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C/MIN(99)7



Organisation de Coopération et de Développement Economiques
Organisation for Economic Co-operation and Development

OLIS : 20-May-1999
Dist. : 20-May-1999

PARIS

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COUNCIL

C/MIN(99)7
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Council at Ministerial Level, 26-27 May 1999

OECD REVIEWS OF REGULATORY REFORM

(Note by the Secretary-General)

Declassified

78253

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FOREWORD

The OECD Reviews of Regulatory Reform in Japan, the United States, the Netherlands and Mexico are the first of a series of country reports carried out under the OECD's Regulatory Reform Programme, launched in 1998 in response to a mandate by OECD Ministers.

The OECD's Regulatory Reform Programme is aimed at helping governments improve regulatory quality -- that is, reforming regulations which raise unnecessary obstacles to competition, innovation and growth, while ensuring that regulations efficiently serve important social objectives.

The Programme is part of a broader effort at the OECD to support sustained economic development, job creation and good governance. It fits with other initiatives such as our annual country economic surveys; the Jobs Strategy; the OECD Principles of Corporate Governance; and the fight against corruption, hard-core cartels and harmful tax competition.

Drawing on the analysis and recommendations of good regulatory practices contained in the *1997 OECD Report to Ministers on Regulatory Reform*, the Regulatory Reform Programme is a multi-disciplinary process of in-depth country reviews, based on self-assessment and on peer evaluation by several OECD committees and members of the International Energy Agency (IEA).

The country Reviews are not comprehensive, but, rather, targeted at key reform areas. Each Review has the same structure, including three thematic chapters on the quality of regulatory institutions and government processes; competition policy and enforcement; and the enhancement of market openness through regulatory reform. Each Review also contains chapters on sectors such as electricity and telecommunications, and an assessment of the macroeconomic context for reform in the country under review.

The country Reviews benefited from a process of extensive consultations with a wide range of government officials (including elected officials) from the country reviewed, business and trade union representatives, consumer groups, and academic experts from many backgrounds.

These Reviews demonstrate clearly that in many areas, a well-structured and implemented programme of regulatory reform has brought lower prices and more choice for consumers, helped stimulate innovation, investment, and new industries, and thereby aided in boosting economic growth and overall job creation. Comprehensive regulatory reforms have produced results more quickly than piece-meal approaches; and such reforms over the longer-term helped countries to adjust more quickly and easily to changing circumstances and external shocks. At the same time, a balanced reform programme must take into account important social concerns. Adjustment costs in some sectors have been painful, although experience shows that these costs can be reduced if reform is accompanied by supportive policies, including active labour market policies, to cushion adjustment.

While reducing and reforming regulations is a key element of a broad programme of regulatory reform, country experience also shows that during the transition to a more competitive and efficient market, new regulations and institutions are sometimes necessary to assure that private anticompetitive behaviour does not delay or block the benefits of reform and that health, environmental and consumer protection is assured. In countries pursuing reform, which is often difficult and opposed by vested interests, sustained and consistent political leadership is an essential element of successful reform efforts, and transparent and informed public dialogue on the benefits and costs of reform is necessary for building and maintaining broad public support for reform.

The policy options presented in the Reviews may pose challenges for each country concerned, but they do not ignore wide differences between national cultures, legal and institutional traditions and economic circumstances. The in-depth nature of the Reviews and the efforts made to consult with a wide range of stakeholders reflect the emphasis placed by the OECD on ensuring that the policy options presented are relevant and attainable within the specific context and policy priorities of each country reviewed.

The OECD Reviews of Regulatory Reform are published under the responsibility of the Secretary-General of the OECD, but their policy options and accompanying analysis reflect input and commentary provided during peer review by all 29 OECD Member countries and the European Commission and during consultations with other interested parties.

The Secretariat would like to express its gratitude for the four Governments' support for the OECD Regulatory Reform Programme and their consistent co-operation during the review process. It also would like to thank the many OECD committee and country delegates, representatives from the OECD's Trade Union Advisory Committee (TUAC) and Business and Industry Advisory Committee (BIAC), and other experts whose comments and suggestions were essential to these reports.

OECD REVIEW OF REGULATORY REFORM IN JAPAN

EXECUTIVE SUMMARY

Regulatory reform has been prominent on Japan's political agenda since the Hosokawa government promoted deregulation as key to economic recovery in 1994, and has been a central element in the broad economic structural reform programme underway since December 1996. The goals of regulatory reform are ambitious: to complete the move from a model of *state-led* growth -- in which interventionist styles of regulation were used for decades to manage high economic growth, carry out deep structural reform, and promote producer interests -- to a model of *market-led* growth characterized by a more efficient and flexible economy in which the role of the government is diminished. The government has described such a society as one in which personal choice and initiative increase, consumer interests take higher priority, structural change is driven by market pressures, and domestic markets are more open to international competition.

Sustained effort has reduced economic intervention in many sectors, among them, large retail stores, gasoline imports, telecommunications, and financial services, and consumers have already seen significant results. The "Big Bang" proposals in the financial sector are being implemented on schedule, which will assist in restoring the sector to health. Important progress has been made in areas such as increasing the efficiency of pervasive licenses and permits, even though their numbers have increased, by shifting emphasis from *ex ante* approvals to *ex post* monitoring of compliance with general rules. There is slow but steady movement toward more transparent and less discretionary regulatory practices, partly driven by market demands and partly by recognition of the gap between traditional and international practices. The framework for competition policy has been strengthened. Several initiatives underway to promote the use of international standards will help expand trade flows, to the benefit of Japan's consumers. Compared to its predecessors, the 1995-1997 deregulation programme was the most successful yet, capitalising on the strength of a reform-minded prime minister and competitiveness pressures to win commitments to reform in key sectors, and the current 1998-2000 deregulation programme should contribute to the progress achieved.

The challenge today is to deepen and speed up the regulatory transition already underway, while managing its effects on economic and social life so as to sustain and expand political capacities for reform. The need for more rapid progress is urgent. The Japanese economy has stagnated since 1992, and, though the economy rebounded in 1996, it has been in a recession since late 1997 and recovery is still uncertain. Since 1992, in fact, it has had the poorest performance in the G7. While external shocks and cyclical factors have played roles in the current malaise, the most important factor has been structural rigidities resulting from an increasingly outmoded regulatory and institutional framework. In future, the factors that sustained Japanese growth in the past -- such as rapid labour force growth -- will no longer be present. Without further reform, any economic recovery in Japan will likely be fragile and short-lived, and unemployment will remain high.

This review argues that a sharp break with past regulatory practices is needed. Rapid and forceful action in Japan will help restart growth and contribute to establishing a new basis for sustainable long-term growth. Experiences in other countries show that broad-based regulatory reform, as part of a balanced policy mix, can be effective in stimulating supply and demand. Structural reforms, particularly regulatory reform, stand alongside appropriate fiscal and monetary policy and rapid resolution of the crisis in the financial system as key elements of recovery. Raising Japan's long-term potential growth rate will also help compensate for slower growth of the labour force, and help ameliorate the problems associated with an ageing population.

Building on the cross-cutting reforms included in the current deregulation programme, further reforms are needed on two levels: sectoral reforms and framework conditions.

- Because the benefits of sectoral reform are amplified when competition is vigorous in upstream and downstream sectors, the positive impact to economic performance will be largest when reform is multi-sectoral. Comprehensive, step-by-step sectoral reform plans followed by rapid implementation are needed to open the way for competition in airlines and other transport modes, electricity, telecommunications, land-use, and other areas. Impacts on employment of an ambitious programme are difficult to estimate, since they depend on the larger environment for investment, labour mobility, and other framework conditions, but are likely to be positive over the medium-term.
- Government-wide reforms are needed to improve framework conditions such as administrative transparency, accountability, and adaptability, and competition policy and enforcement. A core problem is lack of adaptability in the public administration. As do some other countries, Japan suffers from a deeply conservative policy process that slows decision-making, discourages open policy debate, encourages clientelism, allows special interests to block needed change, and results in the famous "incrementalism." New incentives, participants, and controls in regulatory reform processes are needed to re-orient old relationships with producer groups, break up information monopolies in the ministries, and reduce wide administrative discretion to regulate "in the public interest."

Chapter 1. *The economic malaise of the 1990s has revealed fundamental structural problems of the Japanese economy and the need for regulatory reform.* From the early 1960s until the early 1990s, Japan experienced the highest growth rates of GDP and exports in the G7, accompanied by very low levels of inflation and unemployment and large external surpluses. By the early 1980s Japan had caught up with other OECD countries in terms of per capita GDP. Despite this strong overall performance, structural problems emerged in the late 1970s, as external conditions changed and the state-led model of economic development became ill suited to the demands of global markets. The economy as a whole and manufacturing exporters in particular began to feel the increasing burden of a highly regulated, high cost and inefficient non-traded goods sector making up a substantial portion of the economy. Around 1990, Japanese asset markets collapsed, and the true costs of underlying structural problems began to emerge. Further buffeted by the crisis in East Asia, the economy fell into a second recession in 1997, with prospects for recovery as yet uncertain. Recognition grew that the problems in the economy are deeply embedded in domestic market structures, and that Japan faces the prospect of prolonged economic stagnation and persistently high unemployment. Structural reform should no longer be delayed.

Chapter 2. *Japan's regulatory governance system has proved to be poorly suited to a modern market economy, and unable to respond quickly enough to the needs of Japanese society.* The capable and powerful Japanese public administration helped lead a process of extraordinary growth, but the lack of a coherent concept of the role of the state in a period of market-led growth has left regulatory intervention fragmented, incoherent, and vulnerable to a host of special interests. Pragmatic incrementalism has tended to become policy rigidity. The top priorities for government reform are improving adaptability, transparency, and accountability. These changes require fundamental reforms in work methods, incentives, and institutions inside the public administration, and in its relations to the market. Current

initiatives, such as adoption of public comment procedures and restructuring of the Japanese bureaucracy through the Basic Law on the Administrative Reform of the Central Government, offer good opportunities to build new regulatory capacities and incentives in the public sector.

Chapter 3. *The move to market-led growth implies that competition principles must be at the heart of the emerging new regulatory doctrine in Japan, a sharp break from traditional interventionist practices.* As regulatory reform stimulates structural change, vigorous enforcement of competition policy is needed more than ever to prevent private market abuses from reversing the benefits of reform. Japan's Fair Trade Commission, one of the oldest and largest competition law agencies in the world, wields a wide array of substantive and procedural tools, but it has not always used those tools aggressively enough. Since 1990, the FTC's resources have increased and competition enforcement has intensified. More important, FTC increasingly applies modern concepts of competition. Supplemented with improved administrative transparency and other reforms to further enhance effectiveness, these changes position the FTC to play an indispensable role in the transition to a more dynamic market economy.

Chapter 4. *Japanese consumers are losing substantial wealth, and Japanese businesses are losing competitiveness, because of the higher prices they pay compared to citizens in other OECD countries, which are mainly due to market access problems.* Recognising the benefits from the integration in the open multilateral trading system, Japan has improved market access in border measures to a level equal to or better than many OECD countries. The benefits to Japan of these steps are, however, limited by many "behind the border" regulatory barriers. Regulatory barriers are also contributing to very low levels of foreign investment in Japan, which did not even place among the top 25 countries with respect to FDI inflows, though Japan's economy is the second largest in the world. Lack of transparency in Japan's regulatory and administrative procedures has discouraged foreign traders and investors. Unnecessary trade restrictiveness is a continuing problem due to unsupervised administrative discretion in setting and applying standards and regulations. Complaints persist, but the government is now promoting use of international standards and recognition of foreign regulatory measures. While trade pressures have been helpful in promoting regulatory reform, reform should in future focus on domestic benefits and comprehensive change, rather than on specific trade frictions.

Chapter 5. *The benefits and risks of further competition and consumer choice, and the need to balance multiple economic and social policy goals within a comprehensive policy framework, are illustrated in the reforms currently underway in the electricity sector.* The government has set a target to reduce electricity prices (the highest in the OECD) to internationally comparable levels by 2001, an ambitious target, while balancing energy security, economic growth, and environmental protection in the reform programme. The sector is highly regulated by the Ministry of International Trade and Industry, based on "public interest" and "demand-supply balancing" concepts common in Japan. Opening of tenders for generation revealed the potential for lower costs in generation, and was a good step toward competition. The decision to move forward with partial liberalisation of retail supply is an important and irreversible step for Japan to take towards its goal of international comparability in electricity prices. Many changes in regulation and competition oversight are needed to support a coherent move to market liberalisation. Improved institutions and roles for regulatory and competition policies are needed if investment and competition are to occur. Difficult decisions lie ahead with respect to separation of competitive activities from the transmission grid. A process of change has begun that is a first step toward competition, but after retail liberalisation, performance should be carefully monitored. The government should be prepared to take additional steps if effective competition does not develop.

Chapter 6. *Japan was among the first OECD countries to liberalise the telecommunications sector in the 1980s, but users have not enjoyed full benefits of competition seen in other countries due to too many economic controls, and too few competitive safeguards.* Yet the potential for significant gains to consumers is evident, and Japan has recently taken steps to enhance competition in the sector. Progressive liberalisation of mobile markets has led to significant competition. The rapid growth of cellular mobile services and telephony services based on cable television networks is raising the prospect that these can be an alternative to local fixed voice telephony service. A significant reform is the recent introduction of a tariff notification system, which finally makes price competition possible. While the NTT break-up may bring indirect competition based on quality and price between two regional companies, it is unlikely that there will be facility-based competition because of the holding company structure. In addition, there are outstanding regulatory issues which prevent fair and transparent competition in the marketplace. For example, in reforming the sectoral regulator, it will be important to maintain independence and expertise. Current plans in this respect do not seem adequate.

Conclusions and Policy Options. The major lessons that can be learned from regulatory reform in Japan are:

- *Regulatory reform, if deepened and accelerated, can assist Japan in returning to a sustainable growth path.* Combined with other policy reforms, regulatory reform can help Japan restart growth by boosting consumption and investment and, over the longer-term, enhance the ability of the economy to adapt, grow, and innovate in new sectors.
- *A sharp break with current regulatory practices is needed to construct a state that promotes market-led growth.* Japan's highly-developed state apparatus, created during a more developmental stage of Japanese development, is not functioning well in a mature market economy.

Based on international experience with good regulatory practices, several reforms (further detailed in the OECD Review of Regulatory Reform in Japan) are likely to be beneficial to improving regulation in Japan:

- *Sustained strong political support is needed at the highest levels to overcome the vested interests that, in current policy processes, are able to slow or block reform efforts.* One of the strengths of regulatory reform in Japan is that it has enjoyed high levels of political support, but the most difficult reforms lie ahead and require sustained political determination.
- *Regulatory reform should be expanded and accelerated through development of comprehensive sectoral reform plans containing the full set of steps needed to introduce effective competition, followed by rapid implementation and periodic, public evaluation.* To maximise positive impacts on economic performance, reforms should proceed simultaneously in key infrastructure and service sectors, and in factor markets. A multi-sectoral and comprehensive reform programme aimed at introducing full competition will have the greatest and speediest effect in stimulating economic performance and supporting recovery.
- *Investment, market entry, and innovation should be promoted by increasing the transparency and accountability of regulation.* The recent adoption of public comment procedures is a bold and important step forward. A number of other steps would also improve transparency
- *Current efforts to promote reform by the Deregulation Committee are important to further progress.* To accelerate and deepen reform, the Committee's efforts should be strengthened by broadening its mandate beyond regulation, narrowly defined; clarifying its independence from ministries; and

boosting its capacities and resources. The leadership of the Deregulation Committee should be strengthened, as should capacities to safeguard competition principles.

- *A consumer-oriented policy framework of market and competition principles, with efficient regulatory protections, should be strengthened government-wide to guide the use of regulatory powers.* The most important broad-ranging competition-based reform would be the elimination of all remaining “supply-demand balancing” functions that serve to control and prevent pro-competitive entry.
- *More effort is needed to prevent regulatory problems before they occur by strengthening quality control mechanisms for regulatory development inside the administration.*
- *Consumers will benefit from lower prices and more choice, and enterprises will gain from tougher competition and faster innovation, if markets are more fully opened to international trade and investment.*
- *A series of steps are needed in the electricity sector to pave the way for the effective competition that will lower prices.*
- *Much progress is seen in telecommunications, but essential regulatory safeguards -- such as number portability, carrier pre-selection, a universal service funding mechanism, an LRIC (Long Run Incremental Cost) accounting system, and a transparent method to select mobile licensees when demand for spectrum resources exceeds supply -- should be established to ensure full competition in the marketplace.*

OECD REVIEW OF REGULATORY REFORM IN MEXICO

EXECUTIVE SUMMARY

Over the past 15 years, Mexico has expanded regulatory reform as a central element in a broad transformation from an inward-looking economy to an open and market-based economy. The rapid pace, broad scope, and depth of regulatory reforms exceed those of most other OECD countries, and even compare to those of the emerging market economies in Eastern Europe who recently joined the OECD. This is in part evidence of how far Mexico had to go. Two decades ago, the Mexican economy was heavily regulated and protected. Industries and services in many areas were shielded from foreign and national competition. The federal government operated thousands of enterprises in sectors ranging from hotels to oil exploration and mining. Export played a limited role as most industries concentrated on internal markets.

In the 1980s, a collapse in oil prices and default on a massive external debt, followed by five years of economic stagnation, triggered a major shift in this economic model. Mexico was one of the first Latin American countries to adopt market-based principles as a cornerstone of economic development. Under the new model, macroeconomic stabilisation policies were supported by trade liberalisation and privatisation. Most state-owned enterprises have now been sold, and opportunities opened for national and foreign investment in infrastructure. By 1998, virtually all price controls had been eliminated. A government-wide deregulation programme, adopted by President Zedillo in 1995, is whittling away the myriad forms by which the government intervened into economic activity and is promoting better regulatory techniques throughout the public administration (including at the state and municipal level). It is supported by other efforts to modernise the Mexican state. A modern competition law adopted in 1993 created an over-arching framework for market-based principles. Domestic reforms were boosted and underpinned by international commitments as Mexico joined the GATT, APEC and the OECD, and signed NAFTA and other free trade agreements with Latin American countries.

Regulatory reform has already produced major benefits for Mexico by:

- improving productive efficiency by reducing costs for such critical inputs as communications and transport services, and hence promoting competitiveness. This contributed to the growth of Mexico's export sector;
- promoting new products and technologies, and the adoption of modern, low-cost methods through new entry and investment. In transport, telecommunications, and other sectors, privatisation and elimination of red tape encouraged firms to invest in new technologies;
- reducing prices and increasing choices for consumers and businesses;
- increasing the adaptability of the Mexican economy so that it can rebound more quickly from major economic crises;
- establishing institutions and methods that permit Mexico to achieve its regulatory goals more cost-effectively.

The social and distributional impacts of structural change are particularly important in Mexico. The emergence of a multi-party system and vibrant federalism has created many new actors with diverse interests who, depending on the distribution of benefits and costs, have challenged both traditional economic structures and regulatory practices, and the current programme of regulatory reforms. The sustainability of regulatory reform depends on the scope and depth of public and stakeholder support, the success of building constituencies for reform across a broader range of public and private interests, the willingness of political parties in the Congress to support reform, and communication to the public of the practical results of reform.

Chapter 1. *Sectoral structural reforms in Mexico have been broad and deep.* In most tradable goods and services sectors, complete deregulation of entry, exit and pricing has been achieved. The private sector's share of economic activity in Mexico is now among the highest in the OECD. Competition increased in deregulated sectors, although there is a threat of reversal in important transport sectors (including at the sub-federal level). Output has increased in almost all deregulated sectors. But unstable macroeconomic performance has delayed achieving the full benefits of structural and regulatory reforms, and the reform agenda is not yet completed. In some cases, creation of efficient regulatory frameworks for privatised monopolies was delayed, and insufficient emphasis was placed on increasing competition. Instead, limiting competition in those sectors was believed necessary to finance needed investment. Complementary reforms are still necessary in factor markets, including water supply and energy (electricity reforms were recently proposed to the Congress), and in the legal framework for business, including the completion of current efforts to reform bankruptcy law.

Chapter 2. *The shift to market-oriented regulatory policies and instruments has required major reforms of the public sector to enable the government to sustain effectiveness in dynamic markets.* The Mexican government has established a system to upgrade regulatory quality government-wide, based on institutional reforms, review, transparency, and consultation. The current deregulation programme (ADAE), launched in 1995, has been a sound basis for reducing regulatory costs while meeting public policy objectives. A ministerial-level Economic Deregulation Council provides political oversight, while the Economic Deregulation Unit in the Ministry of Commerce and Industry carries out day to day operations. The programme covers most business regulations, though some gaps should be closed. The ADAE and co-operation agreements between the federal and state governments are encouraging reform at subnational levels. Much has been done to improve transparency, in particular through the Economic Deregulation Council, but consultation is still uneven in scope and effectiveness. In 1997, regulatory impact assessment was made mandatory and its use has expanded, though analytical quality is often low. Many business formalities have been substantially reduced and simplified, but the pace of reform has slowed as the projects have become more difficult.

Chapter 3. *A key policy change was the adoption of a new competition law and creation of a new Federal Competition Commission.* The 1993 competition law and policy are sound, and an essential framework for economy-wide regulatory reform. The clear rule against horizontal agreements is an efficient tool to abolish price controls. In key sectors, the competition authority identifies conditions of substantial market power and authorises regulators to control prices. The competition authority is also usually responsible for reviewing bids for public assets and concessions to guard against the accumulation of market power. Competition policy applies virtually universally in the private sector. Competition policy also applies to state-owned enterprises (but the law excludes strategic sectors such as energy), and preventing anti-competitive acts by local government bodies is a priority. The new competition agency is independent and increasingly vigorous, although its actions are often delayed by legal challenges. To ensure consistent application, the competition agency may need more power over remedies imposed by other regulators. The effectiveness of the competition agency will face major tests in the near future, as developing issues of key importance in air transport and the asymmetric regulation of dominant firms will demand its attention.

Chapter 4. *Market openness policies launched regulatory reform and still anchor it.* Accession to the GATT and the OECD, and negotiation of NAFTA and other free trade agreements had a profound influence on Mexican regulatory policies and processes, and dramatically increased investment and trade. Market openness was instrumental in minimising the worst effects of the 1995 financial crisis and helped Mexico recover more quickly; it also made the economy more resilient in the face of the 1998 emerging markets crisis. Some concerns about market openness remain (though for computers and automobiles, restrictions should be eliminated according to the NAFTA schedule). In turn, principles of “efficient regulation” sustain market openness. Concerning transparency, Mexico leads in use of Internet-based methods, and has made substantial reforms in standards, procurement, and customs processing. Few problems of discrimination are reported, but some services rules need attention. Mexico is a good performer in the adoption of international practises in official and voluntary standards. Mexico is now also moving toward greater recognition of equivalence of other countries’ regulation, but the effort should be expanded beyond NAFTA.

Chapter 5. *The dynamic telecommunications sector illustrates Mexico’s progress in reform, as well as some of the remaining challenges.* The first step, in 1990, was to privatise the incumbent vertically integrated monopoly (Telmex) and grant it a concession title that *de jure* prevented competition in long distance services for six years. This period was deemed necessary to allow for rate rebalancing and to elicit network investment. The second step was to establish the regulatory framework for new entry in long distance, mobile and local services. The 1995 Federal Telecommunications Law is a solid policy foundation, relying on market methods and promoting competition. Competition in long-distance services developed rapidly in the two and a half years since competition was allowed, and long-distance competitors currently have around 20 per cent of the long-distance market. Despite this legal foundation and emerging competition, the regulatory challenges remain formidable in a sector with a strong incumbent firm governed by a long-term concession which gives legal rights. There remain concerns regarding how the relatively new sectoral regulator (COFETEL) has built on this foundation through its decisions. In part, this is because COFETEL may not be adequately independent of the ministry. In some cases, it may have acted without adequate public explanation for its decisions. It has not complied with requirements to subject its decisions to review by the agencies in charge of regulatory oversight. In December 1997, the competition authority declared Telmex “dominant” in several telephone service markets, opening the door to possible new pro-competitive regulations. More than a year later, these regulations have yet to be finalised. Access prices remain high in Mexico relative to other OECD countries, as do prices to Mexican consumers, while the number of telephones per capita is the lowest of OECD countries. However, competition in local telephony is expected to begin in 1999 and new entrants have committed to investing in more than 9 million new telephone lines, which would double Mexico's teledensity.

Conclusions and Policy Options. Mexico’s experience vividly demonstrates how liberalising trade, enhancing market competition, and reforming administrative processes are mutually supportive. Based on international experience with good regulatory practices, several reforms (further detailed in the report) are likely to be beneficial to improving regulation in Mexico. Mexico has made substantial progress in opening competition and reducing business burdens; now, it needs to rebalance toward a broader vision of social welfare and build a wider constituency for reform. A multi-year period of consolidation, sustained implementation, and refinement of the legal and policy reforms already on the table are also needed to help ensure that citizens and businesses see concrete benefits.

- *The potentially substantial benefits to the public of the current programme should be secured by pursuing a multi-year period of policy stability and by taking a series of steps to strengthen institutions and implementation capacities within the public administration.* Despite high-level political backing, the spread and scope of reforms, and the development of regulatory innovations and international best practices, the benefits of reform have not yet been widely realised. As in all countries, policy reforms of this magnitude require a period of sustained, consistent implementation. A high priority should be given to fine-tuning the policy, the institutions, and the tools of reform. Such steps include transferring

the body that promotes reform to the centre of government (such as the Office of the President) or making it autonomous, while giving it more authority to co-ordinate related structural policies; broadening the scope of reform; enhancing the role of the competition agency in reviewing regulations and making it a formal member of the Economic Deregulation Council; improving and extending the programme of regulatory impact analysis to all areas of the government; and broadening powers of private actions to remedy anti-competitive conduct.

- *Gaps in the current policy framework for the use of regulation should be corrected to expand the use of competition and market-oriented principles.* Most of Mexico's reforms have been based on a pragmatic course built on opportunities that have arisen during the evolution to competition and on the need to resolve bottlenecks that have appeared. Though good progress has been made, important gaps and inconsistencies have inevitably arisen in the overall framework for regulation.
- *Regulatory weaknesses in some sectors, particularly in managing dominant firms after privatisation, continue to undermine sectoral performance and should be corrected to encourage effective competition.* The government should assess and correct regulatory frameworks in those sectors that have been reformed and where results have fallen short of expectations. The role of the competition agency should be strengthened in overseeing sectoral frameworks. A comprehensive and independent review of the new regulatory agencies and a general revision of their mission statements would be a good first step to improving their efficiency, independence and accountability by strengthening their systems of governance, policy coherence, working methods, and relations with the competition authority. In particular, the telecommunication regulator's powers and mandate to regulate dominant firm conduct should be enhanced, its independence from the ministry clarified, and transparency of its actions improved.
- *More co-ordination and review are needed to improve the efficiency and coherence of regulations at state and local levels, and at the federal and state interface.* Regulatory reforms will have their fullest effect in Mexico only if state and municipal governments move in the same direction. Mexico has much to teach other federal countries in this regard, but efforts to prevent reversal of federal regulatory reforms by the states are essential.
- *Regulatory transparency should be enhanced throughout the public administration to boost investment, market entry, and innovation.* Transparency has improved significantly, but Mexico still falls short of OECD best practices, particularly in the use of public consultation. Adoption of notice and comment procedures at the federal level is a bold and important step forward, but there should be a comprehensive, standardised requirement for open public consultation.
- *To improve policy performance and coherence, existing regulations should be reviewed systematically to ensure that they are consistent with market-oriented policies and principles for quality regulation. Necessary reforms should be adopted as rapidly as possible to provide the maximum stimulus to economic growth.* There has been a great deal of review and reform activity in Mexico, and continued attention is needed to review and up-date existing laws and other regulations in crucial policy areas such as bankruptcy (where a draft reform law is being prepared), firms' governance (where a voluntary code is under development) and labour laws, as well as areas such as energy, water management, and education. Laws and regulations should also be reviewed to improve the concession system. Recent activities in a number of these areas demonstrate a continuing commitment to reform, but these will succeed only if the reforms are supported by the Congress.
- *Consistent with current market-opening initiatives by the Mexican government, consumers will benefit from lower prices and more choice, and enterprises will gain from tougher competition and faster innovation as markets are more fully opened to international trade and investment.*

- *In the telecommunications sector, further regulatory reform and market opening would boost consumer benefits.*

OECD REVIEW OF REGULATORY REFORM IN THE NETHERLANDS

EXECUTIVE SUMMARY

Regulatory reform in the Netherlands carries important lessons for other OECD countries about the modernisation of the European welfare state and its integration into the developing European single market. During much of the post-war period, the Dutch corporatist model, in which state sovereignty over public policy was shared with organised business and labour, was praised for its capacity for flexible adjustment, social stability, and pragmatic solutions, based on social consensus, to changing external conditions. The regulatory system, influenced by “insiders,” often reflected producer interests in protected markets, but was also said to protect consumers and mediate concerns about social equity.

Yet the flexibility of the Dutch system degraded over time and, as rigidities accumulated and the external environment deteriorated, the welfare state ran into trouble. Low labour force participation and unsustainable welfare policies led to a severe crisis in the early 1980s, and forced re-examination of Dutch post-war economic policies. The corporatist approach was blamed for exacerbating policy rigidities and weakening competition, yet was praised for enabling social agreements in areas such as wage moderation that led to economic recovery. Policy reforms were further supported by the increased integration of the Dutch economy into Europe through the Single Market in the 1990s.

Regulatory reform, which began in the late 1980s and has accelerated in the past five years, is the most recent element in the reshaping of the Dutch model. Following reforms to labour markets and the social welfare system in the 1980s, Dutch governments in the 1990s have sought a “*new balance between protection and dynamism*” based on competition policy, regulatory reform, and market openness. Competition and regulatory quality are being strengthened through three strategies: adoption of a new competition law based on European-level mandates; increased exposure of the public sector itself to market forces; and a multi-faceted programme on the “Functioning of Markets, Deregulation and Legislative Quality” (MDW) to improve the cost-effectiveness of the extensive web of national and European regulations affecting economic activity.

Regulatory and competition policy reforms in the Netherlands have helped to sustain and expand earlier gains from labour and social security reforms. Though still in its early stages, regulatory reform has produced major benefits for the Netherlands by:

- reducing the cost structure of exporting, distribution, and transit sectors to improve competitiveness in European and global markets. Increased efficiency has particularly high payoffs for small open economies such as that of the Netherlands.
- addressing the lack of flexibility and innovation in the supply-side of the economy, which will be an increasing constraint to growth. Rigidities are especially costly in opening European markets where competition is intensifying, and will further intensify under the single currency.

- boosting consumer benefits by reducing prices for services and products such as electricity, transport, and health care, and by increasing choice and service quality. The convenience of longer shop hours, for example, has been welcomed by consumers.
- helping to increase employment rates by creating new job opportunities, and by doing so reducing fiscal demands on social security programmes, particularly important in an ageing population. Positive employment effects will be limited, however, without further reforms to the social security system, further labour market reforms, active measures to reintegrate the large stock of disabled workers, and further upskilling of the workforce.
- maintaining and increasing high levels of regulatory protections in areas such as health and safety, the environment, and consumer interests by introducing more flexible and efficient regulatory and non-regulatory instruments, such as market approaches. Reforms that enhance policy responsiveness allow the administration to react to rapidly changing environments and new policy problems.

But reforms are far from complete. Important challenges remain, including increasing utilisation of the potential labour force, reducing government debt, improving poor performance in some non-traded-goods sectors, and using market mechanisms in the pursuit of social objectives. At the same time, the economy faces new challenges from the completion, within the European Single Market, of deregulation of infrastructure sectors, from increasing globalisation, from the rapid pace of technological progress and the resulting structural change in OECD economies, and from population ageing. Regulatory reform has played and can continue to play an important role in the policy response to these challenges.

Chapter 1. *Regulatory reform addresses supply-wide weaknesses exposed by macroeconomic reforms of the 1980s, and, although in the early stages, has already boosted productivity in key sectors.* Since 1982, reforms to labour markets and the social welfare system have increased labour market flexibility, moderated real wage growth and improved long-term competitiveness. Recent analysis also suggests that reforms may have helped reduce inflation. Dutch economic performance has greatly improved, but continuing problems suggest the existence of durable supply-side rigidities and weaknesses. These weaknesses are an important drag on current performance, and reforms can boost future performance as competition intensifies in regional and global markets. Most sector-specific reforms are recent, and largely in transportation and services, but have already increased productivity in infrastructure industries. However, many sheltered sectors and public sector activities are as yet untouched. Expansion of market forces in public services, transport, and health care services promise substantial gains for consumers.

Chapter 2. *New regulatory approaches based on transparency, empirical analysis, and competition principles are helping regulators achieve public policies more efficiently in competitive markets.* The shift to market-oriented regulatory policies and instruments has required major reform of the Dutch public sector. Dutch political and administrative cultures have strong corporatist elements that help maintain consensus, but that have also produced a regulatory system that is complex, detailed, nontransparent, and closely tied to interest groups. The key challenges in the Netherlands with respect to regulatory quality are (1) improving the transparency and responsiveness of the regulatory system as a whole, and (2) upgrading the quality of social regulations to deliver public services such as environmental protection and health and safety with the best use of the country's resources. Working within these constraints, the MDW and other reform programmes began slowly but are now accelerating in terms of results. Quality standards based on good regulatory principles; decision tools such as regulatory impact analysis; and more transparent processes such as open public consultation have been adopted. These tools are being used to find more efficient ways to maintain levels of protection. But concerns about the complexity and rigidity of the national regulatory system continue to be voiced.

Chapter 3. *The dynamic and adaptive capacities of the Dutch economy are stimulated by competition policy reform that is removing many barriers to entry that had grown up under the welfare state.* Competition policy has been central to regulatory reform. The linchpin reform was adoption of a new competition law, taking effect in January 1998, that harmonised Dutch law with European law and introduced merger control. Previously, lax enforcement, widespread private agreements, and private and public regulations controlling entry and prices reduced the intensity of market competition in many sectors, particularly sheltered sectors. Competition barriers were largely explained by concerns about fairness, distribution, and small business. The Netherlands' principal reason for strengthening competition policy is to respond to the increasing interconnection of national economies by harmonising with European law, and to enhance the country's ability to adjust. Government commitment, the modern law, and the well-designed new enforcement agency with strong leadership represent the principal strengths on which further reform can build.

Chapter 4. *The Netherlands' dependence on export-led growth has provided strong incentives to improve the transparency and efficiency of regulations in traded sectors. Market openness supports and is supported by the spread of competition and good regulatory practices throughout the economy.* Dutch prosperity has been largely dependent on foreign trade and investment, resting on a long tradition of market openness. Most regulatory processes have operated in a transparent and open manner which seeks to fulfil policy objectives while avoiding unnecessary trade restrictiveness and reducing technical barriers to trade. For example, the Netherlands has a good record of using internationally harmonised measures and recognising equivalence of conformity assessment performed abroad. As markets open in Europe, stronger incentives to reduce costs for exporting firms will support regulatory reform in service sectors, and reforms to further enhance the market orientation of regulation will maintain the Dutch lead in the liberalisation of global markets. However, the benefits of policies geared towards market openness have been reduced in the past by corporatist traditions that disadvantage new entrants. Reforms undertaken in other areas, in particular in competition policy, have had a positive effect on market openness.

Chapter 5. *Regulatory reforms required by the Single Market in the electricity sector provide the opportunity to establish new market-oriented institutions and policies. The Dutch response holds good prospects for future economic and environmental performance, but benefits may be reduced by incremental and incomplete changes in some areas.* A new electricity law will liberalise the Dutch electricity market in stages between 1999 and 2007. Liberalisation of the sector results from three drivers: broader government efforts at regulatory reform, a desire to address problems with the current electricity regulatory framework, and compliance with EU directives. A new network regulator will work in co-ordination with the new competition authority. New independent entities -- the transmission and distribution network managers -- are to be created to ensure non-discriminatory access to the networks. A green certificates program is a laudable attempt to establish a transparent market-based mechanism for the development of renewable resources. These reforms offer good prospects for generation competition and efficiency. But in other areas, the reforms are incremental and incomplete.

Chapter 6. *In telecommunications, the Dutch moved beyond European requirements for market liberalisation, which has paid off through entry of a large number of new firms. The main regulatory challenges today are to manage the presence of a dominant incumbent and to design regulatory regimes consistent with the convergence of telecommunications and broadcasting.* The Netherlands has regulatory safeguards that should ensure fair competition between the incumbent and new entrants. A new independent regulatory body, called OPTA, was established in August 1997. In October 1998, a new Telecommunications Act took effect, aiming at full competition in all telecommunications activities and complete implementation of EU principles. The Act includes new regulatory provisions and safeguards to prevent the incumbent from leveraging its dominant market position. The Act foresees the government (including OPTA) remaining as a key player in the market until it can be shown that the market or specific segments of the market are sufficiently competitive to allow the government to forebear from regulation.

The Netherlands has an advantage in infrastructure competition due to its ubiquitous CATV network which potentially could be used as an alternative to the incumbent's bottleneck facility (the local loop).

Conclusions and Policy Options. The major lessons that can be learned from regulatory reform in the Netherlands are:

- *The combination of competition, market openness, and regulatory quality in the current reform programme shows potential as an effective policy mix for improving economic dynamism, while achieving public policy objectives.*
- *A comprehensive approach produces more benefits. Regulatory reform in the Netherlands was more effective when coupled with flexibility in other markets.*
- *Dutch consensus-building traditions have resulted in incremental and slow but, in many cases, steady progress in regulatory reform. Yet new methods of marrying consensus with greater policy responsiveness to changing conditions are being explored. For example, reforms are moving the Dutch administration away from regulatory processes dominated by "insiders" toward more transparent and empirical processes, while attempting to maintain the benefits of consensual decision-making. Evolving Dutch experiences may be valuable to other countries seeking to gain stakeholder support for reform, while avoiding "capture" by special interests and damaging policy rigidities.*
- *Regulatory reform in the Netherlands is inextricably tied to the opportunities and constraints in the European Union. The Single Market Programme has been a valuable stimulus for beneficial regulatory and competition reforms in many areas, though the Dutch government also notes that some detailed European regulations may not meet Dutch standards for regulatory quality.*

Based on international experience with good regulatory practices, several reforms (further detailed in the report) are likely to be beneficial to improving regulation in the Netherlands:

- *The scope of regulatory reform should be expanded, and its pace accelerated.* Reform proposals have been delayed for years, eroding the benefits of reform, limiting the areas under reform, and raising serious concerns about future policy responsiveness. This may require new working methods to preserve the benefits of consultation and consensus-building.
- *Regulations should be reviewed systematically to ensure that they continue to meet their intended objectives efficiently and effectively.* Regulatory reviews under the MDW project should be continued, expanded, made systematic, and more transparent. Areas subject to a fast technological change or where regulatory failure is most costly should have highest priority. These include insurance, housing siting and construction, education, environment, broadcasting, network industries, public services such as health care, transport and water, and barriers to entrepreneurship.
- *Cost-effectiveness of government action should be increased by strengthening the role and rigour of regulatory impact analysis (RIA).* RIA, when well prepared, helps increase the net social benefit of regulations, and can be a powerful aide to delivering public services more cost-effectively.
- *Institutions responsible for competition, regulation and reform should be strengthened, and policy linkages better co-ordinated.* Dutch reforms have created several new regulatory agencies and offices with statutory responsibility for regulating, reforming, or promoting competition. In some cases, responsibilities were not effectively divided, and problems with policy co-ordination and linkages have not been resolved, which could weaken regulatory policies in the future.

- *In the electricity and telecommunications sectors, further restructuring, regulatory reform, and market-opening would boost consumer benefits.* The report provides more detail on beneficial steps.
- *Regulatory powers shared with non-governmental bodies should be tightly controlled to maintain a level playing field and open markets.* A form of regulation widely used in the Netherlands is “co-regulation”, or sharing of regulatory functions between government and industry, common to corporatist approaches. The incentives that exist for rent-seeking require that the government more carefully supervise the use of delegated and self-regulatory powers than it has in the past.

OECD REVIEW OF REGULATORY REFORM IN THE UNITED STATES

EXECUTIVE SUMMARY

Regulatory reforms in the United States helped launch a global reform movement that is still underway. Significant regulatory problems still exist in the United States, but far-reaching economic deregulation combined with efforts to improve the quality of social regulation have contributed to the construction of one of the most innovative, flexible, and open economies in the OECD, while maintaining health, safety, and environmental standards at relatively high levels.

This has not been achieved by indiscriminate deregulation. Measured by the volume and detail of national regulation and the size of the national regulatory administration, the United States does not appear to be *less* regulated than other OECD countries. The United States is, however, often *differently* regulated, even where policy objectives are substantially similar. US regulation tends to be based on two fundamental regulatory styles that support economic dynamism and market adjustment:

- The *pro-competition policy stance* of federal regulatory regimes, supported by strong competition institutions, has meant that regulators tend to prefer policy instruments such as social regulation and market-driven approaches that are competition neutral over public ownership and economic regulations that impede competition. In post-war years, regulation has usually been used to establish conditions for competition rather than to replace competition.
- The *openness and contestability of regulatory processes* weakens information monopolies and the powers of special interests, while encouraging entrepreneurialism, market entry, consumer confidence, and the continual search for better regulatory solutions.

Yet regulation that is competition-neutral and transparent can still be inefficient and costly if policies are misguided or outdated, or regulation is badly designed or applied. Enterprises and citizens in the United States suffer from many rigid, complex and highly detailed social regulations and government formalities that impose unnecessarily high costs in many policy areas. The quality of regulations varies widely. Regulators are sometimes hampered by poor and out-dated laws, and mired in lengthy procedures and excessively adversarial approaches that impede good regulatory practices. Overlapping federal/state jurisdictions compound the problem. These difficulties reduce innovation and responsiveness in the federal regulatory system, eroding the benefits of pro-competitive reforms and regulatory transparency.

Chapter 1. *Regulatory reform has produced important static and dynamic benefits, and potential gains from further reform are still large.* An expanding economic deregulation movement has, over 20 years, removed almost all entry and exit restrictions, with some exceptions. These deregulation efforts are still working their way through the economy, but in almost every sector the results for consumers in terms of prices, service quality, and choice are positive. Reform has probably also improved macro-economic performance, with long-term benefits to productivity growth, and the dynamic effects of regulatory reform help position the US to benefit from a global economy. While regulatory reform promoted good job growth and boosted standards of living, there were indirect effects on labour bargaining strength and uncertain effects on distribution of wealth. Concerns that reform would reduce safety and consumer

protection are not borne out, though vigilance is needed. These effects illustrate the dualistic and complementary nature of less economic regulation combined with better social regulation.

Chapter 2. *A key challenge for regulatory quality in the United States is improving the cost-effectiveness of social regulations and government formalities*, which have rapidly increased in quantity and cost since the 1960s. Many different approaches have been tried, and progress has been made over two decades, in part due to centralised oversight by the Office of Management and Budget (OMB). The use of regulatory impact analysis as an input to decisions is more widespread and rigorous than in other OECD countries, and this has been key to improving regulatory quality. Consultation under notice and comment procedures is open and inclusive, involving a wide range of interests, though there are concerns that the practical ability of various interests to participate is unequal. A new effort to emphasize regulatory performance shows promise in boosting innovation in new regulatory and non-regulatory techniques. Yet there is considerable room for improvement. OMB estimates that the total benefits of new social regulations adopted in 1996-1998 exceed total costs, but the quality of individual regulations varies widely. There is great potential for achieving better social outcomes without increasing regulatory costs. Primary laws in particular are often low quality, and impede efforts to improve regulatory cost-effectiveness. A US regulatory style -- adversarial legalism -- has produced complexity and rigidity. Coordination of reform efforts in the federal-state system is difficult and often unsatisfactory, and layers of regulation and formalities between levels of government add costs that are not monitored and are little understood.

Chapter 3. *Competition principles are integrated into the national regulatory system and provide a consistent policy framework supporting regulatory reform*. Competition policy principles are embedded in regulatory mandates in many policy areas. Effective institutions and strong legal tools implement these broad principles, and have proven to be essential in the aftermath of reform to guard against undue concentration as a result of restructuring. The far-reaching powers of the courts over regulatory policy, competition enforcement, and the unusually important rights of private action have been effective allies in supporting competition principles. Yet common law traditions and pluralistic policy processes have resulted in a large number of special industry rules, sectoral regulators and exemptions, which together constrain application of the basic competition laws. Here, too, the federal system poses difficulties, since the "state action" doctrine can undermine larger-scale pro-competitive reform.

Chapter 4. *The US experience demonstrates the close and supportive relationship between market openness, quality regulation, and competition*. Traditions of openness in the American domestic regulatory system create one of the post-war's most open national markets for global trade and investment. The pro-competition policy stance results in regulation that is, on balance, trade and investment neutral. Moreover, competition and market openness in the US promotes good regulation elsewhere through international competition, example, and persuasion. Despite the general openness of the national regulatory system, however, its complexity, the interplay of federal, state and local regulation, and heavy regulation in some areas have restrictive effects particularly felt by foreign firms. Foreign competitors face a number of sectoral restrictions on foreign investment, and sometimes are affected by *de facto* discrimination arising from regulatory design or implementation. US experience shows that concerns about sovereignty and the effect of international rules on domestic policies can be best resolved by adopting regulations that meet domestic policy objectives cost-effectively and transparently.

Chapter 5. *In the electricity sector, the United States is relying more on markets to attain economic and social policy objectives, but the move has required new institutions and complementary policies that are still in transition*. Reforms aim to encourage competition in power generation by diminishing the threat of discrimination in grid access and by divestiture of some generation assets. Retail-level competition is being promoted at state levels. Since the recovery of costs stranded by introduction of retail competition is a pre-condition for reform, mechanisms for mitigation, measurement, and least-distorting recovery are being established. Environmental goals for the sector are increasingly met through market-based mechanisms, such as trading of SO₂ emissions permits, while efficiency in the generation of

“green” electricity is encouraged by using market mechanisms to determine the choice of technology, generator, and price. Expanding the role of markets has required experimentation with new institutions -- the independent system operators -- to safeguard competition, and other options are being examined, such as transmission companies. The diversity of state structures has promoted faster innovation and learning in regulatory regimes, and has promoted reform by benchmarking good performance. Yet the federal structure also complicates reform, because the scope of efficient regulation, like the scope of many electricity markets, extends beyond state borders. Regional regulatory regimes have been slow to develop. As choice expands, consumer protection is needed. Some states have responded with initiatives to inform consumers about new rights.

Chapter 6. *In telecommunications, rapid evolution of technologies, combined with strong competition policies and regulatory reforms, opened long distance markets to competition. The regulatory challenges in this dynamic field today are to extend competition into local markets and to design regulatory regimes consistent with the convergence of telecommunications and broadcasting.* Regulatory reform and competition law enforcement facilitated an extraordinary level of innovation which has transformed the industry, stimulated new products, and increased consumer choice, with significant positive effects throughout the economy. The recent WTO Agreement builds on these successes in the international context and demonstrates the link between domestic liberalisation and international market openness. But extending competition into local markets has proven difficult. The 1996 Telecommunications Act set out three entry routes for new competitors -- resale, unbundling and separate facilities -- but litigation delayed implementation, and competition has not developed quickly. The dual federal-state roles produce both costs and benefits: pursuit of different policy initiatives can promote innovation, but jurisdictional overlaps generate costs and uncertainties. Promotion of “universal service”, a central US policy goal, appears to be supported by competition, since the number of households with telephones has significantly increased over the reform period.

Conclusions and Policy Options. The major lessons that can be learned from regulatory reform in the United States are:

- *If concrete benefits are to be realised, sustained and consistent reform efforts are needed over many years, supported by strong political leadership and administrative capacities for promoting reform.*
- *The results for consumers of sectoral economic reform in terms of prices, service quality, and choice are solidly positive, but only with sufficient attention to building pro-competitive regulatory regimes and to maintaining consumer protection. Very substantial gains are also possible from efforts to upgrade the cost-effectiveness and flexibility of social regulations.*
- *Therefore, a well-balanced reform programme aims at both economic deregulation and quality regulation.*
- *Dynamic effects were more important than expected. Regulatory reform proved to be a valuable supply-side tool that boosted demand, and improved the efficiency and flexibility of the national economy.*

- *A comprehensive approach produces more benefits, since regulatory reform is more effective when integrated with flexibility in factor markets, when competition is vigorous in upstream and downstream sectors, and when the macroeconomic environment is geared to growth. A policy environment supporting entrepreneurialism and business adjustment multiplies the size of the benefits, and the speed at which changes are felt. Strong competition oversight is needed in reformed sectors (airlines, telecommunications) still adjusting. The US experience supports the OECD recommendation for broad-based reform.*
- *Evaluation of costs and benefits of regulatory reform must be long-term and multi-dimensional to identify the real trade-offs.*
- *Regulatory flexibility and adaptation over time seems to be as valuable as regulatory cost-effectiveness.*

Based on international experience with good regulatory practices, several reforms (further detailed in the OECD Review of Regulatory Reform in the United States) are likely to be beneficial to improving regulation in the United States:

- *Use of flexible and market-oriented policy instruments should be expanded.* By failing to use more flexible and market-oriented policy instruments in social policy areas, the United States is missing the opportunity to exploit one of the world's great innovative cultures in the pursuit of important social objectives.
- *The policy responsiveness of the US regulatory system should be improved by streamlining cumbersome and sluggish processes.* Sluggishness, delay, and inefficiencies in regulatory processes will increasingly penalise the United States as the pace of globalisation and innovation steps up. Several concrete steps to this end are suggested in the report.
- *Regulations should be reviewed systematically to ensure that they continue to meet their intended objectives efficiently and effectively.* The current system is very weak with respect to systematic review of the vast body of existing laws and other regulations. The quality of laws merits special attention, since in many areas, poor laws have negative effects on policy implementation and policy outcomes. Regulatory rigidities seem to be durable. Faster updating is important in sectors characterised by fast technological change (telecommunications, electricity).
- *In the electricity sector, further reform of economic regulations would stimulate competition.* Large gains are projected from competition in supply, but they will be maximised only if distortions to competition are reduced.
- *The scope and enforcement of competition policy should be reviewed and weaknesses corrected.* In particular the remaining exemptions and sector-specific jurisdictional provisions should be eliminated.
- *More coordination and review are needed to improve the efficiency and coherence of regulations at the federal and state interface.* The role of states as innovators and testing grounds for new ideas is a national asset that can speed up change and regulatory responsiveness. Yet a federal country must work harder to establish efficient regulation and maintain it over time. Static losses from uncoordinated state actions can be large and durable.

- *Important gaps in regulatory quality controls should be closed to improve attention to market openness impacts, and to bring economic regulation under benefit-cost requirements.* In particular, assessments of the effects of proposed rules on inward trade and investment should be carried out as part of regulatory impact analysis, and coverage of mandatory quality controls should be expanded to economic regulation, which is now exempted.
- *Continued integration of market openness and regulatory policies will produce benefits both in the United States and in other countries.* Mutual recognition of regulations and conformity assessment procedures, increased use of industry-developed standards in lieu of national regulatory measures, and other approaches to intergovernmental regulatory co-operation offer promising avenues for lowering regulatory barriers to trade and investment. Informal business-driven processes such as TABD have proven valuable catalysts for market-opening regulatory reform across a range of particular sectors and horizontal issues.