



**U.S. Department of Justice**

Criminal Division

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April 9, 2014

F. Joseph Warin  
John W.F. Chesley  
Gibson, Dunn & Crutcher LLP  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036-5306

Re: Hewlett-Packard Mexico, S. de R.L. de C.V.

Dear Counsel:

On the understandings specified below, the United States Department of Justice, Criminal Division, Fraud Section, and the United States Attorney's Office for the Northern District of California (collectively, the "Department") will not criminally prosecute Hewlett-Packard Mexico, S. de R.L. de C.V. (the "Company"), a corporation organized under the laws of Mexico and headquartered in Mexico City, or any of its present or former parents, subsidiaries, or affiliates, for any crimes (except for criminal tax violations, as to which the Department does not make any agreement) relating to any of the conduct described in the Statement of Facts, attached as Attachment A, and any other conduct disclosed by the Company, Hewlett-Packard Co. ("HP Co."), or any of HP Co.'s direct or indirect affiliates or subsidiaries (collectively, other than the Company, "HP"), to the Department prior to December 1, 2013, except as provided herein and subject to related agreements between the Department and HP Co. or its subsidiaries concerning FCPA violations in Russia and Poland. The Department enters into this Non-Prosecution Agreement based on the individual facts and circumstances presented by this case and by the Company and its ultimate parent corporation, HP Co.. Among the facts considered were the following: (a) the Company's and HP Co.'s cooperation, including conducting an extensive internal investigation, voluntarily making U.S. and foreign employees available for interviews, and collecting, analyzing, and organizing voluminous evidence and information for the Department; (b) the Company and HP Co. have engaged in extensive remediation, including taking appropriate disciplinary action against culpable employees, enhancing their due diligence protocol for third-party agents and consultants, and enhancing their controls for payment of sales commissions to channel partners in Mexico; (c) the Company's and HP Co.'s continued commitment to enhancing their compliance programs and internal controls; and (d) the Company's and HP Co.'s agreement to continue to cooperate with the Department in any ongoing investigation of the conduct of the Company and its officers, directors, employees, agents, and consultants relating to violations of the Foreign Corrupt Practices Act of 1977 ("FCPA"), as amended, Title 15, United States Code, Section 78dd-1 *et seq.*

The Company admits, accepts, and acknowledges that it is responsible under United States law for the acts of its officers, directors, employees, and agents as set forth in the Statement of Facts attached hereto as Attachment A and incorporated by reference into this Agreement, and that the facts described in Attachment A are true and accurate. The Company and HP Co. expressly agree that they shall not, through present or future attorneys, officers, directors, employees, agents, or any other person authorized to speak for the Company or HP Co., make any public statement, in litigation or otherwise, contradicting the acceptance of responsibility by the Company set forth above or the facts described in the Statement of Facts attached hereto as Attachment A.

The Company's obligations under this Agreement shall have a term of three (3) years from the date that this Agreement is executed. However, the Company shall continue to cooperate fully with the Department in any and all matters relating to the conduct described in this Agreement and Attachment A and other conduct under investigation by the Department, subject to applicable law and regulations, until the date upon which all investigations and prosecutions arising out of the conduct described in this Agreement are concluded, whether or not those investigations are concluded within the term specified herein. At the request of the Department, the Company shall also cooperate fully with other domestic or foreign law enforcement authorities and agencies, as well as the Multilateral Development Banks ("MDBs"), in any investigation of the Company, its parent company or its affiliates, or any of its present and former officers, directors, employees, agents, and consultants, or any other party, in any and all matters relating to this Agreement and Attachment A and other conduct under investigation by the Department. The Company agrees that its cooperation pursuant to this paragraph shall include, but is not limited to, the following:

a. The Company shall truthfully disclose, consistent with applicable law and regulations including data protection and privacy laws, all information not protected by a valid claim of privilege or work product doctrine with respect to its activities, those of its parent company and affiliates, and those of its present and former directors, officers, employees, agents, and consultants about which the Company has any knowledge or about which the Department may inquire. This obligation of truthful disclosure includes the obligation of the Company to provide to the Department, upon request, any document, records, or other tangible evidence about which the Department may inquire of the Company.

b. Upon request of the Department, with respect to any issue relevant to its investigation of corrupt payments in connection with the operations of the Company, or any of its present or former subsidiaries or affiliates, the Company shall designate knowledgeable employees, agents, or attorneys to provide to the Department the information and materials described in (a) above on behalf of the Company. It is further understood that the Company must at all times provide complete, truthful, and accurate information.

c. The Company shall use its best efforts to make available for interviews or testimony, as requested by the Department, present or former officers, directors, employees, agents, and consultants of the Company. This obligation includes, but is not

limited to, sworn testimony before a federal grand jury or in federal trials, as well as interviews with federal law enforcement and regulatory authorities. Cooperation under this Paragraph shall include identification of witnesses who, to the knowledge of the Company, may have material information regarding the matters under investigation.

d. With respect to any information, testimony, documents, records, or other materials provided to the Department pursuant to this Agreement, the Company consents to any and all disclosures, subject to applicable law and regulations, to other governmental authorities, including United States authorities and those of a foreign government, and the MDBs, of such materials as the Department, in its sole discretion, shall deem appropriate.

The Company and its parent, HP Co., represent that they have implemented and will continue to implement a compliance and ethics program designed to prevent and detect violations of the FCPA and other applicable anti-corruption laws throughout their operations, including those of their affiliates, agents, and joint ventures, and those of their contractors and subcontractors whose responsibilities include interacting with foreign officials or other activities carrying a high risk of corruption.

The Company agrees to pay forfeiture in the amount of \$2,527,750 to the United States Treasury on or before the twentieth (20) business day after the date of the entry of the judgment of conviction following ZAO Hewlett-Packard A.O.'s sentencing. The Company acknowledges that no United States tax deduction may be sought in connection with the payment of any part of this \$2,527,750 forfeiture.

The Department agrees, except as provided herein, that it will not bring any criminal or civil case against the Company or any of its present or former parents, subsidiaries, or affiliates relating to any of the conduct described in Attachment A hereto or any other conduct disclosed by the Company or HP to the Department prior to December 1, 2013, except as provided herein and subject to related agreements between the Department and HP Co. or its subsidiaries concerning FCPA violations in Russia and Poland. The Department, however, may use any information related to the conduct described in Attachment A against the Company: (a) in a prosecution for perjury or obstruction of justice; (b) in a prosecution for making a false statement; (c) in a prosecution or other proceeding relating to any crime of violence; or (d) in a prosecution or other proceeding relating to a violation of any provision of Title 26 of the United States Code; provided that any such prosecution or other proceeding does not relate to any potentially obstructive conduct disclosed by the Company to the Department prior to the signing of this Agreement. This Paragraph does not provide any protection against prosecution for any future conduct by the Company. In addition, this Paragraph does not provide any protection against prosecution of any present or former officer, director, employee, shareholder, agent, consultant, contractor, or subcontractor of the Company for any violations committed by them.

If, during the term of this Agreement, the Department determines, in its sole discretion, that the Company has breached the agreement by (a) committing any felony under U.S. federal law subsequent to the signing of this Agreement, (b) at any time providing in connection with this Agreement deliberately false, incomplete, or misleading information, (c) failing to cooperate

as set forth in this Agreement, (d) committing acts that, had they occurred within the jurisdictional reach of the FCPA, would be a violation of the FCPA, or (e) otherwise failing specifically to perform or to fulfill completely each and every one of the Company's obligations under the Agreement, the Company shall thereafter be subject to prosecution for any federal criminal violation of which the Department has knowledge. Any such prosecution may be premised on information provided by the Company. Any such prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against the Company notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the expiration of the term of this Agreement plus one year. Thus, by signing this Agreement, the Company agrees that the statute of limitations with respect to any such prosecution that is not time-barred on the date of the signing of this Agreement shall be tolled for the term of this Agreement plus one year.

In the event that the Department determines that the Company has breached this Agreement, the Department agrees to provide the Company with written notice of such breach prior to instituting any prosecution resulting from such breach. Within thirty (30) days of receipt of such notice, the Company shall have the opportunity to respond to the Department in writing to explain the nature and circumstances of such breach, as well as the actions the Company has taken to address and remediate the situation, which explanation the Department shall consider in determining whether to institute a prosecution.

In the event that the Department determines that the Company has breached this Agreement: (a) all statements made by or on behalf of the Company to the Department or to the Court, including Attachment A, and any testimony given by the Company before a grand jury, a court, or any tribunal, or at any legislative hearings, whether prior or subsequent to this Agreement, and any leads derived from such statements or testimony, shall be admissible in evidence in any and all criminal proceedings brought by the Department against the Company; and (b) the Company shall not assert any claim under the United States Constitution, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule that statements made by or on behalf of the Company prior or subsequent to this Agreement, or any leads derived therefrom, should be suppressed or are otherwise inadmissible. The decision whether conduct or statements of any current director or employee, or any person acting on behalf of, or at the direction of, the Company will be imputed to the Company for the purpose of determining whether the Company has violated any provision of this Agreement shall be in the sole discretion of the Department.

This Agreement is binding on the Company and the Department but specifically does not bind any other federal agencies, or any state, local, or foreign law enforcement or regulatory agencies, or any other authorities, although the Department will bring the cooperation and acts of remediation by the Company and HP Co., as well as the Company's compliance with its other obligations under this Agreement, to the attention of such agencies and authorities if requested to do so by the Company.

It is further understood that the Company and the Department may disclose this Agreement to the public.

This Agreement sets forth all the terms of the agreement between the Company and the Department. No amendments, modifications, or additions to this Agreement shall be valid unless they are in writing and signed by the Department, the attorneys for the Company, and a duly authorized representative of the Company.

Sincerely,

Melinda Haag  
United States Attorney

Jeffrey H. Knox  
Chief, Fraud Section  
Criminal Division  
Department of Justice

By: \_\_\_\_\_  
Adam A. Reeves  
Assistant United States Attorney

By: \_\_\_\_\_  
Ryan Rohlfen  
Jason Linder  
Trial Attorneys, Fraud Section

AGREED AND CONSENTED TO:

Hewlett-Packard Mexico, S. de R.L. de C.V.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Bruce Ives  
Senior Vice President and  
Deputy General Counsel  
Hewlett-Packard Company  
*For Hewlett-Packard Mexico,  
S. de R.L. de C.V.*

Date: \_\_\_\_\_

By: \_\_\_\_\_  
F. Joseph Warin  
John W.F. Chesley  
GIBSON, DUNN & CRUTCHER LLP  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
*Counsel for Hewlett-Packard Mexico,  
S. de R.L. de C.V.*

ATTACHMENT A

**STATEMENT OF FACTS**

This Statement of Facts is incorporated by reference as part of the non-prosecution agreement, dated April 9, 2014, between the United States Department of Justice, Criminal Division, Fraud Section, the United States Attorney's Office for the Northern District of California (collectively, the "Department") and Hewlett-Packard Mexico, S. de R.L. de C.V. ("HP MEXICO"). The Department and HP MEXICO agree that the following facts are true and correct:

1. HP MEXICO admits, accepts, and acknowledges that it is responsible for the acts of its and its predecessor company's officers, employees, and agents as set forth below. Had this matter proceeded to trial, the Department would have proven beyond a reasonable doubt, by admissible evidence, the facts alleged below. This evidence would establish the following:

**The Company**

2. At all times relevant to this Statement of Facts, HP MEXICO was a wholly-owned subsidiary of Hewlett-Packard Company ("HP Co.") based in Mexico. HP Co. and all of its direct or indirect affiliates or subsidiaries (collectively, "HP"), was a technology company headquartered in Palo Alto, California, and incorporated in Delaware. HP was a global provider of personal computing devices, information technology infrastructure, and imaging and printing products and services. HP employed more than 300,000 employees worldwide.

3. At all times relevant to this Statement of Facts, HP Co. issued and maintained a class of publicly traded securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934 (15 U.S.C. § 78l) and was required to file periodic reports with the Securities and Exchange Commission under the Securities and Exchange Act of 1934 (15 U.S.C. § 78m).

Accordingly, HP Co. was an “issuer” within the meaning of the Foreign Corrupt Practices Act of 1977 (“FCPA”), as amended, Title 15, United States Code, Section 78dd-1 *et seq.* From at least 2006 until the date of this agreement, HP Co.’s shares traded on the New York Stock Exchange under the symbol “HPQ.”

### **HP Co.’s Internal Controls**

4. At all times relevant to this Statement of Facts, HP Co. policies prohibited corruption, self-dealing, and other misconduct. HP Co.’s Standards of Business Conduct (“SBC”) in effect during the relevant time specified company rules and regulations governing legal and ethical practices, preparation of accurate books and records, contracting, and approvals and engagement of third parties. The SBC applied to HP Co. business divisions and subsidiaries, including HP MEXICO. HP MEXICO employees received mandatory SBC training annually, among other training. The SBC was promulgated at HP Co.’s headquarters in the Northern District of California.

5. The SBC manuals specifically referenced the FCPA, and prohibited, among other items, bribes, corrupt practices, “side letters,” “off-the-books’ arrangements,” and “other express or implied agreements outside standard HP contracting processes.” The SBC manuals in effect during this period further instructed employees of HP that they were not to “commit [the relevant HP business] to undertake any performance, payment or other obligation unless [the employee was] authorized under the appropriate HP [business] delegation of authority policies,” and further required accurate accounting records and proper finance practices.

6. HP Co.’s policies permitted legitimate commission payments to channel partners. These policies required that the recipient of commissions enter into a written channel partner contract with an addendum permitting the payment of commissions, be pre-approved, subjected

to due diligence, and registered in HP Co.'s partner system. HP MEXICO's policy also required channel partner commissions to follow an approval matrix, with commissions exceeding a particular percentage of the transaction's total volume requiring additional approvals.

7. Although HP Co. had certain anti-corruption policies and controls in place during the relevant period, those policies and controls were not adequate to prevent the conduct described herein and were insufficiently implemented at HP MEXICO. This allowed HP MEXICO to circumvent HP Co.'s internal accounting controls and falsify its books and records as described herein.

### **Criminal Conduct**

8. Beginning by at least mid-2008, HP MEXICO began presales activities and discussions with Petroleos Mexicanos, Mexico's state-owned petroleum company, commonly known as "Pemex," to sell to Pemex a suite of business technology optimization ("BTO") software, hardware, and licenses. BTO is a niche product that requires sophisticated knowledge to integrate with other software products. The contracts for this software sale (collectively, the "BTO Deal") were for approximately \$6 million.

9. HP MEXICO sales managers on the BTO Deal ultimately decided that they could not win the business without working with, and making payments to, a Mexican information-technology consulting company (collectively, with its affiliated companies and agents, "CONSULTANT"). HP MEXICO sales managers knew that Pemex's Chief Operating Officer ("OFFICIAL A") was a former principal of CONSULTANT. HP MEXICO employees also knew that OFFICIAL A supervised Pemex's Chief Information Officer ("OFFICIAL B"), who was a key signatory on behalf of Pemex for the BTO Deal.



10. Although CONSULTANT had prior technical experience with Pemex's IT systems, HP MEXICO ultimately retained CONSULTANT in connection with HP MEXICO's bid for the sale to Pemex primarily because of CONSULTANT's connections to OFFICIAL A, OFFICIAL B, and other senior Pemex officials. As part of its agreement with CONSULTANT, HP MEXICO agreed to pay CONSULTANT a commission, which HP MEXICO also called an "influencer fee," equal to 25% of the licensing and support components of the BTO Deal.

11. HP MEXICO understood from the earliest days of its negotiations with Pemex that it had to retain CONSULTANT in order to win the Pemex contracts. In one instance, one of CONSULTANT's agents threatened to take the BTO Deal to one of HP MEXICO's competitors if HP MEXICO did not pay CONSULTANT the full commission it had requested. Notably, that same agent was a former HP MEXICO senior executive who, several months before, had supervised HP MEXICO's sales managers on the BTO Deal team.

12. CONSULTANT was not an approved HP MEXICO channel partner and had not entered into a written channel partner agreement as required by HP Co.'s internal controls and policies. In circumvention of these internal controls and policies, HP MEXICO executives pursuing the BTO Deal arranged for another entity ("INTERMEDIARY"), which was already an approved HP MEXICO channel partner, to join in the transaction. HP MEXICO's sales managers arranged for the INTERMEDIARY to receive commissions from HP MEXICO and then pass those monies along to CONSULTANT, after deducting a portion as a fee. Although INTERMEDIARY played no role in negotiating the BTO Deal, HP MEXICO executives recorded INTERMEDIARY as the deal partner in its internal tracking system.

13. Because HP MEXICO had already agreed to pay CONSULTANT an "influencer fee" equal to 25% of the licensing and support components of the BTO Deal—which was the

maximum permissible under HP's policies without seeking additional approvals—there was no money left over for the INTERMEDIARY's fee. On or about December 12, 2008, HP MEXICO executives involved in the BTO Deal sought permission from regional management to increase CONSULTANT's authorized deal commission by 1.5% to 26.5%. In support of their request, HP MEXICO executives sent an e-mail claiming that CONSULTANT deserved an increased commission primarily because it had put in extra work and successfully managed discounts with Pemex. The justification omitted any reference to the role of, or payments to, the INTERMEDIARY. With little or no additional review, HP regional officials approved the increased commission request on that same day.

14. On or about December 22, 2008, HP MEXICO signed the contracts with Pemex for the BTO Deal. OFFICIAL B, among others, signed on behalf of Pemex.

15. On or about January 20, 2009, HP MEXICO advised the INTERMEDIARY that it had received the INTERMEDIARY's payment request "for recommending an HP solution to your customer." Later that day, the INTERMEDIARY advised CONSULTANT of the expected payment schedule from HP MEXICO. On or about January 23, 2009, HP MEXICO informed the INTERMEDIARY that it had approved the payment request. HP MEXICO's records falsely reflect that the INTERMEDIARY was due a commission for the BTO Deal.

16. The INTERMEDIARY submitted two invoices—on or about January 28, 2009, and on or about February 5, 2009—to HP MEXICO totaling \$1,663,503, purportedly for commissions on the BTO Deal.

17. HP MEXICO paid those two invoices on or about February 10 and 12, 2009. HP MEXICO made those payments via wire transfer in U.S. dollars through a correspondent bank account in the United States.

18. On or about February 11, 2009, the INTERMEDIARY transferred approximately \$517,821 to CONSULTANT. On or about February 23, 2009, the INTERMEDIARY transferred an additional \$892,493.23 to CONSULTANT. Together, these two transfers totaled approximately \$1.41 million.

19. By arranging payments to be made through the INTERMEDIARY to CONSULTANT, HP MEXICO was able to circumvent HP Co.'s policies requiring pre-approval of channel partners and written agreements for third-party payments. HP MEXICO further circumvented HP Co.'s controls by failing to identify the role of INTERMEDIARY in the BTO Deal when seeking a 1.5% increase in the commission for CONSULTANT. In addition, HP MEXICO's books and records falsely reflected that the INTERMEDIARY was the deal partner and principal recipient of the commission from the BTO Deal, which ultimately caused certain HP Co. books and records to be falsified.

20. On or about March 2, 2009, within weeks of receiving its second commission payment from HP MEXICO through the INTERMEDIARY, CONSULTANT made a cash payment of approximately \$30,000 to an entity controlled by OFFICIAL B. On or about March 30, 2009, CONSULTANT made three additional cash payments totaling approximately \$95,000 to the OFFICIAL B-controlled entity.

21. In total, HP MEXICO received approximately \$2,527,750 as its net benefit on the BTO Deal.