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ANTICORRUPTION AND TRANSPARENCY REFORMS IN MEXICO

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Good afternoon. First of all I would like to thank Minister Virgilio Andrade for his kind invitation to speak in this panel on behalf of the Mexican Senate. My colleague Senator Pilar Ortega and I, together with other political forces, have had the privilege of working on this important agenda of transparency, anticorruption and accountability as authors and promoters of such reforms.

The first Federal Transparency and Access to Public Information Law was approved in Mexico in 2002 and after a decade of developing this right, we have moved forward rather considerably. From the situation in which we only had only one obligated entity to comply with the law such as the Federal Executive Power, we moved to one in which today there is no public or private agent, public servants or individuals administering public funds exempt of complying with the high standards established by the current General Transparency Law

approved last year. But beyond the resources issue, this Law is actively looking to guarantee the full exercise of a human right, namely, the right to know. The right to know not only the use and final destination of money but also the decision-making processes that affect them.

I like to talk on the content of this Law, already explained by Minister Andrade, but I do like even more to talk of the drafting process, which constituted a true example of Open Parliament best practices. Overall, it was as open and transparent as we wanted the Law to open all the obligated entities to public scrutiny. In order to draft the law, a multipartisan group of Senators was created. Within that group we invited experts, scholars and activists to draft it jointly with us. As a result we ended up with a text, on the one hand addressing the main concerns of frequent information requesters in order to effectively exercise their rights, through the establishment of high standards on the subject and, on the other, creating a strong support network to the Law in order to counter the equally strong resistances from numerous actors preventing it to be approved. The General Transparency Law is one based on the assumption that information belongs to the citizens

and not to the public servants that generates it or manages it. This simple phrase embody a deep transformation in public administration and public servants culture consisting of changing the idea that the duties deriving from its implementation are heavy and arbitrary workload to understand them as a necessary effort to improve the quality of our democracy. Without a doubt, implementation of the law will imply huge efforts and challenges, to which I will refer.

Firstly, it will be necessary to develop institutional capacities of more than three thousands obliged entities, including the two thousands and four hundred municipalities, 32 local Congresses, 32 local Judiciary Powers and both unions and political parties in the local and national arena. Public servants of all these institutions, of all ranks and hierarchies, from a secretary to the highest official, will have to be trained in the processes of generating and handling the information in order to be always available and publishable. Besides, officials responsables of the classification of the information have to be also trained to do it correctly applying a harm test. For all this it is essential to provide enough budgetary resources, which wont be easy in a

situation of austerity like the one we are facing. All the above should foster our transition to an open government.

After approving the constitutional reform and the General Law of Transparency we are currently in the harmonization stage of the Federal Law and the Local Laws with the former, and in the process of approving a General Law on Protection of Personal Data and Archives as well. Together with the right to know, we must guarantee the exercise of the right of privacy and the right to the truth.

This reform and the anticorruption reform are siblings, legally speaking, and they complement each other. After studying several institutional models in the world, we considered that putting all eggs in a single basket was not our best option, therefore instead of betting for a single institution or a single official to trust with such task, we decided to strengthen existing institutions, link them through a system, promote checks and balances among them and to subject them to citizen oversight and counterweight. Our institutional design is looking to address all stages in the process of fighting corruption: prevention, detection, investigation, sanction and evaluation considered as phases

of a cycle which parts should be addressed each one of them by a different institution linked to the others.

What we wanted to overcome was the segregation and fragmentation of actions taken by existing institutions, the lack of independence of those responsible of both the investigations and sanctions applied to their colleagues and superiors, the lack of powerful incentives to do the right thing in public office, the lack of efficacy of the fiscalization efforts to tackle, correct, sanction and prevent mismanagement of public resources and the impunity normally associated with it. The new National Anticorruption System established in the Constitution has still to materialize through specific laws that we are about to discuss. Among others, we have to define the tools and the structure in which it will operate as an Executive Secretariat, the Digital Platform centralizing information of all obligated entities in both the local and national arenas in terms of patrimonial declarations, declarations of interests, public procurement, black listing of sanctioned public servants and observations made during audits.

We do have to develop the ideal protection mechanisms to whistle blowers and the certification of comptrollers and auditors, a catalogue of responsibilities according to the new realities of corruption, and the means of citizen participation generating true counterbalances and surveillance to the system. We have confidence that, once all this into force, it will contribute to fight corruption and recover trust in our democracy and institutions. Minister Andrade mentioned global data and I will like to finish my intervention pointing to important regional data. Of all citizens of the world, according to the last *Latinobarómetro* poll, Latin Americans are the least satisfied with democracy and Mexicans the least satisfied among the dissatisfied in the region. With only 29% of favourable opinions, Mexico situates in the last place of the region, only 21% believe that those in government act thinking in the peoples wellbeing, barely a 17% feels adequately represented by Congress, and a scant 26% believes government is transparent, not to mention the pitiful 22% of Mexicans that believe we have seen some progress in reducing corruption within State institutions. We are all responsible of this and there are still lots of things to do. Thank you very much.