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MEXICO TRADE CAPACITY BUILDING PROJECT

ENHANCEMENT OF THE BUSINESS AND LEGAL ENVIRONMENT AND TRADE CAPACITY THROUGH LEGAL REFORM AND IMPROVEMENTS IN THE ADMINISTRATION OF JUSTICE BY COMMERCIAL COURTS IN MEXICO

USAID ANNUAL PROGRAM STATEMENT
APS No. M/OAA/GRO/EGAS-06-107
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QUARTERLY REPORT 1 JULY TO 30 SEPTEMBER 2012

I. TWENTY-THIRD QUARTER (1 JULY TO 30 SEPTEMBER 2012):

- A. SECURED TRANSACTIONS REFORM SEMINARS, SEPTEMBER 19-21, 2012.** In September, the NLCIFT traveled to Mexico City to continue its work with the Ministry of Economy on secured transactions reform. NLCIFT team members participated in seminars on the Mexican Secured Transactions Framework and the Registry of Security Interests (RUG). These seminars were attended by approximately 30 lawyers and lenders associated with the successful implementation of the reform.

In addition to participating in the seminars, the NLCIFT team held meetings with the Ministry of Economy and the working group (comprised of Mexican lawyers and academics) in charge of drafting the Manual for the Enforcement of Security Interests (*Manual de Ejecución de Garantías Mobiliarias*). During this visit, the Ministry of Economy also indicated that although the proposed amendments to the law on secured transactions are currently before Congress, the Ministry of Economy has the power to issue “*Lineamientos*” or Legal Guidelines on secured transactions and the use of the RUG that would be a tool for a better application of the current law provisions.

- B. ORAL TRIAL TRAININGS.** As a result of planning conducted during the previous quarter, the NLCIFT conducted multiple training and awareness activities on oral trials for commercial matters including skill-based training programs and conferences for trial and appellate-level judges, court staff, lawyers, faculty and law students. The NLCIFT’s team also held meetings with a number of local partners to continue to build relationships in the various Mexican states.



In particular, on July 12-14, the NLCIFT attended and presented at the VII Annual Congress of State Public Defenders Offices held in Merida, Yucatan. One of the NLCIFT's instructors, Jesus Romero, was the keynote speaker for the Conference and another instructor, Michael Mandig, presented on the impacts of the reforms to the Commercial Code on oral trials and the training available through the support of USAID/Mexico. During the conference, the NLCIFT's team met with the directors of public defenders' offices in various Mexican states in order to develop and build new relationships for future training programs. Public Defenders' offices in Mexico have an obligation to provide their services not only in criminal and family law matters but also in civil, commercial, administrative and other areas of law. Also in July, the NLCIFT participated in a training program for the moot court team of the University of Guanajuato. Faculty and students had traveled to Los Angeles and San Diego to learn oral trial skills from the perspective of prosecutors, defenders and judges. The NLCIFT coordinate the group's afternoon and evening activities which in addition to skill-based class room training included a visit to the civil courts to observe civil/commercial trial hearings, a one-on-one visit with a civil judge, a roundtable discussion with a local commercial law firm, and a visit with Ambassador Charles Shapiro at the Institute of the Americas. Students also were assigned research projects, the results of which will be used for the initial draft of a Benchbook on oral trials on commercial matters for judges in Mexico.

On August 8-12, 2012 the NLCIFT's team traveled to the State of Queretaro to participate in conferences and lectures on oral trials for commercial matters. The NLCIFT team held conferences with the: (i) State Court of Queretaro, (ii) the Federal Judicial Institute in collaboration with the *Casa de la Cultura Jurídica* and the Autonomous University of Queretaro; and (iii) the *Centro de Estudios de Actualización en Derecho* (CEAD). These programs were attended by approximately 325 trial and appellate level judges, court staff, lawyers, notaries, commercial notaries and law professors. Attendees to the program in CEAD came from neighboring States including Guanajuato, San Luis Potosí, Michoacán and Sinaloa. The main conference coordinated with the Federal Judicial Institute concluded with the presentation of a mock commercial trial presented by a group of judges, lawyers and notaries that used a script prepared by the NLCIFT. The conference topics covered all trial stages and there was a dynamic question and answer session after each topic was covered.

The NLCIFT held its first skill-based oral trial training in the State of Guanajuato at the end of August. This training took place over a three-day period (27-29) at the University of Guanajuato and was attended by a group of approximately 40 people and included attorneys, notaries and law professors.



Attendees participated in multiple practice sessions with role play and small group session that focused on developing special oral trial skills.

- C. SYMPOSIUM ON ALTERNATIVE DISPUTE RESOLUTION FOR FEDERAL JUDICIARY, SEPTEMBER 25-26, 2012.** On September 25 and 26, the NLCIFT organized a symposium event for the Mexican Federal Judiciary on the topic of Alternative Dispute Resolution (ADR). This program took place over a two-evening period in the Auditorium at the Federal Judicial Institute in Mexico City. The Symposium was filmed by the staff of the Federal Judicial Institute and was broadcasted live across Mexico through the use of their judicial network technology. This allowed the program to reach not only those physically present for the Symposium in Mexico City but also numerous others located in multiple locations throughout Mexico.

Approximately 150 attended in person and approximately 600 logged on to the judicial network for the live-broadcasting of the program. The symposium was viewed by members of the Federal Judiciary in the following locations throughout Mexico: Acapulco, Aguascalientes, Campeche, Cintalapa de Figueroa, Coatzacoalcos, Colima, Iguala (Guerrero), Baja California, Cancn, Chiapas, Chihuahua, Chilpancingo, Ciudad Juárez, Coahuila, Cuiliacán, Durango, Guanajuato, Jalisco, La Paz, Morelia, Naucalpan, Nayarit, Nezahualcóyotl, Nuevo Laredo, Nuevo León, Oaxaca, Pachuca, Poza Rica, Puebla, Puente Grande, Querétaro, Reynosa, San Luis Potosí, Sinaloa, Sonora, Tabasco, Tamaulipas, Tijuana, Tlaxcala, Uruapan, Veracruz, Xalapa, Yucatán, and Zacatecas.

The program focused on providing the judiciary with a detailed analysis of the various methods of alternative dispute resolution and their importance in international business and trade. Panelists were all members of the NAFTA 2022 Advisory Committee on Private Commercial Disputes. Panelists took great care in pointing out the overlapping concepts between ADR in the United States and Mexico and identifying their location in both domestic legislation and international agreements. The discussion shifted dynamically between United States law and Mexican law and highlighted the role of the judiciary in ADR. Also as part of the panelists was Magistrate Neofito López Ramos of the 3^{er} Tribunal Colegiado en Materia Civil, 1^{er} Circuito of Mexico; he provided insightful recounts of cases in Mexico that dealt with judicial assistance in ADR mechanisms. During the closing ceremony, the General Director of the Federal Judicial Institute highlighted the importance of outreach programs such as this for Mexico's future.

- D. PLANNING ON COMPETITION LAW TRAINING WITH THE JUDICIARY.** The NLCIFT continued to collaborate with the Mexican Federal Competition Commission (COFECO) and Abt Associates (USAID contractor on



Competition Law and Policy), in preparing a second workshop with the Federal Judicial Training Institute on the abuse of dominance (Relative Monopolistic Practices). There have been numerous attempts in identifying a date for this second training program; yet, there has been no consensus on a date that works for proposed panelists and the Federal Judiciary.

II. NEXT QUARTER (1 OCTOBER TO 31 DECEMBER 2012)

- A. CONTINUED WORK ON SECURED TRANSACTIONS REFORM.** In this next quarter, the NLCIFT will continue to collaborate with the Ministry of Economy on secured transactions reform efforts in Mexico. The NLCIFT will continue to be available for discussions with the drafting group on the “Manual for the Enforcement of Security interests” (*Manual de Ejecución de Garantías Mobiliarias*). It is expected that this Manual will be part of a publication of practical and scholarly articles on secured transactions in Mexico that will be published with the support of USAID/Mexico under this project. Upon having a final draft of the Manual, the NLCIFT will prepare commentaries to it from and comparative and economic development perspective. The NLCIFT will also continue to work with the Ministry of Economy on drafting Guidelines on Secured Transactions that would help fill in gaps in the law and regulations. These Guidelines cannot, however, create new substantive rules or amend existing ones, but they can complement and regulate. Finally, the NLCIFT will conduct one final in-reach and outreach session in collaboration with the Ministry of Economy and the judicial and legal community of Mexico.
- B. TRAINING FOR FEDERAL JUDGES ON COMPETITION LAW.** While the NLCIFT has begun research work for developing materials for the second training program for the Federal Judiciary, additional experts need to be identified to participate in this training. It has been a challenge to identify a date that works for panelists/instructors and the Federal Judiciary; however, the NLCIFT will continue to work with its collaborators (Abt Associates and COFECO) in identifying a possible date within the calendar year.
- C. ORAL TRIAL TRAINING FOR JUDGES AND THE LEGAL COMMUNITY.** During the next quarter, the NLCIFT will continue to conduct training programs on oral trial procedure for commercial matters for both the federal and state-level judiciary, as well as others involved in the legal community of Mexico (*i.e.*, attorneys, public defenders, notaries, law professors, etc.). During work conducted in the last quarter the NLCIFT learned the importance of capacity building activities targeted to public defenders’ offices in Mexico. The scope of work of public defenders’ offices in Mexico extends to civil and commercial matters, as opposed to the more traditional scope that is limited to



criminal matters. In particular, during this quarter, the NLCIFT expects to conduct skill-based training programs with the judiciary of the State of Guanajuato and the Public Defenders' Office of Guanajuato during the month of October. In collaboration with the Public Defenders' Office of Guanajuato the NLCIFT will coordinate a regional skill-based training program for all those States neighboring Guanajuato in Central Mexico. Further, the NLCIFT plans to hold conferences, lectures and meetings aimed at increasing awareness and understanding the impact of the reforms as well as for building productive working relationships in various other Mexican states in collaboration with state contact offices of the Federal Judiciary known as *Casas de la Cultura Juridica*. Finally, the NLCIFT will coordinate a first Train-the-Trainers program with one of the State Courts that has already received skill-based training with the NLCIFT in order to expand the impact of this Project's efforts.