

# PRO-REG Bulletin    October 2012

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The Program for Strengthening Institutional Capacity for Management in Regulation - PRO-REG, created by means of the Decree no. 6,062, of March 16 2007, was conceived and is being executed in partnership by the Inter-American Development Bank - IDB, and the Federal Government, represented by the Office of the Chief of Staff of the Presidency of the Republic. The actions performed in the scope of the Program are aimed at:

truments of supervision and social control.

Sixteen years after the set-up of the first regulatory agencies and the creation of the regulatory frameworks that guide the provision of public services, the Brazilian government has put into practice several initiatives to improve of the quality of the regulation and regulatory governance. Regulatory reform in Brazil is aimed simultaneously at responding to the challenges brought about both by reviewing what was produced throughout this period and facing the future challenges of promoting solid, transparent and effective institutions.

The most relevant aspects of this permanent process of transformation refer to coordination between regulatory activity and the formulation of public policies, the improvement of the process of decision making in the regulatory environment.

The State, in the exercise of its regulatory function, can contribute effectively to protect the rights of consumers and the stability of markets, and, through

more solid institutions, to reaching an economic and social threshold less exposed to the risks inherent to the environment where public policies are materialized.

Among the several initiatives the Program has been putting into practice, the following stand out:

### **RIA Pilot Projects**

The Program of Strengthening Institutional Capacity for Regulation Management - PRO-REG continued the support to pilot projects for Regulatory Impact Analysis - RIA, currently conducted in six Brazilian federal regulating agencies: Ancine, Aneel, ANP, ANS, Antaq and Anvisa. Approximately 150 people participate actively in all the pilot projects. These public servants have received capacity building in methodologies to carry out impact analysis and are working on alternatives to solve practical cases in their agencies.

Two more agencies joined the list of pilot projects in 2012: the National Agency of Civil Aviation and the Regulating Agency of Delegated Public Services of the State of Ceará - ARCE, the first state-level agency to participate in these activities. Approximately 60 public servants were initially trained in the concept of RIA, basic methodologies used in impact analysis and the relevance of using social participation techniques in an RIA process. ANAC, ARCE and, with the support of the Brazilian Association of Regulatory Agencies - ABAR, other federal, state and municipal regulatory agencies will soon begin pilot projects, and using the tool to improve regulatory quality.

Some agencies have begun institutionalizing the tool: ANS already includes the requirement for a Regulatory Impact Executive Summary in its work routine. ANEEL, another example, promoted a public hearing to listen to society with regards to a proposal that establishes the performance of RIA on the regulations they develop. This procedure will allow the analysis of the costs and benefits of a normative proposal and, thus, will seek the best options for the new regulation. The proposal submitted to the contributions of society at the public audience no. 064/2012 foresees the mandatory performance of RIA

outlines the object of a new regulatory act, identifies its goals, and estimates the expected

outcomes and the costs of editing it. In making RIA mandatory, ANEEL attempts to make regulation more predictable and increase the transparency and effectiveness of the factors that motivated the edition of regulations.

### **Workshop on Regulatory Impact Analysis**

Following up on the capacity building activities performed to subsidize the development of pilot projects to analyse regulatory impact for impact analysis on federal regulating agencies, PRO-REG conducted three workshops on RIA. The courses were carried out at ANP, ANEEL and ANAC. Sixty-three public servants were trained on the whole.

Also noteworthy is the introductory course on RIA conducted on August 16 and 17, 2012, at the Regulating Agency of Delegated Public Services in the state of Ceará, in which 20 public servants participated. The agency instituted RIA as mandatory through Resolution no. 115. However, the specialists have not yet mastered all the knowledge necessary to carry out high quality RIA. The resolution mandates the performance of RIA for any type of intervention, but a proposal, and not the alternatives, must be analyzed. As a result, the tool is not used for its fundamental purpose, which is to analyze the alternatives to intervention. The public servants participating in the course had the opportunity to better understand what RIA really is and how it should be used. They requested that PRO-REG helps review this resolution so it can be used effectively and not become a bureaucratic element. The idea of conducting pilot projects could be useful to improve the use of RIA in order to make future modifications in the resolution.

### **Course on Regulation - Theory and Practice**

From July 03 to 06, 2012, the fifth edition of the Course on Regulation - Theory and Practice was held, bringing together regulation professionals from federal, state and municipal bodies.

The course was divided into two parts. In the morning sessions, professors Martin Lodge, from the London School of Economics and Political Science, and Kai Wegrich, from the Herte Berlin School of Governance conducted theoretical sessions about regulation, and, in the afternoon, concrete cases experienced in governmental



bodies and other entities were discussed, affording the students a time for reflection, dialogue and exchange of experiences. At the fifth edition there were state-level public servants from ten units of the federation. Those from the federal sphere were, 48% from regulating agencies, while 33% belonged to the supervising ministries. An additional highlight was the participation of public servants from the Brazilian Court of Audits - TCU, the General Public Prosecution Office of the Republic - PGR, the Federal Prosecution Service, representatives of the Brazilian Micro and Small Business Support Service - SEBRAE, the National Confederation of Industry Brazil - CNI, and the American Chamber of Commerce Brazil - United States - AMCHAM.

### **Regulation and Consumer Defense Course - Module V: Civil Aviation**



Another capacity building activity conducted by PRO-REG was Module V of the Course on Regulation and Consumer Defense, an initiative of the Program in partnership with the Department of Consumer Protection and Defense (DPDC) of the Ministry of Justice, the National Forum of Civil Entities for Consumer Protection (FNECDC) and the Brazilian Institute for Consumer Defense (Idec), to aid in capacity building in topics related to regulation, for consumer defense entities.

The fifth module, held on April 10 to 12, at the Israel Pinheiro Convention Center, in Brasilia, DF, dealt with civil aviation regulation and, in addition the such as Procons (Bureaus of Consumer Protection), Public Defenders Offices. regulatory agencies and the aforementioned DPDC of the Ministry of Justice, participated.

### **Course on Competition Advocacy**

PRO-REG will hold, between November 19 and 23, a course on competition regulation and advocacy for public servants from regulatory agencies, the Secretary of Economic Monitoring -SEAE of the Ministry of Finance, and the Administrative Council of Competition Defense - CADE, as well as members and participants of the Brazilian Competition Defense System. The course will offer conceptual and methodological elements and case studies that stimulate reflection among the public servants involved, so they can develop a coherent script to exercise competition advocacy. Such script will consist of a guide for analysing the impacts on competition of proposed or in force regulatory measures, examined by SEAE. This analysis will follow the methodological parameters of regulatory impact analysis, and thus, the course will incorporate the best practices with this tool.

### **Program for Strengthening Competences in Management and Regulation**

The Program for Strengthening Competences in Management and Regulation, conducted in partnership by the National School of Public Administration (ENAP) and the Forum of Human Resources of Regulating Agencies, was continued in 2012. The goal of the program is the development of competences of public servants that work with regulation, in order to contribute to the improvement of the quality of the regulatory system and perfect the institutional model of regulating agencies. Until September 2012, six groups, in Brasilia and Rio de Janeiro, took the following courses: introduction to regulation, project development and management, strategic management in

public organizations and advanced economy of regulation. In this semester, 176 public servants were trained. It is expected that, by the end of this year, they will be a total of 678.

## **International Cooperation**

### **- II Latin American and Caribbean Seminar on Successful Experiences in Regulation**

To continue the initiative of CELAG-REG and advance the debate on improving the quality of regulation in Latin America, PRO-REG conducted the II Latin American Seminar on Successful Experiences in Regulation, with the institutional support of the British Embassy in Brasilia, of the Inter-American Development Bank - IDB and the Brazilian Association of Regulatory Agencies.



The event took place in Brasilia - DF, at the Palácio do Planalto presidential palace, on September 13 and 14, 2012. On September 13, a technical meeting was held to discuss the term of reference of creation of the Latin American Network of Regulatory Improvement and Competitiveness with the representatives of the countries of the Community of Latin American and Caribbean Countries - CELAC. Representatives of eight countries were present at the meeting.

On September 14, the seminar was held in the auditorium of Annex I of Palácio do Planalto. Widely sought, it featured several national and international specialists who participated in the several panels, and more than 170 participants from federal, state and municipal regulating agencies, supervising ministries, representation agencies from the business sector, consumer defense bodies, the Brazilian Court of Audits, the General Public Prosecution Office of the Republic, and representatives of several Latin American governments and countries.

## **EU - Brazil Sector Dialogs**

PRO-REG formulated action proposals for Impact Evaluation and legal drafting, which were approved at the sixth call of the project *EU Brazil Sector Dialogs Support*, coordinated by the Ministry of Planning, Budget and Management and the Delegation of the European Union in Brazil.

The goal of the project is to contribute to the progress and deepening of the strategic partnership and bilateral relations between Brazil and the European Union, by supporting the exchange of technical knowledge. The action proposed by the plan contemplates, in addition to technical visits, organizing a seminar and workshop for the exchange of experiences in regulation between Brazil and the EU.

## **Cooperation Agreement with the British Embassy in Brazil**

PRO-REG and the British Embassy in Brazil signed a Cooperation Agreement to encourage and perform actions to improve the quality of regulation and the

## **Evaluation of the National Program of Bio-diesel Production and Use - PNPB.**

A multi-criteria analysis methodology, using the MACBETH method (Measuring Attractiveness by Categorical Based Evaluation Technique) method, an analysis technique that allows for measuring and evaluating not only quantitative variables, but also qualitative aspects observed in the program, was chosen for evaluating the PNPB. Starting in July 2012, meetings were held among the team responsible for the evaluation include recommendations for improvement of the program.

## **Implementation by the ANS of the Electronic Health Registry**

The goal of this work is to perform studies - involving the tool of RIA - to support the decision making process in the implementation of a project of Electronic Health Registry in the area of Supplementary Health. The approval and implementation of this project, in the near future, will allow the continuity and effectiveness of healthcare, with a reduction in mistakes and care related costs. The study, involving costs and benefits identification, will allow, at the same time, great advancements in the regulation of the health sector and improvement of the quality of regulation.

### **Indicators**

In the logical framework of the PRO-REG, a set of indicators was established to enable the qualitative and quantitative monitoring of the progress in the concrete accomplishment of the PRO-REG. Some components of the Global Competitiveness Index (CGI) are used as goal indicators. The GCI is published by the World Economic Forum and formed by twelve pillars. The pillars used for PRO REG are

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by the end of 2011, an IQRA of 0.65. The last measurement of the IQRA, in July 2012, with data from the ten federal regulating agencies, produced an indicator of 0.68.

Among PRO- monitoring indicators, we can also mention the quantitative indicator of capacity building, the goal of which has been reached since mid 2010. From the beginning of the program until July 2012, 2921 people were trained, of which 1876 are from Federal Regulating Agencies (including CADE), 423 from supervising ministries, 203 from State and Municipal Regulating Agencies, 215 from consumer defense entities and 137 from other institutions.