

## Mexico's Federal Regulatory Improvement Programme

Mexico's federal regulatory improvement programme aims not only to produce higher quality regulations that achieve legitimate goals at the least possible cost, but also to instil a process through which regulatory decisions are taken on the basis of careful analysis, transparency and public consultation.

The focus of the programme, which began in 1989, has evolved from *ad hoc* deregulation to the consolidation of a system of regulatory management through reforms to the Federal Administrative Procedures Law (LFPA) in April 2000.

Two basic elements were established by those reforms in order to consolidate the regulatory improvement system. First, the Federal Regulatory Improvement Commission (COFEMER) was created in order to co-ordinate the programme with the input of a Regulatory Improvement Council (which is comprised of business, labour, agricultural, academic and government representatives).

COFEMER's legal mandate is to ensure transparency in the drafting of federal regulations, and to promote the development of cost effective regulations that produce the greatest net benefit for society.

Second, all federal agencies are comprised by LFPA to elaborate and submit to COFEMER at least every two year a regulatory programme for improving the quality of their rules and regulations. The purpose of those programmes is to establish a clearly defined scheme for the activities every agency will implement about regulatory issues. On the first half of 2001, all agencies submitted their draft two-year regulatory improvement programmes, and interested parties commented on them during August, after which COFEMER made its analysis of the programmes public. Final programmes were completed in October 2001, and they are already operating.

Nowadays, COFEMER is working on the definition of clearly criteria for the presentation of the new programmes 2003-2005 and on the content of them. The new programmes must be presented to COFEMER before the end of the first half of this year.

### Main activities

COFEMER's approach to regulatory reform is based on its mandate, and encompasses four main activities:

1. Elimination and simplification of business and citizen formalities.
2. Transparent and analytical review of all draft regulations.
3. Diagnosis of and proposals to reform existing laws and regulations in specific areas or economic sectors.

#### 4. Support for state and municipal regulatory improvement programmes.

These activities result in greater legal certainty, reduced regulatory costs, a sounder and more legitimate form of governance, and a business environment that promotes greater investment and job creation.<sup>1</sup>

In January 2002, President Vicente Fox presented the **Federal Regulatory Improvement Programme 2001-2006**. Under President Fox's administration regulatory improvement policy is conceived as a State policy, as an activity that goes beyond temporal limits of governmental activities and national political divisions, which offers benefits to everyone. The programme is designed to consolidate on the long run the regulatory improvement policy in Mexico.

In September 2002, COFEMER presented its first annual report to the Mexican Congress. This report comprehends the period May 2000 to December 2001, due to the fact that it is the first annual report presented in observation to the reforms to the Federal Administrative Procedures Law.

##### 1. Elimination and simplification of business and citizen formalities.

Formalities are defined as regulations that imply the exchange of information (generally involving forms) between the government and private parties. A major effort has been undertaken to first identify all federal formalities and then eliminate or simplify them as much as possible. The process for business formalities is nearly complete. These formalities can be found in the Federal Registry of Formalities and Services (RFTS), accessible through COFEMER's web page ([www.cofemer.gob.mx](http://www.cofemer.gob.mx)), where users can also find a large number of specific forms and user-friendly search tools.

The deregulatory process has now been extended to citizen formalities. By May 2003, only federal formalities listed in the Registry will be legally applicable. Furthermore, all currently listed formalities must be applied exactly in the way they appear in the Registry. Today, the RFTS has registered nearly 2,050 citizen and business formalities. In order to fulfil the obligation by next May and continue with the commitments contained on the two-year improvement programmes, every month federal ministries and regulatory agencies are registering, simplifying or eliminating formalities. Therefore, previous to May deadline the information contained on the RFTS will suffer important changes. With the purpose of facilitating the registration task, on August 2002 COFEMER elaborated a new electronic system which eliminates paper work burden and saves time on accomplishing this task.

In June 25<sup>th</sup>, 2001, President Vicente Fox signed an executive decree ordering a swift deregulation and simplification of business formalities of Mexico before the end of 2002. COFEMER was in charge of supervising the three main activities contained in the decree, and of reporting the corresponding results to the President. The three activities were:

- **Elimination and simplification of business formalities.** In average,

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<sup>1</sup> For an independent assessment of Mexico's regulatory improvement programme up to 1999, see OECD, *Regulatory Reform in Mexico* (Paris: 1999).

more than 20% of the formalities were simplified or eliminated.

- **Identification and simplification of high impact business formalities.** Each government agency identified at least its five most requested impact business formalities.
- **Submission of two-year improvement regulation programmes.** In order to fulfil the obligation established in LFPA, this activity was included on the decree. Final programmes were completed in October 2001.

In addition, in January 2002, the President signed an executive decree, prepared by COFEMER, to legally set up the Rapid Business Start-up System (Sistema de Apertura Rápida de Empresas – SARE). The system reduces the number of federal formalities to open a low-risk business from 8 to 2. Also, SARE reduces the federal business start-up process from up to 3 months to just one day.

## **2. Transparent and analytical review of all draft regulations.**

Since May 2000 (date of entry into force of the reforms to the Federal Administrative Procedures Law), COFEMER has reviewed and proposed improvements to almost 1,500 drafts of legislative and administrative regulations with the help of the Regulatory Improvement Council and *ad hoc* private sector work groups. The transparent review process seeks to improve draft proposals by ensuring that regulations meet their goals with the least possible economic burden on society. All draft federal regulations must now be made available to the public at least 20 working days before they are emitted or sent to the President's legal counsel. Regulatory proposals must be accompanied by regulatory impact analysis (RIAs), which include a discussion of objectives, alternatives considered, potential costs and benefits, and the results of public consultation. COFEMER does not have the power to veto regulations, but ministries and regulatory agencies must clearly justify disagreements with COFEMER's judgements. All proposals are available from COFEMER on a non-discriminatory basis to national or foreign parties. Regulatory decisions are now taken on the basis of analysis, transparency and public consultation.

A review process of a very important part of national regulation (standards) took place on 2002. The reforms done on August 1997 to the Federal Law of Metrology and Standardisation (LFMN) established that every Mexican Official Standard (NOMs) must be reviewed every five years, in order to analyse its existence according to prevailing conditions. Therefore, and due to the fact that there were many standards operating before those reforms, October 2002 was the deadline date for submitting the analysis of 389 NOMs, which represents 55% of the universe of all NOMs. COFEMER participated in this important process, which offered a great opportunity for establishing a transparent and simple regulatory framework that responds effectively to the needs of citizens and businesses. Preliminary results show that 137 standards were ratified, 125 were modified and 71 were cancelled. Results from remaining ones (56) are pending. During 2003, 62 NOMs must be reviewed in accordance with the LFMN.

The use of RIAs (since 1997) has been an essential part of draft regulations reviewing process, which has made the evaluation, analysis and justification of draft regulations a standard practice. Since October 2001, new guidelines for development of regulatory impact statements and for the review process of draft regulations are available online. A new electronic system for submitting RIAs has

been elaborated. The system facilitates and simplifies the process of submitting RIAs, and also clarifies COFEMER's review criteria of RIAs and regulation proposals. Full texts of draft proposals and RIAs are available online at [www.cofemermir.org](http://www.cofemermir.org). Training seminars on the new system started in October 2001, and until now COFEMER has given 21 seminars for more than 550 public employees. Since October 2002 it is compulsory to the agencies to use this new electronic system.

### **3. Diagnosis and reform of existing laws and regulations in specific areas or economic sectors.**

#### **Legislative reforms**

The investigative work of the diagnoses has led to a series of legislative and administrative reforms in the recent years, including:

- **Federal Transparency and Access to Public Governmental Information Act (2002).** As an integral part of Mexico's regulatory reform programme, and through a process that included extensive public consultations ([www.ltq.org.mx](http://www.ltq.org.mx)) the Ministry of Interior, the Ministry of Comptroller and Administrative Development and COFEMER elaborated a draft Act proposal which was submitted to the Congress. The proposal, which included the creation of an independent information commissioner, detailed positive information disclosure requirements for government authorities, and specific information access rights and data protection schemes for individuals, was approved by the Mexican Congress on April 30<sup>th</sup>, 2002 (text and regulatory impact assessment available at [www.cofemermir.org](http://www.cofemermir.org)) and published on July 11<sup>th</sup>, 2002.
- **Federal Administrative Procedures Law (2000).** The law was amended in order to consolidate and give greater permanence to federal regulatory reform efforts. The amendments created COFEMER and the Regulatory Improvement Council, require regulatory impact statements and full public disclosure for all executive branch proposals so that interested parties may better understand their implications and participate in COFEMER's review processes, create the legislative basis for the already existing Internet-based Federal Register of Formalities and Services, and stipulate severe sanctions (dismissal and a one year suspension from public service) for public servants that circumvent transparency requirements.
- **Bankruptcy and secure transactions laws (2000).** New bankruptcy and secure transaction laws were enacted in order to improve the allocation of business sector resources and facilitate access to credit.

#### **Investigative work**

COFEMER, on the basis of its own research and of comments it receives from the Regulatory Improvement Council and other interested parties, reviews the national regulatory framework in order to pinpoint specific problems by area or economic sector. COFEMER's most recent diagnoses have been in the areas of:

- ➔ The regulatory framework of the Mexican Institute of Social Service (IMSS)

and of the National Housing Institute (INFONAVIT). It consisted on a regulatory audit of more than 1,000 formalities.

- Regulatory improvement and administrative regulatory framework. The purpose of the diagnosis is to realise a regulatory simplification of federal administrative formalities and provisions that are applied within the executive branch.
- Administrative habeas corpus.

All diagnoses are publicly available at COFEMER's Internet web site.

#### **4. Support for state and municipal regulatory improvement programmes.**

Given that Mexico is a federal republic, great emphasis must be placed on the improvement of procedures not only at the federal level, but also within state and municipal governments. One example is SARE. An important issue for SARE's success refers to local formalities. In order for businesses to be able to start operations, they must also comply with state and municipal formalities. Therefore, federal government is coordinating efforts in order to develop compatible systems at the state and local levels.

COFEMER's work has helped expand regulatory improvement beyond the federal government. In the spirit of Mexico's renewed federalism, since December 2000 COFEMER has signed co-ordination agreements with twenty-two states,<sup>2</sup> in which the states agreed to implement regulatory improvement programmes similar to the one carried out at the federal level, and the federal government agreed to provide them with technical assistance through COFEMER. Also, for the first time, COFEMER has signed co-operation agreements with four municipalities.<sup>3</sup> As a result, COFEMER has maintained close contact with state and municipal authorities in order to attain an efficient and complementary regulatory framework in and across all three levels of government. Among some of the specific actions taken, the following highlight:

- As a result of the Business Co-ordinating Council's participation in the federal reform effort (through the Regulatory Improvement Council), it has published four yearly evaluations (1999-2002) of the quality of regulations in each state and the Federal District (Mexico City) in order to promote awareness of regulatory reform among state governments.
- In addition to state and municipal co-operation agreements, COFEMER has signed SARE agreements with state and municipal government of Puebla, municipal government of Naucalpan, and municipal government of Los Cabos. From May to November 2002 the implementation of SARE at Puebla turned into the establishment of 1,704 new enterprises with an investment

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<sup>2</sup> Twenty two agreements have been signed with the state governments of Puebla, Tamaulipas, Aguascalientes, Quintana Roo, Guanajuato, Estado de México, Morelos, Yucatán, Durango, Distrito Federal, Nayarit, San Luis Potosí, Michoacán, Jalisco, Colima, Chiapas, Sinaloa, Coahuila, Nuevo León, Baja California Sur, Baja California and Oaxaca.

<sup>3</sup> Four municipal governments have signed co-operation agreements: Mérida, Acapulco, Naucalpan and Oaxaca City, and several municipal governments have signed co-ordination agreements with their state governments.



of \$1 million American dollars and the creation of more than 4,000 employments; whereas from October 2002 to January 2003, at Los Cabos SARE represented the establishment of 73 new enterprises with an investment of \$3.3 million dollars.

### **International framework**

COFEMER represents Mexican government at international fora on the field of regulatory improvement policies, such as the Organisation for Economic Co-operation and Development and Asia Pacific Economic Forum. Also, COFEMER works with different countries in order to sign co-operation agreements such as the one signed with Costa Rica.

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