



**International Convention on the
Protection of the Rights of
All Migrant 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**

**Consideration of reports submitted by States
parties under article 73 of the Convention**

Second periodic report

Mexico*

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

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I. Introduction

1. The Mexican Government, in accordance with article 73, paragraph 1, of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, hereby submits its second periodic report to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (“the Committee”) for its consideration. The report describes the measures taken between 2006 and 2009 to give effect to the provisions of the Convention.

2. The Mexican Government submitted its initial report on the implementation of the Convention (CMW/C/MEX/1) on 18 November 2005, and presented it to the Committee on 30 and 31 October 2006.

3. In March 2008, as part of its policy of openness on human rights issues,¹ the Mexican Government submitted a report *motu proprio* (CMW/C/MEX/CO/1/Add.1)² to the Committee in response to the concluding observations formulated by the Committee on 8 December 2006 (CMW/C/MEX/CO/1). The Mexican Government’s replies to the concluding observations are indicated in the relevant paragraphs of the present report.

4. Mexico, a prime mover in the negotiations which led to the adoption of the Convention, remains steadfastly committed to the promotion of the rights of migrant workers and their families, regardless of their migration status.

5. During the reporting period, the Mexican authorities have insisted that the issue of international migration, and that of migrant workers in particular, should be addressed comprehensively and in accordance with the principle of shared responsibility, by focusing on the individual worker and his or her rights in the formulation of State migration policies. To this end, Mexico has continued to promote the Convention and has called upon all countries to accede to it, if they have not yet done so.

6. Mexico has delivered this message at the main multilateral and regional forums on migration, including the High-level Dialogue on International Migration and Development, held at the United Nations General Assembly on 14 and 15 September 2006, and the Global Forum on Migration and Development, held in Brussels in 2007, Manila in 2008 and Athens in 2009, where it called for a rights-based approach to migration.

7. Mexico has also made its voice heard in the Organization for Economic Cooperation and Development (OECD), the Working Group on Migration, the European Union – Latin American and Caribbean Summit, the Special Committee on Migration Issues of the Organization of American States, and the Regional Conference on Migration. The Regional Conference, which first met in the city of Puebla, Mexico, brings together the countries of North and Central America in the coordination of initiatives to deal with interregional migration flows.

¹ See annex I, “Human rights treaties to which Mexico has acceded”, and annex II, “Visits to Mexico by special procedures and other human rights mechanisms”.

² See annex III, “Reply to the Committee’s recommendations”.

II. General information

A. Disaggregated data on the characteristics and nature of migratory flows (immigration, transit and emigration) affecting the State party

8. As was clear from the State party's initial report, the multidimensional complexity of the phenomenon of Mexican migration can only be appreciated if Mexico is considered a country of origin, transit and destination. The dominant pattern of Mexican migration, involving either Mexicans or nationals from other Central and South American countries who use Mexico as a country of transit, continues to feature the United States of America as the main country of destination.

9. While the growth rate of the Mexican migrant population in the United States has stabilized and even decreased since 2006, the total number of Mexican migrants in that country stands at 12.7 million, 55 per cent of whom are undocumented.³ Mexican nationals constitute the largest immigrant group in the United States, where they account for almost a third of all immigrants and are increasingly integrated. Undocumented migration, however, has attracted vast organized networks for trafficking in undocumented migrants.

10. Possible factors in the decline in undocumented Mexican migration to the United States in recent years, currently estimated at approximately 315,000 persons per year,⁴ include economic factors, such as the downturn in the United States economy since 2006, and the restrictive measures taken by the United States authorities to curb undocumented migration (legislation, construction of walls along the border, raids, criminalization and deportation of thousands of Mexicans). The number of deportations from the United States to Mexico between 2006 and 2008 exceeded 500,000 per year.⁵

11. These measures have resulted in greater risks to migrants and their families,⁶ an increase in the cost of migration and a climate of hostility, anti-immigration and discrimination in the country of destination, which increases migrants' vulnerability and makes the seasonal return of undocumented migrants to their place of origin increasingly difficult.

12. Added to this are the effects of the United States financial crisis, which began in September 2008, and which has had a negative impact on the labour situation of Mexican migrants, particularly undocumented migrants, and on the total amount of remittances they send to their families.⁷ The situation in the United States labour market in the current economic context has deterred potential emigrants, as reflected in the decline in migration flows.

³ *Mexican Immigrants to the United States*, 2008. PEW Hispanic Center, 15 April 2009.

⁴ *International Migration Outlook*, 2008. SOPEMI, 2008 edition, OECD.

⁵ National Institute for Migration, 2008.

⁶ Although there has been a fall in the number of Mexicans who die at the United States border in their attempts to enter the country without documents, there has been an average of 400 such deaths a year over the last five years.

⁷ The Bank of Mexico estimates that, in 2008, the total amount of remittances was US\$ 25,145 million, a 3.6 per cent drop compared with the 2007 peak of US\$ 26,076 million. The World Bank estimates that the total amount of remittances from Mexican workers will drop by 5 to 8 per cent in 2009.

13. Preliminary observations show no evidence of a mass return of migrants or of a seasonal migration pattern different to that observed in previous years.⁸ Nevertheless there is growing concern about the unfavourable climate prevailing in the United States which, depending on the severity of the recession, may lead to the expulsion of a greater number of undocumented migrants.

14. In recent years, Mexico's southern border has seen a significant increase in both documented and undocumented migration flows. There are various reasons for this: some flows are seasonal and trade-related or concern the employment of agricultural day workers in border areas, primarily Chiapas. Nevertheless, the majority of these flows are made up of persons trying to cross the national territory to reach the United States.

15. Historically, Mexico's southern border, which is 1,196.2 kilometres in length (959.7 kilometres bordering Guatemala and 236.5 bordering Belize), has been the scene of constant movement.⁹ In the light of this, public policies have been put in place to establish infrastructure and regulate the arrival and departure of documented flows of persons and goods.

16. There are no reliable estimates of the flow of undocumented migrants entering Mexico through the southern border, mostly from Guatemala, Honduras, El Salvador and Nicaragua; rough estimates from 2004 indicate that the number is over 400,000 per year. However, the migration flow has declined in recent years and the numbers are now lower. A good indicator is the number of migrants held by the National Institute for Migration (INM) in the last three years, which fell from 226,539 in 2005 to 88,679 in 2008.¹⁰

17. These flows include a growing number of women, children and unaccompanied minors, as well as a small number of asylum-seekers. One important feature of undocumented migration flows is the increase in the smuggling of migrants — the “migration business” — which is linked to networks for trafficking in persons and also to trafficking gangs, many of them originating in Central America, which have come to pose the main threat to migrants in transit to the northern border.

18. The current context in which migration takes place shows the major role played by women migrants. Women account for 49 per cent of the migrant population worldwide and 50.4 per cent in Latin America.¹¹ Women and their families who stay behind in the communities that migrants have left must come to terms with a new family and community environment, since, in addition to their traditional role, they assume that of breadwinner and linchpin of the family, which doubles or triples their working day. Against a backdrop of limited opportunities and economic hardship, this forces them to migrate. Currently, Mexico is the country with the highest emigration rate in the world.¹²

19. The National Institute for Migration reports that women migrants who are detained in Mexico and deported account for approximately 20 per cent of annual flows. Although

⁸ “La crisis financiera en Estados Unidos y su impacto en la migración mexicana” (The American financial crisis and its impact on Mexican migration), occasional paper, Colegio de la Frontera Norte, December 2008.

⁹ The Special Rapporteur on the human rights of migrants points out in his report on his mission to Mexico (A/HRC/11/7/Add.2) that, owing to the porosity of the southern border, it is impossible to know precisely how many migrants enter and for what reasons; they may come for a temporary stay, to use Mexico as a country of transit to the United States or to do the agricultural jobs left vacant by the many Mexicans who have left.

¹⁰ *Source:* Centre for Migration Studies, with information from the regional offices of the National Institute for Migration.

¹¹ *Source:* <http://esa.un.org/migration/>, United Nations Population Division.

¹² *Source:* www.unctad.org, United Nations Conference on Trade and Development, 2008.

the majority of these women come from Central America (Guatemala, Honduras and El Salvador), around 5 per cent of them come from other Latin American countries or elsewhere.

20. The average stay of women of Central American origin in Mexican migrant holding centres is between two and seven days, depending on where they are secured. Women of other nationalities spend longer in the holding centres pending completion of administrative migration proceedings; the length of stay is determined by the time needed to complete those proceedings which, under article 150 of the Population Act, may not exceed 90 days.¹³

21. Documented immigration has remained low. In the period 2006–2007, the documented flow of visitors was 43,000 and the documented flow of agricultural workers was approximately 40,000. Since 2008, the documented flow has been approximately 23,700. This drop coincides with the introduction and use of new forms for migrants.¹⁴

22. Annex IV shows statistics from the National Scheme for the Comprehensive Development of the Family and the National Institute for Migration for the year 2008, which include a comparison of figures for the registration and monitoring of migrants, by case, arrival and departure; the number of arrivals of nationals and foreigners, percentage change in that number; statistics on declaratory judgements granting migrant status; the number of Mexican nationals repatriated from the United States; and the number of persons refused entry, placed in holding centres and expelled from Mexico on grounds of nationality.

Population of Mexican-born persons resident in the United States, by sex, 2000–2007

<i>Year</i>	<i>Total</i>	<i>Men</i>	<i>Women</i>
2007	11 895 675	6 676 852	5 227 813
2006	11 695 228	6 536 156	5 159 072
2005	11 159 112	6 211 409	4 857 703
2004	10 404 919	5 738 773	4 666 146
2003	10 241 301	5 623 553	4 617 748
2002	10 017 437	5 509 483	4 508 004
2001	9 403 069	5 203 958	4 199 101
2000	9 023 756	4 977 486	4 046 270

Source: Estimates of the National Institute of Statistics, Geography and Information Technology, based on the US Census Bureau's American Community Survey 2000, 2001, 2002, 2003, 2004, 2005, 2006 and 2007.

Population of Mexican-born persons resident in the United States, by entry period, sex and ratio of men to women, 2007

<i>Period or year of entry</i>	<i>Total</i>	<i>Men</i>	<i>Women</i>	<i>Ratio of men to women</i>
Total	11 895 675	6 667 862	5 227 813	128

¹³ Reasons that might justify extending a stay beyond 90 days include the use of any means of administrative or judicial defence, either because the person is seeking asylum or because consular recognition has not been forthcoming.

¹⁴ Local Visitor Migration Form and Border Worker Migration Form.

<i>Period or year of entry</i>	<i>Total</i>	<i>Men</i>	<i>Women</i>	<i>Ratio of men to women</i>
Up to 1989	4 490 903	2 485 175	2 006 728	124
1990–1999	3 844 656	2 096 043	1 748 613	120
2000–2006	3 376 673	1 970 462	1 406 211	140
2007	183 443	117 182	66 261	177

B. Statistics on the number of unaccompanied or separated migrant children within the territory of the State party

23. According to statistics of the National Institute for Migration, since 2005 there has been a significant increase in the number of children, principally adolescents aged between 17 and 18, discovered in national territory and repatriated.¹⁵ Before repatriation, minors are cared for by staff from the Institute in the network of transit hostels for migrant and repatriated children and adolescents in the states of Baja California, Chihuahua, Chiapas, Coahuila, Nuevo León, Sonora and Tamaulipas.

Foreign migrant children and adolescents repatriated by Mexico

By sex

<i>Sex</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>
Male		5 009	4 688	5 170	7 735	13 472	16 208	16 997	16 022
Female		2 611	2 020	2 024	3 185	4 920	4 308	4 369	3 622
Total	8 768	7 620	6 708	7 194	10 920	18 392	20 516	21 366	19 644

By age group

<i>Age</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>
0–5		155	254	276	562	883	700	550	398
6–12		747	894	768	1 334	2 429	2 072	1 771	1 266
17–18		6 718	5 560	6 120	9 024	15 080	17 744	19 045	17 187
Over 18									793
Total	8 768	7 620	6 708	7 194	10 920	18 392	20 516	21 366	19 644

By level of education

<i>Education</i>	<i>2000</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>
No education			762	764	1 700	1 338	1 159	863	76
Preschool			19	40	93	234	163	177	111
Primary			3 174	3 423	4 190	6 713	7 397	7 240	6 424
Secondary			2 449	2 586	4 210	8 373	9 972	11 079	10 501
Upper secondary			304	381	727	1 640	1 825	2 007	1 848
Total	8 768	7 620	6 708	7 194	10 920	18 392	20 516	21 366	19 644

¹⁵ See annex V for statistics on migrant children and adolescents.

By migratory status

<i>Migratory status</i>	2001	2002	2003	2004	2005	2006	2007	2008
Repatriated	2 149	6 043	6 158	10 164	17 957	20 049	21 073	19 363
Migrant	3 491	665	1 036	756	435	467	293	281
Total	7 620	6 708	7 194	10 920	18 392	20 516	21 366	19 644

By nationality and travel status

(January–December 2008)

<i>Country of nationality</i>	<i>Travelling</i>		<i>Total</i>
	<i>Unaccompanied</i>	<i>Accompanied</i>	
Honduras	1 709	603	2 312
Guatemala	1 356	660	2 016
El Salvador	497	374	871
Nicaragua	3	2	5
Total	3 565	1 639	5 204

C. Steps taken to harmonize the national migration laws with the Convention, including the possible withdrawal of reservations

24. As stated in the initial report of Mexico¹⁶ and reported to the Committee in March 2008, in relation to the possible withdrawal of the 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, 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.

25. Attention is drawn to the response of the Government of Mexico to the recommendation of the Committee in relation to the important difference between the expulsion procedure referred to in article 33 of the Constitution and the procedure set out in article 125 of the Population Act relating to migrant workers.¹⁷

D. Any signature, accession or ratification of human rights treaties or international instruments relevant for the implementation of the Convention; in particular, any steps taken towards ratification of International Labour Organization (ILO) conventions No. 97 (1949) on migration for employment and No. 143 (1975) on migrant workers

26. On 17 December 2007, Mexico ratified the Convention on the Rights of Persons with Disabilities, of which article 18, entitled “*Liberty of movement and nationality*”, recognizes the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others.¹⁸ The ratification

¹⁶ CMW/C/MEX/1 of 18 November 2005.

¹⁷ CMW/C/MEX/CO/1/Add.1, paras. 5 and 6, relating to CMW/C/MEX/CO/1, para. 13 (a), (b) and (c).

¹⁸ Including by ensuring that persons with disabilities:

of this instrument has reinforced the protection of migrant workers with some form of disability.

27. With regard to Mexico's possible accession to ILO conventions No. 97 and No. 143,¹⁹ as part of a review of national conditions in the light of these instruments, the Ministry of Labour and Social Security will produce the relevant reports on the basis of input from the most representative sectors and federal government offices.²⁰

28. The Ministry of Labour and Social Security needs to conduct further consultations before completing its reports. Once the institutional consultation process is concluded, the reports will be submitted to the Senate for a decision on the feasibility of ratification.

E. Court decisions related to the enjoyment by migrants and members of their families of the rights contained in the Convention

29. On 14 November 2008, the Second Division of the Supreme Court, in a historic decision, ruled that foreign workers, irrespective of their migratory status, had the same labour rights as Mexican nationals.

30. In practice, and in accordance with the separation of powers, the Supreme Court and the collegiate circuit courts, as courts with federal jurisdiction which have the exclusive authority to set precedents in relation to human rights, have established a number of mandatory interpretative criteria for the lower courts, with the aim of protecting the fundamental rights of migrants. Some of these criteria are listed below:²¹

(a) **Foreign workers.** The obligation of the federal and local authorities, as set out in article 67 of the Population Act, to require foreign workers to prove they are legally resident in the country does not apply to conciliation and arbitration boards;

(b) **Foreign workers.** These are entitled to bring legal action for unfair dismissal before the national courts, irrespective of their migration status;

(c) **Foreign workers.** Lack of proof of legal residency in the country is not sufficient reason to deprive them of their acquired labour rights. They are therefore protected by the safeguards set out in title 1, chapter 1, of the Federal Constitution, including article 5, which establishes that no one may be deprived of the product of their labour;

(d) **Foreign nationals.** The validity of a foreign national's application for *amparo* does not depend on their proving they are legally resident in the country, as set out in article 67 of the Population Act;

(e) **Employment-related lawsuits brought by foreign nationals.** These are admissible regardless of migration status or possession of a work permit;

(a) Have the right to acquire and change a nationality and are not deprived of their nationality arbitrarily or on the basis of disability;

(b) Are not deprived, on the basis of disability, of their ability to obtain, possess and utilize documentation of their nationality or other documentation of identification, or to utilize relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement.

¹⁹ CMW/C/MEX/CO/1, para. 19, and CMW/C/MEX/CO/1/Add.1, para. 20.

²⁰ Under the powers granted to it by article 13, section V, of the internal regulations of the Ministry of Labour and Social Security.

²¹ See annex VI, "Judicial criteria".

(f) **Foreign workers.** When bringing cases regarding hazardous work, the authorities are not required to demand that foreign workers first prove that they are legally resident in the country, as set out in article 1, paragraph 2, of the ILO Convention concerning Equality of Treatment for National and Foreign and Workers as regards Workmen's Compensation for Accidents (No. 19), as the Convention takes precedence over the federal legislation that does require such proof.

F. Legislative changes affecting the implementation of the Convention

31. To date, no changes made to Mexican legislation have negatively affected the implementation of the Convention in the country. Regarding legislative changes that constitute advances in the rights of migrant workers set out in the Convention, see section III A, "General implementation measures (arts. 73 and 84)", of this report.

G. Specific procedures that have been put in place in order to deal with mixed migratory flows, in particular to establish the special protection needs of asylum-seekers and victims of trafficking, and an indication of whether national legislation provides for the application of the Convention to refugees and/or stateless persons

32. Various migration procedures are available to deal with the different migratory flows in Mexico, either as a final destination or a place of transit en route to the United States of America. The choice of procedure depends on the individual's migration status, i.e. whether they are documented or undocumented. Undocumented migrants can be held and repatriated or deported to their country of origin as appropriate, or they can be enrolled in the migration regularization programmes set up by the National Institute for Migration.

33. Regarding documented migration, article 41 of the Population Act provides for the legal detention of foreigners classed as either non-immigrants²² or immigrants.²³ Details of each type of case can be found in articles 41 to 62 of the Act.

34. As for refugees, any foreigner in Mexico has the right to apply for asylum by submitting a request to the National Institute for Migration or to the Mexican Commission for Aid to Refugees (COMAR).

35. In order to attend to the needs of asylum-seekers, the Commission²⁴ collaborates with government agencies, international bodies, civil society organizations and, in general, any institution that directly provides the support or services required by refugees.

²² A non-immigrant is a foreigner who stays in the country temporarily under one of the following migration categories: tourist, transmigrant, visitor, minister of religion or similar, political refugee, refugee, student, distinguished visitor, local visitor or correspondent.

²³ A foreigner who enters the country legally with the intention of settling may acquire the status of immigrant in one of the following capacities: person of independent means, investor, professional, person occupying a position of trust, scientist, technician, family member, artist, sportsperson or similar. The status of immigrant is granted when the foreigner acquires the right of permanent residence in the country.

²⁴ For more information on the institutional assistance COMAR provides to refugees, see the website www.comar.gob.mx. Refugees should apply directly to the relevant agencies or institutions to complete the formalities for receiving the support or services they require. If the refugee has difficulty completing the formalities or accessing services due to his or her status as a refugee, then COMAR can intervene to advise and support the refugee.

36. The assistance provided by the Commission initially consists of identifying the needs of each refugee and drawing up, together with the refugee, a plan of action for the refugee. The Commission then contacts the relevant agencies or institutions to ensure that the particular needs of each refugee are met. This assistance mainly covers the following aspects:

(a) **Social support.** This includes Spanish-language lessons, health care, education, support for basic needs and welfare programmes;

(b) **Refugee children.** Comprehensive support for children who are unaccompanied or separated from their families, always with the best interests of the child in mind;

(c) **Family reunification.** Applications for the admission of family members to the country;

(d) **Integration.** Occupational training, guidance on naturalization, advice and help in dealing with formalities in government agencies;

(e) **Migration issues.** Regularization of migrants, extensions of the FM3 document,²⁵ exit permits, and identity and travel documents.

37. On 11 August 2009, the Mexican Commission for Aid to Refugees signed a cooperation agreement with the Federal Administration of Educational Services in Mexico City, part of the Ministry of Education,²⁶ in order to formalize the mechanism already in place which allows refugees access to basic education services, including entry to schools and recertification of academic qualifications.

38. On 19 June 2009, the Ministry of the Interior and the National Health and Welfare Commission signed a cooperation agreement²⁷ that extends benefits from the People's Health Insurance Scheme to individuals recognized as refugees by Mexico. This scheme provides health insurance to those who lack social security. The new agreement thus gives access to health services under the People's Health Insurance Scheme to more than 1,000 refugees in Mexico and their recognized family members.

39. Between 2006 and 2009, Mexico took in 220 foreigners, most of whom were Haitians, Colombians, Somalis or Iraqis who had been forced to flee their home countries for political, religious or race-related reasons, or because of massive human rights violations, internal conflict or violence. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), refugees from 29 countries have decided to begin a new life under the protection of the Mexican Government.

40. The National Institute for Migration has fully trained the staff in its regional offices to identify and support victims and possible victims of human trafficking. In order to encourage coordination on trafficking-related issues, the Institute also created 32 inter-agency committees on human trafficking. These committees use various mechanisms to coordinate action to combat human trafficking and support trafficking victims.

²⁵ This immigration document is granted by Mexican diplomatic and consular missions abroad, provided the foreigner meets the requirements for the purpose of the trip (as a business person, investor, student, person occupying a position of trust, economic dependent, etc.). A foreigner who is already in Mexico as a tourist can obtain immigration form FM3 directly from the National Institute for Migration.

²⁶ See annex VII.

²⁷ See annex VIII.

41. In 2008, the National Institute for Migration provided training in human trafficking for its personnel and that of the member agencies of the inter-agency committees, the Federal Police and local public attorney's offices. The Ministry of Public Security also gave training on human rights and human trafficking to 6,661 municipal and state police officers under the "Let's clean up Mexico" programme and provided training to 7,433 municipal and state police officers on the prevention of gender violence.

42. It is worth pointing out that Mexico has ratified both the United Nations Convention relating to the Status of Refugees and the United Nations Protocol relating to the Status of Refugees, and that, according to article 133 of the Constitution, international treaties are the supreme law of the nation.²⁸

43. The National Institute for Women (INMUJERES), in collaboration with the National Human Rights Commission (CNDH), has established a programme of work to address the issue of human trafficking from a gender and human rights perspective. The planned activities include awareness-raising and training days on human trafficking for public officials.

H. Steps taken to ensure that migrant children who are detained, including for violations of provisions relating to migration, are held separately from other adults and specific procedures to determine the age of juvenile migrants; and data on the number of migrant children detained

44. Regarding the Committee's recommendation to ensure that detention of migrant children and adolescents, accompanied or otherwise, is carried out in accordance with the law,²⁹ we draw attention once again to the information provided to the Committee in March 2008.³⁰

45. The fourteenth meeting of vice-ministers of the Regional Conference on Migration was held from 6 to 10 July 2009. At that meeting, the Regional Guidelines for the Assistance of Unaccompanied Minors in Cases of Repatriation were presented.³¹

I. Special programmes to address the special interests of migrant children, including unaccompanied and separated children

46. As explained to the Committee in March 2008,³² regarding its recommendation to strengthen the programmes for the safe and orderly repatriation of unaccompanied minors,³³ an inter-agency programme for children in border areas (PIAMF) has been in place since 1996. This programme focuses on Mexican children in border areas and is implemented on both the northern border (Baja California, Sonora, Chihuahua, Coahuila, Nuevo León and Tamaulipas) and the southern border (mainly Chiapas). The programme provides migrant and repatriated children and adolescents with treatment that is both dignified and respectful

²⁸ The article states: "This Constitution, the laws of the Congress of the Union which emanate therefrom, and all treaties made, or which shall be made, in accordance therewith by the President of the Republic, with the approval of the Senate, shall be the supreme law throughout the Union."

²⁹ CMW/C/MEX/CO/1, para. 42 (c).

³⁰ CMW/C/MEX/CO/1/Add.1, paras. 145–148.

³¹ See annex IX.

³² CMW/C/MEX/CO/1/Add.1, paras. 131–138.

³³ CMW/C/MEX/CO/1, para. 42 (a).

of their rights during their reception, care and transfer to their places of origin. The programme is coordinated by the National Scheme for the Comprehensive Development of the Family, with the participation of the Ministry of Foreign Affairs and the National Institute for Migration.

47. In 2008 the PIAMF inter-agency programme became the “strategy of prevention and support for unaccompanied migrant and repatriated children and adolescents”, coordinated by the National Scheme for the Comprehensive Development of the Family to protect children and adolescents travelling alone.

48. The strategy’s focus on child migration and repatriation is based on a network of public and private transit units and shelters, which offer a space where the physical and mental integrity of children and adolescents, whether Mexican or foreign, are protected, and where they are provided with the following personalized services:

- (a) Reception: medical, social and psychological assessment;
- (b) Basic services: shelter, food and clothing (change of clothes);
- (c) Return to their place of origin: finding relatives, institutional liaison and connection, transfer or transport of children and adolescents and handing them over to an institution or family member.

49. While children are in the unit or shelter, they are taught about the bodies and institutions that provide assistance, the rights of the child, first aid, self-esteem and the risks of crossing the border, among other things, with an emphasis on equality before the law, equal treatment and equal opportunities, and thus gender equity and recognition, regardless of one’s origin or beliefs. Support for foreign children and adolescents is provided at the request of the National Institute for Migration, which, once alerted to their presence in the country, transfers them to the network of units and shelters.

50. In 2007 and 2008 comprehensive training was given to staff of the network of shelters covered by the strategy (operational staff in the state and municipal systems and civil society organizations), with the participation of the United Nations Children’s Fund (UNICEF), the National Institute for Migration, UNHCR, youth integration centres, specialized civil society organizations and human rights organizations. The training covered basic concepts of migration, public policy, social assistance, vulnerable population groups, secondary problems related to migration, comprehensive support, and human smuggling and trafficking.

51. The strategy also allows for new actions to be taken to better serve this sector of the population, to reinforce the latest action being taken on the northern and southern borders of the country, and to define and orchestrate preventive action in the countries of origin to raise awareness of the problem of migration and address migration-related issues.

52. There is also greater coordination between the national and municipal schemes for the comprehensive development of the family at the northern border and those in the places of origin, so the latter can assist the former in locating and checking on the children’s families by visiting their homes and conducting social evaluations and socio-economic studies.³⁴

53. The successes and advances achieved under the strategy prior to July 2009 include:

- (a) New family units have been established in Ciudad Juárez (Chihuahua), Nuevo Laredo (Tamaulipas) and the Siglo XXI holding centre in Tapachula (Chiapas),

³⁴ A history of home visits carried out from 2001 to 2008 is included as annex X.

which makes it possible to provide more effective, quality support and a warm welcome to the target population;

(b) Workshops have been held for staff who coordinate and implement the strategy in the state schemes for the comprehensive development of the family. The purpose of the workshops was to train and advise the staff on structuring and organizing the main planks of the strategy;

(c) Research and statistical yearbooks have been published which reveal the key factors to look out for when considering action on child migration.

54. In 2008 the National Institute for Migration completed training for 170 child protection officers — the only ones of their kind in the world — who work exclusively with migrant children and adolescents at the borders and in holding centres.

55. The concept of the child protection officer grew out of the model for the protection of unaccompanied migrant children and adolescents, which was drawn up by various institutions, and candidates for the posts were selected in accordance with a profile created by the National Scheme for the Comprehensive Development of the Family.

56. The duties of the child protection officers include: assessing the child's need for international protection, either as an asylum-seeker or as a victim of domestic violence or trafficking, or for other reasons; notifying the consulate; ensuring the child receives medical attention; and, in some cases, accompanying the child to his or her final destination.

J. Legislation and practice providing for mechanisms to monitor the situation of migrant women, including those employed as domestic workers, and safeguards and guarantees to protect them from exploitation and violence

57. On a national level, Mexico has introduced three laws to promote equality and combat violence, all of which include articles to protect the rights of migrant women:

(a) The General Act on Equality between Women and Men, published in the Official Gazette on 2 August 2006, regulates and guarantees equality between women and men and proposes guidelines and institutional mechanisms that will lead to substantive equality in the country in the public and private spheres by promoting the empowerment of women. Its provisions are public policy and of public interest, and must be observed throughout the country;

(b) The General Act on Women's Access to a Life Free of Violence,³⁵ published in the Official Gazette on 1 February 2007,³⁶ aims to establish coordination between the Federation and federal and municipal entities in order to prevent, penalize and eliminate violence against women. It also aims to establish the principles and methods that will guarantee women's access to a life free of violence promote their development and well-being in accordance with the principles of equality and non-discrimination, in order to guarantee democracy and the comprehensive and sustainable development necessary to strengthen the sovereignty and the democratic system established in the Constitution of the United Mexican States;

³⁵ This law is an important means of strengthening the protection of female domestic workers, in accordance with the Committee's recommendation (CMW/C/MEX/CO/1, para. 34, and CMW/C/MEX/CO/1/Add.1, paras. 76–90).

³⁶ See annex XI, "General Act on Women's Access to a Life Free of Violence", and annex XII, "Reform of the Act, in the Official Gazette of 20 January 2009".

(c) The Act to Prevent and Punish Trafficking in Persons, published in the Official Gazette on 27 November 2007, and its regulations, published on 27 February 2009, which establish policies to prevent and prosecute human trafficking offences and also to protect victims of and witnesses to those offences.

58. In accordance with general recommendation No. 26 of the Committee on the Elimination of Discrimination against Women, the Ministry of Health issued official letter No. 326, which calls on the state ministries of health to provide access to health care for working migrant women, regardless of their nationality or migration status.

59. Regarding policies that reinforce the principle of non-discrimination and prevent prejudice against women, the National Institute for Women has created and orchestrated policies, programmes, projects and comprehensive joint inter-agency action to promote respect for the human rights of migrant women and their families. Within this framework the National Programme for Equality between Women and Men 2008–2012 (PROIGUALDAD)³⁷ was created.

60. Concerning the protection of migrant workers, the programme sets out as its second strategic objective the guarantee of equality before the law, women's rights and non-discrimination within the framework of the rule of law. The programme includes various policies to accomplish this, including policy 2.3.1, which aims to harmonize national legislation on women's rights with the international conventions and treaties ratified by Mexico, particularly in respect of women with disabilities and female prisoners, migrants, children, adolescents and older women.

61. Policy 2.3.4 promotes the inclusion of socially and economically marginalized women in social protection schemes, as well as efforts to improve their health, regardless of their age, employment situation or any disability. Policy 2.3.6 focuses on strengthening training on human rights for women and gender equity for public servants working in holding centres, social rehabilitation centres and legal and health-care institutions.

62. The third strategic goal seeks to guarantee access for women to justice, security and civil protection. In order to reach that goal, it is proposed to establish specialized services to handle complaints of gender-related offences — femicide, rape, and the smuggling or trafficking of women and children — with the participation of the competent local and federal authorities (3.1.2). It also establishes actions to follow up on investigations in order to reduce impunity for offences against women: femicide, violence, smuggling and trafficking of women and girls, child pornography, or pornography involving persons who do not have the capacity to understand the significance of the act.

63. The National Institute for Women implements the Proequity Fund, the purpose of which is to promote the sharing of responsibility with civil society in various programmes so as to create equity and equality between women and men. Funds have been issued on eight different occasions from the Proequity Fund to finance migration-related projects run by 19 civil society organizations. Migrant women and immigrant communities in Mexico are being empowered by devising and taking affirmative action using tools provided by these organizations.

64. In terms of prevention, the National Institute for Women collaborated with the National Institute for Migration to provide training for child protection officers on the subject of "Gender and migrant children and adolescents". The objective of the training module was to analyse the importance of incorporating a gender perspective in the support

³⁷ PROIGUALDAD establishes a platform of basic policies and strategic objectives to guarantee women's rights, non-discrimination, and access to justice and security, and also to improve women's skills in order to broaden their opportunities and increase their economic potential.

and protection given to migrant women, children and adolescents. Some 170 child protection officers participated in the training.

65. Since June 2005, the National Institute for Women and the National Institute for Migrants have pioneered the Inter-agency Panel on Gender and Migration, which currently involves 168 representatives of federal, state and municipal government agencies, non-governmental organizations, religious organizations and representatives of academia. Eight meetings have been held thus far.

66. The seventh meeting took place on 28 February 2008 in Guadalajara, Jalisco. Among the issues discussed were mechanisms for reporting violations of migrants' human rights. The eighth meeting was held on 24 June 2008, in Yucatán. The Anti-Trafficking Programme, adopted by the National Human Rights Commission, was presented at that meeting. The goal of the programme is to set out actions to prevent, eliminate and penalize human trafficking, and to protect and assist trafficking victims.

67. The National Institute for Women also promoted National Migration Week 2008, which was carried out in coordination with the joint organizing committee³⁸ from 20 to 24 October 2008. This event had the following objectives: (a) to place the migration issue on the social and political agenda; (b) to incorporate a gender perspective in institutional policies, strategies and programmes related to support for migrants; and (c) to place the issue of human trafficking on the social agenda and strengthen the mechanisms for inter-agency, international and interstate coordination and coordination with civil society organizations and universities, in order to provide gender-sensitive support for migrants.³⁹

68. National Migration Week 2009, which took place from 19 to 23 October with the central theme of "Childhood, gender and migration", focused on activities to promote and defend the rights of migrant women and their families.

69. Since July 2009, the Ministry of Communications and Transport, in coordination with the National Institute for Women, has been promoting the pilot project "Information and communication technologies for migrant women". The objective is to promote access for women and families affected by migration to information and communication technologies, in order to help them adopt these technologies and avoid being marginalized for geographical, educational, economic and cultural reasons. The project will make use of the Internet and communications media in municipalities.

70. It was for this purpose that the "Women Migrants Portal" was developed, the beta version of which was launched on 31 March 2008 (www.muermigrante.gob.mx). This portal provides practical and relevant information for the migrant population working in or transiting through the country, regardless of their nationality or migration status. The information provided through the portal is currently being revised, updated and supplemented.

³⁸ Made up of representatives of the Ministry of the Interior, the National Institute for Migration, the National Population Council, the Ministry of Foreign Affairs, the Institute for Mexicans Living Abroad, the Ministry of Social Development, the Ministry of Labour and Social Security, the Ministry of Health, the Ministry of Education, the Ministry of Communications and Transport, e-México, the Senate, the National Scheme for the Comprehensive Development of the Family, the Office of the Special Prosecutor for Crimes of Violence against Women and Human Trafficking, the Mexican Institute for Youth, the National Human Rights Commission, the National Council for the Prevention of Discrimination, the Unidas para Ayudar foundation, and youth integration centres.

³⁹ See annex XIII on the activities carried out as part of National Migration Week to protect the rights of women migrant workers and girl migrants.

71. In February 2008, as part of the effort to follow up on the situation of migrant women in Mexico, the National Council for the Prevention of Discrimination presented the results of studies carried out in 2007, including a document entitled “The situation of women migrants on the southern border who enter the country on their way to the United States: an analysis from the labour perspective”, by Prof. Arturo Peláez Gálvez.

72. This study offers a sociological overview that helps the reader understand how the combination of being a woman, being a migrant from Central America and being undocumented increases a woman’s chances of being discriminated against, both by individuals and by federal, state and local authorities. The findings are based on field research carried out in October and November 2007 in the city of Tapachula, Chiapas, and in the neighbouring localities of Huehuetán, Puerto Chiapas, Ciudad Hidalgo and Talismán. All of these localities are on one of the principal access routes used by Central American migrant women on the southern Mexican border.

K. Procedures assisting victims of trafficking, especially women and children

73. With regard to the Committee’s recommendations regarding trafficking in persons,⁴⁰ it should be recalled that the Act to Prevent and Punish Human Trafficking,⁴¹ which establishes penalties of up to 27 years’ imprisonment for offenders, was published in the Official Gazette on 27 November 2007. The related regulations were published on 27 February 2009,⁴² from which date the Act has been fully effective.

74. With a view to safeguarding the fundamental rights of victims of human trafficking, the Federal Executive included the following guidelines in article 24 of the aforementioned regulations:

(a) Improve the quality and availability of legal advice, psychological and medical care, and training for work;

(b) Take victims’ age, sex and specific needs into account, and especially the specific needs of victims under the age of 18;

(c) Establish and operate shelters to serve as voluntary refuges offering comprehensive, specialized treatment as well as accommodation;

(d) Ensure that these shelters are run by staff trained in victim support and able to implement comprehensive rehabilitation protocols and techniques effectively from a human rights perspective;

(e) Where required, provide victim support through multicultural personnel who speak the victim’s language and are thus able to facilitate their identification and win their trust during the rehabilitation process; and

(f) Ensure that the provisions of the Protocol are respected, as well as, where appropriate, the provisions of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

75. In implementation of the National Agreement on Security, Justice and Legality, on 17 February 2009 the Ministry of Social Development, the Office of the Attorney-General,

⁴⁰ CMW/C/MEX/CO/1, para. 40 (a), (b) and (c). See CMW/MEX/1/Add.1, paras. 107–130.

⁴¹ See annex XIV, “Federal Act to Prevent and Punish Human Trafficking”.

⁴² See annex XV, “Regulations implementing the Federal Act to Prevent and Punish Human Trafficking”.

the Ministry of Public Security, the Ministry of Health, the National Institute for Migration, the Ministry of the Interior and the National Scheme for the Comprehensive Development of the Family signed an agreement to implement Undertaking VI, by virtue of which the signatories commit to strengthen and consolidate support networks for the victims of crime, with a view to establishing comprehensive victim support programmes throughout the country.

76. The National Human Rights Programme for 2008–2012⁴³ incorporates various policies on comprehensive support for victims of human trafficking. These include the following:

(a) To provide training in identifying and supporting victims of trafficking for police officers, prosecutors and immigration officers;

(b) To carry out an empirical study examining the different forms of trafficking in persons at national level with a view to assessing the impact and scale of each;

(c) To strengthen provisions for the immediate support of victims of crime and their families, with a particular focus on victims of trafficking;

(d) To establish guidelines on regularizing migration status so as to be able to provide protection for victims of trafficking and their families;

(e) To encourage the harmonization of state-level legislation with international anti-trafficking regulations, particularly those established in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

77. In order to advance the national effort to prevent and punish trafficking, the National Institute for Migration works in conjunction with the Office of the Special Prosecutor for Crimes of Violence against Women and Human Trafficking (FEVIMTRA), the aim being to ensure that all suspected traffickers identified in the inspections carried out by the Institute are referred to the Office.

78. The inspections carried out by the Institute within the framework of its anti-trafficking operations may form part of its routine programme of visits to companies that employ migrant workers, including nightclubs, or may be prompted by a complaint, which may be made anonymously. Its operations are supported by public prosecutors who can identify and, if necessary, rescue victims identified with assistance from the Federal Preventive Police in order to safeguard their physical integrity.

79. The National Institute for Migration has created various community liaison mechanisms for reporting cases of human trafficking and disseminating information on the different support and protection mechanisms available. These include the 01800-TRATA telephone hotline, a dedicated e-mail address (casosdetrata@inami.gob.mx), and the production of leaflets, posters and postcards about human trafficking that are distributed to raise awareness among the general public of the crime and its consequences for victims, and to publicize the support and reporting mechanisms available.

80. The National Institute for Migration has also developed the contacts necessary to ensure that victims and possible victims of trafficking who require protective shelter are placed in appropriate facilities. In order to guarantee that victims and possible victims enjoy this protection, it has also trained all its staff to ensure that victims of trafficking are not placed in migrant holding centres.

⁴³ The text of the National Human Rights Programme for 2008–2012 is contained in the decree published in the Official Gazette of 29 August 2008, which is attached as annex XVI.

81. The staff of the Institute also have appropriate training in repatriation procedures for victims and possible victims who wish to be repatriated. For this purpose, the Institute has established the necessary links with civil society organizations able to provide it with support and assistance in the safe repatriation of victims and subsequently to monitor the victims' reintegration in their country of origin.

82. When overseeing the repatriation of victims of human trafficking, the National Institute for Migration actively coordinates the following elements of its work with civil society organizations:

(a) Referrals to civil society organizations which provide accommodation and medical and psychological care until the victims are repatriated (after approximately 90 days). The Institute generally refers victims to the Camino a Casa Foundation, Casa Alianza, PROTEJA, the International Organization for Migration (IOM), Infancia Común, the Fortaleza centre for women or the Casa de las Mercedes, or else to the national shelters network;

(b) Safe, supported repatriation. Victims of trafficking are returned under the supervision of IOM staff to ensure that they benefit from psychological and medical follow-up in their country of origin;

(c) Reintegration of victims. All repatriation processes involving victims of trafficking entail two parallel processes: repatriation and reintegration. The latter part of the process requires a coordinated investigation in the country of origin to determine the risk of re-victimization following the victim's return to their social and family environment. This investigation is coordinated through the National Institute for Migration and IOM. Lastly, the Institute works with civil society organizations in the country of origin that are able to facilitate the victim's return and provide follow-up support. The reintegration process is overseen by IOM or, in the case of returnees to Honduras, by Casa Alianza.

83. In those cases where the victims of trafficking remain in Mexico, they are offered some form of vocational training and the decision as to whether they should remain or be repatriated is taken at the end of this process. Migration assistance is provided irrespective of the outcome. Returnees are repatriated by air, and are accompanied during the flight. The authorities in the country of origin are informed of the date, time and place of their arrival, and are provided with a psychological and medical report drawn up by the authorities in Mexico. If the victim opts for regularization, the corresponding decision is issued and the victim is referred to an organization that will provide assistance throughout the process.

84. The National Institute for Migration has drawn up flow charts setting out the action that must be taken to ensure that the rights of victims of human trafficking are safeguarded. The rights to be safeguarded are the right to be identified as a victim, the right to receive support, the right to receive migration assistance, the right of referral and the right either to be repatriated or to have their status in Mexico regularized. Child protection officers have been trained to apply these policies.

85. In those cases where victims of trafficking cannot be returned to their country of origin because they fall into one of the categories provided for in the 1951 Convention relating to the Status of Refugees, they may request asylum in Mexico. In such cases, asylum procedures are initiated and the case is referred to the Refugee Eligibility Committee for a decision. If the decision is favourable to the applicant, their status in Mexico is regularized in application of section VI of article 42 of the Population Act.⁴⁴

⁴⁴ The text of the Population Act is attached as annex XVII.

86. The National Institute for Migration has identified 77 possible victims of trafficking in persons. Of this total, 22 were identified between the start of 2005 and the end of March 2008, 27 were identified between 1 April 2008⁴⁵ and 31 January 2009, and 28 were identified in the first two months of 2009.⁴⁶ The Institute also dealt with 16 people thought to be victims of trafficking but this possibility was ruled out after the pertinent enquiries. Overall, the Institute assisted 93 people identified as possible victims of trafficking.⁴⁷

87. The National Institute for Migration has referred 12 foreign nationals to the Office of the Attorney-General to make statements about possible human trafficking offences. The two cases to date in which suspects have been taken into preventive custody were prompted by the identification of possible victims by the National Institute for Migration. On 2 October 2008, after four minors had been brought before the Public Prosecutor, a suspected trafficker was identified and placed in preventive custody by the Special Prosecutor for Crimes of Violence against Women and Human Trafficking. On 3 October 2008, nine persons were handed over to the Public Prosecutor in Sonora, three of whom were suspected traffickers.

88. Other measures to counter human trafficking include the undertaking to strengthen mechanisms for preventing and punishing illegal trafficking in persons, which constitutes strategy 1.7 of objective 1 in the section of the National Human Rights Programme dealing with migration issues.

L. Measures taken to provide assistance given by the State party to its migrants abroad

89. The Federal Government has incorporated within its e-México Internet portal a dedicated section for migrants, named e-Migrantes, through which information and services are provided to the Mexican community living abroad and to their families in Mexico. The portal is also a vehicle for communication that makes it easier for Mexicans to keep in touch, wherever they are living, using a range of electronic and digital services.⁴⁸

90. On e-Migrantes, the three branches of government and a range of public and private sector organizations join forces to offer programmes and projects benefiting the migrant community through a single point of access.

91. The portal includes news, articles, advertisements, links to official sites, and other additional information useful to the migrant community. To facilitate searches, the content of the website is grouped under five separate headings – Money, Rights, Health, Education and Culture. The site also contains details of Mexican consulates and embassies in other countries, plus a section providing information on the procedures and services that Mexican migrants use most frequently.

92. Another feature of the e-Migrantes portal is that it gives Mexican migrants the possibility of maintaining more direct contact with their relatives in Mexico, using the

⁴⁵ On 1 April 2008, the National Institute for Migration introduced a matrix for systematizing information on human trafficking.

⁴⁶ Tables containing figures on possible victims of trafficking identified since 1 April 2008 are attached as annex XVIII.

⁴⁷ These persons received psychological support and were interviewed as possible victims; however, their cases were not resolved in accordance with the Act to Prevent and Punish Human Trafficking, as it was concluded that there was no indication that the circumstances established in the Act applied.

⁴⁸ For more information, visit www.e-migrantes.gob.mx/wb2/eMex/eMEx_eMigacercaportal.

discussion forum, chat rooms and other tools available in the virtual community for migrants created for this purpose within the e-México portal.

M. Measures taken to facilitate migrants' reintegration in case of return to Mexico

93. On 17 December 2007, the Federal Executive instituted the creation of a humane repatriation programme to guarantee humanitarian and dignified treatment for Mexicans deported from other countries, principally the United States of America.

94. The programme entails implementing a humanitarian policy for repatriating Mexican nationals over the northern border, especially in the case of vulnerable groups such as women and children. The scheme is coordinated by the National Institute for Migration and implemented with assistance from the Ministry of Labour and Social Security, the Ministry of Health, the Ministry of Education, the Ministry of Social Development, state and municipal government authorities and civil society organizations.

95. The Humane Repatriation Programme was launched on 31 March 2008, with the start of a pilot phase in Tijuana, Baja California, the reception point for around 40 per cent of all Mexicans repatriated from the United States. The second phase was launched on 23 September 2008 in Ciudad Juárez and the third on 5 March 2009 in Nogales, Sonora. The programme has since been rolled out in successive phases in Nuevo Laredo (Tamaulipas) and Ciudad Acuña (Coahuila), thereby extending the assistance provided under the scheme to all migrants repatriated through any of the reception points on the northern border. Although not officially launched, these schemes are already operational.

96. The roll-out of the Humane Repatriation Programme is coordinated by the National Institute for Migration. The Ministry of Labour and Social Security, the Ministry of Health, the Ministry of Education, the Ministry of Social Development, state and municipal government authorities and civil society organizations all participate in its implementation. The main objective is to secure better conditions for the repatriation of Mexican nationals deported by the United States Border Patrol and to guarantee them, as a minimum, the following seven basic entitlements:

- (a) Food;
- (b) Shelter;
- (c) Emergency medical attention;
- (d) Communication with their families;
- (e) Offers of temporary employment;
- (f) Training and certification in labour skills;
- (g) Free transportation to their state of origin.

97. The following statistics are available on the operation of the Humane Repatriation Programme:

Total number of persons repatriated and accepted under the Humane Repatriation Programme

Tijuana, Baja California

Figures for the period from 31 March to 31 December 2008

Number of persons repatriated since the start of the programme:	151 374
Number of persons wishing to avail themselves of the programme:	6 852
Number of persons repatriated between 1 and 31 January 2009:	15 213
Number of persons wishing to avail themselves of the programme:	3 239
Number of persons repatriated between 1 January and 28 February 2009:	31 586
Number of persons wishing to avail themselves of the programme:	8 567
Number of persons repatriated between 1 January and 31 March 2009:	53 850
Number of persons wishing to avail themselves of the programme:	15 587

Ciudad Juárez, Chihuahua

Figures for the period from 23 September to 31 December 2008

Number of persons repatriated since the start of the programme:	13 169
Number of persons wishing to avail themselves of the programme:	8 173
Number of persons repatriated between 1 and 31 January 2009:	4 039
Number of persons wishing to avail themselves of the programme:	3 374
Number of persons repatriated between 1 January and 28 February 2009:	4 218
Number of persons wishing to avail themselves of the programme:	3 679
Number of persons repatriated between 1 January and 31 March 2009:	3 525
Number of persons wishing to avail themselves of the programme:	4 150

Nogales, Sonora

Figures for the period from 5 to 31 March 2009

Number of persons repatriated since the start of the programme:	20 147
Number of persons wishing to avail themselves of the programme:	6 485

98. Mexico also has a Voluntary Interior Repatriation Programme, developed in implementation of article V of the Memorandum of Understanding on the Safe, Orderly, Dignified and Humane Repatriation of Mexican Nationals signed in February 2004 between the Ministries of the Interior and Foreign Affairs of Mexico and the United States Department of Homeland Affairs.

99. Under the terms of the memorandum, the two Governments undertake to explore bilateral mechanisms for the repatriation of Mexican nationals to their place of origin, especially repatriations from high-risk areas of the United States during the summer months, in order to prevent the injury or death of migrants venturing to cross the border during the exceptionally hot summer months on the dangerous, high-risk routes through the Sonora-Arizona corridor.

100. During the summer months, for a period of time that is negotiated each year, two flights to Mexico City are operated every day, with a maximum of 150 seats per flight earmarked for repatriates. Upon arrival in Mexico, the returnees are taken by bus to the

reception point closest to their place of origin. The cost of air and land transportation is borne by the Government of the United States.

101. As a general rule, all migrants returned through the processing centre in Nogales, Arizona, are interviewed by officials from the Ministry of Foreign Affairs and the National Institute for Migration in order to verify their eligibility for the programme and confirm that their participation is voluntary. Officials from the Beta Groups work with the Ministry of Foreign Affairs and the United States authorities to raise awareness of the programme, to provide assistance to migrants in vulnerable situations and to welcome programme participants at the airport in Mexico City.

102. The Beta Groups also provide medical assistance to Mexican migrants who arrive at the airport in Mexico City with minor wounds or injuries, and to those suffering other health problems. An ambulance, two doctors and two nurses are on hand at all times, as well as all forms of medication that may be required.

103. The implementation of this initiative constitutes a viable method of removing migrants from the high-risk area of the Sonora-Arizona desert and is helping to break the link between migrants and traffickers.

104. The Voluntary Interior Repatriation Programme has yielded the following results:

(a) In 2004 the programme operated from 12 July to 30 September, and 14,067 migrants were repatriated during this period;

(b) In 2005 the programme ran from 10 July to 30 September, and 20,592 Mexican nationals were repatriated during this period;

(c) In 2006 the programme became operational on 7 July and ended on 30 September. During this period, 15,353 Mexican nationals were repatriated;

(d) In 2008 the programme commenced on 21 July and ended on 28 September. A total of 18,464 persons were repatriated during this period;

(e) As of 2009 no migrant may be held in the processing centre for more than 24 hours. To encourage consular protection, it is the consuls who initially inform Mexican detainees about the possibility of availing themselves of the Voluntary Interior Repatriation Programme, as well as about the alternative unilateral programmes operated by the United States authorities, such as Operation Streamline and the lateral repatriation programme. The Government of the United States provides food before each flight throughout the period of the Voluntary Interior Repatriation Programme, which in 2009 ran from 21 August to 28 September.

N. Multilateral or bilateral agreements relating to migration, including regional agreements

105. Mexico is an active participant in international forums addressing migration issues, including the Regional Conference on Migration,⁴⁹ the OECD High-Level Policy Forum on Migration and the Global Forum on Migration and Development, as well as being a driving force in bilateral initiatives for the protection of the rights of migrant workers.

⁴⁹ The Regional Conference on Migration was established on the initiative of Mexico to foster dialogue on migration issues in the North and Central American region. In principle, the Conference is not a decision-making process but a platform for dialogue and information-sharing that may be used to develop public policies on migration in each country.

106. The fourteenth meeting of vice-ministers of the Regional Conference on Migration was held in Guatemala City, Guatemala, on 9 and 10 July 2009. The meeting provided the occasion for the launch of the IOM anti-trafficking campaign. In addition, Mexico presented the Regional Guidelines for the Assistance of Unaccompanied Minors in Cases of Repatriation and a procedural manual for the repatriation of Central American foreign nationals for use by the Mexican immigration authorities.

107. In December 2007 Mexico submitted a draft resolution to the United Nations General Assembly seeking to establish an official relationship between the Global Forum on Migration and Development and the United Nations. The resolution was adopted in June 2008. Mexico is scheduled to host the fourth meeting of the Forum between 8 and 12 November 2010.

108. Mexico and the United States of America have also entered into a series of local agreements for the safe and orderly repatriation of Mexican nationals, which aim to ensure that families are not separated during the repatriation process and that persons with disabilities, unaccompanied minors and other vulnerable persons are repatriated during daylight hours at dedicated facilities where their safety is guaranteed.

109. On 5 May 2006 the Governments of Mexico, El Salvador, Guatemala, Honduras and Nicaragua signed a memorandum of understanding on the dignified, orderly, prompt and secure repatriation of migrant Central American nationals by land. The main advances contained in the memorandum were the following:

- (a) Migrants may not be held in migrant holding centres for more than 48 hours;
- (b) Migrants eligible for repatriation may not be subjected to administrative expulsion proceedings;
- (c) Specialized assistance shall be provided to vulnerable persons such as pregnant women, minors, persons with disabilities and persons aged over 60;
- (d) At present, the National Institute for Migration bears the full cost of repatriating Guatemalan, Salvadoran, Honduran and Nicaraguan nationals held in migrant holding centres in Mexico.

110. On 7 September 2007 Mexico entered into an agreement with New Zealand to establish a working holiday scheme that offers Mexicans and New Zealanders the opportunity to travel to New Zealand and Mexico, respectively, and obtain temporary employment there, provided they are able to demonstrate that the main purpose of their trip is to take a holiday and that the option of working is an additional incentive rather than the principal reason for their visit.

O. Efforts made, also in cooperation with other States, in order to prevent migrants' loss of life at the land and maritime border areas

111. In 1990, the National Institute for Migration founded the Beta Group of Tijuana, Baja California, in order to save the lives of migrants in danger. In 1994 the Beta Group of Nogales, Sonora, was founded, and in 1995 groups were founded in Tecate, Baja California, and Matamoros, Tamaulipas. There are currently 16 Beta Groups⁵⁰ operating

⁵⁰ The Beta Groups are made up of specialized personnel trained in search, rescue and first aid to assist and protect migrants who are at risk. Beta Group personnel inform the migrants about their rights and the natural risks they face when attempting to cross the border. For more information on the activities of the Beta Groups, see www.inm.gob.mx/index.php?page/Grupo_Beta_de_Proteccion_a_Migrantes.

along the Mexican borders to protect and defend the human rights of migrants and their physical integrity and property, regardless of their nationality or migration status.

112. In order to help them provide support to Mexican and foreign migrants in eight Mexican states, and as part of the modernization of the National Institute for Migration, the Beta Groups have received land transport vehicles and will also be provided with mountain and water rescue equipment and satellite radiolocation and communication equipment. The Beta Groups have received 50 four-wheel drive vehicles and are set to receive 10 ambulances, 7 airboats, automatic defibrillators, and GPS radiolocation devices.

113. In coordination with the National Human Rights Commission, the National Institute for Migration also offers support to migrants who have been kidnapped, including the necessary transport and custody facilities so that the victims can file their complaints with the Public Prosecutor's Office.

114. In the Atlantic Ocean, along the maritime borders with Belize and Cuba, the Fifth Naval Region works in close cooperation with the Cuban authorities to provide search and rescue support for Cuban citizens who attempt to enter Mexico via the Caribbean region, and in many cases end up adrift at sea. Due to the high-level of migrant movements in the border area along the Hondo River, navy personnel in that area receive human rights training.

115. The Mexican Ministry of Naval Affairs and Cuban border guards have drafted a memorandum of understanding to develop a procedure for the repatriation of undocumented migrants, both Mexican and Cuban. This document is in the process of being signed by the Cuban Ministry of Defence.

116. On the Atlantic border with the United States, the First Naval Region is carrying out high-impact operations where, in addition to their normal duties, the operational units carry out life-saving rescue missions at sea and on the coast. They are ready at any time to provide immediate aid in emergency situations.

117. In the Pacific Ocean, the Eighth Naval Region is responsible for life-saving operations in the Mexican maritime zones on the border with Guatemala, as well as various actions in the border area around the Suchiate River, which is the main focus of the problem given the high-level of migrant movements in that area.

118. On the Pacific border with the United States, the Second Naval Region engages in life-saving operations in addition to its normal duties, both in maritime waters and on the coast. This area does not see a large flow of migrants, but the Ensenada search and rescue naval station has been established there nonetheless, with specialized personnel and equipment for an effective emergency response in the coastal maritime area.

119. Since March 2009, search and rescue courses have been given to the Beta Groups at the School of Search, Rescue and Diving of the Ministry of Naval Affairs. The second of five courses is currently being held, the objective of which is to provide the necessary training in subjects such as self-defence, crisis and stress management, aquatic rescue, first aid, rope manoeuvres, rappelling down vertical surfaces, and basic human rights concepts, so that these groups are better able to provide support to undocumented migrants.

120. From 16 June to 7 July 2009, the Ministry of Naval Affairs will be conducting aptitude tests for 82 members of the Beta Groups as a follow-up to the search and rescue training courses.

Number of Mexican migrants who died on the United States border while attempting to enter without documents

2004	369
2005	443
2006	426
2007	407
2008	344
2009	169
Total	2 149

P. Measures to prevent clandestine movements and employment of migrants in an irregular situation

121. The Border Worker Migration Form was introduced on 13 March 2008 under the Southern Border Programme to facilitate the entry of Guatemalans and Belizeans who wish to work as temporary border workers in Chiapas, Quintana Roo, Tabasco and Campeche. It replaces the Visiting Agricultural Worker Migration Form created in 1997 and is issued in the offices of Casa Roja in Talismán, Chiapas.

122. The Border Worker Migration Form is valid for one year and allows the bearer to work in all sectors of the region's economy, provided they have a job offer from a Mexican employer (in the agricultural sector, construction, commercial activities, domestic service and others). The bearer may also acquire any personal property or securities with fixed or variable yields, make bank deposits, and bring their spouse and children to Mexico as economic dependents, provided the relevant requirements are met.

123. The Border Worker Migration Form guarantees that foreign temporary workers and their families are documented, thus strengthening their human and labour rights. It has promoted the legal entry of migrants to work in various sectors of production such as industry, construction and services, whereas the Visiting Agricultural Worker Migration Form benefited only agricultural workers. From January to June 2009, 13,070 Border Worker Migration Forms were issued, as detailed below:

Border Worker Migration Forms issued for Guatemala, by regional office and point of entry, 2009^a

<i>Regional office/point of entry</i>	<i>January</i>	<i>February</i>	<i>March</i>	<i>April</i>	<i>May</i>	<i>June</i>	<i>Total</i>
Overall total	3 978	1 686	1 716	1 782	1 502	2 406	13 070
Chiapas	3 978	1 684	1 716	1 779	1 485	2 402	13 044
Ciudad Cuauhtémoc	126	6	68	17	131	7	355
Ciudad Hidalgo ^b	N/A	N/A	N/A	N/A	N/A	198	198
Talismán	3 852	1 678	1 639	1 759	1 345	2 194	12 467
Unión Juárez	-	-	9	3	9	3	24
Tabasco	N/A	2	-	3	17	4	26
El Ceibo ^b	N/A	2	-	3	17	4	26

Source: Centre for Migration Studies of the National Institute for Migration, based on information provided by the regional offices in Chiapas and Tabasco.

N/A Not applicable.

A hyphen indicates that no forms were issued.

^a The Border Worker Migration Form replaces the Visiting Agricultural Worker Migration Form that had been in use since 1997. It applies to Guatemalans and Belizeans who wish to work as temporary border workers in Chiapas, Tabasco, Campeche and Quintana Roo, as established in the Official Gazette of 12 March 2008.

^b The Border Worker Migration Form was first issued in El Ceibo in February and in Ciudad Hidalgo in June.

124. The migrant regularization programme began in November 2008 and will last for 30 months. This programme is intended to establish criteria whereby foreigners of any nationality who are in an irregular situation in Mexico and who wish to apply for residency can obtain documentation classifying them as immigrants with the status of professional, person occupying a position of trust, scientist, technician, family member, artist, sportsperson or similar.

125. From November 2008 to July 2009, 1,200 foreigners were regularized under the programme. The main beneficiaries were Guatemalans, Hondurans and Salvadorans, who make up 72 per cent of those who have regularized their stay in Mexico. The programme will remain in effect until 12 May 2011.

126. The foreigners entitled to benefit from the programme are those who entered the country prior to 1 January 2007 and have a legal job; those who are married to a Mexican or to a foreigner who is legally resident in Mexico; and those who are first-degree relatives of a Mexican or a foreigner who is legally resident in the country.

127. The regularization of foreigners benefits their personal security and all-round development, because their irregular situation makes them vulnerable to human rights violations by various authorities and to abuse from individuals, and it puts their rights to family unity and legal certainty at risk.

128. The following nine Canadian provinces currently participate in the Mexico-Canada Seasonal Agricultural Workers Program, which has been in place since 1974: Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario, Prince Edward Island, Quebec and Saskatchewan. In the first half of 2009, 12,311 Mexican agricultural workers were assigned to work on Canadian farms.

129. The Program has become a model for temporary work migration that is safe, orderly and legal and that benefits both countries, particularly the Mexican agricultural workers and their families and the Canadian employers in the agricultural sector. The participation of the Governments of Mexico and Canada in the Program:

(a) Guarantees the worker that the job offered in Canada is real, thus avoiding deception and abuse, while at the same time assuring the employer that the worker has the required experience and profile;

(b) Allows the Ministry of Labour and Social Security to give workers information on their rights and obligations and on working and living conditions in Canada prior to their departure. The Mexican consular authorities in Canada are also informed so that they can assist the workers;

(c) Helps the Canadian federal and provincial authorities ensure that employers abide by the labour legislation regulating working conditions for Mexicans in Canada.

130. The Program has grown over the course of the 35 years that it has been in operation, reflecting the success of the bilateral relationship. Around 70 per cent of the workers who participate in the Program are asked back by the same employer the following year.

<i>Year</i>	<i>Number of workers participating</i>
2000	9 175
2001	10 529
2002	10 681
2003	10 595
2004	10 708
2005	11 720
2006	12 868
2007	14 288
2008	15 770
To 30 June 2009	12 311
Total	118 724

131. The working conditions provided for Mexican agricultural workers under the Program include:

(a) A work contract duly signed by the employer and the worker and monitored by both Governments, for at least 240 hours of work in any period of up to six weeks, and for no longer than eight months;

(b) Payment of wages equal to the highest of the following: the provincial minimum, the federal minimum for agricultural work, or the amount the employer pays Canadian workers in the same occupation and same establishment;

(c) Provincial social security, which includes medical care, retirement pensions from age 60, protection and compensation in the event of an occupational disease or accident;

(d) Provincial unemployment insurance, which includes parental benefits;

(e) Transport to the place of work and to the point of departure from Canada;

(f) Personal protection equipment and instructions in Spanish for handling pesticides;

(g) Safeguards under provincial laws on working conditions and occupational health and safety, among others.

132. Mexican workers generally enjoy the following additional benefits under the Program:

(a) Private health insurance that covers the workers until they complete the contribution period required by law to benefit from provincial social security;

(b) Private life insurance;

(c) Free and adequate housing for the duration of their work contract;

(d) A bonus of up to Can\$ 128 for workers who are hired for five consecutive years by the same employer;

(e) Assistance and protection from the Mexican consulates in Canada.

133. The Mexican states with the highest participation in this programme are Mexico State, Tlaxcala, Puebla, Veracruz, Guanajuato, Michoacán and Hidalgo. Recruitment and

selection are carried out by the Ministry of Labour and Social Security through more than 150 offices of the National Employment Service throughout the country.

134. All workers assigned to a temporary agricultural job in Canada benefit from a life insurance policy worth up to Can\$ 50,000. Thirteen deaths were registered in Canada among workers in the Program from 2000 to 2009, none of which were the result of occupational accidents or disease.

<i>Year</i>	<i>Deaths</i>	<i>Number of workers participating</i>	<i>Percentage of workers</i>
2000	2	9 175	0.0002
2001	2	10 529	0.0001
2002	1	10 681	0.00009
2003	0	10 595	0
2004	1	10 708	0.00009
2005	1	11 720	0.00008
2006	3	12 868	0.0002
2007	2	14 288	0.0001
2008	0	15 849	0
2009 (first half)	1	12 311	0.008
Total	13	118 724	0.011

III. Specific provisions

A. General measures of implementation (arts. 73 and 84)

135. The reply to the Committee's recommendation relating to processes for deporting migrants is found in the document transmitted in March 2008.⁵¹

136. As regards the Committee's recommendation that the illegal entry of a person into Mexican territory⁵² should be annulled as an offence punishable by deprivation of liberty, on 21 July 2008, the Official Gazette published a decree reforming and repealing various provisions of the Population Act.

137. This reform annulled prison sentences ranging from 18 months to 10 years for foreigners convicted, inter alia, of illegal entry, forgery, presenting false migration documents, overstaying the legal entry period, participating in activities not authorized under the terms of the entry permit, and marrying Mexicans for the sole purpose of acquiring a residence permit. Fines are now the only punishment for these offences.

138. A comprehensive criminal law reform that entered into force on 23 January 2009 involved various amendments to secondary legislation, including the Federal Code of Criminal Procedure, the Federal Act on Combating Organized Crime, the Act establishing Minimum Standards concerning the Social Rehabilitation of Convicted Prisoners, the Federal Criminal Code, the Federal Police Act, the Organization Act of the Office of the Attorney-General of the Republic, the Federal Act on the Administrative Responsibilities of

⁵¹ CMW/C/MEX/CO/1/Add.1, paras. 7–17, on the recommendation in CMW/C/MEX/CO/1, para. 13 (a), (b) and (c).

⁵² CMW/C/MEX/CO/1, para. 15.

Public Servants, and the Federal Administrative Litigation Act. The reform will make it easier for the justice system to operate and for offences to be prosecuted.

139. In the area of trafficking in persons, article 201 of the Federal Criminal Code criminalizes the corruption of minors, child prostitution and child pornography, and stipulates penalties of up to 10 years in prison. Article 365 criminalizes labour exploitation and servitude, and provides for a penalty of up to 1 year in prison. The Code also includes a chapter specifically devoted to sex tourism.

140. In the area of implementing legislation, the federal Government submitted a property confiscation bill on 18 September 2008. The bill was adopted and published in the Official Gazette on 29 May 2009. This act provides for the confiscation, subject to legal proceedings and independently of the criminal justice system, of property linked to federal offences such as trafficking in persons, thereby weakening the economic power of criminal gangs. The proceeds are to be invested in a trust to pay damages to the victims of the offences and provide them with support services.

141. With regard to the Committee's recommendation⁵³ that consideration should be given to the possibility of making the declarations provided for in articles 76 and 77 of the Convention, on 5 June 2008 the Mexican Government recognized the competence of the Committee to receive and consider communications from or on behalf of individuals, and deposited the corresponding instrument with the Secretary-General of the United Nations on 15 September 2008.

142. With regard to the Committee's recommendation that ongoing training should be provided to officials working in the area of migration, and further to the information in the document transmitted by the Mexican Government in March 2008,⁵⁴ 323 courses attended by 5,089 participants were organized in 2008 for the staff of the National Institute for Migration.⁵⁵

143. The courses covered specific subjects, cross-cutting themes and human development issues and were intended to provide participants with comprehensive and up-to-date knowledge of issues related to their duties, and to generate a positive attitude towards the services they provide.

144. Specific subjects covered included the legal and practical implications of document forgery; the detection of forged documents; control and verification; report drafting; the standardization of criteria in the area of migration regulations; first aid; entry points; new patterns of migration; interviewing and questioning techniques; legal issues; support for the immigration checks of the Federal Preventive Police; migration regulations; international and national refugee law; intervention in crisis situations; the comprehensive training plan for child protection officers; administrative procedures for detained foreigners and awareness-raising regarding the smuggling and trafficking of persons.

145. Cross-cutting themes included language courses; migration-related and administrative archiving; human rights; and human rights and migration. In the area of human development, staff were trained in analysis and decision-making; negotiation and conflict management; sustainable human development principles and values; and training for trainers.

⁵³ CMW/C/MEX/CO/1, para. 17.

⁵⁴ CMW/C/MEX/CO/1/Add.1, paras. 21–23, corresponding to the recommendation in CMW/C/MEX/CO/1, para. 21.

⁵⁵ See annex XX on training courses in the area of migration.

146. As regards migration control and verification, 23 training courses were organized in 2008 in various regional offices of the National Institute for Migration. The total number of staff trained was 395.

147. Also in 2008, training was provided on guidelines for the transfer of foreigners and on human rights in the following migrant holding centres:

- (a) Comitán, Tuxtla Gutiérrez and San Cristóbal de las Casas, in Chiapas;
- (b) Ciudad Juárez and Janos, in Chihuahua;
- (c) Campeche and Escárcega, in Campeche.

148. The Ministry of Public Security, meanwhile, is developing an ongoing training programme for building and strengthening the capabilities of its field staff with the general aim of training members of the Federal Preventive Police who are assigned to surveillance and inspection duties in areas of migration influx at airports, providing them with the necessary knowledge about migration to enable them to perform their duties in conformity with a culture of legality and respect for human rights of migrants, through the appropriate agencies. The programme is implemented with the assistance of the Ministry of Foreign Affairs, the National Human Rights Commission, the National Institute for Migration, IOM and *Sin Fronteras*, a private aid organization.

149. A course on support by the Migration Inspectorate of the Federal Police for the National Institute for Migration, held from 20 to 24 April 2009, was attended by 30 members of the Federal Police. The specific aims of the programme are to promote respect for and protection of human rights of migrants, enhance understanding of why migration happens, raise awareness of legislation in this area, contribute effectively and efficiently to the migration-related operations of the National Institute for Migration, and analyse the reasoning behind the recommendations and conciliation proposals issued by the National Human Rights Commission.

150. The areas on which the programme focuses include analysis of the recommendations and conciliation proposals issued by the National Human Rights Commission, international instruments for the protection of migrants, migration legislation, inter-agency work involving the National Institute for Migration and the Federal Police, trafficking in persons, the human rights of migrants, trends in migration, and intervention in migrant crisis situations.

151. With a view to enhancing awareness among civil servants working in the area of migration, the management of the Migration Training Centre, the legal coordination unit of the National Institute for Migration and the National Human Rights Commission organized 11 regional human rights courses for a total of 275 participants. The purpose of the courses was to raise awareness among persons working in the area of migration regarding human rights, particularly those of migrants, as well as to increase familiarity with the supporting conceptual and legal framework and the existing mechanisms for the protection thereof. The courses were intended for the civil servants of the National Institute for Migration, and priority was given to frontline staff in contact with migrants.

152. As regards the Committee's recommendation⁵⁶ that adequate resources should be made available to the National Institute for Migration to enable it to properly implement the activities provided for in its mandate, it should be noted that the Institute's budget for 2009 was around 21 per cent higher than in 2008.

⁵⁶ CMW/C/MEX/CO/1, para. 22. See Mexico's reply in CMW/C/MEX/CO/1/Add.1, para. 24.

B. General principles (arts. 7 and 83)

153. Further to the information transmitted by the Mexican Government in March 2008,⁵⁷ in response to the recommendation to step up efforts to guarantee non-discrimination against migrant workers, it is important to note that, according to strategy 1.2 of the National Human Rights Programme, the principle of non-discrimination is applied across all public policies of the federal Government. Indeed, the strategy defines various approaches such as the promotion of a culture of reporting discriminatory practices and the consolidation of concrete measures to combat discrimination in employment.

154. As regards the protection of the rights mentioned in the Convention, it should be noted that the protection afforded to migrants by the Beta Groups has improved: between 2006 and 2008, they rescued 17,342 migrants, cared for 1,873 injured or wounded migrants, located 430 missing migrants, provided social assistance to 360,871 migrants, provided legal advice and assistance to 491 migrants, provided information to 1,136,021 migrants, issued 585,659 migrant cards and 543,436 preventive guidance leaflets, provided services to 269,837 repatriated migrants and 128 maimed migrants, and carried out 53,546 patrols. In the first eight months of 2009, the Beta Groups helped 2,627 migrants in addition to providing assistance to 143,000 and information to 155,000 other persons.

155. The reply relating to the Committee's recommendation on access by all migrants to redress mechanisms can be found in the document transmitted by the Mexican Government in March 2008.⁵⁸

C. Human rights of all migrant workers and members of their families (arts. 8–35)

156. Further to the information transmitted to the Committee in March 2008 in relation to the recommendation that steps should continue to be taken to improve conditions of detention in migrant holding centres,⁵⁹ it can be reported that the capacity of the centres has been reduced in order to prevent overcrowding. Similarly, administrative procedures and the repatriation of migrants are being expedited, and overcrowding in the centres has been reduced accordingly.⁶⁰

157. On 7 October 2009, the Agreement on Operating Standards for the National Institute for Migration Holding Centres was published in the Official Gazette. The purpose of the agreement is to set standards for the activities of migrant holding centres in order to strengthen their effectiveness in ensuring the safety and harmonious cohabitation of foreigners while they are being temporarily held pending a decision on their migration status and until the decision is implemented. The agreement entered into force on 8 October 2009.

158. The agreement expressly forbids any act or omission that violates the human rights of migrants held in holding centres, as well as any act or omission that constitutes cruel, inhuman or degrading treatment of inmates.

⁵⁷ CMW/C/MEX/CO/1/Add.1, paras. 25–29, on the recommendation in CMW/C/MEX/CO/1, para. 24 (a) and (b).

⁵⁸ CMW/C/MEX/CO/1/Add.1, paras. 30–34, on the recommendation in CMW/C/MEX/CO/1, para. 26 (a) and (b).

⁵⁹ CMW/C/MEX/CO/1/Add.1, paras. 35–42, on the recommendation in CMW/C/MEX/CO/1, para. 28 (a).

⁶⁰ Information on the accommodation capacity of migrant holding centres can be found in annex XXI.

159. Article 7 of the agreement stipulates that the migration authority must ensure that foreigners are held for the shortest possible time necessary for their legal situation to be resolved, and that their human rights must be respected at all times. Similarly, article 46 of the agreement states that the number of foreigners held should not exceed the physical capacity of the migrant holding centres.

160. It should be noted that maintenance work has already been completed in 11 of the 15 migrant holding centres in which such maintenance was scheduled, and work is ongoing in the 4 remaining ones.⁶¹

161. In the area of communications and telephony, 221 telephone lines were installed in the offices of 41 migrant holding centres, and 26 lines are being installed in 8 others. There are 100 public telephone service lines in 32 migrant holding centres, and 4 lines are in the process of being installed in 2 centres. A further 32 services requested from providers have yet to be installed in 14 migrant holding centres. The 10 machines requested (photocopiers) were accounted for in the 2008 financial year.

162. As regards services for foreigners, 16 migrant holding centres were upgraded by adding suitably equipped medical consulting rooms in Tuxtla Gutiérrez, Comitán, San Cristóbal de las Casas and Palenque, in Chiapas; Janos, in Chihuahua; Saltillo, in Coahuila; La Ventosa and San Pedro Tapanatepec, in Oaxaca; Chetumal, in Quintana Roo; Tenosique, in Tabasco; Mazatlán, in Sinaloa; Matamoros and Reynosa, in Tamaulipas; Acajucan and Veracruz, in Veracruz; and Mexico City.

163. For the National Human Rights Commission, visits to migrant holding centres continue to be one of the most effective tools for learning about migration trends, talking with migrants and receiving their complaints, and measuring and promoting qualitative improvements in the functioning of these facilities. In 2008, as a result of visits by the National Human Rights Commission to migrant holding centres, the accommodation conditions in four facilities were upgraded.

164. The National Institute for Migration is aware of shortcomings in the area of medical care, and at the end of 2008 it initiated an upgrading process involving the inclusion of a medical file in the Migrant Holding Centre Securing and Transfer System (SICATEM). As a result, it was decided to incorporate the Health Card computer application in SICATEM, and this is now being done.

165. In this regard, a request was made to alter the medical file page in respect of the time required to generate a medical certificate endorsed by the relevant officials in migrant holding centres. A certificate of absence of injury can be signed by a qualified expert in compliance with each state's agreements on the delegation of authority. A common ailments module was set up in every migrant holding centre. The usual general data and medical history of each of the foreigners processed was also included. In the course of 2008, the Migration Control and Verification Office carried out on-site inspections in various regional offices.⁶²

166. Other activities aimed at improving conditions in migrant holding centres included the delivery and installation of 256 air conditioners in a range of four different sizes in January 2008. Orders were placed for 21 heating appliances and 21 gas cylinders to be

⁶¹ See annex XXII for information on progress in implementing the maintenance programme in migrant holding centres.

⁶² The comprehensive inspection programme was the responsibility of the Migration Control and Verification Office in 2006 and 2007. In 2008 it was carried out in conjunction with the Office Coordination Unit. From 2009, this unit will be responsible for the programme. Information on the holding centres visited is provided in annex XXIII.

purchased and installed in the migrant holding centres located in Aguascalientes, in the State of the same name; Tijuana and Mexicali, in Baja California; Tuxtla Gutiérrez, Comitán, San Gregorio and San Cristóbal de las Casas, in Chiapas; Ciudad Juárez and Chihuahua, in Chihuahua; Torreón and Saltillo, in Coahuila; La Ventosa and San Pedro Tapanatepec, in Oaxaca; Querétaro, in the State of the same name; San Luis Potosí, in the State of the same name; Agua Prieta, in Sonora; Matamoros, Nuevo Laredo and Reynosa, in Tamaulipas; Tlaxcala, in the State of the same name; and Zacatecas, in the State of the same name.

167. On the basis of national competitive bidding procedure No. 04111002-014-08, of 12 December 2008, contracts were awarded for two consignments of mattresses and blankets for use by foreigners in migrant holding centres of the regional offices of the National Institute for Migration. The first consignment comprised 3,400 polyurethane mattresses and the second comprised 9,430 polar fleece blankets.

168. The basic toiletry kit provided to detained foreigners includes a toothbrush, toothpaste, shampoo, deodorant, a razor, toilet tissue, soap and detergent. To date, 6,000 kits have been handed out in the migrant holding centres in Iztapalapa and Tapachula. The distribution of basic toiletries increases with the number of migrant holding centres to which these items are supplied. The total number of kits issued is 7,200.

169. The reply to the Committee's recommendation that facilities designed for pretrial detention or for the deprivation of liberty of persons in conflict with the law should not be used to secure migrants can be found in the document transmitted by the Mexican Government in March 2008.⁶³

D. Processing of complaints

170. Further to the information transmitted to the Committee in March 2008 in response to the recommendation that allegations of ill-treatment and cruel and degrading treatment committed by State officials in migrant holding centres should be investigated,⁶⁴ it is notable that from 1 January to 31 July 2009, the National Human Rights Commission received 113 complaints concerning acts or omissions that violated the rights of migrants. Of these, 63 have been settled and 50 are still being processed. Two complaints of trafficking in persons have been received and are being processed.⁶⁵

171. On 15 June 2009, with a view to preventing and punishing any illegal form of deprivation of liberty of migrants, the National Human Rights Commission released a special report on cases of kidnapping of migrants.⁶⁶

172. In order to overcome the restriction imposed by article 67 of the Population Act, and article 201 of its regulations, the National Institute for Migration issued circular CRM/189/2007 on 20 March 2007. The circular defines the procedure for dealing with migrants who are victims of offences or human rights violations, or who are witnesses in criminal proceedings. In accordance with this circular, migrants are granted a multiple-

⁶³ CMW/C/MEX/CO/1/Add.1, paras. 43–44, on the recommendation in CMW/C/MEX/CO/1, para. 28 (b).

⁶⁴ CMW/C/MEX/CO/1/Add.1, paras. 45–51, on the recommendation in CMW/C/MEX/CO/1, para. 28 (c).

⁶⁵ See annex XXIV for a summary of the recommendations made by the National Human Rights Commission to the National Institute for Migration for 2008.

⁶⁶ The report concludes that there were at least 198 cases of kidnapping of undocumented migrants in Mexico during this period, and 9,758 persons were victims of deprivation of liberty. See annex XXV.

entry “humanitarian visa” valid for one year (four extensions permitted) and granting them the right to work.

173. The National Institute for Migration has implemented circular CRM/189/2007, with the result that every person has access to justice regardless of whether or not they are in a regular situation. Accordingly, any foreigner who is a victim of an offence or wishes to lodge a complaint in order to seek redress can apply for regularization.

174. The National Institute for Migration has built ties with other bodies with a view to ensuring that victims are safe during their stay. Victims are directed to the International Organization for Migration, *Casa Alianza*, the National Scheme for the Comprehensive Development of the Family or the Office of the Special Prosecutor for Crimes of Violence against Women and Human Trafficking. Through a network of hostels, victims are provided with accommodation and assistance. Victims are also informed of their right to lodge a complaint with the Public Prosecutor’s Office in connection with incidents that might constitute an offence, though they are not actively encouraged to do so. In other words, they are not obliged to lodge a complaint.

175. The reply to the Committee’s recommendation that the consular or diplomatic authorities of the State of origin should be notified without delay when a migrant worker is arrested or detained can be found in the document transmitted by the Mexican Government in March 2008.⁶⁷ The same applies to the reply to the Committee’s recommendation that migrants should be deprived of their liberty for as short a time as possible.⁶⁸

176. Regarding the Committee’s recommendation⁶⁹ that allegations of the involvement of State officials in migrant-related offences should be suitably investigated, the number of complaints concerning abuse of authority, misconduct, failure to comply with internal rules, ill-treatment, negligence and disrespect for employment relationships was 480 in 2006, 570 in 2007 and 718 in 2008. Meanwhile, the number of sanctions imposed on field staff and employees of the National Institute for Migration was 197 in 2006, 105 in 2007 and 38 in 2008.

177. The National Human Rights Commission issued recommendations in relation to 22 of all the complaints filed with it between 2006 and 2008, having established that violations of the rights of migrants (the right to legality and legal certainty, the infliction of cruel or degrading treatment, etc.) had been committed in those cases. Outcomes other than recommendations include the issuance of guidance and the conclusion of amicable conciliation agreements.⁷⁰

178. The reply to the Committee’s recommendation that there should be suitable monitoring of migration controls to ensure that they are carried out exclusively by the competent authorities can be found in the document transmitted by the Mexican Government in March 2008.⁷¹

⁶⁷ CMW/C/MEX/CO/1/Add.1, paras. 52–56, on the recommendation in CMW/C/MEX/CO/1, para. 28 (d).

⁶⁸ CMW/C/MEX/CO/1/Add.1, paras. 57–59, on the recommendation in CMW/C/MEX/CO/1, para. 28 (e).

⁶⁹ CMW/C/MEX/CO/1, para. 30.

⁷⁰ CMW/C/MEX/CO/1/Add.1, paras. 60–63.

⁷¹ CMW/C/MEX/CO/1/Add.1, paras. 64–75, on the recommendation in CMW/C/MEX/CO/1, para. 32.

E. Other rights of migrant workers and members of their families who are documented or in a regular situation (arts. 36–56)

179. The response to the Committee's recommendation to take the necessary measures to guarantee to migrant workers the right to form associations and unions is found in the document submitted by the Government of Mexico in March 2008.⁷²

F. Provisions applicable to particular categories of migrant workers and members of their families (arts. 57–63)

180. In addition to the information provided to the Committee in March 2008, regarding the recommendation to take the necessary steps to improve the working conditions of seasonal agricultural workers,⁷³ the Government of Mexico has set up and implemented a comprehensive support strategy for agricultural day labourers and their families.

181. Foreign workers have the same rights as national workers, regardless of their migration status. Employers must therefore fulfil the contractual obligations agreed upon, granting the same benefits to foreign workers, including those related to completion of the employment contract.

182. In that sense, the labour inspection policy does not distinguish between migrant workers and Mexicans. The objective of the policy is to guarantee equality in labour rights and to ensure that those rights are respected by employers, in accordance with the aforementioned case law.

183. The objective of every visit scheduled and carried out by the Federal Labour Inspectorate is to ensure that employers meet all requirements of the inspection. This is achieved by imposing fines where necessary; moreover, employers who repeatedly fail to comply with their obligations will receive further visits and penalties, regardless of their attitude towards the inspections.

184. On the basis of the inspections carried out, 2,443 technical measures were prescribed to improve facilities, provide services and protect the life, health and physical integrity of day labourers. Some of the most important measures include:

- (a) 93 measures applicable to canteen areas;
- (b) 125 measures applicable to the installation of toilets and showers;
- (c) 41 measures applicable to the establishment of day-care centres and schools;
- (d) 203 measures applicable to the provision of protective equipment for day labourers;
- (e) 73 measures applicable to the maintenance of clean and dignified conditions in living quarters;
- (f) 202 measures applicable to the provision of medical care and first aid for day labourers.

185. So far, follow-up visits have been made to verify the implementation of 2,191 of the 2,443 measures. Of those, 1,691 measures had been carried out prior to the visit, or 77.17

⁷² CMW/C/MEX/CO/1/Add.1, para. 93, on the recommendation contained in CMW/C/MEX/CO/1, para. 36.

⁷³ CMW/C/MEX/CO/1/Add.1, paras. 93–106, on the recommendation contained in CMW/C/MEX/CO/1, para. 38.

per cent of the total. Administrative procedures are under way to impose penalties for those measures not yet carried out, most of which involve failing to provide protective equipment to farm workers or to maintain clean and dignified conditions in living quarters.

186. The visits to check on the remaining 341 measures are scheduled to take place by September at the latest, apart from one visit that, due to the seasonal nature of the work, can only take place from December onwards (Zafra, in Veracruz).

187. There are plans to strengthen the monitoring of working conditions for agricultural day labourers in 2009 by continuing the actions carried out in 2008 and by strengthening the presence of the Ministry of Labour and Social Security in the countryside. Inspections will be carried out in at least 150 farms that were not inspected in 2008.

188. Inspections are planned in 17 states: Baja California, Baja California Sur, Coahuila, Colima, Chiapas, Durango, Guerrero, Hidalgo, Jalisco, Michoacán, Morelos, Puebla, San Luis Potosí, Sinaloa, Sonora, Tabasco and Veracruz.

189. As of 31 August 2009, 109 inspections were scheduled in Baja California Sur (21), Chiapas (15), Sinaloa (40), Sonora (13) and Tabasco (20). Those visits will take place from 17 August, and will be completed in September 2009.

190. The remaining inspection visits will be carried out during the second stage of the operation, which is set to begin in mid-October and finish in the first half of December 2009. In preparation for this, the relevant federal labour offices are preparing the list of farms to inspect, which in many cases involves fact-finding visits and updating of data.

191. This operation will also include stepping up action by the federal labour inspectors to discourage the use of child labour.

192. Monitoring of the working conditions of agricultural day labourers will be stepped up in 2009 by increasing to 150 the number of farms subject to inspection. The inspections will take into account the seasonal nature of the work done on the farms, the agricultural product, the state in which the farms are located, and the movement of the agricultural day labourers. Inspection activity will be divided into two periods, the first from May to July and the second from October to December, and will make use of the knowledge gained in the 2008 operation. The operation will benefit day labourers regardless of their nationality or migration status.

193. It is worth mentioning that the National Human Rights Programme establishes a policy on the right to work in its strategy 1.6: "To promote the implementation of current international labour standards to protect day labourers."

G. Promotion of sound, equitable, humane and lawful conditions in connection with the international migration of workers and members of their families (arts. 64–71)

194. In addition to the information submitted to the Committee regarding its recommendation to provide specific training in children's rights for state officials working in border areas,⁷⁴ it can be mentioned that child protection officers also receive continuous specialist training.

195. The first comprehensive training workshop for child protection officers was held from 4 to 13 March 2008, with the participation of representatives of the National Scheme

⁷⁴ CMW/C/MEX/CO/1/Add.1, paras. 139–144, on the recommendation contained in CMW/C/MEX/CO/1, para. 42 (b).

for the Comprehensive Development of the Family, youth integration centres, UNHCR, the Mexican Commission for Aid to Refugees, IOM and UNICEF. The following subjects were discussed: (a) human rights; (b) emotional literacy; (c) suggestions for effective communication with child and adolescent migrants; (d) crisis care; (e) rights of children and adolescents; (f) international protection; (g) communication with child and adolescent migrants and its challenges; (h) violence, ill-treatment and abuse; (i) human trafficking and smuggling; (j) assistance for unaccompanied minors and gender equity.

196. Two more specialist training workshops are planned in 2009 to build on and update what the child protection officers learned in the first workshop. The topics will reflect the results of the evaluation survey completed by child protection officers in September 2008.

197. The Government of Mexico provided information in March 2008 regarding the Committee's recommendation that Mexico should strengthen its cooperation with civil society and international organizations, in order to address the problem of unaccompanied minors.⁷⁵

198. In 2009 the aforementioned subcommission will address issues such as: (a) human rights training for officials of the National Institute for Migration, the Federal Preventive Police, and state and municipal police officers; (b) humane repatriation; (c) psychological and medical care in migrant holding centres; (d) migrant regularization programmes; (e) the right to an identity; (f) the registration of births in Mexico regardless of the parents' migration status, and the drafting of proposals to harmonize the relevant legislation.

199. At the meeting of the subcommission on 19 October 2009, representatives of civil society were invited to collaborate in the preparation of the present report.

IV. Conclusions

200. Throughout the present report the Government of Mexico has attempted to precisely answer the questions raised by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families. In doing so, reference has been made to comments and to actions the authorities have taken in response to the recommendations made by the Committee in its concluding observations on the initial report submitted by Mexico in 2005.

201. Generally speaking, the report describes the developments and progress made, at the level of both legislation and institutions, in protecting the rights of migrant workers and their families in Mexico from 2006 to the present. Nevertheless, the steady increase in migration flows, and especially in undocumented migration, poses new challenges that need to be addressed with guidelines, best practices and the limited human and material resources currently available.

202. Mexico firmly believes in dialogue and international cooperation to optimize the positive and minimize the negative effects of migration. For this reason, the preparation of the present report is an especially valuable exercise for Mexico because it provides a chance to hear the opinions of experts and if necessary strengthen measures to provide better protection for migrant workers and their families.

203. The issue of migration is becoming ever more important and complex around the world. Addressing it requires a long-term, comprehensive approach that encourages a deep and thorough understanding of the issue. On this basis, it will be possible to promote

⁷⁵ CMW/C/MEX/CO/1/Add.1, paras. 149–157, on the recommendation contained in CMW/C/MEX/CO/1, para. 42 (d).

positive measures that contribute to the economic and social development of migrants' home and host countries and in the process can guarantee migrants' human rights regardless of their migration status.

204. In this regard, it is essential to go beyond the "migration management" model and adopt one that places individual migrants at the centre of all migration policies and projects. This new approach should be based on the principle of shared responsibility, reflecting the recognition that all countries must do their part to confront the multiple challenges and opportunities migration provides.

205. The Mexican Government's emphasis on the protection of migrant workers' rights reflects the situation facing the Mexican community in the United States of America, which has grown significantly in recent decades and has now topped 12 million, more than 10 per cent of the country's population. To deal with this situation, the Government of Mexico has deployed one of the largest protection networks for its nationals abroad, through more than 50 consulates in the United States, while at the same time it has carried out actions and programmes to support and safeguard the human and labour rights of that community.

206. Faced with the growing number of mainly Central American migrant workers in transit to the United States, in recent years the Mexican authorities have found it necessary to take action to deal with a situation that often involves violence by groups who live and prosper at the expense of vulnerable migrants.

207. The Mexican Government's responsibility is to serve, manage and process this growing flow of migrants while respecting migrants' rights and providing special protection for vulnerable groups such as women and children. However, the size and nature of the phenomenon, the porosity of the southern border, the fact that the majority of migrants are undocumented and the length of the journey to the northern border are such that the measures taken to achieve the objectives of migration policy are sometimes inadequate.

208. In this context, and in accordance with Mexico's expectations for the treatment of Mexican migrant workers abroad, the following measures stand out:

(a) The decriminalization of irregular migration through the reform of the Population Act;

(b) The comprehensive support strategy to improve working conditions for agricultural day labourers;

(c) The document on labour reform for productivity and social security contains an analysis of the 295 initiatives that have been submitted in the last 11 years to both houses of the federal Congress, and represents an attempt to identify common ground, including the views expressed by the most representative production sectors in recent years through the standing forums of the Ministry of Labour and Social Security. The document is the outcome of a series of consultations, analyses and proposals that all point towards the urgent need to modernize the legal framework of the labour sector, including proposals to establish decent working conditions for farm workers.

209. One of the major challenges in protecting the rights of migrant workers and members of their families is the protection of child and adolescent migrants. The Mexican Government has deemed it necessary to take the following action:

(a) Establish and implement new support units in Acuña and Piedras Negras, Coahuila, which will be able to act more quickly to protect children's physical and mental integrity;

(b) Strengthen the institutions of the strategy of prevention and support for unaccompanied migrant and repatriated children and adolescents, intended to review and

analyse the methodology of the support model and develop a professional training programme for the relevant personnel;

(c) Study the impact of gender-based discrimination and violence as causes of unaccompanied child migration and as risks associated with the phenomenon;

(d) Set up and operate 45 community centres to protect children in their places of origin. These centres will benefit from operational improvements to the strategy and will have updated information to help them make the right decisions. They will also have special mechanisms to help reunite these children with their families and communities.
