



## PRO-REG Newsletter – March 2012

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The Programme for the Strengthening of Institutional Capacity for Management in Regulation - PRO-REG, created by Decree no. 6062, on March 16, 2007, was conceived and is being executed by a partnership between the Inter-American Development Bank - IDB and the Federal Government, via the Civil House of the Presidency of the Republic. The actions developed in the Program seek to:

- promote the strengthening of institutional mechanisms for management in regulation;
- provide conditions for the improvement of the quality of regulation;
- consolidate the decision-making autonomy of federal regulatory agencies;
- perfect the instruments of supervision and social control.

Fifteen years after the implementation of the first regulatory agencies and the creation of regulatory frameworks that guide the provision of public services, the Brazilian government has put several initiatives into practice that seek to improve the quality of regulation and regulatory governance. Regulatory reform, in Brazil, seeks to simultaneously respond to the challenges tied to both the revision of what has been produced throughout this period and the future challenges involved in promoting solid, transparent and efficient institutions. The most relevant aspects of this permanent process of transformation are tied to the coordination between the regulatory activity and the formulation of public policies, the consolidation of the autonomy of the agencies, social participation in regulation and the betterment of the decision-making process in the realm of regulation.

The State, in the exercise of its regulatory function, can contribute effectively to safeguard the rights of consumers and the stability of markets, so that, through solid institutions, a higher level of social and economic development can be reached, reducing exposure to the inherent risks to the environment where public policies are developed.

### **RIA Pilot Projects**



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The Programme for the Strengthening of Institutional Capacity for Management in Regulation - PRO-REG has been giving support to the Regulatory Impact Analysis - RIA pilot projects, currently conducted in six Brazilian federal regulatory agencies: Ancine, Aneel, ANP, ANS, Antaq and Anvisa. Around 150 people actively participate in all pilot projects. These civil servants have received training in the methodologies required to conduct these impact analysis and are working on alternative solutions to practical cases within their agencies.

The participating agencies are also beginning to design RIA systems that can effectively contribute to the improvement of the quality of regulation. Some agencies intend to introduce compulsory RIAs for certain types of regulations where there is a considerable impact on Brazilian society. Others are revising the criteria for the preparations of technical notes that allow for the introduction of some RIA elements when discussions begin regarding new regulation. In this same line, other agencies are improving their practices and techniques regarding public consultations and social participation, with the goal of assuring that society has more channels to be consulted and heard during the regulatory process.

It is hoped that the introduction of RIA in the agencies participating in the pilot projects can help improve the decision-making process, and give greater transparency to the regulatory process. The introduction of new pilot projects will help to improve the discussion on which RIA model will certainly be adopted in Brazil and considered for the government as a whole.

### **Course on RIA methodologies**

PRO-REG, by means of a technical Cooperation Agreement with the Embassy of the United Kingdom in Brazil, held an advanced course in RIA methodologies, administered by the National School of Government - UK, between January 30 and February 2, 2012. The course consisted of an adaptation of that which is offered by the British School on Economic Appraisal for Decision Making, directed at civil servants in charge of making economic or regulatory decisions.



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20 Brazilian civil servants participating in RIA pilot projects took the course. The main objective was to develop methodological capacities to approach the RIA and replicate this information in the specific jobs of the pilot projects currently in development.

### **Visit to London - RIA Pilot Projects and Shadowing**

The implementation and development of the RIA, in the realm of PRO-REG, are already in the implementation phase. A series of training activities were held to disseminate knowledge among civil servants in the use of this tool for regulatory reform. Currently, six agencies are developing RIA pilot projects. These projects allow these institutions to not only understand the use of this tool, but to make its institutionalization viable.

The Better Regulation Executive - BRE - UK helped to intensify these efforts, since this project has been providing a good exchange with British authorities, so as to share experiences in the use of RIA. In November, a group of Brazilian civil servants involved in RIA pilot projects visited the UK to better understand the practical use of RIA in the British regulatory process. Moreover, specialists from the UK recently visited Brazil to train regulators on the measuring of probable impact, costs and benefits of regulatory proposals.

Shadowing activities were performed by a Brazilian civil servant with notable academic and professional experience. The civil servant spent a week following and participating in the activities of the Regulatory Policy Committee - RPC, so as to understand the routine, RIA analysis using methodologies, particularly those relating to the measuring of costs and benefits and the role of the organ in British government. This activity is extremely important to support the development and the implementation of RIA in Brazilian agencies, since it will allow a greater reproduction and dissemination of knowledge acquired among the regulators, especially those involved in the pilot projects.

### **Latin American Seminar on Successful Experiences in Regulation**



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In an event recently held in Mexico, representatives of Brazil, Chile, Colombia, Costa Rica, Mexico and Peru expressed interest in creating joint action mechanisms to establish basis of regional cooperation to share efforts and experiences in the improvement of the quality of regulation.

For this reason, the *Nuevo Leon Declaration* was written and signed, which officially proposes the creation of a Latin American Network for Better Regulation and Competitiveness, creating a permanent space for dialogue and exchange of best practices among these countries. This document is the first step towards the creation of a common regulatory agenda among Latin American countries, which deals not only with topics of great impact on productivity and competitiveness for each member, but for the region as a whole.

The PRO-REG, with the support of the Inter-American Development Bank - IDB, the British Embassy in Brazil and the Brazilian Association of Regulatory Agencies - ABAR, held the I Latin American Seminar on Successful Experiences in Regulation in Brasilia on February 29, 2012. Many specialists, directors of regulatory agencies and international guests participated in the event, which had as its main objectives:

- Strengthening the understanding regarding the creation of Latin American Network for Better Regulation and Competitiveness - LATIN-REG;
- Exchange of best practices in regulation among Latin American countries (Brazil, Chile, Colombia, Costa Rica, Mexico and Peru);
- Gather efforts and share experiences for the improvement of the quality of regulation in Latin America;
- Share experiences in pilot projects for Regulatory Impact Analysis in Brazil, accounting for the results, highlighting challenges and future perspectives;
- Discuss the limits and potential of regulatory transparency and social control in Brazil;



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- Debate with entities representing the business world (CNI, AMCHAM, US Chamber of Commerce and the Brazilian Institute of the Ethics of Competition - ETCO) on the perception of businessmen on the quality of regulation in Brazil.

The opening ceremony for the event counted on the presence of the Minister of the Civil House of the Presidency of the Republic, and a qualified audience of 250 people, most tied to regulation, from:

- Federal, State and Municipal Regulatory Agencies, represented by the Brazilian Association of Regulatory Agencies - ABAR;
- Ministries that supervise Federal Regulatory Agencies;
- Accounts Court of the Union (TCU);
- Office of the State Public Prosecutor;
- Consumer defense organizations (IDEC and the National Forum for the Entities of Consumer Defense);
- Entities representing the business sector.

### **Course on the Abuse of Dominant Positions**

PRO-REG, along with IPEA and SDE/MJ and the support of the IDB and the British Embassy in Brazil, offered, on March 6-9, 2012, a course on "The Abuse of Dominant Positions", taught by Prof. Massimo Motta of the Universidad Pompeu Fabra and Director of the Barcelona School of Economics.

The course was attended by 120 students, and had as its goal the improvement of the Brazilian System of Defense of Competition, by training the public servants that act in this area, especially those in the Administrative Council of Economic Defense - CADE, of the Ministry of Justice and the Secretariat of Economic Accompaniment - SEAE, of the Ministry of Finance, and Regulatory Agencies. The course became more important with the approval of Law n° 12529, from



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November 30, 2011, on the prevention and repression of infractions against the economic order, constitutionally guiding freedom of initiative, freedom of competition, the social function of property, defense of consumers and repression of the abuse of economic power.

### **Economic indicators on the National System of Consumer Defense - SINDEC**

The work done by Prof. Alketa Peci of FGV-RJ had as its goal the development of economic indicators geared towards the National System of Consumer Defense, especially the Procons, to map, monitor and evaluate consumer complaints regarding regulated products and services. At the same time, the information generated by the economic indicators proposed in this work will contribute to the creation of regulatory public policies more fine-tuned to the needs of users of regulated products and services. The reference point was the existing SINDEC database, with the following main goals:

The elaboration of an economic study on the demands of consumers in relation to the regulated markets seeking to:

- prepare a methodology that allows for the quantitative and qualitative analysis of the performance of regulated sectors based on consumer demands registered with SINDEC and other information databases;
- build indicators that allow for the quantitative evaluation of consumer complaints regarding regulated goods and services. The complaints will have the appointed data in the SINDEC tables (the items in the tables may be used individually or in groups) as reference points. The complaints contemplated by the indicators should reflect the infringements of consumers' rights, gathered by Procons in SINDEC, and
- conclude by proposing improvements in the SINDEC database to, in the future, improve the quality of quantitative and qualitative analysis on the performance of regulated sectors in the interest of the consumer.



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### **Advanced Course on Regulatory Policy IBI-GWU**

Between February 27th and March 09th, 2012, the 8th class of the advanced course in regulation was taught by the Institute of Brazilian Business and Public Management Issues (IBI), tied to George Washington University, in Washington DC. The course consists of training designed specifically for Brazilian public servants working in the area of regulation. The theoretical part of the course encapsulates questions relating to the defense of competition, regulatory impact analysis, the regulation process in the United States, as well as international experiences with regulation. It is worth mentioning that the objectives of the course go beyond the theoretical, in tackling questions such as the nature of the monitoring process for regulation led by the Office of Information and Regulatory Affairs - OIRA, tied to the Office of Management and Budget - OMB, of the United States Government, and the steps involved in the approval of new regulation. In this edition, public servants from federal regulatory agencies participated, as well as state regulatory agencies, ministries and participants of the General Prosecutor of the Republic and the Accounts Court of the Union - TCU.

### **Support for the mechanisms of social control**

The fourth module of the Regulation and Consumer Defense Course, which is an initiative of PRO-REG, was held in partnership with the Department of Protection and Defense of the Consumer (DPDC) of the Ministry of Justice, the National Forum of Civil Entities of Consumer Defense (FNECDC) and the Brazilian Institute of Consumer Defense (Idec), to help in the training of consumer defense entities on topics tied to regulation. The event was held on November 16-18, 2011 at the National School of Public Administration and dealt with regulation in the electric sector and counted on the presence of 40 participants, from civil consumer defense entities, regulatory agencies, and the Department of Protection and Defense of the Consumer of the Ministry of Justice. The course obtained very positive results, demonstrated by the reaction evaluations of the participants.



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### Indicators

In the PRO-REG Logical Framework, a set of indicators were established in order to accompany, both qualitatively and quantitatively, the progress of the physical execution of the PRO-REG. As an indicator of finality some components of the Global Competitiveness Index (ICG) are used, which is elaborated and published by the World Economic Forum. The ICG is made up of twelve pillars. PRO-REG uses the following pillars: "Institutional" (PI) and "Infrastructure" (PIE), which are part of the "Basic Requirements" (RB). 2005 was used as a base, when Brazil presented values of 3.38 and 3.20 for PI and PIE, respectively. The goal is that, at the end of the Program, the country will present an increase of 10% in the PI and 8% in the PIE, which means 3.72 and 3.46, respectively.

It is worth noting that the Institutional Pillar has been presenting growth. The last reported value for PI was 3.6. There was, therefore, an increase of 6.5% compared to the base year. The Infrastructure Pillar also showed strong growth, so much so that the goal was reached in 2009/2010. The value presented for the PIE in 2010/2011 was 4.0.

Another indicator of the program is the Indicator of Amplified Regulatory Quality (IQRA), which was developed to express, specifically, the development of regulatory quality of the Brazilian federal agencies. The goal for the Program was to reach, by the end of 2011, an IQRA of 0.65. The last measurement of the IQRA, done in December 2011, with data from nine federal regulatory agencies, showed a value of 0.66 for the indicator, meaning that the 2011 goal was reached.

Among the PRO-REG indicators, we should also mention the number of trainings, whose goal was reached since mid-2010. Since the beginning of the program through December 2011, 2401 people have been trained, 1540 of which belong to federal regulatory agencies, 423 to supervising ministries, 149 to state and municipal regulatory agencies, 170 to consumer defense entities and 119 from other institutions.

Lastly, there is the "Support for the mechanisms of social control" indicator, which is the percentage of annual growth of the number of participants in the process of public hearings of regulatory agencies. The goal is a 50% increase each year. The information on the number of people that participated in hearings or public consultations was supplied by eight regulatory



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agencies in 2011. In 2010, 1723 people participated in the public consultation process, so that the goal for 2011 would be 2585. However, in 2011 there were 60,406 contributions. ANS was responsible for 93% of the total in 2011. In the process of public consultation for the Normative Instruction (IN) on active aging, a questionnaire was included to facilitate the comprehension of the basic concepts contained in the IN, asking about the types of implementation of the norm. This exponential increase of the number of participants in public consultations of the agency is directly tied to the change in the administrative culture going on at ANS in virtue of the ongoing pilot projects.