

Mexico

1. In which areas of structural reforms have the most significant progress been made in your economy in the past five years? Please describe in what way you think the progress has been significant? Any structural reform activity can be included here, and does not necessarily need to be restricted to the five LAISR themes.

In the last five years, Mexico has achieved progress in regulatory reform through:

- The implementation of mechanisms to hinder the issuance of unnecessary or high-cost new regulation;
- The use of public-consultation mechanisms to identify priority areas for reform;
- The reduction of administrative burdens imposed by regulation in starting up a business;
- The institutionalizing of regulatory reform in the States;
- The identification of specific needs for regulatory reform and actions to address them; and
- The promotion of transparency in the relationship between the public and private sector.

Other example of recent efforts by the Mexican government to improve the regulatory framework:

In September 2007, Mexico and the OECD signed an agreement to conduct a special project called “Process for the Strengthening of the Regulatory Framework for Competitiveness”, known as “Proceso Marco”.

Proceso Marco entails an assessment of existing laws, regulations and policies in key sectors and areas, as well as the crafting of specific proposals aimed at reducing the administrative burden to firms by improving the regulatory framework, fostering economic competition, and thereby enhancing productivity and economic activity. In order to separate political considerations from the technical analysis, the project includes a High Level Consultative Group (HLCG) and a Technical Group.

Proceso Marco plays a catalytic role in stimulating discussion on reform proposals and accelerating reform by all actors. In order to take bigger steps to improve the sectoral regulatory framework, coordination with the Ministry of the Economy and sectoral regulators has been critical.

Also, in the design of Proceso Marco, international best practices have been taken into account, in particular the experience of other economies that have already implemented similar exercises such as Australia, New Zealand, the Netherlands, and the United Kingdom, among others.

These actions represent a step towards achieving Mexico’s vision to have an integral, transparent and inclusive regulatory management system.

2. Describe examples of successful reforms and lessons learned in your economy in implementing structural reforms in the five LAISR areas. Please indicate relevant websites or other reference material, preferably those written in English.

Some examples of success in regulatory reform might be the following:

- On February 2007, President Felipe Calderón issued the Presidential Regulatory Quality Order (RQO)¹⁴, aiming at: (i) guaranteeing that regulations do not affect citizens or productive activities; and (ii) inhibiting overregulation that hinders investment, employment and, in general, competitiveness.

According to the RQO, Federal Governmental Bodies (FGB) may issue new regulation only when the latter complies at least with one of the following criteria:

- (i) The draft regulation derives from an emergency situation.
- (ii) The FGB is complying with either an obligation established in law or with regulations issued by the President;
- (iii) The draft regulation is complying with an international obligation;
- (iv) The regulation has to be updated periodically because of its nature; or
- (v) The benefits of the proposed regulation are higher than its compliance costs.

FGB produced 431 draft regulations with compliance costs in the first year of application of the Order (i.e. 2007). However, 33 of these draft regulations were rejected because they did not fulfill the criteria for the issuance of new regulations. In 2008, only 370 draft regulations with compliance costs were produced, of which five were rejected on the basis of non-compliance with the RQO criteria¹⁵.

The lesson learned from this experience is that regulatory reform and, in particular, quality regulation standards establish a set of principles to follow in order to make good regulation. It does not hinder the governmental ability to regulate.

- Since the opening of the first office of the Rapid Business Start-up System (SARE) on May 2002, Mexico got itself involved in a continuous, intensive effort to improve the business environment and, thus, its competitiveness, through the reduction, simplification and standardization of the times and procedures, at the Federal and local levels of government, to start up low risk businesses. The SARE's goal is to facilitate the creation of businesses in a maximum of 72 hours.

In 2008, a number of elements of the original SARE were revised in order to guarantee the quality of its services. Nowadays, the SARE operates in 149 municipalities¹⁶. Moreover, from May 2002, to June 2009, this scheme fostered the creation of 160,982 new enterprises which, in turn, generated 449,713 new jobs and an investment of approximately US\$1.9 billion¹⁷.

¹⁴ Acuerdo de Calidad Regulatoria.

¹⁵ 6th and 7th COFEMER's annual reports, available for download in: http://www.cofemer.gob.mx/index.asp?tipo_nav_bar=2&contenido=2&content_id=26&menu_id=20&submenu_id=12

¹⁶ Pertaining to 30 of 32 Federal Entities (states) in Mexico.

¹⁷ The President of Mexico's third government report available at the following website: <http://www.informe.gob.mx/informe/>

With regard to competition policy, in May 2008, the Federal Commission for Competitiveness (CFC) presented to the Ministry of the Economy its opinion on foreign trade which included the following recommendations that were enacted by the Ministry in December 2008: an ambitious unilateral reduction of tariffs; simplification of customs procedures; simplification of administrative procedures for foreign trade and customs operations; and the reduction of barriers to entry for the provision of customs clearance services.

Other recommendations adopted of the CFC have already shown pro-competitive results. For example, reforms to the banking activity legal framework have succeeded in reducing obstacles to entry and expanding market penetration. New players have entered the market focusing on providing services to consumers segments unattended by the traditional banks. The CFC has also encouraged competition and free access in the air transportation sector through the promotion of the reduction of barriers of entry for low cost carriers. Consequently, several low-cost airlines have entered the market over the past years. Hence there has been an important increase of passengers using this kind of transport.

3. What in your economy's experience are the keys to the success of reform? (e.g. leadership, institutional framework, communication strategy, consultation process) What are the factors, if any, that impeded reform? What lessons can we learn from your experience?

Success in reform requires the commitment and willingness of both government and private sector. In order to achieve this, the institutional and legal frameworks should establish appropriate and transparent communication tools which facilitate the involvement of all relevant actors in the decision making processes and, in particular, in the prioritization and implementation of structural reforms.

Mexico's last five years experience in the area of regulatory reform shows that joint efforts with relevant actors may help to foster competitiveness, as it is an efficient way of sharing ideas, conveying concerns and designing strategies to properly address those concerns.

In this context, regulatory reform in Mexico has developed important tools to make the participation of the public sector more efficient (e.g. through SAREs or biennial regulatory improvement programs¹⁸); the civil society has also had a meaningful role (e.g. through the establishment of legal mechanisms to allow their participation in the decision making processes), in the creation of quality regulation and in the implementation of specific regulatory reforms.

Furthermore, Proceso Marco guarantees the independence of the experts groups' analysis by avoiding interference from interest groups, while providing the high level political commitment to carry out necessary actions.

To accomplish the objectives of Proceso Marco we've had to:

- Achieve a collaboration environment among all actors involved (the executive, legislative, judiciary, private sector, states and municipalities) to be able to achieve substantive agreements.

¹⁸The Federal Administrative Procedures Law bounds each Federal Ministry and governmental agency to prepare and submit to COFEMER, at least every two years, a biennial regulatory improvement program in order to: (i) assess and report on regulatory reform progress and, accordingly, (ii) plan in advance the new regulatory reform measures to be taken.

- Defeat the resistance of privileged sectors and industries with particular interests. The benefits of the pending reforms to society and consumers (the majority) are overwhelmingly greater than the private cost of conducting such reforms.
- To involve all governmental entities in a review and reform dynamic, strengthening competition and reducing the administrative burdens to firms.

4. What are the impacts, both positive and negative, of the reform on the economy and the flow of trade and investment? Please provide data or statistics where available.

From May 2002 to June 2009, SARE scheme fostered the creation of 160,982 new enterprises which, in turn, generated 449,713 new jobs and an investment of approximately US\$1.9 billion. An estimation of Kaplan, Piedra and Seira in 2007 also suggests that the SARE generated a 4 percent increase on new firm start-ups¹⁹. This, in turn, may be linked to the World Bank's appreciation that the presence of new competitors in the market lead to an increase of 6 percent of the registered enterprises, 2.6 percent of employment and a decrease of 1 percent in prizes²⁰.

Proposals emerging from Proceso Marco will assist to set the basis for fair competition and better regulation, attracting investment, fostering growth and employment. For example, with respect to the foreign trade opinion, the results in the reduction of tariffs, for the highest tariff rate applicable to industrial products, will go from 10.4 percent to 4.3 percent (over 4,300 tariff will be reduced to zero).

5. In what ways can APEC better promote structural reform in the region? What would be some possible next steps beyond 2010 based on the achievement of the LAISR process?

APEC could take advantage of its leadership in the promotion of dialogue in order to elaborate an inventory of good practices of structural reform, identify which elements are necessary in order to follow them, and to assess which practices might have the better results in the short, medium and long terms.

An example is the 5th APEC Training Course on Competition Policy, which will be an important contribution to the APEC Principles to Enhance Competition and Regulatory Reform by measures such as providing technical cooperation and assistance on competition policy and sharing legislation as well as enforcement experiences concerning competition policy and law.

¹⁹ Kaplan, David, Eduardo Piedra y Enrique Seira, (2007)/ Entry Regulation and Business Start-Ups: Evidence from Mexico, Enterprise Analysis Unit, WPS 4322, World Bank, Washington, DC.

²⁰ *Doing Business in Mexico 2009*, World Bank, Washington, D.C.