



September 2013

## MEXICO

### 1. What are the title, rank and position of the Legal Advisor?

The title is Legal Advisor of the Ministry of Foreign Affairs of Mexico; currently, the post is held by Mr. Max Alberto Diener Sala, (LLM) Diplomatiscche Akademie, Austria, (LLB) National Autonomous University of Mexico.

The OLA depends directly on the Minister of Foreign Affairs and provides legal advice on international affairs to every subsection of the Ministry as a whole. Furthermore, the OLA comprises an internal legal affairs bureau in conjunction with an international legal affairs bureau.

### 2. What are the principal functions of the OLA?

According to article 13 of the Internal Regulations of the Ministry of Foreign Affairs and to the institutional practice followed within the Ministry since 1967, the principal functions of the OLA are: (1) participation in the international *fora* on public and private international law; (2) negotiation and conclusion of treaties; (3) submission of treaties before the Senate for approval; (4) national implementation of international law; (5) implementation and interpretation, at the national level, of the law of international organizations of which Mexico is a member; (6) representation of Mexico's interests before international tribunals in the settlement of international disputes or requests of advisory opinions; (7) the OLA may also be involved in domestic trials concerning international law; (8) rendering legal advice in cases brought against Mexican Missions before foreign tribunals; (9) rendering legal advice for the defense of Mexican nationals abroad; (10) rendering legal opinion on issues involving international law, such as the application of treaties, diplomatic and consular privileges and immunities, *inter alia*.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff.

The Office is currently comprised of about 15 lawyers, in addition to the LA and the Deputy LA "A" and "B". Most of the senior lawyers of the Office belong to the Mexican Foreign Service, the rest are career civil servants. Regarding the overseas staff, the OLA coordinates with about 10 lawyers posted in Mexican Embassies and Missions where intense legal work is required, like the Permanent Mission to the United Nations in New York, the Permanent Mission to the Organization of American States in Washington, the Permanent Missions to International Organizations in Geneva and Vienna and the Embassies of Mexico to the European Union (Belgium and Luxemburg), the United States, the Netherlands, Italy and Costa Rica. However, it is important to underline that all of these officials depend on the Head of the Mission and not on the LA.

### 4. Briefly describe the organization and structure of the OLA.

Head of Office is the LA, Mr. Max Alberto Diener Sala, followed by the Deputy LA "A", Mr. Carlos Quesnel Melendez and Deputy LA "B", Gerardo Guerrero Gómez. The OLA is divided into three thematic areas: (a) the international law area, which counts three Divisions, *i.e.* the

Air and Space Law and Heritage Law; the Division of the Law of the Sea, Sixth Commission of the UN and Environmental Law, and the Division of Human Rights and International Humanitarian Law; (b) the treaties section, composed of three Divisions; and (c) the international litigation area, comprised of two Divisions. Each Division includes a Director, an Under-Director, Chiefs of Department and analysts.

Concerning private international law, the OLA is advised by a Committee of Legal Experts that meets every month in the OLA's headquarters. This Committee is composed of attorneys at law and law professors from the principle universities of Mexico. The private international law section has an intense ongoing work with the Hague Conference on Private International Law, the Inter-American Conferences of Private International Law, as well as the several universal organizations of codification and development of private international law such as UNIDROIT and UNCITRAL. It is worth noting that this work of the OLA concerning private international law is based on the fact that, in accordance with Mexican law, it is for the OLA to establish and determine the legal position of the Mexican State concerning international legal affairs, disregarding the fact that the primary faculty of substantive treatment and development of specific subjects of private international law remains in different organs of the Mexican government, other than the Ministry of Foreign Affairs (*i.e.* private international arbitration remains as a primary faculty of the Ministry of Economy).

#### **5. What is the OLA's place within the Ministry of Foreign Affairs?**

The OLA was created in 1967 as part of the Office of the Minister of Foreign Affairs. The OLA directly depends on the Minister of Foreign Affairs as its superior. Article 13, paragraph 2 of the Internal Regulations of the Ministry provides that one of the functions of the OLA is "to advise the Minister on issues involving international public and private law, as well as foreign law". The OLA also maintains very close contacts with the Offices of the Under-Secretaries in order to advise them on all legal matters required within their thematic or geographical scope.

#### **6. What are the main contacts of the OLA within the Government?**

The OLA cooperates with all ministries and agencies of the federal administration if so required. The main contacts are the international and legal divisions of the different ministries and agencies.

#### **7. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

Occasionally, academic institutions are hired in order to research in specific subject areas. OLA is frequently requested to give conferences and speeches in academic institutions dealing with international law. Private lawyers occasionally request information or opinions from OLA. Close relation is maintained with the Federal Judicial Council.

#### **8. Please provide a brief bibliography on the OLA.**

- U Canchola Gutiérrez, *Práctica de México respecto del derecho internacional: consideraciones sobre la elaboración de un repertorio* (2006) 78 Revista Mexicana de Política Exterior (Instituto Matías Romero, Secretaría de Relaciones Exteriores, México).
- J Dondé Matute, *El Derecho Internacional y su relevancia en el Sistema Jurídico mexicano. Una perspectiva jurisprudencial* (2009) IX Anuario Mexicano de Derecho Internacional.

- S López Ayllón and A Posadas Urtusuástegui, *Inversión y Derecho Internacional de Inversión Extranjera. Reflexión sobre algunas prácticas adoptadas por México* (2006) VI Anuario Mexicano de Derecho Internacional.