



**International Convention on the
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Workers and Members
of Their Families**

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COMMITTEE ON THE PROTECTION OF THE
RIGHTS OF ALL MIGRANT WORKERS AND
MEMBERS OF THEIR FAMILIES

**REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 73
OF THE CONVENTION**

**Information supplied by the Government of Mexico
concerning the implementation of the Concluding Observations of the
Committee on the Protection of the Rights of All Migrant Workers
and Members of Their Families**

MEXICO* **

[28 April 2008]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

* The annexes are available for consultation in the Secretariat archives.

**REPLY OF THE GOVERNMENT OF MEXICO TO THE OBSERVATIONS
AND RECOMMENDATIONS OF THE COMMITTEE ON THE PROTECTION
OF THE RIGHTS OF ALL MIGRANT WORKERS
AND MEMBERS OF THEIR FAMILIES**

Introduction

1. The Government of Mexico submitted its initial report on the implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW/C/MEX/1) on 18 November 2005.
2. Mexico discussed its initial report with the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on 30 and 31 October 2006.
3. The Government of Mexico has consistently pursued a policy of openness and cooperation with the international human rights bodies. As part of that policy it has extended an open invitation to any of those bodies wishing to visit the country. It also considers that the recommendations and observations resulting from those visits and from the submission of reports to the treaty bodies provide important pointers for the improvement of the human rights situation in Mexico.
4. Although the Committee did not set a deadline for implementation of the recommendations it addressed to Mexico, the Government wishes to reaffirm its commitment to the human rights of migrant workers and their families and the will to cooperate with the Committee. It has therefore decided, on its own initiative, to submit the following progress report on implementation of the Committee's observations and recommendations transmitted on 8 December 2006 (CMW/C/MEX/CO/1).

Recommendation 1 (paragraph 13 of the concluding observations)

The Committee recommends that the State Party should consider taking the necessary legislative measures to withdraw its reservation to article 22, paragraph 4, of the Convention, in order to guarantee the right of the persons concerned to explain their reasons for objecting to their expulsion and to submit their case to the competent authority.

5. As stated in the initial report, Mexico made an express reservation with regard to article 22, paragraph 4, of the Convention in the light of the current wording of article 33 of the Constitution and article 125 of the General Population Act.
6. However, the Government is reviewing its migration legislation and the reservations made to human rights instruments with a view to the withdrawal of the reservations where deemed appropriate.

Recommendation 2 (paragraph 13 (a))

The Committee recommends that the State Party should [...] ensure that migrant workers and their families are only expelled from the territory of the State party pursuant to a decision taken by the competent authority in conformity with the law.

7. Under the legislation in force in Mexico, the power to order the expulsion of a foreigner in the situations defined in article 33 of the Constitution and article 125 of the General Population Act lies with the Federal Executive.¹

8. In practice, this power is exercised through the National Institute for Migration (INM), which, in pursuance of the regulations of the General Population Act, conducts expulsion proceedings in accordance with article 27, paragraph VI, of the Organic Law of the Federal Public Administration and its own internal regulations.

9. The expulsion procedures described in article 33 of the Constitution differ from those laid down in article 125 of the General Population Act in that the former is an exceptional measure which the Federal Executive has sole powers to take and to which the remedies of *amparo* and review are not applicable, while the latter is an administrative measure against which the two remedies may be invoked.

10. It should be mentioned that the Supreme Court of Justice has ruled that, even where article 33 of the Constitution is applied, the head of the Federal Executive must furnish grounds for the measure; consequently *amparo* proceedings are also admissible. The ruling was as follows:

“Although article 33 of the Constitution gives the Federal Executive exclusive power to expel from the country any foreigner whose continued presence it considers undesirable, immediately and without the need for prior judicial proceedings, the high official taking that step is not exempted from the obligation, which is incumbent on every authority in the country, to furnish the legal basis for the measure he/she is taking, this on account of the distress caused by deportation, since that safeguard is enshrined in article 16 of the Constitution itself. Consequently, his/her acts may not be arbitrary but must comply with the rules laid down in the Constitution and the law. This being the case, under article 103, paragraph 1, proceedings against such decisions based on safeguards are admissible. To that end the procedures established by the applicable laws and regulations must be followed“.²

¹ In chapter VIII of the General Population Act (Penalties) INM is empowered under article 125 to expel a foreigner and under article 26 to readmit him/her. In cases of expulsion other than those covered by these articles the legal basis is article 33 of the Constitution, which reads: “The Federal Executive shall have sole power to expel from the country any foreigner whose continued presence it considers undesirable, immediately and without the need for prior judicial hearings.”

² Foreigners: their expulsion must be justified. Diederichsen Trier Walter, SJF XCV, p. 320, First Chamber, 28 January 1948. Unanimous (five votes). The publication does not mention the name of the rapporteur (emphasis added).

11. This opinion was reaffirmed in 2005 in the following terms:

“[...] Nullity proceedings are admissible [...] even in cases where a foreigner is ordered to leave the country; the foregoing derives from the fact that, in relation to such measures, federal fiscal legislation does not lay down requirements for granting of suspension of the measure appealed against which are stricter than those provided for in the *Amparo* Act, since its consequences are not to be confused with those of expulsion ordered by the President of the Republic in pursuance of article 33 of the Constitution, in which case proceedings for enforcement of rights would be admissible without the requirement of previous exhaustion of all other remedies or legal means of defence, given that where such a measure is taken article 123, paragraph 1, of the law on *amparo* provides for outright suspension”.³

Recommendation 3 (paragraph 13 (b))

The Committee recommends that the State Party should [...] notify the expulsion decision to the migrant workers and members of their families in a language they understand, and indicate the reasons for the decision, save in exceptional circumstances justified by reasons of national security.

12. Under article 209 of the General Population Act, when a foreigner with migrant status is secured for infringing that Act the procedure is as follows:

- (a) He/she is given a medical examination to determine his/her physical and psychological condition;
- (b) He/she is allowed to communicate with the person he/she requests by telephone or any other available medium;
- (c) On request, the accredited consular representative of his/her country in Mexico is immediately notified. If the secured person is not in possession of a passport, issuance of a passport or an identity and travel document is requested;
- (d) An inventory is made of the secured person's belongings, which must be deposited in premises set aside for the purpose;
- (e) Immediately following the securing of the migrant a statement is taken from him/her in the presence of two witnesses and recorded in an administrative document. If the migration authority has not taken a statement from him/her at the time of detention, the secured person is informed of the charges against him/her and of his/her right to offer evidence and to make claims

³ Final ruling under *amparo*. Appeal against the decision of the National Institute for Migration on settlement of the petition for review referred to in article 83 of the Federal Act on administrative procedure; nullity proceedings must have previously been exhausted. First Collegiate Court, Twentieth Circuit, Ruling XX.1.69 A, XXII, Feb. 2006, p. 1797. *Amparo* in review (irreceivability) 533/2004. María José Iañez Ruiz *et al.* 9 Mar. 2005. Voting unanimous. Rapporteur: Elías Álvarez Torres. Secretary : Mario Humberto Hernández Gómez (emphasis added). See also: undocumented foreigners. Receivability of *amparo* proceedings introduced for case not covered by article 33 of the Constitution. *Amparo* in review 721/84. Christopher Lee Wade Roberts. 4 July 1984. Unanimity on rulings, majority on considerations. Rapporteur: J. S. Eduardo Aguilar Cota. Secretary: Ricardo Rivas Pérez. *Amparo* in criminal cases. Review of a decision of abandonment taken in absence of hearing 8000/46.

relating to his/her rights. Where necessary a translator is authorized in order to facilitate the proceedings.

Recommendation 4 (paragraph 13 (c))

The Committee recommends that the State Party should [...] guarantee the right to claim compensation in conformity with the law when an already executed expulsion decision is subsequently rescinded.

13. As stated in Mexico's initial report (paragraphs 48-51), migrant workers and their families have two options for obtaining an effective remedy: judicial and non-judicial.

14. With regard to the non-judicial option, they may request the Ministry of the Civil Service to institute administrative proceedings against the public servant who issued the expulsion order. If the Ministry determines that the public servant is responsible and has caused injury to the affected parties, the latter may apply to the internal supervisory organ of INM to issue the corresponding order for the payment of compensation. In addition, when a recommendation from the institution legally responsible for monitoring and protecting human rights has been accepted, proposing that a remedy be applied for the injury, the competent office will simply determine the monetary amount of the damages and issue the appropriate order for payment.

15. The injured parties may also choose the judicial option and request the authority to pay compensation for the injury and, if appropriate, for moral injury as defined in the Federal Civil Code.

16. In addition, the Federal Act on Responsibility for Financial Injury, which came into force on 1 January 2005, establishes the bases and procedures for recognition of the right to compensation of persons who, without being under any legal obligation to do so, suffer harm to any of their assets and rights as a result of irregular administrative action on the part of the State. The extra-contractual liability of the State is objective and direct; the compensation must be fixed in line with the terms and conditions laid down in the Act and the other legal provisions to which that Act refers.

17. Article 20 of the Act provides that when an expulsion decision is subsequently rescinded the fact of rescission does not of itself give rise to a right to compensation.

Recommendation 5 (paragraph 15)

The Committee recommends that the State Party direct its efforts towards the formulation of a migration law which corresponds to the new migration situation in Mexico and is in conformity with the provisions of the Convention and other applicable international instruments. The law should, inter alia, annul the classification of illegal entry into the country as an offence punishable by deprivation of liberty.

18. The legal coordination unit of the National Institute for Migration and the Ministry of the Interior (SEGOB) are preparing a draft Act on migration in which amendment of the chapter on sanctions is envisaged; among other things, irregular migration would cease to be classified as an offence in criminal law. It should be noted that in practice migrants who enter the country irregularly are not treated as criminals.

Recommendation 6 (paragraph 17)

The Committee encourages the State party to consider making the declarations provided for in articles 76 and 77 of the Convention.

19. With regard to the declaration provided for in article 77 of the Convention, the Government has begun relevant consultations with the departments with responsibilities in the area concerned.

Recommendation 7 (paragraph 19)

The Committee invites the State party to consider acceding to ILO Conventions No. 97 and No. 143, which concern migrant workers, as soon as possible.

20. The Government has begun relevant consultations on the practicability of accession to these instruments with the departments with responsibilities in the area concerned and with the most representative organizations of employers and workers.

Recommendation 8 (paragraph 21)

The Committee invites the State party to continue training all officials working in the area of migration, especially at the local level, and in particular INM personnel and Federal Preventive Police (PFP) personnel involved in support for the INM in the area of migration management, and also officials working for the Beta Groups.

21. In 2008 INM will implement a training programme for migration personnel with a view to creating posts of “specialist migration officials in migrant holding centres”. This measure will improve the operation and functioning of these centres and also permit more friendly treatment of foreigners detained in them with full respect for their human rights.

22. Between January and October 2007 INM organized 269 training courses or workshops, which were attended by 4,058 public servants. The subjects of the courses were:

- (a) Migration operations and legislation;
- (b) Human rights;
- (c) Trafficking in persons;
- (d) Shelter of persons;
- (e) Quality in service;
- (f) Characteristics and types of migration;
- (g) Ethics in service;
- (h) Discovery of documents;
- (i) Interviews and questioning;
- (j) Intervention in crisis situations.

23. It is also important to note that on 15 June 2006 INM issued circular CCV/023/2006, addressed to heads of regional offices, requesting them to instruct their subordinates to carry out their duties in strict compliance with the law and with respect for and defence of human rights and to refrain from discriminatory acts.

Recommendation 9 (paragraph 22)

The Committee also recommends that the State party should provide adequate financial and human resources to the INM in order that the latter may properly implement all migration activities provided for in its mandate.

24. The defence and protection of human rights, and especially those of vulnerable persons (such as migrant workers), constitute one of the principal commitments of the Government of Mexico and one of its highest priorities. The Government therefore allocated greater resources to INM for its operations during 2008. The entire budget of INM is derived from the federal expenditure budget, the non-immigrant tax and other taxes. Income from these sources during 2008 was some 60 per cent higher than in 2007.⁴

Recommendation 10 (paragraph 24 (a))

The Committee encourages the State party to intensify its efforts to ensure that all migrant workers and members of their families within its territory or subject to its jurisdiction enjoy the rights provided for in the Convention without any discrimination, in accordance with article 7.

25. As stated in the initial report, article 1 of the Constitution prohibits all discrimination on grounds of ethnic or national origin, gender, age, differences of ability, social status, health conditions, religion, opinion, preferences, marital status or any other factor which constitutes an attack on human dignity and is intended to nullify or undermine the rights and freedoms of individuals.

26. The Federal Labour Act defines a worker without making distinctions of any kind. Article 8 describes a worker as a physical person who performs services for another person (physical or moral) in a subordinate capacity. Article 3, paragraph 2, stipulates that no distinction may be made among workers on grounds of race, sex, age, religious convictions, political leanings or social status.

27. The Federal Act to Prevent and Eliminate Discrimination, published on 11 July 2003, reiterates the prohibition of discrimination on any grounds whatsoever, promotes full and universal respect for human rights and advocates a new culture of recognition and combating of discrimination.

28. INM, through its unit for the coordination of external offices, publishes information leaflets concerning guarantees for migrants and their families. These are distributed by the Beta Groups and in the migrant holding centres. In addition, the personnel of these centres is trained to provide adequate information complementing the leaflets and to be able to allay any doubts concerning the rights of migrants.

⁴ A fee for the granting of non-immigrant status payable by tourists, business people and transmigrants on entering the country.

Recommendation 11 (paragraph 24 (b))

The Committee encourages the State party to [...] intensify its efforts by promoting information campaigns for public officials working in the area of migration, especially at the local level, and for the general public on the elimination of discrimination against migrants, and combat their social marginalization and stigmatization, including the media in these activities.

29. The INM training courses requiring these inputs are designed with a gender perspective and a focus on respect for human rights. They are conducted for local officials. The activities of the Migration Training Centre are thus having a restraining effect.. A similar approach has been adopted in the courses mentioned in connection with Recommendation 8.

Recommendation 12 (paragraph 26 (a))

The Committee recommends that the State party should ensure that, in legislation and in practice, migrant workers and members of their families, including those in an irregular situation, have the same rights as nationals of the State party to file complaints and to have access to redress mechanisms before the courts.

30. Article 1 of the Constitution makes it clear that there is no distinction between nationals and foreigners – and even more between migrants in regular and irregular situations – in the area of access to justice and effective redress.

31. In addition, INM circular 01/2005 instructs heads of regional offices who learn of cases of ill-treatment or extortion committed by authorities to bring the migrant concerned before the competent ministerial authority to lodge a complaint.

Recommendation 13 (paragraph 26 (b))

The Committee recommends that the State party should ensure that [...] any person whose rights or freedoms, as recognized in this Convention, have been violated may obtain effective redress.

32. As regards access to redress mechanisms, reference is made to the information submitted by Mexico to the Committee (initial report, paragraphs 48-50), stating that in Mexico the right of an individual to effective compensation in cases where the State incurs any responsibility is guaranteed. In this connection, on 14 June 2002 a decree was published in the *Diario Oficial de la Federación* amending article 113 of the Constitution, which now defines the responsibility of the State to provide compensation for damage caused as follows:

“The responsibility of the State for the harm caused to the property or rights of private individuals by unlawful administrative activity shall be objective and direct. Private individuals shall be entitled to compensation in accordance with the bases, limits and procedures established by law.”

33. This amendment affirms that the responsibility of the State for the actions of its civil servants will be established on the basis of the harm caused to the property or the rights of private individuals by unlawful administrative activity. It thus differs from the current position in civil law, under which recognition of State responsibility is subject to proof that its officials have acted unlawfully.

34. Following this amendment the Federal Act on Responsibility for Financial Injury, introducing regulations to implement article 113, paragraph 2, of the Constitution, was published in the *Diario Oficial de la Federación* on 31 December 2004. The purpose of this Act is to establish the bases and procedures for recognition of the right to compensation of persons who, without being under any legal obligation to do so, suffer harm to any of their property and rights as a result of unlawful administrative actions by the State.

Recommendation 14 (paragraph 28 (a))

The Committee recommends that the State party should continue to take steps to improve conditions of detention in migrant holding centres in accordance with international standards, and to solve the overcrowding problem.

35. Since 2003 INM has been executing a comprehensive project for the improvement of physical conditions in migrant holding centres with the aim of providing better conditions for foreigners held in them during their temporary stays there.

36. In April 2004 INM established the Migration Holding Centres Department to achieve its standing aim of improving premises and ensuring proper treatment of and respect for foreigners, preserving the dignity of individuals and safeguarding full respect for their human rights. This department manages the programme for upgrading migrant holding centres, which coordinates the work of the different departments of the Institute involved in its implementation (preventive and remedial maintenance, technical and EDP equipment, communications and telephones, services for foreigners, food, migrant personnel, training and the construction of new centres, etc.).

37. Substantial progress was made with the programme between 2003 and 2007. In 2003, for example, 2 new migrant holding centres were built and 23 were renovated; in 2004, 4 were built and 18 renovated; in 2005, 1 was built and 11 renovated; in 2006, 1 was built and 22 renovated; and in 2007, 2 were built and 10 renovated. Today INM has 47 migrant holding centres, located in 23 states.⁵

38. New centres were built as follows: in 2003, in Tijuana (Baja California) and Los Cabos (Baja California Sur); in 2004, in Aguascalientes (Aguascalientes), Mexicali (Baja California), San Cristobal de las Casas (Chiapas) and Tlaxcala (Tlaxcala); in 2005, in Puebla (Puebla); and in 2006, in Querétaro (Querétaro).

39. The construction of 2 new centres in Janos (Chihuahua) and Acayucan (Veracruz) was completed in March and June 2007 respectively. The last-named opened in January 2008.

40. In the view of the National Human Rights Commission (CNDH) visits to migrant holding centres are one of the most effective tools for learning about migration trends, talking with the migrants and receiving their complaints and measuring and promoting qualitative improvements in the functioning of the centres.

⁵ The difference between the number of renovation operations and the number of centres is due to the fact that 27 operations were of a “maintenance” nature. The programme comprises two phases: in the first phase major adaptation works are undertaken to improve a centre or on the purchase of a building; while in the second inspections and maintenance works are undertaken which count as programme activities.

41. During 2007 CNDH undertook 1,308 visits to migrant holding centres, approved premises and checkpoints, during which 2,122 measures were taken to uphold the human rights of the migrants. These visits also served to promote follow-up on the observations and suggestions contained in the “General report on the human rights situation of migrants in the migrant holding centres of the National Institute for Migration” published by CNDH in December 2005.

42. During visits to these centres records are established of shortcomings in the areas of medical care, decent and suitable dormitories, special areas for persons with infectious or contagious diseases, women personnel for the custody of secured women, mattresses and blankets for inmates and hygienic and properly functioning sanitary facilities. The necessary measures are discussed with the person in charge, and immediate responses are found to petitions received from unassisted inmates concerning human rights.

Recommendation 15 (paragraph 28 (b))

The Committee recommends that the State party should [...] stop using premises designed for pretrial detention, and/or for deprivation of liberty of persons in conflict with the law, for the purpose of securing migrants.

43. In February 2007 INM issued circular 002/2007 instructing regional offices that no detention centres, be they state, municipal or federal, may be used as migrant holding centres for any reason whatsoever.

44. In accordance with article 208 of the regulations of the General Population Act, which defines migrant holding centres as physical facilities under the responsibility of INM, the inmate population is made up exclusively of migrants in irregular situations; they are not confined together with persons deprived of their liberty for other reasons. In addition, effect has been given to the programme for upgrading migrant holding centres, under which the premises destined for holding purposes owned by INM have been renovated so as to permit decent treatment of the migrants.

Recommendation 16 (paragraph 28 (c))

The Committee recommends that the State party should [...] investigate all complaints of ill-treatment and cruel and degrading treatment on the part of State officials in migrant holding centres and punish the culprits.

45. The CNDH, through its team of visitors, deals with complaints concerning matters connected with migration through the strengthening of its mechanisms for cooperation with the competent federal and local authorities and with public human rights bodies and non-governmental organizations with concerns in this area. .

46. To improve the handling of complaints concerning violations of human rights, CNDH has opened offices at various points on Mexico's northern and southern borders and in the centre of the country. There are regional offices in Tijuana (Baja California), Ciudad Juárez (Chihuahua), Nogales (Sonora), Reynosa (Tamaulipas), Campeche (Campeche), Tapachula and San Cristóbal de las Casas (Chiapas), Coatzacoalcos (Veracruz), Villahermosa (Tabasco) and Aguascalientes (Aguascalientes). There are also mobile units (ombudsmobiles) at these locations which move around in the areas where migrant flows are greatest in order to offer more convenient contact points at which complaints can be received and promotional activities conducted.

47. There has been a steady increase in the numbers of complaints taken up by the CNDH (30 per cent in 2005, 34.5 per cent in 2006 and 56.6 per cent in 2007). A substantial proportion of these complaints are dealt with by discussion; others are allowed to lapse in the absence of evidence sufficient to establish that violations of human rights have occurred.

48. The most recent complaints, received in December 2007, allege ill-treatment and cruel treatment by public officials in migrant holding centres; they are currently the subject of administrative proceedings.

49. INM offers facilities for easier submission of complaints by persons with grievances, namely the mailboxes of the internal supervisory body in the migrant holding centres, the CNDH visiting teams and the Beta Groups.

50. INM also provides office facilities in the centres to enable CNDH officials to carry out their duties.

51. In 2007 CNDH made nine recommendations concerning complaints relating to the protection of migrants:

(a) Recommendation 1/2007, addressed to INM, concerned the securing of migrants in the prisons of the municipalities of Hermosillo and Caborca (Sonora). In response to the recommendation, INM instructed its regional offices to refrain, with effect from 1 March 2007, from approving any detention centre as a migrant holding centre. It is considered that this recommendation has been fully complied with.

(b) Recommendation 17/2007, concerning the case of Abraham Oseguera Flores and other foreigners of Central American origin, was addressed to INM. It had been established that public servants of the Institute were infringing the rights of the complainants to legality and certainty before the law. INM complied with points 1, 2, 4, 5 and 6 of the recommendation. CNDH stated that it had decided to conclude follow-up on the recommendation, deeming it to have been accepted but not satisfactorily complied with inasmuch as point 3 had not been accepted, the only outstanding matter being the notification to the official of the Federal Public Prosecutor's Office ordering the conduct of the appropriate inquiries.

(c) Recommendation 25/2007, concerning the case of under-age Guatemalan migrants working at the municipal rubbish dump, was addressed to the President of the municipal council of Tapachula (Chiapas) and INM. This recommendation is considered to have been partially complied with.

(d) Recommendation 29/2007, concerning the case of Mrs. Norma Mireyda Contreras Castro and her new-born daughter, was addressed to INM. This recommendation is considered to have been partially complied with.

(e) Recommendation 35/2007, concerning the case of Mr. Orosman Marcelino Cabrera Barnés and Mr. Yordy Gamez Olivier, was addressed to INM. This recommendation is considered to have been partially complied with.

(f) Recommendation 36/2007, concerning the case of Martín Antonio Figueroa Landaverde, a migrant, and other foreigners of Salvadorian nationality, was addressed to INM. This recommendation is considered to have been partially complied with.

(g) Recommendation 63/2007 is addressed to the Government of the state of Coahuila and INM; it concerns the practice of taking rectal cultures from foreigners at the INM migrant holding centre in Saltillo (Coahuila). The recommendation is considered to have been accepted by INM; evidence of compliance is awaited. As regards the state Government, a reply is awaited.

(h) Recommendation 64/2007, concerning the case of Mr. AMP and other Guatemalan migrants, is addressed to INM. It is considered to have been accepted; evidence of compliance is awaited.

(i) Recommendation 65/2007 is addressed to the Office of the Attorney-General of the Republic, the Oaxaca state government and the municipal council of Ciudad Ixtepec Oaxaca); it concerns events occurring in Ciudad Ixtepec (Oaxaca) to the prejudice of Fr. Alexandro Solalinde Guerra and migrants of Central American origin. Replies from all the authorities concerned are awaited.

Recommendation 17 (paragraph 28 (d))

The Committee recommends that the State party should [...] notify the consular or diplomatic authorities of the State of origin without delay whenever a migrant worker or a member of his family is arrested or detained, if so requested by the individual concerned.

52. As stated in the initial report, Mexico complies fully with the provisions of the Vienna Convention on Consular Relations.

53. On 28 August 2006 INM issued circular CCV/033/2006 instructing regional offices to comply with the recommendations of the office of the legal adviser to the Ministry of Foreign Affairs that foreigners should be informed, without delay and in writing, of their right to have the consulate of their country notified that they have been secured and enabled to exercise that right; the migration authorities must, without delay and in writing, send the corresponding notification and must record having done so. Secured persons must also be informed of their right to communicate with officials of their consulate and be visited by them.

54. INM has regular meetings with the consular agents of the United States Embassy on the importance of consular notification.

55. It has also held discussions with representatives of a number of consulates accredited to Mexico, and especially those of Argentina, Canada, France, Guatemala, India and Italy, to discuss matters concerning their secured nationals, such as recognition and issuance of travel documents, information on migration procedures and special problems relating to trafficking in persons.

56. On 8 May 2007 a working breakfast was held with the entire consular corps accredited to Mexico to promote closer relations with INM and to describe the criteria the latter applies regarding the mechanism of consular notification. In this connection the participants were informed that the right of each person to decide whether he/she wishes his/her consulate to be informed that he/she has been secured would be respected. This operating procedure is based on article 36 of the Vienna Convention on Consular Relations; it also helps to protect persons seeking refugee status on account of violations of their human rights in their countries of origin.

Recommendation 18 (paragraph 28 e)

The Committee recommends that the State party should [...] ensure that migrants are deprived of their liberty for as short a time as possible.

57. Article 7 of the decision establishing the norms for the operation of INM's migrant holding centres stipulates that the period during which a secured migrant may be held in a migrant holding centre may not exceed 90 days; it also mentions exceptions to this rule. However, to limit recourse to exceptions, steps have been taken to speed up the administrative migration procedures and thus shorten the time needed for the registration, expulsion or repatriation of secured foreigners.

58. As a result, and following the signing of the memorandum of understanding between the Governments of Mexico, El Salvador, Guatemala, Honduras and Nicaragua aimed at the establishment of a regional cooperation mechanism guaranteeing the dignified, orderly, swift and safe repatriation by land of migrant Central American nationals in the custody of the Mexican migration authorities, the length of stays of migrants of Central American origin in migrant holding centres has been reduced to approximately 24 to 48 hours, save in cases where there is some legal or administrative impediment preventing them from leaving the centre.

59. The length of stay of a secured migrant also depends on the degree of cooperation of his/her consular and diplomatic representatives. In cases where there is no consular representation in Mexico stays are longer, since the corresponding representatives in the United States have to be approached to obtain the identity and travel documents necessary for the completion of the proceedings to which the foreigner must submit.

Recommendation 19 (paragraph 30)

The Committee recommends that the State party should continue and step up its efforts to address as a matter of urgency the problem of ill-treatment and other acts of violence against migrant workers and their families, regardless of who is responsible. In particular, the Committee urges the State party to ensure that such acts are investigated and the culprits brought to trial and punished.

60. The Public Prosecutor's Office is the body with powers to decide whether to continue with sanction proceedings in respect of complaints submitted by CNDH.

61. During the period August 2005 – 24 October 2007, CNDH received 908 complaints concerning migrants. Of these, 431 stated that violations of human rights were being committed in migrant holding centres. During the period 1 January 2005 – 31 December 2007, CNDH received 1,278 complaints from migrants; 1,140 of them have been dealt with and proceedings are continuing in 138 cases. Of the complaints dealt with, 22, in which CNDH had established that violations of the rights of migrants (the right to legality and legal certainty, the infliction of cruel and/or degrading treatment, etc.) were being committed, formed the subject of recommendations.

62. Seven of these recommendations have been fully complied with; 10 have been partially complied with; 2 have been accepted, and the submission of evidence of compliance is awaited; in 1 case the reply of the authorities concerned is awaited; in 1, compliance has been unsatisfactory; and in 1, the recommendation has been rejected.

63. Some complaints were dealt with by measures other than recommendations; 612 were dealt with by advice and 199 by amicable conciliation.

Recommendation 20 (paragraph 32)

The Committee recommends that the State party, and more specifically the National Institute for Migration, should take appropriate steps to ensure that migration control and securing of migrants are carried out exclusively by the competent authorities and that every violation in this regard is promptly reported.

64. To prevent the conduct of migration verifications by various federal, state and municipal authorities, INM issued circulars INM/CCV/017/2006 (8 May 2006), INM/CCV/043/06 (4 December 2006), INM/CCV/006/2007 (6 March 2007) and INM/CCV/007/2007 (6 March 2007) instructing the regional offices that when any foreigner is placed in their charge, in view of the likelihood of unlawful conduct by the authority which is taking detention measures outside the framework of the law, they must determine whether the authority which has handed the foreigner over has acted in conformity with the rules laid down in the regulations of the General Population Act and, if not, to report the matter to the competent ministerial authority, as required by article 117 of the Federal Code of Criminal Procedure. At the same time it instructs the competent supervisory bodies to open inquiries to establish whether any administrative responsibility has been incurred.

65. Article 151 of the General Population Act⁶ stipulates that the migration authorities and the federal police have sole powers to conduct migration verifications. Notwithstanding the foregoing, under different ordinances⁷ the Ministry of the Marine and the Navy is empowered, among other things, to exercise the functions of maritime police and, consequently, must of necessity execute operations involving visits and inspections of vessels and land installations of all kinds in order to ensure that they are complying with the law applicable on the sea and the sea coast.

66. In the course of an inspection or visit of this kind the personnel may find evidence of unlawful conduct, such as the presence on board of foreigners who cannot prove that they are legally entitled to be in the country. In such cases the person or persons involved in the commission of the offence are detained and handed over to the competent authorities.

⁶ Article 151. Outside the fixed checkpoints established in accordance with the provisions of this Act the Ministry of the Interior, through the agency of the personnel of the migration services and the federal police, may execute the following tasks:

- (a) Verification visits;
- (b) Presentation of foreigners to the migration authority;
- (c) Receipt and handling of complaints and evidence;
- (d) Requests for reports;
- (e) Migration checks on roads or at provisional points other than the fixed ones;
- (f) Obtaining other evidence necessary for the implementation of this Act, its regulations and other relevant administrative provisions.

⁷ Article 27 of the Constitution, article 30 of the Organic Law of the Federal Public Administration, articles 1 and 2 of the Organic Law of the Mexican Navy, articles 1, 2, 4, 5, 7, 23, 24 and 25 of the Federal Law of the Sea.

67. In 2006 INM issued a manual of procedures for the control and verification of migrants with the aim of defining the functions and powers of the authorities carrying out migrant verification and control measures in Mexico. It describes the nine migratory procedures which the operational departments of INM follow throughout the national territory, thus eliminating all margin of discretion in the operational procedures relating to the securing, refusal of admission and return of foreigners in irregular migratory situations.

68. On 11 April 2006 INM issued circular INM/CCV/018/2006, addressed to the regional offices, specifying the formalities to be completed by migration personnel during verification visits.

69. On 9 May 2005 circular INM/CCV/001/2005 was issued specifying the formalities to be completed when securing migrants.

70. In 2006 the Integral Supervision Programme (PIS) was brought into operation under the responsibility of the Migrant Control and Verification Department. It provides for inspection visits to the regional offices, concentrating on the different procedures in the area of control and verification of migrants. The programme was continued in 2007; the observations made were followed up in order to verify compliance. .

71. Within the framework of INM's strategic plan the Coordination of Local Offices Service contributes to the Strategic Work Guideline. The latter is concerned with improving the performance of the migration services throughout the country through the instrument of the PIS, whose task it is to identify the operational needs of the regional offices, monitor the strict application of standards, identify and replicate best practices and obtain official sanction of proceedings.

72. During the implementation phase of the PIS, 16 visits were planned. The present situation is shown in the following table:

| <i>Regional office</i> | <i>Status</i> | <i>Regional office</i> | <i>Status</i> |
|------------------------|---------------|------------------------|---------------|
| Zacatecas | Done | Guerrero | Done |
| Yucatán | Done | Durango | Done |
| Tabasco | Done | Jalisco | Done |
| Oaxaca | Done | Querétaro | Done |
| Aguascalientes | Done | Federal District | Planned |
| Quintana Roo | Done | Morelos | Planned |
| Nuevo León | Done | Colima | Planned |
| Coahuila | Done | Tlaxcala | Planned |

73. In addition, on 17 November 2006 CNDH issued General Recommendation No. 13, concerning the conduct of verification of illegal migration, addressed to the national Ministries of the Interior, National Defence and the Marine and the Navy, the PGR, the state ministries of the interior and the central office of the Government of the Federal District.⁸

⁸ See General Recommendation 13 appended.

74. The recommendation was issued as part of the measures deriving from the Assistance to Migrants programme, which is managed by CNDH. It observed that police units in various federal, local and municipal bodies and the armed forces were conducting operations designed to verify the migrant status of foreigners present in the country without recourse to the facilities available for the purpose. This gave rise to illegal administrative detentions, handovers to the migration authorities and subsequent securing by INM.

75. CNDH recommended that public servants in the bodies mentioned and in the Federal Investigation Agency be instructed to refrain from all extralegal migrant status verification measures affecting foreigners in the country and, finally, that all detentions deriving from such measures should cease immediately, without prejudice, however, to the provision of due cooperation with INM where such was expressly required by law.

Recommendation 21 (paragraph 34)

The Committee recommends that the State party should continue to take appropriate measures to protect women domestic workers, including access to regular migrant status and greater and more systematic involvement of the labour authorities in monitoring their working conditions. In also recommends that women migrant workers in domestic service should have access to mechanisms for bringing complaints against employers and that all abuses, including ill-treatment, should be investigated and punished.

76. Domestic work in Mexico is regulated by articles 331 to 343 of the Federal Labour Act, which lay down the rights and obligations of domestic workers and their employers. That legislation is applicable to all workers, irrespective of their migrant status.

77. It is considered that the new General Act concerning the Access of Women to a Life Free from Violence (published in the *Diario Oficial de la Federación* of 1 February 2006) will help to prevent abuses and ill-treatment of women domestic workers.

78. As stated in its article 1, the purpose of this Act is to establish coordination between the Federation, states and municipalities for the prevention, punishment and eradication of violence against women and to lay down principles and modalities guaranteeing them access to a violence-free life fostering their development and well-being in accordance with the principles of equality and non-discrimination, at the same time guaranteeing democracy and comprehensive and sustainable development which will strengthen sovereignty and the democratic regime established in the Constitution. The provisions of the Act are matters of public policy and social interest and are generally applicable throughout Mexico.

79. The Act seeks to protect women suffering, inter alia, from economic violence, which is defined as acts or omissions on the part of the aggressor affecting the economic survival of the victim. It takes the concrete forms of restrictions designed to control the receipt of a woman's earnings or of lower pay for equal work in the same workplace.

80. In Title II (Modalities of Violence), Chapter II (On Violence in Labour and Teaching) the various aspects of the protection of working women are set out in detail.

81. In order to reinforce the measures safeguarding the working conditions of migrant working women, the Ministry of Labour and Social Security (STPS) is carrying on the following activities on a continuing basis:

(a) Publicity on the labour rights and obligations of persons employed as domestics;

(b) Campaigns to enhance the value of domestic work in measures to reconcile labour and family obligations.

82. Since domestic work is frequently performed by girls under age 18, STPS, the National Institute for Women (Inmujeres), the National Scheme for the Comprehensive Development of the Family (DIF), the Centre for Higher Anthropological Research and Studies, the National Teaching University and the International Labour Organization (ILO) will participate, within the framework of the project for coordination with the United Nations Children's Fund (UNICEF), in the review of the proposed research project entitled "Child and adolescent labour in the households of third parties in Mexico City".

83. On the basis of this project, a document entitled "Recommendations concerning Public Policies for the Care of Child and Adolescent Domestic Workers in the Households of Third Parties" has been prepared. Although the document does not specifically refer to foreign workers, the latter will benefit from the measures ensuing from it.

84. In addition, within the Southern Frontier Programme announced by President Felipe Calderón Hinojosa at the beginning of his term of office, it is envisaged as a short-term measure to grant Guatemalan women working in the trading and domestic sectors at Mexico's southern frontier a Migrant Frontier Worker pass. This will permit the entry of documented foreign workers of both sexes to work in different sectors of the economies of the southern border states in an orderly manner, thereby simplifying the safeguarding of their human and labour rights.

85. In this connection the Centre for Migration Studies reports that in 2006 it expanded the Migrant Regularization Programme by reducing the requirements for Guatemalan nationals affected by Hurricane Stan in the state of Chiapas in order to facilitate their legal residence in the national territory and the protection of their rights as workers or members of workers' families.

86. In addition, in November 2006 the "Casa Roja" facility in Talismán (Chiapas) was authorized to issue Visiting Migrant Agricultural Worker passes. The aim of this measure was to secure better infrastructural and technological conditions facilitating the process of issuance of documents to workers in this category.

87. The new Migrant Frontier Worker pass will supersede the Visiting Migrant Agricultural Worker pass. The new pass will enable all Guatemalans to obtain temporary work permits to work in the four states contiguous to Mexico's southern border (Chiapas, Quintana Roo, Tabasco and Campeche). They will also be able to work in any sector of the economy of the region, provided that they have an offer of employment from a Mexican employer (agriculture, building, commerce, domestic service, etc.) The circular sets out the criteria for the issue of this new type of migrant pass and the requirements, procedures, guarantees, rights and obligations associated with it. The circular was issued in January 2008.

88. The Migrant Frontier Worker Pass project (FMTF) forms part of the Plan for the Reorganization of the Southern Frontier launched by President Calderón. Its aim is to regulate

migration and invest in human and financial resources in the security sphere. The process of approval consists of the following steps:

- (a) Design of the migrant pass;
- (b) Approval of the project by the legal coordination unit of INM;
- (c) Acceptance of the project by the legal affairs unit of SEGOB;
- (d) Agreement of the Federal Regulatory Improvement Commission to the project;
- (e) Publication in the *Diario Oficial de la Federación*. Publication implies that use of the new pass may begin.

89. At present the FMTF is between the third and fourth stages. The legal affairs unit is reviewing the project before transmitting it to COFEMER. In parallel with this legal process, pilot projects are being set up in the state of Chiapas to test the system which will be used for its drafting, design and publication.

90. The FMTF is tentatively expected to come into use as early as June or July 2008, since, in addition to the legal process, resources will have to be released and the necessary teams set up.

Recommendation 22 (paragraph 34)

The Committee recommends that [...] women migrant workers in domestic service should have access to mechanisms for bringing complaints against employers and that all abuses, including ill-treatment, should be investigated and punished.

91. In Mexico migrant status does not entail any restriction on access to justice. Thus domestic workers have the choice of advice, complaints and conciliation at different levels, such as:

(a) The Federal Procurator's Office for the Defence of Workers, a federal agency which provides advice, guidance and conciliation services to the parties as appropriate in cases of complaints concerning working conditions brought by women domestic workers. The Procurator's Offices for the Defence of Workers in the states also stand as legal representatives of women domestic workers; this guarantees access for these workers to mechanisms for bringing complaints against employers and for subsequent investigation and punishment;

(b) The local inspectorates, which monitor compliance with labour standards; they provide technical information and advise workers and employers on the most effective methods of compliance and bring shortcomings and violations of those standards which they observe in enterprises and establishments to the notice of the authorities;

(c) The local conciliation and arbitration boards, whose task it is to settle disputes or conflicts between capital and labour. They are made up of worker and employer representatives in equal numbers and are chaired by a government representative.

Recommendation 23 (paragraph 36)

The Committee recommends that the State party should take the necessary measures, including legislative amendments, to guarantee to migrant workers and their families the right to form, and to form part of the leadership of, associations and unions, in accordance with article 40 of the Convention.

92. Under the legislation in force, all workers in Mexico, including workers with migrant status, may be members of a union. Article 372 of the Federal Labour Act provides that workers and employers have the right to form unions without need for prior authorization. The only restriction existing for foreigners relates to membership of the leadership of a union; but their right to join or not to join any union is secure.

Recommendation 24 (paragraph 38)

The Committee recommends that the State party should take the necessary steps to improve the condition of seasonal agricultural workers by, for example, ensuring systematic monitoring by the Federal Labour Inspectorate of compliance with the standards governing the work of agricultural day labourers. It also recommends that all allegations of abuses, including ill-treatment, should be investigated and the culprits punished.

93. The labour authorities at federal and local levels are empowered to monitor compliance with labour legislation in various areas of competence in accordance with the Constitution and the General Labour Act, which specify the branches of industry, activities and subjects falling within the competence of the federal labour authorities.

94. Under these provisions the labour authorities in the states have responsibility for monitoring compliance with labour standards governing general conditions of work in agricultural workplaces. The monitoring of general safety and health conditions and of training and skills development is the responsibility of the federal labour authorities, assisted by local authorities.

95. During 2007, STPS obtained permission from the financial authorities to increase the number of labour inspector posts by 100. There are now 318 posts available for the concrete task of monitoring compliance with labour standards in workplaces under federal jurisdiction.

96. As part of the Strategy for Assistance to Agricultural Day Labourers and their Families, which is coordinated by STPS, a number of measures have been taken to strengthen monitoring of compliance with the labour standards benefiting workers employed in this sector. Particular mention may be made of the following:

(a) Measures involving different agencies of the Federal Executive concerned with agricultural day labourers and agricultural enterprises and establishments, designed to determine the exact numbers of enterprises or establishments in that category which might be subject to labour inspection;

(b) In view of the need to strengthen labour inspection at local level, monitoring of compliance with labour standards is being promoted (especially in farming) through tripartite bodies such as the National Advisory Committee on Occupational Safety and Health and the state committees (which are chaired by the state governors), whose task it is to propose measures for the prevention of occupational risks;

(c) Proposals have been made for the signing of agreements with associations of employers in the agricultural sector to bring them within alternative schemes to the conventional inspection patterns followed by STPS. Examples are the Self-Management of Safety and Health at Work programme, the Electronic Work Declaration and the use of the Verification Teams scheme, in which individuals form teams to monitor compliance with Mexican official standards in the field of occupational safety and health.

97. There are official Mexican standards, issued by STPS, on occupational safety and health in agricultural work. These are:

(a) NOM-003-STPS-1999 concerning agricultural activity (use of phytosanitary or plaguicide inputs and vegetable nutritional inputs or fertilizers: safety and health conditions);

(b) NOM-003-STPS-2000 concerning agricultural activity (installations, machinery, equipment and tools: safety conditions).

98. On 22 November 2007, in pursuance of instructions from the President of the Republic, the Interministerial Group on Agricultural Day Labourers was established with the participation of 12 agencies of the federal public administration.

99. The general objective of the coordination group is to strengthen institutional coordination and synergy in government programmes designed to promote access by agricultural day labourers to decent work comprising respect for labour rights, safety conditions and social security and performed in conditions of equity, justice and legality, which, taken together, will permit the development of individuals, families and communities in their places of origin, transit and destination.

100. The coordination group is divided into five sections, each dealing with an individual subject forming part of the Strategy, as follows:

| <i>Promotion for development</i> | <i>Standards</i> | <i>Education</i> | <i>Inspection</i> | <i>Social security</i> |
|---------------------------------------|--|---|---|---------------------------------|
| Coordinator | Coordinator | Coordinator | Coordinator | Coordinator |
| Members: SAGARPA, DIF, CDI, SEP | Members: SAGARPA SEDESOL, IMSS, Legal Adviser to Federal Executive | Members. SEDESOL, National Education Promotion Council, INEA, CDI | Members: SAGARPA, IMSS, local governments, SEDESOL | Members: SEDESOL, SS, DIF |

101. Among the principal achievements of the working groups, particular mention may be made of the following:

(a) The establishment of a register of agricultural enterprises, made up from the registers of the programmes of the Ministries of Agriculture, Social Development and Labour, for the orientation of the different activities in the Strategy, particularly with regard to inspection;

(b) The strategy for the inspection of agricultural enterprises and the corresponding programme of work;

(c) An analysis of the medical and hospital infrastructure designed for agricultural workers in the zones of origin and destination which will serve as a basis for future promotional activities with insured persons and special health campaigns;

(d) Presentation by the Ministry of Social Development of a proposal to establish a Social Accounting Office, which would introduce a strategy of communication and transmission of complaints between society and the Federal Government.

102. STPS, for its part, has produced a manual for Guatemalan agricultural workers providing information on the respective rights and obligations of employers and day labourers.

103. During recent years Mexico and Guatemala have been establishing, in an uncoordinated manner, mechanisms to regulate migratory flows based on the establishment of a register of the contractors responsible for recruiting workers before they enter Mexico and the institutionalization of a register of workers and persons accompanying them (spouses and minors), who have to be certified by the Guatemalan labour authorities; in it the essential elements of a collective contract for each farm are recorded.

104. In the health sector the Ministry of Health of the state of Chiapas provides care speedily and without charge to agricultural workers and their family members requesting it, regardless of whether or not seasonal workers enjoy any form of private or public medical cover. Likewise, vaccination campaigns are conducted on farms in the state of Chiapas.

105. Ten per cent of young agricultural workers are illiterate. According to surveys, most of them have reached only the third grade of schooling; others (only 7 per cent) did not complete their preparatory studies.

106. Consequently the current administration, in coordination with the state DIF, the Red Cross, the Ministry of Education and UNICEF, is making progress towards the signing of an agreement to provide access to primary education, irrespective of nationality, within the primary school programme for migrant children (PRONIM). This programme seeks to provide facilities for the children of day labourers working on farms and is at present operational in 21 states; it also detaches teachers to farms at some distance from schools in the public education system.

Recommendation 25 (paragraph 40 (a))

The Committee urges the State party to finalize the amendment to the Criminal Code in order to define trafficking in persons as a criminal offence.

107. On 27 November 2007 the Act to Prevent and Punish Trafficking in Persons was published in the *Diario Oficial de la Federación*.⁹ It provides for penalties of up to 27 years' imprisonment for offenders.

108. The Act seeks to prevent and punish trafficking in persons and at the same time to protect and assist victims of this traffic throughout the national territory. Any person who, using physical or moral violence, deceit or abuse of authority, offers, facilitates, procures, transports, hands over or receives a person who is to be subjected to sexual exploitation, for himself or for a third party, is liable to punishment.

⁹ The federal Act to prevent trafficking in persons is appended.

109. Any person committing the offence of trafficking in persons is punishable by 6 to 12 years' imprisonment and a fine of 1,500 times the minimum daily wage. If the offender is a public servant the penalty is up to 27 years' imprisonment, a fine of 3,300 times the minimum daily wage, dismissal from the public employment, charge or commission held and disqualification.

110. Sanctions are envisaged against persons promoting forced labour or services, slavery or similar practices, serfdom or the excision of an organ, tissue or elements thereof.

111. In addition, an interministerial committee has been established within the Federal Executive to prepare and implement a National Programme for the Prevention and Punishment of Trafficking in Persons, which will include policies on the subject. The members of the committee are the heads of the Ministries of the Interior, Foreign Affairs, Public Safety, Communications and Transport, Labour and Social Security, Social Development and Tourism and the PGR. The heads of DIF, Inmujeres, INM, the National Institute of Penal Sciences and the National Population Council will also participate.

Recommendation 26 (paragraph 40 (b))

The Committee urges the State party to [...] step up its efforts to counter migrant-smuggling and trafficking in persons, especially women and children, inter alia by taking appropriate steps to detect the illegal or clandestine movement of migrant workers and their families and punish the criminals and/or groups who orchestrate or assist such movements.

112. On 27 November 2007 an important instrument in the combat against migrant-smuggling and trafficking in persons - the Act to Prevent and Punish Trafficking in Persons - was published in the *Diario Oficial de la Federación*.

113. On 27 February 2006 INM established a basic questionnaire to be used when taking a statement, or an addition to a statement, from a secured foreigner at any time during the period of detention. Its aim is the detection and prevention of trafficking in persons.

114. INM periodically monitors the detection and follow-up of cases of trafficking. At national level cases of this kind are supervised by the body coordinating migrant verification and control; for the protection of the victims the information it obtains is treated as confidential.

115. To that end INM has issued circular INM/CCV/090/2006, which contains guidelines to assist Mexican immigration authorities in obtaining information of use in the detection and identification of criminal organizations engaged in trafficking in persons and operating in Mexico.

116. INM has responsibility for the prevention of offences designated as such in the General Population Act and the investigation of violations in the migration sphere. To that end it has taken measures for the detection of networks of traffickers of various kinds. One example is the investigation carried out in the "Operation Divas" case, in which it investigated offences against the General Population Act committed through the www.Divas.com webpage. That criminal organization is engaged in the entrapment of women, mainly of Argentine nationality, for prostitution in Mexico; they are enticed to the country by deceit, subjected to strict surveillance and deprived of their liberty. It is estimated that the profits of the organization are of the order of two million pesos per month.

117. Several individuals are currently being prosecuted by the judicial authorities.

118. INM has also participated in a number of international meetings at which subjects with a bearing on people trafficking have been discussed, such as the plenary group on the procurement of justice, organized in October 2006 by the United States Department of State, at which measures taken in the area of trafficking in persons were discussed. In October 2006 Mexico took part in the national conference on human trafficking held in New Orleans (United States), which was attended by all the government agencies in the country with responsibilities in that area.

119. Among the measures taken by INM to prevent trafficking in persons, in August 2006 the team coordinating migrant verification and control made an inspection visit to KBL de Mexico S.A. De C.V., a firm in the municipality of Valle de Santiago, Guanajuato; it found a total of 61 foreigners of Chinese origin, who were being forced to work over 14 hours a day and whose migration papers were being held by the owner of the firm. It is worth recording that the firm has now gone out of business as a result of close surveillance by INM.

120. INM also cooperates with other agencies (such as the PGR and Customs and Border Protection (CBP) in the United States) in the implementation of the Operation Against Smugglers Initiative for Safety and Security (OASSIS), whose purpose is also to combat trafficking in persons.

121. INM has also identified and taken into protection nine women victims of trafficking (three Argentine, three Honduran, two Chinese and one Salvadorian) on the understanding that their rights would be safeguarded at all times. The operation was carried out with the participation of non-governmental organizations such as Sin Fronteras and of the International Organization for Migration (IOM).

122. INM has conducted specialist training at national level which includes the themes of the slave trade, trafficking and human rights. In 2006 a total of 15 courses were held, attended by 435 officials in all. Particular mention may be made of the following:

- (a) "Training in international law concerning refugees and the rule of law and trafficking in persons for purposes of commercial sexual exploitation", held in the Federal District;
- (b) "Trafficking in persons and illegal traffic in migrants", held in the Federal District;
- (c) "Falsification of documents, smuggling and the white slave trade", held in Tapachula (Chiapas) and Tijuana (Baja California).

123. INM has taken severe measures against foreigners who enter the country with the sole purpose of committing offences of a sexual nature or who have bad records in their countries of origin. Between January 2005 and January 2007 a total of 298 United States nationals were expelled from the country.

124. In the area of initiatives to combat trafficking in persons, especially women and children, INM has cooperated with the Inter-American Commission of Women, the Organization of American States (OAS), the International Organization for Migration (IOM), the Ministry of Foreign Affairs and Inmujeres. In this connection special mention should be made of the publication in 2006 of a manual on trafficking in persons and the publication in 2007 of a study by a researcher, Dr. Rodolfo Casillas, entitled "Trafficking in women and children in Mexico: an exploratory study carried out in Tapachula, Chiapas".

125. In 2007, following the adoption of the Act to Prevent and Punish Trafficking in Persons, CNDH adopted an Anti-Trafficking Programme under the responsibility of the General Inspection Team. This programme provides a means of addressing the problem in a comprehensive manner from three different standpoints: legal, institutional and social; the basis of its action is coordination and cooperation with public institutions and civil society. The fundamental principle underlying its strategies and activities is that of safeguarding the human rights of the victims of trafficking. Since 2006 CNDH has been coordinating the integration of 10 regional anti-trafficking committees.

126. The programme consists of four lines of action:

(a) The systematic conduct of legal studies in order to promote a homogeneous national legal system which will permit effective combating of the traffic in persons;

(b) The creation of standing communication machinery for cooperation with international organizations whose agendas include the subject of trafficking in persons;

(c) Follow-up and control of all documentation compiled or produced within the programme;

(d) Links with society in order to maintain continuing cooperation with the actors and sectors in society.

127. At the Sixth General Assembly of the Network of National Institutions for the Promotion and Protection of Human Rights of the American Continent, held on the proposal of CNDH, it was decided to create a regional group to establish strategies and measures to combat trafficking in persons. The subject of trafficking in persons was also included in the agenda of the Network for 2008, and CNDH was put in charge of the preparatory work. .

Recommendation 27 (paragraph 40(c))

The Committee urges the State party to [...] properly investigate complaints of involvement by State officials in such offences and duly prosecute and punish the culprits.

128. A legal definition of the offence of trafficking was first established with the entry into force of the Act to Prevent and Punish Trafficking in Persons in November 2007. This explains why there were no complaints concerning that offence before that date.

129. However, there have been complaints and reports concerning acts such as abuse of authority, wrongful exercise of powers, failure to comply with internal rules, ill-treatment, negligence and disrespect for employment relationships. There were in all 477 such cases in 2006 and 429 in 2007.

130. Sanctions imposed on employees in service and public servants attached to INM numbered 197 in 2006 and 102 in 2007. They ranged from private or official warnings to suspensions, dismissals, disqualification and fines.

Recommendation 28 (paragraph 42 (a))

The Committee recommends that the State party should pay particular attention to the vulnerable situation of migrant unaccompanied minors. In particular, the State party should strengthen its programmes for the safe and orderly repatriation of unaccompanied minors on the southern and northern borders.

131. On 11 June 2007 an agreement was concluded between INM and DIF concerning the organization of joint measures for the care of unaccompanied migrant children and adolescents and repatriated persons, both Mexican and foreign. The agreement aims to safeguard the physical and mental integrity of children and adolescents from the time they are taken into care until they have been reintegrated into their communities of origin.

132. The following are the principal achievements of the Inter-agency Programme for the Care of Border-Area Minors (PIAMF):

- (a) Extension of coverage of care;
- (b) Strengthening of the operating capacity of transit hostels (increases in their budgets);
- (c) Design of a single information system;
- (d) Development of information and awareness-promotion materials;
- (e) Promotion of care for minors in Central American countries;
- (f) Establishment of the first transit hostel in Tapachula (Chiapas);
- (g) Development of a care model for use in migrant holding centres;
- (h) Local agreements on repatriation of Mexican nationals from the United States, signed in 2006 and designed to ensure greater safety, especially for vulnerable groups (minors), by the establishment of specific locations and times;
- (i) Signing in May 2006 of the Memorandum of Understanding on the Orderly, Swift and Safe Repatriation of Central American Nationals by Land (Regional Repatriation Memorandum), between the Governments of Mexico, El Salvador, Guatemala, Honduras and Nicaragua.

133. It is also important to mention the signing of the specific cooperation agreement between INM, DIF in Chiapas and the Mexican Refugee Assistance Commission (COMAR). The aim of this agreement is to establish bases for cooperation in joint measures to provide temporary accommodation for foreign migrant children and adolescents found in the border zone of the state of Chiapas.

134. The agreement also allows participation by public and private institutions with a concern in the subject with a view to achieving comprehensive care for migrant children and adolescents.

135. On 30 March 2007 the Government created a board for inter-agency discussion on migrant women and unaccompanied migrant children and adolescents. Leadership is provided by the Ministry of the Interior, acting through the technical secretariat within INM. The latter has been

addressing two main tasks: the implementation of measures in the places of origin and the setting up of a single communications system entitled “Information network for the protection of the rights of unaccompanied migrant children”.

136. On 15 October 2007 a model for protection of the rights of unaccompanied and repatriated migrant children and adolescents at the northern border was submitted to the board. The strategic usefulness of this model lies in the standardization of repatriation procedures in a manner which takes account of the particular characteristics of each state; it defines the processes of return of repatriated children to their places of origin, sets the level of support and monitoring to be devoted to a child once it has arrived at its place of origin and ensures coordination among agencies at the different levels (federal, state, local) and between the border states and the states of origin.

137. The proposal was prepared jointly by DIF, INM and UNICEF.

138. The model comprises five stages:

- (a) Detention of the minor in the United States;
- (b) Coordination of repatriation;
- (c) Care in the border states;
- (d) Safe return home;
- (e) Activation of the inter-agency protection scheme at the place of origin.

Assistance given, by state and municipality, 2001-2007

| Area | State | Municipality | Children and adolescents | | | | | | |
|-----------------|-----------------|-----------------------|--------------------------|-------|-------|-------|-------|-------|-------|
| | | | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007* |
| Northern border | Baja California | Mexicali | 43 | 73 | 231 | 1 026 | 1 166 | 1 165 | 770 |
| | | Tijuana | 3 211 | 1 936 | 1 649 | 3 366 | 4 967 | 4 581 | 2 985 |
| | | Subtotal | 3 254 | 2 009 | 1 880 | 4 392 | 6 133 | 5 746 | 3 755 |
| | Coahuila | Cd. Acuña | 115 | 112 | 106 | 129 | 162 | 284 | 247 |
| | | Piedras Negras | 882 | 569 | 434 | 437 | 400 | 832 | 717 |
| | | Subtotal | 1 007 | 681 | 540 | 566 | 562 | 1 116 | 964 |
| | Chihuahua | Cd. Juárez | 168 | 389 | 634 | 929 | 2 209 | 2 530 | 2 687 |
| | | Ojinaga | 229 | 138 | 207 | 261 | 224 | 116 | 64 |
| | | Subtotal | 397 | 527 | 841 | 1 190 | 2 433 | 2 646 | 2 751 |
| | Sonora | Agua Prieta | 75 | 146 | 123 | 91 | 864 | 604 | 661 |
| | | Nogales | 1 123 | 1 154 | 1 560 | 2 052 | 3 639 | 5 315 | 4 702 |
| | | San Luis Río Colorado | 0 | 0 | 0 | 0 | 1 835 | 1 655 | 803 |

| Area | State | Municipality | Children and adolescents | | | | | | |
|-----------------|--------------------------|--------------|--------------------------|-------|-------|--------|--------|--------|--------|
| | | | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007* |
| | | Subtotal | 1 198 | 1 300 | 1 683 | 2 143 | 6 338 | 7 574 | 6 166 |
| | Tamaulipas | Matamoros | 673 | 1 109 | 893 | 888 | 719 | 796 | 568 |
| | | Nuevo Laredo | 450 | 377 | 597 | 960 | 1 162 | 1 200 | 118 |
| | | Reynosa | 641 | 705 | 760 | 781 | 837 | 949 | 1 019 |
| | | Subtotal | 1 764 | 2 191 | 2 250 | 2 629 | 2 718 | 2 945 | 2 705 |
| | Nuevo León | Monterrey | 0 | 0 | 0 | 0 | 131 | 103 | 81 |
| | Subtotal Northern border | | 7 620 | 6 708 | 7 194 | 10 920 | 18 315 | 20 130 | 16 422 |
| Southern border | | | | | | | | | |
| | Chiapas | Tapachula | 0 | 0 | 0 | 0 | 77 | 371 | 365 |
| | Subtotal Southern border | | 0 | 0 | 0 | 0 | 77 | 371 | 365 |
| Place of origin | Veracruz | | | | | | 11 | 0 | |
| | Puebla | | | | | | 1 | 0 | |
| | Chiapas | | | | | | 3 | 0 | |
| | Guanajuato | | | | | | 0 | 0 | |
| | Subtotal Place of origin | | | | | | | 15 | 0 |
| TOTAL | | | 7 620 | 6 708 | 7 194 | 10 920 | 18 392 | 20 516 | 16 787 |

* Up to September 2007.

Inter-agency action, 1996-2007

| Year | Repatriations of minors travelling alone or accompanied | Referrals to DIF hostel network and other hostels for assistance | Inter-agency programme of care for border-area minors (DIF figures) |
|-------|---|--|---|
| 1996 | | | 8 000 |
| 1997 | | | 8 000 |
| 1998 | 48 336 | No records | 8 560 |
| 1999 | 108 571 | No records | 8 045 |
| 2000 | 116 938 | No records | 8 768 |
| 2001 | 63 938 | 10 673 | 7 620 |
| 2002 | 47 585 | 11 545 | 6 708 |
| 2003 | 52 296 | 11 452 | 7 194 |
| 2004 | 39 690 | 13 841 | 10 920 |
| 2005 | 44 727 | 22 055 | 18 392 |
| 2006 | 35 883 | 21 472 | 20 516 |
| 2007* | 20 799 | 11 588 | 16 787 |

* Up to September 2007.

Recommendation 29 (paragraph 42 (b))

The State party should [...] provide specific training in children's rights for State officials working in border areas who come into contact with unaccompanied minors.

139. INM, in coordination with DIF, UNICEF, the IOM, COMAR and the Office of the United Nations High Commissioner for Refugees, is developing a training strategy to impart specialist skills to migration officials who retrain to become child protection officers.

140. Within the strategy of providing quality care in a friendly manner PIAMF gives migrant and repatriated children treatment which is both dignified and in accordance with their rights. The instrument of this strategy is the posting of qualified personnel in premises suitable for reception, care and transfer to the children's places of origin. To that end a number of training courses have been organized for operative personnel in the state and municipal DIF systems and for organizations in civil society.

141. DIF, in coordination with the Western Technological and Higher Studies Institute (ITESO A.C.) and with UNICEF financing, has produced a "welcome booklet for migrant and repatriated children and adolescents" and the "technical guide for personnel working in transit hostels for migrant and repatriated children and adolescents". These materials will facilitate work with children and adolescents during their stays in the network of transit hostels included in the programme.

142. In October 2007 PIAMF held a national meeting to promote the incorporation of good practices in the design of programmes for migrant and repatriated children and adolescents, drawing on knowledge and recognition of the different targets for intervention (gender, rights, family, violence, ill-treatment) which form cross-cutting elements in prevention and care in this problem area.

143. The meeting was attended by 75 persons from state and municipal DIF schemes and from organizations of civil society and representatives of COMAR, INM and the Ministry of Social Development. They received training in subjects such as child vulnerability and social policy, containment in crisis situations, human rights in programmes for vulnerable children, the detection of violence and ill-treatment and the strengthening of the family unit.

144. During the national meeting a workshop was held on teaching materials for border hostels, during which the "welcome booklet for migrant and repatriated children and adolescents" and the "technical guide for personnel working in transit hostels for migrant and repatriated children and adolescents" were reviewed and discussed.

Recommendation 30 (paragraph 42 ©)

The State party should ensure that the detention of migrant children and adolescents, accompanied or otherwise, is carried out in accordance with the law and used only as a last resort and for the shortest possible time.

145. Following the signing of the agreement on cooperation in assistance for unaccompanied migrant and repatriated children and adolescents within the framework of the PIAMF, INM, in coordination with DIF, has been directing all minors to the public and private hostels forming part of the programme for care and reintegration in the places of origin to ensure that they are placed in an environment of care appropriate to their ages. The repatriation of children and

adolescents takes place with the assistance of the corresponding consular representatives. However, if they have to remain in INM premises, arrangements are made (hiring women social workers) to ensure that they are not left alone.

146. Minors over age 12 travelling alone are assigned to a special section for secured adolescents in migrant holding centres.

147. If a minor is travelling in company, INM, which promotes family unity, allows him/her to stay in the same quarters as the mother, and premises are set aside for visits outside working hours so that, if the father is also present, the family can spend time together.

148. The period of securing depends on nationality and travelling conditions specific to each individual. It is therefore impossible to designate any specific number of days as the usual duration of stays.

Recommendation 31 (paragraph 42 (d))

The State party should strengthen its cooperation with civil society and international organizations, in order to address the problem of unaccompanied minors.

149. On 11 June 2007 the president of the DIF Citizens' Advisory Council announced that meetings would be held with the presidents of the DIFs of Mexico's northern and southern border states to work on facilitation of the repatriation of migrant minors, the safeguarding of their rights during the repatriation process and the provision of comprehensive care enabling them to reintegrate into their family environments as soon as possible.

150. She also stated that organized civil society and businesses should cooperate and progressively strengthen programmes providing assistance of this kind to migrant children.

151. The Inter-Agency Programme of Care for Migrant Minors, established in 1996, has consolidated the work done on the northern border and extended the scope of its activity to include the places of origin of migrant and repatriated minors. It has also designed support activities in the Federal District and a working methodology for the creation of a plan of action for the southern border.

152. The principal achievement of this programme has been the coordination of the work of state and municipal DIF schemes. Acting through the different public and private hostels which make up the network of the programme, these schemes have over time assisted 83,279 minors. The regular budget allocation amounts to US\$ 683,117 annually; in 2006 extraordinary resources totalling US\$ 3 million were allocated.

| <i>Year</i> | <i>Persons assisted</i> | <i>Total expenditure (dollars)</i> |
|--------------|-------------------------|------------------------------------|
| 2001 | 7,620 | 600,000 |
| 2002 | 6,708 | 678,126 |
| 2003 | 7,194 | 683,084 |
| 2004 | 10,920 | 683,100 |
| 2005 | 18,392 | 683,117 |
| 2006 | 20,516 | 3,683,114 |
| 2007 | 16,787* | 683,117 |
| Total | 83,279 | 7,693,658 |

*Up to the end of September 2007.

153. The participating states and municipalities on the northern border are: Tijuana and Mexicali in Baja California; Acuña and Piedras Negras in Coahuila; Juárez and Ojinaga in Chihuahua; Agua Prieta, Nogales and San Luis Río Colorado in Sonora; Matamoros, Nuevo Laredo and Teynosa in Tamaulipas; and Monterrey in Nuevo León. In October 2007 there were in all 65 transit hostels in the programme; of these, 16 belonged to state and DIF municipal schemes and 44 to civil organizations; 5 were reception and care modules.

154. At the southern border the DIF-Chiapas hostel for migrant minors in the town of Tapachula is now open. The municipal authorities work in coordination with the INM office in Chiapas, which in its turn manages the model migrant holding centre. The latter has special quarters for care of minors. Children and adolescents are channelled to one or other of these two establishments, according to age and sex.

| <i>Year</i> | <i>Participating states</i> | <i>S MDF</i> | <i>OSC</i> | <i>Hostels</i> | |
|-------------|-----------------------------|--------------|------------|----------------|-------------------------|
| | | | | <i>Border</i> | <i>Places of origin</i> |
| 2001 | 5 | 11 | 7 | 18 | 0 |
| 2002 | 5 | 11 | 5 | 18 | 0 |
| 2003 | 5 | 11 | 5 | 18 | 0 |
| 2004 | 6 | 12 | 5 | 20 | 0 |
| 2005 | 7 | 14 | 6 | 24 | 0 |
| 2006 | 10 | 16 | 6 | 24 | 42 |
| 2007 | 7 | 14 | 6 | 25 | 0 |

155. Since June 2007 the temporary shelter for migrant minors in Tapachula has been providing care for children accompanied by their mothers, thus favouring the principle of family unity. Not only minors under age 12, but also their mothers, are admitted and looked after; where necessary, in special cases girls up to ages 16 or 17 may be taken in.

156. At state level, local coordination committees have been established in every municipality participating in the programme. They consist of personnel of the state and municipal DIF schemes; representatives of the Mexican consular service in the United States; the local INM office; CNDH; the municipal police; and civil society organizations involved in the provision of assistance to persons in this category.

157. These committees are forums for the exchange of experiences and ideas for the strengthening of a public policy designed to assist migrant and repatriated minors. During 2007 work was undertaken on the re-establishment of committees in cases where the cooperation agreements under which they had originally been established required updating.

Recommendation 32 (paragraph 44)

The Committee likewise requests the State party to disseminate these concluding observations widely, including to public agencies and the judiciary, non-governmental organizations and other members of civil society, and to inform Mexican migrants abroad and foreign migrant workers in transit or residing in Mexico of the rights they and members of their families enjoy under the Convention.

158. The Ministry of Foreign Affairs has put a great deal of effort into disseminating the observations of the Committee; it has requested federal and state agencies and autonomous human rights bodies to distribute them.

159. INM has prepared a leaflet on the International Convention on the Protection of the Rights of All Migrant Workers and Their Families, which was circulated on 16 March 2007 in migrant holding centres, external offices, Press agencies and non-governmental and civil society organizations. In addition, a link to the report and the observations of the Committee thereon was created on the INM webpage to permit on-line consultation.

160. At state level the recommendations have been distributed to all the executive and judicial authorities in each state. Internal distributions have also been made; at state level, particular mention should be made of the efforts of the Attorney-General's offices in the states of Puebla and Morelos and the extensive information activities carried out in the state of Chiapas.

161. At federal level the recommendations have been distributed to government agencies, the PGR and the Supreme Court of Justice. The last-mentioned body has disseminated these observations by both electronic and print media. The Federal Council of the Judiciary has also published them on its Internet site.

162. The Ministries of Public Education, Public Safety and the Interior, STPS and the PGR have distributed the concluding observations of the Committee within their respective institutions.