request for protective measures is made from the Platform, and the person reporting must indicate the risks he or she warns of and which have arisen as a result of his or her report.

Immediately after the request for protective measures, the Coordination of Support to Victims and Citizens Internal and External Reporting Party of Corruption of the SFP, carries out a risk analysis to determine the level of risk and therefore the appropriate protective measure.

A Protocol for the Protection of Reporting Party has been designed for technical assistance, which implements good government practices, as well as high standards of human rights protection. The Protocol guides the actions in risk assessment of the Coordination aforementioned and is in the process of being published in the Official Gazette of the Federation.

To date, in 20 cases the reporting persons have requested protective measures, of which 5 are labour related measures that have been implemented in coordination with the Internal Control Body of the agency involved, on an individual level providing also the required psychosocial support and legal advice. The rest of cases, 15, are currently pending.

Promotion of the Program/Platform and applicable normative

During the health contingency period, with the use of technological tools, actions were carried out to promote the platform through the virtual round-table discussion "Culture of Report and Objectives of the 4T in the Fight against Corruption":

Institution	Number of Participants	Dates
Balsas River Basin Council	65	17/June/2020
Pánuco River Basin Council	65	18/June/2020
National Agrarian Registry	188	28 of May and 17, 18, 23 and 25 of June
TOTAL	318	3 Courses

The diffusion is carried out through open television, radio, means of transport (metro and metrobus) and social networks.

The Internal Control Bodies and Responsibility Units have been provided with graphic inputs for the virtual promotion of the Program on the platforms (Microsoft Teams, Jitsi and Telmex) of the agencies or entities they monitor.

Training

The strengthening of skills is essential to provide comprehensive assistance to citizens and reporting persons. Therefore, the following internal training actions were carried out:

1. Course on the Reporting Party Program within the framework of the Executive Commission for Victim Care (CEAV), held on 14 and 15 August 2019.
2. Strengthening the protection of whistleblowers/reporting party in Mexico, held on 14 and 15 November 2019, whose objective was to learn about and share experiences with respect to the protection of reporting persons.
3. Internal Training "Protection of Reporting Citizens and the Reporting System for Acts of Corruption in Mexico", given on 27, 28 May 3 and 4 June 2020, whose objective was to generate skills to understand the components of the reporting system in Mexico, the General Coordination of Citizenship and Defense of Victims of Corruption.
4. Workshop directed to the investigative authorities called "System of internal and external citizens' reporting on corruption", given to:

DIRIGIDO A	SECTOR	NÚMERO DE PARTICIPANTES	FECHA (S)
COMMISSIONERS	FINANCE	68	30/July /2020
HEAD OF THE INTERNAL CONTROL BODY/UNIT OF RESPONSIBILITIES	HEALTH, SOCIAL SECURITY AND LABOR	122	7, 19 y 21/August/2020
	ECONOMIC DEVELOPMENT	72	28/August/2020
HEAD OF THE REPORTING DEPARTMENT	ENERGY	47	2/September/2020
TOTAL		309 PARTICIPANTS	6 COURSES

5. Internal workshop attended as guest, on August 28, 2020, given by the Head of the Internal Control Body and the Head of Reporting at the Mexican Social Security Institute, to inform its staff of the standardized criteria for handling reports and implementing protective measures, in order to safeguard the anonymity of the person reporting, due classification of information and coordination with the General Coordination of Citizenship and Defence of Victims of Corruption for the exchange of information.

Regulatory strengthening of the reporting culture

I. The SFP's Rules of Procedures published on April 16, 2020, establishes the General Coordination of Citizenship and Defence of Victims of Corruption and the Coordination of Accompaniment of Victims and Citizens Reporting of Internal and External to Corruption. Both with specific powers to promote the culture of reporting, assisting the reporting persons and prevent acts of corruption based on the behaviours reported (Articles 28 and 30, respectively).

II. Reforms to the Guidelines for the Promotion and Operation of the System of Internal and External Citizens Reporting Party on Corruption⁹, published in the Official Gazette of the Federation on June 11, 2020, in which the Platform's duties include the possible conduct of bribery, embezzlement and diversion of resources.

The General Coordination of Citizenship and Defence of Victims of Corruption **must assist the reporting party throughout the entire investigation process, as well as during the procedures of administrative responsibilities before the substantive and investigative authorities. The Coordination will adopt the role of reporting party and/or accuser in order to ensure the anonymity of the reporting person, the due classification of the information reported, and the protection of the reporting person, his/her family, friends, cohabitants, work and assets.**

III. In order to strengthen the regulatory framework, the proposed General Law on Corruption Reporting Party is intended to be the regulatory instrument that binds all institutions of the Executive, Legislative and Judicial branches at their three levels of government, as well as autonomous bodies, political parties, trusts, and public funds to establish a legal framework within the scope of their powers

⁹ Published on https://dof.gob.mx/nota_detalle.php?codigo=5594816&fecha=11/06/2020

to promote, respect, protect, and guarantee the exercise of the right of the individual, group, or community to report alleged serious acts of corruption committed by public servants and private individuals or entities.

Before submitting to the corresponding legislative process, three round-table discussions have been scheduled to build a joint government and society draft law. This from citizens committed to fighting corruption, civil society organizations that have promoted the defence of the rights of reporting persons and secure reporting systems; the free software community; in addition to the spaces that have been built jointly by government and society, such as the National Anti-Corruption System and the Alliance for Open Government.

- **Round-table discussion- 1 "Towards the construction of a proposal of law to grant legal certainty to alert persons".**
Date: 30/SEP/2020.
- **Round-table discussion 2 "Care and self-care of alert persons: Digital security, free software".**
Proposed date 14/OCT/2020
- **Round-table discussion 3 "Comprehensive Protection, Reparation for Victims of Corruption and Alert Persons**
Proposed date 28/OCT/2020

2. SFP CITIZEN REPORTING SYSTEM

In order to promote the fight against corruption and impunity, the reporting party is given all the legal and administrative facilities necessary to file a report through the Citizen Reporting System (SIDEDEC), <https://sidec.funcionpublica.gob.mx> , or by written procedure, which can be anonymous.

Its activity permeates the Internal Control Bodies and Responsibility Units of the Federal Public Administration, inhibiting acts of corruption and increasing citizen trust. Its timely intervention in relevant issues, as well as results of the work done published in the media have a significant impact on public perception.

3. REGISTER OF BUSINESS INTEGRITY

The Business Integrity Register, which is described in depth in Recommendation 4e and whose coordination and implementation is in charge of the Coordination of Liaison with the Business Sector, is specifically aligned with Articles 21, 22 and 25 of the General Law of Administrative Responsibilities, as well as with the international commitments of the Government of Mexico, including the United Nations Convention against Corruption, the Inter-American Convention against Corruption, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the G20 Anti-Corruption Working Group (ACWG) Action Plan 2019-2021 and its 2015 High Level Principles on Transparency and Integrity in the Private Sector.

The Register of Business Integrity promotes the adoption of an Integrity Policy by companies, which must be in accordance with Article 25 of the General Law of Administrative Responsibilities which, in paragraph IV, provides for the implementation of adequate systems for reporting "both within the organization and to the competent authorities, as well as disciplinary processes and specific consequences with respect to those who act contrary to internal rules or Mexican legislation.

Consequently, registration in the Business Integrity Register has, as a requirement for obtaining the Business Integrity Distinction, the implementation of a reporting system through which acts of bribery can be reported in good faith and with reasonable grounds. Additionally, such systems of reporting must comply with certain characteristics of protection of whistleblowers including: guarantee of anonymity, guarantee of confidentiality, guarantee of non-retaliation, provide the necessary follow-up throughout the investigation, in case it is necessary to provide defence mechanisms, in case it is necessary to protect the physical integrity, as well as to refer the reports with the corresponding authority, besides the SFP, in order to comply with national and international regulations.

The systems of reporting must be open for both internal (collaborators and managers) and external (suppliers, contractors, partners and clients) people from the company. The Business Integrity Register contemplates that such reports can be received through different internal means of the company including: e-mail, telephone line, reception of written mail, service module, web platform or mobile application. Finally, for the purposes of registration in the Register, both committing and/or not reporting the commission of an offence, as well as not complying with the obligation to sanction the offences detected, are considered punishable acts. This means that those responsible for the administration of the reporting systems have the obligation to comply with the standards described above, to investigate in a timely manner the reported violations, and to report or refer to the necessary authorities such transgressions.

The Coordination of Liaison with the Business Sector has prepared a series of infographics, videos and guides with the purpose of supporting companies to comply with the registration requirements. Among these documents are advisory materials on the correct implementation of reporting channels. This topic is also discussed during trainings and webinars that the Coordination provides free of charge to business chambers, associations and the general public. Finally, the Coordination of Liaison with the Business Sector also encourages the reporting of the private sector through the platform of Internal and External Citizens Reporting Party on Corruption during the training and talks it gives, and provides assistance to companies that file a report or are in the process of resolving disputes.

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

Text of recommendation 2(c):

2. Regarding the detection of foreign bribery in the non-governmental sector, the Working Group recommends that Mexico:

c. Urgently take relevant measures to detect allegations of foreign bribery in the international media by tasking embassies with tracking and, where needed, translating local media reports that contain allegations of foreign bribery by Mexican companies and individuals and referring them to PGR through the relevant channels [2009 Anti-Bribery Recommendation Annex I.D].

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

Ministry of Foreign Affairs (SRE)

In accordance with the legal regulations that govern this Entity it has been verified within the diplomatic or consular offices, if they had have acknowledge of international bribery cases worthy of compliant before the corresponding authorities.

Through official communications REB 02183 (may.02.2018), REB 04607 (jul.04.2019) and REB00555 (feb.21.2020), the Office for Bilateral Economic Relations of the Mexican Ministry of Foreign Affairs

addressed the embassies and consulates of Mexico in the world stating the importance to promote the forementioned Convention among businessmen and investors, chambers of commerce and other business associations, in order to keep follow of any detected case of international bribery.

It was also asked to duly report the detected cases of international bribery, even those detected through media in which Mexican companies or national investors were involved with government agents abroad.

Office of the Prosecutor General of the Republic

On a daily basis, the Offices of the Attachés of the Office of the Prosecutor General of the Republic abroad, remit to the Institution's central offices in Mexico the following materials, which contain the most relevant information reported in the countries in their jurisdiction, as well as the daily activities that they carry out according to their duties:

- Media Report
- Daily Report

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

Text of recommendation 3(a):

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

a. Apply the full range of its investigative tools when appropriate and feasible, including while waiting for responses to MLA requests [Convention Article 5; 2009 Anti-Bribery Recommendation XIII and Annex I.D].

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

Office of the Prosecutor General of the Republic

The Office of the Prosecutor General of the Republic in the framework of two presently ongoing investigations for possible international bribery, has deployed a battery of actions intended to exhaust the lines of investigation in national territory and that do not require information obtained from international legal assistance requests.

Along these lines and for the purpose of providing a precise panorama of the resources used by the FGR to explore the diverse investigative lines in one of the mentioned cases, hereinafter are detailed the formal ministerial requests presented to the different national authorities to obtain evidentiary information that would allow establishing the commission of the crime and the probable participation of the persons accused.

- Requests to the Central National Office in Mexico of INTERPOL, to obtain the records and registrations of participating individuals and legal entities.
- Intra-institutional Requests for:
 - Obtaining records in the name of the companies involved.
 - The issuance of an expert technological information opinion regarding a CD remitted by the foreign country where the alleged crime was committed.
 - Extradition records of the persons involved in the alleged bribery.

- Request to the Tax Administration Service (SAT), under the Ministry of Finance and Public Credit (SHCP, due to its initials in Spanish) to obtain tax records in the name of the related legal entities.
- Request to the Ministry of Foreign Affairs for:
 - Background information on the probable bribery which occurred in the foreign country in which a Mexican is involved.
 - Criminal record of the persons involved.
- Request for information to the National Immigration Institute (INM, due to its initials in Spanish) to obtain the administrative immigration files in the name of the individuals involved.
- Request to the General File of Notaries in Mexico City, with respect to obtaining the articles of incorporation, the powers of attorney and formalized records of the related companies.
- Request to the Public Registry of Property and Notaries in a federated Mexican state regarding the records of the legal entities involved.
- Request to the Ministry of the Economy to learn if in its registries, files and/or data bases, there is any record of the legal entities involved in the investigation.
- Request to the Mobility Institute of another federal entity in Mexico regarding the drivers' license records of the accused.
- Request to the National Banking and Securities Commission (CNBV, due to its initials in Spanish) with respect to the existence of bank accounts opened in the name of the persons involved.

It must be emphasized that in regard to the second referenced case, these activities have already been carried out and the investigation lines in national territory have been exhausted, therefore, at this moment, a response to the legal assistance request presented to one of the member States of the GTC is essential, so as to identify possible new lines of investigation.

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

Text of recommendation 3(b):

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

b. As a matter of priority, establish a system allowing courts to impose penalties for foreign bribery that are effective, proportionate and dissuasive where an offender did not have a net income or where the net income could not be ascertained at the time of the offence [Convention Article 3].

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

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

Federal Judiciary Council

The FJC, as the authority responsible for the administration, oversight, discipline, and judicial career of the PJF, in accordance with Article 94 of the Constitution, does not have the authority to influence this aspect, in order to safeguard judicial independence.

However, it is worth mentioning that, according to Article 410 of the National Code of Criminal Procedures (hereinafter, CNPP), to impose a fine, and not only imprisonment, judges have the power to individualize the punishment, taking as a reference the seriousness of illegal conduct (in the case of

individuals and corporations), as well as the degree of culpability of the convicted person (in the case of individuals), within the margins of sanctions established in criminal laws.

For its part, Article 16 of the General Agreement of the Plenary of the Federal Judiciary Council, which establishes the provisions on administrative responsibilities, asset status, control and accountability¹⁰, establishes various administrative sanctions, both for individuals and companies for incurring in any administrative infraction¹¹.

In addition, it should be clarified that to date, from the database available to CJF it has been verified that there are no arraignments, so no trials have been held in relation to the crime of international bribery and, consequently, the imposition of sanctions, such as fines, is not possible.

Text of recommendation 3(c):

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

c. Urgently complete the steps needed for the following anti-corruption reforms to become fully functional: 1) NACS; 2) Special Anti-Corruption Prosecutor; and 3) Administrative Liability Regime for Corruption Crimes and a Special Administrative Court; and 4) Anti-Bribery Protocol [Convention Article 5; 2009 Anti-Bribery Recommendation Annex I.D]

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

1) NACS and 4) Anti-Bribery Protocol

¹⁰ Available at: https://www.dof.gob.mx/nota_detalle.php?codigo=5546037&fecha=07/12/2018

¹¹ "Article 16. The administrative sanctions applicable to individuals for the commission of any administrative offence shall consist of

I. For individuals:

a) Economic sanction that may reach up to two times the benefits obtained or, in case of not having obtained them, for the equivalent of one hundred up to one hundred and fifty thousand times the daily value of the Unit of Measurement and Update;

b) Temporary disqualification to participate in acquisitions, leases, services or public works, as appropriate, for a period of not less than three months and not more than eight years; and

c) Compensation for damages or losses caused to the Council's assets or to the Federal Public Treasury; and

II. For legal persons:

a) Economic sanction that may reach up to two times the benefits obtained or, in case of not having obtained them, for the equivalent of one thousand up to one million five hundred thousand times the daily value of the Unit of Measurement and Update;

b) Temporary disqualification to participate in acquisitions, leases, services or public works, for a period of not less than three months and not more than ten years;

c) The suspension of activities, for a period that will not be less than three months nor more than three years, which will consist of stopping, deferring or temporarily depriving them of their commercial, economic, contractual or business activities because they are linked to serious administrative misconduct;

d) Dissolution of the respective company, which will consist of the loss of the legal capacity of a legal entity, for the fulfillment of the purpose for which it was created by jurisdictional order and as a consequence of the commission, linkage, participation and relation with a serious administrative fault; and

e) Compensation for damages or losses caused to the Council's assets or to the Federal Public Treasury".

1) NATIONAL ANTI-CORRUPTION SYSTEM

Before addressing the issue, it is important to mention that Mexico is a federal system with three levels of government, federal, state and municipal. In this sense, this response will first present the advances in the National Anti-Corruption System (federal level) and then the results at the state level. With the advances that will be described below, solid foundations are being built for the fight against impunity and corruption; specifically, this will lead to an effective and coordinated attack on international bribery.

On May 27, 2015, the Congress of the Union reformed the Constitution and created the National Anti-Corruption System (SNA). The reform to article 113 of the Constitution established that the SNA is the **coordination body** among the authorities of all orders of government competent in the prevention, detection and punishment of administrative responsibilities and acts of corruption, as well as in the supervision and control of public resources.

To complement the 2015 reform, on July 18, 2016 seven laws were published in the Official Gazette to create the SNA, among the laws created was the General Law of the National Anti-Corruption System (LGSNA).

The purpose of the LGSNA is to establish the bases of coordination among the three levels of government for the operation of the National System provided for in Article 113 of the Political Constitution of the United Mexican States.

The purpose of the National System is to establish principles, general bases, public policies and procedures for **coordination among the authorities of all levels of government in the prevention, detection and punishment of administrative offences and acts of corruption, as well as in the supervision and control of public resources**. It is a body whose purpose is to **establish, articulate and evaluate policy in this area**. (LGSNA article 6).

The public policies established by the Coordinating Committee of the National System must be implemented by all public entities.

According to article 7 (LGSNA), the National System is integrated by the Coordinating Committee; the Citizen Participation Committee; the Steering Committee of the National Control System, and the Local Systems, who will attend through their representatives.

The members of the Coordinating Committee (CC) (Article 10 of the LGSN) are seven: a representative of the Citizen Participation Committee (CPC), who will chair it; the head of the Federal Superior Audit Office (ASF); the head of the Specialized Prosecutor's Office for Combating Corruption; the head of the Ministry of Public Administration (SFP); a representative of the Federal Judiciary Council (CJF); the president of the National Institute of Transparency, Access to Information and Personal Data Protection, and the president of the Federal Court of Administrative Justice (TFJA).

The Coordinating Committee (CC) is the body responsible for establishing coordination mechanisms among the members of the National System and will be in charge of designing, promoting and evaluating public policies to combat corruption (Art. 8 LGSNA).

In order to comply with what has been established, and in accordance with Article 9 of the LGSNA. The Coordinating Committee has the following powers:

- The establishment of bases and principles for the effective coordination of its members;

- The approval, design and promotion of the national policy in this area, as well as its periodic evaluation, adjustment and modification;

To fulfill its functions the Coordinating Committee will meet in ordinary session every three months (Article 13 LGSNA).

In this context, the CC has had the following results since 2017¹²:

Category	Data
Installation session	4 of April 2017
Last session	03 September 2020
Sessions (ordinary and extraordinary)	16
Agreements	60
Recommendations	1
Exhortation	1

An example of the Coordinating Committee's permanent monitoring of anti-corruption policies and actions is the session held on September 3, 2020, which is public and was conducted virtually¹³ because of the health emergency regarding COVID-19. In this session, the First and Second Progress Reports on the elaboration process of State Anti-Corruption Policies were approved; the Coordinating Committee also called on the states to consolidate the work of the National Anti-Corruption System and to achieve the homogenization of state policies in accordance with the National Anti-Corruption Policy (PNA)¹⁴.

National Anti-Corruption Policy (PNA)

As a result of the multiple efforts and willingness of the different members of the SNA coordinating committee, the National Anti-Corruption Policy¹⁵ was drafted and published. Approved on January 29, 2020 by consensus of the 7 members of the Coordinating Committee (CC) of the National Anti-Corruption System (SNA), it was published in the Official Gazette of the Federation on February 25 of the same year¹⁶.

Objective of the PNA

The objective of the PNA is to ensure the coordination of actions by all public entities that make up the Mexican State and the involvement of different sectors of society, which will ensure effective control of the various manifestations of corruption at all levels of government.

Structure of the PNA

¹² Public information available in SESNA's website <https://www.sesna.gob.mx/como-vamos/>

¹³ The session and documents can be found in <https://www.sesna.gob.mx/como-vamos/>

¹⁴ <https://www.sesna.gob.mx/2020/09/03/llama-comite-coordinador-a-estados-a-consolidar-los-trabajos-del-sistema-nacional-anticorrupcion/>.

¹⁵ The first activities aimed at the construction of the NPA were carried out in 2017, had a broad process of citizen participation and culminated in the work of the Coordinating Committee. The process of integration and elaboration can be found at <https://www.sesna.gob.mx/politica-nacional-anticorrupcion/>

¹⁶ Is available at <https://www.sesna.gob.mx/politica-nacional-anticorrupcion/>

The PNA is articulated through 4 axes, 10 priority objectives and 40 priorities that seek to translate into specific actions at the federal level and serve as a basis for the establishment of state anti-corruption policies. The axes are: 1) Combat Corruption and Impunity, 2) Combat arbitrariness and abuse of power, 3) Promote the improvement of public management and government-society contact points, and 4) Involve society and the private sector. The axes will be articulated with four transversal principles, which are: coordination, human rights, open government and social participation, and intelligence and technologies.

Specific data of the PNA for this report

- In the regulatory framework, the "Convention on Combating Bribery of Foreign Public Officials in International Business Transactions" of the OCDE is recognized.

- In Annex 4¹⁷ of the PNA, under Axis 1. Combat corruption and impunity, there is a suggested action "1.1.5. To promote the response to citizen reports regarding the diversion of public resources, abuse of functions, embezzlement, bribery, among others; as well as from harassment and sexual harassment and human rights violations". This coincides with action 1.5.5 of the National Program to Combat Corruption and Impunity and to Improve Public Management (PNCCIyMGP)¹⁸. This action sets the standard for coordinated efforts to combat international bribery at the various levels of government.

- **Note: harmonization of the PNA and the PNCCIyMGP 2019-2024.** It should be noted that the Ministry of Public Administration (SFP) strengthened the PNA proposal by harmonizing it with the guiding principles of eradicating corruption, waste, and frivolity established in the National Development Plan 2019-2024 and the objectives of the National Program to Combat Corruption and Impunity and Improve Public Management (published in the DOF on August 30, 2019). This will allow coordinated and strengthened actions to combat corruption and impunity.

Implementation of the PNA

The implementation, in a general, will be progressive led by the members of the Coordinating Committee, actions, projects, commitments and specific goals that address the national, federal, regional and local reality.

It will be through a group of members of the Coordinating Committee that will lead the implementation of each priority, as well as a having certain deadlines for its execution. The proposed deadlines for potential execution are:

- Short term: up to three years.
- Medium term: up to six years.
- Long term: more than six years.

Evaluation of the PNA

The PNA proposes a Corruption Monitoring and Evaluation Model (MOSEC). This model is conceived as a repository of indicators and data through which it is sought to collect, systematize, take advantage of, and provide periodic and continuous follow-up to a set of indicators that allow for the evaluation, as mentioned above, of the evolution of the corruption phenomenon in the first place, and in the second place,

¹⁷ The name of Annex 4 is "Catalogue of strategies that can be incorporated into implementation programs resulting from National and State Anti-Corruption Policies by the public entities of the country's Executive Branches.

¹⁸ Published on August 30th of 2019.

of the progress and challenges observed at the level of impact, results, and processes obtained from the implementation of programs.

Likewise, and to the extent that the State Anti-Corruption Policies (PEA) are aligned with the PNA, there will be an opportunity to include in the MOSEC indicators with information of the sub-national level, which will serve to provide information related to the impact that the respective implementations of the PEA are having in the different states of the country.

The approval of the PNA is the starting point to be able to: a) Evaluate the results, quality, efficiency and impacts from the implementation of the program or programs resulting from the PNA, b) Carry out medium and long term evaluations of the PNA, at 5 and 10 years respectively.

The identification, design and development of indicators for the evaluation of the PNA is the next step after its approval, and will be advanced simultaneously with the development of the implementation programs. Within this framework, the two agreements of the Coordinating Committee were reached.

Implementation and Evaluation of the PNA (agreements)

Although the PNA generally establishes implementation schemes, as well as monitoring and evaluation, it is worth noting the proactive role of the Ministry of Public Administration as the representative of the Federal Public Administration on the Coordinating Committee to promote national harmony and strengthen the SNA at all levels of government. In this context, given the relevance of the implementation and evaluation of the National Anti-Corruption Policy for the Federal Executive Branch, the SFP presented the proposed Methodology for the Implementation and Evaluation of the PNA at the CC session on January 29, 2020, in order to strengthen and evaluate the performance of the PNA, and thus continue its standardization at the state level.

At the same session, the following agreements were approved regarding the implementation and the monitoring and evaluation of the same.

- SESNA (Executive Secretariat of the National Anti-Corruption System) will integrate a technical group, formed by the liaisons of the institutions of the SNA Coordinating Committee, which during the first quarter of 2020 will establish the guidelines, regulations and, if applicable, formats for the implementation of the National Anti-Corruption Policy; which will establish, at least, the number, scope and terms for the elaboration of the resulting programs. As a first input, **the SFP is considering a first proposal for a methodology to implement the PNA.**

- SESNA will prepare the preliminary draft of the methodology for the follow-up and evaluation of the National Anti-Corruption Policy, which will be submitted to the SNA Coordinating Committee during the second semester of 2020, once approved by SESNA's Executive Committee.

The PNA Implementation Methodology and the National Anti-Corruption Policy monitoring and evaluation methodology will be approved in the near future.

On the other hand and in light of all the reforms, structural changes, new measures mentioned in this report, as well as all the coordination mechanisms adopted since December 2018, the Anti-Bribery Protocol will be reviewed.

Federal States

The LGSNA establishes that the laws of the federal states will develop the integration, attributions, operation of the Local Systems considering the bases established by that law in accordance with the integration and attributions equivalent to the Law granted to the National System. (Article 36).

In this sense, a fundamental component in the conformation of the States Anti-Corruption Systems is the legislative adaptation of the states to the national laws, which refers to the fact that the National Anti-Corruption System should be replicated in each state and the first step to have the legal support and start with the Local Systems is the legislative harmonization of the necessary norms to conform it and make it work. The state laws that should have been created or modified are State's Constitutional Reform, State Anti-Corruption Law, Organic Law of the State Public Administration, Law of Auditing and Accountability, Organic Law of the General Prosecutor's Office, Organic Law of the Court of Administrative Justice, Law of Administrative Responsibilities and Criminal Code.

In this founding step, the general result is that as of August 28, 2020, 30 entities out of 32 concluded their legislative adaptation¹⁹.

Other indispensable elements to start the State Anti-Corruption Systems are that they have the: Selection Commission, Citizen Participation Committee, Coordinating Committee, Executive Secretariat, Anti-Corruption Prosecutor and Administrative Justice Court Magistrate. The progress of the 32 Local Anti-Corruption Systems is known through the public report "Monitoring. Local Anti-Corruption Systems in the Federal States". This report deals with the advances in the conformation of the Local Anti-Corruption Systems.

The public results as of August 28, 2020 are as follows:

- 32 entities have appointed the Magistrate of the Administrative Justice Court.
- 31 states have a Selection Commission, Coordinating Committee, Executive Secretariat, and Citizen Participation Committees.
- 29 State Anti-Corruption Prosecutors have been appointed.

Progress report on the elaboration process of State Anti-Corruption Policies (PEA)

The National Anti-Corruption Policy now allows the states to be able to issue and in any case, align their State Anti-Corruption Policies (PEA) to the PNA. Thus, the State Anti-Corruption Policies (PEA) are the strategic instruments developed by the State Anti-Corruption Systems (SEA) aimed at combating and controlling corruption in the states. They represent the road maps that the actors in the local systems will have to follow to develop actions aimed at containing this phenomenon. The PEAs are also documents that, as a whole, contribute to the achievement of what is established in the National Anti-Corruption Policy (PNA) and the National Anti-Corruption System.

The report sets out the progress made by the states in the process of preparing their PEAs during the first half of 2020. It should be noted that the states included in the report are those that submitted a proposal for an PEA to the SESNA or that the PEA has been approved by their Coordinating Committee.

¹⁹ For more information, please consult the report "Seguimiento Sistemas Locales Anticorrupción" (Monitoring of Local Anti-Corruption Systems) prepared by the Executive Secretariat of the National Anti-Corruption System at: https://sna.org.mx/wp-content/uploads/2020/08/Seguimiento_32SLA_28_08_2020.pdf

List of States with Approved and Proposed PEAs (Second Quarter 2020)

State policies approved by SESNA	2	Sinaloa and Zacatecas
Proposed State Policies" (in process of feedback with SESNA)	6	Durango, Estado de México, Oaxaca, Quintana Roo, Tabasco and Veracruz.
No local system	1	Mexico City
It does not have an Executive Secretariat	1	Chiapas

Additional measures:

Specialized Technical Committee of Information on Corruption (CTEICO)

The fight against corruption and impunity is a priority for the present administration. One example of this is that the SFP proposed, on November 14, 2019, the creation of a Specialized Technical Committee of Information on Corruption, which was approved by the National Institute of Geography and Statistics (INEGI) and will be chaired by the SFP.

Installation Session and First Ordinary Meeting 2020 of the Specialized Technical Committee on Information on Corruption (CTEICO)

The Ministry of Public Administration chaired the Installation Session and First Regular Meeting 2020 of the Specialized Technical Committee of Information on Corruption (CTEICO), whose purpose is to generate scientific data and measurements on the corruption that has affected our country so much, and with them to make concrete decisions that will transform the government and empower the population.

The President of the Executive Committee of the National Subsystem of Government Information, Public Security and Justice Administration (SNIGSPIJ), said that this Committee is the collegiate body where the generation of information on institutional and management capacities of the State units in relation to the fight against corruption at the federal, state and municipal levels will be coordinated; as well as the generation and dissemination of indicators and statistical information necessary for the design, monitoring and evaluation of public policies of national scope in this area.

Among the products expected from this Committee are the Technical Standard for the National Classification of Administrative Responsibilities for statistical purposes, a Model for Measuring Impunity, a Map of Corruption Risks in Public Procedures and Services, as well as a Compilation of Information on the National Anti-Corruption System and the Local Anti-Corruption Systems.

This First Ordinary Meeting 2020 of the Technical Committee, held virtually because of the health contingency, included the integration of the Work Program 2020-2025.

Among the attendees were the Public Prosecutor's Office Specialized in Combating Corruption of the FGR; the head of the Financial Intelligence Unit of the SHCP; the chair judge of the Federal Court of Administrative Justice; the chair commissioner of INAI, and the technical secretary of SESNA.

The following were also present during the session: the national coordinator of the National Commission of State-Federation Comptrollers; the secretary of the Oaxaca Comptroller's Office and national coordinator of the National Association of Higher Control and Government Control Bodies; the sub-secretary of Combating Impunity of Public Administration; the president of the Citizen Participation Committee of the National Anti-Corruption System (SNA), and the general director of Government Statistics, Public Security and Justice of INEGI.

2) Prosecutor Specialized in Combatting Corruption under the Office of the Prosecutor General of the Republic:

Office of the Prosecutor General of the Republic

On February 10, 2014 in the Official Gazette of the Federation, the Decree was published which amended, added and repealed diverse provisions of the Political Constitution of the United Mexican States in the area of politics and elections. These constitutional reforms included those referring to article 102, Part A of the aforementioned law, which states that the Public Prosecutor shall be organized in an Office of the Prosecutor General of the Republic. Thus, the Office of the Prosecutor General was created as an autonomous public body and established that there shall exist at least two offices of specialized prosecutors: one for election crimes and the other for combatting corruption.

The Constitution stipulated that the Prosecutor General of the Republic would appoint the beforementioned specialized prosecutors by means of an advisory procedure with the Senate of the Republic.

On December 14, 2018 there was published the Decree to issue the Organic Law of the Office of the General Prosecutor of the Republic, which established as part of the organic structure of the Institution the Office of the Specialized Prosecutor for Combating Corruption and which again mentions the appointment procedure.

In keeping with the above:

- On February 9, 2019, the Prosecutor General submitted to the consideration of the Senate of the Republic the proposal for the Head of the Office of the Specialized Prosecutor for Combatting Corruption.
- On March 1, 2019 by publication in the Official Gazette of the Federation of Decree A/003/2019 by the Prosecutor General of the Republic which establishes the Office of the Specialized Prosecutor for Combating Corruption formally constituting this body.
- On March 11, 2019, the Prosecutor General of the Republic, once the legal term had transpired without objection appointed the Head of the Office of the Specialized Prosecutor for Combatting Corruption, in conformity with articles 19, section VIII and 22 of the Organic Law of the Office of the Prosecutor General of the Republic.

Organic Law of the Office of the Prosecutor General of the Republic

Article 19. Powers of the Head of the Office of the Prosecutor General of the Republic

Whoever heads the Office of the Prosecutor General of the Republic shall intervene either personally or by means of the Prosecutors and other bodies of the Office of the Prosecutor General in order to exercise the attributions conferred by the Political Constitution of the United Mexican States, the present Law and the remaining applicable provisions and they shall the following powers:

VII. Appoint and remove the persons who head the Offices of the Specialized Prosecutors on the terms stipulated in the Political Constitution of the United Mexican States, the other Prosecutors which they deem pertinent, as well as other public officials assigned to the Office of the General Prosecutor.

Article 22. Appointment and removal of the heads of the Offices of the Specialized Prosecutors

The person who heads the Office of the Prosecutor General of the Republic shall appoint the Special Prosecutors based on their merit and ability to fulfill the position and pursuant to a previously established profile.

The Senate of the Republic by vote of two-thirds of the members present may object to said appointment or removal, within a maximum period of twenty business days, for this purpose, the Prosecutor General

of the Republic shall send to the Senate of the Republic a communication expressing the reasons supporting the appointment or removal of the persons to become Specialized Prosecutors. In the applicable case, they may be removed pursuant to the terms of the constitutional provisions, respecting the right to a hearing and due process in accordance to the present Law and its Regulations.

Finally, it should be stated that according establishment decree, it is within the jurisdiction of the Office of the Specialized Prosecutor for Combatting Corruption to investigate, prevent and prosecute the crimes contained in the Tenth Title of the Second Book of the Federal Criminal Code corresponding to Corruption Crimes.

3) Administrative Liability Regime for Corruption Crimes and a Special Administrative Court

Articles 66 and 77 of the General Law of Administrative Responsibilities establish the possibility of considering bribery and collusion in international commercial transactions as serious offenses, which will be sanctioned by the Federal Court of Administrative Justice. Likewise, even though the Court does not currently have Specialized Chambers to hear the offenses in question, this does not imply that the cases will not be heard, since for such purpose the Thirteenth Regional Metropolitan Chamber was authorized, for the time being, as an auxiliary chamber for the resolution of proceedings initiated on the grounds of serious offenses by public servants or individuals, such as those mentioned above.

Senate

Currently, the Senate of the Republic is waiting for the new appointments sent by the head of the Federal Executive of three judges of the Third Section of the Superior Chamber of the Federal Court of Administrative Justice, since the Plenary of the Senate of the Republic resolved to return, in February 2020, to the head of the Federal Executive, the appointments of the three candidates.

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

Text of recommendation 3(d):

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

d. As a matter of priority, take concrete steps to ensure adequate human and financial resources for FEMDHC once the Special Anti-Corruption Prosecutor is appointed, including sustainable and targeted training activities for its public officials, in order to investigate and prosecute foreign bribery cases, and while waiting for FEMDHC to become operational, take immediate steps to ensure adequate human and financial resources for investigating and prosecuting foreign bribery cases, in particular for the four ongoing investigations [Convention Article 5; 2009 Anti-Bribery Recommendation Annex I.D].

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

Office of the Prosecutor General of the Republic (FGR)

The Specialized Unit for Attention to Crimes Abroad was created by means of Decree A/064/2003, issued by the Attorney General of the Republic and published in the Official Gazette of the Federation on July 24, 2003. As referenced in its name it has the power to investigate crimes committed abroad or crimes which occur in national territory involving diplomats, general consuls or members of the international bodies accredited in Mexico (the preceding based on article 4 of the Federal Criminal Code).

Specifically, the UEDE has the power to investigate an international bribery crime that has been committed in foreign territory by a Mexican against a Mexican or against foreigners, or by a foreigner against a Mexican, pursuant to federal laws, if the following requirements concur:

1. That the accused person is found in the Republic;
2. That the accused has not been the subject of a final ruling in the country in which they committed the crime, and
3. That the offense of which they are accused is defined as a crime in the country in which it was committed and in the Republic.

In this context, the UEDE has been entrusted with conducting the international bribery investigations presented during the Mexico Evaluation Phase 4 in 2018, so it has been assigned the human and material resources necessary to perform its duties, in keeping with the FGR budget.

As concerns the FECC, the first year of the operation of the Office of the Specialized Prosecutor for Combatting Corruption (FECC, due to its initials in English) it was financed by a global budget assigned to the Office of the Prosecutor General of the Republic, in the framework of the transition from the Office of the Attorney General of the Republic to the Office of the Prosecutor General.

From its establishment in March 2019, the consolidation and strengthening of the FECC has been gradual. In this context, although from day one the FECC received reports that were in its jurisdiction, there were not conditions to open an investigation file until the month of May, date on which three Agents of the Public Prosecutor were assigned. However, it was not until the month of July when it was able to begin to carry out the pertinent investigations, since at that moment there was the minimum personnel necessary to carry out all of the procedures required by ministerial proceedings.

(Follows some data on the financial and human resources of the FECC that the FGR provided as an input for the evaluation but that preferred not to publish).

Given that the FECC personnel has exponentially grown, it is anticipated that this personnel will continue to grow during the following months.

With the present amount of personnel, to August 28, 2020, the FECC has received 1,156 accusations and 411 preemption requests, resulting in 1,266 investigation files, none of the on-going investigations correspond to a possible international bribery crime.

As regards, training received, the Agents of the Federal Public Prosecutor in charge of the international bribery investigations, in 2019 attended the “Oral Litigation Skills Workshop” offered by the Office of Overseas Prosecutorial Development, Assistance and Training of the Department of Justice of the United States of America.

Finally, in October 2019 the FGR trained 95 public officials on the subject of “Police, Political, Judicial or Public Officials’ Corruption”.

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

Text of recommendation 3(e):

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

e. Include developments regarding the criminal liability of legal persons in new training programmes for judges on foreign bribery [Convention Article 2]

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

Federal Judiciary Council

As of 2017, the IJF has incorporated into its annual work plans academic programs focused on the regulations regarding the National Anti-Corruption System, as well as the administrative and criminal liabilities that may be incurred by public officials and legal entities.

Thus, in accordance with the objectives and institutional strategies proposed in the Institutional Work Plan 2015-2018, the Institute taught the "Induction Course related to the National Anti-Corruption System", which had a total duration of 34 hours, distributed in 17 sessions of 2 hours each. The academic program was passed by 272 people, 158 public servants of the Federal Judiciary and 114 external professionals.

One of the core themes that was analyzed in this course, was related to the administrative and criminal liability of legal entities in matters of corruption, in order to determine the scope of their punishment. Through the analysis of cases presented by teachers, it was possible to study the administrative and criminal liability of legal persons, their integrity and their agents' liability.

To continue with the training of the PJJF public servants related to the understanding of the national anti-corruption system, using information and communication technologies, the IJF taught online the "Induction Course on the National Anti-corruption System", developing 1 course for the members of the Electoral Tribunal of the Federal Judiciary, 1 course for members of the CPJJF, and 2 courses that were implemented through generations.

The general objective of this academic program was to understand the regulatory framework of the National Anti-Corruption System, in order to strengthen the professional skills required for the judicial function, through the study and analysis of legal institutions, agencies, institutional instruments and tools available to the Mexican State, in matters of prevention, detection, and punishment of acts of corruption, using educational technology and virtual classrooms of the IJF. This course had a total duration of 68 hours, distributed in 17 sessions of 4 hours each. The implementation was carried out during the whole year of 2018, according to the following logistics:

1. "Induction Course to the National Anti-Corruption System. Virtual mode" for public servants of the Electoral Tribunal of the Federal Judiciary (TEPJF). In this course, 242 members of the Tribunal were trained. Course dates: 05/03/2018 to 10/08/2018.
2. "Induction Course to the National Anti-Corruption System. Virtual mode". First generation. This generation trained 192 people, all public servants of the PJJF, in all the branches and extensions of the IJF. Course dates: 20/03/2018 to 19/08/2018.
3. "Induction Course to the National Anti-Corruption System. Virtual mode" for the CPJJF public servants. 30 people were trained in this course. Course dates: 01/08/2018 to 07/10/2018.
4. "Induction Course to the National Anti-Corruption System. Virtual mode". Third Generation. In this course 234 people were trained, of which 233 were public servants of the PJJF and 1 external professional, in all the branches and extensions of the IJF through the Mexican Republic. Course dates: 10/09/2018 to 18/11/2018.

As in the live course, one of the main themes analyzed in these virtual courses was related to the administrative and criminal liability of legal entities in matters of corruption.

In 2019, aware of the legal and social importance of the constitutional reform of May 27, 2015, which created the National Anti-Corruption System as a guiding instrument and coordination body amongst authorities at all levels of administration, and in accordance to the general principles and institutional strategies proposed within the Institutional Development Plan 2019-2023 and the "Line of Action 10-Administrative Justice" of the Work Plan 2019, the IJF taught the "Course on the National Anti-Corruption System and Responsibilities".

The general objective of the academic program was to analyze the regulatory framework of the National Anti-Corruption System and the administrative and criminal liability for acts of corruption, in order to strengthen professional skills necessary to the judicial function, through the study of legal institutions, agencies, institutional instruments, and tools available to the Mexican State in the prevention, detection and punishment of acts of corruption.

The course was taught at "Las Flores" Building of the CJF, it lasted 120 hours, distributed in 40 sessions of 3 hours each. It trained 100 people, 62 public servants of the Federal Judiciary and 38 external professionals.

This course was organized in three modules: The National Anti-Corruption System and the Jurisdictional Function, Administrative and Criminal Liability and Corruption. One of the main topics of this course was related to the administrative and criminal liability of legal entities in acts of corruption.

As for 2020, following the respective Annual Work Plan, the Institute will teach the next generation of the Course in the National Anti-Corruption System and Responsibilities. This academic program is scheduled to begin in November 2020.

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

Text of recommendation 3(f):

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

f. Ensure that law enforcement authorities responsible for investigating transnational criminal organisations are aware of the potential links between organised crime and foreign bribery, and clarify the obligation for PFF to coordinate and share information with PGR regarding financial investigations that involve the proceeds of foreign bribery [2009 Anti-Bribery Recommendation III.i].

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

Fiscal Prosecutor's Office (PFF)

Organized crime and international bribery tend to be related in the commission of illicit activities, which can also lead to crimes of a fiscal and financial nature. In this scenario, the PFF is a key element in the strategies for their detection and combat through collaboration that allows for new investigations and support those that are underway, collecting abundant information on taxpayers, data on commercial activities and data on individuals and corporations. All of which provides the opportunity to combine a wider range of skills and experiences with different backgrounds, training and powers for its effective combat.

In this regard, the PFF, as a Unit dependent of the SHCP, is fully aware of the role it plays, within the Federal Public Administration, regarding the reporting, prosecution and eradication of conducts that seriously harms the treasury and that falls within the definition of fiscal and financial crimes.

In this sense, both the PFF and the SHCP are permanently promoting the training and specialization of their public servants, so that they have the relevant tools to identify, study, investigate, confront and resolve, in the part that corresponds to them in the criminal process, the adequate prosecution of fiscal and financial crimes, their probable relationship with transnational criminal organizations, as well as to execute the timely and effective exchange of information with the FGR, to combat such conducts.

Therefore, during the course of this year, personnel assigned to the PFF have increased their level of knowledge and experience in combating potential links between organized crime and international bribery through training and specialization consisting of the following specific courses:

- **"General Aspects of the Crime of Operations with Resources of Illicit Origin and Asset Recovery"**, sponsored by the Merida Initiative Program, convened by the U.S. Embassy in Mexico and given by the Department of Justice of the United States of America, through the International Narcotics and Law Enforcement Affairs Section.

- **"Long Distance Conference of the International Association of Financial Crime Investigators Boston 2020"**, in the framework of the Anti-Money Laundering and Human Trafficking Program, convened by the US Embassy in Mexico.

- **"Digital Evidence"**, convened by the U.S. Embassy in Mexico and given by the Department of Justice of the United States of America, through the International Office for Development, Assistance and Training (OPDAT).

- **"Financial Investigation Techniques"**, convened by the U.S. Embassy in Mexico and delivered by the Internal Revenue Service of the Department of the Treasury and the International Office for Development, Assistance and Training (OPDAT) of the Department of Justice of the United States of America.

- **"Politically Exposed Persons"**, convened by the U.S. Embassy in Mexico and provided by the Internal Revenue Service of the Department of the Treasury and the Office of International Development, Assistance and Training (OPDAT) of the Department of Justice of the United States of America.

- **"Fight against Fiscal Crime: Ten Global Principles"**, convened and taught by the Organization for Economic Cooperation and Development (OECD), through the Division of Global Relations and Development.

- **"Online course on the recommendations of the Financial Action Task Force (FATF)"**, convened and given by the FATF itself.

- **"Digital Regulation and Technological Law Issues with a focus on the prevention of Money Laundering, Tax and Financial Crimes and Anticorruption"**, given by the Research, Analysis and Opinion Group of the Transparency and Anticorruption Commission LXIV Legislature Open Parliament of the House of Representatives.

Additionally, on November 8, 2019, the PFF, within the scope of its powers, promoted the publication in the Official Gazette of the Federation of the "Decree by which various provisions of the Federal Law against Organized Crime, the Law of National Security, the National Code of Criminal Procedures, the Federal Fiscal Code and the Federal Criminal Code are reformed, added to and repealed". This decree establishes that the crimes of tax fraud and tax evasion, smuggling and its equals, as well as the issuance,

sale, alienation, purchase or acquisition of tax receipts that cover non-existent or false operations or simulated legal acts, are considered serious conduct that directly threaten the security of the Mexican State and, depending on such seriousness, are included in the catalog of crimes that deserve informal pretrial detention, because the arithmetic average of the penalty or sanction that the person who commits them will receive, in all cases, is greater than five years.

This reform took into consideration the relationship between crimes of a primarily fiscal nature and crimes of a different nature, such as those related to corruption, money laundering, and organized crime -even transnational crime- whose main operators resort to issuing and acquiring invoices that cover non-existent operations and that necessarily and obligatorily, are related to crimes of diversion of public resources (embezzlement and/or bribery) towards these billing companies, whose operations, it is known, have been diversified in such a way that they represent the execution of multi-million dollar operations that affect the public finances of various nations.

Similarly, the activity of these organizations translates into operations with resources of illicit origin, given that their very nature is to hide the origin or destination of illegal resources, through simulated invoicing, all of which has direct implications in relation to organized crime, which precisely represents the foundation of all these schemes of fiscal criminality and whose scope goes beyond the jurisdiction of one country with very high and serious impact on transnational operations.

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

Text of recommendation 3(g):

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

g. To help address issues of trust in and independence of the law enforcement authorities in foreign bribery investigations and prosecutions, without further delay implement reforms pursuant to PGR's review of its procedures, and appoint the Attorney General pursuant to the new constitutional mechanism [Convention, Article 5].

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

Chamber of Deputies

Product of the Constitutional Reform in Political Electoral Matters of 2014, on December 18, 2018 the Organic Law of the Office of the Prosecutor General of the Republic was published in the Official Gazette of the Federation.

With the publication of the Organic Law of the Office of the Prosecutor General of the Republic, a legal order was created to regulate the organization, operation and exercise of the powers of the Office of the Prosecutor General of the Republic as an autonomous public agency, with legal personality and its own assets in charge of the functions granted to the Attorney General's Office of the Federation, in accordance with the Political Constitution of the United Mexican States, international treaties to which the Mexican State is a party and other applicable provisions.

The decree establishes that the Office of the Prosecutor General of the Republic will have the purpose of investigating the crimes and clarifying the facts; granting an efficient, effective, and law-abiding justice that will contribute to combat and diminish insecurity; crime prevention; strengthening the rule of law in

Mexico; ensuring that the guilty do not go unpunished; as well as promoting, protecting, respecting and guaranteeing the rights of truth, integral reparation and non-repetition of the victims, offended in particular, and of society in general.

On the other hand, the declaration of the entry into force of the constitutional autonomy of the Office of the Prosecutor General of the Republic was published on December 18, 2018 in the Official Gazette of the Federation by the legislative branch.

In the same article, sixteenth transitory of the constitutional reform of 2014 in political-electoral matters, it is established that once the declaration of autonomy is made, the Chamber of Senators will immediately initiate the procedure set forth in Section A of Article 102 of the Mexican Constitution for the appointment of the Prosecutor General of the Republic.

Therefore, in accordance with the provisions of Article 102, the Senate of the Republic sent to the head of the Federal Executive a list of ten candidates for the position of Prosecutor General of the Republic. Subsequently, in accordance with the procedure, the Federal Executive sent a list of three citizens so that they could designate the person who would be in charge of the General Prosecutor's Office of the Republic. Thus, on January 18, 2019, Alejandro Gertz Manero was designated as the General Prosecutor of the Republic by the Senate of the Republic with 91 votes in favor. Therefore, the appointment of the Prosecutor General of the Republic was made in accordance with the constitutional provisions.

Office of the Prosecutor General of the Republic

For the purpose of generating and/or increasing the citizenry's trust in the Office of the Prosecutor General of the Republic there was opened the Sole Service Window (VUA, due to its initials in Spanish).

This initiative seeks to help to improve the service provided by FGR public officials to citizens, seeking that greater quality and cordiality and should there be identified irregular conduct by the Institution's public officials, it is possible to initiate technical-legal evaluation visits and even file a report if the conduct so warrants. In keeping with the aforesaid, this mechanism allows prevention, detection and eradication of corrupt practices that may occur inside the Office of the Prosecutor General.

The final objective of the VUA is to improve the citizenry's trust perception index regarding the performance of the Office of the Prosecutor General of the Republic, through immediate response, 24 hours during the 365 days in a year.

As a cross-section strategy, the Sole Service Window allows:

- a) **Identify response times and areas.** By monitoring national level registrations, the number of persons and objects that enter the installations of the Office of the Prosecutor General of the Republic are analyzed, the number of responses provided, the time in which they are provided and the Institution areas to which the users are channeled, if applicable. The service and/or response policy is that users should be serviced within 15 minutes after their arrival.
- b) **Measuring Efficiency.** A logical consequence of the preceding point is that the results obtained provide an objective evaluation of the performance of the Institution's public officials.
- c) **Determine the citizens' perception.** By means of sampling telephone calls made by the personnel assigned to the Office of the Special Internal Affairs Prosecutor of the Office of the Prosecutor General of the Republic, a survey of users who go to the Institution is made. The result of the survey allows to identify and ascertain the quality of the services provided, and the citizenry's perception of the Institution.

- d) **Identify the Criminality Index.** By maintaining an information control of the persons that go to the Office of the Prosecutor General of the Republic, the VUA allows identification of issues linked to the state's criminality index rates.

The information obtained from the Sole Service Window has generated:

- Objective elements to establish policies and strategies that allow reduction and effectively combat corruption inside the Institution.
- It has allowed the reduction of service and/or response times. In the specific case of placing under custody, in the first quarter of 2019, the average time was 9 hours and thirty minutes while for June 2020, the average is 4 hours.
- The person responsible for the VUA is a Public Prosecutor which allows efficiently providing service and guidance to users, preventing response delays.
- The number of reports made by users who go to the Office of the Prosecutor General of the Republic has been reduced; in the month of January 2019, the user percentage of reports about the procedures amounted to 48.4% and by the month of June 2020 it decreased to 0.54%.

During the period encompassed from January 1, 2019 to June 30, 2020, at a national level the following results have been obtained:

- 868,488 users have been serviced in the different Delegations and Central Areas of the Institution.

With respect to users' opinion, the following results were obtained:

- 99,134 quality control telephone calls have been made.
- 97,512 users have expressed satisfaction with the service and/or response provided by the Institution's public officials which equals 98,36% of the total telephone surveys.

1,589 reports were received (inadequate service, excessive service and/or response times, delays in returning vehicles, investigation delays, mistreatment by and arrogance of the AMPF and irregularities with detainees) which equal 1.60% of the total telephone surveys (these were followed-up through technical-legal evaluation proceedings or by informing the head of the corresponding administrative unit. 33 reports were received (equal to 0.03 of the total telephone surveys) amongst these 20 for bribery, 2 for abuse of authority and 4 for unlawful use of public service. In all these cases, the corresponding investigation file was opened.

On the other hand, the information and documentation sent by the Office of the General Prosecutor of the Republic through the General Division of International Proceedings in its capacity as Central Authority resulting from execution of an international cooperation request formulated by a foreign government through an official communication are protected by the Mutual Legal Assistance in Criminal Matters Treaty classified as reserved and confidential. As such the information contained in the executed request cannot be shared with any other authority other than the requesting authority nor may it be used in investigations which are not the reason for the request. Adhering to the above, the Requesting State binds itself to maintain the confidentiality of the records remitted and safeguard the contents.

Likewise, article 44 of the National Code of Criminal Procedure (CNPP, due to its initials in Spanish) states that the Central Authority, as well as those authorities that have knowledge of or participate in the execution and fulfillment of any legal assistance request, are obligated to maintain confidentiality concerning the contents of the same and of its supporting documents.

In addition to the above, the Institution's public officials are periodically vetted, for the purpose of re-enforcing the ethical conduct of the personnel, and are obligated to abide by the Code of Ethics of the Institution.

The Code was designed in keeping with all of the principles of the New Criminal Justice System, as well as the norms applicable to Human Rights, Transparency and Access to Information, Anti-Corruption, Ethics, Integrity and Prevention of Conflicts of Interest and is composed of 36 principles and values and 10 institutional commitments (developed from 42 Bases) that describe the conduct which FGR officials should observe.

Moreover, on September 2, 2020, in the Official Gazette of the Federation, the Code of Ethics for the Public Officials of the Office of the Prosecutor General of the Republic was published. Taking into consideration that adherence to the Code is obligatory, its purpose is to establish the fundamental bases, principles and values that strengthen ethical and integrated response of the FGR, so as to impact on the behavior and performance of public officials and thus form an ethical and professional identity and a sense of pride in rendering public service.

It is underlined that, amongst other principles to be observed by the public officials of the FGR, there are the following:

- **Legality.** Public officials shall only do what is expressly authorized by the norms and at all times they shall conform their acts within the powers that the laws, regulations and other legal provisions attribute to their employment, position or commission, therefore they know and abide by the provisions that regulate the performance of their duties, powers and attributions.
- **Loyalty.** Public officials shall respect the trust that the State has conferred upon them, having an absolute vocation for serving society and satisfying the best interests of the collective need above individual, personal or other needs, that are not of general interest and the well-being of the population.

This Code of Ethics was drafted considering the international commitments undertaken and ratified by the Mexican State in the matter of combatting corruption; these obligations have been created to promote and guarantee integrity in public service.

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

Text of recommendation 4(a):

4. Regarding the liability of legal persons, the Working Group recommends that Mexico:

a. Find a way that is appropriate and feasible in its legal system to clarify that the standards regarding internal controls and compliance programmes in Article 25 of GLAR apply when proving that a legal person failed to exercise or comply with due controls within its organisation under Article 421 CNPP, and raise awareness of these standards among the private sector, including business associations that represent SMEs [2009 Anti-Bribery Recommendation III.i, X.C and Annex I.B].

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

Ministry of Public Administration

As part of its re-launching, the Ministry of Public Function created the Coordination of Liason with the Business Sector, which is responsible for promoting business integrity and anti-bribery measures in the private sector, thus ensuring joint responsibility between the government and the business sector. Also, the SFP has made significant progress since the beginning of the new administration in early 2019 on the use of internal controls and compliance programs in accordance with Article 25 of the LGRA and awareness of these standards among the private sector, including business associations representing

SMEs. The above, as part of the actions aimed at implementing the Business Integrity Register, which is widely mentioned in recommendation 4(e).

In this regard, the Ministry of Public Administration has made an important effort to clarify what the characteristics of each of the seven elements should be of the Integrity Policy mentioned in Article 25 of the LGRA. This with the aim that companies can comply with these requirements and enjoy the benefits of having an Integrity Policy that can lead to and provide greater transparency and security on their compliance programs. In addition, an important effort has been made to socialize and create awareness in the private sector through training, seminars, webinars and other events which have been aimed at both chambers and business associations, as well as public procurement units from various agencies, also as part of the project of the Business Integrity Register.

Federal Judiciary Council

➤ **Training provided by CJF.**

The IJF will be in charge of training the members of the PJF and the CJF on the standards that legal entities must comply with in the fight against corruption, provided for in article 25 of the LGR, in relation to article 421 of the CNPP.

➤ **Internal Controls of the CJF**

The administration, surveillance and discipline of the PJF -with the exception of the SCJN– corresponds to the CJF²⁰ in accordance with the bases established by the respective laws.

In line with the above, the LOPJF establishes that the Council is a body with technical and managerial autonomy and to issue its own resolutions²¹. In this way, the CJF can exercise its administration, control, and management independently.

Thus, as part of its powers, the CJF is in charge of carrying out the administrative functions of the PJF. Therefore, within the scope of its competence, actions - internal controls - have been implemented in order to strengthen the proper course of the contracting procedures for individuals and legal entities to ensure their transparency and legality, which includes the items mentioned in the following section, which constitute mechanisms that have been established to comply with the most rigorous standards in terms of transparency and accountability, among which are:

➤ **General Agreement of the Plenary of the Federal Judiciary Council, that establishes the dispositions in the matter of administrative responsibilities, asset status, control and accountability.**

As part of internal controls of the CJF, Article 16 of the mentioned Agreement refers to the compliance programs of Article 25 of the LGRA, as follows:

"Article 16. (...)

For the imposition of sanctions on legal entities, the provisions of Articles 24 and 25 of the Law on Administrative Responsibilities must also be observed.

²⁰ Articles 49, 94 y 100 of the CPEUM

²¹ Article 68 of the LOPJF

The sanctions foreseen in paragraphs c) and d) of this section will only be applicable when the company obtains an economic benefit and the participation of its administrative and surveillance bodies or of its partners is accredited, or in those cases in which it is noticed that the company is systematically used to commit serious administrative faults.

One or more of the above-mentioned sanctions may be imposed on the individual, provided that they are compatible with each other and in accordance with the seriousness of the offenses.

It will be considered as a mitigating factor for the imposition of sanctions on legal entities if the administration, representation, and surveillance bodies or their partners denounce or collaborate in the investigations by providing the information and elements they possess, or compensate for the damages that have been caused.

For the imposition of sanctions on legal entities, the fact that the administrative, representative, or oversight bodies, or their partners, are aware of alleged acts of corruption by natural persons belonging to them and they are not reported, shall be considered an aggravating circumstance”.

➤ **Strengthening of the functions of the CPJF.**

On October 10, 2019²², the "General Agreement of the Plenary of the Federal Judiciary Council, which reforms, adds and revokes various general agreements, in relation to the attributions of the Comptroller's Office of the Federal Judiciary" was published in the Official Gazette of the Federation²³, within the procedure of administrative responsibilities of public servants and in matters of auditing, assignment of the technical secretaries of commissions to the corresponding executive secretaries.

Within the framework of this reform, articles 106 and 107 of the General Agreement of the Plenary of the Federal Judiciary Council that regulates the organization and operation of the Council itself, and reforms and revokes various provisions of other general agreements, were modified to consider within the attributions of the CPJF, the powers of control and supervision of compliance of the administrative operating rules that govern the administrative areas, as well as to act as a coordination authority with the Executive Secretariat of the National Anti-Corruption System.

Likewise, articles 810, 811 and 812 of the General Agreement of the Plenary of the Federal Judiciary Council, which establishes the provisions regarding the administrative activity of the Council itself, were reformed to consider within the powers of the CPJF the control and monitoring of public expenditure and the compliance of the objectives and goals contained in the programs of the administrative areas.

²² Available at: https://www.dof.gob.mx/nota_detalle.php?codigo=5574993&fecha=10/10/2019.

²³ In accordance with the provisions of Article 106 of the General Agreement of the Plenary of the Federal Judiciary Council, which issues the similar that regulates the organization and operation of the Council itself; and amends and repeals various provisions of other general agreements, the Comptroller of the Federal Judiciary is an auxiliary body of the CJF and will be responsible for controlling and overseeing compliance of the administrative operating rules governing the administrative areas and public servants of the Council, so it will be competent to conduct audits, reviews and inspection visits to verify the compliance of the applicable regulations, as well as the goals and objectives of the programs; to promote, evaluate, strengthen and foster the proper functioning of internal controls; as well as to initiate, substantiate and resolve, as appropriate, the procedures of administrative responsibility of the public servants assigned to the administrative areas.

➤ **Social Witness Figure.**

The CJF counts with the participation of social witnesses in public bidding procedures for the hiring of acquisitions, leases and services, as well as public works and related services.

Social witnesses are non-governmental organizations and individuals, who have the corresponding registration before the Council, once the CPJF reviews and evaluates the corresponding documentation, which proves the fulfillment of the requirements of moral solvency, professional prestige and experience in matters related to the hirings carried out by the Council, as well as the qualifications and academic specialization needed to participate in the development of the public contracting procedures. In this way, a mechanism of citizen participation is established, which promotes the prevention of administrative irregularities and acts of corruption, as well as the application of rules that regulate these procedures and the performance of public servants. The figure of the social witness is regulated in articles 254 to 260 of the General Agreement of the Plenary of the Federal Judiciary the Council, which establishes the provisions regarding the administrative activity of the Council itself.

In June 2019, by instructions of the Administrative Commission, the CPJF reactivated the participation of social witnesses, through a public call that allowed the increase of the register of social witnesses, from 1 to 23 members. From June 2019 to August 17, 2020, four social witnesses (one non-governmental organization and three individuals) have participated in nine public contracting procedures: eight national public bids (one for works and seven for the acquisition of goods and services) and one alternate procedure for the rehiring of services. The social witnesses presented a total of 29 recommendations for improvement in their partial and final reports, which then were reported to the Administrative Commission, assigned to the competent public servants for their attention and published in the CJF website.

In addition, on October 23, 2019, the General Agreement of the Plenary of the Federal Judiciary Council, which amends and adds to the provisions regarding the administrative activity of the Council itself, in relation to the figure of the social witness²⁴, was published in the Official Gazette, with the purpose of strengthening its participation in public bids. In this sense, the referred General Agreement contributed, among others, to the following improvements:

(i) Articles were rearranged, eliminating duplications and repetitions.

(ii) The parameters for the obligation of the participation of social witnesses in the contracting of acquisitions and services were broadened, and differentiated amounts were established for public works, taking into account their respective characteristics: in the case of procedures for contracting acquisitions and services for an amount greater than 969,505 units of measurement and inflation ("UMAS"), and greater than 1,900,000 UMAS, in the case of contracting public works. Likewise, the participation of social witnesses was included when, regardless of the amount, it is determined based on its relevance or impact.

(iii) The Social Witness Consultative Group was established, which is made up by public servants from the Comptroller's Office of the Federal Judiciary and the General Directorate of Legal Affairs. In support of the head of the Comptroller's Office, this Group analyzes the members of the Social Witnesses' Register, in order to propose candidates for the appointment of social witnesses in the hiring procedures, in an objective, impartial and transparent manner, considering the specialty and area of experience of the witnesses and the characteristics of the hiring procedures.

²⁴ Available at: https://www.dof.gob.mx/nota_detalle.php?codigo=5576342&fecha=23/10/2019

(iv) The selection and designation of the social witness is now an attribution of the Comptroller of the Federal Judiciary; an authority that oversees its registration in the public registry of social witnesses.

(v) The validity of the registration of social witnesses was extended from 2 to 3 years. The Register of Social Witnesses is published and updated periodically by the CPJF on the CJF website²⁵.

➤ **CJF Electronic Public Contracting System.**

The General Directorate of Material Resources has carried out, together with the General Directorate of Information Technologies, the creation of a computer system. One of its objectives is to simplify, modernize and achieve transparent procedures for the acquisition of goods and services, through an electronic platform, in order to have more elements that reduce possible acts of corruption and achieve a more efficient budget exercise. Likewise, it will allow having a transparent register of suppliers, which once implemented will favor time reduction, being a digital process.

In regards to the procedures for the acquisition of goods and services to satisfy the needs of the jurisdictional bodies and the Council's administrative areas, in the period mentioned above, the provisions of article 134 of the Political Constitution of the United Mexican States have been observed, as well as the General Agreement of the Plenary of the Federal Judiciary Council, which establishes the provisions regarding the administrative activity of the Council itself, in the sense of promoting that these procedures are carried out through public bids, thus guaranteeing the best conditions of price, quality, financing, and opportunity in benefit of the interests of the institution. Likewise, in compliance with the applicable regulations, in the procedures for the acquisition of services that exceed 969,505 UMA's, as well as those that, without prejudice to their amount, due to their relevance or impact, are determined by the CPJF, the participation of social witnesses is included.

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

Text of recommendation 4(b):

4. Regarding the liability of legal persons, the Working Group recommends that Mexico:

b. Consolidate and harmonise Article 11 CPF and Article 421 CNPP regarding the criteria for triggering the liability of legal persons for foreign bribery, and clarify that the consolidated provision is the basis for the criminal liability of legal persons for foreign bribery [Convention Article 2].

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

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

Text of recommendation 4(c):

4. Regarding the liability of legal persons, the Working Group recommends that Mexico:

c. Urgently take appropriate and feasible steps in its legal system to make SOEs responsible for foreign bribery [Convention Article 2].

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

²⁵ Available at: <http://www.cjf.gob.mx/apps/testigossociales/Default.aspx>.

Ministry of Public Administration

Pursuant to the Mexican Constitution, the Mexican State owns the organisations and companies that are required to effectively and exclusively manage strategic areas and priority activities of the State. In this sense, the property of the State is unseizable, inalienable and imprescriptible, in order to ensure that the State will always maintain ownership and control of strategic sectors and priority activities for the national economy. During the phase IV evaluation, we explained that applying the liability of legal person regimes to SOEs would put the country's economic sovereignty at risk and would therefore violate the Mexican Constitution. Nevertheless, in the administrative regime it is important to clarify the following points.

The SOE's of the Mexican State as well as their subsidiaries, whose last list was published on August 14, 2020 in the Official Gazette of the Federation, "List of parastatal entities of the Federal Public Administration", are exclusively owned by the Federal Government, with their own legal personality and assets, and enjoy technical, operational and management autonomy.

They operate under the special regime provided for in their laws (the Law for Petróleos Mexicanos and the Law of the Federal Electricity Commission and its regulations) in matters of budget; debt; acquisitions, leases, services and works; administrative responsibilities; remuneration; assets and state dividend.

In the administrative field, the SOE's are considered public entities as established in Article 3, section X of the General Law of Administrative Responsibilities (LGRA). Therefore, the aforementioned Law is applicable to them through the Units of Responsibilities, which are competent to receive and give attention to complaints and reportings, initiate and process procedures of administrative responsibility, as well as impose the sanctions that may be applicable in accordance with the LGRA, whose articles 52, 66 and 70 establish the possibility of sanctioning both public servants and individuals for bribery and collusion practices in international commercial transactions.

In this sense, the SFP has imposed sanctions on public servants of SOE in accordance with the LGRA, regardless of rank, which is a sign of the impartiality, rigor, and adherence to the law as part of the actions of combatting impunity that this administration carries out.

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

Text of recommendation 4(d):

4. Regarding the liability of legal persons, the Working Group recommends that Mexico:

d. Routinely confiscate the bribe and the proceeds of foreign bribery on conviction for foreign bribery [Convention Article 3].

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

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

Federal Judiciary Council

To date, from the database available to the Federal Judicial Branch, there are no records and, therefore, no convictions for the crime of international bribery contemplated by article 222 bis of the CPF.

Text of recommendation 4(e):

4. Regarding the liability of legal persons, the Working Group recommends that Mexico:

e. Significantly increase its engagement with the private sector, including business associations that represent SMEs, for the purpose of raising awareness on a regular and consistent basis of the new corporate liability regimes for foreign bribery, and effective compliance measures for complying with those regimes [2009 Recommendation III.i, X.C and Annex I.B].

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

Ministry of Public Administration

In August 2019, the Ministry of Public Administration launch the Business Integrity Register, an initiative whose objective is to promote the adoption of good business practices and encourage co-responsibility between the government and the business sector. The registration to the Register is free, voluntary and stratified by company size. Through registration, the company affirms that it has an integrity policy in accordance with Article 25 of the General Law of Administrative Responsibilities, with anti-corruption mechanisms, as well as compliance with its employer and tax obligations. Finally, the company has the opportunity to share information about its social responsibility, environmental care and gender equality activities. This information is subsequently validated together with the Ministry of Economy (SE), the National Commission for Regulatory Improvement (CONAMER), the Tax Administration Service (SAT), the Mexican Social Security Institute (IMSS), the Institute of the National Workers' Housing Fund (INFONAVIT) and the National Institute of Statistics and Geography (INEGI) through a documentary review. Once the authenticity of the information provided virtually and/or in person has been validated, the company may be awarded the Business Integrity Distinction.

The Business Integrity Register demonstrates the commitment of the Government of Mexico to fight, together with the support of the private sector, against corruption and implement integrity measures. It aims to raise the standards of legal entities, as well as to create regular and consistent awareness of the new corporate responsibility regimes regarding international bribery, and the effective compliance measures to comply with these regimes. Registration is open to all companies, particularly those seeking to become government suppliers.

The Business Integrity Register, which was opened to the public in mid-2020, was created together with various government agencies, chambers and associations, national and international organizations. As a preventive measure, the Register seeks to raise awareness in the private sector by providing SMEs with inputs and tools for the implementation, management and promotion of fair practices that help in the fight against corruption and impunity. The Business Integrity Register has a digital platform through which companies can register²⁶. On this platform, a series of advisory materials can be found, including guides, computer graphics and videos to facilitate the registration to the Registry. Similarly, free training on business integrity will be available.

The Coordination of Liaison with the Business Sector, in its effort to increase the number of companies registered in the Business Integrity Registry and in its objective of promoting integrity, ethics, honesty and equality, as well as reinforcing communication between the public and private sectors, has held 3,118 webinars with directors and suppliers. More than 30 Webinars and distance meetings with different

²⁶ <http://padron.apps.funcionpublica.gob.mx/>

chambers and associations who also collaborate in the validation of information and more than 15 Webinars with national and international organizations.

In this sense, the Business Integrity Registry has managed to have the following collaborating partners: Mexican Association of Women Business Leaders, A.C. (AMMJE), Indigenous Tourism Network of Mexico (RITA), Business Coordinating Council (CCE), Confederation of Industrial Chambers in the Mexican Republic (CONCAMIN), Confederation of National Chambers of Commerce, Services and Tourism (CONCANACO - SERVYTUR), Mexican Chamber of the Construction Industry (CMIC), National Chamber of the Transformation Industry (CANACINTRA), National Chamber of the Restaurant and Flavoured Food Industry (CANIRAC), Mexican Business Council for Foreign Trade, Investment and Technology, A. C. (COMCE), International Chamber of Commerce (ICC Mexico), American Chamber Of Commerce Of Mexico (AmCham), Association of Standardization and Certification A.C. (ANCE), Association of Voucher Issuing Companies A.C. (ASEVAL), Mexican Association of Specialized Financial Entities (AMFE), Mexican Association of Railroads, A.C. (AMF), Mexican Association of Pharmaceutical Research Industries, A.C. (AMIIF), Mexican Association of Innovative Industries of Medical Devices, A.C. (AMID), National Association of Bus, Truck and Tractor Trailer Manufacturers, A.C. (ANPACT), Franco-Mexican Chamber of Commerce (CCFM), Chamber of Commerce, Services and Small Tourism of Mexico City (CANACOPE), National Chamber of Air Transportation (CANAERO), National Chamber of Cement (CANACEM), National Chamber of Consulting Companies (CNEC), National Chamber of the Mexican Publishing Industry (CANIEM), National Chamber of the Pharmaceutical Industry (CANIFARMA), Council of Ethics and Transparency of the Pharmaceutical Industry (CETIFARMA), National Chamber of the Wood Industry (CANAINMA), National Chamber of the Wheat Milling Industry (CANIMOLT), National Chamber of the Bakery and Similar Industries of Mexico (CANAINPA), National Chamber of the Pulp and Paper Industries (CNICP) National Chamber of Electrical Manufacturers (CANAME), National Chamber of Cargo Transportation (CANACAR), National Chamber of Metal Packaging Manufacturers (CANAFEM), National Chamber of the Food Canning Industry (CANAINCA), National Chamber of the Housing Development and Promotion Industry (CANADEVI), National Chamber of the Electronics, Telecommunications and Information Technology Industry (CANIETI), Regional Chamber of the Sand Industry of the D.F. F. and the State of Mexico, Swiss Chamber - Mexican, among others.

In order to eradicate the bad practices within public procurement priority projects such as "Tren Maya", "Dos Bocas Refinery" "Banco de Bienestar" and the "100 Universities for Well-being" project, to mention a few, the Coordination of Liaison with the Business Sector is working on future dates to carry out different training sessions, talks and courses on integrity, according to the guiding principles of the Government of Mexico.

It is worth mentioning that although registration in the Business Integrity Register is open to all companies, regardless of their set of operations or size, it is primarily aimed at companies that are or wish to be government suppliers. Therefore, the Business Integrity Registry seeks to add the companies in the Single Registry of Government Suppliers and Contractors (RUPC), which has a universe of 19,752 companies (as of September 1, 2020). This integration to the Registry will be done in stages. To this end, as of September 2020, more than 40 meetings have been held with various contracting units from different federal states of the Republic. This with the purpose of establishing a cooperation that will allow the establishment of a communication channel to promote and disseminate the Business Integrity Register with those companies that provide them with a product, service or work.

Likewise, we have sought to establish direct, clear and effective communication with those Units related to priority projects such as the Mayan Train, the Dos Bocas Refinery and the Santa Lucia Airport, due to the importance and magnitude that these projects represent. This in order to provide greater guarantee that the companies that participate in the development of these great projects carry out their work with the strictest adherence to integrity and good practices. And thus achieving a better acceptance and application

of integrity in the business sector, reducing the probability of incurring in any act of corruption, and saving future costs resulting of alleged offences related to an act of corruption, for example, investigation costs or legal costs.

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

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

The Working Group will follow-up:

Text of issue for follow-up 5(a):

a. The effectiveness of steps taken by Mexico to make local state law enforcement authorities alert to the potential to detect foreign bribery in the course of investigating companies for illegal public procurement activities at the local level, and encourage them to report such cases directly to PGR.

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

Text of issue for follow-up 5(b):

b. How the National Money Laundering Risk Assessment is updated in 2019 to reflect foreign bribery as a predicate offence for money laundering

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

Financial Intelligence Unit

On México's 2019-2020 *National Risk Assessment on Money Laundering and Terrorist Financing* (ENR), which will be published soon, within the chapter titled "Corruption", there's a subject regarding bribery as a crime of Corruption, which includes international bribery as a predicate offense of Money Laundering. México's 2019-2020 ENR was updated based on current applicable regulations, as well as with inputs provided by competent authorities on this subject. Following the publication and adoption of the ENR, the purpose is to develop mechanisms that allow consolidating advances in the matter.

Text of issue for follow-up 5(c):

c. Implementation of the amendment to Article 222bis to verify whether in practice the case is covered where a bribe is transferred directly to a third party, according to the direction or acquiescence of the foreign public official.

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

Text of issue for follow-up 5(d):

d. The four ongoing cases and any new investigations to continue assessing whether sufficiently proactive investigative measures are taken.

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

Text of issue for follow-up 5(e):

e. Whether Mexico provides MLA as required by Article 9.1 of the Convention.

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

Office of the Prosecutor General of the Republic

The response time to a legal assistance request formulated to the Mexican Government is variable: in the Office of the Prosecutor General of the Republic, the General Division of International Proceedings (DGPI, due to its initials in Spanish) only operates as a Central Authority in the subject and in some cases the collaboration and help of other national authorities is required, who collaborate in good faith and in accordance to their legal attributes. Therefore, response time will depend on the speed with which the assisting authorities gather the information and documentation requested, the nature and complexity of the request, the number of proceedings required, the geographical distance, and the availability of the persons who have been summoned to make a statement, etc.

Likewise it is necessary to take into consideration that international cooperation through legal assistance is based on principles of International Law (good faith and reciprocity), and for this reason, the applicable bilateral Treaties and multilateral Conventions do not establish terms for the response and fulfillment of the petitions.

Along this line of thinking, the National Code of Criminal Procedure (CNPP, due to its initials in Spanish) establishes in article 433 that the execution of requests be according to the legislation of the United Mexican States, and shall be fulfilled in the shortest time possible. Likewise, the intervening authorities shall act with the greatest diligence for the purpose of complying with the request in the legal assistance.

As concerns the rendering of international legal assistance for non-criminal acts, it is necessary to point out that the Office of the Prosecutor General of the Republic is only empowered to respond to and fulfill international cooperation petitions related to investigations and proceedings of a criminal nature in accordance to the legal authority established in article 52, sections VI, VII and VIII of the Regulations of the Organic Law of the Office of the Prosecutor General of the Republic, in accordance with the stipulations of articles Third, Sixth and Twelfth, section II of the Organic Law of the Office of the Prosecutor General of the Republic, and in accordance to the provisions provided for in the International Treaties applicable to International Legal Assistance and the rule contained in Title XI "International Legal Assistance in Criminal Matters" of the National Code of Criminal Procedures (CNPP, due to its initials in Spanish).

Ministry of Foreign Affairs (SRE)

Regarding the provision of international legal assistance for non-criminal acts, it should be noted that the General Prosecutor of the Republic is only empowered to attend and deal with requests for international cooperation that are related to investigations and procedures of a criminal nature in accordance with the legal attributions established in article 52, sections VI, VII and VIII of the Regulation of the Organic Law of the Office of the Prosecutor General of the Republic, in accordance with the provisions of articles

Three, Six and Twelfth, section II of the Law Organic Law of the General Prosecutor of the Republic, and in accordance with the provisions of the International Treaties on International Legal Assistance and the rules contained in Title XI "International Legal Assistance in Criminal Matters" of the National Code of Criminal Procedures (CNPP).

In matters of Mutual Legal Assistance for other matters (Civil, Family, Agrarian, etc.) that do not correspond to Criminal matters, as indicated by the General Prosecutor of the Republic, it does not effectively have powers.

However, it is through other international instruments that the Foreign Ministry provides international cooperation in other matters as it is the central authority in such instruments, such as:

- The Hague Convention on service abroad of judicial and extrajudicial documents in civil and commercial matters;
- Convention on Obtaining Evidence Abroad in Civil or Commercial Matters;
- Inter-American Convention on Rogatory Letters, in which the central authority is the Foreign Ministry.

It is important to note that the cooperation provided in other matters is specifically in accordance with the provisions of each invoked convention, whether for notifications, transfer of documents or obtaining evidence.

Finally, it is highlighted that it is not possible to provide any type of legal aid in these matters that involve "*coercive execution*"; such as: liens, seizures, account assurance, salary discounts, etc.

Text of issue for follow-up 5(f):

f. The application of books and records offences under CFF and CPF including to legal persons to determine whether in practice, they are effective, proportionate and dissuasive, as required by the Convention.

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

Fiscal Prosecutor's Office (PFF)

In order to make the prosecution of crimes in accounting books and records referred to in the CFF, as well as in the CPF, more efficient, on June 1, 2018, the PFF promoted the publication, within the scope of its powers, of the "Decree amending the CFF" in the Official Gazette, add and repeal various provisions of the Federal Fiscal Code, the Customs Law, the Federal Criminal Code and the Federal Law to Prevent and Sanction Crimes Committed in the Area of Hydrocarbons", which, among other provisions, amends section III; adds section VIII and repeals section VII, all of Article 111 of the Federal Tax Code, in the sense that persons who hide, alter or destroy totally or partially the books, systems or accounting records, as well as the documentation related to the respective entries, which according to the tax laws are obliged to keep or, being obliged to have them do not have them, as well as those who enter false information or in an inadequate manner the accounting, fiscal or social operations or transactions, or who have false documentation related to such entries, shall be liable to a penalty of three months to three years in prison.

The purpose of this amendment was to prevent that the persons who are placed in the framework of the conducts described in the referred criminal type, necessarily are threatened by the inflexibility of the sanction to which they can accede in case of deciding to violate the corresponding norm; all this, allows the Mexican State to affirm, without doubt, that it fully complies with the assumptions required by the OECD in this matter.

Text of issue for follow-up 5(g):

g. Whether in practice the Mexican authorities are able to convict legal persons of foreign bribery in the absence of a prosecution or conviction against the natural perpetrator(s).

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

Ministry of Public Administration

In terms of the provisions of Articles 66 and 70 of the General Law of Administrative Responsibilities, the Federal Court of Administrative Justice could administratively sanction legal entities that incur in bribery or collusion in international commercial transactions.

Federal Judiciary Council

To date, from the database available to the Federal Judicial Branch, it was verified that there are no arraignments and, therefore, no convictions for the crime of foreign bribery contemplated by Article 222 bis of the CPF, from 2018 to August 1st of the current year.

In this sense, and as a follow-up to the information provided in 2018 for the purposes of phase IV of the Evaluation, the statistical numbers corresponding to the arraignments for the crimes of domestic bribery, foreign bribery, and those crimes related to the presentation of false accounting and tax returns, provided for in Article 111, sections II, III and IV of the Federal Fiscal Code, as well as the number of judgements (convictions/acquittals), corresponding to the period from 2018 to August 1, 2020, are provided.

TOTAL NUMBER OF PERSONS REGISTERED IN DISTRICT COURTS NATIONWIDE, FOR THE CRIMES OF BRIBERY, BRIBERY OF FOREIGN PUBLIC SERVANTS, AND CRIMES RELATED TO FALSE ACCOUNTING AND REPORTING FROM JANUARY 01, 2018 TO AUGUST 01, 2020

Year	Crime of bribery Article 222 of the Federal Criminal Code	Crime of bribery of foreign public servants, Article 222 bis of the Federal Criminal Code	Crimes related to the presentation of false accounting and reporting Article 111, Sections II, III and IV of the Federal Fiscal Code	Total
2018	20	0	18	38
2019	16	0	1	17
2020	3	0	0	3
Grand total	39	0	19	58

TOTAL NUMBER OF PERSONS REGISTERED IN FEDERAL CRIMINAL JUSTICE CENTERS NATIONWIDE, FOR CRIMES OF BRIBERY, BRIBERY OF FOREIGN PUBLIC SERVANTS, AND CRIMES RELATED TO FALSE ACCOUNTING AND REPORTING FROM JANUARY 01, 2018 TO AUGUST 01, 2020

Year	Crime of bribery Article 222 of the Federal Criminal Code	Crime of bribery of foreign public servants, Article 222 bis of the Federal Criminal Code	Crimes related to the presentation of false accounting and reporting Article 111, Sections II, III and IV of the Federal Fiscal Code	Total
2018	57	0	8	65
2019	53	0	6	59
2020	13	0	5	18
Grand total	123	0	19	142

TOTAL NUMBER OF JUDGEMENTS AGAINST PERSONS RELATED TO CRIMINAL CAUSES PROCESSED IN DISTRICT COURTS NATIONWIDE, FOR CRIMES OF BRIBERY, BRIBERY OF FOREIGN PUBLIC SERVANTS, AND THE PRESENTATION OF FALSE ACCOUNTING AND REPORTING FROM JANUARY 01, 2018 TO AUGUST 01, 2020

Type of judgement or resolutions that are definitive	Crime of bribery Article 222 of the Federal Criminal Code	Crime of bribery of foreign public servants, Article 222 bis of the Federal Criminal Code	Crimes related to the presentation of false accounting and reporting Article 111, Sections II, III and IV of the Federal Fiscal Code	Total
Conviction	38	0	3	41
Acquittal	12	0	1	13
Conviction/ Acquittal	8	0	0	8
Grand total	58	0	4	62

TOTAL NUMBER OF JUDGEMENTS IN ABBREVIATED PROCEDURES AND ORAL TRIALS AGAINST PERSONS LINKED TO CRIMINAL CAUSES PROCESSED IN FEDERAL CRIMINAL JUSTICE CENTERS NATIONWIDE 2020 FOR CRIMES OF BRIBERY, BRIBERY OF FOREIGN PUBLIC SERVANTS, AND THE PRESENTATION OF FALSE ACCOUNTING AND REPORTING FROM JANUARY 01, 2018 TO AUGUST 01, 2020

Type of judgement or resolutions that are definitive	Crime of bribery Article 222 of the Federal Criminal Code	Crime of bribery of foreign public servants, Article 222 bis of the Federal Criminal Code	Crimes related to the presentation of false accounting and reporting Article 111, Sections II, III and IV of the Federal Fiscal Code	Total
Conviction	31	0	3	34
Acquittal	2	0	0	2
Conviction/ Acquittal	1	0	0	1
Grand total	34	0	3	37

Source: Comprehensive File Tracking System, information collected by this General Directorate of Judicial Management as of August 13, 2020. Figures may vary according to the capture and modifications made by the personnel of the jurisdictional bodies.

In this regard, it should be noted that the data provided is for information purposes only, since they may be subject to change if the courts make corrections or update the data.

Finally, it should be noted that the Council (through the General Directorate of Legal Affairs), has filed 13 reports related to the crime of corruption during the period from 2018 to 2020, against 14 public servants: 8 Circuit Magistrates, 3 Secretaries, 1 Administrative Officer, 1 SPS Advisor and 1 court clerk.

Text of issue for follow-up 5(h):

h. Whether in practice pursuant to Article 421 CNPP the prosecution does not have to prove that there has been a failure to comply with due controls when either a person with the highest managerial authority bribes a foreign public official or a person with the highest level managerial authority directs or authorises a lower level person to bribe a foreign public official.

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

Text of issue for follow-up 5(i):

i. Whether in practice the requirements under Article 11 CPF that foreign bribery is committed with the ‘means’ of the legal person and ‘for such purpose’ do not result in practice in a loophole when a legal person uses another legal person to bribe on its behalf, or when a person with the highest managerial authority fails to prevent a lower level person from bribing.

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

Text of issue for follow-up 5(j):

j. Whether in practice, pursuant to Article 4 CPF, Mexico is able to effectively apply jurisdiction to Mexican companies that bribe foreign public officials wholly abroad.

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

Text of issue for follow-up 5(k):

k. Application of the new administrative corporate liability regime under GLAR and how it interacts with liability under the criminal system, to determine whether: 1) the offence of ‘collusion’ in international business transactions under GLAR only applies to foreign bribery where an agreement has been struck between the briber and foreign public official; 2) cases of foreign bribery are routinely referred to PGR since they constitute criminal offences; 3) if not all cases of foreign bribery are referred to PGR, how this impacts on the effectiveness of investigations, given the profound differences between the procedures under the criminal system and GLAR; and 4) if not all cases of foreign bribery are referred to PGR, how this impacts on sanctions, given that those under GLAR are based on the benefit obtained, and also include debarment, damages, suspension and dissolution, while under the criminal system fines are based on ‘fine days’. Given the importance of these issues, the Working Group recommends giving them significant attention at the time of Mexico’s Phase 4 two-year written follow-up report.

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

1) the offence of ‘collusion’ in international business transactions under GLAR only applies to foreign bribery where an agreement has been struck between the briber and foreign public official;

It is necessary to take into account that, as with any nationally and internationally regulated matter, there are important conceptual differences between the provisions of the treaty and the provisions of domestic law.

In this regard, one of the peculiarities of the Mexican legal system is that the same act of a public sector contractor or supplier can lead to consequences in matters of administrative and criminal liability at the same time. In this sense, the LGRA establishes administrative offenses, which do not include a prison sentence, while the Federal Criminal Code states the crimes.

In this regard, the criminal and administrative proceedings are autonomous, running on a separate track, so that the administrative decision does not necessarily lead to a criminal penalty and the absence of the former does not exclude the possibility of the latter.

In this sense, the LGRA does not specifically characterize "international bribery" as an "administrative offense," but rather Article 70 of the law itself characterizes such conduct as "collusion".

The Federal Criminal Code does define "bribery of foreign public servants" as a "crime" in Article 222 Bis.

2) cases of foreign bribery are routinely referred to PGR since they constitute criminal offences;

In effect, when in the opinion of the investigating administrative authority there are elements that constitute crimes, according to the Federal Criminal Code, it is appropriate for such authority to file the corresponding report with the Office of the Prosecutor General of the Republic, which, with the elements that have been provided to it, must carry out the appropriate investigations to determine whether or not the *corpus delicti* exists, in accordance with the criminal law.

3) if not all cases of foreign bribery are referred to PGR, how this impacts on the effectiveness of investigations, given the profound differences between the procedures under the criminal system and GLAR; and

The autonomy and notorious differences between the procedures of administrative responsibility and criminal procedure could result in a serious difference in criteria and even in the invalidity of some actions carried out by the investigating administrative authority, which is why the SFP and the FGR have undertaken extensive collaboration to ensure that the criminal authority has all the necessary elements for its investigation.

4) if not all cases of foreign bribery are referred to PGR, how this impacts on sanctions, given that those under GLAR are based on the benefit obtained, and also include debarment, damages, suspension and dissolution, while under the criminal system fines are based on ‘fine days’. Given the importance of these issues, the Working Group recommends giving them significant attention at the time of Mexico’s Phase 4 two-year written follow-up report.

The differences between the system of administrative and criminal liability do not affect the sanctions imposed under one system or the other, since these procedures are autonomous. In this sense, although all of these matters are referred to the FGR, the truth is that the SFP also refers them to the Federal Court of Administrative Justice, since that is the competent body to determine serious offenses in administrative matters.

Accordingly, the criminal authority sanctions according to criminal law, while the court will do the same under the administrative rule, without any confusion between the two.

Text of issue for follow-up 5(l):

l. Whether in practice, measures taken by Mexico through Articles 25 and 28 of the Income Tax Law and Normative Criterion 24/ISR/N, explicitly disallow the tax deductibility of bribes to foreign public officials in an effective manner.

Tax Administration Service (SAT)

With the update in 2019 of the "Strategies to detect National and International Bribery", the SAT seeks to strengthen its capacity to detect alleged acts of international bribery and, if identified, apply Normative Criterion 24 / ISR / N, published this year in the Official Gazette of the Federation (DOF), which clearly and explicitly establishes that bribes to foreign public officials are not deductible for tax purposes.

It is important to reaffirm that article 25 of the Income Tax Law (LISR) lists the deductions that taxpayers can make and, within said list, there are no provisions for "bribery payments to foreign public officials". Additionally, article 28 of the LISR establishes the concepts that are not deductible, specifying in its section III the following: "... III. Gifts, hospitality and other expenses of a similar nature with the exception of those that are directly related to the sale of products or the provision of services and that are generally offered to customers...".

Article 28, section III of the Income Tax Law establishes that gifts, hospitality and other expenses of a similar nature will not be deductible, with the exception of those referred to in the provision itself.

In this sense, expenditures, to be considered authorized deductions, must not be contrary to public order laws, even when they are made abroad. In addition to the fact that Article 222 of the National Code of Criminal Procedures (CNPP) establishes that every public servant who, in the exercise of public functions, has knowledge of the probable existence of a fact that the law indicates as a crime, are obliged to report it immediately to the competent authority.

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

Text of issue for follow-up 5(m):

m. Further progress on increasing the effectiveness of Mexico's sanctioning and reporting regime for managing risks and responding to actual instances of foreign bribery in development cooperation.

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

Secretaría de Relaciones Exteriores - AMEXCID

Mexico's International Cooperation conforms to the definition of South-South Cooperation, as the defined in Outcome Document of the 2009 High-Level Meeting on South-South Cooperation ([link](#)) This cooperation contributes to strengthening the technical, scientific, economic, cultural and educational capacities of its strategic partners.

The actions carried out by Mexico in matters of cooperation are in accordance with the provisions of the Federal Budget and Fiscal Responsibility Law (LFPRH [Link](#)), the control and accountability mechanisms established in the LFPRH, the Federal Acquisition, Leasing and Public Sector Services Law (LAASSP [Link](#)), Public Officials' Responsibilities Law (LFRSP [Link](#)), the Federal Transparency and Access to Public Information Law (LFTAIP [Link](#)), the Federal Auditing and Accountability Law (LFRCF [Link](#)), as well as the various provisions of the constitutional reform to create the National Anticorruption System ([Link](#)) promulgated in 2016, including the Federal Penal Code ([Link](#)).

The National Fund for International Development Cooperation (FONCID) as the financial vehicle of AMEXCID, in accordance with the provisions of articles 34 and 35 of the International Cooperation for Development Law, is legally constituted through a Trust Agreement under the Federal Budget and Fiscal Responsibility Law and its Regulation, which corresponds with the Mexican federal budget regulations, as a management and payment trust; in other words, it is a trust that does not have assigned staff, but rather is operated by the areas of AMEXCID. In this sense, the processes for the concertation of the diverse agreements and procurement contracts and / or provision of services for the implementation of cooperation programs and projects are carried out directly by AMEXCID or by the entities of the Federal Public Administration that are the coordinators, executors or beneficiaries of the cooperation projects. Because of the above, to the officials who implement the cooperation programs and projects, the CPF ([Link](#)), articles 222 and 222 bis also apply.

The cooperation that Mexico offers to third countries is carried out through the exchange of experiences in the technical-scientific, educational-cultural and economic fields, provided by government institutions, which are subject to the legal provisions contained in the LFPRH, the LAASSP, the LFRSP, the LFTAIP the LFRCF, the corresponding regulations and the CPF.

For the operation of international cooperation for development that Mexico offers to third countries, the AMEXCID is designing the Program of International Cooperation for Development 2019-2024 (PROCID), which is not an ODA Program. The PROCID is the programmatic instrument for planning cooperation activities that responds to the principle of transparency and accountability, established by the Federal Government of Mexico and the international agreements on international cooperation for development.

According to the LFPRH, it is the responsibility of the Ministry of Finance and Public Credit and the Ministry of Public Administration, based on information provided by AMEXCID, to prepare risk registers to which the federal public administration as a whole is susceptible, including, as has been explained, the resources exercised by AMEXCID and other federal government offices, in matters of International Cooperation for Development.

To prevent irregularities and establish reporting mechanisms, Mexican cooperation is subject to the regulations of the General Law of the National Anticorruption System, including the CPF, LFPRH, LAASSP, LFRSP, LFTAIP, LFRCF and the corresponding regulations.

The operation risks of the cooperation that Mexico offers to third countries are established in the clauses and rules of operation of the agreements and memoranda of understanding of inter-institutional cooperation, where the Mexican institutions that subscribe them have the obligation to comply and report

their progress and, if it is the case, compliance difficulties in accordance with federal laws (LFPRH, LAASSP, LFRSP, LFTAIP and LFRCF, together with their corresponding regulations).

PART III: ADDITIONAL ISSUES FOR INFORMATION

Foreign bribery and related enforcement actions since Phase 4

To this end, we would kindly ask you to please provide information on:

- *The four foreign bribery investigations mentioned in the [Mexico Phase 4 Report](#) (para 20); and*
- *The foreign bribery cases in the Matrix extract here attached.*

Please update the information contained in these documents and add information on any additional investigations underway or terminated since Phase 4.

Information may be provided below or in a separate document.

Action taken as of the date of the follow-up report:

Efforts made to publicise and disseminate the Mexico Phase 4 report, for example, through public announcements, press events, sharing with relevant stakeholders, particularly those involved in the on-site visit [*Phase 4 Evaluation Procedures, para. 50*]

Action taken as of the date of the follow-up report:

To coordinate Mexico's participation in the Working Group on Bribery, as well as in the preparation of responses to the follow-up report, during 2019 and 2020, AMEXCID and the Permanent Mission of Mexico to the OECD have disseminated to the authorities responsible for compliance of the anti-bribery convention, the Phase 4 Mexico Report, the questionnaire for the elaboration of the written follow-up report. Likewise, AMEXCID together with SFP have promoted dialogue between federal institutions to understand and address the WGB recommendations.

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