

IMPLEMENTATION OF THE GOVERNMENT REGULATORY IMPROVEMENT OF COLIMA

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The objective concerns demonstrate the importance of studying the implementation of programs of regulatory reform in the government of the state of Colima, is to identify the degree of fulfillment of the objectives in the implementation, the proposed method is the document review, ethnography and interviews, as main conclusion shows that this information is highly relevant because it shows data for a successful public policy that translates into benefits for society and the competitiveness of the state.

Keywords: Transaction cost, strategy, implementation, regulatory reform, public policy.

El objetivo es analizar la importancia que tiene el estudio de la implementación de los programas de mejora regulatoria en el gobierno del estado de Colima. Se busca identificar el grado de cumplimiento de los objetivos planteados en la implementación y el método propuesto es la revisión documental, etnografía y entrevistas. Como conclusión principal se observa que esta información es de gran relevancia ya que muestra datos sobre una política pública exitosa, que se traduce en beneficios para la sociedad y la competitividad del estado.

Palabras clave: costo de transacción, estrategia, implementación, mejora regulatoria, y política pública.

INTRODUCTION

Public policies are government actions for the attention of public problems; meanwhile regulation refers to the instruments by which the government determines to achieve an objective by individuals to fulfill a requirement. Therefore, the regulatory improvement is an instrument of public policy that promotes the modification of the regulation in order to optimize the performance, effectiveness and quality of the formalities required by the government seeking always to ensure maximum social welfare (OECD, 2012). Berumen and Palacios (2009) define competitiveness in macroeconomic terms and the ability of countries to produce competitive goods and services that result in economic growth and development.

To increase the competitiveness of a state, one of the factors involved is related to the implementation of policies on regulatory reform. The Center for Development Research, A. C. (CIDAC) states that one of the factors that investors consider to select a region and set up a company is the reference to the administrative burden (CIDAC, 2013). The Federal Regulatory Improvement Commission (2012) states that having an efficient regulatory framework for regulatory reform reducing the administrative burden favors the environment for entrepreneurship, competitiveness and job creation. Likewise, proper regulation and simple to perform, in addition to boosting business size drastically decrease corruption,

establishing a common basis of requirements for all companies, regardless of size (CIDAC, 2013: 13).

Public policy on regulatory reform in the government of Colima promotes and performs actions that promote interaction between government and citizens, these interactions occur through different programs in this area, which claim to have an influence in the fields economic and social.

One of the purposes of the implementation of regulatory reform in the government of the state of Colima is the reduction of the administrative burden of production processes favoring entrepreneurship, competitiveness and employment generation. Vargas-Hernández (2005) comments that formal and informal rules of institutions affect economic performance, adequate regulation reduce transaction costs and induce cooperative behaviors. Good performance in managing the implementation of the policy has some implications listed here.

In order to provide a regulatory framework conducive to legal certainty, creating businesses and jobs are planned to be achieved by the analysis of implementation strategies. As said Vargas-hernández (2005) the quality of institutions is related to levels of transaction costs and the different ranges of exchanges that are viable at a given time.

To achieve that growth and economic development that has been proposed by Colima government through implementation strategies for achieving public policy is essential that they are successful because low transaction costs are essential for economic growth (Vargas-Hernández, 2005). The Canadian Federation of Independent Business recognizes that while regulation is important for the efficiency and safety, excessive regulation has negative consequences for prosperity (García, 2010).

The proposed study is selected for the Government of Colima because various institutions have recognized the progress and results of the implementation of regulatory reform. Such as in the case of the OECD based in France who in 2012 invited the executive of the State (Governor) to present the progress of the same (OECD, 2012). Also the International Development Bank (IDB) in 2014 presented the award to the Governor of Colima in the category Smart

Government for the “Colima Model: Full service innovation for the benefit of citizens and businesses” (Moreno, 2014).

Mexico needs to improve regulatory quality of subnational entities if it wants to create a favorable business environment and increase competitiveness. As an entrepreneur has to perform several procedures at the federal, state and municipal level, this need becomes even more urgent (Villarreal, 2010: 15). It is necessary for local governments to implement government policies that encourage competitiveness in attracting investment, employment and improvement of quality of life of their inhabitants. In that sense the Colima state government, with the aim of improving the competitiveness of state, facilitate, make more efficient and streamline their services, has adopted a policy of regulatory improvement as a process to provide investors with legal certainty and reducing transaction costs.

I. BACKGROUND OF THE REGULATORY REFORM IN COLIMA

The Regulatory Reform agenda is a public policy of the federal government, based on the National Development Plan 2013-2018, which establishes five national goals: One relates to the “Democratization of productivity” as one of the strategies of the target Mexico Prosper and the line of action of this has the goal to encourage the use of information and communication technologies, and a comprehensive regulatory reform to simplify procedures for citizens to achieve higher economic growth (NDP, 2013).

In the government of Colima, regulatory reform policy is based on the National Development Plan 2009-2015, the Strategic Infrastructure axis Connective, Sustainable Productivity and Economic Progress, which manifests as objective “To position Colima State as a productive competitive and sustainable state, characterized by having the government more efficient in providing services to their people” (PED 2009).

The regulatory reform is a public policy established in official legal frameworks of the federal and state governments. Corzo (2012) mentions that public policies are developed to solve public problems and resolution for which citizenship must also participate. In the regulatory reform of Colima has objectives defined in the Regulatory Improvement Act for the State of Colima (LMR) and in the Annual

Regulatory Improvement Program approved by the Council for Regulatory Improvement. In the latter is where the citizens participate.

The federal government and the government of Colima have been proposed themselves to work together on an agenda of regulatory reform, embodied in the collaboration agreement between the National Commission of Regulatory Improvement (COFEMER) and the Mexican Association of Secretaries of Economic Development as a public policy that creates clear rules, procedures and services simple and agile (COFEMER, 2013).

The Directorate of Regulatory Improvement of the Ministry of Economic Development is responsible for carrying out the objectives and strategies embodied in this area in the Regulatory Improvement Law (LMR). The work began with an analysis of the actions of regulatory reform implemented in the states of Mexico, as well as an analysis of the studies conducted by national and international organizations which reflect the best practices.

The analysis of which more actions were taken and resumed to implement was the study “short-term measures to improve competitiveness at the subnational level” developed in collaboration with the Mexican Institute for Competitiveness (IMCO) and the Ministry of Economics of the Federal Government. This study provides information that identifies the differences in the regulatory performance of states. Similarly, it identifies the most complicated government processes and their effect on competitiveness.

Another study analyzed from which strategies were resumed, it was called “successful practices and policies to promote regulatory reform and entrepreneurship”. In this study, the OECD reviewed the best practices and successful policies of subnational jurisdictions in several different countries. This study described the agents of the regulatory reform, institutions, applied policies and other policies that have proved successful in creating an environment conducive to entrepreneurship and investment attraction.

Derived from an analysis made of the peremptory actions was the modification of the MRLs in order to provide legal support for the new shares and powers that have dependencies state and local government. The decree amending the law is published in October 2013. Among the main changes are: a) the establishment of the SEFOME as responsible for implementing public policy,

b) creation or modification of regulations in this area in the municipalities, c) The State Regulatory Improvement is created, d) Regulatory Impact Statement is contemplated.

After analyzing the above studies, it initiates the work to “tidy up” so the government of Colima needed to know how many procedures and services offering all units came to the people and which ones were the most popular as well. With the support of a government consulting firm, the government of Colima has done what was called the “guillotine”, which was to identify existing services and procedures, eliminate requirements or procedures that were not supported by law or legal regulation and thereby reduce the administrative burden.

Once the formalities and most requested services were identified, they were analyzed. It was performed at the same services the reengineering process and actions were made to offer them to the population more effectively and efficiently, deciding that the way to achieve this was the start online, which offered users the facility to perform the procedure at any time and place eliminating transfers and providing certainty in costs, requirements, procedures and thus transparency.

As a complement to the “order of the house” the government of Mario Anguiano created the Institute for Competitiveness of Colima which aims to strengthen the culture of competitiveness in public and private institutions of the State of Colima. Between actions that supported regulatory reform and implementation of online transactions is the coordination and implementation of the Quality Model under ISO 9001: 2008 units with most requested services.

Thus a clear objective, attracting investment and competitiveness, various actions have been shed on the subject, which have been embedding on the agenda of government, which has functioned as a “waterfall” being the origin regulatory reform. It has evolved various actions that international bodies have recognized, as in the case of the Inter-American Development Bank, achieving to be flag results in the administration that implements.

2. DEFINITION OF PROBLEM

The political science is interested in public decision time, what happens in the implementation corresponds to the administrative sciences (Aguilar, 1993). The

State-Owned Enterprises (SOE) suffer from a problem of incentives, employees are not entitled to enjoy the income from SOEs or transfer or sell its property. Employees have little motivation because they are not direct beneficiaries (Peng, 2010).

The central vision of the administration 2009-2015, is “to be the most efficient in the provision of government services to its citizens.” Efficient services and regulatory reform for the government of Colima go together as a single strategy for the benefit of citizens and the state of Colima as favorable for doing business entity, translating into competitiveness. It is important the analysis of the implementation as most administrative actions or perhaps all of them make political and policy change while trying implementing it (Aguilar, 1993: 34).

To implement the policy of regulatory reform, as well as other priority programs, the executive created a team called “strategic planning”, who would follow up and monitor the results of the priority programs. The efficient execution of a sound strategy relates organizational success, but also the best test of managerial excellence (Thompson & Strickland, 2004). The implementation of the strategy has to do with the administrative exercise of conducting a newly chosen strategy. Thus, it is intended to analyze the following triangulation of implementing regulatory reform policy in the state of Colima, ought to –what they say they do– against the results.

Hypothesis: Management strategies for the implementation of regulatory reform policy in Colima state government achieve the objectives thereof.

3. CONCEPTUAL THEORETICAL FRAMEWORK

There are three schools of thought that define what strategy is. These are: strategy as plan, strategy and action and strategy and integration.

Within strategy and action it is mentioned that cited by Mintzberg in 1978: A pattern of a stream of actions or decisions. Regarding strategy as integration it is mentioned the established by Chandler in 1962: The determination of the basic long-term goals and objectives of an enterprise and the adoption of courses of action and the location of the resources needed to carry out the objectives to the definition of strategy as defined by the plan take Oster 1994 a set of concrete plans to help the organization achieve its goal (Peng, 2010: 9).

Minzberg (1978) postulated that in addition to the intentional strategy can also be the emergent strategy, which is the result of a chain of small decisions of “background”. For the implementation of public policy regulatory reform in Colima state government, the executive has stated that the implementation thereof was conducted by integrating strategic planning for achieving the objectives.

The solutions have costs, government regulation is not the exception but the problem is not well handled by the market or by the company. Coase (1960) argues that the problem of social cost, its main purpose is to correct a concept poorly implemented in the way that economists focus policy issues. According to Coase, the error analysis for economists lies in considering the government as a corrective force of market failure that has not cost, which is unreal (Coase, 1960).

Coase (1960) defines the government as a super company with the ability to influence the use of factors of production through the implementation of public policies. In carrying out market transactions, it incurs in transaction costs such as interacting with the person you want to perform the transaction, which objects, under what conditions, perform the contract, among others. Entrepreneurs to take to manage a process required by the government, also incurs transaction costs, such as moving and interacting with the staff that will give the process or for information at different levels, time devoted to collect the prescribed requirements and keep track of the transaction.

Coase (1960) comments that the bureaucratic apparatus of government is often extremely expensive, therefore it follows that direct governmental regulation will not necessarily have good results. Sometimes, such governmental administrative regulation should not lead to an increase in economic efficiency. However, there is no doubt that the benefits that come from regulating the actions which give rise to harmful effects will be less than the costs associated with government regulation.

The implementation which is defined as the effect of taking and achieving something which is considered will result in the expected and preferred terminal event. In order to define clearly the problem of implementation, the authors assumed in their analysis the absence of an entire set of factors that often negatively affect the implementation of policy (Aguilar, 1993: 45).

One of the problems of implementation is given by the magnitude of change involving public policy and the extent to which it differs from previous policies.

In addition to the standards and benchmarks to judge the implementation may be funds or other incentives to encourage or facilitate effective implementation. Aguilar (1993) has stated that the government requires of strategies and procedures to enable the authority to carry out the objectives of public policy.

4. REGULATORY IMPROVEMENT IN COLIMA

Here are described the activities implemented in the government of Colima on regulatory reform and government efficiency, in accordance with the five tasks of strategic management.

The five tasks of strategic management are: “To develop a strategic vision and mission of the business, determine the goals, create a strategy for achieving the objectives, implement and execute strategy and evaluate the performance” (Thompson & Strickland, 2004: 6).

- a) Strategic vision: “To be the most efficient government in the provision of services to its citizens”.
- b) Objectives: To establish regulatory reform as a public policy, reducing the administrative burden and the social cost.
- c) Strategy for achieving objectives: Establishment of a group of operational planning for tracking and monitoring of priority programs and projects leading the establishment of dependency with completion dates and responsible for them.
- d) Strategy Implementation: Each agency runs the project leader and project progress reports on a monthly basis to operational planning leader, who is the figure named by the executive to monitor it. He collects information formats for submission to evaluation.
- e) Evaluate the performance: Monthly, the operational leader makes a summary of the progress of the project leaders. This summary is presented to the executive who dictates changes or corrections that have to be done or in other cases, he intervenes to unlock any problems arise and that alone with his powers can flow and achieve the objectives.

- f) Actions are taken, so the goals that have been achieved are made known to all staff of state government through a so-called plenary replicated in all dependencies.

Similarly, for the implementation of the strategy for regulatory reform, there has been established as activities to develop recommended in the Guide to improve regulatory quality of state and municipal procedures and boost the competitiveness of Mexico published by the OECD. Among them were carried out the following:

- a) The executive has publicly committed to regulatory reform and reducing administrative burdens to Colima population at the Annual Conference on Regulatory Improvement in Colima.
- b) Ensured the institutionalization of the basics like changing the Regulatory Improvement Act.
- c) Ensured the establishment of mechanisms for business and citizen participation in the design, management and evaluation of regulatory reform.
- d) Appointed a body responsible for the management of regulatory reform government and assigned well defined responsibilities.
- e) Were taken advantages of the resources of other agencies to minimize the costs of regulatory reform policy.
- f) Quality management systems in the most demanding processes were established.
- g) Mechanisms for consultation with relevant stakeholders were created when new regulations and laws are proposed.
- h) Use of techniques and tools for administrative simplification was made to remove unnecessary, such as the “guillotine” and analysis of Standard Costing regulatory burdens.
- i) E-government tools are exploited to simplify procedures.

The implementation of strategic management for the achievement of the objectives is a novel method. Since it not has been applied in previous administrations in Colima, is a new way of working. As any new project or program there is always

resistance to change. It was no exception to the administration of Colima, but this has surfaced thanks to the planning, execution and leadership strategy, which was finally accepted by the administration. In the words of the operational leader of the Ministry of Economic Development, “they have already agreed to the procedure, and I do not have many problems getting information and tracking it. The fulfillment of the objectives is evidence that the process of implementation of the strategy has worked”.

What aspects of the policy in regulatory reform have been strengthened? Where the main weaknesses lie? What are the most important opportunities at this time for policies to improve regulations? Dealing with threats limiting the operation of the regulatory reform policy? Where does want to focus on the politics of regulatory reform?

To have an approach to the answers to these questions, an analysis of the Strengths, Weaknesses, Opportunities and Threats is proposed, also known as SWOT analysis. SWOT analysis provides a good overview to see if the position of business firm or a company is weak (Thompson & Strickland, 2004: 119). It is necessary to consider whether the formulation of a competitive strategy is required (Porter, 2004: 162).

For the integration of the SWOT analysis, it was taken the analysis of published information for the state of Colima by CIDAC, through the World Bank Doing Business 2014 study and the experience of the author, who is coordinator of government efficiency of the Directorate of Regulatory Improvement. CIDAC assesses whether the policy regulatory reform is at the highest level to the commitment of the executive, whether the general principles of the subject are found in laws to survive political changes.

A similar Manifestation of Impact Methodology used regulatory (MIR) assesses if there is transparency in regulations and formalities, availability of consultation, certainty in them, as well as means to appeal authority acts that they consider to be adverse, if evaluated, if there is an ongoing review of impact or justification all regulatory measures, and an analysis of the promotion of effective competition means that public policies undertaken do not inhibit competition (CIDAC, 2013).

The World Bank measures the way in which government regulations enhance business activity or restrain it. At a subnational level analyzes regulations affecting four stages of the life of a business: Starting a business, dealing with construction permits, registering property and enforcing contracts. World Bank measures business regulations affecting local businesses. The project focuses on small and medium enterprises operating in the most important city for doing business in each economy.

The strengths, weaknesses, opportunities and threats that the author rescues from the World Bank and CIDAC own contributions are:

a) Strengths

- 1) Colima has a strong regulatory framework in the area of transparency (CIDAC, 2013).
- 2) The procedures of the Public Registry of Property and Commerce are 100% electronic.
- 3) Most people and interests involved in the legislative process are also involved in the implementation process.
- 4) A method of work that generates tracking and monitoring processes with the executive to fulfill the objectives.
- 5) Commitment of the executive in the field of regulatory reform.

b) Opportunities

- 1) Establish mechanisms to review the existing regulations (CIDAC, 2013).
- 2) Unify alignment procedures, official number and land use to contribute administrative simplification (CIDAC, 2013).
- 3) Peer learning is an important tool for improvement (Banco Mundial, 2014).
- 4) Encourage collaboration between the public and private sector.
- 5) Exchange of experiences with member countries of the OECD (García, 2010).

- 6) Implement recommendations from external institutions focused on regulatory reform (García, 2010).
- 7) Avoid overlapping responsibilities (García, 2010).

c) Weaknesses

- 1) Regulatory Improvement Law does not provide for an ex-post evaluation (CIDAC, 2013).
- 2) Regulatory Improvement Law does not provide a requirement for periodic evaluations (CIDAC, 2013).
- 3) The law does not eliminate the need for a procedure when a procedure (CIDAC, 2013) is modified.
- 4) The law does not provide that public policies undertaken do not inhibit economic competition (CIDAC, 2013).
- 5) The best use of public resources that are counted.
- 6) Government as a homogenizer body, without which the productive sector and universities and research centers, have no way of relating.
- 7) High workloads and insufficient staff in the development of software for online transactions.
- 8) Weak enforcement for the development of regulatory impact assessments.
- 9) Upon a change of administration, the politics of regulatory reform is not a priority.

d) Threats

- 1) Lack of interest in civil society and the private sector to participate in meetings of the Council for Regulatory Improvement.
- 2) Little knowledge of the society on Law Regulatory Improvement. Employers mentioned in an interview, do not know how to sell their products, people do not know.
- 3) Resistance of the population to use electronic means to conduct transactions online.

- 4) Lack of knowledge on use of electronic means to conduct online transactions.
- 5) Lack of culture of the people to express their grievances to the government either in the physical ballots and electronic media.
- 6) Regulation can be affected by poor regulatory policies and practices at other levels (OECD, 2012).

5. METHOD

For the analysis of the implementation of regulatory reform programs in the government of the state of Colima, it is conducted the documentary research, among them it can be mentioned the state development plan, the annual work program, government reports, white papers of programs implementation, reports from national and international agencies on the implementation of regulatory reform in Colima.

Also, it is conducted ethnographic research where it attends the working sessions and the activities for the implementation of agreed programs. It is also held here some issues of authority, power, administrative and outreach strategies and image of the subject is recorded during deployment. Besides there are conducted the interviews to gather information from both officials and the population using the services that have undergone a process of regulatory reform and resume perceptions and impacts on both economic and social impacts.

It is selected the government of the state of Colima because it is a national reference in the field of regulatory reform as mentioned COFEMER. Besides the state ranks first in 2014 in the “ease of doing business” category, issued by the Bank World.

CONCLUSIONS AND RECOMMENDATIONS

Confidentiality of people is cared, and identify whether the implementation complies with the provisions of public policy, how it is carried out the process of implementation, what are the successful management strategies in case it would had and what are the pitfalls and stumbles to amend.

Regulatory reform is an issue in the governments of the states which is new to some extent. For the government of Colima, it was an issue for a little over twelve years left to the responsibility of a single person in the Ministry of Economic Development. It was considered on the government's agenda as a priority in the 2009-2015 administration. Just as it happened in other states, now the subject of regulatory reform is on the agenda of government as a priority in some states more than others. It can be named the ranking CIDAC identified Nuevo Leon and Colima states where regulatory reform agenda has had more progress. On the other hand, the states of Baja California and Oaxaca are considered as emerging in this area.

As already mentioned, the subject of regulatory reform now is undertaken by government directions and offices, which are well defined in regulation with clear roles and objectives. The implementation of an efficient and effective regulatory reform benefits everyone, first eliminating transaction costs to investors and partly as citizens they are also in order to make their lives more than a proceeding before a government agency.

Derived from a literature review of the reports of results and progress of the programs of regulatory reform, it can be seen that what calls the government of Colima the strategic planning framework of actions in a strategy and plan that are specific to be developed and approved with time and responsible actions. In the same way an intentional strategy is observed in which the actions have been approved for proposals and deliberately carried out. On the same way, the implementation of the strategy for achieving the objectives is not static because in the course of implementation there are changes which lead us to resort to an emerging strategy taking small decisions as a result of other previous, leading us to the strategy and integration.

For the formulation of the strategy involves an assessment of the firm, as Sun Tzu cited by Peng named as know "yourself" and your "opponents". This may be through an analysis of the Strengths, Weaknesses, Opportunities and Threats (SWOT). The officials responsible for implementing the policy of regulatory reform in Colima often resort to the analysis performed by international organizations such as the Bank of Mexico to learn the strengths and weaknesses with respect to the opportunities and threats reviewing proposed by international organizations such as OECD and national such as COFEMER. This information allows agents to develop and / or redirect their plans and actions to achieve goals.

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