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Session 2

**The Role of Government in Corruption Prevention:
The Mexican Experience in Preventing Businesses-
Related Corruption**

Submitted by: Mexico



**Best Fit Practices and Experience Sharing
Workshop on Corruption Prevention
Mechanisms in APEC Economies
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ASIA PACIFIC ECONOMIC COOPERATION ANTI-CORRUPTION AND TRANSPARENCY WORKING GROUP

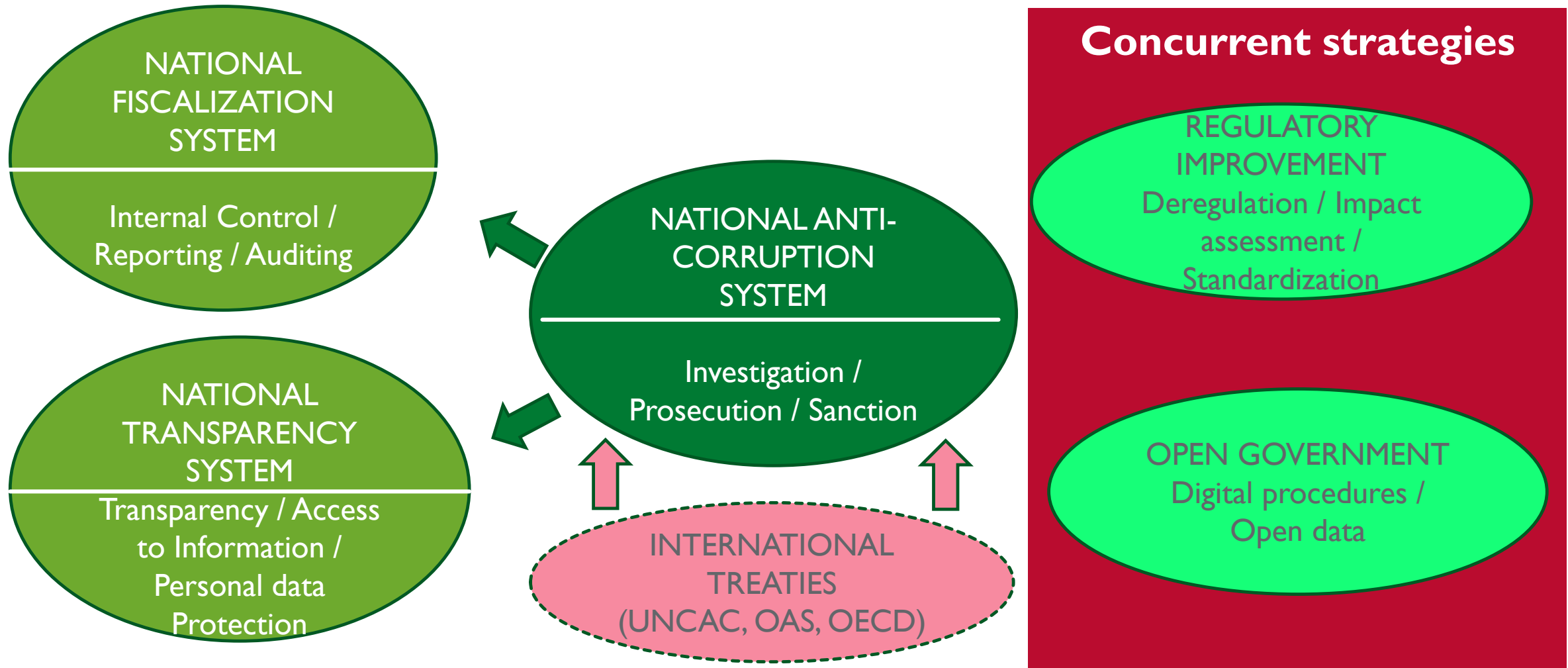
BEST-FIT PRACTICES AND EXPERIENCE SHARING WORKSHOP ON CORRUPTION PREVENTION MECHANISMS IN APEC ECONOMIES

SESSION 2: THE ROLE OF GOVERNMENT IN CORRUPTION PREVENTION: THE MEXICAN EXPERIENCE IN PREVENTING BUSINESSES-RELATED CORRUPTION

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I. MEXICAN ANTI-CORRUPTION SCHEME



II. THE NATIONAL ANTI-CORRUPTION SYSTEM

Creation and objective

- 2015: Constitutional Reform and amendments to seven secondary laws
- Coordinates different federal, state, and municipal authorities in the prevention, investigation, prosecution and sanction of corruption.

New institutional arrangement and functions

- Includes representatives of seven institutions of the executive, legislative and judiciary branches, as well as autonomous agencies.
- Relevant participation of civil society representatives at highest level.
- Systematic interaction with government agencies that constitute the National Fiscalization System and the National Transparency System.
- In charge of the design, implementation and evaluation of the anti-corruption policy scheme at the national level.
- Incorporates international commitments from treaties and conventions.

Novel aspects for businesses

- Harmonization of criminal and administrative laws regarding corrupt actions by public servants in relation to third parties, including bribery, sharing of privileged information and conflict of interest.
- Businesses and private individuals can also be prosecuted by anti-corruption agencies if they are involved in bribery, influence trafficking, collusion and undue use of public resources.

III. CORRUPTION AND REGULATORY IMPROVEMENT

Underlying idea

Any **government action** involving laws, procedures, permits, concessions or similar, **may cause costs, benefits, delays, limitations or advantages for businesses**. Therefore, it is likely to **open spaces for corruption**.

Legal bases

1. Decree establishing the **Integral Strategy for Regulatory Improvement** of the Federal Government and Simplification of Procedures and Services (2015)
2. **Guidelines for the indicators to monitor and evaluate the results** related to the implementation of the regulatory improvement strategy (2015)
3. **Guidelines of the Regulatory Improvement Programs 2017-2018** of the federal agencies

Main effects

- Less and better regulations
- Improved legal certainty
- Standardized procedures
- Less or limited discretion

Regulatory improvement allows to:

- reduce time
- decrease costs
- promote competitiveness
- **prevent corruption**

IV. CORRUPTION AND OPEN GOVERNMENT

Underlying idea

An **Open Government** contributes to broaden the scope of **transparency and access to information for all**. It builds on the **digitalization of data and procedures**, and a strong user/citizen - oriented approach.

Legal bases

1. The **National Digital Strategy**, an action plan to guide and accelerate Mexico's insertion in the information and communication age (2013).
2. Decree of the **National One-Stop Shop for Government Procedures and Information** (2015)

Main effects

1. Extended reach of information and communication technologies
2. Easier access to government information and procedures
3. More efficient interactions

Open government allows to:

- increase transparency and accountability
- gain proximity with individuals and businesses
- promote civic innovation for problem-solving
- **prevent corruption**

V. EXAMPLES OF CORRUPTION PREVENTION RELATED TO BUSINESS ACTIVITIES

Regulatory Improvement Programs

1. Regulatory improvement **brings more value** in commercial, industrial and productive services.
2. Every year, the Federal Commission of Regulatory Improvement (COFEMER), publishes the **Regulatory Improvement Programs (PMR)**, with hundreds of procedures government agencies will modify or simplify.
3. As a result of PMR, the **regulatory burden cost decreased from 4.25% of GDP in 2012 to 2.78% in 2017**—just above OECD average of 2.4%--and exceeding the six-year target of 3.15%.
4. PMR give **priority to procedures** that are more costly or prone to corruption, according to the **opinion of business associations and civil organizations**.
5. PMR prevent corruption mainly by **facilitating compliance** for citizens and businesses, as well as **reducing incentives** for bribery.

New CompraNet

1. It is an **electronic on line governmental acquisitions system**, developed by the Ministry of Public Administration.
2. It **aims to simplify, modernize and make more transparent the process** for acquiring goods, services, leases and public works by the Federal Government.
3. During the last year 208,386 contracts were allocated through the system, for an expense of 28.8 billion dollars.
4. CompraNet was recently improved in a **joint effort** from governmental agencies, business associations, civil organizations, academics and the OECD.
5. Procedures were simplified and data made easily available, in order to **reduce direct contact** between bidders and buyers, and to **generate more electronic registers** to be used in audits and supervisions.

V. EXAMPLES OF CORRUPTION PREVENTION RELATED TO BUSINESS ACTIVITIES

Project for Government-Business Integrity in the Energy Sector

1. In 2013, Mexico's new wave of structural reform **opened the energy sector** for private investment.
2. In 2017, the **BGIES set out to identify, map, assess and simplify procedures related to 8 business lines with high investment:** sale of gasoline, diesel and gas; storage of petroleum, petrochemical, and bio-energetics; electricity generation and distribution; and pipeline transportation of fuels.
3. A series of federal agencies, together with COFEMER, comptroller offices and business associations, **selected and revised 96 procedures, generating 43 improvement actions.**
4. These efforts **promote transparency and legal certainty** to investors, and reduce margins for bribery or other corrupt practices in this strategic sector.

Mining: EITI and automation of the concession process

1. Investment in the **mining sector is always very contentious**, because of wide variety of legal, fiscal, environmental and social implications.
2. Mexico is in the process of adhering to the **Extractive Industry Transparency Initiative (EITI)**, an international standard **to make transparent data on production, income and concessions**, among others.
3. Mexico is also **modernizing the registry and management of mining concessions**, intended to improve information systems and strengthen internal controls. It center on the automation of 53 procedures, allowing **real-time monitoring of applications and making the process more transparent.**
4. The two projects will **provide certainty** for investors, **increase transparency** for social and economic actors, and **reduce the margin of discretion** for public servants.

V. EXAMPLES OF CORRUPTION PREVENTION RELATED TO BUSINESS ACTIVITIES

Quotidian Justice Program

1. Quotidian Justice is a series of **legal reforms** that improve the normative and institutional judiciary framework, in order to **facilitate the resolution of non-criminal disputes**.
2. The program includes participation from judiciary and administrative agencies, as well as **business associations, civil organizations and academics**.
3. A key component are **Oral Trials in commercial matters**, as well as nation-wide **improvement of regulations for businesses**.
4. The expected results are **increased access to justice** for all and **reduced costs and delays** in dispute resolutions, which will in turn **diminish the incentives and the scope for corruption** of administrative and judiciary authorities .

Free Trade Agreements

1. The fight against corruption has become a **key issue in recent trade negotiations**, moving from general considerations to specific mechanisms.
2. The **Trans-Pacific Partnership Agreement (TPP)** includes a Transparency and Anti-corruption Chapter.
3. The renegotiation of the **FTA with the European Union (TLCUEM)**, is discussing the issue as well.
4. In the renegotiation of **NAFTA**, although it is still protected by secrecy, the US, Canada and Mexico have agreed to **specify corruption acts and sanctions**, as well as to **regulate the integrity** of public servants.
5. These measures are expected to **improve businesses confidence** and **establish world-class anti-corruption standards**.

VI. LESSONS TO SHARE

1. The fight against corruption may need **legal reforms, institutional innovation and capacity building**, to increase efficacy and reduce impunity.
2. **Regulatory improvements** can reduce costs and delays in business procedures with government, and therefore **diminish incentives and gains from corruption**.
3. **Open government and digitalization** reduce the scope for corruption, by way of **increased transparency, improved monitoring and limited discretion**.
4. **Participation** of private sector, civil society organizations and academic **is useful and necessary** to reduce corruption.
5. The **ultimate test** of anti-corruption efforts will be the capacity **to regain trust and improve confidence** from citizens and businesses alike.

