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**Session III – Competition and Sports**

**- Contribution from Mexico -**

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The attached document from Mexico is circulated to the Latin American and Caribbean Competition Forum FOR DISCUSSION under Session III at its forthcoming meeting to be held on 28-29 September 2023 to be held in Quito, Ecuador.

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## *Session III: Competition and sports*

### *- Contribution from Mexico<sup>1</sup> -*

#### **1. Introduction**

1. This contribution addresses the particular features of the Mexican sports sector. It focuses specifically on the regulatory framework, sports development actors, and organisation and operation of football and baseball leagues or tournaments, as these are the most popular sports in Mexico, with the most teams and fans.<sup>2</sup>

2. This document also details how the Federal Economic Competition Commission (COFECE) resolved a case involving a relationship between competition law and the sports labour market.

#### **2. The Mexican sports sector**

##### **2.1. Regulatory framework**

3. Article 4 of the Mexican Constitution recognises that undertaking physical activity and playing sports is a right for all Mexicans.

4. The General Law on Physical Culture and Sports (Sports Law) and its Regulations (Sports Regulations) regulate this right and provide the general framework for allocating responsibilities, co-ordination and collaboration among the federal government, states, municipalities and Mexico City in matters of physical activity and sports in Mexico.<sup>3</sup>

5. The Federal Executive (through the National Commission for Physical Culture and Sports),<sup>4</sup> authorities at the three levels of government, as well as the social and private sectors are responsible for applying this law concurrently.

6. The National System for Physical Culture and Sports co-ordinates these actors and monitors and evaluates public sports policy programmes, actions and procedures. It comprises: (i) the National Commission for Physical Culture and Sports; (ii) states, municipalities and territorial divisions of Mexico City relating to physical activity and sports; (iii) the Mexican Olympic Committee; (iv) the Mexican Paralympic Committee; (v) national sports associations; (vi) national student sports councils; and (vii) sports associations and societies.

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<sup>1</sup> Contribution of the Federal Economic Competition Commission (COFECE).

<sup>2</sup> Baldinelli, F. (2022), “Los deportes en México más populares y exitosos” [The most popular and successful sports in Mexico], *Lecturas: Educación Física y Deportes*, Vol. 27/289, [www.efdeportes.com/efdeportes/index.php/EFDeportes/article/view/3598](http://www.efdeportes.com/efdeportes/index.php/EFDeportes/article/view/3598), pp. 210-215.

<sup>3</sup> Available at: [www.diputados.gob.mx/LeyesBiblio/pdf/LGCFD.pdf](http://www.diputados.gob.mx/LeyesBiblio/pdf/LGCFD.pdf).

<sup>4</sup> Decentralised public agency of the federal public administration, which drives national policy on physical activity and sports.

## 2.2. Sports associations and societies

7. Sports associations are legal entities that promote, disseminate, practise or contribute to developing sports and whose purpose is not predominantly economic. Sports societies have the same objectives but are for-profit organisations.

8. In accordance with the Sports Law, sports associations may be classified as: (i) sports teams or clubs; (ii) sports leagues; (iii) municipal, state or regional sports associations; and (iv) national sports associations and related organisations.

9. As Mexican sports federations are classed as national sports associations, they are subject to all associated provisions of the Sports Law. They are the highest organisation in their discipline, and each federation represents a single sport in all its forms and specialties, under the respective international sports federation's terms of recognition. Mexican sports federations regulate their internal structure and operation, in accordance with their articles of association, the Sports Law and its Regulations.

10. According to the Sports Law, there may be more than one association per sport, provided that each association meets incorporation requirements and complies with this law. However, in Mexico, both football and baseball each have one association responsible for the overall organisation of their sport. These associations are composed of league and team representatives who are involved in organisational decisions.

11. The Mexican Football Federation (FEMEXFUT) organises Mexico's professional and semi-professional football leagues. This body is FIFA-affiliated<sup>5</sup> and has the power to authorise (or not) any competitions in which affiliated clubs may compete.

12. The Mexican Baseball Federation (FEMEBE) is responsible for managing professional baseball tournaments in the country; however, each baseball league organises these tournaments.

### 2.2.1. Mexican Football Federation

13. FEMEXFUT promotes, regulates and organises football at the national level. As a not-for-profit organisation, it is required by law to invest every dollar it earns in its programmes.<sup>6</sup> Conversely, in accordance with FEMEXFUT's articles of association, the clubs (which are direct affiliates of FEMEXFUT) do have an economic purpose.<sup>7</sup>

14. FEMEXFUT's responsibilities include organising national tournaments for its six affiliated leagues, as well as matches for both the national men's and women's teams.<sup>8</sup> These football leagues are: (i) Liga MX (first division, highest level of professional football); (ii) Liga Expansión MX (aimed at rescuing teams from the former Liga de Ascenso de México following its dissolution); (iii) Liga MX Femenil (first division, highest level of women's professional football); (iv) Liga Premier (second division); (v) Liga TDP (third division); and (vi) Sector Amateur (non-professional level).

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<sup>5</sup> The International Federation of Association Football (FIFA) is the world governing body for football.

<sup>6</sup> [www.economista.com.mx/deportes/Tricolor-en-EU-con-un-acuerdo-mas-integral-20220523-0088.html](http://www.economista.com.mx/deportes/Tricolor-en-EU-con-un-acuerdo-mas-integral-20220523-0088.html).

<sup>7</sup> <https://elceo.com/negocios/la-federacion-mexicana-de-futbol-tiene-un-dueno-asi-es-como-esta-conformada/>.

<sup>8</sup> [www.milb.com/mexican/about/equipos](http://www.milb.com/mexican/about/equipos).

15. Some first-division (Liga MX) clubs are owned by groups that are active in other economic sectors. For example, Club de Fútbol Cruz Azul belongs to Cooperativa La Cruz Azul S.C.L., a Mexican cement production and distribution company.<sup>9</sup> Other examples include Xolos de Tijuana (a team belonging to Mexican gambling company Grupo Caliente) and Club América (part of Grupo Televisa, a leading media company in Mexico).<sup>10</sup> As such, Liga MX and its teams have various economic incentives, including sponsorships from a range of companies and the sale of television rights.

16. FEMEXFUT's articles of association establish that the Federation has the exclusive power to authorise official or friendly matches between affiliated clubs. These articles also oblige the clubs to participate in official tournaments that FEMEXFUT organises, and in international tournaments it agrees with other confederations.<sup>11</sup> On the other hand, FEMEXFUT must not authorise matches or make sporting contact with associations that are not FIFA members, nor with provisional members of any confederation without FIFA approval.

17. Also with respect to league and tournament structure, the promotion and relegation system was removed from Liga MX as of the 2018-19 season, following a unanimous decision by the league's owners' assembly (made up of the owners and/or presidents of the league's teams).<sup>12</sup> This system is to be removed for five years, after which the decision will be reviewed to determine whether the removal will remain in place.<sup>13</sup>

18. Teams that play in leagues lower than the first and second divisions (such as the Liga Premier) have the opportunity to be promoted. According to the competition regulations, the team that wins the last two tournaments is directly promoted to the Liga Expansión MX (as long as it complies with FEMEXFUT's certification process and affiliation requirements). If a team wins only one of the two tournaments, it faces the other tournament's winner in a series called "Campeón de campeones" [Champion of Champions], with the winning team being promoted.<sup>14</sup>

19. Football teams may play in only one league, but teams from the various leagues participate in the Copa MX. However, not all teams compete for this cup: selection is based on teams' position in the table (points obtained in the previous tournament). This tournament ceased in 2020.<sup>15</sup>

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<sup>9</sup> <https://elceo.com/negocios/cruz-azul-quien-es-el-verdadero-dueno-del-equipo-de-futbol/>.

<sup>10</sup> [www.infobae.com/america/mexico/2022/03/11/quienes-son-los-millonarios-mexicanos-duenos-de-equipos-de-futbol/](http://www.infobae.com/america/mexico/2022/03/11/quienes-son-los-millonarios-mexicanos-duenos-de-equipos-de-futbol/).

<sup>11</sup> <https://fmf.mx/docs/reglamentos/93.pdf> (articles 106, 107, 108).

<sup>12</sup> The Liga MX owners' assembly can approve or reject competition reforms, including tournament formats, the way in which broadcasting rights are marketed and regulations for players and agents.

<sup>13</sup> [www.record.com.mx/futbol-futbol-nacional-liga-mx-noticias/liga-mx-resuelve-eliminar-el-descenso](http://www.record.com.mx/futbol-futbol-nacional-liga-mx-noticias/liga-mx-resuelve-eliminar-el-descenso).

<sup>14</sup> <https://ligapremier-fmf.mx/pdf/reglamentos/00.%20Reglamento%20de%20Competencia%20LIGA%20PREMIER%202021-2022.pdf>.

<sup>15</sup> [www.futboltotal.com.mx/futbol-mexicano/copa-mx/por-que-se-dejo-de-jugar-la-copa-mx-y-sus-probabilidades-de-regresar/2022/11#:~:text=A%20start%20from%202020%2C%20la,su%20momento%20la%20a%20Copa%20MX](http://www.futboltotal.com.mx/futbol-mexicano/copa-mx/por-que-se-dejo-de-jugar-la-copa-mx-y-sus-probabilidades-de-regresar/2022/11#:~:text=A%20start%20from%202020%2C%20la,su%20momento%20la%20a%20Copa%20MX).

### 2.2.2. Mexican Baseball Federation

20. As mentioned above, although FEMEBE is the sports association responsible for managing professional baseball tournaments in Mexico, the leagues organise the tournaments.

21. Mexico has many baseball leagues throughout the country. The main professional leagues are the Mexican Baseball League (Liga Mexicana de Beisbol – LMB) and the Mexican Pacific League (Liga Mexicana del Pacífico – LMP). The teams in these two leagues are for-profit entities and their revenues are based on marketing broadcasting rights, sponsorships and ticket sales.<sup>16</sup> These leagues are independent of each other and are governed by independent bodies.<sup>17</sup>

22. The LMB has 18 teams, divided into two zones (north and south), while the LMP has ten associated teams. Due to how these leagues are organised, teams may play in one or both: the LMB runs from March to August and the LMP runs from October to January.<sup>18</sup> The playing schedules do not overlap, so that all teams that belong to both leagues can play in the other league without any administrative restrictions.

23. However, teams may be unable to participate in both leagues simultaneously due to resource constraints: it is only possible with enough players, transportation resources, time and a team willing to play year-round with minimal rest.

24. Given these constraints, only one team has participated simultaneously in both leagues: the Sultanes de Monterrey. This team has participated in the LMB since 1939 and also joined the LMP in 2019.

25. Each of the leagues and their committees independently organise each competition. The leagues do not compete against each other and, as mentioned above, even play in different seasons: the LMB in the summer months and the LMP in the winter.

26. In terms of league and tournament structure, the LMB does not have a promotion or relegation system; there are, however, two additional leagues for player development: the LMP and the Liga Nacional de Prospectos.<sup>19</sup>

## 3. Sports and economic competition law

27. The Federal Economic Competition Law applies throughout Mexico, to all areas of economic activity – including the sports sector and its labour markets. Sports associations are thus subject to this law, as it considers them economic agents.<sup>20</sup>

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<sup>16</sup> [www.infobae.com/americas/deportes/2020/07/12/consolidar-lo-economico-para-mejorar-lo-deportivo-asi-planea-lmb-su-regreso-en-2021/](http://www.infobae.com/americas/deportes/2020/07/12/consolidar-lo-economico-para-mejorar-lo-deportivo-asi-planea-lmb-su-regreso-en-2021/).

<sup>17</sup> [www.1800beisbol.com/baseball/deportes/beisbol\\_mexico/las\\_ligas\\_de\\_beisbol\\_en\\_mexico/](http://www.1800beisbol.com/baseball/deportes/beisbol_mexico/las_ligas_de_beisbol_en_mexico/).

<sup>18</sup> [www.vice.com/es/article/3kkzdw/rumbo-a-una-liga-nacional-de-beisbol-en-mexico-mitos-y-realidades-de-una-potencial-fusion-entre-lmb-y-lmp](http://www.vice.com/es/article/3kkzdw/rumbo-a-una-liga-nacional-de-beisbol-en-mexico-mitos-y-realidades-de-una-potencial-fusion-entre-lmb-y-lmp).

<sup>19</sup> [www.milb.com/mexican/about/equipos](http://www.milb.com/mexican/about/equipos).

<sup>20</sup> The Federal Economic Competition Law states that an economic agent is any individual or legal entity, whether for profit or not; agencies and entities of the federal, state or municipal public administration; associations; chambers of commerce; professional groups; trusts; or entity that takes any other form of participation in economic activity.

28. In 2021, COFECE resolved its first labour-market case (Case IO-002-2018), which is explained below.<sup>21</sup>

### 3.1. Sanction for collusion in the footballers' transfer market

29. On 2 September 2021, the COFECE Plenary determined liability and sanctioned 17 Liga MX football clubs<sup>22</sup> and eight individuals for establishing market segmentation and price manipulation agreements.<sup>23</sup> It also sanctioned FEMEXFUT for having facilitated collusive agreements.

30. COFECE found that the clubs colluded to avoid or inhibit competition in the footballers' transfer market by: i) imposing maximum salary caps for women players, which exacerbated the salary gap between men and women footballers; and ii) segmenting the players' market by establishing a mechanism that prevented them from freely negotiating and contracting with new teams.

31. *Price pact to impose maximum salary caps for women footballers.* The arrangement to establish a maximum salary cap for women footballers aimed at, or had the effect of, price manipulation. After the Liga MX Femenil was established in 2016, various football clubs agreed to establish a salary cap for women players based on three categories: (i) those aged over 23 years would earn a maximum of MXN 2 000 (Mexican pesos) per month (approx. USD 98.62);<sup>24</sup> (ii) those aged under 23 years would earn MXN 500 (USD 24.65) plus a personal training course; and (iii) women players in the under-17 category would have no income, but could receive assistance with their transportation, study and food costs. In the 2018-19 season, another agreement replaced this one: through a communiqué, Liga MX informed clubs that the upper cap would be MXN 15 000 (USD 739.64) and only four women players in each club could earn above this amount, in addition to in-kind support, which could not exceed MXN 50 000 per tournament (USD 2 465.48).

32. The first cap on players' salaries was part of the Liga MX Femenil project presentation and was approved by the Liga MX Sports Development Committee. In addition, the Federation issued communiqués to persuade clubs to comply with the salary cap, and also made efforts to verify compliance.

33. This conduct, which lasted from November 2016 to May 2019, was sanctioned as price manipulation, as it prevented clubs from offering better salaries to compete in

<sup>21</sup> Public resolution available in Spanish:

[www.cofece.mx/CFCResoluciones/docs/Asuntos%20Juridicos/V351/1/5535148.pdf](http://www.cofece.mx/CFCResoluciones/docs/Asuntos%20Juridicos/V351/1/5535148.pdf).

<sup>22</sup> Club de Fútbol América (América), Promotora del Club Pachuca (Pachuca), Club Deportivo Social y Cultural Cruz Azul (Cruz Azul), Equipo de Fútbol Mazatlán (Monarcas), Chivas de Corazón (Guadalajara), Santos Laguna (Santos), Sinergia Deportiva (Tigres), Deportivo Toluca Fútbol Club (Toluca), Club Universidad Nacional (Universidad), Club de Fútbol Monterrey Rayados (Rayados), Impulsora del Deportivo Necaxa (Necaxa), Club de Fútbol Atlante (Atlante), Servicios Profesionales de Operación (Tijuana), Club de Fútbol Rojinegros (Atlas), Fuerza Deportiva del Club León (León), Club Gallos Blancos (Querétaro or Gallos) and Operadora de Escenarios Deportivos (Puebla).

<sup>23</sup> For violating Sections I and III of Article 53 of the Federal Economic Competition Law.

<sup>24</sup> Average exchange rate in 2021 (MXN 20.28 to USD 1) taken from: Government of Mexico (2021), "La moneda mexicana recuperó 1.42 ppd durante las últimas 5 semanas" [Mexican currency recovers 1.42 ppd over the last 5 weeks], [www.gob.mx/shcp%7Cgacetaeconomica/articulos/la-moneda-mexicana-recupero-1-42-ppd-durante-las-ultimas-5-semanas#:~:text=As%C3%AD%2C%20during%202021%20the%20type,per%20d%C3%B3lar%20\(%2B3.1%25\)](http://www.gob.mx/shcp%7Cgacetaeconomica/articulos/la-moneda-mexicana-recupero-1-42-ppd-durante-las-ultimas-5-semanas#:~:text=As%C3%AD%2C%20during%202021%20the%20type,per%20d%C3%B3lar%20(%2B3.1%25)) and used throughout the document.

contracting women players by offering higher salaries. Furthermore, it had a significant negative impact on professionalising women's football in Mexico. The country's highest-paid male player earns MXN 7.4 million (USD 364 891.52) per month<sup>25</sup> – compared with the monthly salary of MXN 150 000 (USD 7 396.45) earned by the highest-paid woman footballer in 2023. This means that, in the major leagues, a male player earns 49 times more than his female counterpart.<sup>26</sup>

34. *Agreement to segment the player transfer market.* The specific arrangement to segment the market centred on an agreement between the football clubs and their owners, colloquially referred to as a “gentlemen’s agreement”. Under this agreement (and with FEMEXFUT’s help and assistance), the professional player’s club had the right to retain the player after their contract had expired, and other clubs could not sign the player unless authorised by the former club, which may or may not involve paying compensation. This meant that a player could not freely negotiate new contracts with other clubs, as the former club needed to approve the signing. These agreements were implemented during the transfer and hiring system for footballers (known as the draft).

35. The conduct, which lasted for at least ten years, from June 2008 to December 2018 (although several economic agents participated for a shorter period), amounted to a collusive agreement that had the purpose and effect of segmenting the players’ market to limit competition among clubs when contracting players. This unduly restricted footballers’ mobility and limited their bargaining power to obtain better salaries.

36. Together, both conducts caused market damage estimated at MXN 83.4 million (approx. USD 4.1 million). The COFECE Plenary decided to sanction the 17 clubs, as well as FEMEXFUT and eight individuals for collaborating, with fines totalling MXN 177.6 million (approx. USD 8.7 million).

37. The case sets an important precedent and sends a clear message that COFECE will investigate and sanction anti-competitive agreements between competitors in labour markets, as well as cartels. Since collusive agreements are sanctioned per se, they do not allow for any type of justification – agreements between employers in the labour market that restrict worker mobility will be investigated and potentially sanctioned, as they directly impact the wages paid in the market.

38. Since the professional footballers’ market is highly media-focused, the Commission’s sanction may help break possible agreements between employers (“no poach agreements”) in economic activities other than contracting footballers.

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<sup>25</sup> Information taken from: [www.goal.com/es-mx/noticias/quienes-cuanto-ganan-mejores-pagados-liga-mx/7lqouq318x31t38vmvc1q2uc](http://www.goal.com/es-mx/noticias/quienes-cuanto-ganan-mejores-pagados-liga-mx/7lqouq318x31t38vmvc1q2uc).

<sup>26</sup> Information taken from: <https://noticias.imer.mx/blog/23-de-mayo-dia-internacional-del-futbol-femenil-y-de-la-desigualdad-salarial-en-este-deporte/>.