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MEASURES ADOPTED AND PROPOSED BY MEXICO TO ABATE WHITE COLLAR CRIME

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Mexico has taken great strides and instituted important measures in an attempt to abate white-collar crime. Generally speaking, the so-called white-collar offenses—illicit enrichment, financial fraud, generic fraud, embezzlement, bribery, tax evasion, smuggling, and so on—generate resources which are laundered by organized crime through the use of intricate transaction and a state-of-the-art technology, which make it easy to conceal and disguise their illicit origin. Consequently, Mexico, like many other nations, has considered these offenses in addition to other crimes predicate offenses of money laundering. For that reason, Mexico has acted and adopted measures to combat it and has deemed as essential the following:

- Inclusion of money laundering as offense in the penal law;
- Issuing regulations to prevent transactions carried out with resources from illicit origin in financial entities and in specific professions and economic activities;
- Establishing a financial intelligence unit;
- Providing real and timely access to national and international information;
- Effective coordination among agencies; and
- Updating of the legal framework.

It is true that the application of the above-mentioned measures has had positive results, but there is still a long way to go. It should not be forgotten that money-laundering offenses act in tandem with globalization. This implies dynamic change in their tendencies and in the methods used by organized crime to launder the product from white-collar offenses. The individuals who commit these crimes have the means and the knowledge to make them appear legitimate through sophisticated economic, financial and commercial transactions. As a result, the Procuraduría General de la República (PGR), Attorney General’s office, has adopted as a national

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priority a firm commitment to strengthen the combat of money laundering through
the planning of well defined objectives and strategies, since the said illicit behavior
goes against the economic order when incorporating into the legal economy assets
or money from illicit origin where the passive party is the general community itself.

INVESTIGATIONS

According to the above-mentioned measures, and taking into account the follow
up of the resources and the reconstruction of the transaction originating in several
illicit activities, a high degree of specialization is required. Therefore the PGR has
designed an ongoing and permanent training program complemented with finely
tuned channeling of their investigations, focusing on reconstructing the transactions
linked to the predicate offense through accounting and/or financial reports in order
to formulate correct updated hypothesis. This has enabled the PGR to determine the
necessary steps to credit the offense, interpret the results, and obtain an appropriate
conclusion. Their application in the current administration has resulted in the
resolution of forty-five cases and thirty-three judgments of conviction. That
includes fifty-five individual sentences, and the seizure of assets or money
equivalent to $309,434,967.87 (Mexican pesos), as well as $33,492,271.19 U.S.
Dollars.

Firm steps have been taken towards the autonomy of this offense. Namely the
jurisprudence issued by the Second Collegiate Court on penal matters of First
Circuit which states that wherever there are well based signs or certainty that the
resources, rights or assets directly or indirectly come from or represent the profits
obtained from the commission of any offense, and its illicit nature cannot be proven,
it is not essential to prove the existence of another penal type.

UPDATING THE LEGAL FRAMEWORK

Based on the experience obtained from the investigation from the study of the
legislation of other countries and from the application of the convention signed by
Mexico on said matters, drafts of amendments to the substantive and procedural
legislation regarding and related to the offense of money laundering were prepared
which are now about to be submitted to Congress. These projects include culpable
behavior regarding money-laundering offenses when he or she who has a duty
imposed by law, contract or previous action because of his or her profession,
employment, position or commission, does not take the necessary and indispensable
measures to verify the legal origin of the resources. The project adds the legal
definition of conspiracy to commit the aforementioned offense, criminalizing it, and
includes cases expressly foreseen by the law, as long as the offense for which the
conspiracy was made is not committed. Currently, a problem exists when the
objects or products of the offense disappear or cannot be located, making their
forfeiture impossible. Therefore it is proposed that the jurisdictional body be
granted the power to forfeit assets equivalent in value in the corresponding sentence.
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TERRORIST FINANCING

In accordance with Resolution 1373 (2001) of the United Nations Security Council, and other international instruments on terrorist matters, it was proposed to incorporate a penal type including the contribution or provision of economic funds or resources of any nature in order to commit terrorist acts, such as the collection or gathering of those resources or funds for the same purposes, notwithstanding the location of the terrorist act. This comprises not only the financing of terrorist acts but also the financing of domestic and foreign organizations dedicated to the aforementioned illicit behaviors. As of the day of its coming into effect, this offense shall be deemed as predicate to money-laundering offenses.

CONCLUSION

We live in a global economy, fed by innovative technologies, the expansion of markets, and the arrival of emerging markets. This provides a wealth of opportunity not only to our society but also to organized crime. This is the challenge for Mexico and the international community. For this reason, our efforts must be global in order to obtain integral solutions in the combat against money laundering.
