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Executive summary

Note by the Secretariat

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* CAC/COSP/IRG/2019/1.



II. Executive summary

Mexico

1. Introduction: overview of the legal and institutional framework of Mexico in the context of implementation of the United Nations Convention against Corruption

The implementation by Mexico of chapters III and IV of the United Nations Convention against Corruption was reviewed during the first review cycle (CAC/COSP/IRG/I/3/1/Add.25).

The Convention has the status of law and can be directly applied (art. 133 of the Constitution).

Mexico is a federal State and the present review relates only to federal legislation. At the time of the country visit, Mexico had not yet undertaken a comparative study of its various states' anti-corruption laws. The constitutional reform creating the National Anti-Corruption System went into effect on 27 May 2015; at the time of the country visit, preparations were being made for the transition to that system and the entry into force/implementation of the relevant secondary legislation.¹ The review refers to legislation in force at the time of the country visit, which took place from 9 to 11 May 2017.

The main bodies involved in preventing and combating corruption in Mexico are the National Institute for Transparency, Access to Information and Personal Data Protection (INAI), the Ministry of the Public Service, the Office of the Attorney General of the Republic, the Supreme Audit Office, the Council of the Federal Judiciary and the Federal Court of Administrative Justice.²

2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

At the time of the country visit, Mexico had amended article 113 of its Constitution with the aim of consolidating the National Anti-Corruption System.³ While Mexico did not have a national anti-corruption strategy in place at the time of the visit, the National Development Plan for the period 2013–2018 highlighted transparency and access to information as tools for ensuring public accountability and preventing corruption. The Plan provides for the strengthening of coordination mechanisms, the promotion of transparency and the simplification of a number of administrative procedures.

Several institutions run programmes aimed at promoting transparency and accountability; and specially designed corruption prevention activities are organized for children.

¹ The constitutional reform of 27 May 2015 introduced amendments to the Constitution in preparation for the transition to the National Anti-Corruption System. The System became fully operational in July 2017.

² The authorities indicated that when the new National Anti-Corruption System became operational, other institutions, such as the Committee for Coordination of the National Anti-Corruption System and the Citizens' Participation Committee (art. 113 of the Constitution), would be leading activities aimed at preventing and combating corruption.

³ The authorities indicated that the System would coordinate the activities of the competent authorities at all levels of government involved in the prevention, detection and punishment of administrative offences and acts of corruption and in the monitoring and control of public resources.

At the time of the country visit,⁴ the preventive anti-corruption bodies were the Ministry of the Public Service — which is responsible for establishing internal controls within the federal administration to prevent acts or omissions that could constitute administrative offences and for formulating and guiding the general policy of the federal administration in order to promote, among other things, integrity in the administration (art. 37 (XIX) and (XXIII) of the Organic Act on the Federal Administration) — and, as the body responsible for guaranteeing the right of access to public information and personal data protection, the National Institute for Transparency, Access to Information and Personal Data Protection.

The independence of the National Institute for Transparency, Access to Information and Personal Data Protection (art. 6, para. A (VIII)) is enshrined in the Constitution.

With regard to article 6, paragraph 3, of the Convention, Mexico has informed the Secretary-General of the United Nations that the Ministry of the Public Service is the competent authority.

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

The Federal Administration Career Service Act establishes a competitive selection process for the recruitment of career civil servants, who may be appointed and dismissed only in the cases and as stipulated in the Act (art. 4). The process applies to all levels from director general to liaison officer (art. 5); there are, in addition, positions that may be filled through direct internal appointments. Recruitment is carried out through an open competitive process (arts. 23 and 29–31). There is no category of positions that have been identified as particularly vulnerable to corruption. However, Mexico has in place a protocol governing public procurement and the granting and extension of licences, permits, authorizations and concessions,⁵ among other measures aimed at preventing corruption in those two areas.

Eligibility to stand for and to hold a public office are governed by the Constitution (arts. 55, 58, 82, 95 and 102) and the General Act on Electoral Institutions and Procedures (art. 10). Persons convicted of an offence that might severely harm the reputation of the public administration are disqualified from being selected as a justice of the Supreme Court (art. 95 (IV) of the Constitution). Such disqualification also applies to certain other posts (art. 6 (A) (VIII); art. 79 (IV); art. 99 (X); art. 100, third paragraph; and art. 116 (III) of the Constitution).

Candidates for elected office may not accept cash donations from, inter alia, legal persons or political parties (art. 380 (c), (d) (iv) and (d) (vi) of the General Act on Electoral Institutions and Procedures). The National Electoral Institute and the public electoral bodies of the federative entities must make available to the public, and update, information regarding the amounts of public funding given to political parties and other political associations, the authorized amounts of private funding and the caps set on campaign spending (art. 74 I (f) of the General Act on Transparency and Access to Public Information).

Located within the Ministry of the Public Service, the Special Unit on Ethics and the Prevention of Conflicts of Interest is responsible for developing policies, rules and instruments to promote integrity and prevent conflicts of interest.

The Code of Ethics for Federal Public Servants and the Rules of Integrity for the Exercise of Public Functions were adopted on 20 August 2015. The committees for ethics and the prevention of conflicts of interest, which must be established in each

⁴ The authorities indicated that when the National Anti-Corruption System became operational, the Committee for Coordination of the System would be the body responsible for public policy relating to corruption.

⁵ <https://reniresp.funcionpublica.gob.mx>.

State or quasi-State entity (art. 2 of the General Guidelines for Promoting the Integrity of Public Servants), are responsible for ensuring compliance with those instruments.⁶

The Constitution stipulates that administrative sanctions are to be imposed for acts or omissions that compromise the legality of conduct, honesty, loyalty, impartiality or efficiency required of public servants in the performance of their duties (art. 109 (III) of the Constitution, with the enabling legislation provided in art. 13 of the Federal Act on the Administrative Responsibilities of Public Servants⁷).

The Federal Code of Criminal Procedure (arts. 116 and 117) and the National Code of Criminal Procedure (art. 222) establish the obligation to report all offences that are required to be prosecuted *ex officio*. This obligation applies as well to officials of public bodies.⁸

The Constitution establishes the obligation of all public servants to declare their assets (art. 108). However, at the time of the country visit (9–11 May 2017), the legislation incorporating that provision applied only to certain officials (see below at art. 52).⁹

The Agreement Establishing the Procedures for the Receipt and Disposal of Gifts, Donations or Benefits in General Received by Federal Public Servants stipulates that during the exercise of their functions and up to one year after leaving their post, public servants must refrain from soliciting, receiving or accepting, for themselves or for the persons referred to in article 8 (XI) of the Federal Act on the Administrative Responsibilities of Public Servants,¹⁰ goods or services, free of charge or by means of sale at a lower price than on the ordinary market, from natural or legal persons whose professional, commercial or industrial activities are directly linked to, or regulated or supervised according to, the powers exercised by the public servant by virtue of his or her post, responsibilities or assignment and that might represent a conflict of interest (art. 1 of the Agreement).

The foregoing notwithstanding, article 2 of the Agreement provides that when a public servant receives from the same person property or gifts whose accumulated value over the course of a year exceeds 10 times the general minimum daily wage set for the Federal District, he or she must place the property or gift at the disposal of the Directorate General for Liabilities and Assets, of the Ministry of the Public Service, for registration and safekeeping until a decision can be made with regard to final disposal. That could lead to confusion, since no exceptions are established with respect to the general rule in article 1.

Public servants are not required to declare outside employment.¹¹ The status of career public servant is incompatible with the holding of any other post or the exercise of any other profession or activity that prevents or undermines the strict fulfilment of the duties of a career public servant (art. 9 of the Federal Administration Career Service Act).

Judicial independence is guaranteed by the Constitution (arts. 17, 100, 116 (III) and 122 (IV)). The Organic Act on the Federal Judicial Branch states that matters

⁶ The authorities indicated that, with the entry into force of the General Act on Administrative Responsibilities, the committee for ethics and the prevention of conflicts of interest of each State or quasi-State entity would be responsible for developing codes of conduct for public servants working in those institutions (arts. 16 and 19 of the Act).

⁷ The authorities indicated that, with the repeal of the Federal Act on the Administrative Responsibilities of Public Servants and the entry into force of the General Act on Administrative Responsibilities, administrative sanctions would be established in articles 75 and 78 of the latter text.

⁸ The authorities indicated that when the National Anti-Corruption System became operational, protective measures would be established for public servants who report acts of corruption.

⁹ The authorities indicated that, once the General Act on Administrative Responsibilities entered into force, all public servants would be obliged to submit such declarations (art. 32).

¹⁰ The authorities reported that the Federal Act on the Administrative Responsibilities of Public Servants was superseded by the General Act on Administrative Responsibilities.

¹¹ The authorities indicated that once the General Act on Administrative Responsibilities entered into force, declarations of assets and interests would be required (art. 32).

relating to administration, oversight, discipline and careers within the judiciary are the responsibility of the Council of the Federal Judiciary, except in the case of the Supreme Court — in respect of which the President of the Court is responsible for such matters (arts. 14 (I) and 68 of the Act) — and the case of the Electoral Tribunal — in respect of which the Commission for Administration of the Tribunal is responsible (arts. 68 and 205). The Act provides as well for the recruitment and promotion of public servants in the judiciary through a competitive selection process (arts. 105 and 112–117), and it defines eligibility criteria (arts. 106–109), sanctionable conduct (art. 131) and applicable sanctions (art. 135).

The Attorney General's Office is not part of the judiciary. The Organic Act on the Office of the Attorney General of the Republic defines the eligibility criteria for substantive personnel (arts. 34–36), the competitive selection process (arts. 40 and 42), sanctionable conduct (arts. 62–65) and applicable sanctions (art. 67).

A code of ethics is in place for the federal judiciary and a code of conduct for the Attorney General's Office.

Public procurement and management of public finances (art. 9)

Contracts for the procurement, lease or sale of all types of property, services and works are awarded through open tendering (art. 134 of the Constitution). The Public-Sector Procurement, Leasing and Services Act and the Public Works and Related Services Act govern federal public procurement processes. Public works may be carried out on the basis of a contract (art. 27 of the Public Works and Related Services Act) or by force account (art. 26).

Mexico has three public procurement procedures: open tendering; selective tendering involving at least three potential contractors; and direct award (art. 26 of the Public-Sector Procurement, Leasing and Services Act and art. 27 of the Public Works and Related Services Act). Open tendering is the procedure used, as a general rule, to award contracts for procurement, leasing or services as well as contracts for public works and related services (art. 26 of the Public-Sector Procurement, Leasing and Services Act and art. 27 of the Public Works and Related Services Act). The two acts set forth the permitted exceptions to the general rule (arts. 40–42 of the Public-Sector Procurement, Leasing and Services Act and arts. 41–43 of the Public Works and Related Services Act). They also stipulate the requirement to establish submission deadlines for bids and evaluation criteria (arts. 29 (III) and (XIII), 32 and 36 of the Public-Sector Procurement, Leasing and Services Act and arts. 31 (XXII) and 33 of the Public Works and Related Services Act).

Mexico uses the CompraNet electronic public procurement platform (arts. 30 and 43 of the Public-Sector Procurement, Leasing and Services Act and arts. 32 and 44 of the Public Works and Related Services Act). The Ministry of the Public Service is responsible for resolving any complaints or challenges in open or selective tendering processes (art. 65 of the Public-Sector Procurement, Leasing and Services Act and art. 83 of the Public Works and Related Services Act). There is no possibility of recourse against decisions on direct awards.

The Chamber of Deputies approves the budget (art. 74 (IV) of the Constitution and art. 42 of the Federal Act on Budget and Fiscal Responsibility). The Ministry of Finance and Public Credit provides monthly and quarterly reports to the Congress on budget revenue and expenditure (art. 107 of the Federal Act on Budget and Fiscal Responsibility). The General Act on Government Accounting sets out the system of government accounting (arts. 16–22) and the obligation to maintain accounting records and preserve original supporting documentation (arts. 33–43); it also establishes sanctions for non-compliance with the obligations it defines, such as omissions or alteration of records.

The Supreme Audit Office and the Ministry of the Public Service oversee the execution of the budget (arts. 1 and 6 of the Federal Act on Budget and Fiscal Responsibility).

Public reporting; participation of society (arts. 10 and 13)

Access to information is guaranteed by the Constitution (art. 6), the General Act on Transparency and Access to Public Information and the Federal Act on Transparency and Access to Public Information.

The National Institute for Transparency, Access to Information and Personal Data Protection (INAI) is responsible for guaranteeing the right of access to public information and personal data protection and for the National Transparency System (art. 41 of the General Act and chapter I of the Federal Act).

All information generated, obtained, acquired, processed or in the possession of entities subject to the provisions of the General Act on Transparency and Access to Public Information (art. 23 of the General Act) is public and may be treated as classified only in exceptional cases for reasons of public interest and national security (arts. 4, 11, 12 and 113–120 of the General Act and arts. 3 and 110–117 of the Federal Act).

Any person may submit a request for access to information to a “transparency unit” (art. 122 of the General Act and art. 123 of the Federal Act) and may appeal rejected requests before the relevant oversight body or at the transparency unit that received the original request (art. 142 of the General Act and art. 147 of the Federal Act). Individuals may appeal decisions of oversight bodies by application to the federal judiciary (art. 158 of the General Act). In cases involving national security, only the Legal Counsel to the Government may file an application for review with the Supreme Court (art. 157 of the General Act).

The entities subject to the provisions of the General Act on Transparency and Access to Public Information are required to establish transparency units and transparency committees (art. 24 of the General Act). The transparency units are responsible for receiving and processing requests for access to information (arts. 24 and 45 of the General Act). The transparency committees have access to information in order to determine its classification (arts. 43 and 44 of the General Act and art. 61 of the Federal Act).

Mexico is working to simplify federal administrative procedures through measures implemented under the Agreement Establishing General Provisions on Records and Transparency for the Federal Administration and its Single Annex (3 March 2016).

At the time of the country visit, Mexico had not published any periodic reports on the risk of corruption in its public administration.¹²

The participation of society is ensured through various mechanisms, including elections, public consultations, citizen oversight of social development projects (arts. 69–71 of the General Act on Social Development of 2004) and civil society observers (*testigos sociales* or “social witnesses”) in procurement processes (art. 27 (IV) of the Public Works and Related Services Act and art. 26 (IV) of the Public-Sector Procurement, Leasing and Services Act).

The Directorate General for Public Information of the Ministry of the Public Service is responsible for developing, coordinating and implementing the public information strategy and campaigns (art. 49 of the internal regulations of the Ministry), and the Office of the Inspector General in the Attorney General’s Office also has a communication and information strategy.

Mexico participates in the Open Government Partnership and adheres to the principles of the Open Data Charter.

¹² The authorities indicated that this information would be made available through the National Anti-Corruption System.

Private sector (art. 12)

Accountants and auditors observe codes of ethics and auditing standards that are issued by professional accounting bodies. Businesses are required to implement and maintain a suitable accounting system that meets certain minimum requirements (art. 33 of the Commercial Code). The Federal Tax Code defines the violations relating to the obligation to maintain accounting records (art. 83).

The Ministry of the Public Service may request any document it requires for its oversight activities from natural or legal persons involved in the management, use or verification of public resources (art. 26 (XII bis) of the internal regulations of the Ministry).¹³

Gifts, hospitality and other such expenses may not be deducted from taxes owed (art. 28 (III) of the Income Tax Act and regulatory provision 24/ISR/N of annex 7 of the Resolution on Miscellaneous Fiscal Matters for 2015).

Measures to prevent money-laundering (art. 14)

The Federal Act on the Prevention and Identification of Transactions Involving Resources of Illicit Origin covers matters relating to the prevention of money-laundering. Mexico pursues a risk-based approach in this area (chapter II bis of the general provisions referred to in article 115 of the Credit Institutions Act). With regard to beneficial owner identification, there is no consolidated register for the verification of information provided by clients.

Mexico has established a financial intelligence unit (arts. 2 and 15 of the internal regulations of the Ministry of Finance and Public Credit; see below at art. 58).

The bodies responsible for oversight of financial institutions and monitoring of vulnerable activities are the National Banking and Securities Commission, the National Insurance and Bonds Commission, the National Commission for the Retirement Savings System and the Tax Administration Service (art. 16 of the Federal Act on the Prevention and Identification of Transactions Involving Resources of Illicit Origin). It is mandatory to report whenever cash in an amount exceeding \$10,000 equivalent is transported across the border (art. 9 of the Customs Act).

The information provided in connection with an electronic transfer is to include the name of the person requesting the transfer and his or her place of residence and that information must be kept on file (e.g., arts. 4, 16 and 51 of the general provisions referred to in article 115 of the Credit Institutions Act; arts. 4, 17 and 55 of the general provisions referred to in articles 71 and 72 of the Act Governing the Activities of Savings and Loan Cooperatives; arts. 4, 14 and 52 of the general provisions referred to in article 212 of the Securities Market Act; arts. 4 and 40 of the general provisions referred to in article 95 bis of the General Act on Credit Organizations and Ancillary Activities with respect to money transmitters as referred to in article 81-A bis of the Act; arts. 4, 10 and 42 of the general provisions referred to in article 95 of the General Act on Credit Organizations and Ancillary Activities with respect to bureaux de change; and arts. 4, 18 and 54 of the general provisions referred to in article 124 of the Savings and Loan Associations Act). While electronic transfers that are not

¹³ The authorities indicated that article 25 of the General Act on Administrative Responsibilities would establish that for the purpose of determining the degree of liability of legal entities for serious misconduct committed by natural persons acting on their behalf, consideration will be given to whether that legal entity has in place an integrity policy that includes, but is not limited to, an effective code of conduct. In addition, they explained that, with regard to the hiring of former public servants, article 72 of the General Act on Administrative Responsibilities would include as a serious administrative violation the hiring by private persons of former public servants who have been employed as public servants within the past year and who possess insider information that they have acquired directly as a result of their public position and that directly gives the hirer a market advantage or places that person in an advantageous position vis-à-vis his or her competitors.

accompanied by that information are not explicitly prohibited, the authorities confirmed that such transfers will not be carried out.¹⁴

2.2. Successes and good practices

- Information on the budget process is available on a budget transparency portal (art. 9, para. 2).
- The Office of the Special Prosecutor for Combating Corruption has been established as part of the Attorney General's Office in order to combat corruption in all its forms within that institution (art. 11, para. 2).
- The Financial Intelligence Unit shares its experience with its counterparts in the region through workshops it organizes (art. 14, para. 5).

2.3. Challenges in implementation

It is recommended that Mexico:

- Conduct a comparative study of federal and state legislation relating to the issues covered by chapters II and V of the Convention and, in case of divergence, establish a space for dialogue between the federal Government and the states in order to ensure that the Convention is implemented at all levels of the State
- Develop and implement effective, coordinated anti-corruption policies and continue to strengthen coordination between the authorities with regard to the prevention of corruption.¹⁵ The development of a national anti-corruption strategy would be a positive step (art. 5, para. 1)
- Broaden knowledge about the prevention of corruption and disseminate that knowledge among its anti-corruption bodies; and grant the prevention body or bodies the necessary independence (art. 6, paras. 1 (b) and 2)
- Ensure that the recruitment of all public servants, including for positions that are filled through direct internal appointment, is based on objective criteria such as merit (art. 7, para. 1 (a))
- Identify the public positions that are considered especially vulnerable to corruption and adopt adequate procedures for the selection and training of individuals for those positions and, where appropriate, their rotation to other positions (art. 7, para. 1 (b))
- Consider establishing measures, in addition to the obligation to report, to facilitate the reporting by public officials of acts of corruption when such acts come to their notice in the performance of their functions (art. 8, para. 4)¹⁶
- Strengthen the asset declaration system¹⁷ and consider conducting spot checks; establish a system for public officials to declare any outside activities and employment; and clarify the system for the declaration of gifts and whether the acceptance of gifts is permitted (art. 8, para. 5)
- Ensure that an effective mechanism is in place for the internal review of all public procurement procedures; and provide for the possibility for persons other than those invited to participate in the bidding process to report irregularities in

¹⁴ The authorities reported that the regulatory framework was being amended in order to address that shortcoming.

¹⁵ That could include an assessment of the National Anti-Corruption System and the follow-up of such an assessment.

¹⁶ The Tax Administration Service has an online reporting system:

<https://aplicacionesc.mat.sat.gob.mx/sat.gob.mx.age.sipreqd.internet/denunciaInternet.aspx>.

¹⁷ The authorities indicated that, in the new Tax Administration Service, all public servants would be required to submit asset declarations and that the ministries and internal oversight bodies would be required to carry out spot checks of such declarations (arts. 30 and 32 of the General Act on Administrative Responsibilities).

direct award procedures and selective tendering processes involving at least three potential contractors (art. 9, para. 1 (d))

- Further simplify its administrative procedures, where appropriate, and periodically publish information on the risks of corruption in its public administration (art. 10 (b) and (c))
- Enact and enforce legislation that strengthens and increases the participation of civil society in decision-making in key areas. That includes the future appointment of an anti-corruption prosecutor through a process that is transparent and that ensures the prosecutor's independence in good time and in accordance with the standards established in the Convention (art. 13)
- Continue its efforts to ensure that the relevant anti-corruption bodies are known to the public; and provide access to such bodies (art. 13, para. 2)
- Further strengthen the regulatory and supervisory regime for banks with regard to the gathering of information for the identification of beneficial owners (art. 14, para. 1 (a))

2.4. Technical assistance needs identified to improve implementation of the Convention

Mexico indicated that it required technical assistance for purposes of sharing good practices and in order to secure funding to set up a system that would analyse different databases and detect inconsistencies or suspicious behaviour that could indicate conflicts of interest or instances of corruption.

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

In the absence of specific asset recovery legislation, Mexico could use its provisions on criminal confiscation, termination of ownership and mutual legal assistance for the recovery of assets at the international level. With regard to offences established in accordance with the Convention, termination of ownership applies only to illicit enrichment (art. 22 of the Constitution). At the time of the country visit, Mexico had neither received nor sent any requests for asset recovery in relation to such offences.

Although Mexico has not concluded any specific agreements or arrangements on asset recovery, it is a member of the Ibero-American Network for International Legal Cooperation and the regional Asset Recovery Network of the Financial Action Task Force of Latin America.

Mexico is able to provide information without prior request on the basis of various bilateral treaties on mutual legal assistance, such as those with Switzerland (arts. 30 and 31), Spain (art. 14), Brazil (art. 22) and India (art. 1, para. 4 (k)), or on the basis of the Convention in the absence of a bilateral treaty.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

Mexico has established the obligation to identify and verify the identity of customers (provisions 3, 4 and 7 of the general provisions referred to in art. 115 of the Credit Institutions Act) according to the level of risk posed by the customer. The obligation to identify the beneficial owners (general provision 2 (XVIII)) of the funds used by customers (general provisions 31 and 32) has also been established. In accordance with the fifth transitional provision of the general provisions, institutions that were in operation at the time of entry into force of the general provisions were obliged to begin to collect relevant information in accordance with the obligations established therein not later than 270 calendar days following the entry into force of the resolution

establishing those obligations (i.e., by 22 November 2017). The opening of anonymous accounts is prohibited (general provision 10).

Foreign politically exposed persons (general provision 2 (XVII)) are considered high-risk customers, but no specific risk rating has been established for domestic politically exposed persons. Institutions must adopt a methodology for determining the degree of risk associated with their transactions with domestic politically exposed persons, and they must determine whether the nature of the transaction is reasonably consistent with those persons' functions, level and responsibilities on the basis of the knowledge and information available to them (general provision 28). The approval of the institution's senior management is required in order to establish or maintain a business relationship with domestic politically exposed persons who are deemed high-risk (general provision 26).

Under the general provisions, the Ministry of Finance and Public Credit requires institutions to consider certain categories of persons (such as foreign politically exposed persons) as high-risk customers who are to be subject to enhanced scrutiny (general provisions 25–25 quater and 28). The Ministry provides those institutions with the names of blocked persons and persons associated with blocked persons for whom transactions must be suspended (general provisions 70 and 72). The Ministry has not informed financial institutions of the names of persons whose accounts should be subject to enhanced scrutiny.

Institutions are required to maintain all data and documents comprising the customer identification records for the entire period that an account is open or a contract is valid and, once the account has been closed or the contract has expired, for a period of not less than 10 years. The same applies to the data and documents that must be collected from users as from the date of the transaction, in addition to such information as copies of reports on relevant transactions, unusual transactions and suspicious internal transactions (general provision 59).

Banking and credit services can be provided only by full-service banking institutions and development banks (art. 2 of the Credit Institutions Act). One of the criteria for authorization to operate as a full-service bank is that the institution's registered office should be located in Mexico (art. 9). Financial institutions may not serve as correspondent bank for any financial institution or intermediary that does not have physical premises in any jurisdiction (general provision 30).

Certain public officials (art. 36 of the Federal Act on the Administrative Responsibilities of Public Servants) are required to submit asset declarations, either in writing or electronically, when taking up and when leaving their position, as well as every May (art. 37). Penalties have been established for failure to submit that declaration or for submission of a false declaration (art. 37). A public register is maintained containing information on the assets held by such officials (art. 40). There is no specific obligation to report an interest in or signature or other authority over a financial account in a foreign country. The Ministry of the Public Service may investigate or verify changes in the assets of a public official (art. 41) when there is suspicion of illicit enrichment, but spot checks are not carried out.¹⁸

Mexico has a Financial Intelligence Unit (art. 2 of the internal regulations of the Ministry of Finance and Public Credit). The Unit is part of the Ministry of Finance and Public Credit and has therefore adopted the Ministry's administrative model. The Unit is a member of the Egmont Group of Financial Intelligence Units and has signed a number of bilateral memorandums of understanding with its counterparts in various jurisdictions.

¹⁸ The authorities indicated that, after the entry into force of the General Act on Administrative Responsibilities, published in the Official Gazette on 18 July 2016, spot checks of asset declarations will be possible (under article 30 of the Act).

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

There is no provision for other States parties to initiate civil action in Mexican courts to establish title to or ownership of property acquired through the commission of an offence. As a result, when having to decide on confiscation, the courts or competent authorities are unable to recognize another State's claim as a legitimate owner of property acquired through the commission of an offence. Under the applicable provisions covering compensation or reparation for damage (arts. 29 and 30 of the Federal Criminal Code), the courts may order the perpetrators of offences to compensate other States that have been harmed as a result of those offences.

Mexico cannot enforce confiscation orders issued by foreign courts. Mexico may submit to its competent authorities a request for assistance in relation to a termination of ownership order issued in another State for the purpose of obtaining a domestic termination of ownership order (arts. 66 and 68 of the Federal Act on Termination of Ownership). The same applies to foreign confiscation orders, which are submitted to the competent authorities for the purpose of obtaining a domestic confiscation order (art. 452 of the National Code of Criminal Procedure). The competent authorities may, where they have jurisdiction, order the confiscation of property of foreign origin by adjudication of an offence of money-laundering or such other offence as may be within their jurisdiction.

At the federal level, provision exists for termination of ownership in cases of illicit enrichment (art. 22 (II) of the Constitution) but not for the other offences established in accordance with the Convention. Mexico cannot provide assistance in relation to requests made on the basis of a foreign judgment on termination of ownership for actions not subject to termination of ownership in Mexico.

Mexico may, through a court order, freeze property to ensure reparation of damage (art. 138 of the National Code of Criminal Procedure), as well as provisionally seize property, instrumentalities, objects or proceeds of crime (art. 229 of the Code) and property to which the action for termination of ownership relates (arts. 7, 8 and 66 of the Federal Act on Termination of Ownership). Judges determine, on a case-by-case basis, whether a freezing or seizure order issued by a court or competent authority of another State, a request from another State in relation to freezing or seizure or other grounds are sufficient for the issuance of an order to freeze or provisionally seize property.

Owing to the lack of relevant cases relating to corruption offences, it is not possible to assess compliance with article 55, paragraphs 1 and 2, of the Convention. In cases of vehicle theft, the relevant requests were transmitted to the competent national authorities in order to obtain an order of provisional seizure followed by an order for termination of ownership in Mexico; those requests were granted.

There are no specific requirements as to the content of requests for cooperation in confiscation matters. The Convention is directly applicable in that regard.

Mexico provided details of the relevant legislation during the review. The provision of assistance in relation to seizure or confiscation is not subject to the existence of a treaty. Mexico may provide assistance on the basis of the Convention or the applicable provisions of the National Code of Criminal Procedure (section XI).

There is no minimum threshold in terms of value of the property in order for assistance to be granted. Mexico confirmed that, before lifting any provisional measures taken on the basis of a request, it attempts, through its central authority, to resolve the matter in question through consultation with counterparts.

The protection of bona fide third parties in seizure and confiscation proceedings is guaranteed by article 40 of the Federal Criminal Code (in respect of confiscation) and by article 22 (III) of the Constitution and articles 24 and 28 of the Federal Act on Termination of Ownership (in respect of termination of ownership).

Return and disposal of assets (art. 57)

Mexico, acting on instructions from the competent authority, has returned property to foreign companies and individuals under the procedure established in the Federal Act on the Administration and Disposal of Public Property and its implementing regulations.

The Federal Act on Termination of Ownership provides for international cooperation in the area of termination of ownership in accordance with the international legal instruments to which Mexico is a party or by virtue of international reciprocity, when the purpose is the recovery of property located in Mexico or subject to Mexican jurisdiction. In such cases, the court may order the handover of property or the proceeds of its sale to a foreign competent authority, except if there is an agreement on the sharing of property; where there is such an agreement, the agreed portion is handed over (art. 69). There is no provision similar to article 69 of the Act that would cover cases of criminal confiscation.

In cases involving termination of ownership, expenses are deducted before the property is returned (art. 69 of the Act).

Article 17 of the Federal Act on the Administration and Disposal of Public Property and article 28 of the Federal Act on Termination of Ownership provide for protection of the rights of bona fide third parties. Mexico has not concluded any agreements or arrangements on the final disposal of confiscated property.

3.2. Successes and good practices

- Mexico is willing to review draft requests for mutual legal assistance before their formal submission, including in asset recovery cases (art. 51)
- Mexico requested assistance on the basis of the Convention in three cases (art. 51)

3.3. Challenges in implementation

It is recommended that Mexico:

- Ensure that institutions comply with the obligation to gather information in accordance with the fifth transitional provision of the general provisions (art. 52, para. 1)
- Conduct enhanced scrutiny of accounts sought or maintained by or on behalf of domestic politically exposed persons, in accordance with the law (art. 52, para. 1)
- Issue advisories regarding the types of natural or legal person to whose accounts financial institutions within Mexico will be expected to apply enhanced scrutiny (art. 52, para. 2 (a)) and, where appropriate in accordance with its domestic law, notify financial institutions of the identity of persons whose accounts should be subject to enhanced scrutiny (art. 52, para. 2 (b))
- Consider requiring appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship (art. 52, para. 6)
- Take measures to permit:
 - another State party to initiate civil action in its courts to establish title to or ownership of property acquired through the commission of an offence (art. 53 (a))
 - its courts or competent authorities, when having to decide on confiscation, to recognize another State's claim as a legitimate owner of property acquired through the commission of an offence (art. 53 (c))

- Take measures to permit its competent authorities to give effect to an order of confiscation issued by a court of another State party (art. 54, para. 1 (a)); and consider taking measures to extend termination of ownership to all offences established in accordance with the Convention (art. 54, para. 1 (c))
- Take measures to facilitate the freezing or tracing of property or funds that are subject to a search in the case of a request from another State party on the basis of non-criminal measures that are outside the scope of application of the Federal Act on Termination of Ownership, and create a procedure for prioritizing such requests (art. 55, para. 2)
- Take measures to enable the return of confiscated property to other States and ensure that, in cases of termination of ownership, asset recovery is carried out in accordance with article 57, paragraphs 1 to 3, of the Convention. In the event that, in the future, the courts do not interpret the law in that way, it will be necessary to clarify the law through legislative reform (art. 57, paras. 1–3)
- Ensure the return of the property (or of its equivalent value) in its entirety, ensuring that any amounts deducted are limited to reasonable expenses (art. 57, para. 4)

3.4. Technical assistance needs identified to improve implementation of the Convention

Mexico indicated that it requires technical assistance (training and sharing of good practices) in the area of asset recovery.
