

Please cite this paper as:

García Villarreal, J. (2010), "Successful Practices and Policies to Promote Regulatory Reform and Entrepreneurship at the Sub-national Level", *OECD Working Papers on Public Governance*, No. 18, OECD Publishing, Paris.  
<http://dx.doi.org/10.1787/5kmh2r7qpstj-en>



OECD Working Papers on Public  
Governance No. 18

# Successful Practices and Policies to Promote Regulatory Reform and Entrepreneurship at the Sub- national Level

Jacobo Pastor García Villarreal

# **OECD WORKING PAPERS ON PUBLIC GOVERNANCE**

**No. 18**

## **Successful Practices and Policies to Promote Regulatory Reform and Entrepreneurship at the Sub-national Level**

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## ACRONYMS

ACC: Catalanian Authority on Competition.

ADAAE: Agreement for Deregulation of Business Activities (Baja California).

AIT: Agreement on Internal Trade (Canada).

AMSDE: Mexican Association of Economic Development Secretariats.

BC: British Columbia.

BCeID: BC electronic identification.

BN: National Business Number (Canada).

CADELEC: Association for the Productive Chain of the Electronics Industry.

CAE: Business Support Centers (Mexico).

CANACINTRA: Transformation Industry National Chamber.

CANACO: Chamber of Commerce (Mexico).

CANIRAC: Restaurant and Processed Foods Industry National Chamber (Mexico).

CATCert: Catalonia's Agency for Certification.

CCIJ: Industrial Chambers Council of Jalisco.

CCE: Business Coordinating Council (Mexico).

CCPCEC: Consulting Committee to Promote Competitiveness and Economic Development (Baja California).

CEDESPE: State Committee for Deregulation and Economic Promotion (Jalisco).<sup>1</sup>

CEMER: State Commission for Regulatory Improvement (Puebla).

CFIB: Canadian Federation of Independent Business.

CING: Integral Business Centre (Jalisco).

CMIC: Construction Industry Chamber (Mexico).

COECYTJAL: Jalisco's Council for Science and Technology.

COFEMER: Federal Commission for Regulatory Improvement (Mexico).

COLEF: Northern Border College (Mexico).

COMCE: Mexico's Business Council for Foreign Trade.

COMEREG: Regulatory Improvement Municipal Council (Guadalajara, Jalisco).

CONC: National Labour Commission of Catalonia.

COPARMEX: Mexico's Business Confederation.

CTM: Mexico's Workers Confederation.

DBR: Doing Business Report.

DGI: Information Systems General Direction (Baja California).

DQN: Direction for Normative Quality (Catalonia).

ERDF: European Regional Development Fund.

ESF: European Social Fund.

FAMPYME: Fund to Support SME (Mexico).

FEPIME: Small and Medium Business Federation (Catalonia).

FIDECAP: Fund to Promote Productive Chains (Mexico).

FOJAL: Jalisco Fund for Business Promotion.

FOMENT: National Promotion of Catalonia.

FPT-CRGR: Federal-Provincial-Territorial Committee on Regulatory Governance and Reform (British Columbia).

GDP: Gross Domestic Product.

ICT: Information and communication technologies.

IMCO: Mexican Institute for Competitiveness.

IMPI: Mexican Institute of Intellectual Property.

IMSS: Mexican Institute of Social Security.

INEGI: National Statistics and Geography Institute (Mexico).

INJAC: Jalisco's Quality Institute.

IPPC: Puebla's Institute for Competitive Productivity.

IVALUA: Catalanian Institute for Public Policy Evaluation.

JALTRADE: Jalisco's Institute for Foreign Trade Promotion.

MBL: Mobile Business License (British Columbia).

NIM: Normative Impact Memory (Catalonia).

ODAE: Office for the Development of Electronic Management (Catalonia).

OECD: Organisation for Economic Co-operation and Development.

OEM: Original Equipment Manufacturer.

OGE: Business Management Office (Catalonia).

PICA: Platform for Administrative Integration and Co-operation (Catalonia).

PIMEC: Small and Medium Businesses of Catalonia.

PROTEGE: Programme for the Protection of the Economy of Families and Jobs Creation (Baja California).

PTC: Premier's Technology Council (British Columbia).

RCC: Regulatory Criteria Checklist (British Columbia).

RFC: Tax Federal Registry (Mexico).

RIA: Regulatory Impact Analysis.

R&D: Research and development.

RMS: Regulatory Management Systems.

SACIEQ: Strategic Agreement for Catalonia's Internationalisation, Employment Quality, and Competitiveness.

SARE: System for Quick Business Start-Up.

SCM: Standard Cost Model.

SEDECO: State Ministry for Economic Development (Mexico).

SEIJAL: State of Jalisco Information System.

SEPROE: State Ministry of Economic Promotion (Jalisco).

SIAPA: Inter-municipal Water System (Jalisco).

SIGER: Integral System of Registry Information (Mexico).

SIGOV: System of Information and Management of Government Documents (Catalonia).

SME: Small and Medium Enterprises.

TILMA: Trade, Investment, and Labour Mobility Agreement (Canada).

UABC: State University of Baja California.

UDLA: America's University (Puebla).

UGT-C: General Labour Union of Catalonia.

URP: Units for Public Relations (Piemonte).

## NOTE BY THE SECRETARIAT

This report summarises the findings of several case studies on best practices to promote regulatory reform and entrepreneurship at the sub-national level. It has benefited from the participation of three Mexican states (Baja California, Jalisco, and Puebla), as well as of three provinces from other countries, British Columbia (Canada), Catalonia (Spain), and Piemonte (Italy).

The OECD and Mexico's Ministry of Economy agreed on a programme of work for 2008-09 to improve competitiveness. This work was organised in two pillars: regulatory reform and competition policy. Building on the achievements of the past two years, this framework of co-operation has been extended through 2011. The regulatory reform agenda received additional political support in January 2010, when Mexican President, Felipe Calderon, explicitly committed its government to reform by mandating a general review of the stock of regulations.

As a federal State, Mexico is one of the OECD countries in which sub-national governments have extensive regulatory powers. In consequence, the key issues and challenges that must be addressed in a multi-level regulatory governance framework are relevant. Mexico needs to improve the regulatory quality of its sub-national units to match progress made at the national level and strengthen a friendly business environment favouring competitiveness.

This report consists of five parts: *i*) the framework of analysis for multi-level regulatory governance issues; *ii*) the role of political leadership, policy entrepreneurs, and stakeholders' participation in advancing regulatory reform; *iii*) best practices in terms of building capacity and institutions to implement regulatory policies; *iv*) policies and tools, including, among others, *ex ante* procedures for new regulations and administrative simplification; *v*) best practices and policies dealing with competitiveness, such as those related to entrepreneurship, SME, and clusters.

This report was prepared by Jacobo Pastor Garcia Villarreal, with significant contributions from Stephane Jacobzone, Daniel Trnka, Manuel Gerardo Flores Romero, and Gustavo Mendoza Fierros. A team of consultants in each country helped by preparing case studies: Laura Jones, from the Canadian Federation of Independent Business; Jacint Jordana and David Sancho, from the University Pompeu Fabra of Barcelona; Judit Castella, from the Catalanian Foundation for Research and Innovation (FCRI); Mario Calderini, President of Finpiemonte; and IDEA Foundation in Mexico. The report would not have been possible without the extraordinary help of the government officials, at the national and sub-national levels, and delegates in charge of the data provision. We are particularly thankful to: Kim Lacharite (British Columbia), Peter Mckernan and Alexandre Gauthier (Treasury Board of Canada), Dolors Canals (Catalonia), Fiorenza Barazzoni (Italy), Alfonso Carballo (COFEMER), Rosa Angelina Romano (Baja California), Jose Salvador Chavez Ferrusca (Jalisco), and Victor Diaz (Puebla).

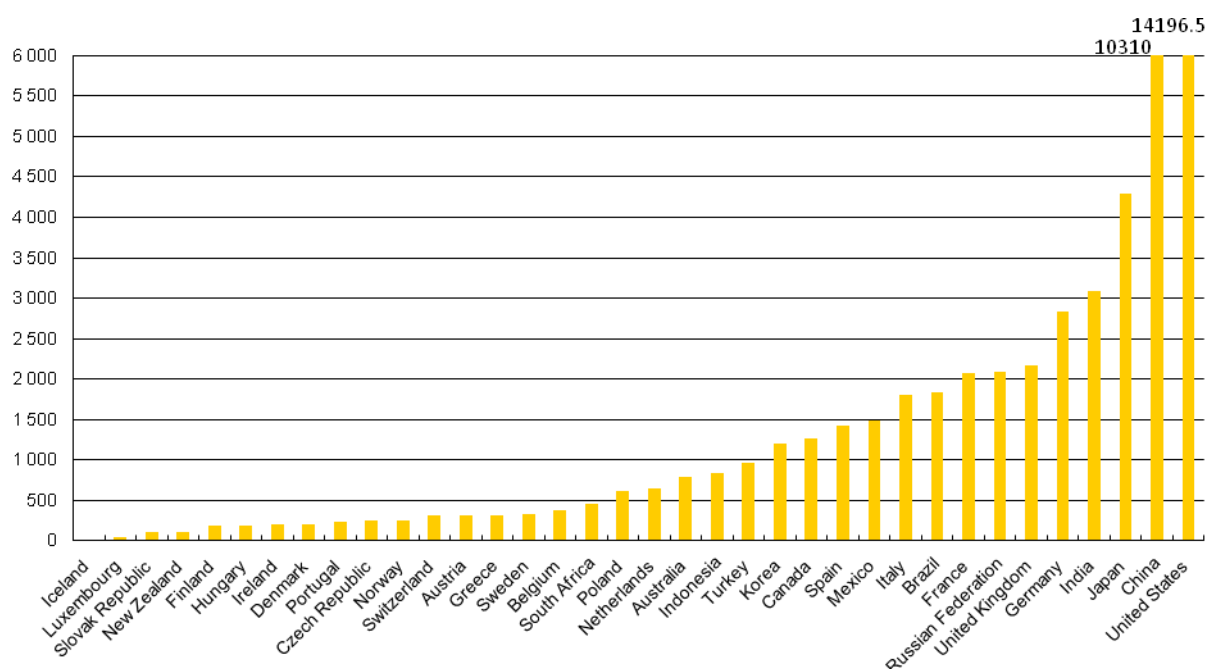


## INTRODUCTION: THE INITIATIVE “STRENGTHENING OF ECONOMIC COMPETITION AND REGULATORY IMPROVEMENT FOR COMPETITIVENESS IN MEXICO”

Mexico is a country with great economic potential. Its GDP (current prices and PPP) in 2008 was USD 1 531.1 billion, making it the seventh largest economy in the 30 member countries OECD area, only after France, Germany, Italy, Japan, the United Kingdom, and the United States. Its population was 105.7 million inhabitants in 2007, which makes it the third most populated country in the OECD area, after Japan and the United States. Furthermore, Mexico is the fourth largest country in territorial extension within the OECD area with 1 996 000 square kilometres, only after Australia, Canada, and the United States.<sup>2</sup>

**Figure 1. GDP in OECD member countries**

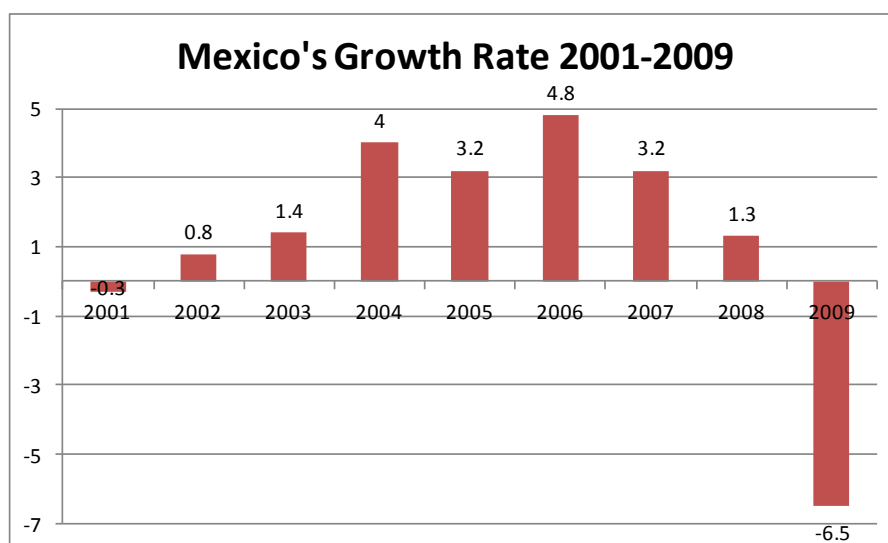
Current prices and PPP's, 2008



Source : *OECD Observer*, No. 276-277, December 2009-January 2010.

Despite its potential, Mexico’s growth rate has been rather volatile. During the period 2001-08, the average yearly growth rate was 2.3%, with a peak of 4.8% in 2006 and a thorough of -0.3% in 2001. In fact, Mexico is currently facing a significant economic downturn as GDP fell by 6.5% in 2009. Improving the quality of regulation at the different levels of government is one of the key challenges faced by Mexico to advance its competitiveness. Regulatory reform emerges as a policy option to create incentives for economic activity, strengthen competitiveness, and facilitate entrepreneurship, innovation, and job creation.

Figure 2. Mexico's growth rate 2001-09 (%)



Source: OECD StatExtracts, [www.oecd.org](http://www.oecd.org) and INEGI, [www.inegi.org.mx](http://www.inegi.org.mx).

To tackle this challenge, in 2007 the Mexican Ministry of Economy and the OECD agreed to cooperate in a project to improve competitiveness. This project includes a competition and a regulatory improvement pillar, both under the responsibility of the Vice-Ministry for Competitiveness and Standardisation. The regulatory pillar is co-ordinated by the OECD Regulatory Policy Division from the Directorate for Public Governance and Territorial Development. Its purpose is to improve Mexico's business environment by reforming, improving, and strengthening the regulatory framework and institutions that have incidence in starting and operating a business.

The initiative includes two activities that address directly the multi-level regulatory agenda. First, the project "short-term measures to improve competitiveness at the sub-national level", which is an in-depth study done in co-operation with the Mexican Institute for Competitiveness (IMCO), to provide evidence-based analytical material underpinning differences in regulatory performance across federal states. The goal is to identify the most burdensome processes (*tramites*) and measure their effect on entrepreneurship and investment. The study will involve benchmarking states and understanding how performance varies across an initial set of nine states, including both under and well-performing states in Mexico. These states are Baja California, Colima, Chiapas, Jalisco, Michoacan, Puebla, Sinaloa, Tabasco, and Tlaxcala.

Second, the initiative includes the project "successful practices and policies to promote regulatory reform and entrepreneurship". The OECD has reviewed best practices and successful policies of various sub-national jurisdictions in different countries, so that they can inform strategies to improve performance in Mexico. This report is precisely a compilation of best practices found in these sub-national jurisdictions. It describes the drivers of regulatory reform, institutions, and policies implemented to improve regulatory structures and facilitate entrepreneurship, as well as other policies that have proved to be successful in creating a dynamic business environment at the regional level, such as those related to small and medium enterprises (SME) and clusters.

This report summarises a series of practices that have proven to be successful in different countries. Despite this fact, policy makers must be cautious when trying to implement them in a different context. Regulators must consider the legal environment and the degree of institutional development to adapt the practices reviewed in this report. Its findings are useful to guide the process of design, implementation, and development of regulatory policies. In consequence, the report should be read with an open mind, while being aware of the specific contexts in which each practice takes place.

By including both, Mexican and international experiences, this report derives practical lessons for sub-national governments. Even though the Mexican states selected are recognised as advanced in terms of regulatory quality and business friendliness, it is clear that there is still much scope for them to learn from best international practices.

#### **Box 1. The choice of Mexican states**

Several criteria were considered to select the Mexican states participating in the project “successful practices and policies to promote regulatory reform and entrepreneurship”:

- Participation in the project “short-term measures to improve competitiveness at the sub-national level”: This is needed because IMCO’s report will complement the findings of best practices and enrich the recommendations that will be made in a toolkit for regulatory reform at the sub-national level.
- Economic and competitiveness indicators: The selected states have an outstanding performance in regulatory reform and/or competitiveness policies when compared to other Mexican states. Several studies were used to assess performance, such as the Sub-national Edition of the Doing Business Report, Doing Business in Mexico 2009, and the State Competitiveness Index 2008 by IMCO.
- Institutional capacity and commitment to regulatory reform and competitiveness policies: This is shown, for example, in the case of Puebla, by the existence of a decentralised state-level commission for regulatory reform and a Law for Regulatory Improvement.
- Economic composition: The selected states have an industrial economic composition that partially resembles that of the international provinces selected. A dynamic business-friendly environment was also an element to consider.

At the end, the selected states were Baja California, Jalisco, and Puebla:

- Baja California and Jalisco have developed strong policies to create business-friendly environments and their economic composition includes several clusters, such as auto industry, electronics, tourism, aeronautics, call centers, and so on.
- Puebla is a pioneer in institutional design and operation for regulatory reform as it was one of the first states to establish a decentralised commission for regulatory reform. Furthermore, its economic composition is concentrated on manufacturing, particularly in mid-high tech sectors. It is also a state with a good number of higher education institutions.

The international provinces selected are British Columbia (Canada), Catalonia (Spain), and Piemonte (Italy). Given the economic and industrial profiles of these three international provinces, valuable lessons are derived for the Mexican states to strengthen their competitiveness and regulatory quality.

## Box 2. The choice of International provinces

The international provinces selected are recognized as some of the best in their countries regarding regulatory quality and competitiveness. They have also applied sound policies to create business-friendly environments, which is very relevant for the case of the Mexican states.

- *British Columbia* used administrative simplification strategies to vault from the low-middle of the Canadian rankings towards the top performing provinces. The political support given to regulatory reform is reflected in practices such as that of measuring administrative burdens, setting targets for burden reduction, and reporting progress publicly towards such targets. Furthermore, British Columbia has a highly diversified economy, with interesting industrial experiences for Mexico (electronics, life sciences, etc.).
- *Catalonia* has also undertaken regulatory reforms and is working on a regional innovation strategy. Furthermore, its economic composition (tourism, auto, etc.) will be of interest to many Mexican states.
- *Piemonte* is a province based for a larger part on the automobile industry, looking to move to higher value added activities within the automobile sector and in other industries as well. Its recent regulatory reforms and its regional innovation strategy are policies from which Mexico could learn about how to strengthen its competitiveness agenda.

## 1. The multi-level regulatory governance agenda

### 1.1. Framework of analysis

In most OECD countries, different levels of government coexist. Central government bodies, supported by a network of institutions and rules, function alongside regional and local governments, with their own set of rules and attributions. In this context, the different layers of government have the capacity to design, implement, and enforce regulation. This multi-level regulatory framework poses a series of challenges that affect the relationships of public entities with citizens and businesses and, if poorly managed, may impact negatively on economic growth, productivity, and competitiveness. Among others, the challenges include avoiding duplicated or overlapping rules, low quality regulation, and uneven enforcement.

The 2005 *OECD Guiding Principles for Regulatory Quality and Performance* stipulate that countries should “encourage better regulation at all levels of government, improve co-ordination and avoid overlapping responsibilities among regulatory authorities and levels of government” (OECD, 2005).

Even before, the OECD had recognised the challenge of including sub-national jurisdictions into the framework for regulatory reform. In a 2002 report, the organisation defined the challenge of “broadening the scope of regulatory policy to include a substantially greater focus on regulation making at sub-national and supra-national levels, as well as taking account of the importance of co-operative regulatory activity between different governments” (OECD, 2002, p. 12).

The OECD developed a framework to analyse key issues of multi-level regulatory governance (Rodrigo *et al.*, 2009). It claims that an analytical framework for multi-level regulatory governance should address a number of issues, including regulatory policies and strategies, institutions, and policy tools. On regulatory policies and strategies, issues related to harmonisation of regulatory policy and vertical co-ordination for regulatory quality must be addressed. The definition of roles and responsibilities of institutions responsible for regulatory policy is also an important element in this context, with the aim to strengthen institutional capacities. Finally, a set of regulatory policies and instruments that should be applied at lower levels of government, such as the introduction and use of regulatory impact assessments, transparency, reduction of administrative burdens, as well as tools to improve compliance and enforcement of regulation, are included in the agenda of a multi-level regulatory governance framework.

The OECD established that “high quality regulation at one level of government can be undermined by poor regulatory policies and practices at other levels, impacting negatively on the performance of economies and on business and citizens’ activities” (OECD, 2009a, p. 8). In order to ensure regulatory quality across levels of government, the principles that lower levels should follow must be defined. Clear definitions and effective implementation of the mechanisms to achieve and improve co-ordination, coherence, and harmonisation in making and enforcing regulation must also be in place. Finally, measures to avoid and eliminate overlapping responsibilities are also critical.

Other studies have found further evidence to support OECD’s conclusions. For example, the Canadian Federation of Independent Business (CFIB) recognises that “while a certain amount of regulation in society is important for efficiency and safety, excessive regulation has serious negative consequences for prosperity. Red tape limits consumer choices, raises prices, frustrates entrepreneurship, reduces productivity, and lowers living standards” (Jones *et al.*, 2005, p. 9).

The Doing Business Report of the World Bank has also implicitly stressed the importance of multi-level regulatory governance in the sub-national series of the report. The publication on Mexico estimates the number of formalities that have to be completed to start a new business in each state, the time it takes to complete such formalities, and the costs they imply (expressed as a percentage of GDP per capita). By using such indicators, the report ranks each state and its regulatory quality (World Bank, 2008, p. 38).

Arguments for regulatory quality are grounded and justified in theory and in practice. In most cases, the arguments for quality in the national regulatory framework can also be applied to the sub-national level. Local regulatory systems become even more important as sub-national jurisdictions compete for investment and jobs. Therefore, just like in the national framework, sub-national regulatory policies should have the following objectives (OECD, 2002, p. 28):

- Increasing social welfare by better balancing and more effectively delivering, social and economic policies over time.
- Boosting economic development and consumer welfare by encouraging market entry, innovation, and competition, and thereby promoting competitiveness.<sup>3</sup>
- Controlling local regulatory costs so as to improve productive efficiency by reducing unnecessary costs, in particular for SME.
- Improving sub-national public sector efficiency, responsiveness, and effectiveness through public management reforms.
- Rationalising and restating local laws.
- Improving rule of law and democracy through legal reforms, including improved access to regulation and reduction of excessive discretion of regulators and enforcers.<sup>4</sup>

Sub-national regulatory quality is also important because there is a strong regional influence in the capacity of a country to attract investment and create jobs. Policies oriented towards clusters emergence or innovation systems, for example, are basically regional in nature and, therefore, require a business-friendly regional environment, in which, without a doubt, regulatory quality plays an important role.

Clearly, regulatory reform at the sub-national level is a field that requires more research. The OECD's work will continue studying how to improve regulatory practices at the sub-national level and extend some of the analytical tools used at the national level to be adapted for the use of sub-national governments. Such is the case, for example, of the indicators of regulatory management systems.

### **Box 3. The indicators of Regulatory Management Systems**

How many countries have a Minister in charge of the regulatory reform agenda? How many OECD countries have a requirement to systematically quantify the expected costs and benefits of new regulations? How many countries systematically take social concerns into account when preparing new regulation? What countries have a programme to measure and reduce bureaucracy imposed on businesses and citizens? The OECD surveys on countries' regulatory management systems (RMS) conducted in 1998, 2005, and 2008 answer these and many other questions.

Almost 200 indicators offer comprehensive insights about trends in regulatory reform and identify leading regulatory management practices. They include information on administrative simplification and burden reduction, regulatory impact assessments, transparency and access to information, consultation practices, drivers of regulatory reform, regulatory oversight bodies, alternatives to regulation, compliance and enforcement issues.

The Regulatory Policy Division of OECD fosters knowledge-sharing in technical areas related to the measurement of regulatory practices and governance. Workshops are organised to bring experts from ministries and universities together to share experiences and identify good practices, as was the case in London in April 2009. For more information, see [www.oecd.org/regreform/indicators](http://www.oecd.org/regreform/indicators).

## **1.2. Why is it relevant for Mexico?**

Mexico is integrated by 31 states and the Federal District (D.F.), which are as well divided into about 2 443 municipalities. As it is reasonable to suppose, there is wide diversity regarding the competitive situations and regulatory arrangements in each of these sub-national units, as well as huge co-ordination challenges for such a large number of jurisdictions.

As a federal State, Mexico is one of OECD countries in which sub-national governments have extensive regulatory powers. Federal, state, and municipal authorities have the capacity to design, implement, and enforce their own regulations. In some cases, boundaries for each level of government are defined, but in many others, the regulatory framework establishes that the three levels will concur in specific governance matters. Therefore, the key issues and challenges that must be addressed in a multi-level regulatory governance framework are relevant for the case of Mexico.

Mexico needs to improve the regulatory quality of its sub-national units if it is to create a friendly business environment and gain competitiveness. Given the fact that an entrepreneur has to fulfil formalities at the federal, state, and municipal level, this need becomes even more urgent.

The scope to improve regulatory quality in Mexico is well documented. The Doing Business Report 2009 found that it takes 28 days to complete the formalities to start a business in Mexico, while in G-7 countries it takes on average 11.7 days. The cost, measured as a percentage of income per capita, of opening a business in Mexico is 12.5%, much higher than in G-7 countries (4.9%) (World Bank, 2009).

The World Economic Forum has also ranked Mexico's regulatory quality *vis-à-vis* other countries. In its indicator "Burden of Government Regulation" Mexico's score was 2.4, well below the average for G-7 countries, which was 3.1.<sup>5</sup>

Carlos Arce, former head of the Federal Commission for Regulatory Improvement (COFEMER), identifies a problem in the fact that the only mechanism to apply cost-benefit analysis and ensure quality regulation in Mexico is COFEMER. But it only controls agencies within the scope of the federal executive, and has no authority to review regulation issued by the national Congress, State Congresses, the Federal District Government, or municipalities (IMCO, 2009, pp. 151-152).

State governments have been advancing in this matter and now, 17 out of 32 states have issued regulatory reform laws, 12 have decentralised commissions working on regulatory improvement, and 20 have a unit within the state ministry for economic development addressing the issue. The Mexican Association of Economic Development Secretariats (AMSDE) has even set up a formal commission on regulatory reform. However, the degree of progress and sophistication varies from state to state and even the most outstanding ones have wide scope for learning from best international practices.

## **2. Raising regulatory reform on the political agenda: where to start?**

Regulatory reform competes for resources with many other priorities and, sometimes, politicians opt for policies with short-term results or politically attractive. Policy entrepreneurs, business organisations, and other stakeholders may strengthen regulatory reform from the beginning of the process by putting together coalitions and lobbying for political support.

### ***2.1. Political Leadership***

The *2005 OECD Guiding Principles for Regulatory Quality and Performance* urges governments to “commit to regulatory reform at the highest political level, recognising that key elements of regulatory policy – policies, institutions and tools – should be considered as a whole and applied at all levels of government” (OECD, 2005, p. 3).

Sustained regulatory reform can only be achieved with strong political leadership behind it. In fact, without such political support, regulatory initiatives are reduced to a few sectors or one time regulatory reductions that are easily reversed (Jones *et al.*, 2005, p. 17). Political leadership helps to mobilise action and resources for regulatory reform, improving public sector efficiency, responsiveness, and effectiveness. It also helps to overcome resistance and bureaucratic inertia and to prevent a backlash sponsored by aggrieved interests. Furthermore, political leadership helps to communicate to the public the relevance of regulatory reform to achieve larger social and economic goals. Additionally, it speeds up results by enhancing the credibility and transparency of change (OECD, 2002, p. 41).

*Recommendation #1: Political leaders and, particularly, the head of government must be publicly committed to regulatory reform.*

The cases under review demonstrate clearly that political support improves the chances of success and continuity of regulatory reform. One way for political leaders to commit to regulatory reform is by publicly setting a target reduction of regulatory burdens. British Columbia (BC) is an outstanding case. The Liberal government elected in 2001 campaigned on a promise to improve the business climate in the province, making a commitment to reduce the regulatory burden by one-third in three years.

Since then, regulatory reform has had strong support from the Premier’s office, the highest provincial political office. For example, the Premier ensures that regulatory reform is a topic of discussion at cabinet meetings. In his first cabinet, he appointed a Minister of State responsible for Deregulation, whose only responsibility was regulatory reform. This Minister, taking advantage of the strong political commitment from the Premier, established a method to quantify regulatory burdens, follow up the goals for deregulation for each ministry,<sup>6</sup> and publish quarterly regulatory counts.

In addition, the House Leader, who is the responsible for ensuring government bills become laws, ensured that any legislation that needed to be passed in order to reduce regulatory requirements would get on the legislative agenda.

All these signals – campaign commitments, appointment of an entity responsible for regulatory reform, quantifying regulatory burdens, and publishing regulatory counts – made clear for government officials and the public that regulatory reform was a priority for the BC government.

In Piemonte, the President made strong political endorsements for regulatory reform, simplification, and entrepreneurship in her electoral programme and in the first years of her mandate. The strongest political act was the establishment of the regional Ministry for Federalism, Decentralisation, Relations with Local Authorities, Legal Affairs, and Relations with the Regional Council, in order to allocate clear responsibilities for regulatory activities and simplification to a single ministry that has been in charge since 2005.

The government has tried to push its regulatory action further by creating a cross-functional task-force called the “simplification group”, composed of managers and civil servants belonging to different directorates of the regional administration. Its purpose is to integrate the regulatory activities of the different directorates and provide a more comprehensive and co-ordinated approach along the main axis of regulatory reform. In support of the regional efforts, political leadership has also come from the national government, in fact, the three conferences that allow multi-level co-ordination<sup>7</sup> are held in the Prime Minister’s office.

In Catalonia, the government that took over in 2003 has backed regulatory reform from the top political level to identify and enhance the impacts of regulation on the economy and society. The most outstanding initiative during the first legislature (2003-06) was the establishment of the “Strategic Agreement for Catalonia’s Internationalisation, Employment Quality, and Competitiveness” (SACIEQ) in February 2005. The agreement emerged from a long process of negotiations, headed by the Department of the Economy of the government, with business and labour organisations. It includes, among many other initiatives, the introduction of administrative simplification measures to reduce burdens for businesses, particularly start-ups and SME. The government “invested” its political capital in reaching this ambitious agreement and 86 measures were defined to be undertaken during three years. In 2008, political leadership was reaffirmed when the SACIEQ was reviewed and a new edition was agreed with strategic lines for the period 2008-11.

Political commitment to regulatory reform materialised in the foundation of the Direction for Normative Quality (DQN) in April 2008. The DQN was located under the responsibility of the Department of the Presidency (Government Secretariat), reflecting the political priority given to regulatory reform and the intention to grant political authority to conduct regulatory policy in a decentralised manner.

The Mexican states also offer valuable experiences. Basically, two actors usually take the political leadership for regulatory reform, Governors and Ministers of Economic Development or, when there is a decentralised commission for regulatory reform, the head of it. In Baja California, regulatory reform has been supported from the top political level since 1996. In that year the state government implemented the “Agreement for Deregulation of Business Activities” (ADAEE), which led to a process of simplification of regulations for business start up and the constitution of the State Registry of Business Formalities. The Governor just announced a “guillotine strategy” in December 2009 to eliminate unnecessary regulations, simplify the supply of public goods and services, and facilitate interactions with citizens. Furthermore, the State Ministry of Economic Development promotes the continuity of the System for Quick Business Start-up (SARE) in the municipalities; in fact, the Minister meets elected Mayors before they take over to ensure the continuity of regulatory reform efforts.



In Jalisco, the Governor presides over the meetings of the State Committee for Deregulation and Economic Promotion (CEDESPE). The important signal here is that he usually presides over its sessions personally and does not delegate this function to another government official. In Puebla, the Governor also presides over the board of the State Commission for Regulatory Improvement (CEMER) and the commission, in turn, pushes to guarantee the continuity of regulatory reform in the municipalities by lobbying elected Mayors and members of City Councils.

Several lessons can be derived from the cases under review:

- Political campaigns open a window of opportunity to commit politicians to regulatory reform (BC and Piemonte).
- Establishing institutions in charge of leading regulatory reform is a strong signal for government officials and public opinion (BC, Piemonte, Catalonia, Baja California, Jalisco, and Puebla).
- It is important to engage legislative leaders in support of regulatory reform (BC).
- The support of the heads of government (Premier, Governors, *etc.*) is a strong incentive for the whole government to engage in regulatory reform (BC, Piemonte, Catalonia, Baja California, Jalisco, and Puebla).
- State authorities must support the continuity of regulatory reform efforts in the municipalities (Baja California, Jalisco, and Puebla).

*Recommendation #2: Make sure critical elements of regulatory policy, such as regulatory impact analysis, regulatory checklists, consultation, e-government, simplification, review, and evaluation of procedures, are formalised in legislation, executive orders, decrees, etc.*

Political agendas are dynamic and their elements gain and lose relevance continuously. As a consequence, elements of regulatory policy need to be formalised in order to increase the likelihood that they will not be abandoned when there is a change of administration.

In BC legal authority for regulatory reform comes from a Cabinet Directive from the Executive branch of government, which includes the Premier and ministers. Including all these offices provides horizontality to the regulatory reform policy, which enhances co-ordination and coherence.

In Piemonte the great impulse given to regulatory and simplification issues by the current regional government is visible by the significant number of legislative acts addressing them since 2005:

- Regional Law 7/2005 on administrative simplification: It introduced two important tools; the silence is consent rule and reporting the commencement of a business activity.
- Regional Law 13/2005 on legislative simplification and the application of RIA.
- Regional Law 7/2007 on organisational simplification: It abolished regional observatories, concentrating different functions in a few of them.
- Regional Law 15/2007 on organisational simplification: It introduced specific rules to promote co-operation between small municipalities.

- Regional Law 15/2008 on legislative and administrative simplification. It eliminated 30 regional laws and introduced specific rules for simplification in the health sector.

In Catalonia, just like in Piemonte, a number of decrees advance regulatory reform policies and tools:

- Decree 324/2001. It regulated electronic interactions between citizens and the administration.
- Decree 93/2008. It re-structured the Department of the Presidency and established the responsibilities of the DQN and the Office of Government<sup>8</sup>, which also has a very important role in preserving regulatory quality. The decree established the two areas in which the DQN is divided: Project Analysis; and Dissemination and Analysis of Best Normative Practices. Finally, it granted the attribution of reviewing the NIM to the DQN.
- Decree 106/2008. It introduced the requirement of a “Normative Impact Memory” (NIM) to accompany new regulations affecting economic activities, which would assess the impacts of such regulations. Likewise, it requires the department introducing new regulation to quantify the administrative costs created for businesses.
- Decree 56/2009. It increases the number of sectoral procedures that can be completed online.

The Mexican states under review provide good experiences in using this strategy. In Baja California, the Law to Promote Competitiveness and Economic Development, approved in 2005, established a Working Group on Regulatory Reform, which has the attribution of “analyzing laws, rules, and procedures that impact business activities” and “elaborating proposals for regulatory reform”.<sup>9</sup>

In Jalisco, the Law for Regulatory Improvement established the requisite for authorities to present a Regulatory Impact Analysis (RIA) when proposing new laws and regulations, as well as the process for the State Ministry of Economic Promotion (SEPROE) to review the quality of RIA.<sup>10</sup> Puebla also has a Law for Regulatory Improvement establishing the requirement of a RIA and the process to review it by CEMER.<sup>11</sup>

*Recommendation #3: Establish the basic institutional arrangements for regulatory reform, i.e. a regulatory reform law, along with a body responsible of overseeing its implementation.*

Once regulatory policy elements are formalised and/or used conventionally, they can be strengthened by setting up basic institutions, such as a regulatory reform law and a regulatory reform office.

In BC, as mentioned before, the Premier appointed a Minister of State responsible for Deregulation. This figure has evolved and now there is an office called Straightforward BC, which is within the Ministry of Small Business, Technology and Economic Development. In Piemonte, the regional government established the Ministry for Federalism, Decentralisation, Relations with Local Authorities, Legal Affairs, and Relations with the Regional Council, to take care of regulatory reform issues. Likewise, in Catalonia, the DQN was created, within the Department of the Presidency, to promote regulatory reform.

In Baja California, the Law to Promote Competitiveness and Economic Development established the Consulting Committee to Promote Competitiveness and Economic Development (CCPCEC), which is supported by the Working Group on Regulatory Reform. These two institutions are defined as the entities responsible for regulatory reform, along with the operative support by the State Ministry for Economic Development (SEDECO). This law also defined the process to review regulatory proposals.

Puebla also provides an interesting example. In July 2001, the State Ministry of Economic Development established a General Co-ordination for Regulatory Reform within its organisational chart. In November 2002, the State Congress approved by consensus the Law for Regulatory Improvement to institutionalise the regulatory reform policy. One month later, in December 2002, the General Co-ordination for Regulatory Reform was transformed to a decentralised body, CEMER, created by a decree of the State Congress.

In Jalisco, the Law for Regulatory Improvement was approved on 1 October 1 2009, by the State Congress and it explicitly established the responsible entity for regulatory reform in article 10: “The Ministry of Economic Promotion will be in charge of planning, programming, and executing the activities related to regulatory reform and administrative simplification”.

*Recommendation #4: Facilitate external ongoing accountability by offering public access to information about the progress and achievements of regulatory reform.*

External accountability helps regulatory reform in different ways. First, it provides credibility to the priority given to the policy. Second, it forces governments to follow up the progress of the policy, allowing ongoing evaluation and adjusting, as necessary. Finally, it creates pressures for government agencies to adhere to the policy and perform according to public expectations.

BC is the champion for this strategy. The province’s practices offer transparency to the citizens, helping them to understand better the positive impact of regulatory reform. After quantifying the regulatory burden, the BC government established quarterly progress reports to explain how the one-third reduction target was being met. Furthermore, the Finance Ministry includes regulatory counts by ministry in the budget documents, which are also public.

In Piemonte, there is an “Administrative Reform Observatory”, which was created thanks to negotiations between the regional and local authorities in the Region-Local Authorities Permanent Conference. The Observatory, which involves the participation of business groups, analyses and monitors the effectiveness of the administration, studies the main factors affecting administrative reform, and promotes comparisons at all levels, with a special focus on simplification.

In Catalonia, a structure of follow up mechanisms was established to guarantee the transparency of the achievements of the SACIEQ. There is a system of evaluation indicators connected to an intranet to facilitate updates by each of the responsible departments. Since business and labour organizations were involved in the SACIEQ, they are also involved in the evaluation of its goals.

## ***2.2. From policy entrepreneurs to institutions***

The experience with regulatory reform in the Mexican states has one common denominator: a policy entrepreneur setting the issue on the political agenda and pushing to create the institutional framework to deal with it.<sup>12</sup> A leader advocating regulatory reform has many advantages but eventually, his efforts must be institutionalised to guarantee the continuity of regulatory policies.

*Recommendation #5: Policy entrepreneurs have a role to design a strategy to set regulatory reform in the political agenda and build incrementally.*

Puebla provides an interesting example. The entrepreneur took advantage of the poor performance of the state to start advocating regulatory reform. In 2000, the Business Coordinating Council (CCE) published a report that ranked Puebla 30<sup>th</sup> (out of 32) in days to open a business, since it took 106 days to start up a firm.

In September 2000, the entrepreneur led the effort to organise the first “International Forum for Regulatory Reform: Alternatives to Achieve Better Results”. Participants to this event included government officials from the 13 municipalities of Puebla with the most important economic activity and from the other 31 states, as well as 14 countries.

In July 2001, Puebla’s Ministry of Economic Development created a General Coordination for Regulatory Reform within its institutional chart. The policy entrepreneur was appointed to lead this unit. In November 2002, the State Congress approved the State Law for Regulatory Improvement and, finally, in December 2002, a decree of the State Congress gave birth to CEMER. The policy entrepreneur was appointed to lead the commission and he has done so from its creation up until 2010.

Jalisco is in some ways a similar experience. The main difference is that, while in Puebla the efforts to advocate regulatory reform started at the state level, in Jalisco they started at the municipal level. The policy entrepreneur that led the effort to establish an office devoted to regulatory reform in the municipality of Guadalajara (2003-06) later led the work to establish that office at the state level. The entrepreneur has achieved the continuity of the regulatory reform policy by involving CEDESPE in its management.

Institutionalisation of regulatory reform has been incremental. First, article 33 of the Organic Law of the Executive established that SEPROE is the ministry in charge of promoting regulatory reform. The Law for Regulatory Improvement, just approved in October 2009, also recognised the role of SEPROE as leader of the regulatory reform policy.

Puebla’s and Jalisco’s experiences provide important lessons:

- A poor performance of the state in a recognized report (CCE, DBR, IMCO, *etc.*) provides an excellent opportunity to push for regulatory reform.
- Regulatory reform must be given public visibility: Politicians must recognise it as an important policy to achieve competitiveness and public opinion must realise that there is an opportunity to improve the regulatory quality of the state. This could be done through a forum or congress or by involving citizens in the management of regulatory policy.
- Building step by step: Incremental achievements are critical to institutionalise regulatory reform. A unit responsible for regulatory reform is a strong first signal that the issue is going to be addressed. A law and a decentralised commission strengthen the policy and set specific tools.

*Implementation advice: Support the entrepreneur at the initial stages and, afterwards, encourage the institutionalisation of regulatory policy practices.*

A policy entrepreneur is a positive force in the efforts to advance regulatory reform. Political leaders must recognise the efforts of these entrepreneurs and provide them with the political backing and the material means<sup>13</sup> (budget, offices, equipment) to advance regulatory reform. Usually, policy entrepreneurs stay in the regulatory reform agencies for a long time. For example, in Baja California the General Coordination for Regulatory Improvement is composed of only one person, who has been there for nine years. Similarly, CEMER’s General Director has occupied this position for over seven years.

Despite the continuity that the policy entrepreneur might have, there is always the question of what would happen if he/she leaves. If the whole policy depends on his individual efforts, his departure will imply the decline of regulatory reform. In consequence, governments must institutionalise the entrepreneurs' efforts by issuing regulatory reform legislation and creating the institutional mechanisms (decentralised commissions, units within a ministry, *etc.*) to carry regulatory policy forward.

BC is a good example of institutionalisation. Despite the fact that there has been high staff turnover in Straightforward BC (none of the original staff is still working in the office), regulatory policy remains as an important strategy to enhance the province's competitiveness. This achievement might also have to do with the fact that the policy is concise and clearly written.

### **2.3. Business and citizen engagement**

*Recommendation #6: Create the institutional mechanisms to allow business and citizen participation in the guidance, management, and evaluation of regulatory reform.*

There is a wide variety of forms for sub-national governments to allow business and citizen participation in the management of regulatory reform and, even though each form may not be perfect, the important point is that they create mechanisms to sustain regulatory reform as a long-term policy. This feature is particularly important for Mexico given the fact that Mayors are renewed every three years (four years in the State of Coahuila) and Governors every six years, without the possibility of re-election.

When the BC government committed to reduce red tape by one third, it created the Red Tape Task Force, largely made up of industry representatives. This group was tasked with reviewing and prioritising 150 different submissions with 600 proposals for reform from the business community. The Minister of Deregulation gave the priorities and recommendations reached by the task force to other ministers so that they would consider them in the preparation of their three year deregulation plans.

Besides the Red Tape Task Force, the BC government has established other mechanisms, permanent and ad hoc, to request advice and specific suggestions for improving economic competitiveness. For example, the Small Business Roundtable was set up in 2005 to consult with small business owners and provide advice to the government on strategies to enhance small business growth. It included small business owners and representatives from small business organisations and it was chaired by the Minister of Small Business, Technology and Economic Development. Regulation is regularly raised by the group as an important issue in its annual report, but it is not exclusively focused on regulatory reform.

The BC Competition Council was also set up in 2005 with a mandate to review the province's competitiveness, identify barriers to economic growth, and solutions to overcome them. The Council established Industry Advisory Committees for twelve sectors. Each one drafted a report with specific recommendations. Regulation was an issue raised in five of the 12 committees and there were also three major across the board recommendations regarding regulatory quality.

In Piemonte the main instrument to involve a broad range of different stakeholders in the regulatory reform agenda is the Administrative Reform Observatory. It was created in 2000 and involves, besides government representatives, members from civil society and the business community. The President of the region of Piemonte is also the president of the observatory. Its objectives, as mentioned before, are to analyse the effectiveness and efficiency of the administration, monitor the administrative decentralisation process, and study the main factors affecting the effectiveness of administrative reform. Its work is supported by a technical committee composed by eight managers (two from the regional administration and six from the provinces), and some experts, mainly academics.

#### **Box 4. Members of the administrative reform observatory**

- The President of the Region-Local Authorities Permanent Conference.
- 11 local authorities: Two representatives from the provinces, six from municipalities, two from the Mountain Communities and one from the Chamber of Commerce.
- 7 representatives from economic activities: One representative from the industrial sector, the commercial sector, craftsmen, farmers, bankers, trade unions, and the co-operative sector.
- 4 representatives from the voluntary service sector: Two representatives of consumers, one from social co-operatives and one from universities.
- 1 representative from the primary education system.

In Catalonia, the negotiation of the SACIEQ involved the main economic and social agents. On the one hand, labour was represented by the National Labour Commission of Catalonia (CONC) and the General Labour Union of Catalonia (UGT-C). On the other hand, business representation was held by Small and Medium Businesses of Catalonia (PIMEC), National Promotion of Catalonia (FOMENT), and the Small and Medium Business Federation (FEPIME). An institutional architecture was developed to allow stakeholder participation in following up agreements and evaluating performance indicators, including a follow up commission, the Institutions Council, territorial commissions and the Commission to link with Parliament.

In addition, the Labour, Economic, and Social Council of Catalonia acts as a consulting and advising entity for the government on issues related to economic and labour affairs. The Council was created by law in 1997 involving labour and business representatives from the most relevant economic sectors. Among other activities, it issues opinions on economic regulations previous to their enactment.

In the Mexican states under study, as well as at the international level, several kinds of mechanisms for business and citizen participation were identified. In Baja California, the private sector had a relevant role for the implementation of ADAEE in 1996. Due to the current economic crisis, the state government is implementing the Programme for the Protection of the Economy of Families and Jobs Creation (PROTEGE). The programme includes ten strategic lines to reactivate the state's economy. One of those lines is "Business Support and Competitiveness", which comprises Deregulation Roundtables to simplify business formalities. The roundtables have included a "Forum on Deregulation of Business Formalities". The business groups that have participated in the roundtables are, among others, the Chamber of Industry, the Chamber of Small Commerce, the CCE, the Maquiladora Association, the Public Accountants Association and universities, such as the State University of Baja California (UABC), UVM, UNIVER, *etc.*

The roundtables and the forum have provided ad hoc opportunities to incorporate a plurality of voices and led to the design of institutional mechanisms to guarantee business and citizen engagement in the regulatory reform agenda. One of those mechanisms is the CCPCEC, which includes a significant number of members from the business and academic sectors. In addition, in October 2009, the Competitiveness Observatory, involving the participation of academic and business organisations, such as COLEF, UABC, and CCE, was created to follow up the economic performance of the state.

In Jalisco there are institutionalised mechanisms at both, state and municipal level. CEDESPE is the main instrument at the state level. Indeed, there have been numerous important regulatory discussions in its meetings, such as those related to the State Law on Administrative Procedure and the Announcements Bylaw. The participation of business and citizen groups in CEDESPE is not limited to identifying opportunity areas for regulatory reform, but it is extended to the design of laws and regulations. In fact, CEDESPE works through committees that are headed by business and citizen groups, as Table 1 shows. At the municipal level, there is a Regulatory Improvement Municipal Council (COMEREG) in Guadalajara. This council facilitates co-ordination with other levels of government and civil society, by involving representatives from the business community and the three levels of government.

**Table 1. CEDESPE Committees**

Committee	Presided by
Improvement of Laws and Regulations	Chamber of Commerce (CANACO)
Environment and Energy	Mexico's Business Confederation (COPARMEX)
Water	Neighbours Federation
Urban Development and Housing	Construction Industry Chamber (CMIC)
Administrative Modernisation and Innovation	COPARMEX
Intellectual Property	Mexican Institute of Intellectual Property (IMPI)

**Box 5. Members of CEDESPE**

- From the State of Jalisco Government:
  - State Governor.
  - SEPROE and five other ministries (Finance, Urban Development, Transportation, Health, and Environment).
  - Urban Development Bureau.
  - Inter-municipal Water System (SIAPA).
- Municipalities.
- Business and citizen groups:
  - 9 Business Groups: COPARMEX, Industrial Chambers Council of Jalisco (CCIJ), CANACO Guadalajara, CMIC, Mexico's Business Council for Foreign Trade (COMCE), Restaurant and Processed Foods Industry National Chamber (CANIRAC), Banking Center of Guadalajara, Housing Business Association of Jalisco, and Regional Farming Union of Jalisco.
  - Small Rural Property Owners Federation of Jalisco.
  - Workers and Peasants Confederation.
  - Mexico's Workers Confederation (CTM).
  - Peasants National Confederation.
  - Professionals Federation of Jalisco.
  - Neighbors Federation.

In Puebla, during 2002, the business community was called upon to participate in workshops to discuss the design of the Law for Regulatory Improvement. In May 2000 the Consulting Council on Regulatory Reform and Economic Affairs was established with the objectives of collecting opinions by business and citizen groups, analysing laws and regulations related to business activities, and proposing reforms to such regulations. This Council later became the board of CEMER. Business and citizen groups are incorporated in the board by including the Dean of the America's University (UDLA) and the president of the local chapter of the CCE.

Several lessons can be derived from the cases under review:

- There are several types of mechanisms to allow business and citizen participation in the regulatory reform agenda. The institutionalisation of these mechanisms is critical to strengthen the long-term prospects of regulatory reform.
- Ad hoc and permanent mechanisms help in “socialising” regulatory reform, so that citizens understand its relevance and the benefits derived from it.
- Membership diversity brings additional stakeholders to the regulatory reform agenda, which acts against a potential backlash. Examples of very diverse memberships are CEDESPE (Jalisco) and the Regulatory Reform Observatory (Piemonte).
- Mechanisms at different levels of government to allow business and citizen participation in the regulatory reform agenda do not conflict with each other, but strengthen multi-level co-ordination and regulatory quality. CEDESPE and COMEREG represent an example.

*Implementation advice: Business groups advocating the improvement of the overall regulatory framework, not just sector specific or individual regulations, are more successful in achieving the continuity of regulatory reform.*

Business groups advocating reforms only in specific sectors or individual regulations run the risk of being perceived as representatives of special interests, not of the public interest, which may erode their authority and capacity to successfully lobby government.

In BC the success in meeting the one-third reduction target has meant that regulation is no longer as high a priority as it was earlier in the decade. With a few exceptions, business groups tend to lobby for improvements in sector specific or individual regulations, not anymore in the overall regulatory framework. The CFIB has resisted this logic and successfully pushed to introduce and then extend a target of no-net increase in regulatory requirements across the board after the one-third target was met. Furthermore, it is advocating legislation to make reforms permanent.

In Piemonte industry and business associations are very strong. They are oriented to negotiate with the different levels of government through their presence in institutional bodies and by exerting their influence on the media. Confindustria System (the largest national industry association) through its local associations, the Chamber of Commerce network, and other smaller associations like API, which represents smaller firms, have concentrated their lobbying activity on the issue of simplification and decreasing of the administrative burdens for businesses, as well as on faster payments from the public administration and higher efficiency in managing incentive policies for industry.

*Implementation advice: Business and citizen groups taking advantage of regulatory consultation strengthen the transparency of the regulatory process.*



When business and citizen groups actively participate in consultations, regulators are under pressure to permanently consult stakeholders and work transparently.

In BC the threat of being publicly challenged provides a strong incentive for ministries to carry out consultations. Media usually asks businessmen if they were consulted when major regulatory changes take place. On the contrary, if consultations are disregarded by business and citizen groups, regulators can always justify their decisions on the lack of interest by stakeholders.

In Catalonia, as mentioned before, business and labour groups are active in following up economic and regulatory performance via the indicators system of the SACIEQ and the Labour, Economic, and Social Council of Catalonia, which, in fact, issues opinions on regulatory initiatives and actively participates in consultations.

In Baja California, business and citizen groups participate actively in consultations via the CCPCEC, which validates regulatory proposals before the government analyses their legal justification.

### **3. Institutional design and capacity building**

As we have already stated, regulatory reform requires institutions to support it. The form these institutions can take is diverse, but the OECD has found that they usually perform three tasks:

- The “Police” task (challenge function): “A central pillar of regulatory policy is the concept of an independent body assessing the substantive quality of new regulation and working to ensure that ministries comply with the quality principles embodied in the assessment criteria” (OECD, 2002, p. 89).
- The “Advisor/Facilitator” task (providing advice and support): Government bodies in charge of regulatory reform also advise public administration offices and municipalities to draft their regulatory programmes and train their staff through seminars, workshops, and dissemination of best practices.
- Advocacy: Drafting annual reports and programmes, strategically guiding regulatory policy, and communicating its achievements are activities carried out by regulatory reform bodies as part of their advocacy function.

#### ***3.1. Bodies in charge of regulatory reform***

*Recommendation #7: Appoint a government body responsible for the management of regulatory reform and assign clear responsibilities to it.*

“Promoting reform requires the allocation of specific responsibilities and powers to agencies at the centre of government to monitor, oversee, and promote progress across the whole of the public administration” (OECD, 2002, p. 84).

In BC, one of the first actions taken by the administration to demonstrate its strong commitment to regulatory reform was the appointment of a ministry-level agency responsible for deregulation. In fact, regulatory reform was the only responsibility of the Minister for Deregulation. As it was stated before, the office has gone through several name changes. It evolved to Regulatory Reform Office and now, to Straightforward BC.

In Piemonte the government created the Ministry of Federalism, Decentralisation, and Relations with the Local Authorities, Legal Affairs, and Relations with the Regional Council, to allocate clear responsibilities for regulatory activities and simplification.

In Catalonia, the dialogue with business and labour included, among some other concerns, the need to guarantee quality of new regulation regarding competition and administrative simplification for businesses. In consequence, Decree 93/2008 reorganised the Department of the Presidency by creating the DQN, establishing its functions and those of the Office of Government. The foundation of the DQN represented the recognition as a public policy of the principle of guaranteeing the quality and effectiveness of regulations, assigning this responsibility to a specific unit.

The Mexican states usually use one of two forms of bodies to manage regulatory reform, a unit within a ministry (generally the Ministry for Economic Development or equivalent) or a decentralised body (commission, institute, *etc.*). The latter may have several advantages *vis-à-vis* the former. First, a decentralised body is backed by a law or a legislative decree or both, which makes it harder to abolish the institution. A unit within a ministry can easily be abolished by an administrative order. Second, a decentralised body gets a budget annually and holds assets, which strengthens its capacity. A unit within a ministry is funded by the ministry's budget and it may be barely funded if the minister is not committed to regulatory reform. Third, a decentralised body is better protected from interests against regulatory reform. Table 2 provides a description of how each state in Mexico organises its regulatory reform bodies.

**Table 2. Regulatory reform bodies at the state level in Mexico**

State	Decentralised body	Within a ministry
Aguascalientes		X
Baja California		X
Baja California Sur		X
Campeche	X	
Coahuila		X
Colima		X
Chiapas		X
Chihuahua		X
Distrito Federal		X
Durango	X	
Guanajuato		X
Guerrero	X	
Hidalgo		X
Jalisco		X
Estado de Mexico		X
Michoacan		X
Morelos	X	
Nayarit		X
Nuevo Leon		X
Oaxaca		X
Puebla	X	
Queretaro		X
Quintana Roo	X	
San Luis Potosi		X
Sinaloa	X	
Sonora	X	
Tabasco		X
Tamaulipas	X	
Tlaxcala		X
Veracruz	X	
Yucatan	X	
Zacatecas	X	
TOTAL	12	20

In Baja California there is a General Co-ordination for Regulatory Improvement within SEDECO. The General Co-ordination reports directly to the Minister, but its chain of command has changed several times. Since the State Minister of Economic Development presides over the CCPCEC, it is this ministry the one operatively in charge of advancing regulatory reform. The CCPCEC is formed by SEDECO and 14 additional members, which include the Ministry of Planning and Finance, the Mayors of the five municipalities, the CCE President in each municipality, the President of the Business State Council, and two representatives from universities. The Working Group on Regulatory Reform is integrated by representatives from SEDECO, the Ministry of Planning and Finance, the Technical Secretariat of the CCPCEC, and a representative from the business groups of the municipalities.

In Jalisco there is a General Direction for Regulatory Improvement in the third level of the organisational chart of SEPROE. The recently approved Law for Regulatory Improvement has strengthened the role of the General Direction, institutionalising its tasks, such as that of Technical Secretariat of the Committee for Regulatory Improvement of Jalisco.<sup>14</sup> In the city of Guadalajara there is also a General Direction for Regulatory Reform that reports directly to the Mayor.

Puebla has one of the strongest institutional designs in the Mexican states. Regulatory reform is in charge of a decentralised commission, CEMER, which works under the umbrella of the state's SEDECO. The Law for Regulatory Improvement, the Decree that established CEMER, and the Internal Rules of CEMER are three legal instruments that back the institution and its functions.

*Recommendation #8: In order to get visibility and justify their existence (budgets), regulatory reform bodies perform three tasks: Challenging, facilitating, and advocating.*

In times of fiscal constraints, public offices must demonstrate their value added, in other words, they must prove that the benefits they produce exceed their costs. Regulatory reform bodies may do this by performing the three tasks described previously.

In BC the core responsibilities of Straightforward BC include developing and executing the government's regulatory reform strategy, maintaining the central database of regulatory counts, and producing reports for cabinet and quarterly reports for the public (advocating). Regarding the challenging task, Straightforward BC requires a copy of the Regulatory Checklist<sup>15</sup> when regulation is going to be introduced. It also conducts spot checks of the central database to evaluate how well it is being kept up.

Regarding the facilitating task, Straightforward BC does not see its role as that of gatekeeper or police, but of facilitator. A key role the office has played is to help staff in other ministries evaluate whether additional regulation is the right approach and understand the implications of regulating. In addition to specific training for the staff appointed by every ministry to handle regulatory reform, in the first few years of the reforms Straightforward BC organised workshops on specific topics such as plain language, cost-benefit analysis, and outcome-based regulation. An annual conference has provided a good opportunity to reinforce that regulatory reform is a priority across all of government, bringing together the facilitating and advocating tasks.

In Catalonia, Decree 93/2008 established the responsibilities of the DQN:

- Promoting the culture of normative quality.
- Advising the administration's departments so that they become able to draft their own NIM and evaluate their regulatory quality.

- Drafting an annual report about the programmes for regulatory assessment and the impact of new regulations.
- Drafting, promoting, and disseminating guidelines and methodologies for normative quality and analysis of regulatory impact.
- Developing and promoting analysis, training, and advice activities to improve regulatory quality.

Clearly, responsibilities 2, 4, and 5 deal with the facilitating role. The DQN aims to disseminate good practices and develop expert knowledge within each department. For example, it drafted and distributed a document called “Guidelines for Normative Impact Assessment to Decrease Administrative Burdens” and promoted the use of the Standard Cost Model (SCM) by distributing a translation of the International SCM Manual. In addition, it built an intranet for the dissemination of good practices. Responsibilities 1 and 3 represent the advocacy role. An additional responsibility of the DQN is reviewing the NIM drafted by the different departments. In doing so, the DQN plays more a facilitating than a challenging role, since the intention is to enhance regulatory initiatives and advise the different departments via written comments or specific reports when it is necessary. Up until December 2009, 73 NIM had been drafted. The DQN supported 60 normative impact evaluations during 2009. The process has finished for 39 of them and a memory has been drafted. The evaluation is in process in the other 21 cases as they will incorporate the final comments prepared by the DQN. These memories are additional to the 13 prepared by the different departments during 2008.

In Baja California, the Working Group on Regulatory Reform and the CCPCEC perform the challenging function. When a new regulation is going to be introduced, the Working Group analyses it and produces a report. Both, the regulatory proposal and the report, are then turned to the CCPCEC for its approval. These two entities have to clear the proposal before it goes back to the government to analyse its legal justification.

In Jalisco, the new Law for Regulatory Improvement requires a RIA for new regulation, which is to be analysed and approved by SEPROE, specifically by its General Direction for Regulatory Improvement (challenging). The General Direction also plays the facilitator role, as it has trained state and municipal officials to implement Service Delivery Charters to improve services for citizens. It also advocates regulatory reform through events and strategic alliances, such as the one SEPROE has with the British Council.

In Puebla CEMER clearly performs the three tasks. Regarding the challenging function, it is in charge of reviewing RIA for new regulation. Concerning the facilitating role, its responsibilities include, among others, advising agencies and municipalities in the drafting of their regulatory reform programmes, organising events and seminars to facilitate the process of regulatory reform, and promoting the adoption of technology to simplify formalities. In fact, CEMER organises workshops to train municipal officials in identifying bottlenecks and opportunity areas, such as in the formalities of building licenses and environmental impact. Finally, regarding its advocating role, it is in charge of promoting regulatory reform by signing covenants and agreements with other institutions and drafting the State’s Annual Regulatory Reform Programme.

*Recommendation #9: Besides the body directly in charge of regulatory reform, identify other strategic offices to lead and participate in the reform effort, without losing sight of the “whole of government” approach.*

The offices dealing directly with business licenses or market entry may impose significant burdens to entrepreneurs and hinder the competitiveness of a state or region. For this reason, there is a need to include them in the regulatory reform efforts. They may also join the body directly in charge of reform in facilitating and advocating it. There are also offices that, given their functions, are strategic for regulatory reform, such as those promoting e-government and transparency.

In Piemonte the simplification unit, “Administrative Simplification Task Force”, provides a permanent administrative structure in charge of developing and co-ordinating simplification policies to engage all the government in the regulatory reform strategy. Since bureaucracy perceived regulatory reform and simplification as tightly connected to internal reorganisation issues, the task force turned out to be very effective to overcome resistance.

In Catalonia, in addition to the DQN, there are three entities clearly identified and involved in the regulatory reform process. First, the Business Management Office (Oficina de Gestión Empresarial, OGE), which is a network of one-stop shops distributed in the Catalan territory. Its offices unify the procedures to start up a business, which are under the responsibilities of different government departments. More details will be discussed in the section on administrative simplification but, by now, it is pertinent to mention that OGE supports the simplification of administrative formalities by decreasing burdens for businesses. Second, the Catalan Authority on Competition (ACC), which was created in 2009 and issues reports on sectoral regulations from the perspective of competition and analyses failures of the market system. Its attributions include promoting competition, solving, mediating, and recommending solutions to controversies. Third, the Office of Government, in the Department of the Presidency is responsible for the “System of Information and Management of Government Documents” (SIGOV). This system helps to track and follow up regulation initiatives through the different stages required, allowing consultation and transparency.

In Baja California, the Information Systems General Direction has been engaged in the process of regulatory reform, along with the General Co-ordination for Regulatory Improvement. The General Direction is in charge of the state’s policies of e-government. Two clear pieces of evidence that demonstrate co-ordination between the two offices are the Electronic Signature Law and the Electronic Registry of Formalities and Services.

In Puebla, CEMER is working with the Trade and Property Public Registry to achieve its modernisation. This effort has included two stages. In the first one, processes to register, consult, and certify files were systematised and the staff was trained to implement the federal programme SIGER (Integral System of Registry Information). The second stage established the possibility to complete formalities and payments online. As a result of these efforts, the process to register business societies was shortened from 18 to 4 days and to register a public deed from 45 to 15 days. According to Doing Business Mexico, Puebla ranked 16<sup>th</sup> in 2009 (24<sup>th</sup> in 2007) in registering property. Such progress is attributed to the modernisation of the public registry.<sup>16</sup>

Baja California and Puebla illustrate two offices that must lead the regulatory reform agenda in the Mexican states: the office in charge of e-government policies and the Trade and Property Public Registry. Competition is mostly a federal attribution and, therefore, a local authority is not pertinent. IMCO has found that in several states the formalities handled by their respective registries are the ones with the highest costs and that take the most time to be completed, as Table 3 illustrates. Despite the fact that certain offices may be strategic for reform, all the ministries and public agencies should be involved through co-ordination mechanisms clearly set (“whole-of-government” approach).

**Table 3. Time and costs for start-up formalities in selected Mexican states**

Formalities managed by the Trade and Property Public Registries

State	Time (days)	% of Total	Costs (pesos)	% of Total
Baja California	2	6.9	4 066	18
Jalisco	14	43.8	1 347	18
Puebla	3	25	456	5.3

Source: IMCO (2009).

### 3.2. Financing regulatory reform: arguments and practices

Regulatory reform, as any other policy, requires resources to be implemented. However, it does not have to be expensive. There are certain practices that make the effort inexpensive. In other words, it is not valid for sub-national authorities to justify their inactivity on lack of resources.

In BC the reform department started with a modest budget of USD 460 000. The initial measurements and reporting of regulatory burdens were quite simple and completed in a few months, with the help of interns. In Piemonte, the ministry in charge of regulatory reform is a so-called “no budget ministry” and the whole effort is financed by different government directorates.

In Puebla, the budget for CEMER in 2009 totalled MXN 8 693 759, which is equivalent to USD 668 750,<sup>17</sup> not so far from the resources invested by BC in its regulatory reform office. In context, the amount devoted to CEMER in 2009 is equivalent to 21% of the budget of Puebla’s Ministry of Tourism (MXN 41 126 300), which is the ministry with the lowest budget. It is also equivalent to 7.3% of the total budget of the State’s SEDECO, which is the umbrella ministry for CEMER.<sup>18</sup> In Baja California, in 2009, regulatory reform required about MXN 20 million (USD 1 538 461), including the budgets of the General Co-ordination for Regulatory Reform and the Information Systems General Direction. This amount represented 13% of SEDECO’s total budget.

*Recommendation #10: The office in charge of regulatory reform can leverage resources from different offices (ministries, departments, directorates, etc.) and levels of government to make the whole regulatory reform effort inexpensive.*

In BC funding for regulatory reform comes from the provincial government without any transfer of resources from the federal government. However, there are complementary initiatives for which federal funding is important, such as the one-stop shop.<sup>19</sup>

In Piemonte, since the Ministry of Federalism, Decentralisation, and Relations with the Local Authorities, Legal Affairs, and Relations with the Regional Council is a “no-budget ministry”, each directorate is responsible for finding and allocating resources for specific regulatory reform activities. The same decentralisation principle applies in Catalonia, where each department finances its activities related to regulatory quality. The OGE even leverages resources from business chambers. It has set 17 service centres in the offices of business chambers, outsourcing the administrative tasks to process formalities.

In the Mexican cases, Baja California got resources in 2002 and 2003 from the Fund to Support SME (FAMPYME) and the Fund to Promote Productive Chains (FIDECAP) for approximately MXN 500 000 (USD 38 462<sup>20</sup>) to set up SARE offices. In Jalisco, the municipalities of Ciudad Guzman and Arandas got MXN 200 000 and 220 000 (USD 15 384 and 16 923) in 2009, respectively, for the same purpose.

*Recommendation #11: Since regulatory reform requires continuity to deliver its benefits, it must be financed with a long-term perspective.*

Politicians often look for short-term results to justify their decisions. While regulatory reform must be evaluated and the office in charge held accountable, it is a fact that the policy requires continuity to deliver results. Therefore, financing the policy requires a long-term perspective. Financing the effort only a few years may contain the inertia of the process and the incremental flow of economic benefits, allowing red tape and regulatory burdens to increase again and reversing the achievements.

For the Mexican states, having a decentralised commission is a way to strengthen the financing of regulatory reform. A decentralised commission, such as Puebla’s CEMER, holds assets and its board has the attribution to discuss and approve the budget of the commission, before it goes to the Executive’s proposal that will be voted by the State Congress. Table 4 illustrates that CEMER’s budget has been sustained and that it increased significantly in real terms during 2006-07, even though it has slightly decreased in the last two years.

**Table 4. CEMER expenditure budget**

Year	Current prices	Constant prices 2009	Real change
	Pesos		
2005	3 275 552	3 892 858	
2006	5 406 679	6 218 372	59.7%
2007	8 441 327	9 330 417	50%
2008	8 612 194	9 174 411	-1.7%
2009	8 693 759	8 693 759	-5.2%

Source: Information provided by CEMER.

Baja California has institutionalised the budget for regulatory reform by creating specific budget lines for “Economic Deregulation” within SEDECO and e-government within the Information Systems General Direction.

### **3.3. Co-ordination and multi-level regulatory governance**

Co-ordination between different levels of government aims at achieving better regulation and avoiding overlapping responsibilities among regulatory authorities. The issue is of special relevance in countries where regulatory responsibilities are shared by different levels of government. In fact, policies and mechanisms for co-ordination are increasingly important for the development and maintenance of an effective regulatory framework (OECD, 2007b, p. 10).

On the one hand, vertical co-ordination refers to the harmonisation and coherence between the regulatory structures of different levels of government (federal, state, municipal, etc.). On the other hand, horizontal co-ordination applies to the harmonisation of the regulatory activities of different agencies and offices within one single level of government (*i.e.* coherence between regulations issued by the Federal Ministries of Tourism and the Environment), which may include co-ordination between different branches (Executive and Legislative).

*Recommendation #12: Establish the institutional mechanisms for vertical and horizontal co-ordination. Our cases provide examples of four different forms of these mechanisms: an entity facilitating co-ordination, covenants/agreements, laws, and others.*

#### **3.3.1. Entities facilitating co-ordination**

In all the jurisdictions being analysed there is at least one entity with the role of co-ordinating the regulatory activities of different agencies and levels of government. In some cases, there are even several entities playing this role, including the office in charge of regulatory reform.

In BC, Straightforward BC encourages cross-ministry co-operation and sharing of best practices. There is also a group that shares ideas and principles between the federal and provincial governments, which is the Federal-Provincial-Territorial Committee on Regulatory Governance and Reform (FPT-CRGR). The FPT-CRGR brings together a network of regulatory experts from across provincial boundaries and works to develop best practices on regulatory policy, building support for common approaches to regulatory development and overall management in Canada.

In Italy, the amendments introduced to the Constitution in 2001 established the transfer of legislative and regulatory competences from the State to the regions. In general, regions have gained legislative powers due to the increase of matters of concurrent competence. They have also reinforced their competence in issues that are no longer an attribution of the State. In the new constitutional balance of power among different levels of government, co-ordination mechanisms play a fundamental role. The main mechanism in Italy is the so called “Conference System”, based on three co-ordination bodies:

- The Conference of State-Regions: It was established in 1988 to allow regional governments to play a key role in the process of institutional innovation, particularly regarding the transfer of attributions from the centre to the regional and local authorities. Its composition includes the Prime Minister or the Minister of Regional Affairs as President of the Conference, the presidents of the regions, and other ministers according to the competences of the issues under discussion.
- The Conference of State – Municipalities and Other Local Authorities: It was established in 1996 and its functions include co-ordinating the relations between states and local authorities, as well as analysing and serving as a forum for discussion of issues of interest for local authorities. Its composition involves the Prime Minister as President of the Conference, the ministers of the Interior, Regional Affairs, Treasury, Finance, Public Works, Health, the President of the Association of Italian Provinces, the President of the Association of Italian Mountain Communities, 14 mayors, and 6 presidents of provinces.
- The Unified Conference of State – Regions – Municipalities and Local Authorities: It was established in 1997 as the institutional mechanism to co-ordinate the relationships among the central government, regions, and local authorities. Its composition includes all the members of the previous two conferences. It served as the forum for an agreement on administrative simplification between the Italian regions and the national government in 2007. The signed document defines common principles for quality and transparency of the normative system in order to harmonise legislative techniques. In particular, it engages the State, regions, and local authorities to apply *ex ante* instruments, such as impact analysis and feasibility studies, and *ex post* evaluation.

This “Conference System” is replicated to co-ordinate the relationship between Piemonte and its local authorities through two mechanisms:



- The Permanent Conference Region – Local Autonomies: It was established in 1998 with the function of managing the transfer of administrative attributions to local autonomies. Its composition includes the presidents of the eight provinces of Piemonte, the presidents of its eight mountain communities, the President of the regional delegation of the Association of Italian Municipalities, and the President of the regional delegation of the Association of Italian Provinces.
- The Council for Local Autonomies: It was established in 2006 to express opinions on budget proposals and programmes of the regional government, verify the compliance to the regional statute of new regional laws, and verify the constitutional legitimacy of new national laws concerning local autonomies.

In Spain, the Constitution of 1978 introduced a complex design for decentralisation and established an intermediate government level, the Autonomous Communities. Catalonia is one of the 17 Autonomous Communities integrating the Spanish territory. They have extensive attributions regarding social policies, such as education, housing, health, and social services, but more limited powers in the field of economic policies, such as fiscal, monetary, and labour policies. The Spanish government, recognising the importance of co-ordination, established a Deputy General Direction for Simplification and Regulatory Improvement in the Ministry of Public Administration in 2007. A working group between the Ministry and the Autonomous Communities was also organised. The group meets frequently and shares information on new regulatory reform initiatives.

In Baja California, the General Co-ordination for Regulatory Improvement promotes co-ordination by working with elected municipal officials to guarantee the continuity of the regulatory reform agenda, particularly of SARE. In Puebla the main entity facilitating co-ordination is the board of CEMER as it involves different state ministries (SEDECO, Interior, Finance and Social Development, and Development, Evaluation and Control of the Public Administration). The board of CEMER has met 28 times as of October 2009.

In Jalisco, CEDESPE, besides being a mechanism for involving citizen and business participation, is also a tool for vertical and horizontal co-ordination, as it includes different ministries at the state level and a group of eight municipalities (El Salto, Guadalajara, Ixtlahuacan de los Membrillos, Juanacatlan, Tlajomulco de Zuñiga, Tlaquepaque, Tonalá, and Zapopan). In Guadalajara, COMEREG involves federal, state, and municipal agencies facilitating their co-ordination. Finally, co-ordination among different cities is facilitated by the Inter-municipal Association of Jalisco. It was created in 2007 to allow vertical co-ordination with the state government by including several of its ministries (Urban Development, Health, Environment, *etc.*) and horizontal co-ordination among the different municipalities in the metropolitan area of Guadalajara. This mechanism has worked on issues related to environment, working hours for entertainment businesses, and public safety.

### 3.3.2. *Covenants/agreements*

In Canada, BC signed the Trade, Investment and Labour Mobility Agreement (TILMA) with its neighbour province Alberta, promoting a single mobile business license and adopting BizPal. The TILMA is the biggest regulatory reform project this government has undertaken. It is one thing to modernise and streamline one's own regulatory regime, but it takes on a whole new dimension to align the regulatory regimes of two jurisdictions. Because of the achievements made under TILMA, BC was able to lead the reform of the Agreement on Internal Trade (AIT), particularly the labour mobility chapter eliminating overlap and duplications. This has had a huge impact on business including independent professional businesses.

In Catalonia, the working group between the Ministry of Public Administration and the Autonomous Communities established the possibility to sign co-operation covenants between the Ministry, on the one hand, and the Autonomous Communities and cities interested, on the other hand.

Covenants and agreements have been particularly relevant in Mexico to co-ordinate the regulatory activities between the federal and state governments, and between the states and their municipalities.

Baja California signed covenants with COFEMER since 2002 to apply SARE in Mexicali and Tijuana. In that same year, the State government signed Covenants for Regulatory Improvement with different municipalities to advance SARE and Business Support Centres (CAE's). SARE is still being applied in Mexicali, but it was given up in Tijuana since 2007.

In Jalisco, the State Government is implementing the "Plan for Regulatory Reform and Quick Business Start Up", which is based on agreements with municipal authorities. It includes projects to substitute the municipal permit by a start up declaration by the entrepreneur and speed up the issue of other licenses and permits to 72 hours, requesting only the indispensable documents from entrepreneurs.

Likewise, Puebla signed a co-operation covenant with COFEMER in 2001. It is worth noting that the first national SARE was established in the municipality of Puebla in 2002. The covenant established that the state government will promote that its municipalities adhere to the covenant and participate in the regulatory improvement efforts. As a consequence, the state government and 13 of its municipalities signed the Co-ordination Agreement for Business Deregulation. Once municipalities sign this agreement, the provisions of the State Law for Regulatory Improvement apply for them.

The main disadvantage of these covenants/agreements is that they have to be ratified every three years with the changes of municipal administrations. Therefore, political will of the Mayor in charge is a key element for the continuity of the regulatory reform agenda at the local level, as the case of Tijuana illustrates.

### *3.3.3. Laws/legislative instruments*

Laws, decrees, and other legislative instruments often set the framework for co-ordination between different levels of government. "A consistent legal framework in the form of a law or regulation is a way of building a solid foundation for the (regulatory reform) strategy by describing its priorities, allocating responsibilities in government, and ensuring accountability of results" (OECD, 2009b, p. 35). For example, in Piemonte, Regional Law 15/2007 on organisational simplification introduced specific rules to promote co-operation between small municipalities.

In Baja California the Law to Promote Competitiveness and Economic Development established that regulatory reform is a process in which the state, municipalities, and the private sector are responsible for the outcomes. In consequence, the municipality of Mexicali issued the Bylaw to Promote Competitiveness and Economic Development, which institutionalises co-ordination with the state authorities.

Jalisco's Law on Regulatory Improvement established that the municipalities that want to adhere to the law may sign a Co-ordination Agreement with SEPROE. In Puebla, article 6 of the State Law for Regulatory Improvement established that ministries and entities of the state public administration, as well as municipalities, will appoint an official responsible of co-ordinating with CEMER to carry out the process of regulatory reform.

### 3.3.4. Other mechanisms

Other specific programmes have been used by regional governments to facilitate horizontal and vertical co-ordination. In BC the one-stop shop BizPal is a partnership of all provincial and participating municipal governments. The partnership makes all decisions regarding the overall program, and the provinces make decisions with respect to the implementation and management of BizPal within their jurisdictions. The programme was launched with a lead group of participating jurisdictions (BC, Yukon, and Ontario) in 2005 and continues to expand. It provides one-stop access to permit and license information for all levels of government. OneStop is another electronic tool that has helped in co-ordinating multiple government departments for over ten years. It was the first service in Canada to facilitate business registration with all three levels of government.

The Mobile Business License (MBL) is also a good illustration of co-ordination between the provincial and local governments in BC. It eliminates the requirement to have a separate license for each municipality in which a business operates. Instead, a business would obtain one license that will allow it to operate in any jurisdiction in the province. A pilot project was implemented in 2008 in the region of Okanagan-Similkameen. Under the pilot, mobile businesses could purchase a MBL from their home municipality for USD 150, in addition to their basic business license. This MBL allows the business to work in all 17 participating municipalities. The provincial government plays a supporting role by offering assistance, analysis of options, and IT support. After the pilot, businesses reported that the MBL is cost-effective and convenient and municipalities reported that it had increased revenue. In fact, there was a significant revenue gain of over USD 148 000 in one year.

There are also strong indications that compliance increased under the programme. In the Capital Region District, the number of licensed contractors increased by 20% in the year following the introduction of the licenses. According to CFIB survey results, 41% of businesses in the area reported that the MBL has had a “very positive” impact in the business climate and 26% reported a “somewhat positive impact”.

Catalonia has also relied on electronic tools to facilitate co-ordination. The consortium “Open Administration of Catalonia” is the framework of co-operation between municipalities and the Autonomous Community. Its objective is to facilitate access to administrative formalities for citizens and businesses by a series of web portals, independently of the jurisdiction of every formality.<sup>21</sup>

In Mexico, the State of Puebla is working with the federal Ministry of Economy to adopt the one-stop shop “tuempresa.gob.mx”, which will allow decreasing time and costs of starting up a business.

The following table summarises the co-ordination mechanisms implemented by the jurisdictions under analysis:

**Table 5. Co-ordination mechanisms used by the studied jurisdictions**

	BC	Piemonte	Catalonia	Baja California	Jalisco	Puebla
Entities facilitating co-ordination	X	X	X	X	X	X
Covenants/Agreements			X	X	X	X
Laws/Legislative Instruments		X		X	X	X
Others	X		X			X

### 3.4. Human resources

Regulatory reform requires staff with enough training to manage the design and implementation of the process. Regulatory reform and administrative simplification are not inherent to any public administration; therefore, special skills need to be developed. This fact may seem to imply that sub-national governments have to hire lots of people, which would be costly. However, there are strategies to leverage the human resources of the public sector to keep the whole effort inexpensive.

*Recommendation 13: Apply the “champions strategy” or, in other words, leverage the existing human resources of the different agencies and offices of the public administration. This strategy also helps in overcoming bureaucratic resistance.*

Sub-national governments can advance regulatory reform based on the existing pool of human resources in the public administration. “This approach is one of the pillars in fighting against resistance to change. It is especially relevant to find ‘ambassadors’ that have access and credibility in spheres where resistance is most likely to spring or where public administration is less able to convey its messages” (OECD, 2009b, p. 44).

In BC, Straightforward BC has around six full-time staff members. How has the BC government been so successful with such a small pool of regulatory reform officials? The answer is that this limited number has been leveraged to work with other ministries and departments. Each ministry has a director and a manager (champions) dedicated to regulatory reform. Furthermore, the actual drafting of regulation is not done by Straightforward BC, but by a team of lawyers in the Office of the Attorney General.

In Catalonia, NIM are prepared by the departments seeking to introduce regulations and their legal units. In this sense, every department participates with its human resources in the implementation of the regulatory reform policy. The existence of a civil service system with clear requirements of technical knowledge facilitates the overall implementation of the policy. The DQN has 10 public servants, eight of them with professional and technical profiles. The Office of Government is formed by 19 public servants, 10 of them have a high technical level. OGE employs about 70 public servants specialised in managing formalities. Finally, the ACC employs about 25 public servants with technical training in economics and law.

A similar strategy is implemented in Puebla, where the State Law for Regulatory Improvement requires ministries and entities of the public administration, including municipalities, to appoint an official responsible (champion) of co-ordinating with CEMER to carry out the process of regulatory reform. A “champion” has the following responsibilities:

- Drafting, with the help of CEMER, a Regulatory Reform Programme to be applied in his ministry/department.
- Co-ordinating and implementing the process of regulatory reform in his ministry/department, according to the programme established.
- Reporting to CEMER progress in the implementation of regulatory reform in his ministry/department every six months.
- Being the link between his ministry/department and CEMER.

*Implementation advice: The office in charge of regulatory reform, in playing its facilitating role, supports the “champions’ strategy” with training and development of the human resources.*

Once the “champions” are appointed, they need to be trained to carry forward regulatory reform successfully. “There is often a mismatch between the needs of public administration and available training facilities and programmes. Having an insufficiently skilled and ill-equipped team working on administrative simplification will likely prevent governments from meeting ambitious expectations” (OECD, 2009b, p. 29).

In BC, the directors and managers appointed by ministries and departments across the government to handle regulatory reform are trained by Straightforward BC. There are strong incentives to participate in this training, as it is a prerequisite for having access to the regulatory count database and each ministry is responsible for keeping its section up to date. Besides this training and an annual conference, in the first few years of the reforms, Straightforward BC organised workshops on topics such as plain language, cost-benefit analysis, and outcome-based regulation.

At regional and local levels in Italy there are projects for professional training of government officials working on the legislative process, which have been supported by FORMEZ, an agency in the Department of Public Administration that provides training in several policy areas, including quality of regulation. Piemonte is regularly involved in those projects. The regional government has also created a specific training laboratory called “legal lab” to exchange knowledge and experiences with other regional and national bodies, particularly on legal techniques and institutional reforms. The laboratory is a tool to analyse and monitor methodologies, as well as to provide training and promote a new culture. Central issues include legislative techniques linked to administrative simplification and multi-level governance. It is co-ordinated by a planning committee formed by managers of the regional administration and the regional council.

In Catalonia, the administration realised from the beginning that the different departments did not know the methodologies for regulatory impact assessment and, therefore, the need to train public servants to overcome resistance. The leaders of the process wanted to avoid impact assessments to be perceived simply as one more formality to comply with or outsourcing their preparation without any real change in the way regulation was drafted and introduced. In playing this facilitating role, which is part of the mandate of the DQN, it reviews NIM to support the different departments in their enhancement. It has also disseminated the use of the SCM to help departments quantify the burdens of regulation, established an intranet for the exchange of good practices, and prepared guidelines for regulatory impact assessment. These guidelines, which are expected to be approved by the government in March 2010, explain the basic concepts of the methodology used for regulatory impact assessment, the process to identify and quantify regulatory burdens, the cases in which a NIM is required, and, in general, the steps to follow in their preparation.

In Puebla, CEMER has the formal attribution to organise events and seminars to facilitate the process of regulatory reform. In fact, CEMER has organised workshops to train municipal officials in identifying bottlenecks and opportunity areas, such as in the formalities of building licenses and environmental impact. In 2009 CEMER organised a workshop to train and update municipal officials involved in the SARE network. 100 municipal officials participated in this event.

### ***3.5. Information and data management***

Governments need information to guide regulatory reform. Lacking strategic information may become a significant obstacle in achieving success. “Blindly designed reforms undertaken without a comprehensive understanding of reality and its changes are generally doomed to fail and perhaps make things worse. In some cases information is available, but effective data-collection or sharing mechanisms might not be in place” (OECD, 2009b, p. 29).

*Recommendation #14: Establish data-collection and sharing mechanisms to support and guide regulatory reform.*

Governments have used surveys, user/consumer involvement, and databases from public offices or statistical agencies. “Data needs to be effectively collected, managed, and transmitted to meet the needs of public institutions in an efficient and non-burdensome manner” (OECD, 2009b, p. 49).

In Mexico, the three states under review have established a department in charge of collecting and processing information, but they are mostly concentrated on processing it, not on collecting it first-hand.

In Baja California, on the one hand, SEDECO has an office in charge of collecting economic information, such as inflation in the main cities, GDP per capita, unemployment rates, and foreign direct investment, among others. This information is not collected first-hand, but rather taken from different sources such as the National Statistics and Geography Institute (INEGI), Ministry of Economy, Mexico’s Central Bank, the U.S. Census Bureau, *etc.* On the other hand, the Information Systems General Direction manages the Electronic Registry of Formalities and Services, which concentrates information on 864 formalities. The centralisation of information management has led to a structure in which there is one single front office for the citizen and the back office manages all the databases of the state government.

Likewise, Jalisco has its own agency in charge of collecting and processing information, which is the State of Jalisco Information System (SEIJAL). SEIJAL provides socioeconomic information about the state in its website, including data on employment, economic activity, and foreign trade. Although it mostly collects information second-hand (from INEGI and other established databases), it collects first-hand foreign trade statistics and survey data applied to businesses.

Puebla’s SEDECO also has an office to process information, mainly from sources such as INEGI and the Mexican Institute of Social Security (IMSS). It also collects first-hand information related to foreign trade and private investment. The information is published in the link “Business” of the portal [www.puebla.gob.mx](http://www.puebla.gob.mx).

Even though these information systems provide useful data, they are not necessarily concentrated in providing information to guide regulatory reform. For example, there is no information on regulatory burdens originating at the requirements of information flowing from citizens and businesses to governments.

The best practice in this regard was identified in BC. When the Ministry of Deregulation was created, one of its first challenges was to establish a measure to determine progress in the commitment to reduce red tape by one-third. Each ministry conducted a count of all its regulatory requirements contained in statutes, regulations, and policy, and a central regulatory count database was established for baseline and reporting purposes. Several years after the initial baseline was counted, a readjustment was done to upgrade the database. This tool has been extremely important for measuring progress and providing transparency for the reform effort, as the database is the source of quarterly progress reports published by Straightforward BC.

Catalonia has promoted the use of the SCM to quantify burdens and, therefore, might be able to compile this information in a database to guide regulatory reform efforts in the near future. By now, the Office of Government has been in charge of developing an information system that tracks regulations in the different stages of drafting and review, from origin to publication in the Official Gazette, to ensure quality, co-ordination, and transparency. This system is called SIGOV and allows, via an intranet, the possibility of inter-departmental debates about the opportunity and quality of regulatory initiatives. The departments seeking to introduce regulation are responsible for uploading regulatory initiatives and NIM, as well as replying to the opinions of other government departments. The system also facilitates the job of the DQN in tracking the quality of the NIM attached to regulatory initiatives.

### ***3.6. Dealing with discretion and corruption***

Corruption has multiple negative effects on public administrations and societies in general. Among other effects, it deviates resources from the ends they are supposed to meet, erodes confidence in the public administration, and contributes to inflation by artificially raising prices. In the case of regulatory activities, it prevents regulation to meet the public interest by benefiting individual or private interests in the first place (regulatory capture). However, there are several strategies to prevent corruption in the regulatory system, mainly based on transparency and discretion control.

*Recommendation #15: Provide institutions, regulatory activities, and reform efforts with transparency and accountability.*

Transparency increases the credibility of the regulatory structure and represents a preventive measure against regulatory capture. Furthermore, it goes hand in hand with consultation procedures.

In BC, quarterly progress reports of the regulatory counts are published; anybody can follow up the outcome of the reform policy. Regulatory Criteria Checklists provided to Straightforward BC when agencies want to issue new regulation are also available to the public at no charge upon request, creating a public control mechanism.

Piemonte has established two tools to provide transparency to the legislative process and avoid regulatory capture. First, the Arianna databank is a system to publish texts as they appear in the various stages of the legislative process, so that citizens can follow the evolution of a bill. However, this database was unable to provide immediate direct access to all the documents produced and associated with a bill. As a consequence, a second tool, called “Virtual Dossier”, was devised. Its goal is to allow online retrieval of all documentation concerning planning and committee proceedings of a regional bill by digitalising the documents. The traditional “archive” folder was replaced by a virtual one that can be consulted at any time. Not only is it possible to consult the text of a bill in its various versions (the one originally proposed, the one approved by a committee, and the law actually passed), but also descriptive reports and all the accompanying documentation, such as letters of introduction, assignments to committees for examination, work documents, summaries of proposals coming from consultation procedures, committee meetings’ minutes, and so on.

In Catalonia, SIGOV allows to track regulation initiatives from their origin up to publication in the Official Gazette. In addition, the bodies in charge of the different components of regulatory quality are subject to accountability controls. For example, the ACC is required to publish its studies and opinions within 45 days of being issued. It must prepare an annual report of its activities, which is also made public, and hold audiences in front of the Parliament when required.

*Recommendation #16: Limit the discretion and manage the incentives of public officials in charge of dealing with license and permit authorisations.*

Excessive discretion breeds corruption. Sub-national governments must establish discretion controls to give credibility to the processes by which licenses and permits are granted. Puebla, for example, imposed these controls by reforming Bylaws and eliminating the articles that gave public officials the authority to decide when a license or a permit should be granted, even if the citizen had complied with all the formal requirements and documentation. One additional form of limiting discretion is by establishing Service Delivery Charters,<sup>22</sup> which make requisites, costs, and time for reply transparent for citizens.

Governments must also beware of the incentives created by formalities. The municipality of Puebla used to charge a fee for the formats to apply for a license or permit, which created a black market for public officials. The municipality established that the formats became free and eliminated the incentives for officials to sell them. Simple reforms such as the previous one may make a big difference in the way public institutions work and interact with citizens and businesses.

### **3.7. *Quality management systems: getting some discipline into your practices***

Quality management systems impose discipline on government processes. They not only imply certain time limits to reply to applications to licenses and permits, but also external certifications of government processes, particularly when a formal quality system is being applied. These certifications force public officials to map the processes they manage and think on better ways to organise their work, leading to improved services and certitude for citizens and businesses.

*Recommendation #17: Implementing a formal quality management system for the processes that deal directly with business licenses and permits helps to streamline them and provides certitude for businesses.*

The implementation of a formal quality management system requires some previous actions such as an analysis of the processes that will be certified and training for the public servants that will be subject to the requirements of the quality system. Internal and external certifications are required every once in a while to keep the certification of the quality system, which help to preserve a working discipline.

In Catalonia, one of OGE's management principles is to operate under a quality management system for continuous improvement and client satisfaction. In consequence, OGE was certified under the norm UNE ISO 9001:2000, which is widely recognised in the business community it serves. Since the objective of OGE is to provide one-stop service for business start-ups, quality management and timely replies become critical elements.

Baja California has certified a few processes of the Ministry of Planning and Finance and 100% of the processes of the Trade and Property Public Registry. The certification of the registry is particularly important for business formalities. The process was managed step by step. It started in 1992 with the implementation of an electronic system to digitalise the files. In 1999 the registry conducted process re-engineering. In 2000 the office of the registry in Mexicali was the first to be certified in ISO-2000 for 100% of its processes. In 2003, the offices in Ensenada, Rosarito, Tecate, and Tijuana followed the example set by Mexicali. In 2004 the registry was awarded with the "Baja California Quality Award" and in 2005 and 2006 with the national "Innova Award".

Jalisco's Trade and Property Public Registry is not yet certified, but the administration is working on mapping their processes to certify them on ISO-9000 and ISO-27000. Just like in Baja California, they anticipate that the process will take place step by step.

In Puebla, CEMER is leading the effort to implement process certification with a system called IWA-4, which aims to facilitate the implementation of comprehensive quality systems in local governments, such as ISO-9001:2000. CEMER is planning to apply IWA-4 in the 21 municipalities with which it is working, particularly in their departments for trade and industry and the treasury offices, which are involved in the SARE programme. Previous to the implementation, an evaluation of the municipal administration is conducted using 39 management indicators. Just like in Jalisco, the Trade and Property Public Registry is not yet certified, but the government is working towards its certification in ISO-9000.



*Implementation advice: Besides formal quality management systems, there are other simpler mechanisms to apply to ensure service delivery standards, such as service delivery charters and silent is consent rules.*

In Piemonte, one of the most important instruments to ensure quality in the services provided by public authorities is the service delivery charter. It provides that services should be delivered according to a set of general principles, such as equality, impartiality, continuity, regularity, openness, choice, courtesy, consultation, and value for money. Service delivery is based on standards and targets to be measured against actual performance. Consultation of clients, procedures for filing complaints, reimbursement, and remedy must also be provided. This policy applies to all government agencies at central and local level. Furthermore, sector-specific guidelines have been provided to facilitate the implementation of service standards.

The policy has three characteristics. First, there is a plurality of charters in each sector rather than a single national charter. In other words, each agency must define and adopt its specific service charter in accordance with the general principles and sector-specific guidelines. Second, each agency must set its own standards based on the quality indicators defined at the national level. Third, the performance review process is decentralised, based on checks enforced by clients through consultation and complaint mechanisms. Agencies are expected to report annually their standards, targets, and performance to a central government body.

Piemonte also applies the silent is consent rule. In the cases envisaged by law, this rule transforms the silence of the administration regarding an application submitted by a citizen or business into a tacit measure of acceptance or approval of a license or permit. Finally, Piemonte has the so called URP's or Units for Public Relations. URP's handle client inquiries, monitor agencies' performance through customer surveys, and ensure that client input is used to improve the delivery of public services.

The government of Catalonia is reviewing the application of negative administrative silence (Negativa Ficta) to extend the application of the silent is consent rule. This action is part of a set of measures introduced since 2007 to streamline business formalities.

Baja California also implemented service delivery charters, which commit public offices to provide services following criteria such as opportunity, trustfulness, courtesy, honesty, and equality. In addition, the charters include information about the offices responsible of the formalities to which they apply, the objective of the formalities, addresses of the offices in charge, responsibilities of citizens, requisites, costs, and procedures to file complaints by telephone or online. In addition, the state has implemented the silent is consent rule in formalities of the tax administration and environmental authorities.

In Jalisco, the General Direction for Regulatory Improvement is working on the implementation of service delivery charters to four municipal formalities dealing with business start up and operation. The charters emphasise quality standards that public offices must meet and include citizen participation mechanisms. They are composed of 12 sections: general information about the formality, objective of the formality, length of the permit or license, offices in charge of the formality, citizens' responsibilities, requisites, costs, service commitments, complaint mechanisms, improvement commitments, complementary information, and signature by the official in charge. However, there is no formal date for launching the charters. Jalisco's Administrative Procedure Law establishes the silent is consent rule (Afirmativa Ficta) in its Article 29. According to this article, all regulatory acts must apply the silent is consent rule.

BC does not apply service delivery charters as such, but several items of the Regulatory Criteria Checklist<sup>23</sup> help to ensure quality service to businesses. The first is the “Reverse Onus: Need is Justified” criteria. Questions from this section that regulators will consider include whether government intervention is necessary, whether a flexible policy can be designed to meet different circumstances, and whether compliance can be voluntary. The second set of criteria is related to “Time and Cost of Compliance”. In this section, there are questions about whether government service standards, such as response turnaround times, have been set. Another question asks whether those who administer the requirements will respond in a timely way to those who are affected by the requirements. There is no specific silent is consent rule.

BC has also issued a Taxpayer Fairness and Service Code, which outlines the quality of the services that business owners could expect from government staff. It contains provisions on the rights to get information in writing and be treated with courtesy and respect. But it goes further. If an auditor identifies a mistake that the business owner has made as the result of wrong information from government staff, the business owner will not be liable for the tax.

#### **4. Policies and tools for regulatory reform**

##### ***4.1. Ex ante procedures for new regulations***

There is a trend amongst OECD member countries to avoid the emergence of regulatory burdens by improving the rule making process *ex ante* or, in other words, “operating procedural controls prior to the introduction of new legislation or regulation” (OECD, 2006, p. 25). These controls usually aim to assess the costs and benefits of new regulations before they are formally issued. The main form of such a control is that of a RIA, but there are also other innovative initiatives that sub-national governments have undertaken.

*Recommendation #18: Enhance the rule making process ex ante by introducing some form of procedural control that evaluates the costs and benefits of proposed regulations. Our cases provide examples of four different forms to do it: RIA, regulatory checklists, small business impact assessments, and committees/working groups.*

##### ***4.1.1. RIA***

Even though RIA has mainly been tested and applied at national levels, there are no reasons to think that sub-national governments should not implement them. Given the fact that sub-national governments issue regulation, they also need controls on the rule making process to reach rational policy decisions. “RIA ensures that regulatory proposals or existing regulatory arrangements are subject to a transparent, publicly accountable, and rigorous analysis to determine if they are minimum means of meeting regulatory objectives. They, therefore, perform a control function by promoting rational policy choice by governments in a relatively transparent environment” (OECD, 2006, p. 28).

OECD has developed guidelines and key elements for effective RIA (OECD, 2006, p. 29):

- Maximise political commitment to RIA.
- Allocate responsibilities for RIA programme elements carefully.
- Train the regulators.
- Use a consistent but flexible analytical method.

- Develop and implement data collection strategies.
- Target RIA efforts.
- Integrate RIA with the policy-making process, beginning as early as possible.
- Communicate the results.
- Involve the public extensively.
- Apply RIA to existing as well as new regulation.

Of the Mexican states under review, only Puebla currently applies RIA. According to article 9 of its Regulatory Improvement Law, the ministries, public entities, and municipalities have the obligation of drafting a RIA, to be subjected to CEMER's opinion, when proposals of new laws, decrees or bylaws: *i*) establish or modify existing obligations for citizens, *ii*) increase the number of formalities or modify the existing ones, *iii*) affect, decrease, or limit rights and obligations for citizens, *iv*) introduce concepts that affect or may affect rights, obligations, or formalities for citizens, and *v*) interfere with the development of the economy, industry, or trade of the state or one of its regions.

CEMER evaluates RIA, along with the proposals for new laws, decrees, or bylaws from ministries, public entities, and municipalities.<sup>24</sup> CEMER may require modifications to extend or clarify the RIA. Its opinion may be to approve the RIA and the regulatory project, modify, or extend the project.

Puebla applies three different kinds of RIA:

- Ordinary RIA, to be applied when the law, decree or bylaw project *i*) establishes or modifies existing obligations for citizens, *ii*) increases the number of formalities or modifies the existing ones, *iii*) affects, decreases, or limits rights and obligations for citizens, *iv*) introduces concepts that affect or may affect rights, obligations, or formalities for citizens, *v*) interferes with the development of the economy, industry, or trade of the state or one of its regions.
- Periodic Updating, to be applied to regulatory projects with the objectives of *i*) renovating the validity of a rule, *ii*) updating a regulation that does not impose additional obligations or modify the existing ones, and/or *iii*) when updating an ordinary RIA of the regulation to be updated.
- Emergency RIA, to be applied when the regulatory project aims to avoid, eliminate, or diminish health, welfare, or security damages to the population, the environment, or natural resources.

There are also exceptions to the drafting of a RIA, which apply when regulation projects do not imply compliance costs for citizens and are not included in the situations described for Ordinary and Emergency RIA's or Periodic Updating.

In Baja California there is no RIA, but a committee that reviews regulatory proposals. However, a new bylaw in the municipality of Mexicali anticipates its application at the municipal level.

Likewise, in Jalisco, the new Law for Regulatory Improvement passed by the State Congress established RIA as a tool to measure the benefits and costs of regulatory projects that imply regulatory burdens for citizens. The law stipulates that RIA must justify the new regulations, identifying the problems to be solved. Furthermore, it must include a risk analysis of what would happen if the regulation were not

issued and an estimation of the economic benefits and costs for citizens. The General Direction of Regulatory Improvement will be the office in charge of reviewing the RIA and the regulatory projects and once it issues an opinion, it will turn the whole package to the Ministry of the Interior, which will review that there are no attribution conflicts. However, implementation of RIA is just starting.

In Italy, RIA went through a process of experimentation during six years at the national level. The year 2005 marked its definitive coming into force, passing from the trial period to the application of an effective, generalised, and systematic RIA. At the sub-national level it is not compulsory for the regions to carry out RIA's for their legislative proposals, but it is left to their choice. A trial period was carried out during 2002-2003 involving 12 regions and 16 pilot projects.

Piemonte experimented with RIA on one regulatory measure to guarantee safety of ski slopes. This exercise identified the problems that regulation aimed to solve, relied on consultation to relevant stakeholders, identified multiple regulatory and alternative options, and estimated costs and benefits of the most feasible choices. The experimentation phase highlighted a series of problems concerning the need to narrow the scope of the application of RIA, increase the resources (human and financial) dedicated to it, and provide staff dedicated exclusively to this activity. So far, no other RIA has been undertaken and the definition of structured mechanisms to review RIA and ensure their quality has been postponed indefinitely.

In Catalonia, justifications on the opportunity of regulatory initiatives and economic studies about their consequences have been required since 1989. However, Decree 106/2008 introduced the requirement of a more elaborate impact assessment called the Normative Impact Memories (NIM). NIM are *ex ante* impact assessments about the costs and burdens imposed by regulations and are obligatory for all the departments issuing regulation.<sup>25</sup> These include an analysis of the formalities introduced by the proposed regulation to make sure they are balanced with the objective to be achieved. Regulations are also assessed in terms of their efficiency and following the principle of trying to imply the least possible burdens for business. In summary, NIM evaluate the following items:

- Administrative burdens and costs reductions.
- Simplification of procedures and reduction of formalities.
- The possibility to substitute licenses, registrations, and permits by a “previous communication” or a “responsible declaration”.<sup>26</sup>
- Direct and indirect effects of the proposed regulations.

As mentioned before, the DQN drafted a document called “Guidelines for Normative Impact Assessment to Decrease Administrative Burdens”, which explain the concepts used in the methodology for impact assessment, describe the steps to quantify administrative burdens using the SCM, and specify the cases for which the NIM are required. It is also preparing another document called “Guide of Best Practices to Draft and Review Regulations affecting Economic Activities”. This new guide introduces the principles to follow when drafting and reviewing regulation, such as rationality, policy coherence, and stakeholder participation. It also discusses the methodology for regulatory impact assessment, distinguishing *ex ante* and *ex post* instruments, and alternatives for simplification, such as previous communications, responsible declarations, eliminating redundancies, suppressing obligations, reducing the frequency of obligations, and e-government. Finally, it establishes criteria to identify, quantify, and justify administrative burdens.

#### 4.1.2. Regulatory checklists

Sub-national governments may rely on other innovative forms, apart from RIA, to estimate the impact of regulation and evaluate its benefits and costs. The most important part of BC's regulatory policy is the Regulatory Criteria Checklist (RCC), which replaced RIA in 2001. Ministers and heads of regulatory authorities must make sure that any proposed legislation, regulation, and new policy<sup>27</sup> are evaluated according to the criteria set out in the checklist.

The Premier was clear that every Minister and head of regulatory authority was responsible and accountable for implementing the new regulatory reform policy with the requirement that each would sign the RCC declaring that the proposed new or amended legislation or regulation was developed according to the criteria. There would be no "regulatory gatekeepers" checking on the ministries. The Ministers would be responsible. There are limited exceptions to using the criteria on the checklist, such as changes that are non-regulatory in nature and changes that relate only to the procedures or practices of a court.

The RCC is very simple and includes questions in 11 different categories: reverse onus, cost-benefit analysis, competitive analysis, streamlined design, replacement principle, results-based design, transparent development, time and cost of compliance, plain language, simple communications, and sunset review/expiry principle (see Box 6 for further details).

Each category has a yes/no checkbox next to it. If the answers to the questions in any category are "no", then an explanation must be attached. At the end of the form, there is a box that asks how many regulatory requirements will be added and how many will be eliminated, as well as what the net change will be. When the reform policy was first introduced in 2001, two regulatory requirements had to be eliminated for every one introduced. Since 2004, when the original target to reduce regulation by one-third was met, a target of no net increase has been in place and extended to 2012.

A signed copy of the RCC or exemption form must be included with any legislation submitted for Executive Council review and any Order in Council that is being recommended by the responsible minister to the Executive Council to enact regulation. Copies of the signed RCC and exemption forms must also be facilitated to Straightforward BC, which provides some oversight regarding whether the checklists are being followed. It also monitors regulations and asks ministries to provide checklists that it has not received.

The RCC encouraged a change in culture from one where regulation was seen as the answer to any problem and the private sector was viewed with some suspicion to one where questions are asked, alternatives are considered, and the contribution that businesses make to the economy is better understood.

#### **Box 6. BC's regulatory criteria checklist**

The RCC is composed by 11 different categories with their respective questions:

A) Reverse Onus-Need is Justified:

- Has the scope of the public policy problem been assessed?
- Is government intervention necessary to address the problem?

B) Cost-Benefit Analysis:

- Is the benefit to government or external partners worth the increased cost to small business and those who must comply?

C) Competitive Analysis:

- Has the impact of the requirements on BC's economic competitiveness been assessed?
- Have the requirements been compared with other relevant jurisdictions?

D) Streamlined Design:

- Do the requirements avoid or eliminate duplication or overlap with federal or local government requirements or those of other ministries?
- Has business process mapping been undertaken to streamline the requirements and lessen the time needed by small business to comply?

E) Replacement Principle:

- Will one regulatory requirement be eliminated for each one new regulatory requirement introduced by the legislation or regulation?

F) Results-Based Design:

- Does the design reflect government's commitment to regulatory requirements that are results-based and use scientific evidence?

G) Transparent Development:

- Are the requirements transparent for ease of access, understanding, and compliance?
- Has small business had the opportunity to see and comment on the proposed requirements?

H) Time and Cost of Compliance:

- Has the amount of time required by small business to comply been reduced?
- Can compliance occur with existing resources of small business?
- Have government service standards been set?

I) Plain Language:

- Have the requirements been drafted in plain language and in a way that facilitates compliance?

J) Simple Communications:

- Will this change be communicated?
- Can it be described in less than one page?

K) Sunset Review/Expiry Principle:

- Has a date been set to review the requirements to ensure continued relevancy?
- Does the legislation or regulation contain a sunset provision for requirements to expire?

#### *4.1.3. Small business impact assessments*

Recognising that SME are more vulnerable to increased costs created by accumulated administrative burdens, some jurisdictions have introduced special controls to avoid damaging the start-up and operation of small businesses.

BC's RCC incorporated a small business lens in 2007. The Small Business Roundtable pushed to incorporate this feature, which is important as most businesses in BC fit this description (about 83%). Questions such as "is the benefit to government or external partners worth the increased cost to small business and those who must comply?", "has business process mapping been undertaken to streamline the

requirements and lessen the time needed by small business to comply?”, “has small business had the opportunity to see and comment on the proposed requirements?”, “has the amount of time required by small business to comply been reduced?”, and “can compliance occur with existing resources of small business?” demonstrate that small business must be a concern of regulators when drafting and introducing new rules.

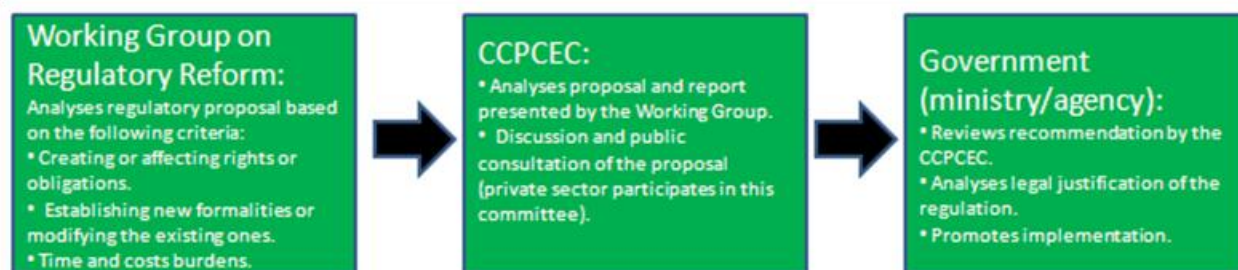
#### 4.1.4. Committees/working groups

In Baja California, the process to introduce new regulation is based on the roles of the CCPCEC and the Working Group on Regulatory Reform. The process was defined in the Law to Promote Competitiveness and Economic Development, which also established the responsibilities of the CCPCEC, among others:

- Promoting simplification, deregulation, improvement, and effectiveness of the legal framework linked to business activities at the state and municipal levels.
- Analysing the proposals presented by the Working Group on Regulatory Reform.

The Working Group is the first in analysing regulatory proposals. The criteria it applies includes impacts in creating or affecting rights, establishing new formalities or modifying the existing ones, and time and cost burdens implied by regulations. The Working Group is the forum for stakeholders to present arguments on the strengths and weaknesses of regulatory proposals. Once a decision is taken, the Working Group prepares a report with a positive or negative opinion to be sent, along with the proposal, to the CCPCEC. This Committee discusses the materials and holds the proposal to public consultation. If it is approved, it will be sent back to the government, which analyses its legal justification.

**Figure 3. The process to introduce new regulations in Baja California**



The municipality of Mexicali published its Bylaw to Promote Competitiveness and Economic Development in August 2009. It established a committee to review regulatory proposals. Its members include the Mayor, the General Administrator (Oficial Mayor), three members of the city council, the President of CCE in the city, three directors of the municipality, and two members from the academic sector (UABC and CETyS). The department introducing regulation must present the proposal to the committee for its analysis, along with a RIA.

## 4.2. Regulatory consultation

Public regulatory consultation may have different objectives, such as collecting empirical information for analytical purposes and to complement RIA, as well as to better understand issues such as the acceptability of different policies, which is essential in determining practicability and designing compliance and enforcement strategies. Since consultation is a cost-effective source of data, it is increasingly being used in OECD countries (OECD, 2002, pp. 67-69).

The different consultation mechanisms are not mutually exclusive, in fact, “there is an evolving tendency to adopt different forms of consultation in combination, to improve its overall performance. This reflects growing understanding of the strengths and weaknesses of different consultation strategies and of the fact that they are therefore suited to different specific circumstances and to different stages in the consultative processes” (OECD, 2002, p. 69).

*Recommendation #19: Establish formal institutional mechanisms to consult relevant stakeholders when new regulations and laws are proposed. There are five basic consultative mechanisms: informal inquiries, circulation of regulatory proposals for public comment, public notice and comment, hearings, and advisory bodies.*

In BC, the RCC provides that consultation must happen, even though it is not overly prescriptive with respect to how. Transparent Development is part of the RCC; in particular, it asks whether there has been consultation with small business during the development of regulatory requirements and whether small business had the opportunity to comment on the proposed requirements. This section clearly puts the onus on government to consult about regulatory changes. If business or the public do not feel consultation has happened, they can challenge the government by stating that it is not following its own policy.

Specific consultations vary, but they typically involve informal and formal discussions with affected groups, calls for submissions, broad circulation of proposals for comment, and public forums. Even though there is no formal requirement that the views of participants in the consultation process be made public, in practice, associations often post their submissions to government on their websites and sometimes even deliberately try to request media attention for their views.

Changes made to regulations affecting the oil and gas sector provide a good example of the official approach to consultation. There were eight pieces of legislation that were written as the industry grew and expanded. The government wanted to modernise and streamline the legislation. It posted a discussion paper online and sent it to key stakeholders with a call for submissions (the Ministry contacted around 150 stakeholders to ask for their views). Once the Ministry had a better idea of how they wanted to proceed, it contacted a few key stakeholders for further discussion.

As it has been established, BC also has the practice of setting up advisory bodies to ask for specific suggestions for improving economic competitiveness and regulatory quality. This is the case of the Small Business Roundtable, the BC Competition Council, and the Red Tape Task Force. In fact, in order to achieve the one-third reduction in regulation, the government launched an intensive campaign to consult with industry regarding what regulations to simplify and eliminate.

In Piemonte there is a commitment to ensure adequate consultation with social organisations, trade associations, and consumers, particularly regarding laws and regulations of greater impact for citizens and enterprises. Consultation is carried out in different and flexible ways, according to specific needs. In sectors where there is a very concentrated and organised representation (industry, tourism, commerce, *etc.*) consultation mechanisms are restricted to a few stakeholders’ associations through special or temporary discussion boards and written position papers. Enlarged consultation boards are used when many different interests need to be represented and there is not one single identifiable representative encompassing them. Informal consultations also take place regularly.



In the cases of public calls for opinions and temporary discussion boards there is, as a rule, public disclosure of opinions provided by single stakeholders and of discussions held during consultations. Disclosure usually takes place through the Internet in the region's official website.

In Catalonia, the process to introduce new regulations formally mandates consultations via public information requirements (public notice) and audiences with interested parties (Law 13/2008). Public information requires regulatory proposals to be accessible at least 15 days (electronic means are frequently used). Audiences take place directly with citizens or with representative and recognised organisations and may be carried out through electronic means by circulating regulatory initiatives and offering an e-mail account to forward comments and objections.

In addition, a list of consulted entities must be attached to regulatory proposals, along with arguments received. As it has been already explained, the process to reach the SACIEQ involved intensive consultations with business and labour organisations. Likewise, the Labour, Economic, and Social Council of Catalonia acts as a consulting entity for the government on issues related to economic and labour affairs.

The Mexican states under review carry out consultation based mainly on advisory bodies. In Baja California, the CCPCEC and the Working Group on Regulatory Reform are the institutional mechanisms for public consultation. There have also been ad hoc processes of consultation, for example, the PROTEGE Deregulation Roundtables to simplify business formalities and the Forum on Deregulation. ADAEE also involved significant stakeholder participation. In Jalisco, consultation takes place through CEDESPE, which involves around 70 stakeholders that can argue their positions regarding proposed regulations and work on the design of new laws. In Puebla, consultation is carried out in the board of CEMER. However, in practice, there have been other ad hoc wide consultations, such as the one led by the State Congress to draft the Law for Regulatory Improvement.

#### ***4.3. Administrative simplification programmes***

When regulations are not updated or reviewed periodically, there is a risk that they could impede innovation and represent barriers to trade, investment, entrepreneurship, and economic efficiency. Red tape is particularly burdensome for SME, as they do not have vast resources to deal with the formalities required by authorities. "Administrative burdens refer to regulatory costs in the form of asking for permits, filling out forms, and reporting and notification requirements for the government" (OECD, 2006, p. 9).

Administrative burdens imply direct and indirect costs. Direct costs include time and money spent on formalities and paperwork to comply with rules. Indirect costs refer to reductions in productivity and innovations of firms, as a consequence of a poor regulatory system. Furthermore, there is a cumulative effect of regulations and formalities issued by multiple public offices and levels of government. The consequence of these negative effects can be "to slow business responsiveness, divert resources away from productive investments, hamper entry into markets, reduce innovation and job creation, and generally discourage entrepreneurship" (OECD, 2002, p. 58).

Clearly, giving up the regulatory functions of the different levels of government is not the solution. "Formalities are important tools used by governments to carry out public policies. They often constitute indispensable implementation mechanisms for various substantive programmes" (OECD, 2002, p. 57). Therefore, the solution is the adoption of regulatory quality programmes to guarantee coherence and coordination. Administrative simplification emerges as a tool to improve the quality of regulation and remove unjustified barriers to entrepreneurship.

#### 4.3.1. Measurement of administrative burdens

Before a government undertakes the task of implementing an administrative simplification strategy, it is useful to have a measurement of the burdens imposed by the regulatory system. “In fact, a lack of objective measures of existing administrative burdens may limit the capacity of governments to achieve burden reduction objectives” (OECD, 2006, p. 41).

*Recommendation #20: Establish a burden measurement programme to be able to track progress of the administrative simplification strategy.*

Having such a measurement implies multiple benefits. First, it provides data on the status of the regulatory system and how burdensome it is. Second, it provides a scale to propose simplification or reduction goals, as well as to track progress towards it. Third, it supports accountability, so that the offices in charge of simplification are held responsible for the results of the strategy.

The methodologies to measure administrative burdens vary in their degree of technical complexity, from simply counting the number of regulations and the time required to complete the formalities imposed by them to much more sophisticated techniques, such as the SCM. In some cases, measurement can be costly and administrations should carefully target the regulations to be assessed. Qualitative methods, such as perception surveys, can also complement quantitative ones.

In BC when the Minister of Deregulation was first appointed, one of his first challenges was to develop a measure to determine progress of the government’s commitment to reduce red tape by one-third. He rejected some measures that had been used in Canada in the past. For example, he decided not to simply count the number of regulations as each individual regulation can have thousands of requirements associated with it. Instead, “regulatory requirements” coming from legislation, regulation, and policy became the accounting tool. A regulatory requirement was defined in BC’s regulatory reform policy as “a compulsion, obligation, demand, or prohibition placed on an individual entity or activity by or under the authority of a provincial Act, regulation, or related policy”. To understand how different this measure is from just counting regulations, it is worth noting that the Workers Compensation Act in BC includes only nine regulations, but they are translated into 35 308 regulatory requirements.

Each ministry conducted its own count of the regulatory requirements contained in statutes, regulations, and policy, and a central regulatory requirement count database was established for baseline and reporting purposes. The first government wide count revealed 382 139 regulatory requirements at the provincial level.

The success of BC in this domain has influenced other provincial governments in Canada, as well as the federal government. The province of Newfoundland and Labrador followed the BC model by making a commitment to reduce red tape by 25% in four years, using regulatory requirements as a measure. Nova Scotia has also set a reduction target using a different measure, hours spent on paperwork. The Canadian national government adopted the BC model by putting in place a one-year target to cut red tape by 20%.

Catalonia uses the SCM *ex ante* to assess the burdens implied by regulatory proposals. In fact, the DQN has been very active in providing advice and guidelines to facilitate the use of the methodology. The experience obtained from using the SCM *ex ante* could lead in the future to its use *ex post* in counting or review exercises.

### Box 7. The Standard Cost Model

The Standard Cost Model (SCM) measures the administrative costs imposed on business by government regulation. This technique was first used by the Netherlands and has been introduced as such or adapted by many other European countries in the last years. Costs are primarily determined through business interviews, which specify in detail the time companies use to fulfil government regulation.

The SCM breaks down regulation into manageable components that can be measured: information obligations, data requirements, and administrative activities. Then, it estimates the costs of completing each activity on the basis of a couple of basic cost parameters:

- Price: The price consists of a tariff, wage costs plus overhead for administrative activities done internally or hourly costs for external services.
- Time: The amount of time required to complete the administrative activity.
- Quantity: Quantity comprises of the size of the population of businesses affected and the frequency that the activity must be carried out each year.
- The combination of these elements gives the basic SCM formula:
- Cost per administrative activity = Price x Time x Quantity

The strength of the model is not only its high level of detail in the measurement of administrative costs, but also the fact that the numbers obtained are consistent across policy areas. It also allows benchmarking of international regulations because it provides transparent measurements.

Source: OECD (2006), *Cutting Red Tape: National Strategies for Administrative Simplification*, Paris, p. 43.

#### 4.3.2. Simplification tools and techniques

Administrative simplification efforts may include primary and secondary regulations. There are different techniques that can be used to implement regulatory simplification (OECD, 2006, p. 51):

- Removing existing legislation/regulation:
  - Removing single laws or departmental regulations.
  - Removing regulations by a specified date (expiration).
- Changing legislation/regulation to ease compliance:
  - Compiling different laws into one single law to simplify communication.
  - Minimising requirements imposed on businesses.
  - Simplifying administrative procedures (*i.e.* firm registration procedures).
  - Minimising the number of businesses affected by legislation (by increasing thresholds, excluding sectors, *etc.*).

- Harmonising report obligations:
  - Harmonising report obligations between different authorities.
  - Harmonising definitions across line ministries.
- Data Sharing: Creating access to reliable data through the optimal sharing of data within the public sector, based on user consent and legitimate purposes.
- Risk-based approaches: This technique allows focusing regulators' resources in those areas where the risks to society are the greatest, simplifying the licensing requirements in less risky sectors.
- Packaging different formalities in a single window: The most popular tool in this regard is a one-stop shop.<sup>28</sup> One-stop shops are “offices where applicants and others interested in government services can obtain the information necessary to their queries in one location” (OECD, 2006, p. 62). They are designed to provide integrated services with as few and as easily accessible points of contact with clients as possible, delivering significant savings in information search and transactions costs.

*Recommendation #21: Make use of administrative simplification tools and techniques to remove unnecessary burdens on entrepreneurship and investment. Having a measure of administrative burdens (quantitative and qualitative) helps to prioritise the procedures for which simplification is most urgent.*

Our cases provide evidence about the use of these different techniques. BC, for example, has applied the techniques of removing and changing regulations. To ensure a net reduction of regulation, the regulatory reform policy required initially that two regulatory requirements be removed for every new one introduced. This policy was included in the RCC that Ministers must sign when introducing new regulatory requirements. In the first four years of reform many unnecessary rules across a wide range of sectors were eliminated. In fact, over 3 000 fees and licenses across government were reviewed and 43% of them were eliminated, consolidated, or devolved. Currently, one regulatory requirement must be eliminated for each new one introduced. The revenue office also participated in these strategies by undertaking a review of the tax rules and reducing the amount of time that businesses were required to keep records (therefore, decreasing record keeping costs for businesses). In addition, BC uses the strategy of data sharing by implementing a “national business number” (BN). Most BC businesses are now using the BN, which allows them to interact with many different government departments using the same identification number. This instrument makes dealing with government easier as once the information is provided to the first agency it is transferred to others without re-keying (subject to the permission of the entrepreneur).

Piemonte has implemented some techniques to minimise the requirements imposed on businesses. For example, the instrument of reporting the commencement of an activity enables citizens to start up new business initiatives on the sole basis of a statement that they have done so, without the need for an administrative authorisation from the authority. Even though there are exceptions, this practice eliminates waiting time for the authorisation reply. A law issued on 29 July 2003, formalised the self-certification procedure, so that the administration is only required to make sure that permits are used properly, instead of issuing them. Piemonte also makes use of data sharing to speed up administrative procedures through an important instrument called the Conference of Services. This makes it possible for the object of the procedure to be examined simultaneously by all the required offices. It is, therefore, the main instrument to accelerate and simplify complex procedures that require the validation of different agencies of the administration.

Piemonte has also a network of one-stop shops, which involves the different levels of government and the stages of the life cycle of business. This network allows simplifying interactions between businesses and the public administration:

- Giving entrepreneurs a single window for all procedures dealing with start-up, operation, and closure of business facilities.
- Simplifying procedures as the entrepreneur obtains permits after submitting a single application.
- Facilitating access for city governments to all the necessary information from the various authorities involved.
- Providing entrepreneurs specific deadlines defined by the relevant regulations.
- Providing information and advice about localisation, financial, and job-creation incentives.

Catalonia makes use of one-stop shops called OGE. Initially, OGE administered formalities only for the start-up stage, but it has been incorporating formalities to provide advice and solutions for other stages of the life cycle of businesses, from start-up to closure. It concentrates formalities under the jurisdiction of different departments to become an integrated point of contact between the public administration and citizens. It has a network of 22 offices, out of which 17 were established in co-operation with business chambers. This feature increases the potential of OGE as it immediately reaches the businesses associated to the chambers with which it works. OGE's management principles are the following:

- Facilitating compliance with administrative requirements for businesses, so that they imply the least possible burdens.
- Providing clear and complete information to business requests as quickly as possible.
- Having accessible offices with trained staff.
- Promoting mechanisms to offer services without asking the client to visit the physical offices (electronic one-stop shop).
- Promoting administrative simplification.
- Operating under a quality management system (UNE ISO 9001:2000) to guarantee client satisfaction.
- Providing personalised service issuing an informative card establishing required documents and fees for the formalities to be completed.

**Table 6. Formalities managed by OGE in 2008 and 2009**

	2008	2009
Professional Certificates	21 639	21 333
Patents and trademarks	8 539	7 335
Registration of specific activities	7 515	9 483
Registration of industrial activities	6 546	4 713
Communications	3 487	2 653
Electricity set up	3 018	2 212
Homologation Certificates	1 915	1 824
Tourism registry	1 124	1 026
Construction industry formalities	859	898
Others	9 666	10 028
TOTAL	64 308	61 505

Some of the techniques used in Catalonia to minimise requirements on businesses are similar to those applied in Piemonte. For example, “responsible declarations” resemble self-certification features used in Piemonte. Responsible declarations substitute the requirement on businesses to provide endless documents and imply that they are complying with the applicable norms, holding themselves responsible. “Previous communications” are also substituting permits and licenses, so that businesses can start their operations once they provide these communications to the authority. In addition, Catalonia is making use of data sharing by working on a “Platform for Administrative Integration and Co-operation” (PICA), which eliminates the requirements for businesses and citizens to provide documentation to several government entities.

The main instrument of simplification in Mexico is SARE. SARE is a risk-based approach, applied to low risk businesses, that attempts to simplify the procedures for business start-ups at the three levels of government by ensuring that the entrepreneur receives the license to begin operations within 72 hours of the request. Physical one-stop shops are also popular and widespread simplification tools in Mexico.

In Baja California, SARE was initially implemented in 2002 in Mexicali and Tijuana. The latter gave up the programme in 2007, despite all the benefits deriving from it. These benefits, in the form of new businesses, employment, and investment, have been realised by the different cities implementing SARE in the state, as Table 7 illustrates.

**Table 7. Impact of SARE in the municipalities of Baja California**

Municipality	Businesses	Employment	Investment USD <sup>29</sup>	Starting Year
Mexicali	1 212	1 818	4 102 431.85	2002
Tijuana	349	1 021	492 281.31	2002
Ensenada	357	654	1 663 338.46	2004
Tecate	190	311	966 360.54	2006
Playas de Rosarito	159	595	651 578.46	2006
TOTAL	2 267	4 399	7 875 990.62	

Source: Information provided by COFEMER and the state's SEDECO. Data is updated up to September 2009.

Baja California has physical one-stop shops called “Business Support Centres” (CAE’s). Besides offering the services involved in SARE, these centres provide information and advice about financing alternatives and business training, particularly for SME.

Puebla has also implemented SARE and, in fact, the municipality of Puebla was the first one nationally to adopt it in May 2002. Currently, 21 municipalities in the state have implemented SARE, with very good results in terms of new businesses, employment, and investment, as Table 8 illustrates.

**Table 8. Impact of SARE in the municipalities of Puebla in 2009**

Municipality	Businesses	Employment	Investment USD <sup>30</sup>
Acajete	29	36	49 230.77
Atlixco	94	210	1 325 761.62
Chalchicomula de Sesma	217	212	244 615.38
Chignahuapan	164	179	189 230.77
Coronango	17	17	19 615.38
Cuatlancingo	139	622	1 299 165.15
Huauchinango	127	366	1 294 350.62
Huejotzingo	30	110	192 242.31
Nopalucan	7	7	5 384.62
Puebla	1 617	1 617	1 919 231.38
San Andres Cholula	241	243	302 308.38
San Gregorio Atzompa	34	81	87 153.85
San Martin Texmelucan	142	321	799 000.85
San Pedro Cholula	117	117	160 385.54
Tecamachalco	53	123	2 454 538.46
Tehuacan	50	112	296 539.54
Tepeaca	341	924	460 038.46
Teziutlan	234	563	1 453 063.38
Tlatlauquitepec	14	14	16 153.85
Xicoteppec	21	33	46 538.46
Zacatlan	30	68	5 476 000.00
TOTAL	3 718	5 975	18 090 548.77

Source: Information provided by CEMER. Data is updated to December 2009.

Furthermore, Puebla has implemented an upgraded version of SARE called “SARE Express”, which ensures that entrepreneurs receive licenses to begin operations within 30 minutes of the requests. This version has only been implemented in the municipalities of Atlixco, San Martin Texmelucan, and Puebla.

Puebla has complemented SARE with physical one-stop shops, which are called “Business Support Centres” (CAE), just like in Baja California. Entrepreneurs can complete formalities for the three levels of government in the CAE, for example registration in the Tax Federal Registry (RFC) and payments of ownership taxes and water services. It is worth noting that some of the formalities that can be completed in CAE apply for businesses already operating, not only for start-ups.

Jalisco has implemented SARE, but also other simplification techniques. Regarding SARE, the municipalities of Guadalajara and Zapopan first adopted it in 2003. The results of the programme, in terms of new businesses, employment, and investment, are illustrated in Table 9.

**Table 9. Impact of SARE in the municipalities of Jalisco**

Municipality	Businesses	Employment	Investment USD <sup>31</sup>
Guadalajara	29 943	46 227	147 412 293.31
Puerto Vallarta	1 313	1 746	9 850 911.92
Tepetitlan	1 645	2 372	14 677 603.08
Tlajomulco	88	140	182 692.31
Tlaquepaque	4 850	8 828	13 094 006.62
Tonala	1 713	2 850	3 990 269.23
Zapopan	1 735	9 539	124 861 083.87
TOTAL	41 287	71 702	314 068 860.34

Source: Information provided by COFEMER. Data is updated up to September 2009.

Jalisco has also compiled different formalities into a single one to ease compliance. For example, the state created the “Unique Environmental License”, which integrates different environmental requirements from the three levels of government. It allows businessmen to complete all their formalities dealing with environmental permits in one single office.

The municipality of Guadalajara is also making use of several simplification techniques. For example, it is implementing an extended version of SARE called “Start Up your Business without the Hassle”, which applies the SARE methodology to moderate risk businesses and allows granting an operation license decreasing turnaround time by 70%. Guadalajara has also minimised requirements for businesses. For example, it is not requiring the RFC to grant a business operation license, as almost all municipalities do. The municipality considered that it is the federal Ministry of Finance’s responsibility to make sure businesses are registered to pay taxes and, therefore, dropped that requirement. Guadalajara has also eliminated business registration requirements through COMEREG, such as the elimination of the feasibility study performed by the water management authority. Finally, Guadalajara has a physical one-stop shop called “Integral Business Centre” (CING), where entrepreneurs can complete formalities for the three levels of government, such as registration in the RFC, company denomination, and registration in the state’s tax registry.

#### **4.4. E-government**

Administrative simplification and the broader regulatory reform agenda have been pushed forward by the development of e-government tools. The OECD defines e-government as “the use of information and communication technologies, and particularly the internet, as a tool to achieve better government” (OECD, 2006, p. 61).

Government portals, such as consolidated registries and electronic one-stop shops, are widespread tools for simplification. These portals vary in their degrees of sophistication but, in general, four stages can be identified (OECD, 2006, p. 66):

- Information: Information necessary to start the procedures to obtain public services is available online.
- One-way interaction: Publicly accessible websites offer the possibility to download and print forms to start the procedures to obtain public services.
- Two-way interaction: Publicly accessible websites offer the possibility of an electronic intake with an official electronic form to start the procedures to obtain public services. This interaction implies a form of authentication of the person requesting the service.



- Full electronic case handling: Publicly accessible websites offer the possibility to completely treat a public service via the website, including decision and delivery. No other formal procedure is required from the applicant via paperwork.

The degree of online sophistication tends to be situated between one-way and two-way interaction. Most online government services in OECD countries provide information and downloadable forms for users, but they cannot offer the capacity to complete transactions online (OECD, 2006, p. 67).

The technical platforms to get to stages three and four are complex and, therefore, it is not realistic to recommend a government to start at stage four right away, or even to move from stage one to four directly. Instead, the process to build an e-government platform must be incremental. An administration in stage two should try to get to stage three. Likewise, an administration in stage one should try to move to stage two. An administration with no technological platform should start building the infrastructure to set stage one. Hence, our recommendation:

*Recommendation #22: Sub-national governments (states and municipalities) should take advantage of e-government tools by building their technological platforms incrementally to simplify business formalities, facilitate access to information, and decrease transaction costs. To the extent possible, these tools may incorporate a multi-level approach.*

#### 4.4.1. Consolidated registries

In many Mexican states, government portals are still in stages one or two. As a consequence, consolidated registries are commonly used. In Baja California's website there is a link to the state's Registry of Formalities and Services. This registry contains information on formalities required by different state ministries and municipalities. The municipality of Mexicali also anticipates developing a consolidated registry of local formalities. Likewise, the websites of the government of Jalisco are mostly informative and do not allow to complete payments or formalities online. However, some of the formalities managed by Jalisco's Property Public Registry can be completed online.

Puebla has basically two business portals. The Business Management website provides information about the formalities required for start-up and operation according to the sector of the business to be created, as well as costs, offices, and turnaround deadlines. Payments can be done online for some of the formalities dealing with business start-ups. The registry TRAMITAPUE provides information about the formalities required and services offered by the state and its municipalities. 1,084 formalities and services are included, as well as 194 support programmes.

Despite the fact that these portals are only in stages one or two, the three Mexican states under review are working to move up the ladder, particularly in initiatives to establish electronic signature, which helps to get closer to two-way interactions. In Baja California, the State Congress already approved the Electronic Signature Law to formalise the use of this tool. The state is working on an electronic platform called "Asiste", which aims to full electronic case handling. In Puebla, in October 2009, the Governor also presented to the State Congress a legal initiative to establish the electronic signature. In Jalisco's CEDESPE, the Committee on Administrative Modernisation and Innovation has established a discussion table on the electronic signature. There is also an Inter-ministerial Commission on Electronic Signature working for its widespread implementation at the state and municipal level. Two formalities used by public notaries already make use of the electronic signature.<sup>32</sup>

#### *4.4.2. Electronic one-stop shops*

Electronic one-stop shops may reach stages three or four in their degree of sophistication and are particularly useful to manage complexity and decrease costs for start-ups. “Going further than the traditional one-stop shops that usually regroup several government agencies in one physical location, electronic one-stop shops make use of the latest information and communication technologies (ICT) and offer a comprehensive range of services” (OECD, 2009c, p. 7).

BC is leader in e-government strategies with two business one-stop shops to highlight. The first is OneStop, which was launched in 1996 to make it easier for businesses to interact with multiple levels of government. The site allows businesses to complete commonly required registrations and transactions, such as registering the business, registering to pay provincial and federal sales taxes, and applying for a municipal business license. Entrepreneurs can also get a business name approved and change their business addresses. Currently, close to 200 public and private sector organisations have partnered with OneStop, including municipal governments. OneStop is user-friendly and has incorporated customer service support through online help and a toll-free help desk. According to user surveys, 93% of businesses report that the instructions were easy to follow and understand and 96% report that they would use the service again or recommend it to others. When used with the BN, OneStop is estimated to save five hours when registering a business and six to seven hours when changing address information. In fact, it takes businesses less than an hour to complete their registrations using OneStop.

The other one-stop shop is BizPal, which allows businesses to go online and determine all the business permits and licenses that entrepreneurs must comply with from the three levels of government. It saves more than six hours of document search time. The BC government has set the goal of launching BizPal for 95 out of 160 municipalities by 2010.

In Catalonia, the Virtual Office for Formalities groups in one single web page more than 1 000 formalities for citizens and businesses. 160 of these formalities can be fully completed online (full electronic case handling) and 32 are business specific, such as reports on workplace accidents and previous notices of construction. Furthermore, OGE has incorporated an electronic one-stop shop to its services.

#### *4.4.3. Other e-government practices and tools*

The cases under review provide evidence of other innovative and useful e-government practices and tools that could be replicated by the Mexican states. BC has implemented an electronic identification called BCeID. This service allows businesses to sign in securely to any participating government online service. Its main advantage is having a single password so that the user does not have to remember a different login ID and password at every website. BCeID eliminates the need to go through the process of registering for a new login ID and password when first using an affiliated website.

Piemonte has been working in facilitating the widespread use of e-government tools. Two out of three town administrations own and manage their Internet sites, while in 2005 only 50% did so. One out of four municipalities has a website allowing access to interactive services. However, the little size of many municipalities has hindered their possibilities to use ICT. A practice that has helped to overcome this difficulty is the affiliation to an associative form to participate in innovation projects and co-operate with other municipalities to manage ICT. Piemonte has also advanced e-government based on a principle of subsidiarity, in which the regional level is in charge of infrastructure and the provincial administrations and big municipalities develop initiatives suited for enterprises' and citizens' needs. An interesting tool is SIGMATER Piemonte, which allows the interchange of cadastral data between local bodies and the public institutions of Piemonte.

Catalonia is making use of e-government tools to facilitate data sharing and decrease the requirements on businesses. PICA, for example, eliminates the requirements for businesses and citizens to provide documentation to several government entities. In just one year, PICA increased the volume of data exchanges by 191%.<sup>33</sup>

**Table 10. Data exchanges via PICA in 2008-09**

	Starting Date	2008	2009
Data from the population registry	January 2008	93 247	221 692
Numerous family certificate	January 2008	353 462	890 966
Social security certificate	March 2008	14 306	145 754
Revenue service certificate	July 2008	1 780	45 972
Data from the national identification document and fiscal documents	July 2008	773	37 548
Debt with the provincial government certificate	January 2009	0	2 735
Employment services certificate	February 2009	0	4 181
Property registry	July 2009	0	52
Documents certified by architects	July 2009	0	29
<b>TOTAL</b>		<b>463 568</b>	<b>1 348 929</b>

The Mexican states under review have also made use of e-government tools. In Baja California, the Trade and Property Public Registry has implemented electronic self-service modules, which eliminate the need of citizens to interact with public officials. In Puebla there are electronic kiosks in strategic points (for example, shopping malls) where citizens can complete formalities and obtain official documents. Since these kinds of tools eliminate interactions between citizens and public servants, they help to avoid the incidence of corruption.

#### 4.4.4. Offices in charge of e-government strategies

*Recommendation #23: Establish clear responsibilities to an office/department to be in charge of the e-government strategy, making the link with the office in charge of regulatory reform (in case that it is not the same).*

In Catalonia, Decree 324/2001 was the first regulating electronic interactions between citizens and the administration. The government established the Office for the Development of Electronic Management (ODAE), which is a horizontal body promoting e-government in public departments. Decree 56/2009 increased the number of sectoral formalities subject to electronic administration.

Another important entity in Catalonia is the consortium “Open Administration of Catalonia”, whose mission is to support public administrations adopting and developing policies to improve public services by using ICT. The consortium provides financial support for local entities to develop e-government projects. Furthermore, it promotes the use of electronic identity and signature, together with Catalonia’s Agency for Certification (CATCert).

In Baja California, the Information Systems General Direction is in charge of the e-government strategy. It co-ordinates the different ministries and agencies of the state in the implementation of e-government tools. Two pieces of evidence that demonstrate that it works in co-ordination with the office in charge of regulatory reform are the Electronic Signature Law and the state’s Registry of Formalities and Services. In Puebla, CEMER is not only in charge of regulatory reform, but also of the e-government strategy. Therefore, co-ordination between the two policies is integrated in a single organisation.

#### **4.5. Compliance, inspection, and enforcement**

Lack of compliance is one of the main factors behind regulatory failure. Regulators must design rules in a way that allows compliance at reasonable expenses; otherwise, policy objectives will not be attained. “Since the level of compliance is perhaps the most fundamental determinant of the effectiveness of regulation in meeting policy objectives, regulatory design and implementation must proceed from an understanding of the factors that determine the willingness to comply of regulated groups” (OECD, 2002, p. 74).

Considering compliance issues at the stages of regulatory design and implementation also prevents disputes leading to costly administrative and legal processes. The abundance of appeals and review demands, as well as generalized non-compliance, is signal that regulations are poorly designed and reforms are needed.

Compliance can be formal (complying with the letter of the law) or substantive (compliance that ensures the underlying regulatory objectives are achieved). “Minimising the opportunities for formal compliance to be achievable in ways that do not lead to substantive compliance is thus an important challenge for regulators. Regulatory design must encourage substantive compliance, if objectives are to be achieved” (OECD, 2002, p. 77).

Four broad types of factors determine the level of regulatory compliance (OECD, 2002, pp. 77-78):

- Knowledge and understanding of regulatory requirements: Publishing regulations may not be enough to guarantee that target populations are aware of new regulatory requirements. Furthermore, there is the issue of regulatory complexity, leading to a lack of understanding of regulations. These problems are aggravated in an environment of regulatory inflation, where overlapping and contradictions may appear. Obviously, these risks are higher in a multi-level regulatory structure. Information campaigns and “plain language” requirements can help to solve the issues related to lack of knowledge and understanding.
- Willingness to comply: The will to comply is determined by several factors, such as a sense of good citizenship, acceptance of policy goals, economic incentives, and enforcement activities, among others. When compliance costs are unreasonably high, there are incentives for non-compliance. If the target population does not see a link between regulations and legitimate policy purposes, compliance will also decrease.
- Ability to comply: This point refers to the feasibility of compliance. This is particularly relevant for SME as most of them do not have the resources to comply with complex regulations when they impose significant costs. When target populations are unable to comply, regulators are challenged by the dilemma of enforcing regulations that impose excessive costs, which may drive firms out of business, hindering entrepreneurship and job creation.
- Government capacity to apply and enforce regulations: When the probability of detecting non-compliance is low and regulatory institutions lack the resources to enforce rules, the degree of compliance may suffer.

In BC, CFIB conducted surveys asking businessmen what actions from government would help in better complying with regulations. The top five answers were simplifying existing regulations (81%), reducing the total number of regulations (72%), clearly communicating new regulations (58%), improving government customer service (57%), and providing examples of compliance (46%) (Jones *et al.* 2005, p. 28).

Despite the fact that achieving full compliance is rarely possible, regulators must set in place effective and efficient incentives to stimulate it, such as economic incentives, market-based incentives, inspection procedures, and sanctions. “To be effective in achieving policy objectives, regulation must also be adequately applied and enforced” (OECD, 2002, p. 74).

*Recommendation #24: Regulators may adopt practices to design rules so that compliance by target populations is motivated and facilitated (results-based design, considering time and costs of compliance, plain language drafting, “stick and carrot” incentives, etc.).*

In BC one of the criteria established by the RCC is Results-Based Design. This was a big change for regulators who had been used to prescriptive regulations. This change was accompanied by an increased consideration of the costs of compliance for new regulations. The RCC includes criteria for Time and Cost of Compliance, which asks specific questions:

- Has the amount of time required by small business to comply been reduced?
- Can compliance occur with existing resources of small business (*e.g.* no additional staff, accountant, lawyer, is required)?
- Is additional paperwork for small business required (costing time and money)? If additional paperwork results, can this be incorporated into or streamlined with existing paperwork?
- Can compliance occur without training for small business?

In addition, the RCC incorporates Plain Language criteria with the following question: Have the requirements been drafted in plain language and in a way that facilitates compliance?

In Piemonte the incentives to comply are defined in two different ways, *ex ante* through the definition of prizes for those that voluntarily comply (*i.e.* access to privileged sources of funding) and *ex post* through inspections and administrative sanctions.

Other practices to facilitate compliance include redirecting resources from inspecting to advising businesses on compliance and phased-in implementation of regulations (to ensure that there is adequate notice before new regulations come into effect) (OECD, 2006, p. 80-81).

*Recommendation #25: In terms of inspections, focus regulators’ resources in those areas where the risks to society are greatest (targeted inspections guided by risk-based approaches). Along with this increased flexibility, increase also responsibility for target populations.*

BC makes use of risk-based approaches to conduct inspections. “The underlying principle of risk assessment is that resources, which are often scarce, should not be used to inspect or require data from businesses that are low-risk” (OECD, 2006, p. 79).

In 2004 the BC Safety Authority was created as an independent, self-funded corporation that supervises the safety of sectors such as amusement rides, recreational railways, boilers, and electrical equipment. It is responsible for issuing permits, inspections, and certifying contractors. Instead of requiring every elevator in the province to be inspected once a year (which would be extremely costly and practically unfeasible), it inspects newest elevators less frequently than older ones. In addition, companies with better compliance records are inspected less frequently than those where there have been problems. These targeted inspections are complemented by sanctions. Penalties and fines for non-compliance have increased. At the end, inspections are less frequent and regulations less prescriptive, but penalties for non-compliance are much higher.

Piemonte and Catalonia have also increased the responsibilities of businesses to comply with regulations by using self-certification procedures and responsible declarations.

*Recommendation #26: Avoid ex ante inspections unless risks are considerably high. When feasible, opt for ex post inspections with controls on the discretion of inspectors and procedures to denounce abuses.*

*Ex ante* inspections block the process of starting up a business and impose additional costs. In Baja California, Jalisco, and Puebla the municipalities that are implementing SARE apply *ex post* inspections.

In order to control the discretion of inspectors, Baja California has established the practice of recording inspections on video and tape. Before starting, inspectors notify citizens that they will be recorded during the inspection. According to state authorities, complaints from citizens denouncing abuses or corruption have notably decreased. A similar practice is used in BC, where the revenue authority inspectors present a short video to business owners before an audit outlining what to expect and where to go if they have concerns. Clear procedures to denounce abuses also deter irregular behaviour by inspectors. Both, Baja California and Jalisco, have established boxes for complaints and suggestions, both physical and electronic.

In Catalonia, citizens and businesses have three alternatives to protect their rights and challenge regulations:

- A system of administrative and judicial appeals against regulations.
- Denouncing discriminatory practices to the ACC or the Catalan Consumer Agency.
- Appealing abusive administrative actions with the Catalan Ombudsman (Sindic de Greuges).

These alternatives also provide a system of controls on the discretion of regulators.

*Implementation advice: Make sure inspection units follow technical, homogeneous, and transparent criteria to conduct inspections.*

Inspections must be based on technical criteria known by the inspected agent. Furthermore, inspectors must apply such criteria homogeneously. The municipality of Guadalajara, in Jalisco, established a single body of inspectors called the Multi-task Inspection Unit, which is in charge of conducting inspections dealing with licenses, public works, environment, and fire safety. This unit has made inspections less costly and helped to decrease the time taken to issue operation licenses by 70%. In addition to these benefits, the municipality can concentrate on training and controlling one single body of inspectors, instead of having different bodies with inconsistent practices.

#### **4.6. Ex post evaluation practices**

*Ex post* evaluation aims to assess the impact of regulations and whether the desired outcomes are being accomplished. *Ex post* evaluation also introduces a measure of accountability on the regulatory reform policy.

*Recommendation #27: Establish ex post evaluation procedures to assess the impacts of regulation and advance accountability of the regulatory authorities.*

In BC, quarterly progress reports on reductions of regulatory burdens have represented a mechanism for the public to hold the government accountable of the regulatory reform strategy and, at the same time, to hold individual ministries accountable for their own progress before the Premier.

In Piemonte, despite the fact that *ex post* evaluation is not yet a routine procedure at the administrative level, it is performed regularly at the political level through so-called “evaluation clauses”. These clauses, stated directly in laws or in related legislative acts, require the regional government to produce reports on the impact of new regulations for the Regional Council. These reports are produced on a regular and fixed basis and provide a broad description about the application of laws and the degree of compliance. Contents are mainly descriptive, sometimes quantitative, and seldom analytical. The regional government also plans to implement in the near future a tool called VIR (Verifica Impatti della Regolazione) to evaluate the achievement of the purposes of regulations, as well as costs on citizens, firms, and the public administration.

In Catalonia both, the DQN and the ACC, have the attribution of performing analyses and studies about the impact of regulations in effect. So far, the emphasis has been more on *ex ante* evaluations, but there is a trend to increase work on *ex post* evaluations as well. Evidence of the previous statement is a consortium called Catalonian Institute for Public Policy Evaluation (IVALUA), which is developing evaluation methodologies for public policies upon request of the departments of the government.

In Puebla the board of CEMER is the main mechanism for *ex post* evaluation. In its sessions the members evaluate the work of the commission and the implementation of its annual programme. The state government also allowed the independent evaluation of a programme called “150 Champion SME”, which trains businessmen in the management of their human resources. The results showed that the programme has the potential to increase business profit margins.

#### **4.7. Regulatory reviews**

Even high quality regulation that was relevant at one point in time may become outdated as circumstances change. In consequence, the 2005 OECD Guiding Principles for Regulatory Quality and Performance recommend to “review regulations systematically to ensure that they meet their intended objectives efficiently and effectively in a changing and complex economic and social environment” (OECD, 2005, p. 4). Regulatory reviews are a complement to *ex ante* regulatory controls, as the former corrects problems and the latter avoids them.

The quality of reviews is also an issue to pay attention to. The OECD has found that in many cases regulatory agencies have substantial discretion to conduct reviews in the absence of standardised evaluation techniques and criteria. When this happens, reviews become an ad hoc and unstructured practice that focuses only on marginal changes to complex regulatory structures (OECD, 2002, p. 35).

There are mainly five strategies for regulatory review (OECD, 2002, pp. 35-39):

- **Scrap and Build:** It consists on a comprehensive review and rebuilding of entire regulatory regimes, prioritising specific sectors and taking into account the interactions of multiple regulations, which might be particularly relevant in a multi-level environment. The advantages of this method include benefits appearing faster, affected parties having more warning of the need to adapt, vested interests having less opportunity to block change, and reforms having high political profile. The disadvantages are that this method is costly, time-consuming, and may not be feasible where the resources and expertise are limited.
- **Generalised Reviews:** They are policies that instruct regulatory bodies to review the entire structure of their regulations against general criteria such as need and efficiency. This kind of reviews has a broad scope of concentration (*i.e.* the entire stock of regulations with business impacts). A variant of this kind of reviews is the “guillotine”, which nullifies regulations that are not registered after a certain date. However, these reviews have been weakened by exemptions excluding burdensome regulations, lack of priorities, fragmentation, and lack of depth and rigor.
- **Sunsetting and Automatic Review Clauses:** This technique consists on setting an automatic expiry date for new laws and regulations upon adoption. Regulations subject to sunseting can only extend their effect if they are remade through standard rule making procedures. This kind of reviews reduces the average age of the regulatory structure and ensures periodic reform of the regulatory stock. Its disadvantages include reducing the predictability of the regulatory environment and decreasing compliance as the expiry date approaches.
- **Mandated or Automatic Review Processes:** This method consists on systematic reviews of existing regulations. They are grouped according to their age and progressively reviewed against quality criteria, which gradually brings the regulatory stock into conformance with those standards. Unlike sunseting, regulations continue unless actions are taken to eliminate them. The obvious disadvantage is that since positive action is required, vested interest may organise to defend the status quo.
- **Variance Processes or Equivalence of Performance Tests:** This technique allows businesses to apply lower-cost compliance methods as long as they are equally effective as an existing regulation. It combines the logic of performance-based regulation with the ability to advance the innovative skills of business to come up with more efficient processes.

*Recommendation #28: Establish practices with clear criteria to systematically review laws and regulations in order to make sure that they meet their intended objectives.*

In BC, sunseting is part of the RCC but is not required for all new regulations. Although there is no formal process for reviewing existing regulations, the target of a net zero increase in regulatory requirements has developed a culture of continuous improvement. Ministries are forced to continually review their existing stocks of legislation, regulation, and policy as new regulatory requirements are introduced. There are also ad hoc reviews as suggestions are welcomed by Straightforward BC and many of the ministers responsible have actively encouraged people to give them suggestions but there is no specific mechanism such as a website that solicits advice from the general public. There was a comment card asking for suggestions several years ago but this initiative was short-lived.



In Baja California there have been several review initiatives. First, ADAEE required a systematic review resulting in adjustments for 124 formalities and the drafting of guides to complete formalities dealing with business start-ups. Second, the Law to Promote Competitiveness and Economic Development established the attribution of the CCPCEC to lead a continuous process of simplification and deregulation of the legal framework affecting business activities. In practice, reviews are usually triggered by complaints from the private sector expressed during consultations, such as the Forum on Deregulation of Business Formalities. Third, the continuous update of the Electronic Registry implies a permanent review of the stock of regulations. Finally, in December 2009, the Governor announced a “guillotine” strategy to eliminate unnecessary regulations and formalities. The deadline for ministries and agencies to determine the regulations to eliminate is March 2010.

In Puebla, the Law for Regulatory Improvement establishes the process for review, which in some ways resembles mandated review processes. Review is a responsibility of each ministry and agency. The “champion” of each agency sends Requests for Periodic Updating to CEMER, along with regulatory projects. Periodic Updating applies to regulatory projects with the objectives of (i) renovating the validity of a rule, (ii) updating a regulation that does not impose additional obligations or modify the existing ones, and/or (iii) when updating an Ordinary RIA of the regulation to be updated.

Piemonte, Catalonia, and Jalisco have only experienced ad hoc reviews. In Piemonte, reviewing existing regulations is entirely in the hands of the Regional Council, which may undertake it by its own initiative or that of the government. In Jalisco, CEDESPE Committees are the main mechanisms for review.

In Catalonia, the government created a task force in February 2007 to reduce barriers for business activities and simplify interactions with the public administration. The aim of the task force was to propose measures to improve the regulatory framework working on both, new and existing regulations. The group included the ministries of Economy and Finance; Innovation, Universities and Business; Government and Public Administration; Territorial Policy and Public Works; Agriculture; Labour; Environment; Housing and the Secretary General of the Presidency. The task force drafted a report within four months with 48 recommendations to improve the regulatory framework. The process involved intensive consultations and interviews with different business sectors, which led to re-engineering processes and reducing administrative burdens. At the end, the measures implemented led to savings for EUR 14 million, 90 days of administrative work, and the elimination of one million documents. In addition, more than 20 regulations and formalities were simplified, including, for example:

- Environmental regulations to allow immediate resolution and electronic filing.
- Tourism formalities allowing responsible declarations and electronic management.
- Filing to the registry of agro-industries can now be done on line and via responsible declarations.

## **5. Framework policies for competitiveness and entrepreneurship**

The contribution of a quality regulatory system to a country or a region’s competitiveness is significant, particularly in settings of high regulatory complexity where marginal improvements can have important returns. However, it would be erroneous to think that it is the only policy required to achieve competitiveness.

Competitiveness is a complex concept and it is not the objective of this report to discuss it. However, in simple terms, we can state that a competitive country, region, or city is capable of attracting and retaining productive investment. Several factors add to that capacity. This section will analyse best practices in policies directed towards strengthening competitiveness by supporting entrepreneurship and innovation, developing SME, and growing clusters, among others.

The policies included in this section, when topped by a quality regulatory framework, help to create a business friendly environment proper for productive investments and creating jobs. In times when jobs are desperately needed, these policies provide alternatives for government action.

### ***5.1. Programmes to support entrepreneurship***

Sub-national governments often have the capacity to establish programmes and policies to support entrepreneurship and complement the positive effects of national programmes. There are many kinds of programmes to support entrepreneurial activity from different angles but, in general terms, we can highlight three kinds of interventions: advice, consultancy and general assistance; training; and financial assistance.

#### *5.1.1. Advice, consultancy, and general assistance*

Entrepreneurs starting up a business sometimes need advice on the type of business to start, management implications, formalities to comply with, and planning required, among other things. “Many persons starting a company have only a vague conception as to how they will undertake the formation of the enterprise and its management” (OECD, 2003, p. 100). Despite the fact that there is a lot of public information to offer guidance (Internet, books, *etc.*), this information may need to be compiled and structured in a systematic way so that it becomes really useful for the entrepreneur.

There is justification for government intervention in this domain, particularly in advisory services for the earliest stages of business start-ups. “There are some types of services that are unlikely to be established by private agents without public support and which can be important in promoting entrepreneurship and generating economic and social benefits. In particular, pre-start advisory and screening services for low-income or unemployed individuals need some public stimulus as, in addition to high transaction costs, these clients are easily discouraged by a requirement to pay” (OECD, 2003, p. 101). However, these services do not have to be provided by public offices as they may also be outsourced, creating competition among potential private providers.

A particular form of systematic general assistance is that of a business incubator. Besides providing a physical space for the entrepreneur to undertake his business activities, they usually offer other services, such as consultancy and training. The cost of renting and acquiring a physical space is usually a significant one for the entrepreneur. As an example, “survey data for western Germany from the early 1990’s revealed that almost 90% of firms in business incubators considered that the rented space that these programmes offer had played a significant role in the development of a company” (OECD, 2003, p. 102).

*Recommendation # 29: Establish advice and consultancy programmes to support entrepreneurship in its earliest stages, either directly or in co-ordination with other stakeholders (national government, NGO’s, universities, business chambers, etc.).*

Our cases provide examples of successful programmes and practices in promoting entrepreneurship. In general, BC’s approach to support entrepreneurship is through lowering tax rates and cutting red tape, but there are also some strategic programmes and interventions that exist to support business start-ups. Small Business BC is the main government organisation providing business support services. It was formed through a federal-provincial partnership in 1993. In 2002 it was transformed into a not-for-profit

society, but its funding still comes mostly from the provincial and federal governments. Its services include reviewing business plans, providing market research, and advising on exporting. It also has an extensive library and hosts workshops on a variety of topics. These services are free or offered by a nominal fee.

In Piemonte, entrepreneurship has been supported mainly in the context of regional programmes funded by the European Social Fund (ESF) and the European Regional Development Fund (ERDF). For the period 2000-06 five strategic lines of intervention were defined:

- Establishment of dedicated offices to inform potential entrepreneurs about support alternatives and opportunities.
- *Ex ante* assistance through the analysis of entrepreneurial ideas, training for the preparation of business plans, and implementation of spin-off projects submitted by candidate entrepreneurs.
- *Ex post* assistance to new firms during two years after their formal establishment.
- Financial support, such as reimbursement of the costs implied by bureaucratic procedures and flat rate support during the first six month period of activities.
- Orientation for high school students regarding entrepreneurship.

For the period 2007-13, the regional government added two more elements, which are fostering more competitive firms and supporting high tech and innovative enterprises. A specific programme to support entrepreneurship is called “Integrated Paths to Enterprise Creation”, which has two pillars:

- Start up your own business: Its objectives are to integrate several support interventions, spread a culture of entrepreneurship, stimulate new business ideas, and foster the birth and development of successful companies. This pillar is implemented by an association selected through a public call for proposals, the Temporary Association of Enterprises. Four interventions are included in this pillar: general entrepreneurship support (online competitions, website design, networking), *ex ante* consultancy (meetings with business experts and development of a business plan), *ex post* mentoring (for companies whose business plans have been approved by the Province of Torino), and financial support (provided by the regional development agency, Finpiemonte).
- Academic spin-offs: It aims to the creation of technological and innovative firms deriving from academic research. Its target population is the community of researchers from local universities and public research centres. This pillar is managed directly by Finpiemonte and includes four strategic interventions: scouting and entrepreneurial training (exploration of research results susceptible of commercialization), consultancy to prepare the business plan (supply chain, analysis of competition, marketing plan, governance structure), tutoring for the implementation of the business plan by specialised business tutors, and financial support.

There are also programmes targeted to specific groups, for example, the scheme to promote youth self-employment, which consists of financial incentives, training, and assistance. Its target population is job seekers who have been registered at the Employment Office for at least six months, living in disadvantaged areas, and who are at least 18 years old.

In Catalonia, the SACIEQ included measures to promote entrepreneurship and increase growth of entrepreneurial activities. The Law of Industrial Policy also establishes entrepreneurship as a priority. In consequence, the government has established a website to support entrepreneurship ([www.inicia.gencat.cat](http://www.inicia.gencat.cat)), which offers an application to draft a business plan online and the possibility to receive immediate advice. There is also an agency called ACCIÓ, which is the agency to support the

competitiveness of Catalonian businesses and offers guidance to draft a business plan and look for investors and services for entrepreneurs in high tech sectors. ACCIÓ organises the “Day of the Entrepreneur” and the “Day of the Investor” every year to provide a forum to access information, networks, and services.

### 5.1.2. Training

Besides providing advice and consultancy, sub-national governments may promote programmes to train entrepreneurs in basic managerial skills and to undertake some of the tasks required in the early stages of start-up, such as drafting a business plan, an investment proposal, or a loan application.

Government intervention in this matter is more than justified. First, entrepreneurs may not know what kind of training they will need the most in the early stages of the start-up process. Second, training can be expensive and the opportunity costs high during the times in which the entrepreneur is investing heavily. Finally, the private market may not supply training adjusted for entrepreneurs if there is no critical mass (OECD, 2003, p. 103).

*Recommendation # 30: On top of advice and consultancy, sub-national governments may offer training programmes for entrepreneurs on basic managerial skills. The ideal way to do it may be by partnering with other organizations, such as NGO's, universities, business chambers, etc.*

There are commonly synergies between the services of advice, consulting, and training. Small Business BC, for example, offers workshops on a variety of topics on top of their advising services. In Piemonte, the strategic lines include training for the preparation of the business plan. The pillar “start up your own business”, for example, includes in its consultancy package training on business management to achieve practical competences. As it was already mentioned, Piemonte implemented this pillar by partnering with the Temporary Association of Enterprises. The scheme to promote youth self-employment explicitly includes training in the support package as well.

Promoting the establishment of business incubators is another good way to offer comprehensive services for the entrepreneur, including both advice and training. The government of Baja California has contributed about USD 65 384 to establish five business incubators: Empreser San Quintin, Cetya University (Mexicali and Tijuana), UABC, Mexicali Campus, and Technological Institute of Mexicali. Baja California's government has partnered with universities to advance these initiatives. These partnerships have several advantages. First, they allow the state government to share the investment with other institutions. Second, the university offers a pool of business experts and professors to advice business initiatives. Finally, university students are a perfect niche to develop business initiatives.

In Puebla, the state government established an entity called Puebla's Institute for Competitive Productivity (IPPC), under the umbrella of the Ministry of Labour and Competitiveness. This institute has offered a series of workshops called “Leading Entrepreneurs”, which identify and develop skills for business start-up.

### 5.1.3. Financial support

Evidence suggests that capital markets in Mexico are not working near full potential and, therefore, public interventions are justified to provide financial support for entrepreneurs. The World Economic Forum in its Global Competitiveness Report 2009-10 ranked Mexico 85<sup>th</sup> out of 133 countries in Ease of Access to Loans by asking how easy it is to obtain a bank loan with only a good business plan and no collateral. The same report ranked Mexico 98<sup>th</sup> for Venture Capital Availability (how easy is it for entrepreneurs with innovative but risky projects to find venture capital?) (World Economic Forum, 2009, pp. 432-433).

In other countries, like Canada, “loans applications are almost exclusively evaluated against the entrepreneur’s personal creditworthiness rather than an assessment of project merits... Such findings suggest particular problems for individuals with few financial assets or low personal creditworthiness and who wish to start a business” (OECD, 2003, p. 93).

New and small firms may face obstacles to access financial support due to several factors (OECD, 2003, pp. 94-95):

- High level of perceived risk due to a high rate of failure (or low rate of survival after a few years).
- Lack of a track record in the case of start-ups.
- Inability to provide collateral. Lenders usually require personal guarantees as security for a loan.
- Relative lack of accounting expertise and skills required for the proper presentation of business plans and loan applications.
- Risks related to cash flow deficiencies.

Public interventions may remedy, to some extent, these challenges. For example, governments, per se or partnering with other organisations, can implement training programmes for drafting business plans or can act as warrantors of a loan. Support programmes may also increase the survival rate of start-ups, which decreases lending risks.

Practice and theory provide good arguments to establish programmes of financial support for entrepreneurs, particularly in countries where the availability of loans and risk capital is low. Thus, our recommendation:

*Recommendation #31: In co-ordination with other organisations, sub-national governments may promote programmes of financial support targeted for entrepreneurs to overcome the obstacles they face in accessing capital.*

This recommendation does not necessarily mean that the government must provide loans directly, but it can help in several other ways such as getting information on financing alternatives close to entrepreneurs, providing tax breaks, and promoting the activities of venture capital funds.

In BC, Small Business BC, whose funding comes mostly from the provincial and federal governments, publishes the “Overview of Government Financing”, which details government business assistance programmes from both levels of government. This publication includes, for example, the Canada Small Business Financing Programme, which assists businesses in obtaining loans to finance fixed asset needs, and the Community Futures Development Corporation, which provides loans, seminars, and counselling to rural communities. Furthermore, the BC provincial government offers several programmes to help business owners gain access to capital for start-up and expansion. These programmes offer tax credits with the capacity to support up to USD 168 million of investment to investors making equity capital investments directly in BC small businesses or indirectly through specialised venture capital funds.

In Piemonte one of the strategic lines is precisely financial support (reimbursement of the costs implied by bureaucratic procedures and flat rate support during the first six month period of activities). Both pillars described earlier, Start up your own Business and Academic Spin-offs, include a strategic intervention by Finpiemonte to provide financial support for new enterprises. Furthermore, the region has

been implementing a strategy to strengthen the supply side of risk capital markets, focusing on angel investing and seed capital, since both were basically non-existent five years ago. Some of the main initiatives include the following:

- **Piemontech:** It is the holding company of the Torino Wireless Cluster and its main objective is to promote the ICT sector fostering innovation in existing enterprises and supporting the emergence of new ones. Piemontech is co-funded by I3P (the innovative enterprises of Politecnico of Torino), Eurofidi (a share consortium for collective loan guarantees), and the Employers' Industrial Association of Torino. It focuses on angel investing with investments of less than EUR 200 000 for start-ups and provides venture capital by acquiring equity shares.
- **Innogest:** It provides seed capital focusing in a few strategic sectors, such as ICT, energy, biomedical, advanced mechanics, and new materials.
- **Eporgen Venture:** It is a seed capital company funded by investors from the Bioindustry Park, a scientific park specialised in life sciences and biotechnology. Its objective is to find proposals from academic or private institutions and give them the means to develop in two or three years up to a level where the results can be presented to new investors and venture capital partnerships.
- **Venture Capital Hub:** It is a system of funds started in 2007 in Torino that brings together some of the best capital funds in the early stage segment. It currently involves six Italian funds (Piemontech, Innogest Capital, Club degli Investitori, Strategia Italia, Eporgen Venture, and Principia Fund) and five international ones (TLcom Capital, Doughty Hanson & Co. Technology Limited, Intel Capital, 360 Capital Partner, and Jupiter Venture). The hub is located within the Politecnico area, which facilitates the interaction between the academic and the venture capital world, making the search for projects much more effective.

The focus on venture capital and private equity in Piemonte has paid off. In 2008 this market registered investments for about EUR 312 million, involving 20 local companies. Over 50% of these operations were directed to the early stages of start-ups, while in Italy only 19% of private equity and venture capital is concentrated on the early stages.

In Catalonia, ACCIÓ is increasing the supply of financing for entrepreneurs. For example, it invested EUR 2 million in 2009 in the main risk capital fund specialised on biotechnology, Ysios Capital Partners. During 2008, it invested EUR 22 million in 38 research projects carried out in co-operation with businesses, technology and research centres, and universities. These investments reduced the risks for entrepreneurs and favoured public-private partnerships.

In Mexico, the government of Baja California partnered with the federal government to carry out a programme called "Seed Capital". It provides loans for the start-up of business projects through the National System of Business Incubators. The federal government contributes five pesos for every peso contributed by the state government. According to the state government, about USD 248 077<sup>34</sup> have been provided for loans for entrepreneurs hosted in an incubator, which created 85 jobs. The programme has three modalities: traditional (up to MXN 120 000 or 80% of the project), intermediate technology (up to MXN 450 000 or 85% of the project), and high technology (up to MXN 1.2 million or 85% of the project). Another programme, Incubation for Business Start-Ups, channelled about USD 176 077<sup>35</sup> to 595 business start-ups in Ensenada, Mexicali, Playas de Rosarito, Tecate, and Tijuana.

It is worth noting that the availability of good projects is a pre-requisite for the development of a venture capital market. "Policies that help to improve the quality and presentation of investment projects might expand access to equity finance" (OECD, 2003, p. 100). This assertion implies synergies between

the different kinds of programmes to support entrepreneurs, for example, by advising and training entrepreneurs in drafting a business plan the benefits accrue not only to individual businesses, but there are also positive spillovers in the development of a venture capital market.

### 5.2. Policies and programmes targeted on SME

Besides policies and programmes targeted on entrepreneurs, sub-national governments may take actions to strengthen established SME. This business segment is extremely important in Mexico for two reasons. First, they represent a vast majority of business activities. SME account for an estimated 99% of all enterprises, generating 52% of GDP and 72% of total employment (2006). 95% of all SME are micro-businesses. There are about 4 million SME in Mexico and only 6,700 large firms (0.2% of the total number of businesses) (OECD, 2007c, p. 13). Second, given their size and limitations, SME are vulnerable and may not be adequately equipped to face challenges such as international competition and economic downturns.

#### Box 8. The definition of a SME in Mexico

SME in Mexico are classified according to their number of workers and the sector in which they are operating.

	Industry	Commerce	Services
Micro	0-10	0-10	0-10
Small	11-50	11-30	11-50
Medium	51-250	31-100	51-100

Source: Law for the Development of SME Competitiveness.

OECD has found some fundamental weaknesses in the Mexican SME segment (OECD, 2007c, pp. 17-20):

- Insufficient know-how and low level of technology: SME's products usually suffer from outmoded design, outdated tools of production, low quality, and inadequate marketing. Low levels of human capital and inadequate use of technology are also common characteristics in SME.
- Limited access to financing: There are few opportunities for financing at reasonable costs for SME and, as a consequence, they usually rely on costly supplier credit (two thirds of finance for small enterprises in 2005). Commercial banks account for only 13.7% of finance for small businesses.

These shortcomings hinder the rate of survival of SME. "The average life time of a Mexican SME is short, with at least 50% of newly created enterprises going out of business after two years" (OECD, 2007c, p. 50). The previous facts and figures definitely justify strategic interventions by the different levels of government to strengthen SME and overcome the challenges they face. Our cases provide examples as to how sub-national governments have decided to intervene.

### 5.2.1. Consultancy and training

*Recommendation #32: Since low levels of human capital and inadequate use of technology are common problems for SME, sub-national governments may establish consultancy and training programmes adapted to their specific needs.*

Programmes to improve the human capital of businesses are sometimes implemented directly by sub-national governments, but there are also national programmes that are leveraged by the states. In Baja California, for example, the state government has adopted the national programmes PROSOFT and PROLOGYCA. Among other supports, both include a training component, in the first case, for projects related to ICT and, in the second, for activities dealing with logistics and supply. For every peso contributed by the state government, the federal government contributes one more.

In Jalisco, the state government has an agency called INJAC (Jalisco's Quality Institute), which is in charge of promoting the adoption of quality management systems by businesses and public offices. INJAC offers training for SME to implement quality management systems such as ISO 9001, ISO TS for the automotive industry, and HACCP. This programme is absolutely relevant as low quality is one of the main problems of SME in facing international competition.

In Puebla, the IPPC has offered intensive workshops on business development and has trained about 1 000 micro-business owners in managerial skills, particularly in the management of human resources to increase productivity. So far these workshops have only been offered in the municipality of Puebla. Another programme is called "Training to Improve Micro-Business Productivity". It has been applied for 1 000 micro-businesses in 60 municipalities. 28.5% of the participating businesses created at least one additional job, 69% increased their productivity, and 64% attracted new clients. Finally, the IPPC manages a programme called "150 Champion SME", which provides training to micro-businesses so that they can employ their labour in more productive ways by recognising the skills of their human capital.

In Catalonia, the programme "InnoEmpresa" supports innovation in SME. All the stages of innovation regarding processes, products, organisation, and management are included in the programme. In addition, the Ministry of Communications and Information Society has developed software for free distribution to help SME in their basic functions, such as accounting, product management, production of catalogues, and management of sales offices.

### 5.2.2. Financing

Financing targeted for SME may have different purposes, such as expansion, investments in fixed assets and equipment, training, R&D, etc.

*Recommendation #33: Establish funds, institutions, and co-ordination mechanisms with other entities to channel resources to promote the development of SME.*

In Catalonia, the Official Credit Institute of Spain and the provincial Department of Labour signed a co-operation agreement to support investments in SME with up to 50 workers. The sectors targeted are construction, steeling, wood and furniture, food and beverages, trade, and textiles, among others.

Just like in the case of resources for training, Baja California partners with the federal government to provide financing for SME. The state government makes use of a mixed fund called FOPRODE, which offers loans between MXN 150 000 and MXN 500 000 for micro-businesses, MXN 500 000 and MXN 1 million for small businesses, and MXN 1 to 1.5 million for medium businesses. For every peso that the state government contributes, the federal government contributes one more. Loans are targeted to industry, agro-industry, trade, and services. Baja California is also implementing the "Programme to Train and



Assist Micro-business Development”, which provides financial support from MXN 4 000 to MXN 20 000 pesos. These loan programmes have also become an incentive for businesses operating in the informal market to formally register.

Jalisco’s government has established the Jalisco Fund for Business Promotion (FOJAL), which aims to create and develop financial services for training and consultancy for SME. Another fund established by the state government is MICROJAL, which provides loans up to MXN 20 000 for equipment, infrastructure, and basic services.

### 5.2.3. Export Promotion

More sophisticated SME may try to enter international markets to open new opportunities and protect from domestic economic downturns. However, engaging in international trade is not necessarily easy and may be burdensome. Thus, our recommendation:

*Recommendation #34: Sub-national governments may try to identify SME with export potential and offer them promotion services (technical assistance, support for participation in events, etc.), trying to also link them to other guiding institutions.*

In Piemonte, internationalisation is considered a key element for the growth of SME. An agency was founded in 2006 by the regional government and Unioncamere Piemonte, in agreement with business associations and the academic field. The Piemonte Agency for Investments, Export, and Tourism works to increase the presence and competitiveness of local companies in international markets. The agency constantly updates local companies on the latest regulations and international trade matters. Among other activities, it hosts foreign missions, organises missions of local companies to foreign markets and international events, develops industrial co-operation projects, such as know-how transfers and joint ventures, and searches for suppliers and partners for local businesses.

In Baja California, the state government has established three mechanisms to support SME to export:

- Technical assistance for businesses with potential to export.
- Support for SME participation in national and international export promotion events and forums.
- Programmes tailored for specific sectors to promote exports.

Jalisco has an agency for the promotion of foreign trade called JALTRADE (Jalisco’s Institute for Foreign Trade Promotion). It offers advice and training on international business. Its training programme is designed in three levels, basic, intermediate, and advanced. It also hosts a permanent exhibition of export products and sponsors studies to research international business opportunities.

### 5.3. Clusters

The objective of this section is not to present a theoretical discussion of the concept of clusters, but rather to discuss best practices in the management of cluster-related policies. In consequence, this report adopts the following definition:

Clusters are geographically close groups of interconnected companies and associated institutions in a particular field, linked by common technologies and skills. They normally exist within a geographic area where ease of communication, logistics, and personal interaction is possible. Clusters are normally concentrated in regions and sometimes in a single town (OECD, 2007a, p. 26).

Clusters are regional in nature and, therefore, relevant as a public policy approach for sub-national governments. They have a number of benefits and spillovers that have attracted the attention of academics and policy makers, such as lower production costs that lead to innovation and productivity growth, ease for sharing knowledge, the creation of an environment favouring specialisation, and a high level of firm rivalry leading to competition. However, policy makers must recognise that cluster policies also imply risks, such as insufficient economic diversification, being tied by long-term investment strategies to support specific sectors with difficulty to change track, and over-reliance on a few firms (OECD, 2007a, pp. 11; 24). Promoting clusters implies the selection of a few sectors to strengthen, which might be controversial in some contexts.

*Recommendation #35: Cluster policies must be targeted to be effective. Sub-national governments, jointly with national authorities and other relevant stakeholders, select the clusters to be promoted.*

Picking winners and losers is not an easy decision as there will always be equity issues and the choices are not always evident. However, OECD has found some patterns that may illustrate how the targets are selected. “Targets may be places (leading regions, lagging regions, hub areas), sectors (dynamic, exposed, strategic, social significance) or specific actors or groups of actors (universities, SME, multinationals, etc.). They could also be a combination of these different target categories” (OECD, 2007a, p. 13).

In BC, for example, the government is committed to support emerging technology clusters. In 2008 it announced a USD 84.2 million capital fund, the BC Renaissance Capital Fund, which will invest in four key sectors, information technology, new media, clean technologies, and life sciences. The province has decided to focus on sectors where it has already a competitive advantage, such as life sciences, ICT, clean technologies, natural resources, and film and television industries. In fact, three Vancouver companies were recently listed among the 50 fastest growing wireless companies in North America.

Piemonte has also taken specific measures for the development of certain innovation clusters. However, there seems to be a mix of sector and territorial considerations for picking the clusters to be promoted. 12 thematic areas have been identified for the development of innovation clusters, each one with a reference territory: Agro-food industry, biotechnology and biomedicine, sustainable chemistry, new materials, digital creativity and multimedia industry, sustainable architecture, biofuels, biomass from breeding farms, equipment and systems, ICT, mechatronics, and textiles. There is also an automotive district, which was established years ago and benefits from specific policy measures. The automotive district is made up of about 950 companies, 45% of the total firms in the Italian automotive sector, and employs over 140 000 workers. 51% of the district’s production is for foreign markets. It includes OEM components and systems for cars and industrial vehicles, as well as firms for design, engineering, and styling services.

Catalonia has also identified specific sectors for cluster development. In fact, the SACIEQ explicitly mandates the development of clusters in strategic sectors. In consequence, the programme BioCat, for example, was established to develop biotechnologies and life sciences hubs. Likewise, the Ministry of Communications and Information Society has targeted the ICT sector. In fact, in 2008, the Innovative Business Group was created to support the competitiveness of ICT companies.

Baja California’s industrial policy explicitly aims to develop clusters for the sectors for which employment has grown at a faster rate than the national average. These sectors have been identified by municipality and are illustrated in the following table:

**Table 11. Baja California's outstanding sectors by municipality**

Mexicali	Tijuana	Ensenada	Rosarito	Tecate	San Quintin
Electronic equipment	Electronic equipment	Restaurant industry	Tourism	Electronic equipment	Agriculture
Metal-mechanic industry	Furniture manufacturing	Tourism	Rustic furniture	Beverage industry	Sport fishing
Food trade	Food trade	Wine industry	Restaurant industry	Maquiladora	Tourism
Agro-industry	Tourism	Agro-industry	Sport fishing	Ecotourism	
Tourism	Automotive industry	Fishing	Maquiladora	Art crafts	
Automotive industry		Mining	Film industry	Health tourism	

Source: Information provided by Baja California’s SEDECO.

The identification of these sectors was the first step to define the clusters to be promoted. Afterwards, the “Colegio de la Frontera Norte” (COLEF) developed a study to enlighten the decision. At the end, 15 clusters were selected: tourism, medical services, aerospace, electronics, automotive, medical products, software, furniture, logistics, agro-industry, wine, biotechnology, fishing, energy, and plastics.

In Jalisco, the state government has identified the following clusters: electronics, traditional industries, aeronautic design, cinema, call centres, tequila production, and automotive. The University of Guadalajara has also identified five clusters in the southern region of the state: dairy products, wood production, corn industry, tourism, and medical services.

In Puebla, the state government has identified the following clusters: automotive, auto parts, industrial parks, business tourism, hospital services, high-tech industries, textiles, food and beverages, construction, and agro-industry. IMCO has identified four strong clusters in Puebla, which are automotive, information technologies, agri-business, and tourism.

*Implementation advice: Involve business associations and other stakeholders in the management of clusters.*

The entities that manage cluster initiatives may take several forms. “The main variants include: non-profit associations, university or similar nominated agents, and public agencies” (OECD, 2007a, p. 94).

In Piemonte, each of the 12 innovation clusters is managed by a legal entity. These entities and the participating firms and research bodies are selected through a public call for proposals. The candidate organisations have to submit a description of the activities to implement if selected to manage a cluster. Once there is a selection, funds are allocated for the managing entity and the firms participating in the cluster. The funding for the firms is to be directed for high quality services of widespread innovation, knowledge transfer, entrepreneurial technology services, and R&D.

In Jalisco, there is a business group called the Association for the Productive Chain of the Electronics Industry (CADELEC), which facilitates the development and integration of national and international businesses to the suppliers’ chain of the electronics industry. This association is fully supported by SEPPOE and Jalisco’s Council for Science and Technology (COECYTJAL).

In Puebla, the state government agreed with the Transformation Industry National Chamber (CANACINTRA) on a co-ordinated work plan for the automotive industry. This plan includes support

related to technology, logistics, new products, raw materials, national suppliers, and linking firms to other productive sectors.

*Recommendation #36: Once the clusters to be promoted have been selected, stakeholders (including sub-national governments) must concentrate on developing specialised factors relevant for the clusters to be strengthened.*

In BC the strategy to strengthen the selected clusters supports investing in research and innovation as well as financing commercialisation of products and services. Support to increase BC's competitiveness in the area of technology has been an enduring commitment of the Premier. In 2001, he established the Premier's Technology Council (PTC), an independent body to advise the government on all technology matters and to consider how technology can help BC over the next decade. The PTC has delivered 12 reports with 198 recommendations. Furthermore, other initiatives have been introduced to support high technology industries, such as a commitment to double the number of computer science and engineering graduates over the next five years, a provincial commitment to 20 industrial research chairs, and a USD 7 million tax credit last year to support clean technologies.

Another example of how BC has created specialised factors is the film and TV industry. Government support has been strong for the past 30 years. In 1978 the BC Film Commission, a branch of the provincial government that works to ensure that the business of film and TV production grows, was formed. The commission promotes BC as an attractive place to do business and provides contacts, services, and information. The government also offers very competitive tax credits for the industry. Furthermore, the University of British Columbia has a film production degree and is closely linked to the industry. These efforts have paid off as BC is now the third largest centre for production in North America.

In Piemonte, Piemontech, the holding company of the Torino Wireless Cluster, fosters specialised innovation for the ICT sector. Another important policy instrument designed by the regional government to create specialised factors is the "technological platform". This tool supports research projects carried out by large aggregations of businesses and research centres with a relevant participation of SME. Two technological platforms have been financed so far for the aerospace (€30 million Euros) and biotechnology (EUR 20 million) industries.

In Catalonia, the Law of Industrial Policy sets forth that the government must facilitate co-operation between businesses and other institutions to foster competitiveness hubs, knowledge networks, business associations, and productive clustering. An example of a project dealing with this mandate is "BioRegion", which is a geographical space where research, development, and innovation activities are concentrated for the life sciences industry. BioCat also creates specialised factors as it has a programme to identify and develop strategic human resources for SME in biotechnology and medical sciences.

In Puebla, the government founded the Information Technologies Centre to support the ICT cluster and has hosted touristic fairs to support the hotel industry.

## Conclusions

This report has discussed relevant practices with regulatory reform at the sub-national level. Regulatory policy is gaining relevance not only at the national level, but also for provincial and local governments. The experiences reviewed confirm that sub-national governments can and should advance regulatory quality to improve the business environment of their countries.

More experiences need to be studied, but important lessons can be derived from the cases discussed in this report:

- Political support, from the highest level, is critical for the implementation of a policy of regulatory reform. The absence of such political support often contains regulatory initiatives to reduced sectors or one-time regulatory reductions that are easily reversed.
- Stakeholder participation in regulatory policy is important to create incentives for the government to keep it as a priority. Furthermore, it helps to strengthen the body in charge of regulatory reform, provide controls on the discretion of regulators, evaluate *ex ante* compliance issues, and identify regulations subject to review and improvement.
- There are many alternative ways to organise the institutions in charge of regulatory reform. Whatever the choice, a “whole of government” approach is important, with accountability and transparency to guarantee progress, and clear responsibilities to challenge regulatory initiatives, facilitate the process of adopting regulatory quality tools, and advocate reform strongly.
- Regulatory reform does not have to be an expensive policy. There are practices to keep costs down at the same time that benefits and positive spillovers are realised. Leveraging human resources is also a practice with a successful record.
- Multi-level co-ordination avoids duplication, overlapping of rules, complexity in the regulatory system, and excessive burdens on business. High quality regulation at one level of government can be undermined by poor regulatory policies and practices at other levels, impacting negatively on the performance of business and productivity. Laws, legal agreements, and specific government entities created to facilitate multi-level co-ordination are common practices.
- Governments need data management systems to guide reform and make it transparent.
- Experiences with *ex ante* procedures to control the quality of new regulations are proliferating. Tools implemented vary in their complexity, from very straightforward checklists to more elaborate cost-benefit analyses. The important point is that these tools must provide a check on the quality of new regulations and the burdens they impose on citizens and business.
- Consultation mechanisms pursue several objectives, such as collecting empirical information for analytical purposes, complementing RIA, as well as to better understanding issues such as the acceptability of different policies, which is essential in determining practicability and designing compliance and enforcement strategies.
- There is a wide variety of simplification and cutting red tape techniques that have been applied successfully at the sub-national level. When coupled with a measurement of administrative burdens, these tools tend to be more effective. Red tape is particularly burdensome for SME, as they do not have vast resources to deal with the formalities required by authorities.

- E-government tools are extremely useful for many of the dimensions of regulatory policy, such as data management, preventing corruption, consultation, co-ordination, and simplification programmes.
- Compliance should not be taken for granted. Since sub-national governments usually have substantial attributions over inspection and compliance, they must pay special attention to the design of regulation to facilitate compliance, providing the right balance between incentives and penalties.
- *Ex post* evaluations and regulatory reviews help to ensure that regulations are updated and instrumental to attain legitimate policy objectives.
- There are many synergies between regulatory quality and other policies to promote competitiveness. These policies, when topped by a quality regulatory framework, help to create a business friendly environment proper for productive investments and creating jobs.

The practical recommendations and the tools and techniques discussed in this report may serve sub-national governments to develop regulatory policies that help to stimulate productivity and economic growth. They may also help governments already engaged with regulatory reform to adopt principles and practices that have been successfully applied by other provinces.

Regulatory reform has been a process of experimentation and learning for the sub-national governments that have adopted it. Indeed, the OECD will continue studying the experiences of regulatory reform at the sub-national level and supporting its member countries in the implementation of successful practices. A network of policy makers and practitioners of regulatory reform at the sub-national level is emerging and innovation in the design and management of regulatory policies is creating opportunities to share experiences and knowledge. The OECD will participate in this process by identifying and disseminating best practices and taking an active role in facilitating their implementation.

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## **ANNEX: FOUR BUILDING BLOCKS OF RECOMMENDATIONS AND BEST PRACTICES**

### **I. RAISING REGULATORY REFORM ON THE POLITICAL AGENDA**

#### ***Political leadership***

1. Political leaders and, particularly, the head of government must be publicly committed to regulatory reform.
2. Make sure critical elements of regulatory policy, such as regulatory impact analysis, regulatory checklists, consultation, e-government, simplification, review, and evaluation of procedures, are formalised in legislation, executive orders, decrees, *etc.*
3. Establish the basic institutional arrangements for regulatory reform, *i.e.* a regulatory reform law, along with a body responsible of overseeing its implementation.
4. Facilitate external ongoing accountability by offering public access to information about the progress and achievements of regulatory reform.

#### ***Policy entrepreneurs***

5. Policy entrepreneurs have a role to design a strategy to set regulatory reform in the political agenda and build incrementally.

*Implementation advice: Support the entrepreneur at the initial stages and, afterwards, encourage the institutionalisation of regulatory policy practices.*

#### ***Business and citizen engagement***

6. Create the institutional mechanisms to allow business and citizen participation in the guidance, management, and evaluation of regulatory reform.

*Implementation advice: Business groups advocating the improvement of the overall regulatory framework, not just sector specific or individual regulations, are more successful in achieving the continuity of regulatory reform.*

*Implementation advice: Business and citizen groups taking advantage of regulatory consultation strengthen the transparency of the regulatory process.*

### **II. INSTITUTIONAL DESIGN AND CAPACITY BUILDING**

#### ***Bodies in charge of regulatory reform***

7. Appoint a government body responsible for the management of regulatory reform and assign clear responsibilities to it.



8. In order to get visibility and justify their existence (budgets), regulatory reform bodies perform three tasks: Challenging, facilitating, and advocating.

9. Besides the body directly in charge of regulatory reform, identify other strategic offices to lead and participate in the reform effort, without losing sight of the “whole of government” approach.

### ***Financing regulatory reform***

10. The office in charge of regulatory reform can leverage resources from different offices (ministries, departments, directorates, *etc.*) and levels of government to make the whole regulatory reform effort inexpensive.

11. Since regulatory reform requires continuity to deliver its benefits, it must be financed with a long-term perspective.

### ***Co-ordination and multi-level regulatory governance***

12. Establish the institutional mechanisms for vertical and horizontal co-ordination. Our cases provide examples of four different forms of these mechanisms: an entity facilitating co-ordination, covenants/agreements, laws, and others.

### ***Human resources***

13. Apply the “champions strategy” or, in other words, leverage the existing human resources of the different agencies and offices of the public administration. This strategy also helps in overcoming bureaucratic resistance.

*Implementation advice: The office in charge of regulatory reform, in playing its facilitating role, supports the “champions strategy” with training and development of the human resources.*

### ***Information and data management***

14. Establish data-collection and sharing mechanisms to support and guide regulatory reform.

### ***Dealing with discretion and corruption***

15. Provide institutions, regulatory activities, and reform efforts with transparency and accountability.

16. Limit the discretion and manage the incentives of public officials in charge of dealing with license and permit authorisations.

### ***Quality management systems***

17. Implementing a formal quality management system for the processes that deal directly with business licenses and permits helps to streamline them and provides certitude for businesses.

*Implementation advice: Besides formal quality management systems, there are other simpler mechanisms to apply to ensure service delivery standards, such as service delivery charters and silent is consent rules.*

### **III. POLICIES AND TOOLS FOR REGULATORY REFORM**

#### ***Ex ante procedures for new regulations***

18. Enhance the rule making process *ex ante* by introducing some form of procedural control that evaluates the costs and benefits of proposed regulations. Our cases provide examples of four different forms to do it: RIA, regulatory checklists, small business impact assessments, and committees/working groups.

#### ***Regulatory consultation***

19. Establish formal institutional mechanisms to consult relevant stakeholders when new regulations and laws are proposed. There are five basic consultative mechanisms: informal inquiries, circulation of regulatory proposals for public comment, public notice and comment, hearings, and advisory bodies.

#### ***Administrative simplification programmes***

20. Establish a burden measurement programme to be able to track the progress of the administrative simplification strategy.

21. Make use of administrative simplification tools and techniques to remove unnecessary burdens on entrepreneurship and investment. Having a measure of administrative burdens (quantitative and qualitative) helps to prioritise the procedures for which simplification is most urgent.

#### ***E-government***

22. Sub-national governments (states and municipalities) should take advantage of e-government tools by building their technological platforms incrementally to simplify business formalities, facilitate access to information, and decrease transaction costs. To the extent possible, these tools may incorporate a multi-level approach.

23. Establish clear responsibilities to an office/department to be in charge of the e-government strategy, making the link with the office in charge of regulatory reform (in case that it is not the same).

#### ***Compliance, inspection, and enforcement***

24. Regulators may adopt practices to design rules so that compliance by target populations is motivated and facilitated (results-based design, considering time and costs of compliance, plain language drafting, “stick and carrot” incentives, *etc.*).

25. In terms of inspections, focus regulators’ resources in those areas where the risks to society are greatest (targeted inspections guided by risk-based approaches). Along with this increased flexibility, increase also responsibility for target populations.

26. Avoid *ex ante* inspections unless risks are considerably high. When feasible, opt for *ex post* inspections with controls on the discretion of inspectors and procedures to denounce abuses.

*Implementation advice: Make sure inspection units follow technical, homogeneous, and transparent criteria to conduct inspections.*

### ***Ex post evaluation practices***

27. Establish *ex post* evaluation procedures to assess the impacts of regulation and advance accountability of the regulatory authorities.

### ***Regulatory reviews***

28. Establish practices with clear criteria to systematically review laws and regulations in order to make sure that they meet their intended objectives.

## **IV. FRAMEWORK POLICIES FOR COMPETITIVENESS**

### ***Programmes to support entrepreneurship***

29. Establish advice and consultancy programmes to support entrepreneurship in its earliest stages, either directly or in co-ordination with other stakeholders (national government, NGO's, universities, business chambers, *etc.*).

30. On top of advice and consultancy programmes, sub-national governments may offer training programmes for entrepreneurs on basic managerial skills. The ideal way to do it may be by partnering with other organizations, such as NGO's, universities, business chambers, *etc.*

31. In co-ordination with other organisations, sub-national governments may promote programmes of financial support targeted for entrepreneurs to overcome the obstacles they face in accessing capital.

### ***Policies and programmes targeted on SME***

32. Since low levels of human capital and inadequate use of technology are common problems for SME, sub-national governments may establish consultancy and training programmes adapted to their specific needs.

33. Establish funds, institutions, and co-ordination mechanisms with other entities to channel resources to promote the development of SME.

34. Sub-national governments may try to identify SME with export potential and offer them promotion services (technical assistance, support for participation in events, *etc.*), trying to also link them to other guiding institutions.

### ***Clusters***

35. Cluster policies must be targeted to be effective. Sub-national governments, jointly with national authorities and other relevant stakeholders, must pick the clusters to be promoted.

*Implementation advice: Involve business associations and other stakeholders in the management of clusters.*

36. Once the clusters to be promoted have been selected, stakeholders (including sub-national governments) must concentrate on developing specialised factors relevant for the clusters to be strengthened.

## NOTES

1. The Law for Regulatory Improvement of the State of Jalisco changed the denomination of CEDESPE into Regulatory Reform Committee of the State of Jalisco (COMERJAL).
2. *OECD Observer* No. 276-277, December 2009-January 2010.
3. Even though competition and market entry policies might be an exclusive attribution of national governments (as is the case in Mexico), sub-national governments may affect competition settings by policies and practices dealing, for example, with public procurement.
4. Enforcement is particularly relevant for sub-national governments, given that they have to enforce their own regulations and they might even be delegated the authority to enforce federal regulations.
5. World Economic Forum (2008). *The Global Competitiveness Report 2008-2009*. Geneva. (The Growth Competitiveness Report of the World Economic Forum scores countries in a scale from 0 to 7, where the higher score means the country is performing better in a specific indicator).
6. Ministers are required to identify priorities for regulatory review and simplification in their three year regulatory reform plans.
7. They will be fully explained in section 3.3. Co-ordination and Multi-level Regulatory Governance.
8. The responsibilities of the Office of Government will be described in section 3.5. Information and Data Management.
9. Ley de Fomento a la Competitividad y el Desarrollo Económico para el Estado de Baja California. Art. 27.
10. Ley de Mejora Regulatoria del Estado de Jalisco y sus Municipios. Arts. 28-47.
11. Ley de Mejora Regulatoria del Estado de Puebla. Arts. 8-11.
12. Ideally, institutions would take the role of policy entrepreneurs in setting regulatory reform on the agenda. However, the fact is that in the Mexican states it is common to find individual entrepreneurs. This situation does not imply that individuals should displace institutions. In fact, entrepreneurs are most needed when the top political leaders do not regard regulatory reform as a priority.
13. As we will see, regulatory reform does not have to be an expensive policy. There are strategies to advance it with limited resources.
14. Ley de Mejora Regulatoria del Estado de Jalisco y sus Municipios, Art. 14.
15. More on the Regulatory Checklist in section 4.1. *Ex ante* Procedures for New Regulations.
16. The World Bank (2008). *Doing Business en Mexico 2009*, Washington, D.C.
17. USD 1 = MXN 13.
18. State Government of Puebla. [www.puebla.gob.mx](http://www.puebla.gob.mx).
19. This initiative will be discussed in full length in section 4.4. E-government.
20. USD 1 = MXN 13.
21. The discussion of “Open Administration of Catalonia” will be more extensive in Section 4.4. E-Government.
22. More on Service Delivery Charters in section 3.7. Quality Management Systems.
23. More on the Regulatory Checklist in section 4.1. *Ex ante* Procedures for New Regulations.
24. Municipalities are only required to draft RIA if they have signed a Co-operation Covenant with the State. Currently 21 municipalities have done so.

25. Proposals of new regulations must also be accompanied by a General Memory, including a description of the legal framework, a list of the legal instruments affected, a schedule of expirations, the attributions of the government of Catalonia, and a list of the entities that will have to be consulted. A memory on gender impact must be attached as well.
26. More on these instruments will be discussed in section 4.3. Administrative Simplification Programmes.
27. “New Policy” refers to new ‘interpretative’ policy that a regulatory authority puts in place to interpret a statute or regulation. It does not refer to all policy.
28. In this section we refer to physical one-stop shops. The following section, E-government, will deal with electronic one-stop shops.
29. USD 1 = MXN 13.
30. USD 1 = MXN 13.
31. USD 1 = MXN 13.
32. Política Digital. *Jalisco le entra con ganas a la FEA*, December 16, 2009. [www.politicadigital.com.mx/?P=leernoticia&Article=2731](http://www.politicadigital.com.mx/?P=leernoticia&Article=2731).
33. Data provided by ODAE.
34. USD 1 = MXN 13.
35. USD 1 = MXN 13.