



**Project to Develop the Information Technologies Industry
(PROSOFT 2.0)**

Project:

**STRENGTHENING OF THE LEGAL AND REGULATORY
FRAMEWORK RELATED TO THE REVIEW SUBCOMPONENT
OF THE REGULATORY FRAMEWORK OF THE TRAINING
STAGE AND BILLS STAGE, 2011**

Executive Summary

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Introduction

This exhibit is an executive summary of the project called STRENGTHENING OF THE LEGAL AND REGULATORY FRAMEWORK RELATED TO THE REVIEW SUBCOMPONENT OF THE REGULATORY FRAMEWORK OF THE TRAINING STAGE AND BILLS STAGE, 2011, whose final report was duly submitted to the Ministry of Economy of the Federal Government and the Asociación Mexicana de Internet, A.C. (AMIPCI).

This project is based on the public policy of the 2006-2012 Administration that has the object to foster the development of actions to harmonize the regulations and standards of Mexico with those of other countries and regions, through the creation or adaptation of legislative frameworks that promote trust and security regarding on-line transactions.

Within a context where electronic commerce has increasingly developed and the interaction of private corporations with government institutions has intensified through electronic means, it is necessary to have in place a regulatory environment that guarantees and drives security in electronic transactions, while providing legal security to people that choose to use electronic means rather than conventional means.

Thus, since 2008, AMIPCI has fostered several research efforts with the sponsorship of the Proyecto de Desarrollo de la Industria de las Tecnologías de la Información (PROSOFT 2.0, Project of Development of the Information Technologies Industry) and the World Bank within the *Préstamo 7571-MX (Loan 7571-MX)*, in order to harmonize the IT regulatory framework within the activities of the project called “Fortalecimiento Institucional y Mejora del Marco Legal, Regulatorio y de Políticas Sectoriales” (Institutional Strengthening and Improvement of the Legal and Regulatory Framework and Sector Policies).

As part of the so-called legal component, it has been considered that in order to homologate –to the extent possible– the regulatory framework and the public policy of the federal entities related to the IT development and the use of various administrative and legal procedures, it is necessary to: a) implement simultaneous public servants training, and b) propose regulatory alternatives for the sector through “type” bills, which are summarized briefly below.

1) Training

1.1. 2008 Phase

In 2008, the manual entitled “Aspectos Legales de las TI y el Comercio Electrónico” (IT and Electronic Commerce Legal Issues) consisting of 457 was written, containing the following topics:

Chapter I.- Introduction to the Information Technologies and Electronic Communications and Commerce

Chapter II.- Electronic Contracts

Chapter III.- Electronic Government

Chapter IV.- Intellectual Property and Information and Communications Technologies

Chapter V.- Personal information privacy and protection within the ITT and electronic commerce

Chapter VI.- Information security and information crimes

1.2. 2009 Phase

Based on the above mentioned manual, in 2009, the on-line platform of the course was developed, whose technical and graphical characteristics were described in detail in its Final Report, covering three basic areas: 1) content adaptations; 2) creation of TV capsules as the core of the study sessions, and 3) the design of a special teaching platform.

Content adaptation was divided in two parts: a) six modules of 30 classes each and the presentation of written materials for each class in PDF format; and b) preparation of TV scripts containing the essential information for each study session. As to contents, a script was also written for the course tutorial in video format.

Summarizing, the work consisted of the following:

- Tutorial design, video to learn how to use the teaching platform
- Preparation of 6 modules with 5 sessions per module
- Adaptation of all the 30 sessions and 30 explanatory videos with an average duration of 10 minutes each (the estimated time of each session is approximately 1 hour).

- Preparation of 30 written documents (supporting material), one document per session.
- Writing of 29 exercises (exams), one per session and one evaluation at the end of each module. A full evaluation system was designed consisting of 300 items applied both to exercises and weekly evaluations.
- Library and related links.
- In regard to *copyright*, the images used in the videos of the course were acquired formally via Internet from Shutterstock Images LLC from New York, U.S.A. The registration was for 30 days through the company's website www.shutterstock.com, which allowed for using 750 images with a download permit of 25 images per day.
- Under the "pilot implementation" concept, procedures were carried out in several states of Mexico to offer the course in 2009. The groups that took it in that stage were from the States of Baja California Sur, Morelos and Hidalgo, and Mexico City. 100 persons have graduated from this course.

1.3. 2011 Phase

In 2011, the platform was updated to save messages with manual and updated text. Summarizing, the remote course was updated in the following areas:

- 1) **Registration Page.** This element to register in the course was updated with 32 links for each one of the states of the Mexican Republic. Each student is registered in this page and assigned his/her own password.
- 2) **Main Page and Privacy Notice.** The images of the page to access the course were updated, and a privacy notice was installed in it.
- 3) **Logotypes.** The design of the logotypes of the Ministry of Economy, AMIPCI and Prosoft 2.0 was updated.
- 4) **Advance Control.** Fields were added with the required information in the student advance report (Excel file).
- 5) **Video.** An additional video was produced with updated legal material. This video lasts 13.57 minutes (Module 6, 5th Session).
- 6) **Enquiry Material.** The enquiry material was updated, specifically the notes of each session in PDF format.

- 7) **Certificate or Diploma.** A participation certificate was prepared to be granted to every student who completes the online course.
- 8) **Changes to the Manual Text.** Due to changes in the federal regulations, the text of the Manual “Legal Issues of the IT and Electronic Commerce” had to be revised and updated during the 2011 phase to include the Personal Information Protection, Electronic Signature and Digital Agenda.

By arrangements of the AMIPCI, the courses were resumed in 2011 with public servants of the states of the Mexican Republic. It is important to mention that the General Department of Digital Economy of the Ministry of Economy promoted also the participation of federal public servants. In this way, it was achieved that the career civil service acknowledged the hours taken in this course as part of the training hours required by the applicable regulations.

The basic results of the course are as follows:

- 1) The rate of students registered that actually started the course was 61% (251 out of 408).
- 2) 5 states of the Mexican Republic did not participate in the courses (Baja California Sur, Coahuila, Colima, Durango and San Luis Potosí).
- 3) In regard to the rates of completion and withdrawal, as measures of efficiency of the remote training program, it was found that by the date of the Final Report (May 22, 2012), 75 persons had completed the course, which represents 17% of the people who registered¹.
- 4) Over 180 persons are taking the course, and are within the 10-week period estimated to complete it (otherwise, they will be de-registered automatically by the system).
- 5) Diplomas were delivered to the persons who completed the course.

1.4. Opportunity Areas and Recommendations

With opportunity areas for subsequent stages, it is proposed to:

¹ Information as of June 11, show 83 people who completed the course.

- a) Extend this course-workshop (including the creation of higher levels for other professional degrees) to members of the civil society and entrepreneurs, so that they know the opportunities and risks of the use of Internet in every-day life, and they may eventually participate in the development of public policy.
- b) Promote the course (as the General Department of Digital Economy of the Ministry of Economy did) among the members of the career professional service of the Federal Government and the states of the Republic according to their respective laws, as it was perceived that it was relevant as motivation in several cases.
- c) As this course was designed as a remote course, it opened the possibility of reaching a larger target population. However, the importance of performing exercises in person based on the same program must not be overlooked.
- d) Although the project has been closed formally for the purposes of Prosoft 2.0 Operation Rules and the Reference Terms, it must be monitored that the students that have not finished the course yet (more than 180) finish it satisfactorily, and define what to do with the persons who are still registering to take it.
- e) This course is contributing standard law knowledge to the Information Technologies and electronic commerce fields, addressed to persons with little or medium knowledge of the topic. For this, it is necessary to promote more commitment of the local governments to participate in courses like this one and review, with a self-critical point of view, the diagnoses prepared in each one of the states of Mexico about their respective legal frameworks regarding IT.
- f) Some of the possible reasons why some public servants withdrew from the online course are the issues related to their regular work activities, lack of time to complete the program homework or lack of stimulus of online courses in comparison with the in-person courses required by the government agency where they work. However, the course format (open at any time) and the cost (no cost) cannot be considered as a reason to reduce participation, as the platform does not affect the working hours or the economy of the interested persons.
- g) Some students requested the topics of the course to be extended to include e-government issues. For this, it will be necessary to consult

with the state governments about the particular characteristics of this concern.

- h) The everyday evolution of information law and the IT requires that this course is revised and updated every year, and that tools for students to evaluate the course are added. It is also necessary to create discussion forums, especially to guarantee the dedicated server has sufficient capacity to increase the number of participants.
- i) The AMIPCI considers that in the fast development of the IT, the educational aspects are essential to narrow the digital gap and take advantage of the digital environment to foster electronic commerce. For this reason, it intends to give technical self-sustainability to this course and provide it with ongoing updating mechanisms.

2) Law Bills

2.1. 2009 Phase

The final report of this work showed that according to the first 2009 Reference Terms of the PROSOFT, this subcomponent was developed within the project known until then as “Diseño y Elaboración de Proyectos Modelo de Reformas Legales y Adecuaciones Reglamentarias en Materia de TI para las Entidades Federativas (Design and Preparation of Model Projects of Legal Amendments and Regulatory Adaptations regarding IT for the States of Mexico), which turn into (regarding law bills) this project “Strengthening of the Legal and Regulatory Framework related to the review subcomponent of the regulatory framework of the training stage and law bills stage, 2011” (Homologation II-III), which was enriched with the contribution from Monitoring (Homologation I).

From the above studies, it is inferred that there are significant opportunity areas in the fields of planning, public administration, notary public services, civil law, etc., that may and must be influenced not only with the topic of regulatory governance, but also with an element that favors local competitiveness and closes –to the extent possible– the digital gap. For this, in the 2009 Phase, 7 law bills were prepared on these topics.

2.2. 2011 Phase

Three bills were prepared in this phase:

- 1) **Bill to Amend the Mexican Constitution.** Its object is to guarantee the universal access to broad band and information and communication technologies (ICT) as a basic right of the inhabitants of the state. Its purpose is to guarantee, from the text of the Mexican Constitution, the right of all people, regardless of their social condition or social-economic level to the benefits of the ICTs, Broad Band and Internet. The society of information and knowledge must be only one, without exclusions or divisions that discriminate or inequality that separates.
- 2) **Advanced Electronic Signature Bill.** This type bill was prepared to put the states of the Mexican Republic within a context under the new principles of the Federal Advanced Electronic Signature Law published in the *Diario Oficial de la Federación (Mexican Official Gazette)* on January 11, 2012. This is a topic where less regulatory harmonization exists, as explained in EXHIBIT B of the Final Report.
- 3) **Bill of additions to the local Criminal Code (as applicable) regarding cyber-crimes.** It is justified by the fact that the Congress of the Union is studying several law bills to regulate, from the penal point of view, the issues related to information crimes, considering the growing problems occurring in Mexico and also obeying to international commitments to criminalize the behavior that implies severe risk and vulnerability for the life, security and property of people.

Some of the above mentioned international legal treaties are the Convention on Cybercrime of the Council of Europe or the Budapest Convention, Commonwealth Model Law on Computer and Computer Related Crime, and Stanford Convention Draft which contain a catalogue of crimes describing the types and property protected.

The adaptation of criminal law to the new reality of information science and cybernetics is an obligation derived from the incidence of crimes committed and of International Law.

The Final Report explains in detail in EXHIBIT B) the reasons to propose the above bills.

2.3. Opportunity Areas and Recommendations

Apart from the bills suggested in 2009 (which must be updated) and 2011, there are others that may be promoted such as:

- a) State law for the development of the information society (framework law for the industry), or the technological development law, the law to develop digital entity and knowledge, etc.;
- b) State electronic governance law, or law on government innovation and quality;
- c) Amendments to the notary public law regarding electronic protocol and means to express consent by digital means.
- d) Amendments to the state civil laws regarding digital or electronic evidence means.
- e) Amendments to the law of state public registration regarding electronic folio numbers and other enquiry or registration procedurs of legal acts regarding real estate and commercial issues.
- f) Amendments to the civil process laws regarding electronic files or virtual private justice.
- g) Amendments to the state laws of administrative procedures to put in place virtual legal-administrative claim procedures.
- h) Amendments to the state laws regarding alternative justice means to acknowledge on-line mediation or conciliation.

An issue that seems to be essential is the development of a strategy to offer the states of the Mexican Republic legislative bills in such places and with such topics where the IT gap was found to be wider and, consequently, there are more obstacles for economic development.

It would be significant if the CONAGO², the CIAPEM³ and the Special Commission of Digital Access to the Chamber of Deputies knew these bills for them to support the industry and the Ministry of Economy in divulging the scope of the study, and spread a good level of knowledge about the “type” bills to amend laws regarding these topics.

In the states of the Republic that do not have significant changes in the Executive and Legislative Powers in 2012, specific lobbying actions may be promoted to influence changes that support this Prosoft 2.0 project.

For that purpose, actions are suggested to be carried out in 10 states:

² CONAGO. Conferencia Nacional de Gobernadores (National Conference of Governors). www.conago.org.mx

³ Comité de Informática de la Administración, Pública Estatal y Municipal, A.C. <http://www.ciapem.org.mx>

- ◆ Baja California Sur (PAN)
- ◆ Chihuahua (PRI)
- ◆ Coahuila (PRI)
- ◆ Distrito Federal (PRD)
- ◆ Estado de México (PRI)
- ◆ Guerrero (PRD)
- ◆ Hidalgo (PRI)
- ◆ Jalisco (PAN)
- ◆ Nuevo León (PRI)
- ◆ Puebla (PAN)
- ◆ Querétaro (PRI)
- ◆ Sinaloa (PAN)
- ◆ Tlaxcala (PRI)

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