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Scandal Hits Wal-Mart de México, as Massive Bribery Scheme Comes to Light

by Carlos Navarro

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A report that US-based retailer Walmart allowed its subsidiary in Mexico to engage in a widespread bribery scheme has created outrage in the US, but the reaction has been mixed in Mexico. The report, published in mid-April in *The New York Times*, said executives at Wal-Mart de México (Walmex) paid bribes to officials, particularly at the municipal level, during the early 2000s to facilitate rapid expansion of the retail chain in the country. By obtaining quick permits, Walmex attempted to gain an advantage over potential competing retailers. In 2005, the bribery scheme was brought to the attention of the parent company in Arkansas, which confirmed the practice but quickly quashed the probe. Wal-Mart Inc. owns a 69% share in Walmex.

Company might have violated US Foreign Corrupt Practices Act

While a corporation has the prerogative to determine its internal policies, authorities become involved when important laws are violated. In this case, the US Justice Department is planning to look into the case because the bribery scheme could be a violation of the Foreign Corrupt Practices Act (FCPA).

The actions have also attracted the attention of the US Congress. US Reps. Elijah Cummings (D-MD) and Henry Waxman (D-CA), who chair the House Oversight and Government Reform and House Energy and Commerce committees, respectively, are also considering a congressional investigation. Walmart officials might be summoned to testify before one or both committees.

"The allegations that Walmart officials in Mexico may have broken US laws by bribing officials to get their stores built faster raise serious concerns," Cummings said in a statement. "But I am even more alarmed by reports that top company executives in the US tried to cover up these abuses. We need to ensure that US corporations comply fully with the law, and we need to determine the full scope of these alleged abuses."

If the investigations find that Walmart did not respond appropriately to the situation, the company could face stiff fines. "The penalties paid by companies in settling these types of FCPA investigations have grown significantly larger in recent years," Jeffrey Lehtman, a Washington-based partner with the law firm of Richards Kibbe & Orbe LLP, told Bloomberg news service.

The *New York Times* report, published on April 21, based its investigation in part on information provided by Sergio Cicero Zapata, a former Walmex executive. In 2005, Cicero provided detailed information to Walmart officials in Bentonville, Arkansas, about the bribery scheme, which was led by Walmex chief executive Eduardo Castro-Wright. Officials from the parent company sent a team of investigators to Mexico City to look into the situation. They uncovered documents indicating that Castro-Wright and his team had paid more than US\$24 million in bribes during five years to local and state officials to expedite permits for Walmart to construct retail outlets around the country.

While the situation caused alarm for Walmart executives in Arkansas, the company chose to sweep the problem under the rug rather than attempt to rectify the situation or inform regulators in the

US and Mexico. Furthermore, none of the executives in the Mexican subsidiary was disciplined. "Confronted with evidence of corruption in Mexico, top Walmart executives focused more on damage control than on rooting out wrongdoing," said The New York Times.

Cicero told The New York Times that Castro-Wright had encouraged the bribes to construct Walmart units as fast as possible so that competitors would have little time to react. The payments were made not only to obtain quick permits but also to affect regulations related to zoning and environmental considerations. And permits that normally took several months to process were approved in just a few days. "What we were buying was time," Cicero told the newspaper.

Walmex was so confident in its scheme that at times the retailer reportedly began construction of some stores even before officially obtaining a permit. This was apparently the case with the store constructed near the historic ruins of Teotihuacán in 2004 ([SourceMex, Oct. 13, 2004](#)). "Walmart started building without permits, the licenses came later," Emma Ortega Moreno, a leader with the Frente Cívico en Defensa del Valle de Teotihuacán, told the Associated Press.

Expediting permits no doubt contributed to the rapid growth of Walmex during the course of more than a decade. As of March 2012, the retailer operated about 2,277 stores in Mexico, most of which were constructed in the 2000s. Almost 20% of Walmart stores worldwide are in Mexico.

A good portion of the growth during the 2000s involved constructing new Walmart and Sam's stores in Mexico. In 2000, the company was operating stores in 42 cities in Mexico, but that increased to 384 cities by 2011. Walmart has also expanded in Mexico through the acquisition of existing retail operations such as Bodega Aurrerá and Superama and the Vips restaurant chain. The company also expanded into the financial services market by creating Banco Walmart ([SourceMex, Sept. 13, 2006](#)).

Reactions mixed in Mexico

While the Walmart scandal attracted attention in Mexico, some observers noted that bribes are considered a common operating expense. A recent survey by the Consejo Coordinador Empresarial (CCE) said many companies that belong to the organization set aside as much as 10% of their earnings for bribes.

The CCE's survey is confirmed by a recent report on competitiveness published by the World Economic Forum (WEF), in which Mexico ranked 91st among 142 countries in irregular payments. Mexico fared only slightly better in the category that measured ethical behavior of its companies, with a ranking of 88 out of 142 countries.

"If this behavior is more or less common here, why is there such a scandal regarding the bribes supposedly paid by Walmart?" asked Enrique Quintana, a columnist for the Mexico City daily newspaper Reforma. Quintana answered his own question, pointing out that Mexico's close economic ties to the US make a change in business culture a necessity. "The US has had the Foreign Corrupt Practices legislation in place since 1977."

Eduardo Bohorquez, director of Transparencia Mexicana, said the Mexican federal government should act forcefully to address the situation, even though the laws in Mexico governing corrupt behavior are not as strong as those in the US. Furthermore, he noted that Mexico's participation in international conventions obligate the federal government to become involved even though the bribes appear to have been directed primarily at local and state officials. "The laws in Mexico and

the United States relating to bribery are in effect, so the practices [of legal business] should be the same in both countries," said Bohorquez.

Opposition politicians also urged more forceful action by President Felipe Calderón's government. "The Procuraduría General de la República (PGR) should conduct an investigation of both the public sector and the private sector," said Tomás López González, a counselor for the opposition Partido Revolucionario Institucional (PRI). In particular, he said, prosecutors should investigate whether any officials of the current administration were involved.

Similar comments came from the center-left Partido de la Revolución Democrática (PRD), which urged that the investigation be expanded to determine whether there were any violations of the tax code. "If licenses were given out where they shouldn't have been, there's fraud not only in the cities where that happened, but there could have also been fiscal fraud," said PRD Sen. Francisco Javier Castellón Fonseca.

The PGR promised it would conduct an investigation, but only if a request came from the Secretaría de Hacienda y Crédito Público (SHCP) or the Secretaría de Economía (SE). "If this becomes a matter for us to consider, of course we will act and we will request whatever necessary," Attorney General Marisela Morales said in an interview.

The initial reaction from Finance Secretary José Antonio Meade to the scandal was noncommittal. "We do not have sufficient information at this point," Meade said during a trip to Washington. "Once we get that information, we will make a decision on how to proceed."

But Meade's comments drew criticism at home. "How can it be that this is the first time that the government has heard of this case?" columnist Carlos Puig wrote in Milenio.com.

Walmex is Mexico's largest private employer

The reality is that Walmex, as the country's largest private employer, has become a major economic engine in Mexico. The company, which employs 209,000 workers, expects to invest about 12.2 billion pesos (US\$928 million) in 2012 to construct an additional 436 retail stores and restaurants.

It is no wonder that key officials will do everything they can to minimize harm to the company from the scandal. This was evident in comments by Luis Téllez Kuenzler, president of the Mexican stock exchange (Bolsa Mexicana de Valores, BMV), shortly after the scandal hit the press. Téllez pointed out that Walmex has contributed strongly to the Mexican economy and has met all its financial market requirements. "Concerning its participation in the BMV, Walmart has always followed the letter of the law in meeting its obligations," said the BMV president.

Others questioned the premise that Walmex's expansion is primarily the result of the bribing scheme. "We do not believe, nor does it seem credible, that Walmart's expansion of more than 400 stores was entirely because of corruption," financial columnist José Yuste wrote in the Mexico City daily newspaper Excélsior. "But we are convinced that this type of practice should be avoided, especially for a company that is a leader in its sector."

One columnist suggested that the report from The New York Times was incomplete because it did not offer details on which officials were bribed. "Nowhere in the investigation on Walmart de México's supposed corruption was there any mention of a municipality, city, or mayor, with first and last name, as the subject of the bribes," columnist Carlos Mota wrote in Milenio.com.

Mota said Walmex is likely to emerge from the crisis with minimal damage. Among other things, he said, the company has strong acceptance among Mexican consumers. He also noted that, if the bribery scheme was halted in 2005, someone should explain how the company continued the same fast growth between 2005 and 2011. "Other companies like Starbucks have had to deal with this type of bureaucracy and have grown significantly," said Mota.

Walmex has taken actions to address the situation by creating a new position to monitor business practices to prevent a repeat of the bribery scheme. "We have taken a series of actions to ensure greater compliance with the Foreign Corrupt Practices Act," the company said in a statement.

[Peso-dollar conversions in this article are based on the Interbank rate in effect on April 25, 2012, reported at 13.13 pesos per US\$1.00.]

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